

Appendix E

Activities Not Addressed in the HCP

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Activities under the jurisdiction and responsibility of Oregon Parks and Recreation Department (OPRD) that are not addressed in the habitat conservation plan (HCP) and will not be covered by the Incidental Take Permit (ITP), include Ocean Shore and Special Permit activities that may occur on the sandy ocean shore. These permitted activities will be addressed on a case-by-case basis, in consultation with the U.S. Fish and Wildlife Service (USFWS) as necessary, and, if issued, will include permit conditions designed to avoid the risk of take of the snowy plover.

Ocean Shore Permit Activities

Permits on the ocean shore are separated into six types:

- Shoreline Protection Structures
- Access ways / Other Miscellaneous Projects
- Sand Alteration
- Natural Product Removal
- Marine Algae Collection
- Pipeline, Cable or Conduit

Shoreline Protection Structures

Permits for shoreline protective structures may be issued only where development existed on January 1, 1977, as required under Statewide Planning Goal 18, Beaches and Dunes. “Development” is defined as houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot, or where an exception has been granted to the local city or county comprehensive plan.

Applicants for shoreline protection structures are asked to assess the hazards affecting the property, examine hazard alleviation alternatives, evaluate potential adverse impacts associated with each feasible technique, and propose actions that help to minimize short and long-term impacts. For shoreline protection structures 50 feet or greater in length, a geologist’s report is required to address a number of

factors, including potential adverse impacts from the proposed structure, erosion rates, non-structural alternatives, and known seismic or geologic hazards in the area.

Applications for shoreline protective structures also must address the alternative of hazard avoidance, which may involve building relocation or increasing oceanfront setbacks to avoid the hazard. Where cost is used as a reason why a building cannot be relocated, documentation is required in the form of a written estimate from a professional to show the cost of relocation.

Issuance of Shoreline Protection Structure ocean shore permits was not included as a covered activity in the HCP because these permits would only be issued for areas where development currently exists, and outside areas either occupied or with the potential to be occupied in the future by snowy plover. If there is a possibility that snowy plovers could be affected by activities authorized by these permits, OPRD will include permit conditions designed to avoid the risk of take of the snowy plover.

Access Ways / Other Miscellaneous Projects

This type of permit application includes beach access stairways, pathways, boat ramps, viewing platforms, boardwalks and other miscellaneous projects. When private beach access improvements are proposed, the department assesses the need for the project by reviewing the location of the nearest public beach access facilities.

Issuance of ocean shore permits for access ways and other miscellaneous projects was not included as a covered activity in the HCP because they typically would only be authorized in areas directly adjacent to waterways, and outside of nesting snowy plover habitat. As such, there is a very low likelihood that this activity could affect snowy plover populations. However, if there is a possibility that snowy plovers could be affected by activities authorized by these permits, OPRD will include permit conditions designed to avoid the risk of take of the snowy plover.

Sand Alterations

Sand alterations include dune enhancement projects, stream channel alterations, dune management plans, and other projects that involve fill or relocation of beach sand.

Although sand alteration projects could occur in snowy plover habitat, OPRD has committed, through the permit review process, to ensuring that such activities are not authorized if there would be a potential for take of snowy plover. If there is a possibility that snowy plovers could be affected by activities authorized by these permits, OPRD will include permit conditions designed to avoid the risk of take of the snowy plovers. As such, issuance of ocean shore permits for sand alternations was not included as a covered activity in the HCP.

Natural Product Removal

Proposals that call for the removal of material from the ocean shore fall under the category of natural product removal. This includes material such as sand, rock, or other mineral resources, and other natural products from the ocean shore, collected for reasons other than personal souvenirs.

Although the removal of natural products from the ocean shore could affect snowy plover, OPRD has committed, through the permit review process, to ensuring that such activities are not authorized if there would be a potential for take of snowy plover. If there is a possibility that snowy plovers could be affected by activities authorized by these permits, OPRD will include permit conditions designed to avoid the risk of take of the snowy plovers. As such, issuance of ocean shore permits for natural product removal was not included as a covered activity in the HCP.

Marine Algae Collection

A permit for collection of marine algae is required when collection will exceed 10 pounds (wet weight) per person, per day. Collection of marine algae may be for personal consumption, commercial sale, use as a soil amendment, scientific research, or for other purposes. Collection of algae is prohibited within designated marine gardens and habitat refuges. Within Intertidal Research Reserves, collection is limited to scientific or educational purposes.

Although the collection of marine algae from the ocean shore could affect snowy plover, OPRD has committed, through the permit review process, to ensuring that such activities are not authorized if there would be a potential for take of snowy plover. If there is a possibility that snowy plovers could be affected by activities authorized by these permits, OPRD will include permit conditions designed to avoid the risk of take of the snowy plovers. As such, issuance of ocean shore permits for marine algae collection was not included as a covered activity in the HCP.

Pipelines, Cables or Conduit

Projects involving the placement of underground pipelines, outfall lines, fiber optic cables, or other conduits across the ocean shore fall within this category. Pipelines, cables, conduits, and similar facilities are limited to routes that cross the beach from land to sea. Administrative rule policies prohibit the use of the ocean shore as a north-south utility corridor.

Although the placement of underground pipelines, cables, or conduits across the ocean shore could affect snowy plover or their habitat, OPRD has committed, through the permit review process, to ensuring that such activities are not authorized if there would be a potential for take of snowy plover. If there is a possibility that snowy plovers could be affected by activities authorized by these permits, OPRD will

include permit conditions designed to avoid the risk of take of the snowy plovers. As such, issuance of ocean shore permits for placing pipelines, cables, or conduit was not included as a covered activity in the HCP.

Special Permit Activities

Miscellaneous Use Permits

OPRD has been issuing miscellaneous use permits for a variety of non-traditional activities since 1967. Between 1997 and 2001, over 150 miscellaneous use permits have been issued for activities occurring on the ocean shore, with over half of these activities occurring within Clatsop and Tillamook Counties. Forty of the 150 permits were issued for weddings. In some cases, permits are issued for activities that will occur within multiple counties, such as the Stop Oregon Litter and Vandalism Legacy walk in 2002.

Through the permit review process, OPRD has committed to ensuring that activities authorized under a Miscellaneous Use Permit would not result in take of snowy plover. If there is a possibility that snowy plovers could be affected by activities authorized by these permits, OPRD will include permit conditions designed to avoid the risk of take of the snowy plovers. As such, issuance of Miscellaneous Use permits was not included as a covered activity in the HCP.

Drive-on-Beach Permits

OPRD has authority to issue permits to allow individuals to drive on sections of beach that are normally closed to vehicular traffic. Permits are issued for operation of vehicles only during the daylight hours, and are issued to a specific person, vehicle, use, and ocean shore area. Drive-on-beach permits have been issued for collection of driftwood and for rock removal, snowy plover related activities (monitoring, predator management, and law enforcement), for beach cleanups, activities related to the New Carissa incident in 1999, commercial filming (generally car commercials), handicap access, construction activities generally related to riprap repair, and weddings. This is not an inclusive list of activities.

Between 1997 and 2002, OPRD issued over 200 drive-on-beach permits, and demand is expected to increase. A number of these permits were issued for work associated with snowy plover monitoring, enforcement, research, and predator management. Another purpose is the retrieval of driftwood on beaches closed to driving. OPRD has issued 41 drive-on-beach permits for the collection of driftwood since 1997.

Through the permit review process, OPRD has committed to ensuring that activities authorized by Drive-on-Beach Permits would not result in take of snowy plover. If there is a possibility that snowy plovers could be affected by activities authorized by

these permits, OPRD will include permit conditions designed to avoid the risk of take of the snowy plovers. As such, issuance of these permits was not included as a covered activity in the HCP.

Beach Logging and Salvage Permits

Beach logging is prohibited on the ocean shore unless it can be shown that removal will provide a significant public benefit. One of the factors considered in determining whether to allow the removal of beach logs is the protection of wildlife habitats that may be impacted by the accumulation of beach logs (OAR736-026-0005(e)). Prior to allowing the removal of beach logs, the department consults with the local government, upland property owners, and affected State agencies (Oregon Department of State Lands, Oregon Department of Fish and Wildlife, Department of Land Conservation and Development, Oregon Department of Environmental Quality, and the Department of Geology and Mineral Industries) to establish interests to be protected and considered.

A permit is required for a person to remove or convert to his own use or possession any salvage from the ocean shore. Salvageable objects include "... any object, thing or material, exclusive of driftlogs, which is not in its natural state, and is not a natural product of the ocean shore." OAR 736-027-0010(1). The exception to this rule is for those items such as glass floats, length of rope or cable less than 100-feet, and other minor objects normally collected while beachcombing. OPRD has issued an estimated 10 permits for this activity within the past ten years.

Although the removal of beach logs or the salvage of materials from the ocean shore could affect snowy plover or their habitat, OPRD has committed, through the permit review process, to ensuring that such activities are not authorized if there would be a potential for take of snowy plover. If there is a possibility that snowy plovers could be affected by activities authorized by these permits, OPRD will include permit conditions designed to avoid the risk of take of the snowy plovers. As such, issuance of beach logging and salvage permits was not included as a covered activity in the HCP.

Fireworks

Fireworks are a moderately popular activity coast-wide, with the highest percentage of use occurring in the north and north-central coast and the far south coast. However, OPRD rules prohibit the possession and/or discharge of fireworks and other related devices (e.g., explosive, torpedoes, rockets) without a permit. Since 1997, the department has issued approximately 19 miscellaneous use permits to local communities for the discharge of fireworks. Of these, only one was issued for activities within a Plover Management Area. However, permits were issued to the communities of Seaside and Manzanita, each located within close proximity to a

Plover Management Area. Most of these permits were issued for Fourth of July activities, which occurs during the snowy plover nesting season.

Through the permit review process, OPRD has committed to ensuring that firework displays would not occur in a PMA or result in take of snowy plover. If there is a possibility that snowy plovers could be affected by firework displays authorized by permit, OPRD will include permit conditions designed to avoid the risk of take of the snowy plovers. As such, issuance of permits for firework displays was not included as a covered activity in the HCP.

Scientific Research and Collection Permits

OPRD issues permits to individuals wishing to conduct scientific research or collection of natural resources from the Ocean Shore and State Park properties. If the research or collection involves a listed species, the applicant is required to obtain the necessary State and Federal permits before an OPRD permit is valid. An average of 30 permits are issued statewide annually, with some of these activities occurring on the ocean shore or adjacent uplands.

Given that scientific research or collection actions that could affect snowy plover would have to be separately authorized by USFWS, this activity was not included as a covered activity in the HCP.

ATV/OHV Permits

OPRD has responsibility for the issuance of all-terrain vehicle permits. There are three classes of permits: Class One (off-road vehicles), Class Two (dune buggies) and Class Three (motorcycles). There is no age restriction as to who can obtain a permit, and not all individuals who receive a permit to operate an all terrain vehicle (ATV)/off highway vehicle (OHV) will drive their ATV/OHV on the ocean shore, however each of these individuals has the opportunity to do so. Table E-1 lists the number of ATV/OHV permits the department has issued between 2000 and 2002, statewide.

Table E-1. Number of ATV Permits Issued Statewide by OPRD for 2000-2002

Year	Number of Permits
2000	42,996
2001	51,242
2002	58,040
2003	73,449
2004	67,812
2005	76,937
2006	86,171

ATV/OHVs may operate on the sandy beaches that are closed to driving pursuant to a drive-on-beach permit issued by the department. Additionally, ATV/OHV use is allowed within portions of the Oregon Dunes National Recreation Area, including portions of the dry sand, as well as the Sand Lake Recreation Area. Illegal ATV/OHV use does occur on the ocean shore, i.e. individuals who ride their ATV/OHV on closed beaches without an OPRD drive-on-beach permit and those who drive ATVs on the beach in areas only open to street legal vehicles.

Through the permit review process, OPRD has committed to ensuring that ATV/OHV use would not result in take of snowy plover. If there is a possibility that snowy plovers could be affected by activities authorized by these permits, OPRD will include permit conditions designed to avoid the risk of take of the snowy plovers. As such, issuance of permits for ATV/OHV use on the ocean shore was not included as a covered activity in the HCP.

