

Combined Northwest/Southwest Oregon Regional Forest Practices Committee Meeting Minutes – July 13, 2016

Pursuant to public notice made by news release with statewide distribution, a combined committee meeting of the Northwest and Southwest Oregon Regional Forest Practice Committees [an advisory body to the Oregon Board of Forestry with authority established in Oregon Revised Statute 527.650] was held on July 13, 2016 hosted at the ODF South Cascade District Office in Springfield, Oregon.

<i>NWRFPC members present:</i>	<i>SWRFPC members present</i>	<i>Not present:</i>
Mike Barnes, Chair Tally Patton Randy Silbernagel Jon Stewart Candace Bonner Scott Gray Jeff Johnson	Dana Kjos, Chair Dan Fugate Sanford Hillman Jay Christensen Dave Erikson	Wendell Locke, NW Jim Hunt, NW Eric Farm, SW Mike Maguire, SW Dale Cuyler, SW
<i>ODF Staff:</i>	<i>Guests:</i>	
Peter Daugherty Lena Tucker Marganne Allen Josh Barnard Angie Lane Jennifer Weikel Susan Dominique Keith Waldron Jay Morey Dan Menk Brian Dally Steve Kendall Paul Clements Link Smith Matt Thomas Michael Curran	Gary Springer Rex Storm, AOL Seth Barnes, OFIC Garrett Kliner	

1. Welcome and Review of the Agenda

Mike Barnes, Chair of the NWRFPC opened the meeting and will jointly facilitate the meeting with Dana Kjos, Chair of SWRFPC. Barnes asked guests present, that the first priority of comments in discussion fall to the members but we will accept other stakeholder comments when appropriate.

Barnes asked for any changes to the agenda, no changes were requested.

Roll Call for quorum. Quorum reached for Northwest members, and Southwest members.

2. Chair's Announcements

3. Housekeeping

a. Approval of Minutes –

Barnes called for any corrections/comments to the NWRFPFC Minutes for the December 2015 Conference Call meeting. No corrections were requested. Bonner moved to approve, Stewart seconded. All were in favor to approve the NWRFPFC minutes from December.

Kjos called for changes to the SWRPFC meeting in December. No changes to note. Hillman moved that the SWRPC minutes for December 2016 be approved. All were in favor, so approved.

b. Public Comment

None offered.

4. Introductions – Private Forest Staff Reorganization – Lena Tucker

Tucker directed members to the Private Forest Division Organization Chart provided as a handout. Since the last meeting there had been quite a few changes in the Department with reorganization and position vacancies. In January, Jim Cathcart who managed the Forest Health Unit and Forest Incentives Program, moved on to a different job which created a vacancy in the management team within the Division. Remaining Private Forests Managers looked at the internal imbalance in workloads and decided that vacancies provided an opportunity for a different program structure. Duties were separated into a Field Support Unit with the technical specialists led by Josh Barnard and a Forest Health and Monitoring Unit led by Marganne Allen. Thomas Whittington replaced Mike Kroon as the Incentives Field Support Coordinator and a new Family Forestland Coordinator, Ryan Gordon is working with Peter on our Family Forestland Strategic Initiative, and Partnership and Grant work. And a GIS Coordinator as well. Allen Kanaskie, our Forest Pathologist has retired but is working part time to finish up some of his original projects and Sarah Navarro was hired in the pathologist position.

Lately we added another field coordinator, Greg Wagenblast, who was formerly the South Cascade District Forester. Greg agreed to be reassigned and Private Forests had position availability as well as workload need. Wagenblast is now working on policy items and with Chad Davis on the Federal Forests Restoration Program. Within our Monitoring Program, Jeremy Groom returned to OSU. And Terry Frueh moved to replace him and left the Monitoring Specialist position open and the new hire for that will soon be announced.

One of the things you will see is movement of responsibilities as the Riparian Rule process started with the Monitoring Team and as rules are written the project moves into implementation Barnard's shop will take over.

5. ODF and BOF Update – Agency Policy Option Packages – Peter Daugherty

Doug Decker, State Forester announced his retirement and the Board members had a conference call meeting where they approved desired attributes of the State Forester to facilitate the recruitment. The announcement went out July 6th and closes on August 3rd. They are planning interviews the week of August 22nd and hope to announce a decision at the September meeting. The attributes change was based on the previous desired attributes just updated and modernized to serve better for selection criteria. There was some discussion of what duties were clearly specified in Statute for the State Foresters and those were clarified as well. So please send out the announcement to anyone you think would be interested. Doug is hopeful there will be an overlap and transition period to be onboard for the upcoming legislative session.

We are also down one Board of Forestry member. The Governor did not announce a candidate for that so far. Either it will happen in the September Legislative Session, or if not it will wait until the full legislative session.

There have been other changes going on as well. Kevin Birch our Resources Planning Director and Norm Miller, Director of our Partnership Development Program both retired. At the same time we are in the 2nd biennium of the Federal Restoration Program, a Board-initiated effort on Federal Forest Management which was funded for 2 biennium's on Lottery Funds to increase pace and scale of restoration of Federal Forestlands to improve forest health. The program's first performance was reviewed in the first biennium by U of O Ecosystem Workforce and it had a significant impact in Eastern Oregon where it was rolled out. They are now looking at expanding into western Oregon looking at the Good Neighbor Authority and direct work on Federal Lands with ODF Staff. With that expanding partnership there was discussion about a reorganization at the Program levels, and the result was to create a new program, merging the Resources Planning Program and Partnership Development Program and adding in the Federal Forest Restoration Program. Chad Davis was selected to be the new Director of a **Partnership and Planning Program**. His duties include agency strategic planning, being the Agency Legislative Contact, new integrated program direction, coordinate assessment and analysis of emerging issues; coordinate and facilitate strategic planning process; supervising the implementation of the new Federal Forest Restoration Program and develop and coordinate external partnerships. We expect the partnership with the Forest Service to expand with time.

At the upcoming July meeting we will take our **Agency Request Budget** to the Board for approval. A handout included a table of requests for additional resources beyond our base budget to accomplish specific things, these are called the Policy Option Packages (POPs). Those packages are ranked for priority as decided by the Executive Team with feedback from some stakeholders.

- The first, in the ranking is the **Fire Season Severity Program** proposing General Fund dollars for supplemental firefighting resources during high fire danger periods. Daugherty explained the basis for the ranking.
- Second, the **Additional Severity Resources**, a recommendation to add 1.5 million to the Severity Package, from recommendations from the Fire Program Review and additionally from the Fire Protection Program.
- Third is an ask for increasing capacity in **aviation operations** to support the Special Purpose Appropriation severity resources.
- The fourth POP is for **Recreation, Education and Interpretation**. And proposes funding for public benefits provided by State Forests. Currently the State Forests do not receive any public funding for the public benefits provided and is a further strain on the State Forest's limited budget capability. This ask is to provide investment in administration of these programs, including personnel, trail system, campground maintenance and infrastructure. The Forest Development Fund which is currently where the payments for recreation and the Tillamook Forest Center come from isn't covered by fees. This request is not increasing any activity and not adding capacity but merely covering the cost of doing business as we currently are.

- The **Federal Forest Restoration Program** is asking for investment to add this program to the ODF base budget as a new Operating Program. The feds are willing to put in money to support our efforts in that. The Other Fund authorization portion is to have the Feds pay us as Other Funds, adding the capacity to use the Good Neighbor Authority. Existing positions are currently Limited Duration positions, includes 4 coordinators, a support position in Salem, marking crews and administrative staffing of timber sales.
- Next in the rankings is the **Human Resources Program request** to address the lack of capacity in seasonal crew hirings, FMLA, policy development, recruitment and Police & Fire benefits.

Daugherty announced to the members that the Dept. of Forestry will no longer be managing the Elliott State Forest as of July 1, 2017. So with the cancelation of our contract with the Dept. of State Lands to manage those lands, the Private Forests Division will be the only program in Coos. We don't have a fire role as that is covered by the CFPA and so that office will be a sub-unit of the Western Lane District with Linc Smith as District Forester and the Coos as a full District will cease to exist. Peter noted sadly that it was our *first* State Forest. Tucker added there *are* isolated remaining parcels of Board of Forestry lands there. Out of Western Lane, Ole Buch, State Forest Manager will assist the Unit Forester there with management of any remaining parcels.

- The next two are Private Forest's POPs. We are asking for funds for our **Sustainable Family and Community Forestry**. We are asking for GF for both our **Urban and Community Forestry and Forestry Assistance**. We are asking for 12 field foresters which will be funded differently, not primarily forest practices funded (25%); and majority of the fund would be GF. The two programs (Urban & Community Forestry and Forestry Assistance) that reach the most people, get no State Funds to support those programs.
- Then we have an ask for **Water Quality, Forest Roads and Landslide Areas** proposing positions for additional capacity to get back to 2007 level and our ability to address landslides and forest roads and the corresponding effects on drinking water quality and any number of things. Related to that Daugherty reported the *EPA did rule that they do not need to regulate forest roads* under Phase II after the Supreme Court Decision in the Forest Roads case. We sent staff, Kyle Abraham, to Washington, D.C. to meet with the Washington EPA folks to explain how our BMP's work and how our road system works with voluntary measures but a lot of their justification was that all states have BMP programs. Adding a federal layer to an existing state layer would not improve the situation and that the EPA could not ensure any better than the states that the programs were effective.
- Ranked 10 was the **Rangeland Protection Associations** to ask for a continuation providing resources to the Rangeland Protection Association. We didn't request this but it came to us, related to the Sage Grouse Agreement to provide fire protection to Grouse and rangeland habitat.
- Another ask is for **capital improvements** including a restoration of the State Forester's Office Building.

We are in a particularly strange budget situation, because of PERS and some other commitments. To maintain our current service levels with our current structure we are at a \$1.4

billion dollar deficit with Natural Resource Agencies revenue projections. That's about a 7% reduction across all agencies. We have prepared reductions for that possibility. Before we only had GF in two programs, Private Forests and Fire Protection. So Private Forests would take the first 5% reduction, 2.5% in Agency Administration and the last 2.5% from Fire. It isn't good news for any of the programs. We are taking it seriously, but we don't have a signal yet about the Natural Resource Budgets. NR Budgets were up 2% in the last session across all NR agencies.

There is also a ballot measure on corporate taxes which if passed there's no telling what that situation will be in the coming legislative session. We thought strategically about the efforts the agency wants to take and that move us forward in a positive way. Fire is our number one priority. State Forests, it's time the public pays for the benefits the public is getting and Federal Forest Health Program is really benefiting the State of Oregon. Private Forests is ranked after those important programs.

Member questioned; Will State Forests will continue to provide public services if they don't receive funding?

State Forests just took a \$1.2 million dollar reduction, self-imposed because of current financial situation. They asked all Districts to figure out what to do less of and how they could take \$1 million off their fiscal budget. The loss of the Elliott going to cost another \$1 to \$2 million in lost revenue to State Forests. State Forests is in a very challenging time and is looking out how to get their fiscal house in order. We have not made a decision yet to stop the Recreation program or close the Tillamook Forest Center. But the direction of the FHD fund is still downhill. That situation needs to be corrected. The financial model we are operating under does not work.

Suggestion was made that very visible reductions might actually help promote future funding.

The real problem is there is not an effective way to keep people from recreating on State Forest lands. Either you are going to pay up front to maintain the programs or pay to clean up the resulting mess. The Tillamook Forest Trust is looking at a fund-raising campaign, and other sources of revenue but since the Governor has talked about re-connecting Oregonians to the environment, and what better way to reconnect than recreating in State Forests?

One last topic, is the Board has been petitioned to start rulemaking for the **Marbled Murrelet**. The petitioners are Cascadia Wildlands, Audubon, Sierra Club Oregon Chapter, and Center for Biological Diversity, Oregon Wild, and the Coast Range Forest Watch. They are requesting that the BOF collect and analyze the best available information on the Marbled Murrelets, conduct a resource site inventory and adopt rules to protect resource sites and develop a process to identify new sites in the future. They have provided specific language for the rule, it would be a new rule, 629-665-0250 under our Specified Resource. It would say; *"following a state inventory of private forestlands 60 years and older, any private landowner wishing to conduct timber harvest operations or activities involving tree felling and removal off these inventoried lands will be required to have authorization from the Department of Forestry prior to proceeding with harvest. Prior to providing such authorization, we shall conduct a survey according to the PSG protocol and if they get an audio-visual cue indicating that the survey area is occupied will submit all details to the USFW and ODFW and shall withhold authorization of logging from those sites. If prior surveys and existing inventories have indicated Marbled Murrelets in stands adjacent to the inventory area we shall also withhold logging."*

So, technically statute forbids us from authorizing logging or not. We are not a permitting system, we are a notification system. They want to collaborate but didn't talk to us prior to this wording. We could provide protections and normally provide protections to nest sites, which are

really hard to find, so they are really asking us to provide protection for stands. And they say, 60% of Oregon's Coastal forests are privately owned, and 10% of those are over the age of 60 and potentially contain Marbled Murrelet nesting sites.

Marbled Murrelets will be on the Board agenda in July and they have 90 days to consider and make the decision whether to deny the petition or initiate rulemaking. If the BOF chooses to initiate rulemaking and accepts the petition it would not be bound by the petition's choice of rule language. If the Board denies the petition it must respond in writing. That's essentially the Board's decision space. So we got the petition on June 21 and 90 days will be up September 18th so we are opening the discussions in July and making recommendation at the September 7th meeting where the Board will either deny or accept the petition for rulemaking. There is always the opportunity to send letters, comments or provide testimony to the Board. Weikel added that survey areas would include any 60+ year old tree habitat within your sale or harvest area and up to ¼ mile.

There are potential negative consequences. If you want to maintain commercial harvests in the Coast Range you should probably pick a rotation age under 60 years old. If you are doing uneven aged management and your largest tree in your distribution is over 60 years old would your whole forest be considered a stand over the age of 60? We have people voluntarily providing Murrelet habitat according to the petition and providing solutions through rule would be to prohibit them from managing that forest.

A member inquired, what is the inland extent of nesting sites?

Weikel answered extent is 50 miles inland from the ocean, except in the Southwest where it is too dry for Murrelets.

Daugherty added that Oregon State Forests contain over 43,000 acres of known Murrelet habitat as well as extensive additional unsurveyed habitat that is critical for the Murrelet persistence. They do a lot of talking about State Forests. But the rule language says private forestlands. We have never passed a rule identifying specific landowners, but essentially the FPA applies to all non-federal lands in Oregon. So it *would* apply to State Forests if changes were made to the FPA, unless we made a rule that only applied to private.

6. Operator of the Year nominations/field tour dates – Angie Lane

The OOO nomination packets were provided in member materials. Lane reported only to have received one nomination from the whole state so far. That nomination is for the Northwest Area. Members were encouraged to help discover those future operators of the year. Anyone can make a nomination, and you would need to work with your local Stewardship Forester to have it shepherded through the process. Nominations are due mid-September. We were hoping to start earlier prior to fire season and polish the nomination during the summer. Angie led members through picking their fall tour dates. So far the only nomination is for the Northwest.

If we keep the same tour pattern:

NW – Week of October 10 – scheduled for 10/11 and 10/12
SW – Week of October 17 – scheduled for 10/19 and 10/20
EO – Week of October 24

Normal scheduling has been for mid-week dates, so the NW would be Tuesday, October 11 and Wednesday, the 12th if there are enough nominees for two days. The NW members agreed on those dates. Barnes strongly urged committee members to be involved in this process and make nominations. Lane reminded members that it is good to have as many members as possible for the tours. Peter wanted to let members know that getting nominees recognized in front of the Board is part of our process and BOF appreciates this process. Barnes added that it has been a recognition that the operator community values.

Member comments:

- Member expressed that it is difficult for members to know what operations are going on to be able to make a nomination. Daugherty suggested that members reach out to stewardship foresters for ideas on local operations.
- The hard part is not finding a good one, but those better than the rest.
- I think it is important, and it would be sad not to have good operators recognized.
- What is the time requirement for a forester to submit? (3 to 4 hours)
- People get hung up on the 'operator of the year', some of the time it is the landowner, so perhaps, Operations of the Year.
- An idea might be to contact people in the industry that may have an idea of their own difficult or challenging operations.
- This program has value that goes beyond recognition. It is a wonderful mechanism to communicate how forest management and harvesting operations occur with the FPA regulations to the Board members. The Department uses this in their web-based communications. It helps us collectively to tell our story to the public and policymakers.
- What about information from environmental groups on good operations?
- As a stewardship forester, I would welcome information from landowners, doing inspections we don't always know the full story.

BREAK_-----

7. Review of Riparian Rule Draft Language – Dana Kjos and Mike Barnes

Barnes, Chair of the NWRFPAC and also as a member of the Riparian Rulemaking Advisory Committee (RRAC) introduced the topic. Members were given a copy of the November Board decision as well as the rule drafts. Barnes asked the members to review these drafted rules regarding any concerns with how they would be implemented on the ground. Daugherty prefaced the discussion by reminding the members that staff was not asking for policy discussion or to make any changes contrary to the Board's decision.

Daugherty thanked both committee's for the recommendations made to the Board. And assured the members that their past input was influential to the Board's decision. The BOF instructed the department to establish a Riparian Rulemaking Advisory Committee (RRAC) to develop draft

rules and clarify any policy questions. The Board members were unsure on the equity decision details, wildlife trees and also that 'all other rules apply'. He went over the RRAC process and timetable and they wound up with 5 meetings rather than the 3 intended but the extra time gave the RRAC members time to reach consensus. The RRAC members worked under a consensus process. If the Committee reached consensus then the Department would make that recommendation to the Board. If unable to reach consensus then the points in opposition would be presented for the Board's review and decision. Fortunately, the RRAC were able to come to consensus agreement on all policy questions except on the percentage threshold to qualify for equity relief. The members requested additional information. In September, we will bring the recommendations together as a package. Even with general consensus no committee member is actively opposing any of the recommendations. Daugherty wanted to publically thank the Rulemaking Advisory Committee who did a lot of work to get there. Now we can focus on whether the rules represent the Board's decisions.

Barnes shared that the RRAC was made up of stakeholders. Three conservation community members, OSWA, AOL, both the NW and SW RFPC Chairs, representatives from industry and family forestland owners, DEQ and ODFW.

We have draft rule language sent out for comment and a Subcommittee of 3 RRAC members: Dana Kjos, Mike Barnes and Bob Van Dyk and the RRAC Project Team that will come together to integrate comments into the rule language. RFPC comments will also inform that process. Lane explained we will be taking all the comments we receive by subject matter and take it to the subgroup for discussion on inclusion into the rule language.

Lane explained the format and language changes to the Rule Divisions affected by the decision. Changes are marked on the rules copies by strike-throughs when deleted and underlined when added.

- Division 600 (Definitions) – currently we have only added a definition Type SSBT Stream.
- Division 635 (Water Protection Rules: Purpose, Goals, Classification and Riparian Management Areas) for Type F, N and D. What we added was how to determine classification for Type SSBT. As it stands in the proposed rules we suggest that Type SSBT be a subset of Type F and as such that's how it was treated in this division.
- Division 640 (Water Protection Rules: Vegetation Retention along Streams) Staff decided to start fresh with a new Division 642, deleting Division 640. They took all the language from 640, rearranged the wording and included rule language for SSBT. Staff will ensure the rule numbering is referenced correctly. Angie explained the organization of the language in the new Division 642. Everything that has to do with Type F streams will have Type SSBT following. Then Type Ns and Ds.

Daugherty clarified that this is not a rewrite of 640 language but an addition of the language for SSBT. Peter added that we don't note the rearrangement of the Divisions in the new 642.

Lane concluded the rule language walk through.

Barnes began the discussion with the Division 600 Definitions and the definition of SSBT (73) and asked if the definition was clear.

Feedback:

- Daugherty suggested that one change would be to move the *Type* SSBT definition into alphabetical order behind *Type* N Stream definition.
- In Division 635 page 4 under Water Classification number (11) further clarifies the definition in Div. 600. And language should be consistent throughout.
- Member suggested the language defining Fish Use as “...*inhabited any time of the year...*” could be used in the *Type* SSBT definition to provide more consistency and to clarify “...*contains habitat used...*”

Daugherty added that the committee has just started the language review. There is a process in committee to address the review and compile and implement any comments made today.

Barnes pointed the members to Division 635 revisions. Streams that have SSBT are classified as a subset of *Type* F. And this was a major policy discussion.

As background, the best data we have as to where salmon, steelhead and bull trout are present, Jon Bowers, ODFW came and explained that they have distributions by individual species. For analysis we combine those species layers for Salmon, Steelhead and Bull Trout. For this rule analysis, we have a regulatory layer for Fish and Non-Fish that has size in it, but no species. We need a layer that shows where SSBT *Type* exists. One starting point was with the Fish Habitat Distribution layer (FHD). A decision was made by the RRAC to freeze that data layer, combine all the SSBT species into one layer which will become the regulatory layer to use as the starting point. It will not be physically combined with our Fish layer because the data set does not match up with ODFW. So foresters will be looking at two layers, Fish and SSBT. There are going to be some inconsistencies with the extent of fish use. On a specified point in time the ODFW current data set will become a static layer for ODF regulatory use. Where there are conflicts between Fish Use and SSBT we have outlined a process in the rules to resolve that conflict in the Short Term Update process, there will be a Programmatic Update every 2 to 4 years to bring in the new segments that have been classified as SSBT accounting for the short term corrections we made. So what we have is a description of the Starting Layer, the Short Term and Programmatic Update Processes. The layer will be housed with ODF. ODF will make the Short Term Updates and you'll see it's much like the End of Fish Use process. The only new process is ODFW is working on a new definition of barrier for SSBT. In all cases, we have given a caveat, that the landowner can request a survey of end of fish use. Short-term updates are set up to be done at the time of operation by operation we are not going to check everything or have the resources to do that. Programmatic Updates, periodically we are updating the database with changes from ODFW.

The key thing here is we are using the Current Distribution as the Regulatory Layer for the Department. We will not use a layer that is constantly changing.

Barnes: This is where the RFPC thought we should be the starting layer.

Daugherty pointed out a set of procedural instructions on a variety of discrepancies between ODF End of Fish Use and the End of Fish Use for SSBT in a variety of situations and the use of natural barrier criteria to resolve conflicts. The reason that we do this is in most of the cases, end of SSBT occurs below the end of fish use. Only 25 to 35% of the fish network is currently classified as SSBT. If we extend past artificial barriers we don't know where to end it. There was concern that it creates a disincentive to barrier removal. Another complaint, was that most artificial barriers are on public highways, not forestlands. And on forestland any culvert replacement would have to be fish-friendly. These are all riparian buffers, protections are already present on most fish use streams. In consultation with ODFW staff, it isn't going to work to extend up past barriers.

The map layer as described will be the official regulatory layer. The State Forester will have to designate it.

Springer: The language on short term changes doesn't say, the Department *can* when requested re-survey, and it says the Department *will*.

Daugherty: We had put it in there to be able to reassure landowners about an update process. We know that looking at database there is only 1 to 2% of disagreement across all four geographic regions. There are just not that many cases where SSBT goes above end of fish use. We are not talking about correcting end of SSBT relative to end of fish use if it is below, unless someone says there is a barrier here or a natural barrier is missed. Our goal there is when there is a conflict to say we will be responsive to that conflict.

Springer: It's not clear how this will play out to a lot of landowners. So the first thing they will know about is when rules are put in place that there is a map and they will want to survey because they don't believe it's right. The agency should anticipate that.

Daugherty provided some history of the inclusion of habitat included from concurrence of professional opinion in the ODFW data. In the future we will not be accepting concurrence of professional opinion as the committee was uncomfortable with the potential of bias from interest group involvement. There was a lot of discussion in the Advisory Committee about this. In most cases, ODFW is comfortable with it historically as an accurate reflection of the habitat. As their surveys don't try to find the end of salmon use.

The Short-term update will only be on known conflicts on the data layer. We are not going to change the end of SSBT if it occurs below end of fish use. That is not our job. The end of SSBT determination is being done at ODFW in a protocol process and that we will pick up new ODFW information in the Programmatic update. If landowners were do a personal/professional survey according to the protocol and bring it in to ODFW they are free to do so, then it is reviewed. For efficiency purposes once it is adopted, accept for these conflict cases, it is the adopted SSBT layer. When ODFW tells us there have been significant changes to the FHD layer the agency will evaluate the need to update the layer. Otherwise, long term updates will occur every four years. When an ODFW update occurs, the Department will maintain the existing dataset as a static regulatory layer for notifications that are active and not been completed.

Does that give me the option to re-submit a notification on the same operation if the boundary changes in the landowners favor?

Correct. It makes it clear that we will adopt the new regulatory layer and notifications filed after that date will use the new updated SSBT layer. The Dept. will update using all stream segments except where segments were identified through the use of the concurrence of professional opinion. If the data standard is modified in any way the Department and RFPCs will evaluate the protocol and what changes to the update process are required. Note, the SSBT does not apply to Large Streams.

The Board said that the stream extent to which the prescription applies is on SSBT streams extending up the harvest unit along the Type F stream. In cases where the stream branches and the Main Stem is difficult to determine, the rules say you will follow up the main stem of the stream with the Main Stem defined by having following the confluence with the largest annual flow based on the contributing drainage.

The review continued into the new, improved Division 642, and began with a discussion of the Desired Future Conditions (DFC).

Daugherty shared that the Riparian Rulemaking Advisory Committee discussed this but didn't actually reach consensus. It reads; *The protection goals for the SSBT streams is to ensure through the described forest practices that, to the maximum extent practicable, forest operations do not impair the achievement and maintenance of the Protecting Cold Water Criterion.*

Daugherty suggested to the staff and group that **we should reference the standard.**

629.642.0105 Barnes asked for clarification of the rule language in (1)a & (1)b. For number (1) this is language brought over covering all Type F streams, as "all other rules apply" segments of differing classifications shall not be defined or averaged together for calculation of basal area. (2) is the same. Daugherty noted that nobody does this so it wasn't discussed in the committee.

Continuing language is also from Type F brought over to Type SSBT.

Under (5) and (6) the Board clearly identified 3 prescription choices in their recommendation. We wanted to explicitly identify those choices in the rules so there wasn't any confusion. Prescription 1, Passive Management. There were questions on that language, **some grammar correction to '...chooses not to harvest within...'**

Guest offered that it says, "...retain all trees and vegetation..." **to retain all vegetation?** If someone was wanted to treat for invasives you would clear the vegetation. Staff will look at that language.

Under Prescription 2 Variable Retention (active management). This prescription applies when the operator chooses to harvest within the RMA of a small and medium Type SSBT streams and related to the retention of live conifer trees and references the middle zone between 20 and 60 to 80 feet. Lane **noted that language will be reformatted to put the small stream requirement before the medium stream requirement. And be consistent to each section.**

Daugherty read the language. The lengths of 500' rather than 1000' related to a compromise in the RRAC meeting to facilitate the auditing of the well-distributed requirement. Bonner asked about considering language regarding the size of leave trees. But that wasn't specifically discussed except as in DFC and the decision that was made did not include tree characteristics requirements for leave trees other than those noted in the language. It is not within our parameters to add in as we are implementing the BOF policy decision.

Under our current forest conditions there *will* be large trees left to meet the basal area requirement.

Prescription 2, that was adopted by the Board, did include *well-distributed* as a means to achieve DFC. They didn't say how you should thin. This committee's concern was about having operating flexibility may have driven that.

LUNCH

Lunch business; the SWRFPC members in attendance formally accepted Dana Kjos' nomination as Chair of the SW RFPC.

8. Review of Riparian Rule draft language continued.

Daugherty: We just reviewed the requirements for leaving live conifer trees.

Barnes pointed out these sections had prompted pretty significant discussions in RRAC and RFPC. In the Smalls you need 8 live conifer trees per 500' along the stream located between 20 and 60'. If you don't have excess or deficit in the first 20' of basal area it doesn't count for or against that target basal area. You can't manage there. It only applies to where you are allowed to manage. Similarly, for Mediums the hardwood/conifer basal area target is shown. Hardwood and conifer are not treated differently for counting of basal area. (Referencing the attached tables describing tree retention and basal area.)

Going back to the draft rule language, Prescription 3 Valley Azimuth Alternative Prescription. ... "where a Type SSBT stream is between 60 and 120 degrees east and 240 and 300 degrees west on a compass bearing of 0 and 360 degrees as north."

These figures are to determine how you designate what stream length is measured for its azimuth along the stream in 200' increments and landowners would describe in their written plan how they qualify for the valley azimuth prescription. We reviewed this in the RRAC, we can produce a map and can identify segments that are potentially eligible. And if a conflict arises, field based observation can supersede the mapped algorithm.

Barnes asked if this was practicable in the field. Bonner asked what the difference in basal area from Prescription 2 and Prescription 3.

That would vary by situation. On the north side there is no basal area requirement, just a 40' no-cut. Operationally, it would be a lot simpler than thinning throughout the RMA outside the 20' no-cut zone. Trees outside 40' in a north sided buffer do not contribute to shade. The south-side prescription will remain the same. There is no shifting of basal area. Either Prescription 1 or 2 on the south-side or Prescription 3 on the north-sided segments.

The term of 'written plan' currently we have a waiver for written plans outside the RMA. Are we making changes to that exception of not requiring written plans for working outside the RMA *in other rule divisions*? Lane answered that we are going to go through the rules on written plans to check on that to ensure they are not in conflict with the rules.

Someone pointed out that we don't have the part that says "...extend up the main stem..." here. On (1) change the language by adding '*and extending up within the immediate harvest unit above the end of mapped SSBT up the main stem of fish-bearing streams*'. Adding that under (1). There were some committee decisions on what 'immediate harvest unit' was and what it meant for the end of SSBT in the harvest unit. We will have to make sure that we have that information from the RRAC included in definitions or 642. Staff will review and compile the comments. Suggestion that it be added in in time for the RRAC Subgroup to discuss for draft language to consider.

(8) Well-distributed. Conceptually, the RRAC discussed well-distributed in 4 out of the 5 meetings. There was a long discussions focusing on minimizing gaps. RRAC members were concerned about large gaps and they wanted gap metrics for compliance measurements. A simpler metric was eventually agreed upon. The BOF never said *uniformly* distributed, they said *well*-distributed. There will be variations out there in the outer zone, but have at least ¼ of your basal area target needs to be in the outer part and we do expect at least uniform distribution of ½ the conifer tree count. The RRAC think that provides flexibility and a fairly simple metric for the outer zone. We think that will ensure a minimizing of gaps and ensuring some distribution in the RMA. Every 500' is the scale at which that will be measured. Every 500' is stand alone. We added a narrative description (8). This narrative language

came from the RRAC. It's clear that it should be well-distributed in length and width and the RRAC wanted a metric. There will be a lot of training on this. Quantifiable, measurable and we can check compliance and we'll see how well it works. It is a good compromise to start from, we will recommend this concept to the Board. The operator must describe in the written plan where the measurement for the 500' stream segments begins and ends. So the compliance can be evaluated as they were applied. For Small it will be measured in 500' segments within the outer 20' width of the RMA at least 25% of BA target and 50% of the required conifer trees be retained. For Medium, same language but it's the outer 30'. You are dividing the active management area in two. And setting a minimum amount that has to occur in the outer zone. That way we are ensuring that trees are distributed in the length and width. (Table on page 21)

Kjos noted the Table conflicts with page 8 (8)a and b. Where you saying 50% of conifer leave trees are left in the outer half, it should be 25%. **Daugherty would check back on the RRAC recommendations.** The table infers its 25%. The table should change as it is incorrect.

The (9), (10) are carryovers from the Type F requirements. (11) Was one of the earlier decisions made in the RRAC, 'for Small and Medium SSBT streams the operators may count any tree in the RMA that meets the requirements for wildlife trees as a wildlife tree'? But only up to 50% of the wildlife trees can count towards meeting the basal area retention requirements. You are not going to be penalized for leaving extra wildlife trees in the riparian area. Right now, it depends if they are in excess of the basal area. It would be good to have additional discussion. There are differences in the diameter of the wildlife tree versus the basal area. This was a definition out of the first consensus item. Patton asked about the ability to implement this on the ground. Marking the trees. You have to identify the wildlife trees anyway.

Clements added that in theory, it would be captured in the written plan. How you made that decision, you have a tree count, and organized by diameter class as a starting point.

Can hardwood trees be wildlife trees? Only a percent. The idea is you have to leave 2up/2down so many per harvest unit. If all are in the riparian areas, you can't double count them. The first half get to count towards basal area and the rest left in excess. So ½ count towards basal area, the other ½ in excess of basal area. If you are leaving more than ½ your wildlife trees in the riparian area that is all above the target. Kjos commenting back to page 5 (11) suggested the language change to; it makes it clear that you can leave your wildlife trees in your buffer. **Daugherty will bring the language change back to the committee and not accept the recommendation as is.** (12) Is another carryover from Type F, all other rules apply?

Daugherty continued that the next section 629-642-0110 Exemptions for those landowners if an additional encumbrance due to SSBT is XX% or more of the total acres of ownership of the parcel. The percentage is left blank for additional analysis of what is appropriate encumbrance to provide relief. 10% figure the Board proposed turned out to be a high threshold for this rule. The Board asked us to revisit the analysis to ensure relief. We needed a way to judge additional encumbrance. Then we defined what a parcel is as a contiguous single ownership recorded at the county. A railroad, road, stream or utility right-of-way can intersect the parcel as owned by a contiguous single ownership. He noted that these are not tax lots. Allen questioned whether this designation is static, or whether equity continues on through property sales. Daugherty assumed that in buying the property you are buying the exemption, and the requested exemption would carry on. Stakeholders agreed to work with Daugherty when additional data was available. 90% have encumbrances under 1%, as you go up, the remaining 10% have higher percentages. 33% of additional encumbrance as the highest but that is the extreme. What we need to figure out what percentage of stream miles are exempted. There is a balance between granting an exemption for landowners significantly impacted and then having too many

streams miles effected. We are going to have additional information to discuss with RRAC via email. Small landowners are standing out as the most affected.

Seth Barnes wanted to point out that in Washington their rule says if qualifying you get an exemption to continue with the 'old' rules, but Oregon does not release you from the new rule requirements. Staff proposed what you get is the same prescription choices that everyone else gets but your RMA is 10' less. Just doing it on a 50' or 70' RMA width rather than a 60 or 80'. Referencing Table on page 22 it mirrors the original one. (Including the same error on Table X.4.) The targets are adjusted down to be scaled to size. Figures need to be double-checked. The concept is that the relief provided if the landowner qualifies is the reduced RMA with all the same options you would have under the new prescriptions with the basal area and widths for well-distributed are adjusted accordingly. If there is no consensus on the equity relief, we will bring a recommendation to the Board with explanation of the opposing views.

Next in discussion was 629-642-0200 page 11 (5) on basal area credit not counting as an incentive or disincentive. You are not penalized if you leave a tree in the creek, you *can* count it in the basal area. We currently allow a 1:1 on smalls and stuck in the language for Small and Medium SSBTs. It is not inconsistent with the old rules.

Seth Barnes asked to return to the exemption, (4) on page 10, it says the Department will provide maps to interpret if landowners can qualify. Seth asked about the mapping process. We used the landowner database and we aggregated according by the parcel definition. We used the synthetic layer for SSBT using that and the current rules and adding 30' calculated the percent additional encumbrance and divided it by the acreage. We have done that analysis, and it is at least a starting point, but mapping is never perfect, but landowners can confer with the Stewardship Foresters and we will make the determination on qualification. We may keep those maps internally as it has ownership information. It will serve as a reference check.

Is there a formal process for exemption? Just upon request of the landowner. Or it could be in the written plan?

Seth asked if 'exemption' is the correct word, as it isn't actually exempting them from the full rule. Other terms were considered. And members **agreed to use the Board's language as proposed as 'equity exemption'**.

Hillman **suggested combining the tables, so there are only two tables.** Just adding another row for well-distributed.

Kjos praised the department and staff for the great work on compiling the recommendations and rule language. Peter also acknowledged the Riparian Rulemaking Advisory Committee's work making the staff's job easier with their deliberations.

Additional comments are still welcomed by July 18th. Send any comments to Angie Lane. Daugherty described the next steps. Comments and recommendations will be incorporated into the version going to the subcommittee for a July 22nd work session. If everyone agrees we will incorporate them, if there disagreement they will have discussion and try and get to consensus on the rule language. We will be bringing the rule language to the Board and ask for approval on the proposed rule language September 7th from there move forward to the Secretary of State process. From there we will have the public meetings and public comment period.

Tucker added that these committees have been so actively engaged in this discussion, it will be important to keep discussions going as an item in your agendas especially regarding implementation and training. Assuming things go forward we need to fulfill the training needs for the Stewardship Foresters, Operators and Landowners. So for implementation we are looking at an effective date of July 1st, 2017. So training will be in the spring of 2017. It is an important role for this committee to review the training and provide feedback to inform our presentation.

9. Bald Eagle Recommendations for the July BOF Meeting – Jennifer Weikel

Weikel reviewed the Bald Eagle Report and talked through this topic for those that are new members that haven't heard the presentation before. As background, the Eagle was delisted federally and by the State. That triggered a process with the Department to decide on whether protections were still warranted and the RFPC was to be used in an advisory capacity to review rule language and directions. We met with the BOF in April discussing our technical report and what direction the Board wants to go for protections. The Board's decision space is the main question is are protection rules still warranted under the FPA for eagles. There are three rules, winter roosting sites, foraging perches and nesting sites. If the Board decides protection is not warranted there is a process for rescinding the rules; if yes, then we would initiate rulemaking for moving rules as is to the Sensitive Bird rules or modifying the rules. The Technical Report contains our analysis. [Email out the report to new members.] What our analysis showed was that protection was not warranted for the foraging perch rules and the winter roosting site rules. But protection is warranted for nest site rules. The reason is that eagles continue to use large trees for nesting, with branch structure to hold large nests. And the other is the fact that per the inventory (over 1500 nests) 40% are on private lands. So there is justification for continued protection in the FPA. USFW Service has a federal law in place, the Bald and Golden Eagle Protection Law. We will have Federal representatives at the Board meeting to answer questions on how their law works. So what we are recommending to the Board is:

Keeping some form of nest protection rule;

- Maintaining a habitat buffer around nest trees (330' buffer). The buffer itself is considered a key resource to be maintained.
- Seasonal restrictions time period will be the same, Jan. 1 to Jul. 31.
- Rules should be in alignment with the Bald Eagle Management Guidelines of the Feds. 660' for most operations and 1000' for aircraft. No line of sight.
- Adding an abandonment clause of 5 years if you have documentation has not been used for 5 years it can be considered an abandoned resources and rules would no longer apply.
- Adding an exception clause, if you have a 'take' permit under ESA it no longer applies, but you can get 'take' permits under the Eagle Act which is an easier process, if you have that permit it would be an exception to the FPA rules.

The staff report on the BOF website has the recommendations and should be out soon. But we can distribute the Staff Report and the Technical Report should still be on the website.

Generic language in the FPA basically, if you can determine through us that it is not going to cause a problem, we can waive that.

If a haul route or main line historically used as long as the operation itself is not within the 660'?

Weikel clarified that if historically present it should not cause a problem but that is by the wildlife specialist or forester determination.

The notification is done through the FERNS system. So ODF notifies operators of protections, there are no public maps.

Tucker noted the RFPC is the advisory committees, all three. So there is a timeframe after the Board meets in July. We will take the Board the draft language in November. July to September is our outreach and work.

Lane suggested that as this is such a small rule set, we would like to throw in some housekeeping changes to the rules as well. So Tucker suggested in setting the next meeting dates, the Operator of the Year tours would be a little late. Daugherty said within 2 weeks of the BOF decision we could have draft rule language sent out by email and then perhaps depending on comments we may need to call a formal meeting. So start with that approach.

10. Compliance Audit Update – Paul Clements

Since 2013 there has been an ongoing effort to determine rates of compliance with a subset of the FPA and that continues today. It's important to know that our audit process considers 57 out of 288 rules and focuses on roads and stream crossings. We hired a private contractor, Barnes and Assoc. out of Roseburg. They collect numeric data which we assess for compliance. In 2013 and 2014 we looked at timber harvest units and those are selected based on the relative amount of acreage harvested under those ownership types. We have a 2014 Report completed on that and the results were similar to what we found in 2013. The overall rate of compliance was 96% compliant. The results are consistent in those two years. We see that certain topics warrant some consideration; the identification and protection of small type Ns and small wetlands, and effective removal of stream crossings and stabilization of soils at stream crossings, drainage control and stability of cut and fill slopes near streams and removal of petroleum products from the forest and the deposition of slash in small type N streams. In 2015 we didn't do any field work. At the end of 2014 no money was available to pay for field work. Then concerns for confidentiality occurred for an industrial landowner. We had a problem of participation, the DOJ and OFIC counsel we worked out a solution to that. The take home message, we think it is in the public interest to keep landowner specific information to be kept confidential. For participation for the study we ask landowners to expressly state their expectation of confidentiality. We are putting a contractor on private land and we need written permission to put them there and then we also want a written expression of your expectation of confidentiality. We think those concerns have been suppressed. The sample set from 2015 are out there now. These results are the basis for training in conjunction with AOL. We hope to see some change after time. An external review team continues to provide input. Understanding, Acceptance and Support has increased for our field support. This process is not a mirror image of day to day administration of the FPA. It is a high resolution look at certain elements on the ground. We are working to increase our acceptance with non-industrial landowners. A compliance audit doesn't sound happy. We are pre-mailing a postcard, with a follow-up letter that asks for their permission. One of the concerns is that if we don't get robust acceptance from private non-industrial landowner our data might not be a true reflection of the conditions that exist on those lands. Industry is very supportive of this. And lands we sample are a big percentage of this. 2017 we are working on those permissions now for a start by the first of the year. That sample will come entirely from electronic notifications. One of the challenges here to fore have been that our records were on paper. So we are looking forward to finding the functionality difference there is between the electronic capability versus the paper documents. But procedures will be the same. The current contract expires in March of 2018, so we need to start preparing.

What the process allows us to do, is to focus our efforts into individual rules so we can evaluate the lack of understanding on that rule. We are working on correspondence right now to send out for a sample set for 2017. Believe me, it can take a long time to get 49 industrial private landowners selected

at random to get permissions. We might look over 100 to get 30. The vision of this effort, I look forward to the day we are getting requests to come look at their property.

Daugherty added that a 30% is a great response rate from Non-Industrial Family Forestland owners if you are in the survey business. But we are not surveying *all* family forestland owners, we are only request that those who are actively engaged with us and have done a notification. Our response rate should be higher. While at 30% then we can't assume that there is no response bias.

Clements: Part of it is that just because they notify doesn't mean work has been done. That is a 5%. What is vexing is the non-response, who don't reply. They refuse by indifference.

Allen: Just one clarification on the confidentiality, the data is public, but you don't know where, or who owns the property.

Clements: Now we have to build on this effort and get the value of it. Sharing what we learned among industry and outside industry. We select the sites at random. The stuff we are seeing is pretty darn good. And when you do your job, there are some you never go see, that you don't need to.

Barnes: This took a Budget Note to do this, doesn't that expire?

Daugherty: The Budget Note expired a long time ago. He has been asked about when you are going to do next compliance audit. The Budget Note was a good nexus. We have a kept that says we will keep track of this. Previously, was take the number of citations divided by inspections. What happens is when you decrease the number of Stewardship Forester you have, compliance goes up. What is the first thing you are going to give up if you are overworked, you are going to give up writing citations and really focus on on the ground protection. So not a good measure. We will continue, it's become part of our core business. So we have a way to say we have very good compliance on our road bumps. It is part internally of continuing improvement measures on how we are protection resources on private forest lands in Oregon.

Kendall asked since the last couple of iterations of the audit, what is the timeline for looking at other rule divisions and expanding that.

Clement: We have a five year contract with our third party contractor that ends the current project in March 2018. My belief is that we will try and just phase in to a new effort during that time. The run up to the RFP is involved in imagining what rules we might focus on. The mechanics are in place to use the same format again. We have monitoring strategy that we are working on involving a lot stakeholders on a lot of levels. RipStream was the last one. That strategy is due for revision.

Allen: That is going in front of the Board in September. To present priorities for effectiveness and implementation monitoring.

Bonner: So it will stay the same for the length of the contract.

Daugherty: The idea was a five year span to see if we are affecting change. We will be rolling out education and continuous improvement. We need some time to see if education is working. It doesn't mean we would replace everything, perhaps take out rules that everyone is doing well, keep some ongoing, particularly issues with a strong public focus.

Clements: AOL has rolled this information into training programs.

Storm: We have an MOU with ODF and an annual operator training program and those six lower compliance areas have been our focus. I would urge considering using these compliance results with operators and stewardship foresters. The landowner community is ripe audience for sharing these compliance lessons, particularly the non-industrial landowner, where the data does show a bit lower compliance.

Clements: Maybe we should teach this in the universities, to teach future employees. We sure do appreciate the help some of you have given this. The easy parts are where folks invite us to come get it done.

11. Good of the Order

- Tucker will send out information on managing the Bald Eagle rules review.
- Kjos encouraged members to get in those OOH nominations.

12. Adjourned

2:25pm