Scientists fault state habitat plan
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By ROBERT MCCLURE AND LISA STIFFLER
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Inky water runs out of the showerhead, drenching the man in the camera’s eye. Filthy rivulets cascade over his forehead, gurgle over his eyelids, snake down his nose and onto his lips.

Then the scene switches to a babbling forest brook, pure and clear.

“Private forest landowners, like you, know the importance of water in our everyday lives. That’s why we’ve committed to forest practices that ensure cool, clean water on private forestlands for years to come.”

The TV spots have been airing for years now, paid for by big timber companies in Washington. Their quest? A 50-year federal guarantee against prosecution under the Endangered Species Act. It would apply across 9.1 million acres -- one-fifth of the state, the bulk of private forestland in Washington.

By next Thursday, federal officials want the public to weigh in: Does the industry’s promise to keep waterways healthy justify granting nearly airtight legal refuge for logging that accidentally kills or harms salmon and 49 other kinds of fish, five kinds of salamanders and two types of frogs?

If approved by federal officials, the Forest Practices Habitat Conservation Plan would be the largest in the West -- second nationally only to a Georgia deal that aims to protect red-cockaded woodpeckers.

However, internal documents from the National Marine Fisheries Service and the U.S. Fish and Wildlife Service reveal conflicted agencies with serious internal disagreements about the plan, known as Forests and Fish. One government scientist even worried about “voodoo science” behind the plan.

Those clashes between the agencies’ scientists and policy-makers broke out even before the Washington Legislature approved the deal in 1999 and it was turned into state logging rules in 2000.

Two independent scientific reviews -- one by the state, another by two professional science societies -- also panned it, with one calling the pact “ill-informed.”

Despite the doubts, state officials have proceeded with Forests and Fish and now are asking federal officials to approve it -- even though problems have surfaced.

Lawmakers loosened the rules in 2003 for small landowners to ease their financial burden. The state also fell behind on payouts to help property owners fix stream-damage because family forest landowners might be forced to harvest prematurely to pay for the improvements or, worse for the environment, consider converting forest into stripmalls. That is one reason the change had strong support from legislators of both parties and from the environmental community.

Unmentioned is that the rules threatened to cause increased stream damage because family forest landowners might be forced to harvest prematurely to pay for the improvements or, worse for the environment, consider converting forest into stripmalls. That is one reason the change had strong support from legislators of both parties and from the environmental community.

Such e-mails are a reporter’s best friend, but they can be misleading for a couple of reasons.

First, there is always debate among scientists about these issues. The science is frequently unclear, which is why good agencies encourage debate and discussion. The emotion of these debates, however, can be totally unrelated to the size of the disagreement. I witnessed debates that became very personal with one biologist calling those she disagreed with “jack-booted Nazis.” Flowerly language, “like voodoo science”, may say more about a scientist’s inter-personal skills than the quality of the critique.

Second, value judgments begin where the science ends. Since there are always questions about the science. Particular recommendations offered by biologists and others are almost always informed by their personal values. When science does not say whether to turn left or right, those values become the tiebreaker. This is another reason that these issues become so personal. What is being debated are not the facts but the validity of an individual’s values.
crossing roads that block off fish habitat. And studies promised to justify the scientific basis of the plan fell years behind schedule.

If approved, Forests and Fish would join a burgeoning national program that is supposed to balance development, logging and mining on private lands with protection of endangered species.

But the agencies running the habitat conservation strategy have never taken stock of how the creatures are faring, and the credibility of many plans has been undermined by inadequate science and lax monitoring, a Seattle Post-Intelligencer investigation has found.

Proponents point to conservation measures under way in Washington forests -- funded by the timber industry -- that already are helping salmon and other threatened species. Nearly 700 miles of streams have been opened up for salmon. An additional 1,500 miles of erosion-prone roads that otherwise would cloud streams with dirt have been abandoned and allowed to return to nature.

Negotiators of the pact made preservation of the timber industry a top goal, saying the alternative to forestry -- sprawling subdivisions and strip malls -- is even worse for fish. “Clearly, this is not a scientific judgment but a political and economic one,” wrote Phil Millam, a U.S. Environmental Protection Agency official involved in the talks.

The biggest questions now are whether the self-correcting research program built into Forests and Fish will work, and whether it will get the public funding it needs to succeed.

Among the independent scientists criticizing the plan is James Karr, a University of Washington fish researcher.

“It was sort of preordained to make dumb decisions,” said Karr, who criticizes the deal for relying on “the opinion of people who were in the room at the time” rather than on solid science. He and 27 other scientists wrote to then-Gov. Gary Locke to complain that the plan had “a low probability of achieving its goals.”

And while some tribal officials support the plan, others see trouble.

The Tulalip Tribes, for instance, have used computer models to predict water shortages and other problems. Logging vast stretches will only exacerbate the situation, as water runs off more quickly instead of being soaked up by forests, said Terry Williams, the Tulalips’ fisheries and natural resources commissioner.

“It’s premature to lock something in for 50 years when we see this radical ... and rapid change coming,” Williams said. Some Native Americans also were unhappy that the plan didn’t protect certain animals, such as elk that live in old-growth forests.

This is a strange statement. Elk and deer flourish in areas where there are many clearcuts. In the Mt. St. Helens blast zone, where there are still few trees, there are large herds of elk. When replanting after a harvest, timber companies even put a protective mesh around small trees to prevent deer and elk from eating them.

This is a shortsighted critique. The Forests & Fish rules have been in place for only four years. Asking for an accounting of the results is the type of short term approach that makes long term improvement impossible.

The reality is even more impressive. “Abandoned” roads does not mean simply walking away. Many roads are removed, with grasses and trees replanted. In some cases these roads are almost invisible just two years later.

Mr. Millam’s comment is not true. Strip malls and subdivisions are worse for fish. That is not a political and economic decision, but a scientific one.

There are also computer models that show water quality and habitat diversity improving steadily over time as the Forests & Fish law intended. It is also questionable whether the tribes’ assumption that “logging vast stretches” will ever occur. The Tulalip model appears to be based on a worst-case scenario rather than a typical one.

It is unclear what “radical and rapid” change is coming. If he is referring to the Forests & Fish changes, then it is unclear what is radical. In fact, the tribes were instrumental in creating the new rules and stayed at the table to work the rules out even when environmental activists walked out because their demands were not met.
Federal wildlife officials say that despite the doubts, Forests and Fish is one of the best big plans to save salmon they have seen.

“The state really needs to be commended for stepping out and putting into place some constructive actions long before the federal government took any regulatory action,” said David Allen, regional director of the U.S. Fish and Wildlife Service.

Supporters argue that the deal represents real progress in keeping streams clear and cold enough to safeguard salmon -- with rules stricter than those imposed on timber elsewhere in the country. They promise to tighten restrictions if necessary to save salmon -- but only if it keeps the timber industry in business.

“This leads to actually getting habitat improved on the ground, rather than arguing for years,” said Tim Thompson, a lobbyist and former congressional staff member who helped broker the deal. “Every day, with those protections, (fish) get better. Without them, they don’t.”

Thompson asks: Are Washington’s cities doing anything this far-reaching for salmon? Washington’s farmers? The timber industry’s competitors in Idaho and Oregon?

He says the answer is an emphatic no, and the timber industry should get plaudits for its promises.

What do Weyerhaeuser, Longview Fibre and a host of other companies get out of the deal? Just the promise of protection against prosecution, business certainty and the peace of mind that goes with it.

The roots of the deal stretch back to a cooperative forum in the 1980s among timber companies, tribes, environmentalists and others. After the spotted-owl battles of the ‘90s, timber industry officials saw protections for salmon coming down the pike.

So they began fashioning a plan to head off a showdown over the Endangered Species Act. In 1999, the Forests and Fish agreement was reached -- minus the environmentalists, who withdrew from the talks when they saw that the plan headed toward an unacceptable result. Internal government documents obtained by the P-I show that government scientists were leveling similar criticisms at about the same time. A few tribes also refused to sign.

Even so, the Legislature blessed the deal that year. State officials, with advice from federal fish and wildlife agencies, began writing the habitat plan now up for approval.

The state’s timber industry calls the plan “biologically sound and economically practical.” The industry is proud of the pact, said Bill Wilkerson, executive director of the Washington Forest Protection Association, which represents big timber companies. He said timber is far ahead of other industries because timber companies will get 50 years of certainty and protection against prosecution.

Big and small forestry companies also feel they are far ahead because they are more regulated on these habitat issues than others. This is one reason many in the timber community don’t like Forests & Fish -- because they feel they are doing more to protect habitat than others, especially those in urban and suburban areas.
“We’re the only ones smiling now,” Wilkerson told government and industry offi cials in 2001. “That’s a good deal, and we’re glad to have it.”

‘Not scientifically credible’

Even before the Legislature approved Forests and Fish, scientists at the National Marine Fisheries Service and at Fish and Wildlife were protesting. They fi red off a fl urry of memos in fall 1998.

Steve Morris, then chief of the federal Fisheries Service’s regional habitat conservation branch, complained about “the cart and the horse problem.”

It seemed to agency scientists that “the declaration was made upon conclusion of the negotiations, and then the charge was made to fi nd evidence to support a conclusion that was already made,” Morris wrote in the memo to Elizabeth Gaar, then the agency’s Northwest manager for habitat conservation.

Fish and Wildlife biologist Shelley Spalding expressed concerns that the lack of scientifi c expertise in the talks meant its basis “may be voodoo science.”

The agency’s bull trout coordinator, John Young, objected to the lack of scientifi c justification and anticipated that the heating up of streams after timber cutting made it “insuffi cient” to preserve the fi sh.

Theodore Meyers, a scientist in the Fisheries Service offi ce in Boise, Idaho, complained in February 1999 to superiors in Seattle, who already were recommending the plan to the Legislature. He noted “signifi cant unresolved technical issues” and said their advocacy of the pact put the agency in “a terribly awkward position.”

Meyers’ memo called the rationale for streamside tree buffers, a key element of the plan, “thinly supported.”

And yet, the man President Bush put in charge of the Fisheries Service in the Northwest, Bob Lohn, now says of Forests and Fish: “This looks like the answer.”

“Nothing is more delightful than to come across the results of this process, which come to us not only with a good scientifi c foundation, but also with social support,” Lohn recently told Gov. Christine Gregoire and other state leaders.

Still, a key Lohn lieutenant, the Fisheries Service’s Bob Turner, said of the critics: “They’re smart and they have this opinion, and we need to respond to what they said, and we will. We’re going to have to answer that stuff.”

When the deal was being cut in the late 1990s, Turner, head negotiator for the Fisheries Service, saw a familiar face across the table representing the timber industry: Wilkerson, the timber lobbyist, his childhood friend.

Occupying a third key chair at the talks was a longtime chum of theirs who represented the state: Curt Smitch, the governor’s chief salmon adviser.

Turner, Smitch and Wilkerson go way back, having crossed paths for years in state and federal agencies.

Before Wilkerson was head of the timber lobby, he had the same job Smitch was in during the negotiations: chief salmon adviser to the governor. Smitch and Turner also once worked for Wilkerson at the state Fish and Wildlife Department.

And they are, Smitch acknowledged, fishing buddies.

“We are friends and have been friends for a long time,” Turner said.
This close relationship among principals representing the timber industry, the state and a pivotal federal agency calls into question to what degree the timber industry got a sweet deal -- the deal Wilkerson bragged of publicly.

“The person who’s supposed to be advocating for the endangered fish is a buddy of the person representing the timber industry,” said lawyer Toby Thaler of the Washington Forest Law Center, which represents environmental groups. “It’s just unseemly. ... The public wasn’t privy to the discussions.”

After the deal was sealed, Smitch left state government and now works -- promoting more habitat plans -- at the lobbying firm where Wilkerson once hung his hat. That firm, in turn, represents Wilkerson’s timber group before Congress, records show.

All three defended the deal and said their friendship, if anything, made the pact better.

“We have been leaders on a variety of issues around here for along time,” Wilkerson said. “It’s for other people to decide if we did our jobs properly, but I can guarantee you there were some strong disagreements between us.”

Said Turner: “It’s bigger than any one of the individuals involved.”

Stream buffer debate

The man Washington voters elected to regulate the timber industry points to a stream passing under a forest road as it pours out of a plastic pipe 4 feet above ground level, cascading down a pile of rocks.

He is beside a dirt road near Oakville, in Grays Harbor County, and he fervently wants to impart the message that Forests and Fish is a good deal for creatures.

“For a fish, that’s like trying to swim into a fire hose,” said Doug Sutherland, commissioner of public lands. “There’s no fish that’s going to go through that.”

But nearby, at another stream, the problem has been fixed. Here, the culvert carrying the stream under the road is big enough that Sutherland can stand up inside. Water flows gently and slowly. This single repair cost about $16,000, courtesy of the Port Blakely Tree Farms.

“It opens up that much more stream for spawning,” Sutherland said.

And the chief beneficiary is the coho salmon, said Kris Knutzen, a forester at the state Department of Natural Resources. “The silvers -- they like to get up in the smaller streams.”

A few miles away, Sutherland points to one of the streamside tree buffers required under Washington’s rules before the Forests and Fish deal. A few alders extend for perhaps 25 feet from the stream. Light and heat penetrate easily to the water. It’s easy to see the hills denuded by logging nearby.

But at another stream not far away, where new, larger buffers have been left, the forest is deep, dark and wet. This fixing of culverts and leaving of streamside trees are among the most important protections offered by the Forests and Fish deal, along with the repair of logging roads that shed dirt into streams.

It is all good for fish, but critics ask: Is it enough?

The streamside buffers accomplish a lot -- if the buffers are big enough. That’s an area of huge controversy.
As for fixing the roads, after the deal was reached, the law was changed so that about a quarter of the roads, the responsibility of small timber owners, came under more relaxed requirements.

The Legislature reasoned that getting the big timber companies to do their part was better than having no improvements, and the old policy threatened to backfire: Some owners of small timber plots, having no ready cash to fix the roads, were preparing to log the land for the money or sell it for development.

The negotiators of the plan said the state would need to spend $10 million a year for 15 years fixing fish-blocking culverts on the small landowners’ property. In the last two years, the state has spent $2 million. The Legislature last month doubled that for next year, but funded only $16 million of the $29 million state officials said they needed to carry out the plan.

The Forests and Fish Plan also includes new restrictions on pesticide use, some additional protection against logging-caused landslides that can smother fish habitat, and more protections for wetlands.

But environmentalists and some scientists inside federal agencies have other criticisms:

**Buffer acres are set too low.**

More than 40 percent of the stream miles would not be protected by buffers, including streams that run dry part of the year, even though scientists say these streams are important to salmon.

Trees could be cut along half the length of small streams where no fish live, even though scientists say those streams appear at least as important to fish as are larger streams. Forests along small streams cool the water, hold in place and filter out stream-clouding dirt, provide leaves that feed the food chain and send logs tumbling downstream to block streams, creating fish-friendly pools.

A complicated formula would determine how many trees may be cut in areas near but not immediately adjacent to streams. That formula would have to be enforced by a Department of Natural Resources staff too small to adequately monitor the cutting.

DNR acknowledges that it is impossible for its foresters to inspect each of the approximately 6,500 timber cuts it authorizes each year, so it concentrates on the most likely problem areas. The average workload is about 160 per inspector per year, the agency says.

**Complaints spur few changes**

Ask any proponent about the plan’s alleged shortcomings and he will point to the plan’s promise of an ongoing, collaborative research program to learn the science of saving fish.

This description is misleading. The article implies that foresters could harvest all the trees on half the length of streams. This is incorrect. Buffers must be left along the entire length of these streams and trees can only be harvested in the outer buffers. Further, the ability to harvest in these areas is overruled if that harvest will impact the fish habitat.

DNR also received many complaints that the rules are too strict. The existence of complaints does not mean that the rules are too lax. It could equally indicate that the rules are too harsh.

The old rules created incentives for small landowners to take actions that would do more damage to habitat. Replacing culverts and removing roads could cost thousands of dollars these families didn’t have. To find the money, these landowners were looking at premature timber harvests or converting their forestland to residential or commercial to earn the money. The rules were changed to give landowners the opportunity to fix the road without taking these drastic steps. Washington’s rules on forest roads, however, are still the most restrictive in the U.S.

This is an environmental success story. Many of the largest timber companies are nearly a decade ahead of the deadline for removing these roads.

Increasing this funding was not a priority of environmental groups in the 2005 Legislative session. While using this argument to attack the HCP, they did little to secure the funding needed to solve this problem.

The “streams” mentioned here appear only during the wettest weeks of the year. Further, the reporter does not indicate why buffers would be helpful. This is because there is very little science on this question. Any rule would simply be a guess as to the type of buffer and its benefits, if any.
But after five years and $24 million in federal spending, the program has yielded few changes. When the deal was reached, crucial questions were left to be sorted out later: How many miles of streams would get the timber buffers? How many trees could be cut inside the buffers?

Two critical pieces of science have been churned out by the research effort to answer those questions. Those answers mean big money for the timber industry, and probably won’t be settled before federal officials approve the overall plan.

Then two committees with heavy industry input, one of scientists and one of policy-makers, will recommend action to the Forest Practices Board, which has the final decision.

This setup concerned the Independent Science Panel, a group of experts authorized by the Legislature and appointed by Locke to analyze the state’s salmon-recovery efforts.

“Such control of the process by groups with a vested interest in the outcome has the potential to jeopardize the integrity of the scientific process,” the panel said in May 2000.

In recent weeks, however, the opposite happened. Timber industry representatives were angered when state officials refused to go ahead with a study measuring where fish are found in streams. The upcoming drought might skew the results, state officials reasoned.

Timber lobbyist Josh Weiss called it a stall. “It is a serious allegation. Our caucus feels very strongly about it,” he said. “It’s (one of) a thousand little decisions that don’t get us over the goal line.”

A review organized by the American Fisheries Society and the Society for Ecological Restoration concluded that the Forests and Fish plan doesn’t back up its assertions with citations of scientific studies. “A surprising portion” of the information presented is inaccurate and the plan appears “ill-informed,” that review said.

The plan sets a goal of streamside tree buffers that function as if they were 140 years old, but settles for stands equivalent to only 80 or 90 years old, the review said. “This apparent error will lead to higher rates of logging in the inner zones of buffer strips than appear to have been intended,” the scientists said.

Lands Commissioner Sutherland and Lenny Young, head of Department of Natural Resources’ Forest Practices Division, didn’t know about those criticisms. They said they learned of it while on a forest tour with a P-I reporter.

Wilkerson, the timber lobbyist, faulted the scientific critics for failing to understand the deal.

“They weren’t in the room. They weren’t in the day-to-day discussions and negotiations,” Wilkerson said. “It wasn’t the industry that decided this outcome. We decided to go along with it.”

Now that the plan is heading for approval by federal agencies, a huge threat looms that could derail the whole process.

Note the difference in these two paragraphs. One person quoted is called a “timber lobbyist,” but a special interest group on the other side are called “scientists.” Additionally, the identity of the scientists of this critique remain confidential.

Also, the critique is very odd. Are they saying that the plan is unreliable because it isn’t footnoted and there are no “citations?” There is a scientific committee in Forests & Fish that reviews and researches issues of science. Did critics talk with anyone on that committee or ask what the scientific basis for the decisions were?
Federal agencies have been bankrolling the research program to justify the plan scientifically, at the rate of about $4 million a year. But that obligation ends in 2006. Who will foot the bill after that?

At a meeting last month of the self-selecting committee that runs the Forests and Fish effort, representatives of the state, timber companies, tribes, federal agencies and environmentalists wrestled with how to sustain the research effort critical to the program’s success.

Regarding a study scheduled for 2006 to 2010 to determine how well streamside buffers work, research coordinator Geoff McNaughton at the Department of Natural Resources said, “Even though it’s a very high priority project, that one project could wipe out all our available monies.”

Just keeping federal money flowing next year could be difficult — despite support from U.S. Rep. Norm Dicks, D-Wash., a senior member of the House Appropriations Committee.

“We’re committed to it,” said George Behan, Dicks’ chief of staff. “Now the question is, given the priorities of Congress, can we continue to do that on an ongoing basis?”

The true test of whether Forests and Fish is a habitat conservation plan worthy of the name will come not in the next few months, as federal agencies review the plan, but rather in the years ahead as the research program goes ahead.

John Warjone, president of Port Blakely Tree Farms, said the public should trust that the timber industry will do the right thing. “It’s a collaborative and scientific approach,” he said. “We will go where the science takes us.”

Environmentalists have warily rejoined efforts to carry out the plan, after failing to stop it in court.

Said Peter Goldman of the Washington Forest Law Center, a longtime plan critic: “We are very concerned about the politics and the economics trumps science. We’re concerned that this thing has a glass ceiling over it.”

Actually, it is likely that Peter will file a lawsuit. He has repeatedly said he would. His record in court has been poor, losing every case he has tried in the last four years, including a 9-0 decision at the Washington State Supreme Court. These courtroom tactics are one reason the environmental community refuses to join the committees analyzing the Forests & Fish science.