

# Southwest Oregon Regional Forest Practices Committee Meeting Minutes – October 24, 2019

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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 October 24, 2019 at the ODF Office, 5375 Monument Drive, Grants Pass

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| <b>SWRFPC members present:</b>  | <b>Not present:</b>              |
| Dan Fugate, Retired<br>Darin McMichael, C&D Lumber Co. /Silver Butte Timber Co.<br>Mikaela Gosney, Hancock Forest Management<br>Dana Kjos, Roseburg Forest Products, Committee Chair<br>Jay Christensen, Weyerhaeuser<br>Adam Stinnett, Seneca Jones Timber Co.<br>Dave Erickson, Lone Rock Timber Resources  | Garrett Kliner, Stuntzner        |
| <b>ODF Staff:</b>   | <b>Guests:</b>                   |
| Marganne Allen, Forest Health and Monitoring Manager<br>Nate Agalzoff, Incentives Coordinator<br>Josh Barnard, Deputy Chief of Private Forests Division<br>Greg Wagenblast, Operator of the Year and Civil Penalties<br>Scott Swearingen, Asst. to the Area Director for SOA<br>Thomas Whittington, Water Quality Specialist<br>Jay Walters, Forest Practices Field Coordinator<br>Adam Coble, Monitoring Specialist<br>Jim Gersbach, Public Affairs<br>Doug Thackery, Stewardship Forester, Grants Pass<br>Bob Marcu, Stewardship Forester, Medford<br>Tyler McCarty, Unit Forester<br>Jay Morey, Stewardship Forester, Roseburg<br>Susan Dominique, Admin Support<br>Jesse Blair, Dev. Stewardship Forester<br>Nick Hale, Stewardship Forester, Medford | Rex Storm, Assoc. Oregon Loggers |

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## 1. Welcome and Introductions of New Committee Members –

Kjos welcomed two new members to the Committee. Darin McMichael with Silver Butte Timber Company and C&D Lumber Company. And Mikaela Gosney, working for Hancock out of Medford in charge of reforestation. Both expressed they were grateful for the invitation. Kjos then asked for round table introductions. *[Documented above.]*

- **Review of the Agenda**

There was only one addition to the agenda before they began, Jay Walters wanted to address a question from the tour the previous day.

Walters had been asked on the tour about **defining side channels and main channels**. After some research he affirmed that both side channels and main channel are defined in Division 600. Definitions as “(10) Channel *a distinct bed or banks scoured by water which serves to confine water and that periodically or continually contains flowing water.*” (47) “Main channel” *means a channel that has flowing water when average flows occur.* (67) “Side channel” *means a channel other than a main channel of a stream that only has flowing water when high water level occurs.*” He concluded that the protection for that channel closest to the road would depend on what the average flow looks like during that time of year but was unsure if in that particular case it would have been considered average or not the day of the tour because of recent unseasonable rain events. To his estimation they should and did lay out the 100’ starting at the high water level of that channel closest to the road. (Assuming that

channel is flowing water during average stream flows.) Whittington added a good reference is Tech Note 1 on how to determine annual flow.

- **Approval of Minutes**

Kjos invited a Motion to Accept the Minutes from the May 2019 Joint Meeting. Erickson moved to accept. Stinnett seconded the motion. Kjos called for a vote to Accept. All were in favor. Minutes were accepted for the record.

- **Public Comment**

There was no public comment offered.

## **2. Private Forests Division Update – Josh Barnard, Private Forests Deputy Chief**

Josh began noting that a copy of the Private Forest Division organizational structure was in member packets. He walked the members through the series of **executive changes to the Division**. Lena Tucker accepted the Deputy State Forester position. Her vacancy as Division Chief was filled by Kyle Abraham. Kyle's position as Deputy Chief of the Division was awarded to Barnard. So in July those positions were officially filled but that still left an open Field Support Coordinator position. Managers decided to take advantage of the recruitment period for the open position by allowing it to be filled in the interim with two developmental opportunities, one beginning for half the time, filled by Bodie Dowding (from State Forests) then the second half of the developmental Scott Swearingen (Asst. to the SW Area Director) will provide interim capacity.

Policy news related to the Division's work, the Board of Forestry recently received a **petition for Coho** salmon in terms of rulemaking for Threatened & Endangered Species requirements. The Board accepted that petition in July. That means we now have another project in front of us as a Division. Because it is a new work item on top of several other policy items he expected that it would be sometime in 2020 before we come back to the Board and talk about that. So far, internally, they are trying to figure out how it will fit into our current workload and staff capacity and determine the resources needed to move that forward and what the formal process will be to address the petition.

Then he touched on the Board's recent retreat and **Science, Values & Policy Workshop**. And identified items that Private Forests will have on the Board's work plan: Continuation of the RipStream Analysis for Desired Future Condition and Large Wood; the Siskiyou Streamside Protection Analysis; Marbled Murrelet rulemaking; Wildlife Food Plot rulemaking and the new Coho petition.

He also let the members know that the asks in last budget cycle Agency-wide Strategic Initiative which intended to recommend how different Division capacity could be improved to address the increasing fire and militia needs. Some of those pieces not taken up in the Governor's Budget *are* being considered in the **Governor's Wildfire Response Council** work. Currently the Division is prepping initiatives for the next round of asks. One initiative is **Supporting Sustainable Family and Community Forestry**. (That component was imbedded in the original Agency-wide proposal.) That effort would add 12 FTE in terms of Wildland/Urban Interface Foresters dedicated to working in that interface. On the other front, addressing the Division's workload, a strategic initiative **Forest Practices Act Monitoring for Water Quality for FPA Effectiveness and Implementation**. Adding capacity to the effectiveness piece and supporting the implementation study for a total 6 FTE. Related to that, the Board has directed ODF to work with DEQ going forward on their water quality and TMDL concerns. A coordinator position will be needed to manage all that. So those are the two strategic initiatives staff are working on along with setting our Harvest Tax bill for the next Legislative Long Session.

ODF has been in the spotlight recently regarding its current financial status as we wait on federal payments for outstanding fire costs. The Governor's Office just established a **Financial Oversight Team** to help remediate the backlog of receivables due the Agency from federal & FEMA fires. They will look at the processing agreements for fire costs and improving payment structure and ways to manage seasonal borrowing.

### 3. Operator of the Year (Action Item) – Greg Wagenblast, Policy Analyst

As there were a couple of new members to the Committee, Wagenblast went through the details of the Operator Recognition Program and its three levels of recognition: Operator of the Year (1) per Area, Merit Awards (1 per District if approved) and Letters of Commendation (Locally awarded). Nominations come up from the field staff, committee members or public. He covered the screening process nominations go through before coming to the Committee for a vote. Tours of the nominated operations are held prior to the Committee vote. He shared that there is another program being reconstituted through ODF&W awarding Landowner's efforts. ODF is a part of that but the process and nominations are made through the Oregon Department of Fish & Wildlife. He reported 6 nominations from NW Oregon and 1 here in Southern Oregon for that Landowner Program. Those ODF&W award nominations do not go through Area Committees. ODF&W has their own committee set up to do the review and selection.

The initial screening of the Operator of the Year nominations is done with the Assistant to the Area Directors looking at Consistency (not having any violations in the past two years); Exceeding the FPA minimums; the Degree of Difficulty, Innovation and Extra Effort, Financial Risks and Results. Once passed the initial staff screening the nominations are prepared and tour schedules coordinated. Member packets provided an written overview of the nominations and the suggested rating criteria (Consistency, Difficulty, Concern for resources, Innovation, Effort and Results) to inform their voting. Southwest Oregon Area had 2 nominations. One was the **Pacific Forest Contractors**. Greg provided a summary of the discussions he heard on the tour of that operation. The Pacific Forest Contractors had a clear cut harvest operation with a domestic use stream, and SSBT stream. It was a snow damage operation so they had a lot of jackstraw timber down. They also had very concerned neighbors that created lots of challenges for them. A lot of effort accommodating the landowner and neighbors. They also were trying to manage the truck drivers coming in through a contract service so they were assured that drivers knew what the rules were for the operation. In his opinion, there was great communication going on with everybody involved on it. The person nominating this operator emphasized Pacific Forests Contractors were consistently counted on for doing great work, always going above and beyond even to the point of incurring extra costs to do so.

The second nomination was **Lone Rock Logging Company** on a clear cut operation with a Large Fish stream with side channels. Even with the side channels the RMA was marked out further from the side channels out. They even had a wider buffer that they had to manage and deal with ways to get the logs and stuff over that. There was 950' of stream length and RMA that they had to operate around. Down at the bottom of the unit was a high use public BLM road also used for recreation, so they had to have flaggers out there when they were doing the cutting or the yarding. All those logistics that come with trying to have an operation next to a public use road. The nominator pointed out Lone Rock's Consistency in going above the FPA when they do their activities. They are deliberate and plan things out well in advance. Member noted that the 55' lengths that they chose to do, were self-imposed lengths so that they made sure they actually got full suspension over that RMA and didn't do any damage.

After Wagenblast's summary Chair Kjos called the committee members to caucus during the break on their decision.

BREAK

Kjos had the members go back into session after their deliberations and called for a vote on the two operations for Operator of the Year. All voted in favor of **Pacific Forest Contractors** for Operator of the Year and cast no votes for **Lone Rock Logging**. McMichael noted that both were excellent nominations and good contractors. Wagenblast asked members about awarding Merit to Lone Rock and there wasn't a Motion proposed to vote on.

### 4. Proposed Changes to OOOY Timeline

After choosing the Operator for the year Wagenblast announced some changes in the timeline for the Recognition Program. They've had conversations about the challenges of getting nominations in during fire season. So staff are working on re-doing the Directive into a newer format and include changes to the nomination timeline. This change won't affect the committee review and selection timing but the new proposed timeline will **open the nominations in November and close in June** to avoid fire season. They are adjusting the timeframe so folks in the field have time administratively to focus on those nominations. The Program itself is also encouraging consideration of operators consistently going above and beyond. Rather than waiting for a single complex operation to occur. Nominating those kinds of awesome operations can be a given but it doesn't mean that somebody going above and beyond for the last 20 years isn't just as viable to be recognized. And nominations wouldn't necessarily have to match that 12 month period. Earlier timeframes can allow for better coverage and video interviews when the weather is favorable and allows Public Affairs staff more time for editing. The RFPC tours will still be in October and members will still be voting in October. But this change will enable the Board to award the Operators in January rather than March, announcing before the other venues. Staff out in the field are happy about the new timeline. The open nomination period would end in June and any nominations after that June close date would be put into the next year's nomination pot. This notice was given for member's information there was no decision to be made and committee responsibilities remain as normally scheduled.

Kjos wanted to thank the specific FPFs for going through the effort for the nominations. He expressed hope that the proposed changes will help promote more nominations.

#### **5. Fish Passage MOU Update – Thomas Whittington, Water Quality Specialist**

Staff are working on revisions to the Memorandum of Agreement with ODF&W regarding fish passage on non-federal forestland. Whittington recognized members of the working team as: Jay Walters, Keith Baldwin, and Josh Barnard for ODF and Rod Kraemer, ODF&W liaison to ODF and Gregg Smith, ODF&W Assistant Fish Passage Coordinator, and his boss, Alan Ritchey, Program Manager. This group has been meeting monthly to work through changes to this agreement. The existing memorandum was done in 2000 and a lot of things have changed since then with both agencies. The Agreement covers fish passage installations, replacing existing structures, and then maintaining or abandoning any fish crossings in conjunction with forest operations. The Agreement will just solidify what we are currently doing regarding fish passage on non-federal forestland under the FPA and established authority.

Kjos asked for detail on whether the process or practices were changing or just the formal agreement. Whittington responded that the MOA will just affirm ODF's role in ensuring fish passage. So whenever there is construction, maintaining or abandoning of stream crossings in association with forest operations under FPA. This Agreement serves as an interagency concurrence that forest activities meet fish passage requirements established by the Department of Fish and Wildlife. So for Stream Simulation installations ODF will continue to provide guidance and monitoring on those culvert designs. If there are alternate strategies the landowner is wanting to do, the process changes a bit. To use a fish passage design *other* than stream simulation the design needs to be reviewed by ODF&W engineers. So the agencies work together on those. (Open Bottom Pipes are normally considered stream simulations as well). The MOA will also affirm the current processes under ODF authority as far as written plans and the notification process remain the same. But administratively the MOA will require ODF to provide annual reporting on what is installed each year. FERNS (electronic notification system) provides a good avenue for providing that information pretty quickly to eliminate lag time in inspections and reporting. In 2018 there were 148 fish crossings notified. And for 2019 so far it was a little more, about 157 notifications for those two activities across the State. A small change to note is regarding Fish Salvage. That part of the MOA says ODF will inform either the landowner or operator about those fish salvage requirements for in-stream work. The plan needs to address how are they going to isolate that population of fish or whether they will be removing those fish temporarily. Guidance to implement these rules will involve revisions to Technical Note 4. Whittington invited interested Committee members to help in that process. Design strategies, fish salvage practices and any other BMPs that would apply. Staff is putting together a **Practitioner Workshop** mid-November. Members will see an

email go out announcing the details and the goal is to try and get at least 1 member from each Regional Committee. Preferably someone with direct experience installing fish passage culverts to join in the workshop and provide advice on implementation. The ODF&W Fish Passage Coordinator will be involved in the Workshop as well. The Practitioner Workshop is tentatively set for November 20th. The working draft has been in process for nearly a year. The goal is to have the Agreement and Tech Note in place early in 2020. Thomas shared that one question that had come up was how emergency issues are addressed. Emergency culvert work *is* addressed in the agreement. Whenever a culvert needs replacement it has to be in compliance with current rules. If it's a fish stream then you have to replace it with a fish passable structure. Another small discrepancy has been in the definitions ODF&W uses for species requirements. They define streams for fish passage of native migratory fish, different than how ODF defines fish streams in the FPA. That was called out just to recognize rule differences.

## **6. Monitoring Update:**

### **a. Siskiyou Project (including ODF/DEQ coordination) – Marganne Allen, Forest Health and Monitoring Manager**

Allen started off with the Siskiyou project assuming that to be of the most interest to this SW Committee. The full title is a **Streamside Protections Review for Small and Medium Fish-bearing Streams in the Siskiyou Region**. They are looking at performance and effectiveness of the Forest Practices Act relative to expectations for stream temperature and for the vegetative desired future condition. More specifically stand structure and shade. In June staff asked the Board for direction. Board members supported the staff recommendation that at the time there wasn't enough information to decide on the performance of FPA protections in the Siskiyou. But in looking at that, the Board expressed a lot of interest and sense of urgency around climate change factors. At September's Board meeting she presented a couple of options. One, to approach climate change at a project level. The key problem being that the FPA with all the underlined statutes and rules were not written with climate change in mind. So we would basically be trying to wedge in climate change impacts into what the FPA says regarding stream temperature, stand condition and shade. The benefit of that strategy would be getting on board with climate change issues now as we are currently addressing policy. But the other option would be to stand back and take a more comprehensive look at what is going on in the FPA as a whole in light of climate change. Board members ended up with a tie vote on the issue. No direction for staff at that time but it will be a continuing and important discussion point.

Staff's suggestion was that they get more and any new information specific to the FPA. The BOF directed staff to do a fresh re-look across a broader geography. Effectively re-visiting that 2015 decision that had Siskiyou as a carve-out. So taking the information that we had brought the Board between 2013 and 2015, the last Systematic Review, and do a refresh with data published or released since that time. The first product will be the review of water temperature data and that report can be ready to go to the Board in April. The other part is the literature review on Desired Future Condition (DFC) that Adam Coble and Ariel Cowan are working on. This review will look for data from the whole NW Coast, northern California and southern Alaska on both those topics. So the temperature review could have a Board decision scheduled as soon as April. Or it could be combined with the DFC analysis and be reported together later. A member asked whether the April decision would be on temperature sufficiency only or to implement rule change. Allen responded that it would be a decision on sufficiency and if found insufficient then it would enter the rulemaking process. But ultimately the Division is considering how efforts like the Siskiyou and Western Oregon and everything else we do on a regular basis can be integrated and considered under one process. In January, staff will be in front of the Board bringing them proposed objectives for a new advisory committee. The advisory committee would not be expected to come to consensus on issues and most likely won't be in agreement but the discussions would be a forum for the Agency to foster understanding and speak to the range of comments and concerns from across the spectrum.

The last key element is the DEQ part. Allen reported that in September the Director of DEQ testified to the Board about how important it is that our agencies align. The State Forester addressed that mirroring his own concerns noting that there wasn't enough integration between our rule sufficiency analysis process and specifically DEQ's TMDL (Total Maximum Daily Load) work in implementation of the

federal Clean Water Act. If streams don't meet the State Water Quality Standards then that stream or river gets put on something called the 303d list of water bodies around the state not meeting the Standards. If 303d-listed, DEQ allocates a pollutant load to remedy that status, so forestland use ends up with an allocation. DEQ has to redo 14 TMDL over the next 7 years and so that provides us with an opportunity to use the Siskiyou as a template on how to integrate FPA rule sufficiency to DEQ's work. Allen continued that the struggle with the TMDL process is in DEQs cumulative effects analysis at points in the watershed. Forestry can only look at individual operational effects on temperature along the unit. And to increase protections we have to show that there is a resource harmed and that harm is associated with a specific practice at that specific point. We have no control over other factors, upstream and downstream land uses contributing to the water quality. We don't have cumulative effects information when it comes to Small and Medium Fish streams in the Siskiyou.

There is the possibility that there could be more information with new analysis. In the meantime our GIS unit has received funding from OWEB to improve our stream line work location information using LiDAR and some aerial photo work. With that work going on they have prioritized the stream work in the Siskiyou. Staff are trying to build more information within the timeline that will help inform this. It will be important and useful information on stream cover if we can get it in time. A facilitator will be hired to working with the stakeholders on a charter and setting ground rules. Staff will provide objectives and determine the product needs. Allen plans on ensuring the advisors bring a range of voices. Family forestland landowners, timber industry, conservation community, regional committees and also include DEQ and ODF&W.

#### **b. Reforestation Implementation Study – Marganne Allen and John Hawksworth**

There were handouts provided to the members on the Reforestation Implementation Study. Allen had two key goals for this discussion. One goal, to provide information on the media attention this study has been receiving as of late. Then provide a status check and solicit feedback on the latest module we are developing for reforestation. For those unaware, she reported that there has been public feedback and news attention on the previous Compliance Audit Report. Allen had "a nice conversation" with Oregon Public Broadcasting about what we are doing in response to those concerns. She prefaced those responses with the fact that the last study (under question) was designed and evaluated by our external stakeholder team and accomplished by a 3<sup>rd</sup> party through a competitive bid process for a five year contract. Staff reported and published the results after regularly checking in throughout the process with the Board. Some folks took the time to get some input from statistical consultants and reported concern that the lack of landowner participation is impairing the State's ability to accurately report compliance rates in the State. Some members of the Board have taken quite a bit of interest in this and it was discussed multiple times at their October Retreat. One key concern was about potential bias particularly the issue with non-responses. Allen emphasized that the staff have been straight up about the design and implementation challenges from the beginning as we do not have rights of access to private property. The report, in its transparency laid that out clearly. The report also transparently included the rates of response and non-response and refusal. So at issue is how do you take the data that you *can* collect from landowners and then boil it into a statewide compliance rate yet have confidence that it is representative of non-respondents as well? The Monitoring Unit is taking those statistical concerns to heart and working with the OSU StatNet group on how we can address that. One core question relates to statistical/reporting approaches. Descriptive reporting versus what we call inferential reporting. Descriptive just provides raw data (no estimation). Inferential reporting comes up with a confidence interval to estimate overall compliance based upon those lands we *have* been given access to but making inference about the harvests we didn't have access to. So concerns about bias are linked to our inability to access all lands and leads to re-examination of the process. Another big question is whether this effects our moving ahead on the next study. Some folks have suggested that we should go back and re-do the work and the calculations that were done on the last study. Looking forward, the next study effort is around compliance with reforestation rules. In response to bias concerns staff is looking at marketing options to try and increase our landowner response. Part of that effort is re-branding the Compliance Audit as the Reforestation Implementation Study. Allen then introduced John Hawksworth to go through the actual field protocol refinement.

Hawksworth, Monitoring Specialist spoke on the refinement of the new protocol in light of the bias concerns. ODF is currently working with the StatNet crew at OSU on statistical techniques and assumptions. The two thorniest issues being: How do we account for the small sample size that we have in certain groups? And how do we account for low participation with certain landowner types? This next study focuses on clear cuts and reforestation implementation. And at this point there are the same statistical concerns. Landowner permission is what enables us to do this study. For the private non-industrials in the last audit we got only about a 1 in 4 success rate of response for permissions and about half of those did respond were too busy, or forgot to, or don't have time to deal with this. So we got 50% for whatever reason did not respond and then an out and out 24% refusal rate. About 1 in 4 refused. So it's understandable that people question the validity of what we come up with. The Department wants to get the word out about the importance of this implementation monitoring and what we are doing to address concerns. But Storm noted that those refusing or not responding could be for many reasons, having nothing to do with their operational compliance, but unfortunately it leaves us open for criticism. Doing 6 or 7 solicitations to get one person to say yes is a lot of staff time. Work is ongoing with OSU StatNet staff on field techniques and statistical calculation. The protocols must work on the ground. If StatNet recommends something we can't implement in the field then it's headed nowhere. Another facet is how to address any residual trees in the 'clear cuts'. The thought was that selecting to look at clear cut harvests would eliminate some complexity and value judgements that a pre-commercial thin would present. But when staff did some ground truthing in Eastern Oregon those 'clear cut' sites had tons of trees left but not necessarily good growing stock. So we are having to address residual trees in the protocol. The Forest Practices Act has a lot less specific criteria in determining what acceptable residual stock is. But the contractor will need specific criteria to clearly be able to assess the health and viability of trees left on the harvest site. So now the protocol has a section on determining whether residual stock can be counted. Residual stock that:

- Does not lean more than 30 degrees from the vertical;
- Does not have a broken, dead or missing main stem;
- Has 8" dbh or larger;
- Has not suffered scrapes from timber harvesting that penetrate the cambium in more than 1/2 of the stem circumference at any point;
- Less than 8" if they have not suffered severe mutilation or exposure from timber harvesting.
- Is it an acceptable species? (A list of those will be appended to the protocol.)

ODF plans on advertising the Request For Proposal somewhere around January or February. If it becomes a multi-year contract and in the upper end of expense range the RFP will need Dept. of Administrative Services review, typically taking 6 months. The team is hoping they will be able to begin some field work by the end of 2020.

### **c. Western Oregon Streamside Protection Review – Adam Coble, Monitoring Specialist**

Coble presented the update on the [Western Oregon Streamside Protection Review](#) and later called members attention to efforts with the [Willamette Basin TMDL](#). He reminded members that the Board directed the staff to test whether the current rules in Western Oregon are effective in achieving Desired Future Conditions and Large Wood. This focus would include the Coast Range, South Coast, Interior, Western Cascade Regions. He pointed out two work products resulting from this scientific literature review. One will be review of scientific literature about the Desired Future Condition and Large Wood Recruitment to western Oregon streams. The other work product is analysis of field data, (including the RipStream data) focusing on overstory vegetation and stand structure. That analysis will inform us about Downed Wood in the RMA and contributed Large Wood in streams and will probably be over the next month or so. The draft analysis will be sent to stakeholders. A third work product is the, Modeling Analysis, projecting stand conditions over time, (out to about 80 to 200 years) to get a sense of how these stands look with mature conditions. Coble is working on a Request for Proposal that will be put out for bid soon on the Oregon Procurement Information Network (ORPIN). Another piece to this is that the DFC literature review has now merged with the Siskiyou literature review because the Board directed us to expand the geographic scope of that Siskiyou literature review and it turns out its

basically the same as the Western Oregon so for DFC the Siskiyou and Western Oregon literature are the same. We are going to keep the Large Wood part of that literature review separate.

#### **d. Willamette Basin Mercury TMDL – Adam Coble**

In 2006 the DEQ and the EPA generated the 2006 Willamette Basin Mercury Total Maximum Daily Load. That TMDL is currently in the process of getting revised. The bottom line for the ODF is that sediment delivery to streams is identified as an essential pathway for mercury from forests and agricultural land. The strategy of the Water Quality Management Plan is to minimize that sediment delivery. To do that DEQ is working with local, state and federal governments, as well as private entities. We'll be working with DEQ in the next year and a half to draft an implementation plan. Adam provided a handout of information on what led up to the recently revised TMDL, with information on what mercury is, why it's bad, how it enters the forest. There is also a website DEQ has on mercury in forests. Mercury is a naturally occurring element available through ancient volcanic activity but also emitted from coal fired plants into to the atmosphere. A considerable amount of mercury coming into Oregon is actually emitted from Southeast Asia and traveling atmospherically, an important source of mercury that we are currently challenged to address. Mining is another source, from tailings, etc. But for the sheer scale of resource lands makes the per/acre contribution of forestry (which is small) huge, and both forestry and agriculture wind up identified as the single largest source of mercury emissions by virtue of multiplying even a small amount by a huge acreage. The TMDL outlines the contribution by non-point sources and point sources. Forestry would fall under the non-point source.

Allen summarized that the implementation plan is ultimately about again how ODF works with DEQ to align our business processes and talk about how the work we do to ensure we keep waters clean and how well we are succeeding in that.

### **LUNCH**

#### **7. Food Plot Rules Update – Nate Agalzoff, Incentives Coordinator**

Nate presented an update on the **Wildlife Food Plot Rulemaking** starting with a brief history for those newer members. That the Wildlife Food Plot Statute was passed through a House Bill and made effective as a statute January 2016. The definition from the statute describes these plots as, "Planting vegetation capable of substantially contributing to wildlife nutrition". So the primary purpose is to provide forage for an intended species. The focus in other parts of the country has traditionally been on game animals. Here in Oregon, the species list can include non-game species as well. This provides landowners a tool to achieve other values on the forest landscape. The Department was directed to make rules around the implementation of this new forest practice. By the effective date of the statute the Department developed some interim guidance so that interested landowners could take advantage of that opportunity. Early on stakeholders were identified and towards the end of 2018 it was brought to the BOF to approve the draft rule development. That draft language was provided to the advisory committees for their input. Any forest harvest under the FPA that would trigger a reforestation requirement and could be eligible if under 5000 acre total ownership for lands that would be under the reforestation requirements. There are plot maximum sizes and minimums (1/4 acre) because of the logistics of plot success and monitoring. So far the number of plans submitted and inquiries has been in the single digits. Barnard added some folks have been trying to apply to avoid reforestation, which isn't the intent of the statute. The plans will be reviewed and if the plot is not actively managed, it reverts back to the reforestation requirements and must meet stocking levels.

Agalzoff wanted to call out some of the changes made to the draft. One change is to verify that they aren't planting anything that is on the noxious weeds list. And as the statute defines the food plot as a forest practice requiring notification as a forest practices activity. That notification would need a project plan demonstrating what the species of interest is, what the strategy is to provide forage and show the food plot location in the harvest unit. Establishment and monitoring would follow the same timeline as reforestation. 24 months to establish. The draft rules are being fine-tuned but are still open to comment. The first part of 2020 staff will be kicking off the official rulemaking process with public hearings regionally in the spring. So he also welcomed ideas on public hearing locations and how we might get



good engagement there. The goal would be to have the Board adopt the draft rules as final at the June Board meeting.

Barnard reiterated that the key thing to understand is it was designed to be imbedded in the FPA as an acceptable forest practice and not a land use conversion. The forestland designation remains. Thackery recalled some personal history with recreational leasing and being approached to do food plots to attract game. The main issue then was that the plants they wanted for forage were invasive.

### **8. Marbled Murrelet Update – Josh Barnard**

The Board will be provided an update on Marbled Murrelet Study at their November 6<sup>th</sup> meeting. The last update for them was in April and Weikel was in the process of finishing off the Technical Report at that time. The Technical Report covered what is known about the species to date and also included a range of options for the resource site and protection strategies. But given the uniqueness of the Marbled Murrelet we expect a big range of options but not a lot of information. There are a very specific set of rules guiding rulemaking for T&E species Division 680 Rules. Requiring us to identify the resource site and determine the protection requirements. So, right now we have a big range and lots of options ranging from regulatory to voluntary and protecting the 'nest tree' or some kind of a habitat-based protection. So what staff envision is taking a populated matrix to a focus group of stakeholders to try and seek input on the various strategies. The plan is to hire a facilitator to help us with that discussion with Committee members and stakeholder groups to establish the preferred strategies at each end of the spectrum. The estimated timeframe to do that is like 10 to 16 months depending on how all those meetings come together and long it takes us to put a facilitator in place. Hopefully, we get 3, 4 or even 5 strategies but narrowing the scope enough to evaluate impacts.

Erickson asked how the Board will prioritize this effort. Barnard replied that the Board needs to continue forward progress given that a petition and potential lawsuit were involved initiating the effort. The Department needs to show continued forward progress towards the end point and walk through all the required rulemaking processes. It could take around 10 months or longer before it returns to the Board. So we are not talking about rulemaking yet, this is just looking conceptually about the resource site and protection strategies could be.

### **9. Good of the Order**

Rex Storm had requested time to provide some information on the **Jordan Cove Natural Gas Connector** project. The LNG natural gas pipeline will be 270 miles long from Coos Bay east past Klamath Falls. Back in late 2018 the company who had started the permit process was purchased by a very large Canadian gas line company, Pembina. And the company has been gaining traction and some success with the Federal permit and also the State DEQ permitting process. Storm explained that the only reason he was sharing this information is that it would be crossing 270 miles through forest lands. Like 80% forestland. About 40% private lands and 60% federal lands but it also has a 100' right of way obviously involving harvesting and excavation thorough these lands. Easements and right-of-ways would be procured soon after permits were signed. He just wanted to emphasize that it is a pretty significant economic development and construction project for Oregon and a real positive boost for forest industry. But there is lots of anguish over private property rights and easements and all that. So far it looks like the new owner is trying to compensate landowners for the easement fairly and more lucratively than the past permittee. Ultimately it would be good for the economy. If the permitting is successful over the next 12 months then the construction would occur in late 2021 to 2023.

The other information Rex wanted members to consider is through the mere number of different water quality and T&E species petitions that have directed agency business of late. The Division has accumulated a very large workload. Speaking personally, he noted that in no time in his career has the Department had to address and deal with upwards of 6 different rulemakings having to do with Water Quality and species protections all at once. All very complicated issues. Rex wanted to call member's attention to the cumulative effect this has on the Regional Forest Practices Committee. As an advisory committee to the Board of Forestry there will certainly be multiple opportunities to provide testimony and recommendations. He encouraged the Committee to exercise their advisory role and be more

actively engaged than in the past. And wanted to encourage members to volunteer on the stakeholder committees and work with one another, constituents, landowners and industry folks.

Barnard asked to finish up with a couple more items. One of those is a heads up to members that they have the opportunity to tune into the video feed of the Board meetings if interested. He also added that part of the Board of Forestry Retreat in November was to have a dialog about how they work amongst themselves and also in consultation with the Department. Part of that discussion was around the Forestry Program for Oregon. The November meeting was structured to include a Science and Policy workshop walking through sample problems and initiated discussions to practice identifying the consequences in decision-making.

No more business was offered. Kjos adjourned the meeting at 1:00 pm.