

# Section 7. Implementation, Organization, and Structure

## 7.1. Introduction

As the permit holder, the Oregon Parks and Recreation Department (OPRD) will have authority and responsibility to implement decisions related to the Incidental Take Permit (ITP) and the Habitat Conservation Plan (HCP). Oregon law gives the Oregon Parks and Recreation Commission complete jurisdiction and authority over all park areas acquired by the State for recreation, scenic, historic, natural, and cultural purposes (Oregon Revised Statutes [ORS] 390.111), and the authority to make regulations and provisions deemed necessary for use and administration of park areas (ORS 390.124, ORS 390.660) and for the Ocean Shore (ORS 390.635, ORS 390.620). This management authority is implemented under Oregon Administrative Rule (OAR) 736-020-0040(3) and in cooperation with Federal land management actions as per the Coastal Zone Management Act (CZMA).

The HCP will be implemented through an Implementing Agreement (IA) (Appendix H) agreed to by OPRD, the U.S. Fish and Wildlife Service (USFWS), and the Oregon Department of Fish and Wildlife (ODFW). The IA defines the roles and responsibilities of OPRD regarding implementation of the HCP. The IA and the HCP are complementary to each other.

The processes for addressing changed and unforeseen circumstances, amending the HCP, reviewing implementation of the HCP, and funding of the management actions included in the HCP are discussed in both the HCP and/or the IA. Where discrepancies may occur between the HCP and the IA, the IA is considered the governing document.

## 7.2. OPRD Commitments

For the duration of the ITP, OPRD will provide staff members and resources for implementation of the HCP as described below.

### 7.2.1. Program Administration

OPRD’s Ocean Shore Manager will be designated as the agency’s HCP Coordinator, with the task of providing program implementation oversight, development of management guidelines and development of site management plans for the Snowy Plover Management Areas (SPMAs).

### 7.2.2. Management Action Implementation

The day-to-day activities to be implemented will be carried out by field staff members with assistance from OPRD’s Resource Management and Planning Division, Public Services Division, and Recreation Management Division staff assigned to the project. The following management action measures will be undertaken by OPRD:

- Recreation Management,
- Predator Management,
- Habitat Restoration and Maintenance,
- Monitoring,
- Public Education and Outreach, and
- Law Enforcement.

## 7.3. Implementation Schedule

Table 7-1 provides a schedule for implementation of the various management actions for occupied and unoccupied sites.

**Table 7-1. Management Actions for Occupied and Unoccupied Snowy Plover Management Areas**

Management Action	Implementation Schedule	
	Occupied Snowy Plover Management Area	Managed Unoccupied Snowy Plover Management Area
Site Management Plan Development	Within 1 year of permit issuance for Bandon SPMA. USFWS decision within 6 months of draft plan completion.	Within 2 years of permit issuance for three OPRD-owned or leased, managed, unoccupied SPMAs (i.e., Columbia River South Jetty, Necanicum Spit, and Nehalem Spit). Within 1 year of Netarts Spit becoming eligible for management. USFWS approval within 6 months of draft plan completion.
Recreation Management	Recreation management occurs same season SPMA deemed occupied.	For managed unoccupied SPMAs, the next breeding season following completion of the site management plans.

Management Action	Implementation Schedule	
	Occupied Snowy Plover Management Area	Managed Unoccupied Snowy Plover Management Area
Breeding Population Monitoring	Annually, during the breeding season. Formal report submitted monthly and annually, at the end of the breeding season.	NA
Detection/ Non-Detection Monitoring	At the beginning of each breeding season to confirm occupancy.	For managed unoccupied SPMA's, at least twice per month during the breeding season.
Wintering and Breeding Window Surveys	Annually, report within two weeks of completion of survey	Annually, report within two weeks of completion of survey
Predator Management	Ongoing, primarily focused on management during the breeding season, depending on the requirements outlined in the site management plan.	Ongoing, primarily focused on management during the breeding season, depending on the requirements outlined in the site management plan.
Nest Site Protection	Immediately	Immediately
Public Outreach	Pursuant to recommendations in site management plans.	Pursuant to recommendations in site management plans.
Law Enforcement	Immediately.	Following approval of site management plans by USFWS.
Habitat Restoration and Maintenance	Ongoing at Bandon SPMA, as outlined in site management plan.	Within 5 years of completion of the site management plan for the Columbia River South Jetty SPMA, and within 2 years for the Necanicum and Nehalem SPMA's. Habitat restoration efforts undertaken will be pursuant to site management plan.
Annual Compliance Reporting and Evaluation of the HCP	Annually following issuance of the permit.	Annually following issuance of the permit.
Program Review	Every 5 years following issuance of the permit.	Every 5 years following issuance of the permit.

## 7.4. Implementation Needs

Implementation of the HCP will occur through the efforts of many individuals within OPRD. Overall coordination of the program will be the responsibility of the Ocean Shore Management Division. Coastal Regional Managers will have responsibility for the implementation of the day-to-day management activities as identified in the site management plans. Support services will be provided by other divisions within the agency as needed. Table 7.-2 provides a summary of the staff responsible for the management actions identified in the HCP.

**Table 7-2. Roles and Responsibilities of OPRD Staff in HCP**

<b>Management Actions</b>	<b>Lead</b>	<b>Assist</b>
Overall Program Coordination (including contracting)	Ocean Shore Program Manager	Ocean Shore and Natural Resource Section Staff
<b>SITE MANAGEMENT PLANS</b>		
Development	Ocean Shore Manager	Region Manager/Natural Resource Section Staff
Implementation	Planning Manager	Planning Staff
Habitat Restoration and Maintenance (Project Management)	Region Manager/Park Manager	Natural Resource Section Staff
Installation/Maintenance/Removal of Symbolic Fencing	Region Manager/ Park Manager	Natural Resource Section Staff
Beach Access Management	Region Manager/ Park Manager	Park staff
Breeding Population Monitoring	Natural Resource Staff	NA
Wintering and Breeding Window Surveys	Natural Resource Staff	NA
Detect/Non-Detect Surveys	Natural Resource Staff	NA
<b>RECREATION COMPLIANCE MONITORING</b>		
Volunteer Coordination	Region Manager/ Park Manager	Natural Resource Staff/Recreation Management Section
Report to HCP Coordinator	Ocean Shore Manager	NA
Report to USFWS	Ocean Shore Manager	NA
<b>PUBLIC OUTREACH</b>		
Program Design	Ocean Shore Manager/Recreation Management Staff/Public Services Staff/Park Manager	Interpretation Team/ Natural Resource Section Staff
Program Implementation	Area Manager/Park Manager	Natural Resource Section Staff
Law Enforcement	Area Manager/Park Manager	NA
Predator Management (project management)	Area Manager/Park Manager	Natural Resource Section Staff
Research	Natural Resource Staff	
<b>RECREATION MANAGEMENT</b>		
Rule Change	Natural Resource Staff/Coastal Program Manager	Park Manager
Rule Implementation	Area Manager/Park Manager	

The HCP Coordinator will prepare management guidelines for use by OPRD in implementing the HCP. These management guidelines will be prepared within 2 years of the issuance of an ITP.

## 7.5. Funding

### 7.5.1. Funding Overview

The Oregon Western Snowy Plover Working Team, of which OPRD is a member, has committed to working together on management issues associated with the snowy plover. Because of this shared interest, the agency members are able jointly to fund a number of activities to ensure efficiency in, and avoid duplication of, efforts related to monitoring, predator management, habitat restoration, and public education and outreach efforts. OPRD will continue to participate in these jointly funded programs.

OPRD will commit to funding implementation of the HCP from various sources as described below, and will fund certain work separately from Working Group agreements as is appropriate to the task.

### 7.5.2. Funding Sources

Administrative costs to implement the management actions described in the HCP will be borne through the following funding mechanisms:

- State lottery dollars or other State funding if the lottery funding is discontinued;
- Land Rental Sinking Funds (limited to habitat restoration and monitoring work); and
- Other funds (e.g., day-use fees, Salmon Plate revenues, Recreational Vehicle tax revenues).

OPRD commits to protecting this funding as a core function if OPRD budgets are reduced.

#### *Biennium Budget*

OPRD will include in its biennium budget funding for:

- Site management plan completion and approval;
- Monitoring (breeding/population and detect/non-detect);
- Habitat restoration and maintenance efforts, either as match for Federal and/or State grants, or for the full amount;
- Predator management activities;
- Law enforcement/beach patrol activities;
- Public outreach and education programs;
- Project administration; and
- Agency coordination.

OPRD cannot guarantee State funds for future activities to administer the requirements set forth in the ITP, IA, and the HCP, which are not yet appropriated by the State legislature. The State of Oregon operates on a biennium basis, with fiscal years beginning on July 1. Additionally, OPRD cannot guarantee acceptance of grant monies unless it has received authorization from the Oregon legislature to apply for and accept these monies. However, OPRD can guarantee that it will request sufficient funding from the legislature on a biennial basis to properly implement the HCP and fulfill the terms and commitments of the ITP.

Whenever funding for implementation of the HCP conservation measures are considered insufficient to meet the commitments outlined in the HCP and the IA, or to properly implement the HCP, OPRD will consult with the USFWS to determine what actions may be necessary with respect to meeting the commitments of the permit and/or avoiding the risk of take of snowy plovers.

### *Grants*

The grant opportunities listed below have been identified and will be explored as a possible offset for other OPRD funding.

- Federal:
  - USFWS “Coastal Program,”
  - USFWS Conservation and Reinvestment Act Funds, and
  - Land and Water Conservation Fund Coastal Planning Assistance.
- State of Oregon:
  - OPRD All Terrain Vehicle Grant Program,
  - Recreational Trails Program, and
  - Oregon Watershed Enhancement Board.

## 7.5.3. Cost Analysis

### *Introduction*

OPRD staffing commitments to program administration and management action administration are summarized in Table 7-2. Given that it is difficult to ascertain how much staff time would be required on an annual basis to complete these responsibilities, in-kind costs associated with staff time are not presented as specific costs below.

Costs associated with implementation of the HCP fall into two broad categories: management action implementation and program administration. Current costs for management at the Bandon SNA and anticipated expenses for management of

SPMAs in the future are presented in Tables 7-3 through 7-5 to approximate the cash costs associated with implementing the HCP.

Table 7-3 lists the current expenses in 2007 dollars incurred by OPRD in providing for snowy plover management at Bandon SNA. These costs are based on the most recent data available for an entire nesting season, and are presented as biennial costs for a 2-year budget period. These costs are presented to estimate the cost of management actions at the SPMAs in the future and over the term of the ITP.

**Table 7-3. Expenses for Snowy Plover Management at Bandon State Natural Area: 2007 to 2009<sup>1</sup>**

Activity	Biennial Cost	Comments
Habitat Maintenance <sup>2</sup>	\$60,000	The Bandon SPMA requires maintenance of 50 acres of habitat. Habitat maintenance occurred on 15 of those 50 acres each year between 2007 and 2008. Biennial cost reflects the cost to maintain approximately 30 acres of habitat over a 2-year period. This equates to an average cost of \$2,000 to maintain 1 acre of habitat per year.
Breeding Population Monitoring	\$50,000	Contract with Oregon Natural Heritage Information Center for monitoring at Bandon SNA.
Public Education and Outreach	\$5,000	Interpretive programs offered at two State Parks, with docents on site during nesting season. Costs are associated with reimbursing docents for travel.
Predator Management	\$16,000	Covers the portion of the U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) wildlife services contract used for snowy plover related work at the Bandon SNA.
Beach Patrol/Law Enforcement	\$20,000	Covers the cost of hiring senior State Troopers or county sheriff personnel to augment other enforcement activities by OPRD staff members and beach rangers, as necessary.
Beach Access Modifications	\$10,000	Cost associated with equipment and materials and to relocate trail in the vicinity of China Creek.
Symbolic fencing	\$600	Cost for rope, signs, and fence posts.
<b>Total</b>	<b>\$161,600</b>	

<sup>1</sup> Based on the most recent (2007) data for an entire nesting season. Costs are extrapolated for a 2-year budget period (2007 to 2009) and only reflect cash costs. Additional in-kind costs, such as staff salaries to implement management actions and administer the program, are not reflected in this table.

<sup>2</sup> Habitat restoration at the Bandon SNA was completed between 2001 and 2003. It was contracted out at an approximate cost of \$60,000.

The snowy plover habitat area that was restored at the Bandon SPMA is 50 acres and is located on a dune. Extensive grading was required to create the restored site, and ongoing grading has been required to maintain it. The costs associated with habitat restoration at the Bandon SPMA are likely higher than what will be needed at the other SPMAs, which are more accessible and characterized by lower elevations. These differences are considered and reflected in Tables 7-4 and 7-5.

Table 7-4 lists the anticipated expense associated with management of one unoccupied SPMA. These costs are presented as biennial costs for a 2-year budget period.

**Table 7-4. Anticipated Expense to Manage One Unoccupied SPMA for 2 Years<sup>1</sup>**

Activity	Biennial Cost	Comments
Site Management Plan Development	\$10,000 maximum	Costs associated with hiring a contracted biologist. This cost would only be incurred once, prior to the first year of management.
Habitat Restoration/ Maintenance <sup>2</sup>	\$50,000 maximum <sup>3</sup>	Cost associated with restoration of as much as 40 acres of habitat by a contractor. This cost would only be incurred once, after approval of the site management plan. After restoration activities are complete, habitat would be maintained at an approximate cost of \$2,000 per acre per year, not to exceed \$50,000 in any biennium.
Public Outreach and Education	\$2,000	Costs associated with materials for interpretive program start up and decent travel.
<b>Total</b>	<b>\$62,000 maximum</b>	

<sup>1</sup> Costs are in 2007 dollars and must be inflated at a rate of 3 percent for each year after 2007 that the HCP is implemented. Costs are also extrapolated for a 2-year budget period and only reflect cash costs, including costs to hire contract workers. Additional in-kind costs, such as staff salaries to implement management actions and administer the program, are not reflected in this table.

<sup>2</sup> Both habitat restoration and maintenance are reflected as a common line item in this table because neither would occur in the same biennium (i.e., it would likely take as long as 2 years to initially restore habitat at an SPMA, at which point it would be maintained in perpetuity).

<sup>3</sup> It is likely that costs associated with habitat restoration at each SPMA would be less than \$50,000 in a biennium. Habitat restoration at the Columbia River SPMA is expected to be done as part of the U.S. Army Corps of Engineers jetty reconstruction project, using Federal funding. Restoration at the Nehalem Bay SPMA may be smaller than 40 acres (as outlined in the approved site management plan), and would likely be constructed to avoid woody debris and dune lowering. It's unlikely that habitat restoration would be needed at the Necanicum SPMA at all. The Netarts SPMA may be too inaccessible to complete any costly dune grading.

Table 7-5 lists the anticipated expenses associated with management of one occupied SPMA. These costs are also presented as biennial costs for a 2-year budget period.

**Table 7-5. Anticipated Expense to Manage One Occupied SPMA for 2 Years<sup>1</sup>**

Activity	Biennial Cost	Comments
Habitat Maintenance	\$60,000 maximum <sup>2</sup>	Cost associated with maintaining as much as 50 acres of restored habitat at Bandon SPMA and 40 acres of habitat at other occupied SPMA's. Based on assumed cost of \$2,000 per acre per year, not to exceed \$60,000 in any biennium at the Bandon SPMA and \$50,000 per biennium at other occupied SPMA's.
Breeding Population Monitoring	\$16,700	Contract with Oregon Natural Heritage Center for 2 years. Costs are approximate and based on an estimate provided by Oregon Natural Heritage Information Center to complete breeding population monitoring of the three northern SPMA in a given year (i.e., \$25,000 per year to monitor three northern SPMA's divided by three to obtain the cost per SPMA multiplied by two to obtain a biennium cost).

Activity	Biennial Cost	Comments
Public Education and Outreach	\$5,000	Costs are associated with reimbursing docents for travel.
Predator Management	\$16,000	Covers the portion of the USDA APHIS contract for snowy plover related work at one SPMA for 2 years.
Beach Patrol/Law Enforcement	\$20,000	Covers the cost of hiring senior State Troopers or county sheriff personnel to augment other enforcement activities by OPRD staff and beach rangers, as necessary.
Beach Access Modifications	—	This cost is unknown. The cost approximations provided for the Bandon SPMA in Table 7-2 are site-specific and cannot be used to estimate possible beach access modification costs at other SPMA's.
Symbolic fencing	\$1,000	Cost for rope, signs, and fence posts.
<b>Total*</b>	<b>\$118,700 maximum</b>	

<sup>1</sup> Costs are in 2007 dollars and must be inflated at a rate of 3 percent for each year after 2007 that the HCP is implemented. Costs also only reflect cash costs, including costs to hire contract workers. Additional in-kind costs, such as staff salaries to implement management actions and administer the program, are not reflected in this table.

<sup>2</sup> It is likely that costs associated with habitat maintenance would be less than \$50,000 due to site-specific conditions.

Between 2007 and 2009, OPRD spent approximately \$161,600 on snowy plover management activities at the Bandon SNA, excluding in-kind staff or program administration costs. Once the ITP is issued, these costs are anticipated to increase as additional activities are required of OPRD at actively managed unoccupied SPMA's (Table 7-4) and the occupied SPMA's (Table 7-5). Nothing in this HCP, the ITP, or the IA requires OPRD to incur costs associated with unoccupied SPMA's that are not being actively managed by OPRD or any other entity. Nor do the HCP, the ITP, or the IA require OPRD to incur costs associated with snowy plover management at any occupied Recreation Management Area (RMA) except as specifically outlined in the IA. Over the term of the HCP costs will be incremental and will depend on whether sites are occupied or unoccupied but actively managed, and the number of sites in each category.

## 7.6. Unforeseen and Changed Circumstances

### 7.6.1. Introduction

Unforeseen circumstances and changed circumstances were defined and clarified in the HCP Assurances "No Surprises" Final Rule by USFWS and the National Marine Fisheries Service (NMFS) (collectively referred to as the Services) (U.S. Fish and Wildlife Service and National Marine Fisheries Service 1998). These two types of circumstances are key elements of the Services' No Surprises Rule developed to provide ITP applicants with long-term regulatory certainty. It is important to distinguish between *unforeseen* and *changed* circumstances because, depending on

the type of event that occurs, OPRD may or may not be responsible for implementing additional conservation measures.

Unforeseen circumstances are changes in circumstances affecting a species or geographic area covered by an HCP that could not reasonably have been anticipated by plan developers or the Services at the time of the HCP's negotiation and development, and that result in a substantial and adverse change in the status of a covered species.

Changed circumstances are defined as additional conservation measures deemed necessary to respond to changes in circumstances that were provided for in the HCP's operating conservation program. The phrase "changes in circumstances" is defined to mean changes during the course of an HCP that can reasonably be anticipated and planned for in the HCP (e.g., fire or other natural catastrophic event in areas prone to such events).

## 7.6.2. Unforeseen Circumstances

If unforeseen circumstances arise, the USFWS will not require, without the consent of the permittee, the commitment of additional mitigation in the form of land, water, or funds nor will it require additional restrictions on the use of land, water, or funds from any permittee who is adequately implementing or has implemented an approved HCP (U.S. Fish and Wildlife Service and National Marine Fisheries Service 1998). If additional conservation and mitigation measures are deemed necessary to respond to unforeseen circumstances, the USFWS may require additional measures of the permittee where the HCP is being properly implemented, but only if such measures are limited to modifications to management actions set forth in the HCP. The assurances of the No Surprises regulations apply only "where the conservation plan is being properly implemented, and apply only with respect to species adequately covered by the conservation plan" (U.S. Fish and Wildlife Service and National Marine Fisheries Service 1998).

The above paragraph notwithstanding, if, during the implementation of this HCP, an unforeseen circumstance occurs that could have a significant negative effect on snowy plovers or could affect the ability of OPRD to effectively manage activities under this HCP, OPRD will to the extent practicable, voluntarily follow the procedures below:

1. Within 10 business days of the date the unforeseen circumstance is brought to OPRD's attention, the HCP Coordinator will notify USFWS in writing of the following:
  - Nature of the situation;
  - Geographic and temporal extent to which the beach was or will be affected by the situation;

- Potential effect on snowy plovers in the covered lands; and
  - Any actions taken to date in response to the unforeseen circumstance.
2. Within 5 business days of USFWS receipt of the written notification described above, OPRD will discuss the unforeseen circumstance with USFWS personnel and other affected parties, as applicable. An appropriate response to the situation, such as modifying the HCP and/or ITP, may be developed and implemented in coordination with the USFWS.
  3. Any additional conservation and mitigation measures deemed necessary to respond to unforeseen circumstances will be limited to modifications to the HCP's existing operating conservation program for the snowy plover, maintaining the original terms of the HCP to the maximum extent possible. Unless agreed to by OPRD, additional conservation and mitigation measures will not involve the commitment of additional land, water, or financial compensation or restrictions on the use of land, water, or other natural resources otherwise available for development or use under the original terms of the HCP.

### 7.6.3. Changed Circumstances

OPRD and USFWS foresee that circumstances could change during the term of the ITP that could affect the ability of OPRD to implement the HCP properly. Events that could occur during the term of the HCP that are identified as changed circumstances include the listing of a new species, the potential environmental changes associated with global climate change, and the effects on wintering populations of snowy plover rising to the level of take. This circumstance is addressed below.

#### *Listing of a New Species*

If a currently unlisted species is federally listed as endangered or threatened pursuant to the Endangered Species Act (ESA) after the ITP has been issued, OPRD will request that USFWS make a determination if there is a potential for incidental take of the newly listed species to occur while conducting Ocean Shore management activities covered by the HCP. If so, OPRD can choose to modify their management actions in coordination with USFWS to ensure incidental take of the species will be avoided, and/or request that the USFWS add the newly listed species to the ITP according to the provisions in the IA and HCP, and in compliance with the provisions of Section 10 of the ESA.

If OPRD requests ITP coverage for the newly listed species, the process by which this will occur will entail a USFWS review of the HCP and conservation strategy to determine if the conservation measures addressing the snowy plover are adequate for conservation of the newly listed species. If the measures are determined adequate by USFWS, OPRD will request addition of the newly listed species to the ITP.

If conservation of the species is not adequately covered by the HCP and OPRD is unable to avoid the risk of take, then OPRD will submit a revised or supplementary HCP and supporting documentation. This documentation will include a conservation strategy that addresses the newly listed species that will accompany a request to add the species to the ITP.

### *Global Climate Change and Rising Sea Levels*

A growing body of research has documented changes in the biotic and abiotic environment that are a result of an increase in global temperature and the continued concentration of greenhouse gases in the Earth's atmosphere.

In coastal areas, one of the primary concerns associated with global climate change is the potential for sea levels to rise and for the frequency and intensity of coastal storm events to increase. In the event that rising sea levels result in a net loss of snowy plover nesting habitat over the term of the ITP, OPRD will discuss with the USFWS appropriate implementation measures to address these changes. Future actions responding to this changed circumstance will be determined by consensus agreement between OPRD and the USFWS, and will be based on the nature and extent of the effects associated with rising sea levels.

### *Non-Breeding Season Management*

The potential effects on wintering snowy plovers are not anticipated to rise to the level of take. Therefore, OPRD is not seeking take coverage under the ITP for effects on wintering snowy plovers. This is because only a small percentage of birds winter in Oregon where recreational use is low during the winter months. In addition, the normal behavior of wintering snowy plovers is to flock and avoid disturbance. Although snowy plovers may be less susceptible to recreation impacts during the non-breeding season, they could be negatively affected by activities that disrupt or destroy foraging areas or unnecessarily disturb birds that are roosting or foraging. If adverse effects on snowy plovers are determined to be occurring in the future, OPRD will either avoid take of snowy plovers or will amend its permit.

## **7.7. Permit Renewal/Amendment Procedures**

### **7.7.1. Permit Extension/Renewal**

When the ITP expires, OPRD is no longer protected from take that may occur as a result of their management of the Ocean Shore, provided that the snowy plover is still listed at the expiration of the permit. However, OPRD may apply for an extension or renewal of their ITP. If a written request for ITP renewal is on file with USFWS at least 180 days prior to the permit's expiration, the permit will continue to be valid while the renewal request is processed. The renewal request must certify that the

statements and information in the original HCP are still valid and/or include a list of proposed changes. The renewal request must also specify what take has occurred under the permit and what conservation measures will be added to, or eliminated from, the HCP. Extension or renewal of the permit constitutes extension of the HCP and this agreement for the agreed-upon time, subject to any modifications that the Services may require at the time of extension. Extension of the permit is addressed in Provision 6.4 of the IA.

## 7.7.2. Amendment/Modifications

### *Amendments*

An amendment is a significant action requiring new analysis as to the effects of that action on the snowy plover or its habitat. Any action that significantly increases the level of take or decreases the mitigation, thereby triggering a National Environmental Policy Act (NEPA) analysis, would require an amendment to the HCP. Amendments are addressed in Provisions 12.1 (c) and 12.2 of the IA.

Either OPRD or the USFWS may propose amendments to the ITP, the IA, and the HCP. The party proposing the amendments will provide the other party with a written statement of the reasons for the amendments and analysis of the effects of the amendments on the environment, the covered species (snowy plover), and implementation of the HCP. The ITP may be amended in accordance with all applicable laws and regulations.

### *Minor Modifications*

The USFWS or OPRD may make minor modifications to the ITP, IA, or HCP. Except when another process is specifically identified under the terms of the HCP or the IA with respect to particular types of modifications or as provided below, the party proposing the minor modification or amendment must provide the other with notice as specified in the ITP. The parties agree to use their best efforts to respond to proposed modifications within 60 days of receipt of such written notice. The minor modifications will be approved upon agreement of both parties. Minor modifications are addressed in Provision 12.1 of the IA.

Minor modifications to the HCP and/or the IA may include, but are not limited to, the following:

- Correction of typographic, grammatical, and similar editing errors that do not change the intended meaning of the document;
- Correction of any maps or exhibits to correct errors in mapping or to reflect previously approved changes in the ITP, IA, or HCP;
- Minor changes to survey, monitoring, or reporting protocols; and

- Any other type of modifications to the ITP, IA, or HCP, which are minor in relation to the HCP goals agreed to by the parties.

Minor modifications do not include actions that would:

- Result in operations under the HCP that are significantly different from those analyzed in connection with the original HCP,
- Result in adverse effects on the environment that are new or significantly different from those analyzed in connection with the original HCP, or
- Allow significant additional take not analyzed in connection with the original HCP.

### 7.7.3. Enforcement

#### *Enforcement of Incidental Take Permit, Implementation Agreement, and Habitat Conservation Plan*

The provisions in this HCP are enforceable through the terms and conditions of the IA and the ITP issued by the USFWS.

#### *Notice*

Any notice required to be given pursuant to the terms and conditions of the ITP must be given to OPRD by personal delivery or by certified mail/return receipt requested as described in the ITP.

### 7.7.4. Suspension/Revocation

The USFWS may suspend or revoke the ITP if OPRD fails to implement the HCP in accordance with the terms and conditions of the ITP, or Federal law requires suspension or revocation. Suspension or revocation of the ITP, in whole or in part, by the USFWS shall be in accordance with 50 Code of Federal Regulations (CFR) 13.27-29, 17.22 (b)(5), and 17.32 (b)(5), as may be amended over time, and with the IA. Suspension/revocation is addressed in Provision 6.2 of the IA.