



Committee for Family Forestlands Meeting May 20, 2021



Pursuant to public notice made by news release with statewide distribution, a meeting of the Committee for Family Forestlands [an advisory body to the Oregon Board of Forestry with authority established in Oregon Revised Statute 527.650] was convened on May 20, 2021 as a virtual online meeting hosted off-site.

CFF Committee members participating:

Eric Hartstein, Interim Private Forests Deputy Chief
Glenn Ahrens, OSU College of Forestry Ext. Ex-Officio
Wendy Gerlach, Citizen-At-Large (Voting) Columbia Land Trust Board
Evan Barnes, Committee Chair & SW Landowner Rep. (Voting)
Barrett Brown, NW Landowner Rep. (Voting)
S. Mark Vroman, Industry rep (Voting) Hampton Family Forests
Amy Jahnke OSWA Ex-Officio

ODF Staff:

Scott Swearingen, Field Support Unit Manager
Ryan Gordon, Family Forestland Coordinator
Josh Barnard, SB 1602 Project Lead (Deputy Chief)
Jay Walters, Field Support Coordinator
Jennifer Ward, Stewardship Forester
Paul Clements, Training Coordinator
Brooke Burgess, Ops & Policy Analyst

Members not in attendance:

Janelle Geddes, USFS State & Private Forestry Ex-Officio
John Peel, EO Landowner Rep. (Voting)
Julie Woodward, OFRI Ex-Officio
Kaola Swanson, Conservation Rep. (Voting/Vice Chair) Sustainable NW
Amanda Astor, Forest Policy Manager AOL Ex-Officio

Guests/Public:

1. Welcome and Review of the Agenda

Chair Barnes opened the meeting and reviewed the agenda.

2. Roll Call

(See above.)

3. Approval of the April Minutes

Approval was postponed till later in the meeting to reach quorum. Once quorum was reached, Barnes called for a Motion of Approval. Gerlach motioned to approve the minutes from April. Brown seconded the Motion. All voted in favor of approving the minutes from April.

4. Public Comment

No public comment was offered.

5. Committee and Partner Updates

Barnes noted the change in the normal lineup of agenda items and asked if any members had updates to share. Ahrens reiterated Extension's partnership with Ryan Gordon on the issue of seedling availability noting that with the high temperatures and dry weather this spring survivability of recently planted seedlings is very poor. Vroman agreed that there is a significant increase in fall-down and at least one of the large industrials pulled their residual units and took the balance and went back over existing planted stands. He noted that moisture competition is going to show up pretty quick. Ahrens emphasized that they are seeing a lot of early problems because of the conditions for the few weeks of excessive dry, warm wind desiccating the trees before they had a chance to really wake up and grow. It looks like there will be a pretty high rate of mortality this year.

6. Private Forests Division Update

Hartstein reported that State Forester Peter Daugherty would be resigning at the end of May. The Board of Forestry will be meeting to discuss next steps to recruit for the State Forester position and naming an Acting State Forester for the

interim. But the Department's initiatives, policies and programs remain unaffected. He did acknowledge that it is a time of transition not only with the State Forester but with a new Board and several pending legislative items. Priorities may change, but the agency is ready to adapt and continue its mission to serve the people of Oregon by protecting, managing and promoting stewardship of Oregon's forest. He offered that it is probably too soon to tell how all this is going to shake out with the pending legislative items and if we have a wildfire omnibus bill that passes that may include a lot of new positions, and changes there. There is potential for a significant Wildfire Recovery Package, but it is too early to tell what this might mean, both in the short term and long term. He reported there wasn't any news yet on the final vacancy on the Board, which is typically a labor position, but it may be filled during the September Legislative Days. Updating the members on the State's COVID protocols, he stated that the Department is taking direction from the Oregon Department of Administrative Services (DAS) on re-opening. The target date for everything is September 1 and there is an Advisory Team that is tasked with looking at what State government will look like at re-opening and will likely include some flexible work options for State employees. In the meantime, face-coverings and masks are still required in State buildings. Hartstein then announced that the Division is going public with recruitments for a Forest Health and Monitoring Unit Manager and Forest Pathologist and hope to have those positions filled by the new Fiscal year in July. Brooke Burgess was recruited for an Ops and Policy Analyst position in the Division to administer the requirements of SB 1602. Her administrative duties helping with Civil Penalties will be backfilled pending recruitment for that vacant position.

7. Legislative Update

Hartstein continued that a Senate bill was proposed to change the Board's appointment authority to the Governor in consultation with the Board to then be confirmed by the Senate. Continuing, he reported that the Department budget was up for public hearings in the Natural Resources Sub-Committee of the Ways and Means and concluded public testimony. They will be starting to move into work sessions on the smaller Natural Resource agencies. He shared that the State's Revenue Forecast was released and was really good news with healthy balances projected. That will give the legislators what they need to start making some decisions when it comes to the Agency budget. The federal recovery (ARPA – American Rescue Plan) guidance was also out this week with criteria for expending those funds. Other bills they are tracking HB 2070 the Governor's and Department's Harvest Tax Bill. Also, HB 2379 which replaces that Harvest Tax with a Severance Tax. There was no movement to report on either of those two bills but had public hearings in the House Revenue Committee and one or both may be scheduled for work sessions and then referred to Ways and Means alongside of the Department's budget. Also in the Revenue Committee, HB 2357 would allocate a portion of the Harvest Tax that currently goes to OFRI to the Department to implement what is termed, Sound Forestry Practices and provide aid to small forestland owners. Regarding wildfire recovery, HB 3127 has been amended to include over a billion dollars' worth of projects related to housing, infrastructure, and economic recovery for the communities that were impacted by the 2020 wildfires. Within those billion dollars is over \$81 million dollars for natural resource recovery and \$41 million dollars for stabilization, seeding, erosion control and invasive species control. Additionally, included is \$5 million dollars to the Department to develop tree seedling and nursery capacity. He expects another amendment to add projects to that.

8. CFF Annual Report to the Board/Chair nomination

Dominique asked for additional feedback on the Report draft and agreed to have a final draft for the June CFF meeting for approval and at that point move it forward to the Board packet for their July meeting. Members then discussed the format for the presentation and who they would like to have participate. All agreed that with the new Board members it was an important opportunity to describe the small woodland landowners CFF represents as well as the importance of family forestry to Oregon. Ahrens suggested having an impactful visual story illustrating that and possibly testify to the effects of the 2020 Labor Day fires and/or seedling availability as key concerns. Brown agreed to reach out to Julie Woodward (OFRI) about testifying on the results of the Oregon Forests Survey. Barnes then took the opportunity to nominate Wendy Gerlach as Chair of the Committee. She thanked the members for their support. Staff will include her bio to the Board in a staff report for their consideration and appointment.

9. Post Fire Recovery Update

Gordon reported that in terms of post-fire recovery he has knocked on a lot of doors, heard conversation in the legislature about potentially providing some funding for the suite of needs for post-fire recovery including natural and cultural resources. In terms of support for the seedling component, he reiterated that there is \$5 million for seedlings proposed in the legislature (HB 3127) and \$41 million for stabilization. Those funds would really help in leveraging other funds that

could add some capacity. Providing that kind of investment would facilitate creating a program with some longevity in the bigger picture statewide. In response to a question regarding the possibility of manipulating the seedling production schedules to change the planting window to be more resilient to the drought conditions. Vroman responded that with respect to nursery practices, they are catering the growing season cycles to the dormancy and growth of the species. Getting seedlings out in October and September, if the soil temperatures are right and the weather pattern is right you can get some good growth. But the bigger advantage is getting those seedlings out and up into the high country before the snow hits and can blanket the seedlings in that fall/winter season which gives them good insulation for spring growth. The lower elevations are still in a bareroot program. But as far as the nursery goes, they are kind of limited on their practices and timing based on the natural cycle as to when seedlings are coming out of dormancy. He noted whether we have the trees planted in the fall or early spring those seedlings are still going to be subject to the drought conditions that are occurring right now. Gordon continued that the other component to the issue is not the supply of seedlings but making sure that folks have access to the consultants and contractors to get them planted and managed properly. But it is hard to fund the technical assistance component. He shared his hope that the legislature comes through with some funding and we can leverage that to provide a lot more technical assistance and make good use of the assistance programs that are available, inclusive of the seedling piece. He reported that they are looking closely at ways to tie into existing networks and programs to form some partnerships. The USFS J. Herbert Stone Nursery down in the Rogue Valley are very open to helping us and growing for us. They have signed an agreement with the Southwest Oregon District to provide some staff support for them in the off-season to increase their staffing capacity and thereby increase their production capacity. In terms of other, or ongoing programs, the Emergency Forest Restoration Program (EFRP) continues with about \$75 million dollars allocated to Oregon and landowners are beginning to be able to access some of that. The bottleneck there is the creation of plans which need that technical support. So, they are also working internally to see if we can bring some extra capacity to bear taking advantage of some of the technical assistance funds that we do get from the Farm Service Agency to help with that program. On the NRCS side, they did have an EQIP offering for post-fire restoration at least in the Southwest basin, on the southern end of the Willamette Valley. And then Sustainable NW is leading an RCCP application which will bring some additional resources to bear for NIPF lands for post-fire recovery. Now he emphasized distribution of available seedlings is becoming more of a priority. Most of the producers that he has talked to say they have the space and would be willing to expand production if they had a good expectation of dedicated orders over the next few years. And so, more of the emphasis would be on trying to corral that need, place those orders and distribute them.

10. SB 1602 Update

Barnard began by reminding members that SB 1602 is very prescriptive in terms of what the Department needs to implement. Requirements are specifically defined in the bill which is not usually the case for a statute. So, just to refresh everybody's memory, it was in June 2020 the Oregon Legislature held a special session and during that session they passed SB 1602 in both chambers with broad support. The Governor signed the bill into law on July 7th, 2020. The text of the bill did not strike out any other previous statutes or rules but added requirements on top of the rest of the Forest Practice Act and outlined some interagency coordination that needs to happen.

[Video] Hello, I'm Kyle Abraham. My team and I administer the Forest Practices Act and rules. These laws are developed either by the State Legislature or Oregon Board of Forestry and sometimes both. Today we are reviewing some of these laws. The Department's approach to administering these laws is to help people know the laws and do the right thing up front. We use a multi-tiered approach, Engineer, Educate and Enforce. Using science and engineering to develop the laws as ideal for forest management. Once a law is in place our team educates staff, the regulated community and the public for high compliance rates. Then if needed we can enforce the laws with the appropriate penalties. Most people prefer compliance without enforcement. In June 2020, the Oregon Legislature passed Senate Bill 1602 and the Governor signed it into law. Both Conservation and Timber Industry groups supported the bill. These groups will continue to discuss and develop and recommend changes to the Oregon FPA. The Department supports this approach, and the diverse views and productive discussions can help improve forestry laws while addressing concerns for responsibly managing forests. The Department and Board look forward to receiving the recommendations. Parts of the law go into effect at different times. The law changes some of Oregon's non-federal forestland protections. For instance, the law increases buffers around homes, schools and water intakes and some streams for helicopters spraying pesticides. This part of the law starts on January 1, 2021, the buffers are at least 75' from streams with fish or domestic use. 50' from other streams with surface water present. 300' from a school or inhabited dwelling and 300' from a qualifying water

intake. The law includes the Siskiyou region and the rule for protecting Salmon, Steelhead and Bull Trout streams. This part of the law starts January 1st, 2021. The Agency must develop its E-notification system to improve communication among helicopter pesticide sprayers, neighbors and water users. The law provides funds for developing the system. It will likely take about a year to complete this work. The communications from the Helicopter Pesticide Applicator to the Department and qualifying registrants must include 4 parts. First, a proposed spray which includes the location, pesticides likely to be used, a 90-day window for applying those pesticides and the notifier's email and address and phone number. Second the 90-day time available to spray. Third, the notice by 7 pm the night before the planned spray which we call the Pending Spray. Fourth the spray is either Complete or Incomplete. The applicators must also notify water users and neighbors before spraying, qualifying water users and neighbors must be notified about the spray timing. They will receive the first message when there is a proposed spray. Now let's take a look at who qualifies and how to receive these messages. Neighbors and water users must sign up to receive these notices. Next let's turn to the penalties. Of course, it's better for everyone and the protected natural resources if there aren't violations. However, if people do violate these laws there are fines for failing to submit spray plans, notifying the Department and neighbors. There are also fines for people who interfere with the spray applications. Please know that the laws did not change for pesticide sprayed by ground, fixed wing or the use of drones. The final part of SB 1602 is an opportunity about further discussion for improving Oregon's Forest Practices Act. In the coming month, the Governor's Office will mediate talks among the Conservation and Timber industry groups. The Groups will jointly develop recommended changes to Forestry laws. And this work should be done by late 2022. Thank you for your interest in these forestry laws and hope you continue to enjoy Oregon's forests! [Video ends.]

After the video introduction, Barnard introduced the internal Project Team for SB 1602 set up to address the workload and timelines that are in the bill. Project team members are Nick Hennemann, with Public Affairs helping us with Communications. Joe Touchstone serves as our Business Analyst and Project Manager. Michael Lathrop, on the tech support side as the Division's GIS coordinator. Paul Clements facilitating the Training and Outreach. And Brooke Burgess helping with Administration and Agency Coordination in a permanent new position with the Department to help individuals who are interested in getting registered for notification to ensure they meet SB 1602 qualifications. Jay Walters working on Policy and Implementation from his normal role in interpretation of the FPA and one member from the field from each one of our Areas. NW Oregon Area, Ed Wallmark. Southern Oregon Area, Jennifer Ward. And Jana Petersen from the Eastern Oregon Area. The focus of the team right now is the E-notification development. The team must make sure that the system outcomes match the SB 1602 requirements. He extended thanks to the Project Team members recognizing it as pretty challenging work, and a pretty significant lift for the Department and Division.

Jay Walters, Forest Practices Field Support Coordinator and member of the SB 1602 Implementation Team, provided an overview of the regulations put in place by the Senate bill. SB 1602 extended the rules providing protection for SSBT strains into the Siskiyou region. He noted this was the only part of the Senate bill that called for rulemaking. They simply added the Siskiyou georegion to the other Western Oregon georegions in the rule set where SSBT rules apply. The Board approved those rule modifications last November and the rules took effect in January this year.

[Another video provided details from the standpoint of the Oregon Department of Agriculture, on pesticide controls, ODF on new helicopter spray buffers and the Pesticide Analytical Response Center (PARC)]

[Video finished.]

Walters continued noting that the video was recorded as a training device for stewardship foresters, state forest folks and stakeholders to provide consistency in the message that they are intending. He clarified a few of the points in the video regarding pesticide labeling and details on required buffers on N-Type streams, dwellings, schools and water intake locations and that 'all other Forest Practices Rules apply'. And a reminder as well that Senate Bill 1602 pesticide buffers apply only to helicopter applications not to ground-based or any other aerial methods. Qualifying water intakes, schools and dwellings as under the Senate bill descriptions receive a 300' buffer. He went on to explain that the Senate bill calls for fines for any interference with helicopter applications of pesticides. As well as fines for not responding to spray records requests, both daily spray records and GPS flight data. PARC funnels those requests out to the applicator and the

applicator has deadlines within in which they must submit those records. Just like for interference there are fines outlined in the Senate bill for Failure to Timely Deliver Requested Records at \$1000 per request.

Jennifer Ward, a stewardship forester out of the Coos Bay Office. Was present to provide a virtual walk through of the new FERNS functionality that is another requirement of SB 1602. Those new functions include new reporting requirements one of which is that landowners/operators will have to notify any helicopter pesticide applications separate from other activities. It also requires creation of Registrant roles to allow for electronic messaging to neighboring landowners who sign up to be notified for applications up to 1 mile from their residence or water intake. She explained there are two different types of registrations. There is the Qualifying Residence and Qualifying Water Intake. If you have a Qualifying Residence, you must provide proof that you actually live at that residence. And if you have a Water Intake you must prove that you have legal access to that water and you are the person that controls the diversion. Sharing her screen, Ward walked the members through the FERNS site noting the changes and functionality. Then gave details around the qualified registrant process. Burgess' new role in the Division will be verifying that the information that the registrants have provided is accurate and correct. And either Approve or Not Approve them. She added that water diversions may be registered water use that they can verify with Water Resources Department or Exempt which would require a lot of communication to determine if the landowner can be a registrant and receive those spray notifications.

Brooke Burgess was up next to go over the enforcement requirements of the bill. She reported that those include Failing to Notify and Report in a Timely Manner; Fails to make Next Day Announcement; or Fails to Notify of Complete or Incomplete Spray within 24 hours. She reported the coordination efforts the bill requires between ODF and Oregon Water Resources Department (OWRD) to meet the data sharing of water rights/water intake locations. The bill requires ODF to record in the E-notification System any points of diversion that have already been inventoried by OWRD and that qualify for a spray buffer. The Department's GIS and Water Resource's GIS personnel have completed work on refining that dataset and will be using it for the launch of the new features of the E-notification system. The bill also requires the Department and Water Resources to submit a Joint Report to the Legislative Assembly during the 2020 Session. The report is to include the number of points of diversion that have been recorded into the E-notification system and required to report an estimate of how many points of diversion that qualify for a spray buffer that remain to be inventoried.

Barnard introduced Paul Clements, Compliance and Training Coordinator with the Division. Clements illustrated the complexity of ensuring all the necessary information gets delivered consistently to internal and external stakeholders many of whom go beyond landowners/operators, to administrative personnel, other agencies, law enforcement, contractors, etc. For outreach so far, they did email dispatches to our mailing lists and working with the Oregon Department of Agriculture (ODA) included messaging the mailing lists of commercial herbicide distributors and with the aerial applicators listed and certified by the ODA. Clements also provided presentations at various events listed. A couple in Corvallis and to divergent interest groups, the Willamette Toxic Reduction Partnership and the Society of American Foresters. They have probably engaged several thousand people at this point regarding this. And once it becomes live, no doubt there will be more. This is a new business model. This is a new product and unfamiliar for us and unfamiliar for the other agencies and people we work with. So, the next step is developing some informational and instructional materials. Video format will be the primary avenue and the plan is to have a web-based distribution so we are consistent and available when customers need it and can refer to it when there are any inquiries. The focus is to be as forthright and thorough in our efforts to move that information out to our customers. Barnard added that he wanted to recognize Mark Vroman and Hampton Affiliates supporting this communication effort by providing field locations to develop the video. Vroman responded that the company feels strongly about participating in these educational efforts and helps also to showcase their excellent forest management values.

11. Adjourn

Barnes asked for any other comments for the Good of the Order. There was some discussion regarding edits to the drafted Report to the Board. There was still time for any edits or suggestions to the report before the June meeting. Barnes adjourned the meeting 11:43 am.