

ORDINANCE NO. 01 - 05 AMENDING
THE OTERO COUNTY SUBDIVISION ORDINANCE

WHEREAS, The Board of County Commissioners has been involved in and committed to developing the science and understanding necessary to provide for maximum protection of the privately owned lands, National Forest, BLM, State, Tribal and other Governmentally owned lands, (hereinafter "lands") within the County in recognition of their significant value to the custom, culture, history and economy of the County; and

WHEREAS, The Board of County Commissioners recognizes as a component of those "lands" the existence of certain species of insects, plants, and/or animals whose existence on the "lands" are an integral to a healthy ecosystem which will sustain the recreational, cultural, social and economic uses of "lands" that have evolved throughout the history of the County; and

WHEREAS, The Board of County Commissioners have committed themselves to develop County land use plans, subdivision regulations, and other ordinances which are designed to preserve and protect the valuable natural resources located within the County, including the manner that will insure their long term viability for multiple sustained use by the citizens of this County both in the present and for future generations; and

WHEREAS, The Board of County Commissioners have determined that as part of this effort, special recognition should be given to the Sacramento Mountains Checkerspot Butterfly; as a species that deserves attention and consideration when the County implements land use plans, subdivision regulations and development ordinances.

NOW THEREFORE BE IT ORDAINED:

SECTION 1. TITLE

This Ordinance shall be known as the Otero County Subdivision Plan to implement the Sacramento Mountains Checkerspot Butterfly Conservation Plan.

SECTION 2. AUTHORITY

Authority for this Ordinance is found at NMSA 1978 § 4-37-1 et.seq.; NMSA 1978 § 47-6-1 through § 47-6-29; Otero County Ordinances No. 92-01, No. 92-02, No. 92-03, No. 92-04 and 97-03, as well as in the Otero County Comprehensive Plan

SECTION 3. EFFECTIVE DATE/SUNSET PROVISION

The effective date of this Ordinance shall be thirty days after its passage by the County Commission and recordation in the County Clerk's office as provided for in NMSA § 4-37-9. This Ordinance shall sunset and terminate on July 1, 2011 unless the Board of County Commissioners affirmatively extends the ordinance pursuant to law.

SECTION 4. PURPOSE

The Purpose of this Ordinance is to protect the public health, safety and general welfare of the citizens of Otero County through the development of specific measures designed to avoid and/or minimize impacts from the use and development of private lands around the community of Cloudcroft, New Mexico on the Sacramento Mountains Checkerspot Butterfly.

SECTION 5. DEFINITIONS

A. As used in this Ordinance and to enable Otero County to discharge its responsibility, the following definitions shall be used. The definitions shall be interpreted in all cases to achieve the purpose of the act:

1. Board – the board of County Commissioners of Otero County;
2. Commission – the Otero County Planning Commission;
3. County – the County of Otero
4. Habitat – the actual habitat for the Sacramento Mountains Checkerspot Butterfly that is located within the high mountain meadows in the mixed-conifer forest at approximate elevations between 2,450 and 2,750 meters (8,000 and 9,000 feet (ft)) in the vicinity of the Village of Cloudcroft, Otero County, New Mexico. (As more particularly delineated on that certain United States Fish and Wildlife Service map a copy of which is attached to this Ordinance as **Exhibit "A"** and is incorporated herein by reference as if fully set forth.)
5. parcel – Unit of land capable of being described by location and boundaries and not dedicated for public or common use.
6. person – Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, Governmental agency, non governmental organization or other entity.
7. Planning Coordinator – County Administrative employee responsible for coordinating and processing subdivision applications and related planning matters. May serve as Recording Secretary to the Otero County Planning Commission.
8. preliminary plat – Map of a proposed subdivision, prepared by a licensed, registered surveyor, showing the character and proposed layout of the subdivision and the existing conditions in and around it. (See Otero County Ordinance 97-03
9. Sacramento Mountains Checkerspot Butterfly – (*Euphydryas Anicia Cloudcrofti*)
10. subdivide – To divide a surface area of land into a subdivision.

11. subdivider – Any person/agent who creates or who has created a subdivision, individually or as part of a common promotional plan, or any person engaged in the sale, lease, or other conveyance of subdivided land; however, subdivider does not include any duly licensed real estate broker or salesperson acting on another's account.
12. subdivision – The division of a surface area of land, including land within a previously approved subdivision, into two (2) or more parcels for the purpose of sale, lease, or other conveyance; or for building development, whether immediate or future; however "subdivision" **does not** include:
 - a. sale, lease, or other conveyance of any parcel that is thirty-five (35) acres or larger in size within any twelve (12) month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with § 7-36-20 NMSA 1978, for the preceding three (3) years;
 - b. sale or lease of apartments, offices, stores, or similar space within a building;
 - c. division of land within the boundaries of a municipality;
 - d. division of land in which only gas, oil, mineral, or water rights are severed from the surface ownership of the land;
 - e. division of land created by court order where the order creates no more than one (1) parcel per party;
 - f. division of land for grazing or farming activities, provided the land continues to be used for grazing or farming activities;
 - g. division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased;
 - h. division of land to create burial plots in a cemetery;
 - i. division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one (1) parcel per tract of land per immediate family member;
 - j. division of land created to provide security for mortgages, liens, or deeds of trust, provided that the division of land is not the result of a seller-financed transaction;
 - k. sale, lease, or other conveyance of land that creates no parcel smaller than one-hundred forty (140) acres;

1. division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in § 501(c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college, or other institution with a defined curriculum and a student body and faculty which conducts classes on a regular basis; or to any church or group organized for the purpose of divine worship, religious teaching, or other specifically religious activity; or
- m. sale, lease, or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, within any five (5) year period, provided that a second or subsequent sale, lease, or other conveyance from the same tract of land within five (5) years of the first sale, lease, or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act; provided further that a survey shall be filed with the County Clerk indicating the five (5) year holding period for both the original tract and the newly created tract.

SECTION 6. PRELIMINARY PLAT DATA REVIEW

The planning coordinator, as part of the preliminary plat review process shall determine whether a proposed subdivision is located within the habitat of the Sacramento Mountains Checkerspot Butterfly as that habitat is defined in this Ordinance.

- A. In the event the proposed subdivision is not located within the habitat of the Sacramento Mountains Checkerspot Butterfly as defined in this Ordinance, no further action is required with respect to the requirements of this Ordinance.
- B. In the event the proposed subdivision is located within the habitat of the Sacramento Mountains Checkerspot Butterfly as defined in this Ordinance, the Planning Coordinator shall require the person submitting the proposed subdivision to submit in addition to those matters required by NMSA 1978 § 47-6-1 through § 47-6-29 and Otero County Ordinance No. 97-03, a survey conducted prior to commencement of any development/construction activity within the proposed subdivision boundary that is completed the Survey shall consist of the following:

(See Exhibit B "Guidance for conducting surveys to document the presence of the Sacramento Mountains checkerspot butterfly attached hereto)

The survey shall report:

- i. the presence, or lack of presence of the Sacramento Mountains Checkerspot Butterfly, or its larvae;
- ii. the presence, or lack of presence of the food plants Penstemon Neomexicanus, Valeriana Edulis, or Helenium Hoopsei;

- iii. the presence or lack of presence of habitat suitable for either the Sacramento Mountains Checkerspot Butterfly or the food plant species set forth in paragraph 6 B ii.

SECTION 7. CONSERVATION/MITIGATION REQUIREMENTS

In the event that the survey required by Section 6 demonstrates the presence within the boundary of the proposed subdivision of either the Sacramento Mountains Checkerspot Butterfly or its food plant species as set forth in Section 6 B i, and ii, the Planning Coordinator shall require the person submitting the proposed subdivision to provide the following:

- A. A plan to reduce the risk of wild fire within the proposed subdivision by requiring either pre development thinning of trees and fuels management or tree thinning and fuels management as a requirement for lot owners within the subdivision;
- B. A plan that provides for all construction activities either by the subdivision developer or the individual lot owners to be conducted in a manner that will minimize modification and/or loss of Sacramento Mountains Checkerspot Butterfly habitat, potential habitat, food plant species, or food plant species habitat defined herein;
- C. A plan that provides for staging areas (i.e., areas where vehicles or equipment will be located during the construction of the subdivision or the construction of improvements on individual lots to be located within areas that do not contain any life stages of the Sacramento Mountains Checkerspot Butterfly, and/or any visible life stages of its food plant species as identified in Section 6 B ii. Staging areas should be clearly delineated (i.e., with survey stakes, flagging or taping so that contractors and workmen are aware of the staging requirements.
- D. In the event that development or construction within the boundary of the proposed subdivision or on any particular lot cannot occur without disturbing either any life stage of the Sacramento Mountains Checkerspot Butterfly or its food plant species, a plan that provides for the salvage and re-location to other Sacramento Mountains Checkerspot Butterfly habitat of any life stages of the Sacramento Mountains Checkerspot Butterfly or any of the food plants referred to in Section 6 B., ii. of this Ordinance, to other locations within the boundary of the proposed subdivision that are suitable. This plan shall be submitted to, the Otero County Planning Coordinator who shall provide a copy to the United States Fish and Wildlife service. The U.S. Fish and Wildlife service shall comment on the proposed plan in accordance with the requirements of NMSA 1978 §47-6-10 and 47-6-11; and Article 4, §4.4 of the Otero County Subdivision Regulations.
- E. A plan that provides for the revegetation or reseedling of suitable Sacramento Mountains Checkerspot Butterfly habitat that is impacted during construction within the proposed subdivision. This plan shall be submitted to, reviewed by the U.S. Fish and Wildlife Service. The U.S. Fish and Wildlife service shall comment on the proposed plan in accordance with the requirements of NMSA 1978 §47-6-10 and 47-6-11; and Article 4, §4.4 of the Otero County Subdivision Regulations. The

comments shall address the effectiveness of the measures employed and assess, monitor and verify the results achieved.

- F. A plan that provides for the monitoring of the habitat areas for the Sacramento Mountains Checkerspot Butterfly for the infestation, of noxious weeds (i.e., Russian Knapweed (*Acroptilon Repens*), musk thistle (*Carduus Nutans*), and teasel (*Dipsacus Sylvestris*). If noxious weed infestations are located, control and eradication treatments shall be specified in the plan and implemented.
- G. A plan that provides, to the extent possible for the concentration of construction activities during that period of the calendar year that the Sacramento Mountains Checkerspot Butterfly is not active (i.e., October through March) in each year.
- H. A statement contained within the disclosure statement for the proposed subdivision that informs the purchaser of the specific conservation requirements to be implemented on individual lots within the subdivision.

SECTION 8. EXCEPTION/EXCLUSIONS

In the event the survey required in Section 6 B of this ordinance reveals that there is not present any life stage of the Sacramento Mountains Checkerspot Butterfly, nor is there present any food plant species, then the Planning Coordinator shall notify the person submitting the proposed subdivision of that lack of presence in writing and the proposed subdivision shall not be required to fulfill any of the requirements of Section 7 of this Ordinance.

SECTION 9. ENFORCEMENT, PENALTIES REMEDIES

- A. Purpose and Authority. Violations of the provisions of these Regulations shall be prosecuted in the manner provided by law to protect the health, safety, and welfare of the public according to the County's authority under the New Mexico Subdivision Act, §§ 47-6-1 et seq., NMSA 1978. The remedies provided in these Regulations shall be cumulative and not exclusive.
- B. Investigation of Alleged Violations. All written, signed complaints alleging one or more violations of the provisions of the New Mexico Subdivision Act or these Regulations shall be referred to the Board of County Commissioners for investigation. The Board of County Commissioners shall direct an investigation of the complaint and take such action as is warranted. The Board of County Commissioners shall inform the complainant in writing of what actions have been taken or will be taken in response to the complaint.
- C. Penalties and Remedies. Violations of these Regulations shall be subject to the following penalties, remedies, and enforcement procedures:
 - 1. Utility connections. Any water, sewer, electric, or gas utility that connects service to individual parcels within a subdivision before a final plat for the

subdivision has been approved by the Board of County Commissioners or before the landowner holds a valid building permit, may be fined a civil penalty of up to five hundred dollars (\$500.00) by the Board of County Commissioners. The Board of County Commissioners may also require that any utility connected in violation of this section and of §47-6-27.2 NMSA 1978 be disconnected.

2. Suspension of Right of Sale. The Board of County Commissioners may suspend or revoke approval of a plat as to unsold, unleased, or otherwise not conveyed portions of a subdivider's plat if the subdivider does not meet the schedule of compliance approved by the Board of County Commissioners.
 3. Injunctive Relief, Mandamus. The Board of County Commissioners, the District Attorney, or the Attorney General may apply to the District Court for any one or more of the following remedies in connection with violations of the New Mexico Subdivision Act and these Regulations:
 - a. injunctive relief to prohibit a subdivider from selling, leasing, or otherwise conveying any interest in subdivided land until the subdivider complies with the terms of the New Mexico Subdivision Act and these Regulations;
 - b. injunctive relief to compel compliance by any person with the provisions of the New Mexico Subdivision Act and these Regulations;
 - c. rescission and restitution for persons who have purchased, leased, or otherwise acquired an interest in subdivided land that was divided sold, leased, or otherwise conveyed in material violation of the New Mexico Subdivision Act or these Regulations; or
 - d.. a civil penalty of up to five-thousand dollars (\$5,000.00) for each parcel created in knowing, intentional, or willful violation of the New Mexico Subdivision Act or these Regulations.
- D. Bond not required. The Board of County Commissioners, the District Attorney, and the Attorney General shall not be required to post bond when seeking a temporary or permanent injunction or mandamus according to the provisions of the New Mexico Subdivision Act.

E. Criminal penalties.

a. §47-6-27 NMSA 1978 provides that:

- i) any person who knowingly, intentionally, or willfully commits a material violation of the New Mexico Subdivision Act is guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars (\$10,000.00) per violation, or by imprisonment for not more than one (1) year, or both; and
- ii) any person who is convicted of a second or subsequent knowing, intentional, or willful violation of the New Mexico Subdivision Act is guilty of a fourth degree felony, punishable by a fine of not more than twenty-five thousand dollars (\$25,000.00) per violation or by imprisonment for not more than eighteen (18) months, or both.

b. Any violation of the provisions of this Ordinance is punishable by a fine not to exceed three hundred dollars (\$300.00) or imprisonment for not more than ninety (90) days, or both, in accordance with §4-37-3 NMSA 1978.

SECTION 10. AMENDMENT/REPEAL

This Ordinance may be amended from time to time as conditions warrant. Amendments shall be made by ordinance adopted by the Board of County Commissioners in accordance with §4-37-1 et. seq., NMSA 1978 compilation as amended, and in accordance with §47-6-1 et seq., NMSA 1978 compilation as amended. Additionally, the population numbers of the Sacramento Mountains Checkerspot Butterfly shall be monitored and reported by the U.S. Fish and Wildlife Service to the County Commission on an annual basis to determine the effectiveness of the measures contained in this Ordinance and the need or lack thereof of continued regulation.

SECTION 11. INTERPRETATION

In the event a particular case presents circumstances requiring interpretation of the ordinance, this Ordinance shall be interpreted broadly in order to accomplish its purpose which purpose is contained in Section 4.

SECTION 12. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or circumstances is declared invalid or unconstitutional by the decision of a court of competent jurisdiction, the remainder of this Ordinance shall be severed therefrom and shall remain in full force and effect.

SECTION 13. APPEALS JUDICIAL REVIEW

A. Who may appeal.

1. Any person who is adversely affected by a decision of the Planning Commission in approving or disapproving a subdivision plat may appeal to the Board of County Commissioners within fifteen (15) days after the date of the action of the Planning Commission. The Board of County Commissioners shall hear the appeal and render a decision within thirty (30) days after receiving the notice of appeal.
2. Any person who is adversely affected by a decision of the Board of County Commissioners in approving or disapproving a subdivision plat may appeal to the District Court of the county in which the subdivision is located within thirty (30) days after the date of the action of the Board.

B. Appeal process.

1. The appeal shall consist of a whole record review, and the reviewing authority, whether it be the Board of County Commissioners or the District Court, shall set aside the action of the lower tribunal only if it is found to be:
 - a. arbitrary, capricious, or an abuse of discretion; or
 - b. not supported by substantial evidence; or
 - c. otherwise not in accordance with law.
2. Any party to the action in District Court shall have full appellate rights in accordance with NMRA 1-074.
3. The appeal shall be perfected by filing a written notice of appeal which sets forth the specific portion or portions of the decision being appealed. A copy of the decision or order being appealed shall be attached to the notice of appeal. The appeal shall be perfected upon filing of the notice required by these Regulations and payment of the required docket fee. The Notice of Appeal shall otherwise conform to the requirements set forth in NMRA 1-074.

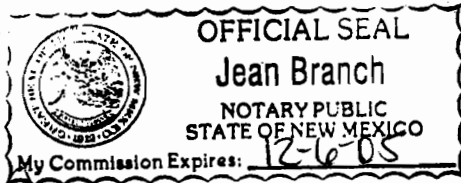
APPROVED, PASSED and ADOPTED on this 29th day of ^{JUNE} 2005.


BOARD OF COUNTY COMMISSIONERS
OTERO COUNTY, NEW MEXICO

ATTEST:


Robyn Silva, County Clerk

(Seal)



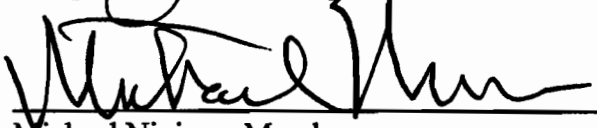

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY


Daniel A. Bryant, Otero County Attorney

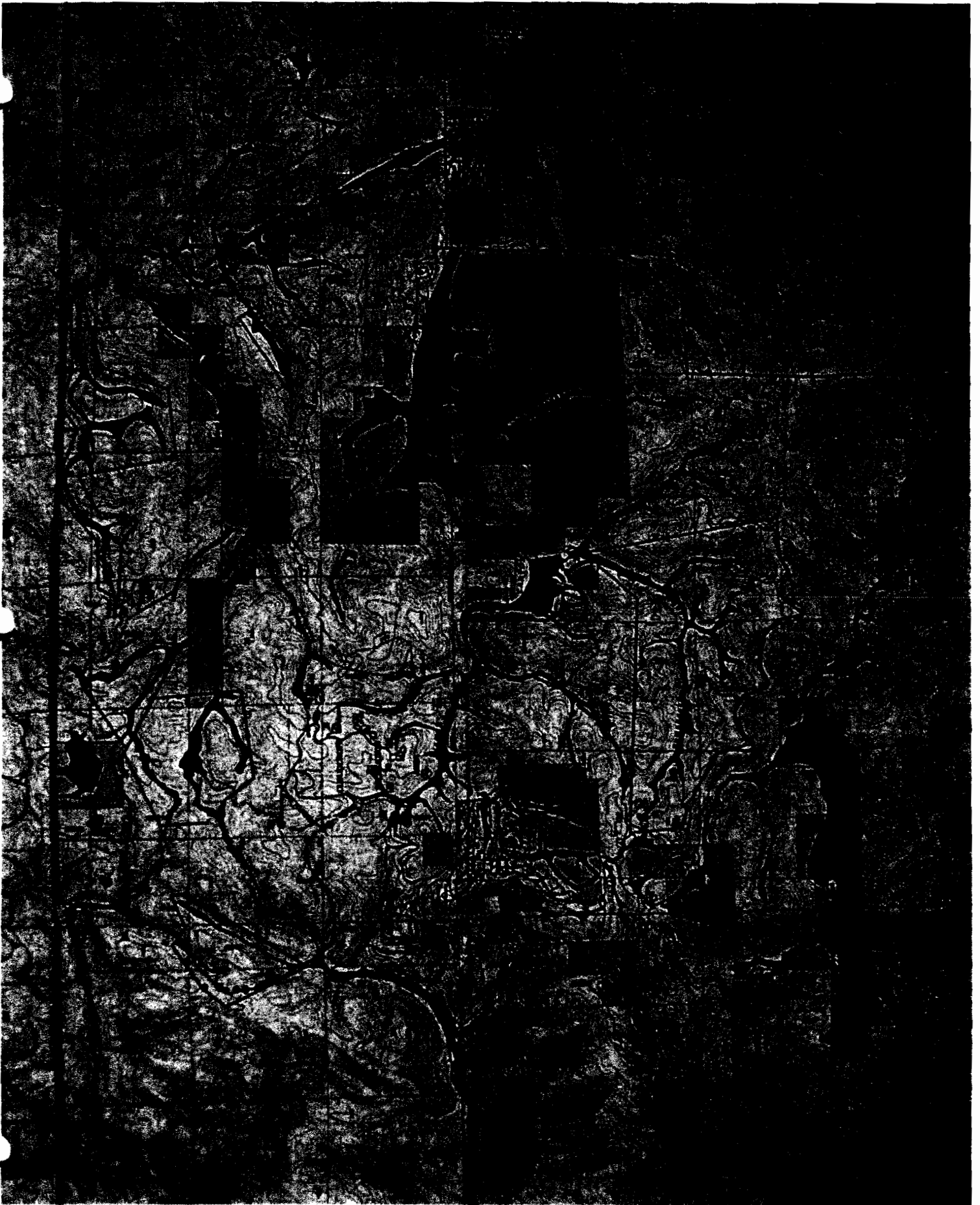
Clarissa McGinn, Chairperson

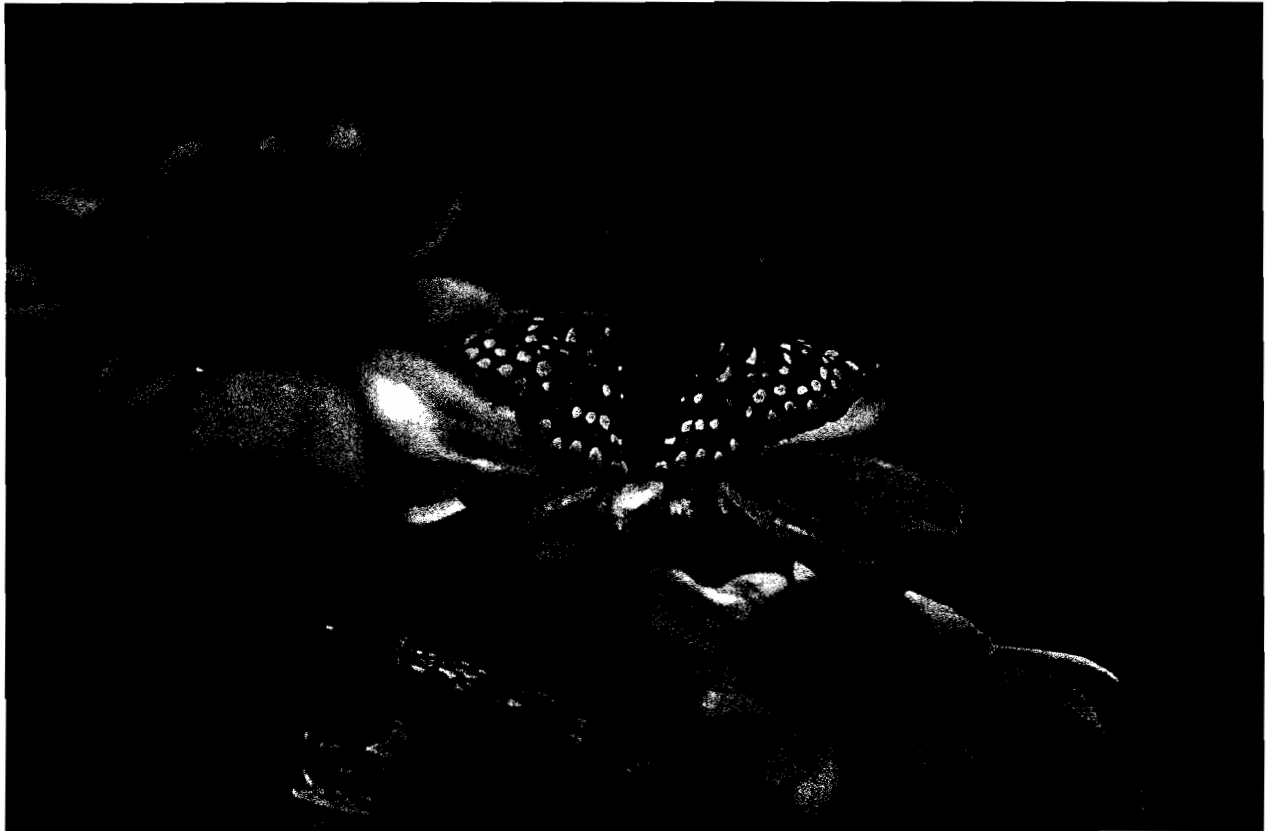


Doug Moore, Vice-chairperson



Michael Nivison, Member





Guidance for conducting surveys to document the presence of the Sacramento Mountains checkerspot butterfly (*Euphydryas anicia cloudcrofti*)

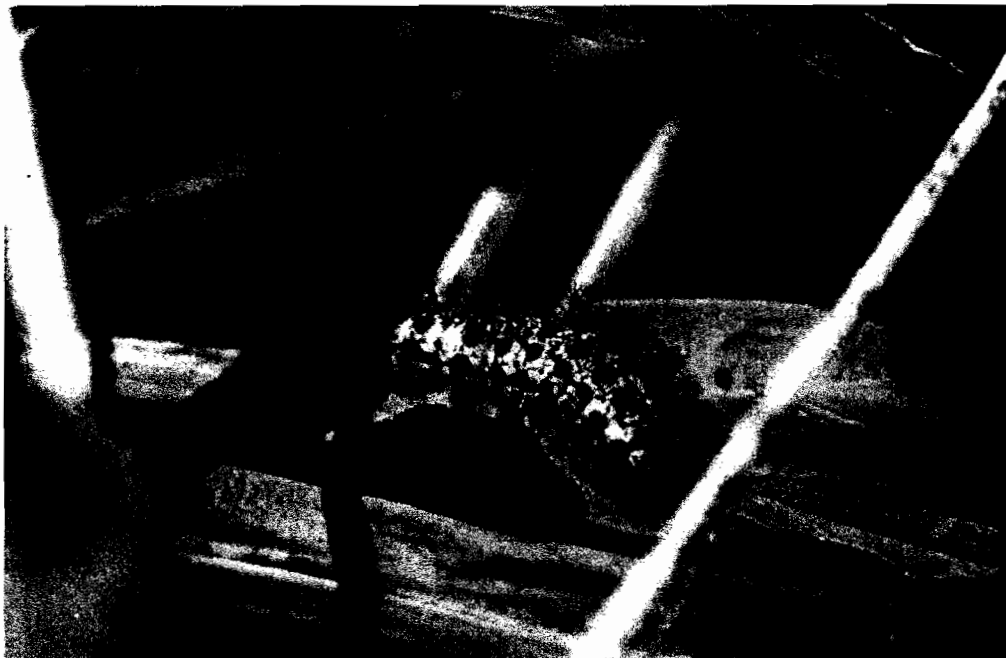


EXHIBIT "B"

On September 6, 2001, the U.S. Fish and Wildlife Service (Service), proposed to list the Sacramento Mountains checkerspot butterfly (*Euphydryas anicia cloudcrofti*) as endangered with critical habitat under the authority of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). This species is restricted to meadows within the mixed-conifer forest at approximate elevations between 8,000 to 9,000 feet in the vicinity of the Village of Cloudcroft, Otero County, New Mexico. The species is threatened by destruction and fragmentation of habitat from private and commercial development, habitat degradation and loss of host plants from grazing, encroachment of conifers and nonnative vegetation into non-forested openings, over collection, and, due to its limited range, vulnerability to local extirpations from extreme weather events or catastrophic wildfire including fire suppression activities.

Adult butterflies apparently lay their eggs on New Mexico penstemon (*Penstemon neomexicanus*) the known larval host plant. After hatching, larvae feed on New Mexico penstemon and, during the 4th or 5th instar (the period between molts in the larval stage of the butterfly), enter an obligatory and extended diapause (maintaining a state of extended inactivity), generally as the food plants die back in the fall from freezing. Some larvae may remain in diapause for more than one year, depending on environmental conditions. During diapause, larvae probably remain in leaf or grass litter near the base of shrubs, under the bark of conifers, or in the loose soils associated with pocket gopher (*Thomomys bottae*) mounds. Once larvae break diapause, they feed on New Mexico penstemon and, in some areas valerian (*Valeriana edulis*), and grow through three or four more instars before pupating (entering the inactive stage within a chrysalis) and emerging as adults. Diapause is generally broken in late spring (March-April) and adults emerge in mid-summer (June-July).

SURVEY TECHNIQUES

- Recommended equipment includes: binoculars, wind meter, thermometer, and a camera with close focus telephoto or macro lens. A GPS unit is also useful.
- Survey carefully to avoid trampling or otherwise harming checkerspot larvae and butterflies. New Mexico penstemon and valerian are the checkerspot's primary larval host plants. The adult butterfly is often found in association with the larval host plants, and adult nectar sources such as sneezeweed (*Helenium hoopesii*). Other plants that have been documented in butterfly habitat include: arrowleaf groundsel (*Senecia triangularis*), curly-cup gumplant (*Grindelia squarrosa*), figworts (*Scrophularia* sp.), penstemon (*Penstemon* sp.), skyrocket (*Ipomopsis aggregata*), milkweed (*Asclepias* sp.), Arizona rose (*Rosa woodsii*), and Wheeler's wallflower (*Erysimum capitatum*).
- Care should be taken to avoid stepping on host plants, whether occurring singly, in small patches, or in dense stands. Female checkerspots often select lone plants found on bare soil (e.g., pocket gopher mounds) or in open areas for depositing their eggs.
- Walk slowly and stop periodically within areas that have an especially high potential for

checkerspot use, such as patches of host plants or nectar sources.

- Stop occasionally to look around—surveyors standing still are more likely to see a moving butterfly. Use binoculars to scan the area ahead and around you, and to help identify butterflies from a distance.
- Follow the movements of other butterflies. Some checkerspot males are aggressive, can spot other butterflies from a distance, and will chase them away. If a checkerspot is resting with wings closed, they can be very difficult to notice until another butterfly flies by and they give chase.

This animal may be exceedingly difficult to detect under some circumstances (e.g., low density populations, non-optimal weather); therefore, we recommend maximizing detection probabilities for the Sacramento Mountains Checkerspot butterfly by the following:

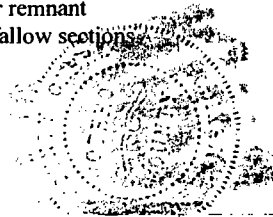
- The probability of detecting some populations (e.g., <10 individuals) may be extremely low, with only 1 or 2 surveys. Therefore, a maximum amount of survey effort should be concentrated on specific high potential locations (i.e., meadows containing larval host plants and/or nectar sources) throughout the flight season. These specific locations should be visited at regular intervals during the flight season, rather than surveyed once or occasionally during the flight season.
- Surveys should be directed toward observing and identifying Sacramento Mountains Checkerspot butterflies. Butterfly surveys should not be incidental or conducted in conjunction with other non-butterfly species (e.g., bird surveys) or during general biological (i.e., reconnaissance) surveys.
- The amount of acres surveyed per hour should be limited, by either increasing the number of people conducting surveys at a site or decreasing the area surveyed per person. A threshold for survey rate should be established to limit the amount of habitat that can be adequately surveyed (e.g., 12.5 acres/hr or 100 acres in a day).
- Surveys should not be conducted during poor weather conditions (i.e., precipitation, less than 65°F, winds >5 mph), because flight activity Sacramento Mountains Checkerspot butterflies will be severely restricted, thus reducing detection probabilities.
- Regardless of the number of surveys conducted in a given area, some Sacramento Mountains Checkerspot butterfly populations (e.g., low density) may not be detected on a given year, indicating that one flight season may not be adequate to document presence/absence. Multi-year (i.e., >1 year) butterfly surveys, could increase the detection of low density populations, document natural population fluctuations (e.g., dry and wet years), and increase the strength of inferences regarding those populations.

Sacramento Mountains checkerspot butterfly surveys

- An experienced person is more likely to observe and correctly identify a target species than a non-experienced or minimally-experienced person. Therefore, all people surveying for the Sacramento Mountains Checkerspot butterfly should be trained in the proper identification of the Sacramento Mountains Checkerspot butterfly and sympatric species. Personnel who conduct these surveys should also be trained to identify the early instars and post-diapause larvae of the Sacramento Mountains Checkerspot butterfly and its known host plants.
- Although it is extremely difficult to locate and identify early instar and post-diapause larvae of Sacramento Mountains Checkerspot butterfly, methods should be investigated to conduct and refine surveys for larvae. Surveys for early instar and post-diapause larvae may increase the probability of detection by increasing the survey length (i.e., survey pre and post-adult flight season) and reducing the survey difficulties associated with non-optimal weather conditions. However, the successful location and identification of larvae likely will likely require highly-experienced personnel.
- The development of data forms may be useful to collect consistent information. If data forms are used, surveyors should be instructed on the proper terms to use and forms should be proofed daily to assure they all records are completed.
- Some checkerspot butterflies may be found under less than optimal habitat conditions. Therefore, potentially suitable habitat can be difficult to categorize; surveys should be conducted in meadows that contain larval or adult plants and are within the elevational window (i.e., generally between 8,000 to 9,000 feet elevation).
- Personnel conducting surveys should use binoculars to determine butterfly species. Cameras should also be used to positively document presence of larvae and adult Sacramento Mountains Checkerspot Butterflies and verify questionable or unknown species.
- It would be useful to document areas that are surveyed using a global positioning system. This would assist in gathering and displaying accurate data for the Sacramento Mountains Checkerspot Butterfly surveys.

The following areas are not recommended for checkerspot surveys:

- meadows with existing features and structures, such as buildings, roads, residential landscaping (e.g., mowed nonnative ornamental grasses), ponds, wetlands (i.e., a lowland area that is permanently saturated with water), forests, and other features, do not contain, and are not likely to develop, suitable habitat.
- Active/in-use agricultural fields or livestock pens without natural or remnant inclusions of native vegetation (i.e., fields completely without any fallow sections, unplowed areas, or are devoid of native vegetation); and
- Closed-canopy forests or riparian areas



STATE OF NEW MEXICO, County of Otero, ss, Filed for record in my office this 1st
 day of August, 2005, at 9:15 O'clock AM, and duly recorded in Book 4
 Page 37 of the Records of said county. Robin Selva by Christine Nunez
 48 County Clerk Deputy 8617

