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August 17, 2004

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HAND DELIVERY

Mr. Stephen Zylstra
U.S. Fish and Wildlife Service
Oregon Field Office
2600 SE 98th Avenue, Suite 100
Portland, OR 97266

Re: Westlake Ranch LLC HCP Proposal

Dear Stephen:

Thank you for taking the time to meet with us on July 26th to discuss the Westlake Ranch LLC Habitat Conservation Plan (the "HCP") for the Oregon silverspot butterfly. I also appreciate the time and effort of Rich Szlemp in addressing the issues described in the U.S. Fish and Wildlife Service's letter dated July 15, 2004 regarding the Westlake Ranch LLC HCP Proposal dated June 25, 2004. Enclosed is the revised Westlake Ranch LLC HCP Proposal dated August 9, 2004, the applications, and checks for processing. Thank you for your time and consideration in the development of this HCP.

Warm regards,

A handwritten signature in cursive script, appearing to read "Barbara D. Craig".

Barbara D. Craig

Enclosures

cc (w/encs.): Mr. Kemper McMaster
Mr. Rich Szlemp
Ms. Anne Walker
Mr. Neal Maine
Mr. Rick Charlton
Mr. Rich Schroeder
Mr. Curt Smitch
Dr. Steven Courtney
Mr. Randy Curs
Ms. Tasha Curs

Westlake Ranch LLC
Oregon Silverspot Butterfly Habitat Conservation Plan

Westlake Ranch LLC
Randy and Tasha Curs
Clatsop County, Oregon

August 9, 2004

Oregon Silverspot Butterfly Habitat Conservation Plan

Table Of Contents

	<u>Page</u>
I. INTRODUCTION	1
A. Endangered Species Act	1
B. Incidental Take Permits	2
C. Need for a Habitat Conservation Plan	2
D. Habitat Conservation Plan Objectives	3
II. LIFE HISTORY	3
A. Overview	3
B. Taxonomy and Description	3
C. Geographic Distribution	4
D. Population Status	4
E. Life Cycle, Habitat Requirements, and Limiting Factors	5
F. Threats and Reasons for Listing	10
III. PROJECT AREA DESCRIPTION	11
A. Location and Setting	11
B. Project Area	13
IV. HABITAT CONSERVATION MEASURES	14
V. EFFECT OF PROPOSED ACTIONS	15
A. Impacts of the HCP on the OSB and Anticipated Level of Take	15
B. Benefits of the HCP on OSB	16
VI. MONITORING AND REPORTING	18
VII. FUNDING AVAILABILITY	18
VIII. ALTERNATIVES CONSIDERED	19
IX. UNFORESEEN AND EXTRAORDINARY CIRCUMSTANCES	19
X. ADDITIONAL MEASURES AND CONDITIONS	19
XI. LITERATURE CITED	20

Oregon Silverspot Butterfly Habitat Conservation Plan

Appendices and Figures

- APPENDIX A Conservation Agreement For Oregon Silverspot Butterfly (*Speyeria zerene hippolyta*) At Curs Property, Clatsop Plains, Clatsop County, Oregon (October 20, 1997)
- APPENDIX B 2003 Reed Ranch *Viola adunca* Survey
- FIGURE 1 Survey Map with Development Overlay
- FIGURE 2 Proposed Mitigation Area Map and Legal Description
- FIGURE 3 Legal Description of HCP Development Area
- FIGURE 4 Legal Description of Curs Property

Habitat Conservation Plan

I. INTRODUCTION

The proponent of this Habitat Conservation Plan (“HCP”), Westlake Ranch LLC (hereinafter referred to as the “Westlake”), proposes to develop approximately 74 lots on approximately 160 acres of property in Clatsop County, Oregon. In addition, this HCP also includes a proposal to develop one additional homesite on acreage owned by Randy and Tasha Curs (“the Curs”), which is adjacent to the property owned by Westlake. See Figure 1. Both Westlake and the Curs are “Applicants” for purposes of this HCP. Westlake has proposed clustering the development to the north, where impacts to blue violets, which constitute Oregon Silverspot Butterfly (*Speyeria zerene hippolyta*) (the “OSB”) habitat, will be minimal. Westlake will provide mitigation for the loss of early blue violets (*Viola adunca*) from the proposed housing development by setting aside a unique patch of goldenrod and an area of blue violets (the “Proposed Mitigation Area”). See Figure 2. The Proposed Mitigation Area will be managed over the term of this HCP. In addition, as a condition of this HCP, the Curs will continue to implement the terms of an October 20, 1997 Conservation Agreement with USFWS, which expired in 2002 (attached as Appendix A), and which will provide continued protection of 1.5 acres of high-quality OSB habitat on their property.

As a voluntary recovery measure that is not proposed as mitigation for purposes of this HCP, Westlake also plans to work diligently with the U.S. Fish and Wildlife Service (the “USFWS”) to acquire funds to facilitate the sale of the approximately 111-acre southern portion of the property for OSB recovery purposes (the “Anticipated Recovery Area”). See Figure 1. The funding sources may be from a Federal conservation or recovery fund and/or private funding from conservation or other organizations. In the event of such a sale, the Proposed Mitigation Area would be included in this transaction for the protection of the OSB. It is important to recognize that the commitment to pursue a sale of the Anticipated Recovery Area is not a requirement of this HCP, but should be considered a separate endeavor memorialized here for purposes of providing context. Should the sale of the Anticipated Recovery Area fail to occur, then this HCP shall not be affected. Furthermore, if insufficient funds are available, Westlake reserves the right to retain the Anticipated Recovery Area.

The following sections describe the legal framework and need for the actions proposed in this HCP.

A. Endangered Species Act

The U.S. Congress enacted the Endangered Species Act (the “ESA”) in 1973 to protect plant and animal species that are in danger of, or threatened with, extinction. The USFWS is responsible for implementing the ESA for those species under its jurisdiction. Section 9 of the ESA, its primary species protection provision, generally prohibits taking of a federally-listed threatened or endangered fish and wildlife species.

“Take” is the act of killing, harming, collecting, capturing, or harassing a member of the protected species. The term “member” includes all life stages of the species. In some instances, modifying or disturbing the habitat of a listed species to the point that the ecological processes of

Oregon Silverspot Butterfly Habitat Conservation Plan

the species are adversely affected can also constitute take. These processes include feeding, breeding, and sheltering.

B. Incidental Take Permits

The ESA established a process that allows for limited take of federally-listed species provided that measures are taken to conserve affected species. This is accomplished through the incidental take permit (“ITP”) process (section 10(a)(1)(B) of the ESA) and through section 7 consultation (section 7(a)(2) of the ESA).

Section 10(a)(1)(B) provides a mechanism to address situations in which non-federal projects or activities not requiring Federal authorization or funding are in potential conflict with the protection of a listed species. Under section 10(a)(1)(B), an ITP allows for the take of federally-listed species on non-federal lands where their presence interferes with land use activities that would otherwise be legal, so long as certain conditions are met. The ESA specifies those conditions as follows: the taking will be incidental, Westlake will minimize and mitigate the impacts of such takings, Westlake assures that adequate funding for the plan will be provided, the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild, and Westlake will meet any additional measures required by the Secretary of the Interior.

To obtain an ITP, the non-federal landowner must develop a habitat conservation plan. A habitat conservation plan is a formal plan that specifies the impact to the species that will likely result from the taking, what steps Westlake will take to minimize and mitigate the impact and the funding that will be available to implement such steps, what alternative actions to the taking were considered and the reasons why the alternative actions were not used, and other measures that the Secretary may require as necessary or appropriate for the purposes of the plan. ITPs may also require environmental analysis under the National Environmental Policy Act (“NEPA”). A project with minor impacts may qualify as a “Low Effect” habitat conservation plan, which allows a streamlined review process and certain exemptions from the requirements of NEPA.

C. Need for a Habitat Conservation Plan

Westlake purchased the approximately 274-acre Reed Ranch parcel (Figure 1) from PacifiCorp in December 2001 with the intention of developing a housing subdivision. The parcel is located in a zone identified as OSB breeding habitat (Pickering and MacDonald 1994, VanBuskirk 1997). It is also a key part of a habitat area identified in the recovery criteria of the OSB recovery plan as important for securing and maintaining a viable OSB population (USFWS 2001).

Westlake’s proposal is to develop approximately 74 lots on approximately 160 acres within the northern portion of the property (Figure 1). Westlake approached the USFWS in October 2001 before purchasing the land to negotiate measures to minimize and mitigate the effects of developing this portion of the parcel. In addition, this HCP also includes a proposal to develop one additional homesite on acreage owned by the Curs, which is adjacent to the property owned by Westlake.

D. Habitat Conservation Plan Objectives

The primary objectives of this HCP are to contribute to the conservation and recovery of the OSB and its habitat while allowing planned development activity on non-federal lands to occur. Following the listing of the OSB in 1980 (USDI 1980; 45 Fed. Reg. 44935), urban development and other land-disturbing activities were inhibited due to the possibility of interacting with or modifying OSB habitat, which in some circumstances could constitute an incidental take prohibited by the ESA. While the listing of species under the ESA does not impose requirements on non-federal landowners to undertake positive actions to improve existing habitat conditions, the intermittent distribution and disturbance-dependent nature of the OSBs and their primary larval host plant, early blue violet, makes active management on non-federal lands important for the long-term survival and recovery of this species.

II. LIFE HISTORY

A. Overview

The OSB is a small, darkly marked coastal subspecies of the Zerene fritillary, a widespread butterfly species in montane western North America. The historical range of the subspecies extends from Westport, Grays Harbor County, Washington, south to Del Norte County, California. Within its range, the butterfly is known to have been extirpated from at least 11 colonies (two in Washington, eight in Oregon, and one in California).

The USFWS listed the OSB as a threatened species with critical habitat in 1980 (USDI 1980; 45 Fed. Reg. 44935). The USFWS subsequently completed a recovery plan for the species in 1982 (USDI 1982), which was subsequently revised in 2001 (USFWS 2001). The species recovery priority number is 3, indicating a high degree of threat and high recovery potential (USDI 1983; 48 Fed. Reg. 43098).

B. Taxonomy and Description

The true fritillaries, such as OSBs, comprise the genus *Speyeria* within the family *Nymphalidae* and include 13 species restricted to North America. The OSB (*S. z. hippolyta*) is one of 15 subspecies of *S. zerene* (Boisduval 1852) and is one of five subspecies in the *bremnerii* group. The OSB is the coastal subspecies of this group and was once broadly distributed along the Washington and Oregon coasts with its southernmost population near Crescent City in Del Norte County, California. Grey and Moeck (1962), McCorkle, Hammond, and Pennington (1980), and McCorkle and Hammond (1988) have reviewed the taxonomy and relationships within this group of butterflies.

The OSB differs from other subspecies of the *bremnerii* group by its coloration and small size (McCorkle and Hammond 1988). The mean forewing length is 27 millimeters (1.1 inches), and the forewing is orange-colored and marked with a distinctive pattern of black spots and bars on the dorsal wing surface. The bright metallic silver spots on the ventral side of the hindwing are the basis for the common name. In addition, the OSB differs from related taxa in physiology and larval development rates. These differences appear to be specific adaptations to a harsh, coastal environment characterized by fog and cold wind throughout much of the year. A slow caterpillar development rate synchronizes the adult flight season with the best coastal weather conditions in

late August and September. Moreover, the wide range of individual variation in developmental rates may serve to compensate for variable and unpredictable weather conditions from year to year.

C. Geographic Distribution

Historically, the OSB was distributed along the Washington and Oregon coasts from Westport in Grays Harbor County south to about Heceta Head in Lane County and was closely associated with the distribution of early blue violet. In addition, there is a disjunct cluster of populations north of Crescent City in Del Norte County, California. At least 20 separate localities were known for the butterfly in the past. Both the butterfly and its coastal grassland habitat were probably much more common in the past (Ripley 1983).

OSB populations currently occur at only six sites. One is in Del Norte County (Lake Earl), two are in Lane County (Rock Creek-Big Creek and Bray Point), and two are in Tillamook County (Cascade Head and Mount Hebo). The population at a sixth site in Clatsop County (Clatsop Plains) has declined in recent surveys with only one OSB documented in 1998 (VanBuskirk 1993, 1998). The California populations are approximately 240 kilometers (150 miles) south of the nearest populations of the OSB in Lane County, Oregon. OSBs are likely extirpated from Long Beach Peninsula in Washington.

Historically, OSBs likely exhibited a metapopulation structure, *i.e.*, a group of populations inhabiting a mosaic of habitat patches where extinction of local populations in particular patches were recolonized by individuals from adjacent patches (Hanski and Gilpin 1997). Habitat fragmentation and subsequent isolation of OSB populations on the present-day landscape have resulted in discrete populations that are presumed to be isolated from one another.

D. Population Status

The Nature Conservancy has conducted annual population censuses for OSBs at the four central coast sites in Oregon since 1990. These sites are Cascade Head, Mount Hebo, Bray Point, and Rock Creek-Big Creek. Surveys are based on transect counts and provide a population index based on a geometric mean, which provides a conservative method to determine long-term trends and stability of the individual populations at each site (Pickering 2000). It is important to note that although The Nature Conservancy's data span 11 years, they coincide with a period in which both habitat quality and OSB numbers may be far below historic levels. Thus the mean population indices for each site should be understood to be the mean during a recent time period and may not represent the mean of historic, or even stable, OSB populations.

OSB populations at the four central coast sites appeared to have been relatively stable between 1985 and 1990 (Hammond 1988); however, populations at all four sites exhibited a marked decline in 1993 following cool, wet spring weather conditions (Pickering 1998, 2000). Populations at Rock Creek-Big Creek in 1993 were reduced to nearly 80 percent below the 11-year mean for that site; Cascade Head and Mount Hebo each dropped by approximately 60 percent from their respective historic means; and Bray Point dropped by 20 percent.

OSB populations rebounded slightly in 1994 and 1995, but have declined annually starting in 1996 (Pickering 1998, 2000). Mount Hebo, the largest and most stable population of all four

Oregon Silverspot Butterfly Habitat Conservation Plan

central coast sites, had a 2000 population index that was 20 percent below the 11-year mean. The OSB populations at Rock Creek-Big Creek have experienced declines for the last five survey years, dropping 50 percent below the 11-year mean in 2000. Bray Point populations experienced similar declines, such that the 2000 population was too low to provide meaningful survey results. Cascade Head populations experienced a large decline in 1998 as well as 1993, but increased slightly in 1999 and 2000. This may be due, in part, to a population augmentation effort using captive reared larvae; however, the 2000 OSB population at Cascade Head remained 63 percent below the 11-year mean for that site. The 2000 OSB population status at Cascade Head, Rock Creek-Big Creek, and Bray Point indicate that populations are at risk and future efforts to simultaneously augment populations and improve habitat conditions will be vital.

Very little is currently known about OSB populations in Del Norte County, California. Population size and total habitat extent at Point St. George-Lake Earl have not been determined; however, a 1998 OSB population survey on habitat owned by the California Department of Fish and Game estimated that there were 62 OSBs on State land (U.S. Army Corps of Engineers 2000). The California Department of Fish and Game owns approximately one-third of the potential habitat in Del Norte County. Hammond speculates that population levels on state land have declined by over 90 percent in the last 10 years (U.S. Army Corps of Engineers 2000); however, annual surveys of total habitat have not been conducted to provide a quantitative basis for these estimates. Early blue violet habitat is known to exist from Lake Earl to Point St. George, but the area has not been extensively inventoried for OSBs.

E. Life Cycle, Habitat Requirements, and Limiting Factors

Life Cycle and Population Dynamics. The OSB has six larval instars and a pupal stage before metamorphosis into the adult stage. Newly hatched first-instar larvae immediately enter diapause (physiological dormancy) after eating the lining of the eggshell. They remain in diapause until host plants send up new growth in the spring. Caterpillars are cryptic in habits and feed until pupation in the summer. Very little is known about the biology of the caterpillar or pupae.

Adult emergence starts in July and extends into September. Many males appear several weeks before most females emerge, as is typical of *Speyeria* butterflies. Mating usually takes place in relatively sheltered areas. Adults will often move long distances for nectar or to escape windy and foggy conditions.

McCorkle and Hammond (1988) observed a wide range of individual variation in development rates both between and within family lines when caterpillars were reared under uniform conditions in the laboratory.

Little is known about factors affecting population dynamics of the OSB, although a summary of available information is provided in a status report by the Washington Department of Fish and Wildlife (1993).

Habitat Requirements and Limiting Factors. The OSB occupies three types of grassland habitats. One type consists of marine terrace and coastal headland "salt spray" meadows as exhibited at Cascade Head, Bray Point, Rock Creek-Big Creek, and portions of the Del Norte

Oregon Silverspot Butterfly Habitat Conservation Plan

site. The second consists of stabilized dunes as found at the Long Beach Peninsula, Clatsop Plains, and the remainder of the Del Norte site. Both of these habitats are strongly influenced by proximity to the ocean, with mild temperatures, high rainfall, and persistent fog. The two habitats differ in topography, soils, and exposure to winds. The dune habitat has lower relief, highly porous soils, and less exposure to winds. The third habitat type consists of montane grasslands found on Mount Hebo (Hammond 1991b) and Fairview Mountain. Conditions at these sites include colder temperatures, frequent orographic cloud cover, significant snow accumulations, less coastal fog, and no salt spray.

Each of these habitat types must provide two key resources—caterpillar host plants and adult nectar sources—as well as other suitable environmental conditions. Each habitat patch has a unique combination of these resources, a situation that reduces risk of regional extinction of the subspecies. Such benefits are lost, however, if these habitats are too fragmented; habitat patches must be of sufficient size, quality and distribution to allow for dispersal and interchange of OSBs.

Caterpillar Host Plant. Caterpillars of the OSB feed primarily on early blue violets. Stands of early blue violets sufficient to provide enough food for OSB caterpillars on the Oregon Coast occur only in relatively open and low-growing grasslands, where violets may be an abundant component of the plant community (Hammond and McCorkle 1984). Small stands of violets found in small forest clearings isolated from open grasslands are not adequate to support the butterfly.

Although early blue violets are the primary food source, caterpillars are known to feed on a few other species of the genus *Viola* as well. On Mount Hebo, both oviposition and caterpillar feeding have been observed on yellow stream violets (*V. glabella*). At Lake Earl, large populations of Aleutian violets (*V. langsdorfii*) grow in boggy areas adjacent to sites with early blue violets and probably serve as secondary food plants for OSB caterpillars.

Historic early blue violet abundance distributed in patches in grassland habitat at Long Beach Peninsula were 25 to 35 violets per square meter (square yard) (D. Hays, Washington Department of Fish and Wildlife, pers. comm. 2001). VanBuskirk (1993) randomly sampled violet densities in OSB habitats, finding that the mean violet densities at Cascade Head were 45 violets per square meter (square yard). Singleton (1989) found that the mean density of early blue violets in oviposition areas at Cascade Head was 75 violets per square meter (square yard). A 1991 OSB habitat study of Mount Hebo, Cascade Head, Bray Point, and Rock Creek habitats revealed that butterflies oviposited in areas that had a mean of 20 to 100 violets per square meter (square yard) (McIver *et al.* 1991). Early blue violet abundance has declined at all Oregon OSB habitat areas in Oregon, likely due to competition from nonnative vegetation. However, documentation of higher violet densities from these studies should provide a reference point for site managers to use in setting management objectives and target goals for early blue violet abundance.

Female OSBs oviposit, or lay eggs, within or adjacent to areas that contain early blue violets. Singleton (1989) found that females seemed to preferentially search for ovipositing sites in areas with vegetation heights of 22 to 25 centimeters (8.6 to 10 inches). Areas with taller vegetation were not searched. Violet density influenced the number and location of eggs laid, with areas of

Oregon Silverspot Butterfly Habitat Conservation Plan

higher violet densities used for ovipositing most frequently (Singleton and Courtney 1991). However, as time searching for oviposition sites increased, density of violets in areas selected for oviposition decreased, indicating that oviposition is not always an indicator of suitable larval habitat. In addition, Singleton and Courtney (1991) stated that areas maintained in very short vegetation but having low violet density could be ecological “sinks” in that females may oviposit in habitats that do not have suitable larval habitat.

Nectar Sources. OSBs may travel relatively long distances for nectar, and movements of up to hundreds of meters (yards) between open meadows and forest fringes may be in response to differences in nectar availability. Observations suggest that distribution, abundance, and temporal availability of nectar sources may affect stability of OSB populations. Populations in habitats lacking broad availability of nectar throughout the entire flight period may have greater risks of extinction. OSBs were found to use nectar species in direct relation to the proximity to violets. Morlan (1987b) suggested that development of habitat mosaics that provide nectar sources in close proximity to violets were important to enable OSBs to obtain energy requirements in the harsh, coastal environments.

Nectar plants most frequently used by OSBs are members of the aster (composite) family, including the following native species: Canada goldenrod (*Solidago canadensis*), dune goldenrod (*Solidago spathulata*), California aster (*Aster chilensis*), pearly everlasting (*Anaphalis margaritacea*), dune thistle (*Cirsium edule*), and yarrow (*Achillea millefolium*). OSBs are also known to nectar¹ on two common introduced species, tansy ragwort (*Senecio jacobaea*) and false dandelion (*Hypochaeris radicata*). Less frequently used species in the aster family include introduced thistles in the genus *Cirsium*, chaparral broom (*Baccharis pilularis*), smooth hawkbeard (*Crepis capillaris*), and woolly sunflower (*Eriophyllum lanatum*). The flowering seasons of these species overlap, providing an array of nectar choices for adult butterflies through the flight season. Tansy ragwort, California aster, and pearly everlasting are generally available later in the flight season. When available, tansy ragwort is used by the OSB and many other co-occurring butterfly species.

Tansy ragwort is toxic to cattle and is classified as a noxious weed, so it is a target of eradication efforts using herbicides and biological agents. Although this species rapidly invades disturbed areas, its local densities often decline after several years without disturbance.

False dandelion proliferates under mowing regimes, producing large basal leaves that can suppress early blue violet growth (Hays and Johnson 1998, Pickering *et al.* 1993). Research on OSB population dynamics indicated that even when false dandelion is the most abundant nectar plant, it is not the most frequently used species for nectaring by OSBs (Pickering *et al.* 1993). Butterflies observed nectaring on false dandelion spent more time flying and less time nectaring than those using goldenrod, perhaps due to the increased number of flower heads per goldenrod plant (Pickering *et al.* 1993).

Vegetation Dynamics. Three factors affect rates of succession of the OSB’s grassland habitats: soil conditions, salt spray and mist from breaking waves, and disturbance regimes. Without

¹ The term “nectaring” means seeking out nectar-bearing flowers and feeding on nectar.

Oregon Silverspot Butterfly Habitat Conservation Plan

these limiting factors, succession is rapid under favorable growing conditions at coastal marine terrace and dune habitats. And while succession is somewhat slower at coastal mountain sites, successional changes in habitat conditions are one of the major remaining threats at all OSB sites.

Soil depth and texture limits vegetation growth, phenology, and succession. Thin rocky soils maintain low open grassland structure on the steepest slopes of coastal salt spray meadows at the Cascade Head, Central Coast, and Del Norte sites and in montane grasslands at coastal mountain sites. Low water-holding capacity of sandy soils of stabilized dune habitats on the Long Beach Peninsula, Clatsop Plains, and Del Norte sites may affect the abundance and condition of early blue violets. Lower moisture levels in these sandy soils in years with low rainfall may cause violets to senesce (age and die) before OSB caterpillars can pupate.

Disturbance regimes have changed dramatically over the past 150 years. Eolian (wind) transport of sand by dry summer winds was a primary disturbance mechanism on the Clatsop Plains before large-scale soil stabilization projects by the U.S. Soil Conservation Service in the mid-1930s (Hannesson 1962, Wiedemann 1984). Other disturbances such as landslides, small-mammal activity, and windthrow, as well as herbivory by invertebrates, small mammals, and large native ungulate grazers are thought to have played a secondary role in creating or maintaining open conditions. Presence of charcoal in soil samples indicates that fire, primarily set by Native Americans, was an important factor that maintained Oregon's coastal grassland communities and their endemic species (Ripley 1983). The timing, extent, and frequency of fires in the area before European settlement is not well documented. Most fires likely occurred in late summer and early fall, although some may have occurred in January or February during short dry periods that are typical at that time of year. Some reduction in frequency of coastal fires as early as the 1850s has been documented, but fires continued to be frequent until the early 1900s. Severe fires in 1845 and 1910 converted substantial portions of Mount Hebo from forest to grassland. Since then, fire frequencies on the Oregon Coast have been greatly reduced and the extent of coastal grasslands has declined dramatically (Ripley 1983).

Grazing by domestic animals replaced fire as the major disturbance agent at many of these grasslands in the early 1900s. Fire and grazing have different effects on composition and function of grasslands communities, although both reduce thatch depth and maintain the open character of the grassland. At many OSB sites, the extent of grazing by domestic animals has been reduced, or grazing has been eliminated. While heavy grazing can denude vegetation and reduce habitat quality for the OSB, light to moderate grazing can result in reduction of invasive woody plants and maintain early successional grassland habitats conducive to OSB use.

Influence of Exotic Vegetation. Loss of the major disturbance patterns discussed above has accelerated succession at many OSB sites (Ripley 1983). A number of plants increase under lower disturbance levels, including shrubs (e.g., chaparral broom (*Baccharis saratoides*), salal (*Gaultheria shallon*), berry (*Rubus* spp.), and rose (*Rosa* spp.)), trees (e.g., Sitka spruce (*Picea sitchensis*), shore pine (*Pinus contorta* var. *contorta*), red alder (*Alnus rubra*), and western redcedar (*Thuja plicata*)), and ferns (e.g., bracken fern (*Pteridium aquilinum*) and sword fern (*Polystichum munitum*)). Lack of historic disturbance regimes has probably accelerated expansion of several nonnative species that threaten OSB populations, in addition to encouraging native shrub and tree growth.

Oregon Silverspot Butterfly Habitat Conservation Plan

The spread of nonnative plants has reduced, degraded, or eliminated habitat for the OSB at many sites. Most notable of the nonnative shrubs is Scotch or Scots broom (*Cytisus scoparius*). Introduced grasses represent the most imminent threat to habitat maintenance. Nonnative grasses include heath grass (*Danthonia decumbens* (*Sieglingia decumbens*)), bent grass (*Agrostis alba*), velvet grass (*Holcus lanatus*), orchard grass (*Dactylis glomerata*), tall fescue (*Festuca arundinacea*), reed canary grass (*Phalaris arundinacea*), and European beach grass (*Ammophila arenaria*). These exotic grasses produce particularly tall or dense stands that eliminate native plants (Hammond 1994a).

Both abundance of early blue violets and levels of OSB oviposition activity have been inversely correlated with vegetation height and thatch depth (Singleton 1989, McIver *et al.* 1991, Pickering *et al.* 1992). Early blue violets can persist in a suppressed vegetative form or in the seed bank under other vegetation for many years. Removal of shrubs and trees has released dormant early blue violets that subsequently have initiated vigorous growth (Hammond 1986). It is important to note, however, that in the years following removal of woody overstory, some sites were invaded by perennial, exotic grasses that have suppressed violets. Effective techniques for long-term grass removal are currently unknown. In addition, persistence of violets in the seed bank or in a vegetative form in a perennial, exotic grass-dominated system has never been demonstrated, thus it is unknown if violets would respond vigorously to removal of grass (D. Pickering, The Nature Conservancy, pers. comm. 2001).

Macroclimate, Topography, and Microclimate. The Oregon Coast is an extreme environment for butterflies because of unpredictable cloudy, foggy, windy, and rainy weather during summer and early autumn. Air mass movements interact with regional and local topography to determine cloudiness and wind. Both coastal fog banks and cold fronts bring inclement weather. Coastal fog affects areas below about 488 meters (1,600 feet) elevation, above which clear and relatively calm conditions may predominate. In contrast, cold air masses immediately behind rain-producing cold fronts form orographic clouds above about 305 meters (1,000 feet) elevation when the immediate coast can be clear. Simultaneous differences in weather conditions between coastal salt-spray meadow, coastal dune, and coastal mountain sites, therefore, are common. These microclimatic differences reduce the risk that macroclimate conditions could cause regionwide population declines or extinction.

Frequency of opposing air masses associated with varying weather conditions change through the flight season. Coastal winds are strongest and fog is most frequent in July and early August. Rainstorms associated with cold fronts, in contrast, are least frequent in July and early August, but become more common in late August and September. Patterns of these events are highly variable from year to year.

High winds can limit adult flight, making wind shelter an important component of habitat suitability. Strong winds on clear days in summer generally come from the northwest. South winds almost invariably bring clouds and rain, and east winds are usually hot and dry but are seldom strong. Topographic shelter can provide comparatively wind-free areas on steep south-facing slopes. Relatively small ridges and hollows can also provide sufficient wind shelter for adult flight when wind speeds are moderate, but they are not usually effective at high wind speeds.

Oregon Silverspot Butterfly Habitat Conservation Plan

Risk of total reproductive failure from inclement weather is spread among individuals in a local population by the long period of adult emergence, which can extend from mid-July into early-September. This increases the probability that some portion of the population will encounter suitable flight conditions or avoid extreme summer storms that can cause direct mortality.

The long period of adult emergence is likely due to both genetic and environmental variation. Caterpillars inhabiting different slope exposures experience different temperature regimes depending upon solar exposure and wind exposure. Because winds are primarily from the northwest, north-facing slopes not only receive reduced insolation, but also are more wind-exposed. Conversely, south-facing slopes tend to be wind sheltered and receive higher insolation, hence they confer caterpillars and adults added thermal advantages. Even relatively low relief can create distinct microclimates for caterpillars.

F. Threats and Reasons for Listing

The OSB was listed as a threatened species, effective on October 15, 1980 (45 Fed. Reg. 44935). Critical habitat was designated at the same time. Lands included in the critical habitat are those that were known to be occupied by the butterfly at the time: portions of Section 15 and the south half of Section 10 that are west of a line parallel to and about 450 meters (1,500 feet) west of the eastern section boundaries of Sections 10 and 15, T16S, R12W, Willamette Meridian, Lane County, Oregon.

Investigations in the 1970s and early 1980s had revealed that most historical populations of the OSB were extirpated. Its distribution has been reduced by development, agriculture, invasion by exotic vegetation, and natural succession. Additionally, extant populations were threatened by habitat loss and degradation from natural succession, exotic species, off-road vehicles, grazing, and erosion. Direct effects to populations from pesticides and collisions with vehicles were also noted as problems. Direct harvest was also a threat.

At the time the species was listed, only one viable population (Rock Creek-Big Creek) of the OSB was known, while three weak populations were known at Tenmile Creek, Clatsop Plains, and Long Beach Peninsula. A proposed development and vegetative succession were threats that significantly increased the risk of extinction of the Rock Creek-Big Creek population. At the time of listing, designation of critical habitat was considered prudent to allow Federal agencies the fullest range of actions they could undertake within their authorities to conserve the OSB and its habitat. Since then, four additional populations (at Mount Hebo, Cascade Head, Bray Point, and Del Norte County) have been documented.

Despite the discovery of additional populations, the OSB remains threatened. Threats of habitat loss and degradation persist at many sites. Long-term survival of the species will require an active and ongoing commitment to habitat management. Additional research is needed to better understand habitat requirements, population dynamics, exotic vegetation control, and habitat enhancement techniques.

The USFWS is aware of illegal trade in listed, protected, and rare butterflies. Collection of a number of butterfly species that exist in small colonies, or repeated handling and marking (particularly of females and in years of low abundance), can seriously damage populations

Oregon Silverspot Butterfly Habitat Conservation Plan

through loss of individuals and loss of genetic variability (Gall 1984, Murphy 1988, Singer and Wedlake 1981). Collection of females dispersing from a colony can also reduce the probability that new colonies will be founded. Butterfly collectors pose a threat because they may be unable to recognize when they are depleting colonies below thresholds of survival or recovery, especially when they lack appropriate biological training or the area is visited for a short period of time (Collins and Morris 1985).

Although collectors generally do not adversely affect healthy, well-dispersed populations of many butterfly species, a number of rare species, such as those that are highly valued by collectors, are vulnerable to extirpation or extinction from collecting. Species with small populations at only a few sites may be adversely affected by the cumulative effect of removal of only one individual or a very few individuals from a site by a few collectors. Unscrupulous collectors who take every specimen they can find on successive days could easily eliminate populations of some species in just a few years. The USFWS has listed several butterfly species because of imperilment by collectors. Incidents of unauthorized take of the OSB by butterfly collectors have been discovered and indictments were obtained (U.S. Dept. of Justice 1993).

III. PROJECT AREA DESCRIPTION

A. Location and Setting

Clatsop Plains Habitat Conservation Area. The OSB inhabits an area on the Clatsop Plains, Clatsop County, Oregon that is approximately 8 kilometers (5 miles) long and 1.6 kilometers (1 mile) wide. The habitat is bisected by the Oregon Coast Highway (U.S. 101) and is fragmented by development. Habitat areas are somewhat continuous throughout the 8-kilometer (5-mile) stretch; however, three main habitat areas have been distinguished: Camp Rilea, Sunset Lake, and Del Rey Beach.

The habitat contains a mosaic of freshwater sloughs, lakes, and marshes surrounded by forests and grasslands. The Clatsop Plains dunes developed rapidly from sand accretion resulting from turn-of-the-century jetty construction along the Columbia River (Rankin 1983). The rapid sand accretion resulted in massive open dune formation covering approximately 3,000 acres (1,214 hectares) by 1935 (Dickens 1961). However, Neacoxie Creek (also called Sunset Lake) blocked blowing sands from extending further east, resulting in significant native grassland remnants with a relatively well-developed organic soil layer persisting in these areas (Magness 1943). Beginning in the 1930s, European beachgrass and shore pine were planted in an effort to stabilize the dunes. These plantings and the more recently introduced Scotch broom and nonnative grasses have become a major threat to OSB habitat on the Clatsop Plains.

The OSB's remnant habitat occurs in a narrow corridor of secondary dunes and deflation plains about 0.8 kilometer (one-half mile) from the ocean along Neacoxie Creek west of Highway 101. These native grassland remnants were used as pasture, resulting in colonization by nonnative grasses such as sweet vernal (*Anthoxanthum odoratum*), annual fescues (*Festuca* spp.), and annual bromes (*Bromus* spp.). Native remnants contain species such as red fescue, sand dune sedge (*Carex pansa*), and dune goldenrod. Younger dunes closer to the ocean, dominated by American dunegrass (*Elymus mollis*) and European beachgrass, generally have much lower

Oregon Silverspot Butterfly Habitat Conservation Plan

concentrations of early blue violets. Highly porous soils at the Clatsop Plains make this the most drought-sensitive of all of OSB sites.

OSB populations on the Clatsop Plains have declined in recent surveys with only one OSB documented in 1998 (VanBuskirk 1993, 1998). This individual was sighted near both the Reed Ranch Parcel and the Oregon Military Department-owned Camp Rilea, previously the stronghold of the Clatsop Plains OSB population. OSBs have not been documented at Camp Rilea since 1995 (Hammond 1998).

OSBs eclose (emerge) from early July through September, but appear to disperse from the breeding habitat during the middle of the flight period in August. This may result from a lack of sufficient nectar resources. Little is known about how OSBs migrate from breeding habitat or to where they migrate. OSBs have been seen in groups in inland forest fringe habitat (Hammond and McCorkle 1985) and individually in dunes west of breeding habitat (D. Pickering, The Nature Conservancy, pers. comm. 1998).

Conservation Opportunities on Private Lands. Most Clatsop Plains habitat is privately owned. Habitat surveys of this area were conducted by Hammond and McCorkle (1985), Hammond (1988c), and The Nature Conservancy (Pickering and Macdonald 1994, VanBuskirk 1993, 1997). Private landowners have been informed of the potential presence of OSB habitat, and some landowners have shown interest in habitat management. Several landowners have entered into conservation agreements to minimize the effects of residential development on OSB habitat and have followed mowing regimes intended to benefit early blue violets while providing limited control of some invasive species. However, these efforts have been on limited acreage and have not employed more intensive management or restoration techniques.

Potential exists for landowners to enter into habitat conservation plans or Safe Harbor Agreements. These options would provide conservation benefits for the OSB while reducing landowner liability by ensuring coverage under the ESA. Development of habitat conservation plans or Safe Harbor Agreements on a countywide scale would expedite the review and issuance of building permits within OSB habitat areas while providing compliance with the ESA. Large-scale, or programmatic, habitat conservation plans or Safe Harbor Agreements could be accomplished with Clatsop County, or another local governing body, as the primary applicant.

Oregon Military Department Land. The Oregon Army National Guard initiated management for the OSB on its lands at Camp Rilea in 1990 and 1991 (Hammond 1991a). This work has included clearing Scotch broom and mowing grassland where dense thatch had developed. Annual mowing of habitat areas has been recommended at Camp Rilea, particularly in areas overgrown with exotic bent grass (Hammond 1994b, 1998a). Studies to investigate the effectiveness of additional techniques, such as less-intensive mowing, prescribed fire, grazing, herbicide spraying, or seeding with native species, were initiated in 2002 at Camp Rilea to improve habitat conditions and increase nectar availability. Results from this study will be made available to all individuals or groups interested in restoring or managing OSB habitat.

B. Project Area

Reed Ranch Parcel. The approximately 274-acre Reed Ranch parcel is located near the Oregon Coast along U.S. Highway 101 in Gearhart, Clatsop County, Oregon (Township 7 N, Range 10 W, Sections 15, 16, and 21) (Figure 1). It is bordered to the west by Neacoxie Creek, to the east by Highway 101 and West Lake, to the north by the Country Club Estates and Sunset Terrace developments, and to the south by open prairie and sparsely populated rural residential housing. Before the mid-1980s, the site was grazed mainly by cattle and some sheep, and has since been left fallow (Lesh et al. 2003).

The site is characterized by a series of north-south oriented, stabilized, vegetated dunes interspersed with low interdunal wetland swales. Land elevations within the project boundary range from 16 feet (4.9 meters) to nearly 70 feet (21.3 meters) along the primary dune that bisects the site. Neacoxie Creek is at an elevation of approximately 22 feet (6.7 meters). The dune and swale topography is reflected in the soil composition. The soils are primarily composed of Gearhart fine sandy loam (3 to 15 percent slopes and 15 to 30 percent slopes), Waldport fine sand (3 to 15 percent slopes), Warrenton loamy fine sand, and Bergsvik mucky peak (0 to 1 percent slopes) (Soil and Water Conservation Service 1988). The latter two soil types are identified as hydric. All soils present have an isometric soil temperature regime, implying a year-round growing season.

Reed Ranch is one of the largest expanses of continuous coastal prairie on the Clatsop Plains (Lesh et al. 2003). The plant community currently contains a mix of native and nonnative grasses and forms an increasing density of Scotch broom (Lesh et al. 2003). Although plantings of nonnative species and decades of livestock grazing have altered the plant community in this area, large patches of native prairie remnants, which contain *Viola adunca*, still remain today (Lesh et al. 2003). In recent surveys, Lesh et al. (2003) observed 75 violet locations ranging from one to 81 plants per location on the Reed Ranch property, with the vast majority on the southern portion of the property (Figure 1). Other locations were on the dune ridge adjacent to Neacoxie Creek, on the west face of the taller dune in the middle of the property, and north of the east-west road that leads to an adjacent residence (Lesh et al. 2003).

In and around the densest violet patches, other native prairie species such as sand-dune carex (*Carex pansa*), western buttercup (*Rumunculus occidentalis*), coast strawberry (*Fragaria chiloensis*), red fescue (*Festuca rubra*), and blue-eyed grass (*Sisyrinchium littoralis*) were also consistently present (Lesh et al. 2003). Dune goldenrod, an important nectar source for OSBs, was not consistently observed in the immediate vicinity of the denser violet patches, but was observed on the property (Lesh et al. 2003). The largest patch seen (and the only patch mapped during the 2003 violet survey) was 150 to 350 meters from these denser violet patches (Lesh et al. 2003).

Along with deer and elk, this prairie community provides habitat for many bird species, including nesting savanna and white-crowned sparrows and pheasants, small mammals, and various invertebrates (Lesh et al. 2003). OSBs were also observed during butterfly surveys in the 1980s and 1990s (McCorkle et al. 1980, Hammond and McCorkle 1985, VanBuskirk 1994).

Oregon Silverspot Butterfly Habitat Conservation Plan

Proposed Development Area. The proposed development will occur in the northern portion of the property (Figure 1), where impacts to violet habitat will be minimal. The northern portions of the Reed Ranch parcel contained a small amount of native grassland habitat and a significant amount of beachgrass, Scotch broom, and bracken fern. Aerial photographs overlaid with the proposed development boundary (Figure 1) show that the proposed development area would overlay seven violet patches and would be adjacent to five additional violet patches near the western shore of Neacoxie Creek (Lesh et al. 2003). The Nature Conservancy (“TNC”) performed an early blue violet survey of the development area in 2003 (See Appendix B). Based on USFWS-approved survey methodology, the total area occupied by violets in the proposed development portion of the property that could potentially be affected is approximately 0.15 acre.

In addition to the lots that will be developed by Westlake on the northern portion of the property, Westlake intends to transfer approximately 2.6 acres to its neighbors the Curs. Westlake’s proposal to protect approximately 6.5 acres in the southern portion of its property for conservation purposes under this HCP (the Proposed Mitigation Area), as discussed in Part IV below, would provide ESA coverage for the Curs’ construction of a new house on their property. Construction of the new house is not likely to result in the destruction of OSB habitat. As a condition of this HCP, the Curs will continue to implement the terms of an October 20, 1997 Conservation Agreement with USFWS, which expired in 2002 (Appendix A), and which will provide continued protection of 1.5 acres of high-quality OSB habitat on their property.

IV. HABITAT CONSERVATION MEASURES

The Applicants propose the following habitat conservation measures:

- (1) Westlake will develop up to approximately 74 lots on approximately 160 acres within the northern portion of the property (the “HCP Development Area”). See Figure 3. In addition, the Curs will develop one additional homesite on acreage that they own, which is adjacent to the property owned by Westlake. See Figure 4. The Applicants will be responsible for compliance with all local, state, tribal, and Federal laws and regulations regarding building and zoning, wetlands, cultural resources, and highway access, and all other regulations that may apply. No development, road building, soil compaction, staging of equipment, or other earth-moving activity associated with the Applicants’ developments will occur in the Proposed Mitigation Area. See Figure 2.
- (2) Westlake will protect approximately 6.5 acres (the Proposed Mitigation Area) located within the southern portion of the property, which includes a unique goldenrod patch and an adjacent area of blue violets, as mitigation for the effects of the development described in this HCP. See Figure 2. The Proposed Mitigation Area is located within the Anticipated Recovery Area. Within six months after issuance of the Westlake ITP, Westlake or its agent will begin implementing an annual mowing plan approved by USFWS within the Proposed Mitigation Area (“Annual Mowing Plan”). Westlake, in consultation with USFWS, will also voluntarily consider implementing additional measures as part of, in addition to, or in lieu of its annual mowing plan (such as weed control or plantings) to enhance OSB habitat in the Proposed Mitigation Area, but in no case shall Westlake be required to implement such measures as a condition of this HCP

Oregon Silverspot Butterfly Habitat Conservation Plan

or Westlake's ITP. In addition, in consultation with USFWS, Westlake will also voluntarily consider implementing additional measures in the HCP Development Area (e.g., in common areas) to enhance OSB habitat or provide educational opportunities, but in no case shall Westlake be required to implement such measures as a condition of this HCP or Westlake's ITP. Westlake, USFWS, or conservation organizations may implement or fund additional measures in the Proposed Mitigation Area for enhancement of OSB habitat with Westlake's consent. Within six months after issuance of the Westlake ITP, Westlake or its agent will install and maintain markers around the Proposed Mitigation Area to make it readily identifiable. If Westlake commences development within the HCP Development Area and if Westlake is unable to sell the Anticipated Recovery Area within three years after issuance of the Westlake ITP, then Westlake or its agent will provide fencing around the Proposed Mitigation Area.

(3) The Curs will continue to maintain the 1.5 acres of high-quality OSB habitat on their property in accordance with the October 20, 1997 Conservation Agreement with USFWS, which expired in 2002. *See Appendix A.*

Some or all of the measures required above, as well as any measures that are voluntarily implemented consistent with this HCP, may be included in an annual management plan developed by USFWS or a conservation organization ("Annual Management Plan"). If an Annual Management Plan is developed, the Applicants will work in good faith with the USFWS to implement their agreed-upon measures pursuant to that plan.

The USFWS will issue an ITP to Westlake for all activities associated with construction of the proposed residential development in the HCP Development Area and all activities associated with the protection and management of the Proposed Mitigation Area. Issuance of this ITP will be based upon the minimal impact to the violet habitat in the HCP Development Area, the minimization measure of clustering the development to the north, and the protection of the Proposed Mitigation Area, which includes protection and maintenance of the goldenrod patch and adjacent early blue violets within that area. *See Figures 1 and 2.*

The USFWS will issue an ITP to the Curs for development and construction of a residential home on their property. Issuance of this ITP will be based upon the minimal to no impact to violet habitat from the residential home development and construction, Westlake's protection of the proposed Mitigation Area, and the Curs' agreement to continue implementing the October 20, 1997 Conservation Agreement, which expired in 2002.

V. EFFECT OF PROPOSED ACTIONS

A. Impacts of the HCP on the OSB and Anticipated Level of Take

Westlake's proposed actions in the HCP Development Area and the Curs' proposed construction of a new home on their property will have a negligible effect on OSB habitat, potentially impacting only approximately 0.15 acre of violets. Thus Westlake's proposed development and the Curs' construction of a new home avoids and minimizes impacts to the OSB habitat in the Proposed Mitigation Area and the Anticipated Recovery Area to the maximum extent practicable.

Oregon Silverspot Butterfly Habitat Conservation Plan

In addition to minimizing the impacts of OSB habitat, Westlake is protecting in perpetuity the violet habitat patch to the south adjacent to the goldenrod patch. This provides mitigation of approximately 6.5 acres. The goldenrod patch is an important nectar source and a unique remnant feature of the native prairie habitat. Protecting the violet and goldenrod Proposed Mitigation Area will assist in the connectivity of habitat for the butterfly in its flight pattern. Westlake will implement the Annual Mowing Plan in the Proposed Mitigation Area (which may be done pursuant to an Annual Management Plan). If Westlake is successful in acquiring funding for the sale of the Anticipated Recovery Area, then the approximately 6.5-acre Proposed Mitigation Area would be included in the overall restoration effort of the Anticipated Recovery Area. Finally, the Curs will continue to implement the terms of an October 20, 1997 Conservation Agreement with USFWS, which expired in 2002, and which will provide continued protection of 1.5 acres of high-quality OSB habitat on their property. Overall, the HCP is expected to minimize the effects of the already negligible incidental take of OSBs to the maximum extent practicable.

B. Benefits of the HCP on the OSB

This HCP offers several important benefits to the OSB.

Importance of Private Lands. The Clatsop Plains—and the historic distribution of OSB habitat—are primarily composed of private lands; thus conservation and recovery of OSB populations will be more successful if private landowners participate in the effort. While Camp Rilea is public land actively managed for the butterfly, it is unlikely that it contains sufficient acreage to support a sustainable population. Locating the development in the proposed HCP Development Area minimizes the impact to violet habitat. Proposed activities in the HCP Development Area will impact 0.15 acres of violets. The Proposed Mitigation Area contains approximately 0.5 acre of violet as well as approximately 0.55 acre of goldenrod, which is an important native nectar source. Securing the Proposed Mitigation Area also provides the potential for all 6.5 acres to become suitable OSB habitat through active management.

Construction of a new home on the Curs property is not likely to result in the destruction of OSB habitat. The Curs' agreement to continue to implement the terms of the October 20, 1997 Conservation Agreement with USFWS, which expired in 2002 (Appendix A) will provide continued protection of 1.5 acres of high-quality OSB habitat on their property.

Need for Management. The OSB is adapted to early successional coastal meadow habitats. Persistence of these habitats is dependent on periodic disturbance (prescribed fire, grazing, mowing) and exotic species control to prevent succession. Methods to encourage and support appropriate, active land management will be essential to long-term recovery of this species and the rare ecosystem on which it depends. Without active management, the Scotch broom and nonnative grass plants will continue to degrade the native prairie habitat and accelerate succession to brush land. Mowing the Proposed Mitigation Area will assist in promoting the conservation of the OSB and its habitat.

The following excerpt from the Revised Recovery Plan for the Oregon Silverspot Butterfly (USFWS 2001) describes in detail the OSB recovery goals that would be implemented by the protection of the Proposed Mitigation Area pursuant to this HCP.

Excerpt
Revised Recovery Plan for the Oregon Silverspot Butterfly
August 22, 2001

1.2 Develop a habitat conservation area design and protect habitat for the Clatsop Plains population of Oregon Silverspot Butterfly.

Primary habitat on the Clatsop Plains has been divided into three more-or-less connected areas: Del Rey Beach, [Sunset Lake], and Camp Rilea. Identify lands important to the Clatsop Plains population, based on current and potential Oregon OSB habitat, and identify habitat needs through research and site specific observations. Habitat on private lands should be protected through fee acquisitions from willing sellers, conservation easements, Habitat Conservation Plans, Safe Harbor Agreements, and management agreements. Funding should be sought from sources including: Federal Highway Administration funding, Oregon Department of Transportation Funds, section 6, Endangered Species Land Acquisition funding, and Habitat Conservation Plan Land Acquisition funds. Division of State Lands should be the lead agency in requesting section 6 funds for land acquisition.

1.2.2 Determine willingness of landowners identified in task 1.2.1 to participate in recovery of Oregon OSB butterfly.

This task is approximately 5 percent complete on private lands through conservation agreements with individual landowners. Additional opportunities for recovery on private land should be investigated on a willing landowner basis. Landowners should be informed of the opportunities which exist under Safe Harbor Agreements and Habitat Conservation Plans.

1.2.3 Select Oregon OSB butterfly habitat within the habitat conservation area that must be protected to achieve recovery.

Based on available information on the distribution of habitat and butterfly use patterns, three areas deserve special consideration: Del Rey Beach, [Sunset Lake], and Camp Rilea.

1.2.4 Protect habitats identified in task 1.2.3.

Habitats at Del Rey Beach and [Sunset Lake] may be protected by acquisition of fee title from willing sellers, conservation easements, Habitat Conservation Plans, or Safe Harbor agreements. Potential land managers for acquired lands include Federal agencies, State agencies, Clatsop County, or private conservation groups. Funding should be sought from sources listed in task 1.2 and others.

Clatsop County has developed the Clatsop Plains Community Plan. The plan's Fish and Wildlife Policy 2 and Policy 4 encourage private and public protection of habitat of all species which are endangered, threatened, or vulnerable. An opportunity exists to support these policies through the provision of clear zoning

Oregon Silverspot Butterfly Habitat Conservation Plan

guidance and private land incentives to protect and restore Oregon OSB butterfly habitat. The U.S. Fish and Wildlife Service and Clatsop County should collaborate to develop appropriate vegetation management guidelines and make them available to landowners who are interested in maintaining native coastal grassland. Information on Federal, State, and local programs which could provide financial and technical assistance to landowners should also be included. Clatsop County owns several parcels of land which have Oregon OSB butterfly habitat. Protection and vegetation management of these parcels would be consistent with the county's Community Plan. In addition, Clatsop County could consider development of a large-scale Habitat Conservation Plan for Oregon OSBs which would provide Endangered Species Act coverage (through issuance of Incidental Take permits) to individual landowners while providing a conservation benefit to the species. A completed Habitat Conservation Plan could expedite review and issuance of building permits while reducing landowner liability by providing Endangered Species Act compliance.

1.2.5 Develop management plans for habitats protected in 1.2.4.

In addition to the habitat management plan for Camp Rilea, develop management plans for the two other habitat areas to encourage willing protection of property. Plans should be reviewed and updated every 5 years, or as new information arises.

1.2.6 Implement management plans.

Coordinate implementation within and among the habitat conservation areas. Develop funding source to support locally-based restoration crews to oversee management and monitoring of lands enrolled in Safe Harbor Agreements, Habitat Conservation Plans, Conservation Agreements, or other species recovery initiatives.

VI. MONITORING AND REPORTING

Westlake will provide a minimum of 60 days notice prior to any earthmoving activities associated with development and construction in the HCP Development Area in order to provide USFWS or its designee an opportunity to remove violets if appropriate. In addition, Westlake will provide an annual report to the USFWS on or before December 31 of each year describing the conservation activities conducted in the Proposed Mitigation Area during the previous year.

The Curs will provide a minimum of 60 days notice prior to any earthmoving activities associated with development and construction of a home on their property. In addition, the Curs will provide a brief yearly report to the USFWS describing the management actions taken on their property in the previous year consistent with the October 20, 1997 Conservation Agreement with USFWS.

VII. FUNDING AVAILABILITY

The Applicants will provide the funding necessary for completion of the activities related to each of their commitments under this HCP.

VIII. ALTERNATIVES CONSIDERED

Over time, many potential development opportunities have been analyzed and considered by Westlake on its approximately 274-acre property. Westlake considered an alternative that would have allowed a 50 lot residential subdivision to be built with a golf course. Although this alternative maximized the economic benefit of the property, it would not have minimized the impact to OSB habitat. Another alternative that Westlake strongly considered was the development of 74 residential lots over the entire property maximizing the lakeshore view properties. The lot configuration was basically in two long linear areas, one along the lake shore and one on the other side of the dune. This alternative would have provided more privacy and separation between the lots and would have maximized the economics of the development by providing 14 more lakeshore lots than the current proposal. However, these lakeshore lots were located in the southern portion of the property where the violet survey indicated the abundance of violets were located. Although this alternative would maximize the economics of the development proposal, it did not minimize the impact to OSB habitat.

The Westlake proposed alternative is the preferred alternative over other alternatives considered because it satisfies the regulatory requirements under the ESA, provides for a viable residential development project and conserves and minimizes the impact to OSB habitat.

The Curs Conservation Agreement with the USFWS was a five year agreement that expired in 2002. The Curs considered alternatives including no action but without active management the OSB habitat would be lost. The Curs proposed alternative to continue its commitments under the terms of the Conservation Agreement provide benefits to the OSB while preserving the option for the Curs to develop an additional home on their property. This is the preferred alternative because it meets the regulatory requirements under the ESA, and provides for continued maintenance and enhancement of the OSB habitat while providing for the opportunity for a new home site.

IX. UNFORESEEN AND EXTRAORDINARY CIRCUMSTANCES

Unforeseen or extraordinary circumstances are defined as “changes in circumstances surrounding an HCP that were not or could not have been anticipated to occur by the HCP participants (landowner) or the Service, that result in a substantial and adverse change in the status of a covered species.” It may also be applied if a natural event, such as a forest fire or severe windstorm, occurs. The USFWS will not require the Applicants to provide additional mitigation measures in the event of unforeseen or extraordinary circumstances affecting OSBs or OSB habitat.

This HCP does not anticipate (nor will the ITPs authorize) incidental take of any species other than the OSB. If any other currently listed species, or any species that becomes listed in the future, is impacted by implementation of this HCP, the Applicants will consult with the USFWS and take appropriate actions, as necessary, to comply with the ESA.

X. ADDITIONAL MEASURES AND CONDITIONS

There are no additional measures or conditions being proposed under this HCP.

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Oregon Silverspot Butterfly Habitat Conservation Plan

Appendix A

Conservation Agreement

For Oregon Silverspot Butterfly (*Speyeria zerene hippolyta*)
At Curs Property, Clatsop Plains, Clatsop County, Oregon
(October 20, 1997)

CONSERVATION AGREEMENT

for
Oregon silverspot butterfly (*Speyeria zerene hippolyta*)
at
Curs Property, Clatsop Plains, Clatsop County, Oregon

OREGON STATE OFFICE

OCT 28 1997

Introduction

The Oregon silverspot butterfly (*Speyeria zerene hippolyta*) is a federally-listed threatened species which occurs along the Oregon coast from Clatsop County to Lane County. The Oregon silverspot butterfly also has a disjunct population in Del Norte County, California. At present, five population centers for the butterfly are recognized. The population center in Clatsop County occurs on lands owned by the Oregon State Military Department and by private interests. The Clatsop County population of the Oregon silverspot butterfly is the smallest and most threatened of the five populations, with the total number of butterflies estimated to fluctuate from a few to around 50 individuals.

This Conservation Agreement between Randy & Tasha Curs and the U.S. Fish and Wildlife Service (Service) has been initiated to conserve the Oregon silverspot butterfly by reducing threats to the species, stabilizing the species' habitat, and maintaining the ecosystem. This agreement provides guidance only and does not authorize take of the Oregon silverspot butterfly. Actions consistent with this agreement will not result in take under current conditions; if conditions change such that the Service determines that take could result from management activities specified in this agreement, the Service will contact the cooperators to advise them of the change and assist in modification of this agreement.

I. SPECIES INVOLVED

Oregon silverspot butterfly (*Speyeria zerene hippolyta*)

II. INVOLVED PARTIES

A. U.S. Fish and Wildlife Service
Oregon State Office
2600 SE 98th Avenue, Suite 100
Portland, Oregon 97266
503/231-6179

B. Randy & Tasha Curs
5495 Blue Heron Lane
Seaside, Oregon 97138
503/738-8211

III. AUTHORITY, PURPOSE, OBJECTIVE AND MANAGEMENT GOALS

- A. The authority for the Service to enter into this voluntary Conservation Agreement derives from the Endangered Species Act of 1973, as amended (16 USC 1531 *et seq.*), the Fish and Wildlife Act of 1956 (16 USC 742f(a)(4)), and the Fish and Wildlife Coordination act (16 USC 661).
- B. The purpose of this agreement is to formally document the intent of the parties involved to protect and conserve the Oregon silverspot butterfly and the habitat upon which it depends.
- C. The objective of this agreement is to provide a means for the protection and conservation of the Oregon silverspot butterfly and its habitat on the Curs' property at Section 16 Township 7 North Range 10 West.
- D. The management goal of this agreement is to maintain or improve native grassland habitat suitable for use by the Oregon silverspot butterfly. To encourage use of this resource by the butterfly, the spread of invading, non-native plant species, such as Scotch broom (*Cytisus scoparius*) and lodgepole pine (*Pinus contorta*) will be curtailed or reduced.

IV. STATUS AND DISTRIBUTION OF THE SPECIES

The Oregon silverspot butterfly was listed as a threatened species on July 2, 1980 under the Endangered Species Act (45 FR 44935). The species occupies grasslands, headlands and stabilized dunes at disjunct locations along the coast of Oregon and northern California. The population in Clatsop County on the Clatsop Plains is the northern most occurrence of the species and is in a state of serious decline.

The occurrence of habitat for the Oregon silverspot butterfly on the Curs property has been surveyed and mapped (Attachments 1 and 2). The areas identified as having suitable habitat (Area C and Area D) are the subject of this agreement. This Conservation Agreement acknowledges the manner in which habitat will be managed and take of the Oregon silverspot butterfly will be avoided on the Curs property based upon the information currently available.

V. PROBLEMS FACING THE SPECIES

The decline of the Oregon silverspot butterfly can be attributed to loss of habitat through ecological succession and changes in land use. In areas where land has not been subject to intensive human use, ecological succession continues to transform the grassland habitat occupied by the butterfly into a shrubby community which is less favored. The primary woody species which are overtaking Oregon silverspot butterfly habitat on the

Clatsop Plains include Scotch broom and lodgepole pine. In addition, introduced grass species are increasing in density and crowding out native species with their tall-growing, continuous structure. Native grasses, such as red fescue (*Festuca rubra*) provide an open community structure favorable to the butterfly's host plant, early blue violet (*Viola adunca*) and nectar sources, such as sand-dune goldenrod (*Solidago spathulata*), Douglas aster (*Aster subspicatus*), and pearly-everlasting (*Anaphalis margaritaceae*). Invading grass species include bentgrass (*Agrostis alba*), orchard grass (*Dactylis glomerata*), and velvet grass (*Holcus lanatus*). This change in community composition affects the butterfly during its larval stage, through reduction in violets available to caterpillars, and during the adult stage, through loss of nectar species available to the butterflies.

Recovery of the Oregon silverspot butterfly on the Clatsop Plains is unlikely without the active cooperation of private landowners to reduce the threat posed by invading plant species. This agreement represents an effort to maintain the habitat in an open grassland state, with native plant species as a dominant component, conducive to the butterfly's continued existence.

VI. OBLIGATIONS OF THE PARTIES

A. The Service shall:

1. Provide technical assistance to Tasha and Randy Curs or the designated land manager as necessary and available. Such assistance may include guidance in the development of management and monitoring plans.
2. Provide additional information, where relevant to the Oregon silverspot butterfly, its habitat, and management onsite, as such information becomes available. Such information may include, but is not limited to, informing the landowner of additional opportunities to voluntarily participate in recovery or conservation programs if available.
3. Re-evaluate on-site habitat conditions periodically and propose appropriate action or modification if habitat conditions warrant. The Service will provide prior notification to the landowner or the designated land manager prior to any site visit.
4. Re-evaluate the status of the Oregon silverspot butterfly as needed and propose appropriate action or modification if the species' status changes.
5. Cooperate in cost-sharing of monitoring and/or management actions specific to this Conservation Agreement, depending upon Service funding availability.

B. Randy & Tasha Curs shall:

1. Maintain 1.5 acres of high quality habitat referred to as Area D on the attached map. The following activities, which would degrade the habitat, shall not be undertaken: plowing, discing, grading and development that may have an adverse effect on the native species component of the grassland.
2. Incidental take of Oregon silverspot butterflies shall be avoided by eliminating ground-disturbing or vegetation-altering activities (except for those described in B.4. below) in Area C and Area D. Such activities include, but are not necessarily limited to, off-road vehicle use, grazing, mowing, gardening, herbicide and fertilization applications, and construction.
3. Exclude livestock grazing from Area C and Area D.
4. Remove invasive woody species (e.g., Scotch broom and lodgepole pine) through hand clearing or mowing, as long as these activities are conducted within the parameters outlined above. Mowing and hand-clearing when used as management tools, will be acceptable as long as they are carried out prior to May 31, before larvae become large and vulnerable, or after October 15, when the butterfly's flight season has ended. Given the current distribution and low population levels the Oregon silverspot butterfly in Clatsop County, the Service has determined that work outside of this critical season will not likely result in take of species. Use of herbicides against Scotch broom is only acceptable provided that a low-impact glyphosate (e.g., Round-up) is used in spot application to severed Scotch broom basal stems.
5. Report any incidentally observed Oregon silverspot butterfly activity to the Service.
6. Provide a brief yearly report to the Service describing the management actions taken in the previous year.

VII.

We are aware that we are not required to have this agreement and have voluntarily agreed to maintain the habitat described above for a period of 30 years at which time we will re-evaluate our efforts in co-operation with the Service.

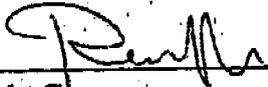
VIII.

The agreement may be amended at any time by mutual agreement of the parties.

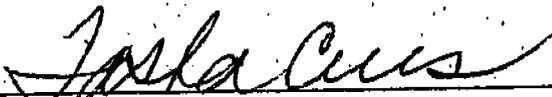
IX.

The Service assumes no liability for damage or personal injury related to the subject property. Nothing in this agreement is intended to create any right, interest or cause of action not otherwise provided by law. Should the status or distribution of the Oregon silverspot butterfly change, such that activities described in this agreement to avoid take present a likelihood for take to occur based upon this new information or new circumstances, the Service reserves the right to terminate this agreement by providing written notice at least 30 days prior to the termination date.

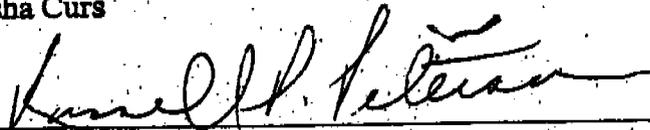
X. SIGNATURES



Randy Curs 10/20/97
Date



Tasha Curs 10/20/97
Date



State Supervisor, U.S. Fish and Wildlife Service, Oregon State Office 10/17/97
Date

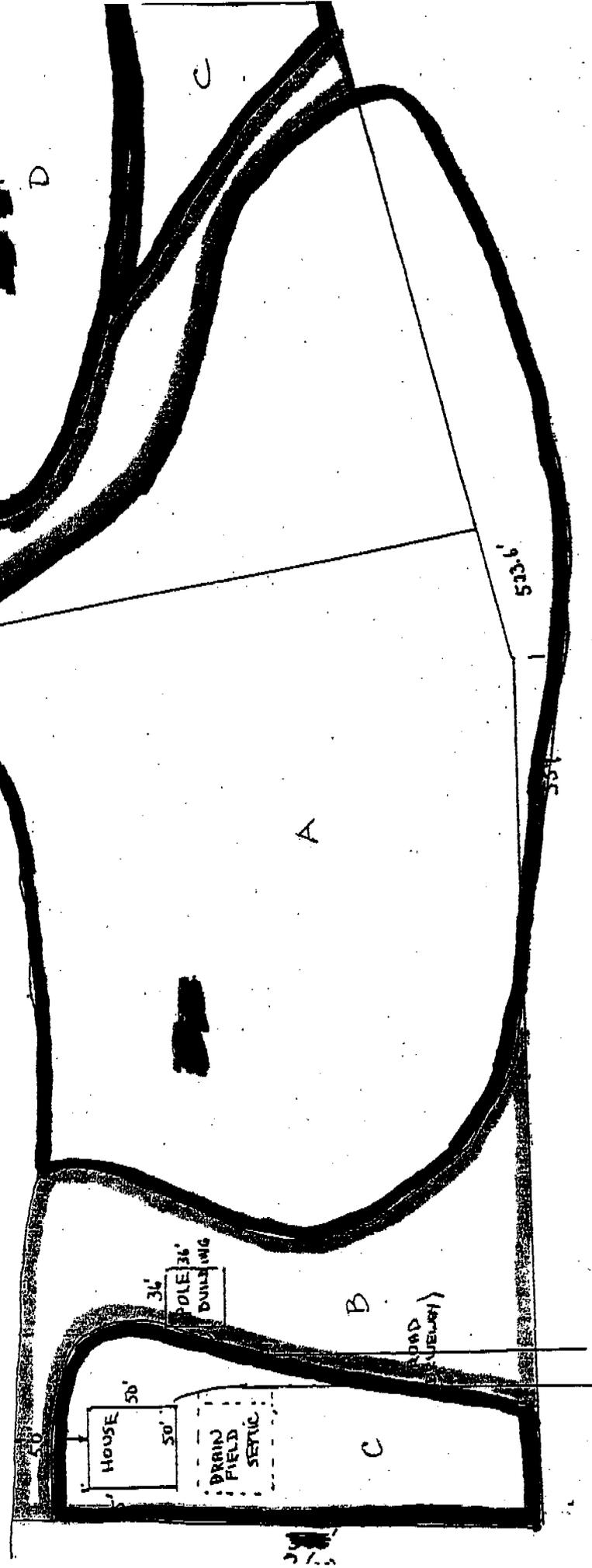
IX. ATTACHMENTS

- A. Habitat Map
- B. Paul Hammond's Report

- Wetlands  AREA A
- No Violets  AREA B
- Few Violets  AREA C
- Many Violets  AREA D

NEACOXIE LAKE

North →



Oregon Silverspot Butterfly Habitat Conservation Plan

Appendix B

2003 Reed Ranch *Viola adunca* Survey



SAVING THE LAST GREAT PLACES ON EARTH

Astoria Office
750 Commercial Street, #210
Astoria, Oregon 97103
503-325-1089

2003 Reed Ranch *Viola adunca* Surveys

presented to:

Richard Schroeder and Richard Charlton

Prepared by:

Tammi Lesh, Susan Otterson, Mary Finnerty
The Nature Conservancy of Oregon
July 10, 2003

Executive Summary

This report covers work completed during May and June 2003 on the Reed Ranch (also referred to as the PPL - Pacific Power and Light and the PacifiCorp property) in Clatsop County, Oregon. The Reed Ranch is bordered to the west by Neacoxie Creek, Highway 101 to the east, the Country Club Estates and Sunset Terrace developments to the north and open prairie and sparsely populated rural residential housing to the south. Objectives of this survey effort were to: (1) conduct a field survey for violets on the Reed Ranch; (2) prepare a map detailing the location and density of violets on Reed Ranch; (3) prepare a written report detailing the location and density of violets on Reed Ranch. During the first sampling stage, we mapped the distribution of *Viola adunca* over the site using suitable relative abundance categories. The second stage involved estimating violet densities by placing macroplots within relative abundance categories. We observed 75 violet locations ranging from 1-81 plants per location. The majority of violets were found south of the Curs property.

Overview

This report covers work completed during May and June 2003 on the Reed Ranch (also referred to as the PPL - Pacific Power and Light and the PacifiCorp property) in Clatsop County, Oregon. The Reed Ranch is located in the center of the Clatsop Plains region, a 0.5-2 mile wide strip of land stretching from the mouth of the Columbia River to the

Necanicum River on the north coast of Oregon. This region is characterized by a series of sandy foredune ridges and interdunal swales oriented sub-parallel to the coastline (Cooper 1958). The Reed Ranch is bordered to the west by Neacoxie Creek, Highway 101 to the east, the Country Club Estates and Sunset Terrace developments to the north and open prairie and sparsely populated rural residential housing to the south (Figure 1). Prior to the mid 1980's, the Reed Ranch was grazed by mainly cattle and some sheep. This area has since been left fallow.

The plant community currently contains a mix of native and non-native grasses and forbs and an increasing density of Scot's broom (*Cytisus scoparius*). Along with deer and elk, this prairie community provides habitat for many bird species, including nesting savanna and white-crowned sparrows and pheasants, small mammals and various invertebrates (pers. obs.). A rare invertebrate, the Oregon silverspot butterfly which was listed as threatened in 1980 under the Endangered Species Act, has also been observed during butterfly surveys in the 1980's and 1990's (McCorkle et al. 1980, Hammond and McCorkle, VanBuskirk 1994).

Adult silverspot butterflies feed on a variety of flowering plants including dune goldenrod (*Solidago spathulata*), California aster (*Aster subspicatus*), pearly everlasting (*Anaphalis margaritacea*), yarrow (*Achillea millefolium*), tansy ragwort (*Senecio jacobaea*), bull thistle (*Cirsium vulgare*), and false dandelion (*Hypochaeris radicata*); however, during larval stages this species feeds almost exclusively on one plant, the early blue violet (*Viola adunca*). Presence of this host plant on the Reed Ranch has been documented over the last decade, most thoroughly by Macdonald and Pickering (1994) during a 1992-93 survey effort. During that survey field biologists observed about 6.5 acres of dense violets and around 50 acres containing many scattered violets. These were concentrated in the southwestern portion of the property but there were also sparser occurrences on the north half.

The new owner of the Reed Ranch, Richard Schroeder, is interested in developing a portion of the Reed Ranch. As this property had historical records of Oregon silverspot butterfly habitat but current documentation was patchy, Mr. Schroeder requested that The Nature Conservancy conduct *Viola adunca* surveys to determine current distribution and density of this host plant. The purpose of this survey effort was to determine current violet distribution and density over the entire Reed Ranch Property. This report summarizes that survey effort.

Overall objectives of this effort were to:

- a. Conduct a field survey for violets on the Reed Ranch
- b. Prepare a written report detailing the location and density of violets on Reed Ranch; and

- c. Prepare a map detailing the location and density of violets on Reed Ranch to a scale that allows the map to be overlain on an aerial photo of the Reed Ranch.

Methods

To get reliable violet density estimates, we used a two-staged sampling technique. During the first sampling stage, we mapped the distribution of *Viola adunca* over the site. The second stage involved estimating violet densities by placing macroplots within relative abundance categories.

Stage One – Mapping

We mapped violet locations from May 12-30, during the flowering stage when violets were most visible. Mapping was conducted by systematically walking through the property and visually searching for violets. When a violet was found, the plant or perimeter of the patch (flowering and nonflowering violet plants) was marked with pin flags. We then recorded the location and number of observed violets on a hand-held computer with GPS capabilities. For single violet locations and patches of violets that covered an area less than $5 \times 5 \text{ m}^2$, a single point was logged on the handheld GPS unit. For violet patches that covered a larger area ($> 5 \text{ m}^2$), the perimeter of the patch was recorded. Individual patches of violets were separated by at least 5 meters.

Stage Two – Density Macroplots

After mapping was completed we sampled violet density. We waited until June to conduct density sampling to ensure the majority of violets had sent up leaves. Density data were collected in 4 relative abundance strata: 0 (absent), 1-10 (low density), 11-20 (medium density), and > 20 (high density) plants. The "0" strata was included to check for violets that may have been missed during the coarser mapping surveys. Four macroplots per strata were selected using a stratified-random sampling design. Each macroplot consisted of three $20 \times .25 \text{ m}$ belt transects ($5 \text{ m}^2/\text{transect} = 15 \text{ m}^2/\text{macroplot}$). In the 11-20 and > 20 strata the first belt transect was placed in the middle of the violet patch, and the other 2 were placed parallel and 3 m away on either side of the initial transect. In the 0 and 1-10 strata the first transect was placed adjacent to the middle or only violet (if present) and oriented perpendicular to the dune ridge. All adult *Viola adunca* observed from June 10-18 were counted in the belt transects. If any part of the plant root crown was within the belt transect, the plant was counted. Individual violet plants were separated by $\geq 3.0 \text{ cm}$.

Results

We observed 75 violet locations ranging from 1-81 plants per location (Figure 1). The majority of violets were found south of the Curs' property. Other locations were on the dune ridge adjacent to Neacoxie Creek to the north of the Curs, on the west face of the taller dune in the middle of the property and north of the east-west road that leads to the

Curs residence. According to aerial photo with the proposed development boundary overlay provided by Carl Foeste of Coast Surveying, it appears that units 16, 19, 20 in the Westlake Ranch development on the northern end of the Reed Ranch overlay 3 violet patches and units 9-15 are adjacent to 6 violet patches near the western shore of Neacoxie Creek.

No violets were found in the 0 strata macroplots (Table 1). In the low density macroplots the mean number of violets ranged from 0.33-0.67 plants/5 m². The medium density macroplots were the most variable and means ranged from 0.33-3.33 plants/5 m² (Figure 2). Finally, the mean number of violets in the high density areas ranged from 3.0-3.67 plants/5 m².

Although not required by the contract we mapped one large dune goldenrod patch because of its potential nectar source significance (Figure 1). This patch was the largest and most noticeable but certainly not the only goldenrod patch on the property. Because of time constraints and differences in plant phenology (i.e., many nectar sources, including dune goldenrod, do not flower until later in the summer), we did not propose to thoroughly survey for butterfly nectar sources. This one patch had hundreds of plants showing new leaves but the flower heads had yet to arrive at the time of the survey. Thus, a count of flowering stems was not possible.

Conclusions

Our estimates of violet densities in the mapped locations had large standard deviations meaning a high degree of variability in the samples. The idea behind collecting the density data after the mapping phase was to obtain a more accurate count of the violet density in a given area. While *Viola adunca* tends to be a patchily distributed species, additional macroplots may have reduced the amount of variation in these samples. Indeed, with more time and an earlier project initiation date, we would have collected more data attempting to reduce the variation around the mean. Even with the variability in violet density, we know that patches containing up to 80+ adult violet plants occur on the Reed Ranch.

The Reed Ranch is one of the largest expanses of continuous coastal prairie on the Clatsop Plains. Although plantings of non-natives species and decades of livestock grazing have altered the plant community in this area, large patches of native prairie remnants, which contain *Viola adunca*, still remain in 2003. In and around the densest violet patches other native prairie species such as sand-dune carex (*Carex pansa*), western buttercup (*Rununculus occidentalis*), coast strawberry (*Fragaria chiloensis*), red fescue (*Festuca rubra*), and blue-eyed grass (*Sisyrinchium littoralis*) also were consistently present. Dune goldenrod, an important nectar source for silverspot butterflies, was not consistently observed in the immediate vicinity of the denser violet patches but was observed on the property. The largest goldenrod patch seen - the only patch mapped during the 2003 violet survey - was 150-350 m away from these denser violet patches.

The most promising restoration areas observed on the Reed Ranch were on the southern end of the property and the dune ridge adjacent to Neacoxie Creek, especially south of the European beachgrass patches (south of surveyor control point 8 on Figure 1). These southern and dune ridge areas still contain remnant coastal prairie. Unfortunately, Scot's broom is currently encroaching on many of these sites. Scot's broom is widespread on the Clatsop Plains and is a persistent introduced plant. Clearing broom in the relatively intact prairie remnant patches may be a strategic start for preserving this native coastal community. In addition, building up a native seed source for future restoration efforts is sorely needed. Reed Ranch would be a good location for seed collection as it contains a variety of native plants.

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Oregon Silverspot Butterfly Habitat Conservation Plan

Figure 1

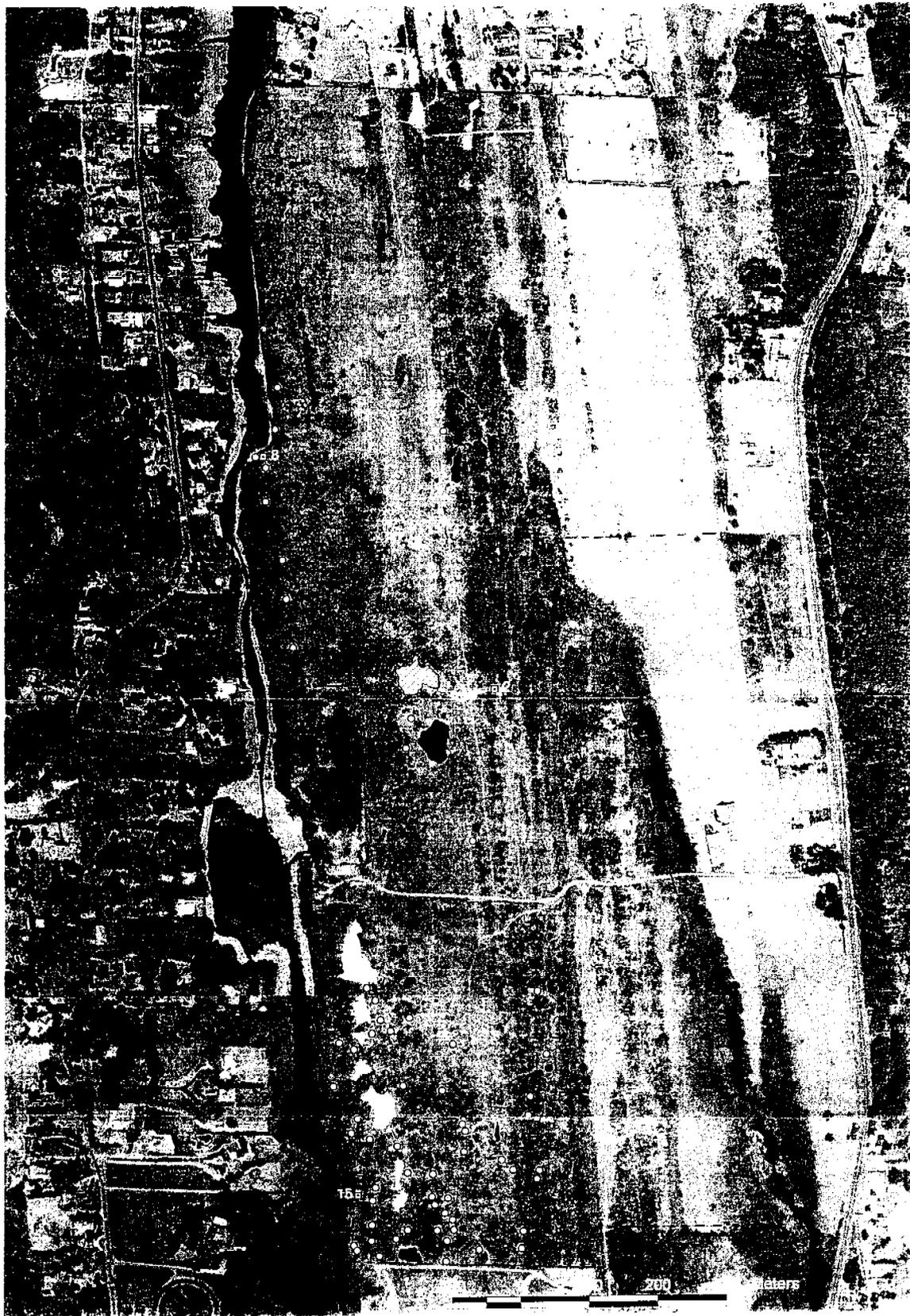
Survey Map with Development Overlay

Oregon Silverspot Butterfly Habitat Conservation Plan

Figure 2

Proposed Mitigation Area Map and GPS Coordinates

2003 Reed Ranch *Viola adunca* Survey



Point Violet Density

- > 20 plants/point
- 11-20 plants/point
- 1-10 plants/point

Area Violet Density

- > 20 plants/area
- 11-20 plants/area

--- Survey Boundary

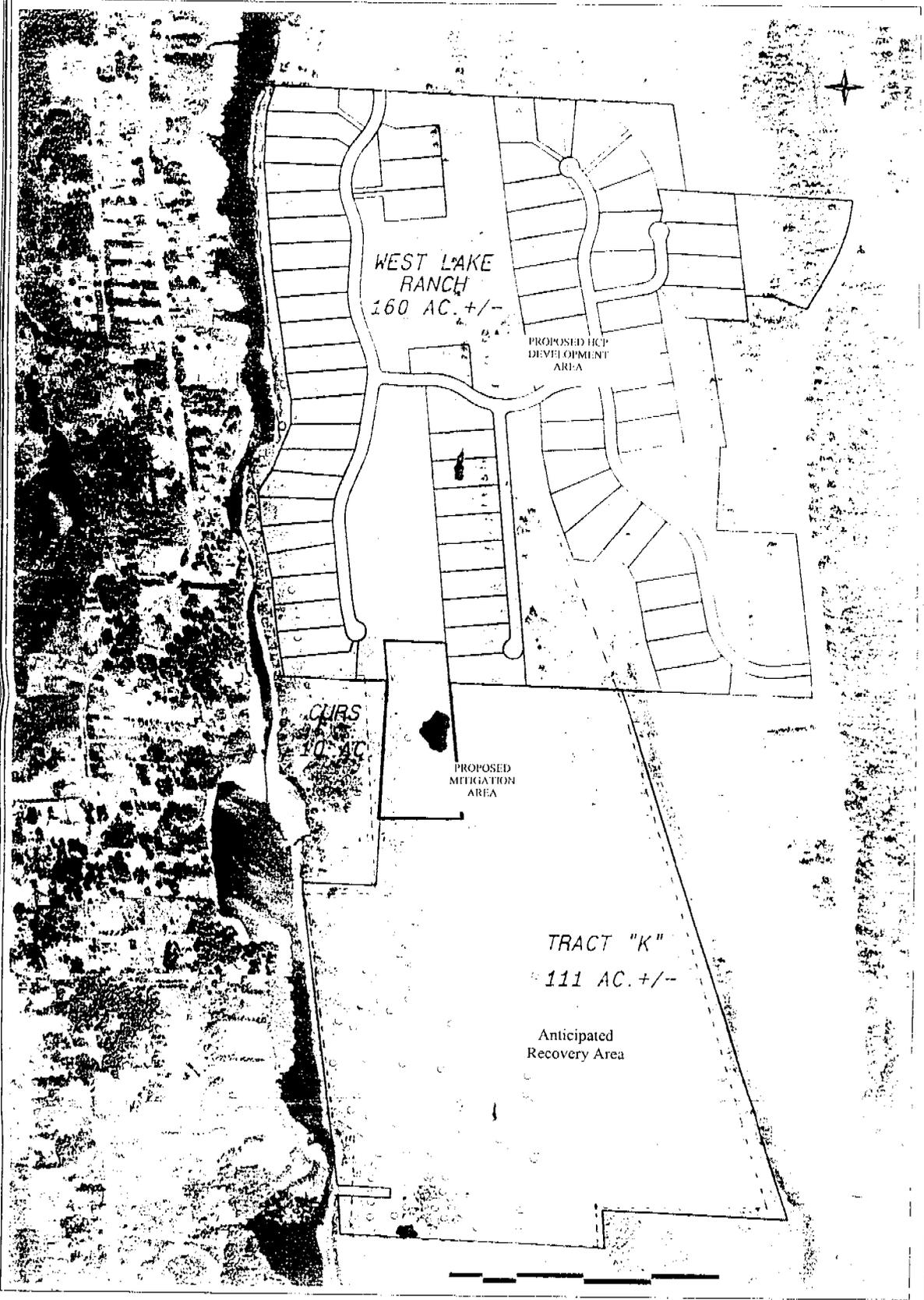
□ Surveyor Control Points

Goldenrod Patch

The Nature Conservancy

SAVED THE FACTS ON 11.14.03/19.03/04

Figure 1: 2003 Reed Ranch *Viola adunca* Survey

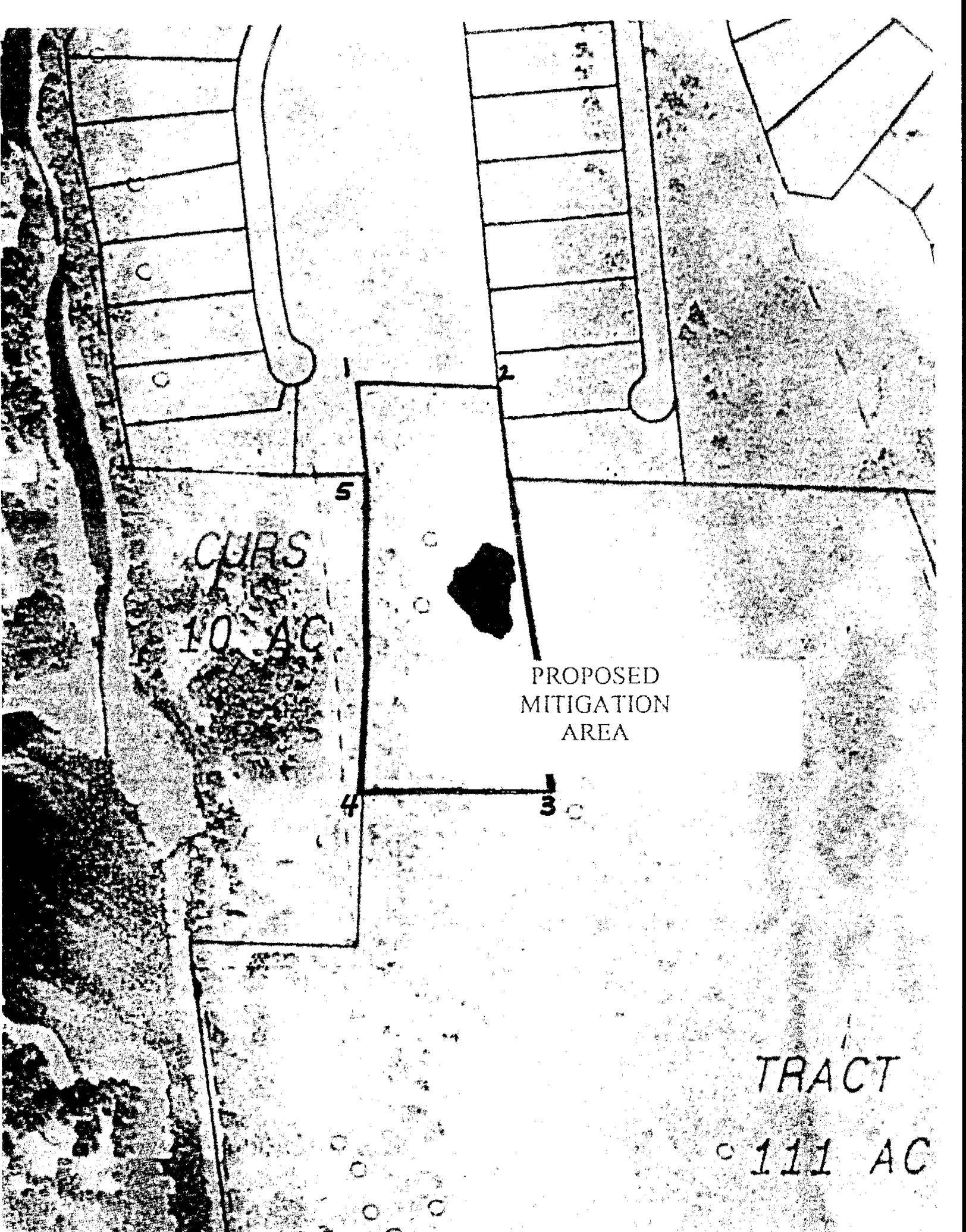


<p>Point Violet Density</p> <ul style="list-style-type: none"> ○ > 20 plants/point ◐ 11-20 plants/point ○ 1-10 plants/point 	<p>Area Violet Density</p> <ul style="list-style-type: none"> ◻ > 20 plants/area ◼ 11-20 plants/area 	<p>----- Survey Boundary</p> <p>◻ Surveyor Control Points</p> <p>◼ Goldenrod Patch</p>
--	--	--

CURS
10 AC

PROPOSED
MITIGATION
AREA

TRACT
111 AC



Oregon Silverspot Butterfly Habitat Conservation Plan

GPS Coordinates for Proposed Mitigation area

UTMs NAD 83 Zone 10

1	428499.5	5104413.0
2	428589.66	5104413.0
3	428613.5	5104146.0
4	428498.9	5104146.0
5	428507.3	5104352.0

Segment 2-3 is in line with property line

Segment 4-5 is in line with Curs' future property line

Oregon Silverspot Butterfly Habitat Conservation Plan

Figure 3

Legal Description of HCP Development Area

LEGAL DESCRIPTION

PARCEL NO. 1:

Beginning at the Southeast corner of a tract which Southeast corner is found as follows:

Beginning at a cedar post which stands at the intersection of the South boundary line of the John Thomas Donation Land Claim, which is the West boundary of West Lake, said post being 319 feet West of the center of the intersection of the Roosevelt Highway with the South line of said John Thomas Donation Land Claim and 609.35 feet South and 1083.9 feet East from the Section corner common to Sections 15, 16, 21 and 22, Township 7 North, Range 10 West, Willamette Meridian;

thence North 19° 10' West 1480.86 feet to the said Southeast corner, the place of beginning of the tract to be described herein;

thence North 19° 10' West 1260.14 feet along West boundary line of said lake to a post on the North boundary line of said Claim;

thence South 89° 45' West 1723 feet to the East boundary of Neacoxie Creek;

thence South 9° 30' East 1210.36 feet to a point due West of the place of beginning;

thence East 1938 feet, more or less, to the said Southeast corner, the place of beginning of the tract herein described, on the West bank of said lake, in the County of Clatsop, State of Oregon.

EXCEPTING THEREFROM the tract described as follows:

Beginning at a point in the North line of the J. Thomas Donation Land Claim, which point is on the East shore line of Sunset Lake, also known as Neacoxie Lake, and which point is 520 feet, more or less, North 89° 47' East from the Northwest corner of the J. Thomas Donation Land Claim;

and running thence along the North line of the J. Thomas Donation Land Claim 300.0 feet to a point marked by a 1" iron pipe;

running thence South 18° 20' East 523.6 feet to a point which is 300 feet from the East shore of Sunset Lake at that point, and which point is marked by a 1-1/4" iron pipe;

running thence South 03° 35' East 559.0 feet to a point which is 300 feet East of the East shore of Sunset Lake at that point and 30 feet North of a fence, and which point is marked by a 1" iron pipe;

running thence South 89° 47' West 300 feet to the East shore of Sunset Lake;

continuing thence on the same course to the center of Sunset Lake;

running thence Northerly on the center line of Sunset Lake to the North line of the J. Thomas Donation Land Claim;

running thence North 89° 47' East to the East shore of Sunset Lake and the point of beginning; said property is in the Southeast quarter of Section 16, Township 7 North, Range 10 West, Willamette Meridian.

PARCEL NO. 2:

Beginning at a cedar post which stands at the intersection of the South boundary line of the John Thomas Donation Land Claim with the West boundary of West Lake, and 319 feet West of the center of the intersection of Roosevelt Highway with the South boundary line of said Donation Land Claim, and which post also stands 132 feet West of a spruce tree 2' in diameter, which is at the intersection of the East boundary of said lake with the said South line of said Donation Land Claim;

thence North 19° 10' West 1480.86 feet;

thence West 769.54 feet;

thence South 7° East 1409.3 feet to an iron pipe intersecting the North line of the John

Jewett Donation Land Claim and the line between Sections 21 and 22, Township 7 North, Range 10 West, Willamette Meridian, at a point 609.35 feet South of Section corner between Sections 21, 22, 15 and 16;

thence East 1083.9 feet to the place of beginning, in the County of Clatsop, State of Oregon.

TOGETHER WITH that portion of vacated road as disclosed in Resolution and Order recorded August 24, 1979 in Book 590, page 561, which by law inures.

PARCEL NO. 3:

Beginning at an iron pipe on the North line of the John Jewett Donation Land Claim No. 40 where the Section line between Sections 21 and 22, Township 7 North, Range 10 West, Willamette Meridian, intersects said Donation Land Claim line, said point being 609.35 feet South of the Section corner common to Sections 15, 16, 21, and 22, Township 7 North, Range 10 West, Willamette Meridian;

thence North 7° West 1409.3 feet;

thence West approximately 1168.46 feet to the East boundary line of Neacoxie Lake;

thence South 9° 30' East 1407.64 feet along the East boundary line of Neacoxie Lake to the South line of the John Thomas Donation Land Claim;

thence West on said Donation Land Claim to a point 18.05 chains East of the Northwest corner of the John Jewett Donation Land Claim;

thence South 192.0 feet;

thence East along the East bank of Neacoxie Creek;

thence continuing East from said point on Neacoxie Creek approximately 1293.79 feet to the West line of a tract conveyed to Lloyd G. West by Deed recorded in Book 116, page 356, Clatsop County Records;

thence North 7° 14' West 193.54 feet along the West line of said Lloyd G. West tract to an intersection with the North line of said John Jewett Donation Land Claim;

thence West along the North line of said John Jewett Donation Land Claim 183.5 feet to the place of beginning.

EXCEPTING THEREFROM a parcel deeded to Astoria Rod and Gun Club, which parcel is described as follows:

Commencing at a point on the South line of the John Thomas Donation Land Claim in the center of Neacoxie Creek (said point being the Southeast corner of the tract of land heretofore sold to A. C. Fisher and Charles Hall);

thence North 50 feet;

thence East on a line parallel with the South line of said Donation Land Claim 390 feet;

thence South to the South line of said Donation Land Claim;

thence West on said South line to the point of beginning, all the foregoing described real property being situate in the County of Clatsop, State of Oregon.

TOGETHER WITH that portion of vacated road as disclosed in Resolution and Order recorded August 24, 1979 in Book 509, page 561, which by law inures.

PARCEL NO. 4:

Beginning at a point on the North boundary of the John Thomas Donation Land Claim in Township 7 North, Range 10 West, Willamette Meridian; said point bears East 243.67 feet from the Northeast corner of that tract of land conveyed to Jacob Bosshart and Edith Bosshart by Deed recorded in Book 246, page 612, Clatsop County Records;

thence North 06° 45' West 200.00 feet;

thence East parallel with the North boundary of said Donation Land Claim 300.00 feet;
thence East South 06° 45' East 200.00 feet to the North boundary of said Donation Land
Claim;
thence West 300.00 feet to the point of beginning.

Oregon Silverspot Butterfly Habitat Conservation Plan

Figure 4

Legal Description of Curs Property

LEGAL DESCRIPTION

That portion of Section 16, Township 7 North, Range 10 West, Willamette Meridian, in the County of Clatsop and State of Oregon, described as follows:

Beginning at a point in the North line of the John Thomas Donation Land Claim which point is on the East shore line of Sunset Lake, also known as Neacoxie Lake, and which point is 520 feet, more or less, North $89^{\circ} 47'$ East from the Northwest corner of the John Thomas Donation Land Claim;

And running thence along the North line of the John Thomas Donation Land Claim 300.00 feet to a point marked by a 1-inch iron pipe;

Running thence South $18^{\circ} 20'$ East 523.6 feet to a point which is 300 feet from the East shore of Sunset Lake at that point, and which point is marked by a 1-1/4 inch iron pipe;

Running thence South $03^{\circ} 35'$ East 559.00 feet to a point which is 300 feet East of the East shore of Sunset Lake at that point, and 30 feet North of a fence and which point is marked by a 1-inch iron pipe;

Running thence South $89^{\circ} 47'$ West 300 feet to the East shore of Sunset Lake;

Continuing thence on the same course to the center of Sunset Lake;

Running thence Northerly on the centerline of Sunset Lake to the North line of the John Thomas Donation Land Claim;

Running thence North $89^{\circ} 47'$ East to the East shore of Sunset Lake, and the point of beginning.

PERMIT APPLICATION FORM INSTRUCTIONS

The following instructions pertain to the standard License/Permit Form 3-200 that must be completed as an application for a U.S. Fish and Wildlife Service permit. Please read the General Permit Procedures (50 CFR 13) sent with this package.

- * Complete all appropriate blocks/lines. Print clearly or type in the information. *A complete application prevents delays!*
- * Sign the application *in ink* and send an *original* to the address on the top of the application. Faxed copies will not be accepted.
- * Applications will be processed in the order they are received.

Most of the application form is self-explanatory, but the following provides some further assistance for completing the form.

COMPLETE EITHER BLOCK A OR BLOCK B:

Block A. "Complete if applying as an individual" - Enter the complete name of the responsible party who will be the permittee if a permit is issued. Enter personal information that identifies the applicant. All blocks must be completed. If you are applying on behalf of a client, the personal information must pertain to the client. A notarized document stating power of attorney must be included with the application.

Block B. "Complete if applying as a business, corporation, public agency or institution" - Enter the complete name and address of the business, agency or institution who will be the permittee if a permit is issued. Give a brief description of the type of business the applicant is engaged in, the name and phone number of the person in charge, and if the company is incorporated, the state in which it was incorporated.

ALL APPLICANTS COMPLETE BLOCK C:

Block C.1 "Do you currently have or have you had any Federal Fish and Wildlife license or permits?" - List the number of any FWS or CITES permits. If applying for a renewal, the original permit must be returned with this application.

Block C.2 "Have you obtained any required state or foreign government approval to conduct the activity you propose?" - If the proposed activity is regulated, check the appropriate box. If "yes", list the State or foreign countries involved and type of document required. Include a copy of these documents with the application. If "no" indicate what steps you have taken to secure approval (use attachment if necessary). If the proposed activity is not regulated check "not required".

Block C.3 "Attachments" - Consult the fact sheet or regulation. Provide any required additional information outlined on the supplemental page(s) of the application form. Be as complete and descriptive as possible. If there is any doubt as to the information's relevance, include it with the application. An incomplete or unclear application may cause delays in processing.

Block C.4 "Check or money order (if applicable)" - There is a permit processing fee unless you are fee exempt. Consult the enclosed APPLICATION PROCESSING FEE SCHEDULE information. Make the check or money order payable to the **U.S. Fish and Wildlife Service** and attach it to the application form. If fee exempt, write "exempt" in this space.

Block C.5 "CERTIFICATION" - The **individual applicant in Block A, the person named in Block B, or person with power of attorney must sign and date** the application in ink. This signature binds that person to the statement of certification. This means that you certify that you read and understood the regulations that apply to the permit. You also certify that everything included in the application is true to the best of your knowledge. Be sure to read the statement and re-read the application before signing.



Federal Fish and Wildlife License/Permit Application Form

Return to: *Click here for addresses*
Endangered Species Permits
U.S. Fish and Wildlife Service

Type of Activity: Native Endangered & Threatened Species -
Incidental Take Permits associated with a
Habitat Conservation Plan

[Empty box for return address]

A. Complete if applying as an individual				
1.a. Last name:	1.b. First name:	1.c. Middle name or initial:	1.d. Suffix	
1.e. Doing business as (dba):	2.a. Street Address (line 1):		2.b. Street Address (line 2):	
2.c. Street address (line 3):	3.a. City:	3.b. County:	3.c. Province:	3.d. State:
3.e. Zip code or postal code:	3.f. Country (only for non-commercial):	4. Date of birth (mm/dd/yyyy):	5. Social Security No:	
6. Occupation:	7. List of any business, agency, organizational, or institutional affiliation associated with the wildlife or plants to be covered by this license or permit:			
8. Home telephone number:	9. Work telephone number:	10. Fax number:	11. E-mail address:	

B. Complete if applying as a business, corporation, public agency or institution				
1.a. Name of business, agency, or institution: Westlake Ranch LLC		1.b. Doing business as (dba):		2. Tax identification no.: 93-1330432
3.a. Street address (line 1): 855 SW Spring Lane		3.b. Street address (line 2):		3.c. Street address (line 3):
4.a. City: Portland	4.b. County Multnomah		4.c. State: OR	4.d. Zip code: 97225
5.a. Principal officer - Last name: Charlton		5.b. First name: Richard		5.c. Middle name or initial: T.
5.e. Principal officer title: Manager		6. Describe the type of business, agency, or institution: Developer		
7. Home telephone number: (503) 520-1322	8. Work telephone number: (503) 320-4600	9. Fax number: (503) 644-2166	10. E-mail address: richardcharlton@comcast.net	

C. All applicants complete	
1. Do you currently have or have you had any Federal Fish and Wildlife License or Permit? Yes If yes, list the number of the most recent license or permit you hold: No	
2. Have you obtained any required state or foreign government approval to conduct the activity you propose? Yes If yes, provide a copy of the license or permit. No Not Required	
3. Attachments: Complete the additional pages of this application. Application will not be considered complete without these pages. Incomplete applications may be returned.	
4. Enclose check or money order payable to the U.S. FISH AND WILDLIFE SERVICE in the amount of \$25. Institutions which qualify under 50 CFR 13.11(d)(3) may be exempt from fees.	
5. Certification: I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a license or permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. 1001.	
6. Signature (in ink) of applicant or person responsible for permit in Block A or B <i>Richard Charlton</i>	7. Date (mm/dd/yyyy): 8-10-04

**NATIVE ENDANGERED & THREATENED SPECIES
APPLICATION FOR PERMIT**

**INCIDENTAL TAKE PERMITS ASSOCIATED WITH A
HABITAT CONSERVATION PLAN (HCP)**

INSTRUCTIONS TO APPLICANTS

You are urged to coordinate with the Service as soon as possible for guidance in assembling a complete application package, therefore expediting timely issuance of a permit should one be granted. If you are renewing or amending an existing permit, your complete application package must be received at least 30 days prior to the expiration of your existing permit.

The time required to process an application for an Incidental Take permit will vary depending on the size, complexity, and impacts of the HCP involved. Procedurally, the most variable factor in application processing is the level of analysis required for the proposed HCP under the National Environmental Policy Act (whether an Environmental Impact Statement, Environmental Assessment, or a categorical exclusion is required), although other factors such as public controversy can also affect application processing times. The target timeline from receipt of a complete application to the issuance of a permit is: up to 3 months for low-effect HCPs, 4 to 6 months for HCPs with an Environmental Assessment, and up to 12 months for HCPs with a 90-day comment period and/or an Environmental Impact Statement. Although not mandated by law or regulation, these targets are adopted as Service and National Marine Fisheries Service (NMFS) policy and all offices are expected to streamline their Incidental Take permit programs, and to meet these targets to the maximum extent practicable.

The information provided in your permit application will be used to process your application in accordance with the Endangered Species Act, its implementing regulations (which may include the solicitation of public comments on the application for 30 to 90 days), and with U.S. Fish and Wildlife Service policy. Receipt and possession of a permit under the Endangered Species Act should be regarded as a privilege, as we must balance permit issuance with our duties to protect and recover listed species.

Before you submit an application for an Incidental Take permit, we may require you to conduct biological surveys to determine which species and/or habitat would be impacted by the activities sought to be covered under the permit. These biological surveys provide information that the applicant needs to develop an adequate Habitat Conservation Plan, and that we need to assess the biological impacts. In addition, the information provided in a biological survey can reduce the applicant's risk of take under Section 9 of the Endangered Species Act by ensuring that affected species and/or habitat will be identified and thus covered under the permit.

Section 10(a)(2)(A)(i) of the Endangered Species Act requires that no Incidental Take permit may be issued unless the applicant submits a conservation plan that specifies the impacts which will likely result from the incidental take. These impacts can be determined by conducting a biological survey. Our general permit regulations at 50 CFR 13.12(a)(9) also allow us to collect such other information as we determine that is relevant to the processing of a permit application.

Prior to conducting the biological survey, you may wish to obtain a permit from us for Scientific Purposes, Enhancement of Propagation or Survival (commonly called a Recovery permit) which will authorize any taking of listed species that would result from the survey. Contact the nearest Service Field office to discuss the need for a biological survey and a corresponding Recovery permit, as we will evaluate this on a case-by-case basis. If a biological survey is required, we urge you to apply for the corresponding Recovery permit at least 3 months prior to the desired start of the survey to allow for processing time.

If you are not applying as an individual, but as a business, corporation, institution, or non-Federal public agency (block B. on page 1), the person to whom the permit will be issued (e.g., the president, director, executive director, or executive officer) is legally responsible for implementing the permit. Although other people under the direct control of the permittee (e.g., employees, contractors, consultants) receive third party take authorization in their capacity as designees of the permittee, the individual named as the permittee ultimately is legally responsible for the permit and any activities carried out under the permit except as otherwise limited in the case of permits issued to State or local government entities under 50 CFR 13.25(d).

Up-to-date annual reports and any other required reports under your existing permit(s) must be on file before a permit will be considered for renewal or amendment.

If your activities may affect species under the authority of the NMFS, then you may need to obtain a separate permit from NMFS. NMFS and the Service share jurisdiction for sea turtles. The Service issues permits to conduct activities impacting sea turtles on land, and the NMFS issues permits to conduct activities impacting sea turtle in the marine environment. To apply for a permit to conduct activities with sea turtles in the marine environment, please contact the NMFS via the Internet at http://www.nmfs.noaa.gov/prot_res/PR3/Permits/ESAPermit.html

Please check one:

- New application for Incidental Take permit associated with a Habitat Conservation Plan.
- Renewal of an existing Incidental Take permit associated with a Habitat Conservation Plan using my current application package on file. Note: if the information in your current application package has changed in a manner that triggers a major amendment or a change not otherwise specified in the HCP or Implementing Agreement, then you must apply for an amendment to your existing permit. Such changes may include changes in location, activity,

amount or type of take, or species to be covered by the permit.

Amendment of existing Incidental Take permit associated with a Habitat Conservation Plan.

Transfer or succession of an existing Incidental Take permit associated with a Habitat Conservation Plan using the current application package on file.

General permit regulations for the U.S. Fish and Wildlife Service can be found at 50 CFR 13. Regulations for an Incidental Take permit can be found at 50 CFR 17.22(b)(1) for endangered wildlife species and 50 CFR 17.32(b)(1) for threatened wildlife species. Applications for an Incidental Take permit associated with a Habitat Conservation Plan must provide the following specific information (relevant to the activity) in addition to the general information on page 1 of this application. In addition, each landowner who wishes to be covered under the Incidental Take permit associated with a Habitat Conservation Plan must sign (in ink) and date the Incidental Take Permit Application Certification Notice on page 9, unless the landowner will be covered under this U.S. Fish and Wildlife Service Incidental Take permit via another vehicle, such as a certificate of inclusion (50 CFR 13.25(d)).

You have 4 options for providing the specific information for items 1 - 7 below. Choose only one option.

Option I. Renewal of Existing Incidental Take Permit

If you are applying for renewal of your existing valid renewable Incidental Take permit with no changes, excepting changes allowed under the existing permit such as minor amendments, you may sign the following statement. If you have any changes to your Incidental Take permit, you must use Option II. The same person who signs in box C.6 on page 1 should sign the statement below.

I certify that the statements and information submitted in support of my original application for a U.S. Fish and Wildlife Service Incidental Take permit # _____ are still current and correct and hereby request renewal of that permit. This certification language is required under 50 CFR 13.22(a).

Signature

Date

Please print name legibly

* Please note: If you have signed above statement, then your renewal request is complete. Please submit this renewal request to the return address on page 1 of the application. Requests for renewals must be received no later than 30 days prior to permit expiration to

ensure that your current permit remains in effect while we process your request for permit renewal.

Option II. New or Amended Incidental Take Permit

If the information below is already provided in the attached Habitat Conservation Plan (or Implementing Agreement, if applicable), then you do not have to provide it here. Instead, check the box below and indicate after each item the page numbers in the Habitat Conservation Plan or Implementing Agreement that provides the requested information. If the information is not in the attached Habitat Conservation Plan (or Implementing Agreement if applicable), then use Option III. below.

I am not providing the information for items 1 - 7 as part of my permit application because it is already provided in my Habitat Conservation Plan or Implementing Agreement (copy attached or already submitted) on the pages indicated below. Please specify whether the page numbers are from the Habitat Conservation Plan or the Implementing Agreement.

If you have already submitted a final draft Habitat Conservation Plan, please indicate the document's date.

Date of final draft Habitat Conservation Plan August 9, 2004

1. Identify property description:

- a. Provide the physical address(es), or location of activities. Include a formal legal description such as Section/Township/Range, County tax parcel number, or other formal legal description. Fill in below, or provide page references where the requested information is located.

Page(s) & source: See HCP Figures 2 and 3

- b. Attach map and/or plat of property under consideration.

Total acres involved HCP p. 1, Figures 2 and 3
Approximate acres to be impacted HCP pp. 15-16
Approximate acres to be protected HCP pp. 15-16

- c. Describe proposed management activities to enhance, restore, or maintain habitat, including timeframes. Fill in below, or provide page references where the requested information is located.

Page(s) & source: HCP pp. 14-15

2. Provide a complete description of activity(ies) to be authorized. Fill in below, or provide page references where the requested information is located.

Page(s) & source: HCP pp. 14-15

3. Identify species and activity:

- a. For a new permit:

Provide the common and scientific names of the species sought to be covered by the permit, as well as the species' status (federally classified as endangered (E), federally classified as threatened (T), proposed for federal classification as endangered (PE), proposed for federal classification as threatened (PT), federal candidate for listing (C), or local species of concern (SOC)). Also include the number, age, and sex of such species, if known. Also, please quantify any anticipated effects to the habitat of each covered species.

- b. For an amended permit:

Identify the additional species sought to be covered by the amendment (provide both the scientific, to the most specific taxonomic level, and common names), as well as the species status (see a. above).

Provide the number, age and sex of such species (if known).

Identify the activity sought to be authorized for each species.

Identify the species on your existing permit and activities authorized for each species. If any activities requested in this application differ from those authorized in your existing permit, then state the current activity and the requested new activity for each species.

Identify species to be deleted from your existing permit.

Quantify any anticipated effects to the habitat of each added species.

Fill in below, or provide page references where the requested information is located in the conservation plan.

Page(s) & source: HCP pp. 1, 3, 15-16

4. A conservation plan that specifies:
- a. The impact that will likely result from the incidental taking. A discussion of the impact that will likely result from the incidental take should include quantification of any anticipated effects to the habitat of the species sought to be covered by the permit.
 - b. The steps that will be taken to minimize and mitigate such impacts, the funding that will be available to implement such steps, and the procedures to deal with unforeseen circumstances.
 - c. The steps that will be taken to monitor and report on such impacts, including a copy of the monitoring plan. We are authorized to require reports of activities conducted under a permit per the Service's general permit regulations at 50 CFR 13.45.
 - d. Alternative actions to such incidental taking that have been considered and the reasons why these alternatives are not proposed for use.
 - e. The biological goals(s) and objectives for the Habitat Conservation Plan.
 - f. The duration requested for the proposed permit.

5. An Implementing Agreement

is is not (FWS Field Office to circle one)

required as part of the permit application for a Habitat Conservation Plan.

This Implementing Agreement, which must be signed at finalization of the Habitat Conservation Plan, is legally enforceable. Are you willing to commit to an Implementing Agreement at finalization of the Habitat Conservation Plan?

(NOT APPLICABLE)

Yes, I am willing to commit to an Implementing Agreement. Please submit any unsigned, draft Implementing Agreement that you have prepared with our Field Office.

No, I am not willing to commit to an Implementing Agreement.

6. Although not required, we strongly encourage applicants to ensure that their Habitat Conservation Plans are consistent with the Habitat Conservation Planning Handbook, subsequent Handbook addendums, and current policies.

7. Identify any additional permits currently held or needed for the proposed activities (i.e. permission to work on Federal lands, Federal bird banding permit, State permits, etc).
- a. Attach a copy or give agency name, permit number, if any, date of signature, and duration of permit.
 - b. If you have already applied for these additional permits/authorizations and are awaiting issuance of the permits/authorizations, then state it here. *[If you do not have this permission at this time, please provide an explanation.]*

Option III. If any of the above information in items 1-3 and 5-7 is not in your attached Habitat Conservation Plan (or Implementing Agreement if applicable), then attach separate pages. In order to assist us in processing your application, please provide the item number (1.a., etc.) of the required information before each of your responses. Thank you.

Option IV. Permit Transfer or Succession of a Permit

If you are applying for an existing permit to be transferred to you or obtaining rights of succession of an existing permit, please fill out the following information. You and the current permit holder may also need to sign an assumption agreement.

Please indicate the name of the Habitat Conservation Plan to be transferred or succeeded and indicate the document's date.

Name of Habitat Conservation Plan _____

Date of Habitat Conservation Plan _____

An Assumption Agreement

is *is not* (FWS Field Office to circle one)

required as part of the transfer or succession permit application for a Habitat Conservation Plan.

Regardless of which Option you choose to provide the required information, all applicants must sign the following Certification. This language may be altered only under certain circumstances, such as a permit transfer; any change in the language must be reviewed by the Department of Interior, Office of the Solicitor and approved by the Service. The same person who signs in box C.6 on page 1 should sign the certification.

**Incidental Take Permit Application
Certification Notice**

By submitting this application and receiving an Incidental Take permit pursuant to Section 10(a)(1)(B) of the Endangered Species Act, I

Richard T. Charlton (print name(s))

attest that I/we own the lands indicated in this application, or have sufficient authority or rights over these lands to implement the measures of the Habitat Conservation Plan (and Implementing Agreement if applicable) covered by the Incidental Take permit. Further, upon receipt of the Incidental Take permit, I/we agree to conduct the activities as specified in the Habitat Conservation Plan (and Implementing Agreement if applicable) according to the terms and conditions of the Incidental Take permit and its supporting documents.


Signature

8-10-04
Date

Richard T. Charlton
Please print name legibly

Signature

Date

Please print name legibly

The public reporting burden for completing this application is estimated to be less than 2.5 hours, including time for reviewing instructions, gathering and maintaining application data, and completing and reviewing the forms. Comments regarding the burden estimate or any other aspect of the reporting requirement(s) should be directed to the Service Information Collection Clearance Officer, MS 222 ARLSQ, Fish and Wildlife Service, Washington, DC 20240.

An agency may not conduct and a person is not required to respond to a collection of information unless a currently valid OMB control number is displayed.

Application for a Federal Fish and Wildlife License/Permit

Paperwork Reduction Act and the Privacy Act - Notices

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and the Privacy Act of 1974 (5 U.S.C. 552a), please be advised that:

1. The gathering of information on fish and wildlife is authorized by:
 - (a) Bald Eagle Protection Act (16 U.S.C. 668);
 - (b) Endangered Species Act of 1973 (16 U.S.C. 1539);
 - (c) Migratory Bird Treaty Act (16 U.S.C. 703-711);
 - (d) Marine Mammal Protection Act of 1972 (16 U.S.C. 1371-1383);
 - (e) Wild Bird Conservation Act (16 U.S.C. 4901-4916);
 - (f) Lacey Act (18 U.S.C. 42 & 44);
 - (g) Convention on International Trade in Endangered Species of Wild Flora and Fauna (TIAS 8249);
 - (h) Title 50, Part 10, of the Code of Federal Regulations;
 - (i) Title 50, Part 13, of the Code of Federal Regulations;
 - (j) Title 50, Part 14, of the Code of Federal Regulations;
 - (k) Title 50, Part 15, of the Code of Federal Regulations;
 - (l) Title 50, Part 16, of the Code of Federal Regulations;
 - (m) Title 50, Part 17, of the Code of Federal Regulations;
 - (n) Title 50, Part 21, of the Code of Federal Regulations;
 - (o) Title 50, Part 22, of the Code of Federal Regulations; and
 - (p) Title 50, Part 23, of the Code of Federal Regulations.
2. Information requested in this form is purely voluntary. However, submission of requested information is required in order to process applications for licenses or permits authorized under the above acts. Failure to provide all requested information may be sufficient cause for the U.S. Fish and Wildlife Service to deny a permit. Response is not required unless a currently valid Office of Management and Budget (OMB) control number is displayed.
3. Certain applications for permits authorized under the Endangered Species Act of 1973 (16 U.S.C. 1539) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371-1383) will be published in the Federal Register as required by the two acts.
4. Routine use disclosures may also be made:
 - (a) To the U.S. Department of Justice when related to litigation or anticipated litigation;
 - (b) Of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulations, order or license;
 - (c) From the record of an individual in response to an inquiry from a Congressional office made at the request of that individual (42 FR 1903; April 11, 1977);
 - (d) To subject matter experts, and State and other Federal agencies, for the sole purpose of obtaining advice relevant to issuance of the permit.
5. For individuals, personal information such as home address and telephone number, financial data, and personal identifiers (social security number, birth date, etc.) will be removed prior to any release of the application.
6. The public reporting burden for this information collection varies depending on the specific activity for which a permit is requested. The relevant burden for completing the application for an Incidental Take permit associated with a Habitat Conservation Plan is 2.5 hours. This burden estimate includes time for reviewing instructions, gathering and maintaining data and completing and reviewing form. You may direct comments regarding the burden estimate or any other aspect of the form to the Service Information Clearance Officer, Fish and Wildlife Service, Mail Stop 222, Arlington Square, U.S. Department of the Interior, 1849 C Street, NW, Washington D.C. 20240

Freedom of Information Act - Notice

For organizations, businesses, or individuals operating as a business (*i.e.*, permittees not covered by the Privacy Act), we request that you identify any information that should be considered privileged and confidential business information to allow the Service to meet its responsibilities under FOIA. Confidential business information must be clearly marked "Business Confidential" at the top of the letter or page and each succeeding page, and must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary and remaining documents may be made available to the public under FOIA [43 CFR 2.13(c)(4), 43 CFR 2.15(d)(1)(i)].

APPLICATION PROCESSING FEE

The fee to process an application for an Enhancement of Survival permit associated with a Safe Harbor Agreement and a Candidate Conservation Agreement With Assurances is \$25.00. Checks should be made payable to "U.S. Fish and Wildlife Service." The fee applies to permit applications, renewals, and amendments. The processing fee shall not be refunded if the permit is issued or denied, or if the application is abandoned.

The fee schedule does not apply to any Federal, State or local government agency or individual or institution under contract to such agency for the proposed activities. Until further notice, the fee will be waived for public institutions. As defined in 50 CFR 10.12 - "Public as used in referring to museums, zoological parks, and scientific or educational institutions, refers to such as are open to the general public and are either established, maintained, and operated as a governmental service or are privately endowed and organized, but not operated for profit."

PERMIT APPLICATION FORM INSTRUCTIONS

The following instructions pertain to the standard License/Permit Form 3-200 that must be completed as an application for a U.S. Fish and Wildlife Service permit. Please read the General Permit Procedures (50 CFR 13) sent with this package.

- * Complete all appropriate blocks/lines. Print clearly or type in the information. *A complete application prevents delays!*
- * Sign the application *in ink* and send an *original* to the address on the top of the application. Faxed copies will not be accepted.
- * Applications will be processed in the order they are received.

Most of the application form is self-explanatory, but the following provides some further assistance for completing the form.

COMPLETE EITHER BLOCK A OR BLOCK B:

- Block A. **"Complete if applying as an individual"** - Enter the complete name of the responsible party who will be the permittee if a permit is issued. Enter personal information that identifies the applicant. All blocks must be completed. If you are applying on behalf of a client, the personal information must pertain to the client. A notarized document stating power of attorney must be included with the application.
- Block B. **"Complete if applying as a business, corporation, public agency or institution"** - Enter the complete name and address of the business, agency or institution who will be the permittee if a permit is issued. Give a brief description of the type of business the applicant is engaged in, the name and phone number of the person in charge, and if the company is incorporated, the state in which it was incorporated.

ALL APPLICANTS COMPLETE BLOCK C:

- Block C.1 **"Do you currently have or have you had any Federal Fish and Wildlife license or permits?"** - List the number of any FWS or CITES permits. If applying for a renewal, the original permit must be returned with this application.
- Block C.2 **"Have you obtained any required state or foreign government approval to conduct the activity you propose?"** - If the proposed activity is regulated, check the appropriate box. If "yes", list the State or foreign countries involved and type of document required. Include a copy of these documents with the application. If "no" indicate what steps you have taken to secure approval (use attachment if necessary). If the proposed activity is not regulated check "not required".
- Block C.3 **"Attachments"** - Consult the fact sheet or regulation. Provide any required additional information outlined on the supplemental page(s) of the application form. Be as complete and descriptive as possible. If there is any doubt as to the information's relevance, include it with the application. An incomplete or unclear application may cause delays in processing.
- Block C.4 **"Check or money order (if applicable)"** - There is a permit processing fee unless you are fee exempt. Consult the enclosed APPLICATION PROCESSING FEE SCHEDULE information. Make the check or money order payable to the U.S. Fish and Wildlife Service and attach it to the application form. If fee exempt, write "exempt" in this space.
- Block C.5 **"CERTIFICATION"** - The individual applicant in Block A, the person named in Block B, or person with power of attorney must sign and date the application in ink. This signature binds that person to the statement of certification. This means that you certify that you read and understood the regulations that apply to the permit. You also certify that everything included in the application is true to the best of your knowledge. Be sure to read the statement and re-read the application before signing.



Federal Fish and Wildlife License/Permit Application Form

Return to: *Click here for addresses*
Endangered Species Permits
U.S. Fish and Wildlife Service

Type of Activity: Native Endangered & Threatened Species -
Incidental Take Permits associated with a
Habitat Conservation Plan

[Empty box for return address]

A. Complete if applying as an individual

1.a. Last name: Curs		1.b. First name: Randy and Tasha		1.c. Middle name or initial:		1.d. Suffix:	
1.e. Doing business as (dba):		2.a. Street Address (line 1): 90074 Highway 101 N		2.b. Street Address (line 2):			
2.c. Street address (line 3):		3.a. City: Warrenton		3.b. County: Clatsop		3.c. Province:	
3.e. Zip code or postal code: 97146		3.f. Country (only for non-commercial): USA		4. Date of birth (mm/dd/yyyy): 04/03/50 (Tasha)		5. Social Security No: 541-60-7903 (Tasha)	
6. Occupation: Concrete Construction		7. List of any business, agency, organizational, or institutional affiliation associated with the wildlife or plants to be covered by this license or permit:					
8. Home telephone number: (503) 861-1563		9. Work telephone number: (503) 440-0567		10. Fax number: (503) 861-3188		11. E-mail address: tcurs@msn.com	

B. Complete if applying as a business, corporation, public agency or institution

1.a. Name of business, agency, or institution:		1.b. Doing business as (dba):		2. Tax identification no.:			
3.a. Street address (line 1):		3.b. Street address (line 2):		3.c. Street address (line 3):			
4.a. City:		4.b. County:		4.c. State:		4.d. Zip code:	
5.a. Principal officer - Last name:		5.b. First name:		5.c. Middle name or initial:		5.d. Suffix:	
5.e. Principal officer title:		6. Describe the type of business, agency, or institution:					
7. Home telephone number:		8. Work telephone number:		9. Fax number:		10. E-mail address:	

C. All applicants complete

1. Do you currently have or have you had any Federal Fish and Wildlife License or Permit? Yes If yes, list the number of the most recent license or permit you hold: No	
2. Have you obtained any required state or foreign government approval to conduct the activity you propose? Yes If yes, provide a copy of the license or permit. No Not Required	
3. Attachments: Complete the additional pages of this application. Application will not be considered complete without these pages. Incomplete applications may be returned.	
4. Enclose check or money order payable to the U.S. FISH AND WILDLIFE SERVICE in the amount of \$25. Institutions which qualify under 50 CFR 13.11(d)(3) may be exempt from fees.	
5. Certification: I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a license or permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. 1001.	
6. Signature (in ink) of applicant or person responsible for permit in Block A or B <i>Randy Curs</i> <i>Tasha Curs</i>	
7. Date (mm/dd/yyyy): 08/15/2004	

**NATIVE ENDANGERED & THREATENED SPECIES
APPLICATION FOR PERMIT**

**INCIDENTAL TAKE PERMITS ASSOCIATED WITH A
HABITAT CONSERVATION PLAN (HCP)**

INSTRUCTIONS TO APPLICANTS

You are urged to coordinate with the Service as soon as possible for guidance in assembling a complete application package, therefore expediting timely issuance of a permit should one be granted. If you are renewing or amending an existing permit, your complete application package must be received at least 30 days prior to the expiration of your existing permit.

The time required to process an application for an Incidental Take permit will vary depending on the size, complexity, and impacts of the HCP involved. Procedurally, the most variable factor in application processing is the level of analysis required for the proposed HCP under the National Environmental Policy Act (whether an Environmental Impact Statement, Environmental Assessment, or a categorical exclusion is required), although other factors such as public controversy can also affect application processing times. The target timeline from receipt of a complete application to the issuance of a permit is: up to 3 months for low-effect HCPs, 4 to 6 months for HCPs with an Environmental Assessment, and up to 12 months for HCPs with a 90-day comment period and/or an Environmental Impact Statement. Although not mandated by law or regulation, these targets are adopted as Service and National Marine Fisheries Service (NMFS) policy and all offices are expected to streamline their Incidental Take permit programs, and to meet these targets to the maximum extent practicable.

The information provided in your permit application will be used to process your application in accordance with the Endangered Species Act, its implementing regulations (which may include the solicitation of public comments on the application for 30 to 90 days), and with U.S. Fish and Wildlife Service policy. Receipt and possession of a permit under the Endangered Species Act should be regarded as a privilege, as we must balance permit issuance with our duties to protect and recover listed species.

Before you submit an application for an Incidental Take permit, we may require you to conduct biological surveys to determine which species and/or habitat would be impacted by the activities sought to be covered under the permit. These biological surveys provide information that the applicant needs to develop an adequate Habitat Conservation Plan, and that we need to assess the biological impacts. In addition, the information provided in a biological survey can reduce the applicant's risk of take under Section 9 of the Endangered Species Act by ensuring that affected species and/or habitat will be identified and thus covered under the permit.

Section 10(a)(2)(A)(i) of the Endangered Species Act requires that no Incidental Take permit may be issued unless the applicant submits a conservation plan that specifies the impacts which will likely result from the incidental take. These impacts can be determined by conducting a biological survey. Our general permit regulations at 50 CFR 13.12(a)(9) also allow us to collect such other information as we determine that is relevant to the processing of a permit application.

Prior to conducting the biological survey, you may wish to obtain a permit from us for Scientific Purposes, Enhancement of Propagation or Survival (commonly called a Recovery permit) which will authorize any taking of listed species that would result from the survey. Contact the nearest Service Field office to discuss the need for a biological survey and a corresponding Recovery permit, as we will evaluate this on a case-by-case basis. If a biological survey is required, we urge you to apply for the corresponding Recovery permit at least 3 months prior to the desired start of the survey to allow for processing time.

If you are not applying as an individual, but as a business, corporation, institution, or non-Federal public agency (block B. on page 1), the person to whom the permit will be issued (e.g., the president, director, executive director, or executive officer) is legally responsible for implementing the permit. Although other people under the direct control of the permittee (e.g., employees, contractors, consultants) receive third party take authorization in their capacity as designees of the permittee, the individual named as the permittee ultimately is legally responsible for the permit and any activities carried out under the permit except as otherwise limited in the case of permits issued to State or local government entities under 50 CFR 13.25(d).

Up-to-date annual reports and any other required reports under your existing permit(s) must be on file before a permit will be considered for renewal or amendment.

If your activities may affect species under the authority of the NMFS, then you may need to obtain a separate permit from NMFS. NMFS and the Service share jurisdiction for sea turtles. The Service issues permits to conduct activities impacting sea turtles on land, and the NMFS issues permits to conduct activities impacting sea turtle in the marine environment. To apply for a permit to conduct activities with sea turtles in the marine environment, please contact the NMFS via the Internet at http://www.nmfs.noaa.gov/prot_res/PR3/Permits/ESAPermit.html

Please check one:

- New application for Incidental Take permit associated with a Habitat Conservation Plan.
- Renewal of an existing Incidental Take permit associated with a Habitat Conservation Plan using my current application package on file. Note: if the information in your current application package has changed in a manner that triggers a major amendment or a change not otherwise specified in the HCP or Implementing Agreement, then you must apply for an amendment to your existing permit. Such changes may include changes in location, activity,

amount or type of take, or species to be covered by the permit.

Amendment of existing Incidental Take permit associated with a Habitat Conservation Plan.

Transfer or succession of an existing Incidental Take permit associated with a Habitat Conservation Plan using the current application package on file.

General permit regulations for the U.S. Fish and Wildlife Service can be found at 50 CFR 13. Regulations for an Incidental Take permit can be found at 50 CFR 17.22(b)(1) for endangered wildlife species and 50 CFR 17.32(b)(1) for threatened wildlife species. Applications for an Incidental Take permit associated with a Habitat Conservation Plan must provide the following specific information (relevant to the activity) in addition to the general information on page 1 of this application. In addition, each landowner who wishes to be covered under the Incidental Take permit associated with a Habitat Conservation Plan must sign (in ink) and date the Incidental Take Permit Application Certification Notice on page 9, unless the landowner will be covered under this U.S. Fish and Wildlife Service Incidental Take permit via another vehicle, such as a certificate of inclusion (50 CFR 13.25(d)).

You have 4 options for providing the specific information for items 1 - 7 below. Choose only one option.

Option I. Renewal of Existing Incidental Take Permit

If you are applying for renewal of your existing valid renewable Incidental Take permit with no changes, excepting changes allowed under the existing permit such as minor amendments, you may sign the following statement. If you have any changes to your Incidental Take permit, you must use Option II. The same person who signs in box C.6 on page 1 should sign the statement below.

I certify that the statements and information submitted in support of my original application for a U.S. Fish and Wildlife Service Incidental Take permit # _____ are still current and correct and hereby request renewal of that permit. This certification language is required under 50 CFR 13.22(a).

Signature

Date

Please print name legibly

* Please note: If you have signed above statement, then your renewal request is complete. Please submit this renewal request to the return address on page 1 of the application. Requests for renewals must be received no later than 30 days prior to permit expiration to

ensure that your current permit remains in effect while we process your request for permit renewal.

Option II. New or Amended Incidental Take Permit

If the information below is already provided in the attached Habitat Conservation Plan (or Implementing Agreement, if applicable), then you do not have to provide it here. Instead, check the box below and indicate after each item the page numbers in the Habitat Conservation Plan or Implementing Agreement that provides the requested information. If the information is not in the attached Habitat Conservation Plan (or Implementing Agreement if applicable), then use Option III. below.

I am not providing the information for items 1 - 7 as part of my permit application because it is already provided in my Habitat Conservation Plan or Implementing Agreement (copy attached or already submitted) on the pages indicated below. Please specify whether the page numbers are from the Habitat Conservation Plan or the Implementing Agreement.

If you have already submitted a final draft Habitat Conservation Plan, please indicate the document's date.

Date of final draft Habitat Conservation Plan August 9, 2004

1. Identify property description:

- a. Provide the physical address(es), or location of activities. Include a formal legal description such as Section/Township/Range, County tax parcel number, or other formal legal description. Fill in below, or provide page references where the requested information is located.

Page(s) & source: See HCP Figure 4

- b. Attach map and/or plat of property under consideration.

Total acres involved HCP p. 1 and Figure 4
Approximate acres to be impacted HCP pp. 15-16
Approximate acres to be protected HCP pp. 15-16

- c. Describe proposed management activities to enhance, restore, or maintain habitat, including timeframes. Fill in below, or provide page references where the requested information is located.

Page(s) & source: HCP pp. 14-15

4. A conservation plan that specifies:

- a. The impact that will likely result from the incidental taking. A discussion of the impact that will likely result from the incidental take should include quantification of any anticipated effects to the habitat of the species sought to be covered by the permit.
- b. The steps that will be taken to minimize and mitigate such impacts, the funding that will be available to implement such steps, and the procedures to deal with unforeseen circumstances.
- c. The steps that will be taken to monitor and report on such impacts, including a copy of the monitoring plan. We are authorized to require reports of activities conducted under a permit per the Service's general permit regulations at 50 CFR 13.45.
- d. Alternative actions to such incidental taking that have been considered and the reasons why these alternatives are not proposed for use.
- e. The biological goals(s) and objectives for the Habitat Conservation Plan.
- f. The duration requested for the proposed permit.

5. An Implementing Agreement

is

is not

(FWS Field Office to circle one)

required as part of the permit application for a Habitat Conservation Plan.

This Implementing Agreement, which must be signed at finalization of the Habitat Conservation Plan, is legally enforceable. Are you willing to commit to an Implementing Agreement at finalization of the Habitat Conservation Plan?

(NOT APPLICABLE)

Yes, I am willing to commit to an Implementing Agreement. Please submit any unsigned, draft Implementing Agreement that you have prepared with our Field Office.

No, I am not willing to commit to an Implementing Agreement.

6. Although not required, we strongly encourage applicants to ensure that their Habitat Conservation Plans are consistent with the Habitat Conservation Planning Handbook, subsequent Handbook addendums, and current policies.

7. Identify any additional permits currently held or needed for the proposed activities (i.e. permission to work on Federal lands, Federal bird banding permit, State permits, etc).
- a. Attach a copy or give agency name, permit number, if any, date of signature, and duration of permit.
 - b. If you have already applied for these additional permits/authorizations and are awaiting issuance of the permits/authorizations, then state it here. *[If you do not have this permission at this time, please provide an explanation.]*

Option III. If any of the above information in items 1-3 and 5-7 is not in your attached Habitat Conservation Plan (or Implementing Agreement if applicable), then attach separate pages. In order to assist us in processing your application, please provide the item number (1.a., etc.) of the required information before each of your responses. Thank you.

Option IV. Permit Transfer or Succession of a Permit

If you are applying for an existing permit to be transferred to you or obtaining rights of succession of an existing permit, please fill out the following information. You and the current permit holder may also need to sign an assumption agreement.

Please indicate the name of the Habitat Conservation Plan to be transferred or succeeded and indicate the document's date.

Name of Habitat Conservation Plan _____

Date of Habitat Conservation Plan _____

An Assumption Agreement

is *is not* (FWS Field Office to circle one)

required as part of the transfer or succession permit application for a Habitat Conservation Plan.

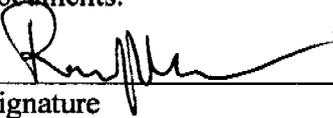
Regardless of which Option you choose to provide the required information, all applicants must sign the following Certification. This language may be altered only under certain circumstances, such as a permit transfer; any change in the language must be reviewed by the Department of Interior, Office of the Solicitor and approved by the Service. The same person who signs in box C.6 on page 1 should sign the certification.

**Incidental Take Permit Application
Certification Notice**

By submitting this application and receiving an Incidental Take permit pursuant to Section 10(a)(1)(B) of the Endangered Species Act, I

Randy and Tasha Curs (print name(s))

attest that I/we own the lands indicated in this application, or have sufficient authority or rights over these lands to implement the measures of the Habitat Conservation Plan (and Implementing Agreement if applicable) covered by the Incidental Take permit. Further, upon receipt of the Incidental Take permit, I/we agree to conduct the activities as specified in the Habitat Conservation Plan (and Implementing Agreement if applicable) according to the terms and conditions of the Incidental Take permit and its supporting documents.


Signature

8/15/04
Date

Randy Curs
Please print name legibly


Signature

8/15/04
Date

Tasha Curs
Please print name legibly

The public reporting burden for completing this application is estimated to be less than 2.5 hours, including time for reviewing instructions, gathering and maintaining application data, and completing and reviewing the forms. Comments regarding the burden estimate or any other aspect of the reporting requirement(s) should be directed to the Service Information Collection Clearance Officer, MS 222 ARLSQ, Fish and Wildlife Service, Washington, DC 20240.

An agency may not conduct and a person is not required to respond to a collection of information unless a currently valid OMB control number is displayed.

Application for a Federal Fish and Wildlife License/Permit

Paperwork Reduction Act and the Privacy Act - Notices

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and the Privacy Act of 1974 (5 U.S.C. 552a), please be advised that:

1. The gathering of information on fish and wildlife is authorized by:
 - (a) Bald Eagle Protection Act (16 U.S.C. 668);
 - (b) Endangered Species Act of 1973 (16 U.S.C. 1539);
 - (c) Migratory Bird Treaty Act (16 U.S.C. 703-711);
 - (d) Marine Mammal Protection Act of 1972 (16 U.S.C. 1371-1383);
 - (e) Wild Bird Conservation Act (16 U.S.C. 4901-4916);
 - (f) Lacey Act (18 U.S.C. 42 & 44);
 - (g) Convention on International Trade in Endangered Species of Wild Flora and Fauna (TIAS 8249);
 - (h) Title 50, Part 10, of the Code of Federal Regulations;
 - (i) Title 50, Part 13, of the Code of Federal Regulations;
 - (j) Title 50, Part 14, of the Code of Federal Regulations;
 - (k) Title 50, Part 15, of the Code of Federal Regulations;
 - (l) Title 50, Part 16, of the Code of Federal Regulations;
 - (m) Title 50, Part 17, of the Code of Federal Regulations;
 - (n) Title 50, Part 21, of the Code of Federal Regulations;
 - (o) Title 50, Part 22, of the Code of Federal Regulations; and
 - (p) Title 50, Part 23, of the Code of Federal Regulations.
2. Information requested in this form is purely voluntary. However, submission of requested information is required in order to process applications for licenses or permits authorized under the above acts. Failure to provide all requested information may be sufficient cause for the U.S. Fish and Wildlife Service to deny a permit. Response is not required unless a currently valid Office of Management and Budget (OMB) control number is displayed.
3. Certain applications for permits authorized under the Endangered Species Act of 1973 (16 U.S.C. 1539) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371-1383) will be published in the Federal Register as required by the two acts.
4. Routine use disclosures may also be made:
 - (a) To the U.S. Department of Justice when related to litigation or anticipated litigation;
 - (b) Of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulations, order or license;
 - (c) From the record of an individual in response to an inquiry from a Congressional office made at the request of that individual (42 FR 1903; April 11, 1977);
 - (d) To subject matter experts, and State and other Federal agencies, for the sole purpose of obtaining advice relevant to issuance of the permit.
5. For individuals, personal information such as home address and telephone number, financial data, and personal identifiers (social security number, birth date, etc.) will be removed prior to any release of the application.
6. The public reporting burden for this information collection varies depending on the specific activity for which a permit is requested. The relevant burden for completing the application for an Incidental Take permit associated with a Habitat Conservation Plan is 2.5 hours. This burden estimate includes time for reviewing instructions, gathering and maintaining data and completing and reviewing form. You may direct comments regarding the burden estimate or any other aspect of the form to the Service Information Clearance Officer, Fish and Wildlife Service, Mail Stop 222, Arlington Square, U.S. Department of the Interior, 1849 C Street, NW, Washington D.C. 20240

Freedom of Information Act - Notice

For organizations, businesses, or individuals operating as a business (*i.e.*, permittees not covered by the Privacy Act), we request that you identify any information that should be considered privileged and confidential business information to allow the Service to meet its responsibilities under FOIA. Confidential business information must be clearly marked "Business Confidential" at the top of the letter or page and each succeeding page, and must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary and remaining documents may be made available to the public under FOIA [43 CFR 2.13(c)(4), 43 CFR 2.15(d)(1)(i)].

APPLICATION PROCESSING FEE

The fee to process an application for an Enhancement of Survival permit associated with a Safe Harbor Agreement and a Candidate Conservation Agreement With Assurances is \$25.00. Checks should be made payable to "U.S. Fish and Wildlife Service." The fee applies to permit applications, renewals, and amendments. The processing fee shall not be refunded if the permit is issued or denied, or if the application is abandoned.

The fee schedule does not apply to any Federal, State or local government agency or individual or institution under contract to such agency for the proposed activities. Until further notice, the fee will be waived for public institutions. As defined in 50 CFR 10.12 - "Public as used in referring to museums, zoological parks,, and scientific or educational institutions, refers to such as are open to the general public and are either established, maintained, and operated as a governmental service or are privately endowed and organized, but not operated for profit."