



National Marine Fisheries Service
7600 Sand Point Way N.E.
Seattle, Washington 98115

**United States Department of Commerce
National Marine Fisheries Service
United States Department of the Interior
Fish and Wildlife Service**



U.S. Fish and Wildlife Service
510 Desmond Dr. SE, Suite 102
Lacey, Washington 98503

JUN - 2 2009

RECEIVED
Board of County Commissioners
Lewis County Washington

JUN - 3 2009

Lewis County Board of Commissioners
Lewis County Courthouse
351 NW North Street
Chehalis, Washington 98532-1900

RA _____ PWS _____ LG _____
 FYI Action Required Other

Dear Commissioners:

Thank you for your letter resubmitting your application for an Incidental Take Permit (ITP) under the Endangered Species Act for the draft Family Forest Habitat Conservation Plan (FFHCP). The U.S. Fish and Wildlife Service and the National Marine Fisheries Service (the Services) strongly support maintenance of forestry activities on the landscape, particularly those of small forest landowners, in a way that maintains healthy and functioning riparian systems.

Your application for an ITP was originally submitted in September of 2007. While concurrence is not required by the regulations, this submission was unusual in the experience of both Services because the application was submitted before the Services concurred that the draft FFHCP was ready for public review. The Services understand from the County and proponents of the draft FFHCP that they no longer have the financial resources necessary to continue work on outstanding issues. Specifically, at least four outstanding issues were addressed in the application in a manner that had not received consensus of the parties. While each party may have their own view of the significance of these unresolved issues, collectively, the Services determined that the applicant had not yet provided sufficient information to allow meaningful public comment on the draft FFHCP. Our determination was shared with the County at the February 12, 2008 meeting cited in your letter.

Based on review of the re-submitted application of January 2009, the Services do not believe that conditions have changed sufficiently to lead to a different assessment of the ITP application than was reached originally. The information included in the re-submission does not understandably specify the impacts on listed species and is insufficient to allow for meaningful consideration and public comment. We do not believe that further processing of the application in its current form will be productive.

We have outlined the outstanding issues below in an effort to provide clarity to the County.

The first issue of concern to the Services continues to be that the information about large woody debris submitted in the draft FFHCP, while substantial in volume, is insufficient to allow analysts or

the public to clearly and fully understand how the conclusions reached in the draft FFHCP are supported.

Second, the application does not address our concern that the methods used to analyze the effects on water temperature are both unclear and not derived from the currently-accepted scientific approach. Use of currently-accepted methodology could not duplicate the results suggested in the draft FFHCP.

Third, there remain several issues in the draft FFHCP's Implementation Agreement that continue to be concerns of the Services. Those issues include the potential requirement for mitigation upon early termination of the permit, compliance regime details including enforcement, and the accountability of the County as holder of the permit for failure to perform its obligations. The Services initiated several meetings between the parties and the Washington Department of Natural Resources to discuss possible solutions to several of these issues but it does not appear that the applicants pursued those avenues.

Fourth, biological risks inherent in any riparian regime must be addressed through an adequate adaptive management regime. In our view, discussions on this issue were not completed because the level of risk and design of the adaptive management program can only be assessed once the riparian regime is agreed upon.

Notwithstanding the existence of these continuing issues, the Services sought clarity over the past 12 months about the science underlying the originally-submitted proposal, initially seeking an understanding of the issues surrounding large woody debris. As you are aware, the Services engaged NMFS' Northwest Fisheries Science Center in an analysis of the large woody debris conclusions. While your letter suggests that "no concerns were identified" by the Science Center during a June 12 meeting among the parties, the Services hold the opposite view; *i.e.*, that the Science Center found concerns in the data and methods used in the draft FFHCP and was unable to fully duplicate the findings and thus sufficiently validate the conclusions made in the draft FFHCP by using other valid analyses of riparian ecological function.

Given the magnitude of the Services' concerns and the inability to resolve those concerns since the original application submission, it is likely that the conclusions in the Services' Environmental Impact Statement that would accompany the County's draft FFHCP in public review would contradict the conclusions in the draft FFHCP.

We note that Lewis County landowners remain free to conduct forest management activities under the existing Section 10 permits issued in connection with the statewide Forest Practices HCP.

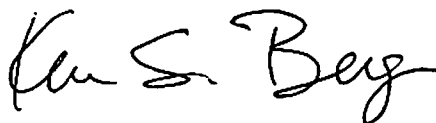
The Services are aware of the frustrations surrounding this unfortunate situation and have participated at length in discussions with the State of Washington and the small forest landowners about ways to support their activities while maintaining ecologically functioning riparian systems. The Services will continue to participate in those discussions with the goal of leading to measures to help address the concerns of the County and proponents of the draft FFHCP regarding ways to keep small forest landowners in forestry.

We sincerely apologize for the delay in response. Former NMFS Regional Administrator Bob Lohn had been conducting a thorough review of the proposal prior to his departure and new regional leadership in both Services also was interested in ensuring that all aspects of the application had been investigated.

Sincerely,



Barry A. Thom
Acting Regional Administrator
Northwest Region
National Marine Fisheries Service



Ken S. Berg
Manager, Washington Fish and Wildlife Office
U.S. Fish and Wildlife Service

cc: Senator Patty Murray
Senator Maria Cantwell
Congressman Brian Baird
Congressman Norm Dicks

cc addresses:

Senator Patty Murray
United States Senate
915 2nd Avenue
2988 Jackson Federal Building
Seattle, Washington 98174

Senator Maria Cantwell
United States Senate
Marshall House
1313 Officers Row
Vancouver, Washington 98661

Congressman Brian Baird
U.S. House of Representatives
O.O. Howard House
750 Anderson Street Suite B
Vancouver, Washington 98861

Congressman Norm Dicks
U.S. House of Representatives
1019 Pacific Avenue, Suite 806
Tacoma, Washington 98402