

STAFF REPORT

Agenda Item No.:	8
Work Plan:	State Forests
Topic:	State Forests Management
Presentation Title:	State Forests HCP Update: Draft HCP Public Comment Summary and Timeline Update
Date of Presentation:	September 7, 2022
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CONTEXT

The Public Draft Habitat Conservation Plan (HCP) is a continuation of work at the direction of the Board to pursue programmatic solutions to Endangered Species Act (ESA) compliance and stability of harvest levels over a long-term planning horizon. The State Forests Division (Division) has had a Strategic Initiative for improvements to ESA compliance beginning in 2015, and the work to develop an HCP began in earnest with the application of a grant to support development of the HCP in March 2017. The Board directed the Division to move forward with the HCP project in November 2017. The Division has successfully implemented two programmatic ESA compliance approaches to-date.

- Safe Harbor Agreement for northern spotted owls on the Western Lane District associated with barred owl removal experiments, and
- Candidate Conservation Agreement with Assurances for Pacific fisher.

The HCP represents the largest effort yet, designed to provide long-term certainty associated with 17 species of fish and wildlife across all the lands that the Division manages west of the crest of the Cascades.

In October 2020, the Board of Forestry (Board) directed the Division to complete the National Environmental Policy Act (NEPA) process for a possible HCP for Western Oregon State Forests as a method to comply with the ESA, while allowing for operational certainty over a 70-year permit term. NOAA Fisheries – the NEPA Lead Agency – in coordination with the US Fish and Wildlife Service (USFWS) completed the first phase of the NEPA process (Public Scoping) in spring 2021. NOAA Fisheries and USFWS (Services) launched the second phase by publishing the Notice of Availability of the Draft Environmental Impact Statement (DEIS) and the Public Draft HCP in the *Federal Register*, dated March 18, 2022. It was anticipated that the NEPA process would be completed by March 2023 in order to comply with NOAA’s requirement to complete the NEPA process in two years. However, NOAA requested, and was granted, an extension to accommodate their internal review process (Attachment 1). This extension is solely for review of the Final Environmental Impact Statement (FEIS) based on the HCP as written, so any further modifications to the HCP would further extend the timeline.

The federal NEPA process and associated EIS (including any changes to the due to public comment or modifications to the HCP) are the responsibility of the federal agencies. ODF provides support in this process to help clarify current practices and the commitments in the HCP, and provide data requested by the federal agencies; however, ODF may not make changes to the EIS. As the applicant, ODF is responsible for producing an HCP that meets Greatest Permanent Value and has a high probability of meeting incidental take permit issuance criteria.

In May 2022, the Board held a special meeting to receive more information on the DEIS and work directly with the Services to get clarity on the intent, methodology, and outcomes of the analysis. The meeting also included a facilitated discussion between the Forest Trust Land Advisory Committee (FTLAC) and the Board of Forestry. The Division invited the public to provide written testimony to the Board of Forestry on this topic. Please note that this testimony is separate from the NEPA public comment process.

BACKGROUND AND ANALYSIS

The National Environmental Policy Act requires that federal agencies consider the potential effects of their actions on the human environment. The DEIS evaluates the broad environmental consequences of the Services' potential issuance of incidental take permits (ITPs) associated with the Western Oregon State Forests HCP. The permits, if issued, would authorize take of the covered species that may occur incidental to ODF's otherwise legal forest management activities. The DEIS presents effects of the proposed HCP and four alternatives on geology and soils, water resources, vegetation, fish and wildlife, air quality, aesthetics, recreation, cultural resources, Tribal resources, socioeconomics and environmental justice, and greenhouse gas emissions and carbon storage.

Public Comment Summary

The DEIS is a federal action that launched a 60-day public comment period (March 18 to May 17, 2022) for the DEIS and the Public Draft HCP. An extension to the comment period was requested and approved by the Services with a final deadline of June 1, 2022. A public hearing was held on April 6, 2022, to provide an overview of the HCP and the DEIS, and to receive public comment. All public comment on the DEIS and the Public Draft HCP was accepted on [NOAA Fisheries website](#) and is available for public viewing. The Services and the NEPA consulting team are responsible for responding to all public comment on the DEIS, which can come in the form of updates to the document itself as well as direct responses to the comments to be included in the FEIS.

The Services are also working with ODF to provide responses to public comment on the Public Draft HCP. The majority of comments stated that more detail was needed on components of the terrestrial and aquatic conservation actions, monitoring plans, and potential impacts from covered activities (Attachment 2; N.B.: the summary contains a sampling of only the most relevant comments). Comments also included landscape resiliency and potential impacts from climate change and wildfire. ODF is working with the Scoping Team to integrate more detailed language into the final draft HCP in response to these comments. The Final Draft HCP will also include more references linking conservation actions to the science, methodology, and data used to support them.

Some comments articulate the concern that harvest levels with an HCP would be significantly different than projected harvest levels associated with the current Forest Management Plan. We estimate the Draft HCP would result in an average harvest of 225 million board feet per year for 70 years. This is similar to ODF's current planned annual harvest objective overall for districts within the HCP permit area, although it will be distributed differently. This, coupled with the certainty in harvest levels over time ensures that State Forests will continue to provide the economic, social and conservation benefits articulated in GPV.

NEPA FEIS

The FEIS will include a description of the public review and comment period and a summary of updates between draft and FEIS. The Notice of Availability of the FEIS and final HCP will be published in the *Federal Register*. Publication launches a 30-day waiting period during which comments may be submitted on the FEIS. These comments will be reviewed by the Services, but no response is required. The agency decision document (Record of Decision or ROD) will be published after this 30-day period and prior to the permit decision. The Division will request Board direction to implement the HCP and Incidental Take Permits in September 2023.

The Division has worked collaboratively with the Services and State agencies (Department of Fish and Wildlife, Department of Environmental Quality, and Department of State Lands) for over five years to integrate a diversity of technical and policy expertise to develop the HCP conservation actions designed to protect covered species. In addition to this collaborative process, the Division has implemented a transparent and inclusive public engagement process to integrate a diversity of perspectives in the HCP. Because of this rigorous and inclusive process, the Division is confident that the HCP is a sound approach to ESA compliance, and provides an appropriate blend of the environmental, economic, and social outcomes articulated in the Greatest Permanent Value mandate. The HCP provides high-quality habitat and durable conservation commitments for the covered species and ensures operational certainty and stability for management activities over the 70-year permit term.

RECOMMENDATION

Information only.

NEXT STEPS

Over the next several months, the Division will:

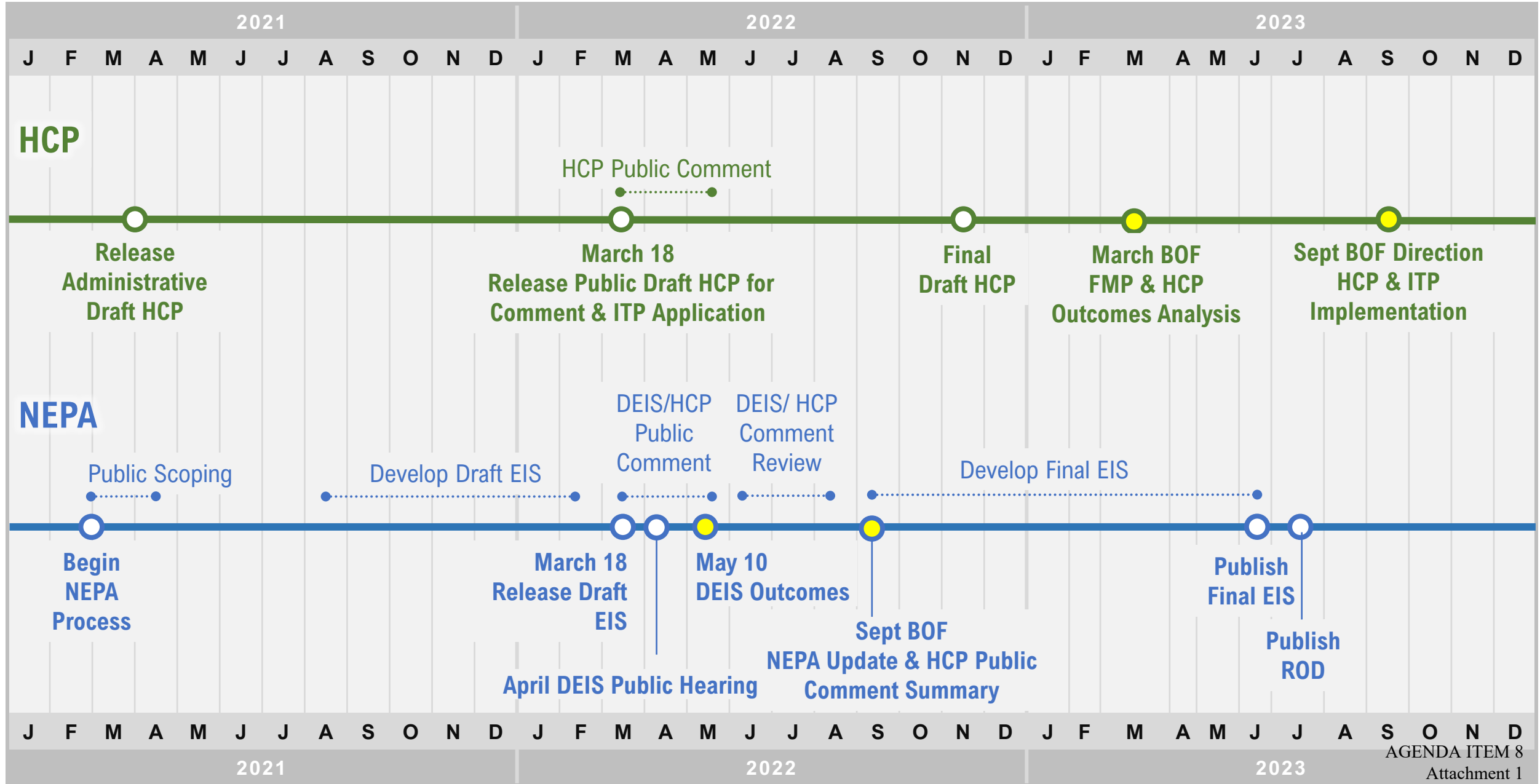
- Provide the Draft FMP and the anticipated modeled outcomes from FMP and HCP implementation to the Board in March 2023.
- Complete the NEPA process in July 2023.
- Receive Board direction on whether to implement the HCP and the terms of the Incidental Take Permits in September 2023.
- Continue engaging with our state and federal partner agencies, as well as, the county partners, Tribes, interested stakeholders and members of the public on the HCP and draft FMP and Implementation Plan development projects.

ATTACHMENTS

1. Working FMP – HCP – NEPA Timeline
2. Summary of HCP Public Comments

Working HCP – NEPA Timeline

● BOF Presentation / Decision



Western Oregon State Forests HCP Summary of Public Comments and Responses

Category	Comment	Response
Process	Input from local communities, cities, taxing districts, and counties was not adequately considered during HCP development.	During the development of the HCP, ODF hosted public informational meetings prior to each BOF meeting to provide an opportunity for the counties, Tribes, public, stakeholders, department staff, and consultants to share feedback, provide information regarding HCP development, and explore ideas for improvement. Follow-up meetings with these entities were also scheduled upon request to further discuss the information presented during the meetings open to the public and to provide more detail on the components of the HCP. See Appendix B, Stakeholder Engagement, for a summary of stakeholder and public engagement efforts, including the stakeholder and public engagement approach, goals, and activities.
Process	Comments stated that the permit term was too long due to the number of uncertainties, including climate change.	As described on page 1-7 of the Public Draft HCP, the 70-year term was selected to allow enough time to achieve habitat commitments, while having confidence in the modeled data to support projected habitat and harvest outcomes. Seventy years also provides certainty in our harvest levels and stability for local economies. Chapter 6, Monitoring and Adaptive Management, is being updated to provide greater detail describing how the permittee will work with the Services to respond to new information or changing conditions.
Process	Comments included questions about the rationale used to select covered species for inclusion in the HCP.	The Scoping Team used species selection criteria that included the likelihood of species listing, range of the species on State Forests, and data adequate to support conservation actions, as described on page 1-8 of the Public Draft HCP.
Content	Comments included questions regarding RCAs, including allowed management activities, adequacy of proposed conservation strategy to avoid potential temperature increases, and alignment with the Private Forest Accord (PFA).	No harvest or thinning will occur within the RCAs (Public Draft HCP, page 4-36). An analysis of scientific literature that supports the RCA buffer widths is included in Appendix E 'Riparian Conservation Area and Temperature Protection'. Chapter 7, Section 7.3.3, includes measures that will be implemented in response to stream temperature changes to maintain habitat quality for the covered species. The PFA legislation recognizes that non-federal lands that have their own HCP are exempt from the PFA standards.
Content	Some comments requested additional information regarding how existing northern spotted owl and marbled murrelet habitat will be protected and effects mitigated, including barred owl management. Other comments requested that surveys be conducted to ensure all suitable habitat is included in HCAs.	Clarifying language has been added to Chapter 4 to better articulate barred owl management commitments. As described in Chapter 5 of the Public Draft HCP, take was avoided and minimized by assigning the best contiguous habitat to protections within HCAs. The HCP is intended to obtain incidental take authorization under ESA, and some take was allowed for northern spotted owl, marbled murrelet, and other terrestrial species, where such take was deemed appropriate and practicable for achieving the greatest permanent value of state forest lands.
Content	Comments requested that pre-disturbance surveys be added to the HCP to document red tree vole distribution and habitat occupancy. Information was inadequate to quantify effects to red tree voles from habitat fragmentation.	Chapter 4 describes HCP commitments (Conservation Action 6: <i>Establish Habitat Conservation Areas</i> and Conservation Action 7: <i>Manage Habitat Conservation Areas</i>) that are projected to result in habitat growth and improvement that will outpace losses, with total habitat increasing over time (Public Draft HCP page 5-93). As described on page 6-38 of the Public Draft HCP, red tree vole impacts will be identified and tracked during HCP implementation primarily through established habitat suitability modeling and associated LiDAR and stand data. Habitat Validation Monitoring will not occur until later in the permit term – beginning in year 20 -- to assess red tree vole nesting activity in the permit area.
Content	Comments included concerns about the extent of future road networks and recreation infrastructure and associated maintenance costs.	ODF has worked with the Scoping Team to better characterize future road and recreation trail development over the course of the permit term. Chapter 3 of the Final HCP will include updated values for the average miles of roads and trails to be constructed over the course of the permit term. The miles of roads decreased from 25.5 to 19.5 miles. The scope of funding considerations in an HCP is limited to assurances required for HCPs and associated incidental take permits. Funding assurances for the HCP is addressed in Public Draft HCP, Section 9.4.2, Funding Assurances
Content	Comments included concerns regarding wildfire and whether the HCP adequately addresses the future fire environment within the permit area.	Chapter 7.3.3.2 addresses wildfire as a changed circumstance and on how the HCP will be responsive to that could occur over the permit term.
Outcomes	Comments included concerns about significant reduction in harvest levels and associated economic impacts to local communities, as well as ODF's fiscal capabilities to implement the HCP.	The HCP is intended to improve operational certainty and associated economic outcomes over time. We estimate the Draft HCP would result in an average harvest of 225 million board feet per year for 70 years. This is similar to ODF's current planned annual harvest objective overall for districts within the HCP permit area, although it will be distributed differently.
Outcomes	Comments included requests to add carbon sequestration and storage to the Climate Change and Carbon plan for added protections to listed species and HCA and RCAs.	The HCP is a Section 10 process to address compliance with the ESA. Carbon sequestration and storage may occur as a result of HCP implementation. Carbon sequestration and storage are included as part of the Forest Management Plan.