

FINDING OF NO SIGNIFICANT IMPACT

Regarding

Issuance of an Endangered Species Act 10(a)(1)(B) permit for incidental take of Taylor's checkerspot butterfly (*Euphydryas editha taylori*), streaked horned lark (*Eremophila alpestris strigata*), and two subspecies of Mazama pocket gophers (*Thomomys mazama pugetensis* and *T. m. yelmensis*) in conjunction with the Kaufman Habitat Conservation Plan, Thurston County, Washington

The U.S. Fish and Wildlife Service (Service) is proposing to issue a Section 10(a)(1)(B) incidental take permit (ITP) under the Endangered Species Act of 1973 (16 USC 1531-1544), as amended (Act), to Kaufman Holdings, Inc., Kaufman Real Estate, LLC, and Liberty Leasing & Construction, Inc. (jointly referred to as the Applicants). The ITP would authorize incidental taking of the endangered Taylor's checkerspot butterfly (*Euphydryas editha taylori*), the threatened streaked horned lark (*Eremophila alpestris strigata*), and two threatened subspecies of Mazama pocket gophers (*Thomomys mazama pugetensis* and *T. m. yelmensis*) (collectively the covered species), in association with actions related to site management (before development), development, construction, and ongoing management (post-construction), and vegetation management on fifteen sites in Thurston County, Washington. Development is proposed for thirteen of the sites, and two sites (Leitner Prairie and Deschutes Corridor) will serve as permanent conservation sites that will be managed for the benefit of the covered species. The Applicants prepared a Habitat Conservation Plan (HCP) that describes minimization and mitigation measures that will be implemented to reduce and offset the effects of the proposed taking on the covered species. The Applicants have requested an ITP duration of 20-years.

The proposed issuance of an ITP by the Service is a Federal action that may affect the human environment and is therefore subject to review under the National Environmental Policy Act of 1969, as amended (NEPA; 40 CFR 1505.2). An Environmental Assessment (EA), hereby incorporated by reference, analyzed the effect to the human environment from three alternatives, the No Action alternative, the Proposed Action alternative, and an alternative describing development of Individual Site by Site HCPs and issuance of separate ITPs for each of the sites.

Decision Rationale

Following a detailed review and analysis of the EA and the HCP, the Service has selected the Proposed Action alternative because it provides the greatest net conservation benefit for the covered species. Implementation of the Proposed Action is not expected to result in any significant adverse effects to the human environment. This decision is based on the following information:

Covered Species

1. Over the life of the ITP, activities covered by the Kaufman HCP will result in take of each of the covered species where they may occur on the 13 project development and two permanent conservation sites.
2. Extensive avoidance and minimization measures for covered species are included in the HCP.
3. Proposed mitigation measures will minimize and compensate for unavoidable take by restoring impacted environments, providing for and managing occupied habitats for these species, and promoting the long-term conservation of the covered species and their habitats.
4. The Service anticipates that implementation of the HCP will result in net conservation benefits that will contribute toward the recovery of each of the covered species. The Kaufman HCP will offset the impacts of the taking of the covered species that is likely to occur on the 13 project development sites scattered across Thurston County with two larger blocks of permanently managed lands that will expand the amount and quality of available habitats for the covered species. The existing habitat on the project development sites consists primarily of areas with poor to moderate suitability scattered throughout a fragmented matrix of existing and proposed development. Both of the permanent conservation sites are within areas identified by the Service as important for the conservation and recovery of Mazama pocket gophers.
5. The proposed habitat restoration, enhancement, and ongoing management activities on the permanent conservation sites may have some short-term negative effects on the covered species, but the long-term net effects will be beneficial. Each of the covered species will benefit from the expanded area of permanently conserved and managed suitable habitat.
6. In the absence of the proposed ITP, mitigation for impacts to covered species would likely occur in a piecemeal fashion through individually permitted actions. Conservation of two larger parcels that will be permanently managed for the benefit of the covered species will provide a greater net benefit for each of the species addressed in this plan.

Human Environment

1. No significant impacts to any other species of fish and wildlife were identified.

2. No significant impacts to the human environment including climate, surface and groundwater, topography, soils, vegetation, noise, cultural resources, socioeconomic, land use, environmental justice, health, or air quality were identified.

Description of the Alternatives

No Action Alternative

Under the No Action Alternative the Service would not issue the requested ITP. Construction and development activities would proceed only in areas where impacts to listed species could be avoided. This “avoidance” approach would limit the total amount of buildable area to approximately 135.97 acres, or about 47% of the total 291.5 acre area of the properties. This is the area of developable acreage on the 13 development sites that is not likely to constitute habitat for any of the listed species. Approximately five acres of the Deschutes Corridor conservation site is not habitat, but these areas consist of slopes greater than 15%, and are therefore unlikely to be developed. The balance of that site and the entirety of the Leitner Prairie conservation site constitute habitat for the covered species and would be avoided under this alternative. Because no take of listed species would be expected under this alternative, no ITP would be needed, there would be no HCP, and no lands would be dedicated to conservation of listed species. Take avoidance would be expected to continue as long as the listed species continued to persist on the sites.

Proposed Action Alternative

The proposed action is the issuance of the requested 20-year ITP for the four covered species based on the Applicants’ HCP. The covered activities include actions related to site management (before development), development, construction, and ongoing management (post-construction) and vegetation management on the project development sites (including management of the pre-existing onsite habitat set-asides) on 13 project development sites totaling approximately 204 acres and two permanent conservation sites totaling 87.5 acres. Under this alternative the Applicants would commit to actively manage habitat conditions to achieve specific performance standards supporting persistence of the covered species on the 13 project development sites until construction is initiated on each site.

Under the proposed Alternative, the Applicants would be covered for incidental take of covered species occurring as a result of the construction and development actions listed as “covered activities” in the HCP. The ITP would provide for incidental take of Taylor’s checkerspot butterfly (up to about 6 acres of potential habitat) and streaked horned lark or impacts to their habitat (up to about 21 acres) where they may occur on the project development sites. In the case of the Olympia subspecies of the Mazama pocket gopher, approximately 40.3 acres of potential or

occupied habitat are included in the proposed ITP, and approximately 27.66 acres of potential or occupied habitat are covered for the Yelm subspecies on the project development sites. The proposed ITP would also provide incidental take coverage for management activities intended to restore, enhance, or manage habitat for these species on the Leitner Prairie and Deschutes Corridor permanent conservation sites.

Upon issuance of the requested ITP the Applicants will dedicate two permanent conservation sites (36.2 acre Leitner Prairie and 51.3 acre Deschutes Corridor) totaling approximately 87.5 acres. The Applicants committed to establish and fund an endowment upon issuance of the requested ITP sufficient to cover all expenses including, but not limited to, administrative and land management costs, monitoring, insurance, reporting, professional services, taxes, and contingencies to address adaptive management and changed circumstances for the first ten years of program implementation. The remaining ten years of administrative and management costs (years 11-20) will be deposited into the endowment no later than the end of the fifth year after ITP issuance. Funding to provide for ongoing and perpetual maintenance of the Leitner Prairie and Deschutes Corridor conservation sites (estimated for years 21-100) will be deposited into the endowment no later than the end of the 15th year after ITP issuance. Annual costs have been estimated based upon each previous year's projected expenses plus an annual inflation rate. Mechanisms are in place to adjust for shortfalls or surpluses to ensure adequate funding for the ongoing management of the permanent conservation sites prior to the expiration of the proposed 20-year ITP duration.

Ongoing management of the Leitner Prairie and Deschutes Corridor permanent conservation sites is targeted to achieve specific performance standards intended to restore, enhance, or maintain long-term habitat suitability for each of the covered species. Because management actions on the conservation sites would be implemented upon ITP issuance, the beneficial effects to listed species would begin to be realized sooner under the preferred alternative than would be expected under alternatives 1 or 3.

Taylor's Checkerspot Butterfly

The loss of an estimated 6.33 acres of potential Taylor's checkerspot butterfly habitat scattered among the thirteen project development sites over the 20-year duration of the requested permit will be offset through permanent dedication and management of the Leitner Prairie and Deschutes Corridor conservation sites. The biological goals and objectives (HCP pages 57-60) and the conservation site management plans for these areas (HCP Appendices C and D) establish specific implementation timelines and performance standards intended to ensure that these sites enhance and maintain habitat suitability and plant species composition that can support foraging and reproduction of the species. At least 17.5 acres of suitable habitat will be maintained on the two conservation sites by year 10 of HCP implementation and every year thereafter. HCP

implementation is expected to result in enhanced Taylor's checkerspot butterfly numbers, distribution, and reproduction.

Though the adverse effects of management activities such as mowing will kill some Taylor's checkerspot butterfly individuals in a portion of the suitable habitat, most of the individuals present will remain unharmed in a given year. Habitat management will not directly affect the majority of individuals present in a given year, and those individuals will benefit from the maintenance of suitable habitat. Overall, the HCP will benefit Taylor's checkerspot butterfly by expanding distribution through creation and maintenance of suitable habitat, and contributing habitat for reproduction of the species.

Streaked Horned Lark

A total of approximately 21.41 acres that provide the bare open or low statured vegetation characteristic of streaked horned lark foraging habitat within the Thurston County portion of the species range is found in patches of various sizes (ranging from 0.2 to 7.56 acres) on the thirteen project development sites and will be subject to loss over the 20-year duration of the proposed ITP. The Applicant's conservation program will create or enhance and maintain suitable habitat that can support streaked horned lark foraging behavior on the Leitner Prairie and Deschutes Corridor conservation sites.

As described in the biological goals and objectives (HCP pages 57-60) and the conservation site management plans for these areas (HCP Appendices C and D), at least 35 acres on the permanent conservation sites will be managed to provide the open flat areas with sparse and low (less than 12" height) vegetation preferred by streaked horned larks for foraging habitat by year 10 after permit issuance and every year thereafter. The potential foraging areas on the Leitner Prairie and Deschutes Corridor conservation sites represent comparatively large open areas with the greater sightlines the species prefers, and in a landscape contiguous to suitable habitat, such as the mowed and maintained Olympia Regional Airport adjacent to the Deschutes Corridor conservation site.

Conservation measures incorporated into the HCP are intended provide suitable habitat and to minimize the risk of mowing over streaked horned larks. However, streaked horned larks foraging or nesting at very low densities may remain undetected and will thereby be impacted by mowing. We expect that streaked horned larks exposed to mowing or other vegetation management are likely to be injured or killed. The loss of five adult streaked horned larks and three eggs or chicks on covered lands over 20 years is not expected to result in a population-level effect to the species. The covered lands will support occasional foraging and occasional nesting for streaked horned larks and the proposed management will maintain the open-landscape context of adjacent breeding areas. Use of the mitigation site by streaked horned larks will represent a small expansion of the existing population, so the loss of the above-described individuals will occur when the population

at the Olympia Airport is growing and expanding. The loss of individuals will represent a small and immediate reduction in productivity of the local population, but this will be offset by the permanent protection of suitable habitat connected to the Olympia Airport. Habitat maintenance activities on the mitigation site will ensure the long-term suitability of the site for streaked horned larks, providing for a long-term productivity improvement for the species in the action area that will exceed any minor reduction in numbers resulting from vegetation management.

Olympia subspecies of Mazama Pocket Gopher

A total of approximately 40.3 acres (consisting of patches ranging in size from 0.1-acre to 15.99-acres) of potential habitat for the Olympia subspecies of Mazama pocket gopher (*T. m. pugetensis*) is found among the 10 project development sites within the range of the subspecies. Habitat suitability on these sites ranges from poor to moderate, as many of the sites contain soils compacted by previous land uses (such as gravel parking areas, construction material staging sites, etc.), high seasonal groundwater levels that saturate surface soils for portions of each year, dense accumulations of invasive plant species or woody cover, or cover with limited forage value, such as those dominated by dense grasses or degraded grasslands. The Applicants propose to set aside and manage the approximately 51.32-acre Deschutes Corridor location as a permanent conservation site for the Olympia subspecies of Mazama pocket gopher. About 46 acres of this site contain soils and other characteristics that provide suitable habitat for the species. The permanent dedication and management of the proposed mitigation site will provide habitat that is greater in quality and quantity than the fragmented habitat patches that remain on the 10 separate project development sites.

The effect of ITP issuance for HCP implementation on Olympia pocket gophers will be to replace degraded habitat threatened by development with high quality habitat protected from development in perpetuity. Some individuals will be permanently displaced, injured, or killed by construction activities associated with development or re-development. Habitat restoration and maintenance activities may also disturb the normal behaviors of some individuals. The HCP will enhance the subspecies' range wide productivity and resilience. The habitat areas on the development sites consist of areas with low productivity. By contrast, the larger area of intact habitat on the mitigation site and its connectivity to a source population will impart significant short-term and long-term benefits for the subspecies by improving the numbers and distribution of the Olympia subspecies of the Mazama pocket gopher. As a result, HCP implementation will enhance productivity of Olympia pocket gophers in the action area.

Yelm subspecies of Mazama Pocket Gopher

A total of approximately 27.66 acres of potential habitat (consisting of patches ranging in size from 3.23 to 16.69 acres) is found among the three project development sites within the range of

the Yelm subspecies of the Mazama pocket gopher (*T. m. yelmensis*). The habitat suitability on these sites is generally poor, as the potentially suitable soils on these sites today is covered by dense, degraded grasslands, Scot's broom, and fill soils. The Applicants' conservation program will offset the impacts of the taking at the Leitner Prairie permanent conservation site. The permanent dedication and management of this site will provide habitat that is greater in quality and quantity than the fragmented habitat patches that remain on the three separate project development sites in the range of the Yelm subspecies of Mazama pocket gopher.

Because we anticipate the Yelm pocket gopher on the development sites has low long-term productivity and resilience to disturbance, it is extremely unlikely that the losses on these sites will amount to a measurable demographic effect for the subspecies. We expect that HCP implementation, over the long-term, will have a positive demographic effect for the Yelm pocket gopher because of increased productivity and resilience resulting from management for higher quality habitat on the mitigation site. The effect of Permit issuance for HCP implementation on the Yelm subspecies of Mazama pocket gophers will be to replace degraded habitat threatened by development with high quality habitat protected from development in perpetuity.

Some individuals will be permanently displaced, injured, or killed by construction activities associated with development or re-development, and habitat maintenance activities may disturb the normal behaviors of some individuals. The HCP will enhance the subspecies' range wide productivity and resilience, fully mitigating for the anticipated adverse effects on the subspecies. Habitat enhancement on the mitigation site with an existing source population will impart significant short-term and long-term benefits for the subspecies by improving the reproduction and numbers of Yelm pocket gopher. Increased productivity from habitat enhancement on Leitner Prairie will also result in improved distribution of the subspecies because it will increase the numbers of dispersing juveniles each year and the mitigation site has better connectivity to other suitable habitat than do the mitigation sites.

Individual Site by Site HCP Development and ITP Issuance Alternative

Under this alternative the Applicants would each develop a separate HCP and the Service would issue a separate ITP covering incidental take of the four listed species, as applicable, for each individual project development site currently proposed for development over the next 20 years. For the purposes of the analysis, we assumed that the construction and development activities likely to occur on each of the project development sites under this alternative are equivalent to those expected under the Proposed Action Alternative. Similarly, we assumed for the purposes of this analysis that the amount of take authorized under the separate individual ITPs issued for the project development sites under this Alternative is similar to that anticipated under the requested ITP.

Because the Applicants would identify mitigation needs for each project as it was proposed for development over the next 20 years, they would not be expected to reserve the Deschutes Corridor location as a permanent conservation site. This location near the Olympia Regional Airport is currently zoned for commercial or light industrial development, has access to existing transportation infrastructure, and could be developed if resulting impacts to listed species were addressed. We estimate, approximately 46 acres of the site could be developed if an HCP meeting statutory criteria and describing site-specific avoidance, minimization and mitigation measures was completed and an ITP issued. The Applicants would identify and secure offsite mitigation for any incidental take that might occur on this site as with any other potential development location.

The Applicants have executed a conservation easement with the non-profit Capital Land Trust that prohibits future development on the Leitner Prairie site, so no future construction or development would be expected at that location. The Leitner Prairie site could serve as mitigation for impacts to Taylor's checkerspot butterfly, the streaked horned lark and the Yelm subspecies of Mazama pocket gopher for those project sites that might impact those species. For the purposes of the analysis, we assumed that this location would not be developed, and would serve as a mitigation site to offset the Applicants' incidental take to these species under the separate HCPs and ITPs that would be developed for each project. Because only three of the project development sites are within the range of the Yelm subspecies of Mazama pocket gopher, the remaining sites would need to identify other mitigation locations or purchase mitigation credits from a conservation bank (if one becomes available). A total of fourteen separate HCPs would be prepared and ITPs issued under this alternative.

Avoidance, minimization, and mitigation measures would be developed on a project-by-project basis for the thirteen project sites and the Deschutes Corridor site when they are proposed for development. No immediate short-term conservation measures would be realized on project development sites because the Applicants would not manage existing habitat where it currently is found on the project development sites. Existing habitat would be expected to continue to degrade over time as encroaching woody and non-native vegetation continues to invade and reduce habitat suitability on these sites.

Public Involvement and Review

A Notice of Availability (NOA) for the draft HCP, application for an ITP, and draft EA was published in the Federal Register on October 21, 2015 (80 FR 63830). Public review and comment on the draft HCP, the ITP application, and the draft EA was solicited and the review and comment period was open through December 21, 2015. The Federal Register notice referenced www.regulations.gov and the Service's Washington Fish and Wildlife Office's web site for availability of the draft documents. Options to respond included electronically, by telephone, or in writing. In addition to the Federal Register NOA, we forwarded a news release through our news

distribution service to targeted media outlets in western Washington and Seattle and published a copy on our website (www.fws.gov/wafwo/). The Service sent the news release to the local and Washington D.C. staff for U.S. Representative Heck and U.S. Senators Cantwell and Murray.

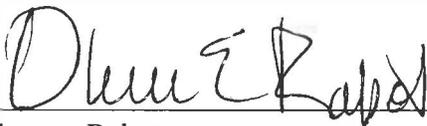
The Service received one public comment on the www.regulations.gov website. The written comment did not provide substantive comments that require changes to the draft HCP, the draft EA, or other response. The full text of the single comment received can be found at the www.regulations.gov website.

Conclusions

Based on review and evaluation of the information contained in the supporting documents, I have determined that the Proposed Action alternative is not a Federal action that would significantly affect the quality of the human environment, within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969, as amended. The actions considered are not of a nature that would normally require preparation of an environmental impact statement, and are not of a type, context, or intensity that is without precedent. Accordingly, the Service is not required to prepare an environmental impact statement for this action. Therefore, the Service has made a Finding Of No Significant Impact as allowed by NEPA regulation and supported by Council on Environmental Quality guidance.

This Finding of No Significant Impact and supporting documents are on file and available for public inspection, by appointment, at the following U.S. Fish and Wildlife Office:

Washington Fish and Wildlife Office
150 Desmond Drive SE, Suite 102
Lacey, WA 98503



Theresa Rabot
Deputy Regional Director, Region 1
U. S. Fish and Wildlife Service

3/21/14
Date