

U.S. FISH AND WILDLIFE SERVICE
SPECIAL TERMS AND CONDITIONS FOR PERMIT **TE10049B-0**

- E. All sections and provisions of Title 50 Code of Federal Regulations, parts 13, 17.22 and 17.32, are conditions of this permit.
- F. The authorization granted by this permit is subject to compliance with, and implementation of Yamhill County's Road Maintenance Habitat Conservation Plan (HCP), which is hereby incorporated by reference. This permit and the HCP are binding upon the Permittee (i.e., Yamhill County), and any authorized officer, employee, contractor, or agent conducting covered activities.
- G. The take authorization contained in this permit is not effective until:
- i. Yamhill County T&E Special Maintenance Zone placards are placed at the new Kincaid's lupine locations (seven in total) identified during the 2 km (1.24 mile) dispersal survey and the U.S. Fish and Wildlife Service (Service) is informed of their installation.
 - ii. All County maintenance vehicles are equipped with a manual (referred to as 'Blue Book' by the County) that includes a description of the special maintenance measures, and photos of covered species.
 - iii. The Permittee will provide the Service with an updated copy of the 'Blue Book' to reflect the maintenance criteria and known species' locations under the HCP.
- H. The Permittee, and their authorized officers, employees, contractors, and agents are authorized under the Endangered Species Act of 1973, as amended (Act), to incidentally take the federally listed as endangered Fender's blue butterfly (*Icaricia icarioides fenderi*) during implementation of Covered Activities on the Covered Lands as described in the HCP. The Service exempts the following levels of incidental take as defined in 50 CFR 17.3:
- Take will be in the form of disturbance, harm and death of individuals associated with county road right-of-way maintenance activities. Estimates of the total amount of annual take based on affected suitable habitat are shown in Table 7 of the Service's biological opinion on the issuance of this permit. We expect and authorize annual take of all eggs and larvae associated with 68 adult Fender's blue butterflies (a total of up to 2,040 adults over the 30-year term) will occur as a result of the issuance of this Permit for the Yamhill County HCP.
- I. The Permittee must notify the Service's Oregon Fish and Wildlife Office, 2600 SE 98th Ave., Suite 100, Portland, Oregon, 97266; (503-231-6179), when any dead or injured covered species individuals are detected during regular monitoring or incidentally. Initial notification must be made within 1 working day by telephone and within five (5) calendar days a written report of the detection must be submitted to the Service's Oregon Fish and

Wildlife Office. The written report of the incident must include the date, time, and location of the individual and in the event of a carcass detection, the report must include photographs of the animal in place (including close-ups for species identification and relative location within the project area), cause of death, if known, and any other pertinent information.

- J. Disposition of Dead or Injured Wildlife. Should any dead or injured Fender's blue butterflies be found:
- i. Contact: State Supervisor, 2600 SE 98th Ave., Suite 100, Portland, Oregon 97266; (503-231-6179).
 - ii. If directed to do so by the State Supervisor, transport or mail the dead individual in an appropriate container to the above address as soon as possible. Care must be taken in handling injured animals to prevent additional injury. Injured animals may be released to the wild after receipt of concurrence from the Service.
 - iii. Care must be taken in handling dead specimens to preserve biological material in the best possible state for later analysis.
- K. Reporting Requirements. The Permittee must monitor and provide reports on project activity impacts to covered species.
- i. Monitoring plans shall be developed no later than one year from the date of this permit for all sites where monitoring is required, including mitigation sites. Monitoring will be conducted during the flight season of the Fender's blue butterfly and the flowering season of Kincaid's lupine. Monitoring plans will include the following: name of site; management goals and objectives for the site; species to be monitored; variables to be measured and data collection methods; frequency of monitoring; sampling locations; and data analysis methods.
 - ii. Monitoring for Fender's blue butterfly and Kincaid's lupine will be completed at sites where mitigation work is performed (see Table 6-6 of the HCP). The Permittee shall also conduct a review of the covered activities at least every three years to determine whether habitat for Kincaid's lupine is increasing or stable, as well as documenting the status of Fender's blue butterfly habitat. These data would be reported to the Service to assist in their overall goal of tracking covered species population trends
 - iii. The HCP Administrator will prepare an Annual Compliance Report. A general reporting schedule is provided in Table 7-2 of the HCP. The Annual Compliance Report will be submitted to the Service no later than September 30 of each year. The Annual Compliance Report will include: a description of conservation

measures initiated, continued, or completed during the previous year, and a description of conservation measures projected to be implemented during the upcoming year; a summary of findings, results, and conclusions of monitoring activities, and a projection of monitoring needs for subsequent years; a tabulation and description of funds expended during the previous year, and a projection of funds to be expended during the upcoming year; and, any other recommendations, such as minor modifications or amendments to the HCP document.

- L. The Permittee shall continue to manage 11.02 km (6.85 miles) of the existing T&E Special Maintenance Zones to protect covered species (reference Appendix C of HCP).
- M. The Permittee shall create additional T&E Special Maintenance Zones in at least 11.72 km (7.28 miles) of road to protect the seven Kincaid's lupine sites/Fender's blue butterfly habitat identified during the 2 km (1.24 mile) dispersal survey (Appendices B and D of the HCP), the Rock Creek, and the Hill Road North (Service identified) locations (Appendix F of the HCP).
- N. The Permittee shall regularly maintain the T & E Special Maintenance Zone placards. If damaged or removed, they will be replaced within one week of observance by the County or notification by the Service.
- O. The Permittee shall update their current employee training program to acquaint its maintenance staff with the covered species and the avoidance and minimization measures to be applied in the T&E Special Maintenance Zones (see section 6.2.2 in the HCP). The Permittee shall provide similar training for contractors working in T&E Special Maintenance Zones, and the contractor will be required to follow the avoidance and minimization measures in the HCP. The Permittee shall assure that the County Public Works Department's 'Take Avoidance Manual' (also called the 'Blue Book') contains: information about the covered species to help the road crew identify them in the field, including photos and a physical description; maps showing current known locations (with 0.5 km [1.24 mile] buffers); a listing of all T&E Special Maintenance Zones on County maintained roads, including beginning and ending mileposts and Global Positioning System (GPS) coordinates; a graphic of T&E Special Maintenance Zones signs with an explanation of its codes. The Permittee shall update their Take Avoidance Manual (Blue Book) as needed, to reflect new information and to improve its utility.
- P. The Permittee shall implement the avoidance and minimization measures described in HCP section 6.2.2.
- Q. The Permittee shall develop habitat restoration plans for the T&E Special Maintenance Zones in conjunction with an appropriate outside partner within one year from the date of this Permit. The habitat restoration plans will maintain and enhance the covered species' habitat within the T&E Special Maintenance Zones in the County right-of-way and at the mitigation site for Kincaid's lupine and Fender's blue butterfly habitat located in Deer Creek Park. The habitat restoration plans shall be reviewed and must be approved by the Service.

- R. The Permittee shall develop a habitat restoration plan for Deer Creek Park in conjunction with an appropriate outside partner within two years from the date of this Permit. The habitat restoration plans will maintain and enhance the covered species' habitat at the mitigation site for Kincaid's lupine and Fender's blue butterfly habitat. The habitat restoration plans shall be reviewed and must be approved by the Service.
- S. The Permittee shall use native seed mixtures when engaging in habitat renovation/mitigation activities. Native plants selected should not compete with, or prevent the maintenance and/or establishment of, Kincaid's lupine. Plants that meet this criteria include, but are not limited to Roemer's fescue (*Festuca idahoensis*), California brome (*Bromus carinatus*), native bent grass (*Agrostis oregonensis*), rose checker-mallow (*Sidalcea virgata*), Oregon geranium (*Geranium oregonum*), Oregon sunshine (*Eriophyllum lanatum*), wild iris (*Iris tenax*), white forget-me-not (*Cryptantha intermedia*), narrowleaf onion (*Allium amplexans*), and cats-ears (*Calochortus tolmiei*). T&E Special Maintenance Zones shall be maintained in vegetative cover compatible with habitat characteristics suitable for Fender's blue butterfly and/or Kincaid's lupine. Any ground disturbance that results in bare ground shall be revegetated with native seeds or plantings. Any native seeding or planting shall be determined to be sufficient when it results in vegetative cover similar to the surrounding established vegetative conditions. Overall percent cover should be at least 50 percent native vegetation the following growing season after seeding/planting. If this target is not met, additional seeding/planting shall be done until it is met.
- T. The Permittee is responsible for the integrity of their mitigation areas and shall maintain the total calculated acreage of the mitigation areas in vegetative cover that is suitable for use by Fender's blue butterflies. If an area becomes non-functional through the action of others, the County can restore the area, or move that mitigation area to a new site, with the approval of the Service.
- U. The Permittee is responsible for enhancing habitat in 2.82 hectares (6.96 acres) of the County right-of-way in T&E Special Maintenance Zones and at Deer Creek Park. Habitat enhancement in the County right-of-way shall be achieved through removal of invasive plants, trees, and shrubs to allow more sunlight to reach the ground to benefit Kincaid's lupine and nectar species where practical. At Deer Creek Park, Fender's blue butterfly habitat shall be restored by planting Kincaid's lupine and native nectar species.
- V. Monitoring of Fender's blue butterfly and Kincaid's lupine shall be completed by the Permittee in the T&E Special Maintenance Zones, not including the Service known locations, on a yearly basis. Should section 6 funding expire, the Permittee will be responsible for monitoring Fender's blue butterfly at all T&E Special Maintenance Zones. In the absence of section 6 funding, monitoring would occur no less than every three years. Monitoring for Fender's blue butterfly and Kincaid's lupine shall occur at Deer Creek Park where habitat restoration, enhancement, and management will occur. This monitoring shall be done annually until Kincaid's lupine is established. Once established, monitoring will occur at least every three years. The monitoring will

determine the success of habitat restoration, enhancement, and management, as measured by tracking species status and habitat condition.

- W. The Permittee shall develop monitoring plans within one year from the date of this permit for all sites where monitoring is required, including mitigation sites. Monitoring plans will be reviewed and approved by the Service. Monitoring plans will include the following: name of site; management goals and objectives for the site; species to be monitored; variables to be measured and data collection methods; frequency of monitoring; sampling locations; and data analysis methods. Monitoring will be conducted during the flight season of the Fender's blue butterfly and the flowering season of Kincaid's lupine. Monitoring will begin with year one and occur at least every 3 years.
- X. The Permittee shall appoint an HCP Administrator within 30 days of the date of this permit and will inform the Service with the contact information of the HCP Administrator within seven days of the appointment.
- Y. The Permittee shall establish an HCP Implementation Committee within one year from the date of this permit.
- Z. The Permittee shall submit an Annual Work Plan to the Service for review by April 15 of each year for review to determine adequacy of avoidance, minimization, and mitigation measures. The Permittee shall adopt the Annual Work Plan no later than June 30, so the HCP Administrator can begin to implement the Annual Work Plan at the start of the July 1 state fiscal year (hereafter 'fiscal year' refers to Oregon state's fiscal year July 1 – June 30). The Permittee and the Service may modify this schedule by mutual agreement.
- AA. Species experts, Yamhill County road maintenance staff, and Service staff will visit the T&E Special Maintenance Zones to review current habitat values, identify potential improvements, and select the sites that would best contribute to meeting the HCP goals through management. A plan identifying the potential enhancement actions for the mitigation areas will be developed by the Permittee and submitted no later than with the fiscal year 2014-15 Annual Report to the Service for approval. Enhancement actions in the T&E Special Maintenance Zones will be initiated no later than fiscal year 2015.
- BB. A restoration plan for Deer Creek Park will also be developed starting in fiscal year 2015. The first year of the plan will include a review at Deer Creek Park by Yamhill County staff and species experts, followed by the development of a conceptual restoration plan. This conceptual plan will be provided to the Service as part of the Annual Report. After receiving comments from the Service on the conceptual plan, a site restoration plan will be developed, including a detailed site preparation plan, erosion control plan, planting plan for Kincaid's lupine and other native species, a weed control plan, and a long-term site management and maintenance plan. The detailed restoration plan will be submitted no later than with the fiscal year Annual Report for 2015-16 to the Service for approval. Initiation of site work will start no later than in fiscal year 2016, pending approval by the Service.

- CC. With input from the Implementation Committee, the HCP Administrator shall prepare an Annual Compliance Report for the County Commissioners no more than 60 days following the end of the fiscal year, June 30. The HCP Administrator shall submit an Annual Compliance Report to the Service by September 30.
- DD. The Permittee shall quantify the area of any newly discovered Fender's blue butterfly or Kincaid's lupine in the county right-of-way outside of the T&E Special Maintenance Zones established under the HCP. If the location occurs within the County's right-of-way, the County will quantify the newly affected area. This area will be deducted from their outside of the T&E Special Maintenance Zone's mitigation acreage (1.32 hectares (3.24 acres). No additional measures will be taken to protect the location as take is covered under the incidental take permit. However, should the mitigation acreage become exhausted prior to the expiration of this incidental take permit and a new location(s) is identified, the Permittee will work with the Service to identify measures for protection of the covered species, as take would no longer be covered under this incidental take permit.
- DD. The Permittee must refer to permit number **TE10049B-0** in all correspondence and reports concerning permit activities. Any questions about this permit should be directed to the State Supervisor, U.S. Fish and Wildlife Service, 2600 SE 98th Ave., Suite 100, Portland, Oregon 97266.
- EE. A copy of this permit must be on the premises of the Permittee, or in the possession of the Permittee, their designated agents, or Service-approved biologists while conducting activities that may result in incidental take.