

# Oregon Department of Forestry

## Northwest Regional Forest Practices Committee Meeting Minutes for October 30, 2019

Pursuant to public notice made by news release with statewide distribution, a committee meeting of the Northwest Oregon Regional Forest Practice Committee [an advisory body to the Oregon Board of Forestry with authority established in Oregon Revised Statute 527.650] was held on October 30, 2019 at the Forest Grove ODF Office, Forest Grove, Oregon

<i>NWRFPFC members present:</i>	<i>Not present:</i>
<p>Mike Barnes, Chair  Tally Patton, Industry, retired  Candace Bonner, Landowner  Randy Silbernagel, Industry, retired  Jon Stewart, Raincloud Tree Farm</p>	<p>Scott Gray, Stimson Lumber  Jim Hunt, The Campbell Group  Steve McNulty, Weyerhaeuser  Wendell Locke, retired</p>
<i>ODF Staff:</i>	<i>Guests:</i>
<p>Marganne Allen, Forest Health &amp; Monitoring Manager  Ariel Cowan, Monitoring Specialist  Josh Barnard, Deputy Chief, Private Forests  Bodie Dowding, Interim Field Support Unit Manager  Terry Frueh, Monitoring Coordinator  Greg Wagenblast, Policy Analyst  Adam Coble, Monitoring Specialist  Jim Gersbach, Public Affairs  John Hawksworth, Monitoring Specialist  Susan Dominique, Administrative Specialist  Thomas Whittington, Water Quality Specialist  Nate Agalzoff, Incentives Coordinator</p>	<p>Seth Barnes, OFIC  Bill &amp; Hazel Wotton, Members of OSWA  Alan Ritchie, ODFW  Rod Krahmer, ODFW</p>

### 1. Welcome and Introductions

Barnes welcomed members and guests, noting the OSWA members attending and asked for a roll call of those attending. [See above.]

- **Approval of Minutes**

The Chair asked for a motion to accept the minutes from the last meeting. (Which was a joint meeting with the SW committee.) Quorum for the motion was not immediately present but expected at a later point in the meeting. So this action was deferred for a few minutes. Later Bonner was present to provide a quorum and motioned to accept the minutes as submitted for the last Combined RFPC meeting. Stewart seconded that motion. All committee members voted in favor of accepting and approving the minutes.

- **Public Comment**

Barnes noticed at least two OSWA members attending but they didn't choose to comment.

### 2. Private Forests Division Update – Josh Barnard, Private Forests Deputy Chief

Barnard began the Division update with the staffing transitions that happened over the summer. A current organizational chart was provided. Various folks promoted into executive positions. Beginning with Lena Tucker who promoted to the Deputy State Forester position. Following that she recruited for the Division Chief of Private Forests Division she promoted from. Kyle Abraham who was formerly Deputy Chief was the successful candidate for that. Barnard wound up the successful candidate and is the Deputy Chief. So now his former position as Field Support Unit Manager is open. They decided to float the position developmentally and Bodie Dowding is the current interim Field Support Unit Manager through December and Scott Swearingen will rotate in for the last 3 months during the recruitment to permanently fill the position. Bodie comes from the State Forests Division and Scott is the current SOA Assistant to the Area Director. So the structure will be to rotate two people through in a developmental capacity up to a permanent recruitment. Bodie is currently in the interim role through December. After that Scott Swearingen, the Assistant to the Area Director out of Southwest Oregon will come in for the last 3 months.

Barnard went on that when the Committee met the last time in the spring there the Board of Forestry received a petition to create rules around Coho as a threatened and endangered species. The Board took action in July by accepting that petition. That acceptance requires the Department to embark on a similar rulemaking pathway as with the Marbled Murrelet in terms of doing rule analysis. The petition process requires a fair bit of the biological information which the Division will need to begin with to chart a pathway forward. There are several different water scale projects that so we are having to fit that work in. What the Board officially directed us to do was to define the resource site for Coho. And to determine whether or not they'd addressed the requirements of 527.710 regarding Threatened & Endangered Species. So that's two components. The next steps before the Board will be some time in 2020. We don't have a target or date at this point. The Board is in the process right now of looking at their work plan and prioritizing items for us and finalizing that between January and March of 2020. Josh pointed out for those interested that the Petition can be found on the Board of Forestry webpages. He offered that if members have questions to contact him or Susan Dominique who can forward the question.

Continuing the update, he reported that the Board did hold a retreat in October where they started discussing their work plan and Strategic Initiatives the Department is beginning to prep for the next long Legislative Session in terms of capacity asks or other policy related asks. In November they will be meeting an additional day in a Science, Values and Policy Workshop. He described the workshop would take a look at three different topics led by different experts presenting the information available and how to develop the certainty of that information. They then encouraged dialog amongst the Board members working through those examples. The first day of the meeting included exercises looking at 'wicked' problems and focusing on improving working relationships in decision-making. The workshop topics are Young Stand Management, Fire-related discussion and then working through Paired Watershed efforts. Frueh clarified that in the morning of the workshop there will be two presenters per topic, a half hour of presentation and then a half hour of facilitated discussion about that topic. The afternoon they will be moving through exercises that would help their decision-making. Robin Harkless was the facilitator. Cowan added that presenters will describe two different techniques that the Board can use to reach decisions. Expert presentations were provided by OSU.

Barnes noted that the makeup of the Board may change in the next year with members transitioning off the Board and others appointed. The hope is that this process can be shared with any new Board members. Barnard thought that it sets a foundation for future work. Especially with the Forestry Program for Oregon being reviewed and updated. Other work items that will continue on the Board's work plan are: the Coho analysis; Marbled Murrelet rulemaking; Wildlife Food Plots; Climate Change; the Western Oregon DFC/Large Wood project and the Siskiyou Review.

Other business the Division is tracking is in regards to the Agency-wide Strategic Initiative, a budget ask mostly related to fire support which wasn't included in the Governor's Recommended Budget at the time and instigated the creation of a Governor's Wildfire Response Council. So it is possible that those budget requests may get attention through that Council's recommendation. Private Forests is already working on a budget ask for the next Long Session that would contain the same asks but specific to the Division only. 12 new positions would work across ownerships and land uses and focus primarily in that wildland-urban interface to provide technical assistance to the landowners and communities and delivering and administering incentives and voluntary programs to help provide fire prevention fuels reduction and enhance our ability to respond to forest threats. The second piece of that ask is for the Forest Practices Act Monitoring for Water Quality. This request is to add capacity to effectiveness and implementation monitoring. The dynamics of that for the Monitoring Unit would increase our capacity to fulfill the numerous high priority project activities. Management recognizes that we may need a manager added in there as well as an interagency water quality coordinator to work closely with DEQ with some of the many TMDLs in the State that they have to go back and review. So these asks will be prepared for the next Long Session in the next Agency Request Budget. Because right now we can't move as many topics forward as we are being asked to over the long term. Stewart remarked that the ask could be framed as needing the capacity to address the Board's increasing interest in prioritizing climate change effects on NW forests. And as that analysis is supposed to be science-based monitoring and collecting appropriate field data is a good argument to sell the budget concept to the

Board and Legislature. And Bonner agreed it would be in alignment with public opinion. Being able to get that information is a critical part of monitoring and the Department needs the capacity to do it.

Finally, Josh noted the Department's well publicized financial struggles related to fire funding, he shared that the most recent development coming out of the Wildfire Response Council is a convening of a Financial Oversight Team that will work directly with Department leadership on evaluating and improving current processes and possible changes of the overall financial structure for fire. The Team includes several different folks from different branches of government.

### 3. Operator of the Year (Action Item) – Greg Wagenblast

Wagenblast coordinated this year's Operator of the Year tours and provided a packet of materials on each nominated operation. He reviewed the Agency Directive on the recognition with its three levels of awards: Operator of the Year, Merit Award winners and Letters of Commendation from the local districts. The Regional Forest Practices Committees in each of the three Areas make the decisions on who will be awarded Operator of the Year and then if they choose to they can issue a Merit Award to the runner-up nominations. Administratively, the process has the nominations reviewed at the Area level and then they are passed to the Review team in Salem with the three Assistants to the Area Directors to ensure nominations meet the standards for Consistency, Degree of Difficulty, Innovation and Extra Effort, Results and Financial Risk. He emphasized taking a little bit different tact to promote nominations by emphasizing an operator's consistency over the years going above and beyond FPA requirements consistently. So shifting the paradigm a bit. Barnes agreed that the recognition isn't just for a specific "operation" but the Operator of the Year. Operational field tours may reflect a pattern of work quality rather than being the most difficult or complex operation. The Salem Review Group makes sure that the nominees haven't had a Forest Practices violation in the last two years which would make it non-qualifying. He directed the members to review the nominations for consistency, difficulty, concern for resources, innovation, effort and the results.

Patton admitted that there was a sense of confusion between the activities of the landowner versus operator which she found to be a coordinated 'dance' in many operations. Wagenblast explained that a landowner would need to be personally involved in the actual operation to be considered. That led him to announcing that ODF&W has revived their Landowner Recognition Program similar to our Operator recognition but to recognize landowners for their great work on the wildlife and fisheries side. That Program is administered by ODF&W. They accept and review the nominations and their selection committee chooses who to award. But it is a joint program with ODF. He noted there are currently 6 nominations currently for that Program just in the NW Region.

Continuing with the ODF nominations Wagenblast shared what notes he took from the Tours of both nominations, Gahlsdorf Logging and C & C Logging. Overall he considered both operations comparable and thought the committee members had a very challenging decision to make. Public Affairs provided video of both operations to add context to their discussion.

Barnes recognized himself, Jon Stewart and Randy Silbernagel as attending the tour and suggested they share their on-site observations with the other members. Members observed and commented:

- Member thought this year was the hardest to make a decision on. Both of these operators were superb. And they are using the technologies of today and tomorrow to do a superb job out there on the land. There were no signs of damage to the ground at all in both of these operations. And both of them were using new technologies and mapping abilities. The leaders of this all have college degrees, they are applying those degrees to the ground in their logging operations. Both were focusing on safety with that as the highest priority. The only real difference that he saw was perhaps in the difficulty of the operation. They are out there being innovative, being creative, using the technology and then are applying it. He thought it was a great opportunity to showcase what is happening in NW Oregon.
- Member agreed with everything said. He even asked if they could be co-awarded. But if they have to narrow it down, he thought the morning harvest unit was more difficult. But that difficulty was balanced out by the amazing use of technology at the second site. Both amazing operations but the morning one he portrayed as just a bit more challenging.

- Member wasn't quite as indecisive but noted the same good work and the use of the newer technology (even FAA licensed drones). Both operators stressing the safety benefits of better technology which in turn is beneficial to the environment.
- Further discussion was regarding more of the operational details and environmental challenges they accepted.

Silbernagel motioned that the NW Committee award the Operator of the Year to Gahlsdorf Logging and Merit Award to C & C Logging. Stewart seconded the Motion. All were in favor of the selection. Motion carried and recommended Operator of the Year be Gahlsdorf Logging.

#### 4. **Proposed Changes to Operator of the Year Timeline – Greg Wagenblast**

Wagenblast reported some change he was proposing for the Operator Recognition Program. He referred to a colorful timeline charted. The first page showed the current timeline the Program operated under. As they are working on making format changes to the Directive they discussed the challenges that the Department has had in getting nominations in. They suggested changing the timeline to avoid fire season. The proposed timeline was on page 2 which proposed changing the close of the nominations to June rather September. The change wouldn't affect the timeline for the Committee and their process. So for next year's go around we would open up the nominations next month, November 2019. We would close the nominations in June of 2020. That change would provide a better opportunity to provide nominations before fire season priorities take the stage. And it provides time to film operation videos and get them prepped and ready for the October tours and selection. The other part of this change is to re-schedule the awards to the January Board of Forestry meeting prior to the Associated Oregon Loggers and Oregon Logging Conference venues in the spring. So the Board actually gets to do that first, then we are just doing the follow-up presentations after that at those public venues. The feedback he has gotten so far from field staff and everybody is very positive and he is optimistic that this will open things up a little bit more. It gives a more appropriate amount of time to develop those nominations and get them in before the heat of the summer and fire demands. Barnes agreed as he sees most of the nominations are submitted by Stewardship Foresters. Stewart fully supported the idea. Patton thought the timing more appropriate but cautioned the Foresters may still delay nominations to ensure that active operations are completed without violation. Wagenblast responded that the "year" and specific operation do not need to coincide exactly when looking at the Operator being nominated. And if the timing is off, it can be nominated in the next cycle. Bonner was concerned about how the year would be defined. Barnes thought that seeing operations in process, or videos of active operations seem to add credence to their selection. Wagenblast thanked the members and offered to update them once this year's process starts. Patton thanked the Stewardship Foresters that went through all the work to get these nominations.

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Barnes recognized additional guests to the meeting. Alan Ritchie with ODF&W, the Fish Streams and Passage Program Manager in Salem and Rod Kraemer, ODF&W. Also again welcomed the couple with property who are interested in learning about forestry issues.

#### 5. **Monitoring Update – Terry Frueh, Monitoring Coordinator**

Frueh began explaining that he was standing in for Marganne Allen, Forest Health & Monitoring Manager and that the Monitoring update would focus on four different concurrent projects. The Reforestation Implementation Study; Siskiyou Streamside Protections Analysis; Western Oregon DFC and Large Wood Project, and the Willamette Mercury TMDL.

He introduced John Hawksworth, Monitoring Specialist to begin with the **Reforestation Implementation Study**. Hawksworth noted that there are several people involved in these efforts. Marganne overseeing the progress and Paul Clements with John working out the details. John wanted to provide information on where the Program is going from a general perspective what things have happened regarding that and how it affects the Implementation Study itself. 2013 through 2017 the Department had conducted a compliance audit on harvest, riparian area practices and roads and went

through that pretty uneventfully, with minimal visibility. Pretty obscure project and not much controversy. Well that changed in 2019. Suddenly, ODF Compliance Audit attracted the attention of some people including OPB and have this article that shows up emphasizing to us that the public must really be interested in what we are doing here. A couple of Board members gave personal opinions that indicated that they had some concerns about the results as well. So all of a sudden we are vaulted from obscurity to public controversy about our methods and the Monitoring Unit is having to re-tool a bit as a result. The concerns raised were mainly statistical. And that is a very big problem for us to address because it has to do with our response rates. Unlike some of the other agencies that report on their performance measures we are not involved in permitting so we can't verify compliance unless landowners consent to access. It's a voluntary participation program and we need good public relations to do our work. But when reporting statistics with low response rates can create a perception of bias. That raise the question of actual compliance and skew the results. And that gets into the statistical questions and statistical concerns that were raised about that.

We are coming up with numbers for the range of compliance having to make inferences about those not responding. But what level of certainty do we have in that? So the next steps follow a scenario of continuous improvement in our processes. We learn from our mistakes and keep going. So for the Reforestation Implementation Study we are actually incorporating some of the lessons learned. But there are some residual aspects of concern we have identified which remain concerns of certain members of the Board. We would like to be all things to all people accomplishing multiple purposes, but there are tradeoffs. We can report quite easily what we arrived at. If we decide if we want to do the heavy duty statistics, the inferential thing, how confident are we in what we arrived at? Including once again the non-responses which we haven't found a good solution to yet. So, should we just keep going forward? That is our current plan but there are some people who would actually like us to re-calculate some of the numbers from our earlier study. So that needs to be looked at as a trade-off in capacity. How are we best going to use our staff time looking forward? Are we going to have to take a step backwards and re-calculate some numbers?

So that is a discussion pending with the Board and feeds into our current Reforestation Implementation Study. We are developing the future study protocols and our goal once again is to assess reforestation compliance with the required FPA stocking in units notified as clear cuts. Our ongoing work is looking at it through a marketing and outreach standpoint to increase the rate of permissions. We've had the term, Compliance Audit describing our effort but that misrepresents what we are doing. Because we are trying to get some numbers to decide how we should focus our educational efforts. And we are deliberately doing outreach to the conservation community, inviting them into the beginning of the process to identify and consider their concerns. So onboarding the External Review Team earlier on in the process so we do have an active dialog continuing with many of you here that are on the Team. Patton suggested the need to explain fully to the public what is involved and how they benefit.

Barnard clarified that certain interested parties that believe that the folks who refuse permission to come on their property refuse because they must be in violation. And that we can't assume the rate of compliance upon only those that respond. When the reality is that we don't know that is the case. Many are just non-responding, not refusing, but just not answering even after lengthy time consuming outreach efforts. Bonner added that her feeling is that the conservation community she is involved with feel that the fact that it is voluntary is a non-starter for assuming the equivalency of those who refuse with those that agree. Being asked she stated that her personal opinion was that it is meaningless if it is voluntary, a selection bias that can't be overcome.

Frueh continued that there are two points. One is we don't have the legal authority. The legislature would have to grant us the legal authority to do that. But we are still getting real useful data from the people that *are* giving us permission. Barnard added that if we did believe there was an issue there are processes we can go through to get an administrative search warrant. But just like any other enforcement case if we don't have probable cause to enter somebody's posted property we don't have access to that. Patton reiterated that we can't assume that people who don't want contractors to come onto their land are violators.

Hawksworth noted adjustments they were making on the field protocol because they have found that in ground-testing the protocols some of the things seem to work well theoretically don't necessarily work

in the real world. They are also involved in a continuing conversation with the OSU statisticians to try to address the questions or come up with solutions. So the two major questions are: How do we count for the low participation in certain landowner types? Two, how do we account for the small sample size in certain groups? So traditionally we went by acreage of notifications, acreage notified. But that means that the industrial folks will have more representation than the non-industrial folks because by acres they are the biggest part of the picture. There are still some really small groups that were a problem but we are still going to get a pretty good picture of what is happening with the industrial folks on the west side of the Cascades especially. On the private non-industrials if only looking at clear cuts we get some small sample sizes that are a problem. And unfortunately they tend to be the most highly variable in their objectives and various expertise with forestry. So they are the most variable groups with the smallest sample size which makes for a bad combination.

In addition, he mentioned that they were going only for clear cuts because we were hoping to simplify things. But in ground truthing the protocol in Eastern Oregon they found all kinds of residual trees left in these clear cuts. To deal with this staff are actually working on a methodology to determine what is acceptable residual growing stock is that meets free-to-grow criteria according to our Forest Practices Act. So that's one of the biggest issues still facing us on the actual field protocol. So our next steps are to complete the statistical consultations, finalize the field protocol then advertise the RFP and our contract by about January or February. We expect that the contract will be big enough that it will probably have to have DAS review which will set us back another 6 months. But we still hope that we have someone who can actually do something before 2020 is over. Barnard emphasized that the protocol now includes how to determine the viability of residual trees and what are acceptable tree species.

Member pointed out the public's distrust of government and that combined with the sanctity of private property rights reflects badly on the social license provided us to be able to verify the rules are working as intended. Landowner's put their trust in hired operators and may not know whether or not those operators complied with the rules so they could be uncomfortable with an 'audit' that may determine them to be non-compliant when they were unaware of what constitutes that.

Seth Barnes wanted to offer that this concern has been pressing for resolution for a lot longer than the current dialog. And a lot is coming from the non-industrial side. So this is something that the Department has really been pressing and trying to solve for much longer than the Board inquiry suggests. There are just really strong feelings of private property rights, but this isn't a new effort and the Department *has* been trying to solve this.

- **Siskiyou Project** (including ODF/DEQ coordination)

Frueh took over the update moving on to the Siskiyou Streamside Protections Review. He acknowledged that this was not a NW Area project but as it is taking quite a bit of the Division's focus he thought it would be of benefit to keep all the committees in the loop as it may affect how future studies are done in other areas. The Siskiyou Review is looking at the sufficiency of our rules to protect stream temperatures as well as the shade and stand structural to reach desired future conditions (DFC) for Small and Medium fish-bearing streams in the Siskiyou.

In March 2018 the Board made this a high priority. So we did a literature review that looked at the stream temperature portion and then the shade and stand structure components of DFC. We took that back to the Board in June. And the Board said there was not enough information to make a sufficiency call and asked the Division to bring back more information (to inform a sufficiency call) by expanding the scope and working closely with DEQ in the process. In September, staff reported back to the Board on efforts are underway with DEQ. As meetings are set up with both Richard Whitman who is Director of DEQ and Jennifer Wigal who is DEQ's Asst. Deputy Water Quality Administrator. We are gathering information from a broader geographic scope to best inform the Board members in making their decisions and most currently reflecting their desire to increasingly add in the complexities of climate change. They discussed a couple of options regarding climate change. One option would be to explicitly address climate changes in the Siskiyou, a project specific look; or try and take a more comprehensive stance initiating a Department-wide effort on how to address climate change in the FPA. The Board had extensive discussion but did not vote on anything. So as of right now we are not explicitly including climate change in the Siskiyou project. But it looks like there will be discussion in

January about adding a comprehensive look at climate change to the Board's work plan. So they will be talking about this broader scope in January.

Another decision point for the Board was whether they were in agreement with having a formal advisory committee for the Siskiyou project. We recommended that they do bring stakeholders into the process in an advisory capacity. There would be no expectation of consensus but benefits us to hear concerns earlier in the process and adds transparency. The Board approved that recommendation. Staff will be going back to the Board in January with drafted objectives for the Advisory Committee. Frueh shared that they will be using a professional facilitator to help encourage discussion and formalize the ongoing meeting process.

Member understood that there was no degradation of resources yet identified in the Siskiyou. Frueh reiterated that is the purpose of this monitoring study to collect information to help inform the Board's decision on whether or not there is degradation. Part of the challenge for staff is understanding exactly what the Board needs to make that determination. As the literature review presented to them in June didn't provide enough information to the Board to make a degradation decision. The Division was asked to bring more information, so staff are in the process of doing that. As well as beginning the process of collaborating with DEQ towards a better alignment of our working processes as directed.

Another member commented that there will never be enough information, and that we have been in the same place with a lot of different issues. Frueh emphasized that an advisory committee's main function would be to bring those disagreements to light and have those discussions. The invited members will be stakeholders like the Oregon Stream Protection Coalition, Oregon Small Woodlands Association, Rogue River Keepers, Oregon Forest Industries Council, other agency representation, DEQ, ODF&W. A suite of stakeholders that are involved in our processes. Frueh hoped that this work with DEQ might lead to a Memorandum of Understanding bigger than just the Siskiyou Project.

Another decision we asked the Board to make in September was the possibility of expanding the geography of studies in the literature review. The Board said yes, do expand the geography for both stream temperature and desired future conditions to consider all of Western Oregon, and similar forested areas which is approximately, northwestern California, western Washington, coastal B.C. and southeast Alaska. So we are in the process of putting those two literature reviews together. The stream temperature literature review will be updated by incorporating a few new studies that have been completed since then. In January, the Division will ask the Board to affirm or provide comment on the drafted objectives for the advisory committee and to verify the Board's expectations in regards to scope and substance of data.

- **Western Oregon DFC/Large Wood Project – Adam Coble**

Coble began with a reminder that the Board also directed staff to continue work as to whether the current rules are effective in achieving both Desired Future Conditions and Large Wood recruitment to Small and Medium Fish-bearing streams in Western Oregon. That would include South Coast, Coast Range, Interior, and Western Cascades. He identified the three work products coming out of that review. One is the Scientific Literature Review with a DFC component and a Large Wood component as well. Then Analysis of the RipStream data focused on the vegetation, (mainly the over-story trees) and now we are starting to look at Downed Wood in the RMA as well as the Large Wood in the adjacent stream. And then a third work product is a Modeling Analysis that would project the RipStream stands over time (out to about 200 years) to understand what mature stand conditions would look like. And so, that modeling, in addition to estimating growth would include things like mortality, regeneration, downed wood in the RMA and to the stream as well. The updates to the Science Review the DFC Review merged with the Siskiyou Review.

Barnes asked if there has been any discussion on the *right* definition for Desired Future Condition. Coble responded that ODF is not the only organization to use that term, but perhaps a better question is whether a stand should be considered mature at 200 years? Cowan added that this is looking at the effectiveness of that particular rule, not whether the rule itself needs to change, that is for the Board to determine. Regarding the DFC assumptions the Department has a set of goals they are trying to achieve with rules providing stream protection for riparian and aquatic wildlife and water quality. And the assumption is if we achieve those things all the natural systems will be happy into the future.

- **Willamette Mercury TMDL**

Coble provided the members information on this DEQ project for general awareness. DEQ is revising the 2006 dated TMDL (Total Maximum Daily Load) for Mercury in the Willamette Basin. The Willamette River and its tributaries are listed by the EPA for mercury. The listing identifies how much mercury needs to be reduced in the current water quality criterion for methyl-mercury and what the sources are for that mercury level. The major pathway for mercury is through sediment delivery. The Water Quality Management Plan strategy is to establish Best Management Practices or strategies to reduce sediment delivery. ODF submitted comments in September and the TMDL for the Water Quality Management Plan should be wrapping up fairly soon. ODF staff will be working with DEQ on drafting an implementation plan where that intersects with forestry. In the DEQ modeling process they determine what the allocations should be. Then evaluate mercury 'hot spots' like mines, and even dentist's offices. Whittington added much of the mercury deposition into Oregon comes from the atmosphere. Burning coal and mining but wet/dry deposition is actually from SE Asia where it gets into the atmosphere from coal burning there and is transported across the Pacific into the west coast. And from there is washed down off the soil and accumulating in the watersheds.

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### **6. Fish Passage MOU Update – Thomas Whittington**

Thomas Whittington, Water Quality Specialist began by identifying who is working on updates to the ODF&W/ODF Memorandum of Agreement. Alan Ritchie, Rod Krahmer and Kregg Smith, Asst. Fish Passage Coordinator, make up the team from Fish & Wildlife. On ODF's side Whittington, Josh Barnard, Jay Walters and Keith Baldwin. They have all been working on this MOA for almost a year now.

The Agreement sets in place the authorities and duties given to ODF to monitor fish passage structures on non-federal forestland where the Forest Practices Act applies. There are overlapping authorities and changes to rules and policies since the last MOA dated 2000. So in updating this agreement we are formalizing our inter-agency cooperation. The intent of the MOA is to maintain ODF as a primary agency for fish passage on forest lands. Staff have now presented this draft to all three RFPCs. On ODF&W's side it has been reviewed by their Fish Passage Taskforce. Ritchie described the task force as similar to the RFPCs, with nine volunteers advising their Commissioners on fish passage. This has been on the Task Force agenda the past couple of years as well.

In more detail the MOA affirming ODF's role in ensuring fish passage rules are followed for any stream crossing construction, re-construction or maintenance and removal of abandoned structures. The MOA documents agreement that ODF administered stream crossings will meet all of Oregon's Fish Passage Rules. The MOA focus is on stream simulation designs in particular and that's where the fish passage rules come in but he noted that if operators are considering alternate strategies and designs with more complicated hydrologic engineering ODF and ODF&W have agreed to work together to review and help the landowner implement that design. Stream simulation designs match the characteristics of the stream all the way through a culvert or under a bridge. The other big addition is that the MOA will formalize a commitment to annual reporting of fish passage notification and installation. ODF&W may choose to review 10% of those notified installations annually. The expectation is that each stewardship forester will do an inspection post-operation of the structure which would include pictures and the short write-up of the structure quality once it's done. ODF&W will sample those reports for each Area or District. There will be a big outreach to field staff affirming what the Agency has agreed to in our processes. Another factor they will be checking is adherence to the 'in-water' work period. There are allowances if work needs to be done outside of that in-water period. The big ask Whittington had for the Committee was for help in revising Forest Practices Technical Note 4 which addresses fish passage. One of the things is that we are going to have to include a little more language in and around BMP's for fish salvage, worksite isolation on these sites, insuring that when we start a project, that every effort is taken to minimize any disturbance to the fish. Isolating fish stock or if there is a situation where we need to salvage fish or move them, that we were doing that correctly under ODF&W's BMPs and policies. Our job is to inform the landowner on fish passage requirements and work with them to ensure those are met. The Technical Note 4 work as fish passage guidance is a major priority. Whittington is putting together a Practitioners Workshop tentatively scheduled for November 20<sup>th</sup> and



asked the members for their help. He asked for any individuals with strong working knowledge with fish passage structures to provide input to the Tech Note. Stewart suggested doing outreach at the AOL Annual Conference where there are opportunities to run workshops for loggers. Practitioners being those out overseeing the installation of the structures. He reiterated how important the role of the stewardship forester is in educating and advising the private non-industrial woodland owner on these requirements. Installing fish passage structures takes a lot of technical know-how to make sure they are actually installed correctly so they meet fish passage rules. Whittington's goal for the workshop was to have 12 to 15 people that want to participate and he will include an option for virtual conferencing to minimize travel.

Whittington included that some ODF&W staff will attend the workshop, possibly Gregg Smith, the Assistant Coordinator. Also State Forests representation. He will have the current drafted MOA sent along to the Committees for review and it will also be shared by the Fish Passage Task Force at ODF&W. Once all the feedback is in he hopes the finalized MOA can be signed by both Directors in early 2020. Silbernagel volunteered to attend the Practitioners Workshop representing the NW Committee.

#### **7. Food Plot Rules Update – Nate Agalzoff**

Nate Agalzoff, Incentives Coordinator presented a high level status update and next steps for rulemaking for the Wildlife Food Plots statute. The statute language defines a wildlife food plot as “*a small forestland area that, instead of being used for growing and harvesting a forest tree species, is planted in vegetation capable of substantially contributing to wildlife nutrition... on small forestland that is subject to reforestation requirements under ORS [527.610](#) may, notwithstanding any contrary provision of the reforestation requirements for the forestland, establish wildlife food plots within the boundaries of the small forestland.*” So this statute would provide forage for intended wildlife within forest ownership. Another tool for forest owners to realize other non-timber values from their property. The Department had developed interim guidance by the effective date of January 2016 enabled this activity. That interim guidance has worked satisfactorily to date as the statute framework was fairly concise already but there hasn't been much interest so far. He provided a copy of the drafted rules. The first part came directly out of the statute and the second half language and concepts relating to the establishment, maintenance and administration of that activity. It was in November 2018 that the Board asked the Department to commence rulemaking. The statute language defined small forestland as between 10 and 5000 acres, when harvest creates a reforestation requirement the landowner can elect to plant forage on a percentage of their holdings in lieu of the required minimum tree stocking. Staff has added a minimum plot size to ensure that the plot meets its intention. The maximum size of the plot is a direct correlation of the ownership size. Another addition to the draft rules has been requirement of a plan identifying the target species and vegetation that will be planted. And restrictions on noxious weeds. Another thing to point out is was the requirement for a written plan documenting target species and the forage planted (with restriction on noxious weeds) and identifying the location. Members asked how many plans have been approved. Agalzoff reported only one near Astoria. One concern is the use of this opportunity to avoid reforestation responsibility on eligible acreage. And most of the rule language excepting possibly some of the definitions would fall under the reforestation rule set. Because it is on lands that have a reforestation obligation. In the statute it identified the creation of a food plot as a forest practice that would require notice to the State Forester. So notified through FERNs as any other activity like road construction or tail holds. These plots are still considered forestland and not a land use change. Agalzoff continued that these plans would receive Department review by our staff biologist for species forage needs and appropriate vegetation types. This is not an approval process like a plan for alternate practice. But the maintenance part of this too. Especially when planting post-clear cut, there has to be something to keep that alternate vegetation dominant in the plot to fulfill the intent. If landowners don't maintain that, then the plot will default back to needing the appropriate stocking level in the reforestation requirements. This is not a land use change, but always remains a forest activity. Agalzoff shared that this was a final check with the RFPC and the plan is to bring it to the Board in January as a consent agenda item to begin the SOS rulemaking process and would put our public hearing piece in the notice in the spring of 2020 and try to be done by June.

#### **8. Murrelet Update – Josh Barnard**

Barnard began by noting that the Marbled Murrelet review is part of that Board work plan and will be continuing. Last April the Board reviewed the Technical Report and accepted it. Once that was

accepted staff began to frame up the next phase of the project. The Tech Report identified a range of options for defining what the resource site would be and a range of protection strategies, but didn't narrow it down to any one single preferred option. So the next set of decisions for this process, would include what stakeholder involvement would look like. Staff's proposal to the Board is out on the website. The State uses the Division 680 rules as a guide to the technical report but also say we need to identify the resource site and protections. So that's really the next step in the process for the Board.

The only other information we could bring to help inform the process is stakeholder feedback on preferred options. To facilitate that staff have framed up a matrix of options and consequences in the context of the Division 665 rules pertaining to T & E species. The purpose of matrix is to provide the sideboards on the issue in an easy to see format for the Board to consider its options. Staff and a facilitator will be engaging with groups and stakeholders that have been involved in this process to narrow the range of options, whether for regulatory or voluntary approaches and what they see as the preferred approach to identify the resource site and protection strategies. At this point staff are simply wanting to narrow the scope for the Board. Groups and individuals included are certain parties listed on the petition, which includes Audubon, Cascadia, Stream Protection Coalition, etc. And the Board's Advisory Committees normally advisory to our processes.

Barnard estimates that will put us between 10 and 16 months before we go back to the Board. Ideally he thought that it would be good to provide 2 to 4 options even if they are on opposite sides of the spectrum. Because so far the process denotes there will be various challenges with each approach. But right now they are making sure that all options are identified.

There was nothing else for the **Good of the Order** so the Chair adjourned the meeting.