FINDINGS AND RECOMMENDATIONS REGARDING ISSUANCE OF FUTURE ENDANGERED SPECIES ACT SECTION 10(a)(1)(B) INCIDENTAL TAKE PERMITS IN ASSOCIATION WITH THE DOUGLAS COUNTY MULTIPLE-SPECIES GENERAL CONSERVATION PLAN DOUGLAS COUNTY, WASHINGTON

I. DESCRIPTION OF THE PROPOSED ACTION

A. Introduction

The U.S. Fish and Wildlife Service (Service) proposes to issue future Incidental Take Permits (ITPs or Permits) for up to 50 year duration to individual Permittees under a programmatic habitat conservation plan referred to as the Douglas County Multiple Species General Conservation Plan (MSGCP). The MSGCP was developed by Foster Creek Conservation District (FCCD) with assistance from the Service. A general conservation plan (GCP) is a type of programmatic HCP under which multiple Section 10 permits can be issued. Section 10(a)(1)(B) of the Endangered Species Act (ESA) allows the Service to issue ITPs to non-Federal entities for incidental take of federally listed species, provided certain criteria are met. "Incidental take" is defined as take that is, "incidental to, and not the purpose of, the carrying out of an otherwise lawful activity." ITP issuance criteria are prescribed in Title 50 Code of Federal Regulations (CFR) 17.22(b), 50 CFR 17.32(b)(2), and section 10(a)(1)(B) of the ESA. The MSGCP is a programmatic HCP where individual Applicants (willing landowners) would apply for an ITP for incidental take resulting from covered agricultural activities in Douglas County. The FCCD commits to coordinate implementation of the MSGCP. The FCCD also contributed to development of an Environmental Assessment (EA).

Applicants will apply for ITPs after developing Farm Plans and Site Plans as expected under the MSGCP; the FCCD will assist in development of the Farm Plans and Site Plans. Issued ITPs will authorize incidental take of four covered species: the endangered Columbia Basin distinct population segment of the pygmy rabbit (*Brachylagus idahoensis*), the candidate Washington ground squirrel (*Urocitellus washingtoni*), the candidate greater sage-grouse (*Centrocercus urophasianus*), and the species of concern Columbian sharp-tail grouse (*Tympanuchus phasianellus columbianus*) (see Table 1, below). If the MSGCP meets the ITP issuance criteria under section 10(a)(2)(B) of the ESA, and applications under the MSGCP are consistent with the MSGCP expectations, the Service will issue individual ITPs for the covered species to Permittees.

In the Biological Opinion and Conference Opinion (Opinions) dated August 28, 2015 (reference # 01EWFW00-2015-F-0160), the Service analyzed the effects of issuing multiple ITPs under the MSGCP. The Opinions concluded that activities conducted in compliance with the MSGCP are not likely to jeopardize the continued existence of the pygmy rabbit, the Washington ground squirrel, the greater sage-grouse, or the sharp-tailed grouse. The incidental take authorization for pygmy rabbit would be effective upon issuance of the individual Permits, while the incidental take authorization for other covered species will be effective upon the effective date of those species' listing as threatened or endangered species. Below the Service presents the analysis and

findings as to whether the MSGCP and future Permits will meet the ITP issuance criteria described in section 10(a)(2)(B) of the ESA.

B. Description of the MSGCP Location

The proposed MSGCP will cover approximately 879,000 acres of agricultural lands in Douglas County, Washington. The MSGCP includes most agricultural lands in Douglas County, Washington, including dryland farming, ranching, and limited irrigated agriculture. "Limited irrigated agriculture" only includes actions related to irrigation from ground water sources and from surface water sources on portions of creeks, tributaries, and lakes where those portions of the water bodies do not contain anadromous salmonids or bull trout. The MSGCP does not cover private, non-agricultural land uses within Douglas County (~148,761 acres) and does not cover Federal land or most other publicly owned land (~140,131 acres). The MSGCP may cover non-Federal lands leased for agricultural production to private operators such as often occurs with Washington Department of Natural Resources land.

For a map, see figure 1-1 in the MSGCP.

C. Covered Activities

Covered activities are described in the MSGCP (Table 1-3 and Appendix E). Covered activities in the MSGCP are those activities conducted by private landowners within Douglas County in the preparation of soil for crop production, the cultivation of crops, and the production and culture of animal products and fiber for human consumption, feed, and/or sale as articles of trade or commerce. Covered activities include dryland farming, ranching, and limited irrigated farming. Covered Activities include actions related to irrigation from ground water sources and from surface water sources on portions of creeks, tributaries, and lakes where those portions of the water bodies do not contain anadromous salmon, steelhead, or bull trout. Covered Activities do not include irrigation water obtained from the mainstem Columbia River or water piped into Douglas County from the Wenatchee River. Lists of specific activities were developed for each of the agricultural types and are included in Appendix E of the MSGCP.

D. Conservation of Species/Habitats

Table 1 displays the species covered by the Douglas County MSGCP.

Table 1. Covered Species.

SPECIES	SCIENTIFIC NAME	STATUS
Columbia Basin DPS Pygmy Rabbit	*Brachylagus idahoensis*	Federal Endangered; State Endangered
Greater Sage-grouse	*Centrocercus urophasianus*	Federal Candidate; State Threatened

Columbian Sharp-tailed grouse	*Tympanuchus phasianellus columbianus*	Federal Species of Concern; State Threatened
Washington Ground Squirrel	*Urocitellus washingtoni*	Federal Candidate; State Candidate

Conservation Measures

The MSGCP includes the development of Farm Plans, which are the same, similar to, or incorporate the Natural Resource Conservation Service (NRCS) Resource Management System (RMS) plans. Additional conservation measures are included in individual GCP Site Plans as needed for certain agriculture activities and for certain species or habitats. The farm planning process and best management practices (BMPs) are described in Chapter 3 and Appendix E of the MSGCP. BMPs are general in nature and are actions that benefit the covered species and habitat in general and include Conservation Practices (CPs), and additional land-use and species measures. CPs are specific guidelines from the NRCS, such as Contour Buffer Strips. Other BMPs include land-use measures (such as "maintain remnant patches of shrub-steppe") and species-specific measures (such as "scheduling essential spring-time agricultural activities near sage-grouse leks to occur late in the day"). The BMPs are described in more detail in Appendix E of the MSGCP.

Implementation of the MSGCP includes the following steps:

1. Develop a Farm Plan using the RMS or similar process (and Appendix H of MSGCP), and GCP Site Plan Checklist (Appendix B of MSGCP). An existing farm plan, including one developed under the Sage Grouse Initiative may be used as a starting point.
2. Determine conservation practices to implement in the Farm Plan (Appendix E of MSGCP). Farm Plans and conservation practices often result in improved habitats, but many species need additional site-specific measures to minimize effects.
3. As appropriate based on activities, covered species ranges, and habitats, adopt and implement additional measures by land-use categories (Appendix E, Table E-2 of MSGCP) and species-specific measures (Appendix E, Table E-3 of MSGCP). To determine need for species-specific measures, review species range maps and any known location data for Covered Species (Appendix D of MSGCP).
4. FCCD will review the Farm Plan and GCP Site Plan to ensure consistency with the MSGCP; the Service may also provide technical review and assistance, then the applicant will apply for a Section 10 permit.
5. The Service will notice applications in the Federal Register, and request public comments during a 30-day public comment period. After consideration of public comments, and if consistency with the MSGCP and related decision documents is assured, the Service will issue a Section 10 permit to the Applicants.
6. Applicants/Permittees implement the plan.

7. FCCD and the Applicants/Permittees monitor, per Chapter 4 and HSI process in Appendix G of the MSGCP.
8. BMPs, Farm Plans, GCP Site Plans, and/or Permits may be modified over time as specified in the Adaptive Management and Monitoring Plan (AMMP).

II. ANALYSIS OF EFFECTS

The effects of the proposed action on the covered species are fully analyzed in the MSGCP and the Opinions, which are herein incorporated by reference. The conclusions from the Opinions for each covered species is included here as a summary of those effects.

Columbia Basin Pygmy Rabbit

The effects of the action include the direct and indirect effects of approval of the MSGCP on the Columbia Basin pygmy rabbit (CBPR), together with the effects of other activities that are interrelated or interdependent with this action, which will be added to the environmental baseline. We anticipate that the MSGCP will promote conservation efforts in the context of farm and ranch operations providing a long-term, net benefit for the CBPR and its habitat on a landscape scale. However, it is unlikely that all impacts to habitat and individuals can be avoided and that some adverse significant adverse effects to CBPR will occur. Adverse effects, including those that injure, kill, or impair breeding, feeding, or sheltering of CBPR are described above in the effects section, in Chapter 3 in the MSGCP, and in Appendix B, Table 2, of the Conference Opinion. These adverse effects may occur over the 50-year term, although the exact location of each impact will depend on the individual ITPs. These adverse effects may occur from the Covered Activities that degrade or convert habitat, and result in a low incidence of injury or mortality. As habitats improve and CBPR numbers increase, the likelihood of exposure to these adverse effects will increase.

The Service anticipates that the recovery goals, objectives, and criteria currently identified in the Recovery Plan for the CBPR would be largely met through active management at the recovery emphasis areas and other State and Federal properties potentially contributing to CBPR conservation efforts. Density estimates were calculated for pygmy rabbits occupying sites under variable habitat conditions (USFWS 2012a, p. 39). These estimates ranged from roughly 0.15 to 1.10 pygmy rabbits per acre. Considering these density estimates as an initial approximation of the range in area required by pygmy rabbits, a subpopulation of 500 individuals would require between roughly 500 and 3,300 acres. The two currently identified recovery emphasis areas total 3,740 acres and 3,390 acres and, therefore, are considered of an appropriate size necessary to help meet the recovery objectives and criteria that are currently established for the CBPR. In Douglas County, a recovery emphasis area occurs at Sage Brush Flat on Washington Department of Fish and Wildlife (WDFW) land. The recovery emphasis areas are large enough to support 500 CBPRs after successful reintroductions.

Management to support viable subpopulations of CBPR will be emphasized on recovery emphasis areas. Management of lands under the MSGCP will result in improved habitat for CBPR, which will potentially support CBPR and improve connectivity between recovery emphasis areas. This will be accomplished on enrolled lands through BMPs resulting in

appropriate grazing management, maintenance of shrub-steppe fragments, and requiring contacting the Service prior to conversion of habitat. The MSGCP contains several provisions and methods that will allow for changes in conditions, including changed circumstances, and the ability to revise farm plans or BMPs based on new information. The adaptive management and monitoring program will be used to adjust BMPs to reduce impacts to CBPR as much as practicable. The MSGCP addresses, or is consistent with the recovery actions in the CBPR recovery plan that are most appropriate for private agriculture landowners in Douglas County to address; these measures and the BMPs are listed in Appendix C, Table 1 of the Opinions. Initial queries by the FCCD indicate that about 50 percent of likely landowners are showing early interest (Jon Merz, FCCD, in litt., April 2, 2015). The more farmers/ranchers that join the MSGCP, the more the habitat for the CBPR will improve. There are three main reasons that covered species, including the CBPR still exist in Douglas County: 1) there are many fragments and blocks of habitat on private land scattered throughout Douglas County that are difficult or impossible to farm because of the shallow and rocky soils; 2) Conservation Reserve Program (CRP) and State Acres for Wildlife Enhancement (SAFE) acres provide some habitat, cover, and forage for CPBR throughout Douglas County; and 3) there are large blocks of habitat (called Habitat Conservation Areas) (HCAs) provided by WDFW, Bureau of Land Management (BLM), and The Nature Conservancy (TNC) that are managed for wildlife or for multiple uses.

In the future, under the MSGCP, currently fragmented habitat will be maintained on enrolled farms. As described in the status of the species, and the effects section, CBPR in Douglas County may occur in CRP habitats. The SAFE program is a component of CRP that further emphasizes habitat for sage-grouse and sharp-tailed grouse, but also benefits other covered species such as the CBPR. The CRP habitat may vary in quantity depending on Farm Bill funding but, under the MSGCP, enrolled farmers are to look for other programs if CRP or SAFE contracts are not renewed, to avoid farming those CRP acres if economically feasible, or if they cannot maintain those acres in conservation cover, CRP will be monitored across Douglas County. If the CRP drops below 10 percent of the 2013 amount, then the FCCD will work with the Service and others to ensure that CRP returns to more than the 10 percent amount within 2 years. If that is not feasible, then the Service will revisit the MSGCP to determine if it still meets Section 10 issuance criteria, and, if not, how and whether it can be revised. If it cannot be revised, then permits may be revoked. Although HCA acres are not expected to decrease, monitoring will occur and, if they do drop by 10 percent across Douglas County, then FCCD and the Service will also reconvene to determine if the MSGCP is working as expected, and if necessary permits may be revoked. Based on the requirement to maintain fragments, and because of the BMPs and changed circumstances addressing CRP/SAFE, and because habitat trends should improve on enrolled lands, the Service expects that habitats will continue to be available to support the survival of the CBPR in Douglas County for the duration of the MSGCP.

For the CBPR, the adverse effects caused by habitat modification, fragmentation, or direct mortality or injury during and after the installation of BMPs are expected to be small, localized, and/or temporary in nature. The BMPs associated with the Covered Activities will minimize and mitigate adverse effects to the CBPR, and the conservation benefits of the MSGCP will benefit the population as a whole. We therefore do not anticipate changes in the number, distribution, or reproduction of the CBPR that will appreciably reduce the likelihood of survival and recovery of the species throughout its listed range. After reviewing the current status of the CBPR, the

environmental baseline for the action area, the effects of the issuance of permits pursuant to the MSGCP, and the cumulative effects, it is the Service's biological opinion that the issuance of section 10(a)(1)(B) permits under the MSGCP, as proposed, is not likely to jeopardize the continued existence of the CBPR. No critical habitat has been designated for the CBPR, therefore, none will be affected.

Greater Sage-Grouse

The effects of the action include the direct and indirect effects of approval of the MSGCP on the sage-grouse, together with the effects of other activities that are interrelated or interdependent with this action, which will be added to the environmental baseline. We anticipate that the MSGCP will promote conservation efforts in the context of farm and ranch operations and provide a long-term, net benefit for sage-grouse and its habitat on a landscape scale. However, certain significant adverse effects to sage-grouse may still occur. Adverse effects, including those that injure, kill, disturb, or impair breeding, feeding, or sheltering behaviors of sage-grouse are described in the effects section in Chapter 3 of the MSGCP, and in Appendix B, Table 2, of the Opinions. These adverse effects may occur over the 50-year term of the MSGCP, although the exact timing and location of each impact will depend on the individual incidental take permits. These impacts include degradation or loss of habitat and a low incidence of injury or mortality. As sage-grouse numbers increase due to habitat improvements, the number of sage grouse exposed to these adverse effects will increase. However, the resilience of the population to such impacts is also expected to increase.

Permittees that join the MSGCP will contribute to the conservation of the sage-grouse, and will implement measures consistent with many of the conservation strategies listed in the recovery plan, and in the Conservation Objectives Team (COT) report (USFWS 2013). Some of the conservation measures in the recovery plan, or in the COT report, are not addressed in the MSGCP (such as energy development or urban development measures) because they are not applicable to the Covered Activities. Appendix C, Table 4, in the Opinions lists the recommended recovery or conservation strategies for the sage-grouse that are appropriate for private landowners to address and how or whether the MSGCP addresses those recommendations. In general, the MSGCP addresses most of those recommendations, and the BMPs include: protection of sage-grouse populations from disturbance, particularly at leks; reducing the likelihood of collision with fences; maintaining or improving riparian habitats; monitoring habitat over time; maintaining and restoring habitat, especially remnant shrub-steppe; implementing farm bill programs to benefit sage-grouse; managing rangelands and grazing to improve habitats; implementing integrated pest management; and managing wildfire in cooperation with local fire districts.

As displayed in Appendix C, Table 4, in the Opinions and summarized above, the Service anticipates that the recovery goals and objectives currently identified in the Washington State Recovery Plan would be largely met through implementation of the MSGCP. The MSGCP also largely complies with recommendations listed in the COT Report.

Douglas County is key for both the Columbia Basin distinct population segment, and the greater sage-grouse survival and recovery in Washington. The State sage-grouse recovery plan (Stinson

et al 2004) delineated sage-grouse management units in and around Douglas County. The COT Report (USFWS 2013) includes expectations for the Moses Coulee Priority Area for Conservation (PAC), much of which is in Douglas County. The Washington Wildlife Habitat Connectivity Working Group (WHCWG) (2012, p. 64) looked at a composite "upland network" that analyzed the combined networks of three species closely associated with upland shrub-steppe habitat: sharp-tailed grouse, greater sage-grouse, and Washington ground squirrel. The upland network is strongly focused on the western half of the ecoregion. Based on this analysis, Douglas County provides important habitat concentration areas and linkages for several covered species, including greater sage-grouse (WHCWG 2012, p. 66).

Initial queries by the FCCD indicate that about 50 percent of landowners are showing early interest (Jon Merz, in litt., April 2, 2015). The more farmers/ranchers that join the MSGCP, the more the habitat for the sage-grouse and other covered species will improve. There are three main reasons why covered species, including the sage-grouse, still exist in Douglas County: 1) there are many fragments and blocks of habitat on private land throughout the County because of the shallow and rocky soils that are difficult or impossible to farm; 2) CRP/SAFE acres throughout the County provide habitat, cover, and forage for the covered species; and 3) there are large blocks of habitat (called HCAs) provided by WDFW, BLM, and TNC that are managed for wildlife or for multiple uses.

In the future, under the MSGCP, currently fragmented habitat will be maintained on enrolled farms. As described in the Opinions, sage-grouse in Douglas County use CRP habitats for nesting. The SAFE program is a component of CRP that further emphasizes habitat for sage-grouse and sharp-tailed grouse. The CRP habitat may vary in quantity depending on Farm Bill funding but, under the MSGCP enrolled farmers are to look for other programs if CRP or SAFE contracts are not renewed, to avoid farming those CRP acres if economically feasible, or if they cannot maintain those acres in conservation cover, CRP will be monitored across Douglas County. If the CRP acres drop below 10 percent of the 2013 amount, then the FCCD will work with the Service and others to ensure that CRP acres return to more than the 10 percent amount within 2 years. If that is not feasible, then the Service will revisit the MSGCP to determine if it still meets Section 10 issuance criteria and, if not, how and whether it can be revised. If it cannot be revised, then permits may be revoked. Although HCA acres are not expected to decrease, monitoring will occur and, if they do drop by 10 percent across Douglas County, FCCD and the Service will also reconvene to determine if the MSGCP is working as expected and, if necessary, permits may be revoked. Based on the requirement to maintain fragments, and because of the BMPs and changed circumstances addressing CRP, and because habitat trends should improve on enrolled lands, the Service expects that habitats will continue to be available to support the survival and recovery of the sage-grouse in Douglas County for the duration of the MSGCP.

Douglas County is unique in Washington, and across the range of the sage-grouse, in that sage-grouse still occur there despite a high percentage of farmed acreage in Douglas County. While the importance of Douglas County for sage-grouse recovery is emphasized, there is still a recent downward trend in population. This may be due to recent fires in the north end of the County (e.g., the Leahy and Barker Canyon Complex fires in 2013 burned 18,000 acres and 73,000 acres, respectively (http://inciweb.nwcg.gov/incident/3262/)), or due to short term decreases in habitat when CRP contracts expired and fields were converted starting in 2010. While SAFE

acres were implemented and planted (66,000 acres in Douglas County as of 2013), until the SAFE acre habitat develops, there will be a delay in benefits accrued to sage grouse. For the term of the MSGCP, as described above, monitoring of quantities of CRP/SAFE acres and HCA acres across Douglas County should allow time to react to changes in habitat, and/or revisit the adequacy of the MSGCP if decreases below 10 percent cannot be addressed within 2 years.

In summary, management to support habitat and subpopulations of sage-grouse will be emphasized. The MSGCP will support habitat maintenance and improvement through implementation of BMPs resulting in appropriate grazing management and maintenance of shrub-steppe fragments, together with other BMPs applied on enrolled private lands. The MSGCP contains several provisions and methods that will allow for changes in conditions, including changed circumstances, and the ability to revise farm plans, site plans, or BMPs based on new information. For the sage-grouse, the adverse effects caused by Covered Activities are minimized by BMPs and are expected to be localized. Many adverse effects will be temporary in nature. The BMPs associated with the Covered Activities will minimize and mitigate the adverse effects to covered species, and are consistent with expectations in the Washington recovery plan and in the COT Report. Therefore, we do not anticipate that any decrease in the number, distribution, or reproduction of the Columbia Basin DPS of the sage-grouse in Douglas County, or in Washington, due to implementation of the MSGCP will reduce, appreciably, the likelihood of persistence of the species. After reviewing the current status of the sage-grouse, the environmental baseline for the action area, the effects of the action, and the cumulative effects, it is the Service's biological opinion that the issuance of section 10(a)(1)(B) permits under the MSGCP, as proposed, is not likely to jeopardize the continued existence of the sage-grouse. No critical habitat has been designated for the sage-grouse; therefore, none will be affected.

Washington Ground Squirrel

The effects of the action include the direct and indirect effects of approving the MSGCP on the Washington ground squirrel, together with the effects of other activities that are interrelated or interdependent with this action, which will be added to the environmental baseline. We anticipate that the MSGCP will promote conservation efforts in the context of farm and ranch operations providing a long-term, net benefit for the Washington ground squirrel and its habitat on a landscape scale. However, it is unlikely that all impacts to habitat and individuals can be avoided, and some adverse significant adverse effects to Washington ground squirrel will occur. Adverse effects, including those that injure, kill, disturb, or impair breeding, feeding, or sheltering of Washington ground squirrel are described above in the effects section, in Chapter 3 in the MSGCP, and in Appendix B, Table 1, of the Opinions. These adverse effects may occur over the 50-year term, although the exact location of each impact will depend on the individual incidental take permits. These adverse effects may occur from the Covered Activities that degrade or convert habitat and result in a low incidence of injury or mortality. As habitats improve and Washington ground squirrel numbers increase, the likelihood of exposure to these adverse effects will increase.

As described above under Recovery and Conservation Strategies, the conservation needs of the Washington ground squirrel include actions such as maintaining or improving habitats,

populations, and corridors between populations; re-establishing normal fire cycles; surveying and monitoring habitats and populations; funding research; considering translocations; reducing shooting and poisoning, and increasing public education. Permittees that join the MSGCP will contribute to the conservation of Washington ground squirrels by implementing many of the conservation strategies listed in the candidate assessment (USFWS 2012b, p. 16-17). Many, but not all, of the conservation strategies are applicable to ongoing farming and ranching on private land. In general, the MSGCP addresses the conservation strategies for the Washington ground squirrel that are most appropriate for private landowners. Specific BMPs address the following:

- protection and maintenance of populations;
- monitoring of habitats prior to any conversion activities;
- maintenance of habitat and implementation of farm bill programs that benefit the Washington ground squirrel;
- monitoring of changes to habitat or conservation lands over time at a county-wide level;
- maintenance of remnant habitats, implementation of construction and disturbance requirements;
- managing rangelands and grazing to improve habitats; and
- managing wildfires through cooperation with local fire districts.

As displayed in Appendix C, Table 2, in the Opinions and summarized above, the Service anticipates that the conservation recommendations listed in the 2012 Candidate Assessment (USFWS 2012b) will be largely met on Permittee lands in Douglas County. Douglas County is important for Washington ground squirrel conservation. The Washington Wildlife Habitat Connectivity Working Group (WHCWG 2012, p. 64) looked at a composite "upland network" that analyzed the combined networks of three species closely associated with upland shrub-steppe habitat: sharp-tailed grouse, greater sage-grouse, and Washington ground squirrel. The upland network is strongly focused on the western half of the ecoregion, including Douglas County. Based on this analysis, Douglas County provides important habitat concentration areas and linkages for the Washington ground squirrel (WHCWG 2012, p. 68).

One third of known Washington ground squirrel sites are in Oregon on the Boardman Conservation Area and the Boardman Naval Weapons System Training Facility. This area is likely the largest contiguous occupied habitat in the entire range of the Washington ground squirrel. A portion of that area is part of the Threemile Canyon Farms Multi-Species Candidate Conservation Agreement with Assurances (MSCCAA) and contributes to Washington ground squirrel conservation efforts. The MSGCP will maintain and improve habitat in Douglas County through maintenance of shrub-steppe fragments and the implementation of BMPs such as grazing prescriptions, and the conservation adds to that provided in the MSCCAA.

Initial queries by the FCCD indicate that about 50 percent of likely landowners are showing early interest in applying for permits under the MSGCP (Jon Merz, in litt. April 2, 2015). The more farmers/ranchers that join the MSGCP, the more the habitat will improve for the Washington ground squirrel and other covered species. There are three main reasons that covered species, including the Washington ground squirrel, still exist in Douglas County: 1) there are many fragments and blocks of habitat on private land throughout Douglas County that

are difficult or impossible to farm because of the shallow and rocky soils; 2) CRP/SAFE acres throughout Douglas County provide habitat, cover, and forage for the covered species; and 3) there are large blocks of habitat (called HCAs) provided by WDFW, BLM, and TNC that are managed for wildlife or for multiple uses.

In the future, under the MSGCP, current habitat will be maintained on enrolled farms. The SAFE program is a component of CRP that further emphasizes habitat for sage-grouse and sharp-tailed grouse, but may also provide habitat for the Washington ground squirrel. The CRP habitat may vary in quantity depending on Farm Bill funding but under the MSGCP, enrolled farmers are to look for other programs if CRP or SAFE contracts are not renewed, to avoid farming those CRP acres if economically feasible or if they cannot maintain those acres in conservation cover, CRP will be monitored across Douglas County. If the CRP/SAFE acres drop below 10 percent of the 2013 amount, then the FCCD will work with the Service and others to ensure that CRP/SAFE acres return to more than the 10 percent amount within 2 years. If that is not feasible, then the Service will revisit the MSGCP to determine if it still meets Section 10 issuance criteria, and, if not, how and whether it can be revised. If it cannot be revised, then permits may be revoked. Although HCA acres are not expected to decrease, monitoring will occur and, if they do drop by 10 percent across Douglas County, then FCCD and the Service will also reconvene to determine if the MSGCP is working as expected, and if necessary, permits may be revoked. For these reasons, and because habitat trends should improve on enrolled lands, the Service expects that habitats will continue to be available to support the survival and recovery of the Washington ground squirrel in Douglas County for the duration of the MSGCP.

For the Washington ground squirrel, the adverse effects caused by habitat modification, fragmentation, or direct mortality or injury during and after the implementation of Best Management Practices are expected to be localized. Many will be temporary in nature. The BMPs associated with the Covered Activities will minimize and mitigate adverse effects to the Washington ground squirrel, and the conservation benefits of the MSGCP will benefit the population as a whole. Therefore, we do not anticipate that any decreases in the number, distribution, or reproduction of the Washington ground squirrel in Washington or across its range, due to implementation of the MSGCP will reduce, appreciably, the likelihood of persistence of the species. After reviewing the current status of the Washington ground squirrel, the environmental baseline for the action area, the effects of the action, and the cumulative effects, it is the Service's biological opinion that the issuance of future section 10(a)(1)(B) permits under the MSGCP, as proposed, is not likely to jeopardize the continued existence of the Washington ground squirrel. No critical habitat has been designated for the Washington ground squirrel; therefore, none will be affected.

Sharp-tailed Grouse

The effects of the action include the direct and indirect effects of approval of the MSGCP on the sharp-tailed grouse, together with the effects of other activities that are interrelated or interdependent with this action, which will be added to the environmental baseline. We anticipate that the MSGCP will promote conservation efforts in the context of farm and ranch operations and provide a long-term, net benefit for the sharp-tailed grouse and its habitat on a landscape scale. However, certain significant adverse effects to sharp-tailed grouse may occur.

Adverse effects, including those that injure, kill, disturb, or impair breeding, feeding, or sheltering behaviors of sharp-tailed grouse are described in the effects section, in Chapter 3 in the MSGCP, and in Appendix B, Table 2, of the Opinions. These adverse effects may occur over the 50-year term of the MSGCP, although the exact timing and location of each impact will depend on the individual incidental take permits. These impacts include degradation or loss of habitat and a low incidence of injury or mortality. As sharp-tailed grouse numbers increase due to habitat improvements, the number of sharp-tailed grouse exposed to these adverse effects will increase. However, the resilience of the population to such impacts is also expected to increase.

Permittees that join the MSGCP will contribute to the conservation of sharp-tailed grouse and will implement measures consistent with many of the conservation measures listed in Washington's Sharp-tailed Grouse Recovery Plan (Stinson and Schroeder 2012, pp. 97-117; Appendix A in the Opinions). Some of the conservation measures in the recovery plan are not addressed in the MSGCP (such as energy development or urban development measures) because they are not applicable to the Covered Activities. Appendix C, Table 3, in the Opinions lists the recommended conservation measures for the sharp-tailed grouse that are most applicable to private landowners and how or whether the MSGCP addresses those recommendations. In general, the MSGCP addresses most of the recommendations, and the BMPs include: protecting sharp-tailed grouse populations from human disturbance, especially at leks; minimizing the likelihood of collision with fences; maintaining or improving riparian habitats; monitoring habitat over time; maintaining or improving habitats over time, especially shrub-steppe habitats; implementing Farm Bill programs to benefit the sharp-tailed grouse, managing rangelands and grazing to improve habitats, and cooperating on wildfire management with local fire districts. As displayed in Appendix C, Table 3, in the Opinions the Service anticipates that on lands enrolled in the MSGCP several conservation measures described in the Washington State Sharp-tailed Grouse Recovery Plan would be largely met.

The WHCWG (2012, p. 64) looked at a composite "upland network" that analyzed the combined networks of three species closely associated with upland shrub-steppe habitat: sharp-tailed grouse, greater sage-grouse, and Washington ground squirrel. This analysis indicates that Douglas County provides important habitat concentration areas and linkages for the sharp-tailed grouse (WHCWG 2012, p. 66), and therefore the MSGCP is located in an important area and will support habitat concentration and linkages through implementation of BMPs including but not limited to the maintenance of shrub-steppe fragments and grazing prescriptions.

Initial queries by the FCCD indicate that about 50 percent of landowners are showing early interest in applying for permits under the MSGCP (Jon Merz, in litt., April 2, 2015). The more Permittees that join the MSGCP, the more that habitat for the sharp-tailed grouse and other covered species will improve as a result of implementation of the BMPs prescribed by the MSGCP. There are three main reasons why covered species, including the sharp-tailed grouse, still exist in Douglas County: 1) there are many fragments and blocks of habitat on private land throughout Douglas County that are difficult or impossible to farm because of the shallow and rocky soils; 2) CRP/SAFE acres throughout Douglas County provide habitat, cover, and forage for the covered species; and 3) there are large blocks of habitat (called HCAs) provided by WDFW, BLM, and TNC that are managed for wildlife or for multiple uses.

In the future, under the MSGCP, currently fragmented habitat will be maintained on enrolled farms. As described in the status of the species, and the effects section, sharp-tailed grouse in Douglas County use CRP habitats for nesting. The SAFE program is a component of CRP that further emphasizes habitat for sage-grouse and sharp-tailed grouse. The CRP habitat may vary in quantity depending on Farm Bill funding but, under the MSGCP enrolled farmers are to look for other programs if CRP or SAFE contracts are not renewed, to avoid farming those CRP acres if economically feasible, or if they cannot maintain those acres in conservation cover, CRP will be monitored across Douglas County. If the CRP acres drop below 10 percent of the 2013 amount, then the FCCD will work with the Service and others to ensure that CRP acres return to more than the 10 percent amount within 2 years. If that is not feasible, then the Service will revisit the MSGCP to determine if it still meets Section 10 issuance criteria and, if not, how and whether it can be revised. If it cannot be revised, then permits may be revoked. Although HCA acres are not expected to decrease, monitoring will occur and, if they do drop by 10 percent across Douglas County, FCCD and the Service will also reconvene to determine if the MSGCP is working as expected and, if necessary, permits may be revoked.

Based on the requirement to maintain fragments of shrub-steppe, because of the BMPs and changed circumstances addressing CRP acres and HCAs, and because habitat trends should improve on enrolled lands, the Service expects that habitats will continue to be available to support the survival of the sharp-tailed grouse in Douglas County for the duration of the MSGCP. As farmers and ranchers choose to participate, a net benefit will result in the form of improved habitat quality, and that is expected to result in improved populations. The benefits of improved habitats and populations, coupled with expected future augmentation efforts will increase the likelihood of connectivity and gene transfer that is necessary to maintain small populations of sharp-tailed grouse.

In summary, management to support habitat and subpopulations of sharp-tailed grouse will be implemented by landowners that join the MSGCP. The MSGCP will support maintenance and improvement of sharp-tailed grouse habitat through BMPs resulting in appropriate grazing management and maintenance of shrub-steppe fragments, and other measures. The MSGCP contains several provisions and methods that will allow for changes in conditions, including changed circumstances, and the ability to revise farm plans, site plans, or BMPs based on new information. For the sharp-tailed grouse, the adverse effects caused by Covered Activities are minimized by BMPs and are expected to be localized. Many adverse effects will be temporary in nature. The BMPs associated with the Covered Activities will minimize and mitigate adverse effects and are consistent with Washington's recovery plan for the sharp-tailed grouse. Therefore, we do not anticipate that any decreases in the number, distribution, or reproduction of the Columbian sharp-tailed grouse in Washington or across its range, due to implementation of the MSGCP will reduce, appreciably, the likelihood of persistence of the species. After reviewing the current status of the sharp-tailed grouse, the environmental baseline for the action area, the effects of the action, and the cumulative effects, it is the Service's biological opinion that the issuance of section 10(a)(1)(B) permits under the MSGCP, as proposed, is not likely to jeopardize the continued existence of the Columbian sharp-tailed grouse. No critical habitat has been designated for the Columbian sharp-tailed grouse; therefore, none will be affected.

After reviewing the current status of all the covered species, the environmental baseline for the

affected area, the effects of the Service's proposed action and cumulative effects, the Service has determined that issuance of future ITPs consistent with the MSGCP are not likely to jeopardize the continued existence of any covered species.

III. PUBLIC COMMENT

Drafts of the MSGCP and EA were made available for public review during a 60-day public comment period between November 14, 2014, and January 13, 2015. A news release providing notice of the draft MSGCP and draft EA was shared with multiple entities, including Congressional representatives, Senators, County Commissioners, tribal representatives, many State and Federal Agencies, and media outlets.

During the public comment period for the draft MSGCP and the draft EA, the Service posted a News Bulletin on the Washington Fish and Wildlife Office website (http://www.fws.gov/wafwo). The draft MSGCP and the draft EA were also available on the website for public review and comment.

On November 14, 2014, the Service also sent letters to 499 individuals on a mailing list of interested parties we received from the FCCD. Sixteen of those letters were returned to sender.

During the public comment period, hard copies of the draft documents were available at the FCCD Office in Waterville, Washington, and in the Service's Eastern Washington Field Office in Spokane, Washington.

During the public comment period, several electronic and hard-copies of the draft EA and draft MSGCP were distributed directly to individuals who requested them.

The Service received comments from 5 different parties. The comments, and any resultant changes to the EA or MSGCP as a result of the comments are described in the Appendix A of this Findings. The Service and FCCD also made a few additional changes to the MSGCP based on their reviews of the document between the draft and final. These are also described in the Appendix A of this Findings.

IV. INCIDENTAL TAKE PERMIT CRITERIA - ANALYSIS AND FINDINGS

Section 10(a)(2)(A) of the ESA specifically mandates that an ITP may be issued by the Secretary authorizing any taking referred to in paragraph (1)(B) when the Applicant submits to the Secretary a conservation plan that specifies the following: (i) the impact that will likely result from such taking; (ii) what steps the Applicant will take to minimize and mitigate such impacts, and the funding that will be available to implement such steps; (iii) what alternative actions to such taking the Applicant considered and the reasons why such alternatives are not being utilized; and (iv) such other measures as the Secretary may require as being necessary or appropriate for the purposes of the HCP.

Section 10(a)(2)(B) of the ESA mandates that the Secretary shall issue a permit if "...after opportunity for public comment, with respect to a permit application and the related conservation

plan that (I) the taking will be incidental; (ii) the Applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (iii) the Applicant will assure that adequate funding for the plan will be provided; (iv) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (v) the measures, if any, required under subparagraph (A)(iv) will be met; and [s]he has received such other assurances as [s]he may require that the plan will be implemented..."

With regard to this specific project, permit action, and section 10(a)(2)(B) requirements; the Service makes the following findings regarding the programmatic approach of the MSGCP, and future Permits that will be issued under it:

1. The taking will be incidental.

The activities for which incidental take coverage are sought under the Permits are for activities associated with dryland farming, ranching, and limited irrigated farming as described under covered activities, above. Any take of covered species resulting from the effects of these operations will be incidental to, and not the purpose of, these lawful activities.

2. The Permittee will, to the maximum extent practicable, minimize and mitigate the impacts of taking listed species.

The Service finds that implementation of the MSGCP will minimize and mitigate the impacts of take of covered species to the maximum extent practicable. The MSGCP was developed pursuant to the incidental take permit requirements codified at 50 CFR 17.22(b)(1) and 50 CFR 17.32(b)(1), which require measures to minimize and mitigate the effects of issuing the permit. The measures to minimize and mitigate to the maximum extent practicable are fully described and analyzed in the MSGCP and Opinions, which are herein incorporated by reference. A summary of the analysis is provided below.

(a) Appendix E of the MSGCP identifies measures to minimize and mitigate, to the maximum extent practicable, the impacts of incidental take of the covered species caused by activities of dryland farming, ranching, and limited irrigated farming.

(b) Chapter 4 of the MSGCP includes an adaptive management and monitoring plan to monitor land uses, evaluate implementation success, monitor habitat, review species or population monitoring results, and evaluate the effectiveness through the habitat evaluation process. Commitments by FCCD to contribute to the implementation of the MSGCP, including the adaptive management and monitoring plan are included in Chapter 4 and a memorandum of understanding in Appendix I of the MSGCP.

(c) The MSGCP describes a funding mechanism in chapter IV, which contains assurances that the MSGCP will be implemented.

The minimization and mitigation measures proposed by the FCCD were developed based on the results of more than 10 years of analysis and negotiation between the FCCD and the Service. The Service provided technical and policy assistance to the FCCD and its consultants in

development of the MSGCP. Additional review and coordination occurred with the WDFW, TNC, BLM, and the NRCS, as well as input through the public comment process. These forums allowed the Service to consider baseline environmental conditions, the types of conservation necessary to avoid and/or address impacts within the planning area, and the ability of the FCCD to work with Permittees to implement prescriptions and procedures that are practicable in the context of Permittees' dryland farming, ranching, and limited irrigated farming. The Adaptive Management and Monitoring Plan (AMMP) will monitor the effectiveness of the conservation program over the life of the permit and contains provisions to adjust management activities and conservation measures to improve the effectiveness of the conservation program under the MSGCP.

To make the finding that conservation measures included in the MSGCP minimize and mitigate the impacts of take to the maximum extent practicable, the Service must first evaluate whether the conservation measures are appropriately related to the type and level of incidental take anticipated under the MSGCP. In effect, minimization and mitigation measures need to address the biological needs of the covered species in a manner that is commensurate with the impacts to the species analyzed in the MSGCP. The Service believes the level of minimization and mitigation provided for in the MSGCP compensates for the impacts of the taking of covered species that is likely to occur as a result of the covered activities under the MSGCP. The Opinions compare the BMPs that will be implemented through the MSGCP to conservation measures expected in recovery plans and conservation plans for the covered species (Opinions Appendix C). Most conservation measures that are appropriate for agriculture landowners to implement for covered species are included as BMPs.

The National Environmental Policy Act of 1969, as amended (NEPA), requires that a range of reasonable alternatives to the proposed action is considered. Three alternatives were identified by the Service as comprising a range of reasonable alternatives, including the no-action alternative, the proposed action alternative (the MSGCP), and the expanded MSGCP alternative. Other alternatives considered, but not analyzed in detail, include a wildlife-corridor approach alternative, and another alternative that would have included listed fish as covered species. The proposed action alternative was selected as the environmentally preferred alternative because it resulted in the greatest net benefit to covered species when balanced with the acceptable economic impacts to farmers and ranchers. Each alternative is described in the EA and the Finding of No Significant Impact (FONSI), and summarized in Table 3 in the EA.

In consideration of all the above factors, the Service finds that: (a) the proposed mitigation under the MSGCP is commensurate with anticipated impacts of covered activities on the covered species; (b) the MSGCP is consistent with the long-term survival and recovery of each of the covered species; and (c) the MSGCP minimizes and mitigates the effects of take of each covered species by covered activities to the maximum extent practicable. These findings are based on the fact that while the impacts of covered activities may result in take of those species, the benefits to the covered species are likely to be demonstrable, especially compared to existing conditions or conditions expected to occur absent implementation of the MSGCP under the preferred alternative.

3. The Permittee will ensure that adequate funding for the conservation plan and procedures to deal with unforeseen circumstances will be provided.

Funding:

The MSGCP raises unique funding challenges. Without a predefined acreage enrolled in the MSGCP, FCCD must provide an ongoing adaptive approach to acquire funding as acreage is added and subtracted from inclusion under the MSGCP. Most programmatic HCPs are funded in part by a mandatory assessment fee charged against the landowner when undeveloped land with significant habitat value is converted to other uses. While an assessment fee may be part of this MSGCP, it is not likely to be a large fee, and the FCCD must find additional funding for implementation.

The FCCD receives funding from the Washington State Conservation Commission (WSCC) annually to support District programs. This funding is to be used for the operation of the District, including wages and benefits for District employees who will comprise the initial implementation and monitoring staff for the MSGCP. FCCD will develop a comprehensive budget plan to ensure adequate funding to implement their responsibilities under the MSGCP.

In Table 4-3 in the MSGCP, the expenses estimated for the FCCD portion of the MSGCP are $82,500 per year. FCCD will utilize all appropriate District funds and grant funding opportunities to ensure continued operation of the MSGCP. Because the FCCD receives State money, they cannot provide long-term guarantees for funding over 50 years. Instead, they will provide an annual funding plan and offer to meet with the Service by July 31 of each year to demonstrate funding adequacy for the next year, at a minimum. The FCCD has adequate funds to implement the first year of the MSGCP. If the FCCD cannot find adequate funds for implementation of the MSGCP, they will provide notice to the Service, and if adequate money for implementation is not found, the Service may revoke Permits issued under the GCP.

Costs for Applicants/Permittees to implement the MSGCP will vary widely and will include direct and indirect costs. The minimization and mitigation efforts described in the MSGCP include contributions from agricultural Permittees and are often built into existing farm programs. Applicants/Permittees will be foregoing agricultural production in favor of providing increased habitat quantity and quality as well as implementing CPs in the MSGCP. BMPs are entirely funded either by the Permittee or through a combination of cost share through various U.S. Department of Agriculture (USDA) programs (i.e., CRP/SAFE, Environmental Quality Incentives Program, and Grassland Reserve Program). Additional land use or species-specific measures do not have a funding source and are therefore paid for directly or indirectly by the Permittee, often through foregoing agriculture production or being less efficient in their agriculture production. These costs associated with BMPs usually take the form of opportunity costs. In other words, affirmative funding is generally not required as the Applicants operate in a way to provide the conservation practice and the operation reduces their profits to a certain degree. Many Applicants/Permittees do receive payments under USDA Farm Bill programs (CRP/SAFE etc.), which are helpful to ensure that they can afford to forgo production and implement additional BMPs. However, each Permittee is responsible for ensuring that funding is available for their direct costs, regardless of whether funding is available through such programs.

Changed and Unforeseen Circumstances:

The MSGCP includes procedures for determining the occurrence of both Changed and Unforeseen Circumstances. Changed Circumstances are those relatively predictable events that could occur on the landscapes covered in the MSGCP. Changed Circumstances are described in Chapter 4 of the MSGCP, and are listed below. For each Changed Circumstance the MSGCP provides a description of the evidence, response, and additional discussion related to each Changed Circumstance. Chapter 4 of the MSGCP also describes the responsibility of the FCCD and Permittees to address the Changed Circumstances, and the process to address them.

#1. Conversion of CRP or other Conservation Habitat to Farming if Conservation Contracts (CRP, SAFE, or other similar programs) Reduced or Not Renewed Due to Program Changes.

#2. Poor Growing Conditions for Rangeland/Pastureland/Shrub-Steppe Due to Unseasonable Weather, Climatic Drought, or Climate Change.

#3. Changes in Agriculture Economic Opportunities.

#4. Wildfire Occurs.

#5. Flood Damage to Riparian Areas.

#6. Invasion by New Exotic Species or Impacts from Disease.

#7. Change to Habitat Conservation Area (HCA) Acres.

#8. New Listings of Species Not Covered by the MSGCP.

#10. A Covered Species is Delisted.

#11. Funding is Not Acquired as Expected.

#12. FCCD Cannot Implement or Monitor as Expected.

Chapter 4 of the MSGCP also includes a discussion of the approach to unforeseen circumstances, and a process to address unforeseen circumstances, if they occur. Unforeseen Circumstances include circumstances that were not anticipated by the FCCD, the Permittee, or the Service during the preparation of the MSGCP that result in a substantial and adverse change in the status of the covered species. Unforeseen Circumstances are defined by Federal regulation (50 CFR §17.3) as "changes in circumstances affecting a species or geographic area covered by a conservation plan or agreement that could not reasonably have been anticipated by plan or agreement developers and the Service at the time of the conservation plan's or agreement's

negotiation and development, and that result in a substantial and adverse change in the status of the covered species."

4. The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.

The ESA's legislative history established the intent of Congress that this issuance criterion is identical to the finding of "not likely to jeopardize" under section 7(a)(2) (see 50 CFR 402.02). As a result, the proposed approval of future ITPs under the MSGCP has also been reviewed by the Service under section 7 of the ESA. The Opinions on our proposed issuance of future ITPs as expected under the MSGCP concluded that issuance of those future ITPs would not be likely to jeopardize the continued existence of any covered species. No federally listed, covered species has designated critical habitat, therefore any destruction or adverse modification of critical habitat was not analyzed. The basis for the Service's finding is summarized below.

Based on our review of the current status of the covered species, the environmental baseline for the action area, effects of the proposed action and cumulative effects, implementation of the MSGCP and issuance of future ITPs is not likely to appreciably reduce the likelihood of survival and recovery of covered species in the wild for the reasons described in the biological opinion's conclusion for the pygmy rabbit, and in the conference opinion's conclusions for the Washington ground squirrel, the greater sage-grouse, and the sharp-tailed grouse. Those conclusions are incorporated by reference, but each conclusion includes the following key points:

- The recovery goals and/or conservation strategies for each covered species that are appropriate for agriculture landowners to address in Douglas County are largely addressed through the BMPs.

- There are three main reasons that covered species still exist in Douglas County: 1) there are many fragments and blocks of habitat on private land scattered throughout Douglas County that are difficult or impossible to farm because of the shallow and rocky soils; 2) CRP and SAFE acres provide some habitat, cover, and forage for the covered species throughout the county; and 3) there are large blocks of habitat (called HCAs) provided by WDFW, BLM, and TNC that are managed for wildlife or for multiple uses. In the future, under the MSGCP, habitat will be maintained on enrolled farms.

- The amount of CRP/SAFE habitat may vary depending on Farm Bill funding. Under the MSGCP enrolled farmers are to look for other programs if CRP contracts are not renewed, to avoid farming those CRP acres if economically feasible. If they cannot maintain those acres in conservation cover they may farm them; but there is a changed circumstance requirement for FCCD to monitor CRP across the county. If the CRP acres drop below 10 percent of the 2013 quantity, then the FCCD will work with Service and others to develop ways to get back above the 10 percent amount within 2 years. If that is not feasible, FCCD and Service will reconvene to determine if the MSGCP is working as expected; to evaluate other habitat changes across the county, to consider changes to programs, BMPs, or Farm Plans/GCP Site Plans; and if necessary to revoke any or all Permits.

- Although HCA acres are not expected to decrease, there is a changed circumstances monitoring requirement and if they do drop by 10 percent, then FCCD and the Service will reconvene to determine if the MSGCP is working as expected, if the lost acres can be mitigated through other means, and if necessary to revoke any or all Permits.

- For these reasons, and because habitat trends should improve on enrolled lands through implementation of BMPs, the Service expects that habitats will continue to be available to support the survival and recovery of the covered species in Douglas County for the duration of the MSGCP.

5. Other measures, required by the Director of the Service as necessary or appropriate for purposes of the HCP, will be met.

The Service did not require other measures for the MSGCP.

6. The Service has received the necessary assurances that the HCP will be implemented.

The Service finds that the MSGCP provides the necessary assurances that the HCP and its conservation measures will be carried out by the future permittees. Furthermore, through MOUs in Appendix A and Appendix I of the MSGCP, the FCCD commits to assisting with implementation and monitoring of the MSGCP. Funding will be revisited each year, if funding is not developed and provided as expected, the Service may revoke any or all Permits.

V. GENERAL CRITERIA AND DISQUALIFYING FACTORS - FINDINGS

The Service has no evidence that the permit application should be denied on the basis of the criteria and conditions set forth in 50 CFR §13.21 (b)-(c).

VI. RECOMMENDATION ON PERMIT ISSUANCE

Based on the foregoing findings with respect to the proposed action, I recommend approval of the MSGCP and future permit applications that are developed consistent with the MSGCP.

Robyn Thorson — SEP 17 2015

Robyn Thorson
Regional Director

Date

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U.S. Fish and Wildlife Service. 2015. Biological Opinion and Conference Opinion for the future issuance of Section 10(a)(1)(B) incidental take permits under the Douglas County Multiple Species General Conservation Plan. (Reference Number: 01EWFW00-2015-F-0160; August 28, 2015).

U.S. Fish and Wildlife Service. 2015. Final Environmental Assessment for the Multiple Species General Conservation Plan, Douglas County, Washington. May 2015.

Washington Wildlife Habitat Connectivity Working Group (WHCWG). 2012. Washington Connected Landscapes Project: Analysis of the Columbia Plateau Ecoregion. Washington's Department of Fish and Wildlife, and Department of Transportation, Olympia, WA.

Appendix A: Comments Received on Draft Douglas County MSGCP and Draft EA.

The matrix below includes how or whether the U.S. Fish and Wildlife Service responded to them. Resultant changes to the Final MSGCP and Final EA were retained in red font, and strike-out font.

Comment Received	Response
Ortman Comment 1. SUMMARY The USFWS should prepare a National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS) for public review and comment on the Draft Multi-Species General Conservation Plan (DMSGCP). GENERAL COMMENTS The commenter states that the USFWS has too often failed its responsibility to protect and restore endangered species and critical habitat in the State of Washington. Commenter then describes past planning activities at Grays Harbor, Yakima Basin, and Willapa Bay, and a Natural Resource Damage Assessment for an oil spill on the Washington/Oregon Coast. However, the commenter does not directly explain the relevance of those planning activities back to the draft Environmental Assessment for the Douglas County MSGCP.	An EA is written to determine if there are significant effects, and must provide sufficient analysis to determine the significance of impacts. The end point of an EA is either a FONSI, or a decision that an EIS is necessary. The Finding of No Significant Impact (FONSI) briefly presents the reasons why an action will not have a significant effect on the human environment and why an EIS will not be prepared. We believe an EA with a FONSI is appropriate. No edits to EA or MSGCP necessary.
Ortman Comment 2. A draft EIS should be prepared because the DMSGCP relies on the development of future Farm Plans to obtain Section 10 permits to take (i.e., kill) "covered species": the Columbia Basin pygmy rabbit, the Washington ground squirrel, the Columbian sharp-tailed grouse, and the greater sage-grouse. While USFWS states that Farm Plans will include public comments, there is no specific commitment for public comment on additional NEPA review on such Farm Plans. Rather, it appears that USFWS will carry out any additional NEPA review internally (page ii).	If a public comment provides new information regarding effects to human environment, we could revisit the NEPA analysis. However, we expect most applications to be consistent with original NEPA. No edits to EA or MSGCP necessary.

Ortman Comment 3. A draft EIS should be prepared to present a range of alternatives, including endangered species restoration. The DMSGCP appears to rely on "best management practices" to limit damage to ESA covered species. Table E-3: "Species Specific Measures" (p. E-13) is particularly weak and does not appear to be the type of measures that would aid the recovery of the covered species. Restoration and recovery for ESA covered species must be the first priority for any conservation plan (not handing out Sec. 10 take permits like popcorn), and should be addressed as part of a draft EIS.	From EA p.17: *Criteria for Issuance of a Permit for Incidental Taking* The Service must consider criteria set forth in the ESA and its implementing regulations in deciding whether to issue a Section 10 permit for the incidental take of federally listed species (16 U.S.C. §1539(a)(2)(A)). The Service shall issue the incidental take permit whenever the applicant's HCP satisfies the following criteria: 1. The taking will be incidental. All taking of listed wildlife species as detailed in the HCP must be incidental to otherwise lawful activities and not the purpose of such activities. 2. The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking. Under this criterion, the USFWS will determine whether the mitigation program the applicant proposes in the HCP meets statutory requirements. 3. The applicant will ensure adequate funding for the HCP. Funding sources and levels proposed by the applicant must be adequate to meet the purposes of the HCP. 4. The taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild. This criterion involves the effects of the project on the likelihood of survival and recovery of affected species. 5. The applicant will ensure that other measures that the USFWS may require as being necessary or appropriate will be provided. This criterion gives the USFWS flexibility to require additional measures as a condition of the permit as necessary or appropriate among many different proposals affecting many different species. The Fish and Wildlife Service believes the GCP meets the issuance criteria, and this will be documented in the Findings document. No edits to EA or MSGCP are necessary.

Ortman Comment 4. USFWS has proposed additional measures/guidelines to the NRCS Conservation Practice Standards. However, one critical measure is the height of vegetation (minimal stubble height). The proposed grazing guideline minimum stubble height of five inches is too low for bunchgrasses even though the DMSGCP notes that a stubble height of eight inches is better (p. E-10). These alternatives should be presented as part of a draft EIS.	This is similar to the issue raised in comment WDFW 22. Refer to that comment below.
Ortman Comment 5. The DMSGCP notes that pesticides and herbicide chemical use is not a Covered Activity (p. E-12). Pesticide and herbicide chemical use should be included and alternatives presented as part of a draft EIS.	Region 1 of the Fish and Wildlife Service has a Policy (1998) generally not to cover herbicides and pesticides in a Section 10(a)(1)(B) Permit without additional in-depth analysis to evaluate the effects on listed species and critical habitat. Added reference to this policy in MSGCP Chapter 1, p.12, in the first footnote associated with Table 1-3.
WDFW 1. We are not certain, however, that Alternative 3 presents a true alternative since there is no certainty that any increases will occur and enrollment of additional acreage would be a voluntary action that would likely occur after the enrollee has received a take permit. In fact, the further development and implementation of those programs could occur in support of Alternative 2 even if Alternative 3 is not selected.	NEPA alternatives must meet the purpose and need, and must be reasonably feasible, and must have a reasonable possibility to develop. Both of the action alternatives meet these expectations. Alternative 3 fits these criteria. No edits to the EA or MSGCP are necessary to address this comment.

WDFW 2 We find the construction of the EA challenging in terms of identifying the ability of the Alternatives 2 and 3 to address the potential impacts on the described affected environment. Within the existing alternatives, we do not see an assessment of the Alternative actions and their direct relationship to the impact on the level of take that would compare with the "No action" alternative. There is no stated threshold of significance in the "environmental consequences" section, nor discussion about how the proposed alternatives compare to that threshold. The EA would be substantially improved if it were to directly evaluate thresholds of significance and describe the unique actions (or intensities of actions) which would have to be agreed to in order to receive take coverage (see Draft EA for the Wright Solar Park [link in comment] for a relevant example of this structure). This would allow for a comparison of implementation feasibility (i.e. potential enrollee interest in the program) with the associated take assessment, thereby allowing the U.S. Fish and Wildlife Service (USFWS) to determine if the final Plan provides for the minimum level of impact and the maximum amount of mitigation practicable for the species, as is required to issue incidental take permits under this program. This analysis would inform our ability to fully analyze the impact of the draft Plan and determine whether alternative conservation frameworks should be evaluated in the EA.	An EA is written to determine if there are significant effects, and must provide sufficient analysis to determine the significance of impacts. The end point of an EA is either a Finding of No Significant Impact (FONSI), or a decision that an EIS is necessary. The Finding of No Significant Impact (FONSI) briefly presents the reasons why an action will not have a significant effect on the human environment and why an EIS will not be prepared. FR 73(200):61321 46.310 Contents of an environmental assessment on page 61321 of the FR Notice: "(e) The level of detail and depth of impact analysis should normally be limited to the minimum needed to determine whether there would be significant environmental effects." The example EA (Wright Solar Park HCP) that WDFW referenced listed many items that would result in a "significant effect". P.3.3-27 in EA; http://www.fws.gov/sacramento/outreach/2015/01-13/docs/WrightSolar-DraftEA.pdf The Fish and Wildlife Service believes that these are thresholds that are significant and indicate the need to write an EIS. The Service believes that the MSGCP provides the level of detail and depth of impact analysis that is the minimum needed. The FONSI will likely clarify that the environmental effects are not significant. No edits of the EA or MSGCP are necessary.

WDFW 3 WDFW recommends that, to the extent possible, these tools (Working Lands for Wildlife Sage grouse Initiative that provides "predictability" and a Candidate Conservation Agreement with Assurances for greater sage-grouse adopt, and the MSGCP) closely aligned conservation measures sufficient for the conservation and recovery of sage grouse while providing sufficient incentives to make them successful. Ensuring the conservation measures required by the Plan avoid and minimize impacts and mitigate to the maximum extent practicable will help to align this conservation program with the others being developed.	The Service agrees that implementation of the tools listed in this comment will be easier if the conservation measures or best management practices are closely aligned. However, each tool has different issuance criteria, and different levels of ESA assurances, and therefore may not need to be exactly the same.

WDFW 4 Specifically, we would like to see closer alignment between each of these tools in regards to grazing measures. As stated on page 45 of the Plan, "Rangelands provide one of the largest opportunities for improving habitat and thereby conserving Covered Species in the Douglas County Plan Area." Due to the fact that more than 63% of the current Washington State greater sage-grouse population is found in Douglas County, it is essential that the conservation measures required by the Plan mitigate impacts of heavy grazing to the maximum extent practicable to conserve nesting and wintering habitat. To be more effective, the Plan should incorporate the management guidelines and recommendations for sage-grouse found in Connelly et al. 2000, Schroeder et al. 2003, and Crawford et al. 2004. In terms of plan alignment, we recommend that the management standards associated with the Sage Grouse Initiative's "nesting cover" option be incorporated into the Plan.	After discussion with the FCCD board, the USFWS did not change the grazing measures in the MSGCP. However, where Sage Grouse Initiative (SGI) is already being implemented by Permittees, more conservative approaches such as the Nesting Cover Option described below may be implemented. In each individual GCP site Plan there will be opportunity to manage above minimum requirements with willing landowners. Per August 11 Memo from Kevin Guinn, NRCS, SGI is as follows: **Plant Health Option** • This grazing option is designed for native bunchgrasses. • Target for grazing intensity: 50% utilization growing season; 60% utilization dormant season. • Targets for timing of grazing periods & recovery periods o Graze no pasture more than 1 year in three during critical period (April 15 – July 15). o Full growing season deferment for each pasture once every three years. **Nesting Cover Option** • To receive payment for this grazing option, pastures must have native bunchgrasses. • Target for grazing intensity: 40% utilization for better hiding cover. • Targets for timing of grazing periods & recovery periods. -Graze no pasture more than 1 year in three during critical period (April 15 – July 15). -Full growing season deferment for each pasture once every three years. • Requirements for nesting cover payments (two years of growth) Each pasture will receive in back-to-back ▪ One year of complete REST (3/01 through 12/13). ▪ Next year DEFERMENT (1/01 through 7/15).

WDFW 5 We do not think that the GCP's allowance to remove conservation measures associated with pygmy rabbit should the species be delisted is consistent with the framework of a 10(a)1(B) permit. Both parties are taking a calculated risk and committing to the actions and assurances regardless of the outcome of a listing decision. In addition, a decision to delist a species may in part be made due to the existence of conservation measures that are in place. Follow-up Email communication with WDFW clarified as follows: See page 111 in the GCP itself: #10. A covered Species is delisted. "Should any of the Covered Species in the MSGCP be delisted during the tenure of the permit, FCCD and Permittee may choose to consult with USFWS to determine whether mitigation measures for the delisted species can be discontinued."	Added language to MSGCP Chapter 4, p.111, changed circumstance #10. *#10. A Covered Species is Delisted* Should any of the Covered Species in the MSGCP be delisted during the tenure of the permit, FCCD and Permittee may choose to consult with USFWS to determine whether mitigation measures for the delisted species can be discontinued. Because there are four covered species in the MSGCP, and the covered species rely on similar habitats, it is likely that many of the mitigation measures would likely continue.
WDFW6 The Plan should include a statement indicating that Washington ground squirrels are a protected species under state law and should not be subjected to recreational shooting or poisoning by the landowner or the public. In situations where the landowner believes that the squirrels pose a threat to crops, the landowner should contact USFWS and/or WDFW to discuss non-lethal options for resolving the problem.	Conferred with FCCD board, and added language to Table E-3, p. E-14
WDFW 7 The Plan is titled Multiple Species General Conservation Plan, yet it is frequently referred to as the Multi-species General Conservation Plan (including in the Federal Register Notice).	Adjusted language where appropriate. Should be "multiple species" general conservation plan.

WDFW 8 The Plan does not speak to value of acquisitions or easements. WDFW provided further clarification by email dated 2-13-15: "My understanding is that this was intentional. They did not want to specifically call out acquisitions or easements as a potential mitigation tool. Regardless, we wanted to be clear that overall that tool could work towards mitigation should it be a chosen tool by a landowner."	Often, acquisitions or easements would benefit conservation, but are not required by the MSGCP. Nonetheless, voluntary acquisitions or easements could result in conservation, and may help to mitigate for changes in CRP or SAFE acres over time. WDFW can add acquisitions or easements per p.76 Ch.4. Added additional discussion to Changed Circumstance #1, p.103 in Chapter 4. *Response*: Farmers not enrolled in the MSGCP would be encouraged, through education and outreach by FCCD, to pursue additional BMPs elsewhere on their lands to compensate for the loss of habitat values (HSI acres). Acquisitions or easements that result in improved habitat or long-term protection on Permittees' or others lands may be considered as compensation for loss of habitat or acres. FCCD will monitor to determine if there is a decrease of 10 percent or more of conservation contract acres or similarly protected acres (approximate starting point of 119,072 acres enrolled in CRP/SAFE and 63,000 acres in SAFE for a total of 182,072 acres), and whether additional acres to get above the 10 percent trigger can be implemented within 2 years. If conservation acres cannot be obtained to get above the trigger, then the USFWS must revisit the MSGCP to determine if it still meets S10 issuance criteria, and if not, how and whether it can be revised. At that point, an analysis of loss and gain of HSI-acre values will be considered, and if acre quantities or HSI-acre qualities cannot be regained to meet the starting point, permits may be revoked.
WDFW 9 p. 15 states that EQIP provides "ESA assurances" - this is inaccurate.	Chapter 1, page 15, rewrote section as follows: EQIP includes Working Lands for Wildlife and the *Sage Grouse Initiative* (SGI) that improves sagebrush habitat and restores or enhances rangeland. The SGI provides ESA predictability to the landowner that the conditioned conservation practices will continue to benefit wildlife as long as they are implemented -any ESA issues associated with their implementation have been fully addressed. If the species is listed, incidental take that may be caused by the practices identified in the conservation plan is exempted.

WDFW 10 p. 24 should reference WDFW's State grouse recovery plans	Agreed; added to list on p.24.
WDFW 11 p. 55 – the outcome-based structure of the metrics relies heavily on the ability to monitor with the necessary level of detail and frequency; this is tied to the concern about capacity to implement and the commitment/reliability of meeting the Adaptive Management and Monitoring Plan (AMMP).	Yes. This is in part why we have the changed circumstances addressing funding, to make sure the FCCD can follow through with their expectations and commitments. No edits to EA or MSGCP necessary.
WDFW 12 P 59, #8. "Minimize negative impacts of fences." Stevens (2012a, b) reported landscape scale sage-grouse fence collision rates in Idaho of 0.75 collisions/km/breeding season, suggesting that fence collisions may result in total range-wide sage-grouse mortalities in the thousands. Fence marking can reduce collisions by 83% (Stevens et al. 2012b). Although the MSGCP is not intended to be prescriptive, this section offers no guidance or suggestions, despite the availability of clear recommendations. Recommendations should include use of the fence collision tool located here: [see link in comment] and here, [see link in comment].	Edited introductory paragraph to this section (p.57) to clarify that specific BMPs are listed in Appendix E. Edited each management strategy under the three types of covered agriculture use to read: *General Management Strategies* Appendix E, p. E-15 lists a requirement to mark all existing fences within ¼ mile from an occupied or historic lek, or in areas where collisions are known to occur. Added reference to the fence collision tools as follows: Plan and design placement of new fences away from occupied and historic leks. If this is not possible, adequately mark fences to increase visibility. Identify existing fences that are nearby to an occupied or historic lek and consider removing or relocating the fence to a site further from the lek. Mark all existing fences within ¼ mile from an occupied or historic lek, or in areas where collisions are known to occur. Use NRCS, SGI, or other appropriate national or local fence collision tools to prioritize fence marking.
WDFW 13 p. 63, There is an assumption that 50% of available acres would be enrolled and it is not clear how this was determined.	Fifty percent enrollment was simply a potential upper limit best-case scenario of potential applicants that would sign up. Discussed in more detail on p.65-66 of Chapter 3 of MSGCP. No edits to EA or MSGCP necessary.

WDFW 14 p 63. Habitat Suitability Index model predictor of take. The modeling exercise predicts an increase of 10-15% of HSI suitable acres for sage-grouse and sharp-tailed grouse over 50 years. There is no clear connection between specific conservation measures and the assumption of 10- 15% improvement. It also isn't clear what assumption was made about expected habitat losses to wildfire.	The HSI is what we had at the time. The Service agrees it needs to be re-done, and it should only be used as an indication of trend. We can't easily replicate that model, and there is more recent habitat data and imagery, which is why we have required a new run of an HSI model in the AMMP to evaluate the baseline condition. Potential losses of habitat in the future from wildfire were not modelled. To clarify this, p. 63 of Chapter 3 was edited as follows: ... The model ~~It is~~ expected that there will be a gradual increase in habitat units (HSI-Acres). In the initial ten years, an increase of 5 percent was ~~is~~ modeled, and an 8 percent increase was ~~is~~ expected by the 50-year point for the pygmy rabbit and Washington ground squirrel; and a 10 and15 percent increase ~~is expected~~ was modeled for the greater sage grouse and Columbian sharp-tailed grouse as a result of BMP implementation under the MSGCP. Note that this model includes general habitats used by the species and/or its prey, not just the most limited habitats. WDFW noted in comments on the draft MSGCP that there is no clear connection between the BMPs and the habitat improvement. The Service agrees that the model can be improved, and in general, habitat suitability will improve over time, but the degree of improvement will depend on how many farmers sign up. The habitat improvement is displayed in Table 3-2 with equivalent HSI-Acres to show a quality improvement (improved quality should support more individuals of the covered species). Actual total acres of habitat on the ground may not actually increase. This model, or a similar model, will be run again early in the MSGCP implementation and used both for predicting population trends and impacts, and for monitoring habitat over time (described in more detail in Chapter 4 and AMMP).

WDFW 15 p.64, There is an assumption that 5% take is OK; what is the standard for a take estimate?	Five percent was an estimate based on the model. This is what we had at the time of model development, but is not the best estimate for take. As described later in Chapter 3, beginning on page 65, the Service also explored other ways to calculate take to focus the take less on the HSI results and individuals, and more on future conversion of habitat from CRP/SAFE changes. This habitat approach may be a better fit for the MSGCP, however the take estimate may be refined in the Biological Opinion. No edits of EA or MSGCP are necessary to address this comment.
WDFW 16 p. 75-76, 79: WDFW is expected to monitor the wildlife populations to document response to implementation of conservation measures. The plan should include the recommendation that enrollees allow WDFW access for annual or periodic grouse lek counts and searches, and surveys for other covered species.	P. 102 says the FCCD will work with the USFWS, WDFW, and other management agencies to support other research and to implement the AMMP. No edits were made to the MSGCP or the EA. Per the MOU in Appendix A, WDFW is expected to continue to monitor species and populations, and we assume they will continue to do so with their usual landowner notification/permission steps.
WDFW 17 p. 103, Changed Circumstances allows 5 years to replace converted SAFE habitat; does this meet the landscape-level assurances required in an HCP.	Page 103 refers to replacing HSI values, or habitat quality values of CRP/SAFE acres. The FCCD and Service reviewed the following sentence on page 103 of Chapter 4: " Even with conversions consistent with the MSGCP, the FCCD will implement landscape level goal of replacing HIS values within 5 years." The sentence above is different from the requirement to monitor a decrease of 10 percent or more of CRP/SAFE acres, and whether additional acres to get above the 10 percent trigger can be implemented within 2 years. The Service and FCCD believe that the sentence in quotes adds confusion and will be difficult to meet, and therefore that sentences is deleted in the final MSGCP. The intent of the changed circumstances #1 remains as it was, to monitor and react to changes of CRP/SAFE acres in the County over time.

WDFW 18 p. 103, the 10% conversion trigger is problematic. Currently, 16,633 acres of CRP SAFE acres are set to expire in 2018 and 20,000 acres in 2020. It seems that this is approaching the 10% and would basically negate the GCP.	We expect that the 10% acres limit could be exceeded about 6 times. It doesn't necessarily negate the GCP, but it requires monitoring. If additional acres cannot be ensured to get above the 10 % trigger in two years, USFWS must revisit the MSGCP to determine if it still meets issuance criteria, and whether it can be revised. This may include analysis of HSI acres gained or lost over time. No edits to EA or MSGCP necessary.

WDFW 19 p. 105: "While drought is an expected occurrence in Douglas County, a drought event significantly affecting Covered Species is unlikely to occur during the life of the permit." This statement is not true in 'normal' times, and certainly is unlikely to be true with climates changes expected. Grouse populations undergo fluctuations, likely driven at least partly by drought; the negative effects of livestock grazing often occur or increase during drought, even for a management regime that would maintain suitable habitat conditions under 'normal' moisture conditions. Page 104: add "and stocking rates" to "by modification of the rest/deferral schedule" to the response to drought.	On page 105 deleted the sentence indicating drought unlikely: *"Detailed Discussion*: Poor growing conditions for rangeland/pastureland due to unseasonable weather, drought, or climate change may cause lower than expected plant growth, or lower than expected native habitat quality. At 10-year increments review implemented conservation practices to ensure grazing plans are allowing for target residue levels by modification of the rest/deferral schedule. Develop and implement BMPs through modification of Farm Plans that ensure long-term productivity of fields, pastures, and natural habitats. This may involve providing artificial water sources for Covered Species, rotation of grazing or haying, native plantings, etc. For the purpose of defining Changed Circumstances, poor growing conditions are defined as drought up to three years in length. Drought is a cyclical weather phenomenon that is beyond human control. Drought is not uncommon in Douglas County, and it is a phenomenon to which local natural communities and species have adapted over time. Drought occurs slowly over a multi-year period, differing from the catastrophic events of fire and flood, which occur rapidly and afford little time for preparing for disaster response. Drought conditions may adversely affect Covered Species if the species and/or natural communities are unable to adapt to the challenging conditions. Measures will be taken to monitor the effects of drought, as defined above, on Covered Species." On page 104 added "and stocking rates": "*Response*: At 10-year increments or when a drought, as defined below, is identified, review implemented conservation practices to ensure grazing plans are allowing for target residue levels by modification of the rest/deferral schedule and stocking rates."

WDFW 20 p. 106, bottom paragraph (wildfire): there is better information available about historical fire frequency in Douglas County. Baker (2006) presented evidence suggesting that pre-Euro American fire rotations were 100–240 years in Wyoming big sagebrush. Charcoal deposits in lake sediments from a study area in northern Douglas and southern Okanogan counties indicate that between 500 and 1,500 years ago, fires occurred on average every 148 years (range 94–232 years; Scharf 2002).	Added fire frequency language to p.106-107 as follows: *"Detailed Discussion*: Fire potential within the MSGCP area in natural habitat and agricultural grain crops is typically high during the summer months. Baker (2006) presented evidence suggesting that pre-EuroAmerican fire rotations were 100–240 years in Wyoming big sagebrush. Charcoal deposits in lake sediments from a study area in northern Douglas and southern Okanogan counties indicate that between 500 and 1,500 years ago, fires occurred on average every 148 years (range 94–232 years; Scharf 2002). Since Euro-American settlement and the introduction of exotic species, most notable cheatgrass (*Bromus tectorum*), hot, intense fires occur much more frequently, with as little as 5 years between major fires (Pellant 1996). Shrub-steep habitats are not adapted to such frequents fires, and the shrub component may not recover for decades (PNL 2003)." Added the same language to the EA on p.66.
WDFW 21 p. E-8: All Agricultural Use: Riparian Areas . In general, this includes good recommendations. To #1. Add "native" after "increase variety of …" #8. We suggest adding other species important for sharp-tailed grouse wintering to "avoid cutting or removing willows", including water birch, hawthorn, serviceberry, chokecherry, etc. Suggest adding: "9. Remove exotic white poplar (Populus alba) where it is crowding out water birch and other native riparian species." (see Stinson and Schroeder 2012, p. 53)	Added language to page E-8 as follows: 1.Increase variety of native tree/shrub species and age classes within riparian areas. 8.Avoid cutting or removing willows or other species important for sharp-tailed grouse wintering, including water birch, hawthorn, serviceberry, chokecherry, etc. 9.Consider removing exotic white poplar (*Populus alba*) where it is crowding out water birch and other native riparian species (Stinson and Schroeder 2012, p. 53).

WDFW 22 p. E-10: Rangeland Agriculture: Grazing Guidelines. The stated goal is "producing or maintaining habitat for covered species' life history needs, including providing for cover, forage, and reproduction habitat" These guidelines do not meet the standards developed for sage grouse (Connelly et al. 2000, Schroeder et al. 2003, Crawford et al. 2004), and we do not believe they will achieve this goal. We suggest removing #3; 50% utilization is too high; and suggest not using utilization level as a guideline, as it is difficult to measure consistently. As recommended by Connelly et al. (2000) and Schroeder et al. (2003), we suggest revising #4, to "Maintain a minimum stubble height of >7" at all times on desirable bunchgrasses."	Appendix E (p.E-10) currently includes a stubble height range, with a minimum of 5 inches, and a goal of 8 inches. We reworded it slightly as follows: 4.Maintain a minimum stubble height of 5" at all times on desirable bunchgrasses on average in a pasture. Note that a stubble height of 8" is better than 5" in appropriate growing sites. The MSGCP has a maximum utilization of 50% over the growing season. After conferring with the FCCD, and recognizing that a 7" stubble height is not appropriate for all soils, vegetation, and precipitation levels we did not change the stubble heights or utilization rates in the MSGCP. However, in the GCP site plans, there may be opportunity to exceed the minimums.
WDFW 23 p. E-10: "5. Manage livestock distribution to minimize overgrazing. Tools such as fencing, the placement of water & salt, and riding can be used." Revise to: "Manage livestock distribution to minimize overgrazing, especially during drought. Tools such as fencing (not within 500 m of a lek, and marked where within 2 km of a lek), the placement of water & salt, and riding can be used."	Added language to page E-10 regarding drought: 5.Manage livestock distribution to minimize overgrazing, especially during drought. Tools such as fencing, the placement of water & salt, and riding can be used. Fencing near leks addressed in table E-3, p.E-15: "Plan and design placement of new fences away from occupied and historic leks. If this is not possible, adequately mark fences to increase visibility. Identify existing fences that are nearby to an occupied or historic lek and consider removing or relocating the fence to a site further from the lek. At a minimum, mark all existing fences within ¼ mile from an occupied or historic lek, or in high risk areas where collisions are likely or known to occur. Use NRCS, SGI, or other appropriate national or local fence collision tools to prioritize fence marking."

WDFW 24 Appendix E, page E-9, Recreational Use: Non-Agricultural Motorized Vehicle Use, Hunting, fishing, Wildlife Viewing Add a statement indicating that Washington ground squirrels are a protected species under state law and should not be subjected to recreational shooting by the landowner or the public. In situations where the landowner believes that the squirrels pose a threat to crops, the landowner should contact USFWS and/or WDFW to discuss non-lethal options for resolving the problem.	Added statement at the end of the recreation measures section p. E-9; also in Table E-3: 7. Washington ground squirrels are a protected species under state law and should not be subjected to recreational shooting by the landowner or the public. In situations where the landowner believes that the squirrels pose a threat to crops, the landowner should contact USFWS and/or WDFW to discuss non-lethal options for resolving the problem.
WDFW 25 Appendix E, page E-9, Pest Management and Weed Management Add a statement indicating that Washington ground squirrels are a protected species under state law and should not be subjected to control actions (shooting, poisoning) by the landowner. In situations where the landowner believes that the squirrels pose a threat to crops, the landowner should contact USFWS and/or WDFW to discuss non-lethal options for resolving the problem. Under Statement 1, it should read "Design control methods to target pest species only; avoid applications on adjacent non-target lands or that drift onto those lands."	See above, Washington ground squirrely statement be added to recreation management, and in Table E-3. Did not repeat again in Pest and weed management. The second part is more relevant to spray and pesticides that aren't covered in the MSGCP. Intent is already included under voluntary measures p. E-12. No additional edits to MSGCP made to address this comment.

WDFW 26 Appendix E, page E-14, Table E-3 Extend both "periods to avoid" to June 30 (instead of June 15). Juvenile Washington ground squirrels remain active into late June in a number of locations, especially in "late" years when green vegetative conditions remain longer. Later seasonal use is also more likely to occur in the northern part of the species' range (e.g., Douglas County), especially on colder north-facing slopes.	Extended dates to June 30 in Table E-3 p. E-15 as recommended.
Experience suggests that it is unlikely that USFWS or WDFW staff will have the time available to undertake unplanned translocations of ground squirrels unless a significant population of squirrels is present on the conversion site or the species becomes federally listed. The existing language here should be moderated so that the landowner doesn't have an expectation that translocations are an easy fix to solve this problem.	This idea was developed to be consistent with expectations in the pygmy rabbit SHA. If USFWS or WDFW choose not to move animals, then they won't.
Clarification Email from WDFW dated 2-13-15 provided following suggested moderated language: "USFWS or WDFW staff are unlikely to undertake unplanned translocations of ground squirrels unless a significant population of squirrels is present on the conversion site or the species becomes federally listed."	Add suggested moderated language to Table E-3, p. E-15.
WDFW27 Environmental Assessment Specific Comments EA 1) With regards to implementation, Alternative 2 (the GCP) for Foster Creek Conservation District represents a significant body of work. Especially considering the resources and expertise for both development of Farm Plans and the Adaptive Management and Monitoring Plan, we question the current ability to meet the "adequate funding" requirement of a Section 10 permit. WDFW is committed to the success of the GCP and to working to assist the applicants in securing the necessary resources, but we cannot ignore the significant scale of the work that will be required.	The funding concern is why we developed the check-in point for funding. See MSGCP changed circumstances #11, p.111. "At each year post permitting, by July 31, the FCCD will show that funding is adequate to ensure expected implementation and monitoring for, at minimum, the following year."... No additional edits necessary to MSGCP. The MSGCP is incorporated by reference (see p.23 in EA, Alternative 2, Proposed Action), and therefore no additional edits necessary to EA.

WDFW 28 EA 2) The EA does not consider some important effects of fragmentation, including increased nest predation rates (Vander Haegen et al. 2002, 2007, Chalfoun et al. 2002, Herkert et al. 2003). Habitat changes and human-associated food sources have generally increased the abundance of multiple species of predators in their range. In Washington, these include crows, ravens, magpies, and great horned owls (Sauer et al. 2008), and possibly coyotes, raccoons, striped skunks, and non-native red foxes (see Stinson and Schroeder 2012, p. 74-77).	P. 92, under initial discussion of Effects Common to All Alternatives, added the following language highlighted in red: Drylands that are cropped are usually tilled annually, at minimum and natural habitats are not available for covered species on the cultivated lands. Dryland and irrigated farming continues current levels of fragmentation that may increase predation on covered species through reduced cover, and increased abundance of predators (Vander Haegen et al. 2002, 2007, Chalfoun et al. 2002, Herkert et al. 2003, Sauer et al. 2008, Stinson and Schroeder 2012, p. 74-77). The Service will look at the predation effects, along with other effects, in the biological opinion that will be developed as part of the decision record for the MSGCP.
WDFW 29 "EA 3) The evaluation of Alternative 2, and the expectation of increasing HSI acres by 10-15% seems optimistic, and does not clearly identify the actions that will cause this to occur. This improvement would likely require changes in livestock management (unlikely with existing guidelines, see comment #7 above[per 2-13-15 Email this is the same as WDFW 21 above]), and apparently assumes no increase in wildfire acres, which may be unrealistic with climate changes predicted."	We agree that the model may need improvement; see answer to WDFW 14 above. The MSGCP discusses estimated trends of 10-15%, but the EA does not. No edits to EA necessary.

WA Cattlemen's 30 The WCA would like to voice its support of the Draft Multi-Species Conservation Plan and Draft Environmental Assessment; Douglas County Washington. The WCA believes that locally led collaborative processes are the best way to address the challenges of Endangered Species Act recovery efforts. The WCA requests that the US Fish and Wildlife Service adopt the Draft Multi-Species Conservation Plan and Draft Environmental Assessment; Douglas County Washington. The WCA believes that locally led efforts will be the best for the Sharp-Tailed Grouse, Greater Sage Grouse, Columbia Basin Pygmy Rabbit and Washington Ground Squirrel. Each of these species represents unique recovery challenges that are addressed in the Draft Multi-Species Conservation Plan and Draft Environmental Assessment; Douglas County Washington.	General support. No edits to EA or MSGCP necessary.
Danby 31: As manager of Rimrock Meadows, I was curious as to how the proposed MSGCP might affect us? We have a Safe Harbor agreement on file. The MSGCP seems to be directed at ag activities.	Responded via Email that the MSGCP is unlikely to affect Rimrock meadows. No edits to EA or MSGCP necessary.

Warner 32, The Nature Conservancy. TNC provided minor changes to their responsibilities in appendix A, and recommended adding additional text to Appendix A, Douglas County MSGCP Coordination Memorandum of Understanding: "The signees agree that this Memorandum is designed to set the overall stage for their cooperation with respect to the MSGCP. The signees intend, however, that nothing in this Memorandum shall obligate any of them to expend or provide specific funds or staffing, to apply for any specific grant, or to take any other specific action(s), beyond the general consultation and cooperation mentioned above, and that any specific funding, staffing, or other obligations of a Party in furtherance of the goals of this Memorandum may be created only pursuant to a further written agreement which is signed by all of the affected parties. The signees acknowledge and agree that, since each of them has its own mission, internal policies, and financial and other concerns and must remain free to take such steps as it may deem appropriate from time to time: (i) each of them shall remain completely free to decide whether or not specific activities contemplated with respect to the MSGCP are appropriate for its mission at any given time, or with respect to any given project which may be proposed, and nothing in this Memorandum does or shall bind them in any manner to participate in any specific project; and (ii) each of them shall likewise be free to engage in any activities which it may deem to be appropriate from time to time, whether or not they are of a type similar to the activities contemplated in this Memorandum, in cooperation with such persons or entities as they may choose, without any obligation to involve any other signee to this Memorandum in any of such activities.	The Service incorporated the minor changes and the new language, and added the following sentence to the end of TNC's first paragraph of changed language: However, notwithstanding this paragraph, failure of a party to implement responsibilities required of it by the MSGCP or any federal permit may be grounds for revocation or termination of the MSGCP or permit(s).

Warner 32, The Nature Conservancy (continued). The signees also agree that no partnership, joint venture, or agency is intended to be, nor shall it be, established by this Memorandum; that no signee of this Memorandum is authorized or empowered to act as an agent or any other kind of representative of any other signee, or to transact business or incur obligations in the name of any such other signee or for the account of such other signee; and that no signee of this Memorandum shall be in any manner or to any extent bound by or responsible for any acts, representations, or conduct of any other signee of this Memorandum. The signees agree further that, except to the extent (if any) otherwise explicitly stated in a subsequent agreement by or among them, each of them shall retain full responsibility for: (1) any and all payments due to its own employees or agents, whether denominated as salaries, stipends, contract payments, or otherwise; (2) any and all applicable health care coverage, worker's compensation insurance, other insurance, and other benefits for its employees or agents; (3) any and all travel, expense, or other reimbursements due to its employees or agents; (4) any and all claims by or with respect to its employees or agents, or their actions, whether related to damage or injury to persons or property, or otherwise; and (5) ensuring compliance by its employees and agents with applicable federal, state. and local statutes, laws, ordinances, rules, regulations, court orders, and other governmental requirements, including (but not limited to) the obtaining and maintaining in force of any and all required permits and or licenses.	Same response as above.

Additional Change 33 During the time between publication of the draft MSGCP and the final, the Service and the Foster Creek Conservation District realized there was confusion with the term "Farm Plan". Originally, the MSGCP used the term generically, as a plan that included components of an NRCS "conservation plan", with additional measures added for covered activities and covered species as expected in the MSGCP. However, local landowners think of "Farm Plans" as a generic term for a plan developed in cooperation with NRCS. Using the term for the MSGCP process was confusing."	Throughout the MSGCP, edits were made to clarify two components of an eventual plan developed under the MSGCP: a Farm Plan, and a GCP Site Plan. The following definitions were added to the glossary in both the MSGCP and the EA: **Farm Plan** – A generic term that typically refers to a Natural Resource Conservation Service "Conservation Plan" and can be based on the NRCS Resource Management System (RMS) planning process. The Farm Plan will include CPs for a site specific area. A GCP Site Plan includes additional BMPs (land-use measures, and species-specific measures described in Appendix E of MSGCP). The Farm Plan and GCP Site Plan together result in a site-specific plan for land leased or owned by an Applicant/Permittee that is developed consistent with expectations of the MSGCP. **GCP Site Plan** –A GCP Site Plan includes additional BMPs (land-use measures, and species-specific measures described in Appendix E of MSGCP). The Farm Plan and GCP Site Plan together result in a site-specific plan for land leased or owned by an Applicant/Permittee that is developed consistent with expectations of the MSGCP.

Additional Change 34 In discussion with FCCD between the draft and the final, the Service noted potential conflicts between the Grazing Guidelines listed in Appendix E, p.E-10, and the grazing required in the species-specific measures, Table E-3, Table E-16. In addition, the sharp-tailed grouse requirement to retain 8" cover cannot be met in all sites. The original BMPs listed below, conflict with the flexibility offered at the beginning of the Grazing Guidelines that allows development of alternative grazing rotations, and/or conflict with ability to meet cover requirements based on poor growing sites. The BMP for Greater Sage-Grouse, Likely Nesting Habitat, previously read: • To promote nesting cover in grazed pasture: o Year 1: completely rest from grazing from March 1 through December 31 o Year 2: Defer grazing from January 1through July 15 o Year 3: graze pasture according to farm plan/site plan rotation. • Adjacent pastures may be grazed during this timeframe. The BMP for Columbia Sharp-tailed grouse, for occupied nesting habitat previously read: • Retain a residual cover of perennial grasses and forbs of at least 20 cm (8 in) for cover during the nesting season (April 15 through June 30).	To avoid the conflicts between the measures, the species-specific BMPs in Table E-3, page E-16, were rewritten as follows: Greater Sage-Grouse Likely Nesting Habitat In grazed pastures, implement measures to promote nesting cover (through appropriate rotations, stocking rates, rest, and/or deferment schedules). Columbian Sharp-tailed Grouse Likely occupied Nesting Habitats with Grazing • Where appropriate retain a residual cover of perennial grasses and forbs of at least 20 cm (8 in) for cover during the nesting season (April ~~15~~ 1 through June 30).

On April 17, 2015, BLM's Wenatchee Field Manager recommended changes to the Bureau of Land Management responsibilities listed in the MOU, Appendix A.	Changes were made to bullets under Appendix A, section 4.3- Bureau of Land Management, as follows: • Retain ownership in and to the extent possible, support the consolidation of ~~consolidate~~ public ownership into the Moses Coulee Management area. • Subject to the availability of federal appropriations and resources, survey and document ranges, populations, and habitats for Covered Species. • Subject to the availability of federal appropriations and resources, apply integrated pest-management practices to control unwanted vegetation on public lands. • Manage agency-owned or controlled lands in accordance with the Spokane Resource Management Plan (1992) or revisions of the plan. Implement the BLM *National Sage-Grouse Habitat Conservation Strategy* or future revisions, and as appropriate, consider management guidelines provided by State agencies (such as the WDFW *Greater Sage-Grouse Recovery Plan* (Stinson et al., 2004)).