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LEWIS COUNTY COMMISSIONERS



Lewis County, Washington

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January 12, 2009

Robert Lohn, Regional Administrator
NOAA Fisheries
7600 Sandpoint Way NE,
Seattle, WA 98174-0700

Robyn Thorson, Pacific Region Director
US Fish and Wildlife Service
911 NE 11th Avenue
Portland 97232-4181

Re: January 12 2009 Family Forest Habitat Conservation Plan Application

Dear Pacific Region Director Thorson and Regional Administrator Lohn:

A complete application package for the Family Forest Habitat Conservation Plan is enclosed. It consists of five documents:

1. The Family Forest Habitat Conservation Plan
2. The Implementation Agreement
3. Preliminary Draft Environmental Impact Statement
4. A NOAA Fisheries Incidental Take Application
5. A US Fish and Wildlife Incidental Take Application and fee

This is a resubmission of the application package originally submitted on September 4 2007. We are resubmitting after a yearlong dialogue with officials in both agencies which has resulted in no valid scientific findings that would merit a change to the scientific foundations of the Family Forest Habitat Conservation Plan approach. Having exhausted discussions at the Field Office levels, any remaining issues must be explained to us and resolved at the Regional or National levels.

We respectfully request that the regional offices direct their respective field offices to finalize the Draft EIS and each issue certifications of statutorily completeness for this application package, as provided in the Habitat Conservation Planning Handbook USFWS-NMFS 1996. In addition we request that you draft Federal Register notices for this application package as provided in the Habitat Conservation Planning Handbook USFWS-NMFS 1996. We are confident that the package is ready for public review and urge you move this application package forward in a timely manner.

We thought it would be useful to provide a brief history of the project which follows.

Background: In the mid-1990's several Lewis County family forest landowners attempted to develop Habitat Conservation Plans (HCP) with the US Fish and Wildlife Service and the National Oceanic and Atmospheric Administration (the Services). US Fish and Wildlife Services approached the Washington State University Extension Office in Lewis County with the idea of developing a programmatic HCP for the Counties family forest landowners. A programmatic approach to HCP's was formally initiated on November 5th 1998. From the onset, the developers of the Family Forest Habitat Conservation Plan (FFHCP) embarked in a collaborative effort to involve all affected stakeholders including the Washington State Departments of Natural Resources, Ecology and Fish and Wildlife, and the local tribes.

Funding History:

- 2000-\$440,000 Interior Appropriations mark
- 2000-\$110,000 Family Forest Foundation In-Kind Contribution
- 2003-\$389,000 USFWS Sec. 6 HCP Grant
- 2003-\$225,000 Family Forest Foundation In-Kind Contribution
- 2003- \$100,000 Washington Department of Natural Resources funds
- 2004-\$469,500 USFWS Sec. 6 HCP Grant
- 2004-\$275,000 Family Forest Foundation In-Kind Contribution
- 2004- \$37,687 Lewis County Title III Grant
- 2005-\$525,000 USFWS Sec. 6 HCP Grant
- 2005-\$250,000 Family Foundation In-Kind Contribution
- 2005- \$22,500 Lewis County Grant
- 2006- \$64,000 Lewis County Grant
- 2006-\$125,000 Family Foundation In-Kind Contribution
- 2007-\$190,000 Lewis County Grant
- 2007-\$ 100,000 Family Foundation In-Kind Contribution
- 2008- \$85,000 Family Forest Foundation In-Kind Contribution

Total funding committed to date: **3.4 million dollars**

Additional funding applications were submitted to the US Fish and Wildlife Service Section 6 Habitat Conservation Planning Grant Program in 2006, 2007, and 2008. No formal response to those applications has been received. Informally, we have been told that until we solve, "our NOAA Fisheries problem," no more grant applications will be considered. All requirements of the 2003, 2004 and 2005 grant allocations have been completed and verified with US Fish and Wildlife Service local and national offices.

Scientific Approach: The County is committed to implementing the best available science in their effort to develop a plan that minimizes to the maximum extent practicable the impacts to covered species. Two fundamental pieces of the approach, the Reference Condition for Riparian Forests and the Available Functional Large Woody Debris

assessment tool were subject to independent scientific review processes and both received favorable reviews.

February 12, 2008: a meeting to discuss the FFHCP proposal and Services purported concerns of the scientific approach was convened by the Governors office. Representatives from the Departments of Ecology, Natural Resources, Fish and Wildlife, the Services, Lewis County, Washington Farm Forestry Association, the Family Forest Foundation and the Foundation's biological consultants were in attendance. At the conclusion of the February 12, meeting, NOAA Fisheries stated that they could not negotiate further on the FFHCP with an active application in place.

March 21, 2008: the applicant formally withdrew the September 4, 2007 application package, at the urging of NOAA Fisheries, so that formal negotiations could continue. Nearly three months passed before a meeting with the Regional Administrator of NOAA Fisheries could be scheduled due to NOAA priorities and workload.

June 12, 2008: a meeting was held with NOAA Fisheries Regional Administrator Bob Lohn and management and staff from the NOAA Fisheries Science Center in an attempt to resolve the Center's concerns with the Reference Condition for Riparian Forests and the Available Functional Large Woody Debris assessment tool. No concerns were identified regarding the Available Functional Large Woody Debris assessment tool. After a thorough discussion, NOAA Fisheries Science Center staff agreed to replicate the FFHCP Reference Condition methodology and see if they could recreate the outcomes from the methodology and alleviate their concerns with the methodology.

July 25, 2008: While waiting for the response from the Science Center regarding the June 12 meeting, the County received a hard copy of a critique of the FFHCP submitted to NOAA Fisheries by the Washington Forest Law Center-Quinault Indian Nation-Aquatic Resource Consultants. The critique claims that the Desired Future Condition Validation study conducted under the recent State Forest Practice Habitat Conservation Plan is the only applicable reference condition for use in Western Washington. If this is true it would preclude any additional forest HCP's being developed or approved on private lands in Washington State.

August 15, 2008: the County received a critique based on the June 12 meeting of the FFHCP from two NOAA Fisheries Science Center staff members. Rather than replicate the FFHCP reference condition methodology as agreed to at the June 12 meeting, the Center created its own new methodology which of course produced results that were not comparable to the FFHCP's. In short, NOAA Fisheries did not analyze the FFHCP methodology, but developed and analyzed their own methodology.

September 8, 2008: the County responded in detail to both critiques (enclosed) and is confident that the scientific approach utilized in the FFHCP is valid and will be supported by the outside scientific community when it moves forward to public comment under the Endangered Species Act and National Environmental Policy Act.

September 12, 2008: the County met with Regional Administrator Bob Lohn, as well as the Deputy Director and staff from the Science Center. The Science Center management clearly indicated that they had concluded their review and analysis and stated that the issues should be resolved at the regional level.

At the conclusion of the meeting Mr. Lohn identified three issues for resolution:

- ❖ Whether it was appropriate for the FFHCP to assume that mimicking a natural forest conditions would provide properly functioning conditions
- ❖ Identification of any problems in moving the FFHCP forward to public comment
- ❖ Whether or not his agency acted appropriately in rejecting the collaborative, transparent and structured independent scientific review process that was developed in collaboration with his agency as well as the Fish and Wildlife Service. The independent scientific review process addressed the methodology used in the development of the Reference Condition for Riparian Forests.

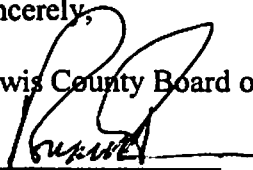
Mr. Lohn committed to respond back to the County in 30 days (mid-October). No response has been received to date.

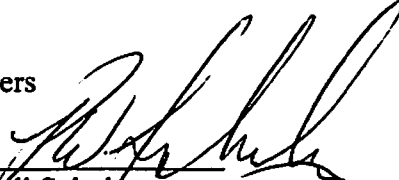
Project Status: After close collaboration with the Federal Services over the past 10 years, the County submitted the Family Forest Habitat Conservation Plan, the Preliminary Draft Environmental Impact Statement and Incidental Take Applications to the Services on September 4, 2007. No written response to the application has been received by the County to date.


January 5, 2009: The County, having not heard from Mr. Lohn, and receiving no valid scientific concerns from the Services or stakeholders, has decided to resubmit the FFHCP, ADEIS and ITP applications to the Services. Upon re-submittal, the County will continue to work with other counties, appropriate state and federal agencies and family forest landowners in an effort to move the FFHCP forward to public comment under the Endangered Species Act.

Sincerely,

Lewis County Board of Commissioners


Ron Averill
District 1


Bill Schuke
District 2


F. Lee Grose
District 3

Cc:
Bob Turner
National Marine Fisheries Service

Steven Landino
National Marine Fisheries Service

James Balsinger
National Marine Fisheries Service

Sam Rouch
National Marine Fisheries Service

Jim Lecky National Marine Fisheries Service

Ken Berg
US Fish and Wildlife Service

Bill Vogel
US Fish and Wildlife Service

Senator Patty Murray

Senator Maria Cantwell

Congressman Brian Baird

Congressman Norm Dicks