Regulation, Management & Conservation of Wildlife: What Large Landowners Need to Know

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Florida Chamber 30th Annual Environmental Permitting School
July 21, 2016
Environmental Permitting School
Regulation, Management & Conservation of Wildlife

Working with the Regulated Community in conserving At-Risk and Federally-listed Species

U.S. Fish and Wildlife Service
July 21, 2016
1. Section 7 Consultation with NRCS on Conservation Practice Standards

2. At-Risk Species and Candidate Conservation Agreements with Assurances – e.g. Camp Blanding Multi-Species CCAA

3. Providing ESA Assurances to Non-Federal Landowners when Conducting Prescribed Burning Operations
Discussions began at the 2012 GT CCA meeting in Alabama to revisit the Camp Blanding CCAA. The team started meeting regularly in early 2013. They decided to use a habitat-level versus single-species approach. The first step was to define habitats and associated species to be covered under the agreement.
CCAA Objectives

1. Maintain or enhance habitat quality at the Project Site

2. Provide regulatory assurances to landowner

3. Reduce or eliminate disease transmission at the Project Site

4. Reduce or eliminate exotic and invasive species at the Project Site

5. Provide for conservation that reduces the risk of listing under Federal Endangered Species Act.

These objectives will be accomplished through implementation of specific conservation actions, which are grouped by habitat type and are specific to the Project Site.
Enrolled Lands

Includes 47,218 acres and encompasses six different habitat types:

- Flatwoods (20,519 acres)
- Sandhill (16,983 acres)
- Scrub (242 acres)
- Ephemeral wetlands (76 acres)
- Forested wetlands (7,571 acres)
- Surface waters (123 miles of streams and 1,827 acres of lakes and ponds)
Covered Species

- Amphibians = 2
- Birds = 8
- Butterfly = 1
- Caddisfly = 1
- Crayfish = 1
- Dragonflies = 2
- Fish = 1
- Mammals = 2
- Mussels = 2
- Reptiles = 5
As required by CCAA policy, the signatories to this agreement are non-federal entities.

Therefore, the “Parties” to this CCAA are:

- State of Florida Armory Board (Property Owner)
- Florida Fish and Wildlife Conservation Commission
- U.S. Fish and Wildlife Service
- Cooperator and concurring party: Army National Guard
Overview Of Agreement

• This CCAA is unique in that some of the candidate and at-risk species covered are also listed by FWC as state threatened or species of special concern
  • Florida Armory Board will receive regulatory assurances from both FWS and FWC
• Goal: implement conservation actions that reduce or eliminate threats to the covered species so that listing under the ESA is not necessary
• Three conservation objectives and multiple conservation actions are presented to achieve this goal
Next Steps

• Once all signatories agree on a Final Draft:
  • Final Draft is sent to FWS Regional Office and Solicitor for surname (Solicitor verifies document is “legally sufficient”)
  • CCAA Notice of Availability is published in Federal Register
• 30 day public comment period
  • FWS, in coordination with all Parties, makes any necessary changes based on public comments
• Permit Package is submitted
• Permit is signed by FWS
• Final CCAA is signed by all Parties
A consultation with NRCS that evaluated the potential impacts of over 130 Conservation Practices on all federally listed species that could be affected by implementing these activities on agriculture, range, and silviculture lands.
Examples of Conservation Practices

Irrigation Practices
Prescribed Grazing
Various Waste Management Practices (related to Ag. Operations)
Plowing Practices
Integrated Pest Management
Nutrient Management
Forest Stand Improvement
What Does the “Matrix” Do??

Provides “Effects Determinations”

Provides Specific “Avoidance and Minimization Measures” (“BMPs”) that when implemented will lead to a Not Likely to Adversely Affect” Determination

Identifies instances when further coordination with the Service is needed. (Potential for adverse effects exists)

Greatly Streamlines review of NRCS Farm Bill (Ag Act) projects
Implications to Non-Federal Landowners (not involved in Farm Bill projects)

- Producers employ these same Practices evaluated by the Matrix
- Avoidance and Minimization measures for these practices are already identified
- Effects of practices have already been evaluated
- No need to “reinvent the wheel”
- The “Matrix” has already been used and is being used in “other” projects reviews.
Providing Threatened and Endangered Species Assurances For Prescribed Burning Projects
• Many of our listed and at risk species are fire dependent.

• Burning results in a “Net Conservation Benefit”.

• We encourage burning & want you to “keep on doing what you are doing”!
Landowners, Managers, and Agencies are increasingly becoming concerned over the short term impacts (possible mortality and habitat loss) that may occur during prescribed burning.

We propose a VOLUNTARY process that will provide “assurances” to landowners and managers that are conducting P-burning.
• Landowners/Managers will agree to implement BMPs (avoidance and minimization measures) during burning.

• In return, the Service will provide, in writing, assurances that no liability under the prohibitions of the endangered Species Act will be incurred if mortality, unacceptable habitat loss, or other harm occurs that would result in “take” under the definitions in the Act.

• Strictly Voluntary.
  Many managers may not wish to commit to the BMPs. In which case... “business as usual”---KEEP BURNING!

• View as an Insurance Policy
Stakeholders / Partner Involvement

• We want you to be aware of this effort..

• Your comments and suggestions are important if we are to succeed.

• Review and comment on BMPs. You are the “practioncers”.
State Imperiled Species
Conservation Update
Collaboration and Innovation

Pro-active
Science-based
Solution-oriented

Multi-Species, Habitat-based Approach
Imperiled Species Management Plan (ISMP) Timeline

2011: Biological Status Reviews (BSRs)

2013: Species Action Plans (SAPs)

2014: Integrated Conservation Strategies

2015: Draft ISMP, Rules, & Guidelines

2016: Final ISMP, Rules, & Guidelines
# Species by the Numbers

## Listing Status Changes

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**Note:** 19 of 57 species petitioned for federal listing
ISMP Major Components

- Introduction
- Law and Policy
- SAP Summaries
- Integrated Conservation Strategies
- Implementation
- Impacts Assessment

Photo by Ron Bielefield
ISMP Policies

- Cryptic Species Policy
- Single Use Nest for State Threatened Species Policy
- Man Made Structures and State Threatened Species Policy
- Aversive Conditioning Policy
Species Conservation Measures & Permitting Guidelines

- Species-specific guidance for all species included in the ISMP
- Provides information and tools for avoiding take
- Provides options for minimization and mitigation

Photo Courtesy J. Hill
Wildlife Best Management Practices for Agriculture

- Developing practical and meaningful Wildlife BMPs
- Accounting for conservation occurring on working lands
BMP Development Approach

- Review existing water quality BMPs
- Identify practices landowners are currently using that are protective
- Document agricultural practices where species persist or thrive
Water Quality BMPs that Benefit Wildlife

- Prescribed Grazing
- Nutrient Management
- Sediment & Erosion Control Measures
- Conservation Buffers
- Wetlands and Springs Protection
- Integrated Pest Management
• Need forested buffers adjacent to streams to provide adequate shading due to intolerance of high temperatures.

• Require areas with aquatic vegetation and woody debris.

• Intolerant of sedimentation

Courtesy of Patrick O’Neil
Guidelines for Wildlife BMPs

- Voluntary and non-regulatory
- Focus is on avoidance and minimization, not recovery
- BMPs are tied to management activities
- Easy for practitioners to understand and use
- Represent an alternative to Incidental Take Permits for State-listed species
Wildlife Best Management Practices

- Total Land Enrolled: 2,900,803 ac
  - Private Land: 220,423 ac
  - Public Land: 1,200,212 ac
  - Industrial Land: 1,480,168 ac

- Forestry – 2,870,257 ac
- Agriculture - 30,546 ac
Comprehensive Approaches to Addressing Imperiled Species Issues

- Landscape level project
- Multiple habitat types
- Multiple listed species
- One Habitat Conservation Plan
7 factors considered before granting a permit:

1. The objectives of a federal recovery plan or a state management plan for the species;

2. The foreseeable long range impact over time if take of the species is authorized;

3. The impacts to other fish and wildlife species if take is authorized;

4. The extent of injury, harm or loss of the species;

5. Whether the incidental take could reasonably be avoided, minimized or mitigated;

6. Human safety;

7. Other factors relevant to the conservation and management of the species.
Under the current rule, the conservation or scientific benefit must correspond directly to the species for which the permit is being issued.

Landscape level projects often encompass multiple habitat types with multiple listed species occurring onsite.

FWC staff are exploring options for issuing landscape-level, multiple species take permits.

Conservation/Scientific benefit, survival potential, and the 7 factors must still be considered on a species-specific basis.

Under the rule, a multiple species, landscape-level permit must still account for the conservation benefit for each species.

FWC staff are exploring options to account for the conservation benefit occurring for each species as part of a landscape-level project under the current rule.
Wildlife Best Management Practices (WBMPs) for Forestry – Implementation and Lessons Learned

Environmental Permitting Short Course, Orlando, FL - July, 2016
What we will talk about

- Quick overview on what WBMPs are and are not
- How one private landowner complies
- Outcome of our first WBMP survey
- Lessons learned from the process
- Challenges going forward
- Discussion, Q&A
- Fish pics at the end *(but only if you’re good)*
Who is Rayonier?

- The 2nd largest timber REIT (Real Estate Investment Trust)
- Owns/manages ~2.6M acres in 11 states and New Zealand
- Owns/manages ~380,000 acres in FL
- Third party certified to the SFI* standard since 2001
- Publicly traded on the NYSE as “RYN”

* SFI = Sustainable Forestry Initiative; www.sfiprogram.org
Overview of Wildlife Best Management Practices (WBMPs)

- For Florida State-listed species only
- Voluntary and non-regulatory
- For forestry and agricultural land uses only
- Not for land development
- Practical and easy to use
- Focus on avoidance/minimization
- Not intended for recovery of a species
- An alternative to Incidental Take Permits
Conventional wisdom: If you protect the water quality that a species lives in, you will protect the species.

- 10 of the 16 WBMP species are aquatics.
- Sediment and erosion control.
- Streamside Management Zones (SMZs).
- Conservation buffers & wildlife travel corridors.
- Nutrient management.
- FL’s Water Quality BMP manual is 116 pages.
Streamside Management Zones (SMZs)

Essentially vegetative “silt screen”
Wildlife Best Management Practices for Forestry (WBMPs) - How WBMPs work for Burrowing Species (a review)

- For 2 burrowing species (Gopher tortoise [GT] and Burrowing owl)
- Avoid heavy equipment concentrations near “known and visibly apparent” burrows;
- Burrows do not need to be flagged, mapped, etc.
- Avoid direct contact with burrows year round
- Avoid direct contact with burrow aprons May-Sep (GT eggs)
- Minimize heavy equipment during Sep-Oct (hatchling mortality)
- GTs have had ~350 commensal species documented in their burrows
Using GIS to help identify gopher tortoise (GT) habitat

- Crosshatched areas are soil types that could support GTs

- Presence or absence would then be determined by on site inspections, timber cruises, etc
How we comply with WBMPs

- Field staff screen for T&E before planning any field activity
- T&E species and habitat locations are layers in our GIS (Geographic Information System)
- Soils are mapped in GIS; GT soils are easy to identify
- The only WBMP related species we found that overlapped operations was the gopher tortoise (GT) – 1 yr of operations
- All harvesting crews are Master Logger trained (SFI related)
- Contractors are trained in species and habitat ID
Implementation survey date: Dec 15, 2015

Full day field visit to multiple sites in northeast FL

Survey party included staff from FWC, FFS and Rayonier operational personnel

Protected species habitat was primarily gopher tortoise (GT)

Other species were not encountered in ~1 year of ops (2015)

Timber harvesting, site preparation and tree planting operations all protected the GT habitat (we passed)
Lessons learned

- Know the WBMPs (our guys did)
- Be sure operational staff and contractors know the species and their habitat requirements
- Use a GIS system and SOPs to protect habitat/species
- Third party certification helps (surveyors are usually biologists)
- Only use Master Logger* certified/trained loggers
- Educate the agency staff that you host about your operation
- Be proud to be part of the solution and not the problem

* SFI requires the Master Logger/similar program across all states
Challenges going forward

- Increasing acres enrolled w/ NOIs (Notice Of Intent)
- Engaging smaller landowners & public landowners
- Minimizing the fear of an “audit” (FWC survey)
- Education of agency staff on practices
- Lack of “accurate” occurrence data for T&E species
- Continued trend in ever increasing petitions to list species under ESA
- Controlled burning for habitat improvement (liability)

*ESA = Endangered Species Act*
Challenges for landowners – Burning & smoke management liability (internal policy)
Sometimes things are obvious...

CAUTION

Please be aware that the balcony is not on ground level.
Sometimes they are confusing (not WBMPs)…
But fish make you happy…

Big people make decent sized fish look small

26.5” redfish

86# wahoo
Wildlife BMPs

Bill Bartnick
Office of Agricultural Water Policy
July, 2016
FDACS Role in BMP Delivery

• Develop BMPs
• Adopt them by Rule
• Identify and support targeted cost-share of select BMPs
• In partnership with FWC, assist producers with BMP enrollment
• Fund research to verify the effectiveness of BMPs
• Periodically perform implementation surveys for quality assurance
Benefits of Wildlife BMP Enrollment

- Proper implementation ensures that sixteen (16) target State-Imperiled Species are not subject to incidental take permitting under FWC regulations
- Focus on minimization and avoidance, not species recovery efforts
- Dovetails very well with existing FDACS BMP manuals
Agriculture Wildlife BMPs

- Rule Chapter 5M-18, F.A.C.
- Effective date 6/17/15
- Closely mirrors Forestry Wildlife BMP manual
- Pilot project (effectiveness) in place in central Florida
- Enrollment in existing BMP manuals should satisfy provisions for aquatic State Imperiled Species
BMP Enrollment Review and Acreage Summary to Date

- Submit NOI and Checklist to FDACS and FWC
- Implement BMPs that pertain to target species
- Maintain records
- Approximately 22,400 acres enrolled via 4 NOIs
- Slow start attributed to release of produce safety rule (FSMA)
Implementation Assurance

- Process developed to ensure proper implementation of selected practices
- *Implementation Evaluation* form developed by both agencies for use 6 months ago
- Risk of NOI forfeiture for non-compliance
- Provides valuable feedback loop for future revisions
Fast-Track Wildlife BMP Enrollment

• All BMP manuals have a “Water Resources” section which requires the use of setbacks and buffers around jurisdictional waters.

• Page 4 of Wildlife BMP manual reinforces the use of both riparian buffers and stream crossings.
Ag Land Conversions

• Wildlife BMP protection must be associated with ongoing agricultural use on bona fide (classified) lands
• Wildlife BMP protection does not extend to tree removal activities as a precursor to a change in agricultural land use
• Wildlife BMP protection does not extend to converting ag lands to non-ag use(s)
Questions

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