

Agenda Item No.:	6
Work Plan:	State Forests Work Plan: Safe Harbor Agreement
Topic:	State Forest Management
Presentation Title:	ESA Update: State Forests Safe Harbor Agreement and possible Candidate Conservation Agreement with Assurances for fisher.
Date of Presentation:	November 2, 2016
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SUMMARY

The purpose of this agenda item is to update the Board of two ongoing projects with the U.S. Fish and Wildlife Service (Service): 1) a Safe Harbor Agreement; and 2) a possible Candidate Conservation Agreement with Assurances (CCAA) for fisher.

Context

The State Forests Division has been engaged in two projects with the U.S. Fish and Wildlife Service: a Safe Harbor Agreement and a Candidate Conservation Agreement with Assurances. The Division last updated the Board on these topics in April 2016.

Safe Harbor Agreement

As part of the Northern Spotted Owl Recovery Plan, the U.S. Fish and Wildlife Service (Service) is implementing a research project on barred owl removal. One of the possible outcomes of barred owl removal is an increase in the number of northern spotted owl sites. ODF State Forests Division and the Service have completed the development of a Safe Harbor Agreement, a tool to protect the interests of the state, while participating in the research project.

The Service listed the Northern Spotted Owl as threatened in 1992. The Service developed and approved a Recovery Plan for the owl in 2008, and revised it in 2011. One of the Service's strategies to address the threat to northern spotted owls from barred owls is *Recovery Action 29: "Design and Implement large scale control experiments to assess the effects of barred owl removal on spotted owl site occupancy, reproduction, and survival"*.

To implement this recovery action, a research project is underway to determine effects of barred owl removal on spotted owls. The general hypothesis is that once barred owls are removed from an area, spotted owls in the treatment area will do better than those in the control area. This is not an operational barred owl removal program – it is a research study. There are two study areas in Oregon: Coast Range (near Veneta) and Klamath/Union/Myrtle (located near Glendale). Both study sites include a mix of federal, state, and private lands. The project timeline for these Oregon study sites is from 2015 to 2019.

The Coast Range research site for the study includes ODF Western Lane lands within the treatment area; the Union/Myrtle site includes ODF Southwest Oregon lands in the control area. ODF granted permission for access for the purposes of surveying in 2015 and began

negotiations with the Service on a Safe Harbor Agreement. The Safe Harbor Agreement is a mechanism whereby ODF receives formal assurances that the Service will not require additional protection measures should the listed species occur on or near enrolled ODF lands as a result of the barred owl removal project.

Division staff has worked closely with the Service to develop the SHA. ODF reviewed the agreement with the Department of Justice. The draft Safe Harbor Agreement was published in the Federal Register, and available for public comment from March 21, 2016 through April 20, 2016. After reviewing the SHA, the Environmental Assessment, and public comments received, the Service selected the proposed action (the draft SHA), and issued a finding of “no significant impact”.

The SHA identifies “baseline” and “elevated baseline” sites. These sites are currently occupied by owls, and no incidental take is authorized. In exchange for providing access and cooperating with the research study, the Service is providing ODF with assurances that we will not be encumbered with additional regulatory requirements that may affect the management of ODF lands beyond the current baseline sites. “Non-baseline sites” have been identified. Non-baseline sites are sites that are currently not occupied by owls, but may become active as a result of barred owl removal. Under the SHA, should owls occupy these sites, the Service has issued an enhancement of survival permit that authorizes ODF take of these sites. The permit will be valid through August 31, 2025, and for sales sold before that date, until August 31, 2028. ODF determined that this agreement was in the best interests of the state – it allows the research project to continue (a contribution to recovery), while protecting the state from potential additional management encumbrances. The SHA was approved and signed by ODF and the Service in September. We are pleased to have reached this milestone, and look forward to implementation.

Candidate Conservation Agreement with Assurances – Fisher

The Pacific fisher is a cat sized member of the weasel family. In Oregon, the west coast distinct population of fisher includes the Oregon Cascades west to the coast. The fisher used to occur throughout the Coast and Cascade Ranges at lower elevations. Now it is limited to SW Oregon and near Crater Lake National Park. Currently, there are no known fisher den sites on State Forest lands.

The west coast population of the fisher was accorded federal candidate status in April 2004. In 2013, a status review was initiated to review new information and assess whether listing of the west coast distinct population segment of fisher was still warranted. In October 2014, the USFWS published a proposed rule to list the west coast population of fisher as threatened under the Endangered Species Act. On April 14, 2016 the Service issued its finding that the fisher does not require the protection of the Endangered Species Act.

In the run up to the decision whether to list, the U.S. Fish and Wildlife worked with non-federal landowners and ODFW to develop a Candidate Conservation Agreement with Assurances (CCAA). The forest industry played a leadership role in these discussions with the Service and ODFW. A CCAA is a voluntary agreement whereby landowners agree to manage their land to remove or reduce threats to a species that may become listed under the ESA. In return for beneficial management practices, enrolled landowners receive assurances that regulatory measures will not be required if the covered species is listed, as long as the CCAA remains in place and is being fully implemented. The State Forests Division reviewed the draft

CCAA and believes it is in the best interests of the state to participate. To that end, we submitted a letter to the U.S. Fish and Wildlife Service, expressing our intent to enroll Board of Forestry lands within the historic range of the fisher in the CCAA. The letter of intent is not binding. Other landowners that have submitted letters of intent include Hancock, Green Diamond, Indian Hill LLC, Murphy Timber, Port Blakely, Lone Rock, Perpetua, and Weyerhaeuser Co.

Since the decision not to list in April, the Service has been addressing other priorities. They are now ready to begin CCAA enrollment discussions. ODF will meet with USFWS staff to discuss enrollment requirements. Once these requirements are more clear, ODF will make a final decision on whether to enroll BOF lands in the CCAA.

NEXT STEPS

Safe Harbor Agreement:

- Implementation of the Safe Harbor Agreement;
- Revision of the Western Lane Implementation Plan, and aligning our internal policies.

Candidate Conservation Agreement with Assurances (CCAA):

- Discuss enrollment requirements with USFWS;
- ODF determination on whether enrolling is in the best interests of the state;
- If so, prepare enrollment package and implement.
- An update will be given to the Board on the resolution of this project.

RECOMMENDATION

Information only.