Utah believes that state-support for trumpeter range expansion within the Pacific Flyway and other Flyways may wane if the tundra swan season was not as recommended by the Pacific Flyway Council.

Montana Department of Fish, Wildlife, and Parks, was generally supportive of the changes in swan hunting to further range expansion of trumpeter swans but believed that the earlier season ending dates would preclude learning of the effects, if any, of tundra swan hunting on trumpeter swans. Montana supported continuation of Utah's season ending date to December 15 and suggested that the 15trumpeter quota allocated to Utah be partitioned for the December period, with the season being closed should more than 5 trumpeters be taken during the first 2 weeks of December and the ending date adjusted the following year. Montana questioned why the Service objects to Utah's use of "collection barrels" as a means of obtaining parts for species classification of the harvest.

Mr. William A. Molini, Chairman of the Pacific Flyway Council, said that the Service's decision to further reduce season lengths was contrary to the commitment toward AHM, that the Council's two swan subcommittees and Study Committee had addressed identifiable conflicting strategies, and that there was unanimous agreement among biologists within those groups that further restrictions on tundra swan hunting could not be justified. He recognized the Service's obligation to consider concerns of non-hunting groups but that obligation should be tempered by the best data available. Then, on behalf of the State of Nevada, he supported Utah's request for a December 15 season closure, as initially recommended by the Council, and asked that various information be considered before finalizing the frameworks. He notes that: of the more than 850 swans checked in Montana, Utah, and Nevada, during the 1994 season, only 1 was a trumpeter and that was taken in Montana during November; 50 percent of Utah swan hunters reported hunting during that portion of the season that is proposed to be closed; that RMP has displayed an average annual growth rate of 7 percent, notwithstanding 33 years of hunting tundra swans; the early closure precludes data collection to determine if seasons dates are a factor contributing to the incidental take of trumpeters; data review is currently provided to adjust seasons as appropriate to afford extra protection to trumpeter swans; the quota of less than 1 percent was designed to provide adequate protection to

migrating trumpeters; and in certain years as much as 57 percent of Utah's harvest occurs after the first of December.

Ms. Ruth E. Shea, letter of August 26, 1995, responding to comments from Robert G. Valentine (above), said the

rationale for the recommended December 1 closure related to the average annual date of freezing of security areas on Bear River Migratory Bird Refuge and of habitats in the Yellowstone region, and the resulting reduction of secure habitat options for trumpeters. She reported that in the winter of 1994-95 at least 46 trumpeters were in Utah, with 20 in the Bear River Refuge. She also believed that some successful hunters observed hunting at Bear River Refuge did not report their take, and observed 2 swans illegally taken. She believed those changes in management to resolve the hunter liability issue while protecting migrant trumpeters and increasing their numbers before the population experiences significant winter losses was prudent. While she finds no merit in an open season on trumpeter swans, she believes the trumpeter swan quota was necessary to protect tundra swan hunters so that the Council's subcommittee would then begin to take effective action to solve the trumpeter swan range problems. She believes that the proposed changes will result in public acceptance of swan hunting for more years than otherwise would have been possible and that the proposed frameworks both resolve a legal dilemma and provide a proactive stance toward managing a rare look-a-like species while providing swan hunting opportunity. Lastly, she urges the Pacific Flyway Council to demonstrate its leadership and commitment to restoring RMP trumpeters to a secure

distribution. The Fund for Animals Inc., objected to allowing tundra swan hunting in Utah and Nevada because it adversely impacts trumpeter swans. They referenced comments made to the Service by D. J. Schubert in 1994 regarding this same issue. The quota of 20 trumpeter swans, less than 1 percent of the population, is without analysis, unacceptable, arbitrary, and capricious. They believe that use of a "quota" with a potential loss of 20 or more trumpeter swans would cause severe adverse impacts to range expansion and recovery efforts and provide no additional protection to those swans that could die during the experimental period. They noted that the proposed rule neither distinguishes between accidental and incidental take nor limits the take to incidental shooting. In Utah,

it would have been more appropriate to close counties in the Salt Lake City area than the areas proposed for closure. An earlier season closing date is required to allow necessary range expansion of trumpeters and protection in the event of an early freeze in the Tristate area. They said that authorizing the take of trumpeter swans is inconsistent with Migratory Bird Treaty Act responsibilities to conserve that species.

The Arizona Game and Fish Department supported a later closing date for Utah's swan season and believed that the Service's proposed earlier date was contradictory to efforts related to implementing adaptive harvest management and the Harvest Information Program. They believed that the Council's overall proposal, including season closure should the quota be attained, was reasonable and that the harvest monitoring program would provide definitive data on trumpeter harvest during the tundra swan season.

Service Response: The Service commends all parties, particularly the Pacific Flyway Council, The Trumpeter Swan Society, and Ruth E. Shea for seeking common ground for ways to enhance RMP trumpeter swan range expansion while retaining most aspects of tundra swan hunting. The various recommendations were not made without obvious sacrifices. These recommendations and various reports by the affected states provided the basis for the Service's Environmental Assessment (EA) "Proposal to establish general swan hunting seasons in parts of the Pacific Flyway for the 1995-99 seasons" (August 1995) which compares various alternative strategies for reconciling conflicting swan management strategies.

With the exceptions of The Humane Society's and The Fund for Animals Inc.'s recommendations for no swan hunting and the various recommendations for the season closing date in Utah, the Service believes most recommendations are similar. The Council, Utah, Nevada, Montana, and Arizona recommend a closing date for Utah that would be the Sunday closest to December 15, which would range between December 12 and 18; TTSS recommends a closing date of December 1, but believes there could be latitude to accommodate Sunday closing as is traditional in most Western states; Shea recommends a date of about December 1; and The Fund for Animals Inc. recommended, should a season be allowed, some unspecified earlier date than that proposed by the Service.

The Service supports the basic recommendations from both the Council