

MEETING SUMMARY

WESTERN OREGON STATE FORESTS HCP JOINT STEERING COMMITTEE AND SCOPING TEAM MEETING

Thursday, January 28, 2021, 1:00 pm – 4:00 pm

By Webinar and Teleconference Only

ATTENDEES

Steering Committee: Liz Dent (ODF), Paul Henson (USFWS), Kim Kratz (NOAA Fisheries), Tere O'Rourke (NOAA Fisheries), Jennifer Wigal (DEQ), Doug Cottam (ODFW), Bill Ryan (DSL), Dan Edge (OSU)

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

Technical Consultant and Guests: Troy Rahmig (ICF), David Zippin (ICF), Deb Bartley (ICF), Michelle McMullin (NOAA Fisheries)

Legal Counsel: Lydia Grimm (USFWS), Anika Marriott (State of Oregon), Kim Owens (NOAA Fisheries)

Facilitation Team: Brett Brownscombe (Oregon Consensus), Sylvia Ciborowski and Michelle Bardini (Kearns & West), Cindy Kolomechuk (ODF)

WELCOME AND INTRODUCTIONS

Liz Dent, Oregon Department of Forestry (ODF), welcomed Steering Committee (SC) and Scoping Team (ST) members and opened the meeting. These joint meetings are a great opportunity to bring the agencies together and collaborate to get the Habitat Conservation Plan (HCP) across the finish line.

Sylvia Ciborowski, Kearns & West, reviewed the agenda which included: 1) Agency updates and stakeholder engagement updates, 2) Updates on the HCP and discuss topics of interest, 3) Update on the National Environmental Policy Act (NEPA) process, 4) SC direction to the ST, and 5) Approach going forward and next steps.

The SC, ST, and legal counsel introduced themselves.

AGENCY UPDATES AND STAKEHOLDER ENGAGEMENT

SC members provided the following updates relevant to the Western Oregon HCP process:

- **ODF:** 1) The agency is working on recovery restoration work on the Santiam State Forest due to the recent wildfires. 2) There is an upcoming legislative session and there are several bills related to post-fire harvest.
- **United States Fish and Wildlife Service (USFWS):** 1) The agency is working on post fire recovery efforts and preparing for the legislative session. 2) USFWS staff is working on the Elliott HCP, the Western Oregon HCP, and the Memorandum of Understanding (MOU) process.
- **Department of State Lands (DSL):** The agency is coordinating with ODF and ICF regarding the review schedule of the two HCPs and working to meet the needs of the agencies doing the review.
- **NOAA Fisheries:** The majority of NOAA Fisheries staff are working on the Elliott HCP are also working on the Western Oregon HCP.

Sylvia provided an update on stakeholder engagement efforts. She noted there was a stakeholder meeting with conservation interests on January 21st and there are upcoming stakeholder meetings on February 3rd with recreation interests and on February 4th with industry representatives. SC and ST members were encouraged to attend and listen in on the meeting.

UPDATES ON THE HCP AND DISCUSS TOPICS OF INTEREST

Troy Rahmig, ICF, and Brian Pew, ODF, provided an update on the HCP process and reviewed the HCP, Forest Management Plan (FMP), and NEPA timeline. Key topics of the presentation included:

- The HCP will be completed in March and will then move into the NEPA process.
- The ST is working to review HCP chapters 1-3 and 7-10. The remaining chapters (chapters 4-6) will be distributed to the ST soon.
- The ST meetings provide an opportunity to discuss the HCP chapters and any topics that arise from the ST review.
- ODF will then consider how to incorporate the ST comments and will update the HCP. This is the version that will go through the NEPA process.
- The FMP process will start in March and is expected to take two years. ODF will be engaging the agencies during the FMP development.
- Sarah Lathrop, ODF, will be the project manager for the FMP and will start in February.
- It was noted, because the development of the HCP is taking longer than expected, the NEPA and FMP timeline has been extended and will be completed by early 2023. ODF will share the updated timeline with the Board of Forestry (BOF).

Discussion:

The SC and ST discussed the HCP, FMP, and NEPA timelines and provided the following questions and comments:

- ODF and the project team clarified that they have not yet decided when to submit the permit application. They will submit the permit application most likely in October or November 2021, shortly before the public review of the HCP and NEPA documents.
 - It was noted that NOAA Fisheries does not have a specific deadline of when the application needs to be submitted.
 - The HCP handbook states that the application can be submitted when the draft Environmental Impact Statement (EIS) is provided for public review.

Troy then presented the key elements of the HCP and the highlights from the collaborative process at the ST level during the development of the HCP. Key topics of the presentation included:

- Aquatic strategy:
 - Expanded the Riparian Conservation Areas (RCAs).
 - Included buffers to address key ecological processes.
 - Developed process protection zone.
 - Improved operational efficiency.
 - Dedicated funding for aquatic restoration and barrier removal projects.
 - Commitment to complete stream restoration projects to benefit covered species.
- Terrestrial strategy:
 - Dedication of nearly 50% of the permit area in Habitat Conservation Areas (HCAs).
 - Management in HCA is designed to improve covered species habitat.
 - Robust retention standards outside HCAs to promote long term ecological function.
 - Leave tree strategy focused on trees with key habitat characteristics.
 - No harvest of old growth (greater than 175 years old).
 - Use of terrestrial habitat models instead of typical surrogates (i.e., tree age and size).
 - Integrated species habitat models with harvest models to estimate quality over time to ensure that habitat development stays ahead of habitat lost to harvest.
 - Expected an increase in habitat quality and quantity by the end of the permit term.

- Dedicated funding for habitat enhancement in HCAs designed especially for covered species.
- Dedicated funding and commitment for barred owl management, primarily for the North Coast.
- Monitoring:
 - Long-term partnership between ODF and Oregon Department of Fish and Wildlife (ODFW) to complete aquatic resources monitoring in the permit area.
 - Expansive monitoring program for terrestrial species to track changes in habitat quality and species response to management.
 - Linking monitoring program with ODF implementation planning to apply adaptive management where necessary.
- Establishing a Conservation Fund:
 - Dedicated funding sources for conservation actions. This provides certainty over time.
 - Timber harvest dollars set aside for species conservation.
 - Dollars are earmarked from every harvest operation for inclusion in the Conservation Fund.
 - Allows conservation actions to occur commensurate with potential effects from harvest activities.

Sylvia noted that as the HCP moves into NEPA, stakeholders will be reaching out to the agencies with questions. She asked ST and SC members to note what resources would be helpful as stakeholders comment on the HCP.

Discussion:

Members discussed the key elements of the HCP and provided the following questions and comments:

- The SC expressed appreciation for the collaboration on the aquatic strategy development.
- There was a suggestion to provide a more specific number for minimizing temperature increases in streams rather than using statements such as “less than 1 degree.”
- It was clarified that the HCP is in compliance with the Forest Practices Act (FPA).
- How does the conservation fund scale with timber harvest?
 - The conservation fund involves a self-imposed budget earmark. For every 1,000 board feet, ODF will allocate \$5 for conservation efforts. The conservation fund provides certainty that there is money available. The harvest level timber modeling projects that the fund will generate one million dollars a year. The idea is that if there are timber sales, then there will be funds for conservation,

regardless of the economic or market conditions in a given year. When there is more harvest, more funding will be put towards conservation. ODF is not required to spend the money every year.

- It was clarified that the conservation fund is not the only way ODF plans to fund conservation efforts. ODF's budget will allocate funding towards monitoring and conservation actions. There is also in-kind work during harvest that will continue.
 - There was a suggestion to clarify all the different ways ODF will fund conservation, including the conservation fund and other conservation actions, in public messaging.

Troy then presented topics and comments raised by the public to date. Key topics included:

- Identifying and buffering landslide initiation points including the:
 - Use of modeling information and what models were used to identify these initiation sites.
 - Criteria and protocols in the field.
 - Standard buffers for debris flow tracts.
 - Expansion of standard buffers for stream adjacent initiation sites.
- Financial viability of the HCP
 - Ensure the HCP conservation actions allow for enough harvest.
 - Concerns around the size of HCAs and RCAs.

Liz reviewed the transition of the sales program and explained what happens between now and when the HCP is implemented. ODF recognizes there will be an interim period as the HCP moves through NEPA and that it is important to consider how the agency will manage the forest.

- ODF does not yet have an HCP, and so it needs to be implementing the current FMP until an HCP is adopted. The HCP will need to move through the NEPA process first and then the BOF will review the HCP and make a decision. It will be important to remind stakeholders of this process.
- To achieve Greatest Permanent Value (GPV), ODF is developing a companion FMP to accompany the HCP. The completion of the FMP will allow ODF to implement the HCP quickly after the NEPA process is completed.
- Key messages to communicate include:
 - ODF has been working to develop the HCP through an aggressive timeline and is confident in the plan.
 - The BOF is committed to HCP and there is support from the Governor.
 - ODF is working to implement the FMP with an eye to the HCP. The agency is focusing operations and modifying clear cuts to areas outside of HCAs. There

will be modified clear cuts in the HCAs as there is a lot of area on the landscape the overlays with HCAs.

- ODF does not yet have an HCP. The agency's guiding principles for management and policy is within the current FMP, but ODF is also seeking to honor objectives in the HCP.
- The HCAs were planned around the planned harvest sales. The HCAs were first developed through biological criteria but also took into account planned sales. ODF decided to incorporate the sales in areas where there was most interest in the location (i.e., for habitat, connectivity, etc.). ODF will do work in the field to maintain retention.
- ODF will develop a communication summary for the sales transition plan and distribute to the SC and ST.

Discussion:

- When thinking about landslide initiation points, it is also important to consider road management. A member suggested including road management under landslide initiation and include language that addresses mitigation efforts to reduce landslides.
- There have been concerns around salvage and how that impacts sales between now and when the HCP is implemented. How does ODF plan to address this?
 - ODF replied the fire burned approximately 16,000 acres in a mosaic pattern. There was a need for salvage, reforestation, and road repair. ODF developed an implementation plan and annual operation plan to manage the forest in response to the wildfire and released it for public comment. ODF received helpful feedback and questions and incorporated public input into the plan.
 - ODF is expecting 2,700 acres of post-fires harvest to occur next year. This harvest will be a modified clear cut and will target timber that would deteriorate quickly. The agency will be leaving more snagged wood, leave trees, and green trees than required. ODF started implementing the RCAs buffers in the burned landscape which provided an opportunity to see how the strategy plays out on the landscape.
- Members discussed how the HCP relates to the Clean Water Act compliance. It was clarified that the HCP is intended to protect the species. How the HCP evaluates habitat suitability relates to water quality standards and temperature standards. The HCP offers more riparian protections that can improve water quality and reduce temperature increases than the current FMP. The HCP is not required to be in compliance with the Clean Water Act but there is a relationship.
 - ODF/ICF/DEQ will develop a communication summary on how the HCP relates to the Clean Water Act compliance.
- Have there been discussions with the Environmental Protection Agency (EPA) about how protective the riparian buffers should be?
 - DEQ has talked with EPA specifically regarding the 120' horizontal buffer in the temperature protection zone. EPA is approaching stream temperature from a lost

shade perspective rather than a relative flow perspective. It would be helpful to see how much stream length is exposed outside of the temperature protection zone.

- A member noted that it would be helpful to document these efforts with EPA.
 - When doing a Total Maximum Daily Load (TMDL), it is helpful to identify what is happening on the ground and what needs to be done to achieve water quality standards and provide specific information. The protections in the HCP go a long way to meeting the Clean Water Act.
 - As ODF develops the companion FMP, there is a section on water quality that would pair nicely with the HCP and matches the way DEQ is thinking about meeting water quality standards.
- Do the temperature protections in the HCP apply to sediment as well?
 - There are few sediment TMDLs, and the water quality standards are narrative, not numeric. Since they are narrative, it is a "natural conditions" conversation, and there is a good basis for concern around clear-cut slope failures increasing in frequency and severity relative to unharvested natural slopes. However, there are management approaches to mitigate this such as vegetation retention or ensuring adequate large wood on-slope in the event of a slope failure so habitat generation values are maintained. Given that, meeting habitat needs will closely align with meeting water quality "natural conditions" narratives.

ODF/ICF will update the presentation, include additional points, and send it out to the group. Members were encouraged to connect with ODF if stakeholders are reaching out with specific questions or topics. ODF noted they can provide additional information to address specific concerns or interests as needed.

UPDATE ON NEPA PROCESS

Tere O'Rourke, NOAA Fisheries, and Deb Bartley, NEPA project manager with ICF, provided an update on the NEPA process, reviewed the timeline, and discussed key components of the process. Key topics of the presentation included:

- NEPA is a federal law that established the broad national framework for protecting our environment. The NEPA process evaluates the HCP to determine if the HCP meets criteria for the Endangered Species Act (ESA). NEPA does not mandate any substantive outcomes but provides a framework for informed decision making.
- Agency roles for the NEPA process include NOAA Fisheries as the lead agency and USFWS as the cooperating agency.
- The HCP and EIS must be developed by distinct teams and different staff to maintain independence from the HCP analysis. This is done to avoid a conflict of interest.
- The NEPA process includes:

- The NEPA scoping process begins with the publication of a Notice of Intent (NOI) in the federal register.
- The development of a draft Environmental Impact Statement (EIS) that will prepare the NEPA response and is required for an issuance of an incidental take permit.
- A public review and comment period on the EIS. The EIS and the HCP will be published and released at the same time for public review.
 - There will be a public scoping meeting likely in late March. There will be a 30-day minimum review period and only written public comments will be accepted.
- Development of alternatives for the HCP decision.
- Development of a final EIS.
 - NOAA Fisheries is required to consider and respond to substantive comments and draft a final EIS. There is a 30-day waiting period; after a ROD can be issued.
- NOAA and USFWS will review the final EIS and create a Record of Decision (ROD).
 - The ROD will state what was decided and why. A ROD is required for the issuance of an Incidental Take Permit (ITP).
- We are currently in the early NEPA planning phase and are moving into the public scoping process. NOAA Fisheries is working to establish the foundations of the EIS, beginning the public scoping process, and developing the alternatives screening criteria and process.
- The NEPA process is expected to take two years, starting with the draft EIS and ending with the ROD.
- A review of a flow chart showing the parallel processes of the ESA including the HCP development and NEPA process.
- A review of HCP alternatives, which included:
 - The proposed action (the HCP).
 - No-action alternative which serves as a baseline to determine the impacts of the proposal.
 - Reasonable range of alternative actions such as variations of the HCP, alternatives used in the HCP, and alternatives identified during the public scoping process.
 - Clearly defined alternatives can be carried forward for a detailed analysis in the EIS.

- A review of the preliminary environmental resource topic to be analyzed in the EIS and the draft content of the EIS.

Discussion:

The ST and SC discussed the NEPA process and provided the following questions and comments:

- What is USFWS's role in the NEPA process as the cooperating agency?
 - The intent is for NOAA Fisheries and USFWS to act as one federal agency under NEPA. USFWS will provide support and review. NOAA Fisheries and USFWS are also working together on Tribal engagement.
- It was clarified that ODF's role in the scoping of the EIS is minimal, but the agency will evaluate the alternatives and their feasibility.
- What is ODF and the ST and SC's role throughout the NEPA process?
 - The collaborative process at the ST and SC level is to continue through the NEPA process. There will be times when the NEPA technical team will need assistance to look at alternatives or respond to public comments. There will also be times that NOAA Fisheries will engage ODF.
 - There was a suggestion to have ST and SC meetings throughout the process to collaborate and move the HCP through the process.
- Members reiterated the importance of communicating the NEPA and EIS process to the public and providing the opportunity to provide comments.
- It was noted that there is confusion from the public about alternatives. There is a perception that the NEPA lead agency chooses one alternatives or another, but this is not the case. The decision under NEPA is to decide whether to issue or deny ODF's permit application and issue an ITP. The decision is not between the HCP or another alternative. If an alternative is feasible, ODF can consider it. If there is interest in an alternative, there will be a process with ODF and the federal agencies to consider revising the HCP and resubmitting the application.
 - An alternatives analysis could consider topics such as whether to cover all the species or some of them or modifying the size of the HCAs.
 - It is expected that stakeholders would submit additional data or research during this process.

STEERING COMMITTEE DIRECTION TO SCOPING TEAM

Sylvia reviewed upcoming ST and SC meetings. The next ST meeting is Tuesday, February 2, 2021.

NEXT STEPS AND SUMMARY

The next SC meeting will be held on March 4, 2021.

ODF will develop talking points about the HCP and compliance with the Clean Water Act and will distribute them to the ST and SC.

Liz provided closing remarks and thanked members for their engagement in the HCP process. There is a lot of value in these joint ST and SC meetings and coordinating on a variety of topics.

ACTION ITEMS

The following action items were identified during the meeting:

- ODF/ICF: Develop talking points around the key components of the HCP and compliance with the Clean Water Act.