

# BOF Riparian Rulemaking Advisory Committee

## *Consensus Decisions*

*As of April 15, 2016*

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The Committee was asked to consider components of the BOF's decision which require clarification of policy. Those issues included:

- How to define/identify SSBT streams as a subset of ODFs small and medium fish-bearing streams? In the Board's rule analysis process, ODF created a synthetic stream layer combining the Oregon Department of Fish and Wildlife (ODFW) fish habitat distribution (FHD) layer and the ODF stream layer with size and fish-presence attributes to identify SSBT streams.
- Defining the approach of extending standards within the immediate harvest unit above the end of mapped SSBT streams, along the main stem of fish-bearing streams.
- Defining well distributed throughout the RMA.
- Implementing the decision that "all current rules that apply to Small and Medium Type F streams not mentioned above continue to apply (trees leaning over the channel, etc.)." Need to identify conflicts, overlap, and rules that require clarification.
- Definition / verification of a parcel, and definition, determination of encumbrance, and equity relief.
- Defining South-sided buffers. The Board adopted different buffer widths for north vs. south sided buffers for streams with a general valley azimuth within 30° east-west. At what geographic scale is this option applied?

The Committee added two additional policy clarification issues that should also be considered. Those issues included:

- What is meant by 50% of wildlife trees can be counted in the RMA, and double-counting concerns?
- Desired Future Condition for the new rules needs more discussion.

### **February 19, 2016**

**Consensus:** The Advisory Committee agreed to use the Five Finger Consensus tool to gauge their level of agreements throughout the process. This tool will be defined in the Operating Principles.

**March 19, 2016**

**Clarification regarding decision-making described in Charter:** When consensus is not reached, ODF will describe and address the full range of views which the Advisory Committee discussed and make a recommendation to the Board when final rules are considered.

**Consensus:** The RAC approved the Charter with a strong consensus (all 1's and 2's).

**The RAC drafted a suggested rule to provide to the Board:** "For both small and medium SSBT streams, any tree in the RMA that meets the wildlife tree requirements can count as a wildlife tree. And, up to 50 percent of required wildlife trees can count towards meeting basal area requirements."

**Consensus:** The RAC agreed, with strong consensus, that this suggested language should be provided to the Board as a RAC recommendation (all 1's and 2's).

**Conifer Count:** Peter asked if there is any opposition from the RAC if the ODF staff recommends an 8" diameter for the conifer leave trees. There was no active opposition, however, some expressed that they do not know if it will be an issue in the future, depending on other decisions made.

**SSBT Layer:** The RAC expressed general agreement that the FHD layers that have documented observation, or presence designated downstream of documented observation are legitimate to use in the rule; however, there is a need for more conversation once ODF drafts language for the rule.

**Consensus:** The RAC reached strong consensus that whatever rule was in place when the notification was filed applies to that unit plan, as long as there is no evidence of gaming the system and notifications cannot be expanded beyond the two-year allocation (all 1's and 2's).

The group expressed general agreement that the database needs to be updated on a case by case basis and that there needs to be established interval of programmatic update and criteria developed, however, more conversation is needed at the RAC. The group also agreed that they still need to discuss the frequency of updating.

Peter summarized where the committee is in agreement and where there is disagreement on the SSBT topic: the committee has agreement around 80% of the current FHD layer and agreement around correcting on a case-by-case activity-basis as described under a clear set of criteria that can be implemented. There is agreement that there needs to be a programmatic update, however, the RAC did not reach agreement on the current criteria in use. Peter noted that there seems to be agreement on the frequency of programmatic update and active

notification. The RAC did not reach agreement on the 20 to 30% of the FHD layer based solely on professional opinion, or using concurrence of professional opinion in the update process.

**The group expressed strong agreement (all 1's and 2's) that above statement was a fair characterization of where they have agreement and where they have disagreement.**

**April 15, 2016**

**North-sided buffers:** Peter checked with the group 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).

Two hundred foot segment lengths for measuring east-west azimuth were also discussed, but a final decision was not made.

**Stream Extent:** Peter summarized what he heard from the members in regards to the timing of 'immediate', he noted that with adjacent operations within the same calendar year and/or while the notification is valid (1-2 years); administrative units cannot be created for the purposed of circumventing the new rule.

**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 be an option to correct this based on field verification.

**Parcel definition provided by Jim James:** 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).