

FINDING OF NO SIGNIFICANT IMPACT
regarding
Issuance of an Endangered Species Act 10(a)(1)(B) Permit
by the U.S. Fish and Wildlife Service for Incidental Take of
Fender's blue butterfly, Taylor's checkerspot butterfly, Bradshaw's lomatium,
Nelson's checkermallow, Kincaid's lupine, Willamette daisy, and Peacock larkspur
by Benton County in conjunction with Implementation of the
Benton County Prairie Species Habitat Conservation Plan in Benton County, Oregon

Introduction

The U.S. Fish and Wildlife Service (Service) has completed an Environmental Assessment (EA) for the proposed issuance of an Incidental Take Permit (Permit) to Benton County, Oregon (County). Issuance of the Permit would be done under the authority of section 10(a)(1)(B) and section 10(a)(2) of the Endangered Species Act of 1973, as amended (ESA). Under the Permit, the County would receive a 50-year incidental take authorization for certain covered activities and covered species, as identified in their Prairie Species Habitat Conservation Plan (HCP). The covered species include the following: the Fender's blue butterfly (*Icaricia icarioides fenderi*), Taylor's checkerspot butterfly (*Euphydryas editha taylori*), Willamette daisy (*Erigeron decumbens* var. *decumbens*), peacock larkspur (*Delphinium pavonaceum*), Kincaid's lupine (*Lupinus sulphureus* ssp. *kincaidii*), Nelson's checkermallow (*Sidalcea nelsoniana*) and Bradshaw's lomatium (*Lomatium bradshawii*) (Covered Species).

The proposed issuance of a Permit by the Service is a Federal action that may affect the human environment and therefore is subject to review under the National Environmental Policy Act (NEPA). The EA analyzed the effect to the human environment from two alternatives, the No Action alternative and the Proposed Action alternative. Five additional alternatives that were explored, but rejected, are also described in the EA.

Decision Rationale

Following a detailed review and analysis of the EA and HCP, the Service has selected the Proposed Action alternative because it provides the greatest net conservation benefit for the Covered Species. Implementation of the proposed action is not expected to have any significant adverse effects to the human environment. This decision is based on the following information:

Covered Species

- Over the life of the permit, activities covered by the Benton County HCP will result in relatively minor adverse affects to each of the covered species.
- Extensive avoidance and minimization measures are included in the HCP.
- The mandated habitat restoration, enhancement, and management activities will all have some short term negative effects on the covered species, but in the long term, the effects

would be beneficial, and each of the covered species will be more protected and secure than they are at present.

- The Service anticipates that implementation of the HCP will result in a conservation benefit to prairie habitat and contribute towards the recovery of the Covered Species. Not only has the County identified ways to avoid and minimize adverse impacts to the Covered Species, but they are also proposing to off-set impacts to relatively small and scattered degraded prairie sites by enhancing some of the best remaining prairie habitat in Benton County. This approach to mitigation will contribute to the recovery goals outlined in the Recovery Plan for the Prairie Species of Western Oregon and Southwestern Washington, and indirectly the HCP provides protection to an additional 55 acres of prairie habitat critical to the recovery of the endangered Fender's blue butterfly.
- Without the Permit, mitigation for impacts to Covered Species would likely occur on-site, in a fragmented, piecemeal fashion for any individually permitted actions. Protection of large parcels of higher quality habitat has a greater conservation benefit to the species than small-scale mitigation sites.

Human Environment

- There will be no significant impacts to other fish and wildlife species.
- There will be no significant impacts to the human environment including vegetation, wetlands, water quality, geology, and soils, cultural resources, land use, socioeconomics, and climate change.

Description of the Alternatives

No Action Alternative

Under the No Action alternative, the proposed Permit would not be issued, incidental take coverage would not be provided for any of the species, the HCP would not be implemented, and the status quo would be maintained. The amount of home, farm, and forest construction on private lands within the Fender's Blue Zone (i.e., the area that reflects the best assessment of where Fender's blue butterflies occur in Benton County) would not be expected to differ from that occurring under the Proposed Action. The process for obtaining the necessary incidental take coverage in order to lawfully conduct activities impacting the Fender's blue butterfly and/or its habitat, however, would be different. Before the County would issue a County permit or agricultural building authorization, the private landowner would need to survey their property during the butterfly's flight season (May to mid-June), demonstrate their construction will not impact the Fender's blue butterfly or its habitat, or if impacts are unavoidable, demonstrate they have obtained the necessary take authorization from the Service and provide any required mitigation. The Service may require each landowner who may impact Fender's blue butterfly and its habitat to complete their own habitat conservation plan, obtain their own permit and conduct and pay for their own mitigation.

The No Action alternative could result in a patchwork of uncoordinated mitigation projects with little or no County-wide consideration for impacts to the Covered Species. Without the Permit the County and Cooperators would need to seek out, on an individual project-by-project basis, their own incidental take permit from the Service before conducting any of the covered activities likely to result in the take of Fender's blue butterfly. The same would be true for any potential Cooperators (e.g., the City of Corvallis, Greenbelt Land Trust) – each of them would need to obtain an incidental take permit on a project-by-project basis for any impacts to Fender's blue butterfly or its habitat. Benton County and the Cooperators would also be required to get take coverage for any habitat restoration, enhancement, and management activities they wanted to conduct on their lands that would impact Fender's blue butterfly and its habitat.

Proposed Action Alternative

The Proposed Action alternative consists of the Service issuing Benton County a 50-year Permit under section 10(a)(1)(B) of the ESA authorizing incidental take and requiring implementation of an HCP to minimize and mitigate, to the maximum extent practical, impacts to the seven Covered Species. The activities likely to result in take for which the Permit is being requested include:

- Home, Farm, and Forest Construction
- Benton County Permits and Authorizations
- Public Service Facilities Construction
- Transportation and Work in Rights-of-Way
- Telephone and Natural Gas Utility Construction and Maintenance on Private Lands
- Water and Wastewater Management
- Parks/Natural Areas/Open Space Management Activities
- Agriculture Activities
- Habitat Conservation Plan Implementation Activities
- Emergency Response Activities

The HCP addresses (1) covered activities for Benton County and Cooperators (cities, state agencies, two utility companies and a conservation organization) for impacts to the Covered Species, and (2) covered activities of private individuals needing County permits or agricultural building authorizations for home, farm, and forest construction, and whose activities have the potential to affect the Fender's blue butterfly and its habitat within the Fender's Blue Zone. The HCP includes a range of conservation measures designed to minimize and mitigate, to the maximum extent practicable, the effects of take of the Covered Species resulting from the covered activities on covered lands (See Chapter 6 of the HCP).

Public Involvement and Review

A Notice of Availability (NOA) for the draft proposed HCP, application for an incidental take permit, and draft EA was published in the Federal Register on October 1, 2010 (75 FR 60802). Public comment on the HCP, permit application, and the EA was requested by November 1, 2010. The Federal Register notice referenced the Service's Oregon Fish and Wildlife Office web site for availability of the draft documents for this proposal. The options to respond

electronically, by telephone, or in writing were all available. In addition to the Federal Register NOA, we sent a press release to the following newspapers:

Corvallis Gazette-Times
Eugene Register-Guard
Albany Democrat Herald
This Week (Linn and Benton Counties)
OPB (Rob Manning, and Cassandra Profita for the Ecotrope Blog)

The Service also sent the news releases to staff for both Oregon Senators and Congressmen DeFazio and Schrader. Benton County sent an email to everyone on their HCP mailing list (118 people) and stakeholders (over 60 people), and mailed a post card to everyone with property in the "Fender's Blue Zone" (over 800 people).

Benton County placed an advertisement in the Gazette times on October 7 and 10, 2010, advertising their October 12th meeting and the availability of the draft HCP for review. Service staff, County staff, and County Commissioners were available at the October 12, 2010, meeting to answer questions from the public.

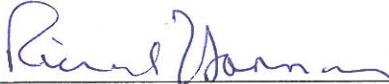
The Service received 31 public comment letters. However, 20 of the letters did not provide substantive comments about the HCP or the draft EA. The comments and the responses are attached to this document.

Conclusions

Based on review and evaluation of the information contained in the supporting documents, I have determined that the Proposed Action alternative is not a major Federal action that would significantly affect the quality of the human environment, within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969, as amended. Accordingly, the Service is not required to prepare an environmental impact statement for this action. Furthermore, I have found that implementing the Proposed Action alternative will provide conservation benefits to the Covered Species and have no significant impacts on any of the environmental resources identified in the EA.

This Finding of No Significant Impact and supporting documents are on file and available for public inspection, by appointment, at the following U.S. Fish and Wildlife Office:

Oregon Fish and Wildlife Office
2600 SE 98th Avenue, Suite 100
Portland, Oregon 97266



Richard Hannan
Deputy Regional Director, Region 1
U.S. Fish and Wildlife Service

1/14/11

Date

ATTACHMENT: EA COMMENTS/RESPONSE

Comment 1: There was insufficient public involvement and scientific research in developing the HCP and inadequate public notification about the Notice of Availability of the HCP, Permit and EA.

Response: Although the County is not required by Federal law to notify or involve the public in the preliminary planning process prior to submitting a permit application, they voluntarily provided 25 presentations to interest groups, held three workshops, and hosted seven public meetings (Appendix H of the HCP). All of the public meetings were advertised in the Corvallis Gazette-Times and/or by mailing a notice to up to 900 affected/interested individuals and/or organizations. The County also held a 90-day comment period and a 30-day comment period (January 2, 2009 - April 2, 2009, and September 8, 2009 - October 7, 2009, respectively).

In addition to the Federal Register Notice of Availability (published on October 1, 2010), the Service sent a press release to the following newspapers: Corvallis Gazette-Times, Eugene Register-Guard, Albany Democrat Herald, This Week (Linn and Benton Counties) and Oregon Public Broadcast (Rob Manning, and Cassandra Profita for the Ecotrope Blog). The Service also sent the news release to staff for both Oregon Senators and Congressmen DeFazio and Schrader. Benton County sent an email to everyone on their HCP mailing list (118 people) and stakeholders (over 60 people), and mailed a post card to everyone with property in the "Fender's Blue Zone" (over 800 people). Benton County placed an advertisement in the Gazette times on October 7 and 10, 2010, advertising their October 12th meeting and the availability of the draft HCP for review. Service staff, County staff and County Commissioners were available at the October 12, 2010, meeting to answer questions from the public.

The County voluntarily convened a 15-member Technical Advisory Committee (TAC) comprised of prairie habitat and species experts that advised the County on ways to maximize the conservation of prairie habitat and Covered Species. The TAC met on 13 occasions and all meetings were open to the public and advertised through an email notification to the County's interested parties mailing list.

Comment 2: Two commenters requested a sixty day extension to the public comment period and four commenters requested the Service complete an Environmental Impact Statement (EIS).

Response: In a letter dated, November 9, 2010, the Service provided a detailed response to one of these commenters indicating they did not raise any significant issues warranting an additional 60 days for comment or an EIS. The same is true for the other three commenters based on the following reasons:

- The draft HCP and associated documents have not changed significantly since the most recent County-held comment period (closing October 7, 2009).

- As identified in Appendix G & H of the draft HCP, and as summarized above in response 4, extensive public participation has occurred over the last four and a half years, including representation of a broad array of interest groups in the Stakeholder Advisory Committee and TAC (see response to comment 1 above and comment 3 below).
- Although there were a few changes in the reported population estimates for Covered Species between the September 2009 and September 2010 draft HCPs, none of these affect or significantly change the reported impact or estimated take of Covered Species. The most apparent changes between the 2009 and 2010 draft plans include: 1) the current (2010) draft (Table 5.1) provides an estimated impact to adult butterflies (Fender's blue butterfly and Taylor's checkerspot butterflies) in addition to reporting habitat impacts, and 2) Table 3.2 was corrected in the 2010 HCP to accurately reflect the projected abundance of Kincaid's lupine inside the blue zone (on private land). This correction was made because in the 2009 draft HCP, data from the 2009 surveys was inadvertently omitted which resulted in erroneously reporting the projected coverage as 1,532 m² in Table 3.2.
- The amount of take requested by the County is relatively small and we believe implementation of the HCP, as it compares to the No-Action alternative, will result in a conservation benefit to prairie habitat because the mitigation strategy is more effective than on-site, project by project mitigation. Additionally, we anticipate a conservation benefit to the Covered Species will occur as the result of implementing the Prairie Conservation Strategy (Appendix E of the HCP) in combination with the Good Neighbor principle (see page 11 of the HCP).
- The commenter did not identify any inaccuracies with our Environmental Assessment or provide us with information indicating the proposed action warrants an Environmental Impact Statement.

Comment 3: There was inadequate participation by the public in the Stakeholder Advisory Committee (SAC) and their scheduled meetings.

Response: The Stakeholder Advisory meetings were a County-sponsored activity and are not a Federal ESA requirement for development of an HCP. The County voluntarily convened a 34-member SAC in order to allow representation of a broad array of interest groups that could advise the County in the development of the HCP. The SAC met 12 times throughout the planning process, and all meetings were open to the public and advertised through an email notification to the County's interested parties mailing list.

Comment 4: The HCP and its associated EA do not clearly indicate that human disturbance or the loss of habitat connectivity and species' distribution will occur in the next 50 years even though any increase in human disturbance will likely limit Covered Species persistence.

Response: The HCP and EA only address impacts associated with the specific activities covered in the HCP. However, the Service completed a biological opinion (Fish and Wildlife Service 2010a) to ensure that Permit issuance will not preclude species persistence. Section V. of the

biological opinion includes an analysis of cumulative effects from future State, tribal, local or private actions that are reasonably certain to occur in the action area. Future Federal actions that are unrelated to the proposed action are not considered because they require separate consultation pursuant to section 7 of the Act. The Service determined that the Benton County HCP addresses most of the likely development that will affect prairie habitats on private lands in the action area for which the incidental take permit applies.

Comment 5: Implementation of the Covered Activities will result in an increase in the introduction and spread of invasive species which is not addressed in the HCP or the EA.

Response: Section 7.2.1.3 of the HCP (Prairie Habitat Condition Monitoring for Effectiveness Monitoring) describes in detail the effectiveness monitoring that will be conducted and includes invasive species monitoring and actions that will be implemented. Chapter 8 of the HCP also provides provisions for newly identified invasive species. Further, the Service's biological opinion identifies the threat of invasive species to the Covered Species and analyzes the effects of the HCP's proposed mitigation, including habitat restoration, enhancement and management activities on covered lands. As described in the biological opinion, the goal of these activities is to enhance the growing conditions for Covered Species by "reducing or eliminating invasive species and woody species".

Comment 6: The HCP and the EA do not provide a cost comparison between the two proposed action alternatives.

Response: A specific cost comparison is not required for either document.

Comment 7: The EA does not define the acronym PCE, requiring the reader to obtain another document (USFWS 2006) to fully understand the analysis.

Response: We apologize for the omission, and have updated the EA on pg. 58. 'PCE' stands for Primary Constituent Element and is now defined in Section 4.1.5.