



# Eastern Oregon Regional Forest Practices Committee Meeting Minutes – May 27, 2015

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 May 27, 2015 at the OSU Extension Office, Lakeview Oregon.

***Committee members present:***

Bob Messinger, Chairman  
Stanley Benson  
Lee Fledderjohann  
Chris Johnson  
Joe Justice  
Paul Jones  
Elwayne Henderson  
Lon Casebeer

***Members not present:***

Irene Jerome

***ODF staff present:***

Lena Tucker  
John Buckman  
Marganne Allen  
Susan Dominique  
Daniel Olson  
Hans Rudolf  
Dustin Gustaveson  
Greg Pittman  
Jennifer Weikel  
Jasen McCoy  
Sarah Cantrell

***Guests:***

Ned & Marilyn Livingston

## ***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 –**

Fledderjohann made some edits. Joe Justice Motioned to Accept the Minutes with edits, seconded by Chris Johnson. Vote was called and Approved the Motion for the 12-02-2014 Meeting Minutes with edits.

- **Public Comment –**

None offered.

## **2 – Legislative Update/Board of Forestry Activities – Lena Tucker**

Tucker started by providing some background from December to date. In late 2011 the BOF initiated a rule analysis that focuses on establishing riparian protections for Small and Medium Fish-bearing streams to maintain and promote shade to ensure to the Maximum Extent Practicable, achievement of the Protecting Cold Water criterion. The NW and SW RFPC are the Advisory Committees for this project and been meeting frequently since January to work up voluntary measures and prescriptions to achieve the PCW criterion on these streams. The information available to this decision will be presented at the June BOF meeting but the decision-making discussion will be in July. The Board will get information on the different prescriptions and ideas that we have received from stakeholders such as NW/SW RFPC, OSWA, AOL, OFIC and the conservation community. In

June, we are going to show for each of the prescriptions that we have received, the estimated, modeled temperature change, wood production values, economic information related to the basal area retention. We are also looking at ecological information about Large Woody Debris retention. It's just the first part of providing the information, as preparation for the decision-making in July. Another decision is stream extent, how far upstream should the prescription apply on SSBT streams? Then, which geographic areas it should apply to? Just NW Oregon or include the Siskiyou region, Coast Range or South Coast?

Current business, the biggest thing happening right now is the Legislative Session. Staff had presented the Agency's Budget narratives but not yet our policy option packages.

- Private Forests Division POPs (3)
  1. Maintaining and improving water quality (Part of the multi-agency Clean Water Partnership) monitoring and research analysis on improving water quality across the state. Our program is looking at a Monitoring Unit Manager to support and direct our monitoring team and their efforts on water quality as well as open positions for a Geotechnical Specialist and Roads Specialist.
  2. The Biomass Leadership Plan, \$1.1 million GF request designed to provide grants that support and promote biomass and juniper project development. This would target assistance to rural communities and it supports a Biomass Specialist position with additional role in rangeland health and sage grouse habitat.
  3. Our E-Notification System is the last POP. We had launched that November 1, 2014. Now that it has been used for a few months we have collected a laundry list of system improvements for customers, staff, and our Stewardship Foresters for reporting tools and mapping capability. We are also considering making our subscriber service. The 'interested public' subscribing to receive ongoing notification information can be log buyers, consulting foresters, mills, cities, counties, utility companies and anyone else.
- Fire Program POPs:

Fire Program has their regular **Severity Funding** request for wildfire protection. It's a \$4 million request for pre-placing resources for statewide use, short-term contingency planning, fast mobilization, contracted helicopters and crews when we know we will have a lightning event.

Fire is also looking for funding for the **Federal Forest Health Program**. This last biennium we had \$2.88 million allocated to the ODF to help with collaborative relationships on the Federal side. This 'ask' is about \$6 million GF. (It's not landowner protection dollars.) Using ODF staff to set up restoration projects on Federal Lands

Buckman: All 3 districts on the eastside are participating right now, using our fire crew folks pre-and post-season. If funded, it would allow us to continue that participation. There is some Good Neighbor authority, out of the Farm Bill, which allows us to put up Federal Timber Sales or Timber Management Activities. This is a good way to add capacity to the fire program when needed. There are timber managers on both sides looking at new ways to participate together. It's being looked at as economic development for rural economies and being foresters it's targeting our area of interest.

Funding for enhancing **rangeland fire protection**, boosts the rangeland fire associations and builds capacity east of the Cascades. There is also **sage grouse habitat restoration**. They are going to add administrative staff and part-time positions and only one ODF employee so far. It really utilizes the model beginnings of the rangeland FPAs. Neighbors helping neighbors. Leveraging dollars in their efforts, \$400,000 to support administration and \$800,000 to associations and counties to support their out of pocket efforts. They have 700 volunteers and 18 dozers protecting 6 million acres. It's an ambitious grassroots effort.

- State Forests Division POPs

Our State Forests program, for western Oregon is looking for bridge funding prior to completion of their **Northwest Forest Management Plan** as well as looking for more opportunities to increase revenue. State Forests has never asked for GF, and has worked off their own revenues. The funding would be to maintain their partnership with South Fork Inmate Camp that provide crews to work on a host of activities and fire suppression efforts. This funding would enable the state to continue investment in the recreation program for the Tillamook State Forests. The infrastructure is already in place but needs to be maintained. So the BOF has to look at our State Forests Program in Oregon. So more big decisions.

- Legislation

Our budget is the last one to be put together and the Legislature is scheduled to go home at the end of June. Interesting legislation we have been following:

HB 3013 **Wildlife Food Plots**, it has been signed by the Governor. We will come back to you to talk rulemaking on Wildlife Food Plots. The BOF is to adopt rules (consulting with ODFW) identifying vegetation appropriate for wildlife nutrition. It requires a food plot be managed for forage species. This falls under Forest Practices, so there will have to be notification by the landowner. It affects landowners of less than 5000 acres. If 500 acres or less then can have a food plot of only 2.5% of that. 2% if more than 500 to 1000 acres and 1% of acreages 1000 – 5000 acres. It can be done under existing rules of Alternative Practice, but taking land out of timber production can affect the tax deferral.

HB2998A **Western Juniper Bill**, which is still in Joint Committee of Ways and Means creates the Western Juniper Industry Fund. It would appropriate \$900,000 GF and establish an economic development program for those involved in Western Juniper harvesting or manufacturing products from juniper. Loans, technical assistance, workforce training. We would be engaged in the mapping of high quality marketable stands of juniper.

There was a number of **pesticide bills**, but now down to HB3549. It provides funding to PARC. ODF, OHA, and Ag are all members of PARC. PARC exists under Ag, but it's been difficult to get information out. This will allow us to create standard operating procedures for complaints. It increases civil penalties, establishes a hot line for complaints, applicator recertification program, more stringent tracking. Then the Dash 4 amendment came back with the reinstatement of buffers around schools and homes of aerial spray buffers of 60 feet. We are being drawn once again into the Public Health arena. We may be having to study these buffers for efficacy. This was only forestry not ag. It has been a contentious and emotional issue.

HB3217 regarding **Artificial Beaver Dams**. This requires the DSL to adopt a pilot program providing authorization for voluntary stream restoration and beaver recovery by the installation of artificial beaver dams. This is focused on the Malheur Lake drainage, in a specific area. ODFW is involved because those voluntary installations don't provide for fish passage when reconnecting wetlands.

Other activity updates:

Reminder of **the Operator of the Year** program, it's never too early or late to submit nominations and they are due right after Labor Day, in early September. Your Eastern Oregon Field Tour is scheduled for the third week of October.

The BOF has set up an Advisory taskforce on **Industrial Fire Rule** Updates, IFPL Industrial Fire Precaution Levels. Rules haven't had review in 30 years. Whether current rules and tools match technology. Do rules match OR-OSHA, language changes, fire tool requirements, water requirements, high speed rotary saws and motorized carriages? Lon Casebeer is on the workforce and will report back to the committee before the draft goes to the BOF so that the members can provide comment.

**Committee Membership** list has been updated and distributed. Re-appointments; Lon Casebeer will replace Jim Dahm. We also have re-appointments coming up for Messinger and Jerome. Tucker reassured Messinger that we welcomed him staying on board. Approvals from the BOF meeting in September.

Buckman shared some breaking news on **potential NRCS funding**. Jay Gibbs, NRCS out of Heppner office asked if we would be interested in funds for landowners after catastrophic fire. We of course said yes. These are Federal grant dollars. This is associated with the Joint Chiefs project. It's a relationship already showing some benefits. There are 8 western states under drought that were identified for crop and water repair and mitigation and Jay requested help for forestland owners as well. (Oregon the only state that has done this.) NRCS, they put out a press release that NRCS has \$2.5 million for farmers, ranchers and forestland owners for counties that have secured Drought Emergency Declaration from the Governor's office. For eastern Oregon it's a lot of them. Baker, Crook, Deschutes, Grant, Lane, Malheur, Josephine, Harney, Jackson, Klamath Lake, Wasco, Morrow, Wheeler excluding Union and Wallowa. It is targeted to non-industrial private landowners and with an income cap. Our tour this afternoon is well targeted to this issue. Jay is working on eligible practices and priority for allocating this money but the primary one is post-fire rehab, tree planting, then post-year fires as well. It also covers, water enhancements, livestock ponds and water for fires and lastly strategic thinning. Has to be allocated by middle of September and spent within 2-3 years. NRCS may take sign ups at upcoming fires. It is usually a fixed cost/practice, reimbursable. Once it's a certified practice, it's paid. Practices might include: water-barring, erosion control, seeding, contract growing, animal control, restoration. We are hoping that this is an enduring practice. This is similar to FSA.

### **3- Bald Eagle Technical Report – Jennifer Weikel**

*[Handout: Bald Eagle Technical Report]*

The BOF is up for a decision soon on the Bald Eagle rule changes. The administrative rule actually lays out a set process on how the BOF is to consider what happens when a species is de-listed off the State or Federal Endangered Species Act. The department needs to decide whether continuation of State protections are warranted under the Endangered Species Act. And whether rules can be moved and developed under the Sensitive Bird, Nesting, Roosting and Watering Site Section where the Osprey and Great Blue Heron Rules are.

Step 1- will be to provide a Technical Report on the de-listing using OSU studies done under ODFW direction (recovery, populations, habitats, and existing rules). There are several rule sets involved, each with separate decisions to be made. One set of decisions on nesting trees, one set for wintering communal roost sites and one set for the foraging perches. In order to consider listing a species the following determinations must be made on habitat needs:

- Whether the site protections are needed to provide continuation of the species and
- whether sites have a direct probability of being adversely affected by forest practices.

For **Nesting Sites** even though the population has recovered, the majority of sites and habitat structures are on private land. Their nests are really large structures so they need a mature tree with big branch structure to support the nests. The combination of those two things are what led to my conclusion that yes they might need continued protection. If the BOF rescinds protection there is a chance of losing those sites. Eagles tend to nest in mid-slope within 2 miles of water or closer. Most nest sites fall outside riparian areas and wouldn't be under those rules. We do think there is a reason for continuing protection, so will be recommending that there should be some protections for nesting sites.

**Winter Roost Sites**, are currently protected but there is a question whether those specific sites are needed for continuation of the species. The birds can move to different stands or trees within a stand so can avoid disturbance. Monitoring is difficult, as data is not kept as current.

**Foraging Perches** protections are for actual perch trees near the water to forage from. But if there are other usable trees it shouldn't effect habitat needs. Extending that protection won't be necessary as those perches are usually within riparian areas that are already protected under the FPA.

If protection is warranted for Nest trees what would our recommendation be?

1. Take the rule as is (for the nest trees) and move it over intact to the Sensitive Species rules.
2. Modify the rules. It could be written as a combination of what we know now about eagles and disturbance as well as guidelines put out in 2007 from US Fish and Wildlife.

What we are recommending is to keep the protection of the nest tree itself as well as a 330' buffer around the tree with seasonal restrictions cut down to the ¼ mile protection zone. The Federal Act actually recommends

restricting only within 660 feet. We may on a case-by-case basis go down to that level. Aircraft restrictions are to 1000' and blasting activities out to ½ mile. Do we propose an option similar to other species or try to mimic the Federal Guidelines? The other consideration is whether it should be a voluntary measure rather than regulatory.

Site Protection Time restrictions currently in rule are January 1 to August 1, but flexibility around the rule depends upon the nesting success. Also sites on the eastside sites go later than on the west side sites.

Members argued that because there are restrictions on wet weather hauling in the beginning of the year and fire season restrictions at the end, rules provide only a narrow window of time when operators can actually harvest. Planning is difficult. It's a disincentive to maintain older rotation habitats. If left to mature, the older trees meet the nesting habitat needs and will create more restrictions.

Weikel: If we were to modify the rules and get the restrictions down would it help you out? The issue of management disincentives is similar as we have had with Spotted Owls. There may be some exceptions that could be considered. For the Eagle Act, one exception would be to allow a "take" permit from the Fish & Wildlife Service that would allow them to work. With the eagle recovery rates as they are they might be more flexible working with landowners than in the past. For foraging sites the birds have more flexibility to move. But with a nest site once that nesting activity has begun, they biologically are keyed into that site and are reused year after year. That's why I think nesting sites need to be protected.

- Member suggestion that if the proposed Option 2 is more restrictive than the Federal guidelines then go back to the Federal rules.
- Member suggestion to write them to mimic the Federal Guidelines. Going to 660' and restricting aircraft within 1000'.
- Members added that the flexibility is important.

Tucker: What I am hearing from the group is to use the Federal Guideline of 660' then specifically talk about the blasting and aircraft restrictions. Next steps for this material? This committee is the first to see the Technical Report. So please contact us after you have had a chance to review the Report and get back to us with any questions or comments. We will bring back the final report for your opportunity to comment.

Messinger: If this needs to be back to us for additional input we can get it on the agenda again.

#### **4 – Monitoring Strategy Review and Input – Daniel Olson, ODF Monitoring**

Members were sent pre-reading material on the Monitoring topic. Daniel spoke about the process to update our Strategic Plan and informed the members what part the RFPC will play in this revision.

He provided the 2002 Monitoring Strategy document for members to become familiar with the concept of strategic questions to facilitate a new vision forward. The most important goal of the program is to determine if rules and voluntary measures are being implemented according to expectations. That is where the Compliance Audit comes in. Are rules having the desired effect? We try and work with our stakeholders on these strategies. It has been updated periodically, but we are looking to develop a fresh set of questions to work on and ways to prioritize them. ODF follows an Adaptive Management Model of "Plan-Do-Check-Evaluate".

Our objectives for updating this plan are:

- Develop a list of monitoring questions
- Prioritize those questions
- Develop methods to update future strategic planning
- Integrate our program in enterprise monitoring

There is a push right now for state agency coordination wherever possible. This is a plan specific to our program. Since February we have been talking with stakeholder groups, Industry folks, conservation community, CFF, RFPCs, Stream Team (State Agencies), Tribal representatives and ODFW. Right now, we are still in the beginning of the process of gathering ideas and how work will be prioritized. Once the Strategy is drafted it will

come back to stakeholders for review. High level questions such as , detailed effectiveness, and detailed implementation. We can design studies to answer questions. Right now we are detailing the process of gathering questions. We have feedback coming in from different groups.

Tucker: Where this might come into play is in the debate over reforestation after wildfire. What data might become important to BOF decision-making on that issue?

**Action Item:** Create a clearinghouse of questions to ensure there isn't duplication.

Tucker: We are doing outreach throughout the spring. East side water quality would be a good monitoring project. Monitoring may be for questions that need to be asked year after year to determine a trend.

Olson: This is how we are envisioning the criteria. We will set up a matrix of questions and columned criteria across the top to evaluate the questions, for example: Expense to complete, Risk to the resource, time frame, Relevancy to FPA, landowner involvement. If there are other important criteria to consider please email our staff. Terry Frueh is the one heading up this project. **Does the information/data collected relate to current policy work?**

Guest: Can you monitor whether the FPA Rules create disincentives to good forestry? Example: Aren't reforestation rules after a fire a disincentive?

Messenger: As a result of your last monitoring study, some of the participants were put to task on compliance relative to their SFI compliance certification. How are participants to be protected from inferred non-compliance?

Tucker: Compliance Audit is separate from our Monitoring Studies. Monitoring is the research, analysis, and discovery. The Compliance Audit is asking about rates of compliance only. It is not enforcement. The Audit is meant to roll up all data to reportable numbers and percentages not site specific results. The intent was to look at overall trends so we know where we should focus our energies on education and outreach. 96% compliance is pretty good overall. We are hoping to start the new audit in July with assurance that we can keep individual results confidential. We don't want to discourage participation in the Audit.

Olson: Another project that the Monitoring Program is working on right now is in cooperation with Oregon Watershed Enhancement Board (OWEB). We are looking at the success of voluntary measures, which are part of the Oregon Plan for Salmon and Watersheds. There is an amazing effort from landowners to protect salmon in watersheds and that effort has been voluntarily reported but that story has not been told. The OWEB Restoration Inventory is a place where landowners can enter work that they have done. Just in the Coast Range from 1995-2013 there were 5500 projects done by landowners. In the late 1990's lower 2000s. But since then the reporting has tailed off. The industrial owners have done the bulk of the reporting on voluntary measures. The second part is to do a survey looking at any barriers to voluntary work or reporting. We are hoping to have the survey done in about six months and we will come back and report the results.

## LUNCH

### 5- Report from the Eastside Reforestation Sub-Committee – Lee Fledderjohann

The sub-committee reviewed Oregon Reforestation Rules and how they contrasted with rules from other states. We looked other rule sets and developed several ideas.

- Change land classification from forestland to rangeland, then reapply for forestland classification after reforestation efforts are successful.
- Not to require reforestation on Class 4 & 5 lands as Site Class productivity has a huge bearing on survivability.
- Causing disincentives to reforestation and utilizing current rules with flexibility to encourage reforestation.
- De-couple salvage and reforestation rules so we can deal with them differently.
- Review the current standard of 20 cubic feet/acre for growth which is about 240 board feet/year which is too much to expect for eastside lands.
- Agreement that if a landowner cuts green trees in the salvage effort they *should* have to reforest.

- Give stewardship foresters an ability to cancel requirements not just suspend to be decided on a case by case basis.
- Rules encompass a variety of events, such as wind, insect damage, and fire.
- Continue to encourage salvage and reforestation for safety and economic value and provide financial assistance.

Fledderjohann noted that we need to set the objective for any recommendation that is made. As a committee we need to decide that this is the way we want the Department to go. He asked members if there was agreement that there is currently a disincentive to salvage harvest after catastrophic loss? Consensus seemed to be to encourage salvage *and* encourage reforestation but don't require it if the site is unproductive.

Member: Being required to reforest after stand replacing fire causes frustration and economic hardship for the landowner, when repeated plantings fail because of non-productive sites or marginal soils. We don't want to have the State hold our feet to the fire if the re-planting just isn't going to be successful.

Member: We should find some flexibility to deal with site productivity if a landowner is making a best faith effort.

## **6- Field Trip – Landowner Perspective of Reforestation Issues**

*[Please be aware that as the tour was outside the wind made conversations difficult to document, the following notes are pieced together as heard by support staff.]*

Tour Notes from open discussion on site:

Background: The landowner's timberland is on a USFS property line, and was burned up by the Barry Point Fire in 2012. The operator was approached around 2011 to look at this ranch for thinning. At the time there was an overstocked mixed conifer stand. The operator did the thinning and opened it up leaving the biggest and best trees for a pretty nice stand. Then fire broke out and took everything. We went in and were one of the first in that area to salvage. After the salvage we came back in to replant. We had input from NRCS and ODF for the salvage and replanting operations. Having worked with transitional eco-types on our properties I cautioned the landowner a little bit about pushing conifers back down slope to force them in and putting out a lot of money. The landowner over-seeded seedlings with perennial rye and grass. There were 2-0 bare root seedlings planted with stock used by Collins & Co. There was no mechanical or chemical treatment done. There were horrible survival results on south and unshaded areas, but better survival on the northern shaded aspects. 225 seedlings/acre were planted, fairly standard for us over here. That's the target we picked. Our survival goal was 95%. One of the things that hurt seedling success was the aerial rangeland seeding which probably created competition for the seedlings as well as the intensely cold winter we had. Also Barry Point was the first year of the drought in 2012. The seedling availability was severely limited. Funds ran short to contract with the nurseries. Surplus' seedlings were sometimes available from public lands, but federal lands had been affected by fires as well. As for replanting the failed stand, we will plant some more filling in spots that were missed and wherever needed in the successful areas. We would like to re-seed again if the stand is not fit as we need the rangeland too.

Sharing:

- The next step for us is to do closer mapping of survival rates and have some conversations with FSA about cost-share. We might bring some maps to the Forestland Classification Committee.
- In 1996 one landowner tried up to 3 times on burned areas on the Wheeler Fire and failed to get trees on the ground so did a Land Classification change. I haven't seen information on how much effort is enough.
- You can increase your success rate using herbicides but then may get rodents damage, insects, etc...
- When a stand replacing fire comes through, where are the trees going to come from to start establishing a seed source for natural regeneration?
- Where does the catastrophic event declaration come into play?
- Some landowners choose not to salvage so they don't have to replant. So why would the state say you have to replant if you do salvage operations?
- Vegetation control and some shade is essential for success at these drier sites.
- We could probably influence the rule if we can look at the micro-sites for aspect and probability of seedling success. Perhaps with even distribution in micro-sites.

- The lack of expertise becomes a real issue in getting technical assistance.
- Have the flexibility to look at site productivity, and make the correct decision about what the land needs are on the landscape level.
- Proactively evaluate land classes prior to wildfire loss to know where to replant and where it would be a waste of time and money.
- One of the things that disturbs me is the likelihood of continuing drought and fire. How much can we take? We need to question where we are headed.
- We are talking about the transition lands, Class 5 or 6.

Tucker: We have been focused on fire but it could be a wind event, insects, etc. If you start talking about planned harvest on marginal lands we may be shut out, we will have better luck shaping this conversation around catastrophic events.

- Catastrophic events remove the overstory providing shade to the site. There has to be a threshold about how much shade is left over the site to try for reforestation.
- To create a seed source whether in isolated pockets or throughout.
- If you look at a forest over real long term, are the big trees there as a natural condition or result of suppression of fire?
- If there is a wholesale effort and no success, we won't penalize people for good faith efforts.
- That needs to be in the rule so application is consistent about what that good faith effort is.
- Could you use a written plan with a trigger for marginal sites? Reforestation plan with expectations to meet intent to match the objectives of the FPA.
- We are leaning toward pre-ops with landowners to sort these things out. So there is no surprises.
- In Ukiah, that's what we did. We used an Alternate Practice Plan, for salvage for Bark Beetle and skipped some areas for reforestation. We looked at the soils and allowed for some natural regeneration.

**Action:** Maybe needing to create criteria for when you can use the Alternate Practice Plan as guidance.

Tucker: It's the committee's charge to go to the BOF with research and reasons why we want to see these changes.

*[Back at the Meeting Room –]*

Messinger: To wrap up our meeting, on the way back we talked about next steps. Lena has volunteered to go through the existing guidance and rules. One idea is to go to the BOF and have the Board request the staff to work on this problem.

Messinger: Our next meeting date could be in Central Oregon, perhaps The Dalles or Prineville, Hood River?

Tucker: We will plan on Hood River. Fly the Lakeview crowd? Lon, Lee?

Thoughts, we need to avoid fire season, but could justify having one in October. The Operator of the Year Tours are in October as well. We have work to do on Food Plots, Reforestation Rules, Compliance Audit 2014, Forest Health (Invasives, Insects and Diseases), Bald Eagle Rules, and Cultural Resources (SHPO). There are no shortage of topics we can bring you.

**Action Item:** Pine Beetle information requested.

We can get back to you and check for dates in late September or early October. Check the hunting synopsis.

Operator of the Year is the 3<sup>rd</sup> week. We may need to be earlier to meet Bald Eagle timelines. We will check workloads and dates to be polled.

**Action:** Work on creating a criteria for when you can use the Alternate Practice Plan as guidance.

Adjourn 3:25.