

Appendix F. USFWS March 1, 2010 Letter to Benton County



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United States Department of the Interior



FISH AND WILDLIFE SERVICE

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BENTON COUNTY AVERY FACILITY

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Benton County Board of Commissioners
408 SW Monroe Ave, Suite 111
P.O Box 3020
Corvallis, OR 97339

Re: Benton County Habitat Conservation Plan (HCP).

Dear Benton County Commissioners,

Thank you for meeting with me and my staff to discuss the Benton County HCP. As we discussed, this planning effort has increased public awareness about Endangered Species Act (ESA) regulation and consequently, concern from private landowners about current and future land use. I appreciate your interest and patience in addressing these concerns.

I understand that landowners are concerned about the voluntary conservation efforts promoted in the Prairie Conservation Strategy (Appendix E, Draft HCP). Since these efforts are intended to increase the distribution and abundance of listed species in Benton County (including County-owned lands), landowners are concerned about further liability under the ESA. I also understand that landowners are concerned about a few on-going activities (enclosure) that may impact Fender's blue butterfly but are not identified as "Covered Activities" in the draft HCP.

I appreciate the proactive approach to conservation already implemented by Benton County and identified in the draft HCP. Specifically, Benton County's progress towards permanently protecting and maintaining a core Fender's blue butterfly (*Icaricia icarioides fenderi*) population (acquisition grants already awarded), in combination with the commitment to enhance this population, as identified in the draft HCP. In and of itself, these commitments will significantly reduce the imminence of threats to the species and contribute towards its recovery. Additionally, we anticipate a significant recovery contribution from the voluntary conservation efforts identified in the Prairie Conservation Strategy (Appendix E, Draft HCP). Given the number of Benton County landowners already participating in these voluntary programs, my staff and I believe that by alleviating the above mentioned concerns, we will ensure the success of the Prairie Conservation Strategy (Appendix E, Draft HCP) and achieve Fender's blue butterfly recovery goals in Benton County.

It is the U.S. Fish and Wildlife Service's (Service) responsibility to investigate and take appropriate enforcement action with respect to potential harm or harassment of Fender's blue butterfly under the ESA. However, this letter is to inform you that, while finalizing the HCP and

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during its successful implementation, I will not recommend that the Service initiate prosecution for 1) those on-going activities specifically identified (enclosure) or 2) any activities outside of the "Blue Zone" as identified in the draft HCP, that may impact introduced populations of Fender's blue butterfly. Although these activities pose a small risk of incidental take, we believe the risk of harm is low and that any potential harm will be discountable from the standpoint of species recovery. However, if a naturally occurring Fender's blue butterfly population is found outside of the "Blue Zone", this prosecutorial discretion may not be utilized because the impacts to the species would no longer be considered small or discountable.

I appreciate your willingness to undertake a County-wide planning effort, and your commitment to ensuring the final HCP provides a meaningful contribution to prairie recovery. I look forward to working with you on finalizing the HCP and achieving prairie recovery goals in Benton County. If you wish to contact us to discuss this letter, please contact Mikki Collins or Rich Szlemp of my staff at (503) 231-6179.

Sincerely,



Paul Henson, PhD
State Supervisor

Enclosure - List of On-going Activities

cc: Cindi Bockstadter, Fish and Wildlife Service Law Enforcement, Wilsonville, Oregon
Jeff Powers, Director Benton County Parks and Open Space
Tom Kaye, Institute for Applied Ecology

Enclosure- List of On-going Activities

This list of habitat and property management activities are outside Benton County's regulatory oversight, and have the potential for short term or negligible impacts but long term benefit to Fender's blue butterfly habitat. Such activities include:

- mowing a field, pasture, or vineyard row middle or margin that has been regularly mowed prior to HCP enactment;
- haying a field after July 15th;
- grazing the same type of livestock at a similar timing and intensity as has occurred in the same area in the past;
- spot-spraying or manual removal of noxious weeds;
- planting native prairie species; and
- installing, maintaining or replacing a fence that existed prior to HCP enactment.

Many of these activities may aid in maintaining prairie habitats and thereby benefit the Covered Species. If a landowner wishes, they may receive assistance and guidance in completing these activities by enrolling in an existing program that assists private landowners interested in conservation on their lands. These programs, including the USFWS Partners for Fish and Wildlife program and the Safe Harbor Agreement with Assurances, are described in the Prairie Conservation Strategy in the draft HCP (Appendix E) Chapter 6: Voluntary Conservation Tools. While enrollment in such programs is strictly voluntary, the monitoring and assessment that occurs through these programs would contribute information about prairie management, benefit prairie conservation, and demonstrate the success of voluntary actions.