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Memorandum

January 21, 2013

TO: Forest Practices Board
FROM: Mark Hicks, Forest Water Quality Coordinator
SUBJECT: Clean Water Act Milestone Update

The Washington State Department of Ecology (Ecology) committed to provide the Forest Practices Board (Board) with periodic updates on the progress being made to meet milestones established for retaining the Clean Water Act (CWA) Assurances for the forest practices rules and associated programs. Our last update to the Board occurred at your August 2013 Board meeting. This current update covers the period through January 2013.

In the past six months, no CWA milestones have been completed. Enclosed are two tables showing the CWA milestones and summarizing their current status. The first table shows the non-CMER project milestones. These milestones are implemented outside of the CMER research program and are largely within the control of the Operations Section of the Department of Natural Resources (DNR) or the Timber Fish and Wildlife Policy Committee (Policy). The second table lays out the progress being made on the CMER research study milestones. Changes occurring since your last briefing are shown in red font.

Efforts to increase efficiency continue to be proposed at CMER and Policy; however, there are at least several major issues that continue to plague these milestones and put at risk the long-term ability of the program to retain CWA assurances:

1) Lack of sufficient funding for the CMER research program beyond FY 2015.
2) Lack of dedicated (time) and qualified researchers within CMER.
3) New and competing priorities for CMER and Policy.
4) Conflict among stakeholders all stages of the AMP process.

Please contact me if you have any questions or concerns (360) 407-6477.

Enclosure

Summary of CWA Assurances Milestones and current status:

Non-CMER Project Milestones		
	Summarized Description of Milestone	**Status as of January 2013**[1]
2009	July 2009: CMER budget and work plan will reflect CWA priorities.	**Completed**
	September 2009: Identify a strategy to secure stable, adequate, long-term funding for the AMP.	**Completed** Strategy has been unsuccessful in securing long-term funding. Current CMER workplan and budget projections suggest a shortfall will begin in FY 2015 and magnify to over 3 million in FY 2016.
	October 2009: Complete Charter for the Compliance Monitoring Stakeholder Guidance Committee	**Completed**
	December 2009: Initiate a process for flagging CMER projects that are having trouble with their design or implementation.	**Completed**
	December 2009: Compliance Monitoring Program to develop plans and timelines for assessing compliance with rule elements such as water typing, shade, wetlands, haul roads and channel migration zones.	**Completed**
	December 2009: Evaluate the existing process for resolving field disputes and identify improvements that can be made within existing statutory authorities and review times.	**Completed**
	December 2009: Complete training sessions on the AMP protocols and standards for CMER, and Policy and offer to provide this training to the Board. Identify and implement changes to improve performance or clarity at the soonest practical time.	**Underway** Training completed. Issues identified for improvement were added to the Policy and CMER task lists for future action. CMER is actively updating its Protocol and Standards Manual (6 chapters completed), and Policy has agreed to begin reviewing the L1 questions related to the Unstable Slopes Research Program.
2010	January 2010: Ensure opportunities during regional RMAP annual reviews to obtain input from Ecology, WDFW, and tribes on road work priorities.	**Completed**
	February 2010: Develop a prioritization strategy for water type modification review.	**Completed**
	March 2010: Establish online guidance that clarifies existing policies and procedures pertaining to water typing.	**Completed**

Non-CMER Project Milestones		
	Summarized Description of Milestone	**Status as of January 2013[1]**
	June 2010: Review existing procedures and recommended any improvements needed to effectively track compliance at the individual landowner level.	**Completed**
	June 2010: Establish a framework for certification and refresher courses for all participants responsible for regulatory or CMP assessments.	**Underway** DNR has hired a training program manager, and has provided training to DNR staff on CMZs, Unstable Slopes, Wetlands, and determining Bankfull Width. DNR has begun providing BFW training to TFW participants in each region.
	July 2010: Assess primary issues associated with riparian noncompliance (using the CMP data) and formulate a program of training, guidance, and enforcement believed capable of substantially increasing the compliance rate.	**Completed**
	July 2010: Develop a plan for evaluating the risk posed by SFL roads for the delivery of sediment to waters of the state.	**Underway** DNR is developing an approach for surveying a sample of SFL roads, and has identified a staff person to serve as their field lead in this effort. The goal was to develop a required 2013 report to the legislature and to address this milestone.
	July 2010: Develop a strategy to examine the effectiveness of the Type N rules in protecting water quality at the soonest possible time that includes: a) Rank and fund Type N studies as highest priorities for research, b) Resolve issue with identifying the uppermost point of perennial flow by July 2012, and c) Complete a comprehensive literature review examining effect of buffering headwater streams by September 2012.	**Completed** Policy and technical subgroups are working to implement the strategy.
	October 2010: Conduct an initial assessment of trends in compliance and enforcement actions taken at the individual landowner level.	**Completed**

Non-CMER Project Milestones		
	Summarized Description of Milestone	**Status as of January 2013[1]**
	October 2010: Design a sampling plan to gather baseline information sufficient to reasonably assess the success of alternate plan process.	**Off Track** DNR facilitated development of an informal process for deciding what will be sampled, by whom, when, and for how long. These decisions would be made by field team when they approve an alternate plan (AP). This approach is not in common use and does not meet this milestone. DNR is now working on a process for AP proponents to engage with TFW participants.
	December 2010: Initiate process of obtaining an independent review of the Adaptive Management Program.	**Off Track** Policy support for this review waned after the state auditor's office dropped its plans to begin a review in FY 2012. Policy is hoping internally derived changes (e.g., shorter timeline for dispute resolution and the lean process being piloted by CMER) will create enough improvements to negate need for this milestone. No improvements are evident at this time.
2011	December 2011: Complete an evaluation of the relative success of the water type change review strategy.	**Completed**
	December 2011: Provide more complete summary information on progress of industrial landowner RMAPs.	**Complete**
2012	October 2012: Reassess if the procedures being used to track enforcement actions at the individual land owner's level provides sufficient information to potentially remove assurances or otherwise take corrective action.	**Complete**
	Initiate a program to assess compliance with the Unstable Slopes rules.	**Ongoing** DNR is evaluating alternative pathways to satisfying this milestone other than using the standard post-harvest compliance monitoring framework. DNR recently assessed compliance issues in part of SW Washington in relation to concerns with the 2007 storm. Policy is now attempting to develop a process to address unstable slopes concerns which may include this milestone.

Non-CMER Project Milestones		
	Summarized Description of Milestone	**Status as of January 2013[1]**
2013	November 2013: Prepare a summary report that assesses the progress of SFLs in bringing their roads into compliance with road best management practices, and any general risk to water quality posed by relying on the checklist RMAP process for SFLs.	**Underway** DNR is developing an approach for surveying a sample of SFL roads, and has identified a staff person to serve as their field lead in this effort. The goal was to develop a required 2013 report to the legislature and to address this milestone.

CMER Research Milestones		
Description of Milestone		**Status as of January 2013[1]**
2009	Complete: Hardwood Conversion – Temperature Case Study	**Completed** Study design did not allow for data analysis.
	Study Design: Wetland Mitigation Effectiveness	**Completed** Study later dropped due to unforeseen problems.
2010	Study Design: Type N Experimental in Incompetent Lithology	**Completed**
	Complete: Mass Wasting Prescription-Scale Monitoring	**Completed** Final report accepted by Policy who now is determining under charter what actions to take in response to the report.
	Scope: Mass Wasting Landscape-Scale Effectiveness	**Off Track** No work has occurred.
	Scope: Eastside Type N Effectiveness	**Complete** Work began in 2012 by developing a charter and an Initial Writing Team (IWT). In June 2013, Policy approved the purpose, objective, and critical questions.
2011	Complete: Solar Radiation/Effective Shade	**Completed**
	Complete: Bull Trout Overlay Temperature	**Underway** Final post ISPR draft in preparation and expected back to CMER in early 2014.
	Implement: Type N Experimental in Incompetent Lithology	**Underway** Data collection began in the summer of 2012.
	Study Design: Mass Wasting Landscape-Scale Effectiveness	**Off Track** No work has occurred. On FY2015 budget.
2012	Complete: Buffer Integrity-Shade Effectiveness	**Completed**
	Literature Synthesis: Forested Wetlands Literature Synthesis	**Underway** Final report expected by 2015.
	Scoping: Examine the effectiveness of the RILs in representing slopes at risk of mass wasting.	**Not Progressing** An initial writing team was approved by CMER, and a draft charter assembled, but work has not begun. On FY 2014 budget.

CMER Research Milestones		
Description of Milestone		**Status as of January 2013[1]**
	Study Design: Eastside Type N Effectiveness	**Underway** Study design options were approved by TFW policy in November 2013. The TWIG is now developing a draft study design. The Type N Hydrology study data (available in early 2014) may be used to establish test strata for the study.
2013	Scoping: Forested Wetlands Effectiveness Study	**Not Progressing** Scoping will not be initiated until the Forested Wetlands Literature Synthesis is complete.
	Wetlands Program Research Strategy	**Not Progressing** A long-term research strategy is needed to re-establish the need, interrelationship, and priority for the original series of wetland research projects proposed by WetSAG. This strategy will be informed by the Forested Wetlands Literature Synthesis project. Once determined, this strategy will be used to set milestones to replace those temporally removed from the CWA milestone list. The projects whose goals must be accounted for include: the Forested Wetland Effectiveness study, the Wetland Management Zone Effectiveness Monitoring study, the Wetland Hydrologic Connectivity study, and the Wetland/Stream Water Temperature Interactions study. In 2013 WetSAG began discussing how to develop a strategy and intends to hire a contractor to assist them in this effort in 2014.
	Scope: Road Prescription-Scale Effectiveness Monitoring	**Underway** Replaced prior milestone for Effectiveness of RMAP Fixes. On FY 2014 budget. A TWIG was formed in late 2013 to begin scoping this study.
	Study Design: Examine the effectiveness of the RILs in representing slopes at risk of mass wasting.	**Not Progressing** No work has occurred. On FY 2014 budget.
	Implement: Eastside Type N Effectiveness	**Underway** In late 2013 the TWIG began working on a study design. Implementation may occur in phases with an initial step beginning in summer 2014.
2014	Complete: Type N Experimental in Basalt Lithology	**On-Track**

CMER Research Milestones		
Description of Milestone		**Status as of January 2013[1]**
	Study Design: Road Prescription-Scale Effectiveness Monitoring	**Not Progressing** Replaced prior milestone for Effectiveness of RMAP Fixes. On FY 2014 budget.
	Scope: Type F Experimental Buffer Treatment	**Not Progressing** Initial Writing Team approved by CMER and a TWIG should be formed in early 2014 and begin developing study design alternatives.
	Implementation: Examine the effectiveness of the RILs in representing slopes at risk of mass wasting	**Not Progressing** An initial writing team was approved by CMER, and a draft charter assembled, but no work has begun.
	Study Design: Forested Wetlands Effectiveness Study	**Not Progressing** Scoping will not be initiated until the Forested Wetlands Literature Synthesis is complete by 2015.
2015	Complete: First Cycle of Extensive Temperature Monitoring	**Underway** Of the four strata: one stratum is complete and two are in CMER review. Problems using the DNR hydro layer to find Type Np study streams on the eastside thwarted efforts to find sites for the final strata. Now awaiting the potential use of the eastside hydrology study model to screen potential sites to better identify where perennial streams may actually exist - to aid in site selection.
	Scope: Watershed Scale Assess. of Cumulative Effects	**Not Progressing**
	Scope: Amphibians in Intermittent Streams (Phase III)	**Not Progressing** Project milestone exists only if needed to fill research gaps left from Type N Experimental in Basalt Lithology.
2017	Study design: Watershed Scale Assess. of Cumulative Effects	**Not Progressing**
	Study Design: Amphibians in Intermittent Streams (Phase III)	**Not Progressing**
2018	Complete: Roads Sub-basin Effectiveness	**Not Progressing** Ecology recognizes that RMAP programs implemented through DNR Forest Practices Operations may negate the need for this follow-up sample of progress in fixing roads.

CMER Research Milestones		
Description of Milestone		**Status as of January 2013[1]**
	Implement: Watershed Scale Assess. of Cumulative Effects	**Not Progressing**
	Complete: Type N Experimental in Incompetent Lithology	**Underway**
2019	Complete: Eastside Type N Effectiveness	**Underway** Project will likely be completed later than this milestone due to the delay in project initiation.

[1] **Status terminology:**

"Completed" - means milestone has been satisfied (includes those both on schedule and late).

"On Track" - means work is occurring that appears likely to satisfy milestone on schedule.

"Underway" - means work towards milestone is actively proceeding, but likely off schedule.

"Not Progressing" - means no work has begun, or work initiated has effectively stopped.

"Off Track" - means: 1) No work has begun and inadequate time remains, 2) key stakeholders are not interested in completing the milestone, or 3) attempt at solution was inadequate and no further effort is planned.