



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
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MEMORANDUM FOR: Port Blakely’s Habitat Conservation Plan for the John Franklin Eddy Forestlands

FROM: Kim W. Kratz, Ph.D
Assistant Regional Administrator
Oregon Washington Coastal Office

DATE: July 6, 2023

SUBJECT: Statement of Findings and Recommendation for the Issuance of an Endangered Species Act Section 10(a)(1)(B) Incidental Take Permit

This Statement of Findings and Recommendations documents the conclusions of the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NMFS) with respect to the issuance of an incidental take permit (ITP) under the authority of Section 10(a)(1)(B) of the Endangered Species Act (ESA) of 1973, as amended, in response to an application from Port Blakely (applicant) for an ITP for incidental take of five anadromous species¹ (covered species) arising from the applicant’s timber harvest, silviculture, road management and conservation activities on the John Franklin Eddy Forestlands in Oregon. Incidental take coverage would apply to five anadromous fish species under the jurisdiction of NMFS and are listed as threatened under the ESA: Lower Columbia River (LCR) Chinook salmon (*Oncorhynchus tshawytscha*) evolutionary significant unit (ESU); Upper Willamette River (UWR) Chinook salmon ESU; LCR coho salmon (*Oncorhynchus kisutch*) ESU; LCR steelhead (*Oncorhynchus mykiss*) distinct population segment (DPS); and UWR steelhead DPS. The ITP would have a 50-year permit term. Based on the findings in this document, NMFS staff recommends the approval of the applicant’s habitat conservation plan (HCP), and issuance of the ITP to the applicant, subject to the conditions described later in this document as well as any conditions identified in the ITP or the ESA Section 7 Biological Opinion for the Issuance of the ITP (Opinion) (NMFS 2023a).

Documents used in the preparation of this Statement of Findings and Recommendation include: The Port Blakely Habitat Conservation Plan for the John Franklin Eddy Forestlands (Port Blakely 2023) (HCP), the Final Environmental Assessment (EA) (NMFS 2023b) and, NMFS’ Biological Opinion (Opinion) on the proposed action (NMFS 2023a).

¹ The applicant also submitted an application to the U.S. Fish and Wildlife Service for an ITP for incidental take of seventeen species that are under the jurisdiction of that agency: bull trout (threatened), gray wolf (endangered), northern spotted owl (threatened), Pacific lamprey, Cascades frog, coastal tailed frog, Cascade torrent salamander, Oregon slender salamander, western/pacific pond turtle, northern goshawk, Pacific fisher, Townsend’s big-eared bats, hoary bat, silver-haired bat, fringed myotis bat, long-eared myotis bat, and long-legged myotis bat. The applicant’s HCP addresses these species as well as the five fish species under the jurisdiction of NMFS. This document will use the term “covered species” to refer to the five fish species under the jurisdiction of NMFS.



NMFS has reviewed the above-described documents, as well as additional available biological information, in accordance with ESA Section 10, the implementing regulations at 50 C.F.R. §222.307 and §222.308, and other applicable laws and regulations.

Background

Port Blakely's John Franklin Eddy (JFE) Forestland occupies 30,859 acres (ac) of land straddling the Clackamas River and Molalla River basins in Clackamas County, Oregon. Rivers and streams in portions of the JFE lands currently provide habitat for anadromous salmonids listed under the ESA. Port Blakely's forestland management activities have the potential to adversely affect fish species and their designated critical habitat that are listed under the ESA.

The ITP would require implementation of the HCP, designed to address the potential impacts on covered species from Port Blakely's forest management activities in watersheds with watercourses accessible to anadromous salmonids or upstream of those watercourses where potential effects from covered activities have the potential to extend to occupied habitat.

Port Blakely began discussions with NMFS in 2016 regarding the development of the HCP and continued to meet with NMFS from 2016 to 2021 to further refine the approach for pursuing the ITP associated with the proposed HCP. Port Blakely collaborated closely with NMFS to establish the list of covered species, the HCP Plan Area and Action Area, and the Conservation Strategy.

Plan Area

Section 1 of the HCP describes several areas within HCP Area (or Plan Area), which includes all the areas that may be influenced by the implementation of the HCP. These different areas total 115,662 ac and include:

- **2022 Ownership** - Port Blakely's John Franklin Eddy Forestland or parcels owned by Port Blakely where covered activities would initially occur and where the proposed HCP conservation measures would be implemented (30,859 ac).
- **2022 Influenced Area** – areas within 0.5 mile (mi) from parcels owned by Port Blakely that could be impacted by the covered activities and conservation measures (61,717 ac).
- **Potential Acquisition Area** – Port Blakely may acquire additional lands that could result in as much as a 25% increase in acreage as compared to the acreage of its 2022 Ownership (7,714 ac). These acres are part of the Potential Additional Plan Area.
- **Potential Acquisition Influenced Area** - areas within 0.5 mi from the potential acquisition area (15,419 ac). These acres are part of the Potential Additional Plan Area.

The permit would authorize the covered activities for a 50-year period, which would result in impacts to covered species, including take of species currently listed under the ESA.

Covered Activities

Covered activities are the otherwise lawful activities described in Section 2 of the HCP (Port Blakely 2023) and in Section 1.3 of the Biological Opinion (NMFS 2023a), and are summarized here:

- Timber harvest
 - Regeneration (even-age) harvest
 - Pre-commercial thinning
 - Stand recovery and natural disturbances harvest (salvage)
- Silviculture
 - Site preparation (debris clearing, piling, and burning)
 - Reforestation (planting)
 - Fertilization
 - Disease, insect, and animal damage control
 - Mechanical vegetation control
- Road management
 - Road construction and maintenance
 - Abandonment and deactivation
 - Quarrying (rock pits)
- Conservation Strategy (discussed in a separate section below)

Conservation Strategy

Port Blakely seeks, through implementation of the HCP, to increase habitat diversity and complexity, protect aquatic ecosystem functions and encourage natural processes in the HCP Plan Area as well as downstream habitats supporting anadromous salmonids.

This section lists the HCP goals and objectives and how they align with other conservation and recovery strategies. This section also details standard conservation strategies and monitoring activities that will minimize potential impacts on covered species. Port Blakely will monitor the potential impacts of covered activities to gauge the effectiveness of the conservation and minimization measures, document compliance with the conservation strategy, and will utilize an adaptive management plan to address uncertainties in HCP implementation. Port Blakely will report results to NMFS.

Goals

The HCP goals are descriptive, open-ended statements of desired future conditions used to guide the Conservation Strategy. The primary goal is to provide functional riparian area protection which, will affect in-stream function in the following ways: reduce the potential for temperature increases, increase delivery of LWD, and reduce the potential for sediment delivery within the Plan Area and to habitats downstream. The HCP goals include:

1. Provide forest habitat with functional, structural and age-class complexity and diversity in the context of commercial forest management.
2. Improve riparian and stream ecosystem functions from current baseline conditions.
3. Protect ecosystems associated with over-steepened and potentially unstable slopes.

Objectives and Conservation Strategies

Objectives are the incremental steps taken to achieve a goal. They provide a foundation for determining conservation strategies, monitoring, and evaluating the effectiveness of the conservation strategy. A detailed description of the HCP Conservation Program can be found in Section 6 of the HCP. The HCP objectives include:

1. At regeneration harvest throughout the Permit term, establish variable width no-harvest stream buffers on all fish-bearing streams within the HCP area specific to each stream type that provides a minimum 100, 90 and 75-foot no-harvest zone reserves for Large, Medium, and Small fish streams, respectively, to include a minimum 50-foot no-harvest zone around stream-associated special habitat types and/or features (including wetlands, seeps and unstable slopes)
2. At regeneration harvest throughout the Permit term, establish 80-foot stream buffer reserves on all large and medium non-fish-bearing streams. Buffers will contain a 55-foot no-harvest zone next to the stream and have a 25-foot managed zone respectively, to include a 50-foot no-harvest zone around stream-associated special habitat types and/or features.
3. At regeneration harvest throughout the Permit term, establish a 50-foot buffer on Small non fish-bearing streams with a 25-foot no-harvest zone and a 25-foot managed zone, to include protection (no-harvest) of stream-associated special habitat types and/or features to maintain the integrity of the special habitat/feature. Buffers are to be retained as reserves for the Permit term.
4. At regeneration harvest throughout the Permit term, proactively contribute LWD to all Small and Medium fish-bearing streams. Placement will occur at the rate of one tree, on average, per 300 feet on each side of the stream rounding up to 4 trees per 1000' (or 8 trees if both sides of the stream are included in the harvest unit).
5. Throughout the Permit term, implement road management measures designed to avoid and/or minimize the potential for sediment delivery to streams, accommodate 100-year flood events without damage, and allow passage of all life-stages of all native fish species.
6. Beginning the first year of the Permit term, repair or replace all known fish passage blockages within five years, re-establishing access for all fish and resident species, to 3.5 miles of upstream fish habitat.
7. Beginning the first year of the Permit term, remove approximately two miles of stream-adjacent roads within five years, and remove stream-adjacent roads when topographically feasible in subsequent 5-year planning horizons; no construction of new roads in Riparian Management Areas (RMAs) unless there are no other topographical options.
8. Create and maintain landscape conditions across the Covered Lands so that for most stream reaches for substantial portions of the HCP term, the contributions to stream integrity and function provided by designated RMAs will be supplemented by forest conditions (beyond those designated zones) that provide additional shade, slope and soil stability, and sources of large wood. These landscape conditions will be enhanced through provisions of the HCP that increase structural retention, mid-rotation thinning, and special habitat protections, and that result in some forest stands older and more structurally complex than typical commercial forest practices.
9. Contribute to watershed restoration projects each year of the permit term through in-kind, product or monetary support.

Monitoring and Reporting

The applicant (Port Blakely) has committed to a monitoring program with the intent to document and evaluate implementation of forest management activities and conservation measures described in the HCP. Compliance Monitoring Activities (CM) and Effectiveness Monitoring Activities (EM) will be implemented to verify and evaluate whether the conservation strategies are achieving the goals of the HCP and to verify that take is not being exceeded. Port Blakely will submit HCP Implementation and Compliance Reports (Report) to the Services, documenting forest management activities and implementation of conservation measures described in the HCP and identified above. Reports will be submitted annually for the first five years of the Permit period, biennially for the following ten years, and then every five years for the remainder of the Permit term. Specifics of the CMs and EMs are described in more detail in Section 6.4 of the HCP (Port Blakely 2023).

Term of the Permit

The permit would be in effect for a period of 50 years.

NMFS and Port Blakely do not have an Implementing Agreement. NMFS may suspend or revoke the permit for cause in accordance with regulations and subject to the requirements for notice, review and opportunity to cure in force at the time of such suspension or revocation. These regulations are currently codified at 50 CFR § 222.306. Such suspension or revocation may apply to the entire permit, or only to specified covered species, HCP boundaries, or covered activities. In the event of suspension or revocation for noncompliance or violation by Port Blakely, their obligations under the permit and the HCP will continue until NMFS determines that all take of covered species that occurred under the ITP has been fully mitigated in accordance with the HCP. Port Blakely may relinquish the permit in accordance with the regulations of NMFS in force on the date of such relinquishment (these regulations are currently codified at 50 CFR §222.306(d)). Notwithstanding relinquishment of the permit, Port Blakely will be required to provide post-relinquishment conservation or mitigation for any take of covered species that NMFS determines will not have been fully mitigated under the HCP by the time of relinquishment. Port Blakely obligations under the HCP will continue until NMFS notifies Port Blakely that no post-relinquishment conservation or mitigation is required, or that all post- relinquishment conservation or mitigation required by NMFS is complete. Unless the parties agree otherwise or the permit is revoked for non-compliance or violation, NMFS may not require more conservation or mitigation than would have been provided if Port Blakely had carried out the full term of the HCP.

Public Comment

The HCP and the Draft EA were released on June 14, 2022 with a Notice of Availability published in the Federal Register (87 FR 35970, June 14, 2022). The public comment period closed on July 14, 2022. NMFS received two letters from the public. One letter from a private citizen expressed support for NMFS' approval of the HCP and proposed issuance of the ITP to Port Blakely. The Environmental Protection Agency also submitted a letter that provided brief

comments regarding analysis of the scope and content of the HCP. These comments were addressed as changes to the Final HCP and EA.

Relationship of the HCP to Section 7 Consultations

Covered activities are subject to Section 7 consultation if those actions are authorized, carried out or funded by Federal agencies. Covered activities included in the HCP (proposed action) were analyzed in the 2023 NMFS Opinion. Incidental take for covered activities carried out by the permittee will be subject to avoidance, minimization, and mitigation and other conservation measures provided for under the HCP. To the extent that covered activities involving a Federal nexus are determined to affect federally listed species or their designated critical habitat in a way not already analyzed in the permit NMFS 2023 Opinion, incidental take coverage would occur through a separate Section 7 consultation process.

Section 10(a)(2)(A) HCP Criteria – Analysis and Findings.

The HCP addresses each of the required elements of section 10(a)(2)(B) as follows:

1. The impact likely to result from such taking.

Section 5.1.1. of the HCP addresses potential biological impacts to aquatic species. The aquatic species covered species included in the HCP will be impacted in similar ways because they share similar life history strategies and habitat needs. Implementation of the HCP and continued forestland management activities in the HCP Action Area may result in some level of adverse effects to multiple life stages of covered species at discrete points in time, given the ownership patterns within the HCP Action Area, the magnitude of habitat responses expected, and the responses of affected populations. NMFS analyzed the effects of the covered activities in the NMFS' 2023 Opinion which is hereby incorporated by reference and summarized below.

A. LCR coho salmon

Coho salmon are known to exist in many small and medium fish streams that flow through Port Blakely's John Franklin Eddy Forestlands. Take in the form of harm is anticipated to result in reduced function of watershed processes that create and maintain habitat that is contributing to the needs of coho salmon.

B. LCR and UWR Chinook salmon

LCR Chinook salmon are known to exist in the Clackamas River and its major tributaries that flow adjacent to Port Blakely lands. And UWR Chinook salmon are known to exist in both the Clackamas and Molalla River drainages and their major tributaries that flow adjacent to Port Blakely lands. Take in the form of harm is anticipated to result in reduced function of watershed processes that create and maintain habitat that is contributing to the needs of Chinook salmon.

C. LCR and UWR Steelhead

LCR steelhead occur in the Clackamas River, its major tributaries that flow adjacent to and through Port Blakely lands. And UWR steelhead occur in both the Clackamas and Molalla River drainages and their tributaries that flow adjacent to and through Port Blakely lands. Take in the

form of harm is anticipated to result in reduced function of watershed processes that create and maintain habitat that is contributing to the needs of Chinook salmon.

Habitat modifications related to the covered activities that may cause take for LCR coho, LCR Chinook salmon, UWR Chinook salmon, LCR steelhead and UWR steelhead could occur in the form of: (1) sediment inputs into water; (2) reduction in riparian vegetation resulting in increased water temperatures; and (3) reduction in the sources of large wood recruitment.

Timber harvest and road management activities will cause an increase in suspended sediment. Likely effects from project-related increases in suspended sediment on ESA-listed species include, but are not limited to: (1) reduction in feeding rates and growth, (2) physical injury, (3) physiological stress, (4) behavioral avoidance, and (5) reduction in macroinvertebrate populations.

Juvenile salmon and steelhead will be exposed to a very small increase in stream temperatures from timber harvest and reduced shade. The increases in stream temperature will increase the risk of reduced growth, reduced competitive success of juveniles in relation to non-salmonid fish, increased disease virulence, and reduced disease resistance. A small percentage of the juveniles in each affected stream will suffer a reduction in size upon out-migration, which makes fish more vulnerable to predation, or a reduction in fitness, which reduces the likelihood of long-term survival of individual fish.

Reduced instream large wood recruitment due to the covered activities is likely to affect salmon and steelhead. Instream wood enhances the habitat quality for salmonids. Riparian trees that die and fall into streams and/or their floodplains and wetlands influence stream channel complexity and stability. They help retain sediments, and create pools, undercut banks, and off-channel habitat. They deflect and slow stream flows and increase hydraulic complexity. They also stabilize stream channels, improve productivity, and provide cover for fish. The reduced large wood recruitment to streams is also likely to sufficiently reduce habitat quality for rearing juvenile salmonids, such that some individuals would experience fitness impacts that may reduce their likelihood of survival. The reduced large wood recruitment is also likely to reduce spawning habitat quality sufficiently enough to reduce the spawning success for some adults, and/or to cause the loss of some eggs and alevin. However, given the relatively small amount of occupied habitat that may be affected, and expected low density of the covered species in permit area, the numbers of fish and eggs that would be affected by this stressor would comprise such only small subsets of their respective cohorts.

D. Critical Habitat

The proposed action is likely to affect designated critical habitat for LCR coho salmon, LCR and UWR Chinook salmon, and LCR and UWR steelhead. The physical and biological features (PBFs) of salmonid critical habitat that would be affected by the covered activities are freshwater spawning, freshwater rearing, and freshwater migration corridors. covered activities would cause long-term minor adverse effects on water quality, substrate, water quantity, floodplain connectivity and natural cover.

Based on the best available scientific information, the scale of the proposed action's effects, when considered in combination with the degraded baseline, cumulative effects, and the impacts of climate change, would be too small to measurably reduce the quality or functionality of the freshwater PBFs from their current levels.

Long-term effects related to sediment inputs, increased water temperature, and reduction in large wood recruitment will be offset through implementation of the Conservation Strategy.

Designated critical habitat would maintain its current level of functionality, and retain its current ability for PBFs to become functionally established, to serve the intended conservation role for LCR coho salmon, LCR and UWR Chinook salmon, and LCR and UWR steelhead.

2. The steps taken to minimize and mitigate adverse impacts of the Covered Activities, and the funding that will be available to implement them.

Conservation Program

The Conservation Program as described in the HCP, minimizes and mitigates the adverse impacts of Port Blakely's ongoing forestland management activities.

The Conservation Program will:

- Improve riparian and stream ecosystem functions from current baseline conditions through increased no-harvest buffers along all fish and perennial streams; improved fish passage through culvert upgrades; in-stream large wood placement following harvest; and roads maintenance and decommissioning to reduce sediment input to streams.
- Protect ecosystems associated with over-steepened and potentially unstable slopes through the avoidance of road building and timber harvest in these areas.

More information about the conservation program can be found in the earlier section in this document that discusses the conservation strategies and in Section 6 of the HCP.

Funding

Funding for the minimization, mitigation, and implementation of the HCP is identified in Section 9 of the HCP (Port Blakely 2023). Port Blakely will fund the HCP by managing and implementing sustainable timber harvest operations, which may include revenue generated by the sale of ecosystem services and forest products. Port Blakely estimated the future revenues from timber harvest in the HCP area to average \$9 million on a five-year basis. It determined that this revenue stream was sufficient to fund the estimated HCP implementation costs over the life of the permit. Port Blakely estimate those costs to be no more than \$50,000 per year on a five-year basis plus the \$25,000 annual costs made available for fish and wildlife habitat restoration. Port Blakely will update and confirm these estimates at five-year intervals and will timely notify NMFS of any issue with funding the HCP implementation activities. Port Blakely commits to completing the conservation strategies on schedule as described in the HCP and warrants that it will expend such funds as may be necessary to fulfill its obligations under HCP and ITP.

Additional Information

In Section 6.5 of the HCP, Port Blakely commits to an adaptive management program that will track success of the Conservation Strategy, identify any changes needed to the avoidance,

minimization, mitigation or monitoring in order to meet the Biological Goals and Objectives and changed circumstances.

Changed circumstances that could arise in the permit area such as the listing of a non-covered species, and delisting of a covered species have been identified and are described in further detail in Section 8.1 of the HCP (Port Blakely 2023). The No Surprises Rule requires that potential changed circumstances be identified in the HCP along with measures that would be taken by the Permittee to respond to those changes. If a changed circumstance occurs within the HCP boundaries, the Permittee will notify NMFS of this changed circumstance within 60 days unless there is a substantial threat of imminent, significant adverse impacts to a covered species. NMFS will evaluate the circumstances and may determine that additional conservation strategies are necessary. Pursuant to the No Surprises Rule, if such measures have been addressed in the HCP, their implementation is required. If such measures are absent from the HCP, NMFS will not require any additional conservation or mitigation without the consent of the Permittees, as long as the HCP is found to be properly implemented. "Properly implemented" means that the commitments and provisions of the HCP and ITP have been, or are being, fully implemented. Section 8 of the HCP also addresses unforeseen circumstances and lays out a process for NMFS and the applicant to closely coordinate in responding to such a situation.

3. Alternative actions to the taking considered by the applicant and reasons why such alternatives are not being used.

In Section 1.5 of the HCP, Port Blakely identified two alternatives with respect to potential take of aquatic species² that it considered but dismissed. These alternatives are summarized below.

Take Avoidance Alternative: Port Blakely considered the alternative of adopting a take avoidance strategy for listed salmonid species and found the option to be unsustainable from the perspective of short-term financial risks and long-term financial uncertainty. If found that size of the fully functional riparian zones required to reach no adverse effects, was economically infeasible because the reduced amount of harvestable timber would seriously impede its ability to remain sustainable in a highly competitive industry. Thus, Port Blakely did not pursue this alternative.

Forest Practices Plus Best Management Practices (BMPs) Alternative: Under this Alternative, Port Blakely would conduct forest management activities under Oregon Forest Practice rules while also implementing BMPs. Implementing this alternative would not necessarily avoid take, but would only reduce the potential for take. Port Blakely determined that this approach would not provide adequate protection to listed salmonids and it would be at some level of legal risk. Thus, Port Blakely did not pursue this alternative because it would not provide the regulatory assurances it is seeking.

² In Section 1.5 of the HPC, Port Blakely did not identify any alternatives for terrestrial species because it did not identify any taking that was occurring for these species.

4. Other measures the Secretary may require as being necessary or appropriate for purposes of the plan.

Any additional measures that require the HCP to be fully implemented are described in 2.9.3 Reasonable Prudent Measures and 2.9.4 Terms and Conditions section of the Opinion and in the ITP.

Section 10(a)(2)(B) Permit Issuance Criteria – Analysis and Findings

Having considered the above, NMFS makes the following findings under section 10(a)(2)(b) of the ESA:

1. The taking will be incidental.

NMFS determined, based on the information provided by the applicant that the covered activities described in the HCP are lawful activities. The NMFS concluded in the Opinion that take in the form of harm is likely to occur incidental to implementation of the covered activities in the HCP. The Covered Activities will affect fish and their habitat, as described in the effects analysis above, but conservation measures will minimize and mitigate impacts to of these activities. NMFS finds that any take resulting from the activities authorized under the HCP will be incidental to, and not the purpose of, the activities authorized under the HCP. Therefore, we find that the taking of covered species that may occur as a result of the covered activities will be incidental to otherwise lawful activities.

2. The applicant will, to the maximum extent practicable, monitor, minimize, and mitigate the impacts of such taking.

The impacts of the incidental take expected to occur from the covered activities are described and analyzed in detail in Opinion (NMFS 2023a) and the final EA (NMFS 2023b) and in the earlier section of this document. Baseline environmental conditions and the status of each species are also discussed in the Opinion (NMFS 2023a). The Opinion also discusses the impacts to the species and how the conservation measures address the impacts to the covered species. Prior sections in this document discusses how the conservation strategy described in the HCP improves habitat conditions in the permit area for the covered species and minimizes and mitigates the impacts of the incidental take arising from the covered activities.

Based on this information, NMFS has determined that the proposed minimization and mitigation measures in the HCP are based on a sound biological rationale for the covered species and that they adequately compensate for impacts of the anticipated incidental take arising from the covered activities identified in the DBHCP. NMFS finds that the applicant (Port Blakely), to whom the Permit coverage extends, will monitor, minimize and mitigate the impacts of take of the covered species to the maximum extent practicable. Under the provisions of the HCP and in accordance with the requirements of the Permit, the impacts of the take will be minimized, mitigated, monitored, as described in the NMFS Opinion in section *1.3.2 Conservation Strategies* (NMFS 2023a). In consideration of all the above facts, NMFS finds that: (1) the minimization and mitigation fully offsets the impacts; (2) the HCP is consistent with the long-term survival and recovery of the covered species (also see section 4 below); and (3) the HCP monitors, minimizes and mitigates the effects of take to the maximum extent practicable. These

findings are based on the fact that benefits to the species will be demonstrable, especially compared to existing conditions or those conditions expected to occur absent the HCP.

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

Funding for the minimization, mitigation, and implementation of the HCP is identified in Section 9 of the HCP (Port Blakely 2023). Port Blakely identified a revenue sources of \$9 million on a five-year basis, which is sufficient to fund the implementation costs of the HCP, which Port Blakely estimated to be no more than \$50,000 per year on a five-year basis plus the \$25,000 annual costs made available for fish and wildlife habitat restoration. It based these estimates on implementing two previous Section 10 conservation plans as well as an analysis of its historical cost/revenue data. Port Blakely has been in the forest products business for over 150 years and is currently implementing two other HCPS, for which there have been no funding issues. Also, Port Blakely has committed to update and confirm these estimates at five-year intervals and to timely notify NMFS of any issue with funding the HCP implementation activities.

In addition, the applicant will continue to work cooperatively with other state and Federal agencies, private landowners, local governments, and watershed groups to identify opportunities for cooperative analysis and funding to support salmonid habitat restoration projects. In addition, procedures to deal with changed and unforeseen circumstances are adequately addressed in the HCP – Section 8: Changed and Unforeseen Circumstances (Port Blakely 2023). Section 8.1 of the HCP addresses changed circumstances, which includes windstorms, ice storms, low-severity fires, insect and disease infestation, moderate climate change trends and listing of new species not covered by the HCP. The HCP describes the changed circumstances and the conditions that would trigger classifying events as a changed circumstance and identifies the applicant's response to that changed circumstance. Section 8.2 of the HCP identifies unforeseen circumstances, which include extreme flooding, drought, earthquakes, volcanic eruption and economic downturn. The HCP explains the rationale for classifying these events as unforeseen circumstances.

In view of the foregoing, we find that the applicant has provided sufficient assurances that it will provide funding to implement the measures described in the HCP and have sufficient plans and procedures in place to deal with changed or unforeseen circumstances.

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

NMFS, using the best scientific and commercial data available, has evaluated the anticipated extent of take that will be incidental to the practices covered by the HCP, throughout the term of the HCP, and has concluded that the incidental takings likely to occur will not appreciably reduce the likelihood of survival and recovery of the covered species.

The proposed action is likely to cause a slight decrease in the rate of egg and fry survival, and injury in juveniles and adults because of sediment run-off from road management in close proximity to ESA-listed fish streams, and increased stream temperature from commercial regeneration harvest. However, these effects are not expected to cause a biologically meaningful

effect at the species scale. This is due to narrow limits on the volume of annual timber harvest will be separate the effects in time and space among the 8 watersheds in the action area, and the relatively short duration of the anticipated effects. Because of this, there will likely be only a small number of fish affected at any one time, and thus will not affect a population level. This is because the area affected is a very small portion of habitat available to any one population. Therefore, the proposed action is not likely to appreciably reduce the likelihood of survival and recovery for LCR Chinook salmon, LCR coho salmon, LCR steelhead, UWR Chinook salmon and UWR steelhead, even when combined with a degraded environmental baseline, and additional pressure from cumulative effects and climate change. Additional information regarding this determination can be found in the integration and synthesis and conclusion sections of the Opinion (NMFS 2023a). The section 7(a)(2) “no jeopardy” standard is identical to the section 10(a)(2)(B) “no jeopardy” standard.

5. The applicant has amended the conservation plan to include any measures (not originally proposed by the applicant) that the Assistant Administrator determines are necessary or appropriate.

NMFS identified no additional necessary or appropriate measures. During development of the HCP, NMFS and the applicant collaborated extensively on developing conservation measures that would minimize take to the maximum extent practical. The HCP and ITP incorporate all elements determined by NMFS to be necessary for approval of the HCP and issuance of the permit.

6. There are adequate assurances that the conservation plan will be funded and implemented, including any measures required by the Assistant Administrator.

NMFS finds that the applicant has shown a sufficient commitment to implementing the mitigation, monitoring, and reporting requirements described in the HCP. NMFS finds that the applicant will ensure funding adequate to implement the HCP, as discussed in earlier in this document. Section 9 of the HCP describes the funding mechanisms available to implement the HCP conservation strategies and monitoring identified in earlier chapters of the HCP.

General Criteria and Disqualifying Factors

NMFS has no evidence that the ITP should be denied on the basis of criteria and conditions set forth in 50 C.F.R. section 222.303(e)(1). The applicant has met the criteria for issuance of the ITP and does not have any disqualifying factors that would prevent the ITP from being issued under current regulations

Recommendation on Permit Issuance


Based on the foregoing findings, NMFS recommends the issuance of the ITP to Port Blakely for their authorizing incidental take of LCR coho salmon, LCR Chinook salmon, LCR steelhead, UWR Chinook salmon and UWR steelhead associated with its ongoing forestland management activities described in the HCP, located in Clackamas County, Oregon.

References

NMFS. 2023a. Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Issuance of a Section 10 Incidental Take Permit for the Port Blakely Habitat Conservation Plan for the John Franklin Eddy Forestlands. Publicly available at: <https://www.fisheries.noaa.gov/action/port-blakely-habitat-conservation-plan-john-franklin-eddy-forestlands>.

NMFS. 2023b. Final Environmental Assessment for Authorization for Incidental Take and Implementation of Port Blakely's Habitat Conservation Plan for the John Franklin Eddy Forestlands. Publicly available at: <https://www.fisheries.noaa.gov/action/port-blakely-habitat-conservation-plan-john-franklin-eddy-forestlands>.

Port Blakely. 2023. Habitat Conservation Plan for the John Franklin Eddy Forestlands. Publicly available at: <https://www.fisheries.noaa.gov/action/port-blakely-habitat-conservation-plan-john-franklin-eddy-forestlands>.



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