

Approximately 90% of the population of MSOs exists in the national forests of the southwestern United States. Accordingly, the FWS has always acknowledged that the USFS has a special role to play in the conservation and recovery of the MSO.

Yet – now that we are two decades from listing – federal managers (including the USFS and the FWS) operate in an environment of extreme uncertainty.

This uncertainty is, in large part, attributable to the failures of the USFS over the last two decades to put together critical information concerning MSO conservation.

First, the USFS has failed to acquire basic baseline information as to the population trend of the Mexican spotted owl. Without this core population trend data, adaptive management is impossible.

Second, the USFS has failed to acquire any information as to the cause-effect relationship between its forest treatments and MSO demographics.

Under these circumstances, caution is indicated.

This is particularly true in light of the fact that the available population trend data indicates that the MSO's population has not rebounded since listing. In fact, available studies show that populations have been declining.

Despite the clear need for caution, the USFS has chosen another course with its various “landscape-restoration projects” such as 4FRI. These projects emphasize much more thinning and mechanical treatment in PACs and restricted habitat than allowed by the 1996 S/Gs.

In one instance, the FWS characterized projects like this as those that are most likely to imperil the MSO's future survival.

It is irrational for the FWS and USFS to use the threat of habitat-destroying fire as a pretext for the USFS's increasingly aggressive land management projects because the best and most recent scientific evidence – developed by the USFS itself – shows that MSOs not only survive, but thrive, in a post-fire environment.

Under these circumstances – where the USFS has failed to acquire core population data and where the USFS has failed to acquire core information as to cause-effect relationships – any claim that the USFS is implementing “adaptive management” is absurd.

In this light, the FWS's no-jeopardy opinions are simply arbitrary and capricious.