

# Memorandum

**To:** Brad Medrud Rachael Jamison  
City of Tumwater Port of Olympia  
**From:** Chris Earle, Project Manager, ICF

**Date:** December 8, 2016

**Re:** Bush Prairie Habitat Conservation Plan: Permit Area and Permit Term

## Introduction

This memorandum describes the process used to identify a permit term (duration) and a permit area for the proposed Bush Prairie Habitat Conservation Plan (HCP). The permit term is a required element of the HCP, and identifies the duration of the incidental take permit being requested. The Permit Area is also a required element of a habitat conservation plan; it designates the area wherein covered activities, having the potential to result in incidental take of covered species, will be performed. This memorandum also discusses the Plan Area, a larger area that includes all areas that will be used for any activities described in the HCP, including land use activities and the conservation program.

For the purposes of this Memorandum, it is assumed that the Bush Prairie HCP will cover those species recommended for coverage in the Species Memorandum: the Olympia pocket gopher, the Oregon spotted frog, and the streaked horned lark. Other species would only be covered to the extent that they occur on conservation lands proposed to mitigate for covered activities. Since the conservation lands have not yet been identified, those other species are currently unknown, and are not addressed in this memorandum.

## Permit Term

The proposed permit term is 30 years. This term is recommended for the following reasons.

- Long-term planning projections for the City of Tumwater Urban Growth Area (UGA) are available for approximately a 20-year timeframe, so the magnitude and spatial patterns of development are relatively foreseeable over that period. Similarly, planning projections for the Port are explicit within a 10-year timeframe, with less chronologically specific goals projected for the longer term<sup>1</sup>. Moreover, the City anticipates reaching full build-out under current zoning densities within approximately a 30-year timeframe. Thus the coming 30-year period is critical for the Olympia pocket gopher, covering the period of time during which the majority of foreseeable habitat impacts will occur. It is appropriate

<sup>1</sup> See the [Vision 2025 Strategic Plan](#) and the latest [Comprehensive Scheme of Harbor Improvements](#) for further detail.

that the HCP covers this period and seeks to show protection and recovery of pocket gopher populations in the Permit Area for this timeframe. If that biological goal is achievable, it will provide good confidence that recovery and delisting of the Olympia pocket gopher is achievable. Thus, a 30-year permit term is relevant to the needs of the species.

- In discussions with the U.S. Fish and Wildlife Service (USFWS), they have expressed concerns about issuing HCPs for terms in excess of 30 years<sup>2</sup>. Addressing threats associated with a wide range of uncertain effects would likely require substantial additional mitigation and adaptive management commitments under the HCP. While it is possible to construct an argument for a permit term greater than 30 years, meeting USFWS issuance criteria for longer duration permits is uncertain. Therefore, we do not consider a permit term longer than 30 years to be viable.
- The anticipated mitigation strategy is a hybrid of mitigation bank, up-front, and pay-as-you-go approaches. Bank-based mitigation is assured because the banks are existing entities that have received USFWS review and approval; thus bank-based mitigation provides immediate and measurable benefits to covered species. “Up-front” mitigation is a mitigation strategy that sets aside or creates (for this HCP, set-aside predominates) suitable habitat early in the HCP process and thereby creates a reserve of mitigation lands that may be used to compensate for take of habitat during the HCP term. Here again, the habitat benefits to covered species are immediate and measurable. “Pay-as-you-go” mitigation consists of mitigation lands secured after the HCP term has begun, potentially being secured well into the HCP term. These lands are still secured prior to the impacts for which they mitigate, but because the mitigation lands are not identified explicitly prior to HCP permitting, their benefits to covered species are less well known, and are not directly measurable. Both up-front and pay-as-you-go mitigation lands may also require restoration and management actions, potentially for a period of some years, before they achieve habitat benefits comparable to those provided from approved mitigation banks. Having a relatively long permit term provides sufficient time to acquire those lands and to manage and monitor them.

## Permit Area and Plan Area

The permit area is defined as “the geographic area where the incidental take permit applies. It includes the area under the control of the applicant/permittee(s) where covered activities will occur. The permit area must be delineated in the permit and be included within the plan area of the HCP” (USFWS 2016). The plan area is defined as “The specific geographic area where covered activities described in the HCP, including mitigation, may occur.” The principal distinction between the two is that the permit area is included within the plan area, but the plan area may include lands not under the direct control of the permittee and thus may be a larger area overall.

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<sup>2</sup> USFWS' selection of a 30 year horizon for significant climate change uncertainty is based on an Intergovernmental Panel on Climate Change definition, provided at [https://www.ipcc.ch/publications\\_and\\_data/ar4/wg2/en/annexessglossary-a-d.html](https://www.ipcc.ch/publications_and_data/ar4/wg2/en/annexessglossary-a-d.html)

Lands under direct control of the permittee, and therefore included within the permit area, will include:

- lands within the City of Tumwater boundaries,
- lands within the City of Tumwater UGA that are under the direct control of the Port of Olympia, and
- any additional lands that are to be managed by the permittee for the purposes of covered species conservation.

Lands not under direct control of the permittee, but recommended for inclusion within the Plan area, include lands that are not currently within the City of Tumwater but are within the UGA. These lands may foreseeably be annexed by the City during the permit term and would then be under the direct control of the City. It is also possible that a portion of these lands will be set aside as conservation lands during the permit term, and will thereby be subject to management for the benefit of the covered species. Discussions with Thurston County will be needed on this point, as these lands would likely be covered by the Thurston County HCP (currently under development) prior to annexation, but by the Bush Prairie HCP following annexation. The proposed permit area and plan area are shown in Figure 1.

There is one additional substantial component of the plan area, and possibly also the permit area, that is not shown in Figure 1: a mitigation site selected for conservation benefits to streaked horned lark and Oregon vesper sparrow. There is a high potential that mitigation for effects on these two species will be sited at a location relatively distant from the UGA, such as in rural Thurston County, or along the lower Columbia River. No sites have yet been reviewed, and it is not known whether the selected site would be under direct control of the permit applicant.

The known distribution of the Olympia pocket gopher is nearly coincident with the City of Tumwater UGA. This is shown in Figure 1, which depicts the Service Areas for Olympia pocket gopher. Note that the species is not confined to these service areas; however, these areas do contain the substantial majority of the entire population of Olympia pocket gophers. Furthermore, the protection of habitat within these service areas is regarded by the USFWS as essential for the conservation of the species. In particular, protection of habitat within the Reserve Priority Areas shown in Figure 1 is preferred, although habitat suitable for protection may also occur on some lands that are not within the Reserve Priority Areas. Oregon spotted frogs are also known to occur in this area, as are streaked horned larks and Oregon vesper sparrows (within OPG-2).

Certain federal lands are within the plan area, but would be excluded from the permit area. Not all such lands have yet been identified, so they are not shown in Figure 1. Federal lands are not eligible for permit coverage because federal agencies cannot receive take authorization through an HCP; instead, they secure take authorization through the provisions of ESA Section 7. However, the provisions of the Bush Prairie HCP will inform the biological and mitigation considerations for the Section 7 consultation affecting Federal Aviation Administration (FAA) jurisdiction over the Olympia Airport. At this time, federal lands under the jurisdiction of a federal agency other than FAA have not been identified within the Permit Area. We assume that any ESA compliance for such lands would be accomplished by the federal agency through Section 7.

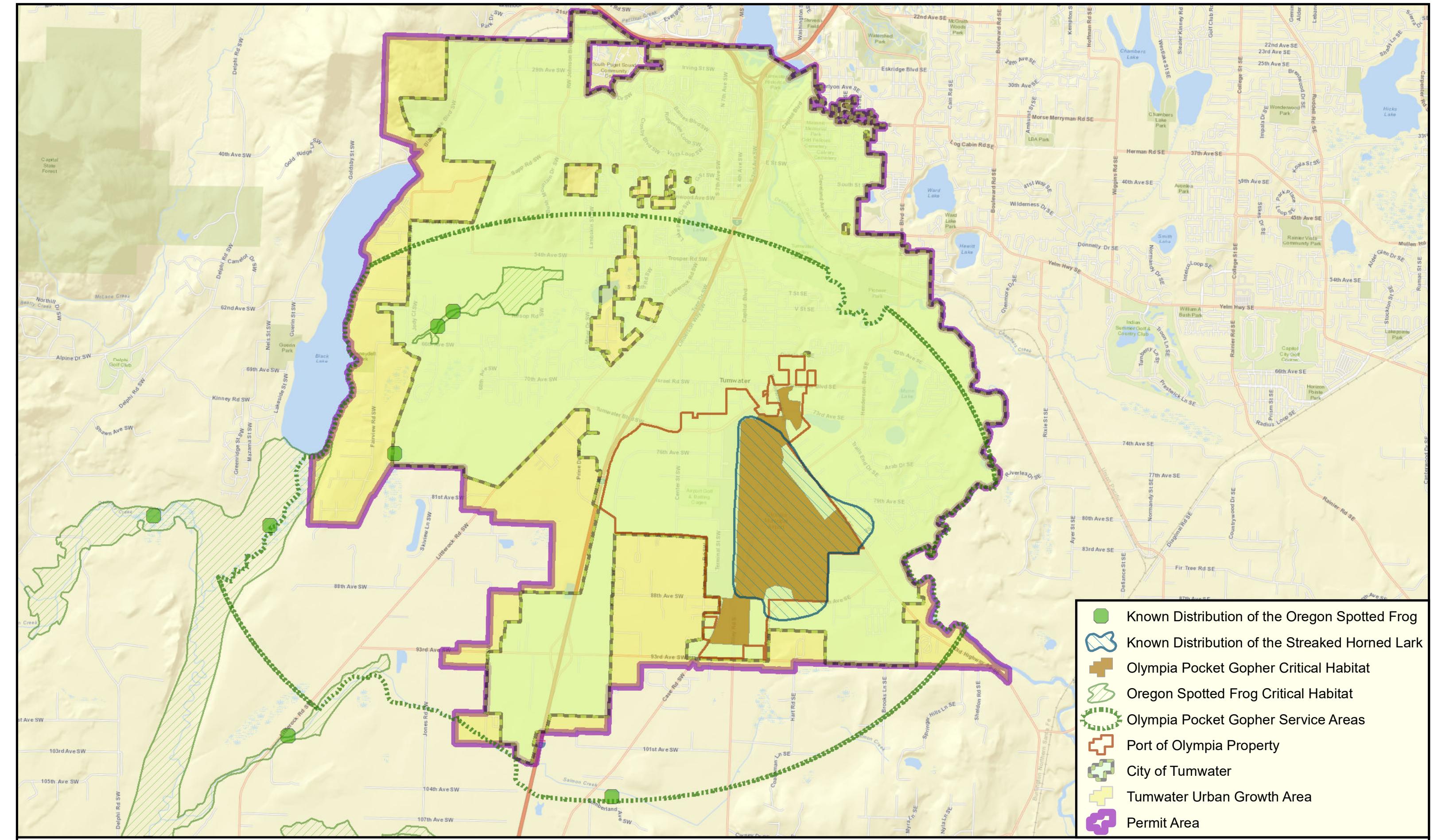


Figure 1. Permit and Plan Area

0 0.375 0.75 1.5 2.25 3 Miles

Sources: City, GMA, Port of Olympia properties: Thurston Co. GIS, 2016;  
 Gopher and Frog Critical Habitats, Approx gopher service area: USFWS 2014, 2016, 2015;  
 Known distributions of Frog, Streaked horned lark: WDFW, 2016;  
 Basemap: ESRI, 2016  
 Mapped by S. Krippner, 11/29/2016

