

BOARD OF FORESTRY AND FIRE PROTECTION

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September 13, 2004

To: Elk River Sensitive Watershed Nomination Review Committee and all Interested Parties

From: Executive Officer, Board of Forestry and Fire Protection

This memo is meant to clarify the authorities and responsibilities of the screening committee for "Sensitive Watershed" petitions, and to reduce confusion and misunderstanding of the process by interested parties.

There are two committees in the nomination process: voting and advisory. The voting committee will determine their position on watershed status and make recommendations to the Board of Forestry. The advisory committee is comprised of experts to assist on technical matters, as well as provide any observations they deem relevant to the voting committee.

1. Screening for compliance

The voting committee's first function is to screen the nomination for compliance with the informational requirements of 14 CCR 916.8(a) [936.8(a)(3) and 956.8(a)(3)]:

1. Name, approximate size and location of the watershed(s) identified by county, township and range, and name(s) of USGS topographic map(s) on which the planning watershed is found.
2. The name of the higher-order stream, if any, to which the watershed is tributary.
3. Specific resources that are significantly threatened by further timber operations on non-federal timberland in the nominated watershed, including, as appropriate, but not limited to:
 - A. Fish, aquatic organisms, aquatic habitat, or riparian habitat;
 - B. Domestic and other water supplies, water quality, other beneficial uses of water existing at the time of nomination or factors related to the stream system and channel morphology;
 - C. Downstream reservoirs, navigable channels, water diversion and transport facilities, estuaries, and harbors;
 - D. Wildlife species, or the habitat of species, listed under state or federal law as rare, threatened or endangered, candidate, or sensitive, including discussion of the habitat features threatened by timber operations;
 - E. Wildlife species with narrow geographic range, low density, low reproductive rates, and highly dependent on localized habitat features, including discussion of the habitat features threatened by timber operations and a discussion of why protective measures are required to prevent a loss of population viability;
4. Natural or management-induced conditions present in the watershed which pose a significant threat to the resources identified in 14 CCR 916.8(a)(3) [936.8(a)(3) and 956.8(a)(3)], above, including, as appropriate, but not limited to:
 - A. Steep slopes and easily destabilized soils;
 - B. Continuing landslide or soil erosion problems related to past or ongoing land-use activities;
 - C. Extensive ground disturbance, particularly associated with roads, skid trails, landings, and watercourse crossings;

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- D. Accelerated aggradation, streambank erosion, and channel scouring;
- E. Changes in the habitat or condition of wildlife species identified in 14 CCR 916.8(a)(3) [936.8(a)(3) and 956.8(a)(3)], above.
- F. Accelerated rates of proposed road construction or timber harvesting within a watershed or near streams or springs.
- 5. Approved Habitat Conservation Plans or other documents approved or under review by public agencies within the nominated watershed which provide for maintenance or improvement over time of management induced conditions within or adjacent to the planning watershed or forest district.
- 6. Suggested, feasible mitigation measures needed, in addition to current forest practice rules, to provide adequate protection for resources identified in 14 CCR 916.8(a)(3) [936.8(a)(3) and 956.8(a)(3)], above, and to mitigate or avoid new or continuing significant cumulative effects related to timber operations, including, but not limited to, restoration or rehabilitation of degraded resources within any portion of the proposed sensitive watershed.
- 7. Other information about the watershed that may assist the Board to evaluate the nomination.
- 8. Literature citations, expert written opinion, and other relevant sources of information and, where possible, copies of information used to complete the nomination.
- 9. A list of names and mailing addresses of the following:
 - A. Landowners of 40 acres or more of lands zoned for timber production in the planning watershed;
 - B. Public water purveyors and known private purveyors within the planning watershed;
 - C. Commonly known watershed associations within the planning watershed;
 - D. Commonly known neighborhood or community associations within the planning watershed;
 - E. Chairman, county board of supervisors;
 - F. Chairman, county planning commission;
 - G. Local manager for any public agency having custodial responsibility for timberlands within the planning watershed; and
 - H. District or local representatives for review team agencies.
- 10. A draft notice for newspaper publication containing the information in (a)(1)-(3), a statement that a public hearing will be scheduled before the Board within 60 days of Board receipt of a nomination forwarded by the committee, and a statement that further information can be obtained from the local Department Unit Headquarters.

After reviewing the nomination, the voting committee (with input from the technical advisory committee) will vote on whether the nominator has complied with the requirements outlined above, and notify the Board of its decision immediately. If the committee finds that the information supplied above is insufficient, it should then outline those deficiencies, and forward them in a report to the Board.

2. Determination of resources at risk, and substantial evidence

If the voting committee determines that the informational requirements have been met, the committee will analyze the resources at risk as identified by the nominator (Item # 3 above), and determine if that claim is supported by substantial evidence. The voting committee shall make this determination, with input from the advisory committee.

3. Adequacy of the FPRs

If items 1 and 2 above generate an affirmative response, the committee then shifts focus to the discussion supplied by the nominator (item #6 of step #1 above) on:

“..... the effects that further timber operations will have on the specific resources identified in 14 CCR 916.8(a)(3) (see above) which are at risk within the nominated watershed and specify those effects **not sufficiently addressed under the forest practice rules** and discuss the significance of the effects in light of the condition of the resources in areas adjacent to the planning watershed.” (Emphasis added)

It is the function of the committee during this phase to determine if the Forest Practice Rules (**and the process/review incorporated by the rules which includes HCPs, WQ waivers and WDRs, ITPs, etc.**) do not sufficiently address measures to protect the specific resource(s) at risk. Such a finding would result in a determination by the committee that the watershed is sensitive.

At this stage the committee will have completed the following stages:

1. Determine if the informational requirements have been met;
2. Determine whether there are resources at risk from further timber operations, and that this determination is supported by substantial evidence; and
3. Determine if the resources at risk are adequately or inadequately protected under the Forest Practice Rules.

4. Recommendation

If the committee reaches this stage in the process, and agrees that the watershed should be considered sensitive, it will forward its recommendation, including the description of the substantial evidence, to the Board accompanied by the following:

1. A list that itemizes those resources threatened by the timber operations that create this circumstance;
2. If possible, performance standard(s) for timber operations that will avoid or mitigate new or continuing significant cumulative effects;
3. Additional information that is needed for evaluating the impacts of proposed timber operations and is to be included in harvesting plans submitted in the planning watershed(s);
4. On-site mitigation measures in addition to the current review process and forest practice rules, which can be required by the Director to mitigate the impacts of timber operations within the watershed;
5. Offsite mitigation measures that can be applied within or outside of the sensitive watershed area to offset adverse on-site impacts of timber operations. If such mitigation measures are proposed to protect the resource(s) discussed in subdivision (a)(3)(A) and (B), they must occur in the same drainage. Such measures may include, but are not limited to, voluntary mitigation agreements among ownerships;
6. If needed, recommended alternatives to evaluate the implementation and effectiveness of mitigations required under this section.
7. Exemptions for ownerships, emergencies, or land-use classifications that are different than those provided in the current forest practice regulations and that may be applied in the watershed.

If the committee determines that the FPRs and its attendant process do sufficiently address the resources at risk, it may still forward recommendations to the Board for any potential improvements to the process.

George D. Gentry
Executive Officer