Southwest Oregon Regional Forest Practices Committee
Meeting Minutes – December 4, 2012

Pursuant to public notice made by news release with statewide distribution, a committee meeting of the Southwest 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 4, 2012 at the Douglas Forest Protective Association meeting room in Roseburg, Oregon.

Committee members present:
Brian Schlaefli  Dale Cuyler
Bud Long  Daniel Fugate
Dana Kjos  Ken Hendrick

ODF staff present:  Others present:
Lena Tucker  Marlene Somers
Brad Knotts  Richard Chasm
Kevin Weeks  Joseph Patrick Quinn
Ashley Probst  Rick Storm, Associated Oregon Loggers
Marganne Allen  Francis Eatherington, Cascadia Wildlands
Craig Pettinger  Stan Vejtese, Roseburg
Scott Swearingen  Bernie Bochsler
Susan Dominique  Eric Geyer, Roseburg Forest Products
Steve Wetmore  Roy A. Nelson
Karen Swearingen  Roland Wang
Mike Dewey
Jack Tannehill
Steve Kendall
Tyson Schultz
Keith Waldron
Brian Peterson
Tuch Koreiva

Call to Order
Chair, Brian Schaeafli called the meeting to order at 09:03 a.m.

Welcome, Introductions and Housekeeping
Personal introductions were made of all in attendance. Chair asked for any questions or changes to the minutes from the previous meeting. No questions or changes were offered. Dale made Motion to approve Meeting Minutes from July 17, 2012. Motion was seconded by Dan, minutes were approved unanimously as submitted.

Public Comment
Members of the public were present to provide comment to the committee. Brian thanked the public guests for their interest and instructed that each person would be provided a 3 minute period to speak and/or provide written comments to the committee.

Richard Chasm, Businessman, Roseburg
Shared his concern regarding abuse of clear-cutting practices as a root cause of habitat disturbance and long-term reduction of timber volume. He shared his concerns with clear cutting’s effect on the community and fisheries. He requested that FPA administration provide incentives to limit clear cutting, and provide additional protections for wetlands/riparian areas. Mention was made that focusing on parcel cuts and thinning vs. clearcut
could maintain timber volume for the long term. Providing a chance to discuss O&C laws will throw the FPA into prominence because the O&C lands will fall under FPA jurisdiction.

“Pat” Quinn, Camas Valley Watershed Assoc.

Mr. Quinn shared his concern for the fiscal and ecological debt we have been building for decades and the responsibility to enhance rather than degrade our watersheds. Questioned if the FPA enhances the watersheds or doesn’t go far enough in providing protection.

Frances Eatherington, Cascadia Wildlands

Ms. Eatherington was glad the meeting topics included Riparian Protection and expressed her concerns about increasing buffers on Fish Bearing as well as Non-Fish Bearing streams and how those buffers affect water quality and water rights and the logging roads runoff as a point source of pollution. Her other concern was spray projects and felt these issues are too important to the public to have to pay for notification. She objected to the current process of subscriber notification and requested an online renewal process so that notifications are not missed between subscribing periods. She also expressed interest in online postings of minutes available to the public. Suggested that the committee should address logging road runoff.

Roy Nelson, retired Roseburg resident

Mr. Nelson expressed his opinion that government regulations have gone too far in satisfying environmental concerns to the expense of the timber industry. He is requesting committee support in limiting Federal regulation of Oregon Forests. Provided the committee with a suggestion for use of a barter system where timber is given to contractor in exchange for doing work on Federal roads. Expressed concern over harvested timber shipments to China and wants to process timber back in the communities.

Public comment ended at 0930.

**Item 1 – Review of SW RFPC Nomination for Operator of the Year**

[Handout]

The chair introduced nominations for Operator of the Year 2012. This program provides reward and public recognition of operators going above and beyond the expectations of the Forest Practices Act and helps promote FPA accomplishments. The ODF Directive states the criteria by which operators will be considered for Operator of the Year or Merit Awards. Criteria are as follows:

1. Consistency of the Operator
2. Degree of Difficulty
3. Innovation or Extra Effort
4. Results
5. Financial Risk

There was only one nomination this year, Jim Graf Logging, Myrtle Creek, Oregon. To assist in review of his nomination a video presentation was produced and presented by Steve Wetmore, Stewardship Forester who made this nomination for a harvest site near Williams, Oregon.

The harvest unit project site for Jim Graf Logging had an absentee landowner unfamiliar with FPA requirements. The unit was also of high scenic value to the local community who chose to be highly involved in the properties environmental concerns through eco-terrorist actions. It was a clearcut and selective harvest performed on 320 acres located in the Williams watershed. The nominee made a effort to protect the resources and practiced sound management techniques. There were Type NF streams and Spotted Owl restrictions (though with no owl responses on a BLM survey) as well as petroleum spill concerns. In an extraordinary effort the nominee voluntarily held a public meeting on the unit to listen to public comment and worked with their concerns and provided education on clearcut requirements. The original plan did not include buffering of Small Type N streams and soil type was susceptible to erosion. The operator was instrumental in moving harvest boundaries to protect streams and added buffers and increased buffer size to mitigate potential slides on adjacent property, and protect the riparian areas. Large cull areas were left for wildlife benefits. There was financial risk assumed by the operator buffering streams that left merchantable timber and loss of large logging equipment through vandalism.
Committee consideration of the nominee’s actions was positive but the lack of other nominations was a concern to committee members. Brian reminded the committee that everyone had a responsibility to nominate. There was a quorum to vote at the meeting. The committee wasn’t comfortable with the lack of competition for the award and wanted a larger field of nominees. As an alternative Motion was made by Brian for awarding for Merit, seconded by Bud. Vote for acceptance to present Merit Award, seconded. Vote, Brian abstained. The committee approved a Merit Award for this nomination.

Comment: [Brian] Offered praise for the time that Steve Wetmore took to nominate this operator and hosting the field tour. He additionally encouraged a more robust nomination process next year so there is more than one nominee.

Comment: [Tuch]: Expressed concern that some operators don’t necessarily want public recognition and it may be difficult to get operators to accept nominations.

A suggestion was made to begin the conversations early with potential nominees to encourage acceptance.

[Break till 10:30]

Item 2 – Ashley Probst/Brad Knotts: HB 2165 Changes to Written Plans
[Handout]

Background
Ashley Probst working in a rule-making developmental position in the Private Forests Program provided a review of the proposed changes to HB 2165 Rule regarding the Statutory Written Plan requirements in OAR 629-605-0170 Statutory Written Plans and OAR 629-635-0130 Written Plans for Streams, Lakes, Wetlands and Riparian Management Areas for changes to requirement for Written Plans near Type F/D and significant wetlands (non-estuary) if any of the following criteria is met:
   a) Operation will not directly affect RMA
   b) Stewardship Agreement is entered into; or
   c) Work performed under a General Vegetation Retention Prescription

In addition the Significant Wetlands Written Plan Requirement has been changed to 100 feet from 300 feet and Notification processing has increased from 3 to 6 days.

This Rule-making review process has been divided up into 4 phases:
Phase 1: General Concept outreach (July – Sept 2012)
Phase 2: Draft Rule language review (Sept-Oct. 2012)
Phase 3: BOF check for input for the final presentation to BOF (Nov. 2012 & Mar 2013)
Phase 4: Finalize Rule language, schedule Public Hearings, filing with Secretary of State. (tbd – April 2013) The approved Rule changes could have an effective date listed as to when the changes will take effect.

The initial phases provide valued communication and educational aspects to those involved on this process and identify the impacts of the proposed changes. Ashley noted there was hesitation on the General Vegetation Retention Prescription. But General Vegetation Retention Prescriptions are still considered value-added to retain written plans.
In general these proposed changes will allow focus on higher complexity operations and require more advanced knowledge of risks to RMA so adds value to Written Plans.

No entry in RMA = No Written Plan requirement

- It is important to incorporate slope criteria into evaluation of risk
Ashley responded that the slope language was looked at closely, however it was found that the language surrounding slope considerations was sufficient and we didn’t want to end up requiring more written plans due to slope language.

- Standards on unaffected ground don’t change
- Concern that changes may discourage active management in RMA.
- Elimination of unnecessary paperwork for all parties.
- Communication will be key to eliminating errors.

Significant Wetlands Discussion
- New requirement mirroring the 100 foot RMA as a trigger for Written Plans makes sense.

Committee Discussion Points

1. Public expectations regarding documentation of waivers.
   - The language says “will waive” which provides certainty that a written plan won’t be required, but work still needs to be done on how the administrative process will work.
   - Field Foresters are now being put into a position to have to write waivers as public scrutiny may require that some kind of documentation is produced. Landowners may want some type of documentation as well that a waiver is in effect.
   - To cover this expectation the FACTS group is adding language to the front page of the notification would include language that shows if the operation is outside of the RMA then a written plan is not required.

2. How would the operator get documentation that the written plan is not required?
   - The comments section on the NOAP can still be used to convey information to the operator. Continuing to have communication with the landowners would be beneficial. It would be up to the Stewardship Forester to determine the level of communication and how to document this.

3. Whether Written Plan is required if pile is burned within 100 ft of Type F and D streams or is this piece exempted by other rule? What about unintended consequences of prescribed burn in vicinity of RMA?
   - This rule is referring to a Written Plan that is already required due to activity within the RMA.
   - As it is hard to predict when a prescribed fire would be necessary to complete the operation, Stewardship Foresters need to be able to use judgment when looking at the components that are in the RMA that may or may not be affected and whether a Written Plan should be required.

4. Pesticide operations (aerial and pressurized spraying) effects

5. Road construction operations within an RMA

6. Spooling cable through RMA
   - There was a question raised on the effect of spooling cable through RMA, even if only once. The rule considers that as directly effecting the RMA as tree limbs/foliage could be damaged. Bud stated this is a common application so future discussions are probable.

7. Creation of Landowner/Operator consideration criteria.
   - Discussion noted that it would be difficult not to be discriminatory when creating specific criteria.
At the conclusion of the discussion, Brian suggested that the group not spend meeting time in detailed review but reminded the members their review is a necessary function for the committee for adequate public input. He encouraged members to look over the changes independently and get any comments back to Ashley at aprobst@odf.state.or.us by January 11th.

**FPA Housekeeping** (Brad Knotts presented proposed “housekeeping” rule changes)
[Handout]
The intent of “housekeeping” opportunities and revisions to bills is to take advantage of significant rule change periods to correct obvious grammatical or formatting errors or omissions but not to alter the meaning of any rule. Most changes fell into 3 categories: Typos/Transcription errors; General copy & paste revisions, example, adding definitions and references updates. Some changes were duplications of rules corrections from 629-605-0170 to 629-635-0130.

The committee was instructed to review changes and comment back to Brad at bknotts@odf.state.or.us by January 11, 2013. Final review will be by the BOF prior to submission to the Secretary of State.

**Action Item:** Lena will email materials and summary notes to the committee electronically for review and comment.

**Working Lunch**

**Item 3 – Marganne Allen – Riparian Protection Standards Rule Analysis Update**
[Handout]

ODF is currently conducting a rulemaking analysis initiated in January 2012. The role of this committee is to develop alternatives which will meet the rule objective. In March 2013 ODF staff will present a proposed process to the Board of Forestry for insuring proposed rules reflect current science. The next steps in that process include determining which rule concepts can be supported by science. A range of alternatives went to the BOF in July. Rule concepts that can be supported by science, fall within the rule objective and meet the cold water standard to the maximum extent practicable* will be translated into the process.

\*”Maximum Extent Practicable” for riparian rulemaking:

“When applied, BMP(s) are expected to insure that harvest sites with Small and Medium Type F streams will not, on average and across the landscape, result in stream temperature increases greater or more frequent than can be expected under background conditions.”

Marganne Allen- MEP Guidance email 12/10/12

There will be a Systematic Evidence Review, a rigorous, transparent process to identify key questions and literature review table provided to identify primary sources, not as discussions.

The committee’s role is:
- Public input
- Review of rules/language
- Analysis of technical feasibility

**Item 4 – Marganne Allen – FPA Compliance Audit Update**
[handout]

Marganne informed the committee that the FPA compliance audit requiring field-based inspections has a Request for Proposal ready to be posted soon. Criteria for bid award are not by price alone. She explained that the audit will focus on Roads and Harvesting rules but little on the Riparian rules at this time. It will be based off the last audit sample and audit approximately 200 operations, stratifying by
geography and landowner type. Applications of the rule will vary in the stratification. The audit will include 2010 and 2011 retrospective on finished operations. Roads adjacent to harvest units and within the harvest units themselves but audit won’t include cruising RMAs at this time.

Landowner permissions will need to be obtained right away. Salem staff will contact industrial landowners if their properties are chosen for audit. The Stewardship Foresters will contact small landowners regarding audit on their properties. Denials will be tracked and backup ownerships notified if required.

Question: [Brian] – How is the contact information obtained?
  o From the Notifications of Operation and local offices information.

Suggestion: Consider categorizing the denials received and list reasons for denial of participation to better administer future audits.

Question: What would be the next audit category after “Roads”?
  o [Marganne] We would look at the Rules Divisions for annual/or another regular interval. Some Rules Divisions are more logistically challenging than others. We will ask the committee assistance on those decisions. We would like to have a long term strategy and priorities for which rules to audit and on what time frame – some can be annual – some might be audited on a 3-5 year schedule.]

Question: [Bud] Will the results of the audit be stratified by landowner groups?
  o Results will be able to be sorted by many variables, Area, landowner type, etc.

To assist in this process the committee is asked to share notice of the upcoming audit. Please direct any questions regarding the audit to Paul Clements, Compliance/Training Coordinator at 503-945-7475 or 503-510-7559.

**Item 5 – Lena Tucker – Online Notification Project Update**

Lena provided a quick update on Private Forests Program Staff changes. Linda Ellis, Administrative support to the Program and specifically these committees has taken a Developmental opportunity in the Information Technology department in Forestry. Susan Dominique [present at this meeting] is filling in behind her and will be the committee’s support and contact until June 2013.

**Online NOAP Update**
The current project to create an online Notification of Operation process will be going out for bid. There was initial outreach to Operators/Owners and Subscribers to provide “user” stories and answer the question, “What do you want the system to do?” This information was the basis for the Request for Proposal. It is currently in final stages for DOJ review and hopefully will be posted for bid prior to the end of the year. ODF is hoping to have a contract available by the end of February.

The online NOAP will eliminate paperwork and integrate GIS capability for mapping of operation areas. The plan is for the Online NOAP to be piloted out to specific districts during a test period. Technically, it should free up the field staff and create a consistent process statewide for all operators.

Question: [Subscriber] Will it be available to the public online?
  o Yes, we anticipate enormous gains in efficiency.

Joe Touchstone will provide ongoing updates once the program is in production.

Question: [Brian] Is there any danger at this point of budgetary restraints on the contract?
  o Budget Notes 1 & 2 Compliance Audit looked at creating increased efficiencies and effectiveness. From staggering the re-hiring process after budget restrictions we have the savings to pay for the project.
Additional Discussions

- **Program Restoration**
  Other news from the program, 3 positions remain to be filled, Marganne’s NRS3 FPA Field Support Coordinator and Operations Policy Analyst will help with policy analysis and civil penalties: the vacant NRS4 Roads Specialist position; and Jim Cathcart’s Incentives Field Support Coordinator. We are now fully staffed in the field with 51 Stewardship Foresters.

Question: [Bud] Do the Legislative decisions to outsource costs affect the ability to staff positions?
  - [Marganne] No, contractors working on audits have no regulatory authority, they just are collecting data.

- **NEDC vs. Decker Update – [Kevin Weeks]**

**Item 6 – Lena Tucker – End of Year Review of Committee Work for 2012**

January 1st is Lena’s Anniversary as Deputy Chief Private Forests Division. She requested feedback from the committee on the past year.

**Logistics**

Lena asked if the “joint meeting” format works for the members. This would schedule the NW and SW meetings together twice a year, as their agendas coincide and to provide a sharing opportunity with other members. EOA will maintain single meetings as their agenda normally differs. Joint meetings will be scheduled in February and July.

Lena questioned the members whether or not they are finding the external website valuable as a resource. Committee contact information will always be maintained confidentially. All items will be maintained and visible for one year then archived. Meeting materials will be posted one week prior to the meetings.

Suggestion: All members were in favor of seeing a draft posted of the minutes prior to approval once reviewed by Lena and Brian for accuracy.

Brian provided Division 676 Committee Responsibilities to the members.

**Committee Assignment**

To review proposed Rule Changes as an Advisory council and extension of the Public Comment requirement. Comments are due back to Ashley and Brad by January 11, 2013 to prepare for BOF presentation at the March meeting.

**Wrap Up –, Chair**

There being no further business, the meeting was adjourned at 1:35 p.m. Staff will sent suggested meeting dates.

/s/
Lena Tucker
Committee Secretary
Regional Forest Practices Committee

[12/12/2012]