



Montana  
Department of Natural  
Resources and Conservation  
Forested State Trust Lands  
Habitat Conservation Plan

**FREQUENTLY ASKED QUESTIONS (FAQs)**

**Spring 2015**

<b>QUESTIONS: .....</b>	<b>PAGE #</b>
<b>Q1. WHAT IS A HABITAT CONSERVATION PLAN?.....</b>	<b>2</b>
<b>Q2. WHAT IS THE MONTANA DNRC FORESTED STATE TRUST LANDS HABITAT CONSERVATION PLAN?.....</b>	<b>2</b>
<b>Q3. WHERE IS THE HCP PROJECT AREA AND HOW WAS IT DETERMINED?.....</b>	<b>3</b>
<b>Q4. WHAT SPECIES WILL THE HCP COVER?.....</b>	<b>3</b>
<b>Q5. WHAT ARE THE BENEFITS OF THE HCP TO THE HCP SPECIES?.....</b>	<b>4</b>
<b>Q6. WHAT ARE THE BENEFITS OF THE HCP TO THE DNRC?.....</b>	<b>6</b>
<b>Q7. WHAT DID THE HCP PROCESS CONSIST OF?.....</b>	<b>7</b>
<b>Q8.WHAT IS HAPPENING NOW?.....</b>	<b>9</b>

**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 SPECIES WILL THE HCP COVER?**

**A4.** 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.

**Q5. WHAT ARE THE BENEFITS OF THE HCP TO THE HCP SPECIES?**

**A5.** 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.

### **Q6. WHAT ARE THE BENEFITS OF THE HCP TO THE DNRC?**

**A6.** 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 the ESA.

- ⊗ clarifying DNRC's responsibilities, obligations and expectations under the ESA for the Forest Management Program.

## **Q7. WHAT DOES THE HCP PROCESS CONSIST OF?**

**A7.** 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.

◎ 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 developed 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 considered 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 was June 26th through October 9th, 2009.

◎ Biological Opinion – The USFWS issued a biological opinion (BO) and incidental take statement. The BO analyzed the effects of issuing the Permit to the DNRC and determined 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 7 those species' critical habitats. The incidental take statement estimated 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 closed, DNRC and USFWS addressed received comments on the draft EIS and HCP. Necessary document changes and responses to comments were incorporated into a Final EIS. The agencies made 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 closed, the agencies issued a Record of Decision (ROD) that identified the selected alternative and the reasoning thereof.

◎ In **February 2012**, DNRC received a Permit from the USFWS and has since been implementing the HCP.

**Q8. WHAT IS HAPPENING NOW?**

**A8.** In March 2013, EarthJustice, on behalf of Friends of the Wild Swan, Montana Environmental Information Center, and Natural Resource Defense Council, filed a complaint against the USFWS – soon after, the Board of Land Commissioners and DNRC joined as Intervenor Defendants. Court proceedings and briefings took place in the first half of 2014.

On August 21, 2014, Judge Molloy issued his Order on Friends of the Wild Swan et al. v. USFWS, Montana Board of Land Commissioners, and DNRC. Plaintiffs' motion was granted pertaining to grizzly bear mitigation, and he found that the USFWS did not demonstrate adequately that DNRC had mitigated impacts to grizzly bears to the "Maximum Extent Practicable" when adopting a new management strategy for the Stillwater and Coal Creek State Forests (Stillwater Block).

This order required the immediate shutdown of active timber harvest operations in security core. DNRC understands that the HCP and Permit are valid on the rest of the HCP Project Area (~510,000 acres) and are carrying on with activities as normal. DNRC is in communication with the USFWS concerning the next steps. We are working to understand the remand and what steps need to happen next to meet the Judge's requests. DNRC will work diligently with the USFWS to address this as quickly as possible.