February 3, 2010

MEMORANDUM

TO: **S.B. 513 Working Group Members**

FROM: Debra Nudelman and Peter Harkema, Kearns & West

SUBJECT: S.B. 513 Working Group – January 27 Meeting Action Items

Thank you for your participation and efforts at the S.B. 513 Working Group meeting held January 27, 2010 at the Oregon Department of State Lands offices in Salem, Oregon. This memo includes the upcoming meeting dates, agreed-upon action items, and flipchart notes.

Upcoming Meeting Dates	Who	Location
• February 17, 2010	Working Group	Salem, State Lands Bldg.
• March 25, 2010		Aurora, OSU North Willamette Ext. Center
• April 21, 2010		Salem, State Lands Bldg.
• May 27, 2010		Aurora, OSU North Willamette Ext. Center
• July 21, 2010		Salem, Dept. of Forestry
• September 2, 2010		Salem, Dept. of Forestry
• October 20, 2010		Portland, TBD
• March 2, 2010		Portland, Perkins Coie Ofcs.
• July 29, 2010	Ad Hoc Group	Salem, State Lands Bldg.

Action Items	Who	When
1. <u>Information follow up</u> • Develop and distribute action items and meeting summary	OWEB/K&W	By cob, February 2
2. <u>Draft Vision Statement</u> • Submit suggested edits and revisions by "reply all" email	Working Group members	By cob, February 3
• Work to develop revised draft vision statement	Cathy, Meta, Ruben, David P., Mike W., Sally (lead)	In advance of February 17 meeting
• Distribute revised draft vision statement for group consideration	Renee	In advance of February 17 meeting

Action Items	Who	When
3. Funding • Work in conjunction with Counting on the Environment Coordinating Team to consider issues	Interested Working Group members	For March/April meetings
4. Regulatory Impediments, Challenges, and Omissions • Identify and submit list of regulatory impediments, challenges, and omissions	Agency Working Group members	Strive for in advance of March 25 meeting
5. Case Studies • Follow up with David and Ken to determine interest in developing a voluntary market case study • Work to develop an outcomes based approach case study	Renee Cathy	In advance of February 17 meeting In advance of February 17 meeting
6. Overarching Ecological, Economic and Integration Goals • Develop ideas for this section and submit to Renee	Cathy, Sara, Meta	In advance of February 17 meeting

Bin List

• Service area – tension of regulatory agencies wanting it small, others want it as large as possible
• Use an example to see what is blocking success – discuss how to overcome/fix
  • Potential examples:
  o Oregon water quality
  o Checker Mallow conservation bank
  o Wetland and ESA credits on same property
  o Comingling of funds
  o Oregon wind farm markets in California
  o Transportation project
• Social network mapping to determine who is good at and wants to do what, linkages, and barriers to where you want to go

Meeting Documents

The following documents were distributed at this meeting:

- Proposed Agenda SB513 Working Group 1.27.10 Meeting
- Action Items Memo – SB 513 Working Group 12.3.09 Meeting
- INR WG 513 Framework Report Outline
- Draft Vision Statement, SB 513 Working Group
- Suggested revisions to the Vision Statement – McMaster
- Revised Draft Vision Statement, SB 513 Working Group
- Potential Policy Issues to be Addressed by 513 Working Group
- Case Studies Policy Issues
- Case Studies Worksheet
- Vernal Pool Mitigation Case Study
- Camas Wetlands Conservation Case Study
- Gales Creek Multi Credit Case Study
- Willamette Temperature TMDL Case Study
- Willamette Temperature Illustrative Case Study
- SB 513 Ecosystem Services Markets Contact List

Copies of these documents can be obtained by contacting Kearns & West

Flipchart Notes:

Potential Policy Issues to be Addressed by 513 Working Group

I. Overarching ecological, economic and integration goals
- Outcomes based approach
- Integrating existing plans and strategy (e.g. conservation strategy)

II. Agency processes and interactions
- Inter-agency standards and guidelines
- Enabling legislation needs to remain broad for agency discretion
- Crediting preservation
- Expedited process with "elevation" criteria [Allow for flexibility by incorporating appropriate staff, including senior staff]
- Expedited approval process for multi-credit banks
- Expedited approval process for specific cases

III. Public/private financing issues
- Spatial separation of funding sources
- Co-mingling public/private funding (conservation/mitigation +)
- Risk management/underwriting
- How might public funds be used to stimulate the market?

IV. Private and government roles in developing standards, methodologies, metrics and tools
- Approaches to multi-crediting stacking vs. bundling vs. other approach
- Standards for biological criteria
- Develop policies and approaches that improve the system for all parties
- Legal framework for trading
- Government agencies as bankers?
- Baseline assessment protocols
- Requiring use of credit registry

Funding

- March/April meetings – report to group on issues/barriers to "use of conservation funding in mitigation banking, including discussion of conservation easements
- Consider working in conjunction with Counting on the Environment Coordinating Team

Information Request

- Interest in better understanding regulatory impediments, challenges, and omissions that exist and need to be overcome

Meeting Summary

Working Group Members: Mikki Collins (for Paul Henson, US Fish and Wildlife Service), Brent Davies (Ecotrust), Bill Boggess (OSU), Catherine Macdonald (The Nature Conservancy), Kendra Smith (Bonneville Environmental Foundation), David Ford and Ken Faulk (Oregon Small Woodlands Association), Meta Loftsgaarden (Natural Resources Conservation Service), Bob Deal, US Forest Service, Louise Solliday (OR Department of State Lands), Ruben Ochoa (OR Water Resources Department), Sara Vickerman (Defenders of Wildlife), Bobby Cochran (CleanWater Services), Damon Hess (Parametrix), Hal Gard (OR Department of Transportation), Ranei Nomura (OR Department of Environmental Quality), Jim Cathcart (OR Department of Forestry), Mike Wilson (Grand Ronde Tribes), Sally Duncan (Institute for Natural Resources), Kemper McMaster (Wildlands, Inc.), Jon Germond (OR Department of Fish and Wildlife), Chris Jarmer (Oregon Forest Industries Council), Tom Byler (OR Watershed Enhancement Board), Ray Jaindl (OR Department of Agriculture), David Primozich (Willamette Partnership), Rick Glick (Davis Wright Tremaine)

Staff/Other Attendees: Turner Odell (Oregon Consensus), Renee Davis-Born (OWEB), Devin Judge-Lord (Willamette Partnership), David Wade, Bill Abadie (Corps of Engineers), Dan Rohlf (Lewis and Clark Law School), David Hammer (EPA Corvallis)

Facilitation Team: Debra Nudelman and Peter Harkema, Kearns & West

Deb Nudelman welcomed the group, thanked everyone for attending, and invited participants to introduce themselves. Renee Davis-Born updated the group about Working Group membership following discussions at the 12/3/09 meeting. To address the need for better participation by landowners, the Project Team added David Ford from the Oregon Small Woodlands Association and Katie Fast from the Oregon Farm Bureau to the group. Regarding Federal agency partnerships, she reminded the group that a representative from EPA serves on the Ad Hoc Group. Renee noted that OWEB staff have initiated discussions with staff from the Army Corps of Engineers and NOAA Fisheries, along with the Network of Oregon Watershed Councils, to ensure they are aware of progress of the Working Group and have an opportunity to provide input. The Project Team will consider if any other members should be added and expect that the case-study discussions will inform this decision.

Deb briefly reviewed process principles for the meeting, then walked through the agenda. She noted that the vision statement is intended to capture the group's intent at the "spirit" level. Discussion of case studies will begin today and will continue at the February meeting. These studies will help the group identify challenges currently facing the development of integrated ecosystem services markets, thus enabling the group to determine the key topics and issues they should address.

Sally Duncan began a review of draft products that resulted from the 12/3/09 meeting. She walked through the Report Framework, which gives members a sense of how the group's report to the Sustainability Board and, ultimately, the Legislature will be structured. The report will accentuate the positive progress that has been made regarding an ecosystem marketplace, address issues that are problematic and/or useful tools that are lacking, and make recommendations about how to improve the current situation through legislative, administrative or business/private sector solutions. Sally then discussed the vision statement that resulted from the group discussion on 12/3, describing that it attempts to integrate the diversity of member comments into a single, relatively short document. The intent of the vision statement and associated principles is to ground the group's work during the coming months so that the policy issues being deliberated will help achieve the vision articulated by the group. Kemper McMaster asked if the vision statement adequately reflects that the marketplace be useful to the business sector, and suggested that the statement is too ecologically focused. The Working Group then had a healthy discussion about possible revisions that could improve the vision statement, such as:

- Adding context about existing financing tools for conservation and describing the marketplace as one such tool
- Focusing less on restoration and more on habitat improvements
- Expanding the statement to address broader mechanisms, such as payments for ecosystem services
- Providing background about the value of ecosystem services to the public

Several members offered to assist Sally in revising the vision statement. Deb noted that the group will revisit this issue at the next meeting, but will not devote substantial, additional time to this issue.

Renee Davis-Born referred the group to the draft list of potential policy issues that the Working Group eventually will prioritize for its work plan. This document is a consolidation of the laundry list of issues that the group reviewed at the December meeting, with a focus on four main thematic areas: 1) overarching goals, 2) agency processes, 3) financing issues, and 4) government and private sector roles in market structure. Renee asked that, during the case study process, members refer to this list to determine if there are issues that repeatedly arise as being problematic. This information can be used to prioritize which issues may require additional policy analysis by INR and focus by the Working Group to recommend approaches to overcome key impediments to development of integrated ecosystem services markets in Oregon. Deb noted that the group will not decide upon priority policy issues until the February meeting.

Deb then introduced the case-study discussion. Five case studies authored by Working Group members were offered for consideration at the meeting. Deb indicated that case studies can be especially illustrative to address process issues, communication/relationship issues, and substantive/content issues that are creating impediments to forward progress. Two documents—a Case Studies Worksheet and a matrix of policy issues addressed by each case study—were circulated to group members for their use and reference during the discussion. Hal Gard provided a brief overview of the Vernal Pool Mitigation study; Kemper McMaster for the Camas Wetland and Conservation Bank study; Bobby Cochran for the Gales Creek project; and Ranei Nomura and David Primozich for the Willamette Temperature TMDL study.

Following discussion of all case studies, the Project Team summarized the key issues/impediments and possible solutions for these that emerged collectively from the case studies. The group reviewed this collection of issues and suggested a few additions, which are reflected in the following list.

I. Overarching ecological, economic and integration goals
- Outcomes based approach
- Integrating existing plans and strategy (e.g. conservation strategy)

II. Agency processes and interactions
- Inter-agency standards and guidelines
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The issue of co-mingling of public and private funding sources was of particular interest to the group. David Primozich noted that the Coordinating Committee for the Willamette Partnership's Counting on the Environment process is focusing on this issue, and could provide an update to the Working Group about their efforts. The group recommended a policy discussion about funding issues for either the March or April meeting.

A brief discussion of work products to be provided by INR followed. At the February meeting, the group will receive a revised version of the vision statement that reflects today's discussion. INR staff also will develop a draft overview of best practices related to what is working well in ecosystem services markets. This document will draw on the case studies offered by Working Group members, and other experiences in Oregon, the U.S., and internationally. The group discussed the need for a review of enabling legislation, statutes, and agency regulations to identify impediments to development of integrated markets, and determined that this review should be completed following review of the remaining case studies and decisions about prioritized policy issues. Additional policy analysis that may be needed from INR will be decided at the February meeting.

Deb reviewed the proposed agenda items to be covered at the February meeting. Renee noted that she would contact group members who had planned or offered to submit case studies for February to determine if these examples would elucidate additional policy issues not addressed in today's discussion.