

October 21, 2005

Coos District, Oregon Department of Forestry
63612 Fifth Road, Coos Bay, Oregon 97420
Attention Bob Fields
Emailed to: rfields@odf.state.or.us

RE: Comments on the:
Final Draft of Forest Management Plan,
First public draft of the Habitat Conservation Plan and
First public draft of the Coos District Implementation Plan.

From: Umpqua Watersheds, Coast Range Association, Center for Biological Diversity,
Oregon Natural Resource Council, Cascadia Wildlands Project, Oregon Chapter Sierra
Club, Friends of the Coquille River, and Audubon Society of Portland. Contact
information is on page 33.

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Introduction

The Elliott has the oldest forests found in any of Oregon's state-owned forests.¹ This fact, along with its position on the central Oregon coast next to large expanses of private land, make it one of Oregon's most important public resources for marbled murrelets and northern spotted owls. Projections of timber harvest developed by John Sessions show that in 10 years the current Forest Management Plan (FMP) will produce about 21 mmbf a year, while the new proposed FMP will produce 40 mmbf a year², almost double the logging.

The new plans move the Elliott from age-based to structure-based habitat definitions. But, while the Tillamook and Clatsop forests have 5 structures defined, the Elliott has been simplified to use only 3: Early, Intermediate, and Advanced Structure. This allows for a younger "advanced structure" that old-growth dependent endangered species are expected to thrive in.

For the last 10 years, the Elliott has clearcut about 460 acres of mature forests every year, and thinned 500 acres of plantations³. The new FMP 10-year implementation plan calls for *annual* clearcutting (and herbicide spraying) of up to 850 acres and partially cutting 1,500 acres of advanced and intermittent structure forests.⁴

This will produce up to 45 mmbf a year. (Even though the official FMP target is 40 mmbf, the 10-year Implementation Plan allows 45 mmbf every year.⁵) To put this in perspective, the surrounding Coos Bay BLM, with more than 3 times the land base, has an ASQ of 32 mmbf a year. The Roseburg BLM manages 425,588 acres and has an ASQ of 45 mmbf a year. The Elliott wants to get the same volume off of just 93,282 acres.

Our comments focus on encouraging the Coos District, Oregon Department of Forest, to not increase the logging volume allowed under the current Habitat Conservation Plan. The ODF should even consider lowering the current acres of annual clearcuts because of, among other things, the likely reductions in species protections on adjoining BLM lands, and other new information the ODF should do adaptive management on. We also ask the Coos District to begin to welcome visitors to recreate in the Elliott State Forest by providing some hiking trails.

Relevant Regulatory Scheme

The Endangered Species Act, 16 U.S.C. § 1531 *et seq.* ("ESA"), was enacted, in part, to provide a "means whereby the ecosystems upon which endangered species and threatened species depend may be conserved . . . [and] a program for the conservation of such endangered species and threatened species" ⁶ The ESA is "the most

¹ Draft Coos District Implementation Plan. August 2005. Page 6

² Hand out at September 21, 2005 public meeting in Roseburg. I asked ODF why John Sessions predicted a reduction in cutting, from 28 mmbf currently, down to 21 mmbf in 10 years under the current HCP. I was told this was the projection of newly found Marbled Murrelet nests.

³ Handout at September 21, 2005 public meeting.

⁴ Draft Coos District Implementation Plan. August 2005. Page 27 and 67.

⁵ Draft Coos District Implementation Plan. August 2005. Page 67.

⁶ 16 U.S.C. § 1531(b).

comprehensive legislation for the preservation of endangered species ever enacted by any nation.”⁷ As the Supreme Court held, “the plain intent of Congress in enacting this statute was to halt and reverse the trend toward species extinction, whatever the cost.”⁸

Section 9 of the ESA makes it unlawful for any person to “take” an endangered species of fish or wildlife.⁹ The federal Fish and Wildlife Service (“FWS”) and National Marine Fisheries Service (“NMFS”) (collectively the “Services”) have extended the take prohibition to include threatened fish and wildlife.¹⁰ The “take” of a protected species includes “harm,”¹¹ which, in turn, includes effects from any “significant habitat modification or degradation where it actually kills or injures wildlife.”¹²

Section 10 of the ESA creates an exemption from the ESA’s prohibition on the take of covered species. It grants the Services the power to issue permits allowing for the take of listed species that incidentally results from lawful activities on private property.¹³ To obtain an “Incidental Take Permit” (ITP), a party must develop a “habitat conservation plan” (HCP) that provides for ongoing mitigation efforts to minimize the project’s future impact on protected species.¹⁴

Before issuing an ITP, the Services must prepare and evaluate a biological opinion pursuant to Section 7 of the ESA, to ensure that the project will not jeopardize the continued existence of covered species.¹⁵ A biological opinion must detail “how the agency action affects the species” and whether the action is “likely to jeopardize the continued existence” of the species.¹⁶ In formulating its biological opinion, the Services must “use the best scientific and commercial data available.”¹⁷

Here, the federal FWS is self-consulting over the effects of the ESF HCP on protected species, including the northern spotted owl (NSO), marbled murrelet, bald eagle, and coastal coho salmon. Thus, the Services must analyze the effects of an agency action against the proper “environmental baseline,” which must include the “the past and present impacts of all Federal, State, or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early section 7 consultation, and the impact of State or private actions which are contemporaneous with the consultation in process.”¹⁸ The “action area” includes “all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.”¹⁹ The analysis of the effects of the action must address these effects in conjunction with the impacts that constitute the baseline. Only if this analysis is done adequately will a proper assessment of the cumulative impact on protected species of the HCP be achieved.

As currently drafted, the Services will not be able to fulfill its duty to insure that implementation of the draft HCP will not jeopardize the existence of the protected

⁷ *Tenn. Valley Auth. v. Hill*, 437 U.S. 153, 180 (1978)

⁸ *Id.* at 184.

⁹ 16 U.S.C. § 1538(a)(1)(B)

¹⁰ 16 U.S.C. § 1533(d); 50 C.F.R. § 17.31(a)

¹¹ 16 U.S.C. § 1532(19),

¹² 50 C.F.R. § 17.3.

¹³ 16 U.S.C. § 1539(a)(1)(B).

¹⁴ 16 U.S.C. § 1539(a)(2); 50 C.F.R. § 17.22.

¹⁵ 16 U.S.C. § 1536(a)(2), (b)(3)(A).

¹⁶ 16 U.S.C. § 1536(a)(2), (b)(3)(A).

¹⁷ 50 C.F.R. § 402.14(g)(8); *see* 16 U.S.C. § 1536(a)(2).

¹⁸ 50 C.F.R. § 402.02.

¹⁹ *Id.*

species in the ESF. For the reasons set forth below, the HCP excludes from the action area federal activities that are impacting protecting species. First, by limiting the analysis in this way, the Services will be unable to avoid its statutory duty under the ESA to insure that their activities do not jeopardize the existence of the NSO, marbled murrelet, and other protected species. The impact of an authorized incidental take cannot be determined or analyzed in a vacuum, but must necessarily be addressed in the context of other incidental take authorized by the Services.

In addition, when the Services permit incidental take, they must “set forth a ‘trigger’ that, when reached, results in an unacceptable level of incidental take . . . requiring the parties to re-initiate consultation.”²⁰ Wherever possible, this should be a “numerical value,”²¹ but in “situations in which impact c[an] not be contemplated in terms of a precise number,” the Service “must establish that no such numerical value could be practically obtained.”²² As the Ninth Circuit observed, incidental take statements “do not operate in a vacuum” but “are integral parts of the statutory scheme, determining, among other things, when consultation must be reinitiated.”²³ The draft HCP fails to include any such “trigger” for protected species on the ESF.

For all of the reasons set forth below, the proposed FMP will also violate the Oregon Forest Practices Act and its implementing rules, which require ODF to manage state forests in such a manner as to maintain natural resources, soil productivity, fish and wildlife, using the best available information. If adopted, the proposed FMP will violate the OFPA’s requirement that state forests be managed in such a way as to maintain soil, air, water, fish and wildlife resources and scenic resources, and to ensure the continuous benefits of those resources for future generations of Oregonians. Finally, the proposed FMP will violate the Oregon Endangered Species Act and the Oregon Plan for Salmon and Watersheds.

1. Advanced Structure

Advanced structure on the Elliott is not defined strong enough to protect endangered birds and fish on the Elliott. The definition is not adequately protective of old growth because it is likely that the older portions of the advanced structure will be logged first, and younger advanced structure (65-80 “recovered” clearcuts) are useless to old-growth dependent species like the NSO and MM. Particularly because maintenance of 50 percent advanced structure is supposed to provide a large component of the conservation strategy for NSO and MM, the definition of advanced structure must be refined. Maintenance of such structure will not provide sufficient mitigation of the logging contemplated under the FMP, and, thus, will not comply with the ESA.

Elliott’s Advanced Structure vs. the rest of Oregon state forests: The ODF will implement only three structure definitions for the Elliott: Early, Intermediate, and Advanced. All the other Oregon state forests implement five structures: Regeneration,

²⁰ *Ariz. Cattle Growers*, 273 F. 3d at 1249.

²¹ *Id.* at 1250.

²² *Id.* (citing H.R. Rep. No. 97-567, at 27 (1982), *reprinted in* 1982 U.S.C.C.A.N. at 2827).

²³ *Id.* at 1251.

Closed Single Canopy, Understory, Layered, and Older Forest Structure²⁴. Simplifying ‘structure’ definitions simplify forests and reduce protections for older forests and the wildlife that depend on them.

In the rest of Oregon state forests, “Stand Type 4 – Layered”, in the middle of the stand trajectories, has the same definitions as the Elliott’s loftiest structure, “advanced structure”, dominated by trees only 18” DBH. The Elliott does not have a distinct “Stand Type 5 Older Forest Structure” with at least 8 TPA 32” DBH and measurable specifications for snags and down wood²⁵. As explained in more detail below, all the specifications for “Older Forest Structure” are optional in the short-term in the draft plans.

In fact, the picture used to describe the advanced structure on the Elliott with an average of 18” DBH trees²⁶ is the exact same picture used to describe “Older Forest Structure” on the Tillamook, with 32” DBH trees.²⁷ It is misleading to depict the Elliott’s “advanced structure”, with a graphic used to describe forests with entirely different specification in other state forests.

Advanced Structure is not advanced enough: “Advanced Structure”, as defined in the draft plans, can’t provide the quality of natural snags and cavity nests that marbled murrelets and spotted owls are dependent on,²⁸ or the same thickness of bark that other species (like bats) are dependent on. A number of studies have found both size and density of snags as well as amount of down woody debris to be an important component of spotted owl habitat.²⁹

The Elliott’s draft FMP defines its oldest forests, “advanced structure”, as having an overstory “dominated by trees of 18 inches or larger DBH and approximately 100 feet or more tall.”³⁰ Compare this with the average Douglas fir on the Elliott that is 115 feet tall when the tree is only 50 years old³¹. A 100’ tall tree is extremely small for a mature forest in the Coast Range. Only one half of the stand has to have overstory trees average 24” DBH or larger.

As the older FMP draft made clear, advanced structure will lack old-growth components: “decay and decadence required for old growth characteristics are generally lacking, successional trees required by old growth may be lacking, and dead and down material required by old growth is lacking.”³² This admission was removed from the current FMP draft. Why?

²⁴ Northwest Oregon State Forests Management Plan (NW Oregon FMP). Final Plan. January 2001. Pgs 4-13 - 4-17.

²⁵ Final Plan Jan. 2001 Resource Management Concepts and Strategies. Page 4-17

²⁶ Draft 2005 FMP page 4-21.

²⁷ Final Plan Jan. 2001 Resource Management Concepts and Strategies. Page 4-17

²⁸ Northern Spotted Owl Research on ODF Lands (including the Elliott) in the Coast Range. 7/18/00. pg 24. “Number of snags and size of snags were larger in nest areas than in forage or low use areas at ESF..”

²⁹ Northern Spotted Owl Research on ODF Lands (including Elliott SF) in Coast Range. 7/18/00. page 31.

³⁰ Draft 2005 FMP. Page 5-10.

³¹ Elliott 2005 draft HCP. Page 3-10. “The Elliott’s average 50-year site index for Douglas fir is 115 feet, or a low site class II, based on the Weyerhaeuser Soil Mapping of the Elliott completed in 1973.”

³² Elliott State FMP Draft Plan May 2004. Page E-5

The ODF does admit that: “Advanced structure stands... *may* develop structural characteristics typically linked with older forests or old growth. These stands will not necessarily emulate all of the processes and functions of very old forests.”³³ Yet, ODF still claims 65 year old forests will provide old-growth like habitat for nesting, roosting and foraging.³⁴

One excuse given for the weak definition of advanced structure is that “several wildlife species once thought to rely on old-growth habitat seem to prefer and use a variety of advanced structure stands.”³⁵ There was no footnote to this claim that old-growth dependent species don’t really need old-growth at all. The ODF must back up this claim with peer-reviewed science, as it is the sole reason the Elliott has no ‘Older Forest Structure’ definition, like the Tillamook.

The HCP also assumes that the Owls can “adequately forage” in intermediate forests, 6 to 30 years old: “35–45 percent intermediate structure potentially providing adequate foraging habitat.”³⁶ The ODF should present some scientific basis for this conservation measure.

Trajectory Advanced Structure: The 2005 draft FMP and HCP “Advanced Structure” definitions differ. While the definition of advanced structure in the 2005 draft FMP lacked any measurable standards, the definition in the 2005 draft HCP, is down right confusing. Why are the definitions different for the FMP and the HCP?

The draft HCP defines an additional standard not in the FMP: “**stands on a trajectory to advanced structure**”. Apparently, this is sort of a super advanced structure. Trajectory advanced structure stands *must* attain a measurable structures that the FMP only suggests might happen. Specifically, “trajectory advanced structure” needs to have 8 trees per acre (TPA) over 32” DBH, 6 snags per acre over 12” DBH, a specific amount of sound down logs, and “at least one large remnant tree per five acres.”

At some undefined point in the future, not now, 50% of the advanced structure (at least 20% of the Elliott) must have “at least 8 trees per acre ≥ 32 ” DBH”.³⁷ But **this requirement does not include any of the dead and down wood components of the “trajectory advanced structure”**. Thus, the trajectory-advanced-structure forests are not really required anywhere on the Elliott. None of the Elliott is required to have the other specifications of trajectory stands, like the snags, down wood and remnant trees. This significantly weakens protections for endangered species and should be changed.

Trajectory advanced structure (defined in the draft HCP, yet not fully required on any of the Elliott) is the same specifications as the “Stand Type 5 – Older Forest Structure” defined in other Oregon state forests. So the questions remain:

³³ Draft 2005 FMP page 4-21. Emphasis ours.

³⁴ Draft Coos District Implementation Plan. Page 24. “Stands on the advanced structure trajectory may receive one or more thinnings and may attain this structure type by age 65.”

³⁵ Draft 2005 FMP page 4-21.

³⁶ Draft 2005 HCP page 6-12.

³⁷ Draft 2005 HCP page 6-12.

- * why is trajectory advanced structure not a separate structure, as clearly defined as in other Oregon state forests;
- * why is trajectory advanced structure only in the draft HCP, not in the draft FMP;
- * why are the full components of trajectory advanced structure not required anywhere on the Elliott?

The draft plans never explain what the “trajectory advanced structure” will be used for. I asked ODF. Robert Hall responded: “The “trajectory stand” locations will be selected in such a manner so as to make contributions for other landscape objectives, such as connectivity, limit early structure proximity to T&E cores, contiguity of advanced structure and patch size.”³⁸ This information needs to be moved out of email and into the Forest Plan.

Perhaps **about half of the Advanced Structure currently on the Elliott already meets the specifications of trajectory Advanced Structure.**³⁹ Unfortunately, there were not maps of any of the stand types in the draft FMP or HCP. The draft HCP requires the 10-year Implementation Plans to identify these areas, yet in the very first draft IP, there are no maps or other identification of these areas. The ODF wrote to me:

“Only “draft” trajectory stands have been selected, to my knowledge there has not been a concerted effort to validate these selections which would necessarily occur before a map could be made available for distribution.”⁴⁰

But we are being asked to comment on these draft plans now. Without meaningful definitions and maps, meaningful comments are not possible. When are the draft trajectory stands going to be “validated” and mapped, so we can comment on them?

Advanced Structures Percentages are incorrect and inconsistent. To further muddy the waters, the Implementation Plan has inconsistent percents of the current condition of advanced structure in each watershed. The draft HCP says:

“All basins *except* 4 and 7 currently meet the target for advanced structure.”⁴¹

This wrong. The implementation plan says that basin #7 meets its target, but identifies basins #4 and 13 as not currently meeting the target for advanced structure. When I pointed out this mistake to ODF, Robert Fields answered:

“My numbers from 2004 data show that basins 4, 6, 7 and 13 are less than the targets... My numbers from 2004 data show basin 4 @ 47%, basin 6 @ 57%, basin 7 @ 58% and basin 13 @ 49%.”⁴²

Since the IP said basin #7 had 63% advanced structure and basin #13 had 46% advanced structure⁴³, I asked if these basins had grown 5% and 4% into advanced structure, respectively, in just one year. Robert Fields answered:

“I did not generate the numbers for the draft IP document, perhaps they used a different data set. It is of interest that the %s for basin #7 on page 49 show the 63% for advanced structure (current condition), but the total for all stand types is 105%.”⁴⁴

³⁸ Email from Robert Fields to Francis Eatherington, October 11, 2005.

³⁹ Email from Robert Fields to Francis Eatherington, October 11, 2005. “The 2004 data indicates at least 50% of advanced structure stands, forest wide, have the 8 TPA > 32” DBH.”

⁴⁰ Email from Robert Fields to Francis Eatherington, October 12, 2005.

⁴¹ Draft HCP. May 2005. page 5-8

⁴² Email from Robert Fields to Francis Eatherington, October 11, 2005.

⁴³ Coos Implementation Plan. 9-1-05. Page 64. Table 24.

Yes, it is interesting that the percents for basin #7 add up to 105%. All the mis-information and mistakes must be fixed in time for the public to submit meaningful comments that can be considered before a final decision is made.

2. Creating new habitat for endangered species is problematic.

The 2005 drafts of the Forest Management Plan (FMP) and Habitat Conservation Plan (HCP) depend on stands as young as 65 years old⁴⁵, regrown from old clearcuts, to fall into the “advanced structure” category that provides northern spotted owl (NSO) and marbled murrelet (MM) nesting habitat⁴⁶. Meanwhile, close to half of the currently existing, native, old forests on the Elliott will be clearcut over the next 50 years. For instance, the Charlotte watershed currently has 85% “advanced structure”, the most of any watershed on the Elliott (or perhaps on the entire central Oregon coast). The 50-year target is to reduce it to 40% advanced structure by clearcutting more acres here than anyplace else.

After 50 years, 11 out of 13 watershed basins will have their current advanced structure forests reduced. Currently 53% of the Elliott is advanced structure. Most of this is native forests, never before logged, recovered from the 1868 fire, containing important legacy components. After 50 years, the Desired Future Condition goal will reduce that to as low as 40%. It could be lower since 40% includes old clearcuts that have regrown as advanced structure.

In 50 years⁴⁷:

- * 23,518 acres of currently existing advanced structure will be have been cut,
- * 27,000 acres of currently existing advanced structure will remain uncut. Virtually all of this will be in HCAs and other protected areas.
- * 16,781 acres of current clearcuts will have regrown into advanced structure to, in theory, provide homes for owls and murrelets.

These figures were never directly included in the HCP or FMP, but it is important information to consider impacts to NSOs and MMs. It should be moved out of email and directly into the next FMP draft.

The ODF failed to provide any supporting science that indicates nesting habitat can be recreated in a timely way from old clearcuts. Yet the FMP justifies clearcutting in watersheds like the Charlotte watershed (likely the least fragmented owl habitat on the Elliott) because “several wildlife species once thought to rely on old-growth habitat seem

⁴⁴ Email from Robert Fields to Francis Eatherington, October 12, 2005.

⁴⁵ Draft Coos District Implementation Plan. August 2005. Page 24. “Stands on the advanced structure trajectory... may attain this structure type by age 65.”

⁴⁶ Draft Forest Management Plan. May 2005. Page 4-9: “Some areas will be developed into advanced structure stands that will serve as habitat for species that use late successional forest areas.” Page 4-12: “will remain on the landscape for a period of time to function as habitat for species that use these older forest structures.” Page 4-21: “Advanced structure ... provide habitat for species commonly associated with older forests.”

⁴⁷ These figures were derived from a series of calculations and emails from Robert Fields 9/28/05 to Francis Eatherington.

to prefer and use a variety of advanced structure stands.”⁴⁸ The ODF failed to provide any peer-reviewed science that old-growth dependent species can thrive in 65-year-old clearcuts.

The ODF’s working hypothesis for the new plans is to maintain the current numbers of endangered birds so they can repopulate old clearcuts. “...key habitat areas for specific species will maintain existing populations as a source to colonize new habitat. Species will colonize new habitat as it develops over the longer term.”⁴⁹ This is the foundation of the entire HCP. The ODF failed to present scientific support for this hypothesis.

The ODF says they will “Maintain existing owl and murrelet areas until new habitat *develops*.”⁵⁰ This should say that ODF will maintain existing owl and murrelet areas until new habitat is *occupied*. If ODF has confidence in their hypothesis, the ODF should adopt this important change. It is inappropriate to count acres of “manufactured homes”, instead of counting the owls and murrelets that actually use them.

Actually, there is good evidence that murrelet and NSOs do not do well in “recovered” clearcuts.

“Late-successional forest communities are the result of a unique interaction of disturbance, regeneration, succession and climate that probably **can never be created with management**. At present, we do not even fully understand the structure, species composition, and function of these forests. The best we can hope to accomplish through silviculture is to at least partially restore or accelerate the development of some of the structural and compositional features of such forests. Because they will be regenerated by different processes during a different period from that of the existing late-successional forests, it is highly likely that silviculturally created stands will look and function differently from current old stands that developed over the last 1,000 years.”⁵¹

The ODF assumes for the Elliott that: “advanced structure will be harvested on longer cycles ranging from 100-160 years. It generally takes about 80 years to develop the basic characteristics of more complex structures, and those stands will be retained for at least 20 more years to function as advanced structure”.⁵² The ODF assumption that large dead snags and other old-growth like structural diversity can develop in an 80 year old clearcut has no scientific basis.

The ODF failed to consider *quality* of the habitat. This was addressed by the 1993 Scientific Analysis Team (SAT) report that Jack Ward Thomas et al submitted to Congress in 1993:

⁴⁸ Draft Elliott FMP. May 2005. Page 4-21.

⁴⁹ Draft Elliott FMP. May 2005. Page 3-16.

⁵⁰ Draft Elliott FMP. May 2005. Page H4.

⁵¹ FEMAT page IV-31, 32.

⁵² Draft Elliott FMP. May 2005. Page C-12.

“In the opinion of Scientific Analysis Team, assessments that do not account for the differential quality of habitats fail to fully assess the risks associated with habitat manipulation.”⁵³

“Lacking experience with selective cutting designed to create spotted owl habitat, such practices must be considered as untested hypotheses requiring testing to determine their likelihood of success. ... It is likely that some silvicultural treatments, which have been characterized as largely experimental, may well have an opposite effect from that expected. Consequently, such treatments may hinder the development of suitable habitat or they may only partially succeed, resulting in development of marginal habitat that may not fully provide for the needs of spotted owls. Results which fall short of the expected conditions could occur because of delay or failure to regenerate stands that have been cut, increased levels of windthrow of remaining trees, mechanical damage during logging to trees remaining in the logging unit, the spread of root rot and other diseases.”⁵⁴

This was written before the onset of Swiss Needle Cast, which adds another element of uncertainty on the Elliott State Forest. The SAT indicates that these comments apply equally to density management and patch cutting, both of which the ODF promotes in the new plans to enhance owl habitat on the Elliott.

The SAT also cited concerns about the effect of logging on snags and down woody debris, which are essential features of owl habitat. Probably the biggest low-quality component of managed stands on the Elliott are the lack of large snags and down wood needed by owls to harbor their prey species and nesting opportunities.

The ODF is depending on Adaptive Management to test, and change if necessary, the assumption that old clearcuts can provide old-growth like habitat. “Adaptive management approaches and monitoring will provide the feedback and tools to make future prescriptions.”⁵⁵ The general problems with Adaptive Management on the Elliott are detailed in our attached comments on the DEIS scoping. There are additional problems with Adaptive Management when monitoring species use of new habitat.

“There are also probabilities associated with how well monitoring will identify ‘trigger points’ that indicate a management plan may need modification. The more complex the plan (i.e., the more variables there are to monitor) the less likely the monitoring plan will successfully detect problems. Manipulation of forest stands to accelerate development of spotted owl habitat on a landscape scale, is an extremely complex issue involving a myriad of variables over a very long timeframe. Development of a monitoring plan intensive enough to isolate the causes of observed variations for wide-scale implementation of the... alternative seems unlikely to us. ... [I]nadequate monitoring will increase, perhaps dramatically, the risk of failure of a plan that relies heavily on adaptive management.”⁵⁶

⁵³ SAT Report p 146.

⁵⁴ SAT p 147-148.

⁵⁵ Draft Elliott FMP. May 2005. Page C-13.

⁵⁶ SAT p 149.

SAT then noted the cumulative effects of all these uncertainties.

“The combined risks associated with treatment of spotted owl habitat or stands expected to develop into suitable habitat for spotted owls, as discussed above, will likely result in situations where either habitat development is inhibited or only marginal habitat for spotted owls is developed. The exact frequency of these partial successes or failures is unknown. Given the likely cumulative relationship among the risks for each factor, it appears to us that the overall risk of not meeting habitat objectives is high.”⁵⁷

The SAT noted that “considerable additional research is likely required” before we will know whether silviculture can be compatible with spotted owls”.⁵⁸ The ODF should present some research that refutes these scientific observations before betting the lives of endangered species on 65 year old clearcuts.

3. Northern Spotted Owl

Habitat Conservation Areas for NSO’s are the same in the new FMP and HCP as they were in the old plans, even though the 5-year review for the 1995 HCP determined they should be relocated:

“The five HCAs that contain active spotted owl nest sites or activity centers are not configured to contain the core use areas for the sites where this area has been identified... In particular, the two sites noted as being important to the Elliott population because of their demonstrated ability to contribute new individuals into the spotted owl populations, Roberts Creek and Salander Creek, are not included in any HCAs.”⁵⁹

I asked Coos District Forester, Jim Young: “Was adaptive management implemented to correct this problem?”⁶⁰ He responded: “This information is being considered in development of the revised FMP/HCP.”⁶¹ But the new plans are not addressing this problem. The HCAs have not been corrected to include the five nest core areas left out.

The 5-year review emphasizes this problem over and over again:

“...delineation of HCAs is not entirely consistent with known spotted owl core areas. Of the 15 core areas, only 6 are wholly or partially within HCAs... only a few of the HCAs include areas known to receive high use by active spotted owl pairs. In particular, the lack of HCAs including the core use areas of Roberts Creek and Salander Creek **may result in lack of adequate protection to maintain these highly productive sites...**”⁶² “Under the HCP, there is no specific protection for Roberts Creek or Salander Creek owl sites.”⁶³ “In particular, the two sites noted as being important to the Elliott population because of their demonstrated ability to contribute

⁵⁷ SAT p 151.

⁵⁸ SAT p 147.

⁵⁹ Elliott HCP 5-year review. February 18, 2002. page 25.

⁶⁰ Email to Jim Young on March 30, 2005, from Francis Eatherington.

⁶¹ Email from Jim Young on 4/7/05, to Francis Eatherington.

⁶² Elliott HCP 5-year review. February 18, 2002. page 17-18.

⁶³ Elliott HCP 5-year review. February 18, 2002. page 17-18.

new individuals into the spotted owl populations, Roberts Creek and Salander Creek, are not included in any HCAs.”⁶⁴

Please address this problem in the next FMP/HCP draft.

Errors in draft plans: The new plans being developed for the Elliott have blatantly wrong information on populations of northern spotted owls. Before the ODF can make informed decisions, the information must be corrected.

For instance, the Implementation Plan and FMP said that over the 5 years of the Elliott’s NSO study (1993-1998), “there was an apparent loss of territories...” and “the rate of population change remained relative steady.”⁶⁵ This is wrong! The study referred to concluded that, between 1993 and 1998, the total number of NSO territories **decreased by 48%** and the number of pair sites **decreased by 54%**⁶⁶. “Crude density also declined between 1993 and 1996 with a **62% decrease** in the number of territories/km2 and a **57% decrease** in the number of owls/km2.”⁶⁷ The study warned that “the declining adult survival rates are of concern, and these rates must stabilize over time for the population to be stationary... the declining trend in density and adult survival are cause for concern....”⁶⁸

The FMP and IP falsely claimed there was only an “apparent loss” of territories, when there is overwhelming evidence there was a 48% decrease in territories; and falsely claimed there is a steady population when the number of owls declined by 57%. Even ODF’s own 5-year review of the HCP says NSOs “significantly declined” between 1993 and 1998.⁶⁹ The drastic decline in numbers of NSO cannot be ignored. The final HCP, FMP and IP must be corrected.

The 1995 HCP promises must be kept. The northern spotted owls on the Elliott have declined significantly since the 1995 HCP, when there were 69 owls on, or partially on, the Elliott. The state of Oregon promised that habitat for 26 northern spotted owls will be protected through 2055.⁷⁰ The 2005 draft IP, HCP and FMP must not protect any less than what Oregon has promised to protect. Yet the 2005 draft plans appear to be allowing the Elliott to maintain only the 10 pairs and 3 resident singles⁷¹ (23 owls) left on the Elliott. The 2005 plans do not increase protections for NSO to assure 26 owls will be protected, but decrease protections. In fact, the new HCP doesn’t actually require that *any* number of owls actually be present on the Elliott.

The new HCP should not allow further destruction of NSO habitat unless 26 owls are actually using the habitat the HCP claims they can use.

The new 2005 HCP must encourage an increase of NSOs, from 10, back up to at least 13 pairs, and must maintain at least this number for the life of the HCP. The mean home

⁶⁴ Elliott HCP 5-year review. February 18, 2002. page 25.

⁶⁵ Draft Coos District Implementation Plan. August 2005. Page 11, FMP page S-7 and 2-29.

⁶⁶ NSO Research on Oregon Department of Forestry Lands. July 18, 2000. Appendix A. page 25.

⁶⁷ NSO Research on Oregon Department of Forestry Lands. July 18, 2000. Appendix A. page 25.

⁶⁸ NSO Research on Oregon Department of Forestry Lands. July 18, 2000. Appendix A. page 26.

⁶⁹ Five review for the Elliott Habitat Conservation Plan. ODF. 2-18-02. Page 7.

⁷⁰ Elliott State Forest HCP 1995. Page IV-14. And Elliott State Forest EA. 1995. Page III&IV-12.

⁷¹ Draft 2005 HCP page F-5 and 2003 Survey Report page 6.

range size on the Elliott for a northern spotted owl is 2,735 acres.⁷² Therefore, 26 owls would need 71,110 acres of nesting, roosting and foraging habitat.

The draft HCP says: “The ideas, objectives, and strategies of this plan must begin with the forest lands as they are now.”⁷³ No. This HCP is a modification to the current HCP, not a new HCP, so the baseline must begin at 1995.

The 2003 owl survey found less owls than the draft HCP claims. The 2003 survey found 11 pairs and 2 resident singles. This includes the 14 pairs the draft HCP listed on page 6-6, *except* the following:

* **Upper Mill Creek pair.** The 2003 survey says the Upper Mill Creek pair is the Tom Fool Pair⁷⁴. The ODF can’t count this pair twice.

* **Fourmile Creek pair.** The 2003 survey says the Fourmile Creek pair is on private land.⁷⁵ The ODF can’t support NSOs on adjoining private land.

* **Palouse Creek Pair.** The 2003 survey says the Palouse Creek pair is no pair at all. It’s only a resident single.⁷⁶ The ODF can’t count a resident single as a pair.

The total we count is 11 pairs and 2 resident singles, or 24 owls and 13 activity centers. However, the 2003 survey actually says: “Based on the more rigorous protocol for demographic studies, there were 10 active pair sites and three resident-single sites (two with pair status unknown) for a total of 13 activity centers.”⁷⁷ This is because at least one site had only 1 response from a pair, instead of 2, as the protocol requires⁷⁸. We are unsure which pairs the protocol for demographic studies would call a resident single instead. This information should be disclosed and considered in the next FMP/HCP draft.

Instead of 10 or 11 pairs, the ODF claims the 2003 NSO survey on the Elliott found “Twenty-five owls at 13 activity centers (12 pairs and one single owl).”⁷⁹ And more mysteriously, the 2005 draft HCP claims the 2003 survey shows there are 14 owl pairs and one resident single.⁸⁰ The HCP can’t start out with the wrong numbers. Could ODF please supply us with a list, naming which specific owls are being counted as pairs and resident singles in the ODF’s count of 12 pairs, vs. the 2003 study’s count of 10 pairs.

None of the NSO’s on the Elliott nested in 2003. This is alarming information. There should be another survey in 2006 before finalizing the HCP to determine if the inability to nest on the Elliott is consistent over multiple years.

⁷² Elliott 2005 draft HCP. Page 4-7.

⁷³ 2005 draft HCP. Page 3-1.

⁷⁴ Draft 2005 HCP page F-18 and 2003 Survey Report page 24: “About the same time this spotted owl pair disappeared, the very nearby Tom Fool pair was detected. At the AC meeting, it was decided that the Upper Mill Creek pair moved to the Tom Fool site after being displaced by the barred owl.... (see Tom Fool site for more information).”

⁷⁵ Draft 2005 HCP page F-10 and 2003 Survey Report page 13: “About the same time this spotted owl pair disappeared, the very nearby Tom Fool pair was detected. At the AC meeting, it was decided that the Upper Mill Creek pair moved to the Tom Fool site after being displaced by the barred owl. They were determined to be non-nesting (see Tom Fool site for more information).”

⁷⁶ Draft 2005 HCP pg F-15 and 2003 Survey Report pg 20: “In late-April 2003, an unbanded male was found in the area. On a rainy follow-up visit, he ate one mouse and refused more. No more spotted owls were detected at this site in 2003.”

⁷⁷ Draft 2005 HCP page F-5 and 2003 Survey Report page 6.

⁷⁸ Draft 2005 HCP page F-23 and 2003 Survey Report page 32.

⁷⁹ Draft Elliott FMP. May 2005. Page F-11.

⁸⁰ Draft 2005 HCP. Page 6-6.

The Elliott is critical for owl survival in the area. The USFW determined that populations of fewer than 20 potentially reproductive pairs are at an increased risk of local extinction. Habitat reserves that can support 20 or more pairs should be spaced no more than 12 miles apart because 2/3rd of all juvenile dispersal distances were 12 miles or less. Reserves with small populations should be no more than 7 miles apart.⁸¹

The federal reserves around the Elliott are smaller than what would support 20 pairs, and therefore, depend on the Elliott to supplement this critical habitat link.

In 1995 the USFW determined that: “in the short term, the situation [near the Elliott] is particularly acute because the owl populations in the reserves are depressed due to the limited amount and fragmented nature of the habitat within the reserves.”⁸² The effective population sizes in the reserves around the Elliott were expected to fall to 12 pairs and 10 pairs. (#33 southeast of the Elliott and #34 east of the Elliott). This makes the Elliott State Forest even more critical for protecting owls to allow their continued existence in the area of concern.

In 1995, roughly half of the known owls in the Oregon Coast Range province were south of highway 38⁸³ in the vicinity of the Elliott. The ODF must consider how maintaining owls at only 10 pairs will affect the regional landscape. The current HCP says:

“The Elliott State Forest and Late Successional Reserve RO265, immediately north of the Elliott, provide a critical link within the Oregon Coast Range Province, connecting populations north and south of State Highway 38. ... Regrowth of forests in Coast Range LSRs, and hence, demographic contribution, will not begin to occur for several decades. In the meantime, **contributions to the provincial owl population by the Elliott will be very beneficial.** Populations within the Klamath and West Cascades Provinces are more stable, and restocking of coastal LSRs will be enhanced by immigration from these.”

“...Effective 1995, Weyerhaeuser Corporation has entered into an HCP with the USFWS to manage its 209,000 acre Millicoma Tree Farm, adjacent to the Elliott, as habitat conducive for dispersal of spotted owls.... The Millicoma Tree Farm and the Elliott State Forest form the major linkage between three LSRs that will be critical in facilitating intra- and inter-provincial movement, and restocking of suitable, potentially vacant, habitat that will be developing in the LSRs.”⁸⁴

This regional importance of the Elliott State Forest should be more fully considered in the draft plans.

There is only protection of occupied NSO sites within the T&E cores. There must be additional protection of newly discovered sites. It is highly likely that many of the occupied sites that are protected will be taken over by barred owls, a scientific reality that only highlights the need to protect newly discovered sites in additional conservation areas

⁸¹ Millicoma HCP pages 2-4 and 2-5.

⁸² Millicoma HCP pages 2-6.

⁸³ Millicoma HCP pages 4-16.

⁸⁴ ESF HCP. 1995. Pages IV-2 and IV-3

(see section 5 below for more on this).

Seasonal restrictions should be applied outside of the conservation areas in the suitable and newly discovered habitat. The section discussing the potential impacts on NSO from the implementation of the HCP/FMP must be expanded. For example, how much habitat will be lost? What are the localized impacts? Regional impacts? Species-wide impacts?

4. Marbled Murrelets

The draft HCP allows for too great a loss of marbled murrelet habitat. Under the new plan, any marbled murrelet sites discovered after 2004 will not be protected⁸⁵, even though 60%⁸⁶ of the best murrelet habitat on the Elliott is outside of conservation areas and available for clearcutting. 1,000 acres of murrelet habitat can be clearcut each decade. Murrelet sites discovered as a result of surveys for 2005, 2006 and 2007⁸⁷ sales apparently can be cut down after the new HCP is implemented. These are inadequate protections for one of the most important sites for the marbled murrelet on the entire Oregon coast.

The timber sale surveys that have discovered the current murrelets sites, resulting in conservation areas, were done on some of the Elliott's poorest murrelet habitat. "... the Elliott is a murrelet-rich environment and murrelets are found even on about 25 percent of timber sales proposed in "poor" murrelet habitat."⁸⁸ That leaves most of the best murrelet unprotected by the new plans. It is not a good conservation strategy to protect the poorest habitat while allowing the best habitat to be clearcut.

With some of the best murrelet habitat being proposed for cutting under the new plans, the habitat remaining has no guarantees it can harbor and protect murrelet nests. On the Elliott, murrelets select large conifer trees that average 55" dbh for nesting.⁸⁹ Yet what ODF claims will protect murrelets on the Elliott is the "advanced structure" that is required on 40% of the Elliott. Unfortunately, the definition of advanced structure is that the predominate tree is over 18" – no where near 55" used by the murrelet. The ODF presents so scientific evidence that murrelets can thrive without significant predation in recovered clearcuts 65 years old. (See section 1 above).

The ODF failed to fully consider the status review for the marbled murrelet, completed in March 2004.⁹⁰ It predicts continued murrelet population declines in Oregon due to loss of nesting habitat from logging and urbanization and that murrelets may disappear from all of their native Pacific Northwest range, including the Elliott, within

⁸⁵ Draft HCP page 7-7. "Occupied sites located after 2004 will not be designated as conservation areas and will be available for management activities outside the nesting season."

⁸⁶ Draft HCP page 7-13.

⁸⁷ Draft HCP page 10-4. "Pipeline" sales through 2007 will be "consistent with the 1995 Elliott HCP and ODF existing take avoidance policies for the marbled murrelet..."

⁸⁸ Oregon CSF Lands Management Status Update. John H. Beuter Umpqua-Tualatin, Inc. 3-31-03.

⁸⁹ draft 2005 HCP. Page 4-13.

⁹⁰ Evaluation Report for the 5-Year Status Review of the Marbled Murrelet in Washing, Oregon, and California. Prepared for U.S. Fish and Wildlife Service, Region 1. March 2004. See complete report at: www.earthjustice.org/backgroundunder/display.html?&ID=100

100 years. The Washington, Oregon, and California murrelet population is a genetically Distinct Population Segment (DPS) from the murrelet populations that are faring better in Alaska. The report concludes: “It is unrealistic to expect that the species will recover before there is significant improvement in the amount and distribution of suitable nesting habitat.”⁹¹ This indicates it is not prudent for the ODF to clearcut 1,000 acres of some of the best murrelet habitat every decade.

Elliott marbled murrelet research: The 1995 Elliott HCP included a 6 year incidental take permit for marbled murrelets because “little was known about the murrelet at that time. As such, part of the HCP strategy called for ODF to fund research on the murrelet that could be used to guide the development of long-term conservation, and support an extended ITP for the species.”⁹² ODF spent \$500,000 in the first 5 years of the current HCP on a murrelet research program.⁹³ By now the ODF should have some published data. Where is it? It should be in the FMP appendix, and be referred to.

Critical Habitat for murrelets: Since the original HCP, critical habitat was designated for marbled murrelets. The 1996 final rule designating critical habitat for the murrelet included all of the Elliott State Forest lands.⁹⁴ The murrelet recovery plan says: “Any lands within critical habitat that are covered by a legally-operative incidental take permit for marbled murrelets, based on an approved Habitat Conservation Plan that addresses conservation of the marbled murrelet, are excluded from critical habitat while the permit is active.”⁹⁵ This means that in 2001, when the HCP for marbled murrelets on the Elliott expired, the Elliott reverted to critical habitat. The ODF failed to disclose this in the draft FMP/HCP plans.

The 1997 Marbled Murrelet Recovery Plan says: “Maintenance of suitable and occupied marbled murrelet nesting habitat in the Elliott State Forest... is an essential component for the stabilization and recovery of the marbled murrelet.”⁹⁶ “Essential nesting habitats that occur on forest lands under non-Federal management include...the Elliott State Forest.... These areas are critical for maintaining the distribution of suitable habitat.”⁹⁷ This doesn’t comport with the ODF plan to clearcut 1,000 acres of some of the best marbled murrelet habitat on the coast every decade.

The draft HCP says that not all potential marbled murrelet habitat on the ESF has been surveyed. THE SERVICES should require that all potential habitat be surveyed so that the public and the agency know the full extent to which take will affect the murrelet as a result of implementation of the proposed FMP.

The management activities that are allowed within conservation areas have the potential to adversely impact marbled murrelets. Thus, these activities should be reconsidered.

⁹¹ 5-year Status Review of the Marbled Murrelet. See web reference above.

⁹² Elliott State Forest “Project Overview” handed out at public scoping meetings, May 2005.

⁹³ Elliott State Forest 1995 HCP. S-8

⁹⁴ draft 2005 HCP. Page 4-16.

⁹⁵ Marbled Murrelet Recovery Plan. USFWS. September 1997 page 109.

⁹⁶ Marbled Murrelet Recovery Plan. USFWS. September 1997. Page 127

⁹⁷ Marbled Murrelet Recovery Plan. USFWS. September 1997. Page 132

There must be additional protections for newly discovered marbled murrelet sites, other than the imposition of seasonal restrictions. Seasonal restrictions will not mitigate for the loss of regular nest sites. Marbled murrelets display extreme nest fidelity and it is likely that their reproductive success diminishes greatly if their regular nesting sites are disturbed.

The discussion concerning the potential impacts to marbled murrelets must be expanded upon. The Recovery Plan for the marbled murrelet clearly requires that potentially suitable habitat must be retained in order to recover the species.

4. Permanent Reserves and Barred Owls

Stream side buffers, known nesting sites of T&E species, scenic areas (i.e., Loon Lake and the Umpqua River), unstable soils and public safety exclusion areas, gives wildlife about 25,225 acres of “Conservation Areas”, the only permanent reserves on the Elliott. Unfortunately, about 10,225 acres of the reserves were clearcut before 1995, so there are only 15,000 acres of advanced structure in the conservation areas⁹⁸. The ODF should consider not logging any more NRF habitat until the Conservation Areas have fully recovered from past clearcutting.

Also problematic is that at some of these conservation areas are spotted owl nesting sites that have been overtaken by barred owls. This has already happened on at least two Habitat Conservation Areas on the Elliott, as documented in the 2003 NSO survey:

- **Upper Mill Creek site:** “No spotted owls were found at this site for the rest of the season, and a male barred owl occupied this site after that.”⁹⁹ The draft 2005 HCP has guaranteed a protected Conservation Area of 121 acres around this barred owl site.¹⁰⁰
- **Roberts Creek site:** “An aggressive male barred owl occupied the historic Roberts Creek AC.”¹⁰¹ The draft 2005 HCP has guaranteed a protected Conservation Area of 783 acres around this barred owl site.¹⁰²

At least 8 historic Spotted Owl sites on the Elliott are threatened with Barred Owls: “Barred owls (*Strix varia*) were detected at eight spotted owl sites...”¹⁰³ These eight sites, Alder, Benson, Bickford, Johnson, Murphy, Roberts, Tom Fool, and Upper Mill Creek, totaling about 1,801¹⁰⁴ acres of Conservation Areas, could be protecting barred owls instead of spotted owls. This is 26% of the 6,837 HCAs set aside to protect the northern spotted owls. There is abundant data that the barred owl incursion will continue and increase.

⁹⁸ per phone call with bob fields, 9-26-05. 25,225 (page 5-12 of HCP) – 15,000 = 10,225

⁹⁹ 2003 NSO survey. Page 24.

¹⁰⁰ Draft 2005 HCP page 6-6. Table 6-1

¹⁰¹ 2003 NSO survey. Page 21.

¹⁰² Draft 2005 HCP page 6-6. Table 6-1

¹⁰³ 2003 NSO survey. Page 6.

¹⁰⁴ Includes acres given in Table 6-1 on page 6-6 of the 2005 HCP: Alder's 475 acres, Benson's 145 acres, Johnson's 215 acres, Roberts's 783 acres, Tom Fool's 62 acres, and Upper Mill Creek's 121 acres.

The draft HCP will not fully protect any advanced structure forests outside of the Conservation Areas. This is problematic for spotted owls that have to move out of their historic site. The barred owls occupying the historic owl sites could become one of the best protected species on the Elliott. The HCP says:

“There is no special protection of newly discovered [NSO] sites. It is possible for spotted owls that are nesting outside of designated T&E cores or other Conservation Areas to have habitat reduced to a point where they are not sustained at any given point in time. In addition, these new sites could be disturbed by nearby management activities. Habitat important during the nesting period could be removed or modified, affecting the success of the nesting.”¹⁰⁵

Considering the movement of NSOs due to the influx of barred owls, the HCP should be modified to protect any additional areas of the Forest that a NSO moves into, at least until the barred owl phenomenon and the effects on the NSO, are better understood. Clearcutting new NSO sites could preclude future options for saving this endangered species from extinction.

6. The FMP/HCP cannot depend on near-by LSRs.

The ODFs draft HCP depends heavily on near-by federal land “Late Successional Reserves” (LSR) to recover endangered species, so that weaker protections can be implemented on the Elliott. For instance, the draft FMP team “concluded that forest management on adjacent forest lands should be considered at the level of district implementation plans.”¹⁰⁶ And so, “If the adjacent ownership emphasizes late successional forests [such as BLM LSR], location of smaller patches along the boundary can increase the effective size of the patch”.¹⁰⁷

We have warned the ODF several times (with no response yet) that the BLM is in the planning process of reducing wildlife protections on LSRs, and will make final district plan revisions by 2008. The BLM is implementing a settlement agreement that requires “an alternative which will not create any reserves on O&C Lands except as required to avoid jeopardy under the Endangered Species Act”¹⁰⁸. This alternative will consider removing most of the LSRs and Riparian Reserves that contribute to the recovery of the NSO and MM’s. Additionally, the BLM is also required¹⁰⁹ to make a final decision based on a court ruling¹¹⁰ that is not friendly to wildlife conservation on O&C lands. If the settlement agreement goes as planned, the LSRs that the Elliott is depending on will be stripped of most of their permanent protections for the northern spotted owl.

The Federal Register beginning this process was published on September 7, 2005 with a target decision by 2008. That is only one year into this new HCP, with 54 years left to implement, based on erroneous assumptions. The state of Oregon has been designated as

¹⁰⁵ 2005 draft HCP page 6-8.

¹⁰⁶ Draft Elliott FMP. May 2005. Page C-12.

¹⁰⁷ Draft Elliott FMP. May 2005. Page C-9.

¹⁰⁸ Settlement Agreement: American Forest Resource Council. October 2003. Page 6

¹⁰⁹ *id.* “All plan revisions shall be consistent with the O & C Act as interpreted by the 9th Circuit court of Appeals.”

¹¹⁰ *Headwaters vs. BLM*. 1987.

a cooperating agency. There is adequate warning to correct inaccurate assumptions about LSRs now. Adaptive Management will not work quickly enough or efficiently enough to correct the situation later (see section 17 below).

The draft HCP could be attempting to take care of this with a “no surprises” clause that can be invoked “due to events outside the control of a permittee”¹¹¹. This won’t work because this is a reasonably foreseeable action that must be considered now.

7. No Surprises.

The ODF should remove the No Surprises provision of the HCP. Public forests should protect public resources, including endangered species, no matter what surprises come up. Nothing can be so important as to permit the extinction of an entire species in Oregon.

The No Surprises policy is contrary to the policy behind the ESA, as well as the terms of Sections 7 and 9 of the Act. Moreover, the only conceivable way in which a No Surprises provision would be adequate is if it provides for permit revocation in all of the possible changes in circumstances. For example, if large scale disturbance occurs – as contemplated by the draft HCP and proposed FMP – the remedy should be permit revocation (not, as currently contemplated, adaptive management, which should be used only for minor, insignificant changes). Since there is no way the state and federal agencies can possibly conceive of all possible changed circumstances, it necessarily follows that there is no way the No Surprises provision of the HCP can be made adequate under the ESA.

8. Salvage

Salvage of Conservation Areas: The FMP should be more clear on what salvage will be allowed inside Conservation Areas and other permanent reserves in the event of a windstorm or wildland fire. It appears that the draft FMP allows areas of natural disturbance to be clearcut, even logging the green trees that survive the event, and that no reserve will be designated to take its place to provide replacement advanced structure habitat to wildlife.

Instead, the ODF should exclude salvage logging in reserves except for safety concerns. Dead trees, even ‘pulses’ of dead trees from natural events like wind or native diseases, should be allowed to remain to provide wildlife habitat in the wildlife reserves. Most dead trees in reserves, especially large dead trees, should not be salvaged.

One peer reviewer for the Elliott’s FMP stated:

“Although post fire salvage logging in reserves may provide some economic return, there is no evidence that it is ecologically justified.... Fires generally increase

¹¹¹ Draft HCP page 10-2

landscape heterogeneity, not reduce it. Intensive salvage harvest will decrease habitat complexity and remove many structural elements that provide post fire habitat for terrestrial and aquatic biota, and that may reduce negative consequences of fire in streams.”¹¹²

Since the recovery of the 1868 fire, fire suppression has caused a decline of “early seral with snags” habitat in the south coast area. If the ODF wants to allow the full array of natural habitats to exist on the Elliott, some provision must be made for the very wildlife friendly “early seral with snag” habitat.

For catastrophic disturbances affecting mature forests in reserves:

“an older complex-structure stand could be selected as a replacement for this reserve and allowed to develop into old growth. There also would be great ecological and research value in retaining the burned reserve in its natural state, without salvaging.”¹¹³

The ODF should also refrain from replanting disturbed Conservation Areas that have scattered live trees remaining. This would allow nature’s diversity to create a patchy, uneven aged, multiple species forest, preferred by old-growth dependent wildlife.

For burned plantations in reserves, the ODF should refrain from replanting with the same specifications as a commercial tree farm, and instead replant with more species and spacing diversity.

Salvage of other forest areas: Even if a natural disturbance occurred in an area of the forest not designated as a conservation area, salvage should be limited so that erosion and further damage of soils does not occur. If it is a fire event, ODF should consider leaving 50% of the burned trees for the reasons science has determined in the two Beschta Reports.¹¹⁴

It is also unreasonable and without merit to cut green trees that survived the natural disturbance event. The green trees are the legacy component that helps the early serial habitat recover with its full gene pool potential. The ODF cut 300 million board feet in response to the 1962 blowdown of the Columbus Day Storm, of which 200 mmbf was standing, green trees.¹¹⁵ The FMP should recognize that this type of salvage is not supported by any science and must not be repeated.

The ODF should recognize that the forest successfully recovered after the fire of 1868 (started by a settler, not a natural fire) with no salvage logging at all. Salvage logging is not necessary for healthy forest recovery.

¹¹²Scientific Review of the ESF Management Strategies. ODF.5-04. Dr. Robert Gresswell. pg 38.

¹¹³Scientific Review of the ESF Management Strategies. ODF. 5-04. Dr. Janet Ohmann. pg 50.

¹¹⁴ *Postfire Management on Forested Public Lands of the Western United States*. Robert L. Beschta, Rhodes, Kauffman, Gresswell, Minshall, Karr, Perry, Hauer, and Frissell. Conservation Biology, Pages 957-967. Vol 18, No. 4, August 2004. See also: *Wildfire and Salvage Logging* (Beschta, et al., OSU, 1995).

¹¹⁵ Draft Coos District Implementation Plan. August 2005. Page 7.

9. Aquatic Resources

We have attached our Scoping Comments to the USFW on the Elliott State Forest HCP DEIS, June 23, 2005. Please consider our comments in that document on Aquatic Resources. In particular, consider impacts from cumulative effects of clearcuts under 30 years old on the watershed.

Aquatic habitats on the Elliott are not sufficiently protected from the effects of **cumulative clearcut harvest openings**. For instance, some timber sales in the 2006 Annual Operating Plan are proposed directly across a stream from recent clearcuts. Trout Head, Area II, is directly on the other side of Trout Creek from Dry Moby that was logged in the spring of 2005. Bowl Bound Beaver is immediately across Beaver Creek from the Lower Beaver sale, clearcut in 2004. These fish bearing streams have as little as 75 feet buffer each side, for a total of 150 feet wide strip of forest between the clearcuts, except for yarding corridors that go through the buffers. The ODF should address cumulative watershed effects in the new plans.

National Marine Fisheries Service says cumulative impacts cause problems:

“Watershed processes resilient enough to withstand disturbance from a single, site-specific action may be overwhelmed by the cumulative effect of multiple, widespread actions over time. Cumulative effects may impact ecological processes over large scales—resulting in a loss of habitat quality throughout a watershed. Effects assessments that identify potential risks solely for individual actions do not consider the complex interactions between upland, riparian, and aquatic processes which determine and sustain watershed health. They have therefore contributed to many of the current problems with water quality, habitat degradation and species status.¹¹⁶

The draft HCP states that within the RMA zone (25-100 feet from stream banks), the forest will be managed to develop and maintain “certain levels of mature forest conditions.” This ambiguous language should be changed to ensure that mature forest conditions are unquestionably maintained within 100 feet of a stream bank.

Also, to adequately protect salmon, no pesticides or herbicides can legally be used within the aquatic zone, stream bank zone, inner RMA zone or outer RMA zone. These problems with the aquatic strategy must be addressed in the next FMP draft.

10. Roads

There are likely over 4 miles of road per square mile on the Elliott. Unfortunately, we could not find the exact number in the Elliott Watershed Analysis. That document did say, however, that the Elk Creek sub-watershed has 5.6 miles of roads per square mile.¹¹⁷ Roads contribute to management-induced landslides that damage habitat for salmon.

¹¹⁶ NMFS Draft Proposal on Oregon Forest Practices — February 17, 1998. page 81

¹¹⁷ Elliott State Forest Watershed Analysis. Page 6-29

In just the first 10 years of the new plans, the ODF could build up to 35 miles of new roads in the Elliott. Instead, the ODF should have considered at least some helicopter yarding.

To build the new roads, and to reconstruct old roads, the ODF will develop four sandstone quarries on the Elliott¹¹⁸. The locations were not disclosed for public comments. Mining road rock can be very disturbing to surrounding wildlife, not to mention the damage it does to soils. Sandstone is highly erosive. Eventually, most of the sandstone excavated could find its way back into fish-bearing streams. The ODF should reconsider the extensive road program and a stronger look at the impacts of developing sandstone rock quarries on the Elliott

11. Old Growth:

The FMP says that old growth stands will be retained, but the definition of “old growth” is only “stands that are over 20 acres in size”¹¹⁹. This is stingy. All old growth should be protected, including old-growth in 10 and 15 acre stands. The ODF should disclose how many old growth stands under 20 acres will not be protected. Please change your protections of old growth to ALL the very rare old growth, not just a part of it. The draft FMP Appendix says: “Existing old growth in the district occurs as scattered individual trees, and occasionally as small isolated patches. Because the occurrence is limited, the Department of Forestry’s intent is to retain all existing old growth to provide this element of diversity in present and future stands.”¹²⁰ The FMP here is not clear if the intent is to retain all existing old growth trees or old growth stands over 20 acres. The ODF should clarify this.

The new FMP/HCP should use the same definition of old-growth as the current HCP, 156 years and older. “A mature and/or old growth forest stand. ... in this document, refers to stands 156 years or older...”¹²¹ Mature forests should be protected, as well as old-growth. “If remnant old growth is retained, but no new old growth will be developed, this means that old growth on the ESF will steadily or suddenly (e.g., by large wildfire) be lost until, eventually, none exists.”¹²² Under the proposed plan, “old growth will gradually be lost from the landscape due to the inevitable natural disturbances...”¹²³

The ODF should also consider how it uses the term “second growth” in the plans. ODF has been applying the term “second-growth” to 150 year old native forests regenerated after the 1868 fire, as well as to plantations created by clearcutting old-growth that escaped the fire. We believe the latter is the appropriate definition. The term “second-growth” should not be applied to native, unmanaged forests that regenerated from the

¹¹⁸ Draft Coos District Implementation Plan. August 2005. Page 32.

¹¹⁹ Draft Elliott FMP. May 2005. Page 5-11.

¹²⁰ Draft Elliott FMP. May 2005. Page C-31

¹²¹ Elliott HCP. 1995. Page 3-13. “Key Terms”.

¹²² Scientific Review of the Elliott SF Management Strategies. ODF. 5-04. Dr. Janet L. Ohmann. page 42.

¹²³ Scientific Review of the Elliott SF Management Strategies. ODF. 5-04. Dr. Janet Ohmann. page 50.

1868 fire. The 1995 HCP uses the term “second growth” three times, always applied to a “managed forest”. The new HCP should continue to use the term like this.

If “second-growth” is applied to native forests regenerated from fire, then there is no such thing as first-growth. **All forests in the Pacific Northwest originated from fire** – some from a fire 500 years ago, some 300 years ago and some 150 years ago. Calling mature, native forests “second growth” brings them down to the level of an even aged plantation. Mature, native forests should be called a mature forest, a native forest, a virgin forest or old-growth if it is over 156 years old.

12. Recreation

The Implementation Plan says that the Elliott State Forest “is well known for ... recreational opportunities...”¹²⁴ To bad this isn’t true. In reality, the Elliott doesn’t even have one mile of a recreational trail. We made extensive comments on this in our previous FMP comments. The ODF has responded with claims that the public only wants dispersed recreation, and that is why there are no hiking trails. We disagree. The ODF is not basing this claim on any realistic data.

The ODF claims there is no hiking, horseback riding, or mountain biking on the Elliott currently, therefore there is no need for trails. “Hiking and mountain biking trails have not been developed, as use if fairly infrequent”¹²⁵. The ODF fails to recognize that the reason there is no hiking is because there are no trails. If there were recreational trails, with some welcoming information, the beauty of the never-before-logged, native, coastal rainforests would be a significant draw to the area. After all, the surrounding area is already inundated with tourists due to the nearby Umpqua Lighthouse State Park, Winchester Bay recreation and other ocean recreational opportunities, Dean Creek Wildlife Habitat ACED adjoining Elliott to the North, and the Silver and Golden Falls State Park only a couple of miles south of the Elliott. People even kayak on the West Fork Millicoma within the state forest.¹²⁶ But the ODF simply concludes that “recreation use within the Elliott is concentrated in several small areas of the forest, with the rest of the forest receiving little recreational use.”¹²⁷ It is that way only because the ODF has not made any effort to implement any of the recreation goals of past plans. In spite of the requirement to do so under the current FMP¹²⁸, the ODF has never made a move to welcome the public. The new FMP is simply a repeat of the broken promises of the past. Instead, the FMP should recognize the many recreational opportunities that are available that would not even disrupt logging activities.

For instance, the old-growth forests next to some of the West Fork Millicoma River would make a spectacular hiking trail and dry-weather equestrian trail. This is within the riparian buffer that can’t be logged anyway.

¹²⁴ Draft Coos District Implementation Plan. August 2005. Page 6.

¹²⁵ Draft Coos District Implementation Plan. August 2005. Page 17.

¹²⁶ Draft Coos District Implementation Plan. August 2005. Page 17.

¹²⁷ Response to public comments, Elliott State Forest Revision Process, Summer 2004. Page 31.

¹²⁸ 1995 Elliott Forest Management Plan Page III-79 and IV-5.

There is one mile of Loon Lake shoreline on the Elliott State Forest. Loon Lake is a very popular recreation area with a campgrounds and a resort. Yet the Elliott has never encouraged any public recreation on state managed lands, even though the shores of Loon Lake have the greatest potential of anyplace on the Elliott to bring in recreational income for the common school fund.

In the Scholfield Creek basin there is the “Windy Ridge old-growth stand.”¹²⁹ In the Big Creek basin there are “11 acres set aside for a myrtle grove conservation area along Murphy Creek”.¹³⁰ Some of these areas should be evaluated for public education and hiking trails.

In the Marlow Glenn basin, “the Heritage Grove is a surviving mature Douglas-fir and western hemlock stand from the 1868 Coos Bay Fire and is designated as a conservation area because of its unique status. This site is approximately 72 acres and is located in the Silver Creek drainage...”¹³¹ This site should be evaluated for hiking trails. This Heritage Grove was left off of the “Key Resource Consideration” list in the Implementation Plan. This should be corrected in the next draft.

In the Millicoma Elk basins, “Land use classifications include Special-Recreation in several allocations along upper West Fork Millicoma River and along Elk Creek.”¹³² ODF should evaluate a hiking trail here.

Scattered Tracks: The Winchester Bay scattered track should be turned over to the Umpqua Lighthouse State Park to manage for recreation. High recreation use areas immediately adjoin and encircle this 200+ acre parcel. This track is clearly inappropriate to manage for intensive timber production. This parcel offers excellent hiking and equestrian trail opportunities. Since the State Park lost almost a third of it’s acres to Douglas County, now dedicated to ATV recreation, the Winchester Bay scattered track parcel would help balance the recreation between the motorized and non-motorized recreation.

According to the draft FMP, the scattered tracks are mostly scenic, unique, and visual protected areas. Yet you are proposing to clearcut 4% of the advanced structure and 4% of intermediate forests¹³³ in the scattered tracks. The IP never told us where this cutting would be. Please tell us now.

ATVs: There is only one recreation welcomed by ODF on the Elliott in Annual Operation Plans, and that is ATV use. We have see extensive soil damage and stream side vegetation damage from ATV use (and have sent the pictures into the Coos District), yet the FMP, IP and HCP fail to recognize the damage, attempt to mitigate it, or control it in any way.

¹²⁹ Draft Coos District Implementation Plan. August 2005. Page 44.

¹³⁰ Draft Coos District Implementation Plan. August 2005. Page 45.

¹³¹ Draft Coos District Implementation Plan. August 2005. Page 54.

¹³² Draft Coos District Implementation Plan. August 2005. Page 57.

¹³³ Draft Coos District Implementation Plan. August 2005. Page 63

13. Bears and cubs should not be killed.

New in the 2005 plans is the proposal to kill bears that could cause damage to plantations.¹³⁴ “Black bears may forage on conifer trees in the spring... Control methods include... snaring individual problem bears.”¹³⁵ This means that if bear damage is found, an attractant is put out to attract any and all bears in the area to a trap. Any bears caught in the snare, whether it was the offending bear or not, is shot. The bear’s cub, which often waits with the trapped mother, is also shot. Snares are only checked every few days (or couple of weeks?), so a bear and the cub could be traumatized in the traps for days.

The ODF should remove this from the new plans. Killing bears in this way, especially on public land, is inhumane, unfair, and not necessary. The 2005 plans even talk about providing bear habitat¹³⁶ and attracting bears to the Elliott by providing legacy components. The ODF should not actively support bear habitat, and then kill the bears for the minor damage they do.

Bears rarely damage so many trees that the high density tree plantations can’t fully recover. If a small opening is created in the dense tree plantation, this can only be good for wildlife.

The old HCP and FMP did not allow this practice. If bear killing remains in the new plans, the ODF must justify it with some statistics on how much bear damage actually occurs on the Elliott. The ODF should also divulge how many bears and cubs have already been attracted to snares and shot on the Elliott.

The 2005 FMP/HCP justify killing bears by referring to the Oregon Department of Forest Pest Management Report (July 2001).¹³⁷ This study failed to show substantial bear damage in the Coast Range. ODF surveyed 6.4 million acres¹³⁸ and mapped 1,835 of polygons with “Bear Damage”.¹³⁹ “[T]he area represented by polygons containing bear-damaged trees is 19,369 acres”¹⁴⁰ This is only a tiny fraction (.3%) of the 6.4 million acres surveyed. And only a small portion of trees within the 19,369 acres was damaged. Each polygon averages 38 acres,¹⁴¹ and the vast majority¹⁴² of polygons with bear damage had less than 5 trees damaged¹⁴³ in the 38 acres. Therefore the actual acres of damage appear to be minute.

¹³⁴ Draft Elliott FMP. May 2005. Page C-20 and HCP C-19. “Control methods include... snaring individual problem bears.”

¹³⁵ Draft Elliott FMP. May 2005. Page C-20.

¹³⁶ 2005 draft FMP. 4-31.

¹³⁷ Black Bear Damage to Forest Trees in Northwest Oregon. Aerial and Ground Surveys, 2000. Oregon Department of Forestry (ODF) Pest Management Report. July 2001. Kanaskie et al.

¹³⁸ ODF bear study, page 6.

¹³⁹ ODF bear study. page 7.

¹⁴⁰ ODF bear study. page 16.

¹⁴¹ ODF bear study page 20.

¹⁴² 1,247 out of 1,835.

¹⁴³ ODF bear study. page 7.

The ODF study says that “We estimate that in the survey area... bears damage about 55,161 trees per year.”¹⁴⁴ Of those, 35%, or 19,350 trees died. Out of 6.4 million acres and billions of trees, 19,350 bear-killed trees are an incredibly small percentage. Damage by bears is also mitigated by time. If a tree dies in a tree-plantation, the trees around it are able to grow faster and fill in the available space. Over a 10-20 year period, the loss of revenue from a damaged tree is mitigated by this in-growth.

Because there is no evidence that bear damage to tree plantations is significant, the new plans should remove the allowance to kill suspect bears, with their cubs.

14. History

ODF is not emulating historical structure. The ODF claims the HCP develops stand structures that “are designed to emulate the diversity of stand types historically associated with conifer forests in the Oregon Coast Range.”¹⁴⁵ The ODF then claims that studies show “older stand types ranged from 30 to 70 percent of the landscape” or “15 to 85 percent of the landscape at any point in time.”¹⁴⁶

What the ODF fails to point out is that these percentages of “older stand types” are really old – like 300 years old, not 160 years old. The ODF claims that they will emulate historical diversity because “decades in the future... individual stands will move in and out of the various types at a relatively even rate.”¹⁴⁷ Historical diversity moves stands in and out of stand ages at the rate of hundreds of years, or thousands of years across a landscape. The OFD failed to note they will speed this up dramatically. Advanced structure stands will not be allowed to get older than 160 years old, and most will be harvested at less than 100 years old.¹⁴⁸

Another problem is that ODF is emulating the lowest end of the historical acres of older forests, never the middle or higher end, and therefore is not emulating anything historical at all. After 50 years, 27,000 acres of currently existing advanced structure will remain uncut¹⁴⁹, or about 28% of the forest. If the historical range of “older stand types ranged from 30 to 70 percent of the landscape”¹⁵⁰, managing for 28% of the forest on older stand types doesn’t come close to the average historical regime. The ODF should retract their claims that 28% of older forests emulate the historical regime.

The Coos Bay BLM estimated the historical amount of old forests in the Oregon Coast Range Province, including the area of the Elliott State Forest. They say:

“At the watershed-scale, the historic mean covers of late-successional and old-growth forest were estimated as 70% and 45%, respectively (Wimberly *et al.* 2000).

¹⁴⁴ ODF bear study. page 20.

¹⁴⁵ Draft Elliott FMP. May 2005. Page C-10.

¹⁴⁶ Draft Elliott FMP. May 2005. Page C-10.

¹⁴⁷ Draft Elliott FMP. May 2005. Page C-10.

¹⁴⁸ Draft Elliott FMP. May 2005. Page C-12: “Stands on a pathway toward advanced structure will be harvested on longer cycles ranging from 100-160 years.”

¹⁴⁹ Email from Robert Fields to Francis Eatherington, 9/28/05

¹⁵⁰ Draft Elliott FMP. May 2005. Page C-10.

... Cover by late-successional forest was estimated to be weighted towards much higher cover, > 45% >75% of the time.”¹⁵¹

In other words, about 45% was old growth. It will never be more than 28% on the Elliott. The BLM analysis also says 45% of the Coast Range was covered with late-successional forests more than 75% of the time. This is greater than the 30% the Elliott claims was the lower range of the historical regime.

The BLM cites another study: “Cover by late-successional forests at the province-scale was estimated at 66-77% over the last 3000 years; cover by old-growth, a subset of late-successional forest, was estimated at 39-55%.”¹⁵² The ODFs should emulate this historical structure instead.

While the Elliott purports to emulate historical conditions with small 100-acre patches of older forests,

“Historic late-successional patch size was large. Mean patch size for late-successional forest in 1936 forest type map was almost 10,000 acres (Table H-2) at the watershed-scale; mean late-successional patch size at the province-scale was similar. ... Virtually all late-successional patches functioned as interior habitat, historically.”¹⁵³

In contrast, virtually all of the Elliott’s late-successional patches are influenced by edge effects.

“There are no differences between late-successional interior area cover and total cover by late successional forests in 1936 cover maps.... Edge habitats made up a small part of the landscape. Late-successional habitat was clumped (> 0.76), as were young structural types (Table H-2), due to the high intensity/low frequency disturbance regime.”¹⁵⁴

On the Elliott, the ODF strategy forces old-growth dependent wildlife to live in forests much younger than they have traditionally, in forests that have recently (within 100 years) been clearcut and lack historic structural legacy material, and in forest patches that have virtually no interior habitat. The next draft of the plans should not claim to emulate historical structure.

The History Chapters are Incomplete. The Implementation Plan, FMP and HCP forgot to mention the huge amount of common school fund land that was lost to the timber industries due to fraudulent land deals in the early part of the 20th century. The 1995 FMP mentions it: “Between 1859 and 1912, all but 130,000 acres of the forested lands passed out of state Ownership... some lands changed ownership through fraudulent land deals.”¹⁵⁵ The 1995 HCP describes it: “Oregon’s grant included 3.5 million acres of grazing and forest lands. Eventually, all but 130,000 acres of the forest lands was either sold for the benefit of schools or lost through fraudulent land deals.”¹⁵⁶ Why have all of the 2005 plans eliminate this part of the history?

¹⁵¹ East Fork Coquille Environmental Analysis. Coos Bay BLM. Page 105-106.

¹⁵² Wimberly *et al.* 2000 as sited in the East Fork Coquille Environmental Analysis. Coos Bay BLM. Page 105-106.

¹⁵³ East Fork Coquille Environmental Analysis. Coos Bay BLM. Page 105-106.

¹⁵⁴ East Fork Coquille Environmental Analysis. Coos Bay BLM. Page 105-106.

¹⁵⁵ Current FMP. 1995. Page I-4. Also see DSL web site: <http://www.oregonstatelands.us/adminoverview.htm>. Also, see *Looters of the Public Domain. Use and Abuse of America’s Natural Resources.* S.A.D. Purter, Chapter 20, page 315.

¹⁵⁶ Current HCP. 1995. Page J-1.

Another history revision is on page 11 of the IP: “Anadromous salmonid populations have been generally depressed throughout western Oregon for a variety of reasons, including...”¹⁵⁷ There is a long list of reasons that does not include logging of stream-side habitat. Since this is a logging plan, it seems that reason would not be the one to forget.

The IP says, “in recent years, numbers of spawning adults on the ESF have increased...” Where are the spawning numbers for 2004 and 2005?

15. Fertilizing and Herbicides

The ODF should limit the amount of chemicals that are aerial-sprayed on the Elliott annually. The 2005 FMP/HCP would allow the spraying herbicides on over 800 acres, and who knows how many acres of fertilizers annually. The ODF should at least do a cumulative effect evaluation of fertilizers and herbicides, especially in watersheds that supply household drinking water. We have attached our Scoping Comments to the USFW on the Elliott State Forest HCP DEIS, June 23, 2005. Please consider our comments on Fertilizers and Herbicides in the attached Scoping Comments to the USFW on the Elliott State Forest HCP DEIS, June 23, 2005.

16. Intermediate Structure and Short Rotation Forestry

The FMP describes when a young intermediate stand can be clearcut using very short-rotation forestry (similar to private land rotations), and when intermediate stands should be allowed to proceed to advanced structure. The FMP should be clearer about how these decisions will be made. For instance, the draft FMP says “Stands in the intermediate state... will be managed based upon its potential to meet the planning goals. Some of these stands will lack many of the essential components or have low potential to produce advanced structure”¹⁵⁸ so they would be chosen for clearcutting. “Intermediate stands will have two potential pathways. The first path is to a clearcut harvest as intermediate structure.... Clearcut harvest will occur in the 40-50 year age range to maximize return.”¹⁵⁹

The FMP should make clear what criteria will be used to determine the stands on short rotation, and how many acres this involves. The Implementation Plan says up to 850 acres will be clearcut annually for the next 10 years¹⁶⁰, but it never tells us how many of this is 40 year old forests, and how many is 140 year old forests.

The 1995 FMP EA says. “...harvest volume is maximized if harvest ages are set at the “culmination of mean annual increment,” or CMAI.... CMAI for stands on the Elliott

¹⁵⁷ Draft Coos District Implementation Plan. August 2005. Page 11.

¹⁵⁸ Draft Elliott FMP. May 2005. Page C-25.

¹⁵⁹ Draft Coos District Implementation Plan. August 2005. Page 23.

¹⁶⁰ Draft Coos District Implementation Plan. August 2005. Page 27.

State Forest ranges from approximately age 100 to age 150.”¹⁶¹ Since the ODF is required to maximize harvest on the Elliott, short rotation should not be implemented.

The FMP is clear, in at least four places, that ODF cannot clearcut these young forests.¹⁶² In spite of this, the ODF has already been implementing the draft FMP by not doing any thinning in intermediate stands for the past three years.¹⁶³ Instead, managed plantations are being clearcut. The new plans must not continue this, and revert back to maximizing harvest volume by eliminating short-rotations.

The ODF insists: “In order to maximize revenue, we have to consider short rotation forestry, and some stands will be harvested on short rotations” in the new FMP.¹⁶⁴ Maximizing revenue with short rotations is only short-term. In the long term, revenue is lost by not maximizing harvest. Also, we could find no mandate to maximize revenue at the expense of wildlife and soil conditions.¹⁶⁵ If the Elliott has been meeting their legal mandate for revenue since 1995, why are short rotations now necessary to increase revenue? The constitutional requirement for the Elliott State Forest is to maximize revenue, not net present value (NPV). No reason exists to shorten rotations. Consider the study by Robert Curtis that demonstrated the maximum tree growth for saw timber outputs is 80 to 120 years for high site Coast Range forest lands.¹⁶⁶

17. Adaptive Management

The ODF has never developed an Adaptive Management strategy that they have been able to implement. The current draft plans still lack a clear, unambiguous trigger for adaptive management. At the September public meeting in Roseburg, I discussed the Adaptive Management circle diagram, as shown on page 6-13 of the FMP. I asked the Coos District wildlife biologist if, in the last decade of implementing Adaptive Management on the Elliott, the circle had ever been completed. The biologist could not think of one time the circle of Adaptive Management was implemented and completed, not one. If anyone at the Coos District can think of one time the 6 steps of the Adaptive Management circle has ever been completed, you should share it with the public. Otherwise, Adaptive Management appears to be an empty, meaningless, policy.

In our attached June 23, 2005 Scoping Comments to the USFW on the Elliott’s HCP DEIS, we detail numerous problems in implementing Adaptive Management on the Elliott. This includes the failure to implement strong recommendations from the first HCP’s 5-year review. ODF’s excuse to not implement those recommendations was that

¹⁶¹ Elliott State Forest EA for the Habitat Conservation Plan. USFWS. 1995. Page III@IV-72.

¹⁶² 1995 FMP: page J-1 table I-1; page 1-3,4; page VI-41; and page J-9. For details, see our April 14, 2004 comments on the ESF 2005 AOPs.

¹⁶³ Coos District 2005 Annual Operations Plan Introduction. Page 6. No thinning is in the 2005 AOP because Coos District expected the new FMP to “require some of these stands to be clearcut in the next decade”.

¹⁶⁴ Elliott State Forest Core Team meeting notes. August 19, 2004.

¹⁶⁵ See our May 2004 comments for details on how short-rotation forestry impacts to wildlife, forest health, and economics.

¹⁶⁶ Curtis, Robert O. 1994. Some simulation estimates of mean annual increment of Douglas-fir: results, limitations, and implications for management. Research Pap. PNW-RP-471. Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. 27 p.

this new HCP would address the problems. But instead of addressing those problems, they continue to be ignored in the new plans. Please respond to the attached comments on the Adaptive Management problems.

Adaptive Management is being used in the draft HCP and proposed FMP to mitigate the effects of implementation of these plans. This is misguided. For example, the draft HCP states that adaptive management can be used to “re-evaluate” conservation areas in the event of large-scale disturbance. This should be eliminated – the conservation areas must be permanently protected in order to provide the necessary habitat. If there is a large-scale disturbance, then the only option should be designate additional conservation areas. Similarly, the draft HCP states that salvage logging after a large scale disturbance can be used to maintain or to develop advanced structure. However, the science is undisputed that there is no ecological justification for salvage – only economic justifications. Also, if a goal of the HCP is to maintain and incorporate habitat components into the forest, salvage should not be allowed because it only functions to damage wildlife habitat. The science on this is quite clear. Adaptive management should only be used for minor, insignificant changes.

18. Also Consider

Legal mandates are unclear. Peppered throughout the draft plans are references to meeting “legal mandates for common school land”. For instance, there is a wide range of acres that can be clearcut every year “to insure that Coos District can meet legal mandates to produce revenue.... If the clearcut acreage for mature stands is reduced for some reason, then increased clearcutting of young stands may be necessary.” Also, note that the biggest headline in the News-Review insert was “Plan Seeks To Meet Legal Mandate”.

I asked ODF: Haven’t you been meeting your legal requirement all along under the current plan? The answer is a vague “some feel not”. The ODF owes the public a clear explanation. What in the old plans did not meet the legal mandate?

Providing for early seral species is not necessary. The FMP assumes that “providing for the habitat needs of all native species will require producing all habitat types or surrogates.”¹⁶⁷ We disagree. Providing for the habitat needs of *all* native species does NOT require producing all habitat types on the Elliott. Surrounding the Elliott is private land that provides an abundance of early and intermediate forests for wildlife that need that habitat. The ODF argues that “it is difficult to predict exactly how other landowners will manage their lands over the long term.”¹⁶⁸ There is no basis for this argument. Industrial land owners manage their lands on short-rotation intensive forestry. If for some reason this suddenly changes, the Elliott can do adaptive management.

Soil instability: The Elliott has some of the most landslide-prone soils in the state of

¹⁶⁷ Draft Elliott FMP. May 2005. Page C-11.

¹⁶⁸ Draft Elliott FMP. May 2005. Page C-12.

Oregon, especially in the Tye Core Area. There have been hundreds of management-induced landslides throughout the Elliott.¹⁶⁹ The only mitigation to protect soils is that “geotechnical specialists will provide the initial slope stability hazard and risk assessment for commercial forest operations in the AOP.”¹⁷⁰ The IP claims the details are on pages 4-70 and 4-71 of the FMP. But the FMP only goes to page 4-46. The ODF claims “Improved management practices on steep land have reduced the frequency and size of landslides on the Elliott State Forest.”¹⁷¹ However, no number or cite was given. How much have they been reduced?

Economic Impacts: The ODF should consider all the economic benefits of state forest lands, including the non-timber values. The economic realities of the affected counties have changed greatly in the last 10 years. Timber is less important and beautiful natural environments attracting new business is more important to local economies. The ODF should consider the recent economic data of Coos and Douglas counties that was put together by the Sonoran Institute for the BLM planning process for western Oregon BLM Plan Revisions. It can be downloaded from this site: www.sonoran.org/ Or a CD can be found at the BLM office in Coos Bay.

Conservation Areas. The exceptions to management activities within conservation are some of the most damaging practices: vehicle traffic, wildfire suppression and control, road maintenance, and construction. ODF should reconsider its decision to allow these activities within the conservation areas in order for the conservation areas to fulfill their purpose. In addition, all proposed management activities must be subject to public notice and comment. Moreover, ODF must seek specific permission from the Services to undertake any management activity in a conservation area so that the federal agencies can make a site-specific finding that the proposed management activity will not impair the ability of the conservation area to fulfill its purposes. Furthermore, T & E cores should not only include occupied habitat, but suitable habitat as well. The NSO and marbled murrelet populations are in such distress that all remaining suitable habitat should be maintained. Thus, all of the ESF should be surveyed in order to accurately identify T & E cores, and old growth stands should be considered T & E cores, even if unoccupied because this type of habitat is rare and must be left standing to ensure the viability of the NSO and marbled murrelet.

Snag Retention. The draft HCP states that ODF will retain existing snags “where operationally feasible.”¹⁷² This caveat should be eliminated given the importance of existing stands to many species of wildlife. Snag retention is of the utmost importance and should not be brushed aside for general “operational feasibility.” In addition the snag retention requirement of at least three snags/acre greater than or equal to 15 inches dbh is simply insufficient.

Monitoring. The HCP should require ODF to submit annual monitoring reports for NSO, marbled murrelet, bald eagles, and coho that must be reviewed by the Services.

¹⁶⁹ Elliott State Forest Watershed Analysis.

¹⁷⁰ Draft Coos District Implementation Plan. August 2005. Page 27.

¹⁷¹ Draft Elliott FMP. May 2005. Page 2.45

¹⁷² Draft HCP at 5-20.

Only by carefully monitoring the populations will the agencies be able to evaluate the efficacy of the HCP/FMP management regime.

Unforeseen Circumstances. Any changes made to the HCP's conservation strategies due to unforeseen circumstances must be subject to public comment, not in a "relatively formal public process" as described in the draft HCP.

Consider our HCP scoping comments submitted to the USFW on June 23, 2005.

Please consider and respond to all our 6-23-05 comments. Especially consider comments on: Structure Based Management, page 7, Aquatic Habitats, page 11, New Information on the marbled murrelet, page 13, Herbicides and Fertilizers, page 24, Other species to consider, page 26; Public Participation in the Steering Committee, page 28; Violations of the current FMP, page 31, and the Elliott's responsibility to contribute to recovery of endangered species, page 37. For your convenience, we have attached these comments.

19. Corrections and Questions:

1) FMP page C-13: Silviculture will include "Rehabilitation of... serious plantation failure areas". Where are the serious plantation failures. How many are current, and how many have eventually recovered? Have the failed plantations been considered in the "sustainable" harvest calculations? How many acres are involved? What were the causes? Will *moderate* plantation failures be addressed along with serious plantation failures?

2) Under the draft plans, the ODF can manage for the Desired future condition of early structure at 15%, intermediate at 45% and advanced structure at 40%. Are there any conditions where ODF will be *required* to manage for advanced structure above 40%?

3) Commenting on the Northwest Forest Plan, the proposed HCP, page 6-3 says:
"For both late successional reserves and adaptive management areas, the management emphasis is for "restoration and maintenance of late-successional forest habitat".
It appears ODF has the wrong concept for AMAs. The management emphasis on "adaptive management areas" (AMAs) is not "restoration and maintenance of late-successional forest habitat". Instead, AMAs have an emphasis of research. Most are treated much the same as Matrix. However, the AMA in the Siuslaw National Forest could have a particular emphasis on research in late successional forests. The ODF should make clear if they are talking about a particular AMA, not all AMAs.

4) The draft HCP requires that: "Regeneration harvest of advanced structure may occur outside of the identified spatial landscape locations during the implementation period..."¹⁷³ Does this say that regeneration harvests of advanced structure may NOT occur inside identified spatial landscape locations? Where are the "spatial landscape locations"? Where are regeneration harvests allowed, or not, and why?

¹⁷³ Elliott draft 2005 HCP page 5-8.

5) The draft HCP, page 5-14 requires the Implementation Plan to: “Develop and maintain advanced structure in each management basin so that one T&E core plus the area within 0.7 miles of the T&E core’s outer boundary contains at least 500 acres of advanced structure.” The IP failed to document how this was being achieved.

6) Why are Stewardship Classes defined in the 10-year IP, and not the FMP. Are they expected to change every decade?

7) The FMP often refers to the “stand level inventory (SLI) data. Is this data available to the public, perhaps on-line? Will it be?

This concludes our comments on the Elliott’s 2005 draft Forest Management Plan, Implementation Plan, and Habitat Conservation Plan. Thank you for considering these comments in the next drafts.

Sincerely

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