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Notice of an Interagency Agreement for the Conservation of the Coral Pink Sand Dunes Tiger Beetle

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of an Interagency Agreement for the Conservation of the
Coral Pink Sand Dunes Tiger Beetle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of conservation agreement and document availability.

SUMMARY: The Fish and Wildlife Service (Service) announces agreement between the Utah Division of Parks and Recreation (Division); the U.S. Bureau of Land Management (BLM); the Kane County, Utah Commission; and the Service to the provisions of a conservation agreement and strategy to provide for the conservation of the Coral Pink Sand Dunes tiger beetle. The Service also announces the availability of the document containing that conservation agreement/strategy: Conservation Agreement and Strategy for the Coral Pink Sand Dunes Tiger Beetle (*Cicindela limbata albissima*) (Conservation Agreement). This species is currently a candidate for listing as endangered or threatened under the provisions of the Endangered Species Act of 1973, as amended (Act). The agreement focuses on identifying, reducing and eliminating significant threats to the tiger beetle that warrant its candidate status, and enhancing and maintaining the species population and habitat to ensure its long term conservation.

DATES: Parties to the Coral Pink Sand Dunes Tiger Beetle Conservation agreed to and signed the agreement on April 18, 1997.

ADDRESSES: Persons wishing to review the Conservation Agreement/Strategy may obtain a copy by contacting the Assistant Field Supervisor, U.S. Fish and Wildlife Service, Lincoln Plaza, Suite 404, 145 East 1300 South, Salt Lake City, Utah 84115. Comments and materials received and information used in developing this agreement are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert D. Williams, Assistant Field Supervisor (see ADDRESSES section) (telephone 801/524-5001).

SUPPLEMENTARY INFORMATION:

Background

The Coral Pink Sand Dunes (CPSD) tiger beetle (*Cicindela limbata albissima*) is a terrestrial, predaceous insect in the family Cicindelidae. The beetle occurs only at the Coral Pink Sand Dunes. The Coral Pink Sand Dunes comprise a dune field about 8 miles long and a little less than 1 mile wide. These dunes are located in Kane County about 7 miles west of Kanab, Utah. The southern portion of the Coral Pink Sand Dunes is within the State of Utah's Coral Pink Sand Dunes State Park, managed by the Division. The northern portion of the Dunes is on public land managed by the BLM, Kanab Resource Area. The BLM's portion of the Coral Pink Sand Dunes is within the Moquith Mountain Wilderness Study Area.

Previous Federal Action

The CPSD tiger beetle is currently a candidate species for listing under the provisions of the Act in the Service's most recent Notice of Review, February 28, 1996 (61 FR 7596). On April 19, 1994, the Southern Utah Wilderness Alliance petitioned the Service to list CPSD tiger beetle and designate critical habitat. On September 8, 1994, the Director of the Service approved the 90-day petition finding as providing substantive information that the species' listing may be warranted (59 FR 47293). On November 25, 1996, the Service published a Notice in the Federal Register (61 FR 59889) announcing the availability of the draft conservation agreement for public comment. Public hearings were, also, announced and held in: Kanab, Utah on December 4, 1996; in St. George, Utah on December 5, 1996; and in Salt Lake City, Utah on December 10, 1996. The Service published a notice inviting public comment on the draft conservation agreement in the following newspapers: Salt Lake Tribune/Deseret News, Southern Utah News (Kanab, Utah), St. George Daily Spectrum, and Las Vegas Review Journal/Las Vegas Sun. The announced comment period ended January 24, 1997.

Summary of Comments and Recommendations

During the comment period, the Service received both written and oral comments from 111 parties, including testimony presented at the public hearings. All comments received were from private individuals or groups. Written and oral comments from both the public hearing and the comment period are combined in the following discussion. Comments questioning the conservation agreement are organized into specific issues. These issues and joint response of the Service, BLM, and the Division to each are summarized as follows:

Issue 1: the Service and the BLM lack authority to enter into and implement conservation agreements under authority of the Act without first listing the species pursuant to section 4 of the Act.

Response: Section 2(b) of the Act declares the intent of the Act is to ``* * * provide as means whereby the ecosystems upon which endangered and threatened species depend may be conserved * * *'' and section 2(c)1 ``* * * all Federal departments and agencies shall seek to conserve endangered species and threatened species * * *''. Section 3(17) of the Act directs the Secretary of the Interior (through the Fish and Wildlife Service) to ``* * * establish a program to conserve fish and wildlife and plants * * *'' Nothing in the Act precludes the Service from proactive measures to provide early conservation to endangered or threatened species. The Service has in several instances developed conservation agreements with other parties responsible for the management of the habitat of those species. The conservation agreement approach enables land managing agencies such as the BLM and the Division, to use their authorities to implement conservation programs that have the potential to conserve and recover species that are tending toward endangerment. The BLM has broad authority under sections 201, 203, and 307 of the Federal Land Management Policy Act to plan for and manage ecosystems on lands under its jurisdiction. The conservation agreement and strategy has been clarified to more accurately reflect this information.

Issue 2: The Utah Division of Parks and Recreation lacks authority to enter into and implement conservation agreements under the authority of the Utah Off-Highway Vehicle Act (OHV).

Response: The Division has the authority to enter into and implement conservation agreements within both the Utah Off-Highway Vehicle Act, Utah Code Annotated (UCA) 41-22-1 and UCA 63-11-19 that authorize the Division to enter into contracts and agreements with the government of the United States. Additional discussion of the Division's authority has been added to the conservation agreement.

Issue 3: The draft agreement requires independent National Environmental Policy Act (NEPA) compliance. The agreement is not consistent with a similar BLM effort in Idaho.

Response: The Conservation Agreement and Strategy is being developed for planning purposes. Before any on-the-ground actions can occur on

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BLM administrated lands, a determination must be made whether or not the Conservation Agreement and Strategy is consistent with BLM's Vermillion Land Use Plan and whether or not additional NEPA analysis is required. If the Conservation agreement is not consistent with the plan then it must be incorporated into the plan through an amendment

process. NEPA compliance in the form of an environmental assessment would accompany this amendment. As a result of conversations (pers. comm. Ronald Bolander, Bureau of Land Management, Salt Lake City, Utah, 1997) with Idaho BLM personnel, Utah BLM has determined that this process is consistent with a similar action involving another species of tiger beetle that occurs in that State. The Conservation Agreement has been clarified to more accurately reflect this information.

Comment 4: Is this decision subject to administrative appeal and in what manner may affected parties pursue their appeal rights.

Response: Protest and appeal rights come at the point of decision following application of NEPA. In this situation the right to protest to the BLM Director would be initiated by a decision record for a land use plan amendment. If it is determined that the Conservation Agreement and Strategy is not consistent with the existing land use plan the right to appeal a decision to the Interior Board of Land Appeals would begin with the signing of a Decision Record for an on-the-ground action following the preparation of an Environmental Assessment with or without an accompanying plan amendment. The procedures for plan amendments, preparation of NEPA documents and protests and appeals are detailed in BLM's 1610 and 1792 Manuals and in 43 CFR Part 4.

Comment 5: Analysis of applicable BLM planning regulations prevents implementation of the draft agreement * * * the BLM managed lands lie within the Moquith Mountain Wilderness Study Area * * * The interim Wilderness Study Area policy precludes implementation of the proposed activity by BLM.

Response: Wilderness Study Area designation does not preclude preparation of planning documents such as conservation agreements and strategies and land use plan amendments. Nor does it preclude any subsequent on-the-ground actions so long as they are nonimpairing as defined by the Interim Management guidelines. Preparation of the Conservation Agreement for the CPSD tiger beetle, subsequent land use planning evaluations and NEPA related actions fall within these guidelines.

Comment 6: Since the presence of the species has been known for years, why hasn't it been addressed through legally outline planning processes rather than through a special extra legal inter-agency agreement?

Response: The conservation of the CPSD tiger beetle has been recognized as an issue during public scoping for BLM and Division planning efforts for several years. Meetings from the late 1980's to present have recognized the presence of the species and the need for special conservation measures on the Coral Pink Sand Dunes. The Conservation Agreement and Strategy will provide useful guidelines for future management for both the State and Federal portions of the Coral Pink Sand Dunes.

Comment 7: There is no basis for a 10-year duration of the proposed conservation agreement.

Response: Ten years is a reasonable period of time to evaluate the species biological response to the intended land management actions. It is also an adequate time frame for agency land use actions to be implemented. The parties to the Conservation Agreement will review the success of the strategy annually to determine its adequacy and need.

Comment 8: Biological research data fails to show substantial jeopardy to tiger beetle populations to justify the proposed

conservation actions.

Response: The scientific information on hand demonstrates that several biotic and abiotic factors are actively and potentially affecting the species including: recreational off-road vehicle use, parasitism, periodic climatic conditions, and over-collecting of specimens, resulting in a very small species population and restricted range.

Comment 9: The no-play restriction in the travel corridor comprising the eastern portion of ``Conservation Area A'' should be removed.

Response: The eastern portion of ``Conservation Area A'' contains occupied habitat of the CPSD tiger beetle. In reviewing the final boundary, the Conservation Planning team determined that it is essential for the conservation of the species that OHV use be kept to a minimum in this area.

Comment 10: The Conservation Agreement ignores collection threats to the CPSD tiger beetle.

Response: Collection threats are acknowledged in the studies that contributed to the biological basis for the conservation agreement. Control of collection is identified in ``Action 1'' of the ``Conservation Actions to be Implemented'' section of the agreement. The final conservation agreement explicitly provides for control of collection on both BLM and State Park portions of the Coral Pink Sand Dunes.

Comment 11: Implementation of the draft conservation agreement may tend to concentrate non-motorized visitors in the best occupied habitat of the CPSD tiger beetle.

Response: Visitor education is expected to develop knowledge of and sensitivity to critical areas within the conservation areas. Effective education along with adequate signing and both recreational and biological monitoring should avoid this potential problem. To date biological data has not indicated an existing problem with human foot traffic within the species habitat. However, monitoring will continue and if impacts to the species population become apparent the parties to the agreement will address them appropriately.

Comment 12: The parties to the agreement have inadequate resources to provide on-the-ground enforcement of the conservation agreement.

Response: The Conservation Agreement identifies the resources available to implement the agreement (see pages 6-8). The Division has two full time park rangers with law enforcement authority assigned to Coral Pink Sand Dunes State Park. These two rangers along with the Bureau's law enforcement officer in the Kanab Area Office will provide supervision of use within the species two conservation areas. The Division, Bureau, and Service will provide additional resources such as signing, visitor education, and strategic fencing to implement the conservation agreement and strategy.

Comment 13: The seasonal and weather effects on the CPSD tiger beetle vulnerability vary markedly from wet to dry periods. Therefore, restrictions on OHV use should be relaxed during dry summer periods.

Response: Degradation of larval interdunal swale habitat remains a significant concern regardless of current moisture conditions of the sand dunes. It is difficult and confusing to the publics to vary vehicle use restrictions during the recreational season. The approach taken by the Conservation Team is to provide maximum conservation area

for the species while minimizing affects to off-road recreational use areas.

Comment 14: Coral Pink Sand Dunes tiger beetle habitat should be more narrowly defined to include only the occupied interdunal larval beds. That, with seasonal use restrictions, would

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provide adequate protection for the species.

Response: Based on current research and principals of conservation biology, the planning team has established buffers around the species occupied larval habitat to protect aestivating adults. As more biological information becomes available these ares will be reviewed by the Conservation Team.

Comment 15: The CPSD tiger beetle population may lack genetic variability and the species inadequate heterozygosity may cause eventual extinction regardless of conservation measures.

Response: Many species, including tiger beetles, have persistent populations with low genetic variability. Recently, Volger and others (1993) showed that another endangered tiger beetle, *Cicindela d. dorsalis*, with a large historic range from Virginia to Massachusetts, has very low genetic variability both at present and historically. Nevertheless, as a precaution to prevent extinction of the CPSD tiger, it is essential that conservation efforts include maintaining, to the maximum extent possible those portions of the species natural environment.

Comment 16: The Conservation agreement improperly claims to implement safety regulations.

Response: The Utah Division of Parks and Recreation is motivated to conserve the Coral Pink Sand Dunes' biological resources as well as to enhance public safety. The Division disagrees that documented accidents must occur as justification for concern and management action in association with the conservation agreement. Both motorized and non-motorized user groups have articulated complaints regarding potential threats to safety. The Division is reasonable and prudent in responding proactively to minimize exposure to this risk. Improved safety for all park users is an important side benefit of the Conservation Agreement.

Comment 17: The Conservation Agreement impacts less experienced riders and children disproportionately due to the travel restrictions identified in Conservation Area ``A''.

Response: Inexperienced riders and children will continue to have opportunity to enjoy motorized recreation both on the BLM portion of the dunes near established access points as well as near the main access point near the State park campground. These areas provide easy to ride low angle dunes suitable to the novice rider.

Comment 18: The Conservation Agreement depends on narrow unpublished data insufficient to justify its proposed actions.

Response: The signatories to the Conservation Agreement have based the proposed actions on the best scientific information available. The Service finds the reports on the ongoing scientific research on the CPSD tiger beetle well documented and consistent with accepted biological research procedures and techniques. Population and habitat monitoring and scientific research will continue using the best techniques available. Additional biological and habitat information

will be incorporated into the management of the species conservation areas.

Comment 19: The CPSD tiger beetle (*Cicindela limbata albissima*) occurs else where in western North America including sand dunes in Idaho.

Response: As described above in the background information, the CPSD tiger beetle is found nowhere else other than the Coral Pink Sand Dunes. The Idaho dunes tiger beetle (*Cicindela arenicola*) is a different species.

Comment 20: The Conservation Agreement cannot compromise CPSD tiger beetle conservation to accommodate OHV recreation.

Response: All parties to the agreement are convinced that the full implementation of the Conservation Agreement will provide protection to the CPSD tiger beetle equivalent to or greater than the species would receive if it were listed under the provisions of the Act. In addition, parties to the agreement have committed that if the conservation measures are not adequate, the agreement will be modified to remedy any shortcoming.

Comment 21: The Conservation Agreement does not provide a balanced approach to recreational opportunities.

Response: The stated purpose of the Conservation Agreement is to identify those areas crucial for the conservation of the CPSD tiger beetle and those activities consistent with the species conservation within those areas.

Comment 22: The Conservation Agreement allows OHV use to continue without critical information concerning specific needs of CPSD tiger beetle population and habitat. Information gaps include: demographic and other population measurement needs in defining and maintaining a minimum viable population; information supporting 2,000 adult individuals per population as a recovery goal; information indicating that a protected corridor of potential habitat between populations is or is not necessary.

Response: The parties to the Conservation Agreement have based the proposed conservation actions on the best scientific information available. Techniques for determining minimum viable population estimates for insects have not been developed. The immediate goal is to maintain its population at the optimum numbers consistent with the species occupied habitat. The species optimum population level may change as a consequence of additional research. The species has two known sub-populations. Each is protected in each of the two conservation areas. it is not known if other sub-populations occur. Currently no known high quality habitat occurs outside Conservation Area A. The maintenance of both populations within their respective conservation areas is critical as a hedge against a catastrophic event in either population. The Conservation Agreement requires the involved parties to adjust population numbers and habitat areas as new and refined information concerning the species population and ecology is acquired.

Comment 23: The draft conservation agreement does not promote the overall Coral Pink Sand Dunes ecosystem health by focusing only on the CPSD tiger beetle.

Response: Other Bureau and Division planning efforts are underway which will address conservation issues related to the Coral Pink Sand Dunes ecosystem as a whole. The CPSD tiger beetle conservation

agreement will be incorporated into these other ecosystem planning efforts to benefit other species, thus effectively promoting ecosystem health.

Comment 24: Protect the CPSD tiger beetle and the natural environmental integrity of the Coral Pink Sand Dunes.

Response: The express purpose of the conservation agreement is the protection of the CPSD tiger beetle and its habitat. The involved parties are in agreement that with the implementation of the agreement, conservation will occur as a consequence of the efforts of all parties and the public at large.

Comment 25: Do not close the Coral Pink Sand Dunes to motorized recreation.

Response: The majority of the Coral Pink Sand Dunes will remain open to all recreational use including OHVs. Motorized travel will be restricted or prohibited in an area of less than 20 percent of the dunes.

Conservation Agreement

The Service has assessed existing and potential threats facing the species based on the five criteria as required by Section 4(a)(1) of the Act. Within each of these criteria, several factors which have contributed to the degradation of

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CPSD tiger beetle habitat and its populations were identified (59 FR 47293). The Conservation Agreement provides conservation measures to adequately address each of those factors. The Conservation Agreement focuses on the following goals: (1) Permanently protect CPSD tiger beetle habitat in two designated conservation areas within the historical range of the species. (2) Establish a continuing management program that educates and enforces CPSD tiger beetle conservation measures within the Coral Pink Sand Dunes. (3) Monitor the CPSD tiger beetle population to demonstrate those conservation measures taken for the species are maintaining it at viable population levels. (4) Gain additional biological and ecological information concerning the beetle and its dune habitat. (5) Form a conservation advisory committee to coordinate all conservation actions and to act as an information gathering and dissemination center. (6) Provide for both motorized and non-motorized recreation within the Coral Pink Sand Dunes consistent with the conservation of the CPSD tiger beetle.

The Conservation Agreement will provide for the recovery of the CPSD tiger beetle by establishing a framework for cooperation and coordination among all involved parties. It will also establish a framework for conservation efforts, setting recovery priorities, and establishing costs and responsibilities of the various tasks necessary to accomplish the recovery priorities.

Author: The primary author of this notice is John L. England (see ADDRESSES section) telephone 801/524-5001).

Authority

The authority for this action is the Endangered Species Act of

1973, as amended (16 U.S.C. 1531 et seq.).

Dated: April 21, 1997.
 Terry T. Terrell,
 Deputy Regional Director, Denver, Colorado.
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