

Agenda Item No:	8
Title of Presentation:	Final Order - John Ford
Date of Presentation:	June 4, 2008
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SUMMARY

The purpose of this agenda item is to consider the hearing record for the contested civil penalty involving a forest practices violation by John and Marian Ford, and to make a decision on the proposed final order regarding the matter.

CONTEXT

The *Forestry Program for Oregon's Strategy C* recognizes the importance of maintaining and enhancing the productive capacity of Oregon's forests to improve the economic well-being of Oregon's communities. Civil penalty assessments for violations of forest regulations are part of an effective enforcement program that meets these objectives by changing behaviors to comply with best management practices.

BACKGROUND

John and Marian Ford or their agents harvested trees on a portion of their property in 2004, reducing stocking on approximately 8 to 12 acres. In 2006, the Department issued a citation to the Fords for failure to complete planting of harvest units within 24 months after completion of an operation that reduced stocking to a level that required reforestation, a violation of OAR 629-610-0040(3). The Ford's appealed the order to repair damage and the hearing resulted in a final order that held the Fords in violation and ordered them to comply with the Department's order to repair damage.

The property in violation changed ownership in late January 2007, prior to the deadline to plant trees. On September 26, 2007, the civil penalty administrator issued a notice of civil penalty in the amount of \$500 to Mr. and Mrs. Ford. The Fords contested the penalty and a hearing was held December 11, 2007. The administrative law judge issued an amended proposed order on December 31, 2007, upholding the civil penalty assessment. Neither side filed timely comments or exceptions to the order.

The Board may schedule oral or written argument if it is determined to be necessary or appropriate to assist in making a decision. According to OAR 629-001-0045(3)(a), the Board may only take argument from the State Forester and any party that filed exceptions to the proposed order, with such argument being limited to matters raised in those written exceptions. There is no appropriate argument or testimony in this case because no one filed written exceptions.

Exhibits from the hearing will be provided to the Board under separate cover.

ALTERNATIVES CONSIDERED

Upon review of the amended proposed order and record presented in this case, the Board can:

1. Remand the matter to the hearing officer for further hearing on such issues as the Board specifies and to prepare a revised proposed order as appropriate under OAR 137-003-0655(2); or
2. Reject the hearing officer's proposed order and adopt a different final order that contains the necessary findings of fact and conclusions of law based on the record; or
3. Adopt the amended proposed order assessing a penalty of \$500 for the violation as the Board's final order.

The Department supports alternative 3.

RECOMMENDATION

Adopt the amended proposed order in Attachment 1 as the Board's final order (alternative 3).

ATTACHMENT

- (1) Amended Proposed Order