



# Montana

## Department of Natural Resources and Conservation

### Forested State Trust Lands

### Habitat Conservation Plan

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#### **FREQUENTLY ASKED QUESTIONS (FAQs)**

#### **JUNE 2009**

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## **Q1. WHAT IS A HABITAT CONSERVATION PLAN?**

**A1.** The Endangered Species Act (ESA) prohibits government agencies and private citizens from “taking” federally-listed endangered species. Under the ESA, “take” is defined as harassment, harm, pursuit, hunting, shooting, wounding, killing, trapping, capturing, or collecting of any threatened or endangered species. The U.S. Fish and Wildlife Service (USFWS) has established that harm may include significant habitat modification, in which activities actually kill or injure a listed species through impairment of essential behavior (e.g., nesting or reproduction).

A 1982 amendment to the ESA allows state agencies and private citizens to apply to the USFWS and the National Marine Fisheries Service for Incidental Take Permits (Permit) in situations where otherwise lawful activities might result in the incidental take of federally-listed species.

A Habitat Conservation Plan (HCP) is a required component of the application for a Permit. An HCP specifies the species and activities to be covered, the geographic area of the HCP, and the conservation strategies that will be followed to avoid, minimize, and/or mitigate incidental take to the maximum extent practicable.

## **Q2. WHAT IS THE MONTANA DNRC FORESTED STATE TRUST LANDS HABITAT CONSERVATION PLAN?**

**A2.** Since 2003, the Montana Department of Natural Resources and Conservation (DNRC) has been voluntarily developing a multi-species HCP with technical assistance from the USFWS. The HCP is the plan under which DNRC intends to conduct forest management activities while conserving habitat for three species which are currently listed as threatened under the ESA and for two species that are not listed. These species are collectively referred to as the HCP species.

DNRC’s HCP outlines the commitments they have made to minimize or mitigate impacts on the HCP species from forest management activities for the next 50 years within the HCP project area. These conservation commitments are outlined in a series of conservation strategies aimed at conserving habitat for the HCP species while sustaining the revenue generating capability of DNRC’s Forest Management Program.

## **Q3. WHERE IS THE HCP PROJECT AREA AND HOW WAS IT DETERMINED?**

**A3.** Lands to be included in the HCP project area were selected based on the overlap of HCP species habitat and the likelihood of occurrence of DNRC forest management activities over the 50-year Permit period. The lands covered by the HCP include approximately 548,500 acres of state trust lands within three DNRC land offices in western Montana – Northwestern, Southwestern, and Central Land Offices. These are primarily blocked lands in the Swan River State Forest, Stillwater State Forest, and Coal Creek State Forest and additional scattered parcels within the three land offices.

## **Q4. WHAT ARE STATE TRUST LANDS?**

**A4.** The lands DNRC manages are statutorily classified as state trust lands. By the Enabling Act, approved February 22, 1889, the Congress of the United States granted to the State of Montana sections sixteen and thirty-six in every township within the state to provide financial support for common schools. The Enabling Act and subsequent acts also granted

acreage for other educational and state institutions, in addition to the common schools. Under the Enabling Act, the DNRC Trust Land Management Division (TLMD) is required to administer and manage the state trust timber, surface, and mineral resources for the benefit of the common schools and the other endowed institutions in Montana, under the direction of the State Board of Land Commissioners (Land Board). The Land Board consists of Montana's top elected officials. The goal of the TLMD is to manage the State of Montana's trust land resources to produce revenue for the trust beneficiaries while considering environmental factors and protecting the future income-generating capacity of the land.

For more information on State trust lands and the TLMD, visit [http://dnrc.mt.gov/trust/about\\_us/overview.asp](http://dnrc.mt.gov/trust/about_us/overview.asp).

#### **Q5. WHAT SPECIES WILL THE HCP COVER?**

**A5.** The HCP addresses the following three species listed under the ESA: grizzly bear, Canada lynx, and bull trout. The HCP also addresses two aquatic species should these species become listed during the Permit term: westslope cutthroat trout and Columbia redband trout.

#### **Q6. WHY COVER UNLISTED SPECIES?**

**A6.** Addressing unlisted species in the HCP and covering them on the Permit is a voluntary decision made by the DNRC. If a covered unlisted species gets listed any time during the life of the Permit, the State will have incidental take protection for that species immediately upon its listing. The advantage to the State is more planning certainty in the face of future species listings. The advantage to the USFWS is increased biological value of the HCP through comprehensive multi-species or ecosystem planning that provides early proactive consideration of the needs of unlisted species.

#### **Q7. WHAT ACTIVITIES WILL THE HCP COVER?**

**A7.** The DNRC forest management activities that are covered in the HCP and associated Permit application include the following:

**Timber harvest** – Includes commercial forestry activities (e.g., timber harvest, salvage harvest, thinning, slash disposal, prescribed burning, site preparation, reforestation, fertilization, forest inventory and access to forested lands for weed control).

**Roads** – Includes forest management road construction, reconstruction, maintenance, use, and associated gravel quarrying for forest road surface materials; as well as installation, removal, and replacement of stream crossing structures.

**Grazing** – Includes issuance of grazing licenses on state trust lands classified as “forest” lands.

#### **Q8. HOW LONG WOULD THE TERM OF THE PERMIT BE?**

**A8.** DNRC has proposed that the Permit be issued by the USFWS for a period of **50 years** in order to realize both the biological and economic benefits of the HCP. DNRC views the HCP as a long-term program for addressing and improving habitat needs across the landscape. This Permit term was selected by DNRC to ensure that it would have sufficient time and funding to implement the conservation strategies and make adjustments through adaptive management

where needed. Securing an adequate amount of time to implement the HCP is expected to maximize the HCP's contribution to the conservation of the HCP species.

**Q9. WHO WOULD BE RESPONSIBLE FOR IMPLEMENTING THE HCP?**

**A9.** If the HCP is approved and the Permit is granted by the USFWS, DNRC TLMD forest management staff would be responsible for implementing the HCP. Periodic check-ins with USFWS staff would also be required.

**Q10. WHAT ARE THE BENEFITS OF THE HCP TO THE HCP SPECIES?**

**A10.** The HCP ensures the long-term conservation needs of HCP species are addressed in DNRC's forest management activities on forested state trust lands. The key benefits to the HCP species are described below.

**Aquatic Species**

For HCP aquatic species, the conservation commitments were developed to manage and maintain suitable stream temperature regimes, in-stream sedimentation levels, in-stream habitat complexity, and stream channel stability and channel form and function within the HCP project area as well as to improve connectivity among sub-populations of the covered species where appropriate on HCP project area lands. This is primarily accomplished through the following measures:

- Establishment of a no harvest buffer and requirement for more tree retention along streams supporting HCP fish species.
- Establishment of wider riparian management zones with no-harvest buffers for active channel migration zones.
- Accelerated completion of road inventories and correction of problem sites based on a prioritization schedule in watersheds occupied by bull trout.
- Requirements for more DNRC water resource specialist review when site conditions warrant additional review and consideration due to risk of sediment delivery in watersheds occupied by HCP covered species.
- Timely completion of inventories and assessment of connectivity issues for HCP fish species streams within the HCP project area. Sites would be prioritized and all high priority sites [level 1] would be corrected within the first 15 years that the HCP is in effect.
- Implement greater monitoring and adaptive management provisions for grazing problems with timely need for corrective actions.

**Grizzly Bears**

The benefits of the HCP for grizzly bears include provisions for important seasonal habitat and limitations on activities affecting bears within those habitats. This is primarily accomplished through the following measures:

- Applying grizzly bear conservation commitments across a greater geographic area within DNRC's forested trust lands than are applied now, and increasing the level of commitments based on the importance of that habitat for bears (e.g., lands within federally designated recovery zones received the greatest level of commitments).

- Minimizing disturbance and displacement of grizzly bears from suitable habitat and providing for seasonal habitat use and security. This is achieved through a comprehensive access management plan that includes limitations on new open roads, miles of roads, and motorized road use. Protection of seasonal habitat and security is provided by yearly and seasonal restrictions on timber activities.
- Designing timber sales and applying silvicultural prescriptions to maintain important habitat features, including den sites, avalanche chutes, lush riparian zones, and locations that produce high volumes of forage.

### **Canada Lynx**

The goal of the lynx conservation commitments is to support federal lynx conservation efforts by maintaining important habitat elements for lynx and their prey at both the landscape and site specific scale, particularly in key locations for resident populations. This is primarily achieved by maintaining set ratios of suitable lynx habitat in the HCP project area and managing for vegetation structure and habitat elements important for lynx and their prey.

### **Q11. WHAT ARE THE BENEFITS OF THE HCP TO THE DNRC?**

**A11.** The HCP would benefit the DNRC by:

- providing DNRC long term legal assurances that, regarding ESA listed species, management practices could be sustained over time, independent of others' activities or changing land use patterns.
- providing DNRC with some needed flexibility. The area currently known as grizzly bear security core in the Stillwater State Forest (39,600 acres) would be more accessible to forest management.
- providing DNRC with increased program credibility through approval and endorsement of the DNRC forest management practices by the regulatory agency that administers the ESA, the USFWS.
- providing potential access to HCP Land Acquisition Grants through Section 6 of the ESA.
- clarifying DNRC's responsibilities, obligations and expectations under the ESA for the Forest Management Program.

### **Q12. WHAT ARE THE BENEFITS OF THE HCP TO THE USFWS?**

**A12.** The HCP would benefit the USFWS by:

- providing the USFWS with an important long-term partnership with a state agency that manages habitat for listed species.
- providing the USFWS assurances for the long-term conservation of HCP species at a landscape scale.
- assisting with the recovery planning efforts on adjacent federal lands for the HCP covered species.

- providing a mechanism to modify the strategy or commitments to address species needs if warranted through the adaptive management process.

**Q13. WHAT DOES THE HCP PROCESS CONSIST OF?**

**A13.** Since the inception of the project in 2003, the DNRC, with technical assistance from the USFWS, has undertaken many steps in its pursuit of a Permit. The following bullets summarize the steps that have been completed and have yet to be completed prior to issuance of the Permit.

- **Scoping** – In April 2003, the DNRC and USFWS scoped nearly 285 individuals, agencies, private businesses, and organizations in order to notify the public of both agencies’ intent to initiate the HCP process and to identify potential issues and concerns the public may have with the HCP.
- **Species Accounts** – In 2005, DNRC prepared “species accounts” for each of the HCP species in order to compile important scientific information relevant to each species and the HCP, and identify the best available science for each species. These accounts were used by the DNRC and USFWS during the development of the HCP conservation strategies to ensure that the strategies would be biologically sound and advantageous to HCP species conservation.
- **Conservation Strategies** – In October 2005, the DNRC and USFWS published for review, the first version of conservation strategies for each of the HCP species. Conservation strategies are the central component of the HCP; they outline conservation commitments that DNRC would implement to minimize and mitigate incidental take of the HCP species. The DNRC held a 45-day public review period to allow interested parties to review and comment on the strategies.
- **Draft EIS/HCP Development** – Since 2005, the DNRC and USFWS have revised the conservation strategies and have developed other elements of the HCP such as monitoring commitments, data management strategies, and an implementation process.

In conjunction with the HCP, the agencies have been developing an environmental impact statement (EIS) to analyze the potential effects of the HCP on important resources including: air, soils, transportation, recreation, visual resources, cultural resources, socioeconomics, forest vegetation, and water. Issuance of the Permit by USFWS and DNRC’s implementation of the HCP are considered both federal and state actions that may affect the quality of the human environment, thus requiring preparation of an EIS under the National Environmental Policy Act (NEPA) and the Montana Environmental Policy Act (MEPA). The EIS portion of the Draft EIS/HCP considers a no-action alternative and three HCP action alternatives.

- **Public Review of Draft EIS/HCP** – The 90-day public review period of the Draft EIS/HCP is June 26<sup>th</sup> through October 9<sup>th</sup>, 2009.
- **Biological Opinion** – The USFWS will issue a biological opinion (BO) and incidental take statement. The BO will analyze the effects of issuing the Permit to the DNRC and will determine if the HCP would jeopardize the continued existence of the HCP species and other ESA-listed species that occur in the HCP project area or adversely modify

those species' critical habitats. The incidental take statement will estimate the amount and extent of incidental take associated with implementation of the HCP, and if the incidental take will reduce the likelihood of the survival and recovery of the HCP species.

- **Final EIS** – After the 90-day public review period closes, DNRC and USFWS will address comments received on the draft EIS and HCP. Necessary document changes and responses to comments will be incorporated into a Final EIS. The agencies will make the Final EIS available to the public for a 30-day review period.
- **Record of Decision** – After the 30-day review period of the Final EIS closes, the agencies will issue a Record of Decision (ROD) that identifies the selected alternative and the reasoning thereof.
- **Issuance of Permit** – Once all of the above steps have been completed, the USFWS will determine whether or not to issue a Permit to the DNRC. To issue the Permit, the USFWS must find that: take as a result of the HCP must be incidental; DNRC will minimize and mitigate the effects of incidental take to the maximum extent practicable; incidental take that may occur will not appreciably reduce the likelihood of survival or recovery of the HCP species; and DNRC must be able to fund and implement all aspects of the HCP.

#### **Q14. HOW HAS THE PUBLIC BEEN INVOLVED?**

**A14.** Public participation is an important part of the development of the EIS/HCP. The project began in 2003 with a 60-day scoping period. The DNRC and USFWS received several initial comments that helped to identify issues important to the development of the Draft EIS/HCP. As conservation strategies were developed, the public was again invited to become involved during public review of the 2005 Draft Conservation Strategies, which were later modified and incorporated into the Draft EIS/HCP. In January 2009, DNRC and USFWS contacted over 450 individuals, tribes, organizations and agencies notifying them of the release of the Draft EIS/HCP. Recipients were asked if they would like to receive a copy of the Draft EIS/HCP and if they would like to meet with the HCP Planning Team during the 90-day Public Review Period. Now the public is again invited to become involved by submitting comments on the Draft EIS/HCP during the 90-day public review period, June 26<sup>th</sup> through October 9<sup>th</sup>, 2009.

#### **Q15. HOW DO INTERESTED INDIVIDUALS REQUEST A COPY OF THE DRAFT EIS/HCP?**

**A15.** The Draft EIS/HCP will be available on paper, on CD, or on-line. In an effort to conserve resources, the DNRC encourages people who would like to review the document to request the document on CD or to view the document on-line. To receive a copy on CD or on paper, or to be notified when the document is available on-line, individuals can contact the DNRC via email [dnrchcp@mt.gov](mailto:dnrchcp@mt.gov) or phone (406) 542-4300.

#### **Q16. HOW CAN THE PUBLIC COMMENT ON THE DRAFT EIS/HCP ?**

**A16.** Interested parties can comment on the Draft EIS/HCP by visiting [dnrc.mt.gov/HCP](http://dnrc.mt.gov/HCP), sending an email to [dnrchcp@mt.gov](mailto:dnrchcp@mt.gov), or calling (406) 542-4300 for more information.

DNRC and USFWS are inviting potentially interested individuals, organizations, and agencies to submit comments on the Draft EIS/HCP during a 90-day public review period June 26<sup>th</sup> through October 9<sup>th</sup>, 2009.

**Q17. HOW LONG IS THE PUBLIC REVIEW PERIOD?**

**A17.** DNRC and USFWS are inviting potentially interested individuals, organizations, and agencies to submit comments on the Draft EIS/HCP during a 90-day public review period **June 26<sup>th</sup>** through **October 9<sup>th</sup>, 2009**.

**Q18. WHERE AND WHEN WILL PUBLIC MEETINGS BE HELD?**

**A18.** Public meetings will be held in Kalispell, Missoula, and Helena the week of July 20<sup>th</sup> at the following locations:

**Kalispell**

**Date:** Monday, July 20<sup>th</sup>, 2009

**Time:** 2:00 to 8:00 p.m.

**Venue:** Flathead Valley Community College, Arts and Technology Building, Room 139

**Helena**

**Date:** Wednesday, July 22<sup>nd</sup>, 2009

**Time:** 2:00 to 8:00 p.m.

**Venue:** Best Western Great Northern Hotel

**Missoula**

**Date:** Thursday, July 23<sup>rd</sup>, 2009

**Time:** 2:00 to 8:00 p.m.

**Venue:** DoubleTree Hotel

**Q19. WHERE CAN INTERESTED PARTIES FIND MORE INFORMATION ON THE HCP?**

**A19.** Interested parties are encouraged to visit the project website: [dnrc.mt.gov/HCP](http://dnrc.mt.gov/HCP). Information about the project history, past public participation, species accounts, and other details about the Draft EIS/HCP are available on this site. Interested parties are encouraged to email [dnrchcp@mt.gov](mailto:dnrchcp@mt.gov) or call **(406) 542-4300** for more information on the HCP.