National Environmental Policy Act (NEPA) Review of a Habitat Conservation Plan for 13 Aquatic and Terrestrial Species on Montana Trust Lands

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Definition of Habitat Conservation Plan (HCP)

- Voluntary legal agreement between non-federal landowners and U.S. Fish and Wildlife Service (USFWS)
- Provides for conservation of Endangered Species Act listed fish and wildlife species or those that may potentially be listed during the permit period
- Conservation through habitat and critical life requisite enhancement or protection
- Requirement for an Incidental Take Permit (ITP) application, under Section 10(a)1(B) of the Endangered Species Act
- Over 500 HCPs have been prepared in the United States to date resulting in the protection of more than 525 endangered and threatened species

Endangered Species Act and HCPs

- Unlawful for a person to “take” a listed species
- Term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in such conduct
- “Harm” includes significant habitat modification or degradation where it kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering
- An ITP allows an applicant to “take” a species while conducting normal routine business activities assuming that the “take” is minimized and mitigated and will not cause jeopardy to the listed species
- HCPs are a component of the Incidental Take Permit (ITP) application
- Landowner makes long-term commitments to minimize and mitigate take of covered HCP species through a plan that promotes conservation of the HCP species

Benefits of an HCP

- Helps to reduce conflicts between listed species and economic development activities
- Provides a framework that encourages creative partnerships between federal agencies and non-federal entities
- HCPs emphasize long-term recovery goals by encouraging the active participation of landowners
- For the landowner, HCPs create a predictable regulatory environment, offering creative flexibility and certainty needed for planning
- HCPs also reduce disincentives that may discourage landowners from managing for future habitat development for listed species
- HCPs help to reduce uncoordinated decision-making that may result in incremental habitat loss, negative effects to other species, or inefficient and duplicative review

Background of USFWS (Permitting Agency)

- Federal agency whose mission is to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people
- Major responsibilities are endangered and threatened species, but also manage national wildlife refuges, fish hatcheries, conduct law enforcement, staff ecological services field stations, and conduct research
- Employs 7,500 people in the U.S.
- Enforces the Endangered Species Act

Background of DNRC (Applicant)

- The Montana Department of Natural Resources and Conservation (DNRC) is the project applicant
- DNRC manages Montana state owned resources including water, soil, forest, rangeland, and oil and gas
- This HCP is pertinent for only the DNRC Trust Land Management Division, which is responsible for surface and mineral resources for forestry, grazing, agriculture and other classified state trust lands
- The division provides revenue for the benefit of Montana's public schools and other endowed institutions
- HCP pertinent to forested parcels on state trust lands and some additional non-forest parcels required for access

Role of Parametrix

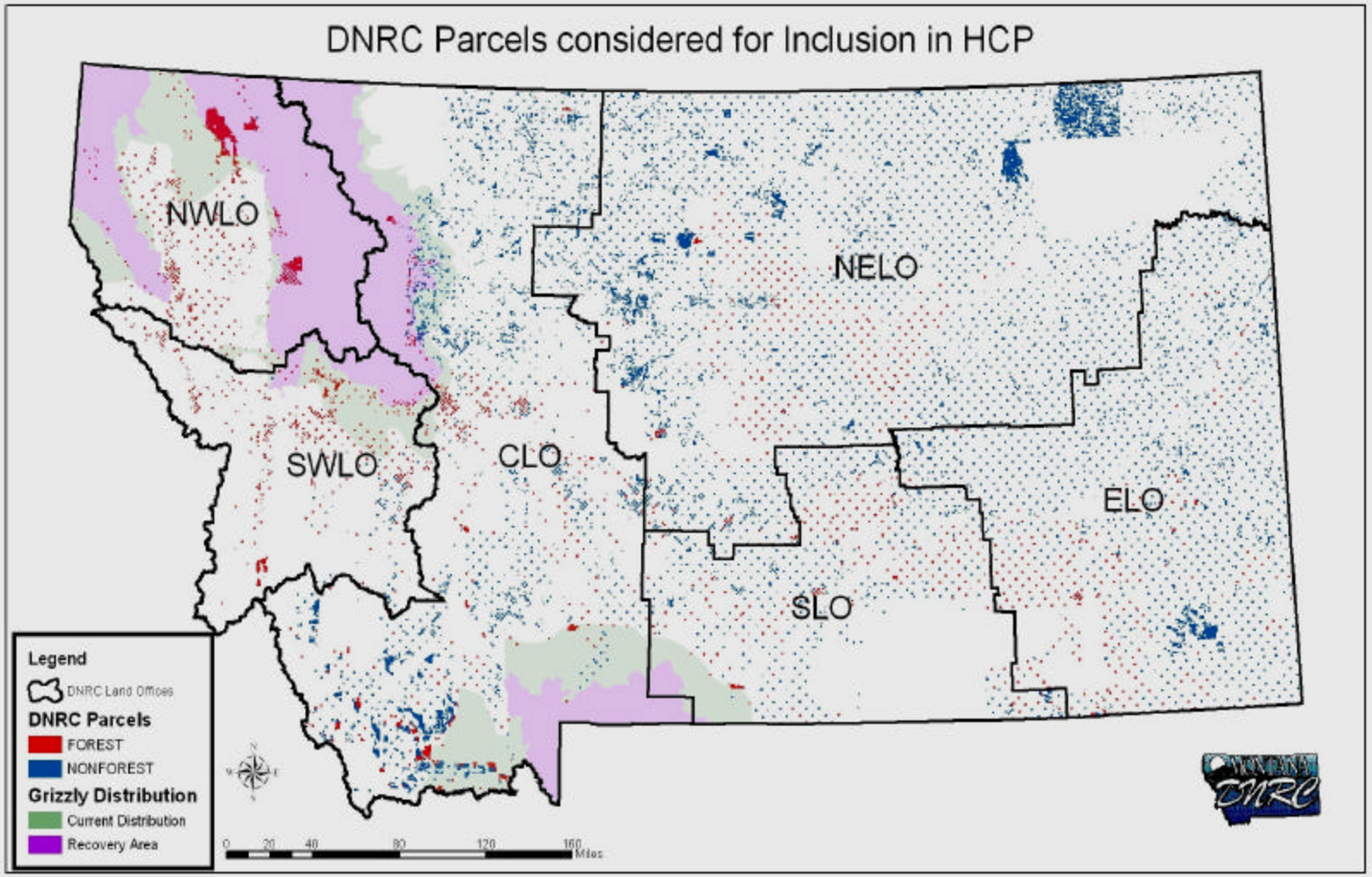
- Provide document support for DNRC and USFWS (HCP and EIS)
- Provide guidance on developing a coordinated HCP and EIS
- Attend and facilitate meetings for the overall project team
- Develop and run wildlife species models to demonstrate project effects
- Responsible for GIS (quantitative analyses and maps)
- Provides support for public meetings

Role of Work Groups

- Comprised of USFWS, DNRC, with Parametrix document support
- Review and approve best available science
- Negotiate conservation strategies
- Respond to agency critique
- Four work groups: aquatic, terrestrial, transition lands, and forest modeling

Basic Elements of the HCP

- Species: 10 terrestrial and 3 aquatic listed and unlisted (but sensitive) species
- Geographic Coverage: Approximately 1,000,000 acres – timber areas and other areas needed to access forested land
- HCP Term: 50 years
- Activities: Primarily related to forest management


DNRC Parcels considered for Inclusion in HCP
NWLO
NELO
SWLO
CLO
ELO
SLO
Legend
DNRC Land Offices
DNRC Parcels
FOREST
NONFOREST
Grizzly Distribution
Current Distribution
Recovery Area
0 20 40 80 120 160
Miles
DNRC

Species

- Gray wolf (threatened)
- Grizzly bear (threatened)
- Bald eagle (threatened)
- Canada lynx (threatened)
- Wolverine
- Fisher
- Northern goshawk

- Black-backed woodpecker
- Pileated woodpecker
- Flammulated owl
- Westslope cutthroat
- Redband trout
- Bull trout (threatened)

Goals and Objectives of the HCP

- To the maximum extent practicable, minimize and mitigate impacts of DNRC's forest management activities on HCP species
  - from habitat alteration and disturbance related to forest management activities
  - recognizing that opportunities to provide for habitat needs of species may be limited by trust mandate, ownership amount, and distribution at the landscape scale
- Provide habitat conditions that are necessary and advisable to conserve and enhance species populations and allow for long-term survival of HCP species
- Provide DNRC with predictability and flexibility to manage its forest lands economically, and consistent with its statutory mandate to generate revenue for trust beneficiaries
- Provide reasonable and legitimate returns for trust beneficiaries through intensive forest management

Current Forest Management Practices

- State Forest Land Management Rules provide the guiding framework for forest management
- Direction based on the following criteria
  - monetary return to school trusts
  - maintenance of biodiversity and long-term health of the forest resources
  - effects on the biological and physical environment
- Management standards to provide a mix of forest stand structures and composition to support diverse wildlife populations
  - landscape scale (coarse filter approach)
  - management of single species (fine filter approach) – endangered, threatened, and sensitive species
  - silvicultural systems based on natural disturbance regimes

Scope of the HCP – Covered Activities

- Timber harvest
- Salvage harvest
- Thinning
- Slash disposal
- Prescribed burning
- Site preparation
- Reforestation
- Weed control

- Road construction and maintenance
- Forest inventory
- Monitoring
- Grazing
- Gravel quarrying
- Fertilization
- Electronic facility sites
- Other activities common to commercial forest management

Process in Developing Conservation Strategies for the 13 Species

- Preparation of species accounts
- Development of conservation strategies
- Compilation of strategies into forest management commitments
- Review and approval from key agency supervisory staff
- Development of options for some species where there are different approaches that will produce varying results
- Forest management modeling to determine economic results of the options
- Selection of options for EIS alternatives

Species Accounts

- Current Legal and Agency Status
- Population Status, Distribution, and Seasonal Presence
- Key Life Requisites
- Sensitivity to Covered Activities
- Management Needs and Recommendations
- Current DNRC Protective Measures
- Protective Measures Developed by Other Agencies/HCPs
- Existing DNRC Monitoring and Research Programs
- Existing Models Available for Alternative Development
- References

Conservation Strategy Approach

- Conduct technical working group meetings between DNRC and USFWS to:
  - determine if existing rules adequately protect the species,
  - review management gaps,
  - propose refinement in the rules that would better protect species habitat or critical life requisites, and/or
  - identify new forest management practices that would help protect HCP species better than existing rules
- Goals and objectives identified (both general and species specific)
- Review includes identifying critical habitat components that may be affected by forest management activities
- Strategies developed for each individual species that are combined into forest management commitments
- Includes strategies for identifying how existing harvest may be modified to allow specific habitat features to remain in the cut area

Development of the EIS under NEPA

- The National Environmental Policy Act (NEPA) EIS reviews environmental impacts from the proposed HCP
- Effort includes sustained yield harvest modeling to develop a no-action alternative
- The analysis is for today through the next 50 years
- Combined document of HCP and EIS
- HCP will likely be the preferred EIS alternative
- Entire HCP is an appendix of the EIS
- EIS includes other action alternatives

Development of the EIS under NEPA (continued)

- Wildlife effects analysis for HCP species is a component of EIS
- Other resources to be evaluated:
  - timber/vegetation
  - fisheries and aquatic resources (those species not included in the HCP)
  - wildlife (those species not included in HCP)
  - socioeconomics and economics of alternatives
  - hydrology
  - geology
  - road management
  - cultural/archaeological resources
  - recreation
  - air quality
  - scenery

Time Frame

- Initial Project Planning 11/02 – 4/03
- Public Meetings 5/03
- Species Accounts 5/5 – 2/04
- Conservation Strategies 7/03 – 7/04
- Sustained Yield Modeling 11/03 – 6/04
- Habitat Commitments 9/04 – 10/04
- EIS Options and Alternatives 9/04 – 1/05
- HCP Preparation 9/04 – 11/05
- DEIS 9/04 – 1/06
- Public Comment 1/06 – 2/06
- Final HCP 1/06 – 4/07
- Final EIS 1/06 – 4/07
- Record of Decision 2/07 – 5/07