

Oregon Department of Forestry

Northwest Regional Forest Practices Committee Meeting Minutes for June 4, 2020

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 June 4, 2020 via ZOOM virtual meeting.

<p><i>NWRFPC members present:</i></p> <p>Mike Barnes, Chair Tally Patton, Industry, Retired Randy Silbernagel, Industry, Retired Jon Stewart, Raincloud Tree Farm Scott Gray, Stimson Lumber Jim Hunt, The Campbell Group Steve McNulty, Weyerhaeuser</p>	<p><i>Not present:</i></p> <p>Candace Bonner, Landowner Wendell Locke, Retired</p>
<p><i>ODF Staff:</i></p> <p>Kyle Abraham, Division Chief of Private Forests Josh Barnard, Deputy Chief, Private Forests Terry Frueh, Monitoring Coordinator Greg Wagenblast, Policy Analyst Adam Coble, Monitoring Specialist Susan Dominique, Administrative Specialist Thomas Whittington, Water Quality Specialist Nate Agalzoff, Incentives Coordinator Jay Walters, Forest Practices Field Coordinator Scott Swearingen, Field Support Unit Manager Leanna Dickerson, Executive Support Specialist Jennifer Weikel, Wildlife Biologist Keith Baldwin, Forest Practices Field Coordinator Michael Curran, Western Oregon District Forester Kristin Whitney, Office Specialist</p>	<p><i>Guests:</i></p> <p>Cindy Robert, ORPA</p>

1. Welcome and Introductions – Mike Barnes

Mike Barnes, Chair of the NWRFPC opened the meeting. (Roll call completed – Noted above.)

- **Public Comment**

Barnes called for public comment, none was offered.

- **Approval of Minutes**

The Chair entertained a motion to accept the October 30, 2019 minutes as written. Stewart motioned to accept. Patton seconded, all members were recognized as in favor of accepting the minutes from the last meeting.

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

Barnard began by introducing Scott Swearingen as the Private Forest Division’s new Field Support Unit Manager. He reported that Marganne Allen had accepted the Water Quality Program Manager position with Oregon Department of Agriculture. Her departure leaves the Forest Health and Monitoring Manager position vacant. Sarah Navarro accepted an opportunity with the Forest Service as their Regional Pathologist covering SOD (Sudden Oak Death), and Danny Norlander, Aerial Specialist is on a long term assignment outside the Division but within the Agency. With all those positions open the Forest Health & Monitoring Unit is at about 50% capacity. Mike Kroon, Seed Orchard Manager was asked to help supervise the Forest Health Unit and the Monitoring Unit is currently working directly with Kyle Abraham, Chief of the Division.

Barnard reported that the Governor had asked all Agencies to develop an 8½% General Fund budget reduction plan. At this point the reductions offered in meeting that funding level won’t affect current permanent

staffing as the Division was able to take advantage of current vacant position savings by holding off recruitment on those vacancies. The budget reduction planning exercise was to provide information in an across the board balancing the State's budget. The Governor's Statewide General Fund reduction was only one potential solution to the State's budget crisis. Another option could be to defer the decision to when the legislature has the ability to adjust funds in a more focused manner at the next full Legislative Session. Or for the legislature to convene a Special Session to adjust the Budget.

Tied to budget are the COVID-19 effects and the projected economic impacts. There is projected to be a \$2.7 billion dollar decrease in State Revenues based upon the most recent Quarterly Revenue Forecast. They are also anticipating a decline in Harvest Tax Revenue and its match with General Funds. Originally, the Department has estimated around a 20% decrease in the Harvest Tax for the remainder of the biennium. Leadership has taken that anticipated decrease of revenues into account in the budget reduction exercise. Barnard added that the projected economic impacts will be ongoing and if the current scenario were to occur in line with the 8 ½ percent General Fund reduction proposed, the Division would still be able to accomplish that reduction by deferring current projects and holding open vacant positions through the end of the biennium. But in meeting those numbers they will be losing 50% of the Division's capacity for regular work.

Barnard was asked if the State was seeing reductions in the number of harvest notifications and whether those numbers would be a possible indicator of reduced Harvest Tax. He responded that there wasn't enough data available yet and they will continue to monitor those reports. Members viewed the market as very unsettled and demand low and increasing numbers of third party contractors are looking for work. Barnard reported that ODF has been conducting business virtually with staff that can work from home. All ODF offices remain open by phone or appointment only and they are continuing to conduct business. The plan is to continue operating through Phase 2 of reopening with staff teleworking where possible. District offices are allowing business as usual in the field as long as social distancing can be maintained. Unless the Department of Administrative Services drafts official guidance to the contrary, that will continue to be ODF's working environment throughout the reopening process. For example, the Board of Forestry June Meeting was held virtually and the plan is to continue holding all meetings in that format for now.

Barnard continued that the Board of Forestry will be appointing three new members and one reappointment scheduled for June 10th confirmation by the Senate Rules Committee. Those appointments will replace Tom Imeson, Nils Christoffersen and Cindy Deacon-Williams which will shift the geographic representation of the Board. New members to be confirmed are: Debbie Johnson, who has connections with OSU Forestry; Chandra Ferrari who is connected with Trout Unlimited; Karla Chambers who has connection to the Governor's Wildfire Council, and Jim Kelly who agreed to be reappointed. So that provides two Eastern Oregon members. One from Southwest and four from Northwest. Mike Rose currently represents the Southwest and his term expires later this year. With that news, some members expressed concern over a lack of industry representation.

3. Siskiyou Temporary Rule Request Update – Josh Barnard/Kyle Abraham

At the March meeting the Board of Forestry expressed interest in being able to support entities involved in creating an MOU between industry and environmental organizations trying to affect FPA rule changes through the Legislative rather than petition process. Most specifically at this time bearing on the Siskiyou Rule Analysis process due for an efficiency decision in July. The MOU sought areas of agreement outside the normal rulemaking process. With consideration of workloads and duplication of efforts, the parties to the MOU decided to send a letter to the Board in May requesting adoption of temporary rules for the Siskiyou similar to the Western Oregon SSBT rules. Barnard noted other related items had hope of moving on in the February 2020 Short Session but due to a shortage of voting members present at the end of the Session many items that were due for action didn't get a vote. One rule concept was a request for a 48 hour notification to adjacent landowners on any helicopter pesticide application via FERNs. Also the request for Salmon, Steelhead, and Bull Trout (SSBT) rules to be adopted in the Siskiyou region adding proposed language for helicopter spray buffers near streams that contained water. At that point it was forecasted that work could take 18 months to work through larger changes in the FPA but could end up working towards an Aquatic HCP (Habitat Conservation Plan). The BOF could approve Temporary rules which would only remain in place for six months providing a bridge until the next legislative session. Barnard explained the way a temporary rule works is there has to be determined to be an urgent need for the rule with justifications and recognizing the limited resources of the department. A temporary rule can only be put in place for a defined period active up to six months and

cannot be extended, so there is not a requirement for typical public hearings or other components that we would do under our normal rule making. During the Board meeting there was discussion about implementing training for both landowners and operators and the need to update the database regulatory layer for the Siskiyou region regarding Salmon, Steelhead, and Bull Trout streams. The concept was approved not to exceed January 1st of 2021 with training and outreach to be conducted by that time. He acknowledged that there will be challenges to that as the State is entering fire season and just how COVID-19 will effect that outreach. The Chair inquired whether notifications that are already in the system will be subject to the new rules. Abraham answered that only notifications that come in after the Effective Date will be subject to the new rules. Plans are under development for training and will be coordinated with the Southwest RFPC and the Committee for Family Forestlands on implementation.

Frueh, Monitoring Unit Coordinator clarified where the work done to date on the Sufficiency Report stood in relation to the Temporary Rule. The Board of Forestry had directed the Division to create a Summary Report including a bigger geographic scope. The rest of Western Oregon, Western Washington, Coastal B.C., Southeast Alaska, and Northern California on stream temperature and shade. In mid-April they had convened a diverse Board-approved Advisory committee for the Siskiyou project to provide feedback. That report was pretty close to complete. There was a question about the direction of the Monitoring Unit and how the Siskiyou Advisory Committee would be moving forward since the Board directed the Monitoring Unit to essentially stop that work in the Siskiyou. Barnard answered that if ODF adopts rules through the legislature then there wouldn't be a need to continue those processes. Rather the Monitoring Unit may end up working on items that feed information into those processes developing various work products.

4. Policy Updates: Wildlife Food Plots, MAMU, Coho, ODFW MOA, etc. – Scott Swearingen

Swearingen provided further updates. In January, the BOF approved moving forward with the Wildlife Food Plots rulemaking. The Committee for Family Forestlands was designated as the Advisory Committee on this effort. The Board approved advancing with traditional public hearings and the Unit held three virtual meetings in three locations to work within the COVID-19 restrictions for public gatherings. Comment was taken and rules revised and a notice sent to the Secretary of the State. The Committee for Family Forestlands will review the Fiscal Impact Statement. Public Comment was received mainly on the rule's intention and implementation. The Dept. of Justice looked at the scope of the statute which they advised didn't really extend to habitat and advised the Division to make sure that forage remained the focus of the food plot rule. The next step was to develop the Staff Report and presentation to the Board of Forestry in July along with the Summary Hearing Report, including comments received, and final copy of the rule. Once approved the final document will be posted with the Secretary of State.

ODF has been working closely with ODF&W on a MOA to revise Technical Note 4 covering fish passage. He reported that the Agreement is in final draft waiting approval by ODF and ODFW leadership. He explained that Technical Note 4 covers fish passage guidelines for new and replacement stream crossing structures. Since last fall ODF held two Practitioner Workshops for ODF, ODF&W, RFPC field experts and other forestry professionals. Another workshop was planned towards the end of the year to address any questions from the workshops. One suggestion from the RFPC members was to ensure that the guidance addresses the actual operations area to provide the legal authority to 'de-fish' requiring work between ODF&W and ODF. Swearingen confirmed the Tech Note will most likely be distributed by summer 2021. And in answer to that concern they are considering a programmatic authority letter from ODF&W about fish salvage or, moving fish as part of the Written Plan process.

Moving on, Swearingen reminded the members that the Board had been sent a petition regarding the Threatened and Endangered Species status of the Coho. The Board of Forestry recognized the petition and instructed the Department to begin rulemaking. The process forward has been interrupted by the Memorandum of Understanding currently signed between forestry industry and conservation interests which left the Coho petition process on hold pending request for the Western Oregon SSBT rules to extend over the Siskiyou georegion and an anticipated Aquatic Habitat Conservation Plan as part of the initiatives favored by the entities signatory to the MOU.

The Marbled Murrelet Rule Making Analysis, which was petitioned in July of 2016, which was to identify and protect Marbled Murrelet Resource Sites. ODF&W is also heavily involved. ODF was told to move forward with

the rulemaking and Jennifer Weikel developed a draft Technical Report which was presented to the Board in 2018 summarizing the ecology, habits, life history, and more on the Murrelets. The Board accepted the Report in April of 2019 and the next step is to solicit feedback from stakeholders and Tribal Governments. Gathering input on the range of policy options is currently on hold due to COVID-19 and the plan is to resume in-person meetings when they're safe and feasible to hold. Ultimately outcomes may mean: No changes to rules are needed; Use of non-regulatory measures; Incentives (such as the Safe Harbor Agreements), or a combination of solutions as well as the potential for regulatory action.

The subject of Significant Wetlands was next update. Swearingen explained that they are updating the guidance for wetlands that are in agricultural use. In 2009 there was a FPA memorandum changing the application of buffer requirements relative to agricultural wetlands allowing for a waiver of requirements on grazing lands that are closely aligned with forest uses. An additional memorandum provided emphasized that wetlands *not* in forestland use, are regulated by the Dept. of Agriculture. Since the rules were implemented there have been issues around operations where the buffers weren't being retained on wetlands. Some operators may purposely move livestock to the grassy wetland to avoid having to retain the buffer when they log. In 2017 one of our field foresters helped put together an issue paper on the topic then came a recommendation to rescind the 2009 Memorandum. In place of the memorandum the use of Plans for Alternate Practices were recommended to allow for site specific buffer strategies keeping within the intent of the Forest Practices Act.

The last piece of the update is updates to the Forest Practices Act Guidance. Swearingen, Field Support Manager noted that the staff have been working since the beginning of 2020 on formalizing those updates. There have been updates on Definitions, Planning, Reforestation, Chemical Guidance, and Water Classification Guidance, guidance on Stream Protection Requirements, Wetland Buffers Protection and other Specific Resource Site guidance. There haven't been any significant changes since 1997, and 2000. The Water Classification piece had been added in the SSBT classification. Once formalized and approved they will be posted back onto the ODF external website, www.oregon.gov/ODF for easy access by everyone. Bigger sections that are still in process or planning are: Landslide and Public Safety guidance, Roads guidance and, Harvest guidance including some guidance on tethered logging practices. Swearingen mentioned ODF held a training with the Stewardship Foresters and other field employees on Water Classification recently, and emphasized that when guidance was formally reviewed it will be posted. Past guidance in many cases was outdated. The current documents are available by request through our staff or the Stewardship Foresters as they have the access to the working documents. Members commented relative to the updated guidance documents how much they appreciate the postings as turnover in offices happen and those documents are good reference on how the state will interpret rules so when the guidance is unavailable it poses challenges on the ground. A member urges posting to be a priority. In addition, would like to see the Definitions tightened up to the original intent rather than interpretation. Swearingen agreed and assured the members that they want to make sure the landslide and public safety guidance is correct before it is widely available.

5. Good of the Order, Next meeting topics, Dates – All

Barnard started off the good of the order giving the virtual floor to Greg Wagenblast. Greg announced that they are just under the 30 day countdown for Operator of the Year nominations due in at the end of June. This earlier timetable is giving the Department time for review and to compose the videos for RFPC consideration and voting. Currently the Northwest has one nomination with a second in process so there will be at least two for the NW, then ends says if there are any others out there to please try and get the nomination forms in which are available on the ODF external website. Members were reminded that the following dates are held for the Operator of the Year Tour and Committee meeting: 10/27/2020, 10/28/2020, with the meeting on 10/29. Barnes encouraged members to nominate any operators they know that have been doing a good job, to consider nominating them. Especially in this time of "stay home, stay healthy" maintaining normalcy becomes difficult but he hoped they can meet together and participate on tours if health restrictions allow.

With nothing else for the Good of the Order, Barnes called the meeting adjourned.