ENVIRONMENTAL ACTION STATEMENT
FOR THE MCLAIN HABITAT CONSERVATION PLAN

I. Project Information

A. Project name: Mclain Habitat Conservation Plan for the Olympia Pocket Gopher

B. Covered Species: Olympia subspecies of the Mazama pocket gopher

C. Project Size: 0.5 acres of an 8.22-acre parcel

D. Brief Project Description

Description: The applicant (Mr. Steven Mclain) for an incidental take permit (ITP) to take a listed species proposes to construct one, single-family residence on property he owns in Thurston County, Washington. The property is known to be occupied by the threatened Olympia subspecies of the Mazama pocket gopher (*Thomomys mazama pugetensis*), hereafter referred to as the Olympia pocket gopher. The applicant acknowledges that it will not be possible to avoid all adverse effects to this species and its habitat while constructing the proposed residence. On that basis, he has prepared a habitat conservation plan (HCP; Mclain 2017) in partial fulfillment of the requirements under the Endangered Species Act (ESA) to obtain a permit from the Fish and Wildlife Service authorizing otherwise prohibited take.

The proposed project is the construction of one new single-family residence at 9925 Nunn Road SW, in Olympia, Washington. The home, driveway, and lawn surrounding the home will be constructed within a 0.5-acre development area located within the 8.22-acre property. A home, barn, and several small storage sheds currently exist on the property, and will not be disturbed. The remainder of the property will continue to be operated as a family farm.

The applicant's HCP describes a proposed conservation program intended to minimize and mitigate unavoidable impacts to the Olympia pocket gopher and its habitat that may occur during construction of the project, including a commitment to manage one acre of suitable habitat for the benefit of the covered species at a designated "conservation site" located on the landowner's property. The conservation site will be placed under a conservation easement to ensure third-party verification of the ongoing habitat management commitments described in the HCP. The proposed conservation easement will remain in effect in perpetuity or until it is offset with an equivalent amount of suitable occupied habitat for the covered species from a Service-approved conservation bank once such a bank becomes available.

Purpose and Need: The Service's purpose in considering the proposed action is to fulfill our statutory obligations under section 10(a)(1)(B) of the ESA. Non-Federal applicants, whose otherwise lawful activities may result in the take of fish or wildlife listed under the ESA, can apply to the Service for incidental take authority so that their activities may proceed without potential violations of the take prohibitions under section 9 of the ESA.

To carry out these responsibilities, the Service must comply with a number of laws, regulations, Executive Orders (EOs), agency directives, and policies. To fulfill these responsibilities and

obligations, we will:

- Ensure that the issuance of the ITP and implementation of the HCP achieve long-term species and ecosystem conservation objectives at ecologically appropriate scales, and

- Ensure that the conservation actions approved with issuance of the ITP occur within a spatially explicit landscape conservation design capable of supporting species mitigation projects over the long-term.

Section 10 of the ESA specifically directs the Service to issue ITPs to non-Federal entities for take of endangered and threatened species when the criteria in section 10(a)(2)(B) of the ESA are satisfied by the applicant. Once we receive an application for an ITP, we need to review the application to determine if it meets issuance criteria. We also need to ensure that issuance of the ITP and implementation of the HCP complies with other applicable Federal laws and regulations such as: the National Environmental Policy Act (NEPA); National Historic Preservation Act; treaties; and EOs 11998, 11990, 13186, 12630, and 12962. In addition, the Service enforces the Bald and Golden Eagle Protection Act (BGEPA), the Migratory Bird Treaty Act (MBTA), and other requirements of the ESA, such as compliance with section 7(a)(2). If we issue an ITP, we may condition the permit to ensure the permittee's compliance with BGEPA, MBTA, and other applicable requirements of the ESA.

On June 12, 2017, the Service received an ITP application from Mr. Mclain. If the application request is approved and the Service issues a permit, the ITP would authorize Mr. Mclain to take the Olympia pocket gopher incidental to construction of one single-family home and implementation of the conservation program described in the Mclain HCP. The Service prepared this EAS to document our compliance with the requirements of NEPA, and to use this information to make better informed decisions concerning this ITP application.

Requested Permit Term: The Applicant requested a permit term of two years.

Lands Covered under the HCP and ITP: The permit area described in the applicant's HCP includes a 0.5-acre development area where the new house construction will take place and a one-acre conservation area that will serve as the project's permanent onsite mitigation site unless or until an equivalent amount of suitable, gopher-occupied habitat is protected and managed via a credit in a Service-approved conservation bank.

Species Occurrence: The Olympia pocket gopher has been documented to occur on the property.

Goals: The applicant proposes to contribute to the conservation of the Olympia pocket gopher by permanently conserving and maintaining suitable habitat necessary for Olympia pocket gopher breeding, feeding, and sheltering activities. This species has a limited range in Thurston County. The conservation site is located within an area identified by the Service as important for recovery of the Olympia pocket gopher.

Minimization and Mitigation Measures: To minimize adverse effects to the gopher and its habitat, the total area subject to development has been reduced and placed as close to the existing home, utility infrastructure, and roadway as possible. All grading, excavation, materials storage, construction and development activities will be limited to the area within the 0.5-acre development site. Construction and/or silt fencing will be installed at the perimeter of the development site to delineate project boundaries and to ensure that construction-related activities are limited to this designated area. Reducing the total area that will be disturbed effectively minimizes the overall impact to the Olympia pocket gopher and its habitat.

To mitigate the impacts of the taking that cannot be avoided, the applicant proposes to:

1. Dedicate one acre of occupied habitat to permanently support the conservation of the Olympia pocket gopher. This area is referred to as the "conservation site" and is identified in the legal description attached to the HCP as Appendix B.
2. The entire property is currently zoned for light industrial development and is threatened with increasing development pressure due to its proximity to an interstate highway and local commerce centers, including the City of Tumwater and the Olympia Airport. The applicant proposes to execute a conservation easement over the conservation site held by Thurston County to ensure conservation benefits to the Olympia pocket gopher. A copy of the conservation easement that will be executed prior to initiating construction activities is attached to the HCP in Appendix E.
3. The conservation easement will permanently extinguish development and subdivision rights on the conservation site thereby reducing the threat of further Olympia pocket gopher habitat loss and fragmentation. The applicant will reserve the right to engage in current and ongoing agricultural (farming) practices on the conservation site so long as they meet the requirements described in the ESA section 4(d) special rule published for the Mazama pocket gopher on April 9, 2014 (79 FR 68 19795-19796).
4. The applicant will provide funding to implement ongoing management actions on the conservation site, and document that such management actions have been implemented.
5. The applicant will complete the above tasks upon issuance of the requested ITP, and prior to initiating any ground-disturbing covered activities.

This mitigation proposal is in keeping with the principles outlined in the Service's *Mazama Pocket Gopher Conservation Strategy and Mitigation Guidance* (Service 2015). In that regard, the proposed conservation site:

1. Is located within an area considered a Reserve Priority Area for the Olympia pocket gopher by the Service and the Washington Department of Fish and Wildlife;
2. Will be legally and permanently conserved, managed, and endowed to help ensure its long-term ecological value consistent with the conservation needs of this species;
3. Is predominantly vegetated by low-statured forbs and grasses, and is not a monoculture; and
4. Is currently occupied by Olympia pocket gophers.

Securing the conservation site with a conservation easement addresses threats specifically identified in the Service's final listing rule for the gopher (79 FR 68 19760). The property is currently zoned for light industrial development, and removing subdivision and development rights within the conservation site ameliorates the threats of further habitat fragmentation or habitat loss to development on the site.

The conservation easement will remain in effect in perpetuity unless or until an equivalent amount of suitable, gopher-occupied habitat is protected and managed via a credit in a Service-approved conservation bank.

Monitoring and Reporting:

II. Does the HCP fit the following low-effect criteria?

Yes, for the reasons discussed below, we find that the proposed Mclain HCP meets all three criteria for a low-effect determination.

A. Are the effects of the HCP minor or negligible on federally listed, proposed, or candidate species and their habitats covered under the HCP?

The anticipated impacts of covered activities are expected to be minor or negligible to the population of the Olympia pocket gopher with implementation of the applicant's proposed conservation program. The anticipated effects to the species resulting from constructing one single-family home within a one-half acre development site and setting aside one acre of gopher-occupied habitat (a 2:1 ratio) under a conservation easement within a Reserve Priority Area is consistent with the Service's *Mazama Pocket Gopher Conservation Strategy and Mitigation Guidance* (Service 2015), and is not expected to result in a detectable demographic-level effect upon the listed species. No other listed, proposed, or candidate species are likely to be affected by the covered activities.

B. Are the effects of the HCP minor or negligible on other environmental values or resources (e.g. air quality, geology and soils, water quality and quantity, socio-economic, cultural resources, recreation, visual resources, etc.)?

The proposed construction of one single-family home on 0.5 acres and establishment of an onsite conservation site are expected to have minor or negligible effects on the human environment including all environmental values and resources. The Thurston County Comprehensive Plan and Critical Area Ordinances established in keeping with Washington's Growth Management Act designate that future construction on the site will meet the light-industrial commercial development standard in accordance with current zoning for the parcel. The applicant's proposal to construct one single-family home and manage one acre as onsite habitat mitigation represents a lower development density and a reduced impact to the human environment than currently anticipated by local planning authorities. The remaining acreage owned by the applicant would remain under agricultural practices covered by the Service's ESA section 4(d) special rule for this species.

C. Would the impacts of this HCP, considered together with the impacts of other past, present and reasonably foreseeable similarly situated projects not result, over time, in cumulative effects to environmental values or resources considered significant?

Yes, because the applicant's proposal to construct one single-family home and manage one acre as onsite habitat mitigation represents a lower development density and a reduced impact to the human environment than currently anticipated by local planning authorities. The remaining acreage owned by the applicant would remain under agricultural practices covered by the Service's ESA section 4(d) special rule for this species. See also the discussion below under section III below.

III. Do any of the exceptions to categorical exclusions apply to this HCP? (form 516 DM 2, Appendix 2)

Would implementation of the HCP:

A. Have significant adverse effects on public health or safety?

No significant effects to human health or safety (including considerations such as air quality, water quality, and noise or sound effects) are expected from the proposed Federal action of issuing the requested ITP or from the resulting construction of one single-family home at the proposed project site. The landowner's parcel is currently zoned for light-industrial development, and the construction of one single-family home and dedication of a portion of the property for ongoing management of the covered species represents lower levels of impact to public health and safety considerations than currently anticipated by local development authorities. The proposed project and associated impacts are typical of single-family residential construction in Thurston County and the covered activities will be restricted to the designated 0.5-acre development site on the applicant's property. The applicant has committed that the proposed project will comply with all applicable Federal, State, and local laws, regulations, and ordinances, ensuring that public health and safety standards will be maintained. Any variance or violation of these standards would result in the project being no longer otherwise lawful, in which case the requested ITP would no longer be valid.

B. Have adverse effects on such unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds, and other ecologically significant or critical areas?

No unique geographic characteristics are known or expected to occur within the identified HCP plan area. Therefore, none will be affected by issuance of the requested ITP.

We completed a review under section 106 of the National Historic Preservation Act of 1966 to determine if any historic or cultural resources might be affected by issuance of the requested ITP or implementation of the associated HCP. A signed copy of the Regional Historic Preservation Officer's Section 106 determination that no historic or cultural resources would be affected is

attached to this document.

No park, recreation or refuge lands, wilderness areas, wild or scenic rivers, or national natural landmarks occur within the HCP plan area. Therefore, none will be affected by issuance of the requested ITP.

The issuance of the requested ITP and resulting construction of one single-family home is not expected to impact groundwater, and no growth-inducing or other related impacts are expected to impact prime or unique farmlands. No wetland, floodplains, or national monuments are within the HCP plan area, and none are likely to be affected by issuance of the requested ITP. While migratory birds are likely to be present on or near the project site, the issuance of the requested permit and resulting construction of one single-family home on 0.5 acres adjacent to existing structures is not expected to have detectable adverse effects on these species. No other ecologically significant or critical areas are known to occur within the proposed plan area. Therefore, none are expected to be affected.

C. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]?

The term "controversial" refers "to cases where a substantial dispute exists as to the size, nature, or effect of the major Federal action rather than to the existence of opposition to a use." (*N. Am. Wild Sheep* v *Dept of Agric.*, 681 F.2d 1172, 1182 (9th Cir. 1982)). No highly controversial environmental effects or unresolved conflicts concerning short- or long-term potential uses of natural resources are expected within the proposed plan area.

D. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?

No highly uncertain and potentially significant environmental effects or unique or unknown environmental risks are expected from the proposed Federal action of issuing the requested ITP or from implementation of the associated HCP for the reasons discussed in subsections A-L of this section.

E. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?

No precedents for future action or decision about future actions with potentially significant environmental effects are expected to be established by the proposed Federal action of issuing an ITP for constriction of one single family home at the project site or from implementation of the associated HCP for the reasons discussed in subsections A-L of this section.

F. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects?

Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. There is no known relationship of the proposed Federal action of

issuing the requested ITP for construction of one single-family home with other actions that have individually insignificant, but cumulatively significant, environmental effects.

G. Have adverse effects on properties listed or eligible for listing, on the National Register of Historic Places?

Implementation of the HCP is not expected to have any adverse effects on properties listed or eligible for listing on the National Register of Historic Properties. The Service consulted with the Regional Historic Preservation Officer (RHPO) and determined that no properties listed or eligible for listing on the National Register of Historic Places will be affected by the proposed Federal action. A copy of the RHPO's letter to that effect is attached.

H. Have significant impacts on species listed, or proposed to for listing, on the List of Endangered or Threatened Species or have significant impacts on designated critical habitat for these species?

Implementation of the proposed HCP is not expected to have significant impacts to species listed or proposed for listing under the ESA or to any designated critical habitats.

The anticipated impacts of covered activities on the Olympia pocket gopher are expected to be minor or negligible to the population of this species with implementation of the applicant's proposed conservation program. The anticipated adverse effects to this species resulting from constructing one single-family home within a one-half acre development site are likely to be offset by the conservation and management of one acre of occupied habitat for the species (a 2:1 mitigation ratio). This approach is consistent with the Service's *Mazama Pocket Gopher Conservation Strategy and Mitigation Guidance* (Service 2015), and is not expected to result in a detectable demographic-level effect upon the gopher.

The project site is not located within designated critical habitat for the gopher or other listed species or within the known range of any other species listed or proposed for listing under the ESA. The impacts of covered activities are expected to be contained within the proposed permit area. Therefore, no impacts to designated critical habitat and to other listed or proposed species are expected.

I. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

The proposed activities covered under an HCP must be otherwise lawful for the Service to issue the requested permit. The applicant has committed that the project will comply with all applicable Federal, State, local, or tribal laws or requirements imposed for the protection of the environment, and the Service is not aware of any such law or requirement that would be violated by issuing the permit or by implementing the HCP.

J. Have a disproportionately high and adverse effect on low income or minority populations (EO 12898).

No low income or minority populations are found within the plan area for the proposed HCP, therefore, issuance of the requested ITP and subsequent implementation of the HCP are not expected to have adverse effects on any such populations.

K. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007).

Implementation of the proposed HCP will occur on land owned and controlled by the applicant and will not limit access to or use of ceremonial Indian sacred sites on Federal lands or affect the integrity of any such sites.

L. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112).

Issuance of the requested ITP and implementation of the proposed HCP are not expected to contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the plan area or facilitate actions that may promote the introduction, growth, or expansion of the range of such species.

ENVIRONMENTAL ACTION STATEMENT

Based on the analysis above, the effects of the Mclain Habitat Conservation Plan on the human environment qualify for a categorical exclusion as defined in the Service's *Habitat Conservation Planning and Incidental Take Permit Processing Handbook* (Service 2016). On that basis, this action is categorically excluded from further NEPA documentation as provided by 516 DM 2, Appendix 1; 516 DM 6, Appendix 1; and 516 DM 8.5(C)(2).

Other supporting document(s): The draft Mclain Habitat Conservation Plan for the Olympia pocket gopher (Mclain 2017); and the Service's *Mazama Pocket Gopher Conservation Strategy and Mitigation Guidance* (Service 2015).

Concurrence:

9/14/2017

Eric Rickerson, State Supervisor
Washington Fish and Wildlife Office
U. S. Fish and Wildlife Service

Date

Literature Cited

Mclain, J. 2017. Draft Mclain Habitat Conservation Plan for the Olympia Pocket Gopher. On file at the Fish and Wildlife Service's Washington Fish and Wildlife Office in Lacey, Washington.

U.S. Fish and Wildlife Service. 2014. Endangered and Threatened Wildlife and Plants; Threatened Species Status for the Olympia Pocket Gopher, Roy Prairie Pocket Gopher, Tenino Pocket Gopher, and Yelm Pocket Gopher, With Special Rule; Final Rule. Federal Register, Vol. 79, No. 68, 19760-19796.

U.S. Fish and Wildlife Service. 2015. Mazama Pocket Gopher Conservation Strategy and Mitigation Guidance. Memorandum on file at the Service's Washington Fish and Wildlife Office in Lacey, Washington.

U. S. Department of the Interior Fish and Wildlife Service and U. S. Department of Commerce National Oceanic and Atmospheric Administration National Marine Fisheries Service. 2016. Habitat Conservation Planning and Incidental Take Permit Processing Handbook.