ORDER – Wildlife Habitat Area
8-280
Lewis's Woodpecker – Okanagan Shuswap Forest District

This order is given under the authority of sections 9(2) and 10(1) of the *Government Actions Regulation* (B.C. Reg. 582/2004) (GAR).

1. The Deputy Minister of Environment, being satisfied that

  i.   the following area contains habitat that is necessary to meet the habitat requirements for Lewis's woodpecker (*Melanerpes lewis*); and

  ii. the habitat requires special management that is not otherwise provided for under GAR or another enactment;

   orders that

  a) the area shown in the map set out in the attached Schedule A (8-280) and contained in the wildlife habitat area (WHA) spatial layer stored in the Geographic Warehouse (*twha_bc*) is established as wildlife habitat area 8-280 for Lewis's woodpecker. The centre point of the line on the attached Schedule A is what establishes the WHA boundary; and

  b) if there is a discrepancy between the areas shown in the map set out in the attached Schedule A and the WHA spatial layer stored in the Geographic Warehouse (*twha_bc*), the areas as detailed in the WHA spatial layer will take precedent.

2. The Deputy Minister of Environment, being satisfied that

  i.   the general wildlife measures (GWMs) described below are necessary to protect and conserve Lewis's woodpecker; and

  ii. GAR or another enactment does not otherwise provide for that protection or conservation;

   orders that

  a) the GWMs outlined in Schedule 1 are established for WHAs 8-280.

Definitions

Words and expressions not defined in this order have the meaning given to them in the *Forest and Range Practices Act* and the regulations made under it, unless context indicates otherwise.

Schedule 1 – General Wildlife Measures

Access
1. Do not construct roads unless there is no other practicable option.
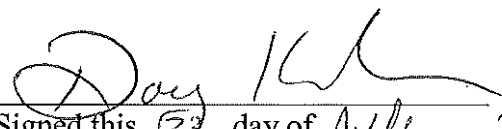
Harvesting and silviculture
2. Do not conduct timber harvesting.

Pesticides
3. Do not use pesticides, except for the application of herbicides to control for invasive plants or noxious weeds.

Range
4. Limit browse utilization by livestock to no more than 10% of the current annual growth of key shrub species.

Signed this ___ day of _____, 2009
Doug Konkin, Deputy Minister
Ministry of Environment

Appendix 1:

The following information is intended to provide background information and support to the legal order establishing this WHA. This appendix is not part of the legal order.

1. **Activities to which the order does not apply:** Section 2(2) of the *Government Actions Regulation* states

    An order under any of sections 5 to 15 does not apply in respect of
    (a) any of the following entered into before the order takes effect:
       (i) a cutting permit;
       (ii) a road permit;
       (iii) a timber sale licence that does not provide for cutting permits;
       (iv) a forestry licence to cut issued by a timber sales manager under section 47.6 (3) of the Forest Act;
       (v) subject to subsection (3), a minor tenure,
    (b) a declared area,
    (c) areas described in section 196 (1) of the Act, and
    (d) areas referred to in section 110 of the Forest Planning and Practices Regulation.

2. Authority to consider an exemption from these general wildlife measures is provided in section 92(1) of the *Forest Planning and Practices Regulation* and section 36(3) of the *Range Planning and Practices Regulation*. An exemption may be provided if the Minister's delegate is satisfied that the intent of the general wildlife measure will be achieved or that compliance with the provision is not practicable, given the circumstances or conditions applicable to a particular area.

    An exemption application should be submitted to the Minister's delegate (Regional Manager – Ministry of Environment, for the Region that the WHA is located) with a rationale describing the nature of the problem and options to integrate WHA conservation with proposed forest and/or range practices. This submission will assist in timely consideration of the matter, and will inform the conditions, if any, of the exemption that may be granted prior to commencement of activities. Upon receipt of a complete exemption application, a determination will normally be made within 14 days of arrival. Incomplete packages will be returned to the proponent for re-submission.

3. Where an exemption is provided to the requirements of GWM 2, consideration may be given to adding the following conditions to the approval of the exemption:
    - Removal of trees is to occur outside the breeding season of April 26th through to August 15th.
    - Protect and retain all ponderosa pine and black cottonwood live and dead trees ≥30 cm dbh for nesting, perching and foraging.
    - If available and practicable (given possible worker safety concerns), maintain at least six standing dead trees ≥ 45 cm dbh per ha. Where this is not possible, use the largest available dead trees, or live trees with visible evidence of damage or decay (e.g., broken tops, stem scars, fungal conks). The highest practical density of snags is preferred.

- Hazardous snags or trees can be incorporated into group retention areas/patches (plan as no-work zones if appropriate); otherwise maintain safe snags (these would generally be recently dead class 3 or 4 trees) within the operational settings, as per guidance and procedures described in the Wildlife/Danger Tree Assessor's Course workbook. Use partial cutting silvicultural systems to maintain widely spaced (> 25% canopy cover) late seral ponderosa pine and Douglas-fir.
- Topping large diameter trees, or inoculating live trees with native heart rot fungi, may be appropriate where standing dead trees are few.

5. With respect to GWM 4, key shrub species include, but are not limited to, the following:

Ponderosa Pine Habitat	Riparian Habitat
Big Sagebrush	Red-osier dogwood
Pasture Sage	Rose spp.
Common Snowberry	Common Snowberry
Sopolallie	Choke Cherry
Bitter Cherry	Black Hawthorn
Rose spp.	Poison Ivy
Tall Oregon-Grape	Sumac
Water Birch	Clematis
Common Juniper	Currant
Birch leaved spirea	