

Meeting Summary
Battle Creek Watershed Working Group May 17, 2011: 10 am – 2 pm
Conference Room, RBFWO, 10950 Tyler Road, Red Bluff, CA 527-3043

I. Convene/Introductions

Tricia Parker Hamelberg, Scott Hamelberg, Michael Strawn, Doug Killam, Melanie McFarland, Sharon Paquin-Gilmore, Harry Rectenwald, Steve Tussing, Kerry Burke, Glenn Graham, Liv Imset, Virginia Phelps, Marily Woodhouse, Vivian Parker, Mauro Oliveira, Jim Smith, Steve Emershy, Cajun James, Rich Reiner.

A. Review January and March 2011 meeting summaries

Lots of discussion; resulted in a revised process.

*** Action: Within a week after the meeting, any participants who want to send in a summary (to Tricia.Parker@fws.gov) of their presentation to be included in the meeting-summary-distribution should do so.

B. Review and approve agenda

Approved.

C. Representatives: update roster & alternates

The chair, Sharon Paquin-Gilmore, asked for each entity to send in any updates to her if you haven't already done so. The new provisional member is Marily Woodhouse of the Battle Creek Alliance.

D. Review this group's MOU [handout]

Page five, item 2 was read to the group.

*** Action: Maintain the document as an intact "pdf" with all of the signatures. Each year, the annual roster will be added and displayed on the BCWC website. Sharon is putting together the roster page for 2011.

II. Announcements (all participants)

- Due to the retirement of Peter Jacobsen, Kathy Bishop (BCWC) will now be the one to maintain the Issue Tracking Document.
- The dates of the upcoming citizen's monitoring program trainings that DFG offers in conjunction with the Western Shasta Resource Conservation District were announced.

III. Presentation: Overview of the Endangered Species Act (ESA) and National Environmental Policy Act (NEPA): USFWS (Lyle Lewis, Endangered Species Program Manager)

Lewis: The ESA has 4 parts: recovery, listing & critical habitat, candidate conservation and consultation. The decision to consult is based on "when an action is authorized, funded or carried out by a federal agency." The nexus is sometimes obvious, sometimes not. There are four factors to consider when looking at the potential affect: status of the species, status of habitat/environmental

baseline, project effects, and cumulative effects. This last factor can cause a lot of controversy / confusion. The ESA looks at future effects of state, private, and tribal actions; the NEPA looks at the entire area/entire population. USFWS views these two aspects very differently. The types of “take” include harm and harassment especially breeding, feeding or sheltering. The interface between NEPA & ESA is that FWS does a completely separate analysis between NEPA and ESA. The two agencies for implementing the ESA in fresh water habitats are NMFS for anadromous fish and FWS for all the other fish. NEPA is an open process. The ESA is not; it is up to the action agency whether to release a biological assessment prior to completing consultation (e.g. if the Corps of Engineers write a consultation/BA then it is their prerogative if its released to the public). Normally, consultation is completed in its entirety prior to release of either the BA or BO to the public. A request for applicant status can be made by a third party who is affected by the outcome of the consultation. An example given was the City of Albuquerque requested and received Applicant Status on a consultation that could potentially affect their water supply.

Discussion:

Q: Harry: The BCWC wrote a letter to NMFS since they have authority, who should we address the appeal to?

A: You can ask, but no public input is required.

Smith: The current process is a continuation of the process with NOAA from 2001. The issue regarding public review has been discussed with the FWS managers at our Regional Office. They have decided, in order to complete consultation, not to include public review. The Regional Managers have decided that the final Biological Assessment will be distributed to the public upon submittal to NMFS. The FWS manager is the Assistant Regional Director for Fisheries.

Q: Dennis Heiman: In regard “to list or not to list”, for example with grizzlies or wolves, are some areas considered extinct?

A: That is a hard question to give a succinct answer to since it is complex and may depend on genetics. If a distinct population segment (DPS) then the distinction may result in listing. Grey areas exist, therefore it is on a case by case basis.

Q: Cajun James: Do you think there will be changes in the law for certain areas or certain species?

A: I can’t answer since there are many different facets for implementing ESA, there will always be exceptions. The decision tree starts with: May Affect or No Affect. If May Affect then either Not Likely to Adversely Affect (resulting in a letter of concurrence) or Likely to Adversely Affect resulting in either Jeopardy or Adverse Affect ... then RPA’s (reasonable and prudent alternatives) must be developed. [LL rev 6/22]

IV. Updates

A. P. G. & E. (Liv Imset)

The walkway at Lake Nora will soon be replaced. We are currently in the permitting process.

B. Stewardship Council (Sharon, Marily and Glenn)

The Stewardship Council is the organization overseeing divestiture of PG&E properties. Of 8 properties, one is in Battle Creek watershed. The land will either be divested or made into a conservation easement. The Stewardship Council has asked BLM, Calfire, TNC, USFS and Shasta County regarding their interest. TNC is not interested. Other organizations will be providing input. Later this summer, the Stewardship Council will make a decision. Amy Crawford with PG&E will be the one to keep our group informed. A potential conflict is at the Asbury Pump. The Stewardship Council wants to provide a fishing platform with handicapped access. Liv added that the operations of the Battle Creek Salmon and Steelhead Project would be prioritized over the Stewardship Council. *** Action: Kathy Bishop will add this item / issue to the Issue Tracking Document for tracking purposes.

C. USFWS (Tricia Parker Hamelberg): handout "greensheetMay 2011.pdf"

The USFWS update included an additional page showing the status of the Coleman National Fish Hatchery Station Development Plan Phases (per request from Harry Rectenwald in Feb).

Q: Harry Rectenwald asked about the Comment column in this handout, what does "no longer being considered" mean?

A: Scott Hamelberg responded that the raceways for winter Chinook salmon are not needed at Coleman NFH since winter Chinook are at Livingston Stone NFH. The Station Development Plan was written in 1987 and authorized by the CVPIA in 1992.

Q: Tussing: If the Biological Assessment considers the current population size, but if the increase in spring Chinook population occurs faster than we expect, then what changes in the documentation?

A: Smith: In any ESA Consultation, a solid Project Description is needed. Currently spring Chinook swim upstream in Battle Creek largely unhindered by operations at Coleman NFH. The potential impact to juvenile spring Chinook migrating downstream is likely very low due to the screening of the hatchery water intakes.

D. Battle Creek Watershed Conservancy (Sharon Paquin-Gilmore)

[info below submitted by BCWC 5/24]

Prepared/compiled by: Steve Tussing, BCWC Technical Advisor

I. Convene / Introductions

A. Review January and March 2011 meeting summaries

Discussion:

- *BCWC comments / revisions to draft meeting summaries from January and March 2011 were not yet included. Was agreed that these revisions would be included in the meeting summaries and circulated via e-mail for member's approval.*
- *Was decided by the group that members would have one week after the GBCWWG meeting to provide meeting notes that they wanted captured in the meeting summary. These meeting notes would then be included in the draft meeting summary compiled by USFWS (Tricia).*

III. Presentation by Lyle Lewis (USFWS) on ESA and NEPA.

- *Background: Jim Smith invited Lyle to give this presentation in response to BCWC's interest in commenting on the draft CNFH Biological Assessment (CNFH BA) and USFWS's decision not to*

solicit public comments on the CNFH BA. USFWS Presenter on NEPA/ ESA overview did not review BC Conservancy letter requesting public review.

- *Discussion after Presentation:*
 - o *Presenter stated Draft BA can be submitted for public review at discretion of action agency.*
 - o *USFWS rep stated that he brought up the possibility of public comments on the CNFH BA to his upper management and they did not want to accept public comments.*
 - o *The final BA will be released to the public when USFWS submits the draft BO and final BA to NMFS.*
 - o *CDFG is not reviewing the draft CNFH BA.*
 - o *CNFH BA is not going to include unimplemented elements of CNFH Station Dev. Plan congressionally authorized in CVPIA per S Hammelberg.*
 - o *BCWC tech rep indicated the Conservancy may have an interest in sending a written request to USFWS management for reviewing draft CNFH BA.*
 - o *BCWC tech rep pointed out the GBCWWG MOU contains a provision that agency proposals be made available for review of other signatories to MOU.*

IV. Updates

C. USFWS Update:

Discussion:

- *BCWC tech rep voiced concerns that the CNFH BA is relying on current, not restored, habitat conditions and fish population sizes in assessing CNFH impacts to naturally spawned anadromous salmonids. Three concerns:*
 1. *Restored habitats could be available beginning this fall.*
 2. *Population sizes could respond quickly to habitat availability (e.g. rapid re-colonization of Butte Creek habitat).*
 3. *The current BA/BO process has taken 10 years which does not appear to be quickly adaptable to changes in population sizes.*
- *CNFH / USFWS rep stated that it is difficult to anticipate how quickly there might be an increase in natural spawners, that the BA/BO can be revised if the numbers of natural spawners increase, and that it largely doesn't matter how many fish are in the system as take is calculated as a percentage of natural spawners.*
- *USFWS rep suggested that the more appropriate place to address potential CNFH impacts to the recovery of anadromous stocks under the Restoration Project would be in the CNFH Adaptive Management Planning process.*

VI Closure

A. Action Items:

- *Steve would update Issue Tracking Item #5: Watershed Monitoring, and coordinate with LNF to include the LNF monitoring update.*
- *Add the Stewardship Council (PGE lands Divestitures) as a non-prioritized Issue in the Issue Tracking Document.*
- *Scott agreed to forward an electronic copy of the CNFH Station Development Plan to Steve.*

B. Future Meeting:

- a. *Next GBCWWG Meeting July 19th 2011*
- b. *No field trip for July.*

Agenda topics:

- *Public (non-members) Comments/ Input: USFWS (Jim and Tricia) suggested that we should have a place on the agenda for comments and concerns from the general public. Steve suggested discussing with the full GBCWWG in attendance where such an item would go on the agenda and anticipates the public being able to voice concerns at the next GBCWWG meeting in July.*
 - *Vivian Parker (public participant) stated she had concerns regarding the report that Kier Associates produced in 2009. Vivian agreed to address this at the next GBCWWG meeting when there would be a BCWC representative present. Jim Smith stated that he too had concerns regarding this document but didn't want to formulate an opinion prior to hearing from the parties involved.*
 - *Discuss the vacant Vice-Chair Position: Do we need to elect a new vice chair and a person to update the issue tracking document?*
 - *Finalize roster of the MOU.*
- [end submittal]

E. Issue-Tracking- Document: top issues (pp 1-12) (Peter Jacobsen)

Sharon announced that Peter retired, so his role as vice-chair and keeper of the Issue-Tracking-document is vacant. In the interim, Kathy Bishop, the webmaster for the Battle Creek Conservancy, will update and provide information for the current version of this document – at the next meeting.

F. Restoration Project (Mary Marshall, USBR)

[info submitted MM 5/24]

Under Phase 1A of the project, the majority of the fish ladder construction was completed at Eagle Canyon and North Battle Creek Feeder dams in 2010. Construction at these project sites has resumed, and work is planned to be completed late 2011. In regard to the Wildcat project site, some road erosion issues will be corrected in Summer 2011. For the Asbury/Baldwin Creek site, design specifications are under development and a contract is planned to be awarded late 2011.

Under Phase 1B of the project, construction of the Inskip powerhouse tailrace connector and bypass is proceeding and currently planned to be completed around mid-2012.

Under Phase 2 of the project, agreements (to receive State funding) are underway and are planned to be completed in 2011. Construction is currently planned to occur under two contracts. One construction contract would involve the installation of a fish screen and ladder at Inskip diversion dam, installation of a tailrace tunnel connector from South Powerhouse to Inskip Canal, and removal of Lower Ripley Creek Feeder and Coleman diversion dams. Another construction contract would involve the removal of Soap Creek Feeder diversion and the removal of South diversion dam and appurtenant conveyance system, including the removal of South Canal. These construction contracts are currently anticipated to be awarded in 2012 and be completed in late 2014/early 2015.

Monthly construction updates (including photos) are posted on the Battle Creek Restoration Project Reclamation website (www.usbr.gov/mp/battlecreek).

A Battle Creek Restoration Project Adaptive Management Meeting is being scheduled.

A contract associated with the facilitation and development of a Coleman National Fish Hatchery Adaptive Management Plan is planned to be awarded in August 2011. [end submittal]

V. Presentation: Cajun James, SPI, stream monitoring for water quality and the Timber Harvest Plan (THP) process

[info submitted by presenter CJ 5/27]

SPI's Submission to Working Group Minutes

As part of Item V on the Battle Creek Working Group's Agenda, Dr. Cajun James, Research and Monitoring Manager for Sierra Pacific Industries gave a presentation focusing on Water Quality Monitoring on Sierra Pacific Industries timberlands. The Group invited SPI to attend and conduct a presentation at the Working Group's May Meeting after the Group heard a presentation from the Battle Creek Alliance at the March Meeting. SPI attended the Battle Creek Working Group meeting in good faith in an attempt to share information relating to our Water Quality Monitoring Program.

Prior to the commencement of the presentation, SPI requested that Mauro Oliveira, of the Battle Creek Alliance, stow away the video camera that he had set up to record SPI's presentation. SPI is in litigation over a Timber Harvest Plan (THP) in the Manton area with individuals involved in the Battle Creek Alliance and SPI believes that a video recording was inappropriate given the recent tactics that the individuals associated with the Alliance have employed to disrupt a legally occurring, State approved project. Mr. Oliveira complied with the request.

Dr. James commenced her presentation and discussed various water monitoring research projects occurring on SPI timberlands.

The Southern Exposure Research Project was discussed. The Southern Exposure Project is situated along Judd Creek in Tehama County. Judd Creek is a fish-bearing stream that is a tributary of North Antelope Creek. The project began in 1999 and since that time has collected a continuous data set of water quality parameters including temperature, turbidity, ph and dissolved oxygen. Since its inception over 10 years ago, the project has provided the largest data set of water quality parameters to examine potential impacts from Forest Management on inland California. The project was designed to measure the effects on stream and near-stream microclimate after the application of an evenaged silvicultural system (clearcutting). The project site consists of three treatment blocks and four control blocks oriented in a checkerboard pattern. Stream buffer widths were reduced systematically over a period of years to try and detect a change in stream variables. In order to reduce the stream buffer widths below the distances specified in the California Forest Practice Rules, a CEQA Exemption was secured from the California Board of Forestry and the site was designated as an experimental forest (Jackson State Forest is the only other experimental forest in California). No changes were detected in stream variables until the final harvest which removed the remaining fifty feet of conifer overstory from the streamzone. After the final harvest a statistically measurable increase in stream temperature was detected within one of the three harvested stream units; however, the increase was found to dissipate as the water flowed through the canopy of the control blocks. Near-stream microclimate response was also discussed.

A second project was discussed within the Judd Creek Watershed that is a cooperative project with the California Board of Forestry's Monitoring Study Group (MSG). The project has 41 evenaged harvest units within an approximately 6,300-acre watershed. Prior to implementation of this project, four flumes and 3 additional sonde monitoring stations were installed to monitor water quality parameters at the watershed level. Post harvesting monitoring is still occurring on this project.

Three other water quality monitoring projects being undertaken by SPI were mentioned; they are located in Shingletown, Viola and the southern Sierras.

Dr. James discussed the results SPI's Plantation Diversity Study. The study found that species richness within established plantations was equal to the surrounding forestland.

During each phase of her presentation, Dr. James was continually interrupted by individuals attending on behalf of the Battle Creek Alliance, who are using any venue to voice their opinions against SPI's land management strategies. The Working Group's Chair as well as other members of the Working Group continually requested that the Battle Creek Alliance members demonstrate professionalism and allow Dr. James to continue. Dr. James was eventually able to complete her presentation after multiple interruptions from the Alliance. Even the question and answer session following Dr. James' presentation was disrupted by Alliance members. The constant interruptions limited the time for a meaningful discussion and Q & A session following the presentation.
[end submission]

Discussion:

Q: Is documentation available that shows the study objectives and results of the Southern Exposure Research Project?

A: ___?___ [update July 19, Steve Emershy said that SPI will email this information]

Q: T.P. Hamelberg: How many acres of land does SPI own/manage in the Battle Ck watershed?

A: James: I will get that information back to the group.

Q: Reiner: Were there thermal transitions between cut/uncut areas?

A: James: This study did not find any temperature increases.

Heiman: Many groups are collecting temperature data on streams that are not listed by the SWRCB as "Impaired" based on temperature .

McFarland: In regards to water quality and timber harvest, the USFS entered into a project with UC Davis to do pre and post timber harvest water quality monitoring. The specifics of the project were to remove conifer and restore aspen. A progress report is available. The final report will be available at the end of the calendar year.

VI. Closure

A. Meeting review & summary of action Items:

Update Issue Five on the Issue Tracking Document (Tussing, McFarland and James).

B. Future meetings (e.g. July 19, Sept 20)

C. Identification of agenda topics and presentations

Finalize roster and distribute. Discuss how we want to elect a new vice-chair. Review the Jan, March and May meeting summaries. Add public participation as an item on the agenda. The group discussed having an agenda item to discuss the Kier Associates/Higgins document regarding fine sediment/timber harvest in the upper watershed.

VII. Adjourn