

MEETING SUMMARY

WESTERN OREGON STATE FORESTS HCP SCOPING TEAM

Tuesday, July 6, 2021, 9:00 am – 11:00 am

By Webinar/Video Conference

ATTENDEES

Participants: Tere O'Rourke (NOAA Fisheries), Julie Firman (ODFW), Josh Seeds (DEQ), Ryan Singleton (DSL), Mike Wilson (ODF), Nick Palazzotto (ODF), Sarah Dyrdaahl (ODF), Rich Szlemp (USFWS),

Technical Consultants and Guests: Troy Rahmig (ICF), Melissa Klungle (ICF)

Facilitation Team: Sylvia Ciborowski (Kearns & West), Ellen Palmquist (Kearns & West), Cindy Kolomechuk (ODF)

WELCOME AND AGENDA REVIEW

Sylvia Ciborowski, Kearns & West, welcomed Scoping Team (ST) members and reviewed the agenda, which included: 1) Agency and Stakeholder Engagement Updates, 2) Report Out on 6/22 HCP Steering Committee Meeting and 6/1 FMP/IP State Partners Meeting, 3) Updates on the NEPA Process, 4) HCP Updates, Clarifications, and Discussion, and 6) Approach Going Forward, Next Steps, and Summary.

Mike Wilson and Cindy Kolomechuk provided context for the meeting, noting that the HCP Project Team has been engaging field staff to provide operational feedback on the Administrative Draft HCP. Through this feedback, the HCP Project Team identified several items that require Scoping Team input.

AGENCY AND STAKEHOLDER ENGAGEMENT UPDATES

Members provided the following updates relevant to the Western Oregon State Forests HCP and FMP processes:

- **ODFW:** No updates.
- **USFWS:** No updates.
- **Department of State Lands (DSL):** No updates.
- **DEQ:** No updates.

- **NOAA Fisheries:** NOAA Fisheries is experiencing staffing constraints. Chuck Wheeler is no longer working with the West Coast Region, and they do not anticipate filling the position.
- **Oregon Department of Forestry (ODF):** 1) The Board of Forestry Meeting was successful. The HCP Project Team received many questions about the HCP and are working to respond to these questions. 2) Despite fire team deployments, the Project Team is not anticipating workload issues with the HCP and FMP. 3) The FMP Project Team is continuing to work on the timeline and structuring goals. The FMP State Partners will continue to be engaged throughout the process.
- **Kearns & West:** 1) A Meeting Open to the Public was held on May 6. 2) The next Meeting Open to the Public is scheduled for August 10. Scoping Team members are invited to attend and hear from stakeholders. 3) ODF discussed drinking water issues with North Coast Communities for Watershed Protection members at a recent meeting.

REPORT OUT ON 6/22 HCP STEERING COMMITTEE MEETING AND 6/1 FMP/IP STATE PARTNERS MEETING

Steering Committee Meeting Topics:

- Reviewed timelines for the HCP, FMP, and NEPA processes.
- Discussed rotating series of Scoping Team and State Partners meetings (every other month) and the expected level of FMP engagement for the Scoping Team and Steering Committee.
- Reflected on the importance of engaging Board members throughout the process and considered how best to share and present information with the Board.

State Partners Meeting:

- Provided information on the role of the State Partners and the purpose of meetings.
- Provided an update on the FMP, including the FMP process and the gap analysis.

UPDATES ON THE NEPA PROCESS

Tere O'Rourke shared updates on the NEPA process. The NEPA Team is moving forward with developing alternatives and continuing to review scoping comments. The Team is also evaluating potential economic issues, including county interests in increasing harvest land and decreasing habitat conservation areas as identified during the public scoping process. The Team has also reviewed chapter outlines from ICF. Future milestones include the release of the Draft EIS to the public by January 31.

HCP UPDATES, CLARIFICATIONS, AND DISCUSSION

Covered Activities

Troy Rahmig shared updates on HCP feedback and clarifications. During May and June, ODF held a series of workshops with district staff to seek comments and clarifications in the Administrative Draft HCP. The Project Team primarily received comments on covered activities and the description of the covered activities. Based on this feedback, they are recommending several changes to covered activity descriptions:

1) Roads:

- Pulled landings and water drafting and storage under roads, rather than as standalone activities.
- Updated description of landings to include roadside turnouts.
- Clarifying roads will only be vacated, closed, or stabilized when it is operationally feasible to do so, and when no new infrastructure will be needed in order to do so.

2) Removed numbers of current and future locations from activity descriptions. Numbers were not helping to define the activity and didn't factor into the effects analysis.

3) Quarries:

- Updated definition to quarries, borrow sites, and stockpile sites.
- Added temporary skid trails and temporary stream crossings. Without the ability to create skid trails, more roads would be needed. Skid trails will be restricted to the site.

4) Covered activity conditions were included throughout Chapter 3. District staff recommended including this information in Chapter 4 to avoid overlooking this guidance. The Project Team will incorporate this information by creating new conservation actions or adding to existing actions.

Discussion

Question: Members had questions about the proposed language around vacating roads, and whether the new language means fewer roads would be vacated. Members had an interest in making sure roads do get vacated in certain instances and had concerns about using the term "operationally feasible". The phrase "or stabilize" is also potentially problematic. All roads should be stabilized and roads are an issue for runoff and should be addressed. Suggested changing the language to: "roads will only be vacated when the benefit of vacating the road is greater than the ecological impact of vacating the road".

- **Troy Rahmig:** The Project Team is not anticipating additional activities or major differences in how activities are carried out compared to the previous text. The Project Team can look at the language in more detail and consider if there is additional information that needs to be included. The intention was to identify cases where vacating roads wasn't feasible, not that no roads would be vacated. District staff were looking for some acknowledgement of that,

but it may need to be discussed further as a group. The Project Team will clarify that feasibility is with respect to the environmental balance, as opposed to inconvenience.

Herbicides

Mike Wilson introduced Robbie Lefebvre and the topic of herbicides. Mike noted that there are questions about several issues related to herbicides, including the list of approved chemicals and unintended consequences. Robbie Lefebvre shared findings from herbicide meetings with district staff:

- Considering feedback regarding one-mile limits on ground-based application. Specifically, implications for roadside spray and scattered tracts. Roadside spray helps reduce the spread of invasive weeds.
- Proposing to limit herbicide rules to HCAs. If the one-mile limit remains, this could increase aerial spray operations for counties like Western Lane.
- Needing to define the approval process for new formulations or ratings of chemicals. For instance, a new formulation of Triclopyr with a low volatility rating and no residual soil activity has been released that is not included in the list of approved chemicals.

Robbie questioned whether herbicide coverage was still feasible under the HCP and noted that ODF does not have the expertise to complete an analysis on take with an herbicide outside of the HCAs. ODF is also concerned about delaying the HCP process s.

Discussion

Comment: In order to receive an incidental take permit ODF will need to be able to describe how the herbicides approach impacts spotted owls and other species. If herbicides are a covered activity, ODF needs to have a logical path stating why the effects are going to occur and describing the effects over the 70-year timeframe of the HCP.

Comment: Herbicide issues are larger than this HCP. NOAA Fisheries and Fish and Wildlife share similar issues with existing Programmatic Biological Opinions between the federal resource agencies and U.S. Forest Service and Bureau of Land Management. The process for adding new chemicals is arduous. The agencies will be discussing a process to amend or address new chemicals to use chemicals that are less environmentally toxic.

Question: Is it possible to not cover herbicides now, but wait and amend as ODF and other agencies develop a better process?

- Tere O'Rourke: New processes needed to modify existing Programmatic Biological Opinions between NOAA Fisheries and other federal agencies will take some time to develop.

Conservation Action 10: Operational Restrictions

Nick Palazzotto provided an overview of changes to operational restrictions:

- Clarifying that seasonal restrictions apply to occupied habitat in HCAs.

- Outside of HCAs, there are restrictions on the nest tree itself. If a nesting pair is encountered outside of HCAs, ODF would designate a core around the nest site, seasonally restrict it, leave the tree post-breeding.
- Need to confirm that HCA operational restrictions do not extend outside HCAs.
- Propose removing the 10-acre buffer around RTV nest trees and instead note that nest trees would be retained as part of leave tree strategy described in CA-8.
- Aquatic restoration projects – clarified that no trees that have structure or characteristics utilized by murrelets will be felled into streams inside designated occupied habitat
- Replaced language on trash management – tied to designated occupied habitat and focuses on signage and permit language for compliance. The new language ensures ODF has the right trash management approach for different areas.

Discussion

Marbled Murrelet Disturbance

Question: Are there particular types of noise disturbance that are more or less important to the federal agencies?

- USFWS has standard buffers for different activities. There is no preference for the type of disturbance.
- Loud *and* sustained disturbance is problematic for marbled murrelets. For identified populations at the boundary of HCAs near quarries, the Project Team carved out additional habitat, but hasn't addressed how to deal with disturbance.

Red Tree Vole Nest Trees

Comment: HCAs carry the bulk of the conservation lift for tree voles, but ODF will also take some strategies around nest trees outside of HCAs.

Aquatic Restoration Projects

Comment: Trees used for aquatic restoration would have the same structure that's beneficial to murrelets. This condition may be too restrictive, with unintended consequences and increased costs for ODF.

- ODF: The Project Team refined this to apply only to trees in designated occupied habitat (DOH) based on previous discussions. It doesn't apply outside HCAs and, within HCAs, the DOH area it applies to is approximately 18,000 acres. "Highly suitable for murrelets" refers to mature stands inside of HCAs (110 years or older). The restriction is informed by ARBO 2's directions for operating in occupied murrelet habitat.

Question: How are structures and characteristics defined? Are we referring to a standard survey tree or a tree that has a high probability of being used?

- **ODF:** The Project Team pulled data for the number of platform trees in occupied sites versus random sites. Nest trees have the most platforms compared to the other two.
- **Comment:** Instead of “no trees”, consider changing the language to “prior to selecting trees for aquatic restoration, consider MAMU use and minimize or eliminate impact to MAMU occupied sites”.

Trash Management

Question: In the timber contracts and other permits, is there language and education about trash?

- **ODF:** Timber sale contracts require that all trash be kept in receptacles and replaced daily. This gets policed via the sale contracts. ODF needs to add special use permits. For example, if an OHV party is permitted, ODF needs to be clear about the trash requirements.

Hauling on Adjacent Roads

Mike provided an update for hauling on adjacent roads:

Exclusive easements:

In the case of exclusive easements, where ODF is the road authority, ODF will implement the HCP management direction and management practices. This includes both ODF activities and new easements issued by ODF.

Other easements (temporary or permanent):

For the portions of roads where ODF issues easements or permits to other parties, they will be subject to HCP requirements. Standards may be met by either requiring them to do the work or paying a road use fee that would accommodate ODF doing the work. In rare instances, where an existing permanent easement limits the amount of work or payment – and it cannot be renegotiated – ODF will make up the difference in work or cost. For other easement situations, where ODF is not the road authority, ODF will be subject to the issuing authority’s requirements.

Hauling

For wet weather hauling, the HCP standard should be at least as restrictive as the FPA, and if ODF is not hauling off its own permit area, then hauling issues on the easement area should not come into play.

Construction and Maintenance

Construction and maintenance activities are subject to limitations of the easement or use permit issued by the land manager. ODF best management practices will be used where they do not conflict with the easement or use permit. This is not subject to HCP requirements that may go beyond easement or use permit requirements, such as culvert specifications. For landowners that need to build a road on BOF lands, ODF will extend take authorization by conditioning their easement with the terms and conditions of the HCP and permits.

Discussion

Question: Is ODF covered in a situation where ODF is not the authority on a haul route and implements best management practices on the route, but does not upgrade infrastructure on the route?

- **ODF:** When ODF has an exclusive easement, it is essentially ODF's road and authority can be extended in terms of other use. ODF can issue others temporary or special use easements over the road, but landowners cannot issue these easements. ODF wants to ensure others adhere to the HCP. For permanent easements, ODF wants to ensure coverage for hauling off of the permit area.

Question: Question about whether easements tend to be permanent and written into the title, or temporary easements. Question about what the process is to amend any easements.

- **ODF:** The number of temporary easements varies. ODF does have several historic permanent easements that have gone through an easement exchange. ODF would have to seek out advice on the ability to modify those.

Comment: To receive coverage for any activity, it needs to be included in the HCP. If there are restrictions on what ODF can or can't do to minimize take, then ODF should point that out in the HCP. The take prohibitions apply to all US citizens and ODF is responsible for take related to areas it manages. ODF could receive coverage for it, potentially, provided the effects are analyzed and ODF addresses how to mitigate for the effects under the easement.

APPROACH GOING FORWARD, NEXT STEPS, AND SUMMARY

Troy noted that the next draft of the HCP will be the Public Draft HCP. This will be released with the Public Draft EIS. The Project Team is tracking changes in a "new" version of the HCP. Standalone sections or chapters with changes will be shared with the Scoping Team. The Project Team also needs to create a process for identifying changes that have implications in the NEPA assessment and ensuring the NEPA team receives relevant information.

Sylvia reviewed upcoming meetings:

- Tuesday, Aug 3, 9-11am – FMP/IP State Partners Meeting
- Tuesday, Aug 10 2-5pm – Meeting Open to the Public
- Tuesday, Aug 24 12-2pm – HCP Steering Committee Meeting
- Tuesday, Sep 7 9-11am – HCP Scoping Team Meeting

Mike Wilson closed the meeting and thanked everyone for their help.

ACTION ITEMS

- Tere O'Rourke, Troy Rahmig, Deb Bartley: Share HCP changes that have NEPA implications with the NEPA team.
- ODF and ICF: Clarify the definition for aquatic restoration project MAMU restrictions.
- ODF and ICF: Share conservation action 10 as tracked changes with ST.
- ODF: Schedule discussions on herbicides.