

**Report to the Oregon Board of Forestry
Riparian Rulemaking Advisory Committee
Appendix A: Session Summaries**

Oregon Department of Forestry
Riparian Rulemaking Advisory Committee
February 19, 2016
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
Mary Scurlock, Oregon Stream Protection Coalition
Rex Storm, Associated Oregon Loggers
Bob Van Dyk, Wild Salmon Center

Alternates present:

Jennifer Wigal, DEQ
Randy Silbernagel, NW RFPC
Scott Hayes, Oregon Tree Farm System
Rick Barnes, Barnes and Associates
Heath Curtiss, OFIC
Meghan Tuttle, Weyerhaeuser
Paul Betts, Miami Corp.
Jon Bowers, ODFW

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
Terry Frueh, ODF Monitoring Specialist
Kyle Abraham, ODF Water Quality Specialist
Susan Dominique, ODF Private Forests Administrative Support

Guests:

Gary Springer, Starker Forests
Kim Parrett, ODF Volunteer
Sara Duncan, OFIC
Josh Barnard, ODF
Sabrina Perez, ODF
Jennifer Erdmann, ODF
Jeri Aster, Mackenzie River Coalition

Meeting Facilitation

DS Consulting, Portland
Donna Silverberg
Robin Gumpert

Peter Daugherty, Chief ODF Private Forests Division, called the meeting to order at 10:00 am.

1. Welcome, Introductions

Peter thanked members for committing the time it's going to take to serve on the Advisory Committee. Note that Bob Van Dyk will be serving as a regular member of the committee. He was listed as an alternate.

2. Public Comment

Public comment was invited. None was offered.

3. Setting the Stage: Review of Rulemaking Advisory Committee Charter and Operating Principles Purpose, Background and Scope

A draft Charter and Operating Principles was posted for the Committee's review prior to today's meeting. Daugherty reviewed the purpose, background and scope of the committee.

"The Purpose of the advisory committee is to collaboratively discuss and provide feedback on the draft Forest Practices Act (FPA) rule language to implement the Board of Forestry's (BOF) November 2015 decision." The Board decided on the elements of the final riparian prescription package for new riparian protection standards for small and medium fish streams. Daugherty advised that the advisory committee is not a forum for re-writing the Board's decision, rather, to implement that decision in rules that are clear, understandable and effective. He shared that he anticipated that some of the rule language will be a straight forward implementation of the Board decision while other language will involve clarification and determination of definitions as implied by the decision. Daugherty clarified that to date the Department has not drafted any rule language as they have not had any input from this committee, particularly on those issues that require clarification.

To summarize, the Advisory Committee's role is to discuss and provide feedback on policy issues that need further clarification or decisions by the Board to assist ODF to develop and write in clear language the Board's new riparian rule for meeting cold water quality standards. The Committee is also asked to discuss and provide input on the fiscal impacts of the proposed rule which is required as part of the APA process.

Daugherty reviewed the BOF's decision package to ensure members are clear how on the components of the package. To highlight, the scope of this committee to describe how to best implement that decision. Out-of-scope would be to re-visit the decision where the Board has made a clear statement of policy; for example the specific riparian buffer widths of 60 feet for small streams and 80 feet from medium streams. An example of in-scope would be that the Rule includes options to provide economic relief for smaller parcels and needs guidance on the particular formula. Particular standards that staff has identified for the members to consider are listed in the Charter, and include:

- How to define and identify SSBT streams as a subset of ODF Small and Medium Fish Streams.
- Defining the approach of extending standards above the immediate harvest unit and above the end of the mapped SSBT streams along the main stem of Fish-bearing streams.
- Defining the term "well-distributed" throughout the riparian management area (RMA).
- Identify conflicts, overlapping areas with current rules that require clarification as "all current rules that apply to Small and Medium Type F streams" not included in the rule change continue to apply.
- Defining and verifying a parcel, determining encumbrance and equity relief.
- Defining south-sided buffers and at what geographic scale.

An advisory committee member asked how detailed the committee's involvement is in crafting the rule language. Daugherty suggested that for efficiency it may be better not to jointly craft or wordsmith language at the meetings; rather, get feedback and if possible, consensus on recommendations which ODF can help craft in to rule language. The group will start at a more conceptual level of what the intent of the rule is, what the major issues are, and how to define key elements. Once staff receives that guidance, ODF will begin to draft rule language then bring draft language back to the committee for technical review. The

Regional Forest Practices Committees will be used for the technical review also which is required in statute. There will be a continuous loop of communication. The Board is the policy decision maker but the Department will be making recommendations based upon committee input in those areas that need clarification. If the Board's intent is not clear the committee will take time to reach consensus if possible. This committee will also provide input and continue to be included through the APA process once rule language has been drafted. The Fiscal Impact will be reviewed through the APA process and the Department will provide reporting to the Committee on what has been done up till now and the methods used, at the March meeting. Marganne Allen, ODF Policy and Monitoring Manager, noted that the full Secretary of State (SOS) process dictates when to file Fiscal Impact Statements and make that available as part of the bigger public comment period.

Operating Principles and Process

The second section of the Charter, Operating Principles, was shared as a draft for feedback and refinement by the Committee. Members were thanked for their participation in facilitator interviews prior to this meeting to help set the stage for what issues and format will work best for the Committee members to provide constructive feedback to the Board. The facilitators shared that they heard in the interviews that members are clear about their role in helping to put this rule together and are committed to doing their best to provide useful feedback and where possible, consensus recommendations for consideration. The role of the facilitation team is to help members communicate back and forth with each other and DOF staff, with an adequate exchange of information and to the extent possible, work to develop some consensus recommendations. Where there is not consensus, the goal is to clarify and document the different perspectives so the Board can make an informed final decision.

The facilitators suggested these Principles will help establish group norms and a process of how to work together both in and outside of the meetings with these ideas. It was noted that there are some general participant commitments requested in the Charter regarding consistent participation from members and alternates, and ways of working together in and out of the meetings. Facilitator Summaries will be provided to serve as group memory, capturing high level discussions, and agreements and divergent ideas. The summaries will be shared with the Committee for review and approval prior to publishing the notes for public consumption. A "Five Finger consensus tool" was offered to help the group and facilitators gauge the level of agreements on proposals brought forth.

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.

The Facilitators shared their intent to quantify, as soon as possible where there is agreement, and where not, and at the end of the process provide a final summary report that includes the full packet of summaries and outcomes of the discussions. Individual members will be given the opportunity to decide how any agreement or disagreement is articulated, with the goal of reaching consensus on the final report.

Comments regarding how to capture majority/minority opinions:

- A member suggested an option of articulating the polarized views and presenting them to the Board with equal weighting with no attribution of who is in favor/opposed.
- Another option raised for consideration is to allow the Board to see what the range of views are, who has those views and why, and be able to articulate those views in their own words.

- Everyone agreed with using the final Facilitator’s Report to capture agreements, disagreements, and minority reports where applicable – the report will be reviewed and approved by the Committee to make sure it accurately captures the views on all issues.
- The point is to streamline stakeholder input, not to paper over someone else’s views. The facilitators suggested that if it starts turning into a conversation where papers are being volleyed back and forth, this will signal a need to stop and have a process conversation of what needs to be done differently to get back on track.
- The Facilitators will work with staff to ensure the report meets the APA requirements. It was also noted that this is a big public process and the Board will have additional opportunities to anyone to provide information to the Board, beyond this Advisory Committee’s work.

Daugherty clarified that a Staff Report is required to be submitted with any report to the Board, so it will be included with the Facilitators Summary as the primary attachment (but not a separate report). Board materials are always public documents, and the Department will try to have those posted well in advance. He also noted that ODF has asked ODFW and DEQ to participate as technical resources and to meet requirement to coordinate with other agencies whenever developing rules. The agencies’ role is to provide the Committee adequate information on what will or won’t work and why.

Additional suggestions to the Operating Principles in the Charter were:

- Public Comment will be welcomed and given time on the agenda at the beginning and end or when decisions are being made and consensus isn’t reached.
- Alternates are encouraged to work with their Committee Members to communicate their views; and if they hold a different opinion will be welcomed to make comment during the public comment period.
- Language will be added to clarify the process for capturing issues when there is not a consensus.
- A member expressed serious concern about the Public Meetings Act and asked for clarification on what committee obligations are under the Oregon law about communications with members and others.
 - **Action:** ODF will work to get a DOJ opinion and advice for members on their obligations around public meeting laws and confidentiality. This item will be added to the March meeting agenda.
- There was discussion regarding expectations for members communicating with the BOF on behalf of and/or before the Advisory Committee has finished deliberating on an issue. The facilitator shared that from the facilitation team’s experience the groups who commit to work within the process and not speak before there is clarity/approval from the group to do so have built enough trust with each other and are more successful. Facilitators asked if members were comfortable with this understanding as a commitment to not talk specifically about the committee’s work to the press or the Board as a whole until the work is done. The Committee members agreed in general that they will not talk to a BOF quorum of members or the press about the Committee efforts until they have spoken to the Committee itself or the process is done. But some still expressed that they felt that they should be free to talk about the Committee’s efforts. The group will revisit this issue at the next meeting.

4. Getting Grounded: Review of the Board of Forestry Decision on Riparian Rule for Protecting Cold Water

Peter and ODF staff overviewed the Board’s decision on the Forest Practices Act Riparian Rule Package from November 5, 2015.

Comments re: Stream Extent to which the Prescriptions Apply:

- Do you include the Main stem of Type F streams in the extent upwards of the SSBT?
- How is the end of the Main Stem determined?
- There was grammatical clarification needed in the way the extent required reads.
- On clarification requested on Basal Area Targets, Wildlife trees and the description of ‘well-distributed’.
- Defining ‘well-distributed’ as that would influence how you would go about doing a mid-rotation or early thinning. And that definition influences the practicability and likelihood of actual implementation.
- We don’t want to define well-distributed in a way that would be in conflict with the Board’s recommendation.
- Focusing on this makes me want to ask whether the intention of the Board to encourage thinning under appropriate circumstances, could be interpreted to imply we should be considering rule language that would encourage/discourage that.
- When we define what well-distributed means do we want to consider the silviculture goals of the landowner as well as considering riparian functions and aquatic impacts which may be different?
- We need clarification on how to implement Option D, South-sided Buffers as an Alternate Prescription.

Daugherty offered that the goal was a package prescription to give landowners flexibility through options the landowner can choose from that best suits his/her ground and silviculture regime. ODF encourages focus on riparian vigor and reaching desired future conditions. All distances are slope distances. All current rules that apply to Small, Medium and not mentioned above continue to apply. This process will review potential conflicts with existing rules.

Timeline for Rulemaking Process – Angie Lane, Policy Analyst/Project Manager

Angie Lane shared a timeline that includes the Secretary of State’s (SOS) process, based on the assumption that the process will be completed by September 1, 2017. Angie suggested this feels like a very condensed time frame.

She reviewed the Advisory Committee’s schedule, suggesting the group will meet again next month with even more clarification on some of the items shared and discussed today, and at that time ODF plans to have a very rough draft to share as a place to start to get to a proposed rule package. A third meeting will be held in early April to prepare for the Board meeting at which a checkpoint report will be shared with the Board on the rulemaking advisory committee’s progress. Angie suggested another potential meeting in June or July might be needed in order to meet the September 1st, 2017 Rule Effective Deadline. Upon the Board’s Approval on the Draft documents, ODF will file with the SOS office and a public comment period will begin. Five public meetings are targeted for October and November 2016, spread out geographically to give opportunity for affected and interested citizens to go to a meeting that is close to their communities. ODF anticipates quite a bit of comment on this proposed rule. Angie encouraged Committee members to plan to attend the public meetings to answer questions.

Comment/Questions:

- Is there an opportunity for additional (more than 5) public hearings? The number may not be adequate and may limit testimony. Those affected by the rule should have an opportunity to comment.
 - ODF response: We are meeting our obligation with 5 meetings and there will be opportunity to provide written testimony as well. There are work load concerns, however, ODF is open to exploring ideas for additional meetings. It was also noted that information about this process will also be shared via other constituent gatherings outside the ODF public meeting process.
 - **Action:** Committee Member Dick Coulter will discuss this with the ODF Project Team.

Getting Grounded: Issues and Definitions Needing Clarification on Board Decision

- Issues Identified by ODF:
 - **SSBT Alternatives** – Kyle Abraham, ODF Water Quality Specialist
Abraham started by sharing some background on the Salmon, Steelhead and Bull Trout (SSBT) definition that has been used throughout this process, then go into what current FPA requirements are on termination of fish-bearing streams. It was noted that these brief presentations are just kick-offs for discussion. The Department wants to hear back from the Committee: Is the ODFW Fish Habitat Distribution (FHD) layer the appropriate data layer to use? Who should be the steward of the layer? There is no current plan to change the FPA Stream Classification System; however there is a potential for disagreement between the two layers in a particular zone.

Advisory Committee Comments/Questions:

- I look at it in terms of the EPA endangerment finding which had to deal with the application of the Protecting Cold Water criteria to stream segments that had fish but specifically talking about where the SSBT are *present*. The fundamental driver of the policy change was a presence determination, not habitat. That to me is the decision the Board made and the context to which that has to be taken. Is the endangerment finding and the presence layer associated with what the PCW says we are supposed to be achieving?
- In my way of thinking, there is no reason to modify the current process.
- We are talking about a species, not all fish. So it does get more difficult. It's not just a habitat call, it's the actual presence of the species.
- We have a different regulatory system so we have to think about that information as informative but not determinative. The regulatory cast that we have is looking at the SSBT distribution within the layers of fish, trying to find that point when determining what management activities can occur. It's important that we distinguish between other habitat layers that are not regulatory for the purposes of forest practices and developing our own map if you will, which I think you have done. Going forward, you have to think about this as the ODF regulatory program that may be different from other regulatory needs.

Daugherty provided more background about why ODF chose to use the FDH layer in its analysis with the Board, to characterize the presence of SSBT. ODFW Fish Habitat Distribution GIS layer is the best data available on presence where presence is defined as species being present within so many life cycles. Other agencies use that data where State Policy was needed based on the presence of salmon. He acknowledged that any kind of GIS data layer is a model, not perfect. Bruce McIntosh, ODFW further clarified that a lot

of information goes into the database we've been building since 2001 based upon empirical information. Though varied across the landscape, it is not only a model exercise, it is built on empirical information.

Kyle Abraham presented the alternatives. In summary:

- Alternative 1: Adopt FHD layer for where SSBT are present and becomes the regulatory layer. Disadvantages, there is no process for updating it other than the current update process in ODFW.
- Alternative 2: Other people could help improve the FHD layer using the ODFW protocol which allows a correction to the data. That would require collaboration between ODF and ODFW.
- Alternative 3 is the data resides with ODF and it creates a divergence of data. We could end up with a different representation of SSBT that may occur.

Comment/Questions on Alternative 1:

- Is there concern that the SSBT may not be based upon the right criteria?
 - Response: Our databases are not designed to achieve absolute certainty. We will have to make some assumptions to move forward in good faith on this. We are trying to determine where the regulations apply and once we determine the regulatory layer, we can come to agreement about where the rule applies. We currently use our fish layers which are imperfect in a regulatory environment. We have a choice to make about creating a third layer or use the other's together. However various options are being presented as a starting place for this conversation.
- Based upon the example, would we be stuck applying a buffer on a non-fish stream? If there are natural barriers contrary to that would you enforce it?
- Do we have information or understanding of how the two fish distribution maps stack up against each other?

Alternative 2 comments:

- Would updates be triggered when there are differences in layers?
 - If say there was a natural barrier, a waterfall, we could say that is where SSBT ends.

Action: Bruce will share a copy of the ODFW protocol in advance of the next meeting. There are two documents that exist which look at what the actual FHD data standard is and the protocols for update.

Action: Agency staff will determine additional information and ways of presenting the info to the group to further inform the discussion at the March meeting. Some members indicated they would benefit from understanding the FHD a little better as useful background for these discussions.

- **Defining “Well-distributed” throughout the RMA**

Marganne Allen began an overview of this topic by clarifying that the intent is clear, that the RMA is now managed with trees distributed throughout the length and width of the RMA. There cannot be a hard edge clear-cut, if well-distributed. She said ODF wants to know if this committee can agree on that, and secondly, how should it be characterized to not discourage early stand thinning. The challenge in thinking about this is how do we take measurements to give landowners flexibility *and* provide regulatory certainty? Daugherty added that many on this committee have operational experience and can bring ideas for this.

Member Comments:

- I think it is important to distinguish well-distributed from even distribution. We can allow some flexibility like that. We also need to consider there are operational challenges to distribute basal area in the RMA. The flexibility piece could be accomplished and still accomplish the goal.
- It may be easier to agree on what we don't want. Nature doesn't distribute trees evenly. What I heard was everything but a hard edge. I could agree to that.
- We may need discussion on Reserve Trees and what is meant by the 50% because there is a lot of uncertainty about that in the current rules.

- **Parcel/tax lot**

Daugherty said a definition and verification of 'parcel' is needed as a parcel can be created any number of ways. The big issue is there are no maps of parcels and counties verify parcels. Having equity tied to parcel creates the need for a definition and verification of parcel on ODF's part before granting equity relief. We also need to agree on a definition of encumbrance. Encumbrance through this process is the additional land encumbered by this rule not the total encumbrance of a given riparian area. But what are the differences between current rule and this rule? The final thing the Board asked the Committee to look at is the alternative of dropping back to a 50 and 70 foot no-cut to provide equity. During that discussion, several Board members identified needing clarity in understanding the principle about wanting to have equity but none were clear about the 50 and 70. It doesn't mean it will be re-considered, but the Board clearly asked for feedback on this.

- **South Sided Buffers**

Regarding south-sided buffers, the main clarification needed for implementation is at what geographic scale the rule applies; the entire unit or some discreet segment? It was suggested that Regional Committee notes may provide clarity in this policy area.

Additional areas needing clarification were identified by Committee members:

- What is meant by 50% of wildlife trees can be counted in the RMA, and double-counting concerns?
 - ODF Response: This will be added for for further discussion. However, Peter said there is not a policy question regarding what the Board said. Leave trees can count for both basal area in a riparian area and if it meets the size requirement of the residual tree it can count as a wildlife tree *and* basal area contribution. If there are disagreements we can document them.
- The rule should result in the Desired Future Conditions; this needs more discussion.

Communication Strategy - Nick Hennemann, Public Affairs

Nick Hennemann reviewed the Riparian Rulemaking communication plan and ODF's role. Public Affairs ensures there is adequate public meeting notice. The Department's responsibility is to help get information on what all constituencies are interested in knowing and how it's going to impact them as well as having the opportunity to continue being part of this process to create the rule language that reflects the Board's decision. The website has a link to this project housed under the Proposed Rules and Laws page which has a drop down menu with basic overview and the Committee's documents and meeting information. Newly provided information will be housed under the applicable meeting date and materials for that meeting. There will also be an option to link to an email address to provide multiple ways for the public to comment: email, correspondence and attending public hearings. To address questions about Public Meetings law and

specifically a quorum regarding decisions made by the committee, Nick urged Committee members not to ‘reply all’ to information received from the Department; instead, just contact Angie or other staff individually. Nick committed to helping coordinate additional information about Public Meetings Law to share with the Committee at the next meeting. He concluded with a request to the Committee members to share information from this process on their respective list serves, so people have a greater understanding about what it is.

Wrap Up

The facilitators asked if there were any additional issues not already raised today for consideration and future discussion.

Member Comments:

- We may need more time for discussions.
 - The group agreed to extend their all-day meetings to 9am-4pm.
- Some issues will take more time than others, e.g. SSBT, Relief Equity, and Well-Distributed. Suggest prioritizing these first and saving those needing less time for the final session, so we know better what it is we need to spend more time on and focus on those at the next meeting.
- Need a common understanding of SSBT to inform next meeting’s conversations.
- What can be done in between meetings to cue us up for success? Some members were interested in working separately with others on the Committee who have expertise or experience implementing Forest Practice operations to get a sense of the issues and how best to address them. Ideas and proposals can be developed and brought to the full Committee for consideration.
- Generally, the group agreed that it will be helpful for committee members to share if they know their views are not going to change on an issue, to streamline the process.
- **Action:** Kevin, Seth and Jim will take the lead on exploring ideas for the policy areas SSBT, well distributed and relief for future discussions.
 - The facilitators suggested reaching out to those who you think might not agree with you, to help develop proposals that could move a step forward toward consensus. They also suggested sharing proposals in advance of the meetings to the extent possible to allow committee members to review and absorb the information and be prepared to discuss at the meeting. Proposals should be sent to Angie or Susan for distribution to the Committee. All documents should clearly show ‘DRAFT for internal discussions’ before they are ready for public posting.

Action items from today included:

- The DS Consulting team will Update the Charter and share the next draft with the Committee for approval at the March meeting.
- ODF/ODFW will coordinate an information-sharing opportunity to support better understanding of SSBT, and consider ways to characterize it so it is clear.
- ODF will gather more information to share about public meeting laws at the next meeting.
- ODF staff will review information from the past two years of Regional Forest Practices Committee work as a good repository of information and thought about some of these issues, and provide a summary back to this committee to inform their discussions.

Next Meeting, March 22

It was agreed that a 9am to 4pm meeting was acceptable to everyone. The next meeting date is March 22nd. The April meeting date was set for Friday, April 15th from 9am to 4pm.

- Topics of discussion for committee on March 22, 2016
 - Continue discussion at next meeting re: SSBT, Well-distributed, parcels/tax lots, stream extent within immediate harvest unit, south-sided buffers, fiscal impact
 - Review overlap/conflict with FPA
 - Review a very rough draft of rule language

Public Comment

Public comment was invited. Gary Springer, BOF member: On behalf of the Board, thank you all for your support in this challenging effort. You are off to a good start.

Oregon Department of Forestry
Riparian Rulemaking Advisory Committee
March 22, 2016
FACILITATOR'S SUMMARY

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Committee members present:

Mike Barnes, NW Regional Forest Practices Committee
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, NW Sportfishing Ind. Association (via conference phone in p.m.)
Mary Scurlock, Oregon Stream Protection Coalition
Rex Storm, Associated Oregon Loggers
Bob Van Dyk, Wild Salmon Center
Heath Curtiss, OFIC (alt. for Seth Barnes who was not present)

Alternates present:

Rick Barnes, Barnes and Associates
Paul Betts, Miami Corp.
Jon Bowers, ODFW
Sanford Hillman, SW RFPC,
Randy Silbernagel, NW RFPC
Meghan Tuttle, Weyerhaeuser

Project Team members

Marganne Allen, ODF Policy and Monitoring Manager
Kyle Abraham, ODF Water Quality Specialist
Keith Baldwin, ODF Private Forests Field Sup. Coord.
Peter Daugherty, ODF Chief Private Forests Division
Susan Dominique, ODF Private Forests Admin. Support
Nick Hennemann, ODF Public Affairs Specialist
Angie Lane, Project Manager, ODF Policy Analyst
Lena Tucker, ODF Deputy Chief Private Forests Division

Guests:

Gary Springer, Starker Forests
Geri Aster, Mackenzie River Coalition
Greg Miller, Weyerhaeuser
Terry Frueh, ODF Monitoring Specialist

Meeting Facilitation

DS Consulting, Portland

- Robin Gumpert
- Donna Silverberg
- Emily Plummer

1. Welcome & Introductions

Peter Daugherty, ODF, welcomed the committee to the second Riparian Rulemaking Advisory Committee (RAC) meeting. Robin Gumpert, DS Consulting Facilitator, reviewed the agenda, noting that there is a lot to discuss today, including teeing up conversations and information needs for the April meeting.

2. Public Comment

Robin invited any public comments; none were offered.

3. Follow-Up from February 19th Advisory Committee Session

Facilitator's Summary - Robin invited comments and/or approval on the February 19th summary. There was inquiry as to if the comments in the margin per the draft on the web will be accepted into the summary? It was noted that some of the comments were helpful in clarifying the conversation, however, some comments noted missing language that needed to be added. Susan Dominique, ODF, noted that the version of the summary on the RAC website is an old version, and the most recent version has the comments incorporated and was provided in today's information packet. The RAC requested more time to review the summary.

→ **ACTION:** The RAC will provide suggested comments to Susan by Friday, March 25th. The Project Team will post the final version of the summary on the RAC website. [*Facilitator's Note: following the meeting, an extension was provided for summary edits: edits are due to ODF by March 31st.*]

It was requested that edited documents note the date of change on the revised document so that everyone is clear on what version they are reading. There was also a request to provide 'red-lined' versions of any edited documents.

→ **ACTION:** Edited documents will include the date of revisions and red-lined copies of edits will be provided to the RAC.

RAC Charter and Operating Principles - Donna Silverberg, DS Consulting Facilitation Team, walked the group through the edits discussed at the February 19th meeting and incorporated into the Charter by the Facilitation Team.

The RAC discussed the 'Decision Making' section of the Charter and clarified that when the RAC does not reach consensus, the various perspectives presented should be relayed to the Board of Forestry (Board).

→ **ACTION:** DS Consulting will add the following language to the 'Decision Making' section in the 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.*

Donna asked if there were any additional comments on the Charter, there were no additions voiced. The group was asked to use the Five Fingers of Consensus to signify their level of support for the Charter, pending incorporation of the above stated edit. Donna reviewed the significance of the fingers:

Five Fingers of Consensus:

1. One finger signifies enthusiastic support;
2. Two fingers signify acceptance, no objections;
3. Three fingers signify a willingness to live with the decision;
4. Four fingers signify serious issues with the decision, however, not blocking it; and
5. Five fingers signify one's interest to actively block the decision.

Heath Curtiss, OFIC, asked whether a 1 through 4-vote would be considered consensus; so if one wants to register anything other than consensus, a 5-vote is required. Donna explained that any 2's or 3's will be provided an opportunity to share their reservations or concerns and that the Facilitators will note the strength of the consensus, for instance, all 1's and 2's is strong consensus, whereas 3's and 4's are weak consensus.

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

Public Meeting Laws - Matt Devore, DOJ, provided a briefing of Oregon's public meeting laws and guidelines for operating as a public body. He provided a handout which is available on the RAC website.

Matt explained that decisions of public bodies are to be made openly and in a way that allows the public to track and understand the considerations and decision making. The RAC falls under public meeting laws, meaning that there needs to be notice of meetings so that the public can attend (coordinated by ODF staff); however, there is not a requirement for public participation. The RAC also falls under public records law, meaning that any records will be provided to the public if requested, including emails.

Matt noted that it should be expected that this process will be a hot topic for the public and there may be requests for information. Matt encouraged everyone to be organized in their record keeping in case of a Freedom of Information Act (FOIA) request. He suggested that RAC members print out emails, separate emails into a specific 'RAC' folder, or set up a separate RAC email account to help track materials shared. He also suggested that the RAC does not 'reply all' to emails, in order to avoid creating a quorum, and thus need for public notification. He noted that if the public meeting or records laws are compromised, it risks having to reinstate this process.

Comments, questions and responses:

- Q: Can you say more about how successive communication between members could constitute deliberation and movement towards a decision?
 - A: This could be a problem. Previously, groups were protected as long as it was not a quorum, however, recently there have been rulings on 'serial deliberations' being considered lobbying efforts. The courts will look to see if there was intent to get around the public meeting laws. If you have a meeting with some of your colleagues in order to further efforts outside of the public meetings, for instance a workgroup, make sure to bring the conversation back to the Committee during the public meeting so that it is officially shared with the rest of the Committee and the public. For instance, 'homework' should be noted in the summaries that it was done outside of the meeting and brought back to the committee.
 - Heath noted that OFIC will not make file records requests from other members.
- Q: What if a member writes a memo to supervisor within their organization, would this be part of the public record?
 - A: If it is just between a RAC member and constituents, DeVore offered that it 'probably' wouldn't be.
- Q: Do these rules apply to formal alternates as well?
 - A: Yes.

Wildlife/leave trees - Peter was tasked with reviewing the Board's decision regarding wildlife/leave trees. He reported that the Board decided that 50% of wildlife/leave trees can be located in the riparian management area (RMA) and that this is different than the current rules.

There was discussion around interpretation of the Board's conversation. Heath noted that from the OFIC perspective, the Board was intending to build in flexibility, and active management, and thus intended to allow wildlife trees in the RMA, to be double-counted, that is to also count towards the basal area requirement. Mary Scurlock, Oregon Stream Protection Coalition, clarified that the 'double counting' would not change what the basal requirement would be for the Variable Retention Option that the Board called for, however, may reduce the distribution of wildlife trees across the landscape. She continued that reducing the distribution of wildlife trees on the landscape was not an issue expressed during testimony; however, it could be an issue if these trees are clumped. Peter clarified that on small streams, wildlife trees can in fact contribute to meeting basal area requirements.

Rex Storm, Associated Oregon Loggers, noted that wildlife trees, wherever they are, are a cost and obstacle for operators and that allowing them in the RMA is an incentive, as it allows the operator more flexibility, as to where they locate those trees to reduce costs and expense of the operation.

Mary asked if hardwoods count towards basal or wildlife tree requirements? Peter said that currently at least 50% of the wildlife trees need to be conifers. A large hardwood tree can count as a wildlife tree. ODF currently does not restrict where wildlife trees are on the landscape. Mary shared that from OSPC's perspective, incentives to provide more basal area within riparian areas are vital, regardless of if they are wildlife or not; she suggested that Heath's proposal may leave more trees in the riparian area.

Bob Van Dyk, Wild Salmon Center, clarified that a new rule would trump the current rules and that the question is if the operator should get credit for the wildlife trees counting towards basal area, not where they should be.

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 – The RAC discussed the current rules for the minimum diameter of live conifers in the RMA. Peter noted that the Board said that unless otherwise stated, all previous rules stand, and there was no current live tree requirement for conifers on Smalls. however, said that the minimum diameter for live conifer count on Mediums is 8”. Peter continued that the Smalls minimum has not been established previously, because there was no Leave tree requirement on small streams in the current rule.

Mary suggested that the diameter minimum should be consistent for small and medium streams, as OSPC does not see an ecological reason to differentiate between the small and medium streams. She continued that more and larger trees in the riparian are needed to meet water quality standards.

Marganne Allen, ODF, noted that the defacto minimum of 6” for smalls, as anything smaller is counted for basal area targets. Mike Barnes, NW Regional Forest Practices Committee, noted that the basal area of a 6” and 8” tree is relatively the same, and thus he is okay with either.

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. Robin clarified that at this point, ODF is looking for initial input from the RAC in order to draft rule language which will come back to the Committee as part of the rule package for review. She assured RAC that this is not the last time that they will get to weigh in on these recommendations.

Presence – Peter provided a handout on “Using Fish Habitat to Provide Designation of Fish Presence” and shared examples of where the State of Oregon used habitat as a surrogate for fish use (for example ODF's Oregon Forest Practices Act, Department of State Lands Essential Salmonid Habitat, and Department of Environmental Quality's temperature criteria). ODFW Fish Habitat Distribution layer (FHD) is used as the best available information. It's analogous to the RFPC recommendation as a starting point. But the Committee will be discussing and seeking their own consensus on what they suggest using as a starting point and how frequently it will be updated.

Members noted that some would be actively opposing the use of presence only.

Peter reminded members that ODF has used the current and historical FHD layer for all the analysis presented to the Board. He clarified that he wants to hear, first of all, about the agreement/disagreement

with this approach and why. Peter asked for feedback on agreement with the State decision and then information on the frequency of updating under each scenario.

4. SSBT (Salmon, Steelhead, Bull Trout Streams)

Kevin Godbout, Weyerhaeuser, noted that looking at results and areas in which there is actual known presence, actual downstream of known presence, the combination of concurrence of professional opinion and known presence determinations, he believed that the solution was an overreach relative to the problem identified and it would include a lot more miles of streams that are not what the Board intended to address.

Peter summarized that members see two distinctions from what was proposed. One is summer use for SSBT and the other is Observed Presence criteria over Concurrence of Professional Opinion. And where you have documented observation of presence at a headwater you can reasonably assume all downstream reaches are documented for presence. Mary noted that landowners could have an option for addressing presence uncertainties if not satisfied that the data layer reflects reality.

Bob suggested the Committee move forward with this and record where there are concerns and provide an updating process. Peter again summarized that the key disagreement between Observed Presence and whether it is correct on summer use being the same as habitat, would be to either use Observed Presence and downstream of Observed Presence only or Current Distribution of Observed Presence plus Concurrence of Professional Opinion and downstream of that as well. Bruce McIntosh, ODFW, noted that SSBT utilizes streams year round, not only in the summer season.

Members discussed Programmatic approaches versus Activity-based approaches to updates. The discussions continued to seek consensus on the following policy questions:

What is the best layer to use? - Peter explained that the rule will apply to salmon, steelhead, and bull trout streams and that the next step is for the RAC to discuss ODF's proposal to use fish habitat as the criteria to designate fish presence. Mary supported using fish habitat as criteria and the FHD as a starting point; she suggested that the RAC can recommend what FHD data is used and add additional information during the update process. Mary continued that the database has a lot of good information and is used by State agencies and it is outside of the RAC's scope to go around previous rulemaking and policy that has been decided on by previous decisions. Bob Van Dyk agreed with Mary Scurlock and suggested that they can continue improving the designations so that there is more confidence.

Kevin Godbout noted that there is a lot of information to consider and that this is a big ask early in the process. He expressed concern that using the FHD would incorporate more stream miles than those with a 'finding of degradation' for the SSBT streams and suggested considering narrow application of the FHD layer, with focus on the areas with the biggest water quality impacts, then build out requirements for other streams. Kevin also suggested that the RAC expand the conversation beyond only using habitat or presence.

Heath pointed out that landowners will be weary of any new designations and that documented observations of fish presence will allow for certainty and less bias. He recognized that if there is documented observation in the headwaters, it can be assumed that there are SSBT in downstream reaches. Heath was particularly concerned about the avenues of updating the stream layers and what data providers are allowed to provide information that a stream has SSBT. He is concerned that this process will be abused to force rules on landowners.

Bruce McIntosh noted that when the State adopted the FHD in 2000, they went to a habitat based approach because it is difficult to prove absence; and while presence can be easy to prove, absence is difficult. The

habitat layers were based off of current and historical habitat, with empirical information, with the intention of refining it in the future based off of empirical data.

Peter reflected that the question at hand seems to be around observed presence and assumed presence and that this equates to 80% versus 100% of the FHD layers, suggesting that there is not opposition to using the FHD layer; however, the RAC may potentially want to refine the use. It was noted that in the FHD there are streams that are designated as SSBT that are not, and that there are streams that have SSBT that are not designated and that a program bias has not been identified.

There were two dominant proposals that were discussed:

1. Use 80% of the current FHD layers: those with observed or downstream observed use
2. Use 100% of the current FHD layers: including those with concurrence of professional opinion

Heath noted that they would support ODFW's current survey process. Kevin noted that they are hesitant to use habitat as a surrogate to observation, as they are trying to avoid bias. Bob Van Dyk noted that may just be shifting the bias.

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.

What are the criteria for updating the Database? - Jon Bowers, ODFW, noted that they are working on further developing and updating the database. In the beginning, there was more 'professional judgement, which included multiple agencies, industry contractors, etc.', however, more recently ODFW has been focusing more on observance. Jon noted that to some extent, the database can be revised between now and when the rule is implemented, for instance, areas with known fish barriers can be updated. Angie noted that the rule will be filed in August, so they do not actually have until the rule is implemented.

The RAC generated ideas on what the 'updating' process for mislabeled streams could look like:

- Correct stream layers on a case by case basis – if fish are found or not found
- Work with Stewardship Forester to determine corrections
- Documented observations of fish presence could trigger addition to FHD
- Only allow agency biologists to document observation
- Continue to allow for a broader group to document observations (biologists, tribal fisheries, advanced degree in fisheries)
- Continue to allow for presence to be determined by professional opinion
- Produce evidence of clearly defined barrier – provide information to Stewardship Forester to verify
- GPS fish presence upstream of unit – provide information to Stewardship Forester to verify.
- The current FHD Update Protocol could be adapted to include a protocol that the committee determines for updating layers.
- Prioritize surveys on the 20% of streams that do not have documented observations
 - The RAC could advocate for the resources to support those surveys in the next legislative session
- Focus update on all fish layer, not just SSBT

The group acknowledged that this will mostly occur at the upper extent of the habitat, not mid or lower streams.

Jon noted that although the concurrence of professional opinion is an option for updating, it is not utilized much. He continued that there is a big difference between surveying the 20% of streams that have been

included in the database based on professional opinion, compared to surveying the streams that are not included in the database.

Mary expressed concern that they have already narrowed the standard to only SSBT, and now some are trying to narrow it further due to some uncertainties in the FHD. She continued that there are errors in the database from both perspectives, and that those errors will be addressed moving forward.

What is the frequency for updating?- Peter asked the RAC for input on updating from a programmatic point of view?

- Heath noted that this only becomes an issue if the rules are going to change, this could be addressed by maintaining the rules that were in place during unit planning.
- Rules that apply when a notification is submitted are upheld, even if the notification is renewed.
- Mary expressed concern that if notifications maintain the previous ruleset, there may be a push for landowners to submit notifications just to avoid the new rules.
- Dick Courter, Small Forestland owner, noted that for small woodland owners, the more the RAC can keep the rules the same as current, the better.
- There needs to be a planning window between when the notification is filed and when the rule is implemented.

Marganne clarified that renewal of a notification is allowed into the calendar year following the authorization of the original notification, however, cannot extend into a third calendar year. There are more stipulations that can be found in the Forest Practice Act. She also noted that if ODF updates a stream as a fish stream, they are required to actively notify the landowners of the change; they could have a similar process for the new rules.

- **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).**

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 using the current criteria. 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.

5. "Well Distributed"

As discussed at the February 19th RAC meeting, a workgroup convened to develop language to describe what 'well-distributed' is in regards to tree distribution in the RMA. Dana Kjos, SW Regional Forest Practices Committee, provided the group with draft language, which is available on the RAC website. The language reads:

"When actively managing the riparian area, the operator shall leave trees well distributed, minimizing large gaps, favoring small openings in canopy cover, and leaving residual trees in a manner which promotes understory as well as diameter and crown growth while considering safety, operational limitations, and efficient harvest of adjacent stands."

Dana explained that the workgroup wanted to ensure that the trees are not *evenly* distributed, but *well* distributed, which says that there is variation within and that the management can be active and simple. Also, so that operators can manage safely under operational limitations. He said that the metric used to measure could be basal area, just like the current rule. The workgroup chose the narrative approach to allow for the forester to make the decisions on the ground, as not all riparian areas are the same, and they felt that management needs to reflect the needs of the area.

Peter noted that a narrative does not allow for ODF to enforce the standard, as there are not metrics on which to base compliance, and suggested that the metric would have to be on what is removed not what is left. Mike Barnes suggested adding 'length and width' to the narrative as the metric. Kevin suggested taking an adaptive approach, using the first year to do field visits to see what implementation is looking like and providing guidance to landowners on the ground. Peter equated lack of a metric to an inability to enforce. Rex Storm noted that there are many narrative standards in the current rules and they are enforceable.

Bob Van Dyk noted that he supports more metrics to limit the discretion, so that a gap is not right next to the clear-cut. He suggested the RAC brainstorm metrics together. Mary agreed with Bob, noting that the Board invited us to create further meaning out of 'well distributed' and that the Board wanted to use active management to support desired future conditions and ecological functions of the riparian area.

It was suggested that in planning operations the trees are marked and then the plan is reviewed by the Stewardship Forester to determine if it meets the spirit of the rule. This could be written into the rule to allow ODF to enforce the rule. Marking trees becomes part of the notice/specificity of what is proposed for cutting. Dick noted that this may not be practicable for operators.

Mary suggested making a process based metric, and noted that she cannot support a rule without metrics. Rod agreed with Mary.

Marganne noted that ODF will have to report to the Board regarding if they met their metrics, ODF will have to provide metrics and this is the committee's opportunity to provide input on that. She suggested that if the RAC cannot create metrics, they could put 'well distributed' in the purpose statement. Some initial metrics and other ideas were generated but no clear proposal emerged:

- Size of gap or size of trees
- Process based requirement instead of a metric, e.g. a clear plan with marked trees and work with the Stewardship Forester
- "within the length and width of the RMA"
- What is Washington doing for well-distributed?

Keith Baldwin shared that the Stewardship Foresters have two tools that they use in working with landowners; the Written Plan and the Plan for an Alternate Practice. One approach would be to create some metrics or intent that would be written in the plan and ODF would have to approve that in some special cases of working in the riparian areas of SSBT streams. Marganne replied to the discussion saying that if the RAC wants to include metrics, now is the time to make that recommendation.

→ **ACTION:** RAC members were encouraged to think more about what metrics could look like and provide ideas or a clear proposal to Peter by the week of March 28th.

6. "Relief"

As discussed at the February 19th RAC meeting, Jim James, Oregon Small Woodlands Association, drafted language for determining relief for landowners who have more than 10% of their land impacted by the new SSBT rules. Jim provided a handout with his proposal. He noted that from his perspective, the Board intended to provide relief to these landowners, and the 50ft and 70ft no-touch buffers on small and medium

streams, respectively, do not provide relief. Jim suggested that the committee ask the board to take another look at their November 5th decision for ‘relief’.

Kevin noted that he liked the format of Jim’s proposal because it provided a simple calculation to determine if land is in or out of the relief program.

Bob noted that he understood that the board intended for relief to landowners when the additional increment added up to 10% of their property, not if the riparian area adds up to 10% of their property.

There was discussion around what the Board intended. Peter clarified the Board’s intent was for differential impact, not cumulative impact, of the new rules and addressing situations for low land landowners who are disproportionately affected. Jim proposed to the Committee that that they make a recommendation to the Board that they take another look at the relief they approved on the November package acknowledging what they thought was relief, was not.

There was general agreement that the RAC needs clarification from the Board.

Peter noted that the Board specifically gave the RAC the ‘parcel’ concept as the metric for the relief program (see background information provided at today’s meeting).

The RAC members presented a diversity of viewpoints:

- The rule could require that landowners show their parcel and that the percentage of land affected is greater or equal to 10%, if so, pre-2017 rules apply.
- ODF could be required to determine if the landowner meets the criteria for relief.
 - If the committee takes the word ‘parcel’ the way that the DLCD defines it, then a secondary process is required, as ODF needs an administrative review done by a county to determine whether or not a parcel meets the county requirements.
 - The committee could use a different definition of ‘parcel’. From the landowner perspective, a parcel is the contiguous acreage owned by a single landowner.
- The process needs to be simple and efficient – add the encumbrances to the notice.
- Relief is provided per ownership, not per unit.
- This ‘relief’ should be for small woodland owners, not large industrial owners – don’t want to encourage ‘parcelization’.
- Do not want to burden small landowners to go to the county for an extensive research exercise, nor to have to put in a request for this relief.

The RAC agreed that this feedback will not be brought to the board until after the April board meeting, thus allowing for time to continue to work on this issue through the RAC.

→ **ACTION:** Jim James and Dick Courter will draft a definition of parcel for the RAC’s review.

7. Fiscal Impact

Due to time limitations the RAC did not discuss fiscal impact; this item will be added to the next meeting agenda.

8. Remaining Topics for Discussion

Robin noted that the following topics will be discussed at the next RAC meeting:

- Fiscal impact
- Encourage management
- Will the rule match up with the desired future condition?
- Aspect/general valley Azimuth
- Stream Extent

9. Wrap Up and Next Steps

There was clarification that the RAC Charter states that the committee members will not talk to the Board about topics discussed in the committee during the rule making process. After the committee completes its review and recommendations to the Board, the committee can talk with the board and individuals can testify. The charter does not hold them quiet until the rulemaking is complete.

Peter noted that there was good progress made today. He suggested that the committee schedule another meeting for May, prior to the June board meeting. The RAC agreed to meet from 9:00-4:00 on May 12th, location TBD. The next committee meeting is from 9:00-4:00 on April 15th at Department of Forestry Headquarters in Salem.

10. Public Comment

Robin invited any public comments. It was requested in public comment that ODF provide draft Rule language as soon as possible – sooner than a week in advance of the meeting if possible.

The next RAC meeting will be held from 9:00-4:00 on April 15th at ODF in Salem.

Oregon Department of Forestry
Riparian Rulemaking Advisory Committee
April 15, 2016
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
Jon Bowers, ODF&W
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
Keith Baldwin, ODF

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 Daughterty, 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 Dyk, Wild Salmon Center, 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 Dyk 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 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 and the Protecting Cold Water Criteria requires it. She noted that during testimony, it was expressed that these buffers are economically damaging, and now RAC members are saying that there would not be economic incentives to log upstream of the SSBT the RMA. Seth explained that the operational costs of 'move-in move-out' can be cost prohibitive. Mike Barnes noted that those streams that are labeled as 'fish' streams are still protected, regardless of whether 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 are a part of this policy, including basal area and landscape constraints such as topography, 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 it 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 parcels, and family forestlands are a category of that, 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 of 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.

Oregon Department of Forestry
Riparian Rulemaking Advisory Committee
May 12, 2016
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:

Meghan Tuttle, Weyerhaeuser
Paul Betts, Miami Corp.
Jon Bowers, ODFW GIS

Project Team members

Kyle Abraham, ODF Water Quality Specialist
Keith Baldwin, ODF Forest Practices Field Coordinator
Peter Daugherty, ODF Private Forests Division Chief
Susan Dominique, ODF Private Forests Administrative Support
Angie Lane, Project Team Manager, ODF Ops & Policy Analyst

Guests:

Gary Springer, Starker Forests

Meeting Facilitation

DS Consulting, Portland

- Donna Silverberg and Emily Plummer

1. Welcome, Introductions

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

She noted that this phase of the rulemaking process is nearing the end with one more session in June. To that end, she asked group members focus on providing input that can help the group work towards agreement.

2. Public Comment

Public comment was invited. None was offered.

3. Follow Up from April 15th Riparian Rule Advisory Committee Session

The RRAC reviewed and approved the April 15th Facilitator summary pending the following changes:

- Add Jon Bowers, ODFW, and Keith Baldwin, ODF, to the attendance list (pg.1)
 - Correct spelling and organization for Bob Van Dyk and Wild Salmon Center (pg.3)
 - Delete “to” from phrase “to if” in the second sub-bullet under third main bullet (pg. 4).
 - Add clarifying language to Mary Scurlock’s statements to read: *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 and the Protecting Cold Water Criterion requires it.* (pg. 5, 2nd to last paragraph)
 - Remove the word ‘are’ after ‘there’ in sentence about the economic incentives of logging upstream of the SSBT. (pg. 5, 2nd to last paragraph)
 - Add clarifying language to Seth Barnes’ statement to read: *Seth explained that the operational costs of ‘move-in move-out’ can be cost prohibitive.* (pg. 5, 2nd to last paragraph)
 - Change ‘if’ to ‘whether’ in Mike Barnes’ statement. (pg. 5, 2nd to last paragraph)
 - Add clarifying language to Seth Barnes’ statement to read: *Seth noted that the well distributed requirement is one of many constraints that are a part of this policy, including basal area and landscape constraints such as topography, etc.* (pg. 7, 1st paragraph)
 - Add clarifying language to Dick Courter’s statement to read: *the Board said that the relief was for parcels, and family forestlands are a category of that...* (pg. 10, 3rd bullet)
- **CONSENSUS:** Pending the above stated edits, the RRAC approved the April 15th Facilitator’s Summary.

4. Riparian RRAC Process Check-in

Peter Daugherty, ODF Private Forests Division Chief, summarized ODF’s understanding of where the Advisory Committee is now, noting specifically what he reported to the Board of Forestry (BOF) at their April meeting. He handed out a document with ODF’s understanding of where the Advisory committee has and has not reached consensus. Peter said that there has been good progress made, and from his perspective, there are three remaining topics for the RRAC to address:

1. Determine criteria for ‘well distributed’
2. Determine parameters for ‘relief’
3. Determine how to incorporate the new rule language into the existing rule

Peter reported on his update to the BOF: he provided the BOF a summary of the topics that the RRAC is working on; issues that the RRAC identified in addition to what the BOF requested; and the recommendations that the RRAC has coalesced around. Because the RRAC had not yet approved the April Draft Facilitator’s Summary, Peter did not share the details of where the RRAC landed on specific issues, however, he did provide a general update on the conversation. Peter recapped what he presented to the BOF:

Progress made by the RRAC:

- Agreement on a Charter and operating principles, including use of consensus tool;
- Agreement on language to be provided to the BOF regarding wildlife leave trees;
- Did not object to ODF recommending to the BOF that conifer leave trees have at least 8 inch diameter, however, it was noted that there may be future opposition to this depending on other decisions;
- Agreement that SSBT streams that have documented observation or sections downstream of documented observation should be included in the rule;

- Agreement that the rule in place when notification was filed is what rule should be applied to that unit, as long as there is no evidence of gaming and notifications cannot be extended beyond the two year allocation;
- Support for updating the SSBT database on a case-by-case basis, with an established frequency for programmatic updates (criteria and frequency for updates has not been determined);
- Agreement on the current working definition of ‘parcel’;
- Agreement that GIS algorithms can be used as an initial screening to determine eligibility for the North-sided buffer prescription and the written plan would need to verify the direction of the stream; and
- Agreement on the definition and approach to extending prescriptions above the end of mapped SSBT streams within a harvest unit.

Peter noted that there continues to be disagreement around the process to establish and update the SSBT data layer, specifically for the 20-30% of the FHD layers that are based solely on concurrence of professional opinion. Kevin Godbout, Weyerhaeuser, suggested that this conversation should be revisited to see if the RAC can come to agreement on what can be locked in now and the process for updating. Peter noted that the RAC may be able to revisit this later today or at their June session.

Peter informed the group of the need to update the timeline and next steps for the rulemaking process. He noted that the added June 21st RRAC meeting will be focused on reviewing three things: 1) ODF’s draft recommendations to the Board of Forestry, 2) ODF’s draft language (which stems from the RRAC recommendations), and 3) the fiscal impact review. At the July BOF meeting, ODF will seek the Boards’ decision on policy clarifications and then in September the ODF will take proposed rule language and Fiscal Impact Statement to the Board for approval. The proposed rule will be filed in September and published in October. Hearings for the proposed rule will be held in November and December 2016. The rules would be effective as of June 2017.

Mike Barnes, NW Regional Forest Practices Committee, inquired as to why the implementation date was moved up, to which Angie Lane, Project Team Manager, ODF Ops & Policy Analyst, noted that when she reviewed the RRAC’s progress it became clear that the process was progressing faster than previously anticipated and thus the rule would be ready to implement by June 2017.

Jim James, Oregon Small Woodlands Association, asked if there will be decisions made at the July Board meeting and whether, at that point, it will be clear what the BOF should expect to see in September. Peter responded yes, at the July BOF meeting ODF will ask the Board to review and make decisions on the conceptual agreements that the RRAC has made. Jim continued that if the RRAC is going to make recommendations to the BOF regarding ‘relief’, it likely would not be until the July or September BOF meetings. Peter noted that it depends on where the RAC gets today: if there is clear agreement, then he can take that to the BOF in July, if not, it will wait.

Rod Sando, Northwest Sportfishing, sought clarity on how a lack of consensus will be represented to the BOF. Peter noted that the Charter outlines this process stating that *ODF will describe and address the full range of views that the RRAC discussed when making a recommendation to the BOF* (pg. 1 of RRAC Charter). Bob Van Dyk, Wild Salmon Center, noted that prior to reporting to the BOF, it will be important to discuss dissenting perspectives to make sure that the interests are accurately represented. Peter agreed and noted that he will bring those recommendations to the RRAC in June for the group to review.

Peter also reported that he met with ODFW and DEQ representatives to check in on the RRAC’s progress and agreements. Bruce McIntosh, ODFW, and Gene Foster, DEQ, both noted that as the recommendations currently stand, they and their agencies will support the consensus recommendations of the RRAC.

5. “Well Distributed”

The RRAC continued its April meeting discussion around the well distributed prescription. Dana Kjos, SW RFPC, reported that after the April meeting, he looked into the proposal to prohibit the creation of 1/20th acre gaps in the RMA. Dana assessed the impact of this potential criterion, looking at the tree diameter and associated gap size and basal area requirement. He concluded that it is statistically impossible to reach the basal area requirement if the gap size limit is 1/20th of an acre. Dana reported that if using 500ft increments to measure basal area, the smallest gap size requirement could be 1/10th acre, as measured from stump to stump.

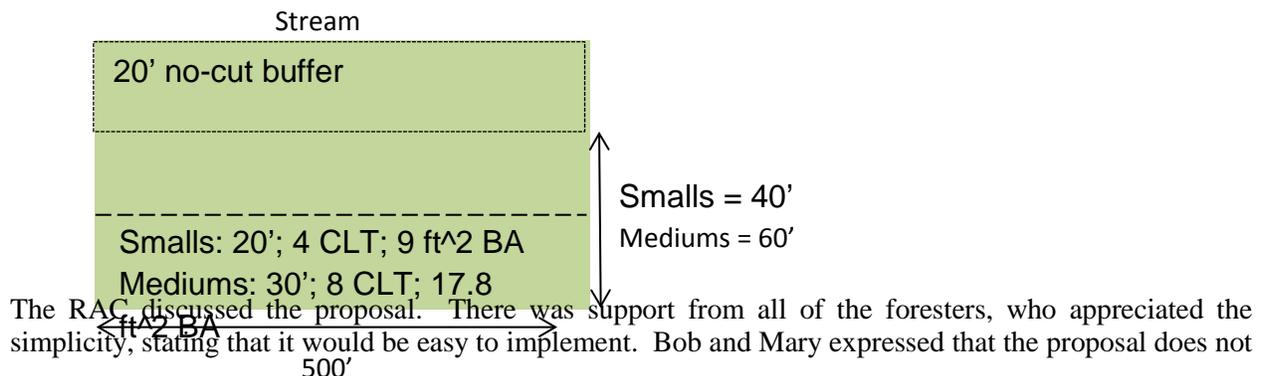
Dana went on to explain that he met with Mike Barnes and Mary Scurlock, Oregon Stream Protection Coalition, to discuss the two proposals outlined at the April RRAC meeting. He then drafted another proposal that Mary then took to Rod and Bob for further review. The group was not able to reach agreement on a proposal to bring to the RRAC due to differing ideas on gap sizes and criteria.

Mary explained that the conservation groups are not comfortable with the 500 foot segment length to measure basal area as the only parameter. They remain concerned that an operator might choose to pack trees into one section of the 500ft, thus creating large gaps in stream shading, which is antithetical to the overall objective of the rules. Instead, they would like to see either a smaller length or more criteria added. She said that she could live with 200ft and 0.5 acre gap, however, Dana did not think that smaller than 500ft increments would work operationally. Seth Barnes, OFIC, echoed Dana, noting that a 100-200ft strip from which to calculate basal area is difficult from an operational perspective.

Rod asked the foresters to expand on how the operators measure basal area. Kevin noted that it is not realistic to think that there will be a 100% cruise on the stands; more likely, it will be a stand assessment and summary. Kevin continued that trying to determine that a gap is 1/10th of an acre would create a process that is very difficult for a landowner to comply with. Instead, he suggested figuring out a simple means for the operator to implement accurately and cost effectively. Randy Hereford, Starker Forests, agreed with Kevin, and expanded, noting that a forester will look at the rule and figure out the best way to implement it, there is not a standard procedure.

Peter shared an idea of how the group might move forward with a prescription for well distributed that would be feasible to implement, allow for active management in the outer RMA, and hopefully quell concerns around too much thinning close to the stream:

Proposal: Divide the outer zone in half; 50% of the conifer leave trees (CLT) and 25% of the required basal area (BA) will need to be left in the outer half of the outer zone. This is all outside of the 20ft no-cut buffer.



quell their concerns of potentially creating large gaps in the RMA, and voiced concern around the ability to still 'pack and whack' if desired.

Jim noted that he likes this proposal, as he was previously concerned with how family woodland operators would implement complex criteria. He asked Mary and Bob what the concern is about gaps, noting that gaps happen naturally. Mary explained that she does not want to see more gaps or gaps made larger; the area being discussed is just outside of 20ft of the stream and increasing gap frequency and size impacts available shade and water temperature.

Dick Courter, Small Forestland Owner, echoed that he also wants to make sure that this is not too difficult for small landowners to implement and suggested that narrative be added to state that trees need to be left throughout the entire length of the RMA to provide the needed shade.

Seth noted that it is important to take the real-world, on-the-ground situation into consideration, and that there likely will need to be some adjustments made based off of site topography and other factors. He noted that the proposal goes back to the original BOF metric of well-distributed basal area and seems more aligned with their policy direction.

Rod noted that Peter's suggestion seems good and implemental in the field; however, he inquired as to the accuracy of implementing the basal area requirement. Peter explained that 25% of the basal area requirement would be in the outer zone because operators will err on the side of leaving more trees than required to ensure that they meet the basal area requirement. Peter also noted that this requirement can be (and is) checked in the field. There is currently an enforcement standard to meet or exceed basal requirements, using a table to count basal area for each tree. When in the field, if ODF thinks someone is not in compliance, they check to see if the requirements are met.

Mary noted that she would be more willing to accept the proposal if the segment length for measuring basal area was smaller than 500 feet, or if there was a gap size limit. She continued that it will be important to monitor this active management approach as there are still questions about shade impacts. Bob noted that if these are big trees, 4 large conifers could be the only trees left in the area, as that may be sufficient to meet the basal area requirement.

Rod clarified that his group also is interested in ensuring that there is large woody debris recruitment for the stream and suggested that there should be a preference stated to leave the larger trees. He suggested that they should consider adding language about a preference to leave dominant and co-dominant tree species. Peter noted that language could be added regarding a preference to leave larger, dominant or co-dominant trees, however, this would not be a requirement. Jim noted that adding voluntary language with the rationale as to why the action requested is important seems a good idea.

Bruce asked whether it would be possible for the net effect to be that the four CLT are all 4-inch trees? Dana responded, no, because the basal area requirement still needs to be met so they would have to be bigger. He provided the example that if the trees are 10 inches, there would need to be 18 trees left to meet the basal area requirement.

Mary and Bob restated their concerns regarding the potential of the proposal to allow for the creation of gaps and potential negative impacts to stream shading. Gene affirmed that, from DEQ's perspective, the effect of too large of gaps and impact on stream shading is still a concern that will need to be addressed.

The group was polled to gauge support for the proposal, without adding a gap requirement: While the landowners were in strong consensus for the proposal, the conservation interests were not able to support the proposal without additional requirements that would ensure that large gaps are not created.

Peter asked if there would be support for the proposal if a 1/10th acre gap size limit was added. Mary and Bob both said that yes, if that criterion was added, they could live with the proposal. Jim, Rex, and Randy noted that if a 1/10 gap size limit were added, they would move from support to actively blocking the proposal.

It was suggested that language could be added to the narrative, which instructs operators to ‘not leave large gaps’. Bob noted that this language is too vague for landowners and regulators. Metrics in other prescriptions are more specific and he felt this should be too. Peter noted the disagreement between the groups and ODF will work on ideas to solve the problem.

6. “Relief”

The RRAC revisited the working definition of ‘parcel’ on which they had agreed at the April meeting. Peter noted that there is already a definition of a ‘single ownership’ in the FPA, so ODF staff added an ORS citation to clarify the definition. Staff also made non-substantive edits to the definition:

‘Parcel, for the purposes of calculating whether a forested property is eligible for relief from SSBT riparian rules adopted in ___ 2017, means contiguous single ownership recorded at the assessor’s office within the county or counties where the property is located, including parcel(s) of any size or shape touching along a boundary, but can be intersected by a railroad, road, stream, or utility right-of-way. Single ownership is defined in ORS 527.620(14).

- **CONSENSUS:** There was consensus to accept the revised definition of ‘parcel’ (all 1’s).

It was noted that there is still a need to define ‘boundary’. The group supported that “a corner” is one way to distinguish a boundary.

Peter framed the conversation on ‘relief’, noting that the RRAC is revisiting this because the BOF expressed that they were not sure whether 10% relief was the right approach. Peter presented three examples of equity analysis using Columbia County tax lots as surrogates for parcels:

1. The first analysis shows the number of tax lots in Columbia County impacted by the percentage of additional SSBT encumbrance.
2. The second analysis looks at tax lots that are greater than 2 acres, and shows the number of acres in Columbia County impacted by the percentage of additional encumbrance.
3. The third analysis uses the same approach as the second analysis, however, also shows the percentile ranges and acreage categories.

Peter noted that the analyses use tax lots as a surrogate for parcels, and now that there is a definition for parcel, ODF can run the analysis on parcels. The group generally supported doing the comparison on affected acres.

It was noted that the analyses only account for additional encumbrances that would be the result of the new rule. There was a question about why the encumbrance is not accumulative, as there may be other encumbrances on these acres. Peter suggested that it is difficult to have the encumbrance be accumulative because the encumbrance depends on whether the property was purchased before or after 1994. Property

purchased before 1994 did not pay for encumbrances. He noted that the economic analysis was based on a free market analysis and so any further assessment should have the same assumption.

Mary noted that, in looking at the results of the analysis, she sees that the new rule does not cause much encumbrance to very many landowners. She noted that the 'encumbrance' bar should not be moved arbitrarily to allow more people to get relief. Peter noted that the '10%' criteria was pulled from a proposal with 90 foot no-cut buffers. Mary indicated that would have been a higher encumbrance and more landowners would be more significantly impacted. Peter noted that the definition of equity, is *determining fairness* and so the RRAC needs to determine what is fair. Mary responded that fairness needs to be considered both for the costs to the resource and impact to water quality as well as the impact to landowners.

Peter noted that he is trying to get a sense of the balance that the RRAC wants to attempt to reach and how. He noted that the questions that the RRAC needs to explore are:

1. Is 10% additional encumbrance the right measure for equity relief?
2. And are 50 and 70 foot no-cut buffers sufficient relief for those who might need it?

Peter reviewed his suggestion for relief that he presented in April. Mary noted that the affected acres are calculated as if the buffers were 60 and 80 feet no-cut buffers; however, these are not no-cut buffers, instead it is variable retention. From her perspective, the variable retention option is relief for landowners already. Peter reiterated that the relief is about equity and how to account for those who are disproportionately affected due to where their land is on the landscape.

Jim noted he felt Peter had done a good job of defining the problem and the impact. He noted no doubt in his mind that the BOF intended to provide relief for landowners who are greatly impacted. He suggested that at least 10% of the land base ought to be considered for relief. That number is a bottom line for him, and that this number is probably not high enough. He noted that at 10%, the additional encumbrance threshold would be 2.5%, and from his perspective the relief should be to revert back to the old rules. Jim thought that the impact to the environment is low and the impact to landowners is significant. Peter responded that he is uncomfortable with reverting to the old rule for relief and that his proposal is to adjust the basal area targets.

Bob responded to Jim's suggestion, saying that, from his perspective, the 90% parameter for acreage is too high and 2.5% of additional encumbrance is not enough to require relief. Bob stressed that it is important to know what the relief is in order to determine the percent encumbrance.

The group discussed the two relief options that Peter outlined:

- A: Passive management option: 50ft no-cut buffer on small streams, 70ft no-cut buffer on mediums; basal area and acre targets are the same.
- B: Variable retention option: 50ft no-cut buffer on smalls, 70ft no-cut buffer on mediums.

Bob noted that he could support the 2.5% additional encumbrance threshold, if the relief was just the 50ft/70ft no cut buffer with no variable retention option. He voiced concern about the temperature impacts of 50-70ft buffers, with a variable retention option. Bob noted that, for the version of relief that Peter suggested, he would be want to be in the 7.7-26.3% range for additional encumbrance threshold.

Rex noted that if the public is told that this is 'relief' then it really should be relief to these landowners, not just appear to be relief. Mary echoed that managing expectations is important and they need to be clear about what can be expected.

Peter summarized where the group was in regards to the ‘relief’ prescriptions: he recapped that he proposed a definition of relief and, while no one actively opposed it, there was discomfort with the definition. Peter heard Bob note that in regards to the current proposed definition, he would like to see it apply to fewer landowners. There remain questions as to whether this is enough relief, as well as whether relief beyond the variable retention is necessary.

Peter noted that his team will continue to assess the encumbrance across the landscape, expanding the analysis outside of Columbia County. Peter will present the relief information to the BOF, using the information that he presented today. Bob suggested that when Peter presents this to the BOF, it would be helpful to present the land base picture to the BOF to show what percentage of the landownership is actually being impacted. He also suggested presenting the outcomes in pie-charts or other graphics to help to illustrate the percentages visually.

8. Fish Habitat Distribution database (FHD)

The group revisited prior conversations around the Fish Habitat Distribution database. Kevin noted that the RRAC is in agreement over 70-80% of the database, specifically the data that is observed documentation of SSBT presence, or downstream of observed documentation. From Kevin’s perspective, the 20-30% of the database that relies on concurrence of professional opinion (CPO) should be further discussed to see if the RRAC can come to agreement on how to deal with that data. Kevin said that he is not opposed to using CPO if the ‘clean-up’ process for addressing any mistakes in the data is addressed. He suggested that they may be able to determine a ‘clean-up’ process via another stakeholder process. Kevin specifically wanted to know how the State is going to address the 20%, now and into the future. What will the process be moving forward to make these determinations and how can the public better understand or even be part of that process?

Peter noted that he sees those questions as being addressed in a separate process, and now the RRAC is focused on adopting the database for implementation of the rule. Peter clarified that once the data is all ‘cleaned-up’ there will be 20-30% of the data that are based on CPO. At this point, ODF is working to identify any discrepancies in the data and addressing those; however, the 20-30% CPO is not addressed through that process.

Bruce noted that the FHD is already used for regulatory purposes, noting that the professional judgement requires concurrence by a District Biologist; not just anyone can make these additions. Bruce clarified that the State’s intent was for the database to be used by regulatory agencies. Now, the agencies are working to further improve the database by working ‘professional judgement’ out and moving towards a ‘barrier/no barrier’ approach to determining fish use: If there is a barrier, it is assumed that there are no fish upstream; if there is not a barrier, it will be assumed that there are fish upstream. Kevin inquired as to how they will determine whether a stream is SSBT versus a resident stream when using the barrier method.

Peter noted that Kevin’s other question is around how the layers will be updated moving forward; will updates be made only as a result of documented observation, or documented observation and professional judgement together? The current layers occupy approximately 30% of the small and medium streams in the planning area and moving the extent of habitat upstream will need to be documented observation of SSBT, or habitat that is suitable for SSBT.

Kevin stressed that he would like to see ‘known SSBT presence’, not a habitat layer or potentially suitable habitat to be the criteria for updating stream types. Bruce noted that updates are based on documented presence or field observation. Jon Bowers, ODFW GIS, noted that they currently allow for observation of fish, habitat, or concurrence of professional opinion; however, the CPO has only been used a dozen or so times to update the FHD. He noted that the observed presence has led to thousands of changes.

Mary noted that the rulemaking process is linked to a water quality standard that is geographically based, and the RRAC does not have the option of not applying this rule to streams that are SSBT because they do not like the way that the stream use was determined. She noted that determining SSBT use should be left up to how ODF and ODFW deem fit. Gene noted that, for implementation of the technical water criteria, the DEQ relies on SSBT layers from ODFW. Peter also noted that ODFW and ODF work together regularly to make sure that the stream layers are correct and update them as necessary.

Kevin noted that the current updating process is not very transparent, and he is unsure how to provide input in that process. Kevin requested more information on the process so that they can have a discussion and not just be reactive to the process outlined in the rule. He wants to be sure the data is trustworthy so all can support and work towards maintaining the best possible data. As such, he requested that the State clarify their inter-agency process for updating the stream layers.

Peter noted that he hears two options, include the 20-30% of CPO streams or do not. They will need to determine the frequency of updating the FHD and then, as updates are adopted, figure out how to incorporate those layers into the new rule. He noted that ODF will provide landowners notice of changes. Kevin said that there may be a third option, to include the 20-30% and clearly identify the process and criteria used to clean-up those layers.

Jon explained that currently, ODFW is working to get rid of the CPOs downstream of documented observations on a species-by-species basis. They are turning a CPO into a documented observation if there is a documented observation upstream of a CPO. ODF and ODFW are working to make sure that the layers used when the rule is implemented are the best layers available. He noted that, so far, this fine-tuning is not having a significant impact of the way streams are categorized; for example, only 33 out of 3,600 miles needed to be revised and the discrepancies went both ways.

Seth clarified that the fear is that once a stream is determined to be a SSBT stream, it is extremely onerous to retract it. Thus the RRAC needs to determine the right process to ensure that what is added to the database is accurate.

Peter summarized that the RRAC would like clarity on the State's updating process, and the CPOs. Bob noted that it may be helpful to have more information on the frequency of corrections: how often was the data right/wrong? This might help with the accuracy and trustworthiness issue raised by group members.

9. Rule Language Review

Angie presented a hybrid approach to integrating the new rule language into the current riparian rule (Division 640). She provided working copies of Division 600 (definitions), Division 635 (water protection rules), and Division 642 (formerly Division 640, and now including the SSBT vegetation prescription).

Angie explained that, as requested by the RRAC, ODF consulted with Department of Justice and were advised that either combining the new rule language into the old Division or creating a new Division is acceptable. ODF decided that for easy transition it is more advantageous to build a new division. She asked the RRAC if they support this decision. The RAC supported creating the new Division.

- **CONSENSUS:** There was strong consensus to create a new Division to communicate the new rule and old rule that will be preserved (all 1's and 2's).

Angie walked the RRAC through the three divisions, noting that changes are highlighted and/or underlined and there is still a need to fine tune the language.

Angie reviewed Division 600, highlighting the areas that will be changed eventually, however, are not yet decided on; for example, FHD, definition of main stem, etc. She asked for input on whether there are other definitions that need to be included.

→ **ACTION:** Provide ODF with any other definitions that need to be added to Division 600 by the next meeting.

Angie reviewed Division 635, highlighting what will be added to the Division. She noted that this still needs further review by ODF; however, the RRAC can see where more details will be added. She noted that Division 635 will address how a landowner can address discrepancies in the fish layers.

Angie reviewed Division 642, reiterating that ODF has included language that will need to be reworked and edited. ODF wanted to give RRAC the draft document now to get their advice on whether or not it is comprehensive.

Moving forward, Angie noted that some edits have been made to the document to make it clearer and she expects additional edits and details will be added to the new Division. Peter noted that the drafts of the Divisions will include everything that the RRAC has agreed to up to that point, as well as proposals from ODF for those concepts on which the RRAC has not reached agreement. At the June meeting, the RRAC will work to identify areas that need to be re-worked, and then a sub-group will be formed to re-work those areas of concern. ODF does not plan on wordsmithing in a large group.

→ **ACTION:** ODF will provide draft language to the RRAC by June 14th. At the June 21st meeting the RRAC will have the opportunity to provide input on the content of the Divisions.

9. Public Comment

Public comment was invited. None was offered.

10. Next Steps

Donna recapped the action items:

- The April Facilitator Summary edits will be incorporated and a final draft will be posted online.
- ODFW and ODF will work to help clarify their joint process for updating the FHD presence layers.
- The RRAC will provide input on definitions and Division 600 prior to the June 21st meeting.
- ODF will send the draft rule language to the RRAC by June 14th, and
- On June 21st the RRAC will work towards consensus on the draft rules and identify any issues that need further work. A subgroup will be established to work through those issues. The RRAC will also review the fiscal impact at the June session.

With that, Peter and Donna thanked the RRAC for their participation and the meeting was adjourned.

Oregon Department of Forestry
Riparian Rulemaking Advisory Committee
June 21, 2016 - Work Session
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:

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, ODFW
Rod Sando, Northwest Sportfishing
Mary Scurlock, Oregon Stream Protection Coalition
Randy Silbernagel, NW Regional Forest Practices Committee
Rex Storm, Associated Oregon Loggers
Bob Van Dyk, Wild Salmon Center

Alternates present:

Meghan Tuttle, Weyerhaeuser
Paul Betts, Miami Corp.
Jon Bowers, ODFW GIS
Heath Curtiss, Oregon Forest
Industries Council

Project Team members

Kyle Abraham, ODF Water Quality Specialist
Keith Baldwin, ODF Forest Practices Field Coordinator
Peter Daugherty, ODF Private Forests Division Chief
Susan Dominique, ODF Private Forests Administrative Support
Angie Lane, Project Team Manager, ODF Ops & Policy Analyst

Guests:

Kristin Dodd, ODF
Allen Henning, EPA
Greg Wagenblast, ODF

Meeting Facilitation

DS Consulting, Portland
Donna Silverberg and Emily Plummer

1. Welcome, Introductions

Donna Silverberg, Facilitator, welcomed the Riparian Rule Making Advisory Committee (RRAC) to their fifth rule making discussion. She noted that the day's session will focus on the fiscal impact and policy discussion, followed by next steps, as this is the last of the Riparian Rule Advisory Committee meeting until September.

Donna revisited the *Five Fingers of Consensus*, a tool used to gauge the level of support for actions or decisions amongst group members. Using this tool, individuals are asked to show the group where they are on an issue by raising one or more fingers, as follows:

- 1 - I can say an enthusiastic yes to the decision (or action).
- 2 - I find the decision acceptable and have no serious objections. Improvements could be made, but aren't necessary.
- 3 - I can live with the decision, but I'm not overly enthusiastic. I have questions about the strengths and weaknesses and need more discussion or more work done.

- 4 - I do not fully agree with the decision and need to register concern. However, I will not block the decision. More discussion is necessary for full support.
- 5 - I do not agree with the decision and will actively block its movement. More discussion is necessary or an alternative resolution is needed.

She noted that RRAC will be asked to use this tool to check approval for the June meeting summary via email.

2. Public Comment

Public comment was invited. None was offered.

3. Follow Up from May 12th Riparian Rule Advisory Committee Session

The RRAC reviewed and approved the May 12th Facilitator summary pending the following changes:

- Change *criteria* to *criterion* in bullets on page 2.
- Change *within* to *just outside of* in Mary Scurlock's statement in the second paragraph on page 5.
- Remove *of ¼ acre gap* from Mary Scurlock's statement in the sixth paragraph on page 5.
- Change *foresters* to *landowners*, and remove *some of* in the first paragraph on page 6.
- Change section title and associated references from *Fish Habitat Database (FHD)* to *Fish Habitat Distribution database* on page 8.
- Clarify that Jon Bowers works work ODFW and not ODF on page 9.
- Move *of* to follow *downstream* in the fourth paragraph on page 9.

Peter Daugherty, ODF, shared that this is the last RRAC meeting on policy topics, and that the RRAC has gotten to consensus on a number of topics, however, has not come to full consensus on the Fish Habitat Distribution database, well distributed, or relief concepts. Peter noted that the RRAC will continue discussions on these concepts today; aiming to clarify where there is agreement and where there is not. Where the RRAC comes to consensus, the Department of Forestry (ODF) will make a decision for the recommendation, which will be provided to the Board of Forestry (BOF). Before ODF goes to the BOF with recommendations, they will allow RRAC members to review the characterization of the areas of agreement/disagreement to make sure that are accurately represented.

4. Fiscal Impact Statement/Economic Analysis

Peter presented the results of the fiscal impact assessment and the statement that will be presented to the BOF in September. He walked the group through the *Draft Riparian Rule Economic Impact Analysis* so that the RRAC was familiar with the content. He explained that the information contained in the assessment is the same as presented in the PowerPoint discussion at the April 15 meeting. The analysis model the rule change by adding 30 feet of buffer on both sides for both small and medium streams. For the analysis, they ran the model using all streams, and then scaled it back 25-35 percent to scale the answer to the estimated proportion of small and medium Salmon Steelhead and Bull Trout (SSBT) streams in the geographic regions.

Heath Curtiss, Oregon Forest Industries Council, suggested that it is possible that the cost of implementation will be greater than estimated as operators may need to err on the side of a larger buffer as to not violate the rule, thus the assumed 72-foot buffer will likely be between 72 and 80 feet. Peter noted that Heath's claim assumes that all landowners choose to use the 'no-cut' option versus the 'variable retention' option under the new rule. Peter continued that the assumption for the old rule within the analysis is that all landowners chose the variable retention option, and under the new rule, they all choose the no-cut option. Peter noted that ODF considered the assumptions to be reflective of a 'conservative' approach that ODF feels will illustrate the 'worst case' economically. Jim James, Oregon Small Woodlands Association,

pointed out that this is a complex problem to assess and that the approach that ODF has taken seems to be a good one.

Peter explained the model uses a supply and demand approach and estimates the total 'net social surplus,' which is the sum of consumer surplus and producer surplus. He noted that there is an estimated \$99 million dollar decrease of net social surplus; this estimate includes land values. He continued to explain the expected impact to jobs: noting that impact is based on the IMPLAN estimate of 8.9 jobs per million board feet, 62-89 jobs are expected to be affected. Bob Van Dyk, Wild Salmon Center, suggested that it might be best to display this information in more of a range, as there is not a direct correlation between million board feet harvested and jobs. Bob said that he will provide additional material for ODF to consider, as well as comments on the analysis. Rob Sando, Northwest Sportfishing, asked if the analysis distinguished between raw and processed logs. Peter responded that the job effects are driven by harvest volume, with the assumption that timber supply to mills can be derived from other sources. Mary Scurlock, Oregon Stream Protection Coalition, suggested that the BOF is presented the total number of jobs and the estimated change in the number of jobs as a result of the rule.

Jim James clarified that Family Forest Landowners are small business owners as well. This should be clarified in the document. Peter acknowledged this change to be made in the document.

Peter explained the Economic Impact Assessment meets ODF requirements under Section ORS 527.714. ODF is also required to provide a Statement of Need and Fiscal Impact to the Secretary of State; the statement was also included in the RRAC packet and addresses the statutory authority, statutes implemented, fiscal and economic impact, and cost of compliance. Peter explained that ODF is expecting an increase in operating costs under the new rule.

Peter reminded the group that ODF is required to conduct a fiscal impact assessment. For this assessment, they relied on Oregon State University and ODF economists. He asked the RRAC to provide input on any clarifications that are needed in the analysis within two weeks. ODF plans to take the economic impact assessment and analysis to the BOF in September. The draft analysis will be posted to the RRAC website.

→ **ACTION: RRAC will provide input on clarifications needed to the Economic Impact Analysis to ODF by July 5, 2016.**

5. Timeline Changes and Policy Topics

It was noted that there have been some minor changes made to the rulemaking timeline. Angie Lane, ODF, noted that during a recent training the Department of Justice suggested that ODF convene the RRAC before the close of public comment, so the RRAC can review the rulemaking package that will become permanent based on any comment brought forward during the comment period. Thus, ODF decided to extend the public comment period to allow for the RRAC to meet in January/February 2017. The public hearing and written comments will be compiled into a report for the BOF and RRAC. Angie noted that at that point, only small changes can be made to the rules; significant changes in the intent of the rule would require them to start over with the process.

Angie continued that the BOF will make decisions on proposed rule language and the fiscal impact in September, 2016. Public hearings will take place in November and December, 2016, with the public comment period open from the start of the hearings to March 1st 2017. The RRAC will meet in January or February, 2017 to review the public hearings packet and rule language. In April 2017, the BOF is scheduled to adopt the new rules and in June/July 2017 the new rule will be in effect.

Seth Barnes, Oregon Forest Industries Council, voiced concern that in July, 2016 the BOF would be discussing concepts that the RRAC has not had consensus on. He suggested that in July the BOF clarifies their intent on those concepts and then the RRAC would have more information to incorporate into their discussions and rule writing. Peter shared that the Governor's Office was hoping to have the rule done before the Legislative session; however, this is not likely. Seth recognized the Governor's Office concerns, however, shared that he wants to make sure that the process allows for the best outcomes possible; he suggested that the BOF discuss policy in September, 2016 and that rulemaking is postponed until after that. Peter noted that ODF had planned to bring recommendations to the RRAC today, showing what they were planning to take the BOF in July, however, during the last meeting it was noted that additional discussion on the three policy topics was needed. Peter suggested that ODF draft rule for the topics where there is consensus, and draft language for potential alternatives on topics that may not reach consensus. The RRAC rulemaking sub-group will make sure that the language accurately captures the concepts being described; the BOF will evaluate the options generated by the RRAC and make the call from a policy perspective.

Seth Barnes continued that providing multiple rule sets to the BOF changes the tone of the RRAC discussions. Previously, the RRAC agreed to work together towards solutions, now they may need to promote their positions more strongly. Donna reiterated that the RRAC will assist in ensuring that the report to the BOF accurately characterizes areas of agreement and disagreement. Peter noted that if absolutely necessary, the process and timeline can be adjusted. Mary Scurlock expressed support for the timeline outlined and that there has been a lot of time dedicated to these discussions. She asked for clarification on what will be discussed at the July, 2016 BOF meeting. Peter noted that the RRAC actions to date will be presented, including May and potentially June meeting summaries (if approved before July 20th), with a focus on where consensus has been reached, and where it has not.

Rex Storm, Associated Oregon Loggers, expressed concern regarding the timeline and implementation on the ground, he noted that previously ODF said the rule would be implemented in September 2017 and now they are saying July 2017. He noted that this is during the summer season and thus it will be difficult to communicate the changes with operators as they will be busy. He noted that there will be a learning curve for the operators in order to learn and comply with the new rule. Angie Lane noted that in April-June, 2017 there will be a robust training program for landowners, Stewardship Foresters, etc. Mary Scurlock clarified that this coming field season, operators will be implementing projects under the old rules. Seth Barnes suggested a transition period or 'delayed effective date' for training purposes. Peter clarified that the rules will be adopted in April, 2017 and implemented in September, 2017, so there is time for training and transition. There was a question regarding when and where the training will take place, and a request for ODF to take into consideration fire season and locations to make sure operators can be there. Peter recognized the constraints and said that his staff will work with the operators to make it as accessible as possible. Donna recapped the shared interest that she heard multiple RRAC members expressing: it is important to make sure that there is time to learn the new rules so that operators know what to do to implement and have time to transition to new rule implementation.

Policy Topic Discussion

Fish Habitat Distribution database – Peter recapped that the RRAC has approximately 80% agreement on the layers that should be included in the regulatory Fish Habitat Distribution database (FHD), and some agreement on how the database should be updated. He clarified that the RRAC still needs to discuss the short- and long-term processes for updates, as well as the frequency of updates.

ODF staff drafted a *Regulatory Layer Adoption* white paper and provided it to the RRAC. The document details where the RRAC has come to agreement, what attributes are required to be included in the database, and lays out the alternatives discussed by the RRAC. Peter noted that currently, ODF bases their regulation on 'non-fish' and 'fish' streams, and has not, up to this point, separated the streams out by species. For this

reason, ODF does not have species information in those stream layers, however, ODF will need species information for the regulatory layer for the new rule.

Peter noted that the following questions need to be addressed:

1. Should ODF adopt a version of the FHD layer at a particular point of time to use as the regulatory layer or should ODF use the ODFW data layer as the regulatory version?
2. How will the current-state presence or absence of SSBT use be determined throughout the affected streams and geographic regions given existing data sets?
3. Should updates occur dynamically, as with the current ODF process for updating un-surveyed streams or systematically as formal surveys occur? Or should ODF use a combination of update procedures?
4. What happens when data sources for regulations conflict on SSBT determination?

He started by clarifying that ODF will adopt a version of the FHD database, a static layer, which will become the ODF regulatory layer. This layer will remain the same until short term updates, completed by ODF or the programmatic update, completed by ODFW. Kevin Godbout, Weyerhaeuser, thought that having an ODF regulatory database was a good idea and noted that over time, there could be a statewide regulatory database for fish. He noted that over time there needs to be better data on fish use. Rod Sando suggested State agencies can create efficiencies by working together to coordinate their various databases to make sure they are utilizing data efficiently and the data is consistent.

Peter shared that ODF drafted an update process, which is consistent with Oregon Department of Environmental Quality (DEQ) and Department of State Lands (DSL) processes. Bob Van Dyk asked if the other agencies also adopt a database and then update it internally. Eugene Foster, DEQ, noted that DEQ adopted the ODFW database and has not updated it since 2002. He stated that the DEQ would have to change their rule in order to incorporate updated maps. Jon Bowers, ODFW, said that the DSL does not make updates to the data layers themselves, they periodically have adopted new versions of the ODFW database – they have done this three times in the last fifteen years through a rule making process.

Peter explained that based on RRAC input, ODF will adopt ODFW FHD layers at a particular point in time to use as the regulatory layer (ODF regulatory layer), will have a short-term update process, and will implement a long-term update process as well. ODFW will continue updating the FHD database, which ODF can adopt via the long term process without reinitiating rulemaking. Peter checked for consensus on the concept of ODF adopting the ODFW FHD database as the regulatory layer, assuming that there will be both short- and long-term updating processes.

- **CONSENSUS: The RRAC reached consensus that the ODF should adopt the ODFW FHD database as their regulatory layer, incorporating short- and long-term updating processes (all 1, 2, and 3s).**

The RRAC member who responded with a ‘3’ registered concern, noting that the fish population fluctuation is significant, thus observed presence may not be a reliable way to determine presence.

Peter shared two options to address areas where consensus has not yet be reached on the FHD. He offered:

- Scenario A – Include all stream segments in FHD (except habitat evaluation based on modelling).
- Scenario B – Include only stream segments with fish observation and downstream of observation; exclude stream segments where professional opinion was used to classify distribution.

Peter reiterated that the professional opinion segments make up ~15-25 percent of the data in the current database. Jon Bowers noted that there are potential and real overestimated habitat segments in the database.

Additionally, there are a number of streams where SSBT have not been identified to date, and thus are not included in the stream layers.

Peter noted that stream segments upstream of artificial obstructions will be outside of the scope of the rule. Mary Scurlock asked for clarification as to why an artificial barrier would be considered the end of fish habitat, noting that this seems to be outside of the current policy and disincentives the removal of the barrier. Peter agreed that it could provide a disincentive, but said that they do not have a way to determine where the end of SSBT is in those cases. It was recognized that this is inconsistent with the current policy; however, the current policy is for fish streams, not SSBT streams. Mary noted that the SSBT were determined to be the most important fish in the stream and that if not included in the rule, valuable habitat upstream of barriers will be degraded. She said that to disincentivize the removal of a barrier is unacceptable. Bob Van Dyk asked if ODF or ODFW knows the extent of the habitat that is upstream of the artificial barriers. Jon Bowers noted that they do not have a fine point on the habitat upstream of artificial barriers, they do have some idea of habitat upstream of significant barriers; however, he was not able to give an estimate on the quantity of habitat. Bob noted that it is important for the BOF to understand the impact of the current versus historical habitat and the concept of artificial obstruction being used to determine the end of SSBT use.

Seth Barnes stated that the BOF's direction was to apply the rule where SSBT are present. Randy Hereford, Starker Forests, thought that the largest percentage of barriers are on public highways.

Peter asked the RRAC for their input on if concurrence of professional opinion should be included in the starting regulatory and/or included in the long-term update to ODF's regulatory layer. Jon Bowers explained that the ~15-25 percent of professional opinion streams are mostly streams that were identified in an exercise 15 years ago. These streams had not been surveyed, thus biologists came together to assess where SSBT could be. This exercise was done at the 1:24,000 scale for low gradient streams using topographic maps, and took into consideration known fish in other similar streams, terrain characteristics and knowledge of the area. Jon shared that there have only been a few changes to the database in the last 15 years based on professional opinion and that when surveys are conducted, it typically adds more habitat than was previously estimated to the stream layers.

Peter discussed a proposal for the short-term update process for the ODF regulatory layer, which would be focused on correcting inconsistencies between the ODF fish layers and new SSBT layer on a case-by-case basis. He provided a list of situations and potential survey options that ODF could implement. The situations discussed included:

- A. Streams where ODF has not completed end of fish use surveys.
- B. Streams where SSBT have previously been observed, and where observation exists further upstream than where end of fish use has been identified by field based survey.
- C. Streams where SSBT have previously been observed, and where that observation exists further upstream than where end of fish use has been identified by non-field based methods.
- D. Streams where SSBT have previously been identified using habitat or professional opinion, and where that identification extends further upstream than where end of fish use has been identified by field based survey.
- E. Streams where SSBT have previously been identified using habitat or professional opinion, and where that observation exists further upstream than where end of fish use has been identified by non-field based methods.
- F. Landowner identifies a natural barrier that could cause the end of SSBT use.

The RRAC members discussed the short-term update processes and suggested that both situations D and E be broken into two different situations, one for SSBT previously identified using habitat and one for SSBT previously identified using professional opinion. ODF agreed with the suggestion.

Mary Scurlock asked if some conception of the update process will be included in the rule and if details will be fleshed out in a protocol document. She noted that important parts of the update process could be stated in the rule to hardwire them in. Peter responded that the concept will go to the BOF, and details will be outlined in protocol documents which will be referenced in the rule language.

Peter described ODF's ideas around the programmatic update, noting that currently, ODFW updates the FHD layers as needed or required. Similarly, ODF will do periodic programmatic updates to their regulatory layer. ODF needs to define the frequency of these programmatic updates, as well as how the short term data layer corrections will be added to the regulatory database.

Peter offered two scenarios:

- A. Include all new stream segments in the FHD (excluding habitat evaluation based on modelling).
- B. Include only stream segments with fish observations and downstream of observation.

Peter walked the group through the pros and cons of the two scenarios, noting that ODF sees scenario A as 'bias neutral', as there will likely be some streams that are not SSBT streams included in the data and also some streams with SSBT that are included in the data. There were different interpretations of the idea of 'bias neutral' and Bob Van Dyk suggested that ODF describe the situation of both scenarios so that the BOF understands the intricacies. It was noted that 60% of the fish network (by length) is above the current mapped distribution of SSBT, however, there are not enough resources at this point to look at the streams that SSBT is below the end of fish use to move it up. It was noted that the programmatic update will attempt to capture these streams.

Peter noted that Scenario A is a starting point for the State and that they want to develop a robust case-by-case update process. He noted that with Scenario A, the programmatic update could be through documented observation and asked for RRAC input on using Category 1 or 2 data provider for those updates. The group reviewed the categories of professional opinion providers: Category 1 consists of state and federal agency biologists and Category 2 consists of non-agency biologists. A biologist is determined by the individual's position in the agency.

Mary asked for more information on the current updates to stream layers from professional opinion. Jon Bowers noted that typically updates from professional opinion consist of removing streams from the database due to confirmation of natural barriers. He continued that the ODFW stream surveys are not designed to document the end of fish use, unless there is a natural barrier.

There was inquiry as to the extent of an SSBT stream and if the determination continues up to the next barrier. Peter responded yes, if an SSBT stream is determined, the extent of the habitat would continue up to the next natural or human-made barrier, or the end of surveyed segment. He continued that if a survey is conducted and SSBT are observed, the entire length of the survey would be included as a SSBT stream.

Seth Barnes reiterated that the buffers need to be based on SSBT presence and that ODF is outlining a good process to reconcile the professional opinions moving forward. Jim James agreed, noting that if there is assurance that future stream segment additions are documented observations only and there are provisions to correct errors in the database, then he can support Scenario A as a starting point. He continued that the BOF is requiring that SSBT streams are protected and that he wants to make sure that the layers are as accurate as possible. Kevin Godbout echoed Seth and Jim, and added that the update processes add in the flexibility that they desired. Kevin stated that in terms of using Category 1 or 2 data providers, he is fine

either way as long as the surveys are done in cooperation with the agency to ensure some level of impartiality. Jon Bowers noted that OFDW has always been involved in any change made to the database. Bruce McIntosh, ODFW, said that the collaborative approach of using both Category 1 and 2 is necessary because if ODFW had to do it all they would not be able to get the data for updates.

Bob Van Dyk expressed concern that there may be quite a few SSBT streams that are outside of the dataset at this point and that this will be difficult to reconcile over time. He suggested that this is part of a longer term, systemic issue. Bruce acknowledged the larger issues; he noted that 25 percent of the habitat surveys are outside of the known habitat, however and that is where we pick up new SSBT information. Jon Bowers added that there are side tributaries that will likely not be surveyed.

It was noted that 'documented observation' could be of fish or fish habitat and the group generally supported using habitat observation to determine the end of fish habitat. Jon Bowers noted that only 1-2 percent of the habitat in the database is habitat observation based. Mary Scurlock noted that the observation of habitat needs to be included in the process to include the segment of stream from the end of observation up to a natural barrier. Jon Bowers noted that the ODFW surveys are not designed to determine the end of fish habitat, thus they do not document up to the end of fish habitat. Instead, they are trying to determine if fish are using the area and the suitability of habitat. Bob Van Dyk asked what happens outside of the survey area if it is clearly still SSBT habitat, will habitat observations be sufficient data to add the stream segment to the database. Heath Curtiss suggested that the habitat above the end of the survey point is not added to the database, however, prioritized for future surveys.

Peter recapped what he heard in regards to where the group is, noting that the RRAC generally agreed to include all stream segments in FHD (except for the use of habitat evaluation by modeling) as the starting regulatory layer and long-term updates will include all new stream segments in the FHD except concurrence of professional opinion. The long-term update process is subject to change if the survey protocol changes prior to the programmatic update.

- **CONSENSUS: The RRAC agreed with consensus to include all stream segments in FHD (except for the use of habitat evaluation by modeling); long-term updates will include all new stream segments in the FHD except concurrence of professional opinion. This process is subject to change if the survey protocol changes prior to the programmatic update (all 1, 2, and 3s).**

RRAC members who registered a '3' expressed concern with biologists making presence calls that are not appropriate. Additionally, they expressed concern that the end of SSBT will be moved up to the end of fish use. Peter clarified that if the end of SSBT is above the end of fish use, the end of fish use moves up, depending on the quality of data behind the decision, or there would be another survey to resolve the conflict.

Relief

Peter provided a graph indicating the additional encumbrance for parcels within the planning area. He explained that the at the time of compilation they were not able to address the parcels that are intercepted by roads, however, they will be incorporated and he does not expect that it will change the outcomes significantly. The graphs included data for all four regions in the planning area. The results show that:

- 90% of acres have 1.2% of additional encumbrance,
- 28,000 acres have greater than 4.7% marginal increases in encumbrance, and
- None of the parcels over 250 acres have as much as 5% additional encumbrance.

Peter asked the RRAC where the line should be drawn to allow for relief. He recapped previous RRAC conversations in which the group talked about tradeoffs such as granting encumbrance to landowners based on the percentage of land affected. The RRAC also discussed the percentage of SSBT stream miles under each category of encumbrance. ODF staff is working to determine the number of landowners affected versus the number of stream miles that would not get SSBT protection under the relief stipulation.

It was suggested that ODF add the number of landowners granted relief to the table presented to the BOF. Peter noted that this was taken out because the calculation was adjusted, however, they could add in the number of parcels. Mary Scurlock noted that the numbers of landowners impacted is important, because if the numbers are small, they may be able to have a more targeted response instead of a programmatic exemption. There was also consideration of the amount of land owned by those impacted. Peter reminded the group that the BOF asked not to separate out the landowners by ownership type; however, one could use acreage as rough surrogate.

Jim James suggested that it would be helpful to understand both the ecological and economic impacts; he noted that even if there is not agreement, they will have a better idea of the impact and balance needed. Peter agreed that ODF will assess the number of SSBT stream miles that are impacted. Peter checked for consensus on the approach to try and balance the economic and ecological impacts. Mary Scurlock noted that it is important to determine what constitutes an 'undue regulatory burden', noting that the relief is intended for those who are unfairly burdened by the new rule. She continued that this is an important decision, which establishes precedent. This new rule is the first significant adaptive management event that has come up in a while and it should not be watered down before it is implemented. Mary continued that they should not back into the relief based on how many landowners are impacted; instead, they should be looking at the small landowners who are unfairly impacted. She said that this rule will provide increased buffers on only 25 percent of streams, and there is good evidence that the increase is also needed on the remaining 75 percent however, adding exemptions now to those 25 percent of streams will limit options in the future. Bob Van Dyk echoed Mary's concerns around precedent-setting. He noted that they need to consider how much of the resource goal is being jeopardized through the relief program.

Rod Sando noted that these incremental disagreements lead to large scale ecological degradation. He suggested that if this is an economic issue there are ways to address it other than at the cost of fish habitat; he suggested considering tax breaks or subsidies. Rod thought that the relief should be applied to small family landowners, not large multi-million dollar companies; if someone can afford the new requirements they should not erode fish habitat to limit that impact. Peter noted that ODF had not yet considered basing the relief on need and means. Jim James noted that for some of these landowners these trees are important assets.

Bob Van Dyk reminded the group that they have not yet come to agreement on what constitutes 'relief'. Peter noted the BOF suggested a 10 foot decrease to the no-cut area. It was pointed out in previous discussions that the variable retention option allows for more relief. Peter proposed a hybrid approach at the May meeting which included a proportional reduction in basal area requirement. He noted that he thought that there was some level of agreement on this; however, more information was needed regarding the stream miles impacted before a decision could be made.

→ **ACTION: ODF will do an economic/ecological comparison of the impact of relief. ODF will discuss the results with interested individuals and then bring the concept back to the RRAC.**

Well-Distributed

Peter recapped the intention of the well distributed concept, noting that when actively managing the riparian area, the intent is to:

- Leave trees well-distributed by length and width,

- Minimize operational large gaps,
- Favor small openings in canopy, and
- Leave residual trees in a manner which promotes understory as well as diameter and crown growth.

To illustrate what this could look like on the ground, Peter provided three examples of what the distribution could look like based off of previous RRAC discussions around potential criteria for determining well distributed. The examples that Peter provided were based on having a minimum of 25 percent basal area and 50 percent conifer live tree requirements (CLT) in the outer zone. He suggested that these requirements could be measured in 40x500, 30x333, or 40x250 foot sections, the only difference is in how the unit is laid out.

Dana Kjos and Seth Barnes noted that it is important to make the rules clear and simple enough that a forester can lay out the plan and someone can walk out into the forest to check and see that it was done correctly. It was noted that when laying out the plan, the forester will need to clearly mark where they started the length measurement so that it is clear where the measurement was taken. Randy Silbernagel, noted that this is only possible if there is enough basal area to meet the requirements.

The group noted that the basal area requirement would still be evaluated every 1000 feet, and the different length requirements could cause confusion. Jim James expressed that this approach is too complicated for family foresters to implement. He suggested a more simple approach using only the outer edge for well distributed trees, where 25 percent of the BA and 50 percent of the CLT are required in the outer 20x500 feet of the RMA. Mary Scurlock asked why they would measure BA and well distributed using two different lengths; she suggested using 500 feet to measure both. There was a lot of discussion around the rationale behind using 500 and 1,000 feet.

Bob Van Dyk mentioned a gap size limit, which was previously discussed by the RRAC. Seth Barnes noted that it is difficult to measure the gaps, however, distribution is easier to measure on the land. Seth recapped that there was concern that the 1,000 foot interval for measuring BA allowed too much of opportunity to create large gaps, thus the 500 foot interval was derived. Seth suggested that when coupled, the well distributed metrics and narrative statement are sufficient to limit the gap size and ensure trees are well distributed. Seth continued that the goal for OFIC is to make sure landowners can layout a cut without so much work that it makes the cut economically inviable.

The landowner-representatives met in caucus and discussed the potential 500 foot segment requirement. They returned to the large group and noted that the precision is difficult to hit, however, in interest of moving forward, they proposed using the 500 foot length for both the basal area and the well distributed requirements. Peter clarified that both the BA and well distributed will be measured in the 500 foot increments, and all of the criterion would be scaled to 500 feet; the narrative language for well distributed would remain the same.

Mary Scurlock noted that this does not eliminate concerns over basal area, however, noted that she could live with it. Bob Van Dyk expressed concern over the potential to ‘pack and whack’ and asked that they discuss a bit more about how this will be monitored in the future, requesting compliance monitoring to make sure that the intention of the rule is being met. Peter noted that there will be a 5-year rule review and a compliance review could be part of it. There was push back, from landowner representatives, who noted that the intention of the rule is to protect stream temperature, thus the temperature of the stream should be reviewed, not the compliance of the well-distributed.

- **CONSENSUS: The RRAC agreed with weak consensus that both the basal area and well distributed requirements should be measured in 500 foot increments (all 1, 2, 3s, and a 4).**

The representative who gave a ‘4’ registered concern over the sizes of gaps that could be created and suggested a gap size limit.

It was noted that Rod Sando and Dick Courter were not present for the consensus vote. Peter will follow up with them on this concept.

→ **ACTION: Peter will explain the RRAC’s decision on the 500 foot increments to Rod and Dick to see if they support the decision.**

6. Discussion on Concepts -“All other Rules Apply”

Peter explained that ODF wanted to specifically point out areas where the previous rule is maintained; he listed: safety, hardwood conversions, site specific plans for alternate practices, basal area credit in active management and, varied width of riparian areas.

- Safety – As discussed, the previous rule language around safety that will be referenced in the new rule; there are no changes to safety from the new rule.
- Hardwood conversions – Peter noted that the BOF and RRAC have not talked about hardwood conversions during this rulemaking process. There was concern that hardwood conversions would violate the Protecting Cold Water Criterion, however, hardwood conversions are a restoration activity and if a landowner wants to do hardwood conversions they go through a separate process. Seth Barnes clarified that there are two types of hardwood conversions: one addressed via the rule and the other an alternate plan for the practice.
- Site specific plans for alternate practices – Site specific plans for alternate practice are still an option; however, will need to meet the intention of the new rule.
- Basal area credit and active management targets – The current rule has a 2:1 credit for medium streams and a 1:1 credit for small streams that allows operators to take equivalent basal area from the RMA if they place basal area in the stream. The new rule will be a 1:1 credit for placing large wood. This changes the rule so that there is no incentive or disincentive for placing large wood.
- Vary the width of riparian area – Riparian management area width can be below the requirement as long as standards are met on average. This part of the old rule is being maintained for clarity, however, in action, this will likely be different as a result of the well distributed concept that is being implemented.
 - Peter asked the group what is needed operationally to have the flexibility, specifically for the variable retention. Paul Betts, Miami Corps, noted that the language as is has enough flexibility to implement on the ground.
 - Mary Scurlock noted that she would be interested in a reduction in the limit of allowed variability, noting that this is a revised shade standard.

7. Draft Rule Language

The RRAC did not review the rule language, however, draft language was provided to them and comments can be sent to the project manager.

8. Public Comment

Public comment was invited. None was offered.

9. Next Steps

Peter noted that ODF has enough material to start drafting rule language for all of the concepts. ODF staff will draft language and send it out to the RRAC by July 1st. Peter asked that RRAC members review the language and send comments back to ODF by July 15th. DS Consulting will help schedule a sub-committee meeting for July 22nd. The sub-committee will work to clarify areas of disagreement for the BOF report. Heath pointed out that substantive issues should be addressed by the full RRAC; there was general support

for this. It was clarified that the subgroup will be focused on clarifying the language, not the policy. The RRAC will have the opportunity to identify the issues prior to the sub-groups work.

Peter suggested that the sub-committee consist of Mike Barnes, Dana Kjos, and Bob Van Dyk. The RRAC will review the work of the sub-committee prior to presenting it to the BOF. Bob Van Dyk requested the opportunity to check in with Mary Scurlock and Rod Sando and to look into his availability. Peter thought that the sub-committee work would likely be a 4-6 hour commitment. Heath Curtiss asked if others can attend to help with the drafting of the language, he suggested Mary and himself. Mary was not available and Donna suggested that the DOJ attorney may be available to help.

DS Consulting will incorporate edits to the May Facilitator's Summary and a final draft will be posted online. They will also provide a draft summary of the day's meeting to the group for review.

With that, Peter and Donna thanked the RRAC for their participation and the meeting was adjourned.

[Facilitator's Note: this summary was approved by the RRAC via email. Dick Courter, OSWA, abstained from weighing in on the consensus vote, as he was unable to review the summary.]

Oregon Board of Forestry

**Private Forests Riparian Rulemaking Advisory
Rule Language Sub-Committee
July 22, 2016 - Work Session**

Facilitators' Summary

Sub-Committee members present:

Mike Barnes, NW Regional Forest Practices Committee
Heath Curtiss, Oregon Forest & Industries Council
Dana Kjos, SW Regional Forest Practices Committee
Bob Van Dyk, Wild Salmon Center

Project Team members

Marganne Allen, ODF
Kyle Abraham, ODF Water Quality Specialist
Keith Baldwin, ODF Forest Practices Field Coordinator
Peter Daugherty, ODF Private Forests Division Chief
Susan Dominique, ODF Private Forests Administrative Support
Angie Lane, Project Team Manager, ODF Ops & Policy Analyst
Lena Tucker, ODF

Guests:

Josh Barnard, ODF
Mary Schmelz, ODF
Greg Wagenblast, ODF

Meeting Facilitation

DS Consulting, Portland
Donna Silverberg and Emily Plummer

1. Welcome & Introductions

Peter Daugherty, ODF, welcomed the group to the Riparian Rulemaking Advisory Committee rule language sub-committee meeting. He noted that the purpose of the day's session is for the sub-committee to review the rule language and associated stakeholder comments, with the goal of reconciling the language to reflect agreements made by the Riparian Rulemaking Advisory Committee (RRAC). Angie Lane, ODF, explained that the comments ODF incorporated were received from RRAC members, NW and SW Regional Forest Practices Committees, Stewardship Foresters, and ODF staff. Peter noted that he also provided the sub-committee a compilation of the RRAC's consensus items to help guide the day's conversation.

2. Review Definitions and Refine Rule Language

The sub-committee reviewed the draft language, comments and suggested edits for Division 600, 635 and 642. They were able to reach a consensus on language for all of the Divisions, except where noted below. It was important to the sub-committee members that the rationales behind their disagreements were clearly articulated to the Board; those rationales are noted throughout the following sections and will be captured in the final report. Sub-committee edits were noted and will be incorporated by ODF staff, then provided to the RRAC for a final round of review before being presented to the Board at their September meeting (*Note: this document was sent to the RRAC on July 28, 2016*).

Division 600

The group reviewed the definitions and suggestions for additional definitions. They agreed to include definitions for *SSBT*, *SSBT use*, *salmon*, *steelhead*, and *bull trout*, as well as other section specific definitions such as *valley azimuth*.

Some definitions, including *valley azimuth*, *parcel* and *protecting cold water*, were deemed to be more appropriately placed in the specific section citing the term, instead of Division 600, as those definitions are unique to the concept referenced in that section and do not pertain to other rules. It also was suggested that ODF consider defining *data standard* and *protocol* in Division 600 or 635.

There was discussion around whether or not to add definitions for common forestry terms, with the interest of limiting misunderstanding and ensuring consistent implementation. It was noted that, if included, these common terms should be clarified by using the Society of American Foresters' definitions. However, there was concern regarding which common terms to define and which not to, as there are many common forestry terms, such as *pre-commercial thinning* and *release activities* that are used throughout the Forest Practices Act (FPA) and not defined. It was suggested that definitions are not the only way to get at ensuring consistent implementation; metrics could be added to clarify the intention and help ensure consistency.

- **ACTION:** ODF will work with ODFW to determine definitions for salmon, steelhead and bull trout.
- **ACTION:** ODF will incorporate changes to Division 600 and provide another draft to the RRAC for review.

Division 635

The group discussed inconsistencies between language in the new rule that encourages active management and the intent of the rule: to protect cold water. Bob Van Dyk, Wild Salmon Center, stated that scientific evidence suggests that leaving stands alone is the best way to protect cold water; however, the rule language suggests active management as an appropriate management approach under the new rule. Peter noted that this inconsistency was discussed at the Board meeting and should be noted in the final report; however, it is outside of the scope of this rule change to address this since the Board did not ask for revisions to the purpose and goal statements.

The sub-committee agreed on changes to the formatting and language which simplify and make the intent clearer to operators. They suggested a change to 629-635-0200 – Water Classification Section 11, which needed to be checked for consistency with RRAC agreements. The suggested revision reads: *The State Forester will first designate Type SSBT stream segments on XXXX date, excluding areas of modeled habitat, but including stream reaches of concurrence of professional opinion.*

- **ACTION:** ODF will make sure that this revised language is consistent with RRAC agreements.

It was noted that ODF needs to determine when the ODFW FHD database layer will be adopted as the ODF regulatory layer and then incorporate that date into the rule. ODF also needs to add language that clarifies the protocol used to determine if SSBT are present in a stream. ODF will work with ODFW to determine this protocol and include it in the rule language. They will also consult with ODFW regarding the criteria for determining natural barriers. The sub-committee expressed interest in reviewing and providing comment on the criteria.

- **ACTION:** ODF will work with ODFW to determine the protocol for determining whether SSBT are present in a stream and whether a natural feature is a passage barrier. ODF will include language in the rule to clarify these determinations and provide revised language for RRAC review.

The sub-committee revisited RRAC discussions regarding the end of SSBT upstream of artificial barriers. There were differing perspectives voiced from the conservation and landowner representatives. Peter explained that he did not bring this topic to the RRAC due to the significant differences of opinion. Instead, the Department made the decision to recommend that stream segments upstream of artificial obstructions should be outside the scope of the rule because ODF does not have a way to determine where the end of SSBT is in those cases.

Conservation representatives suggested that:

- The result of ending SSBT streams at an artificial barrier is that this dis-incentivizes the voluntary removal of those barriers by landowners: fish would be able to move upstream and a bigger regulatory buffer would be required.
- Ending SSBT streams at an artificial barrier is outside of the current policy; the Board said that unless otherwise stated, all current rules apply.
- If SSBT are present in a stream, then that habitat should be protected, regardless of whether or not there is an artificial barrier downstream.
- The actual ecological impact of this decision is unknown as, the extent of the habitat that is upstream of the artificial barriers is largely unknown by ODF and ODFW.

Landowner representatives suggested that:

- ODF's decision is aligned with the Board's direction to apply the rule where SSBT are present; if there is a passage barrier, there likely will be no SSBT present upstream of it.
- All fish bearing streams are currently protected by RMAs and temperature impacts caused by harvest are short lived. For this reason, additional protection upstream of artificial barriers produces little marginal benefit.
- Since 1994, many of the artificial barriers have been removed, and a large proportion of those remaining are on lands not owned or controlled by forest landowners (e.g., ODOT roads, agricultural impoundments, and other non-forestry barriers).

The group discussed the frequency and duration of programmatic updates. The sub-committee agreed that the update process should be clear, and significant decisions that could change the impact of the rule need to be vetted through the proper venue (RFPCs or the Board) and open to public process. Additionally, there needs to be a substantial enough trigger for updates. ODF agreed to talk with ODFW regarding the timeframe for these updates; they will draft language and provide it to the RRAC for review.

→ **ACTION:** ODF will work with ODFW to determine the frequency and duration of programmatic updates. They will then draft language around the update process and provide it to the RRAC for review.

The sub-committee revisited the language around protections of the **main-stem** and agreed on revised language to be moved from Division 635 to Division 642. The group felt that Division 642 was more appropriate as it is part of the prescription of the rule. During their discussion, the sub-committee agreed to clarify that an *immediate harvest unit* includes *any immediately adjacent upstream harvest unit in which harvest is commenced within a year of the completion of the first harvest unit.*

They also decided to change language around determining the main-stem when there are multiple stream branches of similar size. They suggested changing language from 'on a voluntary basis an operator may implement additional riparian protections...' to 'an operator is encouraged to implement type SSBT vegetation retention and RMA widths for all.'

→ **ACTION:** ODF will incorporate changes to Division 635 and provide another draft to the RRAC for review.

Division 642

The sub-committee discussed adding a purpose statement to the rule in order to expand on the rationale behind the decision to create a rule for SSBT streams. They agreed to use the Board's purpose statement and include the Protecting Cold Water Criterion (PCW) OAR as a reference in the statement. It was noted that the conservation and landowner representatives would like to get their input regarding the Desired Future Condition on the record for the Board via summaries and the report.

After discussion, the sub-committee revised the titles of the rule prescriptions and agreed to label the prescriptions as *Type SSBT Prescription 1, 2 and 3*; instead of *passive management* and *active management*. They also agreed to remove language stating that *vegetation* needed to be retained within 60 and 80 feet of the high water mark on small and medium streams respectively. Landowner representatives felt that this requirement would restrict the operator's options for replanting and hardwood conversions. To help clarify RRAC agreements in regards to the well-distributed concept, the sub-committee agreed to:

- include the narrative,
- list the well-distributed metric standards determined by the RRAC, and
- include a table specifying the requirements for each zone of the RMA.

For the table, the sub-committee suggested ODF add another line to show the inner zone requirements. This is intended to clarify that the inner and outer zone need to add up to the requirements for the well-distributed requirements and that the well-distributed requirements are a contribution to the overall requirement. They suggested a similar table for the equity relief prescription section. The group felt it needs to be very clear that operators know that this is an exception to the rule.

It was suggested that ODF consider creating a system in FERNS that will flag for the landowner if a stream segment is east-west; this also could be verified in the field. Additionally, the sub-committee agreed ODF should make a map available that shows the orientation of stream segments which qualify for the valley azimuth prescription.

There were suggested edits for section 629-642-0105 – Vegetation Retention Prescriptions for Type SSBT, Section 9. The conservation representatives suggested removing this provision as it seems to be inconsistent with the PCW criterion. Peter noted that this section is out of the scope of the RRAC's charge as it falls under 'all other current rules apply' direction from the Board. He recognized that there is disagreement and noted that those disagreements will be captured and included in the report.

Peter explained that, in regards to the conversation on equity relief, he has a meeting scheduled with Bob Van Dyk and Jim James to try to reach a consensus on the level and form of equity. He invited others who are interested to contact him and attend that discussion.

→ **ACTION:** ODF will incorporate changes to Division 642 and provide another draft to the RRAC for review.

→ **ACTION:** ODF will convene a discussion with the intent of reaching a consensus regarding equity relief issues.

Check Consensus and Clarify Disagreements

Donna asked to sub-committee for a general consensus check on the changes made during the session. The sub-committee members did not feel a specific finger poll was warranted; however, they noted that there were no blocks on the changes suggested. Instead, they said that they are 'willing to live with' where the group is at this point, with exception of the areas that they flagged as conflicts.

Next Steps

- The ODF team will incorporate the sub-committee edits and provide revised rule language to the RRAC by Friday, July 29th.
- The RRAC will review and provide any additional suggested edits before the language is presented to the Board.
- Peter will meet with Bob and Jim to try to reach agreement on the equity relief and report back to the RRAC on the outcome.
- The Facilitation Team will provide a draft summary of the session to the RRAC, as well as a draft process and findings report for the RRAC to review before it is provided to the Board.

Donna and Peter thanked the sub-committee for all of their dedication and hard work and adjourned the meeting.

This summary is respectfully submitted by the DS Consulting Facilitation Team. Edits are welcome and can be provided to Emily Plummer at emily@dsconsult.co.