

# Habitat Conservation Plan for the Northern Spotted Owl City of The Dalles, Oregon

## I. Purpose and Need

Section 9 of the Endangered Species Act (ESA) prohibits the unauthorized 'take' of Federally listed species of wildlife. The section 10 incidental take permit process constitutes an exception to the prohibitions against take provided such take is 'incidental to, and not the purpose of, carrying out an otherwise lawful activity'.

Pursuant to section 10(a)(1)(B) of the ESA, the City of The Dalles, Oregon ("City") has submitted an application to the United States Fish and Wildlife Service ("Service") for an incidental take permit for the northern spotted owl (*Strix occidentalis caurina*). The permit would increase the certainty that the City could proceed with timber harvest activities on City land.

The requested section 10 permit would authorize the incidental take of spotted owls for the proposed permit term of 30 years.

## II. Permit Area

The permit area is a portion of City of The Dalles-owned land in the South Fork Mill Creek Watershed of Wasco County, Oregon, as depicted on the map attached as Appendix A. The ownership is an access-restricted watershed managed for the purposes of water supply and quality. Other activities compatible with those purposes are undertaken by the City. Measures implemented through this HCP, and the associated Incidental Take Permit, will apply only to the approximately 1,432 acres defined in the City's Timber Management Plan (City of the Dalles, 1995) as suitable for potential forest management activity.

The permit area occurs in a narrow, linear distribution along the South Fork Mill Creek, nearly surrounded by adjacent Federal land. The U.S. Forest Service and the City are the dominant landowners in the upper watershed in which the permit area occurs. The productive forest lands include mostly Douglas Fir-White Fir and Ponderosa Pine-White Fir stands. Much of the forested area in the permit area is in young or degraded stand types that are unsuitable for use by spotted owls. Only 849 of the 1,432 forested acres are classified as useable by spotted owls. Nearly 500 of the 849 acres is lower quality habitat that may provide dispersal opportunities but is of limited value for foraging or nesting.

The permit area is nearly surrounded by National Forest lands. The Northwest Forest Plan (USDA 1994) for management of Federal forests was designed to carry the major burden for conservation and recovery of the northern spotted owl. However, nonfederal lands play a critical role in supplementing and supporting the Federal habitat-based conservation strategy. Federal ownership surrounding the area covered by this agreement is designated as 'matrix' land which will provide dispersal and connectivity opportunities for the spotted owl.

## III. Alternatives Considered

### A. No Action

The no action alternative is a continuation of current Practices. The current timber management regime consists of various selective and partial harvest methods. Harvest is largely unprogrammed, occurring when forest and market conditions meet the needs of the City. Current harvest practices are

consistent with City efforts to protect the supply and quality of municipal water resources. Annual protocol survey efforts would continue to be undertaken by the City to determine the presence of owls within the proximity of planned activities. Upon a determination that an area is not occupied by owls, habitat may be harvested. Incidental take of spotted owls determined to be resident on or near the ownership is avoided by not implementing harvest of suitable habitat or related activities within occupied owl home ranges. In the future, harvest levels and methods may increase relative to existing conditions in order to reduce the likelihood that future occupation of owls would limit the City's management flexibility. In this case, harvest of all habitat outside of that currently occupied could occur consistent with state Forest Practice regulations. If currently occupied sites were later determined to be vacated, suitable habitat within the former home ranges could also be subject to harvest. Since selective harvest techniques, rather than clear cutting, are practiced on the ownership, it is likely that individual stands could be managed to such an extent that suitability for owls is precluded without negatively impacting overall water management goals.

#### B. Proposed Action

The proposed action is a set of guidelines applicable to timber harvest activities on City property. These guidelines are designed to provide increased certainty regarding management relative to the spotted owl. Management will be consistent with and supplement the conservation strategies being implemented on adjacent Federal land. Implementation of these measures will ensure that impacts to spotted owls from harvest activities are minimized and mitigated to the maximum extent practicable by coordinating City activities with the Forest Service to manage the land on an ecosystem-wide basis.

The City has entered into a Memorandum of Understanding (MOU) with the Forest Service, Mt. Hood National Forest unit, to provide for coordinated and consistent management across the watershed. Standards and guidelines established for management of federal lands designated as Matrix under the Northwest Forest Plan will be applied to the municipal ownership for a period of twenty years. The MOU is attached as Appendix B.

Phase I of this HCP is a commitment by the City to abide by the terms of the MOU for a period of twenty years. For the purposes of this HCP the terms of the City's obligations are further refined as follows:

- 1) Five year Timber management plans will be provided to the Forest Service and the Fish and Wildlife Service and will be specific enough to allow the Forest Service and Fish and Wildlife Service to assess impacts of City actions.

Information shall be specific enough to allow the Forest Service to include and consider City actions as cumulative effects in Biological Assessments prepared by that agency and submitted to the Service for consultation under section 7 of the ESA.

Applicable Terms and Conditions developed for Forest Service activities by the Fish and Wildlife Service following consultation between those agencies will be applied by the City to its own activities. The City understands that these annual consultations may require mitigation measures more conservative than those proposed in this HCP.

- 2) Revisions to the MOU, as they relate to this HCP, must be approved by the Service.

- 3) Provide the Service with information (beyond that described in B.1 above) necessary to assess the current and future environmental baselines relative to spotted owls and the potential impacts of

planned management activities to the species. This additional information will be required at the end of permit term or upon early termination and shall include:

- a. The results of any survey information for northern spotted owls developed by the City for areas within the permit area,
- b. Habitat conditions for the northern spotted owl on City-owned lands within the permit area and mapped to the best of the City's ability.

4) If the MOU between the Forest Service and the City is terminated prior to twenty years, or other conditions exist which prevent the Service from monitoring harvest activities through section 7 consultations with the Forest Service, the City and the Service will devise an equivalent approval process and appropriate methods of monitoring and reporting.

Phase II of the HCP will last for a period of ten years, during which the City would either continue conditions spelled out in the MOU or ensure that the following conditions are met:

- a. Either 79 acres of nesting, roosting or foraging (NRF) habitat and an additional 730 acres of dispersal or better habitat is maintained on the permit lands or 100 acres of NRF habitat and an additional 590 acres of dispersal or better habitat is maintained on the permit area.

The above habitat requirements must be within the Permit Area, but need not be the same habitat currently existing on the permit area.

- b. Impacts to any known occupied sites on or adjacent to the ownership would be minimized through: deferral of harvest within the 70-acre core area surrounding site centers until the sites have been determined by the Service to be vacant for three years; no harvest activities within 1/4 mile of a known, active nest site between 01 March and 15 August.

Incidental take of the spotted owl during Phase II may occur as authorized by the permit provided the above conditions are met.

Information requirements described in section III.B.3 will be applicable at the end of Phase II or upon termination of the HCP requested by the City prior to the end of phase II.

In addition to the City's obligations, the Service shall:

1. Review issuance of the proposed permit in a biological opinion prepared in accordance with section 7 of the ESA. In order to issue the proposed permit, the Service must find the taking associated with this action is not likely to jeopardize the continued existence of the northern spotted owl.
2. Provide to the City technical assistance as may be necessary to determine the environmental conditions relative to the spotted owl within the watershed.
3. Conduct an annual consultation with the Forest Service that addresses proposed City management activities included in the consultation package submitted by the Forest Service.

The Service shall identify the specific Terms and Conditions, if any, which result from its

consultation with the Forest Service, that are applicable to activities undertaken by the City on its ownership and for which the City is responsible for implementing.

The Service shall directly notify the City of these Term and Conditions concurrent with any notifications or documents provided to the Forest Service.

If the MOU between the Forest Service and the City is terminated prior to twenty years, or other conditions exist which prevent the Service from monitoring harvest activities through section 7 consultations with the Forest Service, the City and the Service will devise an equivalent process and appropriate methods of monitoring and reporting.

4. Within 60 days of written notice by the City of its desire to terminate or extend the term of the permit and this HCP, provide written notice of the information the City must provide for the Service to determine the impacts of such extension or termination.

## V. Impacts to Listed Species

### Northern Spotted Owl

#### A. No Action Alternative

Surveys have indicated that City-owned habitat occurs within the likely home ranges around two owl activity centers: one, occupied by a pair of owls, the other occupied by a territorial single owl. Neither of these likely home ranges contain habitat quantities sufficient to support the long-term viability and occupancy of the resident owls. Currently, approximately 79 acres of City forest land within these likely home ranges function as suitable NRF habitat for owls. The remaining 230 acres of suitable NRF habitat is considered unoccupied by owls and subject to lawful harvest (pursuant to other applicable regulations.)

Several factors affect the ability of remaining potential habitat to support long-term occupation in the future:

- The watershed is located on the extreme edge of the species range.
- The habitat in this portion of the East Cascades province is of marginal quality.
- City-owned habitat occurs in a narrow, linear distribution which limits its functional value and is of insufficient quantity to support occupation without supplementation from habitat on adjacent Federal land.

Due to these factors, the No Action alternative, even absent harvest of the remaining habitat, is not likely to result in increased occupation of the permit area. Maintenance of the current level of occupancy may also be precluded over the long-term. Adjacent federal lands are managed according to Matrix standards and guidelines established through the Northwest Forest Plan. While Matrix standards provide for landscape conditions conducive to dispersal and connectivity for spotted owls, harvest of suitable habitat can occur to such an extent that long-term occupation by owls may be precluded. Since habitat availability on City-owned lands is in itself not capable of supporting owls, it is likely that future Federal management will limit the potential for long-term occupation of city-owned habitat regardless of actions undertaken by the City. Reduced or inconsistent occupancy is expected to result from current conditions and long-term cumulative City and Federal management.

The exact amount of habitat likely to be harvested under the No-action is unknown. However, since most of the habitat is not occupied (and not likely to become occupied) and therefore, available for harvest, long-term reductions in the overall amount of suitable NRF habitat are expected. Connectivity across the ownership would be reduced by such habitat reductions.

Additional factors may increase the likelihood and intensity of reduced connectivity under the No-Action alternative or increase the significance of these reductions. If owls continue to occupy the ownership to a greater extent than anticipated, the City may feel the need to utilize more intensive harvest techniques or increase the harvest of unoccupied habitat in order to preclude future occupancy and minimize the limitations on management flexibility represented by continuing prohibitions against unauthorized take of owls. An uncoordinated, piecemeal approach to management between the City and the Forest Service, rather than the unified approach represented by the HCP, would limit the potential to maintain or enhance connectivity across the watershed as a whole.

#### B. The Proposed Alternative

Direct and indirect effects of the proposed action are described below.

Application of Matrix standards to City lands for twenty years, subsequent phase II habitat conditions and other aspects of this HCP will minimize the likely negative effects described for the No-Action alternative and provide additional benefits relative to that alternative in the following ways:

1. Since municipal lands in this area exist as an inholding within the larger Federal ownership, the consistent and coordinated management approach facilitated through this HCP will supplement the Federal management strategy in place for the owl and maintain connectivity for owls across the watershed as a whole. This approach represents a move towards ecosystem management which will, in the long-term, benefit the spotted owl and other species and resources associated with the watershed, and;
2. Inclusion of City-owned land in maintenance of the 100-"best acres" core areas surrounding owl nest sites will minimize the immediate impact to currently occupied owl sites. Under the current regulatory regime, City land would need to be included only within the 70-"best acres" core area. Since the Forest Service remains obligated, under the Northwest Forest Plan to maintain a total of 100 acres of its ownership around each owl site, should City land occur with the best 100 acres, the size of the actual core area maintained by both parties would exceed 100 acres, and;
3. The combination of habitats managed to Matrix standards on both Federal and municipal land during Phase I will be conducive to the through-movement or shorter-term support of owls. While Matrix standards may not necessarily apply during Phase II, the alternative conditions maintained during that time shall provide the same functional benefits to the spotted owl in terms of providing for effective connectivity. Therefore, through the course of the permit term, habitat conditions will be roughly equivalent to those currently on the ownership in terms of amounts of dispersal habitats and suitable habitat known to be presently occupied. These conditions may also be superior to some that can potentially exist within 30 years under the No-Action alternative, and;
4. Removal of the potential limitations on management flexibility represented by continuing prohibitions against incidental take of owls will increase the likelihood that sound management practices relative to owls, water quality and other resources will be continued and that these practices will be complementary to NW Forest Plan implementation on adjacent Federal

ownership. For instance, the selective harvest methods preferred by the City may not eliminate the ability of some forest stands to function as habitat. First and second selective entries are relatively benign in terms of degradation to the stand. Thus, the actual amount of habitat occurring in the future may be greater than estimated, resulting in somewhat greater potential for short-term occupation than described above.

Any occupation that does occur in the future is likely to be inconsistent and have low reproductive potential; the amounts and quality of habitat that will be available are not considered sufficient to support long-term viability of sites.

Due to the low quality of this area for habitat suitability and occupation by owls and the minimization measures contained in the HCP, the amount of take likely to occur is low; loss of owls associated with less than one occupied site per decade. This would result in take of approximately two owl sites over the thirty year permit duration. This level of loss would likely have occurred absent this proposed action due to management actions undertaken on adjacent Federal land.

Critical habitat for the northern spotted owl has not been designated within the permit area (USDI, 1992).

### **Other Species**

In its lower two miles, South Fork Mill Creek supports anadromous steelhead that are part of the middle Columbia River basin population listed as threatened under the ESA. However, since a 90-foot high waterfall exists as a natural barrier to anadromous fish use one mile below the Permit Area, the species does not occur on City-owned lands. The Proposed alternative is not anticipated to result in any impacts to downstream anadromous fish due to the maintenance of FEMAT riparian buffers and the City's primary management objective of protecting water resources. No other species of wildlife listed as threatened or endangered are known to occur on the permit lands.

No Threatened or Endangered plants are known to exist in the permit area. Three sensitive plants, *Ranunculus reconditus*, *Arabis sparsiflora v. atrorubens*, and *Lomatium watsonii*, exist on Forest Service property, within the Mill Creek Research Natural Area, and adjacent to the permit area; no adverse impacts to these plants are anticipated through City activities under the Proposed alternative.

### **VI. Monitoring and Reporting**

Long-term monitoring and reporting will occur through inclusion of City management activities in Forest Service consultation packages as provided for in the MOU. The Service and its authorized representatives will be given access to City property for purposes related to this HCP and to conduct studies of the northern spotted owl.

### **VII. Unforeseen Circumstances**

Section 10 regulations [50 CFR 17.32] require that an HCP specify the procedures to be used for dealing with unforeseen circumstances that may arise during the implementation of the HCP. In addition, the Assurances ("No Surprises") Rule [50 CFR 17.3, 17.32 (b)(5) and (6); 63 FR 8859] defines unforeseen circumstances and describes the obligations of the permittee and the Service.

Unforeseen circumstances means changes in circumstances affecting a species or geographic area covered by a conservation plan that could not reasonably have been anticipated by plan developers and the Service at the time of the conservation plan's negotiation and development, and that result in a substantial and adverse change in the status of the spotted owl.

The Service agrees to not seek mitigation from the City of The Dalles related to the spotted owl except as described in the terms and conditions of the HCP and in Reasonable and Prudent Measures and Terms and Conditions which may accompany section 7 consultations between the Forest Service and the Service addressing Forest Service and City management activities. This agreement to not seek additional mitigation does not apply in the event of unforeseen circumstances or if the City proceeds with early termination of the HCP. In the event of a reasonably foreseeable changed circumstance such as fire, windstorm, flood, or earthquake, the Service will develop the appropriate response through the annual consultations with the Forest Service.

#### **VIII. Funding**

Since the HCP is largely based upon the City forgoing or limiting certain otherwise permissible activities rather than implementing additional activities, it is not dependent upon the provision of additional funding beyond that necessary for the City to engage in its overall forest management.

#### **IX. Term of the HCP**

The full term of this HCP is thirty years with extensions possible upon mutual agreement of the City and the Service.

One year prior to the termination of phase I of the HCP: the Service shall provide a written request to the City regarding the City's desire to either proceed with termination or allow completion of the full term of the HCP, and; the City shall provide written notice to the Service of its intention regarding this issue.

If the HCP is terminated in less than 30 years, the City shall work with the Service to assess the level of take that has occurred up to that point and if necessary, develop measures to compensate for impacts associated with that take. Mitigation measures required as a result of early termination shall be commensurate with the level of impacts that have occurred up to the time of termination.

#### **X. Amendments**

Amendments to the HCP may be made with the mutual agreement of the City and the Service. Amendments to the requested permit may be made in accordance with 50 CFR 13-23 and other applicable requirements.

#### **XI. Adaptive Management**

The only adaptive management provision of this HCP is related to watershed analysis. Following completion of Watershed Analysis by the Forest Service, any revisions to the interim matrix standards will be reviewed and considered for adoption by the City and the Service. Revisions resulting from watershed analysis that do not decrease the minimum levels of mitigation provided for in this draft, and do not increase the level of take of spotted owls, may be incorporated into the HCP without requiring amendment

of the permit or the HCP.

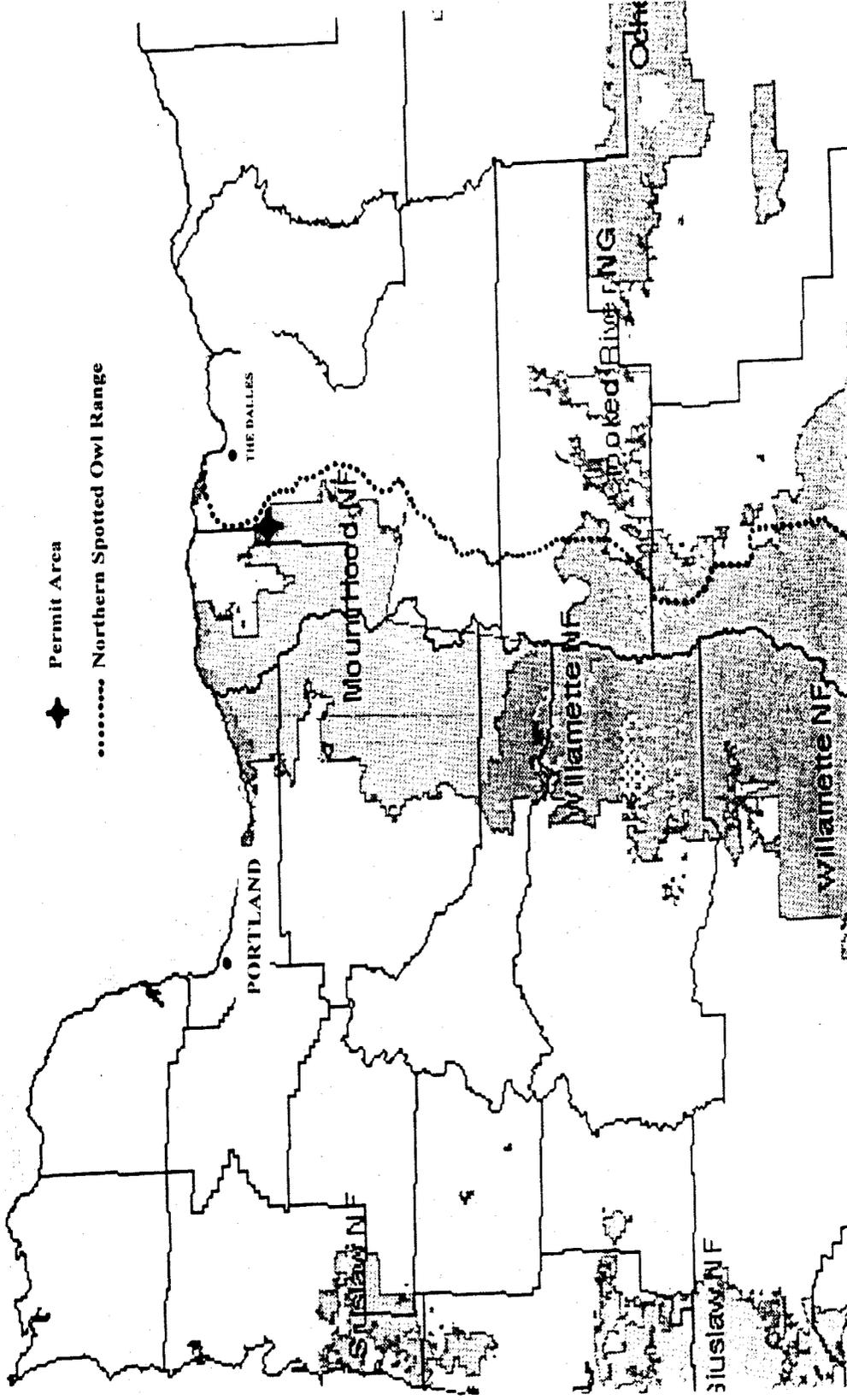
## **XII. Legal Descriptions of HCP Permit Area**

As described in Appendix D.

## **XIII. Appendices**

- A. Maps of HCP Area
- B. City and Forest Service MOU
- C. References
- D. Legal Descriptions of HCP Permit Area

HCP APPENDIX A: MAPS





**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE FOREST SUPERVISOR, MT. HOOD NATIONAL FOREST AND  
CITY OF THE DALLES, OREGON**

This Memorandum of Understanding (MOU) is entered into by and between the City of The Dalles, Oregon, acting by and through its Mayor, hereinafter called "City" and the United States Forest Service, acting by and through the Forest Supervisor, Mt. Hood National Forest, hereinafter called "Forest Service" for the purpose of facilitating and enhancing management and utilization of forest resources within The Dalles Municipal Watershed.

Specifically, this MOU is intended to strengthen efforts by the Forest Service and the City, the majority landowners within The Dalles Municipal Watershed, to manage watershed resources in a more consistent and coordinated fashion while protecting listed species and remaining in compliance with the federal Endangered Species Act (ESA). Information relative to planned activities on the respective ownerships shall be shared and coordinated by each party and included in the consultation process with US Fish and Wildlife on issues related to endangered species for timber management activities. Appendix A of this MOU identifies the endangered species covered by this agreement and defines the responsibilities of each party.

This MOU shall be implemented consistent with the intent of the 1912 Cooperative Agreement Between the City of The Dalles and the US Department of Agriculture and the 1972 Memorandum of Understanding Between the Forest Supervisor, Mt. Hood National Forest and the City of The Dalles, Oregon.

This agreement shall remain in effect until terminated by either party through written notice to the other received not less than ninety (90) days prior to the date of cancellation and in accordance with any termination provisions contained in the MOU. The MOU may be revised by amendment through written agreement by both parties.

Nothing in this agreement shall be construed as obligating the Forest Service or the City to expend funds, or as involving the United States or the City in any contract or other obligation for the futurrropriations authorized by law.

IN WITNESS WHEREFOR, the parties hereto have executed this Memorandum of Understanding as of this 9th day of February, 1998.

**CITY OF THE DALLES**

**US FOREST SERVICE**

\_\_\_\_\_/s/  
David R. Beckley, Mayor  
City of The Dalles, Oregon

\_\_\_\_\_/s/  
Roberta A. Moltzen, Supervisor  
Mt. Hood National Forest

## **APPENDIX A (of MOU)**

This appendix identifies the threatened and endangered species covered by the MOU of which it is a part. Additionally, it defines the responsibilities of the City and the Forest Service under this agreement. It is the intent of this agreement that species may be added to or deleted from this appendix to accommodate future listings under the ESA or revisions of either the ESA or conservation strategies which may be implemented for listed species. Defined duties or responsibilities of the City and/or the Forest Service may also be jointly amended under this agreement for the same reason. Any revisions of this appendix must be agreed to by both parties prior to implementation and be in accordance with all applicable regulations.

### **Northern Spotted Owl**

#### **City's Responsibilities**

The City shall:

1. Provide the Forest Service with information necessary to assess the current and future environmental baseline relative to spotted owls and the potential impacts of planned management activities to the species. This information should include:
  - a. the results of any survey information for northern spotted owls developed by the City for areas within The Dalles Municipal Watershed; and,
  - b. habitat conditions for the northern spotted owl on City-owned lands within the Dalles Municipal Watershed inventoried and mapped to the best of the City's ability.
2. Develop and share with the Forest Service, 5-year Timber Management Plans for lands owned by the City and which are located within The Dalles Municipal Watershed. While subject to revision, these plans will be a good-faith effort by the City to provide the Forest Service with information about scheduled activities on City-owned lands in proximity to Forest Service lands and resource sites.
3. The City shall apply the "interim" standards of the Northwest Forest Plan for matrix lands to timber and wood product harvest activities on City-owned lands. These shall include:
  - a. maintenance of riparian buffers along South Fork Mill Creek and Crow Creek for a slope distance equal to or greater than the height of two site-potential trees from the edge of the stream channel in which 60 - 80% conifer canopy closure will be maintained if present and practicable;
  - b. cooperatively maintain with the Forest Service 100 acres of the best

northern spotted owl habitat as close as possible to identified activity centers for all known northern spotted owl activity centers located on City-owned or Forest Service lands;

c. maintain activity centers on City-owned lands until its determined through protocol survey effort accepted by the US Fish and Wildlife Service that the sites have been vacated by spotted owls for a period of three years;

d. timber management within retained 100-acre areas consistent with the guidelines for Late-Successional Reserves as defined in the Northwest Forest Plan;

e. providing for maintenance of adequate levels of coarse woody debris during timber harvest activities on City-owned lands based upon a target (where present) of 120 linear feet of logs per acre, 16 inches in diameter or greater and 16 feet long, for regeneration harvests, and appropriately modified for partial-cut harvests. Modified targets to be developed jointly with Forest Service and approved by the US Fish and Wildlife Service.

4. Following completion of the Watershed Analysis by the Forest Service, any revisions to the above standards will be reviewed and considered for adoption by the City. Adoption of revised standards will occur through an amendment to this MOU if agreed to by both parties.

### **Forest Service's Responsibilities**

The Forest Service shall:

1. Incorporate planned activities by the City on City-owned lands in the Forest Service's annual consultation on forest activity plans with US Fish and Wildlife.
2. Make available to the City information resulting from the completed Watershed Analysis and any proposed revisions to operational guidelines which result from it.
3. Make available to the City the results of any survey or habitat information for northern spotted owls developed by the Forest Service for areas within The Dalles Municipal Watershed or in proximity to affect management of City-owned lands under the ESA.
4. Assist the City in developing coarse woody debris targets for partial-cut harvests on City-owned lands as they are planned to occur to meet the standards of the Northwest Forest Plan or subsequent plans.

### HCP Appendix C: References

U.S. Department of Agriculture. 1994. Record of Decision for amendments to Forest Service and Bureau of Land Management planning documents within the range of the northern spotted owl. Interagency SEIS Team. Portland, OR.

City of The Dalles. 1995. Forest Management Plan. Prepared by Pacific Forest Consultants, Inc.

HCP Appendix D: Legal Description of Covered Lands

Township 1 South, Range 11 East, W.M.

Section 8 SE 1/4 SE 1/4, Section 9 S 1/2 SW 1/4, Section 10 S 1/2 SE 1/4, Section 11 S 1/2 SW 1/4, Section 11 SW 1/4 SE 1/4, Section 11 N 1/2 S 1/2, Section 12 south of South Fork Road, Section 13 NE 1/4 NW 1/4, Section 13 NW 1/4 NE 1/4, Section 13 S 1/2 NW 1/4, Section 14 NE 1/4 NW 1/4, Section 14 NW 1/4 NE 1/4, Section 15 NW 1/4 NE 1/4 and SW 1/4 NW 1/4, Section 15 NW 1/4 NW 1/4, Section 16 NE 1/4 NW 1/4 and SW 1/4 NE 1/4 and W 1/2 SW 1/4 and NE 1/4 SW 1/4 and N 1/2 SE 1/4 and SE 1/4 NE 1/4, Section 17 NE 1/4 NE 1/4 and SE 1/4, Section 18 SE 1/4, Section 20 E 1/2 NW 1/4.

Township 1 South, Range 12 East, W.M.

Section 7 between Skyline road and South Fork Road.