

INDEX

July 31, 2009

<u>Item #</u>	<u>Page #</u>
A. Work Plan 0, IBI 5, Minutes of the April 23-24, 2009 meeting	2
B. Work Plan 0, IBI 5, Minutes of the June 3, 2009 meeting	2
C. Work Plan 5, IBI 1, INR White Papers on Ecosystem Dynamics	3
1. Work Plan 0, IBI 6, State Forester and Board Member Comments	3
1A. Work Plan 0, IBI 6, Public Comments	5
2. Work Plan 0, IBI 2, Committee for family Forestlands Annual Report	6
3. Work Plan 1, IBI 2, 2009 Board Governance Performance Self-Evaluation	8
4. Work Plan 1, IBI 5, 2009 Legislative Session Wrap-up.....	8
5. Work Plan 1, IBI 5, 2009-11 Legislatively Adopted Biennial Budget Summary..	10
6. Work Plan 0, IBI 1, Adoption of OAR 269-041-0100 Amendment.....	12
** Work Plan 0, IBI 9, Executive Session ORS 192.660(2)(e).....	14

Items listed in order heard.

Attachments below are available on the web @ <http://oregon.gov/ODF/Board>

1. April 23 – 24, 2009 Minutes, Page 7 – Agenda Item A
2. June 3, 2009 Minutes, page 16 – Agenda Item B
3. July 28, 2009 e-mail, Schmelz – Agenda Item B
4. Dynamic Forest Ecosystems Work Plan Workshop Agenda, Morman – Agenda Item C
5. Crag Law Center July 30, 2009 letter, Van Dyk – Agenda Item 1A
6. Hinkle Creek Follow-up, Springer – Agenda Item 1A
7. “What Do Western Oregon’s Forests Look Like After A Century of Management”, Cloughesy – Agenda item 1A
8. Committee for Family Forestlands July 31, 2009 letter to Board, Springer – Agenda Item 2
9. Committee for Family Forestlands High Priorities of Private Forestlands Board Policy Objectives, Springer – Agenda Item 2
10. Summary of 2009 forest-related legislation, Postrel – Agenda Item 4
11. Analysis of Forest Practices staffing levels for ODF, 1980-2009, Seely – Agenda Item 5
12. 2009 – 2011 Internal Legislatively Adopted Budget Report, Seely – Agenda Item 5
13. History of the Interagency Firefighting Crew Agreement, Young – Agenda Item 6
14. June 2, 2009 letter, Senator Jackie Dingfelder – Agenda Item 1

OREGON STATE BOARD OF FORESTRY

July 31, 2009 Minutes

In accordance with the provisions of ORS 526.016, a meeting of the Oregon Board of Forestry was held on July 31, 2009 at the Umpqua Golf Resort, 1919 Recreation Lane, Sutherlin, Oregon. Chair Blackwell called the public meeting to order at 8:00 a.m.

Board Members Present:

John Blackwell, Chair	Larry Giustina	Peter Hayes	Steve Wilson
Jennifer Phillippi	Cal Mukumoto	Bill Hutchison	

Others present:

Wayne Giesy, Hull-Oakes
Gary Springer, Starker Forests
Bob Van Dyk, Wild Salmon Center
Chris Jarmer, Oregon Forest Industries Council
Rex Storm, Association of Oregon Loggers
Tim Freeman, State Representative
Mike Cloughesy, Oregon Forest Resources Institute
Rick Barnes, Committee for Family Forestlands
Rosie Msoltseff
Dillon Sanders, Inbound LLC
Paul Adams, Oregon State University
Bill Nessly, Oregon Department of Justice
Marvin Brown, State Forester
Clark Seely, Chief Administrative Services Division
Bob Young, Protection Program
Kevin Weeks, Agency Affairs
Nancy Hirsch, Chief State Forests Division
Doug Decker, State Forests Division
Scott Severson, Information Technology
Charlie Stone, Protection Program
David Morman, Forest Resources
Mary Schmelz, Board Support
Dan Postrel, Agency Affairs
Jim Paul, Chief, Private Forests Division
Peter Daugherty, Deputy Chief
Dan Shults, SOA Director
Gayle Birch, Board Support

Consent Agenda: The consent agenda was approved in one block, A through C.

A. ADMINISTRATIVE WORK PLAN 0, IBI 5 – MINUTES, APRIL 23-24, 2009

The minutes of the April 23-24, 2009 meetings are approved.

B. ADMINISTRATIVE WORK PLAN 0, IBI 5 – MINUTES, June 3, 2009

Agenda Item moved to Agenda Item 1 for discussion.

C. DYNAMIC FOREST ECOSYSTEMS WORK PLAN 5, IBI 1
Institute for Natural Resources White Papers on Ecosystem Dynamics

David Morman updated the Board on the implementation of the Dynamic Forest Ecosystems Work Plan and discussed plans for the September 8, 2009 summit Policy Workshop (Attachment 4). The work from four seminars will be discussed at the workshop. The Board will interact as participants at the workshop. The goal is to finish up the Work Plan on Dynamic Forest Ecosystems, resulting in utilizing this concept in the next *Forestry Program for Oregon*.

Information only

ACTION AND INFORMATION:

1. ADMINISTRATIVE WORK PLAN 0 – IBI 6, STATE FORESTER AND BOARD MEMBER COMMENTS

State Forester's Comments

State Forester Marvin Brown mentioned that the Dynamic Forest Ecosystems Work Plan began after the 2003 tour of the Hinkle Creek Watershed project. Mr. Brown said that David Morman has been doing a good job incorporating the concept of dynamic ecosystems into the Department's policy and regulatory framework.

Mr. Brown said that passing a key piece of legislative (HB 2216) was a highlight of the legislative session for the Department. HB 2216 will result not only in the purchase of the Gilchrist property, but it will allow the Board to be more effective with future land acquisitions. Mr. Brown said that, however, the legislative budget, which resulted in program cuts and employee layoffs, was challenging. The Department had initiated layoffs in the State Forests Division based upon projected revenue, then later initiated further layoffs in the Private Forests Division due to budget reductions. At the same time, the Department anticipates receiving stimulus money for projects. Mr. Brown said that the Department conducted layoffs in a fair, transparent, human manner. The feedback he has gotten from employees is that they have appreciated how staff conducted the layoffs, though no one likes the outcome. State Forester Brown said that the Department will look at layoff lists statewide with consideration of how to fairly distribute employment opportunities that may come from federal stimulus funds.

Chair Blackwell expressed his enthusiasm for the purchase of the Gilchrist Forest and considered HB 2216 to be a victory.

Board Member Comments

Peter Hayes requested that the minutes to the June 3, 2009, meeting (Consent Agenda Item B) be discussed. He did not agree that the Chair had ordered approval of the six items (Attachments 2 and 3). He agreed with items number 1 and 6, but had concerns about the other items. Bill Hutchison echoed Mr. Hayes' concerns. He thought it was agreed that Greatest Permanent Value would be reviewed. Mr. Hutchison said there were terms in the minutes that had not been agreed upon at the June meeting, e.g., "policy level principles". Mr. Hutchison did not think the record supported the conclusions in the minutes. Peter Hayes was concerned about:

- #2, paragraph 2, “peer review as necessary” needs clarification.
- The phrase “policy level principles” should be clarified.
- #3, 30% complex should be clarified to determine if it includes riparian areas.
- #4, the need to do a review is a new element.
- #5: saying that Greatest Permanent Value needs revision uses a logic that makes no sense. Mr. Hutchison said that #5 should be corrected to state “develop rule changes” rather than to take action.

State Forester Brown said that items 1–3 were the original staff recommendation. Items 4-6 were items brought to the Board by Larry Giustina (July 31, 2009, Agenda Item B, Attachment 23); these items were incorporated into the recommendation per Board approval. Larry Giustina said that Attachment 2 correctly reflected his original amendment presented to the Board on June 3, 2009. Chair Blackwell said that, based on Larry Giustina’s comment and the handout that Larry Giustina distributed at the June meeting, the minutes accurately reflect the decision at the June 3, 2009 meeting.

Steve Wilson said the Board is on dangerous ground if it re-considers a decision that was motioned, seconded and agreed to by majority at the last meeting. Cal Mukumoto agreed that what Larry Giustina had submitted was reflected at the meeting, but that there was opportunity for future discussion of some of these issues such as peer review. Chair Blackwell suggested that the minutes change to state “the Board decided” rather than “Chair Blackwell ordered”.

MOTION: Larry Giustina motioned that the minutes be approved.

SECOND: Steve Wilson seconded the motion.

The minutes of the June 3, 2009 meetings are approved.

Bill Hutchison expressed that he feels in the minority, which makes him think that the Board should consider a trailing consensus concept, where concerns are “parked”, or kept in mind, as the Board goes through processes such as approving the State Forests recommended changes to the Forest Management Plan. Mr. Hutchison suggested that amendments for consideration should be presented in the meeting prior to the meeting where those amendments will be decided. . Mr. Hutchison said optimizing the ability of state forests to operate across all measures is the shared goal of all Board members, but had some suggestions that he thought would improve the Board’s ability to make decisions:

- A report about the Department’s ability to deliver what was expected when the Board made decisions, prior to the budget cuts and employee reductions.
- Keep the Board’s promise on the iterative nature of the performance measures by acting upon updating and improving performance measures.
- Look at results of a salmon anchor habitat review before the Board dismisses it, to capitalize on its benefits or to learn from mistakes imbedded within salmon anchor habitat policy.
- Consider some level of peer review before launching Species of Concern changes.
- Express as a matter of policy alternate ecosystem services.
- Phase in the move to 30% complex; keep at 40% for the time being.

- Make sure Species of Concern is embedded in the Plan.
- If the Department can't complete the Stand Level inventory, recognize it.

For the record, Mr. Blackwell distributed a June 2, 2009 letter from Senator Jackie Dingfelder (Attachment 14).

Jennifer Phillippi updated the Board on her work with Oregon Watershed Enhancement Board (OWEB). OWEB is promoting projects such as Table Rock to help tell the story of OWEB and get prepared for re-authorization.

1A. PUBLIC COMMENTS

Bob Van Dyk, Wild Salmon Center. The Wild Salmon Center and others were not pleased with the June 3, 2009 decision regarding the management of state lands. A petition has been filed to call attention to issues that Wild Salmon Center thinks are problematic (Attachment 5). He expressed concern about the June 3, 2009 minutes. He said there were decisions and language that didn't clearly reflect what had happened on June 3, 2009. He mentioned a letter from several groups that was sent to the Governor, which expressed concern about the June 3 decision. For the record, he conveyed to the Board that he would be happy to hear from the Board regarding the letter, or any other questions the Board would like to discuss with him.

Bill Hutchison mentioned that he appreciated the efforts of conservation organizations to coordinate communication with the Board.

Gary Springer, Starker Forests, shared some thoughts about the July 30, 2009 Board tour of the Hinkle Creek Watershed (Attachment 6). He thanked the tour speakers, those who helped coordinate the tour, and the landowner (Roseburg Forests). He said the tour highlighted the importance of the Hinkle Creek Watershed work. Finding the funding and land available for watershed studies is difficult. Mr. Springer said it is critical to finish the Hinkle Creek project and other watershed projects such as the Alsea and Trask studies. He asked the Board for a letter of support for watershed studies. Mr. Springer suggested finding ways to involve small woodland owners in watershed studies.

Chair Blackwell entertained a motion to direct the State Forester to write a letter explaining the value of and supporting watershed studies.

MOTION: Cal Mukumoto motioned that the State Forester write a letter of support of the watershed studies.

SECOND: Jennifer Phillippi seconded the motion.

CONSENSUS: All in favor of the State Forester writing a letter of support of watershed studies.

Mike Cloughesy, Oregon Forest Resources Institute, distributed copies of the Oregon 150 Publication "What Do Western Oregon's Forests Look Like After a Century of Management?" (Attachment 7). He suggested that the document would be valuable for the Dynamic Forest Ecosystem Workshop on September 8, 2009.

Peter Hayes asked if Oregon Forest Resources Institute would consider using measures beyond volume, such as species diversity, to determine forest health. Mr.

Cloughesy said that Oregon Forests Resources Institute, working with David Morman, Resource Planning Unit, plans on using further criteria and indicators in the future. Mr. Cloughesy said that, in the past, volume was the only measurement recorded.

2. ADMINISTRATIVE WORK PLAN 0, IBI 2, GOVERNANCE -
Committee for Family Forestlands Annual Report

Marvin Brown, State Forester, complimented the Committee for Family Forestlands (CFF) on the high quality of their report. Rick Barnes, a Board member of the CFF, Gary Springer, Starker Forests, and Peter Daugherty, Deputy Chief Private Forests Division and Secretary to the CFF, provided a report on the activities of the committee.

Rick Barnes mentioned the July 30, 2009 Hinkle Creek tour and said the research done at the Hinkle Creek Watershed is important. He said research helps smaller landowners feel confident that the work they are doing protects their resources and maximizes economic opportunities.

Mr. Barnes said the committee's involvement in the Private Forests Work Plan was impacted by layoffs and budget constraints within the Private Forests Program, i.e., as the budget changed, the Work Plan changed. Mr. Barnes discussed the key elements of the final Work Plan the CFF would like the Department to focus on:

- Keeping family forestlands in forests.
- Consider opportunities to develop financial incentives and ecosystem services opportunities.
- Promote family succession planning.
- Enact tax credits to encourage forestland use.
- Improve land use planning to increase flexibility yet maintain public values, e.g., reconnect urban and rural forests.
- Develop more public education
- Reach out to rural property owners with diverging views
- Fire protection to protect resources.
- Assistance from geo-resources and biologists to help draft written plans.
- There may be opportunities to partner with the Oregon Department of Fish and Wildlife biologists/resources.

Mr. Barnes expressed that he hoped the Department could offer services and fill lost staffing when the budget improves. He said that family forestland owners are experiencing the impact of the economy, e.g., a 70% decrease in stumpage value. He was pleased that the bill to increase landowner's fire protection assessment was not passed, but remained a 50/50 split. During this difficult economic time, increased costs and lower stumpage values could contribute to family forestland owners converting forestland to other land uses.

Gary Springer distributed the July 31, 2009 CFF letter to the Board (Attachment 8) and an addendum (Attachment 9) which identified the committee's Private Forest Program policies priorities, and suggested some changes and additions to the objectives:

- Identify risks of forest fragmentation.

- Explore alternative funding mechanisms for the public share portion of Department budget.
- Place a high priority on dedicating support of non-timber markets.
- Improve shared responsibility of landslide and public safety rules; interagency cooperation would help accomplish this goal.
- Re-write objective 5 to read: Place a high priority on long term strategic investments to support Oregon's forest industry to ensure that Oregon maintains the flexibility necessary to achieve a competitive advantage in a diversity of forest projects and new markets such as bio-fuels.
- Add: Rebuild the Insect and Disease Program.
- Add: Rebuild resources for forest practices and monitoring.

Mr. Springer said that the June 3, 2009 proposal to revise the Private Forests Program Work Plan was comprehensive and inspirational. Priorities such as protecting the private forestland base, considering non-regulatory market based methods for future resource protection changes, improving markets, and rebuilding public support for the Program were on target. Mr. Springer suggested that the objectives be categorized by common headings as follows:

Protecting a Stable Private Forestland Base

- Objectives 1, 4

Developing Stable Public Funding

- Objective 2

Establishing Predictable Forest Regulations

- Objectives 3, 7, 8, 10, 11, 12

Protecting and Improving Markets

- Objectives 5, 6, 9

Cal Mukumoto asked if markets would include maintaining current infrastructure. Mr. Barnes answered that maintaining markets for manufacturing wood products is included as well as expanding markets to non-typical forest products.

Peter Hayes commented that an active consulting forester like Rick Barnes has made the committee much stronger.

Bill Hutchison asked Peter Daugherty about Mr. Springer's recommendation to categorize the policy objectives, and what the Department's ability to prioritize these objectives was. Mr. Daugherty said that policy direction recommendations made by the committee are taken seriously. The recommendation before the Board was to consider the policy additions and changes presented by the committee.

Chair Blackwell asked the Board if there were objections to the Board's consideration of the CFF's priorities in the evaluation and ranking of the Private Forests Work Plan policy objectives. There being no objections:

The Board will consider the Committee for Family Forestlands' priorities in the evaluation and ranking of the Private Forests Work Plan policy objectives.

3. BOARD STRATEGIC PLANNING, IMPLEMENTATION AND MONITORING WORK PLAN 1 - IBI 2, 2009 Board Governance Performance Self-Evaluation

Clark Seely, Chief of the Administrative Services Division, reviewed the Department's recommendation for conducting the collective self-evaluation of the 2009 Board Governance Performance report. The self-evaluation is one of the performance measures submitted to the legislature and the Governor's office. In summary, for all sixteen criteria, the Board either "agreed" or "strongly agreed" that the Board had met each criterion. Additionally, the Board answered four narrative questions which are captured on pages 5 and 6 of Attachment 1 of the Staff Report.

CONSENSUS: Chair Blackwell asked the Board if there was any objection to Board approval of the report. There being no objection the report was approved.

Staff is directed to complete a draft final report for the Board's consideration and approval at its September 9, 2009 meeting.

4. BOARD STRATEGIC PLANNING, IMPLEMENTATION AND MONITORING WORK PLAN 1 - IBI 4, 2009-2011 Legislative Wrap-up

Before Dan Postrel's presentation, Marvin Brown, State Forester, informed the Board that Dan Postrel, Dan Shults and the Coos Bay district had responded extremely well to a recent protest situation in the Elliott State Forest.

Dan Postrel, Agency Affairs Director, summarized the results of the 2009 Legislative Session, addressing the Board's legislative concepts, and other major forestry-related legislation. The session adjourned on June 29, 2009. The session was dominated by budget issues due to the current economic climate. Natural resources legislation that passed included several significant bills that will affect the Department. Mr. Postrel summarized important legislation (see Attachment 10), some resulting from legislative concepts submitted by the Board and the Department.

Of particular significance for the Board and Department was HB 2216, which authorizes spending of \$15 million in lottery bonds for the acquisition of the Gilchrist forest. HB 2216 also updated authorities that position the Board for future acquisition opportunities, and allow the Board to hold and manage land in cooperation with other entities such as community forest authorities. Larry Giustina asked for more discussion on community forest authorities. Chair Blackwell said that community forest authorities will be addressed when the Board visits the Gilchrist forest in October, 2009. Cal Mukumoto asked how long the Governor has to make decisions on bills, specifically the potential to veto biomass bills. Mr. Postrel said he thought August 5, 2009 was the date the Governor could make final decisions. Bill Hutchison commented on the value of Doug Decker's leadership on HB 2216, and the value of this particular Chair being persuasive about the long-term vision and commitment of the Board. Mr. Giustina asked for clarity on whether the Board can manage the Gilchrist as they determine. Dan Postrel answered that the Board can manage as they determine, subject to greatest permanent value requirements.

Various bills were introduced on the subject of state forest management. In particular, HB 3072 would have redefined greatest permanent value. HB 3249 would have authorized the Board to set aside conservation areas. Neither bill passed.

SB 691 focuses on Measure 49 claims resulting from future Forest Practices Act rules and other future forestry related laws and rules. Bill Hutchison asked if the Department supported SB 691 legislation. Mr. Postrel answered that with forestry-related legislation beyond bills brought forward by the Department, the position is generally one of informed neutrality, providing information to legislators. State Forester Brown added that the Department thought the recommendations within the bill were reasonable. The Governor's office originally had some concerns about this bill. Jim Paul, Private Forests Division Chief, met with the Oregon Forest Industries Council several times and addressed these concerns. Mr. Hutchison asked if the bill will have implications on policy-making. Jim Paul said the intent of the changes was to better ensure that ballot measure 49 could be applied on forestlands in a similar way that it is being applied to other lands. He said he didn't think that it would change the Board's liability.

Bill Hutchison asked if the "encouragement of state agencies to use adaptive management and ecosystem services markets" in SB 513 could be interpreted to impact state forests planning and if more should be done in ecosystem service markets. Nancy Hirsch, State Forests Division Chief, answered that the Department will determine how to coordinate with other agencies on a statewide level. She said State Forests is interested in moving forward on this topic. Peter Hayes asked if the Department was supportive of this bill. Dan Postrel answered that the Department's testimony was supportive of the concept of this bill with one nuance, i.e., the understanding that money appropriated that is not within the Governor's budget is separate from that concept.

Mr. Giustina asked if development rights established in HB2228 were specific to the Metolius and the Skyline Forest rather than state-wide. Dan Postrel answered that in terms of where the development rights would be generated from it is specific to those two areas, but where those rights could be transferred is considerably broader.

Bill Hutchison asked if there may be repercussions for slash-burning resulting from SB 528 (i.e., field burning ban in Willamette Valley). Mr. Postrel answered that he foresees slash-burning on the horizon as an issue during a future session.

Larry Giustina said that he was impressed with information Douglas County had presented on July 30, 2009 regarding their accomplishments with environmental education for children. He said that as the Department works on the task force for HB 2544, the "No Oregon Child Left Inside Act", it should consider looking to Douglas County for leadership.

Chair Blackwell asked if the rationale of HB 2020 allocating money for All Terrain Vehicles was because they spread invasive species. Dan Postrel speculated that there was sensitivity and acknowledgement that the money will be spent in ways that are consistent with its source..

Larry Giustina said the Department had invested a lot of effort into the Federal Forestland Advisory Committee (FFAC). He asked how the Board could express support for HJR 35. Marvin Brown answered that Oregon Solutions, with involvement of Mike Carrier, is leading a follow-up group of the FFAC which wants to raise money

to hire a non-agency person who will try to get funding from the Federal government so the project can move forward. Cal Mukumoto is the Board representative on the committee; Chair Blackwell has been involved as well. Mr. Brown personally delivered copies of the FFAC final report to key staff, congressmen and senators during his recent Congressional visit. He said there is a lot of interest in implementing the recommendations in the report, but it is necessary to build capacity in order to move forward.

Chair Blackwell said he and Marvin Brown had discussed that during the interim period between legislative sessions, Board members' conversations with legislators could help advance state forestry issues. Mr. Brown has a list of potential legislative contacts. There may be a legislative session in February 2010, if the tax measures fail at the ballot box. Bills will be introduced in February, so policy issues could come up. Additionally, the Board has to report back to the legislature on Protection Division funding for the second year of the biennium.

Information only.

5. STRATEGIC PLANNING, IMPLEMENTATION, & MONITORING WORK PLAN WORK PLAN 1- IBI 5, 2009-2011 Legislatively Adopted Biennial Budget Summary

Clark Seely, Chief of the Administrative Services Division, reviewed the Legislatively Adopted Biennial Budget summary (Attachment 12). He discussed the results of budget work for the next biennium. Division Chiefs Paul Bell, Nancy Hirsch, and Jim Paul were available for questions from the Board.

The budget impacts resulting from the legislative session were "bitter-sweet". A significant recession like the current situation hadn't been experienced since the early 1980's. The uncertainty of general funds, particularly in loss of employees and services for the Department, has been difficult. The acquisition of the Gilchrist forest was a high mark in the session. Additionally, the Department was able to move through the session holding true to the Board and landowners with regard to Fire Protection. There was a great deal of public support for the Department within the forestry community. An overwhelming number of people testified at the Ways and Means Committee's two day public testimony period.

There were significant reductions in program size and service ability for the Private Forests Division. The State Forests Division biennial budget authority had to be adjusted downward to match expected revenues. Overall, there was a 10% reduction in General Funds. The bottom line of the budget shows an increase due to:

- A \$25 million increase in State Forests for an expenditure limitation was made. This increase is purely an accounting correction for costing timber sale projects.
- \$15 million lottery bonding authority for the Gilchrist acquisition.
- \$20 million of additional federal funds received for federal grant work, which is very project specific.

If the three above items are removed from the budget, the core operations budget reflects an 8% reduction in overall General Funds. The 8% reduction translates into approximately 22 million dollars.

Paul Bell, Associate State Forester and Chief of the Protection Division, discussed that during the session, the legislature considered transferring funding from General Fund to Landowner assessments. The funding was not transferred but remains split at percent landowners and 50 percent general fund.

The legislature funded the private landowner's portion of agency administration costs. Public landowners were not included; it is estimated that there will be a 23 cent per acre increase to public landowners. HB 2215, which would have extended the sunset date on the \$15 million yearly landowner obligation for emergency fire costs and the share of the insurance premium, did not pass. The Department received a budget note to report back to the legislature at the February interim session regarding emergency fire cost expenditures.

The Protection Division was \$300,000 short in their budget. The Special Purpose Appropriation was used to cover the \$300,000 deficit. The Protection budget never had a reduction built into it, but rather a fund shift; the Division is therefore at its anticipated budget level. However, any reductions across the Department impact the Protection program because of loss in staffing to maintain critical functions of agency firefighting.

Mr. Bell said that work on the Wildfire Reduction Act was especially rewarding during this session. The work is a good roadmap that created a lot of awareness. The Division intends to overhaul work done to build balance in regards to additional initial attack resources, particularly in fire districts such as Eastern Oregon. Mr. Bell said he thinks people are getting the message that money is saved when the effectiveness of controlling fires early is increased.

Jim Paul, Private Forests Division Chief, addressed the impacts of the budget shortfall on the Private Forests Program. To reduce job loss within the Division, there is effort to coordinate reduction in General Funds and harvest tax with increased revenue from federal stimulus money.

The 09-011 reduction to the Private Forests Division adopted budget is about \$8.5 million compared to the 07-09 adopted budget. This is a loss of about 40% of the Division's capacity from historical levels (Attachment 11). Twenty-seven of the fifty-seven Stewardship Foresters will be eliminated. The Monitoring Program will be eliminated, and the Insect and Disease Programs will be greatly reduced. The Division will determine priorities and reduce services for lower priority issues. Mr. Paul said that though the Division will lose capacity, it will focus on accomplishing priorities well. An ad hoc approach may be used for monitoring; funding could be sought as issues of importance arise. Some impacts of reductions to expect are:

- Increased wait times for public requesting assistance from Stewardship Foresters.
- Reduced availability of Stewardship Foresters.
- Increased insect and disease problems on forest health.
- Landowners will need to go to other resources for assistance.

Federal stimulus funding offers potential for additional work in the short term. Some Stewardship Foresters may be retained as employees, though they will do different work and it will not increase capacity within the Division.

Jennifer Phillippi asked if the Division considered Stewardship Forester's knowledge of geography and issues specific to geographic areas in Oregon. Jim Paul said that there wasn't this discretion because seniority drives most position layoffs; the least senior employee generally is given a layoff notice to minimize layoff "bumping". Because the layoffs are directed by seniority, it has resulted in disproportionate layoffs in certain districts.

Nancy Hirsch, Chief of the State Forests Division, said the biennial budget includes a limitation for managing Board of Forestry lands and Common School lands. The budget results are about a 22% reduction in limitation on Board of Forestry lands and a 10% reduction on limitations for Commons School Lands. The reductions were driven by projected reductions in revenue. The Department communicated with the Legislative Fiscal Office to try to retain the overall limitation with recognition that the budget level is changed on a fiscal basis to adjust for revenues. The Department was able to take reductions that aligned fairly well with revenue. The Legislative Fiscal Office left a little bit of room within the limitation and shifted \$10 million to federal fund limitation within the Division.

The Division was successful selling each timber sale the last month. Ms. Hirsch stressed that the Forest Management Plan identified tiers of implementation priorities recognizing that there would be times when the economy would not allow the highest level of implementation. Due to the economy, the Division has reduced to a base level of implementation, but is still operating within the plan and Greatest Permanent Value. The Division is seeking Federal funds not only for fuels reduction and restoration work, but continues to seek interagency personnel agreements.

Chair Blackwell closed the topic for Agenda Item 5.

Information only.

6. ADMINISTRATIVE WORK PLAN 0 - IBI 1, Adoption of OAR 629-041-0100 Amendment

State Forester Marvin Brown clarified that the Department had completed the public comment period and held a hearing. From a process standpoint, additional comments cannot be received unless the Board wants to start the process over again. Mr. Brown acknowledged Mr. Dillon Sanders in the audience. Mr. Sanders was allowed time after the Board reached their decision to express his concerns, with the understanding that the public comment period is over.

Bill Nessly, Attorney for the Oregon Department of Justice, and Bob Young, Workforce Capacity and Fire Policy Manager, Protection Division reviewed the proposed amendment to OAR 629-041-0100.

Mr. Young distributed the document "History of the Interagency Firefighting Crew Agreement" (Attachment 13). Mr. Young stated that the permanent rule is similar to the temporary rule the Board approved on March 23, 2009. The proposed amendment

establishes procedural rules for the competitive solicitation of agreements for the prevention and suppression of fire. It allows the Department to use its statutory authority to solicit these contracts and agreements. On May 26, 2009, the Department held a hearing, which resulted in some recommendations from the Hearings Officer. Attachment 2 of the Staff report contains the recommended changes, which were not substantive changes from the original proposal filed with the Secretary of State.

Mr. Nessly described some additional information related to a recent court ruling. A decision from the Circuit Court of Marion County states that the Department of Forestry has independent contracting authority. The Department will use the Attorney General's Public Contracting Rules as a basis for determining the appropriateness of proposals submitted to the Department and to determine the best value analysis that has been implemented for three years. The Department of Forestry is exempt from the Oregon Public Contract code. The Department's decision to award or reject contracts, in other than a contested case, are under the Administrative Procedures Act.

Bill Hutchison asked if there were exigent circumstances that justified the policy. Mr. Nessly said that there were exigent circumstances when the Temporary rule was adopted in March. This current change is an adjustment to discovery in the new law. Mr. Nessly said he was one of the people who drafted the revision of the public contracting code in 2003. The revision tried to maintain the legislature's policy decision, which included policy that the Department of Forestry's contracting procedures were exempt from the public contracts code. The recent Circuit Court decision that the Department can handle contracts without the oversight of the Department of Administrative Services implements this ruling.

Mr. Hutchison asked if the need to amend the rule is due to emergency responsiveness. Mr. Nessly said that the Department's need to enlist resources and deploy them efficiently is uniquely different from the contracting needs of most other agencies. Mr. Hutchison asked if the rule is legally sound. Mr. Nessly answered that it is legally sound; the Marion County Circuit Court decision supports the rule.

Chair Blackwell asked if the Board members supported the recommendation.

Consensus: There was consensus to support the recommendation.

The Board approved the recommendation to amend by permanent rule OAR 629-041-0100 retroactive February 1, 2009 to take effect September 21, 2009.

Dillon Sanders, owner of Inbound LLC, said he had testified at the hearing. Mr. Sanders is a firefighting contractor. He criticized the Department's communication regarding the rule. He said that the Department doesn't respond to his e-mails and that the agency website does not have a link to the rule. He said the rule doesn't really change anything; the public contracting code still applies. He said his reading of the Marion County Circuit Court ruling was that it was not an endorsement of the legality of this rule. Mr. Sanders said he has dropped his case but is concerned about the lack of communication and collaboration between contractors and the Department of Forestry. He asked the Board to read the rules in their entirety. He thought that the Department is in violation because: 1) The Department of Justice model rules spell out there should be

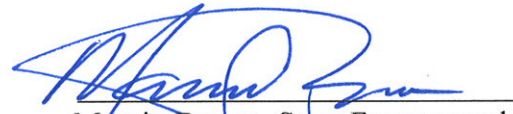
preference for disabled veterans (Mr. Sanders said he is a disabled veteran) and, 2) the language in the RFP solicitation is the same language which was protested in an earlier RFP; the protested language was upheld.

There being no further business before the Board, Chair Blackwell adjourned the public meeting at 1:47 p.m.

** EXECUTIVE SESSION – ADMINISTRATIVE WORK PLAN 0, IBI 9

Pursuant to ORS 192.660(2)(e), the Board met in closed Executive Session for the purpose of negotiating real property transactions. The session began at 1:55 p.m., and adjourned at 2:37 p.m.

Respectfully submitted,


Marvin Brown, State Forester and
Secretary to the Board

MS