



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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BMP Advisory Committee Meeting Notes

November 14, 2007

LeMay DNR Forestry Center, Tomahawk, Wisconsin

Committee Members Present:

Rachel Peterson (filling in for Jim Olive), FISTA; Bill O'Brien (filling in for Lynn Wilson), Lake States Lumber Association; Dean Pelkey, Packaging Corporation of America; Gary Edinger, River Alliance of Wisconsin; Steve Kariainen, SFI SIC; Tim Tollefson, Stora Enso North America; Kent Mikkelsen, Thilmany Procurement Group; Larry Meicher, Trout Unlimited; Theresa Heyer, USDA Forest Service; John DuPlissis, UW-Stevens Point; Ken Adamovich, Wisconsin Association of Lakes; Miles Benson, Wisconsin Council on Forestry; Jane Severt, Wisconsin County Forests Association; Earl Gustafson, Wisconsin Paper Council; Mike Gehrke, Wisconsin Woodland Owners Association

DNR Staff Present:

Darrell Zastrow, Carmen Wagner, Kristin Shy, Paul Pingrey, Tom Duke

Additional Guests:

Ann Forest Burns, Executive Director, Great Lakes Timber Professionals Association

Presentations:

All presentations from the meeting are available on the DNR's Forestry BMP website at:
<http://dnr.wi.gov/forestry/Usesof/bmp/advisory/>.

Welcome and Introductions: John DuPlissis

John reviewed the agenda and asked for additional items. John welcomed the group and asked everyone to introduce themselves, including new member Gary Edinger, representing the River Alliance of Wisconsin. John reminded the group that we operate under the anti-trust guidelines.

2008 BMP Monitoring: Carmen Wagner

We will be monitoring Non-Industrial Private Forest (NIPF) landowners in 2008 for our next cycle of BMP monitoring.

Perspective

- There are 16 million acres of forestland in Wisconsin, NIPF comprise 57%, or about 9 million acres
- From past monitoring cycles, NIPF landowners have averaged around 81% for correct application of BMPs, other landowners are around the lower to mid 90%. NIPF is definitely lower than other landowners in terms of correct application of BMPs.
- NIPF landowners haven't been monitored since 2002
- There was a question about why there was such high variance with BMP compliance on state lands, and the answer was that it is probably due to the fact that prior to 2003 state sales were monitored at such low sample sizes that this created a lot of variability in the data.

- In 2002, NIPF BMP compliance was compared between landowners enrolled in tax law programs and those not enrolled in tax law programs. BMPs were not applied where needed 23% of the time for NIPF landowners not enrolled in tax law whereas NIPF landowners enrolled in tax law programs did not apply BMPs only 7% of the time. There were 29 sales monitored that were in a tax law program and 31 sales that were not in a tax law program.

Goals

- General Goals of BMP Monitoring
 - Determine extent of BMP application
 - Determine effectiveness of correctly applying BMPs
 - Determine effects of not applying BMPs
 - Obtain information about RMZs
 - Continue evaluation of USFS BMP monitoring protocol
- Specific Goals with NIPF
 - Obtain a representative sample across the state
 - Compare application between MFL vs. non-MFL

Process

- 2008 – NIPF
- 2009 – State and County
- 2010 – Federal and Industrial
- 2011 – prepare for next cycle
- In order to be eligible for monitoring, timber sales must be:
 - Completed between January 1, 2007 and December 31, 2007, and
 - Within 200 feet of a lake, river or stream, or
 - Have at least 1 acre of wetland harvest, or
 - Cross at least 50 feet of wetland
- Selecting sales
 - Randomly number list of potential sales
 - Office check sales with GIS to determine if they satisfy eligibility criteria, about 20% of the sales drop off list
 - Field check sales to confirm if eligibility criteria is satisfied, about 20% more of the sales drop off list
 - Questions about how to obtain non-MFL landowner sample size, and obtaining information on whether or not they used foresters, etc. Carmen explained that we will be asking additional questions from the landowners we monitor to obtain this type of information.
 - Question about if we will sample an equal number of MFL vs. non-MFL – answer is that we are not sure at this point and don't think they did that in 2002.
 - Question about if there is a way to sample/query using tax records – answer is that you can see who owns parcels and see who is in tax law, but there are inefficiencies.
 - Rachel suggested that companies associated with SFI and FSC report landowner information on their mill slips
 - Carmen mentioned that we also might query master loggers. Ken added that master loggers do ask on the slip if the landowner minds if groups come out to audit it; there are 52 master loggers in the state.
 - Miles asked why we limit the time frame to one year and Carmen explained that we want to be able to see the impacts as soon as possible. He also suggested being able to see timber sales for a longer time period would help because you would be able to see fresh sales and older sales. Darrell added that maybe this could be done through re-monitoring timber sales that have been monitored in years past.
 - Bill and Teri reiterated that they feel it will be important to have statistically valid sample sizes for both MFL and non-MFL timber sales.

- Monitoring teams include 6 people each from disciplines of forest management, logging, soils, water quality and fisheries
 - Carmen mentioned that we'd like to get more loggers on the monitoring teams. Ken asked what was done in the past to solicit loggers; Carmen reminded the group that we hope the Committee members are taking that information back to their organizations to help solicit members for monitoring teams. Carmen also mentioned putting the information into the GLTPA magazine.
- Monitoring workshop is a two-day workshop to train team members
 - Steve asked how to get the loggers more involved, and suggested having talks at the loggers conferences about BMP monitoring to solicit and spread the word
 - Rachel said that would be great and she will move forward with offering SFI credits for the workshop and field work, and that maybe FISTA could offer to host the workshop
 - Gary agreed that if loggers would get credit that would make them more interested.
 - Discussions followed about funding and budgets, Earl asked if foundations were ever looked into, Darrell thought that maybe we could discuss costs at next meeting and reminded the group that NIPF is a big work load and more expensive.
 - Rachel suggests even places like Cabela's who target landowners might have funds available
 - Bill added that Plum Creek does have a foundation
 - Teri said you could partner with an RCD to apply
- Monitoring – teams select a week to monitor timber sales; DNR BMP staff goes out with team first day; teams walk entire site and fill out sheet on-site reaching consensus.
- Monitoring report – BMP Forester enters data into database, DNR Science Services staff runs statistical analysis, BMP staff writes report; report distributed and shared widely, including with landowners who were monitored.

Timeline

- Winter 2008
 - Request cutting notices from counties
 - Query tax law cutting reports
 - Solicit timber sales from cooperating foresters, and any other sources (**may be asking for assistance from Committee members with this step in the process**)
 - Populate database of sample sales
 - ID duplicate entries in database
 - Determine necessary sample size
 - Present issue brief at DNR Forestry Operations Team meeting to ask regional DNR staff for assistance with monitoring workload, mostly in the form of contacting landowners
- Spring 2008
 - Set dates/location for monitoring workshop
 - Solicit monitoring team members (**may be asking for assistance from Committee members with this step in the process**)
 - Contact landowners for permission and timber sale information
 - Complete office checks
- Summer 2008
 - Finalize logistics of monitoring workshop
 - Set-up monitoring teams
 - Complete field checks and assess sales with FS BMP monitoring protocol
 - Finalize list of sales to monitor and assign to teams

- Hold monitoring workshop (**may be asking for assistance from Committee members with this step in the process**)
- Fall 2008
 - Monitor timber sales (**may be asking for assistance from Committee members with this step in the process**)
 - Enter data from monitoring teams into database
- Winter 2008/2009
 - Analyze data
 - Write report
- Spring 2009
 - Distribute report

2006 BMP Monitoring Exercise: Kristin Shy

Review

- Re-monitored 21 timber sales from regular BMP monitoring
- mix of federal and industrial sites
- WI protocol used since 1995, qualitative data, paper-based system, lack of consistency in reports
- FS protocol is more quantitative, PDAs used to collect data, standardized report generation

Data Comparison

- WI protocol = 97% applied where needed, 96% applied correctly where needed, 3% not applied
- FS protocol = 52% soil stable, 3% soil moved, 2% trace sediment moved to waterbody, 44% no surface water crossing
- Reviewed results for forests roads, stream crossings, RMZs and wetlands
- Committee members cautioned about how data is used and lack of confidence intervals with FS method
- There are some problems with the data that may be related to error by monitoring teams, difficulty downloading data, or for other reasons

Results

- Will be gathering data using both methods
- Will be able to report results based on both systems
- Working towards a hybrid method of data collection

Refer to presentation for more detailed information

E-Based BMP Monitoring: Kristin Shy

To start the process of transition from a paper-based system to an electronic-based system, Kristin has taken the BMP Monitoring worksheet and reformatted it so that it may be used on a PDA. The goals are to facilitate programming as well as address some problem areas.

Tom Tollefson, Dean Pelkey, and Steve Kariainen volunteered to help evaluate the new format of the BMP Monitoring Worksheet. The worksheet will be emailed to the entire Committee.

Results of 2007 Forest Certification Audits: Paul Pingrey, DNR

For certification, there are full audits every 5 years, and surveillance audits in between. We are wrapping up the 4th year since the State forest program became certified.

There are three types of certification: FSC, SFI, and Tree Farm Group. State forests are dual certified; many of the counties are dual certified. MFL is certified by the Tree Farm Group.

The objective of forest certification is continual improvement. Auditors are continually going back and looking at things both generally and related to corrective actions to look for continual improvement.

One corrective action on State and County forest was for soil disturbances and rutting. We worked with groups like the BMP Advisory Committee to pilot some direction on this. The auditors don't rely on just field visits. Having, for example, a BMP monitoring process is good information for auditors to understand that we are doing our own internal monitoring.

On the County forest audit, the most significant new CAR was related to how much residual debris is left on clearcut harvests. This CAR is tied to an awareness that there is a greater demand developing for biofuels and a concern about cleaning every stick from a forest/harvest. The same CAR is being issued for State forests. We worked out a 2-year plan with auditors to work on this CAR and develop biomass harvesting guidelines.

Bill asked if FSC has the same state local involvement that SFI has, for example, there is no FSC training like there is for SFI. Paul answered that FSC is aware of this concern and they are going through a standard revision process to determine how to get better at a state level. FSC is considering adding those elements of SFI that it doesn't currently have. One of the reasons the State has chosen to become dual certified is to help be able to compare and contrast between the two certification methods.

Another part of the County forest audit was a CAR related to vernal pools. They were asked if they had any direction on how to stay out of vernal pools or depressions, and it is correct that there are no such guidelines. The auditors flagged that as a potential issue. Bill said that Plum Creek got dinged on this with their audits 4 years ago and have since developed a white paper assessing vernal pools in their ownership across 18 states and they developed internal guidance on how to deal with vernal pools - he will share that with Paul.

State forest audits have gone well, all but one CAR are closed and there is one new CAR related to biomass. There is a possibility of expanding our certification to all lands the state owns. The State forests are certified now, but there is a potential to add state parks, wildlife areas, and natural areas to the certificate. There has been a tour of state owned properties for a scoping assessment to work toward this.

Miles asked what the benefits of including these other state land are. Paul explained that in terms of forest products, there will be a bigger supply of certified wood; it will set an example for other landowners that it is safe to participate in forest certification and that there are benefits to certification even if the main goal isn't forest management/timber production. Certification also completes the spectrum of managing for all the different considerations we manage for across the DNR. The auditors recognized that there are many other elements included in the spectrum of land management so why not recognize that all of these lands should be considered for certification.

The Managed Forest Law program is Tree Farm certified and had an FSC scoping assessment in 2003. Getting the MFL program Tree Farm certified at that time made the most sense. Since that time, there have been many inquiries from industry for developing FSC product lines, and in order to do that, it would be very helpful to have MFL lands (primary source for sawtimber for these companies) FSC certified. The Council on Forestry felt things have changed enough to start making the effort to move toward FSC certification for MFL lands. Smartwood had the low bid for auditing the MFL lands. We will be in the field looking at MFL in February and March, and doing a lot of prep work before then.

Dean asked if MFL landowners can choose not to be certified. Paul explained that during the Tree Farm certification, 583 MFL landowners elected not to be certified. Landowners do have the opportunity to stay in MFL but not to be certified.

Teri asked if the auditors have said anything about the BMP monitoring protocol and if there were any issues with the quality of the data. Paul said no; in fact it was the opposite, the auditors complimented the BMP monitoring program.

Silvicultural Exemption for Wetland Roads: Carmen Wagner

Carmen reviewed how you can identify wetlands and the benefits that wetlands provide.

Wetland activities are regulated by USCOE, DNR and local governments. You may need to work with one or all three, depending on the activity.

The first goal of wetland regulations is to avoid fill if possible. If not possible, the activity may not have a significant adverse effect on wetland values and functions.

Exemptions – legislation exempts construction and maintenance of farm roads, forest roads and temporary mining roads. If standards and criteria are met, no permit is needed. Four criteria need to be met:

- Silviculture is being practiced on the property
 - Enrolled in MFL
 - Written forest plan (ex: stewardship plan)
 - Signed logging contract
 - Plans for reforestation
- Primary purpose of road is silviculture
 - NO if other buildings or other uses need road access
 - No if road has multiple uses
 - Even if the road is already built for forestry purposes and later is used because a cabin is built, then a permit would be required and need to be applied for because the primary purpose has changed.
 - What if a road is built for forestry and then an adjacent landowner asks for a temporary use permit to access a hunting shack? Who is in violation? Carmen was not sure, but thought if the road is being used more to access the hunting than for forestry it might not meet the exemption.
 - Road must be built to standards appropriate for number of acres and type of management it will serve
- There are no alternatives to the construction of the forest road
 - No if a permanent road isn't really needed
 - NO if there are existing access options
 - No if road can be moved to avoid the wetland
 - NO if temporary road is an option
 - No if dry season or frozen ground access is an option
 - No if easements can be obtained for off-site upland access
- All reasonable measures taken to minimize adverse impacts
 - Cross drainage must be provided and maintained
 - Culverts must be sized and placed correctly at appropriate intervals
 - Erosion control practices must be installed and maintained
 - Upland road drainage must be directed away from wetland

The exemption process is self certifying – you as a landowner determine if you’re meeting the criteria, and there is no reporting mechanism. However, it is recommended to receive confirmation of exemption from ACOE for federal wetlands (adjacent to or connected to navigable waters of the state) or DNR for non-federal wetlands.

Who does what? The exemption is in federal legislation and state statutes. ACOE administers federal permitting program, EPA enforces federal violations, and DNR administers and enforces non-federal wetlands.

Forestry Division’s perspective: Silvicultural exemption is a tool available to accomplish legitimate forest management activities. We do not support inappropriate wetland fills that use the silvicultural exemption as “justification”. We do think that clarification is needed so landowners and resource managers can make educated decisions and avoid inadvertent violations.

Next steps: developing a checklist (shared with Committee) on the silvicultural exemption for landowners and resource managers. Nothing official, but something to have on file which says you have thought through the situation. Carmen spoke with ACOE staff and they agreed that the checklist will be helpful and they will help with developing that. W did receive funding from the forestry division to print the checklist so we will be moving forward with that.

Many in the group agreed that we may want to do some cross training with regulatory partners to explain certain silvicultural practices and needs of certain types of equipment in terms of roads.

Bill asked if this exemption is just for permanent roads. Carmen explained that it covers temporary and permanent forest roads. They are not as concerned with temporary roads because you remove the road and restore the wetland afterwards. They are more concerned with permanent roads that will be there for the long term and may potentially lead to other uses.

Darrel explained that the steps we are taking now are proactive steps to create clarification internally at DNR and between other entities. This will only become a bigger deal. Strategically Darrell feels this is the right step right now to build relationships and understanding with the different stakeholders. Earl and Tim agreed that this is the right thing to do - it is a matter of defending the exemption so we can continue to use it because it is so important to forestry.

Carmen reiterated that the Committee has expressed interested in moving forward with working on this so that’s what we will continue to do. She reminded the Committee that ACOE has agreed to participate so we will work with them. Darrell explained that we may need to call on the Committee to set up field visits where we can bridge the gap on some of the forestry issues that ACOE might not understand.

Other Forestry-Related Items: Kristin Shy, Carmen Wagner

Expanded Distribution of 2006 BMP Monitoring Results:

In a response to discussions from past Advisory Committee meetings, the results from the 2006 cycle of BMP monitoring were distributed to a wider audience than our traditional press release and distribution. A short article was or will be printed in newsletters of the following organizations:

- Great Lakes Timber Professionals Association (October 2007)
- Wisconsin Towns Association (October 2007)

- Wisconsin Association of Lakes (December 2007)
- Trees for Tomorrow (Spring 2008)
- River Alliance of Wisconsin (Spring 2008)
- Wisconsin Woodland Owners Association (potential Spring 2008)
- Wisconsin Wetlands Association (maybe a future edition of their e-newsletter)

Earl said he could get the information into the December issue of the Wisconsin Paper Council newsletter. Teri shared that it did go out to the northeastern area news notes.

Public Hearings Scheduled on Changes to Chapter 30 Permits:

A permanent rule is proposed to replace emergency regulations regarding the spread of aquatic invasives, primarily VHS. This rule amendment would apply to all Chapter 30 permits - stream crossings, riprap, piers and more. It would prohibit the use of equipment from VHS-infested waters in non-infested waters. It would also require that all equipment be washed with 140°F water or that equipment dry out for at least 5 days before being taken to another waterbody.

Public hearings are scheduled for November 12 in Green Bay and November 16 in Madison. The meetings will occur at DNR offices and start at 2:00 p.m. Written comments may be submitted until November 19, 2007. Additional information on the rule proposal is available at:

<https://apps4.dhfs.state.wi.us/admrules/public/Rmo?nRmold=3223>.

Bill added that they posted the bridge over the Jump River at 70,000 pounds. Is there an alternative to washing with the hot water? Letting the equipment dry out for 5 days.

Proposed NHAL ATV Trails:

BMP Program staff have been working to analyze potential effects of the proposed ATV trail routes on NHAL State Forest. Staff are focusing on water quality and permitting issues. The Vilas/Oneida County trail proposal takes advantages of 7 existing stream/wetland crossings, adds 5 new stream/wetland crossings and avoids 5 stream/wetland crossings. The Iron County trail proposal takes advantage of 29 existing stream/wetland crossings, adds 11 new stream/wetland crossings and avoids 7 stream/wetland crossings.

If you are interested in the information collected, process used or final recommendations, from a water quality perspective, please contact Carmen.

Midwest Fish and Wildlife Conference:

The 68th Annual Midwest Fish and Wildlife Conference will be held in Madison on December 9 – 12. Symposia include aquatic organism passage and trout ecology and management. Carmen will be participating in the trout ecology and management symposia – she will be discussing the importance of properly sizing and installing culverts, as well as methods for inventorying stream crossings.

Additional:

Earl added that the workgroup on forestry and ag from the Wisconsin Taskforce on Global Warming will be posting 10-12 papers related to forestry, ag, and global warming issues on Wisconsin Taskforce on Global Warming website. http://dnr.wi.gov/environmentprotect/qtfqw/WG_fa.html

NEXT MEETINGS:

February 20, 2008 between Tomahawk and Wausau
 June 4, 2008 with field session