

Oregon Department of Forestry
Riparian Rulemaking Advisory Committee
April 15, 2016

DRAFT FACILITATOR'S SUMMARY

The following Facilitator's Summary is intended to capture basic discussions, actions and agreements, as well as point out future actions or issues that may need further discussion at upcoming meetings.

Committee members present:

Mike Barnes, NW Regional Forest Practices Committee
Seth Barnes, Oregon Forest Industries Council
Dick Courter, Small forestland owner, consultant
Eugene Foster, DEQ Watershed Management Division
Kevin Godbout, Weyerhaeuser
Randy Hereford, Starker Forests
Jim James, Oregon Small Woodlands Association
Dana Kjos, SW Regional Forest Practices Committee
Bruce McIntosh, ODF&W
Rod Sando, Northwest Sportfishing
Mary Scurlock, Oregon Stream Protection Coalition
Rex Storm, Associated Oregon Loggers
Bob Van Dyk, Wild Salmon Center

Alternates present:

Randy Silbernagel, NW RFPC
Scott Hansen
Scott Hayes, Oregon Tree Farm System
Sanford Hillman, SW RFPC
Meghan Tuttle, Weyerhaeuser
Paul Betts, Miami Corp.

Project Team members

Peter Daugherty, ODF Chief Private Forests Division
Lena Tucker, ODF Deputy Chief Private Forests Division
Marganne Allen, ODF Policy and Monitoring Manager
Angie Lane, Project Team Manager, ODF Ops & Policy Analyst
Nick Hennemann, ODF Public Affairs Specialist
Kyle Abraham, ODF Water Quality Specialist
Susan Dominique, ODF Private Forests Administrative Support

Guests:

Gary Springer, Starker Forests

Meeting Facilitation

DS Consulting, Portland

- Donna Silverberg
- Emily Plummer

1. Welcome, Introductions

Donna Silverberg, Facilitator, welcomed the Riparian Rule Making Advisory Committee (RAC) to their third rule making discussion.

2. Public Comment

Public comment was invited. None was offered.

3. Follow Up from 3/22 Rule Advisory Committee (RAC) Session - DS Consulting

The RAC reviewed the February 19th meeting minutes and March 22nd Facilitator summary. The following changes were noted and approved by the RAC:

February 19th Minutes -

- Remove Jennifer Wigal from the attendance list, as she did not attend the meeting.
- On pg. 2, add clarifying language to specify that DEQ cold water quality standards are to be met to the maximum extent possible.
- On pg. 4, second paragraph from the bottom, add clarity regarding the maximum extent possible and establishment of advisory committee.
- On pg. 5, minor editorial and spelling correction.
- On pg. 6, add that comment regarding “no hard edge clear-cut if well-distributed” was a staff statement rather than Committee point of view.
- On pg. 6, add clarity that statement about encumbrances was a statement about how ODF presented encumbrances to the Board of Forestry, not a statement about the Board’s policy intent.

There was conversation around the meaning of ‘hard edge’ as discussed at the February meeting and a signal that more conversation is needed.

March 22nd Facilitator’s Summary -

- On the guest attendance list, change ‘Rick Miller’ to ‘Greg Miller’.
 - On pg. 3, bottom paragraph, add ‘what’ to sentence to read: “Mary Scurlock, OSPC, clarified that the ‘double counting’ would not change **what** the basal requirement would be for the Variable Retention Option.”
 - On pg. 4, change language to read: ‘Marganne Allen, ODF, noted that the defacto minimum **is 6”** for smalls, as anything smaller is **not counted for basal area targets**’.
 - On pg. 6, clarify that Jon Bowers is a representative of ODFW and not ODF.
 - On pg. 8, change the name Rob to Rod, as Rod Sando is the person who agreed with Mary regarding the option to include a process based metric.
 - On pg. 8, add language: “Rex Storm, AOL, noted that there are many narrative standards in the current rules and they are enforceable.”
- **CONSENSUS:** The group approved the February and March summaries with strong consensus (all 1’s and 2’s).
- **ACTION:** The ODF staff will make edits and clarifications in the February 19th Minutes; the DS Consulting staff will make edits and clarification on the March 22nd Facilitator’s Summary. Final versions will be posted to the RAC website.

Final Charter and Operating Principles Review – Donna reviewed the Charter to show that the edits discussed at the March session were incorporated. At the March session, the Committee approved the Charter, pending the edits. No concerns were raised and a final Charter will be posted to the website.

4. Incorporating Desired Future Condition (DFC) and Encouraging Management throughout Process –

Peter Daugherty, ODF, noted that at the February meeting the group discussed the concepts of incorporating Desired Future Conditions (DFC) and encouraging management. He noted that thus far, these concepts have fed into the conversations, however, there has not been specific discussion on the DFC and encouraging management; Peter asked the RAC if they felt the need for more specific conversations on this? Mary Scurlock, Oregon Stream Protection Coalition, noted that there needs to be clarification whether riparian management is consistent with Desired Future Condition. For instance, in order for variable retention in the RMA to be consistent with rules, the RAC needs to know if the riparian management is consistent with the DFC. Also, there needs to be clarity on whether or not management down to a specific basal area is consistent with DFC.

Kevin Godbout, Weyerhaeuser, noted that from his perspective the Oregon Board of Forestry’s (Board) had a rich conversation regarding DFC, however, the direction provided was basic metric criteria and nothing about addressing DFC in a regulatory context, thus it should not be incorporated into the RAC recommendation. Peter responded that in the Sub-Committee proposals that were provided, the Board made a link between the active management and options for active management including DFC, thus this is not new policy necessarily.

Rod Sando, NW Sportfishing, asked if there is a clear understanding of current DFC for riparian conditions? Peter noted that yes, there is clear language currently in the Forest Practices Act (FPA). Rod noted that cold water is one piece of what is needed, however there are other riparian conditions that are necessary to consider along with cold water. He continued that biologists point to large woody debris and sediment protections as necessary components, and thus, should be part of DFC in order to protect fish.

Mary noted that if the Committees understanding is that encouraging active management is intended only to increase the harvest opportunities, then there needs to be clarification from the Board; her understanding is that the active management is to promote DFC. Kevin noted that his understanding is that the Board did not direct the Committee to encourage the DFC at the cost of the economic potential. Donna asked if the Committee could find a balance that meets both habitat and economic interests?

Seth Barnes, Oregon Forest Industrial Council, read from the Forest Practices Act (pg. 38), OAR 629.635.0100 (5): “landowners are encouraged to manage stands within RMA’s in order to grow trees in excess of what must be retained so that the opportunity is available to harvest that excess”.

Rod noted that he has spent a lot of time in regulatory positions and empathizes with the economic considerations of landowners. He also noted that they need to make rules that provide for the adequate protection for the fish. He noted that absence of BOF direction, there is an implied Public Trust doctrine in regards to fish, wildlife and water. Rod expressed his opinion that the Committee needs to produce a recommendation that effectively protects the fish in long term, while minimizing impacts to landowners.

Bob Van Dyke noted that there are different values in the rules. And the rules themselves don’t trump one another so it becomes a policy call. The best that the Committee can do is set up that policy call for the Board so they understand what the different perspectives are. Rex Storm, Association for Oregon Loggers, noted that the Committee should stay focused on what the Charter is and the questions that the Board asked them to address.

Peter noted that his intention was to ensure that the conversations were meeting the Committee’s need and that he had not intended the DFC or encouraging active management to be a separate policy topic, he just wanted to clarify with the RAC to make sure that they were on the same page. The group generally coalesced around the idea that DFC is a guiding principle for their overall conversations and that encouraging management is conversation around implementation of the rules. Bob Van Dyke, NW Salmon Center, noted that it would be helpful to have the language around the Desired Future Conditions to inform conversations later today; Marganne Allen, ODF, noted that they can pull out the language for later in the conversation.

Mary clarified that the RAC is tasked with recommending an amendment to the general vegetation condition rules. Peter agreed saying that we have the statement ‘all other rules apply’ and the ODF is not getting rid of any linkages in the current rules.

5. South Sided Buffers (or are they North Sided Buffers?)

Peter directed the group to a handout in their packages titled ‘Riparian Rulemaking Clarification Topic – North Sided Buffer Option Background Information’. Option D is essentially an exemption for the north side of buffers running east-west. Peter noted that the intent of this prescription is to meet the DEQ Cold Water Standard to the maximum extent practicable by tailoring protection standards to account for the path of the sun and allow landowners to actively manage riparian areas and extract harvestable timber. He noted that the hope is that the RAC can come up with a simple measurement characterization that is accurate, repeatable, and with the same outcomes. Peter explained that this could be a GIS exercise, a field exercise, or a combination of the two. Additionally, the RAC should discuss the scale and minimum length to which this prescription should be applied both administratively and operationally.

Rod asked Peter for clarification of ‘scale’. Peter noted that it needs to be determined what the length of north sided segments they are considering as streams are not straight lines and shift directions; ODF needs an accurate description of the direction of the stream in order to design and implement the prescription.

Kyle Abraham, ODF, walked the group through a draft approach for discussion purposes. The approach used GIS map to illustrate where a stream runs east-west, by using different length segments (25ft, 50ft, 100ft, and 200ft) to calculate azimuth. The approach highlights the specified segment length of stream if the stream direction is within 30 degrees of east-west; in which case, the 'north sided buffer' prescription would be applied. Peter noted that the proposal does not include topographic aspect and thus valley shading is not a variable in the segments mapped. The proposal measures the direction between the two end points to determine the direction. Seth pointed out that the Board's direction was 'valley' azimuth, not stream. Peter clarified that he thought the words 'General Valley Azimuth' came out of the RFPCs and that all the discussion at the RFPC was focused on the stream segment. The approach of using stream segment was the way the analysis was done by DEQ, which showed that there was no additional effective shade beyond 40 feet on the north side of streams that run east/west. They did not include valley aspect or azimuth in their analysis.

Mary asked how this prescription would deal with low gradient, braided streams, for instance in channel migrating zones. Marganne noted that despite low gradient, the stream still points in a direction, so the direction could be determined.

There was discussion around having the mapping algorithm be a 'screening' tool to determine if the stream may or may not meet the criteria for this prescription. Some expressed concern over using only the mapping tool, as the map layers do not always reflect what is on the ground. Kyle noted that they also need to discuss how to address inconsistencies between the map layers and on the ground observations.

Kyle toggled between a 25ft, 50ft, 100ft, and 200ft segment criteria. He stated that there are two questions to answer regarding the length of the segments: what should be the length of segments used to determine if the prescription is used, and to what length should the prescription be applied? The larger segments smooth out the prescription area; however, lose some of the dynamic variability of the stream. The following observations were noted:

- How will small woodland owners get access to this mapping tool?
 - Marganne noted that ODF could do a web based viewer or create PDF tiles to provide to landowners.
 - Dick Courter, Small Woodland owner, noted that many small woodland owners do not have access to computers.
 - Peter acknowledged this, noting that ODF will do everything possible to make these products accessible.
 - Rex noted that current rules and mechanisms that require coordination between Stewardship Foresters and landowners would still be available to help communicate this information.
- Air photos may also be a helpful tool to use, as many landowners and foresters have access to them already.
- Mary noted that the GIS screening exercise should be able to be overridden with field ground-truthing; she pointed out that if the map is a 'screen' there are other steps that need to be taken to verify if the stream is included or excluded.
 - Randy Hereford, Starker Forests , noted that the Stewardship Forester is required to approve the plan before it happens and if the area is a high priority for this option, they will look further into the situation to determine accuracy.
 - Mary inquired to if the landowners can be required to verify that the map is accurate. She noted that it should be specifically required in the rule that the landowners will verify.
- Dick asked what the length segments would be to check while in the field. Peter noted that the field measurements would need to use the same length and points for measuring segments.
- It was noted that increasing the buffer on the Southside helps keep the stream shaded; however, that buffer beyond 40 feet is not required on the Northside because it does not provide shade.
- Mary noted that this option is allowing more flexibility in operation; overall, it is not expanding the riparian buffer.

There was discussion around what subsequent steps would be in the mapping exercise is a 'pre-planning' tool for foresters. Marganne clarified that ODF already uses maps in pre-planning and planning; however, if on the ground someone finds conditions are different than mapped, those changes are incorporated into the map for the future. She noted that there is nothing in the current rules that requires the landowners to verify that the maps are 100% accurate; instead, they rely on 'due diligence'.

Peter checked with the group on what he heard, recapping that the inclusion of stream reaches will be made through a GIS-based map algorithm for screening purposes, landowners are responsible to ensure that the stream reach meets the intent of the rule, is within 30 degrees of East/West and that the field based operations can supersede the map.

- **CONSENSUS:** The group generally agreed that GIS algorithms can be used as an initial screening to determine eligibility of the prescription; the written plan, approved by the Stewardship Forester would then need to verify the direction of the stream. Field verification can supersede the map, but need not be made (all 1's 2's and 3's).

The group continued conversation around the minimum length of the stream segment, noting that the length needs to be realistic to measure in the field. Dana Kjos, SW Regional Forest Practices Committee, suggested that a 200-foot segment is an appropriate length for what is realistically going to be laid out in the field and can accurately be measured in the field.

- **CONSENSUS:** The group generally agree that 200ft should be the length for a stream segment to implement the option in the field (all 1's, 2's and 3's).
- **ACTION:** ODF will draft rule language that captures the intent of the Committee agreements and bring it back to the group for review at the June meeting.

6. Stream Extent

Peter directed the RAC to a handout in the packet labeled 'Upstream Extent'. He noted that the Board's direction used the words 'immediate harvest unit' and 'main stem' for the purposes of the Upstream Extent prescription, and that these need to be defined. Kyle walked the group through a map showing small and medium SSBT streams. He reminded the members that new rules will apply on the full length of the SSBT streams, as well as the upstream extent within the immediate harvest unit.

Kyle provided an example of an SSBT stream with two harvest units, including one that ends 10ft upstream of SSBT. The RAC brainstormed ideas around what 'immediate harvest unit' meant in space and time:

- Consider 'immediate' to be within a calendar year.
- Consider using 'green up' requirements.
- Consider determining a specific distance upstream of the SSBT termination for the rule to apply.
 - 300ft upstream of SSBT habitat?
 - It was noted that in State Agency discussions, they spoke of using a distance upstream as criteria for upstream extent.
 - Ensure that operators do not divide a 'unit' into two units in order to avoid having to comply with the SSBT protections.
 - The rule could clarify that administratively separate units, for the same activity operated on in the same year are considered the same unit for the purpose of this prescription.
- Consider it the same operation when the notification is active – the costs of infrastructure will limit the potential 'gaming'.
- How will it be determined when a unit is 'closed'? The suggestion was made that a unit could be considered 'closed' when the notification is no longer active.
- Time and space requirements do not capture all of the variability, there are going to be fires, wind-throw, etc. that impact the conditions.

Mary clarified that the conservation groups are interested in the upstream extent because there is data pointing to the upstream extent being valuable to cold water. She noted that during testimony, it was expressed that these buffers are economically damaging, and now RAC members are saying that there are would not be economic incentives to log upstream of the SSBT the RMA. Seth explained that the overhead costs of the new rules are significant. Mike Barnes noted that those streams that are labeled as 'fish' streams are still protected, regardless of if they are SSBT streams or not.

Randy asked what the current unit close-out process is? Peter noted that units close-out and are then tracked for 'green-up' requirements and replanting, however, there is not a formal close-out process. Randy stated that a written plan is

essentially verification of the particular prescription being used. Rex noted that currently the notification is good for one calendar year, which can be extended for another year - this could be used at the time metric for 'immediate'.

Dana offered that any two adjacent units that are administratively created and operated on in the same year should be considered the same unit.

Bob noted that they will need to know how to determine if the rule is being circumvented. Peter explained that ODF requires a 5-year review of the rule, so they will be able to look back and see if there are an abnormal amount of units being created. Rod noted that penalties are another way to address operator circumventing the rule. Angie Lane, ODF, noted that there are penalties in the FPA; however, Marganne was not sure what time of violation would be applied to this type of rule. Rod noted that random compliance checks may be a good option. Multiple members noted that they do not expect operators will avoid complying with the rule. Other members noted that there needs to be guidance in place to verify that the rule is being applied correctly.

Rex stated that this effort is not changing any existing forest practice mechanisms that occur where there is an obligatory written plan requirement for operations in these riparian areas. So, the Stewardship Forester has an obligation as well as the landowner to have that written plan communication back and forth to make sure there is an understanding about what is and is not compliant.

Bob questioned if a 300ft separation between units would be considered the same unit administratively, regardless of size of the unit? Rod urged the group to determine what 'administrative units' means and what is the metric for assessing them? Marganne noted that over the last 10 years she can think of one case where someone explicitly tried to 'game' the clear-cut adjacency rules, however, there was nothing that ODF could do in that situation to regulate.

Peter summarized what he heard from the members in regards to the meaning of 'immediate harvest unit.' He noted that for distance, a unit that contains the end of SSBT segment is immediate; administrative units cannot be created for the purpose of circumventing the new rule; for timing, adjacent operations within the same calendar year and/or while the notification is valid (1-2 years) is immediate. There would option for exception for unusual disturbance.

- **CONSENSUS:** The group agreed that Peter's summary was an accurate recap of where they got in their conversation (all 1's and 2's, and 3's).

The Committee discussed the concept of the 'main stem' as it pertains to the upstream extent prescription. Kyle explained the proposed concept for 'main-stem' is to consider the main-stem to be the stream with the largest drainage area. The group was comfortable with this definition and also agreed that there should there be an option to correct this based on field verification.

Kevin noted that if there are two streams with relatively the same drainage area, they should both be treated as the main stem. This idea gained traction from some, but not all members.

- **CONSENSUS:** The RAC agreed that the main stem is the stream with the largest drainage area, and there is option to correct with field verification. If there are two stream branches with similar size, an operator can voluntary treat both as the main stem. This will be addressed in the written plan, with the option to be verified and corrected in the field (all 1's and 2's).

7. "Well Distributed"

Three proposals were provided regarding the 'well distributed' conversation. Proposals were outlined in the packet. Donna asked members who participated in drafting the three proposals to summarize the proposals for the group:

Seth shared that his proposal started with a review of the narrative proposal discussed at the March meeting and worked to build in metrics. He explained that metrics noted would be the minimum requirement to meet the 'well distributed' criteria. Seth noted two alternatives that the landowner could choose from to meet the well distributed requirement:

- Alternative A – designates an outer zone of 20ft with a minimum number of trees required in that zone. If divided evenly, this would mean 8 trees would be left in the outer 20ft on small streams and 10 trees left in the outer zone on medium streams.
- Alternative B - Focuses on minimizing gaps by not allowing gaps larger than 0.1 acres within the RMA, measured by the tree boles; existing gaps that are 0.1 acres cannot be made larger. Seth provided a visual to illustrate the 'gap' concept as outlined in the proposal.

Seth noted that the well distributed requirement is one of many constraints that is placed on the operators, including topography, heights of the tower, other requirements, etc.

The RAC members had the following clarifying questions and comments regarding this proposal:

- Mary clarified that the minimum size for counting conifers and basal area are different; Marganne responded, yes, the conifer count is 8 inches and basal area is 6 inches.
- Rod asked what size of tree would be measured as a bole tree? Seth responded that a 6 inch tree is the minimum that would count as the bole tree.
- In the example provided for Alternative B, only 3-4 trees appear to be available for cutting, is that correct? Seth responded, yes, in this example; however, it depends on the RMA.
- Mary noted that with this proposal the distribution of trees in the RMA is not even and the remaining basal area could be left in either the middle portion or only in the outer zone.
- It was questioned if there are any limits as to what needs to be left in the outer zone, or can these 'gaps' be adjacent up the extent of the RMA? Seth responded that the basal area requirement would limit how this is applied throughout the RMA; in order to meet the basal area requirement, you would not be able to cut side by side.

Mary shared a proposal drafted by herself, Rod and Bob. She expressed that based off of the conversation at the March session, there were concerns around the open-ended language that was discussed, as they need to ensure that the RMA is managed to be consistent with DFC. She expressed concerns around the size of the opening and noted that they are looking at the well distributed criteria more as a site-specific prescription or plan. Mary also questioned if the traditional approaches to active management are addressing DFC in RMA, noting that it should not be only focused on growing larger trees faster. Rod noted that from his perspective, it is preferred to retain dominant trees and that in the rule they could prescribe what trees are to be left, and that operators should take a co-dominant over a dominant tree.

The RAC members had the following clarifying questions and comments regarding this proposal:

- Seth noted that there is diversity in diameter of trees, but what is the purpose of the trees that are left? Is that purpose for the next 50 or 150 years? Favoring a dominant or co-dominant tree may not matter depending on the timeframe for DFC.
- Dana noted that the RMAs have hardwood close to the creek. Mary responded that this proposal is only addressing the outer zone where active management is permitted.

Key concepts from agency foresters were also provided to the Committee to include for consideration. Peter noted that pg. 37 of the FPA has DFC for water; pg 42 has stream DFCs.

The Committee broke into small groups for discussion on the various proposals and then reported back to the group with key points of the discussion and any potential proposals:

Seth Barnes reported back on his group's conversation noting that generally it came down to how big the gaps are, the number of trees left, diameter class of the trees, thinning and thinning from below, the timeline for determining the DFC, dominant class, and the reality of implementing the potential prescription. In the end they had a good discussion, however, did not come to any consensus.

Mary Scurlock reported back on her group's conversation noting that generally the discussed leaving the largest trees, basal area, making zones of 100-200ft or 500ft to divide the well distributed zone. There was not agreement to divide the zones into 50/50 as suggested in Seth's proposal; however, there was some traction around a combination of

Alternative A and B, with some changes. Mary's group discussed keeping Alternative A as is, and reducing to half of the acreage size for openings in Alternative B, from 0.1 to 0.05 acres, with a minimum tree count in the outer 20ft. Additionally, they would like to remove the 'safety' narrative in the proposal, as it could be perceived as negating the parameters of the rule and is included in other parts of the rule.

Kevin Godbout reported back on his group's conversation noting that they did not think that the well distributed concept would encourage active management at scale; however, localized management may be impacted. The minimum basal area and hard edges would meet the Board's intent, and the group wanted to see a 'feathered' edge. They also talked about dominance and co-dominance as a DFC, however, that it may not be realistic on the ground. Rod added that they would like to preserve large trees from being cut, and that thinning from below would be a good approach. They thought that the Foresters concept's combined with the proposal that Seth brought forward would maybe be a good approach.

Donna asked Mary and Dana to continue working together to flesh-out their draft proposal. Rex noted that as is, their draft proposal is a no-go for him as it is too prescriptive, takes away decisions based off of professional opinion, and is too complex. It was requested that Mary and Dana consider the group's input and bring a revised draft proposal to the May meeting.

→ **ACTION:** Mary and Dana will work together to put detail to their proposal and provide it to the RAC for the May meeting.

8. Fiscal Impact

Peter shared that ODF is required to do an impact analysis on the rule and discussed the macro and micro analysis that they are taking. He asked that the members provide feedback on ODF's approach. Peter walked the members through a PowerPoint presentation which will be provided on the Riparian Rulemaking Committee website. Peter outlined what impacts ODF is required to assess and the assumptions they use. He noted that the assessment uses both the Western Oregon Softwood Log Market Model and the IMPLAN Model. The models run both the current and new riparian policies for all fish bearing streams. ODF will scale down the results to account for only SSBT streams. SSBT streams account for 25-35% of the small and medium fish bearing streams in the area affected by the rule.

The log market model estimated the average annual harvest in billion board feet (bbf), over the next 20 years when policies apply to all small and medium fish bearing streams:

- Current policy: 2.542 bbf
- New policy: 2.513 bbf

When scaled to account for the new rule applying only to SSBT streams the model estimates a decrease in average annual harvest between 7.0 and 9.8 million board feet, which would be a 0.3 to 0.4 percent decrease in annual harvest.

The log market model also estimate the average annual production of lumber (bbf) and plywood in billion square feet (bsf), over the next 20 years when policies apply to all small and medium fish bearing streams:

- Current policy: 6.066 bbf lumber and 3.338 bsf plywood
- New policy: 6.040 bbf lumber and 3.304 bsf plywood

When scaled to account for the new rule applying only to SSBT streams the model estimates a decrease in average annual production between 6.6 to 9.3 million board feet of lumber and between 8.6 to 12.0 million square feet of plywood.

Peter shared that they are still working on the total economic impact to the sector and economy; this will be done using the IMPLAN model used to estimate the annual effects on jobs and compensation as a result of the change in harvest from the rule change. The change in output from the log market model is too small to directly in the IMPLAN model, so they calculated the jobs per million board feet and used that to calculate the loss of harvest on job loss. IMPLAN estimated jobs number as 8.9 jobs per million board feet, which was used as a scalar on the estimated loss in harvest to calculate job loss. The estimate of job loss for the new rule applying to SSBT streams was between 62 and 87 jobs, including direct, indirect and induced effects. There is also an independent survey of family forestland owners that will be conducted by University of Oregon.

The RAC had the following questions and comments:

- Would it be more appropriate to use Forest Projection System (FPS) instead of Forest Vegetation System (FVS) for industrial timberlands? This model may be something that ODF should look into.
- Non-industrial is not up to the potential growth rate, did you use the potential or actual harvest? Peter responded that they constrained the model to reflect the historic, not potential harvest rates as potential harvest is not what happens on private, non-industrial lands.
- Do you know the number of direct jobs that will be lost? Peter responded that they do not at this time; however, ODF can get that information.
- Will the full analysis be provided in draft form? Peter responded, yes, however, he was not sure when it will be available.

→ **ACTION:** ODF Staff will post the Fiscal Impact PowerPoint on the RAC website.

9. “Relief”

Peter noted that for purpose of today’s discussion, ODF staff conducted an analysis using Columbia County tax lots, to illustrate the ‘relief’ concept and impacts. Peter clarified that the Committee has not yet agreed on the definition of a ‘parcel’, however, Jim James will discuss that today. He showed the results of what relief would look like with 10% additional encumbrance for small acre lots, 100+ and 500+ acre lots. The results indicate that the size and shape of the lots does matter.

Peter walked the group through a PowerPoint that compared the distribution of additional encumbrances, noting that there are a greater proportion of 2-10 acre lots with larger encumbrance and as the lot size increases, there are fewer landowners above the 10% encumbrance. If 10% was the appropriate number, the equity clause would largely be applied to those with 10 acres or less.

Peter asked the RAC if the 10% additional encumbrance the right measure? And if 50ft and 70ft no-cut buffers are sufficient relief (under Option A, passive management, no-cut choice, and/or under option B, Variable Retention)? Peter suggested that the 10-foot decrease in width could apply to both options. These relief requirements would not change the basal area per acre requirements on the variable retention; however, the target per active management area would be different because the width is different.

The RAC had the following questions and comments:

- Did you find a significant difference in the encumbrance depending on the size of the parcel? Peter responded, yes, the larger the parcel, the less percentage of encumbrance.
- Jim James, Oregon Small Woodlands Association, noted that these results, similarly to his assessment, show little relief for landowners. Peter reframed Jim’s comment, stating that relief does not apply to very many landowners; Jim agreed with this clarification.
- Rod shared that he feels comfortable with relief to the landowners, however, not at the detriment to fish. There are other ways to provide relief to these landowners, such as tax credits, or other monetary options. Rod requested that other options are explored.
- Mary noted that the Committee generally agreed that the Board’s direction left questions, however, wondered if there is room to consider other options, such as the policy ideas that Rod suggested. She noted that this seems to be something that deserves more thought and is not sure if there is sufficient time in Committee for the policy discussion.
 - Peter noted that the Board asked the RAC to address equity, as they were not sure that the 10% and 50 and 70 foot no-cut was the right approach. Exploring options around monetary relief is an option to take back to the Board.
- Jim noted that he thinks that the Board intended for the relief to apply to a larger portion of the landowners than the 10% would apply to. He thinks that the Committee needs to take the question back to the Board for clarity, and Peter’s analysis should be presented to them.
- Bob noted that if the 10% does not only apply to the RMA and applies to the land parcel in total, there needs to be additional analysis on that as well. From his perspective, the Board was talking about the RMA, as that is what

they had been addressing throughout the discussion. He did not think that they need to ask the Board to re-open the increment; however, it would be valuable to help them see the impact.

- Rex noted that the Board asked for RAC advice, and that the RAC should provide input, potentially a few different options.
 - Rod noted that he would like to see analysis on an income tax credit, recognizing that it would have to be a legislative decision.
- Dick Courter, Small forestland owner, noted that the Board said that the relief was for ‘family landowners’, but there seems to be confusion of what that category meant. He would like to see an analysis that indicates impacts on a broader landowner base.
- Jim noted that he did not think the Board only intended to give relief to those who own 15 acres or less.
- Bob noted that this analysis gives good information that could be taken back to the Board, noting in the record that there was difference of opinion amongst the RAC.

→ **ACTION:** Peter requested that his staff take a deeper into the impacts to the landowners to help inform how the Committee looks at equity.

Jim James provided his understanding of the definition of ‘parcel’: *A contiguous ownership by a single individual, company, or other entity that owns all or a portion of the property, recorded at the Assessor’s Office within the County or Counties where the property is located. Contiguous means a polygon of any size or shape connected by at least one common corner but can be interrupted by a publicly owned easement such as a railroad, public road or utility right or way.*

➤ **CONSENSUS:** The RAC agreed with the definition of ‘parcel’ and contiguous as stated above (all 1’s).

10. Rule Language Review

Angie provided an update on where ODF is in regards to the Rule writing. She noted that the new riparian rules could either be placed in Division 600, 635, and 640; or a separate division could be created all together. She asked if the members thought that the language should be inserted into existing divisions or a new division. Angie noted that using previous divisions could be confusing; however, creating a new division would require that they be very clear and diligent to make sure that everything is included. For example, the existing divisions already have direction on things such as DFC, a new division would have to clarify such guidance. They could also use a specific set of definitions for a new division.

Angie provided examples of what the two options would look like, these examples were provided in the packet and on the Committee website. She asked that RAC members provide input to her.

The RAC members had the following comments and questions:

- Regardless of which the RAC decides, the existing divisions will need to be revised to reflect the new rules.
- Getting the Department of Justice involved in this conversation sooner rather than later would be helpful.
- Multiple RAC members thought that it may be best to incorporate the new rules into the existing rule.
- On the contrary, it was noted that small woodland owners may find it more helpful to have the new rules provided in a separate division and doing so it would be user friendly.

Angie explained that the Dept. of Justice will do a rule review before it goes to the Board of Forestry.

→ **ACTION:** Angie will incorporate edits based off of today’s conversation and provide edited draft rule language to the RAC on May 5th. In the meantime, RAC members can review the structure and format of the draft provided today and send suggested input to Angie prior to the next meeting in May.

11. Public Comment

Public comment was invited. None was offered.

12. Wrap Up/Next Steps – DS Consulting

Donna thanked the RAC for their efforts, noting that ODF Staff feel that they have a lot of material to work with after today's discussion. Donna reminded the RAC that the next meeting is May 12th from 9:00-4:00 at the Keizer Community Center. Materials will be provided a week in advance. The goal of the May meeting is to wrap up the RAC's work. A draft summary of today's session will be provided to the RAC as soon as possible; suggested edits should be provided to Emily Plummer at emily@dsconsult.co.

DRAFT FOR REVIEW