

# MEETING SUMMARY

## WESTERN OREGON STATE FORESTS HCP SCOPING TEAM

Tuesday, April 5, 2022, 9:00 am – 11:00 am

By Webinar/Video Conference

### ATTENDEES

**Participants:** Kate Wells (NOAA Fisheries), Jeff Young (NOAA Fisheries), Ryan Singleton (DSL), Rod Krahmer (ODFW), Julie Firman (ODFW), Josh Seeds (DEQ), Joe Zisa (USFWS), Nick Palazzotto (ODF), Sarah Dyrdaahl (ODF), Mike Wilson (ODF)

**Technical Consultants:** Melissa Klungle and Jordan Mayor (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) Welcome and Agenda Review, 2) Agency Updates, 3) Report Out on 3/29 HCP Steering Committee (SC) Meeting, 4) Updates on the NEPA Process and Biological Opinions, 5) Report Out and Seek Alignment on Outcomes from ST Small Group Meetings, 6) HCP Key Changes Document, 7) List of Future ST Topics, and 8) Approach Going Forward, Next Steps, and Summary.

Sylvia shared that the HCP project team has been working on updating the Record of Guidance to reflect outcomes from ST and SC meetings. Sylvia encouraged members to read the document, especially folks that have joined the process recently or within the last year. The document outlines where the ST reached alignment on different pieces of the HCP and will continue to be updated moving forward.

### AGENCY UPDATES

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

- **NOAA Fisheries:** Thanked ODF staff for their assistance and responsiveness in gathering data for the biological opinion.
- **USFWS:** No updates.
- **ODFW:** No updates.

- **DEQ:** DEQ received two full time positions for forestry water quality coordination as part of the Private Forest Accord work. Hiring for these positions will occur soon and DEQ will have a direct forestry contact.
- **DSL:** No updates.
- **ODF:** 1) Interviews for the Division Chief position have started. 2) The staff wildlife position has been advertised and closes soon.
- **ICF:** No updates.

## **REPORT OUT ON 3/29 HCP STEERING COMMITTEE MEETING**

Sylvia Ciborowski shared the following updates from the March 29 HCP SC meeting:

- Members reviewed the HCP Key Changes document
- NOAA Fisheries provided a NEPA update
- ICF presented on the DEIS as it will be presented at the April 6 Public Hearing. The SC asked questions and provided feedback.

## **UPDATES ON THE NEPA PROCESS AND BIOLOGICAL OPINIONS**

Kate Wells, NOAA Fisheries, shared that the Federal Register Notice announcing the availability of the HCP and DEIS for public comment was released in March. NOAA Fisheries will hold a public meeting on April 6<sup>h</sup> and provide a presentation on the HCP and the DEIS. Individuals may register ahead of time to provide comment and will be provided with three minutes of speaking time. Kate noted that NOAA Fisheries intended to issue a joint Federal Notice with USFWS, but this was not possible due to review processes within each organization. NOAA Fisheries published their Notice on March 18<sup>th</sup> and USFWS anticipates publishing their Notice shortly. Ideally, the USFWS comment period will be covered within NOAA Fisheries' comment period for the DEIS. Kate noted that the statutory timeline for public comment is 45 days and NOAA Fisheries has provided for a 60-day comment period which is longer than what is required.

Kate shared that under the new NEPA regulations, the timeline to complete an EIS is two years. The timeline began when the Notice of Intent (NOI) was published on March 8, 2021. The Record of Decision (ROD) must be signed by March 8, 2023. Kate noted that not meeting the timeline is not an option; NOAA Fisheries does not issue extensions for an HCP EIS.

ODF added on to the NEPA update, noting that ODF supports any decision NOAA Fisheries makes regarding extension of public comment period. ODF has an internal timeline and is aiming to bring a highlight of public comments on the DEIS to the Board of Forestry (BOF) in September. The Final EIS will be published in January and the ROD will be signed in February. This provides the team very little timeline flexibility.

## **Discussion**

**Question:** What happens if the team is not able to meet the timeline?

- **NOAA Fisheries:** NOAA Fisheries was told that extensions are not issued on HCP DEIS's.

## **REPORT OUT AND SEEK ALIGNMENT ON OUTCOMES FROM ST SMALL GROUP MEETINGS**

Sylvia Ciborowski shared topics from the March small group meetings that will be reviewed to check for ST alignment including the Equipment Restriction Zone (ERZ) in seasonal other streams, fish passage standards, northern spotted owl (NSO) dispersal habitat, matrix language, and adaptive management.

### Equipment Restriction Zone (ERZ) in Seasonal Other Streams

Melissa Klungle, ICF, shared that comments were received on the Public Draft HCP about the intent of ERZs in seasonal other streams. ODF worked internally to clarify that harvest will occur in ERZs in seasonal others, and ODF will layer Best Management Practices (BMPs) to minimize any effects.

Sarah Dyrdaahl, ODF, noted the importance of discussing the ERZ in seasonal other streams to ensure alignment and understanding. The ODF team worked internally to develop BMPs and brought these to a small group meeting for alignment before exploring where to house the BMPs and policies. Sarah shared that the BMPs will benefit covered species and will have ancillary benefits for water quality. Some of the BMPs will be housed in the Forest Management Plan (FMP), the HCP, or both. Sarah shared the following proposed BMPs and associated policy document for protection of aquatic species:

BMPs include:

- Maintain integrity of stream channel
- Limit skid trails and stream crossings
- Limit soil disturbance to 10% of ERZ in harvest unit
- Harvest when dry
- Endeavor to retain non-merchantable vegetation
- Retain existing downed wood and stumps
- Avoid slash accumulation in stream channels and ERZ

## **Discussion**

**Question:** How was the decision to include BMPs in the HCP, the FMP, or both made?

- **ODF:** ODF is identifying where protections for covered species can be reasonable made to provide assurances over the permit term. ODF wants to be clear about the activities the agency intends to do and that additive pieces, like the conservation fund and restoration activities, are beyond the basic elements of the HCP. ODF recognizes that

there is some overlap between the FMP and HCP. Additional elements, especially those that may not be definite or numeric, may be included in the FMP.

**Comment:** DEQ is supportive of the structure of the BMPs document. The matrix that includes water quality factors and species needs by BMP makes it clear what the purpose of each practice is.

**Comment:** Concern about moving actions that do not have bounds in the HCP over to the FMP. These elements are discussed in the context of the HCP because they effect covered species. The HCP should set the sideboards for what happens in the future. Specific concerns include language that is not well defined, such as the terms “endeavor” and “limit.” These elements should be bounded.

- **ODF:** ODF will continue to discuss this, recognizing that it is difficult to identify bounds for some variables. Interested in ideas for alternatives to “endeavor to retain non-merchantable vegetation”.
  - **Comment:** This BMP is about the protection of the vegetation. Suggest changing to “protect” or “limit damage” to non-merchantable vegetation to the best extent possible”.

**Comment:** “Avoid slash accumulation” could be removed because ODF is doing whole tree harvest.

- **ODF:** Slash accumulation is very site-specific and dependent on the harvest mechanisms. ODF is recommending a middle ground approach, not completely clean and not full of slash.

**Comment:** Is there a visual representation of the different planning levels? This may be helpful regarding questions from the public.

- **ODF:** ODF will send a chart out detailing the relationships between the plans.

*ST members discussed concerns with moving the BMPs into the HCP and made the following suggestions:*

- Most members were comfortable with including the BMPS for ERZs in seasonal other streams. There was some concern about needing to have more specific and bounded language.
- Suggest additional clarity on the relationship between planning levels (FMP, HCP, Implementation Plans (IPs), Annual Operations Plans (AOPs)) and the step-down process between plans. Concerned about the feedback mechanisms at this level and how agencies will be able to provide comment at different stages.
  - **ODF:** ODF can better articulate how the agency will work with partner agencies when developing IPs, how the agency works with contractors in sales, and how different activities associated with sales are selected for

AOPs. ODF will bring this back to the ST and State Partners to ensure there is understanding of the different policy level documents.

- Suggest a small group meeting to further discuss BMP language and bounds.
- Fish Passage Criteria

Sylvia shared that interest in a field trip to understand federal and state fish passage criteria was identified during a small group meeting.

Sarah explained the value of having a field trip to see how state and federal guidelines apply on the ground. Sarah noted that ODF is beholden to state fish passage rules in Tech Note 4. Tech Note 4 is being revised by the Fish Passage Task Force to better align with the Private Forest Accord. ODF will continue to track progress and any changes that come out of this process.

Sarah shared a comparison table for ODFW and NMFS Fish Passage Criteria noting that many of the criteria are very similar or slightly different. As ODFW continues to update rules, ODF will track how these relate to the current NMFS rules.

## Discussion

**Comment:** The Fish Passage Engineering Team is working on updates. NOAA Fisheries will reach out to the Branch Chief for an update.

*Sylvia asked the group is there is interest in a field trip to see how the criteria work on the ground. Members expressed interest and ODF will send a Doodle Poll out for a May or June field trip.*

## Description of Matrix Lands in the HCP

Nick Palazzotto, ODF, shared updates from terrestrial small group meetings to gain alignment on language used to describe matrix lands. ODF worked on adding language to the Public Draft HCP to describe the matrix lands and the area's contribution to habitat for the covered species. This language was included as a placeholder for benefits to covered species until modeling results are available and will be updated for the Final HCP. Nick stressed ODF's intent to not tie the matrix lands to a production purpose because this could evolve over time as values and opportunities shift. ODF wants to ensure that future Board of Forestry members have flexibility to make decisions about the purpose of the matrix lands.

*The ST confirmed they were comfortable moving forward with the approach for matrix lands.*

## Discussion

**Question:** Is ODF concerned that the term "matrix" may lead to confusion because of its use by the Forest Service?

- **Nick Palazzotto:** ODF will prepare to address any questions related to the term "matrix".

**Comment:** The commitment term for the HCP is 70 years. ODF wanted to make it clear that rotations might be shorter or longer based on the Board's preference for fiber flow versus carbon storage in the future.

**Question:** Is ODF changing the leave tree downed wood strategy?

- **Nick Palazzotto:** No, anything that is committed to in the HCP stays.

### NSO Dispersal Habitat

Nick shared an update on the dispersal habitat definition for alignment with the ST. Field staff reviewed the HCP and flagged that dispersal is defined differently inside and outside of Habitat Conservation Areas (HCAs). To provide more clarity, ODF is proposing to collapse the dispersal and non-habitat categories into a single definition of dispersal and non-habitat in Table 4-11. ODF had also limited retention harvest and modified clearcuts to the "not habitat" category. ODF is likely to encounter Swiss needle cast (SNC) and alder dominated stands that may be good candidates for clear cutting allowed in HCAs. ODF is recommending an update to allow for thinning, clear cutting, and retention harvest in these lands.

### **Discussion**

**Comment:** Please provide more detail on the thresholds.

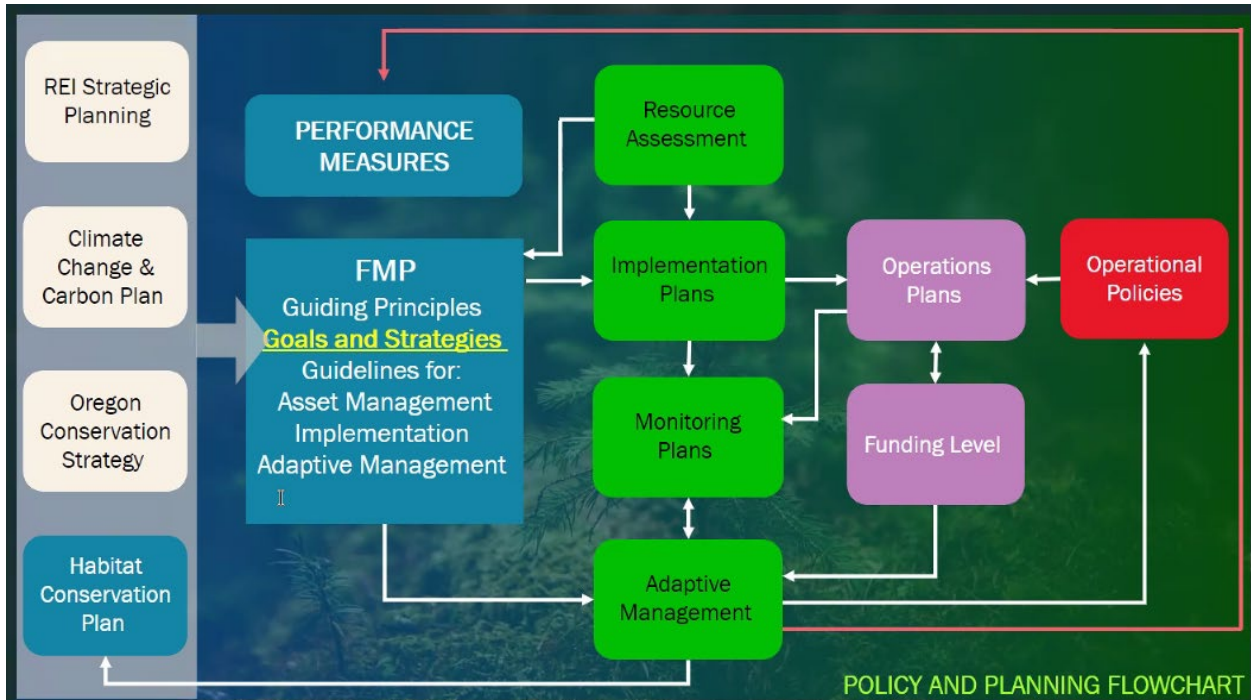
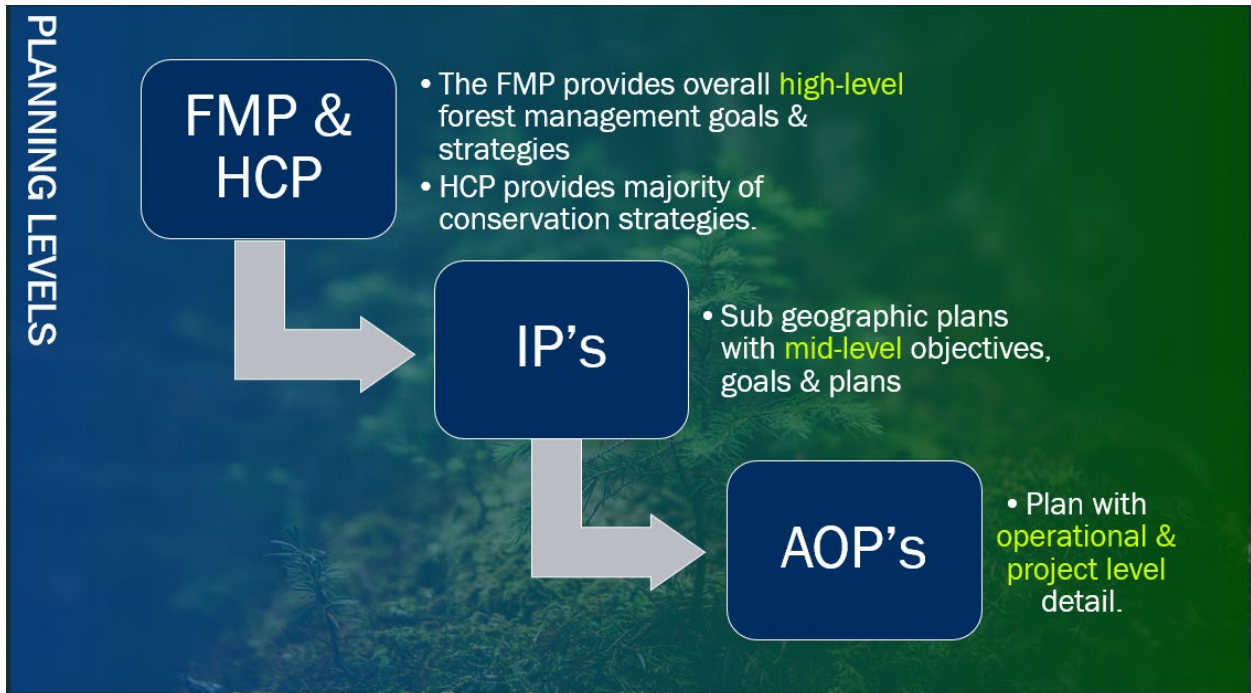
- **Nick Palazzotto:** Thresholds inside HCAs are for nesting, roosting, foraging and the thresholds outside HCAs remain unchanged (i.e., maintain 40% dispersal habitat outside of HCAs).

**USFWS:** The rationale for any type of management in these stands is to move them closer to nesting, roosting, and foraging habitat as quickly as possible. USFWS is more focused on what these stands could provide for nesting and roosting function because that makes the biggest difference. It is important to state this rationale in the HCP, and ODF will add this rationale description to the narrative for the table.

- *Sylvia asked the ST if there were any additional concerns before ODF works on finalizing the language. ST members identified the following concerns:*
- ST members requested additional time to read through the language.
- ICF noted that this can be further discussed at the next ST meeting. There will be additional discussion on topics related to matrix management and dispersal habitat over the next several months.
  - ODF is working on rerunning modeling numbers and will share more information at future ST meetings.

### Adaptive Management

Mike Wilson, ODF, shared updates on adaptive management reflecting comments from USFWS and NOAA Fisheries during HCP review. Mike outlined ODF's different planning levels, noting that the FMP is a high-level planning document, the HCP provides conservation strategies, the IPs are mid-level plans, and the AOPs provide operational details.



ODF has several reporting and review mechanisms included in the HCP that are tied to different planning levels:

- Annual reporting will serve as a compliance mechanism that is tied to the AOPs
- The five-year mid-point check-in will be tied to IPs
- The 10-year comprehensive review will be tied to monitoring completed for the IPs

Mike shared that the Services and State Partners will support the five- and ten-year reporting periods for potential adaptive management. There will be opportunities to engage and discuss on an annual basis, but the focus of the annual reporting is compliance. For the 10-year comprehensive review, ODF would like to have decision space to select from a range of actions when responding to changing conditions as part of adaptive management. The HCP includes several examples for adaptive management triggers and recognizes the difficulty in determining what may happen in the future.

## **HCP KEY CHANGES DOCUMENT**

Melissa Klungle shared key changes made to the HCP from September 2021 to the March 2022 that reflect internal conversations with ODF and ongoing conversations with the ST. Melissa noted that some of the discussions with small groups are not yet reflected in the document because they require additional conversation. Melissa shared key changes for each chapter of the HCP and appendices, pointing out where next steps are needed.

## **LIST OF FUTURE ST TOPICS**

Melissa Klungle shared a list of future ST topics for Chapter 4, Chapter 5, and Chapter 8. Melissa asked the ST to review the document and ensure that all items are captured.

## **Discussion**

**Comment:** The ST and ODF will need to ensure that the Private Forest Accord and this HCP are in alignment.

- **ODF:** The biggest difference between the plans is the way steep slopes are measured. The Private Forest Accord uses slope distance instead of horizontal distance. What's being proposed by State Forests would be more protective. The legislation includes an out for landowners with an HCP that covers a specific resource.

## **APPROACH GOING FORWARD, NEXT STEPS, AND SUMMARY**

Sylvia Ciborowski shared upcoming meetings before closing the meeting:

- The next ST meeting is May 3, 9-11am
- The next SC meeting is May 24, 9-11am