
ATTACHMENT L – LEGAL CONSTRAINTS

LUBRECHT EXPERIMENTAL FOREST CARBON OFFSET PROJECT

1 ENDANGERED SPECIES ACT

1.1 Description

Excerpt from US Fish and Wildlife Service¹:

"When Congress passed the Endangered Species Act (ESA) in 1973, it recognized that our rich natural heritage is of "esthetic, ecological, educational, recreational, and scientific value to our Nation and its people." It further expressed concern that many of our nation's native plants and animals were in danger of becoming extinct.

The purpose of the ESA is to protect and recover imperiled species and the ecosystems upon which they depend. It is administered by the U.S. Fish and Wildlife Service (Service) and the Commerce Department's National Marine Fisheries Service (NMFS). The Service has primary responsibility for terrestrial and freshwater organisms, while the responsibilities of NMFS are mainly marine wildlife such as whales and anadromous fish such as salmon.

Under the ESA, species may be listed as either endangered or threatened. "Endangered" means a species is in danger of extinction throughout all or a significant portion of its range. "Threatened" means a species is likely to become endangered within the foreseeable future. All species of plants and animals, except pest insects, are eligible for listing as endangered or threatened. For the purposes of the ESA, Congress defined species to include subspecies, varieties, and, for vertebrates, distinct population segments."

1.2 Applicable geographic range

Entire Project Area

1.3 Agency associated with constraint

US Fish and Wildlife Service

¹ <https://www.fws.gov/endangered/laws-policies/>

1.4 Effect of constraint on forest management

Appropriate forest management prescriptions, road construction, and heavy use equipment in areas inhabited by listed species.

1.5 Modeling used to implement constraint

Modeling efforts will consider all legal requirements as associated with the Endangered Species Act by applying specific silvicultural prescriptions in the affected areas.

2 CLEAN WATER ACT

Excerpt from US EPA²:

"The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. The basis of the CWA was enacted in 1948 and was called the Federal Water Pollution Control Act, but the Act was significantly reorganized and expanded in 1972. "Clean Water Act" became the Act's common name with amendments in 1972.

Under the CWA, EPA has implemented pollution control programs such as setting wastewater standards for industry. EPA has also developed national water quality criteria recommendations for pollutants in surface waters.

The CWA made it unlawful to discharge any pollutant from a point source into navigable waters, unless a permit was obtained. EPA's National Pollutant Discharge Elimination System (NPDES) permit program controls discharges. Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge do not need an NPDES permit; however, industrial, municipal, and other facilities must obtain permits if their discharges go directly to surface waters."

2.1 Applicable geographic range

Entire Project Area

2.2 Agency associated with constraint

US EPA

² <https://www.epa.gov/laws-regulations/summary-clean-water-act>

2.3 Effect of constraint on forest management

Appropriate forest management prescriptions, road construction, and heavy use equipment in proximity to water bodies.

2.4 Modeling used to implement constraint

Modeling efforts will consider all legal requirements as associated with the Clean Water Act by applying specific silvicultural prescriptions in the affected areas. Riparian area BMPs will be modeled into the baseline.