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May 8, 2024

Via Email Only

Washington Department of Natural Resources
Board of Natural Resources
bnr@dnr.wa.gov

RE: State Trust Lands Habitat Conservation Plan and the Olympic Experimental State Forest

Dear Members of the Board of Natural Resources,

I submit this letter and attachments on behalf of the Olympic Forest Coalition (OFCO) regarding the State Trust Lands Habitat Conservation Plan (HCP) and the Olympic Experimental State Forest (OESF). In these materials, OFCO identifies recent Department commitments to develop a series of plans and programs and submit them to the United States Fish and Wildlife Service (USFWS); requests that the Board direct Department staff to provide regular, public updates regarding progress on these deliverables; and requests that the Department provide opportunity for public comment on the draft documents before submission to USFWS.

Background

OFCO has long expressed concerns to the Board and the Department regarding implementation of the HCP in the OESF, and the lack of consistency between the OESF Land Plan and the HCP. These concerns were generally not addressed.

On January 5, 2018, OFCO sent USFWS a notice of intent to sue under the Endangered Species Act, 16 U.S.C. § 1531 *et. seq.*, seeking reinitiation of consultation under Section 7 of that Act. The bases for asserted claims were in part DNR's implementation of timber sales in the OESF inconsistent with the HCP and accompanying biological opinion, DNR's failure to

provide protections or plans required by the HCP, and new information regarding climate change and barred owls.

OFCO engaged in good faith negotiations with USFWS and DNR staff for approximately two years, and shared an extensive database which demonstrated that riparian buffer widths in the OESF often did not meet the expectations of the HCP or biological opinion. After those negotiations stalled, OFCO filed a lawsuit against USFWS in federal district court on July 29, 2022. OFCO and USFWS were able to stay and ultimately settle the lawsuit based on USFWS' agreement to reinitiate consultation and prepare a new biological opinion.

The New Biological Opinion for the State Trust Lands HCP

USFWS completed reinitiation of consultation and signed a new biological opinion on March 21, 2024. The biological opinion reviews the entire Trust Lands HCP, with a focus on bull trout and northern spotted owls. It contains correspondence between USFWS and DNR regarding HCP compliance and consistency, attached hereto as Exhibit 1, and "Conservation Recommendations," attached hereto as Exhibit 2. In many ways, the correspondence and recommendations substantiate concerns raised by OFCO.

In a letter dated January 11, 2024, USFWS provided "clarifications," including but not limited to the following:

- Notwithstanding any statements or omissions in the OESF Land Plan, the HCP requirements for Type 5 stream channel evaluation and protections continue to apply.
- The HCP requires DNR to both maintain and aid restoration of riparian functions, and those functions include riparian functions associated with wood, shade, peak flows, and windthrow, as well as channel and floodplain integrity, sediment regimes, and water quality and quantity.
- The OESF Land Plan (pp. 3-32 - 3-33) lists management activities within interior-core buffers, which appear to be inconsistent with the HCP. The HCP always governs and the OESF Land Plan cannot reduce its protections.
- Similarly, the OESF Land Plan's "allotted acres" plan cannot reduce HCP protections. The HCP indicates that timber harvest within the original function-based interior-core buffers would generally be limited to restoration, thinning, and research.
- The HCP allows for flexibility for exterior buffers in the OESF, but also requires monitoring and adaptive management.

In a separate letter dated January 11, 2024, USFWS set forth deadlines for DNR to complete planning required by the HCP.

In a letter dated March 1, 2024, DNR committed to the following tasks, with our explanation added:

- Finalize a Headwaters Conservation Strategy within two years (March 1, 2026). Protection of headwater streams is critical to protection of water quality and fisheries. The HCP requires DNR to develop the Headwaters Conservation Strategy (HCS) by 2007.
- Complete a comprehensive landscape-based road network management process called the Comprehensive Road Network Management Plan within two years (March 1, 2026). This plan is important to address, among other issues, high road densities in the OESF, which cause adverse impacts to water quality and fish. USFWS anticipates that the Plan would include “likely include, without limitation, construction standards, ensuring new roads are only constructed when necessary, seasonal closures, and road densities.” The HCP requires DNR to develop and submit the Plan by 2007.
- Address salvage harvest procedures with USFWS.
- Develop and submit a formal wind risk model monitoring and adaptive management program, to the USFWS, within one year (March 1, 2025). This is an important aspect of determining exterior riparian buffer widths and ensuring that the overall riparian buffer meets the expected functions. USFWS anticipates that the program will evaluate the effectiveness of current procedures to maintain functional riparian buffers.

In the “Conservation Recommendations” portion of the new biological opinion, USFWS reflects many of the clarifications and commitments set forth above. USFWS also acknowledges the impacts of barred owls on northern spotted owls and provides that “[i]n the event that the USFWS decides to implement a barred owl management strategy in Washington, the USFWS should work with WDNR to facilitate barred owl management on or adjacent to WDNR HCP lands.”

Next Steps

OFCO requests that the Board direct Department staff to provide public, regular reports to the Board regarding DNR’s progress on the commitments set forth above. OFCO also requests that the draft plans be timely provided to the public for comment prior to submission to USFWS. Finally, OFCO supports DNR working with USFWS to study and integrate barred owl control to allow for recovery of northern spotted owls.

Board of Natural Resources

May 8, 2024

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Sincerely,

ZIONTZ CHESTNUT

A handwritten signature in blue ink, appearing to read "Wyatt Golding", enclosed in a thin black rectangular border.

Wyatt Golding

Encl.

cc. Phil Ferester, Senior Assistant Attorney General, phil.ferester@atg.wa.gov
Jeffrey Bernstein, Solicitor, Department of the Interior, Jeff.Bernstein@sol.doi.gov

EXHIBIT 1

APPENDIX A

USFWS Correspondence with the Washington Department of Natural Resources regarding the 1997 State Trust Lands Habitat Conservation Plan

- A. USFWS Correspondence to WDNR (dated 01/11/2024) regarding clarifications for implementation for the OESF Forest Land Plan
- B. USFWS Correspondence to WDNR (dated 01/11/2024) regarding timeline extensions for HCP strategy and plan development.
- C. WDNR Correspondence to USFWS (dated 03/01/2024) regarding timeline extensions for HCP strategy and plan development.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington Fish and Wildlife Office
500 Desmond Dr. S.E., Suite 102
Lacey, Washington 98503



Cameron Crump, Forest Resources Division Manager
Washington State Department of Natural Resources
1111 Washington Street SE
MS 47014
Olympia, Washington 98504-7014

Ms. Crump:

Subject: Clarifications for Implementation of the OESF Forest Land Plan

This purpose of this letter is to provide clarification for certain elements of the Riparian Conservation Strategy included in the 2016 Olympic Experimental State Forest Land Plan.

In 1997, both the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) (together, “the Services”) approved the Habitat Conservation Plan (HCP) for Washington State Department of Natural Resources (WDNR) State Trust Lands (WDNR 1997). In August 2016, WDNR completed the *Final Environmental Impact Statement for the Olympic Experimental State Forest HCP Planning Unit Forest Land Plan* (FEIS) (WDNR 2016a). Following this, in September 2016, the WDNR completed the *Olympic Experimental State Forest Habitat Conservation Plan Planning Unit Forest Land Plan* (OESF Plan) (WDNR 2016b). The Services did not submit formal written comments on the 2016 FEIS. The Services did provide a short letter in 2016 stating the OESF Plan is consistent with the HCP. However, after further review of the OESF documents (WDNR 2016a and 2016b), we note several OESF Plan elements that appear to be inconsistent with the HCP. Therefore, we request clarification of how WDNR is implementing the OESF Plan regarding the elements identified below.

Clarifications for OESF Headwater Stream Protections

The HCP continues to govern the treatment of headwater streams on the OESF. On page 3-27, the OESF Plan states that: “DNR does not apply an interior-core buffer to Type 5 streams on stable ground.” This statement is inconsistent with the HCP. The HCP specifies that “A separate protocol is warranted for Type 5 channels because of the abundance and variety of intermittent streams found on the western Olympic Peninsula. Management objectives in the Experimental Forest are to protect all Type 5 streams that cross unstable ground and occupy stable ground but have identifiable channels with evidence of water discharge or material

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transport” (HCP, pp. IV.111-112). The HCP directs WDNR to evaluate Type 5, 9, and unknown streams for bed and bank formation as well as slope stability. Because the OESF Plan omits explicit acknowledgment of this process, the protections applied to Type 5 streams on stable ground are not specified. We acknowledge that the OESF Plan requires a 30-foot Equipment Limitation Zone on all Type 5 streams (WDNR 2016b, p. 3-29). We request clarification that the HCP requirements for Type 5 stream channel evaluation and protections continue to apply.

Clarifications for Riparian Conservation Strategy Objectives

The HCP objectives for the OESF Plan riparian strategy require the WDNR to both “to maintain and aid restoration” of riparian functions. In contrast, the OESF Plan and associated FEIS repeatedly use the phrase “to maintain or aid restoration” (emphasis added) regarding objectives for the OESF Plan riparian strategy, thereby implying that the goal is to maintain or aid in restoration but not both.

In addition to the above, the objectives stated in the HCP are broader than the objectives stated in the OESF Plan. The objectives of the OESF Plan (pp. 3-22 - 3-23) focus on riparian functions associated with wood, shade, peak flows, and windthrow. The objectives in the HCP (IV.107) include these elements as well as channel and floodplain integrity, sediment regimes, and water quality and quantity.

We request clarification that the riparian conservation goals and objectives stated in the HCP for the OESF Plan remain unchanged, and the use of the term “to maintain or aid restoration” is merely a semantic issue rather than a proposed change in HCP objectives for the riparian strategy.

Clarifications Regarding Other Activities within Interior-Core Buffers

The OESF Plan (pp. 3-32 - 3-33) lists other management activities within interior-core buffers, which appear to be inconsistent with the HCP. Examples include the following:

- *Pre-commercial and commercial thinning.* The OESF Plan (p. 3-32) states that “Thinning may occur up to the last row of trees adjacent to typed waters...” However, for timber harvest, the HCP (IV.59) directs that no timber harvest will occur within the first 25 feet from the outer margin of the 100-year floodplain.
- *Application of herbicides.* The OESF Plan (p. 3-33) lists application of herbicides in interior-core buffers “in accordance with WAC 222-38-020 *Handling, Storage, and Application of Pesticides...*” However, the HCP (IV.132) directs that herbicide release is excluded from interior-core buffers.
- *Applying Interior-core Buffers to Type 5 Streams.* The OESF Plan (p. 3-35) states that “Thinning and regeneration harvest is allowed in the interior-core buffer of Type 5 streams.” While the HCP does not specify a width for interior-core buffers for Type 5 streams, the HCP indicates that timber harvest within interior-core buffers would generally be limited to restoration, thinning, and research (HCP, pp. IV.131 – IV. 132).

We request confirmation that, notwithstanding the text of the OESF Plan above, the direction provided in the HCP regarding these activities governs.

Application of Allotted Acres

The OESF Plan (pp. 3-29 – 3-32) includes a general description for placement of regeneration harvest within interior-core buffers [“default width buffers”] and refers to these potential areas as “allotted acres.” The HCP indicates that timber harvest within the original function-based interior-core buffers would generally be limited to restoration, thinning, and research (HCP, pp. IV.131 – IV. 132). The OESF Plan addressed an implementation issue by converting the “anticipated average buffer widths” in the HCP (p. IV. 123) to a default buffer width (OESF Plan, p. 3-27). Regeneration harvest of allotted acres is limited, and “must be placed at least 25 feet from the outer edge of 100-year floodplain” (OESF Plan p. 3-31). The allotted acres that may be utilized as described in the OESF Plan would be located within the default buffer width but would be located outside the original function-based interior-core buffers as described in the HCP (pp. IV. 109 - IV.12). We request your confirmation that the limitations for regeneration harvest anticipated in the HCP regarding function-based interior-core buffers continue to apply.

Widths of Exterior Wind Buffers

The HCP (p. IV.123) specifies that Type 1 through Type 3 streams would receive 150-foot exterior wind buffers and Type 4 streams would receive 50-foot exterior buffers as a starting hypothesis. The HCP also specifies that Type 5 streams (when receiving an interior buffer) would receive 50-foot exterior buffers. The HCP anticipates potential adjustments to exterior wind buffer widths (p. IV.73): “The wind buffer specifications of this HCP should be considered interim. The width of the wind buffer may change as research concerning windthrow in managed forests, especially that conducted in the Olympic Experimental Forest State, finds means of minimizing windthrow.”

Adjustments to exterior buffer widths are included in the OESF Plan (p. 3-35). The OESF Plan applies an 80-foot exterior wind buffer for all stream types where indicated through windthrow risk modelling and field assessment. With this letter the Service acknowledges that adjustments in exterior wind buffer widths and application were anticipated in the HCP.

Summary

With this letter, we request clarification and confirmation that the HCP strategies for OESF Headwater Streams, OESF Plan Riparian Goals and Objectives, and Other Activities continue to apply. We appreciate your assistance in understanding and resolving any related issues. If you have any questions about this letter or our shared responsibilities under the HCP, please contact Bill Vogel (bill_vogel@fws.gov) or Vince Harke (vince_harke@fws.gov).

Sincerely,

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KOKOS

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KOKOS
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for Brad Thompson, State Supervisor
Washington Fish and Wildlife Office

cc:

WDNR, Olympia, WA, (A. Estep,
WAGO, Olympia, WA, (P. Ferester)
USFWS/RO, Portland, OR (K. Freund, C. Simes)
NMFS, Portland, OR (K. Kratz)
DOI/SOL, Portland, OR (J. Bernstein)
DOJ, Washington, DC (T. Mayhall)
DOJ, Portland, OR (C. Howell)

Literature Cited

- WDNR (Washington State Department of Natural Resources). 1997. Final habitat conservation plan. Washington State Department of Natural Resources. September 1997. Olympia, WA. 209 pp. + appendices.
- WDNR. 2016a. Final Environmental Impact Statement for the Olympic Experimental State Forest HCP Planning Unit Forest Land Plan. Washington State Department of Natural Resources. Olympia, WA. August 2016. 381 pp.
- WDNR. 2016b. Olympic Experimental State Forest Habitat Conservation Plan (HCP) Planning Unit Forest Land Plan. Washington State Department of Natural Resources. Olympia, WA. September 2016. 171 pp.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington Fish and Wildlife Office
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Cameron Crump, Forest Resources Division Manager
Washington State Department of Natural Resources
1111 Washington Street SE
MS 47014
Olympia, Washington 98504-7014

Ms. Crump:

Subject: Timeline Extensions for HCP Strategy and Plan Development

The U.S. Fish and Wildlife Service (USFWS) is reviewing the status of the Washington State Department of Natural Resources (WDNR) implementation of the 1997 State Lands Habitat Conservation Plan (HCP) (WDNR 1997). We have detected several processes and documents that remain incomplete. We seek WDNR's written commitment to complete these HCP requirements within the reasonable time frames setout below.

Headwaters Conservation Strategy

The HCP required development of a Headwaters Conservation Strategy (HCS) for westside areas outside the Olympic Experimental State Forest (OESF) by 2007. The USFWS is aware of the 2008 draft HCS; however, the HCS development has stalled. We request WDNR's commitment to update the draft 2008 HCS with currently available information, and to finalize the HCS within 2-years.

Comprehensive Road Network Management Plan

The HCP (p. IV.62) requires completion of a comprehensive landscaped-based road network management process commonly called the Comprehensive Road Network Management Plan (CRNMP), which is both a component of the Riparian Strategy as well as a component of strategies for unlisted species. In the 1998 Final (Merged) EIS (Volume 2, Page 3-201) the WDNR and the Services stated that "The lack of current information regarding roads has led the Services and WDNR to an agreement whereby a road-management plan would be developed in the first decade of the HCP which will address road location, construction, and maintenance

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standards, as well as landscape-level road issues such as density of open and closed roads.” It is likely that many aspects of an acceptable CRNMP are already contained in and are currently being implemented through WDNR’s Road Management and Abandonment Plans, the Forest Practices Rules, and other WDNR plans and policies. A potentially acceptable CRNMP could summarize and incorporate those documents. Those aspects of an acceptable CRNMP not addressed in existing road-management documents would need to be developed. These likely include, without limitation, construction standards, ensuring new roads are only constructed when necessary, seasonal closures, and road densities. We request WDNR’s commitment to complete the CRNMP within 2 years.

Procedures for Salvage Harvest

The OESF Plan (WDNR 2016; p. 2-20) anticipates the development of salvage harvest tasks and procedures. The HCP requires discussion with the USFWS’ of such tasks and procedures to ensure consistency with the HCP (pp. IV 10 and IV 22). The USFWS understands that the tasks and procedures are complete and are being implemented. The USFWS requests the WDNR’s commitment to submit the tasks and procedures to USFWS for review and concurrence by March 1, 2024.

Windthrow Monitoring and Adaptive Management Plan

The HCP (p. IV.73) anticipated that the width of exterior wind buffers may change and noted that monitoring the success of wind buffers in maintaining the ecological integrity of the riparian buffers will be an important element of the HCP. As described in the 2016 OESF Plan, WDNR has developed a windthrow risk model for use in the OESF (p.3-34). The windthrow risk model is designed to both predict where buffers are needed and to plan harvest units (size, location, shape) that reduce or eliminate the need for wind buffers.

The HCP and the Implementation Agreement anticipate development of a monitoring and adaptive management program to assess the effectiveness of exterior wind buffers and to make adjustments based on that monitoring, where appropriate (HCP, p. IV.73; Implementing Agreement at §24.5(h)). A formal monitoring and adaptive management program for windthrow has yet to be developed and implemented. Components of a wind risk model monitoring and adaptive management program could include, but are not limited to, the following:

- Prioritization of sites with situations where windthrow is most likely.
- Consideration of some retrospective analysis.
- Identification of windthrow levels that represent acceptable components of natural processes as opposed to unacceptable infringement of riparian and aquatic functions.
- Differentiation of chronic and episodic windthrow.
- Identification of additional factors beyond the model that contribute to prediction of windthrow.
- Acknowledgement of continued use of adaptive management into the future.

The USFWS is prepared to provide technical assistance to the WDNR on these and related matters. We request confirmation that WDNR will develop a wind risk model monitoring and adaptive management program within 1 year.

Closing

We appreciate your assistance in completing these outstanding tasks. To this end, we recommend establishing regularly scheduled meetings between our agencies to help ensure that outstanding work meets HCP requirements.

If you have any questions about this letter or our shared responsibilities under the HCP, please contact Bill Vogel (bill_vogel@fws.gov) or Vince Harke (vince_harke@fws.gov). We would appreciate your written concurrence with this letter.

Sincerely,

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KOKOS

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KOKOS
Date: 2024.01.11
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for Brad Thompson, State Supervisor
Washington Fish and Wildlife Office

cc:

WDNR, Olympia, WA, (A. Estep,)
WAGO, Olympia, WA (P. Ferester)
NMFS, Portland, OR (K. Kratz)
USFWS/RO, Portland, OR (K. Freund, C. Simes)
DOI/SOL, Portland, OR (J. Bernstein)
DOJ, Washington, DC (T. Mayhall)
DOJ, Portland, OR (C. Howell)

Literature Cited

WDNR. 1998. Final (Merged) Environmental Impact Statement for the Washington State Department of Natural Resources Habitat Conservation Plan: 2 Volumes. October 1998. Olympia, WA. 1340 pp

WDNR. 1997. Final Habitat Conservation Plan. Washington State Department of Natural Resources. September 1997. Olympia, WA. 209 pp. + appendices.

WDNR. 2016. Olympic Experimental State Forest Habitat Conservation Plan (HCP) Planning Unit Forest Land Plan. Washington State Department of Natural Resources. September 2016. Olympia, WA. 171 pp.



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Brad Thompson
State Supervisor
Washington Fish and Wildlife Office
500 Desmond Dr. S.E., Suite 102
Lacey, Washington 98503

March 01, 2024

Subject: Timeline Extensions for HCP Strategy and Plan Development

Mr. Thompson,
Thank you for your letter signed January 11, 2024, regarding timeline extensions for the Washington Department of Natural Resources (WDNR) Trust Lands Habitat Conservation Plan (HCP) strategy and plan development. WDNR is committed to completing these efforts as specified below.

Headwaters Conservation Strategy

WDNR shared a draft Headwaters Conservation Strategy (HCS) with the U.S. Fish and Wildlife Service (USFWS) in 2008 which was subsequently delayed. WDNR will update the draft 2008 HCS with currently available information and strive to finalize the HCS with USFWS within two years. WDNR will keep USFWS apprised of our progress and any delays.

Comprehensive Road Network Management Plan

The HCP requires completing a comprehensive landscape-based road network management process called the Comprehensive Road Network Management Plan (CRNMP). WDNR will complete the CRNMP and submit to USFWS within two years.

Procedures for Salvage Harvest

The salvage of damaged timber in the five west-side Western Washington planning units is addressed in the HCP on page IV.10. The HCP recognizes that WDNR's conservation commitments may, in some cases, be inconsistent with the Washington State Legislature's express statutory direction to "determine if the salvage of damaged valuable materials is in the best interests of the trust for which the land is held", and if so, to "proceed to offer the valuable material for sale." RCW 79.01.795, recodified at RCW 79.15.220. When WDNR determines that a proposed salvage harvest may conflict with conservation commitments, the HCP requires that WDNR discuss the potential conflict with USFWS and, if needed, "identify additional mitigation that would allow the necessary activities to go forward." The HCP does not address the salvage of damaged timber in the Olympic Experimental State Forest (OESF). HCP IV.E. Nevertheless, table IV.15 acknowledges that some salvage harvest would occur in the OESF.

WDNR has developed and implemented a procedure for salvage harvest after natural disturbance events within the OESF, as contemplated by the OESF Plan (p 2-20). Please find enclosed, PR14-004-520, *Response to Natural Disturbances in the OESF HCP Planning Unit*, which we are providing as a

courtesy. We will be happy to discuss the procedure's implementation with the USFWS, yet note that the HCP did not contemplate or provide for USFWS concurrence in DNR's internal staff directives on this topic.

Windthrow Monitoring and Adaptive Management Plan

WDNR will develop and submit a formal wind risk model monitoring and adaptive management program, to the USFWS, within one year.

WDNR appreciates working with the USFWS in the continuing implementation of the HCP. WDNR will continue to meet with the USFWS regularly.

Sincerely,

DocuSigned by:

43AC844EC3904A3...

Cameron Crump
Forest Resources Division Manager
Washington Department of Natural Resources

Cc:

USFWS, Lacey, WA (V. Harke)
USFWS, Lacey, WA (B. Vogel)
NMFS, Portland, OR (K. Kratz)
USFWS/RO, Portland, OR (K. Freund, C. Simes)
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DOJ, Washington, DC (T. Mayhall)
DOJ, Portland, OR (C. Howell)
WDNR, Olympia, WA, (A. Estep, T. Welker)
WAGO, Olympia, WA (P. Ferester, T. Moulton)

Enclosure:

Procedure 14-004-520 Natural Disturbance OESF



Response to Natural Disturbances in the Olympic Experimental State Forest (OESF) Habitat Conservation Plan (HCP) Planning Unit

Date: June 2017

Application: All HCP-covered lands within the OESF HCP planning unit

DISCUSSION

Natural disturbance events include wind, fire, insect outbreak, and disease epidemic. Of these, the most prevalent in the OESF is wind due to the alignment of major river valleys with prevailing wind directions, fully saturated soils during the winter months, and edge effects associated with harvest openings adjacent to mature timber stands (DNR 1997, p. IV. 106).

Wind can blow trees down or damage them. Damaged trees appropriate for salvage are those that have lost all or most of their canopy but have enough bole remaining to make a saw log.

This procedure addresses salvage of down or damaged trees in marbled murrelet habitat, northern spotted owl habitat, riparian management zones, and wetland management zones (DNR does not salvage in a floodplain or a non-forested wetland). For all salvage operations, follow DNR's catastrophic loss policy in the *Policy for Sustainable Forests*, RCW 79.15.210, RCW 79.15.220, and Chapter 296-54-WAC, which addresses worker safety.

The size of the riparian management zone depends on the associated stream type; refer to PR 14-004-160 *Riparian Management in the Olympic Experimental State Forest (OESF) Habitat Conservation Plan (HCP) Planning Unit*. The size of the wetland management zone depends on the size and type of wetland; refer to PR 14-004-500, *Wetlands Management in the OSEF HCP Planning Unit*.

ACTION BY FOREST RESOURCES DIVISION (division)

Annually update and provide current maps and databases of marbled murrelet and northern spotted owl habitat to the Olympic Region.

ACTION BY OLYMPIC REGION

Safety regulations pre-empt all other requirements; address them first to maintain worker safety. All green tree and snag retention are subject to the safety standards of the Department of Labor and Industries (Chapter 296-54-WAC). Design the salvage harvest to avoid jeopardizing forest worker safety once on-the-ground activity commences.



1. Using the most current maps and databases, determine if the natural disturbance is in marbled murrelet or northern spotted owl habitat and/or a riparian or wetland management zone.
2. If the area of natural disturbance is not in any of the areas listed in action item 1 (above), evaluate whether salvage meets the stand's management objectives and if warranted, proceed with salvage.
3. If the area of natural disturbance is located in marbled murrelet habitat:
 - a. If the marbled murrelet long-term conservation strategy (LTCS) has not been completed and approved, continue to follow the "Memorandum for Marbled Murrelet Management within the Olympic Experimental State Forest" dated March 7, 2013 and consult with the HCP and Scientific Consultation Section prior to conducting any salvage harvest.
 - b. If the marbled murrelet LTCS has been completed and approved, assure compliance with the LTCS and consult with the HCP and Scientific Consultation Section.
4. If the area of natural disturbance is within northern spotted owl habitat:
 - a. Determine whether the 2006 Settlement Agreement (PR 14-001-030) is still in effect.
 - i. If the Settlement Agreement is still in effect, follow the existing *Interim Direction for Addressing Blowdown in Northern Spotted Owl Habitat (Westside)*.
 - ii. If the Settlement Agreement is no longer in effect, consult with the appropriate specialist(s) to determine whether the area still contains the elements needed to function as northern spotted owl habitat. Refer to Procedure PR 14-004-510 *Northern Spotted Owl Habitat Management in the Olympic Experimental State Forest (OESF) Habitat Conservation Plan (HCP) Planning Unit* for northern spotted owl habitat definitions.
 - b. If the area still meets the habitat definitions and would continue to meet the definition following salvage, conduct the salvage. Document habitat status in the Planning and Tracking (P&T) or Land Resource Manager (LRM) database.
 - c. If the area still meets the habitat definitions and salvage would cause it to become non-habitat, mitigate to maintain habitat status or do not salvage.
 - d. If the area no longer meets the habitat definitions, notify the HCP and Scientific Consultation Section so that habitat maps can be updated and conduct salvage.
5. If the area of natural disturbance is within a riparian management zone:
 - a. Determine the number of allotted acres available within the Type 3 watershed, if any.



- b. Notify the HCP and Scientific Consultation Section if the watershed does not have allotted acres or the number of acres of salvage exceeds the allotted acres currently available in the Type 3 watershed. The HCP and Scientific Consultation Section will, depending on the scale of the disturbance, notify the Federal Services (US Fish and Wildlife Service and NOAA Fisheries) about the salvage.
 - c. Conduct the salvage.
 - d. If, in consultation with region specialists, it is determined that the area of natural disturbance within a riparian management zone is on a scale that would impair the function of the riparian management zone, communicate with the HCP and Scientific Consultation Section so that they can notify the Federal Services.
 - e. When salvage harvesting within a riparian management zone, consult with the appropriate specialist(s) to retain as much riparian function as possible. Do not remove trees that are entirely within 25 feet of the outer edge of the 100-year floodplain. If a tree originating from outside of 25 feet from the outer edge of the floodplain extends into this area, remove the entire tree if this can be done without damaging the bed or bank of the stream. Trees originating from inside of 25 feet from the outer edge of the floodplain will be cut at the 25-foot mark and the portion within this area will be left. If salvaging in a watershed without allotted acres, or if the area to be salvaged is larger than the allotted acres, maintain as many standing trees and snags as is safe to do so to retain and promote riparian function.
6. If the area of natural disturbance is in a wetland management zone:
- a. If the area of natural disturbance is associated with a non-forested wetland, establish a 50-foot no harvest buffer measured from the wetland's edge (refer to Procedure PR 14-004-500 *Wetlands Management in the Olympic Experimental State Forest (OESF) Habitat Conservation Plan (HCP) Planning Unit*). Conduct salvage in the portion of the wetland management zone outside of the 50-foot no-harvest buffer. If trees originating from outside the buffer extend into the no-harvest buffer, remove the entire tree if this can be done without affecting wetland function. If trees originating from inside the buffer extend outside the no-harvest buffer, remove only the portion that is outside the no-harvest buffer.
 - b. When salvage harvesting in a forested wetland, a forested wetland management zone, or a wetland management zone for a non-forested wetland, remove only down or damaged trees and maintain a stand that is wind firm and has a minimum basal area of 120 square feet per acre if remaining stand conditions allow.
7. If the area of natural disturbance is located within a unique habitat or habitat for unlisted species of concern, develop a mitigation plan in consultation with the HCP and Scientific Consultation Section prior to salvage harvesting. Refer to Table 1 for a list of unique habitats and habitat for unlisted species of concern.

**Table 1. Unique Habitats and Unlisted Species of Concern.**

Habitat Type	Associated Procedure (PR) or Policy (PO)
Unique Habitats	
Structurally complex forests	PR 14-004-046
Talus fields	PR 14-004-170
Forest stand cohorts	PR 14-006-090
Old-growth timber	PR 14-004-045
Mineral Springs	PR 14-004-230
Cliffs	PR 14-004-190
Caves	PR 14-004-180
Balds	PR 14-004-220
Habitat for Unlisted Species of Concern	
Pileated woodpecker nests	PR 14-004-290
Vaux's swifts nests and night roosts	PR 14-004-300
Pacific fisher dens	PR 14-004-280
Northern goshawk nests west of the Cascades	PR 14-004-260
Myotis bat communal roosts and maternal colonies	PR 14-004-310
Harlequin duck nests	PR 14-004-250
Common loon nests	PR 14-004-240
Wildlife habitat	PO 14-009
Taylor's checkerspot butterfly habitat	Procedure pending

Exceptions

For exceptions to this procedure, obtain approval from the region manager in consultation with the Forest Resources division manager.

APPROVED BY: Andrew Hayes Date: 6/9/17
 Andrew Hayes
 Forest Resources Division Manager

EXHIBIT 2

considered. Such changes shall be evaluated to determine if the amount or extent of incidental take has been exceeded, using the best available science.

22 EFFECT OF THE TAKE

In the accompanying Opinion, the USFWS determined that this level of anticipated take is not likely to result in jeopardy to spotted owl and bull trout, or destruction or adverse modification of designated critical habitat for these species.

23 REASONABLE AND PRUDENT MEASURES AND TERMS AND CONDITIONS

The conservation measures negotiated in cooperation with the USFWS and included as part of the 1997 HCP, as amended, constitute all of the reasonable measures necessary to minimize the impacts of incidental take. On that basis, no Reasonable and Prudent Measures except for monitoring and reporting requirements are included in this Incidental Take Statement.

WDNR's reporting obligations in the 1997 HCP, as amended, are not changed or modified by this Incidental Take Statement. Section 17.2, "Notification and Annual Review of Land Transactions," and Section 20.0, "Reporting and Inspections," of the Implementation Agreement (IA); and Section V, "Plan Implementation," of the 1997 HCP describe WDNR's reporting obligations under the 1997 HCP.

24 CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the ESA directs federal agencies to utilize their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. The USFWS should establish quarterly meetings to coordinate with WDNR to implement the following conservation recommendations:

- a) The HCP required development of a Headwaters Conservation Strategy for westside areas outside the Olympic Experimental State Forest (OESF) (WDNR 1997, p. IV-59). The USFWS should work with WDNR to develop and finalize a Headwaters Conservation Strategy by 2026.
- b) The HCP (p. IV.62) requires completion of a comprehensive landscaped-based road network management process commonly called the Comprehensive Road Network Management Plan (CRNMP), which is both a component of the Riparian Strategy as well as a component of strategies for unlisted species. The USFWS should work with WDNR to complete a CRNMP within 2 years.
- c) The HCP and the Implementation Agreement anticipate the development of a monitoring and adaptive management program to assess the effectiveness of exterior wind buffers and to make adjustments based on that monitoring, where appropriate (WDNR, 1997, p.

IV.73). A formal monitoring and adaptive management program for windthrow has yet to be developed and implemented. The USFWS should work with WDNR to develop a windthrow monitoring and adaptive management program to evaluate the effectiveness of current procedures to maintain functional riparian buffers within the next year.

- d) In the event that the USFWS decides to implement a barred owl management strategy in Washington, the USFWS should work with WDNR to facilitate barred owl management on or adjacent to WDNR HCP lands.
- e) If the USFWS has information indicating current occupancy of a spotted owl activity center, that information should be shared with WDNR to facilitate protection of habitat within the core-area spotted owl management circle around the occupied activity center until such time as 1) the area can be managed for barred owls, or 2), the area is determined to be unoccupied by spotted owls.

25 REINITIATION NOTICE

As provided in 50 CFR 402.16, reinitiation of formal consultation is required where discretionary federal agency involvement or control over the action has been retained (or is authorized by law) and 1) the amount or extent of incidental take is exceeded; 2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this Opinion; 3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this Opinion; or 4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.