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April 13, 2012

TO: Forest Practices Board

FROM: Mark Hicks

SUBJECT: Quarterly Update Clean Water Act Milestones

Ecology committed to provide the Forest Practices Board (Board) with semiannual updates on the progress made to meet milestones established for retaining the Clean Water Act (CWA) Assurances for the forest practices rules and associated programs. This current update covers the period ending April 13, 2012.

In the past six months, two non-CMER project milestones have been completed. These included two related milestones that were satisfied by the Board's action to adopt the changes to the rules, manual, and associated application forms for RMAPs.

Enclosed are two tables showing all of the CWA milestones and summarizing their current status. The first shows the non-CMER project milestones. These milestones are implemented outside of the CMER research program and are largely within the control of DNR Operations and the Forests and Fish Policy Committee. The second table lays out the progress being made on the CMER research study milestones.

Please contact me if you have any questions or concerns (360-407-6477; mhic461@ecy.wa.gov.)

Enclosure

Summary of CWA Assurances Milestones and current status:

Non-CMER Project Milestones		
	Summarized Description of Milestone	**Status as of July 2011**
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.
	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.	**Partially Met** Training completed. Issues identified for improvement were added to the Policy and CMER task lists for future action.
2010	January 2010: Ensure opportunities during regional RMAP annual reviews to obtain input from Ecology, WDFW, and tribes on roadwork 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.	**Not Met** Expected by Summer 2012.

Non-CMER Project Milestones		
	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.	**Not Met** DNR is seeking dedicated funding to meet this milestone.
	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.	**Partially Met** An attempt was made to include some assessment as part of the current draft compliance monitoring report. What remains needed is a clear strategy for identifying and responding to the underlying issues causing noncompliance.
	July 2010: Develop a plan for evaluating the risk posed by SFL roads for the delivery of sediment to waters of the state.	**Not Met** DNR decided to wait for new dedicated funding to address this milestone rather than try to use existing resources.
	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.	**Partially Met** In Fall 2011, Forests and Fish Policy developed a chartered process that serves as a strategy to complete this milestone. That process is now being implemented through the simultaneous efforts of both technical and policy subgroups. Completion can reasonably be expected by September 2012, which would substantially meet this milestone.
	October 2010: Conduct an initial assessment of trends in compliance and enforcement actions taken at the individual landowner level.	**Completed**

Non-CMER Project Milestones		
	October 2010: Design a sampling plan to gather baseline information sufficient to reasonably assess the success of alternate plan process.	**Not Met** DNR developed an informal process for deciding what will be sampled, by whom, when, and for how long at the time an alternate plan is approved. It has apparently been used two to three times over the last year. No plans were established for summarizing the results into an assessment of the program. The proposed approach may provide some useful information but does not meet either the letter or intent of the milestone.
	December 2010: Initiate process of obtaining an independent review of the Adaptive Management Program.	**Not Met** There has been broad support for this review, but the state auditor's office dropped its plans to begin a review in FY 2012 and it will be an expensive and lengthy process to contract this milestone to a private firm. Rather than wait for funding for an outside review, AMP cooperators and caucus leaders are planning to conduct their own process evaluations and negotiations with the purpose of making improvements to the existing program. The need for this milestone will be reassessed by Ecology once the ongoing process has been completed.
2011	December 2011: Complete an evaluation of the relative success of the water type change review strategy.	**Partially Met** DNR has held meetings with cooperators to try to assess how well the process is working. Formal conclusions and decisions arising from those meetings are pending; however, it appears there is broad support for the general approach conditioned by some recommendations for improvement.

Non-CMER Project Milestones		
	December 2011: Provide more complete summary information on progress of industrial landowner RMAPs.	**Complete** Data collection is ongoing but has been formally established in rule and the Board Manual sufficient to satisfy this milestone.
2012	October 2012: Reassess if the procedures being used to track enforcement actions at the individual landowner's level provides sufficient information to potentially remove assurances or otherwise take corrective action.	**On-Track**
	Initiate a program to assess compliance with the Unstable Slopes rules.	**Uncertain** DNR has not begun work on this milestone. The milestone was transferred over from the CMER research milestone list in the Fall of 2011, recognizing it was a compliance monitoring effort. Ecology kept the original CMER milestone date, but understands it is a new issue for DNR Operations. Short-term, Ecology is looking for at least a strategy with a timeline for making the assessment operational at the soonest practical time. If responsive to this need, the timeline will be used to adjust this milestone.
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.	**Unlikely** DNR is trying to find dedicated funding to accomplish this milestone, but time is running out to design and implement a field review.

CMER Research Milestones		
	Description of Milestone	**Status as of July 2011**
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	**Nearing Completion** Final post-ISPR report drafted but still undergoing SAG and CMER review. Expected in 2012.
	Scope: Mass Wasting Landscape-Scale Effectiveness	**Not Met** UPSAG lacks the capacity to begin this work.
	Scope: Eastside Type N Effectiveness	**Not Met** SAGE may try to begin this work in 2012.
2011	Complete: Solar Radiation/Effective Shade	**Nearing Completion** Final report is expected in April 2012.
	Complete: Bull Trout Overlay Temperature	**Ongoing** First draft in RSAG review. Completion expected in 2013.
	Implement: Type N Experimental in Incompetent Lithology	**On-Track** Data collection is currently expected to begin in the summer of 2012.
	Study Design: Mass Wasting Landscape-Scale Effectiveness	**Not Met** No work has occurred or is planned.
2012	Complete: Buffer Integrity-Shade Effectiveness	**Ongoing** Draft report in CMER review. Final report expected in 2013.

CMER Research Milestones		
	Literature Synthesis: Forested Wetlands Literature Synthesis	**Ongoing** Under Contract. Final report in early 2013.
	Scoping: Examine the effectiveness of the RILs in representing slopes at risk of mass wasting.	**Ongoing** UPSAG is initiating work on Scoping.
	Study Design: Eastside Type N Effectiveness	**Unlikely** SAGE lacks capacity to work on this study.
2013	Scoping: Forested Wetlands Effectiveness Study	**Uncertain** Scoping will not be initiated until the Forested Wetlands Literature Synthesis is complete in early 2013.
	Wetlands Program Research Strategy	**Uncertain** 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 future milestone to replace those temporally removed from the CWA milestone list. The projects that 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.
	Scope: Effectiveness of RMAP Fixes	**Unlikely** UPSAG does not have the capacity to meet this scoping deadline and may need help.
	Study Design: Examine the effectiveness of the RILs in representing slopes at risk of mass wasting.	**Uncertain** UPSAG has just begun Scoping this project.
	Implement: Eastside Type N Effectiveness	**Unlikely**
2014	Complete: Type N Experimental in Basalt Lithology	**On-Track**

CMER Research Milestones		
	Study Design: Effectiveness of RMAP Fixes	**Uncertain**
	Scope: Type F Experimental Buffer Treatment	**Uncertain**
	Implementation: Examine the effectiveness of the RILs in representing slopes at risk of mass wasting	**Uncertain**
	Study Design: Forested Wetlands Effectiveness Study	**Uncertain**
2015	Complete: First Cycle of Extensive Temperature Monitoring	**Uncertain** Three of the four strata are largely complete. Problems using the DNR hydro layer to find Type Np study streams on the eastside thwarted efforts to complete the final strata. Now awaiting the use of the eastside hydrology model to screen potential so as to better identify where perennial streams actually exist – this effort may not be completed in time or even result in a meaningful improvement in site selection.
	Scope: Watershed Scale Assess. of Cumulative Effects	**Uncertain**
	Scope: Amphibians in Intermittent Streams (Phase III)	**Uncertain** 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	**Uncertain**
	Study Design: Amphibians in Intermittent Streams (Phase III)	**Uncertain**
2018	Complete: Roads Sub-basin Effectiveness	**Uncertain** 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		
	Implement: Watershed Scale Assess. of Cumulative Effects	**Uncertain**
	Complete: Type N Experimental in Incompetent Lithology	**On-Track**
2019	Complete: Eastside Type N Effectiveness	**Unlikely** SAGE may not be able to compensate for the current delay in initiating this project.