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Template

Candidate Conservation Agreement with Assurances

for the

Fisher (*Pekania pennanti*) in Oregon

March 17, 2016

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1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE

This document is a Programmatic/Template Candidate Conservation Agreement with Assurances (CCAA) for the fisher (*Pekania pennanti*) in western Oregon. A CCAA is a voluntary agreement whereby landowners agree to manage their lands to remove or reduce threats to a species that may become listed under the Endangered Species Act of 1973, as amended (87 Stat. 884; 16 U.S.C. 1531 et seq.) (ESA). In return for managing their lands to the benefit of the covered species, enrolled landowners receive assurances that additional regulatory requirements pertaining to the covered species will not be required if the covered species becomes listed as threatened or endangered under the ESA so long as the CCAA remains in place and is being fully implemented.

This template CCAA is between the U.S. Fish and Wildlife Service (USFWS or Service), and non-federal landowners and managers (Participants) who elect to enroll their property under the CCAA through individual "Site Plans". The CCAA is a template in that it establishes general guidelines and identifies minimum management responsibilities for non-federal landowners and managers to participate in the CCAA. In addition, this CCAA documents background biological information on the fisher, conservation benefits expected from implementation of the CCAA, and the types of land use activities and eligible properties covered by the CCAA. Once this CCAA is signed, the documentation needs and approval process to enroll Participants will be significantly streamlined as they will be able to reference the information and completed administrative measures encompassed by this Agreement.

This CCAA clarifies management responsibilities and expectations of the Service and prospective Participants, and will serve as the basis for the Service to issue Federal enhancement of survival permits (Permits) to Participants pursuant section 10(a)(1)(A) of the ESA. To receive a permit, each prospective Participant will need to complete and submit to the Service a Federal Fish and Wildlife Permit Application Form (Appendix A). Once issued, Permits will authorize incidental take of fisher should the fisher become federally-listed.

Landowners wishing to enroll in this CCAA must agree to implement the CCAA Conservation Measures (CMs) on enrolled lands to meet the "CCAA Standard" (64 FR 32726, 50 CFR 17.22(d)(8)). Because enrollment in the CCAA agreement is voluntary, participating landowners may choose to discontinue their participation at any point. Electing to end participation in the CCAA would terminate any assurances and incidental take coverage otherwise provided under the Permit. Participating landowners may discontinue coverage for certain lands after enrollment with written notice to USFWS when, for example, lands are sold. Participating landowners may request to add coverage for certain lands with written notice to USFWS after initial enrollment when, for example, a participating landowner acquires new property or finds that the range of the fisher is expanding to previously undocumented habitat. The USFWS may approve minor modifications that do not significantly change those analyzed at the time of the CCAA approval without public notice. For major modifications, see section 12.

This programmatic CCAA has been developed to achieve four goals:

- Expand our understanding of fisher distribution, densities, and responses to forest management activities;
- Promote conservation measures that reduce or remove threats to fisher in Oregon;
- Provide a program of voluntary proactive recovery efforts that deliver conservation benefits intended to meet the USFWS CCAA standard; and,
- Provide enrolled landowners assurances that they will not be held responsible for additional conservation measures or incur additional future regulatory obligations if fisher becomes listed under the ESA, provided that the CCAA is being fully and completely implemented.

Several actions facilitating fisher conservation in Oregon have been implemented in recent years. Working cooperatively and collaboratively with others is key for conservation of fishers in western Oregon (the historical range of fishers in western Oregon, which is approximately the Cascade Range west to the coast). Combining the knowledge, expertise and limited resources (staffing and funding) among multiple parties may be most effective in meeting conservation needs. Actions such as population surveys and reintroductions are expensive and complex, requiring collaboration among governmental entities and landowners (public and private).

As the primary wildlife management agency in the State of Oregon, Oregon Department of Fish and Wildlife (ODFW) is responsible for the conservation, management, and protection of Oregon's fish and wildlife resources. The fisher currently is not listed under the Oregon Endangered Species Act, but is listed by ODFW in the Oregon Conservation Strategy as a Sensitive Species, Critical Category, with the suggestion that the feasibility of reintroduction be considered if populations fail to expand (ODFW, 2006). Harvest of fishers in Oregon has been prohibited since 1937 (Aubry and Lewis 2003).

This species is not listed under ESA but is currently proposed for listing. Therefore, there are no ESA regulations related to fishers currently impacting non-federal lands. The USFWS and participating landowners seek to utilize the CCAA to facilitate continued successful partnerships for fisher surveys, monitoring, and reintroductions in light of the current limited distribution and abundance of fishers in Oregon. Landowners may continue to enroll in this CCAA so long as the Agreement remains in effect and the fisher is not listed as threatened or endangered under the ESA.

1.2 CCAA AUTHORITY, STANDARD AND PERMIT ISSUANCE CRITERIA

Section 2 of the ESA states "encouraging the States and other interested parties, through Federal financial assistance and a system of incentives, to develop and maintain conservation programs which meet national and international standards is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's heritage in fish, wildlife, and plants" and that "the purposes of this Act are to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of… treaties and conventions...".

Section 4 of the ESA outlines guidelines for identifying species that are threatened or endangered. Section 4(h)(3) requires that USFWS establish a ranking system to assist in identifying species that should receive priority review for listing. To fulfill their responsibilities, USFWS developed a program to identify species that warrant protection under the ESA (termed "candidates" or "candidate species") and to monitor and conserve those species for which protection is deemed appropriate until listing can proceed.

Section 6 of the ESA provides for cooperation between the USFWS and the States in threatened and endangered species conservation. The development of CCAAs requires collaborative stewardship recognizing the statutory role of State agencies, their traditional conservation responsibilities, and authorities for resident species.

Section 7 of the ESA requires USFWS to review programs it administers and to utilize those programs to further the purposes of the ESA. In establishing the CCAA Policy, USFWS utilizes its Candidate Conservation Program to further the conservation of fish and wildlife. By providing assurances to non-federal landowners who are willing to conserve species and their habitats, USFWS is helping to conserve the ecosystems upon which endangered and threatened species depend.

Section 10(a)(1)(A) of the ESA allows USFWS to issue permits for acts that would otherwise be prohibited by Section 9 if such acts are expected to enhance the propagation or survival of the affected species.

When evaluating a CCAA, USFWS must determine that the benefits of the CMs that will be implemented by participating landowners, when combined with those benefits that would be achieved if the CMs were implemented on other necessary properties, would preclude or remove any need to list the covered species (64 FR 32726, 50CFR 17.22(d)(8)). Participating landowners need only address those threats, or the proportion of those threats, that they can control on the properties enrolled in the CCAA.

The USFWS developed this programmatic CCAA with the input of ODFW and non-federal landowners to address threats to fishers in Oregon. This CCAA outlines CMs that enrolled landowners will implement to protect, manage, enhance or augment existing populations, restore populations, or undertake other activities that remove threats to the covered species or otherwise improve the covered species' status.

Issuance of a Permit requires that USFWS comply with Federal regulatory requirements. Issuance of a Permit is a "Federal action" subject to compliance with the National Environmental Policy Act of 1970 (NEPA). Permit issuance also requires compliance with the ESA through intra-agency consultation under Section 7 and a determination that criteria for issuance of a CCAA have been satisfied.

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To approve the CCAA and its associated Enhancement of Survival Permit, USFWS must make positive findings for each of the following issuance criteria:

- The take will be incidental to an otherwise lawful activity and will be in accordance with the terms of the CCAA.
- The CCAA complies with the requirements of the CCAA policy.
- The probable direct and indirect effects of any authorized take will not appreciably reduce the likelihood of survival and recovery in the wild of any species.
- Implementation of the terms of the CCAA is consistent with applicable Federal, State, and Tribal laws and regulations.
- Implementation of the terms of this CCAA will not be in conflict with any ongoing conservation programs for fishers.
- Participating landowners have shown capability for and commitment to implementing all of the terms of this CCAA.

1.3 ASSURANCES PROVIDED

Participating landowners will receive assurances that USFWS will not require any additional conservation measures or any additional land, water, or resource use restrictions beyond those voluntarily agreed to and described in the "Conservation Measures" section of this CCAA. These assurances become effective if the fisher is listed as a threatened or endangered species under the ESA during the term of the requested Permit, provided that the CMs and the terms and conditions of the Permit are being fully and completely implemented. Unless otherwise stated, these assurances will be authorized with the issuance of a Section 10(a)(1)(A) Permit to Participating landowners. Non-federal landowners receive assurances by enrolling in the CCAA and agreeing to implement the CMs described in the CCAA.

2.0 DESCRIPTION OF RANGEWIDE STATUS AND THREATS

On December 5, 2000, the USFWS received a petition to list a distinct population segment (DPS) of the fisher that included portions of California, Oregon and Washington as an endangered species under the ESA. On April 8, 2004, USFWS published a 12-month status review (69 FR 18769) finding that the West Coast DPS of fisher was warranted for listing, but was precluded by higher priority actions. On April 8, 2010, the Center for Biological Diversity challenged the Service's alleged lack of expeditious progress on pending listing proposals, and in particular regarding the west coast DPS of fisher, for species for which the Service had found listing to be warranted but precluded (Center for Biological Diversity v. Salazar (No. 3:10-cv-01501-JCS)(N.D. California)). This challenge was resolved by stipulated dismissal and approved by the court on October 5, 2011, based on the Service's agreement in the context of a larger multidistrict litigation to submit a proposed rule or a not-warranted finding regarding the West Coast DPS of fisher to the Federal Register by the end of Fiscal Year (September 30) 2014 (In re Endangered Species Act Section 4 Deadline Litig., Misc. Action No. 10–377 (EGS), MDL Docket No. 2165 (D.D.C.)). On October 7, 2014, USFWS published a proposed rule (79 FR 60419) to list the West Coast DPS of fisher as threatened under the ESA. In that proposed rule, the USFWS identified habitat loss from wildfire and vegetation management, toxicants (rodenticides), and the cumulative impact and synergistic effects of these and other stressors in small populations as threats to the continued existence of the West Coast

DPS of fisher. Available information on the identified threats, population size, and other factors affecting the West Coast DPS of fisher are available in the Species Report (USFWS 2014a) that was made available at the time of publication of the proposed rule. The USFWS was initially obligated to issue either a final regulation implementing the proposed rule or a notice that the proposed regulation was being withdrawn by October 7, 2015, but the USFWS has subsequently issued a 6-month extension to the final determination based on substantial disagreement regarding available information (80 FR 19953, Docket No. FWS–R8–ES–2014–0041). The USFWS will now either issue a final regulation implementing the proposed rule or a notice withdrawing the proposed regulation by April 7, 2016.

2.1 NATURAL HISTORY

The fisher is one of the larger members of the weasel family (*Mustelidae*) and occurs exclusively in the boreal and temperate forests of North America. It is dark brown in coloration, and has a long tail, short rounded ears, short legs, and a low-to-the-ground appearance. Females are substantially smaller than males and typically weigh 2.0 to 3.0 kg (4.4-6.6 lb) and measure 70 to 95 cm (28-37 in) in total length, whereas males typically weigh 3.5 to 5.5 kg (7.7-12.1 lb) and measure 90-120 cm (36-47 in) total length (Powell 1993, Lofroth et al. 2010).

The mating season for fishers occurs from late March to early May, when males leave established home ranges to search for reproductive females. Pregnant females can give birth to 1-4 kits from late March to early May and typically mate with a male within 10 days after giving birth. Females exhibit delayed implantation of fertilized eggs, where the development of fertilized eggs is suspended until the start of a 32-day gestation period that can begin as soon as February or as late as April. Birthing dens are always in cavities in live trees or snags (Raley et al. 2012); however, females may subsequently move kits to other den structures including cavities in snags or down logs, or to log piles or ground burrows. Females are responsible for raising kits and they nurse kits until they are approximately 10-weeks old (~ late May). At about 4 months of age (~ late July), kits are more mobile and can travel with their mother. At around 7 months of age (~late October), kits are likely to be independent of their mother but are likely to occupy their mother's home range until they disperse at about 10 months of age (~ late January).

With the exception of breeding males during the breeding season (March to May), fishers typically occupy a home range. Fisher home ranges are large in comparison to other mid-sized carnivores and are dominated by forested habitats. Females commonly use smaller home ranges than males (Lofroth et al. 2010). Mean home range sizes of reintroduced fishers on the Olympic Peninsula were 63.5 km^2 (95% CI = 45.8-81.1) for females and 128.3 km^2 (95% CI = 49.9-238.7) for males (Lewis 2014).

Females are considered adults when they are 1-year-olds because a substantial percentage of these females can become pregnant near their first birthday. Consequently, females can give birth to their first litter at the age of 2. Not all adult females give birth to kits each year. Males are considered adults once they reach 2 years of age, when many males have matured enough to become effective breeders. The average lifespan of fishers is unknown for populations that are not trapped; however, the longevity of a wild fisher is not expected to greatly exceed 10 years of age (Powell 1993).

In resident populations, survival rates tend to be greatest for adult females (reported rates from 0.65 to 0.90) and lower for adult males (0.45-0.89) and juveniles (0.27-0.84), however survival rates tend to be lower where fishers are trapped (Lewis 2014). Conversely, annual survival rates were highest for juvenile males (0.61-0.94), lower for adult males (0.50-0.91) and juvenile females (0.40-0.89) and lowest for adult females (0.28-0.84) in the population of fishers reintroduced to Olympic National Park (Lewis 2014). Trapping, predation, vehicle collisions, poisoning, exposure, emaciation/starvation, infections, drowning, fighting among males, accidents, and disease are sources of mortality reported for fishers (Powell 1993, Lofroth et al. 2010). In harvested populations, trapping is typically the greatest source of known mortality. Predation and vehicle collisions were the leading causes of mortalities of fishers reintroduced to Olympic National Park (Lewis 2014). Predators of fishers include bobcats (*Lynx rufus*), mountain lions (*Puma concolor*), coyotes (*Canis latrans*), lynx (*Lynx canadensis*), domestic dogs (*Canis familiaris*), and wolverines (*Gulo gulo*) (Powell 1993, Lofroth et al. 2010).

2.2 HABITAT ASSOCIATIONS

2.2.1 General

Fishers use forested habitats and in western North America, fishers are commonly associated with conifer-dominated forests (Lofroth et al. 2010, Raley et al. 2012). The fisher is considered a secretive carnivore because they occur at low population densities, they use dense forests where they are difficult to see, and they avoid humans and developed areas. Because individual fishers require large home ranges and occur at low population densities, areas at the scale of 1 or more National Forests are likely to be required to support viable fisher populations. Fisher home ranges are commonly found at low and mid-elevations and are frequently dominated by forests with 1) a moderate to dense forest canopy, 2) a mosaic of successional stages, 3) few large openings, 4) complex forest structure, and 5) large woody structures (Lofroth et al. 2010, Raley et al. 2012). Fishers are prey generalists and hunt for prey in a variety of stand types including early, mid, and late successional stands in managed or unmanaged forest landscapes. Conversely, fishers are selective for den site and rest site habitats, and this is related to the availability of large woody structures they commonly use when denning or resting (Raley et al. 2012).

2.2.2 Resting and Denning Habitat

Fishers frequently use large woody structures as rest sites between foraging bouts and as dens for birthing and kit-rearing. These structures include large cavity trees, snags, logs, and log piles which provide security from predators and protection from temperature extremes and inclement weather. These large structures are commonly found in late-successional and unmanaged forests (e.g., National Parks, or wilderness or reserved areas in National Forests). They may also be common in managed forest landscapes that contain late-successional stands or those where large structures are preserved or created (e.g., snag or cavity tree retention, snag or cavity creation).

Females require the security of large woody structures because of their need to protect kits and because their smaller size makes females more vulnerable to other mid-sized carnivores (e.g., bobcats, coyotes). Consequently, females are more likely than males to use home ranges and landscapes dominated by continuous late-successional forests or unmanaged forests because they contain greater quantities of these large structures. Because of their larger size, males are less vulnerable to predation and are

better able to exploit managed forests that contain fewer large woody structures and also support greater densities of bobcats and coyotes than unmanaged forests (Lewis 2014).

2.2.3 Prey

Fishers are considered prey generalists because they can exploit a variety of prey species to meet their needs. The fisher diet varies by region but typically includes small and mid-sized mammals, ungulate carrion, insects, birds and fruit (Powell 1993, Lofroth et al. 2010). Mice, voles, shrews, squirrels, rabbits, snowshoe hares (*Lepus canadensis*), and porcupines (*Erethizon dorsatum*) are commonly reported among mammalian prey found in the fisher's diet (Powell 1993, Martin 1994, Weir et al. 2005, Golightly et al. 2006, Lofroth et al. 2010). Fisher predation on small pets and small livestock has been reported, but these reports are relatively rare occurrences because fishers tend to avoid humans and human developments.

2.3 RANGEWIDE DISTRIBUTION

Historically, the fisher occurred throughout the boreal and temperate forests of North America and its range included southern Canada and most of the northern states as well as peninsular areas that extend south through the eastern states, the northern Rocky Mountains, and the Pacific states (Figure 1). The extirpation of fishers from much of the southern portion of their range that occurred from the late 1800s to the early 1900s resulted in range contraction to ~43% of its historical extent. Efforts to reintroduce fishers in vacant portions of the historical range and improved management of resident fisher populations resulted in fisher recovery and an expansion of the current range to approximately 68% of its historical extent (Figure 1; Lewis et al. 2012).

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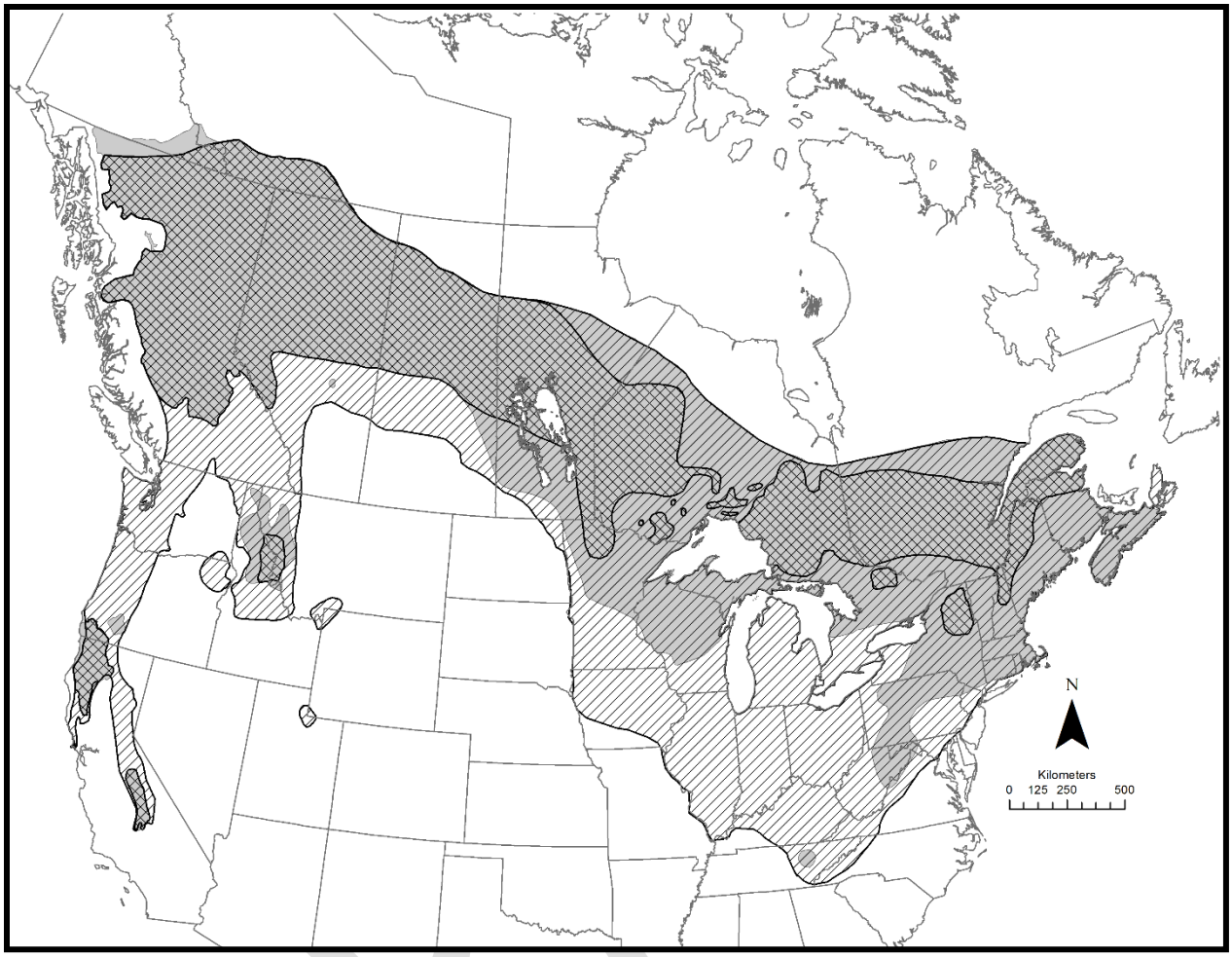

Figure 1. The range-wide distributions of the fisher in North America (modified from Lewis et al. 2012). The historical range is indicated by the diagonal hatching, the most contracted range (~43% of the historical range) by cross hatching and the current range (~68% of the historical range) by the shading.

2.4 FACTORS AFFECTING THE SPECIES

When considering if a species is warranted for listing, USFWS assesses the status and threats to a species based on five factors provided in Section 4(a)(1) of the ESA (16 U.S.C. 1533). These five factors were considered when the fisher was proposed in October of 2014 for federal listing as a threatened or endangered species in all or part of its West Coast DPS (USFWS 2014b). The fisher was once widely distributed throughout forested areas of western Oregon, but due to logging, unregulated harvest, and perhaps incidental mortalities associated with predator control efforts, the range in Oregon has been reduced to one remnant indigenous population and one reintroduced population in southwestern Oregon (Mace 1979, Aubry and Lewis, 2003, ODFW 2006, Fig. 1)

3.0 ENROLLED LANDS

Land ownership in the CCAA area comprises private (19,822 mi^2), Federal (18,911 mi^2), State (1,156 mi^2), and Tribal (998 mi^2) ownership. Lands eligible for enrollment in this CCAA include State, Tribal, non-federal publicly owned, or privately owned forest lands within the historical range of the fisher in western Oregon (Figure 2).

Enrolled properties will be described in documentation incorporated into site specific plans, and will include maps, figures, township and range, and/or legal descriptions as necessary to clearly delineate the precise boundaries of areas covered. USFWS will maintain an inventory including descriptions of all enrolled properties and provide this information one component of an Annual Report quantifying the amount and location of the enrolled properties.

3.1 DESCRIPTION OF EXISTING CONDITIONS WITHIN THE CCAA AREA

Although apparently stable, the two fisher populations in western Oregon have seemingly not increased in size or expanded their range over at least the past two decades; however, there has been limited monitoring. The indigenous Siskiyou population occurs primarily in the Klamath Mountains west of Ashland and south of Grants Pass, extending into northern California. However, individuals from this population have recently been detected east of Ashland in the southern Cascades, geographically overlapping with individuals from the southern Oregon Cascades population. The southern Oregon Cascades population, located near Crater Lake National Park, was established between 1977 to 1981 when ODFW reintroduced individuals from British Columbia and Minnesota. Verifiable detections (i.e. tangible evidence such as photos, scat, tracks, genetic material) of fishers have not occurred in the central and northern Oregon Coast Range nor in the northern Cascades of Oregon, although non-verifiable sightings have been reported (Figure 2). Some surveys occurred in the northern Cascades, but recent systematic surveys have not been conducted in these areas, leaving gaps in our understanding of fisher distribution in Oregon.

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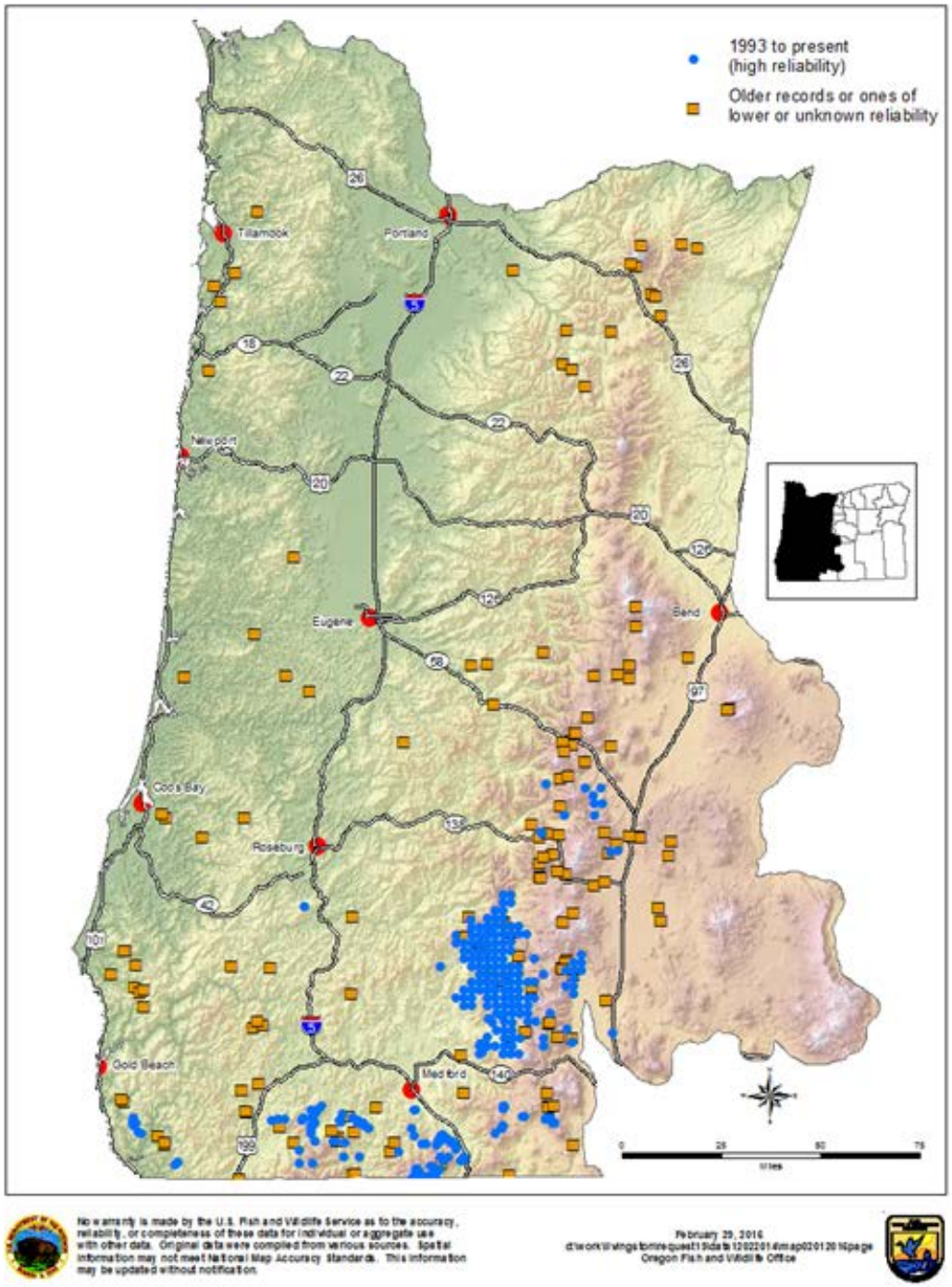

Figure 2. CCAA enrollment area for fishers in Oregon. The enrollment area is the west coast distinct population segment of fishers in Oregon, as delineated in the proposed rule (79 FR 60419). Blue circles are fisher locations since 1993 that are of high reliability (trapping reports or physical evidence such as photos, track reproductions, genetics, trapped animals), whereas orange squares are older records or records that are of lower or unknown reliability. Density of recent, high reliability sightings is not necessarily indicative of c fisher densities or abundance.

4.0 COVERED ACTIVITIES

The term “covered activities” refers to those activities that may be carried out by participating landowners or their authorized representatives on enrolled lands that may result in incidental take of covered species consistent with the CCAA and their Permit. Covered activities must be performed in compliance with all applicable Federal, State, and local statutes and regulations (including the Oregon Forest Practice Act). In this case, covered activities include:

- Ongoing and planned forest management practices as defined within the Oregon Forest Practice Act statutes (Oregon Revised Statutes 527.610 – 527.770, 527.990, and 527.992 and rules (Oregon Administrative Rules Chapter 629).

  Activities that are covered by this CCAA and the associated Permit are most land management activities commonly practiced on forest lands:

  "“Forest practice” means any operation conducted on or pertaining to forestland, including but not limited to:

  (a) Reforestation of forestland;

  (b) Construction, maintenance, and use of roads;

  (c) Harvesting of forest tree species;

  (d) Site preparation, and vegetation control;

  (e) Disposal of slash; and

  (f) In-woods chipping and/or removal of woody biomass.

  Additionally, the following activities are covered: transport of timber and rock, collection of minor forest products, fire suppression (includes all activities related to controlling wildfire), and recreation (including legal hunting and trapping). If activities not specifically included above are occurring on lands to be enrolled, non-federal landowners can request that USFWS determine if they are consistent with the programmatic CCAA and permit issuance criteria and whether additional NEPA analysis would be required before such activities could be covered. Procedures to modify or amend this agreement are described in Sections 12 and 13 of this document. Covered activities may be conducted by the enrolled landowner, their employees, contractors, agents, or other assigns as described in the Permit and the associated Site Plan.

- Implementation of conservation measures (Section 5.2) and changed circumstances measures (Section 10.0) described in this CCAA; and

- Inventory and monitoring activities identified in this CCAA (Sections 5.2 and 11.0).

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5.0 CONSERVATION OBJECTIVES AND MEASURES

5.1 CONSERVATION GOALS OF THE CCAA

The conservation goals of this CCAA are to conserve and contribute to the recovery of fisher in Oregon. Accordingly, the objectives of this CCAA are intended to eliminate, reduce, or minimize threats to the species in Oregon. The fisher CCAA will allow USFWS and participating landowners to:

- Participate, coordinate, and collaborate with fisher distribution surveys, assessment, and monitoring efforts consistent with the program of work (section 5.2).
- Improve our understanding of fisher distribution, densities, and habitat use in western Oregon.
- Determine the presence of fishers on non-federal lands as part of an assessment of the long-term success of a future fisher reintroduction.
- Document reproduction by reintroduced female fishers on non-federal lands and conserve active den sites to increase chance of survival of fisher kits.
- Support the growth and stability of reintroduced fisher populations in the initial, most crucial years after release by protecting reproductive females and their young when they occupy den sites on non-federal lands.
- Increase public participation in and support for fisher reintroductions and recovery in Oregon.

5.2 PROGRAM of WORK TO SUPPORT CONSERVATION MEASURES

Introduction

The following program of work describes a general framework for addressing information gaps and potential reintroduction. This is a collaborative effort that involves Federal, State, and private entities, beyond enrolled landowners, and builds upon existing carnivore survey and monitoring efforts being implemented by governement and non-governmental entities. A fisher CCAA technical team comprising carnivore researchers, Federal and State agencies, as well as private entities that include representatives of interested landowners (and enrolled landowners upon CCAA enactment), is being formed to more specifically describe survey, monitoring, and research actions within this framework. This technical team would design the program of work to ensure information is collected in a coordinated and systematic fashion to maximize our knowledge, improve our inference ability, and further the CCAA conservation goals. However, for the sake of this CCAA, describing the following overarching approach can guide enrolled landowners on contributions to fisher conservation based on the location of their enrolled lands and availability of resources.

In Oregon, over 11 million acres of forest land is owned by non-federal forest landowners and subject to State Forest Practices (FP) Rules. The FP Rules do not directly protect fishers or fisher habitat. Application of the rules may, however, retain some structural features (e.g. snags, green trees, down wood) that contribute to fisher habitat. In addition, prohibition of timber harvest within stream and other resource buffers may provide some narrow, linear strips of older forests, which may contain some structural benefit to fishers (Hiller 2015). Fishers are known to occupy stands and landscapes that have been or are managed for timber growth and harvest (e.g. citations). However, their tolerance of such management in terms of population response is still uncertain, and is complicated by the varying

intensities and scales of such management. Monitoring fisher response to different vegetation management activities would aid in our understanding of how best to manage coexistence of viable fisher populations with active timber harvest.

Other key information needs regarding fishers in western Oregon are their distribution and densities. As noted above, we have detections indicating two populations that may be beginning to overlap. However, monitoring has been limited to uncoordinated survey efforts by individual entities or collaborators. A scarcity of verifiable sightings in northern and central Oregon suggests fishers are absent in these areas, but without protocol surveys (absent throughout much of this area), we cannot be sure that such a lack of detections indicates the species is entirely absent. We have also not monitored fishers in Oregon to determine densities.

Collaborations between Federal, State, and private entities have recently begun in western Oregon in an effort to systematically survey the Cascade Range to more rigorously assess the distribution of fishers and other mesocarnivores. This information will aid our understanding of fisher distribution, and fill a critical information need to inform a decision about reintroducing fishers in western Oregon. A feasibility assessment for reintroducing fishers in western Oregon was completed in 2015 (Hiller 2015). The assessment, while not a decision document, concluded that fishers are a good candidate for reintroduction into large landscapes of contiguous forests such as the west slope of the northern Cascades of Oregon, assuming protocols established for successful reintroductions are followed. The feasibility assessment also made several recommendations for actions that should occur before any reintroduction, including developing an implementation plan, surveying areas lacking recent data to determine whether unknown fisher populations may exist, and collaboratively working with stakeholders and cooperators to garner logistical, financial, and political support for fisher reintroductions.

This CCAA provides an opportunity to fill the key information gaps regarding fisher distribution, densities, and response to timber management activites, as well as support the potential establishment of additional populations of fishers in western Oregon through reintroduction. Such actions will further fisher conservation, increase the likelihood of detecting and protecting denning females, provide regulatory assurrances for enrolled landowners, and further collaboration among government and non-government entities.

Areas Presumed Devoid of Fisher in Oregon

Fisher populations are presumed to not currently exist throughout the northern and central Oregon Coast Range and the northern and central Cascade Range (although an individual fisher was detected at the southern edge of Lane County in the Cascades). However, habitat modeling suggests these areas contain fisher habitat sufficient to support fishers in the Cascades and perhaps in the Coast Range. As described earlier, a large information gap exists concerning the presence and distribution of fisher populations. Conservation attributes in this area will focus on surveys to refine our understanding of fisher distribution and increase our confidence in determining what areas are devoid of fishers. Priority areas to focus on include the northern and central Cascades, which are recommended by Hiller (2015) for potential fisher reintroduction, followed by areas of suitable fisher habitat in the central and

northern Oregon Coast Range--Board of Forestry and Common School Forest Lands in the Coast Range (approximately 700,000 acres) may be primary areas to investigate.

Conservation Plan Attributes and Framework

1. Participate, coordinate, and collaborate with fisher distribution surveys, including on-going distribution assessment efforts in the Cascade Range. Define the current distribution of fisher in Oregon with quantitative data. This effort should be as intensive as possible and follow best available science on rigorous survey protocols. This effort is likely to last 3 – 5 years.

    - Currently there are several individual efforts from both public agency and private entities. Participate in workgroups focused on combining assessment data, transferring knowledge base, and securing funding for future collaborative efforts. Implement survey efforts in areas "to fill the gaps" of current distribution assessment.
        - Systematically sample feasibility of release areas (A through E; Hiller 2015) and adjacent lands (public and private/Industry)
        - Employ an adaptive sampling approach where techniques are adjusted should fisher be detected. These changes include expanding survey areas and including genetic sampling (e.g. hair snares deployed at camera stations)
        - Compile maps and create a repository for data and information collected and obtained by past and current fisher survey efforts. These surveys and their findings could assist guiding future efforts. Numerous fisher and forest carnivore surveys have been conducted by Industry, academic, non-governmental organization (NGO), State, and Federal researchers throughout western Oregon.

2. There is limited information and data on the current genetic background for Oregon fishers. Following or in conjunction with the intensive distribution survey effort, activities to collect and define genetic history of fishers is warranted. This effort is likely to occur within the timeframe as identified in the first plan attribute. In association with the intensive distribution assessment, as fishers are located in different geo-regions of Oregon, conduct genetic sampling to develop the baseline data. There is an opportunity during this effort to collect limited habitat use data.

3. Coordinate on monitoring of fisher mortalities and submitting mortalities for toxicity testing.

4. In Oregon, few fisher carcasses have been recovered and thus available for testing for the presence of anticoagulant rodenticides, limiting our understanding of the prevalence of this toxicant in Oregon fishers. Recovered carcasses should be submitted to a qualified lab for analysis and the results shared with management agencies, landowners, and researchers.

5. Develop reintroduction implementation plan for the central/northern Cascades. This will be based on results of distribution assessment, research findings from extant fisher areas in Oregon (e.g. genetics, movement, and habitat selection), the fisher reintroduction feasibility assessment (Hiller 2015), and relocation efforts in Washington and California, USA. Reintroduction of fisher should follow feasibility study (Hiller 2015).

    - Identify source population, and develop near-term monitoring plan of reintroduced individuals. Reintroduction monitoring should focus on individual movements, habitat relationships and

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population viability. Monitoring should focus largely on females to facilitate den site monitoring and assessment. This near-term effort is likely to occur for a minimum of 3 – 5 years, although longer term monitoring may be necessary to confirm reintroduction success.

- Landowners and land managers to participate in reintroduction efforts. Support agency efforts to assess and identify suitable source populations, coordinate with the governmental entities associated with the source population, locate and collect fisher individuals for reintroduction. Upon completion of reintroduction planning and coordination, the actual collection and movement of animals is likely to last 3 – 5 years after plan attributes 1 and 2 are completed. During and immediately following reintroduction activities, collaring and monitoring of release individuals will occur to examine the release effort and measure success. There is an opportunity during this effort to collect detailed information to address questions regarding habitat use, movement, survival, etc.

Areas with Extant Fisher Populations in Oregon

There is a population of fishers in the southern Cascades that remains from a reintroduction effort by ODFW that occurred from 1977-1981. During that time, 17 fishers from British Columbia and 13 fishers from Minnesota were released in various locations near Crater Lake. Consistent and verifiable detections since 1981 indicate these efforts were successful in reestablishing fishers to the Cascade Range in southern Oregon. Genetic analyses have demonstrated that fishers sampled in this region during the late 1990's were descendants of source populations in both British Columbia and Minnesota.

A native population of fishers occurs in the Siskiyou Mountains of southwestern Oregon. This population extends into northwestern California. Based on genetic tests, there is recent evidence of individuals from this population occurring in areas of overlap with individuals from the reintroduced population in the southern Cascades.

Where fishers currently occur in Oregon, there is an opportunity to sample individuals and collect data to address key areas of uncertainty that arose during the listing process regarding managing fishers and determining fisher status. Specifically, information on: 1) population distribution, trends, and density; and 2) habitat use, particularly how fishers respond to timber harvest activities and their use of managed forests.

Ongoing distribution surveys occurring in southwest Oregon provide a foundation from which to locate areas occupied by fishers and available for suitable research. Surveys would also identify fisher locations on which to establish genetic sampling to improve our understanding of the genetic distribution of fishers and further inform sub-population management and decisions regarding a founder population for fisher reintroduction into Oregon.

To be done similar to what was done above for areas presumed devoid of fishers.

1. Participate, coordinate, and collaborate with on-going distribution assessment efforts in Oregon in areas of extant fishers. Define the current distribution of fisher in Oregon with quantitative data.

This effort should be as intensive as possible, follow best available science on rigorous survey protocols. This effort is likely to last 3 – 5 years.

2. Currently there are several individual efforts from both public agency and private entities. Participate in workgroups focused on combining assessment data, transferring knowledge base, and securing funding for future collaborative efforts. Implement survey efforts in areas "to fill the gaps" of current distribution assessment.

    - Employ an adaptive sampling approach where techniques are adjusted should fisher be detected. These changes include expanding survey areas and including genetic sampling (e.g. hair snares deployed at camera stations).
    - Compile maps and create a repository for data and information (that can be shared) collected and obtained by past and current fisher survey efforts. These surveys and their findings could assist guiding future efforts. Numerous fisher and forest carnivore surveys have been conducted by Industry, academic, NGO, State, and Federal researchers throughout western Oregon, in the past 5-6 years.

3. There is limited information and data on the current genetic background for Oregon fishers. Following or in conjunction with the intensive distribution survey effort, activities to collect and define genetic history of fishers is warranted. This effort is likely to occur within the timeframe as identified in the first plan attribute. In association with the intensive distribution assessment, as fishers are located in different geo-regions of Oregon, conduct genetic sampling to develop the baseline data. There is an opportunity during this effort to collect limited habitat use data.

4. Coordinate and conduct habitat relationship, population viability, and annual movement patterns of extant fisher populations.

6. Research studies should focus on aspects of fisher natural history that are relatively limited in rigorous scientific data for Oregon. Studies should focus on habitat relationships, prey, annual movements, fecundity, and population viability. These studies are not expected to cover the entire area of extant fishers at one time but could take place in multiple smaller geographically repeated study sites that provide inference across the broad scale.

7. Radio-collar a sufficient amount of fishers to inform research and monitoring questions derived by the fisher technical team.

8. Coordinate on monitoring of fisher mortalities and submitting mortalities for toxicity testing.

    - There has been limited testing of recovered fisher carcasses in Oregon for the presence of anticoagulant rodenticides, limiting our understanding of the prevalence of this toxicant in Oregon fishers. Recovered carcasses should be submitted to a qualified lab for analysis and the results shared with management agencies, landowners, and researchers.

5.3 CONSERVATION MEASURES

To qualify for take coverage, all enrollees must agree to implement the following conservation measures (CM) on enrolled lands. The following measures apply to all enrollees.

CM1. Allow USFWS or its agents, with reasonable prior notice (defined as no less than 24 hours), to access enrolled lands to perform the monitoring activities described below.

1) Determine if female fisher(s) are occupying dens and raising kits. Denning females will be detected primarily by radio-telemetry, but other observations of denning females will be monitored. USFWS biologists will notify participating landowners within 24 hours if fishers are suspected of denning on enrolled lands or in close proximity of enrolled lands. USFWS may place cameras at the suspected den sites to confirm denning activities. USFWS will notify the landowner within 24 hours of the confirmation of a den. Denning females, if radioed, will be monitored weekly to determine occupancy of specific sites and verify movement to new den sites. If a den site was found used by a non-radioed animal, a remote camera will be deployed to monitor movement to determine when the site is abandoned. USFWS biologists will notify participating landowners within 24 hours of verifying that a female fisher has abandoned a previously occupied den site. The ability to detect female fishers with functioning radio-transmitters is a function of the battery life of the radio-transmitters (~2 years).

2) Evaluate fisher presence for the term of the CCAA (30 years) as needed to determine the long-term success of recovery efforts in Oregon. Methods may include but are not limited to the use of remote cameras, hair-snaring devices, and bait and scent lures, and radio telemetry to survey or monitor fishers consistent with the program of work described in section 5.2.

CM2. Protect confirmed denning females and their young by limiting or preventing access and disturbance near occupied sites, including preventing the destruction of the denning structure itself (i.e., a tree, snag, log, or other structure). Denning activities are most likely to occur between *15 March and 30 September* and females may remain at a particular den site for days or weeks before moving to a new site. Specifically, landowners shall not conduct or authorize any of the activities described in the forest management activities in Section 4 (including but not limited to timber felling, pre-commercial thinning, reforestation, salvage of trees, and brush control) within 0.25 miles of a known occupied den site (Sierra Pacific Industries CCAA; WAC 222-16-080; USFWS 2013a [page 4]), because those activities could result in disturbance or harm to denning fishers. Once the occupancy of a denning fisher is confirmed, all activities that meet the previous description may not be implemented within 0.25 miles until the landowner is notified by USFWS or its agents that the site is no longer occupied (Denning females will be monitored weekly to determine occupancy of specific sites and verify movement to new den sites). Participating landowners will implement protection measures within 24 hours of notification that an occupied den site has been confirmed. In cases where a female fisher chooses to establish a den site within 0.25 miles of an active road, road use can continue provided the volume of traffic and potential disturbance remains at or below the level that existed in the 2 weeks before the den was detected. Considerations should be made to use alternate routes away from occupied dens when possible, and where alternate roads do not exist, caution should be taken to avoid fisher road mortality (e.g., reduced speed limits). In cases where a female fisher chooses to establish a den site within 0.25 miles of an active harvest operation, yarding and hauling of felled timber may continue as long as the footprint of the habitat modification component of the activity does not move any closer to the denning fisher. In cases where a female fisher chooses to establish a den site within 0.25 miles of forest management activities in Section 4 that do not result in habitat modification or disturbance

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(e.g., silivicultural surveys), those activites may continue as long as the footprint of those activities does not move any closer to the denning fisher. Activities that do not pose disturbance (e.g., surveys for other wildlife species) will not be restricted, but time spent within 500 feet of a den site should be minimized.

CM3. Provide protection of denning female fishers by restricting trapping and nuisance animal control activities on enrolled lands within 2.5 miles of known occupied dens. Within this radius, kill traps, non-powered snare devises, and No. 2 foothold traps and smaller are prohibited and all other traps are to be checked at least once every 24 hours. Denning activities are most likely to occur between *15 March and 30 September* and females may remain at a particular den site for days or weeks before moving to a new site. The 2.5 mile radius is based on the average of the longest female foraging movements around occupied den sites on the Olympic Peninsula from 2008 to 2011 (WDFW, unpubl. data). Denning females will be monitored weekly to determine occupancy of specific sites and verify movement to new den sites. USFWS or their agents will notify participating landowners when den sites are established or moved within 24 hours of detection. Nuisance animal trapping and control activities within 2.5 miles of the den site will cease until 30 September or until the landowner is informed that the denning female has moved the den site.

CM4. Report to USFWS within 48 hours upon finding any potentially occupied den sites or any dead, sick, or captured fishers on enrolled lands. If possible, when a fisher is incidentally captured, take photos and collect scat and/or hair left in the trap post-release for USFWS and/or ODFW biologists.

CM5. Cover all man-made structures on enrolled lands that pose an entrapment risk to fishers (e.g. large water troughs, old rail cars, or other containers from which fishers cannot escape) or place a device within the structure (e.g., wooden pole to allow fishers to climb out) to prevent mortality of fishers from drowning, starvation or dehydration.

CM6. Where suitable habitat exists and where agreed upon by the Landowner and USFWS, allow the reintroduction of fishers on enrolled lands. Where suitable habitat exists and where agreed upon by the landowner and USFWS, allow the release of translocated fishers on enrolled lands.

CM7. Provide a letter of intent/Site Plan describing the landowner's contribution to the program of work approach described in section 5.2. The USFWS will determine whether the landowner contributions identified in the letter of intent/Site Plan is sufficient to meet the program of work to support the conservation measures.

5.4 APPLICATION AND ENROLLMENT PROCESS

As stated, the purpose of the CCAA is to implement conservation measures to benefit fishers on non-federal lands within the CCAA management area.

The following steps summarize the process for application and enrollment of non-federal lands:

1. USFWS biologists conduct outreach to eligible landowners within the CCAA management area according to the following prioritization scheme:
   A. Lands within the area of extant fisher populations (SW Oregon and southern Cascades; Figure 2) are identified as a priority area for fisher conservation as they currently support an extant and reintroduced population.
   B. Lands within the central and northern Cascades that are presumed devoid of fishers are priority areas for fisher conservation as the adjacent federal lands are expected to support a reintroduced population following reintroductions into the northwestern Cascades.
   C. Lands within the central and northern Oregon Coast Range are secondary areas for conservation until a reintroduction occurs, or fishers are discovered.
2. Landowner expresses an interest in participating and provides the following information:
   - Aerial photos or map of property to be covered;
   - Information on access (e.g., vehicular, off-road vehicle, or on foot) to their ownership; and
3. USFWS biologist conducts a site visit to confirm enrollment eligibility with Landowner, if appropriate. The property may be enrolled if it is deemed suitable, meaning that the property:
   A. Contains forested habitat;

      OR

   B. Is suitable for use by fishers for any of their life history needs.
4. A Permit Application is prepared by the Landowner with USFWS assistance if requested.
5. CCAA is implemented by participating landowner, as written, including application of all conservation measures.

6.0 EXPECTED BENEFITS

The conservation measures identified in this CCAA are expected to benefit the species in the following ways: 1) expand our understanding of the distribution and interactions of existing fisher populations; 2) aid in acquiring more accurate estimates of fisher densities; 3) improve our understanding of fisher response to vegetation management activities; 4) protect known breeding fishers and their offspring on enrolled lands (including protecting occupied den sites, minimizing activities that may disturb the fishers using those den sites, and prohibiting trapping on enrolled lands within 2.5 miles of known den sites); 5) facilitate the reintroduction and monitoring of fishers in areas of Oregon where they no longer exist; and 6) facilitate the cooperation and collaboration among enrolled landowners and federal and state agencies in furthering fisher conservation in western Oregon. Participation in this CCAA and associated conservation measures will be encouraged on non-federal lands, as these lands are likely to provide significant habitat for fishers and support recovery of this species.

Substantial knowledge gaps regarding basic information on fisher distribution and density limits management of this species in western Oregon. In addition, much of the forest habitat in western Oregon is subject to timber harvest activities. Although some research has occurred, we still have a limited understanding of how timber harvest activities influence fisher habitat use at various scales.

These knowledge gaps were notable information limitations in the fisher proposed rule (citation). The program of work (section 5.2) is designed to lay out a coordinated approach to addressing these information needs and further the collaboration and cooperation among enrolled landowners and federal and state agencies in furthering fisher conservation in western Oregon. Letters of intent from enrollees will identify their contributions to the program of work (CM 7).

The survey, monitoring, and radio-collaring of fishers laid out in Section 5.2 will increase the chance of actually finding active fisher dens. Fishers are secretive animals, especially females with young, resulting in the rare detection of denning females unless they are remotely monitored, usually via telemetry. An increase in our ability to detect these animals increases our chances to protect them, but also increases the risk of landowners being subject to take regulations as described in section XX of the Act. Conservation measures (CMs 1, 2, and 3) require protection measures for the active den sites from the landowners, while incidental take is allowed for covered activities.

Increasing the number of fishers in western Oregon can occur through increasing the size of existing populations or establishing new populations (e.g. reintroduction). An additional population established through reintroduction will increase the distribution and redundancy of fisher populations in western Oregon. Many factors contribute to reintroduction success (Lewis et al 2012, pp. 9-10, 13). Among them is number of fishers released, with translocations of 60 to 100 fishers having a high likelihood of success (Lewis et al. 2012, p. 13). However, until these animals have a chance to acclimate to their new surroundings, reproduce and recruit young, these smaller populations are at greater risk of extinction than larger populations because of the effects of environmental and demographic stochasticity. While these reintroduced populations are expected to grow and repopulate a significant portion of the fisher's historical range in Oregon initially, small population size could place reintroduced populations at greater risk of extirpation. The measures included in this CCAA are expected to improve survival and reproductive success of reintroduced populations by protecting reproducing fishers and their offspring from harm when they occupy a den site on enrolled lands (CMs 2 and 3). The measures also provide a means to assess the long-term success of a reintroduction (CMs 1 and 4), which could allow USFWS to determine if actions (e.g., releasing additional fishers, CM 6) are needed to support a small or otherwise imperiled founder population.

7.0 SERVICE RESPONSIBILITIES

The Service will meet with ODFW as needed to review information contained in monitoring reports, and assess implementation, compliance, adaptive management measures, and to discuss any other matters related to this Agreement and the Permits.

The Service and ODFW, at their individual discretion and with a Participant's permission, may provide technical, financial, and other assistance to the Participant in order to facilitate implementation of the conservation measures, or that otherwise facilitate the provisions and intent of this Agreement. Moreover, nothing in this Agreement will limit the joint or respective abilities of the Service and ODFW to perform their lawful duties, and conduct investigations as authorized by statute, administrative rule and by court guidance and direction.

As specified below, the Service will contact Participants as needed, but at least annually, to assess implementation of the conservation measures and compliance prescribed by this Agreement and the associated Permits. The Service and when available, ODFW will meet with Participants at their request, and through mutually agreeable arrangements, to discuss their concerns regarding this Agreement, or the terms and conditions of their Permits. Pursuant to the regulatory assurances provided (see section X), the Service and when available, ODFW will discuss with Participants any other pertinent topics concerning conservation practices or other adaptive management objectives being considered for the fisher.

The Service, ODFW, and/or their respective representatives will coordinate with Participants, through a mutually agreeable notification process, prior to entering their enrolled property for the purposes of monitoring, capturing, translocating, or conducting any future research or adaptive management actions, as applicable, for fishers.

In addition to the responsibilities above and that may be set forth elsewhere in this Agreement, the Service agrees to the following:

1. Upon execution of this Agreement, completion of associated Site Plans and Permit application reviews, and satisfaction of all other applicable legal requirements, the Service will issue Permits to Participants authorizing incidental take of the covered species as a result of lawful activities that occur on their enrolled property.

2. The Service will provide technical assistance to prospective Participants, upon their request, to help apply the conservation measures for their properties being considered for enrollment.

3. The Service will contact Participants to this Agreement, as needed, and undertake coordination activities and compliance monitoring regarding their respective Site Plans and Permits.

4. If a Participant is found to be in non-compliance with this Agreement (see section 16) or their associated Site Plan or Permit, the Service will initiate Permit suspension or revocation procedures (codified at 50 CFR § 13.27), which will include issuance of a letter of non-compliance to the Participant. The Participant will have 60 days from receipt of the letter to rectify the non-compliance issue(s) or the Service will terminate the Participant's Permit.

5. Through the annual reporting requirements of this Agreement (see 11.0) and the Service's other program responsibilities under the ESA, the Service will ensure that this Agreement and the terms and conditions of the associated Site Plans and Permits will not be in conflict with other ongoing conservation or recovery programs for the covered species.

6. The Service will recommend adaptive management measures to Participants, as applicable, to avoid or minimize incidental take that may be noted in annual reports.

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8.0 RESPONSIBILITIES OF PARTICIPANTS

Participants to this Agreement will carry out all responsibilities associated with implementation of their respective Site Plans and Permit. With regard to conservation benefits to the fisher, at a minimum participating land owners and managers will be responsible for implementing the conservation measures identified in section 5.2. Participants will also be responsible for meeting the general conditions of their Permit (codified at 50 CFR §13.47). The specific, agreed-upon conservation measures of Participants to this Agreement will be detailed in their Site Plans.

9.0 SITE PLAN ADMINISTRATION

Modification of Site Plans: The Service or a Participant to this Agreement may seek modification of a Site Plan by submitting a written request to the other party. The Service may approve minor modifications and will inform the Participant of such, in writing, within 30 days of receiving a request. Minor modifications shall include, but are not limited to, the following:

(a) corrections of typographic, grammatical, and similar editing errors that do not change the intended meaning; (b) correction or updating of any maps or exhibits; (c) correction or updating of information to reflect previously approved minor modifications or amendments to the Site Plan or associated Agreement and Permit, as applicable; (d) changes to survey, monitoring, or reporting protocols; and, (e) mutually-agreeable conservation measures modified through adaptive management, as applicable.

If a Participant's proposed modification may constitute a formal amendment, the Service shall immediately begin review and processing of the request and notify the Participant of such action. Under some circumstances, the Service may give written notice that a proposed modification must be processed as a formal amendment because the Service has determined that, pursuant to its Federal regulatory responsibilities, such modification would result in outcomes that are significantly different from those analyzed for this Agreement and/or the associated Site Plan or Permit. Such circumstances may include, but are not limited to, proposed modifications that would either result in a different level or type of take than analyzed in this Agreement, or that would result in a change to the cumulative conservation benefits to the covered species such that the Service's standard for CCAA may not be met. Modifications that necessitate formal amendment of a Site Plan will require further review and analysis, including public notification in the Federal Register, public comment period, and any other administrative compliance actions as required by applicable Federal laws, regulations, policies, and directives.

Any modification or amendment proposed by the Service shall be consistent with the regulatory assurances provided, except that the Service reserves the right to modify or amend a Participant's Site Plan or associated Permit in accordance the provisions of 50 CFR §13.28(a)(l) through (4), §17.22(d)(7), and §17.22(d)(2)(iii), or other applicable Federal laws and regulations in force at that time.

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Renewal of Site Plans: The Service will reevaluate a Site Plan upon a Participant's notice of intent to renew to determine whether the Site Plan will continue to provide a conservation benefit for the fisher. If so, and with written concurrence of the Participant, the Service will renew their Site Plan, with or without modification as appropriate, and amend their associated Permit, provided that the duration of any Permit amendment will not exceed the duration of this Agreement.

Transfer and Succession of Site Plans: In the event that all or part of an enrolled property is sold, or all or part of the management authority of a Participant is otherwise surrendered, prior to the full term of their Site Plan and associated Permit, the Participant will notify the Service by certified letter at least 30 days in advance of the potential sale or surrender of authority. It will be the sole responsibility of the Participant to inform their successor(s) in interest or potential buyer(s) that the property is enrolled under this Agreement by their Site Plan and associated Permit. However, after any notification of change in ownership or management authority of the enrolled property, the Service, at their discretion, will attempt to contact the new land owner or manager to explain the Site Plan, the associated Permit, and this Agreement.

Upon agreeing in writing to become a party to an existing Site Plan, the Agreement, and the Permit, the Service may transfer the Permit pursuant to 50 CFR §13.25(c) and actions taken by the new Participant that result in the incidental take of fisher would be authorized. If the new land owner or manager does not become a party to an existing Site Plan, nor request to become a party to a similar agreement, the Service will terminate the Permit and the new land owner or manager will not receive regulatory assurances or other benefits of the associated Permit authorizing incidental take of fisher.

A completed Site Plan shall be binding on and shall inure to the benefit of the Participant, and their respective successors, in accordance with applicable Federal regulations (codified at 50 CPR §13.24).

Termination of Site Plans and Permits: A Participant to this Agreement may terminate their Site Plan prior to its expiration date for circumstances beyond their control, such as unforeseen hardship or catastrophic destruction of the species population numbers or habitat. However, the Participant or their enrolled successor in interest must give the Service written notice by certified letter of their intent to terminate their Site Plan. The Participant must also give the Service or their representatives an opportunity to relocate any potentially affected fisher within thirty (30) days of receipt of such written notice. Upon its termination, the Participant must relinquish their Site Plan and the associated Permit to the Service.

If a Participant terminates their Site Plan for any other reason, it and the associated Permit shall immediately cease to be in effect. In addition, if the fisher becomes federally-listed and they use the previously enrolled property, they will be protected by the take prohibitions of section 9 of the Act because the Participant's take authorization (via their Permit) will have become invalid upon termination of the Permit.

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10.0 ASSURANCES PROVIDED IN CASE OF CHANGED OR UNFORESEEN CIRCUMSTANCES

The assurances listed below apply to participating landowners. The assurances apply only where the CCAA, and the associated Permit, are being properly implemented, and only with respect to fishers.

(1) *Changed circumstances provided for in the CCAA.*

If unanticipated levels of take of fisher occur over the duration of this agreement, USFWS will determine the ongoing effectiveness of this agreement. If USFWS determines that the amount of take or the impact of such take prevents this agreement from achieving the CCAA standard, this agreement may be modified to ensure that conservation benefits meeting the USFWS CCAA standard can be achieved. Enrolled landowners may choose to continue their participation under the modified agreement or to discontinue their participation in the CCAA at any time.

(2) *Changed circumstances not provided for in the CCAA.*

If additional conservation measures not provided for in the CCAA's operating conservation program are necessary to respond to changed circumstances, USFWS will not require any conservation measures to benefit fisher in addition to those provided for in the CCAA without the consent of the Landowner, provided the CCAA is being properly implemented.

(3) *Unforeseen circumstances.*

(A) If additional conservation measures are necessary to respond to unforeseen circumstances, the USFWS Director may require additional measures of the Permittee and enrolled Landowner(s) where the CCAA is being properly implemented, but only if such measures are limited to modifications within the CCAAs conservation strategy for the affected species, and only if those measures maintain the original terms of the CCAA to the maximum extent possible. Additional conservation measures will not involve the commitment of additional land, water, or financial compensation, or additional restrictions on the use of land, water, or other natural resources available for development or use under the original terms of the CCAA without the consent of the Permittee and the enrolled Landowner(s).

(B) The USFWS will have the burden of demonstrating that unforeseen circumstances exist, using the best scientific and commercial data available. These findings must be clearly documented and based upon reliable technical information regarding the status and habitat requirements of the affected species. The USFWS will consider, but not be limited to, the following factors:

(1) Size of the current range of the affected species;

(2) Percentage of range adversely affected by the CCAA;

(3) Percentage of range conserved by the CCAA;

(4) Ecological significance of that portion of the range affected by the CCAA;

(5) Level of knowledge about the affected species and the degree of specificity of the species' conservation program under the CCAA; and

(6) Whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

11.0 MONITORING/REPORTING PROVISIONS

Relative to implementation of the CCAA and fulfillment of its provisions, including implementation of agreed-upon conservation measures, USFWS will be responsible for monitoring and reporting, as described in this section.

As specified in the CMs, enrolled landowners will be notified at least 24 hours in advance of USFWS entering enrolled properties to perform site monitoring. When a female fisher is located on a Landowner's enrolled land, USFWS will notify the affected landowner within 24 hours of the detection. Monitoring of the denning female will be conducted at least once each week to verify compliance with the Conservation Measures preventing disturbance.

Issues of non-compliance (e.g. access not permitted to USFWS to perform monitoring, or activities disturbing a den site) will be addressed through direct communication between USFWS, and the individual Landowner to encourage compliance with the Site Plan and CCAA. Where compliance with the Site Plan and CCAA cannot be achieved, USFWS will suspend or revoke the enrolled landowner's Permit.

An Annual Report will be developed by USFWS no later than (December 31st) each year. The Annual Report shall include the following required components:

- A list of all enrolled properties and documentation of the boundaries and descriptions of included lands;
- A running total of enrolled lands by management area (i.e. areas of extant vs non-extant fishers);
- A summary of all monitoring activities over the previous year;
- An assessment of species status across the State and within each of the management area;
- A summary of the total amount of take documented over the previous year;
- A summary of fisher research activities occurring on lands enrolled in the CCAA;
- (Any other information required to ensure permit compliance and to document CCAA effectiveness in recovering the species).

12.0 NOTIFICATION OF TAKE REQUIREMENT

Because occupied den sites will be monitored by USFWS, and protected by enrolled Landowners, incidental take will be avoided or minimized and incidental take that is observed will be documented as

part of the monitoring and protection process. Enrolled landowners will report all instances of incidental take to USFWS as required by regulation.

13.0 DURATION OF CCAA AND PERMIT

The USFWS has developed a CCAA with a proposed term of 30 years. The Permit issued with the approved CCAA will become effective if the fisher becomes listed, and will remain in effect for the duration of the CCAA or the duration of the listing, whichever is shorter. The USFWS may seek to renew the CCAA beyond the specified term of 30 years. Enrolled landowners may choose to renew their participation under their individual Permit in accordance with USFWS regulations at the time of permit renewal.

Landowners must notify USFWS at least 90 days prior to expiration of their Permit if they wish to extend the duration of their enrollment. Enrolled landowners will notify USFWS within 30 days following the close of a land sale or transfer. Enrolled landowners may remove or add lands to the CCAA coverage with effective notice to the permit holder.

Participation in the CCAA and the Permit and access to the assurances they provide is only available to participating landowners who enroll lands under this Agreement through the submittal of an application prior to any future effective ESA listing date of the covered species.

14.0 MODIFICATION OF CCAA

After approval of the CCAA, USFWS may not impose any new requirements or conditions on, or modify any existing requirements or conditions applicable to, a landowner or successor in interest to the landowner, to compensate for changes in the conditions or circumstances of any species or ecosystem, natural community, or habitat covered by the CCAA except as stipulated in 50 CFR 17.22(d)(5) and 17.32(d)(5) without their agreement.

USFWS may propose modifications or amendments to this CCAA by providing written notice to, and obtaining the written concurrence of, the Participants. Such notice shall include a statement of the proposed modification, the reason for it, and its expected results. The Participants will use their best efforts to respond to proposed modifications in a timely manner.

15.0 AMENDMENT OF THE PERMIT

The Permit may be amended to accommodate changed circumstances in accordance with all applicable legal requirements, including but not limited to the ESA, the National Environmental Policy Act, and USFWS permit regulations (50 CFR 13 and 50 CFR 17). If proposing an amendment, the USFWS shall provide a statement describing the proposed amendment and the reasons for it to the Participants arties holding a Permit. Landowners will have the opportunity to comment on any modifications proposed by USFWS.

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16.0 PERMIT SUSPENSION OR REVOCATION

The USFWS may suspend the privileges of exercising some or all of the Permit authority at any time if the Participant is not in compliance with the conditions of the permit, or with any applicable laws or regulations governing the conduct of the permitted activity. Such suspension shall remain in effect until the issuing officer determines that the landowner has corrected the deficiencies.

The USFWS may not revoke a Permit except as follows:

The USFWS may revoke a Permit for any reason set forth in 50 CFR 13.28(a)(1) through (4). This regulation authorizes revocation if: the landowner willfully violates any Federal or State statute or regulation, or any Indian Tribal law or regulation, or any law or regulation of any foreign country, which involves a violation of the conditions of the permit or of the laws or regulations governing the permitted activity; or the landowner fails within 60 days to correct deficiencies that were the cause of a permit suspension; or the landowner becomes disqualified; or a change occurs in the statute or regulation authorizing the permit that prohibits the continuation of a permit issued by USFWS.

A permit can be disqualified or revoked if:

1. A conviction, or entry of a plea of guilty or nolo contendere, for a felony violation of the Lacey Act, the Migratory Bird Treaty Act, or the Bald and Golden Eagle Protection Act, or the ESA disqualifies any such person from receiving or exercising the privileges of a permit, unless such disqualification has been expressly waived by the Director in response to a 1305 written petition.
2. The revocation of a permit for reasons found in § 13.28 (a)(1) or (a)(2) disqualifies any such person from receiving or exercising the privileges of a similar permit for a period of five years from the date of the final agency decision on such revocation.
3. The failure to pay any required fees or assessed costs and penalties, whether or not reduced to judgment disqualifies such person from receiving or exercising the privileges of a permit as long as such moneys are owed to the United States. This requirement shall not apply to any civil penalty presently subject to administrative or judicial appeal; provided that the pendency of a collection action brought by the United States or its assignees shall not constitute an appeal within the meaning of this subsection.
4. The failure to submit timely, accurate, or valid reports as required may disqualify such person from receiving or exercising the privileges of a permit as long as the deficiency exists.

   The USFWS may revoke a Permit if continuation of the permitted activity would either appreciably reduce the likelihood of survival and recovery in the wild of any listed species, or directly or indirectly alter designated critical habitat such that it appreciably diminishes the value of that critical habitat for both the survival and recovery of a listed species.

   Before revoking a permit for either of the two reasons in the preceding paragraph, USFWS, with the consent of the landowner, will pursue all options that USFWS consider appropriate to avoid permit revocation. These options may include, but are not limited to: extending or modifying the existing permit, compensating the enrolled landowner to forgo the activity, purchasing an easement or fee simple interest in the enrolled property, or arranging for a third party acquisition of an interest in the property**.**

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17.0 REMEDIES

The Service and each Participant shall have all remedies otherwise available to enforce the terms of this Agreement and their associated Site Plan and Permit, except that neither the Service nor Participant shall be liable in damages for any breach of a Site Plan, any performance of or failure to perform an obligation under a Site Plan, or any other cause of action arising from a Site Plan.

18.0 DISPUTE RESOLUTION

The USFWS recognize that disputes concerning implementation of, compliance with, or termination of this CCAA may arise from time to time. The USFWS agree to work together in good faith to resolve such disputes, using the informal dispute resolution procedures or such other procedures upon which the parties may later agree. However, if at any time any party determines that circumstances so warrant, it may seek any available remedy without waiting to complete informal dispute resolution.

19.0 AVAILABILITY OF FUNDS

Implementation of this CCAA is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this CCAA will be construed by the Parties to require the obligation, appropriation, or expenditure of any funds from the U.S. Treasury. The Parties acknowledge that USFWS will not be required under this CCAA to expend any Federal agency's appropriated funds unless and until an authorized official of that agency affirmatively acts to commit to such expenditures as evidenced in writing.

20.0 RELATIONSHIP TO OTHER AGREEMENTS AND INITIATIVES

20.1 AGREEMENTS AND INITIATIVES OUTSIDE THE SCOPE OF THE CCAA

Northwest Forest Plan: The US Forest Service and the USDI Bureau of Land Management (1994) administer forest management practices within the range of the northern spotted owl that protect late-successional forests and foster the development of late-successional forests to provide habitat for the federally threatened northern spotted owl. This plan is referred to as the Northwest Forest Plan and its provisions apply to the National Forests and BLM Districts in Western Oregon. The large spatial scale and specific goals of the Northwest Forest Plan are expected to provide large portions of the state that are capable of supporting large, self-sustaining fisher populations, once they are reintroduced. BLM is currently in the process of revising its Resource Management Plan for BLM Districts in western Oregon which will supersede the Northwest Forest Plan. One of the goals of the draft RMP is to conserve large blocks of forests for species that rely on late successional forests, and that goal could accommodate fisher conservation.

National Park Service: The National Park Service manages one large National Park in Oregon that already provide habitat for fishers - Crater Lake National Park.

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21.0 NO THIRD-PARTY BENEFICIARIES

This CCAA does not create any new right or interest in any member of the public as a third-party beneficiary, nor shall it authorize anyone not a party to this CCAA to maintain a suit for personal injuries or damages pursuant to the provisions of this CCAA. The duties, obligations, and responsibilities of the Parties to this CCAA with respect to third parties shall remain as imposed under existing law.

22.0 NOTICES AND REPORTS

Any notices and reports, required by this CCAA shall be delivered to the persons listed below, as appropriate:

State Supervisor, USFWS
2600 SE 98th Avenue, Suite 100

Portland, Oregon 97266

This agreement shall be implemented in conformance with all applicable laws and regulations of the United States and with all consistent laws and regulations of the State of Oregon. If any provision of this agreement is held unlawful, it may be severed and the remaining provisions will continue in force, consistent with the overall conservation purpose for the fisher.

This document constitutes the entire agreement between the Parties and no modification shall be effective unless it is in writing and signed by the authorized representatives of both Parties.

IN WITNESS WHEREOF, THE PARTIES HERETO have, as of the last signature date below, executed this CCAA to be in effect as of the date that USFWS issues the Permit. IN WITNESS WHEREOF, THE PARTIES HERETO have, as of the last signature date below, executed this Candidate Conservation Agreement with Assurances to be in effect as of the date that USFWS issues the permit.

_____

State Supervisor Date
U.S. Fish and Wildlife Service

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APPENDIX A. SITE PLAN

Site Plan in the Candidate Conservation Agreement with Assurances for Fisher

This certifies that the participating member of the property described below is included within the scope of Permit No. (INSERT PERMIT NO.), issued on (INSERT DATE) to (landowner) by the U.S. Fish and Wildlife Service under the authority of Section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539(a)(1)(B). This permit will become effective if the fisher is listed under the ESA. Such permit will authorize incidental take of covered species as part of a Candidate Conservation Agreement with Assurances (CCAA). This incidental take will be allowed due to conservation measures incorporated on the enrolled property that will benefit the covered species and/or its habitats within their range in the CCAA coverage area. These conservation measures are outlined in the Programmatic CCAA and listed in Attachment 3. Pursuant to that permit and this Site Plan, the holder of this permit will be authorized to engage in any otherwise lawful activity on the described property that may result in the incidental taking of the covered species, as appropriate, subject to the terms and conditions of the permit and the CCAA. Permit authorization is subject to carrying out the conservation measures described below and the terms and conditions of the permit and the CCAA. By signing this Site Plan, the participating member agrees to carry out the described conservation measures.

Participating Property Owner's Name and Address:
--- INSERT ADDRESS 1 ---

Legal Description of Enrolled Properties:

Detailed Map(s) with Enrolled Properties Identified:
NOTE: Map(s) must clearly show property boundaries, roads, non-forested areas , key habitat areas, and location of areas where conservation measures will be implemented, and other important features.

Identify existing habitat conditions and specific conservation measures including in-kind contributions which will benefit the covered species:

Total Acres of Enrolled Properties (all properties covered by permit): --- INSERT TOTAL ACRES ---
Duration of Permit (minimum of 10 years). Permits will expire with the term of the CCAA unless renewed -- INSERT TERM --

The participating member agrees to allow USFWS employees or its agents to enter the enrolled properties to complete the monitoring as described in the Programmatic CCAA. For Tribal lands or other lands managed by a Tribe, in lieu of granting USFWS access, the required monitoring may be carried out by Tribal biologists and the resulting information shared with USFWS.
Initial one of the following choices:
Member requests reasonable notice prior to entry: _____
Courtesy notice not required: _____
Tribal biologists will perform monitoring: _____

The participating member agrees to allow USFWS employees or its agents to enter the enrolled properties as necessary, with prior coordination, to maintain or enforce the CCAA.

Initial one of the following choices:
Member requests coordination prior to entry: _____
Courtesy notice not required: _____

The participating member agrees to give 60 days written notice to USFWS of their intent to terminate this Site Plan, and must give the USFWS an opportunity to relocate affected covered species within 30 days of the notice.

The participating landowner agrees to notify USFWS within 30 days of the sale or transfer of all or part of the enrolled property. USFWS will offer the new owner the option of receiving conservation coverage by agreeing to implement all CCAA conservation measures and signing a new Site Plan.

Participating Landowner

_____ Date _____
--- INSERT MEMBER'S NAME ---

State of Oregon
County of _____

This instrument entitled Oregon State Fisher Site Plan for --INSERT MEMBER's NAME -- was

acknowledged before me on _____ by _____

_____
Notary Public My commission expires: _____

State of Oregon
County of _____

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