

MEETING SUMMARY

WESTERN OREGON STATE FORESTS HCP SCOPING TEAM

Tuesday, September 1, 2020, 10:00 am – 2:00 pm

By Webinar/Video Conference

ATTENDEES

Participants: Rich Szlemp (USFWS), Rod Krahmer (ODFW), Ryan Singleton (DSL), Jim Muck (NOAA Fisheries), Tere O'Rourke (NOAA Fisheries), Mike Wilson (ODF), Julie Firman (ODFW), Brian Pew (ODF), Nick Palazzotto (ODF), Josh Seeds (DEQ)

Technical Consultant and Guests: Troy Rahmig (ICF), Melissa Klungle (ICF), Corey Grinnell (ODF), Rob Lefebvre (ODF), Daren Cone (ODF)

Facilitation Team: Cindy Kolomechuk (ODF), Deb Nudelman (Kearns & West), Sylvia Ciborowski (Kearns & West)

WELCOME AND INTRODUCTIONS

Deb Nudelman, Kearns & West, welcomed members. Meeting participants introduced themselves.

Deb reviewed the agenda, which included: 1) Agency updates, 2) Conservation strategy: Aquatic topics, 3) Effects analysis, 4) Assurances and implementation, 5) Defining implementation of the Conservation Fund, 6) Confirm topics for Steering Committee (SC) update, and 7) Approach going forward, next steps, and summary.

AGENCY UPDATES AND REPORT OUT ON STEERING COMMITTEE MEETING

Members provided updates relevant to the Western Oregon State Forests HCP process:

- **Oregon Department of Forestry (ODF):** 1) The agency is busy with fire season, but also continues to devote staff time to the HCP. 2) The Governor recently nominated several Board of Forestry (BOF) appointees as three seats are currently vacant. These appointees will likely be voted into the BOF in September. The new members would start the day after the October BOF meeting, so the decision on whether to complete the HCP, including moving it into the HCP into National Environmental Policy Act (NEPA) process would be made by the current BOF.

- **United States Fish and Wildlife Service (USFWS):** The agency will list coastal marten. The announcement will appear in the Federal Register, and the listing will become official 30 days after publication in the Federal Register.

Deb reported out on the recent SC meetings and small group meetings with federal agencies. The federal agencies have expressed interest in providing written statements of support for the HCP to the BOF, and the SC is also interested in providing a similar letter of support to the BOF. The intent is to support the HCP to date, express appreciation for the collaborative process, and convey alignment with the current draft of the HCP while acknowledging that there is still much work ahead.

Cindy Kolomechuk, ODF, reminded members that the BOF will decide whether it is in the best interest of the State to continue working on the HCP and move into the NEPA process. They will not be deciding whether they agree with the HCP itself at this point. Cindy clarified that the BOF vote will be by majority. The next update to the BOF would be following the completion of the HCP Administrative Draft, likely in the March 2021 timeframe.

Cindy also noted that the Temperature Protection Zone memo is now on the website for public consumption. The version on the website incorporates all Scoping Team (ST) comments.

CONSERVATION STRATEGY

Troy Rahmig, ICF, provided some framing on today's discussion of the conservation strategy. The two main topics on the conservation strategy for aquatic species include: 1) Road construction and management and 2) Herbicides.

1) Road Construction and Management

Troy and Daren Cone, ODF, presented on Conservation Action #11: Road Construction and Management and provided context. They also reviewed key ST comments on the road management narrative in the HCP.

Discussion

ST members discussed road construction and management and provided the following comments:

- Over the past several weeks, ST members provided several comments on Conservation Action #11. Members sought clarifications and definitions of terminology, and in response ODF provided additional documentation or guidance. The HCP team is interested in hearing from ST members on whether this is too much detail, or whether the information could be included as footnotes in the HCP.
- ST members' written comments sought clarification of the language used in contracts around when road activities can be suspended. ODF clarified that the State is authorized to suspend operations for numerous reasons. Load restrictions, precipitation considerations, and other factors are considered, with an ultimate goal to protect water

quality. Road operations can be suspended whenever water quality may be impacted. There is flexibility in how the Districts write the contracts. Troy invited members to consider what level of detail is needed around contracts in the HCP.

- Members commented that the detailed language around contracts with operators likely does not need to be in the HCP, but it would be helpful for the ST to better understand the standard contract language. ODF will provide some sample contracts from different Districts.
- ST members' written comments suggested refinement around the term "if rainy weather occurs." Troy suggested that this be defined in a footnote and invited ST input.
 - A member commented it would be preferable for the HCP to provide overall management direction and provide some flexibility to Districts on how to follow that direction. The language should include a trigger that indicates when a shutdown should occur. For example, "two inches of rainfall."
- ST members' written comments suggested refinement around the term "clearing and grubbing will be limited to the minimum needed to construct the road." ODF clarified the agency's Roads Manual has very specific guidance for different types of roads and include numerical standards for clearing and grubbing. ST members discussed the right level of detail for the HCP on this topic:
 - A member requested a copy of the agency's Roads Manual. ICF will email this to the ST.
 - Including the Roads Manual as an appendix to the HCP would be useful as well as clarifying the term "minimum needed" and what is really being asked would be helpful. ODF noted that the summary of the Roads Manual with some key points would be more appropriate since it is likely that the Roads Manual will change over the HCP permit term. The ST agreed.
 - The management direction to minimize sediment should be explicit in the HCP. The Districts would then be directed to write their road plans to follow that direction.
- ST members' written comments suggested refinement around the term "a stable site." ODF clarified that waste areas are pre-identified in any contract and reviewed by geotechnical specialist and wildlife specialist, if appropriate.
- ST members' written comments suggested clarification on what the "start of the rainy period" is. ODF clarified that the agency tries to ensure that all operators are up to date on erosion control measures as fall begins. There is not a hard date for when the rainy season begins.
- The team is continuing to work on information related to rock quarries in the chapter. ODF clarified some of the permit requirements around rock quarries on ODF lands. ODF

is not considered a quarry operation under state rules. ODF does not require that rock used be weed free but can treat noxious weeds. ODF does not have a formal program to treat noxious weeds, but does actively treat them, particularly Japanese knot weed.

- ST members' written comments also focused terminology like "where feasible" and "where practicable." Troy provided context for the language "where feasible" used in some portions of the chapter. In some cases, there may be instances where certain actions are needed, and the HCP can better define what "where feasible" means.
 - A member recognized that it may be important to include more definitions and specifics, but this could occur after the HCP is presented to the BOF in October. It is important to balance ODF's need for flexibility with assurance for the federal services that the species will be protected. It is also important to define and limit activities that impact the species, as much as possible, particularly since the permit will last for decades.
 - Another member stated that if there are some actions that cannot be clearly articulated, it might be appropriate to require a check-in with the services before proceeding with those actions. The HCP cannot predict all potential outcomes, so we recognize that there may be needed check-ins on decisions or events that cannot be anticipated.
 - If there is vagueness, USFWS may choose to include clarifying language as part of the incidental take permit.
 - The Bureau of Land Management (BLM) Resource Management Plan (RMP) uses the term "feasible" many times, but there are places where it is clarified and linked to the overall objectives for the species.
 - The project team will add additional detail to explain some of this.
 - The annual meetings throughout the HCP permit term will be good times to check in on certain actions. The annual meetings can also help facilitate the long-term implementation and help ensure overall compliance.
 - The HCP could allow ODF to work on a certain number of non-fish road crossings per year, and then if there are more than that number, those could be addressed in the annual meetings.
 - The HCP language does not explicitly acknowledge that there may be times where ODF should seek advice from USFWS in certain instances or when it needs advice on compliance. Suggestion to specifically acknowledge that pathway for conversation between ODF and USFWS in the HCP. The implementation chapter of the HCP should recognize that there may be instances where technical assistance is necessary, and USFWS and ODF collaboration is needed.

- Troy reviewed the following action items following the discussion:
 - Send out the Roads Manual to the ST.
 - Work with Daren and others to summarize the Roads Manual into a technical appendix in the HCP.
 - Find ways to be more definitive in the terminology and consider looking to the BLM RMP as an example of language to use.

2) Approach to Herbicides

Troy and Brian Pew, ODF, provided framing on the HCP's approach to herbicides and explained there is interest in talking about how to frame the herbicides strategy for the October draft HCP.

They suggested that the HCP acknowledge the work to date on herbicides but not rush the development of a detailed strategy for the October version of the HCP. They suggested clarifying in the HCP draft that ODF continues to work on the herbicides approach. Troy and Brian recommended pausing on the herbicides discussion after today, and then pick it back up after October.

Discussion

Members discussed the approach to herbicides and provided the following comments and questions:

- The draft HCP should recognize herbicides as an important issue and note that is currently under development. Herbicides should be in the proposed action. The draft should also include where and when fertilizers are used. ODF clarified that the agency likely will not use fertilizers and has not used them in the past decade.
- A member reviewed some past ST comments on herbicides and how the HCP has been updated to respond to them.
- Members agreed we still need to work on language around the timing of application of herbicides. Some ST members wanted more specific language around timing, but in practice it is very difficult to be specific in timing, especially for aerial spray. It may be useful to provide language around the list of chemicals that could be used and can include language in the HCP around the approach to new chemicals not listed.
 - A member suggested scheduling a ST small group meeting in November to talk more in depth on herbicides and triggers.
- Brian noted the approach to herbicides will not affect the BOF's decision on whether to move into a take avoidance approach or move forward with continuing HCP development.

EFFECTS ANALYSIS

Troy revisited the Effects Analysis narrative and provided a high-level overview of appendices that could be used for the analysis. He asked for ST members to provide their impressions, identify what needs to be resolved before October, and what can wait until the administrative draft of the HCP.

Melissa Klungle, ICF, reviewed the Effects Analysis portion of the HCP. She explained that the chapter includes a concise write up on the effects associated with timber harvest outside of riparian areas, and whether any watershed level effects could occur. Tables within the chapter provide detail from the watershed analysis by HUC-10 that identified the percent of watersheds that will be less than ten years old during the permit term. The tables are broken out by species population groups and were developed to help better understand watershed impacts outside of the Habitat Conservation Areas (HCAs).

Discussion

ST members discussed the Effects Analysis and provided the following questions and comments:

- A member asked if elevation can be added to the areas that had a higher percentage of watersheds that would be less than ten years old during the permit term to help understand the connection with higher rain on snow and snow watersheds. Melissa agreed.
- The ST may need to consider the rain zones expanding upward.
- Is ICF looking at what this means for low flows and impacts during the heavy regrowth period 15-35 years out?
 - ICF is not evaluating this directly but has TerrainWorks' information on summer low flows that can be tied into the harvest model. This can then be used to identify areas that have been characterized as having low flow concerns.
- The research has shown that low flow effects can occur where there are densely planted plantations. The low flow effects can be reduced by minimizing dense plantations and considering this as a strategy in the HCP.
- ODF staff suggested doing the same analysis but with a different stand age, to see if there is an effect on flows.
- A member clarified that the tables will be provided as an appendix in the HCP. This information is important because it can be used to characterize implementation of the HCP and effects of the HCP.

Troy summarized ST comments on the Effects Analysis:

- More data can be included related to water quantity, as well as tables that focus on the 15-35-year age range.

- Areas where summer low flows may be an issue can be identified, as well as the age range of the trees growing in those areas. This information can be incorporated into the Effects Analysis.

Next steps included:

- ST members were encouraged to let ICF know if they have interest in a more focused discussion or a small group meeting.
- After the October meeting, the ST will revisit the discussion on beavers and beaver management. Troy noted that it may be appropriate to have a broader discussion on beaver management on the landscape, beyond what is in the HCP. ODF is considering beaver management in the context of the Forest Management Plan (FMP).

COASTAL MARTEN STRATEGY

Troy provided an update on the draft coastal marten strategy. ST members provided comments on the strategy and the project team will revise the strategy and incorporate it into the HCP. Since coastal marten will now be listed as a species within the HCP, ODF will need to consider whether to include coastal marten as a covered species.

OVERALL REVIEW OF HCP CHAPTER STATUS

Troy provided an update on the development and status of the various HCP chapters. Key topics of the update included:

- The ST has reviewed and provided comments on Chapters 1, 2, 3, 6, 7 8 and 9. These will go back to the ST on September 4 as updated versions based on ST review. When ST members receive the revised chapters, they are encouraged to flag anything that needs further consideration before being presented to the BOF. These will then become clean versions for the October BOF meeting.
- Chapters 4 and 5 are currently under ST review and ODF/ICF revision. The ODF/ICF team will still be providing updates and additions to Chapter 4 based on today's meeting. The intention is to have a revised draft of Chapter 4 back to the ST by September 11. ST comments on Chapter 5 will be provided by September 4, and ODF/ICF will aim to send an updated version back to the ST before it goes into the BOF packet.
- Chapters 10 and 11 are under development. Chapter 10 (alternatives to take) is not intended to be presented to the BOF in October. Chapter 11 (literature cited) is being cleaned up and will be provided to the BOF.

Troy expressed appreciation for all of the ST comments and quick review.

Discussion

Members discussed the status of the draft HCP chapters and provided the following comments:

- Will the chapters that have several “to be determined” sections be filled in?
 - They will mostly be filled in, and if blanks remain there will be an explanation as to why.
- In the HCP narrative, there is a reference to Figure 5.4, however, it does not seem to exist.
 - The project team will look into this.
- A member expressed appreciation that Chapter 10 will be shared after the October BOF meeting.

ASSURANCES AND IMPLEMENTATION

Troy provided an overview of the assurances chapter and the implementation chapter. He noted the team has been working through the comments received for the two chapters and will provide direction on the updates. For each chapter, the team has summarized ST comments for further discussion today.

Assurances Chapter

Troy reminded the ST that the assurances chapter is intended to address changed circumstances and the threshold for what defines an unforeseen circumstance. It focuses on natural events like fire, invasive species, disease, and climate change.

Troy reviewed key ST written comments and topics on the assurances chapter, which included:

- **Response to Fire:** This information has been refined with data on fire frequency. Changed circumstances related to fire are difficult to define due to rapidly changing wildfire size and frequency. The question is around what are ODF’s responsibilities to respond to changed circumstance through remedial measures. ST members also had comments related to a desire to have no salvage logging in Riparian Conservation Areas (RCAs) after a fire.
- **Invasive Species and Disease:** ST written comments acknowledged that if ODF removes trees within RCAs to address disease, this may result in increased stream temperature, and such activity should be coordinated with USFWS and NOAA Fisheries. ST comments also suggested a need to address aquatic invasive species and predatory fish species; the team will include a section on this in the HCP.

Discussion

Members discussed the assurances chapter and provided the following questions and comments:

Responses to Fire:

- Troy commented there will likely be some management direction around what reforestation looks like after fires. If there is a need for more specific language on reforestation in the HCAs as compared to other places on the landscape, it could be included.
 - A member added the strategies for reforestation in HCAs should be similar whether for regeneration or in response to fire.
- A strategy of no salvage logging might work in RCAs as a general practice. The meet and confer process or some other technical assistance meeting with the agencies could be used when there's a potential exception to that general practice.
- There should be some sideboards relative to salvage logging in HCAs. There are very important decisions that will need to be made after fires, though it is difficult to predict what circumstances will look like after fires.
 - If ODF takes actions that are not covered but result in take of species, those actions would not be covered under the incidental take permit. Even though fires are unforeseen, the way the agency responds to fire is foreseen. The HCP should point out how ODF plans to respond to fire, or else that response would not be considered a covered activity under the HCP.
- Does reforestation include just replanting, or a more intensive controlled process, which could negatively impact early seral vegetation?
 - ODF responded that the agency would focus on making sure we establish trees to achieve a mature forest condition in HCAs (low planting density, low intensity reforestation). Reforestation will include site specific assessment of need.
 - This may lend itself to a meet and confer process as well.

Invasive Species and Disease:

- Localized tree removal can have a big impact on stream temperature; the ST should discuss this at some point in the HCP.
- Are there any efforts to map invasive aquatic and predatory fish species?
 - Members were not aware of any such efforts but recognize that this would be useful if funding or partnership could be available in the future.

Overall Comments on Assurances Chapter:

- There were questions and a desire for more clarity around the baseline for comparison.
- Suggestion to revise the language where the HCP directs federal agencies to do something.

Implementation Chapter

Brian and Troy discussed and provided context for the implementation chapter. Key topics included:

- Reviewed ODF's internal organizational structure that can help ensure implementation moves forward. ODF moved to centralized planning recently. Biologists are also embedded in the planning department, which makes coordination easier.
- Described key comments and topics that ST members brought up in their review of the implementation chapter including:
 - Question about whether annual budgets and work plans will be disclosed.
 - Suggestion to have an annual meeting to discuss annual report findings.
 - Questions about what would be included in annual reports. In response, the chapter includes more detail on what the annual report should include.
 - Question about the annual tracking of conservation benefits and losses. Troy described that tracking would occur through the annual review and other regular check-ins and described what information would be tracked.

Discussion

Members discussed the implementation chapter and provided the following comments:

- The transition from planning to implementation can be a big effort and can sometimes take years. This is something for ODF to consider as it makes this transition. It is also important to bring implementers along sooner rather than later to preclude internal resistance.

CONSERVATION FUND

Troy provided context on the status of the Conservation Fund and reviewed ST comments on the Conservation Fund. This included:

- The cost and funding chapter describes the details of the Conservation Fund. Troy reviewed the breakdown of the Conservation Fund.
- ST members had asked for more details on how funds would accrue and be tracked. ODF staff described expected accounting of the Fund, which would include annual reports as well as regular auditing. The account would not be interest bearing because that is not allowed by state law.
- There were comments around broadening the use of funds related to barred owl removal. The team proposes allowing for funding for strategic terrestrial species

initiatives. This could include barred owl removal, northern spotted owl reintroduction, and strategic monitoring or research to make the conservation strategy more effective.

Discussion

Members discussed the Conservation Fund and provided the following comments:

- Members provided comments on whether to require that the Fund be spent within a certain timeframe.
 - The expectation is that there would be regular programs that would be funded regularly by the Fund. The agency also wants the flexibility to save up some portion of the funds for a year or two for key projects.
- Does ODF have a conservation and restoration plan? If yes, this could be a way to quantify the projects and ensure that projects occur over time.
 - ODF has annual plans that include descriptions of restoration and conservation projects, but the HCP Conservation Fund allows the agency to be more forward thinking.
- It was clarified that currently the agency is able to do opportunistic conservation projects when there is a timber sale connected to providing funding for conservation actions. Under the HCP, the agency would continue to be able to do those opportunistic projects, in addition to and beyond the activities that are funded through the HCP Conservation Fund.
 - A member suggested describing this in the HCP.
- Brian provided additional context for how conservation actions funded by timber sales are tracked and reported. Within the HCP, the intent is to describe the agency's commitment to the level of Conservation Fund contributions, but not necessarily funding for all other conservation actions outside of that funding mechanism. The HCP can include some language around how additional costs would be covered for conservation actions outside of the HCP.

CONFIRM TOPICS FOR STEERING COMMITTEE UPDATE

The next SC meeting is scheduled for September 29 from 1-4pm.

APPROACH GOING FORWARD, NEXT STEPS, AND SUMMARY

Deb thanked members for their participation.

The next ST meeting is scheduled for September 22, 2020. The BOF meeting is on October 6.

There is a need to schedule additional ST meetings after October should the BOF decide to continue working on the development of an HCP.

Brian thanked the group for their great work and comments on the HCP.

ACTION ITEMS

The following action items were identified throughout the meeting:

- ODF: Provide some sample contracts from different Districts.
- ICF: Distribute a copy of the agency's Roads Manual to the ST.
- ICF: Work with Daren and others to summarize the Roads Manual into a technical appendix in the HCP.
- KW: Schedule a ST small group meeting in November to discuss herbicides and triggers.
- ICF: Look into Figure 5.4 and see if it exists.
- ICF: Find ways to be more definitive in the terminology for Road Construction and Management, and consider looking to the BLM RMP as an example of language to use.
- ICF: Add elevation to the areas that had a higher percentage of watersheds that would be less ten years old during the permit term to the Effect Analysis portion of the HCP.
- KW: Schedule additional ST meetings after October should the BOF decide to continue working on the development of an HCP.