

# Eastern Oregon Regional Forest Practices Committee Meeting Minutes – December 2, 2014

Pursuant to public notice made by news release with statewide distribution, a committee meeting of the Eastern Oregon Regional Forest Practices Committees [an advisory body to the Oregon Board of Forestry with authority established in Oregon Revised Statute 527.650] was held on December 2, 2014 at the Crook County Fire Dept., Prineville, Oregon.

***Committee members present:***

Bob Messinger, Chairman  
Stanley Benson  
Lee Fledderjohann  
Chris Johnson  
Joe Justice  
Paul Jones

***Members not present:***

James Dahm  
Irene Jerome  
Elwayne Henderson

***ODF staff present:***

Lena Tucker  
Marganne Allen  
Angie Lane  
Cassie Marshall  
Susan Dominique  
Travis Medema  
Stu Otto  
Kirk Ausland  
Kristin Dodd  
Elden Ward  
Gordon Foster Jr.

***Guests:***

Rex Storm

***Call to Order***

Bob Messinger, Chair called the meeting to order at 10:00 am.

**1- Welcome, Introductions and Housekeeping - Bob Messinger**

- **Roundtable Introductions -**
- **Approval of Minutes –**

Joe Justice Motioned to Accept the Minutes with edits, Lee Fledderjohann seconded. Vote was called and Approve the 03-26-2014 Meeting Minutes with edits.

- **Public Comment –**

None offered.

- **New Member Orientation – Lena Tucker**

In September Chris Johnson was approved by the BOF as the newest member to our committee. Ned Livingston retired off the committee. Lee Fledderjohann and Stan Benson were re-confirmed for another committee 3 year term. Tucker provided a summary of the roles and responsibilities of the committee. Members' primary role as an Advisory Committee to the BOF is to provide rule review and recommendation of appropriate Forest Practice Rules to the forest conditions within your region. You are reviewing the practices for clarity, technical feasibility and practicality. You are considered the experts on whether the rules will be effective, whether they meeting the intent and will be enforceable. Another important role is to evaluate nominations for the Operator of the Year. The committee is set in State Statute as far as membership and qualifications, your appointment and terms. You have the option to make written recommendations to the Board but can also provide direct testimony. During your tenure as volunteers you are expected to follow State Ethics rules and inform the Chair if you have any conflicts of interest.

**Action Item:** Send out the Ethics brochure to members.

## 2 – Review of 2014 Operator of the Year Nominee – Angie Lane

*[Video presentations on nomination.]*

One time per year the Department showcases operator efforts to go above and beyond the Forest Practice Rules. Stewardship Foresters work to find operators that fit the qualities of the award. Staff put together a nomination packet which is reviewed by the Area office and checked for violations or complaints. Associated field tours are recorded to help in the evaluation process. An operation needs to be completed within that year to qualify.

Operators are evaluated by the following criteria:  
Consistency, Difficulty of Operation, Financial Risk, Resource Concerns Addressed (exceeding the intent of FPA), Innovations, and Exemplary Results

Each Area can award only 1 Operator of the Year. Merit Awards can be given to runner's up. Each district also has the ability to do Letters of Commendation. The winners are chosen in December and announced through social media, news releases, etc. Members were invited to field nominations to the process. The deadline is September 8<sup>th</sup>.

*(At the time of these minutes were posted the award was already announced so names were included here.)*

Operation details and results were presented for discussion. **Motion** was initiated by Chris Johnson and seconded by Joe Fledderjohann to approve Todd Hueckman Contracting for the Eastern Oregon Operator of the Year. All were in favor. Motion was approved. The committee also wanted to recognize the landowner for taking the initiative on this project.

**Action Item:** Bob Messinger to draft a letter of commendation to the landowner for being proactive on this operation.

## 3 - Large Wildfire Toolkit – Final Products – Lena Tucker

*[Handout: Post Wildfire Landowner Assistance Every Acre Adds Value; Timber Salvage after Wildfires; Executive Summary Post-Wildfire Salvage Logging, Soil Erosion and Sediment Delivery Preliminary Results; Legislative Concept Fact Sheet on Post-Wildfire Fund for Landowners (LC 598)]*

Lena pointed out the glossy one page flyer in member's packets "Post-Wildfire Landowner Assistance". This ties into your topic on salvage logging and reforestation. The concept is focusing on ODF being the one stop shop for landowner's assistance after catastrophic wildfire. The flyer includes talking points, and a list of resources. The key is to encourage landowners to go to their stewardship foresters as the first point of contact for information on assessing damage, and general assistance creating a plan for restoration of the land. Stewardship Foresters will have the contact information for NRCS, SWCDs, Farm Service Agency, Federal and State venues for grant funding. For the last 2 years while the GIS fire maps are created, we are overlaying the Small Landowner database layer (from OSWA) to the fire maps to help determine who the landowners are that are affected. We also try and identify low site lands where productivity is less than 20 cubic ft. /acre to assist them with reforestation decisions which are triggered by salvage logging. The 'After The Fire' packet provides information regarding timber salvage and reforestation rules after salvage. These products are available and we are trying to make outreach a part of the regular technical assistance duties of the stewardship foresters.

- One of the things we faced this summer is the availability of seedlings for the correct zones for eastern Oregon. The Stewardship Forester needs to stay on top of that availability and think about alternate planning.
- We do have a seed bank within the Agency which benefits folks who contract grow. That goes back to working with the landowner preparing for alternate practices.
- Contracting growing is still a problem because of timing the site prep for seedlings.

#### **4 - Discuss Recommendations for New Policies or Processes as Related to Regulatory Reforestation Obligations and Eligibility for Financial Assistance**

We have a legislative concept developed by the Committee for Family Forestlands for an After the Fire Emergency Fund that we are promoting. The idea focuses on support for smaller landowners by providing a funding source for immediate emergency needs within 6-8 months after a catastrophic event. Funding may apply to erosion control, hazard tree removal, land stabilization, restoration planning, etc. It is just a concept at this time to watch during the legislative session. The funding would not be tied to the Forest Patrol Assessment. One idea is that if the State Forester declares a Disaster then that allows us to petition the Emergency Board for funds. Another option is the Governor's Strategic Reserve Fund. We want to be able to direct landowners to immediate financial help. This concept came out of some work by the Large Fire Review Committee.

Your discussion at the March meeting was focused on what the FPA says about reforestation rules and requirements and whether those rules are disincentives to reforestation after wildfire. As a committee you can review rules, propose amendments to rules or propose new rules. Our job is to help you with that. The BOF could agree to a proposal on their work plan, then it goes onto our Division work plan. The first step is to create your concept and give us some ideas and we will work it up for information to base your discussion on. That is the administrative process.

*[Handout: Challenges for Landowners After Wildfire and Ideas to Ponder]*

If interested in pursuing the concept of a rule change on this issue, we want to hear your ideas and be ready to help in any decisions you come up with. Usually the BOF initiates rule analysis, but you have the authority to initiate these discussions as well. We want to hear your ideas on where we could take this.

Messenger: Do we want to move ahead with this issue?

Member responses:

- I'm very interested in the whole cycle from fire effects through salvage. There are challenges throughout.
- As a landowner in central eastern Oregon, I have a huge interest in this topic.
- It seems like it's only going to get worse, with fire danger increasingly at catastrophic levels.
- Other members voiced agreement.
- The obligation after salvage is the issue.
- The goal of the FPA rule is to keep lands well stocked and producing.
- The Stewardship Forester has no ability to say you don't have to reforest. They can allow a postponement, but you still have to do it. So, what are the issues out there that preclude us from doing reforestation? We need to look at the history of the rule and why it was written. Once we understand the original argument then we can continue. We want to encourage reforestation but don't want to require it.

Tucker reminded the members that Brad Knotts did post a summary of the reforestation rule history last March on the website. Reforestation Requirements 1971 through 2014. There was no single or special event that triggered the rule, it was a chronological evolution of reforestation requirements.

- Recognize *any* catastrophic events, like disease, wind, beetle damage, etc...
- If you have a proposal that looks to incentivize salvage operations and reforestation versus disincentivizing the process most people would be open to that. One of the easiest ways to do that is requiring a diligent effort to reforest and defining that diligence. One time should be acceptable. A very simple change and after that it would be up to the landowner to continue to invest in replanting again.

Medema: It's a great discussion, perhaps coming up with a handful of core principles you want to accomplish, those principles could will later define the administrative rule that staff will write. But what

your intent can help shape and draft that, I would recommend a look at your intent to then craft your principles.

Comments:

- Things I have heard are not just narrowing it down to fire salvage, but any catastrophic event. Not creating disincentives and more specifically about where the change could occur in the rule.
- You have two forces working against one another. Larger more damaging wildfires occurring and a loss of infrastructure (fewer mills for salvaged timber) which creates economic disincentives.

Allen: It would be good to recognize the tension in this system so we should consider the merit of forest deferrals. There could be a point where there is push back from the counties for having too liberal an interpretation.

- So we want to consider how forest deferrals effects whatever changes or recommendations you propose. The consequences and inadvertent outcomes.
- Another point, we need a system whereby landowners can quickly access seedlings, which would be to everyone's benefit.
- Underneath that you don't want the rules to be a barrier or disincentive to reaching that goal.
- Reiterating the parts of a healthy forest. We should cast that description as widely as possible. There are other values other than the trees themselves. Soils downstream, forest ecology we need to keep a wide perception.
- Salvage logging and regeneration are two different issues, the rules seem to be tied together and perhaps they shouldn't be.
- The reforestation requirement after salvage is the problem. The other issue is getting seedlings and developing a fund to get that to happen.
- Right now there isn't an incentive to salvage log in eastern Oregon after a fire. Because of the price of getting the wood off the hill, any profit you have has to go into reforestation and you probably will still sustain a loss.
- I think Alternative Practice Plans assist the landowner by providing a mechanism to extend a time frame to get seedlings.
- If using the Alternate Plan, could you work with the economic margins?
- It is difficult to write a rule when the economics creates such variation because of mill locations and hauling costs. Economics used to be automatic, you could get to a mill. Perhaps economics is key to the change. Everything can't be answered biologically today. Economics needs to be introduced.
- Look at the productivity of a site but also to include the economic feasibility. Is it commercial forestland or is it not. It's not just productivity which defines that.

Allen: The Rule talks about extensions, shall be made only upon a determination by the State Forester based upon timely, written evidence provided that it documents the landowner made reasonable attempts to comply with the reforestation requirements of the rules. (The definition of reasonable may be under the guidance.)

- Perhaps identifying in areas in advance that are not productive, prior to incidents.
- Adjust the accommodations and remove the obstacles. Provide funds for small landowners, set up a state fund for reforestation and work on seedling availability, especially the eastside.
- If the cost of salvage and reforestation is going to be a net loss then you could apply for funds for assistance.
- Loss of productivity could increase pressure for parcelization and the loss of forestlands in general.

Lane: In guidance it does say we can do extensions in consideration for micro-climates or harsh sites. You could suspend your reforestation for certain types of harvest areas, if you tried and were not successful, you could suspend the rule. The intention was so that folks could qualify for cost-share

program. Other things you could do would be to plant different species more adaptive to the land conditions.

- Stewardship Foresters should consider the natural regeneration process for up to six years. I think that lands can naturally regenerate over time. Use that as part of your alternate plan.

Allen: The point of the suspension was to temporarily eliminate the requirement so that landowners could get access to federal funds.

Messinger: I just asked Lee to chair a sub-committee to formalize the 10 guided principles and send them out to the members by email. Chris, Paul and anyone else who is interested.

Tucker: One other proposal, is your interest in a system for seedling availability. The CFF has established a sub-committee to tackle that. Rick Barnes, Rex Storm and Bob McNitt, FSN have volunteered to work on that. I can be your liaison to keep you informed of their ideas.

**Action Item:** We also request the minutes of those sub-committee meetings.

## **LUNCH – 2014 Fire Report/Fire Insurance – Travis Medema**

Travis Medema discussed fire severity, costs and insurance. Reviewing 2014, the whole State of Oregon was under red flag warnings. It was all crazy wild fire behavior. Whether in Klamath/Lakeview, or Central Oregon there were fires across all of the eastside this summer. Our IMTs went out 12 times. We were at (Preparedness Level) PL-5 for over 30 days for Oregon and Washington. South Fork Fire was one of the largest fires this summer was 53,000 acres. There were almost 80 days of lightning on the east side. (2 solid months of lightning.) Statistics: Fires contained at 10 acres or less – median is 94%; for this season it was 88%. We more than tripled the 10 year average fires acreage. Human-caused fires is where we can have the most prevention influence and there were some significant human-caused fires in Klamath and also in Central Oregon.

What struck me the most is the coordination and cooperation with the landowners. They were integral in all our efforts, even just the sheer volume of work by everyone. What makes 2014 successful was it could have been a whole hell of a lot worse. With the new Severity Program we had the ability to use those aviation assets across the state. Helitack, and single air tankers, without those 2014 would have been a lot worse.

### **Fire Insurance**

Staff are working on the Fire insurance package and they will be going to make a presentation to the underwriters in London. At the minimum there will be a desire for a larger deductible and higher cost premium. There will be a discussion and that information will roll back to the Emergency Fire Cost Committee (Lee Fledderjohann is a member) to make a recommendation to the State Forester as to whether to buy catastrophic insurance for the next year. We may not be able to negotiate a policy. It's a one of a kind policy, no other nation, state have this type of policy. There are a series of different options that the underwriters will be asked to present. What is interesting about it and timely is that the legislature will be in session. By statute it is capped at what the Forestland Protection Fund can pay. So the legislature will have to discuss how the cost is handled. It would take a legal change right now.

There was a Strategic Investment piece on that,

A key point, but not a well-known fact of the WPA it had a bunch of different components to it.

1. Restructuring a large fire
2. Rate relief on the east side
3. Increasing Severity
4. Concept of Strategic Investments

What's happening with Strategic Investments is a work group was convened and developed the process and template for districts to individually apply for Strategic Investments. The challenge has been statutorily the amount the Oregon Forestland Protection Fund can pay is capped so there hasn't been any funds available because of the last two year's severe fires for the fund to make investments.

#### 4 – Hot Topics

##### 1. BOF Activities/Legislative Update -

Marganne Allen gave the following review of what's going on with the Riparian Rulemaking. Travis Medema shared highlights of the Governor's Recommended Budget.

Medema – There are a couple of broad themes to the Governor's Budget. This is probably one of the best investments in natural resources that we've seen.

- A key piece is on the ongoing work with federal lands is the accelerated East side Restoration this biennium has been budgeted at \$2.88 million, currently in the recommended budget its proposed at \$6 million. Policy decisions have yet to be made but we appreciate the Governor's support in that.
- The Special Purpose Appropriation which is used to pay for those Severity Resources is recommended to be fully funded in the proposed budget.
- A small package to help the Rangeland Fire Protection Associations, which will fund a coordinator and someone to help work on FEPP equipment and administrative staff.
- There is a State Forests package to support our declining revenues. The BOF put together a group to work on Alternative State Forest Management plans but there is currently a shortfall. So it was a one-time set aside in our budget for \$2.5 million in GF to help the SF program get through the planning process.
- As we have struggled over the last 2+ years with our business functions, we got some money set aside for our Administrative Division (Fiscal Services, Human Resources and Information Technology).
- There is also funding recommended to add an additional position for Biomass.
- In Private Forests, our Integrated Monitoring Package was fully funded. This will provide added capacity for our Monitoring Program, a Geotech and Roads Specialist.
- The last was partial funding for continued development of the E-Notification System.

Medema: The fully Recommended Budget is a 1200 page document, but we will get out a summary by the end of the week. I can't thank the landowners enough, the reason we get these extra things is because of you. It truly shows. The Governor's Office is being responsive.

**Action Item:** Send the Summary out to the members.

##### **Legislative Concepts:**

There are currently 3 concepts:

1. LC 598 Post-Wildfire Fund for Landowners as discussed.
2. LC 596 Adjusting Spending Limit for the Fire Protection Fund; basically this concept takes off the administrative expense and insurance premium categories for our expenditure limit. It segments the costs, so it allows the Fund to pay up to 50/50.
3. LC 597 Forest Products Harvest Tax Rate – every biennium the rate gets reset. Based upon the ending balance of the biennium; forecasted harvest levels for 15-17 and our projected expenses in using the fund. Portions of the Harvest Tax go to run OFRI, and OSU, Forest Practices Act and the Emergency Fire Protection Program as well. This is standard and happens late in the session.

Gearing up for the Legislative Session, pesticides will be a big topic. Discussion of possibly buffers around homes and schools and 24-48 hour spray notification and perhaps reporting notifications after the fact. It will be a very active session around this issue. We will keep you posted by your next meeting.

- **Western Oregon Riparian Rule Analysis – Marganne Allen**

The two west side RFPC committees are working very hard on this process and we want to keep you posted. When we were first having discussions regarding the geographic extent of the rules, there was a fair amount of concern from stakeholders and BOF members about keeping the scope to the west side of the Cascades. But there was discussion about it going statewide. Our argument was that we can only regulate when degradation is proven and appropriate and our current science-findings related only to western Oregon. The BOF did ask that in our Private Forests work plan there be a placeholder to consider the eastside so while it's not on the table right now, it may be coming.

The degradation findings came from our RipStream Study which looked at our rule effectiveness throughout 33 sites focused on small and medium fish-bearing streams. Looking at a number of variables, we have taken our best effort making a linkage between stream temperature, shade and stand characteristics. The outcome was finding issues with the Protecting Cold Water Standard with DEQ. The numeric criteria for fish spawning, rearing and fish passage had a passing grade.

The degradation finding was in January 2012. Stakeholder feedback was conducted after the rule analysis objective was established. We needed to show that there was science behind the proposed alternatives, so we procured an independent Systematic Review of all available science. Ultimately the BOF directed the Department to continue the rule analysis in September 2014. Part of that direction was to directly involve the NW and SW RFPCs and other stakeholders to come up with prescriptions to meet the Protecting Cold Water Standard to the Maximum Extent Practicable. Direction was to consider either regulatory or voluntary options or a mix of those. Stakeholders are to focus on three prescription types: No-cut Buffers; Variable Retention; and Plans for Alternate Practices (working with the shade metric.) We also have to finalize recommendations as to the Geographic areas where it will apply. In addition, the PCW standard includes relevancy to Salmon, Steelhead and Bull Trout (SSBT) waters but does not universally apply to all fish-bearing streams, so recommendations will also cover how far up the stream reach it should apply. Recommendations will be made based upon what constitutes a complete and effective prescription under each of these categories. The PCW standard also includes, anything that would influence waters coming into SSBT extent. Type F streams that may be in reaches above the SSBT reach, or tributaries influencing temperature. It could go anywhere from the SSBT end of reach to the top of F-Type streams. Those are the bookends.

To give you an idea of the input we have had to date is (this is a snapshot in time) there is general agreement that:

- Everything west of the Cascades should be in (but there are concerns about the Siskiyou as being different soils and hydrology).
- As for stream reaches, preliminary read on stakeholder feedback is that there was general agreement that the SSBT would be included but as to whether F-streams would be included or not is still under consideration.

On prescriptions, what we are doing is working with stakeholders to determine what makes a complete and effective prescription. This would add different methods of reaching the desired future conditions designated in the FPA to also meet the PCW for SSBT streams. At the BOF meeting in March we would like to have a methodology about how to make these decisions on prescriptions as well as to propose they make a decision on the Georegions aspect. Then in April we will bring potential prescriptions and recommendation on the stream reach extent.

Allen: One thing this process has done is to, (crediting Gary Springer and other Board members) increase the Interagency Board liaison process because of the strong interactions and vagaries in our relative roles. Both Board to Board and staff to staff levels. DEQ, EQC and ODFW are in the mix.

The RipStream study findings of degradation and rule outcomes were all field-based with all the test sites that we laid out, a whole system with an upstream and downstream controls with pre- and post- and control data to help us with the natural variations out there. Any modelling that has come into the process was requested as way to determine the likelihood of success of recommended prescriptions. We needed a quantitative tool to do that. So we moved forward to construct a model using the RipStream data to come up to predict temperatures. The model gives us a quantitative estimation of the qualitative data

based on field research. We want to use the modelling for any proposed riparian prescriptions for either voluntary or regulatory approaches so we can assess the likelihood of success in meeting the PCW goal.

- **Bald Eagle Rulemaking 2014-2015 - Marganne Allen**

This is notification that we are moving forward on the rule changes. Jennifer Weikel has created a draft report that goes through the Division 680 rule which talks about all the elements that need to be addressed for changes to the rule. The ranges of outcomes could be picking up the rule and moving it to Sensitive Species as is; all the way to repealing the rule and removing it from the FPA and relying on Federal protections under Bald and Golden Eagle/Migratory Bird Act. We need to finalize the internal review of the technical report and get it out for external review with stakeholders to get general feedback on concerns on the range of outcomes. We did put together a timeline for final rule language. We had figured on initiation of rule language in June 2014 and a final rule by summer of 2015. That may still be possible, it depends on the level of complexity if we get into modifying rule language.

**Agenda Item:** For March, Bald Eagle Rulemaking.

- **Compliance Audit Update – Marganne Allen**

*[PowerPoint presentation: Fall update 2013 Results; The Executive Summary Report]*

The Executive Summary Report on the Audit is in your packets. The genesis of the compliance auditing was a 2011 Legislative Budget Note requiring a Compliance Audit be done by a 3<sup>rd</sup> party contractor. The primary goal of the compliance audit is to be able to report on compliance rates for different geographic areas, forest ownership types and FPA rule divisions. The Audit is a Key Performance Measure (Forest Practices Act Compliance - Percent of commercial forest operations that are in compliance with the Forest Practices Act). The audits must be statistically valid, with quantifiable rules to produce data. The contractors don't assess compliance. The completed data was reviewed by ODF staff to determine compliance and quality control/quality assurance checks were done on at least 10% of the sites visited. There were some adjustments made along the way but overall we have been very satisfied. Compliance rates provide a great source of information and will be helpful for training staff, landowners and operators. We had a comparative Request For Proposal process and selected Barnes & Assoc.. They are sub-contracting with individuals around the state familiar with landowners and sites. It was challenging to gain landowner's permission to access their properties. As an improvement we are streamlining that process by eliminating the districts as middlemen in landowner communications and are doing it all through the Salem office. While we had low refusal rates, only a 10% overall, some randomly selected sites were removed from the pool of operations because of the operation type did not fit the parameters. We had 200 sites distributed across the state but the random draw was based off of frequency of notifications, so there were less sites in Eastern Oregon. General unit data was collected on waters, roads or nexus with the Waters of the State. Contractors also collected GIS points as they went along for each observation on the ground as well as photos of sites. Any 'apparent' non-compliance did not equal enforcement action unless actions were particularly grievous. Results? The overall compliance rate was 96% across the state. But if pooling data points we can get some different inferences.

By Areas: EO = 96%; NWO = 98%; SOA = 95.5%

By Ownership Types: Industrial = 96.3%; Non-industrial 94.9% and other (State/County) 98%.

By Rule Divisions: Roads; Harvesting; Vegetation Retention; Waters of the State; Riparian Areas

On a unit level, using the straight numbers, 82 sites would have had 100% compliance. In talking about the wetlands, entry into wetlands, there were fine thresholds as to whether hydrologic functions are disturbed or affected. Repeated themes from previous audits were temporary crossings, logging slash, petroleum products, wetlands, stream crossings (drainage and fill erosion) and to some degree written plans.

Paul Clements, Training and Compliance Specialist and others are to start talking internally and externally about these themes and education with the goal to have continuous improvement. We are starting on 2015 starting the sample draw for that year.

## 5 - 2015 Meeting Dates/Topics of Interest

Storm: The ODF Fire Prevention division is undergoing a review of the Industrial Fire Precautions. A workgroup of 14 to 15 people are meeting monthly to identify upgrades to the Industrial Fire Prevention Rules. We are currently focusing on mechanical functions under regulated operations. If any of you have ideas regarding the future and how rules can be improved and modernized please let Tom Fields (ODF) and Chet Behling (The Dalles) know.

### **Future Agenda Items:**

- ✓ Reforestation
- ✓ Industrial Fire Rules
- ✓ Monitoring strategy
- ✓ Bald Eagle Rulemaking
- ✓ Legislative Session

The next meeting will be held Tuesday, March 17<sup>th</sup>. If members need lodging please contact us to make the reservation. The location will be in Klamath. We will look into procuring the plane from LaGrande to Klamath as combined per diem will be high as well.

Meeting Adjourned at 2:10pm.

/s/

Lena Tucker  
Committee Secretary  
Regional Forest Practices Committee

[12/2/2014]