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## **D. RECREATION**

**Summary:** An individual member of the Blue Ribbon Coalition commented the HCP could result in recreational land use closures, which the commenter vigorously opposed. One individual commented the demand for recreational use is increasing.

**Response:** Different recreational users have different recreational needs. While some may see closures as degrading the recreational experience, others prefer closures for enhancing recreational experiences. The proposed plan and each of the other alternatives contemplate varying degrees of riparian protection forest management, harvest deferral, and road closure, all of which directly and indirectly affect the quality of the recreational experience as well as affecting the quality and quantity of fish and wildlife habitat. Some recreational experiences would be enhanced while others would be diminished. The Services do not purport to pass judgement on which recreational experiences are preferable to others. Instead, the Services believe that, as mentioned above, the measures in the proposed HCP will have a variety of effects, none of which will be significant, on the recreational resource.

State trust lands were designated in the Enabling Act, State Constitution, and other state law to provide support to the trust beneficiaries in perpetuity. DNR has proposed the HCP and is seeking an ITP as a prudent trust manager. Recreation is a secondary benefit that cannot legally interfere with the trust mandate.

## **E. AESTHETICS**

**Summary:** Several individuals and one timber industry member provided comments on aesthetics under the proposed HCP. One individual wrote that one of the responsibilities of local, state and federal government is to preserve the aesthetic qualities of the landscape. A forester with Merrill & Ring wrote that as buffers protecting Type 4 and 5 waters “unravel,” they would become unsightly. Several individuals wrote that continuing forest management and clearcutting makes the state less aesthetically appealing to visitors and residents.

**Response:** Under NEPA, the action agencies are responsible for addressing effects on the aesthetics of the human environment where, on a net basis, those effects are significant. Almost all of the lands that would be covered under the proposed HCP, are presently managed as commercially productive forests. This primary land use would continue whether or not an ITP is issued and HCP implemented. As for the unsightliness of added protection for Type 4 and 5 streams, the Services note that most comments on aesthetics concerned the effects of harvest and not the effects of protective measures on aesthetics. Accordingly, this comment appears to be a matter of the “eyes of the beholder.”

## **VI. MANAGEMENT PRACTICES**

**Summary:** Northwest Forestry Association, GBA Forestry (for Washington Hardwoods Commission), and three individuals requested more detailed descriptions of the sequence, timing, and specific quantity of silvicultural activities that will be used to manage state land to produce the harvest levels and maintain the habitats described in the HCP. A member of the Washington State House of Representatives, a Stevens County

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Commissioner, and one individual commented that the HCP would place unnecessary restriction on the management of state lands. Point No Point Treaty Council and one individual commented that a simple landscape plan based solely on forest stands available for various silvicultural treatments, while ignoring best management practices and non-timber resources, is not acceptable. An identical letter from 51 individuals requested assurance that sufficient habitat will exist to make up for losses of wildlife that will occur under this plan. One individual commented that active management can improve watershed and wildlife habitat characteristics. USEPA Region 10 noted the proposed riparian management strategies are a departure from the historic one-size fits all approach. Blue Ribbon Coalition requested a definition of stabilize and environmental problems as used in the OESF objective to *stabilize and close access to roads that no longer serve a management function or that cause intractable management or environmental problems*. Blue Ribbon Coalition commented that other activities which are served by roads in our public forests need to be considered.

**Response:** An HCP is the principle document supporting an application for incidental take permits and unlisted species agreements. The purpose of an HCP is to describe the management practices and/or guidelines to which the applicant willingly commits in exchange for incidental take permits. DNR chose not to present detailed descriptions of silvicultural activities in the HCP because doing so might unduly constrain DNR over the long term. DNR and the Services believe that DNR's HCP describes silvicultural activities at a level of detail sufficient to satisfy Section 10 of the ESA. Silvicultural activities will comply with the Washington Forest Practices Rules and will be consistent with the direction given by Board of Natural Resources as expressed in Forest Resource Plan (DNR 1992b).

The DNR's HCP does not place unnecessary restrictions on the management of state lands. The conservation commitments presented in DNR's HCP are only those necessary to obtain incidental take permits and unlisted species agreements.

DNR and the Services agree that landscape plans which ignore nontimber resources are not acceptable. DNR's Landscape Planning process does consider non-timber resources such as fish and wildlife habitat.

The Services' principal motivation for issuing incidental take permits and entering into unlisted species agreements is to obtain assurances that various fish and wildlife habitats will be maintained over the long term.

DNR and the Services acknowledge that for some wildlife species active management can improve habitat characteristics.

In the passage cited from the OESF riparian conservation strategy, "stabilize" means to minimize mass-wasting and surface erosion caused by roads, and "environmental problems" refers mainly to the adverse impacts of roads on water quality and fish habitat. The Services did not require DNR to consider in its draft HCP or draft EIS other activities which roads in forests serve. DNR chose not to consider in its draft HCP these other

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activities, such as recreational use of roads, because doing so might unduly constrain DNR over the long term.

## **A. AMOUNT OF HARVEST**

**Summary:** Comments from Honor the Earth Children's Circle and one individual requested preserving the forests that are left on DNR-managed land. One individual commented that two tables which included higher harvest figures for HCP options were false because they were based on including thinning and pole sale harvests that were excluded from other options. Merrill & Ring requested more information on how harvest levels are arrived at and where they come from, while Bogle & Gates (as a consultant to Washington State University) questioned how harvest levels can be higher under the HCP when more land is deferred from harvest.

**Response:** See the response for "Old-Growth Habitat" on page 3-13 in this section.

The harvest calculations done to compare the economic consequences of the HCP alternatives used identical silvicultural treatments, including periodic commercial thinning, for all three alternatives. A summary of the methods and results of the harvest calculations are part of the public record and can be obtained from DNR. Under HCP Alternative B, the issuance of an ITP for spotted owls results in a net increase in the amount of forest available for harvest.

## **B. HARVEST SCHEDULE**

**Summary:** A member of the House of Representatives stated it is important for DNR to demonstrate how planning, such as the creation of multiple landscape planning units, as proposed by the HCP will not interfere with a predictable and stable timber supply and economic return. Bogle & Gates (a consultant to Washington State University) commented that the discussion of the OESF is misleading in that, while the unzoned approach suggests that areas will not be deferred from timber management, portions of the OESF actually contain forests that cannot be harvested under the HCP for the foreseeable future -- in some cases for decades.

**Response:** As expressed in Forest Resource Plan Policy No. 16 (DNR 1992b), DNR has been directed by the Board of Natural Resources to use landscape planning. Hence, landscape planning is an element of all three HCP alternatives. Planning is generally believed to result in more predictable and stable outcomes.

The mission of the OESF is to develop and test forest management strategies which will optimally integrate commodities production with ecological conservation. DNR and the Board of Natural Resources expect that the trust beneficiaries, citizens of Washington state, and forest products industry will benefit greatly from the knowledge acquired through research in the OESF. The management strategy proposed for the OESF in the draft HCP, the unzoned forest, is a working hypothesis. Through adaptive management this initial management strategy will change with each decade. In some landscape planning units, a deferral of timber harvest will be necessary to satisfy the mission of the OESF.

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## **C. HARVEST METHODS**

**Summary:** One individual and the NW Biodiversity Center questioned the use of any clearcutting on state lands. Northwest Forestry Association suggested using language clearly stating areas prone to mass wasting may be harvested in the future when the knowledge to assess site conditions and prescribe suitable harvest methods is developed. NW Timber Workers Resource Council commented on the need to change public perceptions of the real impacts of various logging methods. Two individuals requested a better description of the silvicultural practices that will be used to develop habitat structures and manage state forests in a way that is sustainable over time.

**Response:** DNR is concerned about the impacts of intensive forest management, in particular, the impacts of repeated clearcut harvest over many rotations. The department has a legal duty to produce long-term income for the trust beneficiaries. A lasting diminution of soil productivity due to intensive forest management would be counter to this duty. There are many unanswered questions surrounding the effect of forest management on soil productivity. To answer some of these questions, DNR is engaged in long-term site productivity research near Sappho on the Olympic Peninsula.

The draft HCP (p. IV.56) does clearly state that areas prone to mass-wasting may be harvested in the future when knowledge to assess site conditions and prescribe suitable harvest methods are developed.

Changing public perceptions is beyond the scope of the proposed action.

An HCP is the principle document supporting an application for incidental take permits and unlisted species agreements. The purpose of an HCP is to describe the management practices and/or guidelines to which the applicant willingly commits in exchange for incidental take permits. DNR chose not to present detailed descriptions of silvicultural practices in the HCP because doing so might unduly constrain DNR over the long term. DNR and the Services believe that DNR's HCP describes silvicultural practices at a level of detail sufficient to satisfy Section 10 of the ESA.

## **D. YARDING METHODS**

**Summary:** Bogle & Gates (a consultant to Washington State University) requested clarification on whether ground yarding equipment will be allowed in buffers.

**Response:** Ground yarding equipment may be allowed in buffers. Specific prescriptions regarding activities in the riparian zone that will be applied under the various on-the-ground circumstances will be developed as part of a comprehensive strategy subject to the adaptive management provisions of the HCP. So long as such yarding does not diminish the value of the habitat for salmonids, those yarding activities would be allowed.

## **E. RIPARIAN MANAGEMENT STRATEGY**

**Summary:** The USEPA Region 10 commented that to protect aquatic resources and fisheries health and to carry out restoration and protection efforts, one must take a

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landscape-scale approach. The USDA Natural Resource Conservation Service said that making an RMZ off-limits to management will slow down the recovery of riparian areas. The WDFW stated that, while offering potential benefits for salmonids, DNR's HCP is weak in providing life requisites for other species dependent on riparian habitat.

The Elwha/Clallam Tribe was "particularly pleased with the riparian strategy" as outlined in DNR's draft HCP and further stated "implementation of the riparian strategy will be a significant contribution to recover salmon populations in western Washington." The Muckleshoot Tribe recommended that the "six points of the Riparian Conservation strategy for the OESF" be added to the Riparian Conservation Strategy for the west-side planning units. The NWIFC said, "It is difficult to evaluate what DNR's intentions are for riparian buffers." They also said, "a broader range of habitat protections should be set forth in the HCP, including a higher and lower range. DNR would then commit to maintaining habitat within that range, in light of experience it gains through the adaptive management process." The Squaxin Tribe recommended that the selective harvest area from 25 to 100 feet in the riparian buffer be eliminated. The Tulalip Tribe stated that most culverts are impediments or blockages to fish passage.

Clallam County questioned the riparian strategies as laid out in the draft HCP and suggested the paper "Economic Analysis of Forest Landscape Management Alternatives" by Lippke, Sessions and Carey be used as a guide toward better forest stewardship. Metropolitan King County said that they will benefit from harvest practices that minimize downstream impacts, a major mitigation cost for urbanizing counties. They wanted the HCP to reduce the risk for future federal listings of threatened and endangered species, particularly salmonids that inhabit upland streams. The City of Port Angeles said that forest management should be watershed based. The Port of Port Angeles was concerned about the "...tremendous amount of land set aside for riparian management zones" and said that leaving 100 foot or wider zones along Type 4 and 5 Waters is "...detrimental to good forest management." Bogle & Gates (a consultant to Washington State University) said that it is difficult to assess the impacts of the draft HCP guidelines when so much future research and planning is involved and the results won't be known for some time.

WEC supported the draft HCP's riparian strategy for western Washington. American Rivers said the draft HCP is inadequate for fish protection. The Northwest Ecosystem Alliance suggested that DNR use the FEMAT approach to riparian protection. The Rivers Council of Washington wanted site-specific management. The Washington Native Plant Society encouraged DNR to select Alternative C.

Cascade Hardwood said that a greater than four-fold increase in the amount of land set aside for riparian protection, relative to the present forest practices rules, is inappropriate. Inland Wood Specialties said that wider riparian zones endanger the hardwood industry. Merrill & Ring said that riparian strategies decrease land base and decrease harvest levels. NCASI stated that DNR needs to balance resource protection and timber value when dealing with riparian protection. NCASI called the riparian conservation strategy "a costly option" and "overly conservative in protection." NCASI stated, "There is a law of diminishing returns which needs to be exploited if we are to efficiently protect natural resources and still allow for timber use." Northwest Forestry Association said that the

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draft HCP “. . .lays out a riparian strategy which substantially deviates from forest practices regulations and FRP.” The Northwest Forestry Association suggested that DNR analyze the Forest Resource Plan and forest practices regulations against the HCP in terms of benefit versus cost. Western Hardwood Association stated that the draft HCP riparian protection has not been proven to be better than the forest practices regulations. The Washington Forest Protection Association commented that Washington Forest Practices Rules provide adequate protection of public resources and suggested that DNR use the Forest Resource Plan for stream protection. Washington Hardwood Commission recommended that DNR use the current forest practices rules because “they haven’t hurt anything.” Washington Hardwoods Commission urged that DNR consider the commission’s analysis of the draft HCP.

A local group said that no-harvest RMZs are bad for habitat recovery. An individual supported the draft HCP with some modification. Another local organization asked for more riparian protection. Two individuals wanted the riparian protection measures wider. An individual wanted the riparian protection increased to FEMAT standards. An individual said that a combination of HCP Alternatives B and C is best, especially with respect to Type 5 Waters. An individual said the no-logging buffer is probably too small. An individual wanted the riparian zones to be wider and preferred no-cut buffers. An individual said that riparian protection strategies should be watershed based.

An individual commented that site-specific needs are a key issue. An individual stated that maximizing tree height in the riparian zones will require growth beyond 100 years and that these larger trees will be needed to stabilize jams and are crucial for long-term success of riparian buffers. He also stated that maximizing conifer tree diameter in riparian zones is vital for quality of salmonid habitat.

**Response:** Specific comments on riparian buffer width or forest management within riparian buffers are addressed below.

### **1. Riparian Buffer Widths**

**Summary:** The USEPA Region 10 stated that there needs to be more protection along Type 5 Waters. WDFW commented that riparian ecosystems will receive less protection in steep slopes when slope distances are used to measure RMZ widths. Clallam County said there is no biological justification for buffering Type 4 and 5 Waters. The City of Port Angeles said that wide buffers on Type 4 Waters are “detrimental to good forest management.”

The Sierra Club and The Rivers Council of Washington commented that riparian zones need to be wider and do not go far enough to address wildlife needs.

The Hoh Indian Tribe requested that horizontal distance be used to measure RMZ widths because on steep slopes large woody debris can be recruited from distances beyond one tree height. The Tulalip Tribes requested that horizontal distance be used to measure RMZ widths because most literature pertaining to riparian function is based on research which has measured horizontally from the stream. The Muckleshoot Indian Tribe suggested that buffers on Type 4 Waters be based on their

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sensitivity to changes in inputs (wood, sediment, water, energy) and how they could deliver such inputs to salmonid bearing areas downstream. The NWIFC suggested that interim guidelines provide all Type 5 streams buffers. The Rivers Council of Washington and Sierra Club want wider buffers.

The Washington Forest Protection Association wanted to know why DNR's Forest Resource Plan is not used for streams other than Type 5. Washington Hardwoods Commission asked why DNR's draft HCP buffers are wider than those recommended by other studies. The Inland Wood Specialties commented the riparian buffers should be kept as specified in the forest practices rules and regulations and that riparian protection zones greatly affect the amount of alder available for harvest. Merrill & Ring said that expansion of riparian areas is the largest impact of the proposed HCP. After comparison of the draft HCP to the Plum Creek Timber Company HCP, Mt. Baker Plywood claimed that the riparian buffer widths are excessive. NCASI stated that riparian protection along small streams, Type 4 and 5, is where the most land is lost to management. The Northwest Forestry Association questioned the need for 100-foot buffers on Type 4 Waters. Washington Hardwoods Commission wrote that it has not been proven that wider riparian buffers can help fish and wildlife. Washington Hardwood Association asked DNR to consider other current research with regard to buffer widths. The Washington Hardwoods Commission cited a GIS pilot study in which they compared DNR's OESF and west-side riparian strategies to state regulations, the Elliott State Forest (Oregon Department of Forestry) HCP, and Plum Creek Timber Company's HCP. They noted that the amount of land included in DNR's west-side riparian strategy was proportionally very similar to Plum Creek's.

Many individuals said that the riparian buffers should be wider. A local group and many individuals said that 25-foot no-logging buffers are not enough. Another local group suggested doubling buffer widths on all streams. Several individuals suggested that DNR follow the FEMAT recommendations for riparian protection. A local organization attempted to make a case, using information in FEMAT (1993) on shade, large woody debris, and soil temperature, that DNR's riparian buffers are too narrow. An individual said that wider RMZs benefit water quality. An individual said that Type 5 streams would be protected with buffers only where found in unstable slopes. An individual suggested that DNR adopt 100-foot buffers along streams like the state of Alaska.

Fifty-one individuals wrote the buffer width should be adjusted for topography. An individual suggested that DNR provide 200-foot no-logging buffers. An individual suggested that riparian zones be no-cut, and that no harvest occur within 100 feet of any Type 1 through 4 streams or within 25 feet of Type 5 streams, except for necessary habitat improvement. Another individual said the 25-foot no-harvest area should be extended to 50 feet to avoid erosion, root damage, and incidental take of trees and associated riparian species. An individual commented that a 100 foot buffer could be destroyed in a flood. An individual stated that Douglas-fir can easily grow an additional 50 percent in height in the second 100 years, implying that buffer widths should be based on 200-year-old trees. An individual said that riparian zones

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include the full width of waterways at historical flood levels, not an average width. An individual said if DNR uses the slope distance, then it may not always comply with minimum buffer widths required by state forest practices rules. An individual asked for more explanation of the benefits of moving toward larger riparian management zones. Two individuals said that buffers are too narrow for deep-forest species of wildlife that tend to avoid forest edges.

**Response:** DNR did consider a riparian conservation strategy with wider riparian buffers. It was determined that an HCP which specified substantially wider buffers than those specified in the draft HCP would not satisfy one of the main purposes of the proposed action -- to produce the most substantial support possible over the long term for the trusts. The HCP is the principle document supporting DNR's application for incidental take permits and unlisted species agreements. The Services can issue incidental take permits and unlisted species agreements if, and only if, the HCP satisfies the criteria listed in Section 10 of the ESA. Early in the development of DNR's HCP, the Services conveyed to DNR their belief that current Washington Forest Practices Rules would not satisfy the Section 10 criteria. The basic elements of the riparian strategy in the draft HCP will allow DNR to produce the most substantial support possible over the long term for the trusts and are sufficient to satisfy Section 10 of the ESA. After negotiations with the Services and in response to public comments, DNR has agreed to minor modifications of the draft HCP riparian conservation strategy which will increase the buffer width on steep slopes or in wide flood plains. As explained in the DEIS, the overall riparian conservation strategy of the proposed HCP should provide better protection of salmonid habitat and other aquatic resources than Alternative A.

DNR's Forest Resource Plan was used to develop the conservation strategy for all stream types. Policy No. 20 of the Forest Resource Plan says:

"The department will establish riparian management zones along Type 1-4 Waters and when necessary along Type 5 Waters. The department will focus its efforts on protecting nontimber resources, such as water quality, fish, wildlife habitat and sensitive plant species."

The Forest Resource Plan was approved in 1992, but it has yet to be fully implemented. The draft HCP riparian strategy is an implementation of this policy. For Type 5 streams there is insufficient information to determine "when necessary." Type 5 streams may need more protection, but DNR realizes that this is a contentious issue. During the first 10 years of its HCP, DNR will conduct research to study the effects of forest management along Type 5 Waters on aquatic resources. At the end of the 10 years, a long-term conservation strategy for forest management along Type 5 streams shall be developed.

Numerous recommendations exist for the management of riparian ecosystems. Simplistic comparisons of DNR's riparian strategy with these recommendations can lead to spurious conclusions, for recommendations are often based on management objectives. The riparian strategy presented in the draft HCP is thought to be

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sufficient to create properly functioning riparian ecosystems. For example, WDW (1991) recommended riparian buffers 200 feet wide, and FEMAT (1993) specified that riparian buffers be 300 feet wide on fish-bearing streams.

With respect to the Washington Hardwoods Commission's comparison, the Services note that state regulations provide no regulatory relief from the ESA. The Elliott State Forest HCP was for owls and murrelets only and did not address riparian or aquatic species. Plum Creek's HCP addressed over 285 vertebrate species, and DNR's HCP addresses all species.

The riparian strategy of DNR's draft HCP is similar to that described in the Plum Creek Timber Company HCP. DNR specifies a 25 foot no-harvest area. Plum Creek specifies a 30 foot no-harvest area. On Type 1, 2, and 3 Waters, DNR's riparian buffers should average 150 feet. Plum Creek's riparian buffers on Type 1, 2, and 3 streams are 200 feet. Both DNR and Plum Creek allow management activities to occur in the buffer, excluding the no-harvest area. DNR adds a wind buffer (either 100 feet or 50 feet wide) to the riparian buffer in areas that are prone to windthrow. In most instances, the wind buffer would only be added to the windward side of the stream. The total width of riparian buffer along Types 1, 2, and 3 streams is less under DNR's draft HCP than under Plum Creek's HCP. DNR's total width equals 400 feet (150 feet + 150 feet + 100 feet) along Type 1 and 2 streams, and 350 feet (150 feet + 150 feet + 50 feet) along Type 3 streams. Plum Creek's total width is 400 feet along Type 1, 2, and 3 streams (200 feet + 200 feet). Along Type 4 streams, both HCPs specify a 100 foot riparian buffer, and both HCPs allow management activities within the buffer.

DNR agrees with the observation that on very steep slopes large woody debris can be recruited from distances beyond one tree height. The draft HCP has been modified so that riparian buffer widths are measured horizontally. This modification will also adjust the buffer width for topography, and the riparian buffer width will always comply with minimum buffer widths required by state forest practices rules.

DNR agrees that the riparian buffer could be greatly reduced, and possibly destroyed, in a flood. This could occur mainly through stream bank erosion and lateral channel migration. The HCP will be modified so that the riparian buffer is measured from the edge of the 100-year flood plain instead of the active channel margin.

The justification for using site-potential height of a mature conifer stand (age approximately 100 years) rather than the site-potential height of an old-growth stand (age approximately 200 years) for the width of the riparian buffer is presented in the draft HCP (p. III.63, and p. IV.59 to IV.61). The reasons for 100 foot buffers on Type 4 Waters are explained in the draft HCP (p. IV.59-IV.61).

The issue of adequate riparian buffer widths for deep-forest species of wildlife is addressed under the heading of forest fragmentation.

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## 2. Riparian Buffer Treatment

**Summary:** The USEPA (Region 10) asked for an explicit definition of physical habitat targets or performance standards related to “low harvest” or “minimal harvest” areas. The USDA Resource Conservation Service said DNR should manage the forest “right to the stream bank.” This includes planting, topping, or removing risk trees up to the stream bank. The WDFW asked for proof that single and multiple tree harvest in the buffers would not compromise riparian ecosystem functions, especially short-term and long-term large woody debris recruitment.

The NWIFC commented that DNR should use the wild salmonid policy or Priority Habitat and Species Management Recommendations (WDW, 1991) as habitat standards. The NWIFC said that prescriptions are vague and need to address restoration. Also, they said that DNR needs to put limits on single tree removal. The Point No Point Treaty Council also requested that measurable criteria, or habitat standards, for biological success, both terrestrial and instream, be included in the HCP. The Hoh Indian Tribe suggested that a certain minimum number of trees be contained within an RMZ to make it functional, so that slope distance or site condition irregularities do not reduce large woody debris recruitment below what could actually be attainable. The Muckleshoot Indian Tribe stated the HCP is unclear regarding how DNR will determine whether minimal harvest activities are appreciably reducing stream shading, etc. The Point No Point Treaty Council, Tulalip Tribes, and Squaxin Indian Tribe recommended that the inner 100 feet of the riparian buffer be a no-harvest zone and commented this would insure that large woody debris recruitment needs are met. The Squaxin Indian Tribe said standards would allow the last big trees to be removed from riparian ecosystems. The Tulalip Tribe says that the buffer treatments are not well defined.

Bogle & Gates (a consultant to Washington State University) requested that the HCP’s riparian buffers be compared to forest practices rules, i.e., the regulatory minimums, and to buffer prescriptions that have been developed in recent watershed analyses. This consultant said that standards for buffers are impossible to meet, the amount of allowable harvest is unclear.

The Sierra Club wanted wider no-cut zones. The Rivers Council of Washington wanted a wider no-cut zone in RMZs and wider RMZs overall. The Northwest Ecosystem Alliance wanted no-harvest buffers and more information on buffer treatments. American Rivers wanted to wider buffers with no harvest. The National Audubon Society preferred DNR’s Alternative C.

The Northwest Forestry Association asked what level of harvest will be allowed in buffers and which species can be removed. NCASI stated the management which occurs and the silvicultural objectives are equally important as the width of the buffer. The Washington Forest Protection Association commented that there are inconsistencies in what kind of tree removal will be allowed and what kind of restoration of conifers will take place in the RMZs. The Cascade Hardwood Association wanted more tree removal in RMZs and funding for stream restoration. The Washington Hardwoods Commission asked that DNR allow entry into buffers

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for harvest and reclamation. The Western Hardwoods Association said that conversion of buffers from hardwood to conifer is preferential toward one species group. Also, they said that increased buffer widths and the addition of wind buffers have not proven to be any more effective for fish than the current rules in the Forest Practices Rules and Regulations. The Western Hardwoods Association said that there is a need to allow selective harvest in buffers. Inland Wood Specialties believed that the riparian zone management should include harvest and reclamation, and that this would enhance water quality and fish and wildlife. Merrill & Ring Logging Company said that blow down will increase with partial cutting of RMZs. GBA Forestry expressed the hope that the DNR technical staff will lead the way in demonstrating forest practices that provide adequate habitat while maintaining productivity of the forest for other uses. A small forestry group said that they need to be able to manage to stream for rehabilitation.

The local chapter of the Society for Conservation Biology wanted the no-harvest zone increased to 50 feet and said that if only one side of stream could be harvested at a time, then potential "edge effects" (both physical and biological) would be greatly reduced. A local environmental group wanted no harvest in buffers and no roads. An individual said that we need all foresters "to work right to the stream" to avoid blowdown damage that comes from downed trees and resulting stream sedimentation. Another individual said that if it is allowable to leave a 25-foot buffer, then allow foresters to take some of the leave trees to get revenue from them, since this would keep them from falling into the streams and plugging up the streams and causing further problems. An individual offered information on forest management in riparian buffers.

Several individuals said that the term "buffer" had been flagrantly misused in the draft HCP. They believed that "buffer" is synonymous with "preserve." These individuals and several others wanted no-harvest buffers and no entry into buffers. Two individuals commented vehicles should stay out of riparian zones, because stream temperature and sediment load are compromised. An individual wanted the no-cut buffers clearly defined. Many individuals (51) wanted snags, logs, and no roads in RMZs. An individual said that the provisions for riparian buffers allow logging over 175 feet of the 200-foot buffer and that this is not a wise provision. An individual wanted the no-harvest zone extended to 50 feet. A local group commented that heavy equipment and clearcutting are not desirable because they cause blowdown and risk trees can cause siltation due to the huge root balls that are exposed.

**Response:** DNR did consider "no-harvest" and "no-entry" riparian buffers for its HCP. DNR determined that an HCP which specified less forest management in riparian ecosystems than that specified in the draft HCP would not satisfy one of the main purposes of the proposed action -- to produce the most substantial support possible over the long term for the trusts. It is thought the riparian strategy in the draft HCP satisfies this purpose and is sufficient to satisfy Section 10 of the ESA. Furthermore, as explained in the DEIS, the overall riparian conservation strategy of the proposed HCP should provide better protection of salmonid habitat and other aquatic resources than Alternative A.

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The decision to allow forest management activities in the riparian buffer was based on a common sense assumption. It is assumed that for a healthy riparian ecosystem there exists some threshold of timber harvest below which salmonid habitat will not be degraded. Clearly, if only one tree, even one exceptionally large tree, were harvested from a healthy riparian ecosystem, there would be no measurable adverse impact to the salmon inhabiting that ecosystem. DNR anticipates that through monitoring and adaptive management this threshold will be discovered and methods for determining site-specific thresholds can be developed. DNR believes, based on this common sense assumption, that the standard for forest management in the riparian buffer, "maintain or restore the quality of salmonid habitat, is not impossible to meet.

It is difficult and expensive to assess the impacts of resource management plans with the scope and scale of DNR's HCP. For this reason, DNR chose to assess the impacts and outcomes of Alternative A, which is DNR's best characterization of its current management, and two other alternatives, B and C, which capture the range of reasonable management scenarios for the HCP. The regulatory minimums of the Washington Forest Practices Rules are not a reasonable alternative. The regulatory minimums are inconsistent with the direction given to DNR by the Board of Natural Resources through the Forest Resource Plan. Also, early in the development of DNR's draft HCP, the Services conveyed to DNR their belief that current Washington Forest Practices Rules would not satisfy the Section 10 criteria. Washington Forest Practices Rules Watershed Analysis was also eliminated as a reasonable alternative for the HCP. Watershed Analysis is inadequate for the HCP because it does not yet have a wildlife module, and it is considered impractical, at least over the short term, because of the long time period necessary to complete the analysis of all DNR-managed lands in the five west-side planning units.

Hardwoods will always be a component of DNR-managed forests, particularly in riparian ecosystems where continual natural disturbance creates environmental conditions conducive to the establishment of hardwoods. However, DNR intends to manage riparian ecosystems to achieve a more natural mix of hardwood and conifer species.

Buffer is defined in Webster's New World Dictionary (1976) as "any person or thing that serves to lessen the shock or prevent sharp impact between antagonistic forces." The glossary of the draft HCP defines buffer as "a forested strip left during timber harvest to conserve sensitive ecosystems or wildlife habitat." DNR's intention to conduct management activities in the riparian buffer is consistent with these definitions.

There may be situations where managing forest "right to the stream" is appropriate and even beneficial to salmon habitat, but given the current state of freshwater salmon habitat in western Washington, the risks of managing "right to the stream" outweigh the benefits. DNR is permitted to conduct restoration activities in the no-harvest area of the riparian buffer, but such activities will be the exception rather than

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the rule. Over the long term, the riparian strategy should result in the natural recovery of most, if not all, riparian ecosystems on DNR-managed land.

DNR has chosen not to specify performance standards or habitat standards for the management of riparian areas. DNR's objective is to manage riparian ecosystems so that important elements of salmonid habitat (large woody debris, sediments, detrital nutrients, and shade) are within the natural range of variability for functional habitat; in other words, they are properly functioning riparian habitats. For some habitat elements, in particular large woody debris and detrital nutrients, the natural range of variability or the minimum requirements for functional salmonid habitat are poorly understood. DNR anticipates that through monitoring and adaptive management our understanding will evolve to the point where scientifically credible performance standards can be specified.

The draft HCP provides a general description of the forest management allowed in the riparian buffers in Chapter IV, p. IV.54 through 56 and p. 62 and 63.

In theory, harvesting just one side of a stream at a time would reduce potential "edge effects." And if streams were sparsely distributed across the landscape, then this would be a practical management prescription. However, in western Washington it is often the case that a stream, or several streams, flow through a single management unit, so in reality such a prescription is highly impractical.

As part of road network management DNR will develop a comprehensive landscape-based road network management process that will specify conservation objectives that minimize adverse impacts to salmonid habitat. The issue of minimizing vehicles in riparian zones would be addressed in the comprehensive landscape-based road network management process (draft HCP p. IV.56). DNR will avoid constructing roads in riparian ecosystems to the maximum extent practicable, but road stream crossings in some situations are unavoidable.

### **3. Wind Buffer**

**Summary:** Clallam County said that the wind buffers need to have an economic analysis. The Hoh Indian Tribe commented that adding an exterior wind buffer to either side of the stream along the interior buffer on the Hoh River mainstems or side-channels may still be inferior to short-term measures already required along the Hoh River. The Muckleshoot Indian Tribe said that there needs to be a method for determining on a site-specific basis the harvest activity in the wind buffer. The Point No Point Treaty Council said that they support DNR's Alternative C and want to be involved in developing the wind buffer guidelines. The Tulalip Indian Tribe stated that they cannot evaluate the effectiveness of DNR's wind buffers because no specific method is proposed in the draft HCP.

Bogle & Gates (a consultant to Washington State University) said that the Draft EIS does not support its conclusions about wind buffers. They point out that after a lengthy discussion of scientific studies of windthrow, the Draft EIS summarizes several studies as finding little or no correlation between riparian buffer width and

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amount of windthrow. The consultant also said that there are inconsistencies regarding when a wind buffer will be applied and that the standard for requiring wind buffers as set forth is unclear. The Northwest Forestry Association asked what is the legal liability for wind buffers? The Northwest Forestry Association said that wind buffers do have a place in a land managers "tool kit" but suggested that in some places it makes sense to have zero wind buffer.

The Sierra Club and The Rivers Council of Washington said that to be effective and to avoid blowdown, the percentage of trees to be removed in wind buffers should be limited. Merrill & Ring and Mt. Baker Plywood said the proposed wind buffers are excessive. Merrill & Ring said that wider buffers would cause more timber to blow down as management occurs on the adjacent stands. Washington Hardwoods Commission said there is not enough science to prove a need for wind buffers. An individual said that windthrow is occurring because of current buffer zones. An individual said that wind buffers are crucial to success of RMZs.

**Response:** A number of reviewers have referred to the interior riparian buffers and/or exterior wind buffers proposed in the HCP and OESF plans as "no-entry" or "no-harvest" buffers. As clearly stated in the draft HCP and DEIS, interior and wind buffers are part of the managed forest, where partial or selective harvest is permitted in both types of buffers, except within the first 25 feet on either side of streams in the five west-side planning units outside the OESF. The 25-foot, no-harvest buffer was established primarily to protect the stability of streambanks, and no harvest would occur other than that necessary for ecosystem-restoration activities. Otherwise, some level of commercial harvest will occur within riparian management zones (including the interior and wind buffers) on state lands covered by the HCP and OESF plans. For example, 33 percent removal of trees by volume is permitted (in addition to pre-commercial thinning) from the wind buffers on the OESF during any given rotation. Several harvest-impact and/or economic analyses prepared by non-DNR sources (e.g., Marshall and Associates, Inc. et al., 1996) assume "no-harvest" scenarios, which are not consistent with the strategies stated in the draft HCP. For further clarification, see discussions on p. IV.54 through 56 and IV.97 through 106 in the draft HCP.

Several reviewers stated that economic analyses of the wind-buffer strategies should be performed. DNR included statistical analyses of these strategies in its overall economic analysis of the HCP and OESF plans. Hence, the economic analyses presented to the Board of Natural Resources include the economic and harvest-level consequences of imposing wind buffers on all state lands covered by the draft HCP. These economic analyses are part of the public record.

Several reviewers stated that there is little evidence that forest-practices rules, instated in [1992], are not working and that the proposed strategies in the draft HCP are excessive. DNR contends that it has sufficient evidence from portions of state lands in western Washington, particularly on the western Olympic Peninsula, to indicate a need to manipulate riparian-buffer configurations in order to make them more windfirm. DNR has lost a sufficient number of riparian buffers, in whole or in

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part, from blowdown during the past decade that it cannot ignore the problem. Blowdown has resulted in measureable bank erosion (i.e., substantial input of sediment to streams) and loss of stream shade and has, in more inaccessible areas, incurred economic loss because salvage has been operationally difficult. Therefore, DNR recognizes blowdown as a critical issue and one that must be addressed as part of a 100-year management plan.

In addition, few systematic studies (with the exception of one currently being conducted by DNR's Forest Practices Division) have been conducted that evaluate the physical or biological integrity of riparian buffers established since 1992 in western Washington. One hypothesis currently being tested in DNR's study is whether 4 years (1992-1996) is long enough to witness substantial alteration of riparian buffers due to wind, given that blowdown often occurs incrementally over a number of years as the outer margins of a buffer are disturbed during winter storms. A number of studies conducted in other regions of the Pacific Northwest (e.g., COPE studies in Oregon) are not directly applicable because they deal with different forest types, soil and geologic characteristics, meteorological conditions, and other site-specific factors. Hence, DNR believes that "little evidence" does not necessarily equal "no problem" in western Washington.

Consequently, DNR has decided to rely on the information it has from years of management experience and to judiciously apply wind protection where field evidence suggests there might be a risk of blowdown with the potential for altering bank stability, shade availability, long-term recruitment of large woody debris, and other critical riparian functions. Wind buffers on the OESF are intended to be laboratories for testing how best to make riparian stands windfirm, and results from replicated experiments of stand manipulation are expected to provide some guidance for managing riparian buffers on other state lands covered by the draft HCP. Wind-buffer experiments will include everything from total harvest (no wind buffer) to partial harvest to no harvest, in a variety of configurations designed to meet site-specific requirements for maintaining the structural integrity of interior riparian buffers. The number of trees removed at any given site will depend on the capability of the remaining stand to withstand blowdown.

With reference to concerns regarding the mainstem Hoh River, the draft HCP does not supplant the Shoreline Management Act, chapter 90.58 RCW, or the regulatory authority of the Washington Department of Ecology and Jefferson County in enforcing regulations within areas designated as shorelines of the state. Similarly, other Shoreline Management Areas will continue to be regulated by Washington DOE and the appropriate local governmental authority. In addition, the HCP must adhere to other state regulations. Hence, management strategies applied under the HCP must meet or exceed the level of resource protection afforded by current rules and regulations.

With reference to the draft HCP's Alternative C, presented in the DEIS, it was the decision of the Board of Natural Resources to select HCP Alternative B. This choice was based on their assessment of the alternative most likely to meet the fiduciary

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obligations of the trust while providing adequate protection of aquatic and riparian system functions.

Harvest activities within wind buffers will take into account site-specific factors, including local topography, meteorological characteristics, riparian-stand composition and structure, age and structure of adjacent upland stands, and physical site conditions. Field procedures for carrying out such analyses will be described in the HCP implementation guidelines for the five west-side planning units outside the OESF. Experimental protocol for wind buffers on the OESF will be described in the OESF implementation guidelines. Hence, in response to the concern that wind-buffer strategies are poorly defined (the original comment states, "... they [DNR] propose no specific method that we are able to evaluate"), specific methods are not addressed in the draft HCP or DEIS but will be detailed in the implementation guidelines. By state legislative mandate, DNR cannot develop these implementation guidelines until the HCP is approved by the Services and the Board of Natural Resources.

A number of reviewers stated that the percent of trees removed from wind buffers should be limited in order to enhance the effectiveness of those buffers. Given the relative lack of data regarding how many trees should be removed and the variability of site conditions over 1.6 million acres of state lands, DNR must test a number of management hypotheses to determine the most effective strategy for each riparian setting. The needs for extensive wind buffers might be less in some areas (e.g., narrow valley bottoms in areas of high topographic relief) than others (e.g., low-gradient, wide valley bottoms in coastal regions). Hence, the configuration and tree density of wind buffers must be tailored to fit specific site conditions, in order for them to be effective in the long term. These questions cannot be answered with current information. Consequently, DNR has proposed to conduct a systematic research program on wind-buffer strategies, in order to gain some answers and certainty that management practices are effectively treating windthrow problems.

As stated in the preceding paragraphs, DNR has obtained sufficient evidence from managing riparian buffers over the past decade to indicate that windthrow is an important management concern on portions of state lands in western Washington.

The purpose of the literature review in the DEIS is was to indicate how little is known about windthrow behavior, particularly in western Washington where very few rigorous studies have been conducted, and to support the need for gaining better scientific and management understanding of this phenomenon. There are several interpretations that one might make regarding the value of current literature. One is that the current literature shows few relationships between buffer width and windthrow potential and, therefore, that no windthrow problem exists. The other is that there have been too few published studies relevant to site conditions on state lands in western Washington to prove or disprove the existence of a windthrow problem. The draft HCP was developed on the latter interpretation and on the observations of DNR foresters, managers, and scientists that indicate measureable windthrow problems in riparian buffers on state lands. Until effective management strategies are developed, DNR will continue to establish riparian buffers, a number of

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which are susceptible to blowdown, and face uncertainty with regard to just how wide buffers should be to maintain windfirm trees.

There are no recipes available for establishing buffers to meet every site condition effectively. In the face of little information on appropriate buffer widths and a real management problem, DNR has proposed to move forward proactively with the support of other local land managers who feel that they will benefit from new information shared by DNR (as per written and oral testimony received by DNR). The research program moves DNR into the arena of experimentation and adaptive management, in order to achieve more long-term certainty. This is a trade-off between short-term uncertainty, which already exists irrespective of the buffer strategy applied (i.e., via forest-practices rules, Forest Resource Plan), and long-term certainty in the economic and ecologic soundness of management and conservation practices.

As stated in the draft HCP, the terms “moderate potential” for windthrow and “no evidence” of windthrow potential, used in the strategy for the five west-side planning units outside the OESF, will be defined operationally in the HCP implementation guidelines. Standards for designating wind buffers (i.e., when, where, and how) outside the OESF will also be detailed in the HCP implementation guidelines. The procedure for developing experimental protocols has been summarized on p. IV.114 through 120 of the draft HCP. Specific directions for choosing experimental designs and applying them to given riparian areas will be discussed in the OESF implementation guidelines.

The values of 1 percent or 10,000 acres were presented as rough estimates of wind-buffer extent in the five west-side planning units outside the OESF in order to broadly illustrate what the landscape potentially might look like under the draft HCP. These numbers are estimates only (i.e., rounded to the nearest 1000 acres) and were not derived from a comprehensive analysis of actual, on-the-ground placement of wind buffers. The actual number of acres placed in wind buffers may be smaller or larger than 10,000 acres. Hence, these values should not be interpreted as a standard to which DNR is contractually bound.

#### **4. Wetland Buffers**

**Summary:** WDFW wants more discussion of importance of wetland buffers for wildlife. The Muckleshoot Indian Tribe said that the draft HCP indicates that management in and around wetlands will be consistent with DNR Policy No. 21 without offering any process as to how this will be determined. They said the procedures for restoration are unclear and wanted to know who decides if restoration has been achieved. The Point No Point Treaty Council supported DNR’s Alternative C and suggested that to achieve no net loss of functional wetland, a larger area should be required for mitigation if wetlands are destroyed. Bogle & Gates (a consultant to Washington State University) said that there is a need to know the current amount of wetlands in order to determine no net loss of wetlands.

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The Rivers Council of Washington commented that DNR's draft HCP does not differ from the Forest Practices Regulations. The Sierra Club commented that DNR's HCP is no different than current practices. To adequately protect plants and wildlife, the Northwest Ecosystem Alliance, Washington Wilderness Council, WEC, and Washington Native Plant Society recommended Alternative C. Northwest Forestry Association commented there is a need for more information: (1) How much wetland acreage is involved by region? (2) What will be the economic effect of protecting wetlands? (3) What will be the operational effect? And (4) Will it affect road construction, use, and maintenance? A forestry company said that the wetlands protection provision will take thousands of acres of timberland out of production.

The local chapter of the Society for Conservation Biology recommended a 50 foot no-harvest zone surrounding all wetlands greater than 0.25 acre. Two local environmental groups preferred Alternative C. Another local environmental group wanted more protection. Many individuals stated DNR should select Alternative C. An individual did not think DNR's draft HCP goes far enough to protect the "...small bogs and ponds of the forest". An individual recommended no-logging buffers. An individual suggested that the acreage for wetland mitigation should be 3:1. An individual said that buffers and small bog should be no-cut. An individual said that DNR's Alternative A is adequate if roads are controlled.

**Response:** DNR did consider wider wetland buffers and "no-harvest" wetland buffers for its HCP. It was determined that an HCP which specified more protection of wetlands than that specified in the draft HCP would not satisfy one of the main purposes of the proposed action -- to produce the most substantial support possible over the long term for the trusts. It is thought the wetland strategy in the draft HCP satisfies this purpose and is sufficient to satisfy Section 10 of the ESA.

The wetlands management in DNR's HCP provides more protection than the Forest Practices Regulations and it is not quite DNR's current practice. DNR's Forest Resource Plan Policy No. 21 says, "The department will allow no overall net loss of naturally occurring wetland acreage or function." This standard surpasses the level of protection provided by the forest practices rules.

The Forest Resource Plan was approved in 1992, but it has yet to be fully implemented. The prescriptions described in the draft HCP (p. IV.57 and 58) are not DNR's current practices but are characterized as "no action" because they implement the direction given by the Forest Resource Plan.

For all commitments made in the HCP, such as the restoration of wetland drainage or equal acreage mitigation for damage to wetlands, USFWS and NMFS, or their designee, will decide whether or not restoration or adequate mitigation has been achieved.

The operational and economic effects of the wetland strategy are the same for Alternatives A and B. The wetland acreage on DNR-managed lands is not accurately known, but is estimated to be approximately 10,500 acres, or 0.6 percent of the entire

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HCP planning area. One does not need to know the current amount of wetlands in order to determine no net loss. The “no net loss” policy can be adhered to on a site-by-site basis.

## **5. Watershed Analysis Prescriptions**

**Summary:** USEPA Region 10 said that there needs to be more discussion concerning use of Washington’s Watershed Analysis process as it relates to Total Maximum Daily Load (TMDL) requirements. The NWIFC said DNR’s HCP does not account for cumulative effects. The Point No Point Treaty Council supported the OESF 12-Step watershed assessment procedure. The Northwest Forestry Association commented that the OESF watershed assessment procedure may add needless planning complexities and may lead to unwanted legal actions if the process is not followed to the letter. The Washington Forest Protection Association and an individual pointed out that there is an error in the DEIS on page 4-267 about the new riparian function module in the watershed analysis manual. (The Draft EIS said that the latest version of the watershed analysis manual increases the minimum debris recruitment distances in western Washington from 66 to 100 feet. Actually, this version utilizes a 100 foot assessment width to determine large woody debris potential.) The Washington Forest Protection Association also claimed that Forest Practices Rules - Watershed Analysis provided adequate protection of riparian ecosystems because it assesses components such as large woody debris and stream shading. Another individual said that the OESF strategy ignores watershed analysis.

**Response:** Conducting watershed analysis as an HCP alternative was considered impractical because of the long time period necessary to analyze the many Watershed Administrative Units (WAUs) that contain DNR-managed lands in the west-side planning units. Consequently, following the formal watershed-analysis process was eliminated from the list of reasonable HCP alternatives.

DNR recognizes that there are a number of advantages to applying many of the watershed-assessment methods described in Version 3.0 of the Washington Forest Practice Board manual (WFPB, 1995b) in order to meet the needs for evaluating physical and biological conditions under the draft HCP. For example, these methods generally are accepted by most entities as the standard for credible analytical work, and they have been peer-reviewed and tested over the course of several years. The draft HCP, however, goes beyond the scientific issues addressed in the current Board manual by treating wildlife species other than salmonids, species habitat other than fish habitat, and components of the riparian ecosystem other than water temperature and large-woody-debris recruitment. The Board manual can provide a foundation for some physical and biological assessments within areas covered by the draft HCP; that foundation must be expanded and modified to incorporate other resource-protection and land-management issues. Conducting watershed analyses per the Forest Practices Act is the prerogative of the landowner and, as such, DNR has decided to integrate watershed-analysis methods, where appropriate, with other management tools including landscape planning and harvest planning. DNR will continue to participate in formal watershed analyses and will sponsor landscape-planning efforts on large blocks of state-land ownership (as per FRP DNR 1992b Policy 16). The

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procedures for landscape planning under the Forest Resource Plan currently being developed by DNR, contain elements of the watershed-analysis methods and procedures. Where watershed analyses are conducted on lands covered by the draft HCP, prescriptions resulting from the assessments will be applied unless HCP requirements meet or exceed the level of protection afforded by the prescriptions (as per alternate-prescriptions clause, WAC 222-22-070(2)). See the draft HCP, p. IV.51 for further discussion.

The Washington DOE and DNR Forest Practices Division currently are working together to determine the relationship between the Forest Practices Board watershed-analysis process and TMDL development. As of the draft HCP writing, no formal agreements had been reached, and no procedures or methods for analysis had been made available for consideration by the HCP team. The Washington DOE and DNR Forest Practices Division are the appropriate entities for developing a relationship between TMDL regulation and watershed-analysis prescriptions.

A concern was raised that the OESF Riparian Conservation Strategy does not mention the Washington Forest Practices Board watershed-analysis process (WFPB, 1995b). The discussion of watershed assessments, beginning on page IV.115 of the draft HCP, will be edited to reflect that the results of forest-practices watershed analysis will be employed wherever they are available. It would not be necessary to duplicate assessments of physical and biological conditions via the 12-step method developed for the OESF, although some additional assessment work might be conducted to address issues not covered by the state's watershed-analysis process.

Although the draft HCP and DEIS for the five west-side planning units outside the OESF do not explicitly address the issue of cumulative effects in a specific chapter section, this issue is dealt with implicitly in the DEIS. Inasmuch as the Washington Forest Practices Board watershed-analysis process (WFPB, 1995b) deals with cumulative effects, the draft HCP also addresses cumulative-effects processes by treating mass wasting, surface and road erosion, hydrologic change, riparian functions, physical channel conditions, fish habitat, and water quality and quantity (the same issues addressed in the eight modules of the Board manual). The draft HCP also stresses the importance of on-the-ground adjustment of riparian management zones to appropriately protect key physical and biological functions. This will require integration or synthesis of field information on physical and biological conditions, in order to meet the stated objectives of the riparian-conservation strategy. Details of the field-assessment process and buffer designation will be given in the HCP implementation guidelines. Where watershed analyses or landscape-planning efforts are conducted, the watershed-analysis procedures for cumulative-effects assessment, or similar methods, will be applied.

Comments regarding an error in a reference to the riparian-function module are correct. The sentence on page 4-267 of the DEIS should state: "This version [of the Board manual] potentially strengthens protection for coarse-woody-debris and shade sources by increasing the minimum assessment-zone widths for debris recruitment distances in western Washington from 66 to 100 feet. Therefore, observed depletions

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in long-term sources of woody debris within 100 feet of the channel margin might require additional prescriptions for protecting wood *sources*.” (See Section 2, changes to the DEIS, of the FEIS.)

A comment was made that current forest-practices rules provide adequate protection of riparian ecosystems because they assess large-woody-debris recruitment and stream shade. Whereas the current forest-practices rules might be adequate in many instances to protect a substantial percentage of large woody debris and shade availability, they do not address other aspects of riparian systems known to be important in maintaining habitat for riparian obligate species (i.e., salmonids as well as other mammals, reptiles, amphibians, and plants). As described in the DEIS, these include detrital (nutrient) input, sediment input (as affected by windthrow and other riparian disturbances), microclimate, and reduction in riparian-buffer functions due to windthrow activity. This is a multi-species plan, whereas the forest practices rules pertaining to riparian management zones deal exclusively with fish habitat. In addition, DNR currently leaves considerably wider buffers than the forest practices minimums, on average, (discussed on p. 4-152 of the DEIS) because present physical and biological conditions demonstrate the need for additional protection. Regardless of whether the HCP is adopted, DNR likely will not revert to smaller buffers where evidence indicates the need for wider riparian management zones than specified in the forest practices rules.

## **F. RESERVES/REFUGIA**

**Summary:** Bogle & Gates (a consultant to Washington State University), and two individuals questioned the need for increasing permanent habitat deferrals for expanded riparian buffers, wetland buffers, wind buffers, special habitat buffers and special species management plans. Black Hills Audubon Society and one individual requested remaining old growth be protected as refugia. One individual asked that no-logging buffers and habitat reserves be clearly defined so they can be identified by anyone.

**Response:** See the response for “Old-Growth Forest”. Buffers and forest set-asides or deferrals will be clearly defined as the HCP is implemented or when management units are prepared for timber sales.

## **G. HERBICIDES**

**Summary:** The Muckleshoot Indian Tribe stated it is unclear what size buffers will be established for areas that will be sprayed with herbicides, using ground and aerial applications. Cascade Hardwood and the Point No Point Treaty Council requested that the value of non-coniferous species be recognized and that herbicide applications be reduced or eliminated. One individual requested that DNR increase its use of aerial herbicide applications as an effective vegetation management technique.

**Response:** Herbicide use will comply with the Washington Forest Practices Rules and will be consistent with the direction given by Board of Natural Resources as expressed in Forest Resource Plan Policy No. 33, “Control of Competing Vegetation” (DNR 1992b). Also, see page IV.178 in the draft HCP.

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## **H. REPLANTING**

**Summary:** Northwest Forestry Association stated that the site preparation discussion is grossly inadequate and should include estimates of productivity loss and the effect on site preparation of the new land management regimes.

**Response:** See response for “Management Practices.”

## **I. GROWTH & FERTILIZATION** (in section 3.3 only)

## **J. THINNING**

**Summary:** Northwest Forestry Association commented that DNR would be wise to carefully assess how much thinning can be done without producing negative results in light of compaction from multiple entries and exacerbated disease problems in western hemlock.

**Response:** Comment noted.

## **K. SALVAGE**

**Summary:** WDFW commented that salvage of blowdown needs to be conducted in such a way that it does not perpetuate additional blowdown, that live trees need to be left in blowdown areas, and that some large down logs should be retained to provide habitat.

**Response:** Comment noted. See responses for “Forest Health” and “Wind Buffers.”

## **L. RESTORATION/RECLAMATION**

**Summary:** Comments from the Forks office of the NWIFC, Point No Point Treaty Council, and Northwest Biodiversity Center call for maintaining existing mature and old-growth stands while evaluating where, how, and when riparian zones will need to be restored to conifer or a conifer/hardwood mix. Northwest Forestry Association felt the OESF restoration discussion presents a false picture of a sea of stumps and wasted streams completely devoid of fish and wildlife. Cascades Hardwoods suggested controlled, environmentally friendly hardwood removals to fund restoration activities, while GBA Forestry, Inc. (for Washington Hardwoods Commission) stated that techniques for removing hardwoods to establish conifers are problematic in terms of economics, logistics, and operations.

**Response:** Comments noted. See responses for “Old-Growth Forest” and “Riparian Buffer Treatment.”

## **M. ROAD MANAGEMENT**

**Summary:** USEPA Region 10, NWIFC, Bogle & Gates (a consultant to Washington State University), Black Hills Audubon Society, and one individual commented on the need for a more detailed description and time line for the proposed comprehensive road network management plan and how it will deal with road densities, roadless areas, road

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maintenance, and associated forest management activities. Bogle & Gates requested information on the cost of developing a comprehensive road network management plan and clarification on what restrictions would be placed on harvesting by the lack of a road plan. Washington Forest Protection Association and Bogle & Gates question how an environmental assessment can be done on the impacts of a road plan that does not exist. Point No Point Treaty Council, The Tulalip Tribes, Northwest Ecosystem Alliance, and Northwest Biodiversity Center commented on the lack of discussion on the changes to basin hydrology as the result of road networks. NWIFC, The Mountaineers, 51 individuals (using an identical form letter) and one other individual commented on limiting or eliminating roads in wetlands or areas with high mass wasting potentials. WEC and one individual recommended larger areas of mitigation than the one-to-one replacement of wetland areas disturbed by road construction. The Rivers Council of Washington, Sierra Club, and The Wildlife Society stated a net reduction in roads is necessary. Yakama Indian Nation commented on the HCP's failure to address the impacts of roads on salmonids in eastern Washington.

**Response:** An HCP is the principle document supporting an application for incidental take permits and unlisted species agreements. The purpose of an HCP is to describe the management practices and/or guidelines to which the applicant willingly commits in exchange for incidental take permits. DNR chose not to present detailed descriptions of road management in the HCP because doing so might unduly constrain DNR over the long term. DNR and the Services believe that DNR's HCP describes road management at a level of detail sufficient to satisfy Section 10 of the ESA.

The impacts of road management under the proposed HCP (Alternative B) are expected to be less than those under No Action (Alternative A). The effects of road networks on basin hydrology are briefly discussed on pages 4-171 to 4-172 of the draft EIS for the HCP. A brief qualitative assessment of the impacts of roads on basin hydrology for each of the alternatives appears on pages 4-173 through 4-175. Road management will comply with the Washington Forest Practices Rules and will be consistent with the direction given by Board of Natural Resources as expressed in Forest Resource Plan (DNR 1992b).

The draft HCP does limit or eliminate roads from wetlands (p. IV.58) and from hillslopes with a high risk of mass wasting (p. IV.56)

In order to reduce certain environmental impacts, DNR and other land managers have reduced the size of forest management units. The main reason for the reduction in unit size is to decrease the size of clearcuts. A consequence of this action is an increase in the amount of roads necessary to access the smaller management units. Consequently, under all three HCP alternatives there will be a net increase in roads. DNR will minimize the adverse environmental impacts of roads by managing the road network for a net decrease in active roads.

DNR's HCP riparian conservation strategy, which includes commitments for road network management, does not cover DNR-managed lands east of the Cascade crest.

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## **1. Construction and Maintenance Standards**

**Summary:** The Blue Ribbon Coalition recommended proper road maintenance, limited traffic, and utilizing gates for selective road closures as a better alternative than road reclamation. Bogle & Gates (a consultant to Washington State University) requested clarification as to what outlays would be required for “retrofitting or removal” of some stream-crossing structures as a result of DNR’s commitment to minimizing adverse impacts caused by its road networks.

**Response:** DNR intends to consider many different methods for reducing the adverse environmental impacts of roads, including proper road maintenance, road use restrictions, road closures, and road reclamation or abandonment.

Fish blockages caused by road stream crossings, i.e., culverts, inflict a major adverse impact on salmon stocks. DNR’S commitment to the removal or retrofitting of culverts to remove blockages to fish passage is a continuation of current DNR practice.

## **2. Alternatives to Roads**

**Summary:** The Washinton Forest Practices Association commented that the draft HCP, as presently worded, raises expectations for helicopter yarding and other sophisticated, expensive yarding methods. They went on to state: if that, indeed, is the intent, it should be so stated and put forward with a cost analysis.

**Response:** Alternatives to road construction (e.g. yarding systems) will be used where such alternatives are practicable and consistent with other conservation objectives (draft HCP p. IV.56).

## **N. TRAIL MANAGEMENT**

**Summary:** Black Hills Audubon Society and 51 individuals (using an identical form letter) recommended that trails be kept out of riparian buffers, wetland buffers, and unstable slope areas.

**Response:** The Services did not require DNR to consider trail management in its draft HCP or draft EIS. DNR chose not to consider trail management in its draft HCP because doing so might unduly constrain DNR over the long term.

## **O. SPECIAL FOREST PRODUCTS**

**Summary:** Two individuals commented on the lack of recognition and discussion of special forest products and the failure to consider the value of non-timber resources in economic analysis.

**Response:** Relative to timber harvest, special forest products currently gathered from DNR-managed land have insignificant environmental impacts and make inconsequential contributions to trust revenue and local economies. The Services did not require DNR to consider special forest products in its draft HCP or draft EIS. Additional details

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regarding DNR's non-timber management activities are included in Appendix 3 of this FEIS (see pages A3-55 through 61) as changes to the draft HCP.

## **P. OTHER PRACTICES**

**Summary:** As an example of conflicting comments on intended management, Northwest Forestry Association commented that the draft HCP discussion of riparian buffers clearly implies old-growth conditions as a target while DNR continues to state that the zones will be managed to produce timber. One individual, while supporting wider riparian buffers, proposed that additional selective harvest in the minimum 25 foot buffers would make more sense than letting the trees fall into streams.

**Response:** See the responses for "Riparian Management Strategy" and "Riparian Buffer Treatment." The draft HCP says that the riparian buffers will possess forest with a range of late-successional characteristics, including old-growth characteristics (p. IV.136). Management of the riparian buffer will be site-specific, and hence, "a range of late-successional characteristics" is the expected outcome of the riparian management strategy. At some sites, forest in the riparian buffer will be best described as "mature" at other sites the forest will resemble old-growth. "Old-growth characteristics" refers to the main qualities which are typically used to define old-growth forest: multilayered canopy, at least 8 trees per acre greater than 32 inches dbh, at least 4 snags per acre greater than 24 inches dbh and 15 feet tall, etc (Franklin and Spies 1991). The possession of such characteristics by a small stand, such as a riparian buffer, does not preclude selective timber harvest from that stand.

There may be situations where selective harvest within the 25 foot no harvest area is appropriate and even beneficial to salmon habitat, but given the current state of freshwater salmon habitat in western Washington, the risks outweigh the benefits. Large woody debris are a vital element of salmonid habitat, and therefore, one function of the riparian buffer is to provide the quantity and quality of instream large woody debris that approximates that provided by unmanaged riparian ecosystems.

## **VII. OTHER PLAN ELEMENTS**

**Summary:** Washington DOE, The NWIFC, Point No Point Treaty Council, Squaxin Island Tribe, Tulalip Tribes, Muckleshoot Tribe, Bogle & Gates (a consultant to Washington State University), Northwest Forestry Association, a local organization, a timber company, and three individuals commented on the HCP's implementation. Nearly all of the tribal organizations and tribes want to be consulted during plan implementation, as does the timber company. NWIFC, Muckleshoot Tribe, and one individual were concerned that the HCP's implementation is poorly described. Washington DOE implicitly recognizes this as well. Washington DOE stated that it is imperative that a process exist to track the success of implementation. Bogle & Gates (a consultant to Washington State University) stated that the draft HCP is a plan for large-scale deferrals of management combined with research. The Northwest Forestry Association suggested the creation of a new document or new section within the HCP that would provide silvicultural and operational information explaining how DNR intends to achieve the

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levels of environmental protection proposed and manage forests for timber production. One individual suggested that the interdisciplinary teams of scientists involved in implementation be broad-based. Another individual asserted that no studies have been done at the district level to determine if the plan is practical to implement.

**Response:** The HCP is the principle document supporting DNR's application for incidental take permits and unlisted species agreements. The ESA does not require silvicultural and operational information in an HCP. Including such information in the HCP would create a prescription-based, rather than an outcome-based, document constraining management flexibility.

There are no large-scale deferrals of management. Over the short-term, the draft HCP designates five types of set-asides or deferrals: forests within 25 foot of Type 1, 2, 3, and 4 Waters; hillslopes with a high risk of mass wasting; owl nest patches; occupied marbled murrelet habitat; and forests in or adjacent to uncommon habitats such as caves and talus. Over the long term, it is anticipated that the only set-asides will be forests within 25 foot of Type 1, 2, 3, and 4 Waters, some unstable hillslopes, some occupied marbled murrelet habitat, and forests in or adjacent to uncommon habitats. Owl nest patches may be harvested after research demonstrates that silvicultural practices can produce high quality spotted owl nesting habitat. Some unstable slopes may be harvested after research demonstrates that timber harvest will not increase the frequency or severity of mass wasting events. Ultimately, set-asides are expected to be a small proportion of all DNR-managed forests within the HCP planning area.

DNR believes that the plan is practical to implement. The stand and landscape prescriptions proposed in the HCP -- retaining snags and green trees, RMZ management, wetland management, maintaining 50 percent owl habitat in NRF management areas, etc.-- are based on practices that are familiar to DNR staff.

The composition of interdisciplinary teams of scientists will be dependent on the purpose for convening such a group

## **A. INVENTORY AND SURVEY**

**Summary:** The Washington Chapter of The Wildlife Society and a local environmental organization recommended that DNR conduct surveys for rare and poorly known species. Both organizations commented that such surveys should be part of adaptive management practices. Bogle & Gates (a consultant to Washington State University) questioned whether there was any difference between the owl surveys and murrelet habitat relationships study conducted under Alternative A and the owl research and murrelet habitat relationships study conducted under Alternative B.

**Response:** Surveys for rare and poorly known species will not be included in DNR's HCP monitoring program. Because DNR's HCP is habitat based, rather than species based, such surveys are not considered necessary to minimize and mitigate the impacts to wildlife species.

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There is no difference between the marbled murrelet habitat relationship study conducted under Alternative A and that conducted under Alternative B. The methods of data collection and analysis are the same under both alternatives. There is, however, a profound difference in how the results of the study would be used. Under Alternative B, forest identified as marginal habitat unlikely to be occupied by marbled murrelets would be made available for harvest, but only if DNR conducts intensive inventories in the suitable habitat and uses the information in developing long-term conservation strategies. Until a long-term strategy is approved by the USFWS, no known occupied sites will be harvested. Under Alternative A, the results of the study could not be used to release marginal habitat for harvest because DNR would not have an HCP in place committing to long-term murrelet habitat conservation. Murrelet surveys would continue to be necessary to avoid take. Under Alternative A, information gathered through habitat relationship studies would be used to make future decisions concerning DNR-managed murrelet habitat.

Owl surveys conducted under Alternative A and owl research conducted under Alternative B are very different. The purpose of owl surveys is to protect DNR, the Board of Natural Resources, and the trust beneficiaries from prosecution for the take of a federally listed threatened species. Owl surveys are done to determine whether management activities will occur within a median home range radius of a spotted owl site center. The timing of management activities is tightly linked to the completion of owl surveys. The surveys must follow a standard protocol.

## **B. RESEARCH**

**Summary:** The City of Port Angeles, Point No Point Treaty Council, Squaxin Island Tribe, Tulalip Tribes, Washington State Association of Counties, Bogle & Gates (a consultant to Washington State University), Northwest Forestry Association, the National Audubon Society, WEC, NCASI, three local environmental organizations, and nine individuals commented on research under the HCP. Point No Point Treaty Council recommended that basic scientific research be conducted before management-oriented applied research. The Squaxin Island Tribe and two individuals emphasized the need for a scientific advisory board and/or outside peer review for research conducted under the HCP. The Tulalip Tribes stated that the research goals are vague. Bogle & Gates (a consultant to Washington State University) asserted that research must be done before a competent HCP can be proposed and that there is much uncertainty as to the duration of the HCP's spotted owl habitat research phase. Bogle & Gates also wants to know the expected costs of the research projects. The Washington State Association of Counties said that knowledge should be an objective, and the City of Port Angeles and Northwest Forestry Association both said that there is a need for experimental forestry and applied forestry research, but the Northwest Forestry Association cautioned DNR to "get real" about research costs. NCASI requested more details about spotted owl research to be conducted in the OESF. The National Audubon Society said that an aggressive research program is necessary to test the assumptions used to develop the conservation strategies. WEC and two local organizations claimed that the HCP creates disincentives to do research. These same groups suggested that initially requiring a very conservative level of habitat protection would create an incentive for DNR to conduct research. Several individuals said that research is necessary to ensure the survival of endangered species.

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An individual suggested that DNR establish a schedule for completion of the research phase. One individual believed that old-growth forest must be retained as a “living laboratory” in order to study forest health issues such as insect infestations and disease.

**Response:** An HCP is the principle document supporting an application for incidental take permits and unlisted species agreements. The purpose of an HCP is to describe the management practices and/or guidelines to which the applicant commits in exchange for incidental take permits. Given the current state of knowledge and the rate at which knowledge is accumulating, flexibility is preferable to specificity for some aspects of an HCP. This is particularly true for the HCP research program. DNR and the Services believe that the research goals and objectives presented on p. V.1 through 6 in the draft HCP are specific enough to guide the HCP research program.

Basic scientific research and management-oriented applied research will be conducted concurrently, particularly in the OESF. Research used to modify the HCP conservation strategies will be subject to review by the Services.

The research program will test the assumptions used to develop the conservation strategies. That is the purpose of the validation monitoring component.

The HCP does include incentives to do research. The spotted owl nest patches in NRF management areas must be deferred from harvest until DNR can demonstrate the successful application of silvicultural techniques to create functional nesting habitat (draft HCP, p. IV.7). Unstable hillslopes must be deferred from timber harvest until it can be demonstrated that harvest can be accomplished without increasing the frequency or severity of slope failure and without severely altering the natural input of large woody debris, sediments, and nutrients to the stream network.

Recognizing that forest land management cannot be delayed until all research questions are answered and all uncertainty is eliminated, DNR has proposed a plan consisting of conservation strategies based on today’s knowledge and an intent to conduct research to further the knowledge. The purpose of much of the proposed research is to develop an understanding of how to enhance timber production in a manner that ensures efficacy of the conservation commitments of the HCP.

DNR agrees that some late-seral stage forest should be retained for research purposes, and DNR set aside 12 late-seral stage research areas totalling approximately 2,000 acres. These sites will continue to serve a research function under the HCP. These areas are in addition to approximately 72,000 acres in NAPs and NRCAs, many of which contain late-seral stage forest.

With regards to research funding, the draft HCP (p. V.7) states, “DNR shall request from the legislature at least \$1 million per year for HCP research until the Priority 1 projects are completed.”

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## 1. OESF

**Summary:** Washington DOE, WDFW, NWIFC, Point No Point Treaty Council, Muckleshoot Indian Tribe, Port of Port Angeles, Bogle & Gates (a consultant to Washington State University), WEC, NCASI, a timber company, and a local organization commented on the OESF. Washington DOE stated that the focus of the OESF on answering questions related to restoring and maintaining riparian ecosystem integrity with ongoing forest management is conceptually extremely valuable. WDFW suggested that experimentation in old-growth habitat in the OESF is reasonable but DNR should proceed with caution. NWIFC commented a transition from the zoned to unzoned forest should be considered to reduce the possibility of forest fragmentation. The Point No Point Treaty Council supports the research objective of the OESF. The Muckleshoot Indian Tribe asked that information gathered in the OESF be used to modify management activities in the other planning units. Bogle & Gates (a consultant to Washington State University) described the OESF as a “forest ecology theme park” and wants to know how much it will cost and what will be the trusts’ share of that cost. WEC urged DNR not to sacrifice conservation in the name of research and to make the information gathered in the OESF the challenge. The Northwest Forestry Association believes that the OESF places habitat protection before beneficiary support and that it has an overly prescriptive plan which abrogates the entire reason for the OESF. The Port of Port Angeles hopes DNR will allow experimentation in the OESF that will enhance benefits to the trusts. A timber company hopes DNR will lead the way in demonstrating forest practices that provide adequate salmon habitat and allow timber harvest. A local organization thinks that the impacts of recreational use on long-term health of the forest should be studied in the OESF.

**Response:** It is DNR’s intention that information gathered in the OESF will be used to modify management activities on DNR-managed land outside the OESF where the new knowledge is applicable. DNR intends to ensure that future modifications to conservation strategies will preserve their original intent. The goal of the OESF is to learn how to integrate production and conservation across the landscape. DNR fully expects that the information gained through experimentation will enhance benefits to the trusts. DNR will make the information gathered in the OESF widely available. (See draft HCP, p. IV.73.) DNR does not concur that the OESF plan is overly prescriptive. The forest management and fish and wildlife conservation measures described for the OESF are working hypotheses and will be modified through a program of monitoring and adaptive management.

DNR considered an alternative that was described as a transition from a zoned forest to an unzoned forest (DEIS, p. 2-35). The reasons for eliminating this alternative from the set of reasonable alternatives is presented in the DEIS, p. 2-35 to 2-36.

Research costs are those committed to in the draft HCP (p. V.7).

The impacts of recreational use on long-term health of the forest are not currently a high priority for research in the OESF.

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## C. MONITORING/REPORTING

**Summary:** The USEPA, Washington DOE, WDFW, Metropolitan King County Council, NWIFC, Point No Point Treaty Council, Muckleshoot Indian Tribe, Squaxin Island Tribe, Tulalip Tribes, Bogle & Gates (a consultant to Washington State University), the National Audubon Society, Northwest Forestry Association, WEC, Washington Native Plant Society, Washington Wilderness Coalition, Washington Chapter of the Wildlife Society, three local environmental organizations, and 60 individuals commented on various aspects of monitoring (fifty-one individuals used identical form letters). The majority of comments emphasized the importance of an adequate monitoring program. The plurality of comments, including those from USEPA, Washington DOE, WDFW, Metropolitan King County Council, NWIFC, Point No Point Treaty Council, Squaxin Island Tribe, and Tulalip Tribes, said the results of monitoring must be linked to changes in management, (i.e. adaptive management). USEPA stated that the monitoring section was the weakest part of the draft HCP. Absent a monitoring plan, they were unable to evaluate whether the overall HCP objectives are achievable. Washington DOE believes that Alternative B should meet most water-quality needs if it is implemented with adaptive management. Several comments, including those of WDFW and the Squaxin Island Tribe, recommended that validation monitoring not be limited to the OESF. The NWIFC requested validation monitoring for juvenile salmon rearing habitat, effectiveness and validation monitoring as part of the interim murrelet strategy, validation monitoring for spotted owl dispersal habitat, and the opportunity to review the monitoring plan. The Northwest Forestry Association also suggested that validation monitoring be conducted for salmon. Both the NWIFC and Point No Point Treaty Council questioned the validity of implementation monitoring that does not involve field work and said, along with the Muckleshoot Indian Tribe, that more detail is needed in the monitoring program. NWIFC and Squaxin Island Tribe questioned the lack of criteria for effectiveness, (i.e., the desired habitat conditions for salmon).

Point No Point Treaty Council and Squaxin Island Tribe asked to be involved in the review of data collected through monitoring. Several comments, including those from the Squaxin Island Tribe and WEC, suggested an oversight committee or scientific review board to evaluate monitoring data. WEC also suggested that a disinterested expert panel oversee the monitoring plans. The Washington Native Plant society wants monitoring of listed and candidate plant species. Several comments said that incentives to insure that DNR conducts adequate monitoring, such as a reduction in habitat protection if it is shown that conservation objectives have been exceeded, should be built into the HCP. The National Audubon Society asserted that the draft HCP gives no assurance that funding will be available for monitoring. An individual suggested that a trust fund be established to support monitoring in the future. The Northwest Forestry Association questioned the cost of the "open-ended" monitoring program, and Bogle & Gates (a consultant to Washington State University) asked about the expected cost of the monitoring program.

**Response:** DNR's obligation is to USFWS and NMFS. This does not preclude DNR from continuing ongoing working relationships with the tribe and the public. All HCPs must include a monitoring plan and assurance of adequate funding. The Services must find that these components are adequately provided or an ITP cannot be issued.

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Monitoring and adaptive management are implicit in the riparian conservation strategy. According to the draft HCP, management in the riparian buffer must “maintain or restore the quality of salmonid habitat. During periodic reviews of the HCP, DNR will be required to demonstrate to the Services that it has kept this commitment. Considering the geographic scale of DNR’s HCP, convincing evidence can only be obtained through a statistically valid monitoring program. Because of the trust mandate, DNR has an incentive to determine how to manage the riparian buffer for commodity production, but riparian ecosystem management must “maintain or restore the quality of salmonid habitat.” This establishes a situation which calls for adaptive management.

The draft HCP has been modified to incorporate field surveys into implementation monitoring. Such monitoring will be primarily accomplished through DNR’s planning and tracking system and geographic information system, but statistically valid sampling of management activities will be conducted to evaluate the reliability of information stored in these databases.

The reasons for not conducting validation monitoring on salmon are presented in the draft HCP, p. IV.65 and p. V.2. These reasons include, the watershed-level effects of forestry and non-forestry activities involving other land ownerships, the effects of salmon fisheries and hatcheries, and natural at-sea effects. Effectiveness and validation monitoring may be part of the long-term murrelet strategy. The reasons for not conducting validation monitoring for spotted owl dispersal habitat are presented in the spotted owl comment category in this section.

DNR has chosen not to specify performance standards or habitat standards for the management of riparian areas. DNR’s objective is to manage riparian ecosystems so that important elements of salmonid habitat (large woody debris, sediments, detrital nutrients, and shade) are within the natural range of variability for functional habitat. For some habitat elements, in particular large woody debris and detrital nutrients, the natural range of variability or the minimum requirements for functional salmonid habitat are poorly understood. DNR anticipates that through monitoring and adaptive management our understanding will evolve to the point where scientifically credible performance standards can be specified.

There are no take prohibitions for federally listed plant species on nonfederal lands. Therefore, USFWS does not issue incidental take permits for plants, and the HCP is not required to monitor plant populations. However, the Services through the Section 7 consultation process must ensure that the action of issuing an ITP will not jeopardize any federally listed plant species. For that reason, the Services encourage applicants to consider listed and sensitive plant species during the HCP development.

Under Section 10 of the ESA, one criterion for the issuance of an ITP is that adequate funding for the plan be provided. The same criterion will be applied for unlisted species agreements. This provides assurance that funding will be available for monitoring.

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State legislative authority would be required for establishing a trust fund to support monitoring.

## **VIII. IMPLEMENTATION ISSUES**

**Summary:** The Services and DNR received comments from four individuals, the Hoh Indian Tribe, Prosecuting Attorney Bradley Andersen on behalf of Skamania County, the Washington State Association of Counties, NWIFC, WEC, the Black Hills and Skagit Audubon Societies, the Northwest Ecosystem Alliance, Sierra Club Cascade Chapter, Rivers Council of Washington, the Wildlife Society, The Mountaineers, and two local groups regarding general concerns on implementation. The Hoh Tribe questioned whether short term protection losses could occur without long-term gains. Skamania County wrote the HCP should be the product of “hard-nosed negotiations.” Several individuals and groups including The Mountaineers, Sierra Club, and Rivers Council asserted the IA contained too many inequities favoring DNR’s needs at the expense of species. These same individuals and groups wrote that the agreement must present a fair balance in needs between DNR and the public resource. The Northwest Ecosystem Alliance and another local group wrote that the agreement prevents further public involvement or citizen suit. Skagit Audubon Society wrote that the agreement would discourage research and monitoring. Black Hills Audubon wrote that an Incidental Take Permit should not be granted on the basis of such weak commitments. NWIFC stated the provision in the IA barring citizen lawsuits may violate the ESA. WEC wrote that even though IA Section 21 allows for periodic comprehensive reviews, it does not state the method of review or how policy may be affected.

**Response:** Over the term of implementation, the effects of take must be mitigated to the maximum extent practicable. The possibility that take occurring early in the permit term might not be adequately mitigated upon early termination could arise, creating a “mitigation debt” owed by DNR. However, adequate mitigation is a permit condition with an underlying contractual obligation on the part of the applicant. As a result, early termination resulting in a “mitigation debt” would have to be remedied by DNR, most likely through the continuation of certain HCP provisions and permit conditions.

Modifications have occurred during the review period to address the needs of all parties and to respond to public input. The draft IA circulated for review had not been negotiated prior to publication. The IA has since been redrafted and changes in the IA are presented in Appendix 4 of this document. The Services concur with commentors that the agreement should reflect a balance of the needs of all parties and the resources involved.

The Services cannot, by contract, abrogate the statutory right concerning public comment and participation of the public to be involved in, or challenge their actions. Accordingly, the Services note that nothing in the IA or requested ITP limits or affects the public’s rights and recourse under the ESA or any other statute; language in Section 30.6 of the IA now acknowledges the rights of the public under the ESA.

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## **A. LENGTH OF PLAN/PERMIT**

**Summary:** The Services and DNR received comments on the length of the proposed plan from several groups, including 14 from individual commentors. Squaxin Island Tribe, Clallam County, American Rivers, The Mountaineers, Environmental Resource Center, and the 14 individuals all asserted 100 years was too long. Squaxin Island Tribe suggested a 50-year agreement allowing incremental increasing protection. Another commentor suggested that the HCP run 20 years. WEC commented that a plan where benefits only begin to be incurred after 50 years of implementation is inappropriate.

**Response:** HCP term length is generally decided as a matter of the purposes and needs of the applicant who engages in this voluntary process. Another major factor that affects the length of the term is the expected period of time contemplated as necessary to adequately mitigate for the amount of take that might occur. As of the time of publication of the IA, the precise term of the agreement sought had not been determined by the applicant. Nonetheless, a 100-year term is not extraordinary in view of the amount of take that is sought. The Services note that the Murray Pacific Corporation HCP and All-Species Amendment is for 100 years, the Plum Creek 2-Phase HCP could run as long as 100 years, the Weyerhaeuser Millicoma HCP could run 80 years, and the Oregon Department of Forestry Elliott State Forest HCP will run 60 years as to spotted owls. Following these examples, the possibility of DNR's HCP spanning 100 years is not extraordinary.

DNR and the Services have modified the term of the permit. The Implementation Agreement now calls for a 70-year term with provisions for up to three, 10-year extensions. Such extensions could occur at DNR's option if commitments of the HCP are met at year 70, or at the Service's option if commitments have not been met at year 70.

## **B. TRANSFERS OF LANDS, SUCCESSORS AND ASSIGNS**

**Summary:** Nine commentors wrote or testified on this topic, including one individual. WDFW questioned the effects of DNR dispositions where the HCP would not be implemented by the new owner. Clallam County wrote about transfers to the federal government. Rivers Council, Sierra Club Cascades Chapter, The Mountaineers, and two local groups asserted transfers should be allowed only where the HCP provisions are maintained by the new owner. Washington Forest Protection Association wrote that an HCP should not encumber land exchanges.

**Response:** The manner in which HCP lands are disposed of by DNR during the permit term will depend on each transaction. Nonetheless, Section 17.4 of the IA now provides for mitigation if the cumulative impact of the land disposition would have a significant adverse effect on a species.

## **C. FUNDING**

**Summary:** WDFW asked if DNR will move funds around to cover budget shortfalls and asked for more details on how adequate funding for the HCP will be provided. WEC questioned whether DNR can make the assurance that funding to implement the HCP will be available. One individual asked what happens in the event DNR is not funded by the State Legislature.

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**Response:** Under Section 10 of the ESA, one criterion for the issuance of an ITP is that adequate funding for the plan be provided. The Implementation Agreement contains a provision which would allow the Services to suspend the permit should insufficient funding be provided to implement the HCP. To issue an ITP, the Services must be assured the applicant will adequately fund implementation of the proposed HCP.

#### **D. PHASE-IN IMPLEMENTATION**

**Summary:** Bogle & Gates (a consultant to Washington State University) stated that the paucity of long-term management activities specified under the plan, combined with the absence of meaningful time frames for such action, make it almost impossible for decision makers to assess the environmental impacts of the HCP. A local organization stated that for the plan to succeed, the decision making structure must be designed such that scientists and other ecosystem managers have significant authority in making harvest and management decisions and that this process should be clearly delineated in the documents.

**Response:** The plan does contain a number of provisions for future plans to be developed once data is obtained. Although the exact nature of the provisions which will result cannot be stated, the Service believes that by maintaining the ability to participate in the development of these plans, it maintains the ability to ensure the best available data is used in a responsible manner to develop sound conservation strategies. Likewise, DNR will ensure that the development of these strategies will be consistent with its trust responsibilities. By postponing components of the planning process both DNR and the Services are ensuring that commitments will not be made until effective and efficient strategies can be developed, which should benefit the trust and wildlife species.

#### **E. LIABILITY**

**Summary:** The Sierra Club and Society for Conservation Biology commented violations could be blamed on an agent and that DNR would not be held liable. Another environmental group stated the penalty for DNR “violating” the HCP is too weak.

**Response:** Section 16.3 of the IA provides that DNR shall not be liable for the unauthorized acts of agents, contractors, licensees, etc. As for penalties for “violation” of the HCP, all applicable statutory and regulatory penalties remain in effect, including the Services’ ability to suspend or revoke the permit.

#### **F. PERMIT ENFORCEMENT, SUSPENSION, OR REVOCATION**

**Summary:** Five environmental organizations and one individual commented on this subject. Black Hills Audubon Chapter wrote that the agreement must be enforceable. Washington Wilderness Coalition and WEC wrote that the ITP should be conditioned on fulfilling monitoring requirements. Society for Conservation Biology wrote that the permit should be suspended for violations of the agreement. Finally, Rivers Council questioned how the agreement will be enforced. An individual requested increased public involvement in enforcement.

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**Response:** Nothing in the process of issuing an ITP abrogates the duty of the Services to enforce the ESA. Permit enforcement will be carried out as a matter of programmatic responsibility and through the use of compliance monitoring, site inspection, remote sensing and aerial imagery, and other emerging techniques. Violations of the agreement can result in suspension or revocation of the permit and as otherwise provided in federal permitting regulations. Nothing in the proposal prevents interested members of the public from apprising the Services of compliance issues.

## **G. UNLISTED-SPECIES AGREEMENT**

**Summary:** The Services and DNR received 14 comments, including four from individuals, discussing the proposed unlisted species agreement. NWIFC commented the process for adding unlisted species is “disturbing” and “unfair” and needs to be changed. NWIFC suggested delaying addition of newly listed species until critical habitat is designated and a recovery plan for each newly listed species is finalized. Point No Point Treaty Council wrote that DNR should bear the burden of proving the HCP adequately addresses the needs of newly listed species. The Council also wrote, that DNR should bear the burden of proving that extraordinary circumstances do not exist (as opposed to the allocation of the burden to the Service of proving that extraordinary circumstances do exist). Sierra Club Cascade Chapter, Rivers Council of Washington, and two individuals wrote that no permit should be allowed for species not listed in the HCP or for which little is known. The Mountaineers, Northwest Ecosystem Alliance, Environmental Resource Center, and two individuals asserted DNR must be made responsible for further mitigation if it becomes necessary. Washington Wilderness Coalition commented the HCP should afford more protection to candidate species.

**Response:** The Services respectfully disagree that presently unlisted species that become listed during the permit term should be eligible for addition to the permit only after a recovery plan and designation of critical habitat for that species are completed. There is no basis in the ESA for this suggestion. The Services note, for example, that there is no current recovery plan for the owl, the murrelet has only a draft recovery plan, and no critical habitat has been designated for grizzlies, wolves, eagles, or falcons. None of these currently listed species would be eligible for coverage in an Incidental Take Permit under the commentor’s suggestion. The unlisted species process proposed in the underlying agreement was analyzed in the DEIS and revisited in this document. Those provisions capture an agreement that was subject to extensive negotiation and refining so that it best implemented the intent of Congress as embodied in the ESA, as stated in H.R. CONF. REP. No. 835, 97 Cong, 2d Sess, 30 (1982) and as restated by the Departments of the Interior and Commerce in the No Surprises Policy of August 1994.

The HCP proposes a habitat-based approach to conservation for all species, including those species that are currently unknown. The primary assumption of the unlisted species conservation strategy is that if adequate amounts of habitat of sufficient quality are provided, these species will persist. The question is whether the combination of the described protective measures, natural diversity within the habitats on DNR-managed lands, and the diversity of treatments to be implemented under the HCP would provide a sufficient amount of habitat. The Service will provide further discussion of the HCP

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effects and mitigation in its Section 10 findings document prior to a decision on permit issuance or approval of the Implementation Agreement.

## **H. DEPARTMENT OF THE INTERIOR and DEPARTMENT OF COMMERCE ASSURANCES POLICY**

**Summary:** Two individuals commented that DNR should bear the burden of meeting stricter future ESA regulations. One individual commented DNR should bear the burden of funding further protection if it becomes necessary. WEC asserts that Section 12 of the IA violates the ESA and constitution.

**Response:** When Congress amended the ESA to include Section 10, they intended that the Federal Government give long-term assurances to landowners that engage the Section 10 process (H.R. CONF. REP. No. 835, 97 Cong, 2d Sess, 30 (1982)). Congress expressed its intent that landowners operating under an approved plan be assured that the landowner not be required to provide further mitigation in the form of compensation or other lands except under extraordinary circumstances (see comment category Extraordinary Circumstances on p. 3-157 in this section). The Interior and Commerce Departments recently reiterated this commitment to landowner assurances in the so-called "No Surprises Policy" (USDI/USDC, 1994). In the No Surprises policy, the Secretaries provided that the government would bear the burden of proving that circumstances have arisen necessitating a revisiting of the mitigation measures in a previously approved plan. The present agreement faithfully integrates this policy. Should extraordinary circumstances arise and no other source of the necessary mitigation be available, the Services will indeed be able to request further mitigation from DNR. As to comments regarding the IA, please see above. The IA has since been redrafted.

## **I. LEVEL OF CERTAINTY/UNCERTAINTY**

**Summary:** The Services received eight comments, including two from individuals, generally addressing certainty. Washington Hardwoods Commission and Green Crow (a forest products company) commented on harvest level certainty. The Washington Wilderness Coalition, Sierra Club Cascades Chapter, and Rivers Council of Washington criticized the apparent imbalance between certainty for harvest levels and certainty for resource protection. Bogle & Gates (a consultant to Washington State University) asserted the DEIS and draft HCP are overwhelmingly uncertain to enable decision making. Two individuals wrote the Services should err in favor of resource protection.

**Response:** Certainty is a value that all parties to the Section 10 process seek for their respective interests. The Services are aware of the appearance that one resource may appear to gain a higher level of certainty than another, such as the appearance that an HCP proponent receives more certainty than the species for which they are seeking a permit to take. Appearances aside, certainty in the Section 10 process is necessarily a two-way street. As presented in the DEIS, greater certainty is derived for fish and wildlife resources as well as timber management under the proposal than would occur without it. This is especially true for presently unlisted species dependent on habitats on DNR-managed land that would not receive any beneficial or prescriptive attention under the No Action alternative, but would under the HCP because of the range of habitats that are addressed. For response to harvest certainty, please see Harvest Levels topic.

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## 1. Unforeseen Circumstances

**Summary:** Ten commentors, including four individuals, provided comments on unforeseen circumstances. National Audubon Society, Sierra Club Cascades Chapter, The Mountaineers, WEC, and one individual all suggested DNR should be required to provide more mitigation if unforeseen circumstances arise. One individual asked what happens in the event DNR is not funded by the State Legislature. Three other individuals wrote that the process for increasing mitigation should be made easier.

**Response:** ESA implementing regulations provide that a proposed conservation plan must specify “[w]hat steps the applicant will take to monitor, minimize and mitigate such impacts, the funding that will be available to implement such steps, and the procedures to be used to deal with unforeseen circumstances...” (50 CFR 17.22(b)(1)(iii)(B) and 50 CFR 17.32(b)(1)(iii)(C)(2)). In addition, before issuing the permit, the Service must find, among other things, that “the applicant will ensure that...procedures to deal with unforeseen circumstances will be provided...” (50 CFR 17.22(b)(2)(iii) and 50 CFR 17.32(b)(2)(iii)). Unforeseen Circumstances have been defined as circumstances that may change over time, generating pressure to reconsider the mitigation commitments in an HCP (USDI and USDC 1994 -- No Surprises Policy). (See Appendix 6 of this document for a reproduction of the No Surprises Policy.)

The HCP provides procedures to deal with Unforeseen Circumstances. First, many components of the HCP rely on adaptive planning in response to research and monitoring. As such, the HCP is intended to minimize the possibility of unforeseen circumstances arising. Second, in enacting Section 10(a)(1)(B) of the ESA, Congress intended that permittees receive long-term assurances that terms of an approved plan would be adhered to by the federal government and that further mitigation requirements would only be imposed in accord with terms of the approved plan. Reiterating this intent, the Secretaries of the Interior and Commerce established the “No Surprises” policy entitled “Assuring Certainty for Private Landowners in Endangered Species Act Habitat Conservation Planning” to provide guidance in negotiating unforeseen circumstances provisions in HCPs. Consistent with this policy the Services may initiate Unforeseen Circumstances Consultation regarding the underlying circumstances.

In the event DNR has not appropriated sufficient funding to implement the HCP, the Services, under the Implementation Agreement, may suspend or revoke the permit.

## 2. Extraordinary Circumstances

**Summary:** Nine commentors, including three individuals, wrote regarding extraordinary circumstances. WDFW asked whether finding extraordinary circumstances affects Section 24.3 of the IA. NWIFC commented that the IA was drafted to preclude the Services’ ability to invoke extraordinary circumstances. The Point No Point Treaty Council wrote that DNR should have to fund further mitigation, even under extraordinary circumstances. Washington Wilderness

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Coalition wrote that DNR should have to adapt management to account for new information. WEC wrote that there is a lack of consequences for a finding of extraordinary circumstances, especially regarding unlisted species; that IA Section 24.3 makes no sense because, by definition, mitigation for unforeseen circumstances (sic) will involve additional or different land use restrictions; and that in effect, the provisions of Sections 23 and 24 of the IA define any land use restriction beyond those provided for in the HCP as a regulatory taking.

**Response:** Several writers based their comments regarding extraordinary circumstances on the draft IA circulated with the review package. The draft IA was prepared by DNR counsel without negotiation and revision prior to publication and therefore did not capture the extraordinary circumstances concept as the Services have been implementing it with other landowners operating under HCPs in this region.

As alluded to above, Congress intended for HCP proponents to receive the government's assurance that the terms of an approved agreement would be upheld except where doing so would lead to significant negative effects on the affected species' population. The IA was redrafted to capture this intent, and the changes appear in Appendix 4 of this document.

## **J. CONTINGENCIES**

**Summary:** The Services received 17 comments on contingencies, including six from individuals. Nearly all comments on this topic reflected a similar concern. In summary, the concern was the HCP lacked any possibility for improvement through time to deal with any number of contingencies such as species delisting, failure of the protection strategy, and incorporation of new information.

**Response:** The HCP contains a number of provisions to allow change. First, there are places where flexibility has been incorporated into the HCP. In addition, either party may propose an amendment at any time. Adaptive-management provisions allow certain components of the HCP to be upgraded whenever necessary as a result of information that was unavailable previously or which indicates that the mitigation objectives are not being met. Also, the Service may require a redistribution of mitigation in the case of extraordinary circumstances. Similarly, DNR may propose an amendment if a species is downlisted or new information presents opportunities for more effective mitigation at a lower cost.

### **1. Level of Flexibility**

**Summary:** WDFW, City of Port Angeles, and the Port of Port Angeles commented that flexibility needs to be incorporated into the HCP in order to adapt management actions resulting from research and experimentation.

**Response:** The flexibility sought by the commentators already exists in the HCP. For example, details regarding flexibility may be found in the draft HCP in Chapter V and those portions of Chapter IV covering owls, murrelets, riparian areas, and other

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resources. As to adaptive management, see the heading Adaptive-Management Techniques in this section on the following page.

## **2. Amendments**

**Summary:** WEC suggested HCP amendments be attended to by a Supplemental Environmental Impact Statement and a 60-day public comment period. In public hearing, the Environmental Resource Center asserted that the HCP is unrealistic in not allowing other species to come under HCP protection for the next 100 years.

**Response:** Each amendment would be assessed as to whether it warranted treatment for public review purposes under NEPA. The Services will consider a variety of factors in making that decision and, if NEPA is warranted, will decide on the appropriate forum for such review (categorical exclusion, Environmental Assessment, or Environmental Impact Statement). For instance, minor changes in the way mitigation is provided that do not alter the amount or effectiveness of mitigation nor the amount of take may not require public review. With regard to the Environmental Resource Center's response, the Service believes this commentor is suggesting that newly listed species should be granted additional protection, where necessary, to ensure they are adequately addressed. Prior to adding a newly listed species to the permit, the Service would complete a Section 7 consultation. Depending on the outcome of that consultation, and other responsibilities of the Services, additional conditions may be necessary in order for that species to be added to the permit.

## **3. Adaptive-Management Techniques**

**Summary:** The USEPA commented that more information was needed concerning proposed adaptive-management techniques and programmatic monitoring. WDFW, Point No Point Treaty Council, and the City of Port Angeles asked if there is a mechanism to incorporate new research into current practices. Washington DOE commented that Alternative B would be adequate if an adaptive-management technique mechanism is in place. The Squaxin Island Tribe, NWIFC, Whidbey and Black Hills Audubon, Sierra Club Cascade Chapter, Puget Sound Chapter of the Society for Conservation Biology, and three individuals commented that the HCP should require incorporation of new information from monitoring into management practices. The Wildlife Society mentioned the need for credible monitoring. Tahoma Audubon Society suggested establishing a Scientific Advisory Board to review and implement research findings.

**Response:** The HCP includes provisions for adaptive management in a number of areas that are defined in the Implementation Agreement. The riparian management strategy provides specific mechanisms that would include Service participation in developing site-specific treatments, input into the monitoring that would be used as feedback for adaptive-management purposes, and objectives to be met as mitigation. The northern spotted owl habitat definitions would also be subject to adaptive management and would be updated as new information became available.

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## **K. TERMINATION CLAUSE**

**Summary:** The Hoh Tribe and NWIFC expressed similar comments regarding the possible need for DNR to continue complying with the HCP to adequately mitigate for past incidental take, should DNR terminate early. NWIFC and one individual commented that the language does not clearly define additional mitigation requirements in the event of early termination as described in the IA. Washington State Association of Counties supports the 30-day opt-out provision. Seven individuals and WEC, Washington Wilderness Coalition, and another group wrote that the terms should apply equally to both parties. Green Crow wrote that post-termination mitigation requirements would be so costly that termination is not a viable possibility. Several individuals criticized the ability of DNR to terminate on 30-days notice.

**Response:** Section 27.0 of the IA provides for potential mitigation in the event of termination. As to those comments regarding perceived unfairness of the terms of the agreement, as discussed above, the IA was prepared by DNR and published with the HCP without review and revision by the Services. Negotiation of the underlying agreement has resulted in a redraft of the IA. At this time, it is premature to predict the cost of any continuing mitigation requirement that might be incurred by DNR if it terminates early; there is not a basis for making any such prediction.

## **IX. RELATIONSHIPS TO OTHER LAND MANAGEMENT**

**Summary:** WDFW requested that DNR consider WDFW ownerships similar to Federal designations (Congressional Reserves, LSRs, MLSRs, AMAs) where spotted owls are targeted in WDFW land-management plans. At the Seattle public hearing, an individual representing WEC discussed three reasons why it is inappropriate to compare DNR's HCP with private landowners' HCPs: (1) DNR can not sacrifice future income for present income, private landowners can; (2) DNR manages a much larger area than any private land owner and therefore has a greater responsibility to ensure that cumulative effects are not riskier to species; and, (3) DNR has a responsibility to be on the "cutting edge" of scientific forestry. The Washington State Association of Counties provided a preliminary determination that the draft HCP was compatible with local planning goals and objectives. The conservation group American Rivers stated their concern that implementation of the HCP would affect the success of their watershed restoration efforts and requested larger riparian buffers. One individual noted the commitments of the HCP, when added to the current regulations of the Olympic National Park, Olympic National Forest, Coastal Marine Sanctuary, Scenic Coastal Corridor, and the Proposed Straits Marine Sanctuary, would over-regulate the residents of the Olympic Peninsula. Another individual asked DNR not to consider bio-region approaches; adding adjacent state lands to federal no-management lands only exacerbates the problems of fire, disease, pest, and economic loss. One individual remarked how flying over or driving through Washington illustrated the amount of timber harvest and lack of replanting across the landscape. One commentor expressed his belief that DNR-managed lands should be managed to provide ecological protection for water, fish, recreation, and wildlife since private lands cannot or will not provide them. Another individual felt that in order to influence private landowners to propose HCPs of their own, DNR's HCP should include stronger mitigation measures and eventually serve as a model plan.

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**Response:** WDFW does not maintain control over the surface rights on all their lands. The timber rights to much of the lands in question are held by private parties and, as such, no guarantee of continued maintenance for owls is provided. DNR may be different than other nonfederal entities, but they clearly are a nonfederal entity and are appropriately treated as such in regard to the proposed HCP. The Service and DNR acknowledge the preliminary determination made by the Washington State Association of Counties. The Service is not familiar with the American Rivers' watershed restoration project, but it believes DNR's HCP riparian management measures should significantly contribute to the restoration of healthy aquatic and riparian systems. Regarding over-regulation on the Olympic Peninsula, the Services note that DNR has voluntarily applied for an ITP in an effort to reduce the regulatory burden associated with current and future listed species and associated constraints on management. The HCP should provide DNR with greater latitude in management of its resources. Additionally, few of the lands covered by the HCP will be unavailable for management. DNR maintains the ability to manage its lands in response to the occurrence or threat of such catastrophic events. The Service agrees that the Washington landscape has been heavily impacted by logging. However, in most places, it is not a result of lack of replanting. Replanting is mandated by State regulations, has been a common practice for a number of years and the potential for natural reforestation is very high. Some areas not properly replanted did revert to alder as a result of past harvest actions. The major factor is the length of time required for a clear-cut to develop into a mature stand of conifer. The Service also notes the difficulty in detecting replanting attempts from an airplane or car. The Service agrees that DNR has a responsibility to protect the natural resources listed by the commentor; however, the Service also believes this is a responsibility of other nonfederal landowners.

#### **A. RELATIONSHIP TO MANAGEMENT ON FEDERAL LANDS**

**Summary:** The Tulalip Tribes commented DNR should not rely on federal lands and management practices to protect spotted owls and other species. Skamania County inquired if they can receive HCP "credit" for timber land transferred to the U.S. Government under the Columbia River Gorge National Scenic Area Act. The Port of Port Angeles noted that past harvest limits were arbitrarily excessive, but if DNR were to consider the owl sites on federal lands, DNR could increase harvest levels over time. Bogle & Gates (a consultant to Washington State University) commented that DNR is not compelled to provide habitat because the habitat on federal lands has not yet reached its maximum potential. The Puget Sound Chapter of the Society for Conservation Biology noted DNR could better arrange potential owl habitat to support populations on federal lands by reducing the edge-to-area ratio. The Northwest Biodiversity Center commented that DNR has the responsibility of assuring the survival of many invertebrates because DNR-managed lands are located at relatively low elevations (compared to U.S. Forest Service or National Park forest lands), forest invertebrate faunas typically are more diverse in the lowlands, and a much smaller percentage of late successional forest remains at low elevations. NCASI questioned the assumption that having combined federal/state owl cluster areas with more than 25 pairs would provide more assurance against extinction than supporting owl clusters with 5-10 pairs. Two individuals commented that the passage of the Timber Salvage Rider increased DNR's responsibilities to preserve spotted owl habitat. One individual stated federal lands are enough for habitat protection and DNR-managed lands are not needed for habitat

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protection. Conversely, another individual stated DNR's HCP should stand on its own merits and not rely on federal lands. A conservation biology student noted that connectivity to link similar habitat types on federal and private lands is essential.

**Response:** The Service notes, from a biological standpoint, that ownership matters less than whether the appropriate level of conservation is provided. Where sufficient conservation is provided on federal lands, it may not be required on nonfederal lands. Unfortunately, this is seldom the case. Even under the President's Northwest Forest Plan, many areas designated as Late Successional Reserve have been heavily impacted by past logging. Some LSRs will take decades to recover. Much of the federal land occurs at high elevations and, therefore, cannot substitute for the lower-elevation nonfederal habitats.

The focus of DNR's owl strategy is to support the President's Northwest Forest Plan's effort to conserve owls. The intent is to focus conservation where it is both most needed and most effective so as to derive the most conservation benefit with the least impact to DNR's trustees. Regarding the comment from Bogle & Gates (a consultant to Washington State University), the Service notes that this is the very reason the nonfederal lands are needed until federal habitats can be provided in sufficient amount. The owl strategy of maintaining 500-acre patches within a landscape providing 50 percent of the land as foraging habitat was designed specifically to reduce the effects of fragmentation. At landscape levels of 50 percent or more, patches tend to become larger and more connected (Lehmkuhl and Raphael 1993). Most available scientific literature suggests that owl clusters of 20 or more pairs are needed to support viable populations.

While several timber sales have been authorized by Section 2001 of the 1995 Rescissions Act (P.L. 104-19), the Services do not believe that the biological integrity of the President's Northwest Forest Plan has been significantly compromised as a result. The President's Northwest Forest Plan calls for an extensive system of Late-Successional Reserves, protection of riparian reserves, the maintenance of dispersal habitat throughout federal lands, and a monitoring program aimed at ensuring the effectiveness and validity of the plan.

Timber sales harvested pursuant to P.L. 104-19 are not expected to seriously affect the role of the President's Northwest Forest Plan as the foundation for conserving late-successional forest species. The majority of the timber sales released by Section 2001(k) of P.L. 104-19 were located in Oregon. Most of the 2001(k) sales that occurred in Washington were previously consulted on under the Endangered Species Act for spotted owls and, from the owl's perspective, were considered harvested when the Service completed Section 7 consultation for spotted owls under the President's Northwest Forest Plan. Therefore, harvest of the 2001(k) sales in Washington has caused few impacts to northern spotted owls that were not previously considered by the Service.

HCPs are most functional when they complement the other conservation efforts being conducted. The President's Northwest Forest Plan is the foundation upon which many other plans have been built. It is impossible for other land-management plans, including DNR's, to stand on their own merit. If federal lands no longer provided conservation

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benefits for many species, such as the northern spotted owl, DNR-managed lands could not prevent the extinction of the owl. However, this does not mean that many DNR-managed lands are not indispensable for the continued maintenance of owl clusters. The Service agrees with the comment regarding the need for connectivity.

## **B. FEDERAL LANDS TAKE BURDEN**

**Summary:** The SDS Lumber Company discussed their findings that the amount of habitat on federal lands has been underestimated and that a proper analysis of federal lands should be completed prior to determining the level of protection on nonfederal lands.

**Response:** The Service notes that it has received similar comments specific to the Klickitat region in other areas. While in some places habitat amounts may be underestimated, in others they are overestimated. Much existing habitat will also remain or become unusable due to its isolated location on the landscape. The Service is carefully assessing the necessary contributions of habitat on nonfederal lands across the state.

## **C. LANDSCAPE-ASSESSMENT PROCESSES (WSA, BASELINES, THRESHOLDS)**

**Summary:** Washington DOE expressed their intent to work with DNR to develop TMDL priorities for impaired streams along the coastal area of the OESF.

**Response:** For the purposes of simplifying the analysis, two assumptions were used by DNR in the HCP to calculate the distribution of salmonids within six planning units. These general assumptions are appropriate, given the purpose of the analysis; the results are presented in Tables III.11, 12, and 13 of the draft HCP. The stated intention was to display the magnitude of the potential impact that DNR forest management may have on salmonids. Other assumptions would not likely change the overall percentages. The HCP is a process which addresses many of the same concerns as the TMDL process under the Clean Water Act. The HCP is not designed to provide exemption from the Clean Water Act; however, the Services believe HCPs in general provide an excellent foundation upon which to build. In most cases, TMDL concerns should be able to be resolved with a minimum of additional effort. The Service appreciates the intent of Washington DOE.

## **X. THIRD-PARTY INVOLVEMENT**

### **A. TREATY RIGHTS AND THE FEDERAL TRUST RESPONSIBILITY**

**Summary:** The Muckleshoot Indian Tribe, NWIFC, Point No Point Treaty Council, Squaxin Island Tribe, Tulalip Tribes, and the Yakama Indian Nation all provided comments on the federal government's Trust Responsibility to Indian Tribes regarding certain resources. Similar comments were provided by each of the commentators regarding the responsibility of the federal government to consider the effects of any proposal on resources to which the Tribes have certain rights preserved in treaty. Individually, the Tribes and NWIFC asserted that because their rights regarding resources such as salmon are preserved by Treaty rights, and since the proposed action may affect the amount of such resources available to the Tribes, ESA Section 10 permit issuance criteria are superseded by treaty rights. In this regard, the Squaxin Island Tribe wrote that their comments were being provided per their treaty rights,

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not in consideration of the ESA. The Squaxin Island Tribe wrote that the HCP must protect treaty resources. Point No Point Treaty Council wrote that DNR also has a duty to uphold the treaty-protected rights of the Tribes. The Muckleshoot Indian Tribe and NWIFC wrote that the EIS must consider and analyze the effects of the HCP on treaty resources. The Tulalip Tribes requested documentation that the HCP will be consistent with the general trust responsibilities to the Tribes as described in Secretarial Order No 3175, issued by the Secretary of the Interior.

**Response:** The Services acknowledge the government's Trust Responsibility to the Tribes regarding treaty-protected resources that are affected by the proposed action. The Services have considered the effects of the proposed action on all species addressed in the HCP. Included in the comparison of effects to those species is the comparative analysis of effects to those species that are also covered by treaty rights. The analyses of these species/resources of concern to the tribes, therefore, appear in Chapter 4, Sections 4.2, 4.3, 4.4, 4.5, 4.8, 4.9 and 4.11 of the DEIS.

The Services believe that the proposed HCP would increase the overall amount of protection these resources would receive compared to proceeding under present Forest Practices Rules, as would occur in the absence of implementing the proposed HCP. For example, the proposed HCP provides for larger buffers in areas that influence factors that contribute to fully functioning riparian areas and, hence, fish habitat. Again, these areas get much greater protection under the proposed action than the protection they would receive without the HCP. Current state regulations would provide smaller buffers on fish-bearing streams and little if any buffering of perennial or intermittent streams. Furthermore, the measures proposed under the HCP that would have beneficial effects on fish habitat quality would begin upon approval of the HCP, rather than waiting until, such time as federal regulations are promulgated in response to a listing decision.

Nothing in the proposed HCP, IA, or ITP is intended to limit the Services' responsibilities to Native Americans. Consistent with Secretarial Order No. 3175, dated November 8, 1993, and the President's May 4, 1994 memorandum regarding Government-to-Government Relations with Native American Tribal Governments, the Services have consulted, and are continuing to consult, with the affected Tribes regarding this issue.

The Services acknowledge, but disagree with, the comment made by some Tribal reviewers and their representatives that the responsibilities of the federal government owed to Indian Tribes under the federal Trust Doctrine supersede Section 10 issuance criteria. The HCP process and the federal government's trust responsibilities to the Tribes are compatible. Although an ITP authorizes take, an HCP would not be approved that does not adequately minimize and mitigate the effects of the potential take. Accordingly, and as mentioned above, the effects analysis concerning the trust resources mentioned has been conducted, and the Services believe, based on that analysis, that the resources would be beneficially affected. The Services have discussed their rationale for this impression, with the interested Tribes and their representatives at the June 12, 1996 consultation that occurred at NWIFC. The Services are obligated to document certain findings when their actions are negatively affecting Treaty rights. In this instance, the Services' action is expected to result in improved conditions for salmon and is not expected to negatively affect this Treaty resource.

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## **B. TRUST RESPONSIBILITY TO TRIBES** (in section 3.3 only)

### **XI. TRUST BENEFICIARIES**

**Summary:** A state representative, the Squaxin Island Tribe, the Yakama Indian Nation, Bogle & Gates (a consultant to Washington State University), a Clallam County commissioner, a Metropolitan King County Council member, a Skamania County elected official, the Washington State Association of Counties, the City of Port Angeles, the Washington State office of the National Audubon Society, the Washington State chapter of the League of Women Voters, WEC, The Mountaineers, the Northwest Forestry Association, the Washington Contract Loggers Association, one local environmental organization, a lumber company, and 24 individuals made general comments pertaining to trust beneficiaries and DNR's fiduciary responsibilities.

Seven commentors supported the conservation efforts of the HCP, saying: management should simultaneously benefit the trust beneficiaries and wildlife; the HCP seems to provide predictability and sustainability in revenues; the HCP would double one county's income; DNR-managed forests as a funding source are the best way to safeguard the environment; undivided loyalty to trust beneficiaries does not excuse the state from following the law; and the HCP is the only course that complies with the trust mandate. Thirteen commentors wanted more conservation, with comments that included: (1) Omitting east-side aquatic resources will hinder DNR's ability to meet trust obligations; (2) Find other alternatives to funding schools; (3) Conservation should take precedence; (4) Don't destroy the forests to fund schools; (5) It is short-sighted to maximize short-term revenue, which would bring production down eventually, thereby violating the trust mandate; (6) Conscientious management will ensure productivity for the trusts; (7) Trust obligation is not limited to the current generation; (8) The trust mandate should not be misinterpreted too narrowly and in a short-term context; (9) Loss of a healthy ecosystem would lead to a decline in DNR's ability to provide funding to state schools; and, (10) DNR-managed lands are not for special interest groups but to support all equally, benefitting wildlife as well as beneficiaries. Five commentors wanted less conservation, with comments that included: (1) There are no roadblocks to timber management; (2) Wildlife conservation should not subjugate legislated objectives; (3) The HCP is a grave injustice to the beneficiaries; (4) The HCP fails to meet the trust mandate and the "paramount duty" provision of state law; (5) The only job of trust lands is to produce income; and, (6) The HCP emphasizes recovery of endangered species over trust responsibilities.

Commentors raised several concerns, including: (1) Wanting assurance that the county assets are managed in the best interests of the county citizens; (2) Suggesting each county should be treated as a separate trust; (3) DNR has a wider public interest than just being responsible to the beneficiaries; (4) Public assets of natural resources cannot be obliterated to benefit trusts; (5) Manage for both wildlife and the trusts; (6) The trusts can benefit from wise stewardship; (7) Disappointment that the University of Washington is opposed; (8) No non-sustainable short-term plans; and, (9) Consider what is best for the trusts. One commentor called for additional economic analysis and provided examples to consider. Four commentors called for other sources of support for the beneficiaries. Questions raised by commentors included: Are

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Alternatives B and C too expensive? and, Would the Board of Natural Resources be part of any changes?

**Response:** DNR's HCP is expected to increase certainty, stability, and flexibility in trust land management and conservation of wildlife habitat by providing greater certainty regarding federal wildlife regulations, greater stability in harvest levels and resulting revenues, and greater flexibility in operations. The section titled Trust Duties in Chapter II of the draft HCP provides more detail on DNR's trust mandate and how the HCP would allow the department to better meet its trust responsibilities. Finding other funding sources for the trust beneficiaries is beyond the scope of this project. The Board of Natural Resources will be involved in changes to the HCP from the draft to the final. If the HCP is approved and adopted, the Board would remain involved in the implementation process at a policy level, according to their legislated responsibilities. DNR does not believe Alternative B to be expensive, given today's costs of owl and murrelet surveys. Additionally, Alternative B will reduce the risk of violating the Endangered Species Act and will provide protections if additional species are listed in the future.

### **A. MAXIMUM BENEFIT FOR TRUST**

**Summary:** The Squaxin Island Tribe, the Washington State Association of Counties, the Port of Port Angeles, the Washington Hardwoods Commission, WEC, the Northwest Forestry Association, three timber companies, one local forest commodity organization, and two individuals commented on the maximum benefit for the trusts.

Three commentors called for more conservation, saying (in essence): (1) It would be cheaper to have no harvest in the areas designated as minimal harvest in the riparian management zone; (2) It is short-sighted and irresponsible to advocate maximizing revenue; and, (3) Trust lands should be managed to benefit equally present and long-term recipients of proceeds. Four commentors called for less conservation, with two saying riparian management zones should maximize revenues to beneficiaries. One commentor said the goal for spotted owls in the OESF is greater than federal requirements, which violates trust responsibilities, and another commentor said the difference between current practice and what is proposed for riparian areas has a direct bearing on the stumpage value available to the trusts. Five commentors raised concerns such as: (1) Maximum income should be balanced between long and short term; (2) The certainty the HCP offers is that trust revenue will be lost; (3) DNR is mandated to produce the most substantial support possible over the long term (two commentors); and, (4) Trust beneficiaries should have public interest at heart enough to not take positions just for short-term profit. One commentor stated that although DNR's mandate is to maximize revenue to trust beneficiaries and not to protect the hardwoods industry, hardwoods represent sizeable income to the beneficiaries.

**Response:** Chapters I and II of the draft HCP discuss DNR's trust responsibilities as trust manager, including a discussion of providing the most substantial support possible over the long term, undivided loyalty, prudent management, as well as the need to follow laws that have general applicability, including the Endangered Species Act.

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## **B. OBLIGATION TO FUTURE GENERATIONS**

**Summary:** The Port of Port Angeles, WEC, the Washington Wilderness Coalition, the Washington chapter of the League of Women Voters, three local environmental organizations, an independent forester, another local organization, and 12 individuals commented on the obligation to future generations.

One commentor supported the conservation plan, saying it benefits long-term productivity. Eight commentors call for more conservation, saying: (1) DNR cannot satisfy its fiduciary responsibilities unless it manages the lands in ways that maintain healthy, productive forests for future beneficiaries; (2) Our children will judge whether we conserved enough today; (3) Endangered species need to be preserved for future generations; (4) DNR is obligated to present and future generations to protect biodiversity and ecological functions; (5) DNR and the Board of Natural Resources need to remember that trust obligations are for not only the present, but the future as well; (6) Managing in a more ecologically sound manner will allow DNR to better fulfill its legal responsibilities to present and future beneficiaries (two commentors); and, (7) A perpetual trust demands intergenerational equity. Concerns raised by commentors include: (1) If future trust recipients are to benefit, experimentation and scientific data must be used to the benefit and not detriment of the trust; (2) A 100-year commitment does not manage the lands for future generations; (3) Revenue must be assured in perpetuity; (4) The long-term sustainability of trust lands are at stake; (5) Maintain productive, hardy forests into the future; (6) Need to put more emphasis on future uses, not just short-term immediate use; and, (7) will the HCP ensure hardwood forest productivity for future generations? Two commentors said the lands are managed for present and future beneficiaries. Another said not to favor either present or future beneficiaries. A fourth commentor said the trust mandate is prudent, ecological management to preserve the trust for future beneficiaries. A fifth commentor said the trust lands were established to provide revenue for education of children. One commentor was pleased that the HCP cover letter acknowledged the necessity of protecting the long-term health of the forest and the ecosystem in order to preserve the productivity of the trusts in perpetuity.

**Response:** The HCP will allow increased flexibility in management operations and will keep options open for future sources of income from trust lands. To preserve future options, DNR must avoid actions that are likely to have a negative impact on long-term productivity of trust lands. These were important considerations for DNR as a manager of perpetual trusts. Implementation of the HCP, no matter how long the commitment, will allow for changes as new information is learned that can benefit future generations.

## **C. PRUDENT PERSON DOCTRINE**

**Summary:** A state representative, a Metropolitan King County Council member, a Skamania County elected official, the City of Port Angeles, the Port of Port Angeles, the Washington chapter of the National Audubon Society, WEC, The Mountaineers, and nine individuals provided comments on the prudent person doctrine.

Four commentors supported the conservation plan, saying: (1) The HCP should reduce the risk for future federal listings of endangered and threatened species; (2) The HCP provides certainty to the trust land managers while benefiting the public by protecting water, fish, and wildlife; and, (3) The stated purposes and goals of the HCP were agreed to. Eight

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commentors wanted more conservation, saying: (1) The prudent person doctrine includes long-term preservation of the state's forest ecosystem and endangered species (four commentors); (2) Public resources, including water, fish, and wildlife, should be protected; (3) It is not prudent to clearcut 96 percent of the forest; (4) DNR is obliged to manage the trusts in compliance with the law, including the Endangered Species Act; and, (5) The prudent manager provides additional protection to assets such as wildlife. One commentor wanted less conservation, saying the trust estate needs to be preserved. Concerns raised by commentors included: (1) The state should carefully consider the impacts of a 100-year contract with the federal government; (2) Would a prudent private trustee blend all separate trust assets into one pool and still fulfill fiduciary obligations to each of the various trust beneficiaries? (3) Public resources including water, fish, and wildlife, must be protected; (4) All applicable environmental laws must be followed; (5) In financial terms, the principal (trust lands) must be prudently managed to continue to produce interest indefinitely; and, (6) the trust mandate calls for prudent, ecological management to preserve the trust for future beneficiaries.

**Response:** The section titled Trust Duties in Chapter II of the draft HCP discusses the prudent person doctrine of trust land management and how the HCP is expected to allow DNR to better fulfill its duties as a prudent trust manager in several ways. Among these are providing greater certainty and stability in complying with the Endangered Species Act while producing substantial long-term income for trust beneficiaries, allowing more predictable timber sales levels, ensuring future productivity of trust lands, keeping options open for future sources of income from trust lands, increasing management flexibility, and reducing the risk of loss to the trusts.

#### **D. USE OF REGULATORY MINIMUMS**

**Summary:** The Washington State Association of Counties stated that state and federal laws and policies should be met, but not exceeded.

**Response:** The HCP is an alternative method of complying with the Endangered Species Act. In addition, issuance of the ITP will reduce the risk of non-compliance.

#### **E. OTHER DNR AGREEMENTS**

**Summary:** The Muckleshoot Indian Tribe, a Clallam County commissioner, and one individual commented on other DNR agreements. One commentor said the HCP lacks discussion of court-mandated obligations to the Treaty Tribes. Another commentor said that since the Hoh Agreement was signed in 1993, there have been no timber sales (other than thinning and salvage) in the Hoh-Clearwater block. A third commentor said DNR should no longer sell timber to companies that clearcut.

**Response:** DNR is required to adhere to state and federal laws, including laws regarding Tribal rights. This requirement will continue under the HCP. DNR's authority to enter into agreements to further the interests of the trusts is important to meeting site-specific management needs.

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## **F. PROJECTED HARVEST & REVENUE**

**Summary:** One state representative, Bogle & Gates (a consultant to Washington State University), a Clallam County commissioner, a Stevens County commissioner, the Washington State Association of Counties, the City of Port Angeles, the Port of Port Angeles, the Washington Hardwoods Commission, the Northwest Forestry Association, the Washington Contract Loggers Association, two wood products companies, an independent forester, a local organization, and seven individuals commented on projected harvest and revenue calculations.

One commentator wanted more conservation, saying the degree of cutting could not be sustained. Another commentator wrote the DEIS lacks cost comparisons. Three said the analysis was incomplete, calling for analysis to support the projected harvest levels, and the costs were underestimated while the revenues were overestimated. Several commentators made requests for additional information, and one commentator suggested another comparison study. Two commentators did not believe the harvest projections, and one said the Olympic Experimental State Forest riparian strategies were not included. Concerns raised by commentators included: (1) meeting the projected harvest levels; (2) the necessity for more information and analysis; (3) the inadequacy of the economic analysis; and (4) the need for better analysis of impacts on hardwoods.

**Response:** The comparison of projected harvest levels and sales revenues under the HCP and the No Action alternative was outside the scope of the environmental review process. However, DNR's methods for making this comparison were reviewed by Rebecca Tuttle Baldwin, an outside independent expert in resource economics and environmental analysis, for Foster Wheeler Environmental corporation. She found the assumptions and methodology to be appropriate. A sensitivity analysis was subsequently done by these entities to provide additional information for the Board of Natural Resources, the policy-making body that will ultimately decide whether the HCP is in the interests of the trusts. In addition, Foster Wheeler performed a decision analysis that looked at the likely occurrence of future regulatory constraints that would govern DNR forest land management.

## **XII. PUBLIC INVOLVEMENT**

**Summary:** Five organizations and five individuals provided comments on public involvement. NWIFC has concerns that the monitoring plan does not require review or consultation by the Tribes, public or other stakeholders. A general request was made that Tribal staff be involved in development of any implementation or monitoring plan. NWIFC commented that there is no provision in the IA to provide additional public comment and review should additional species be included in the HCP. The Squaxin Tribe would like clarification of the implementation proceedings of this plan with the Tribes. GBA Forestry, Inc. asked for a formal agreement between DNR and Washington Hardwoods Commission to allow the commission to participate in future policy decisions affecting the hardwood resource. Washington Hardwoods Commission also requested the ability to provide input on implementation of the HCP. Three individuals asserted that the public should have the right to comment on any major amendments. Another person asked for public comment and peer review of the as-yet incomplete conservation plan for murrelets. One person asked for another public hearing on the HCP after the FEIS is complete, but before it is submitted for final

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approval. Metropolitan King County Council thanked DNR for additional clarifications, information, and an ongoing forum for discussion.

**Response:** Public-involvement concerns regarding coordination of implementation with the Tribes will be taken up by DNR with the Tribes directly. Additionally, the Services will continue to discuss implementation with the Tribes in compliance with the Services' Trust responsibilities to the Tribes. As mentioned above, all amendments to the permit and HCP will be subject to the appropriate level of public review and involvement. The matter of subsequent agreements between DNR and private entities seeking access to policy making is outside the scope of this action and should be taken up with DNR directly. Public hearings following release of the FEIS are not required. Any future peer review will be conducted where required and according to the Services' policy on peer review. Compliments regarding the public process conducted so far, are noted.

## **A. PUBLIC INPUT**

**Summary:** The Squaxin Island Tribe, NWIFC, the Washington Hardwoods Commission, the Society for Conservation Biology, The Mountaineers, an independent forester, and three individuals commented on public input.

Seven commentors wanted more conservation, saying: (1) The IA should have a provision for public input on adding previously unlisted species; (2) A science advisory board should participate in periodic plan reviews to provide public access to review of monitoring and research; (3) The long-term marbled murrelet conservation strategy should go through the NEPA and/or SEPA process, including a 60-day comment period; and, (4) The public should be able to comment on future amendments to the HCP (two commentors) involving more than \$500,000 in 1996 dollars in timber or nontimber values (one commentor). Concerns raised by commentors included: (1) The long-term marbled murrelet conservation strategy should go through public and/or peer review; (2) A formal agreement should establish a mechanism for the Washington Hardwoods Commission to participate; (3) The hardwoods industry questioned whether it will have input into policy and implementation; and (4) There should be another public hearing before the legislators are involved.

**Response:** Amendments will go through NEPA review, as well as SEPA review, when and if appropriate. The issue at the time will determine the level of NEPA/SEPA response and public review. However, DNR and the Services will continue their informal workings with all stakeholders. The Services will analyze all amendments beyond minor corrections and edits to determine the need for, and the appropriate level of, NEPA compliance.

## **B. COORDINATION**

### **1. Tribes**

**Summary:** The Hoh Indian Tribe, the Lower Elwha S'Klallam Tribe, the Muckleshoot Indian Tribe, the Point No Point Treaty Council, the Squaxin Island Tribe, the Tulalip Tribes, and NWIFC provided comments on coordination with the Tribes.

Five commentors wanted more conservation, saying: (1) the Tribes expect to be consulted and participate in implementation of the HCP (four commentors), including research

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proposals impacting Treaty rights and the site-specific riparian management process; (2) The Squaxin Island Tribe cannot fully support the HCP without a formal understanding as to the relationship between the Tribe and DNR; and (3) the Tulalip Tribes requested government-to-government meetings with the Services to address policy and process issues, and with the Services and DNR to resolve technical issues. Concerns raised included involvement in implementation and status reviews of the plan (two commentors) and USFWS working with the Muckleshoot Tribe to develop an implementation plan before issuing the FEIS. The Hoh Tribe stated that it understands and appreciates that its agreements with DNR will be carried out under the HCP.

**Response:** The Services will continue to coordinate with the Tribes according to the federal trust relationship previously discussed under trust responsibilities to Tribes. DNR is committed to the intent of the Washington State Centennial Accord and the department's tribal policy to consider the joint needs of the Tribes, as well as the responsibilities of the state to provide for the trust beneficiaries. DNR and the Services will also continue to participate in the long-standing Timber, Fish, and Wildlife process with the Tribes. In addition, DNR's Regions will be administering the HCP at the local level, which will allow the Tribes to work directly with the local managers.

## **2. Adjacent Land Manager Coordination**

**Summary:** NCASI recommended coordinating research projects for the spotted owl in the OESF with projects across the owl's geographic range.

**Response:** DNR is involved with others in ongoing cooperative research projects. The HCP has the potential for joint research with others, including the Olympic Natural Resource Center. However, this is not a commitment or requirement of the HCP. DNR will encourage the publication of research results from projects undertaken in the OESF or elsewhere on state trust lands covered by the HCP.

## **XIII. NEPA/SEPA COMMENTS**

**Summary:** The USEPA commented the DEIS represents a commendable effort. The Hoh Tribe asked if SEPA would still prevail on state lands. Bogle & Gates (a consultant to Washington State University) asked if DNR would initiate the EIS process for each new plan and guideline. The Black Hills and Tahoma Audubon chapters, Northwest Ecosystem Alliance, and one individual commented NEPA should be repeated when DNR completes its long-term murrelet plan.

**Response:** The Services and DNR thank those commentors that complimented the environmental document. None of the document comprising the application affect DNR's continuing legal requirement to comply with SEPA. The DEIS was prepared to serve simultaneously as an NEPA document for the proposed action of issuing an ITP and as a programmatic SEPA document for the Board of Natural Resources proposed action of adopting an HCP to support the issuance of an ITP. An appropriate level of analysis, review, and comment will occur for all major amendments to the proposed action.