

U. S. FISH AND WILDLIFE SERVICE
NEPA ENVIRONMENTAL ACTION STATEMENT
for
CATEGORICAL EXCLUSION

I. Project Information

A. Project Name: Oregon Department of Transportation Statewide Habitat Conservation Plan for Routine Maintenance Activities

B. Affected Species: Fender's blue butterfly (*Plebejus icarioides fenderi*), Oregon silverspot butterfly (*Speyeria zerene hippolyta*), Kincaid's lupine (*Lupinus sulphureus ssp. kincaidii*), Bradshaw's desert parsley (*Lomatium bradshawii*), Cook's lomatium (*Lomatium cookii*), Howell's spectacular thelypody (*Thelypodium howellii ssp. spectabilis*), Large-flowered woolly meadowfoam (*Limnanthes pumila ssp. grandiflora*), Nelson's checker-mallow (*Sidalcea nelsoniana*), Western lily (*Lilium occidentale*), Willamette daisy (*Erigeron decumbens*)

C. Project Size (in stream miles and acres): The Oregon Department of Transportation (ODOT) owns over 8,000 miles (12,875 km) of highway with more than 50,000 acres (20,234 ha) of right-of-way (ROW). With a few exceptions (including some mitigation areas), the HCP does not cover ODOT properties owned, managed or leased that are not directly adjacent to the roadway (e.g., maintenance yards and rest areas). To date, Federal and/or state listed butterflies and plants are known to occur at approximately 80 ODOT ROW locations, covering a total of less than 0.01 percent of the state highway system.

D. Brief Project Description: This Habitat Conservation Plan (HCP) is a state-wide initiative that covers routine road maintenance activities conducted by ODOT that have the potential to directly or indirectly impact threatened or endangered butterflies and plants. Routine road maintenance activities are considered ongoing activities as they apply to the state Endangered Species Act (OAR 603-073-0090(f)) because they occur regularly, although not necessarily every year, for the purpose of maintaining the safety and efficiency of state highways. Road maintenance covered by this HCP includes activities that occur directly on roads and on the shoulder and ROW area adjacent to roads (e.g., grading, mowing, weed control) from the edge of pavement to the ROW boundary, including interchanges.

The location of all known populations of Covered Species proposed to be protected under this HCP are mapped in ODOT's statewide geo-database for use during planning maintenance and project activities. Site management guidelines and plans are developed for each of these sites, based on maintenance needs and species management and protection. The HCP addresses two species, Fender's blue butterfly and Oregon silverspot butterfly, for which permit coverage is sought. The HCP also address 36 plant species, 14 of which are federally listed, that either have known populations or suitable habitat in the ODOT ROW. Among the federally-listed plants is Kincaid's lupine, a larval host plant of the Fender's blue butterfly.

The HCP is intended to have a term of 25 years.

The following conservation measures are included in the HCP:

ODOT will coordinate with applicable regulatory agencies to develop site-specific measures to avoid or minimize potential impacts during routine maintenance work to Covered Species that are known to occur outside the Operational Roadway. In most cases, Operational Roadway boundaries have already been defined in such a way that direct impacts to Covered Species are completely avoided. Signs will be placed on the roadside to alert maintenance crews to the presence of protected resources when appropriate, as determined by ODOT. In most cases, ODOT already utilizes Special Management Area signs, but as part of the HCP, signs will be updated and placement reviewed for improved effectiveness.

Beyond the Operational Roadway known populations of Covered Species will be protected and managed. Such areas near or within parts of the ROW with ongoing maintenance activities fall under ODOT's current Special Management Area Program (SMA) and those located in areas that do not need routine maintenance will be designated and managed as Resource Protection Areas (RPA).

Mitigation measures generally consist of the following main types of activities aimed at increasing existing populations: (1) habitat enhancements on ODOT or other protected properties, (2) species augmentation on or offsite, or (3) improved species or habitat protections in HCP sites. Except where noted in the HCP, the goal of each mitigation strategy is a 1:1 mitigation ratio within 12 years of HCP implementation and to maintain the goal for the life of the program. For the Fender's blue butterfly, the mitigation ration is 3:1. ODOT will implement a program to mow just under a mile of herbaceous flowering plants alongside US 101 in the central Coast, timed for early summer before peak butterfly activity occurs between mid-June and mid-July. The mow area will coincide with the Operational Roadway, up to 8 feet (2.4 m) from the edge of pavement. The mower height will be set as low as possible to discourage herbaceous plants from bolting and flowering at heights that would attract the butterflies. Additional recommendations involve increasing nectar and larval food plants in meadows distant from the road, and adding hedgerow or forest fringe shelter to meadows on both sides of the highway so butterflies will not have to cross the road to access resources.

II. Does the HCP fit the following Department of Interior and Fish and Wildlife Service categorical-exclusion criteria?

A. Are the effects of the HCP minor or negligible on federally listed, proposed, or candidate species and their habitats covered under the HCP, prior to implementation of the minimization and mitigation measures, if any? [516 DM 8.5(C)(2)]

Yes. The primary area of impact is within the operational roadway, which includes the road and the adjoining ROW. The ROW receives regular maintenance and occurs as a strip of vegetation that has not been managed to maintain native habitat and generally does not represent what would be considered high-quality habitat. Roadside habitat is not an ideal

location to begin with due to the on-going effects of high-speed traffic and on-going maintenance to provide a safe and functional roadway.

A very small portion of the right-of-way is potential habitat. The species' habitats to be potentially impacted in the ROW for which the permit is being issued add up to less than two acres. Because of the small areas of occupied habitat, the quality being routinely impacted by on-going actions, and the small change in management, the effects are minor or negligible.

B. Are the effects of the HCP minor or negligible on all other components of the human environment, including environmental values and environmental resources (e.g. air quality, geology and soils, water quality and quantity, socio-economic, cultural resources, recreation, visual resources, etc.), prior to implementation of the minimization and mitigation measures? [40 CFR 1508.14; 43CFR 46.205]

The HCP covers routine maintenance activities that have occurred for decades since the roads were established. The HCP will result in little change from past activities.

C. Would the incremental impacts of this HCP, considered together with the impacts of other past, present and reasonably foreseeable future actions (regardless of what agency or person undertakes such other actions) *not* result, over time, in a cumulative effect to the human environment (the natural and physical environment) which would be considered significant? [40 CFR 1508.7; 43CFR 46.205]

The HCP does not include coverage for new roads and we do not anticipate any changes to the right-of-way. Due to the very limited impact area, and the even smaller area within which the covered species may occur, we do not anticipate the effects of the HCP to result in any significant cumulative impacts.

III. Do any of the exceptions to categorical exclusions (extraordinary circumstances) listed in 43 CFR 46.215 apply to this HCP?

Would implementation of the HCP:

A. Have significant impacts on public health or safety?

No. The HCP will not result in any significant changes to road maintenance for the purposes of addressing the needs of the covered species. The permitted activities will allow ODOT to continue to manage the roadway for public use and safety.

B. Have significant impacts on such natural resources and 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 (Executive Order 11990) or floodplains (Executive Order 11988); national monuments; migratory birds, or other ecologically significant or critical areas?

No. The ROW is a previously disturbed area that has been maintained as a right-of-way since the creation of the roads. We are unaware of any unique characteristics, historic or

cultural features, or ecologically significant areas that would be affected by any covered activities.

C. Have highly controversial environmental effects (defined at 43 CFR 46.30), or involve unresolved conflicts concerning alternative uses of available resources? [see NEPA section 102(2)(E)]

No. There will be no controversial changes to the management of the ROW.

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

No. The covered activities have been on-going for many years.

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

No. The covered activities are routine ROW activities and do not set any precedents.

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

No. There are no other activities that are directly related to the covered activities that would result in cumulatively significant effects.

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

No. We are unaware of any such properties or places in the ROW. The effects of the covered activities do not significantly differ from previous on-going effects.

H. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?

No. Maintenance impacts within the operational portion of the ROW generally affect only small portions of the existing populations of listed plants within the ROWs. These populations have persisted with on-going maintenance. Outside of the operational portion, these plants will be managed to increase their population and/or be augmented to mitigate for the impacts from maintenance. Furthermore, the populations of listed plants in the operational ROW represent only a very small portion of the overall species' population such that any impacts are generally considered small and insignificant to the population as a whole.

Approximately 0.75 acres of Fender's blue butterfly designated critical habitat and 0.60 acres of Kincaid's lupine designated critical habitat is included in the covered area of the ROW. Approximately 0.25 acres are shared between the two. ROW maintenance activities are not going to significantly change. Approximately 0.27 acres of Oregon silverspot butterfly habitat within designated critical habitat is included in the covered area. These areas were designated with those maintenance activities in place. Because of the on-going nature of these road maintenance activities, it is not anticipated to significantly alter any of the primary constituent elements in place at the time of designation. Therefore, due to the small area of impact and the level and type of impact, we do not believe that there would be any significant

adverse impacts.

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

No. We are not aware of any Federal, State, local, or Tribal law or requirement that will be violated by the covered activities, which have been on-going for many years in the same areas. The HCP is being proposed in part to comply with Oregon's state endangered species act and has been developed with the state's cooperation through the involvement of the Oregon Department of Agriculture.

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

No. The project area in the ROW is intended to allow maintenance of the roadway for the benefit of all persons using the roadway.

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 (Executive Order 13007).

No. The project area has been considered road ROW and this will not change under the HCP.

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 Executive Order 13112).

No. The HCP specifically targets the removal and the prevention of the spread of noxious weeds or non-native species that may out-compete the listed plant species or the nectar and larval host plants of the covered butterfly species.

IV. ENVIRONMENTAL ACTION STATEMENT

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record.

Based on the information and analysis above, I determine that the proposed issuance of an Incidental Take Permit for this HCP qualifies for a categorical exclusion, as defined in 40 CFR 1508.4 and in the U.S. Fish and Wildlife Service *Habitat Conservation Planning Handbook*. Furthermore, no extraordinary circumstances identified in 43 CFR 46.215 exist for the **HCP**. Therefore, the Service's permit action for this HCP is categorically excluded from further NEPA review and documentation, as provided by 40 CFR 1507.3; 43 CFR 46.205; 43 CFR 46.215; 516 DM 3; 516 DM 8.5; and 550 FW 3.3C. A more extensive NEPA process is unwarranted, and no further NEPA documentation will be made.

Other supporting documents:

Oregon Department of Transportation Statewide Habitat Conservation Plan for Routine Maintenance Activities

Signature Approval:

Paul Henson
State Supervisor
Oregon Fish and Wildlife Office

Date