

Agenda Item No.:	D
Work Plan:	Forest Resources Division
Presentation Title:	Proposed Final Order- Mark Wildfang
Date of Presentation:	June 3, 2026
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SUMMARY

The purpose of this agenda item is to consider the hearing record for contested civil penalty notice involving seven forest practices violations by Mark Wildfang and to make a decision on the final order regarding the matter. The Department issued a Notice of Civil Penalty to Mr. Mark Wildfang for seven FPA violations, 1. Failing to retain all trees within 20 feet of the high water level for a Type F stream, 2. Failed to file a notification for a type F stream crossing and working within 100 feet of a type F stream, 3. Failed to submit a statutory written plan for operation near a Type F stream, 4. Failed to submit a statutory written plan for a fill over 15 feet deep, 5. Failed to provide a drainage system as necessary to minimize development of gully erosion or the road prism or slopes below the road, 6. Failed install a stream crossing that is a correctly sized culvert to pass a peak flow corresponding to the 50 year return interval, 7. Failed to install a stream crossing to allow fish passage.

Mr. Wildfang contested the Notice of Civil Penalty. The matter was referred to the Office of Administrative Hearings for a contested hearing. Senior Administrative Law Judge Kate Triana conducted the hearing, resulting in a ruling in favor of the Department. ALJ Triana issued a proposed order upholding the Department's Civil Penalties. The Board is now called upon to consider issuance of a Final Order.

CONTEXT

The *VISION FOR OREGON'S FORESTS* priority and goal for Resilient Forests to reduce the vulnerability of Oregon's forests from a myriad of catastrophic climate driven disturbances, ODF will direct its policy, management and educational actions to enable and promote all forestland managers to make intentional decisions that increase adaptive capacity of forest ecosystems. ODF's Forest Resources Division is responsible for several key areas of operation that contribute to sustainable, healthy forests. One of these key areas involves the administration of the Forest Practices Act, which is a cornerstone of natural resource protection in Oregon that encourages sound management of forestlands. Citations, repair orders and civil penalties for violations of forest regulations are part of an effective enforcement program that meets these objectives by changing behaviors to comply with best management practices designed to promote a multitude of forest outputs and benefits.

BACKGROUND

ODF Case No. 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020, 21-W0021
Mr. Wildfang was the owner of land and timber, approximately 7 acres (T7S R4W Sections 23,24,25,26), in Polk County in the West Salem hills area. In September 2020, Operator Bridger

Hasbrouck filed a Notification for a planned timber harvest (commercial thinning/ selective cutting) on Mr. Wildfang's land (NOAP 2020-552-10979).

ODF received a complaint with concerns about the harvesting activity on the Wildfang property. Stewardship Forester Jennifer Erdmann (ODF Dallas office) completed a site inspection to investigate and determined there were several violations in the operation area.

ODF issued seven citations with orders to cease further violation and orders to repair for this operation. These enforcement documents were not contested and became final orders. Repairs were completed by Mr. Wildfang.

A civil penalty notice (CPN) was issued to Mr. Wildfang in August of 2025, at which time he contested the civil penalties totaling \$7,150.00 for the seven violations. In October ODF issued an amended CPN which reduced the total civil penalty to \$5,275.00. A hearing was held by Office of Administrative Hearings (OAH) on February 11, 2026 in Salem, Oregon. Administrative Law Judge (ALJ) Triana presided over the hearing and then issued a proposed order with finding of facts related to the case.

Please review attachment 1 - Proposed Order for ODF Case No. 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020, and 21-W0021 Civil Penalty for full details on Finding of Facts, Conclusion of Law, Opinion and Proposed Order.

EXCEPTIONS

The Administrative Procedures Act allows parties to make objections to proposed orders, in the form of "exceptions." ORS 183.460; OAR 137-003-0650. Consistent with the Department's rules, the Proposed Order explained that "exceptions shall be confined to factual and legal issues which are essential to the ultimate and just determination of the proceeding." OAR 629-001-0040(1). Exceptions "shall be based only on grounds that

- (A) A necessary finding of fact is omitted, erroneous, or unsupported by the preponderance of the evidence on the record;
- (B) A necessary legal conclusion is omitted or is contrary to law or the board's policy; or
- (C) Prejudicial procedural error occurred." OAR 629-001-0040(2)(a).

In addition, the Proposed Order explained that exceptions must specify the disputed finding, opinions, or conclusions. The party submitting exceptions must specify the nature of the suggested error and provide alternative or corrective language. OAR 629-001-0040(2)(b).

The Proposed Order set a deadline for filing exceptions of seven days after the date of the filing of the proposed order. The deadline for filing exceptions by mail would be March 9, 2026, counting seven calendar days after March 2, 2026.

No exceptions were received from Mr. Wildfang.

RECORD OF PROCEEDING

The record of the proceedings is available for Board members to review prior to the Board of Forestry meeting through a weblink to hearing documents by contacting Greg Wagenblast at (541) 525-6462 or greg.wagenblast@odf.oregon.gov. A hardcopy binder with all hearing documents will be available the day of the Board of Forestry meeting too.

The Board's decision must be based on the record established through the contested case hearing process. ORS 183.482(7). Any information about the facts at issue that Board members acquire from other sources may be ex parte communication. Ex parte communication is defined as "an oral or written communication to an agency decision maker during its review of the contested case not made in the presence of all parties to the hearing, concerning a fact in issue in the proceeding." OAR 137-003-0660(1). However, this definition specifically excludes "any communication from agency staff or counsel about legal issues or about facts in the record." OAR 137-003-0660(1). If a Board member receives an ex parte communication during their review of the contested case, the Board member must give all parties notice of the substance of the communication or a copy of the communication, and provide the other party with an opportunity to rebut the substance of the ex parte communication. ORS 183.462; OAR 137-003-0660(2).

BOARD'S ALTERNATIVES

Upon review of the proposed order and record presented in this case, pursuant to OAR 629-001-0045(3) the Board can:

1. Entertain written and/or oral argument from the State Forester and any party that filed exceptions to the proposed order if the board determines it is necessary or appropriate to assist the board in the proper disposition of the case. If allowed, oral argument will be limited to matters raised in written exceptions and shall be presented under time limits determined by the board chair; or
2. Remand the matter to the administrative law judge for further hearing on such issues as the Board specifies and to prepare a revised proposed order as appropriate under OAR 137-003-0655(2); or
3. Enter a final order adopting the recommendations (proposed order) of the administrative law judge; or
4. Enter an amended proposed order or final order that modifies or rejects the recommendations of the ALJ. If the board decides to modify or reject the proposed order, the board must comply with OAR 137-003-0655 and 137-003-0665.

RECOMMENDATION

The Department recommends that the Board approve Alternative 3 and issue a Final Order adopting the ALJ's proposed order. A draft Final Order is included as Attachment 02.

ATTACHMENTS

- (1) Ruling on Motions for Summary Determination and Proposed Order for for ODF Case No. 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020, and 21-W0021 Wildfang
- (2) Draft Final Order for ODF Case No. 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020, and 21-W0021 Wildfang

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
OREGON DEPARTMENT OF FORESTRY
PRIVATE FORESTS**

IN THE MATTER OF:) **PROPOSED ORDER**
)
MARK WILDFANG) OAH Case No. 2025-ABC-07433
) Agency Case No. 21-W0014, 21-W0015, 21-
) W0016, 21-W0017, 21-W0018, 21-W0020,
) 21-W0021

HISTORY OF THE CASE

On August 19, 2025, the Oregon Department of Forestry, Private Forests (ODF or the Department), on behalf of the Board of Forestry, issued a Notice of Proposed Order and Opportunity to Request a Hearing (Civil Penalty Notice) to Mark Wildfang, proposing a civil penalty of \$7,150 for seven citations issued to Mr. Wildfang. On September 9, 2025, Mr. Wildfang requested a hearing.

On October 8, 2025, the Department issued an Amended Notice of Proposed Order and Opportunity to Request a Hearing (Amended Civil Penalty Notice) to Mr. Wildfang, reducing the proposed civil penalty to \$5,275.

On October 20, 2025, the Department referred the hearing request to the Office of Administrative Hearings (OAH) for a hearing on Mr. Wildfang’s challenges to the Civil Penalty Notice. The OAH assigned Senior Administrative Law Judge (ALJ) Triana to preside at hearing.

On December 4, 2025, ALJ Triana convened a prehearing conference by telephone. Assistant Attorney General (AAG) Matt Devore participated for the Department along with Department representative Greg Wagenblast. Mr. Wildfang participated without counsel. During the phone conference, the parties agreed to an in-person hearing at the Salem OAH Office, to be held on February 11, 2026.

ALJ Triana convened the hearing as scheduled on February 11, 2026. Mr. Wildfang appeared without counsel and did not testify. AAG Devore represented the Department. The following witnesses testified at the hearing: Jennifer Erdmann, ODF Unit Forester for Polk County; and Greg Wagenblast, ODF Policy Analyst and Civil Penalty Administrator. The record closed at the conclusion of the hearing on February 11, 2026.

ISSUE

Whether the Department may impose a civil penalty totaling \$5,275 against Mr. Wildfang for seven violations of the Forest Practices Act (FPA), ODF Case Nos. 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020, and 21-W0021.

EVIDENTIARY RULING

Department Exhibits A1 through A11 and A13 through A39 were admitted into the record without objection.¹

FINDINGS OF FACT

1. At all relevant times, Mr. Wildfang was the owner of land and timber at T7S R4W Section 24 and 25, located approximately one mile west of Salem, Oregon. (Ex. A1 at 2; test. of Erdmann.) McNary Creek, a type F stream,² runs through the property. (Exs. A1 at 4, A7 at 1.)

2. On September 29, 2020, Operator Bridger Hasbrouck filed a Notification of Operations/Permit to Operate Power-Driven Machinery (NOAP) with the Department for a planned timber harvest (commercial thinning/selective cutting) on Mr. Wildfang's land. (Ex. A2 at 1, 4.) That same day, Ms. Erdmann issued a formal comment on the NOAP, indicating "You have an assumed fish stream within your operation area. Please call the stewardship forester to discuss." (*Id.* at 2.) She provided a phone number where she could be reached. (*Id.*) The comment was viewable by the Operator Hasbrouck and the landowner, Mr. Wildfang. Neither the operator nor Mr. Wildfang contacted Ms. Erdmann to discuss the planned operation prior to starting work on the land. (Test. of Erdmann.)

3. On or around January 11, 2021, the Department received a complaint about the operation on Mr. Wildfang's land from a neighbor. (Test. of Erdmann.)

4. On or around January 11, 2021, Ms. Erdmann conducted a site visit to Mr. Wildfang's land. (Test. of Erdmann; Ex. A3.) During the visit, Ms. Erdmann observed several violations of the FPA resulting from the timber harvest operations. (Test. of Erdmann.) She noted that approximately 300 feet of the Riparian Management Area (RMA) along McNary Creek had been removed (including trees and understory vegetation) within 20 feet of the high water level of the creek. (*Id.*; Ex. A1 at 2.) She further noted that Mr. Wildfang had failed to notify the Department that work on a stream crossing would be performed within 100 feet of a type F stream or submit a Statutory Written Plan for Operations near a type F stream. (Ex. A1 at 13, 24.) She also noted that Mr. Wildfang had not submitted a Statutory Written Plan for fill over 15 feet over a type F stream. (*Id.* at 35.) She saw that the road throughout the operation area did not have drainage, causing gully erosion and sediment delivery to waters of the state. (*Id.* at 46.) She saw that a stream crossing constructed over McNary Creek had more than 15 feet of fill present. (*Id.* at 57.) The fill included organic materials (such as logs and tree stumps). Ms.

¹ The Department did not submit an Exhibit A12.

² Type F streams are streams that are or could be fish-bearing. (Test. of Erdmann.)

Erdmann also observed that the culvert running under the crossing was composed of two pipes, approximately 12-inches in diameter. (Test. of Erdmann.) She determined that the culvert capacity was inadequate which allowed for the ponding of water higher than the top of the culverts. The inadequate drainage resulted in erosion of the fill material, sediment delivery to the creek, and degradation of the culverts. The culverts were inadequately sized to meet the 50-year flood flow and did not allow for the migration of adult and juvenile fish. (Ex. A1 at 57, 68.)

5. On May 5, 2021, ODF issued Mr. Wildfang a Notice of Violation/Citation, Order to Cease Further Violation, and Order to Correct Unsatisfactory Condition Caused by Violation (Violation Notices) in ODF Case numbers 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020, and 21-W0021. ODF also sent Mr. Wildfang a copy of Forest Practices Note 7, a document describing ODF's civil penalties process. (Ex. A1.)

6. In Case 21-W0014, ODF alleged that as of January 11, 2021, "300 feet of the Riparian Management Area (RMA) of McNary Creek has been removed since 2016 [and] fir tree stumps are also present along the RMA above the stream crossing within 20 feet of the high water level of the type F stream," in violation of OAR 626-642-0100(2)(b) (July 1, 2017), causing an unsatisfactory condition of cutting and/or removing the riparian management area of McNary Creek for 0 to 50 feet. (Ex. A1 at 2.) ODF ordered Mr. Wildfang to cease further violations and directed him to take specific actions (set out in the Repair Order) to repair damage and correct the unsatisfactory conditions resulting from the violation. (*Id.* at 3.) Specifically, ODF ordered Mr. Wildfang to plant commercially acceptable and site suited tree species along the RMA of McNary Creek on a 10 foot by 10 foot spacing, on or before May 1, 2022. (*Id.*)

7. In Case 21-W0015, ODF alleged that on January 11, 2021, Mr. Wildfang "failed to notify [ODF] for a type F stream crossing and working within 100 feet of a type F stream," in violation of ORS 527.670(6), resulting in an unsatisfactory condition because it did not allow "the State Forester to provide an opportunity to discuss resource protection and damage prevention." (Ex. A1 at 13.) ODF ordered Mr. Wildfang to cease further violations. (*Id.* at 14.)

8. In Case 21-W0016, ODF alleged that on January 11, 2021, Mr. Wildfang "failed to submit a Statutory Written Plan [to ODF] for Operations near a type F stream," in violation of OAR 629-605-0170(2) (July 1, 2017), resulting in an unsatisfactory condition because it "den[ied] the State Forester the opportunity to provide comments on how the resource will be protected during the operation." (Ex. A1 at 24.) ODF ordered Mr. Wildfang to cease further violations. (*Id.* at 25.)

9. In Case 21-W0017, ODF alleged that on January 11, 2021, Mr. Wildfang "failed to submit a Statutory Written Plan [to ODF] for a fill over 15 feet" which was used over a type F stream to facilitate logging operations, in violation of OAR 629-625-0320(1)(b)(B) (January 1, 2006), resulting in sediment delivery to waters of the state because it did not include any means of surface erosion control. (Ex. A1 at 35.) ODF further alleged that the fill included organic materials in the form of stumps and woody debris. ODF ordered Mr. Wildfang to cease further violations. (*Id.* at 36.)

10. In Case 21-W0018, ODF alleged that on January 11, 2021, Mr. Wildfang "failed to

provide drainage in the road system throughout the operation area,” in violation of OAR 626-625-0330(6) (January 1, 2003), causing gully erosion throughout the road prism and resulting in sediment delivery to waters of the state. (Ex. A1 at 46.) ODF ordered Mr. Wildfang to cease further violations and directed him to take specific actions (set out in the Repair Order) to repair damage and correct unsatisfactory conditions resulting from the violation. (*Id.* at 47.) The Repair Order provided:

Roads must first be graded to minimize the amount of erosion that has already occurred. Once the roads are graded use grade reversals, surface sloping, ditches, culverts, and/or waterbars to provide adequate drainage for the road prism. Also ensure that any draining water has a chance to filter out before it can reach waters of the state. This work must be done at a time that the ground is dry enough to prevent any further erosion of the road prism. Refer to the enclosed Forest Practices notes 4 for guidance on road maintenance.

Such action is to be completed on or before August 31, 2021.

(*Id.*)

11. In Case 21-W0020, ODF alleged that on January 11, 2021,³ Mr. Wildfang “failed to size the culvert correctly to pass a 50-year return interval [and] capacity is insufficient to meet the 50-year flow,” in violation of OAR 626-625-0320(2)(a) (January 1, 2006), causing ponding of water higher than the top of the culverts on the inlet end of the creek, unnecessary erosion of the fill, sediment delivery to the creek, and degradation of the installed culverts. (Ex. A1 at 57.) ODF ordered Mr. Wildfang to cease further violations and directed him to take specific actions (set out in the Repair Order) to repair damage and correct unsatisfactory conditions resulting from the violation. (*Id.* at 58.) The Repair Order provided:

Removal of the undersized culverts must be completed. If you wish to replace the culverts then it must be fish passable and pass the 50-year return interval. This operation will require you to submit a Notification of Operations, a Statutory Written Plan, and you must adhere to the in-water work period set forth by the Oregon Department of Fish and Wildlife. The in-water work period for this stream is July 1 to October 15. If no culvert is being reinstalled care must be taken to stabilize the material left behind to minimize the sediment delivery of waters of the state. The stabilization requirements set for in the repair order for the violation of 629-625-0320(1)(b)(B) [(January 1, 2006)] 21-W0018 will be sufficient to meet the requirements for this repair order.

A Notification of Operations and a Statutory Written Plan must be submitted prior to replacing this stream crossing.

³ The Notice of Violation/Citation for ODF Case No. 21-0020 listed the date of violation as “1 th DAY OF January, 2021.” The use of the “th” after the numeral one, in conjunction with the context of all the other violations being dated January 11, makes it appear that, more likely than not, ODF intended that the date on the citation actually read January 11, 2021. (*See*, Ex. A1 at 57.)

Such action is to be completed on or before October 15, 2021.

(*Id.*)

12. In Case 21-W0021, ODF alleged that on January 11, 2021, Mr. Wildfang “failed to install a stream crossing to allow the migration of adult and juvenile fish upstream and downstream during conditions when fish movement in that stream normally occurs,” in violation of OAR 626-625-0320(2)(b) (January 1, 2006), resulting in a man-made barrier to fish use. (Ex. A1 at 68.) ODF ordered Mr. Wildfang to cease further violations and directed him to take specific actions (set out in the Repair Order) to repair damage and correct unsatisfactory conditions resulting from the violation. (*Id.* at 69.) The Repair Order indicated that the repairs required by the Repair Order for Case 21-W0020 would satisfy the repair required for this violation, and that all work was to be completed on or before October 15, 2021. (*Id.*)

13. The Violation Notices included information about Mr. Wildfang’s right to a hearing on each citation and the consequences for failing to request a hearing in a timely manner, as follows:

Right to Hearing

You have a right to a hearing on the Notice of Violation, Order to Cease Further Violation and Order to Repair. To request a hearing, you must make a written request for a hearing within 30 days of the date of service or mailing of this Notice and Orders. The request for a hearing shall be in writing and must include a specific statement as to the reasons for disputing the State Forester’s order, including but not limited to disagreement with any findings leading to the order. In addition, the request for hearing shall state what relief from the order is sought. OAR 629- 672-0200. If you request a hearing, the request must be made to:

**Oregon State Forester
Attn: Civil Penalty Administrator
2600 State Street
Salem, Oregon 97310**

Default Final Order

If you fail to request a hearing within the time provided or if you request a hearing but then fail to appear at that hearing, you will have waived your right to a hearing and the Notice and Orders will become Final Orders by Default. The record of the proceeding to date, including information in ODF’s file and all materials submitted by any party, will automatically become part of the record upon default for the purpose of proving a prima facie case.

(Ex. A1 at 4, 15, 26, 37, 48, 59, 70; emphasis in original.)

14. The Department sent the Violation Notices and supporting documentation to Mr.

Wildfang via certified and regular mail to his address of record, PO Box 6123, Salem, Oregon 97304. (Ex. A1 at 11, 22, 33, 44, 55, 66, 77.)

15. Mr. Wildfang did not request a hearing on any of the seven citations issued on May 5, 2021, by the June 4, 2021 deadline. (Test. of Wagenblast.)

16. On July 2, 2021, ODF sent Mr. Wildfang a courtesy letter by regular mail to his address of record, advising that the citations in ODF Case Nos. 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020, and 21-W0021 were now final orders by operation of law. The letter stated, in pertinent part:

You were issued a Notice of Violation, Cease Order and Repair Order on May 5, 2021. You failed to request a hearing on this Notice. As a result, the Notice became a Final Order by Default on June 5, 2021. * * *

This letter confirms that a Final Order by Default has been entered for Case Nos. 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020 and 21-W0021. Please take note that the Department will next consider issuance of civil penalties, pursuant to ORS 527.685 and OAR 629-670-0000 to 0315. If you have any questions regarding this matter or the administration of civil penalties, please call this office at (503) 945-7382.

(Ex. A6 at 1.)

17. After receiving the Violation Notices, Mr. Wildfang began working with the Department on a plan to complete all required repairs. Mr. Wildfang was very cooperative and responsive when working with Mr. Erdmann and the Department to plan and complete the repairs. (Test. of Erdmann.)

18. On July 28, 2021, Mr. Wildfang submitted a Statutory Written Plan to the Department for the removal of the fill over McNary Creek. (Ex. A7 at 1.) It indicated that Mr. Wildfang would use an excavator to remove the fill and culverts, starting on the outlet side of the creek to prevent as much water and dirt mixing as possible. It further indicated that the removed fill material would be placed at least 50 feet from the creek, compacted with a sheep's foot roller, and a boulder would be placed between the fill and the creek. It indicated that the banks of the creek would be returned to their original slope and, if needed, seeded. The creek would be returned to "free flowing," with no culvert, and, if needed, lined with small rocks. (*Id.*)

19. On August 4, 2021, Mr. Wildfang filed a NOAP with the Department for the road reconstruction required by the Violation Notices. (Ex. A8 at 1-4.)

20. On or around April 11, 2022, Ms. Erdmann performed a final inspection of the site. She noted that Ash trees had been planted along the creek. She found that Mr. Wildfang had completed all repairs outlined in the Violation Notices "in a satisfactory manner." (Ex. A9 at 1.)

21. The Department determined that Mr. Wildfang had little or no prior knowledge of

the FPA before the citations in this matter were issued. (Test. of Wagenblast.)

22. If left unrepaired, the damage from the cutting of trees and removal of understory vegetation in the creek's RMA could take up to 10 years to self-restore. While the replanting performed by Mr. Wildfang mitigated some of the damage done, some damage could not be remedied and some future damage could not be prevented. (Test. of Wagenblast.)

23. If left unrepaired, the damage to the site that caused the delivery of sediment into the waters of the state could take five to eight years to self-restore. (Test. of Wagenblast.) Ms. Erdmann estimated the amount of sediment delivered to waters of the state to be approximately 5.88 cubic yards from the operation at the site. (Ex. A13 at 1.) The sediment already delivered to waters of the state could not be remedied, but Mr. Wildfang's repairs limited future damage. (Test. of Wagenblast.)

24. If left unrepaired, the lack of proper fish passage and the undersized culverts in the creek could have taken 10 or more years to self-restore. The undersized culverts and lack of fish passage were present for a relatively short period of time, and their removal reduced future damage to the site. (Test. of Wagenblast.)

CONCLUSION OF LAW

The Department may impose a civil penalty totaling \$5,275 against Mr. Wildfang for seven violations of the FPA, ODF Case Nos. 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020, and 21-W0021.

OPINION

The Department has proposed assessing a civil penalty against Mr. Wildfang in the amount of \$5,275 based on seven violations of the FPA, occurring in or around January of 2021. The Department has the burden of establishing by a preponderance of the evidence that it is entitled to assess against Mr. Wildfang the civil penalty proposed in the Amended Notice. ORS 183.450(2) ("The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position"); *Dixon v. Board of Nursing*, 291 Or App 207 (2018) (the standard of proof that generally applies in agency proceedings, including license-related proceedings, is the preponderance of the evidence standard); *Metcalf v. AFSD*, 65 Or App 761, 765 (1983) (in the absence of legislation specifying a different standard, the standard of proof in an administrative hearing is preponderance of the evidence). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

Applicable Law

ORS 527.680(1) authorizes the State Forester to issue a citation to any operator whenever the State Forester determines the operator has committed a violation of the FPA. An "operator" is any landowner or timber owner who conducts any commercial activity relating to the establishment, management, or harvest of forest trees. ORS 527.620(13), (14). As pertinent to

this matter, a “violation” occurs when an “unsatisfactory condition exists, and (A) Damage has resulted; or (B) The State Forester has determined that it is not feasible for the operator, by timely corrective action, to eliminate the consequences of the unsatisfactory condition[.]” OAR 629-670-0010(10) (January 1, 2006⁴). An “unsatisfactory condition,” as defined in OAR 629-670-0010(9) (January 1, 2006), means the failure to comply with a practice specified in a forest practice statute or rule that applies to the type of operation conducted.

When issuing a citation for a violation of the FPA, the State Forester must also issue an order directing the operator or landowner cease further violation. ORS 527.680(2)(a). The State Forester may also issue an order directing the operator or landowner, where practical and economically feasible, to make reasonable efforts to repair the damage or correct the unsatisfactory condition specified in the citation within a period specified by the State Forester. ORS 527.680(2)(b); OAR 629-670-0130(2). Pursuant to ORS 527.683, ODF may not impose a civil penalty for a violation of the FPA until the operator or landowner incurring the penalty has received notice of the violation in writing from the State Forester specifying the violation. Civil penalties are authorized by ORS 527.992 and OAR 629-670-0200 (July 1, 2002). Any person who fails to comply with the provisions of the FPA or any rule or standard adopted thereunder is subject to a civil penalty in the amount adopted under ORS 527.685. The State Forester will assess the civil penalty after the citation and notice of violation is issued and after the Department’s civil penalty administrator reviews the citation and circumstances of the violation to determine the penalty amount. OAR 629-670-0200(3) (July 1, 2002). Except for circumstances not pertinent to this matter, a civil penalty may not exceed \$5,000 per violation. ORS 527.685(1) (2007).

When imposing a civil penalty authorized by ORS 527.685 (2007), the State Forester may consider the following factors:

- (a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.
- (b) Any prior violations of statutes, rules, orders and permits pertaining to the Oregon Forest Practices Act.
- (c) The gravity and magnitude of the violation.
- (d) Whether the violation was repeated or continuous.
- (e) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act.
- (f) The size and type of ownership of the operation.
- (g) Any relevant rule of the board.

⁴ Some of the Oregon Revised Statutes (ORS) Oregon Administrative Rules (OAR) cited in this order have been amended since the violations in this matter occurred. All citations in the order are to the version of the ORS or OAR in effect at the time of the violations.

(h) The cooperativeness of the person incurring the penalty and the person's efforts, if any, to correct the violation.

OAR 629-670-0210 (January 1, 2006) sets out the formula for determining the civil penalty amount and provides, in pertinent part, as follows:

(1) The amount of civil penalty per violation shall be the lesser of \$5000 or the amount determined by the formula $\$B(C \times P) + (\$B \times D \times R)$ where:

(a) $\$B$ is a base fine established by type of violation in section (2) of this rule;

(b) C is cooperation;

(c) P is prior knowledge or prior violations;

(d) D is damage to protected resources; and

(e) R is the extent of damage that cannot be corrected, or prevented in the future, even though repairs are made.

(2) The base penalty value ($\$B$) shall be established as follows:

(a) A base penalty of \$100 shall be applied to violations of a type where the operator fails to notify the State Forester of intent to operate or fails to submit a required written plan or obtain written approval of a plan for an alternate practice.

(b) A base penalty of \$250 shall be applied to:

(A) Violations of any rule or statute which requires or sets standards for accomplishing reforestation.

(B) Violations involving a failure to comply with the terms or conditions of any order of the State Forester issued in accordance with ORS 527.680.

(C) Violations of a type where the operator fails to comply with any term or condition of an approved plan for an alternate practice.

(D) Violations where the State Forester determines that an operator has intentionally failed to notify the State Forester of intent to operate, notwithstanding subsection (2)(a) of this rule.

(E) All other violations of forest practice rules or statutes not specifically described in section (2) of this rule.

* * * * *

(3) The cooperation value (C) shall be determined by the State Forester after reviewing whether the operator is taking all feasible steps or procedures necessary or appropriate to correct the violation for which the penalty is being assessed. The value shall be assigned as follows:

(a) A value of 0.5 shall be assigned when, in the judgment of the State Forester, the operator takes substantial initiative to correct the damage or problem that led to the violation. Substantial initiative may include, but is not limited to, reporting the violation before it is discovered, initiating effective repairs without having to be directed, or making substantive changes in operating procedures designed to identify and avoid potential recurrences.

(b) A value of 1 shall be assigned when the operator cooperates in following the direction of the State Forester by immediately ceasing further violation and taking prompt action to repair damage or correct any unsatisfactory condition where deemed feasible by the State Forester.

* * * * *

(4) The prior knowledge value (P) shall be determined by the State Forester after reviewing department records of citations, operation notification or operation inspections. A value from 0.5 through 10 shall be assigned as follows:

(a) A value of 0.5 is appropriate when the operator has little or no prior knowledge of the Oregon Forest Practices Act but has cooperated in ceasing violation and correcting unsatisfactory conditions.

* * * * *

(5) The damage value (D) shall be determined by the State Forester as a measure of extent or relative adverse effect of damage. The specific value applied shall be based on the pre-operation condition of the site, if known, the severity and extent of damage associated with the violation, and any potential economic gain to any involved operators. The damage value should be consistent with the policy of deterring future violations. A value from 0 through 20 shall be assigned. The following shall guide the State Forester's determination:

(a) A value of zero shall be assigned when the violation has not resulted and will not result in resource damage.

(b) A value of 1 shall be assigned when the adverse effects of the violation left uncorrected are minor and the affected resources will naturally self-restore

within one year.

Example: Siltation from exposed soil flows into the upper reaches of a stream, but the site will naturally revegetate within the next growing season, preventing further siltation.

(c) A value from 2 to 5 shall be assigned when the damage from the violations left uncorrected is more serious than described in subsection (b) of this section, but the affected resources will self-restore naturally within five years.

Examples: A small volume debris avalanche is caused by road construction material placed in an unstable location and the debris comes to rest in a fish-bearing or domestic use water; or logs are skidded across a stream without an adequate temporary crossing leaving ruts and disturbed soil areas that will flow muddy water directly into the stream.

(d) A value from 5 through 10 shall be assigned when the damage from the violation left uncorrected is major in relative effect, with natural self-restoration taking up to 10 years. A consideration in selecting a value from 5 to 10 may include, but is not limited to the size of the area affected.

Examples: Failure to reforest five acres may be assigned no less than a 5, while failure to reforest 50 acres may be assigned a 10. Removal of understory vegetation along 500 feet of a small stream may be assigned a 10.

(e) A value from 5 through 20 shall be assigned when damage is the result of harvest or destruction of trees or snags required to be maintained; or when the damage from the violation left uncorrected is major in relative effect, with self-restoration taking more than 10 years.

Example: Severe riparian management area soil disturbance, combined with the total harvest or destruction of what had been a fully stocked stand of trees required to be maintained, along more than 500 feet of a small stream may be assigned a factor of 20.

(6) The repair value (R) shall be assigned by the State Forester as a measure of the relative extent of the damage that is corrected or prevented through timely corrective action. The value shall be set by the State Forester between 0 and 1, inclusive and expressed as a decimal. The decimal indicates the degree of damage that already occurred and future damage that cannot be prevented, even after the repairs are completed as directed in the repair order.

Example: A tractor crossed a stream with no temporary structure, breaking the stream banks down, leaving exposed skid trails which eroded, creating turbidity, and leaving visible sediment in the stream. With no repairs, the stream bank and skid trails would revegetate in 4 years. The landowner

performed all repairs as ordered, including mulching, placing rip-rap, and building waterbars. In the State Forester's judgement, compliance with the repair order will prevent all but 20% of the potential damage expected over the next 4 years. Therefore R equals 0.20. If repairs are not feasible or are not completed, R equals 1.0.

The Violations

Ms. Erdmann visited the site on January 11, 2021, and observed numerous unsatisfactory conditions. Trees had been removed from the RMA along McNary Creek, a crossing had been constructed over the creek that included undersized culverts, and fill and sediment from the construction and operations had drained into McNary Creek. Ms. Erdmann subsequently issued the Violation Notices, including the Cease Orders and Repair Orders. Mr. Wildfang immediately began working with the Department to complete the required repairs.

As set out in the findings above, in Case 21-W0014, ODF alleged that on January 11, 2021, Mr. Wildfang removed trees in the RMA, in violation of OAR 629-642-0100(2)(b) (July 1, 2017). In Case 21-W0015, ODF alleged that on January 11, 2021, Mr. Wildfang failed to notify ODF of a stream crossing and work within 100 feet of a type F stream, in violation of ORS 527.670(6). In Case 21-W0016, ODF alleged that on January 11, 2021, Mr. Wildfang failed to submit a Statutory Written Plan for operations near at type F stream, in violation of OAR 629-605-0170(2) (July 1, 2017). In Case 21-W0017, ODF alleged that on January 11, 2021, Mr. Wildfang failed to submit a Statutory Written Plan for fill exceeding 15 feet over a stream, in violation of OAR 629-625-0320(1)(b)(B) (January 1, 2006). In Case 21-W0018, ODF alleged that on January 11, 2021, Mr. Wildfang failed to provide adequate road drainage in the operation area, in violation of OAR 629-625-0330(6) (January 1, 2003). In Case 21-W0020, ODF alleged that on January 11, 2021, Mr. Wildfang placed undersized culverts in McNary creek, in violation of OAR 626-625-0320(2)(a) (January 1, 2006). Finally, in Case 21-W0021, ODF alleged that on January 11, 2021, Mr. Wildfang failed to install stream crossing that would allow fish passage, in violation of OAR 626-625-0320(2)(b) (January 1, 2006).

Although Mr. Wildfang began working with the Department to immediately begin repairs after he was notified of the violations, he did not request a hearing on any of the seven citations by the June 4, 2021 deadline. Therefore, the violations and citations became final by operation of law. Thereafter, ODF notified Mr. Wildfang of the Default Final Order for Case Nos. 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020, and 21-W0021.

Civil Penalty Amount

On October 8, 2025, the Department issued the Amended Civil Penalty Notice at-issue herein, proposing a civil penalty of \$5,275 based on the seven citations, which became final by operation of law on June 4, 2021. As set out above, the amount of the civil penalty per violation is the lesser of \$5,000 or the amount determined by the following formula: $\$B (C \times P) + (\$B \times D \times R)$, where $\$B$ is the base penalty, C is the cooperation value, P is the prior knowledge value, D is the damage value, and R is the repair value.

Case no. 21-W0014: For the violation related to the removal of trees in the RMA, the appropriate civil penalty amount is \$3,125, calculated as follows:

The base penalty (\$B) value is \$250 for a violation of OAR 629-642-0100(2)(b) (July 1, 2017). OAR 629-670-0210(2) (January 1, 2006).

The cooperation value (C) is 1 because Mr. Wildfang cooperated with the State Forester. He immediately ceased any further violations once placed on notice of the violation and took prompt action to repair damage and correct the unsatisfactory condition where feasible. OAR 629-670-0210(3)(b) (January 1, 2006); ORS 527.685(2) (2007).

The prior knowledge value (P) is 0.5 because Mr. Wildfang had little or no prior knowledge of the FPA and was cooperative in ceasing the violation and correcting unsatisfactory conditions where feasible. OAR 629-670-0210(4) (January 1, 2006); ORS 527.685(2) (2007).

The damage value (D) is 15 based on the nature and extent of resource damage. The damage was the result of extensive harvest or destruction of trees or snags and the removal of understory vegetation. The State Forester appropriately determined that damage from the violation left uncorrected is major in relative effect, with self-restoration taking up to 10 years. OAR 629-670-0210(5) (January 1, 2006); ORS 527.685(2) (2007).

As to the repair value (R), the State Forester appropriately assigned 0.8 as the degree of damage that occurred and future damage that could not be prevented even after the repairs were completed. Because Mr. Wildfang replanted trees in the RMA, the State Forester appropriately reduced the R value from 1 to 0.8. OAR 629-670-0210(6) (January 1, 2006); ORS 527.685(2) (2007).

Applying the formula, $\$250 (1 \times 0.5) + (\$250 \times 15 \times 0.8) = \$3,125$.

Case no. 21-W0015: For the violation related to the failure to notify ODF of a stream crossing and work within 100 feet of a type F stream, the appropriate civil penalty amount is \$50, calculated as follows:

The base penalty (\$B) value is \$100 for a violation of ORS 527.670(6). OAR 629-670-0210(2) (January 1, 2006).

The cooperation value (C) is 1 because Mr. Wildfang cooperated with the State Forester. OAR 629-670-0210(3)(b) (January 1, 2006); ORS 527.685(2) (2007).

The prior knowledge value (P) is 0.5 because Mr. Wildfang had little or no prior knowledge of the FPA. OAR 629-670-0210(4) (January 1, 2006); ORS 527.685(2) (2007).

The damage value (D) is 0 because this is an administrative violation and there are no damages associated with the violation. OAR 629-670-0210(5) (January 1, 2006); ORS 527.685(2) (2007).

As to the repair value (R), the State Forester appropriately assigned 0.0 for the degree of

damage that occurred and future damage because this is an administrative violation. OAR 629-670-0210(6) (January 1, 2006); ORS 527.685(2) (2007).

Applying the formula, $\$100 (1 \times 0.5) + (\$100 \times 0 \times 0.0) = \50 .

Case no. 21-W0016: For the violation related to the failure to submit a Statutory Written Plan for operations near a type F stream, the appropriate civil penalty amount is \$50, calculated as follows:

The base penalty (\$B) value is \$100 for a violation of OAR 629-605-0170(2) (July 1, 2017). OAR 629-670-0210(2) (January 1, 2006).

The cooperation value (C) is 1 because Mr. Wildfang cooperated with the State Forester. OAR 629-670-0210(3)(b) (January 1, 2006); ORS 527.685(2) (2007).

The prior knowledge value (P) is 0.5 because Mr. Wildfang had little or no prior knowledge of the FPA. OAR 629-670-0210(4) (January 1, 2006); ORS 527.685(2) (2007).

The damage value (D) is 0 because this is an administrative violation and there are no damages associated with the violation. OAR 629-670-0210(5) (January 1, 2006); ORS 527.685(2) (2007).

As to the repair value (R), the State Forester appropriately assigned 0.0 for the degree of damage that occurred and future damage because this was an administrative violation. OAR 629-670-0210(6) (January 1, 2006); ORS 527.685(2) (2007).

Applying the formula, $\$100 (1 \times 0.5) + (\$100 \times 0 \times 0.0) = \50 .

Case no. 21-W0017: For the violation related to the failure to submit a Statutory Written Plan for fill exceeding 15 feet over a stream, the appropriate civil penalty amount is \$50, calculated as follows:

The base penalty (\$B) value is \$100 for a violation of OAR 629-625-0320(1)(b)(B) (January 1, 2006). OAR 629-670-0210(2) (January 1, 2006).

The cooperation value (C) is 1 because Mr. Wildfang cooperated with the State Forester. OAR 629-670-0210(3)(b) (January 1, 2006); ORS 527.685(2) (2007).

The prior knowledge value (P) is 0.5 because Mr. Wildfang had little or no prior knowledge of the FPA. OAR 629-670-0210(4) (January 1, 2006); ORS 527.685(2) (2007).

The damage value (D) is 0 because this is an administrative violation and there are no damages associated with the violation. OAR 629-670-0210(5) (January 1, 2006); ORS 527.685(2) (2007).

As to the repair value (R), the State Forester appropriately assigned 0.0 for the degree of

damage that occurred and future damage because this was an administrative violation. OAR 629-670-0210(6) (January 1, 2006); ORS 527.685(2) (2007).

Applying the formula, $\$100 (1 \times 0.5) + (\$100 \times 0 \times 0.0) = \50 .

Case no. 21-W0018: For the violation related to the failure to provide adequate road drainage in the operation area, the appropriate civil penalty amount is \$1,000 calculated as follows:

The base penalty (\$B) value is \$250 for a violation of OAR 629-625-0330(6) (January 1, 2003). OAR 629-670-0210(2) (January 1, 2006).

The cooperation value (C) is 1 because Mr. Wildfang cooperated with the State Forester. He immediately ceased any further violations once put on notice and took prompt action to repair damage and correct the unsatisfactory condition where feasible. OAR 629-670-0210(3)(b) (January 1, 2006); ORS 527.685(2) (2007).

The prior knowledge value (P) is 0.5 because Mr. Wildfang had little or no prior knowledge of the FPA and was cooperative in ceasing the violation and correcting unsatisfactory conditions where feasible. OAR 629-670-0210(4) (January 1, 2006); ORS 527.685(2) (2007).

The damage value (D) is 5 based on the nature and extent of resource damage. Approximately 5.5 cubic yards of sediment were delivered into waters of the state as a result of the operation. The State Forester determined that damage from the violation left uncorrected is significant in relative effect, with self-restoration taking five to eight years. OAR 629-670-0210(5) (January 1, 2006); ORS 527.685(2) (2007).

As to the repair value (R), the State Forester appropriately assigned 0.7 as the degree of damage that occurred and future damage that could not be prevented even after the repairs were completed. A significant amount of sediment had already been delivered to waters of the state before any corrective action was taken, which could not be repaired. However, because Mr. Wildfang did take action to complete the required repairs, thereby limiting future damage, the State Forester appropriately reduced the R value from 1 to 0.7. OAR 629-670-0210(6) (January 1, 2006); ORS 527.685(2) (2007).

Applying the formula, $\$250 (1 \times 0.5) + (\$250 \times 5 \times 0.7) = \$1,000$.

Case no. 21-W0020: For the violation related to the placement of undersized culverts in McNary creek, the appropriate civil penalty amount is \$500, calculated as follows:

The base penalty (\$B) value is \$250 for a violation of OAR 629-625-0320(2)(a) (January 1, 2006). OAR 629-670-0210(2) (January 1, 2006).

The cooperation value (C) is 1 because Mr. Wildfang cooperated with the State Forester. He immediately ceased any further violations once placed on notice and took prompt action to repair damage and correct the unsatisfactory condition where feasible. OAR 629-670-0210(3)(b) (January 1, 2006); ORS 527.685(2) (2007).

The prior knowledge value (P) is 0.5 because Mr. Wildfang had little or no prior knowledge of the FPA and was cooperative in ceasing the violation and correcting unsatisfactory conditions where feasible. OAR 629-670-0210(4) (January 1, 2006); ORS 527.685(2) (2007).

The damage value (D) is 5 based on the nature and extent of resource damage. The undersized culverts were in the creek for a relatively short period of time before repairs were undertaken. The State Forester appropriately determined that damage from the violation left uncorrected is significant in relative effect, with self-restoration taking 10 or more years. OAR 629-670-0210(5) (January 1, 2006); ORS 527.685(2) (2007).

As to the repair value (R), the State Forester appropriately assigned 0.3 as the degree of damage that occurred and future damage that cannot be prevented even after the repairs are completed. Because of the repair undertaken by Mr. Wildfang, the State Forester reduced the (R) value from 1 to 0.3. OAR 629-670-0210(6) (January 1, 2006); ORS 527.685(2) (2007).

Applying the formula, $\$250 (1 \times 0.5) + (\$250 \times 5 \times 0.3) = \500 .

Case no. 21-W0021: For the violation related to the failure to install a stream crossing that would allow fish passage, the appropriate civil penalty amount is \$250, calculated as follows:

The base penalty (\$B) value is \$250 a violation of OAR 629-625-0320(2)(b) (January 1, 2006). OAR 629-670-0210(2) (January 1, 2006).

The cooperation value (C) is 1 because Mr. Wildfang cooperated with the State Forester. He immediately ceased any further violations once placed on notice and took prompt action to repair damage and correct the unsatisfactory condition where feasible. OAR 629-670-0210(3)(b) (January 1, 2006); ORS 527.685(2) (2007).

The prior knowledge value (P) is 0.5 because Mr. Wildfang had little or no prior knowledge of the FPA and was cooperative in ceasing the violation and correcting unsatisfactory conditions where feasible. OAR 629-670-0210(4) (January 1, 2006); ORS 527.685(2) (2007).

The damage value (D) is 5 based on the nature and extent of resource damage. The lack of a fish passage was present in the creek for a relatively short period of time before repairs were undertaken. The State Forester appropriately determined that damage from the violation left uncorrected is significant in relative effect, with self-restoration taking 10 or more years. OAR 629-670-0210(5) (January 1, 2006); ORS 527.685(2) (2007).

As to the repair value (R), the State Forester appropriately assigned 0.3 as the degree of damage that occurred and future damage that cannot be prevented even after the repairs are completed. Because of the repair undertaken by Mr. Wildfang, the State Forester reduced the (R) value from 1 to 0.3. OAR 629-670-0210(6) (January 1, 2006); ORS 527.685(2) (2007).

Applying the formula, $\$250 (1 \times 0.5) + (\$250 \times 5 \times 0.3) = \500 .

Mr. Wildfang's Claimed Defenses

At hearing, Mr. Wildfang argued that the length of time it took the Department to issue the civil penalties in this matter was unfair and should result in the elimination of any civil penalties. While Mr. Wagenblast testified that he would certainly like to be able to issue notices regarding civil penalties faster, he credibly testified about the real-world impediments to issuing notices faster. Furthermore, Mr. Wildfang provided no legal citations for, and the ALJ is unaware of, any law or rule that requires the Department to issue a civil penalty notice within a certain timeframe following a violation of the Forest Practices Act. Additionally, the Department specifically notified Mr. Wildfang in July 2021, when it issued the courtesy letter regarding the Default Final Orders, that it would next be considering the issuance of civil penalties. Thus, Mr. Wildfang was on notice that civil penalties were likely to come. Finally, Mr. Wildfang presented no evidence at hearing that the Department's failure to issue the civil penalty notice sooner caused him any damage. As such, his contention that the civil penalties should be eliminated in this matter is without merit.

Conclusion

As discussed above, as a matter of law, the violations and citations became final in Case Nos. 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020, and 21-W0021, as of July 2, 2021 when Mr. Wildfang failed to appeal those citations. Thereafter, the Department calculated the civil penalties in this matter as follows:

Case No.	Civil Penalty Amount
21-W0014	\$3,125
21-W0015	\$50
21-W0016	\$50
21-W0017	\$50
21-W0018	\$1,000
21-W0020	\$500
21-W0021	\$500
TOTAL	\$5,275

For the reasons discussed herein, the Department correctly calculated the civil penalties. Mr. Wildfang is liable to pay a total of \$5,275 in civil penalties to the Department.

ORDER

I propose the Oregon Department of Forestry, Private Forests issue the following order:

For the violations in ODF Case Nos. 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020, and 21-W0021, Mr. Wildfang is assessed a total civil penalty in the amount of \$5,275, as set forth in the October 8, 2025 Amended Civil Penalty Notice.

Kate Triana

Senior Administrative Law Judge
Office of Administrative Hearings

EXCEPTIONS TO PROPOSED ORDER

If this proposed order is adverse to you or to the agency, you or the agency may file exceptions within seven calendar days after the date of the filing of the proposed order with the board if no other time is specified. Exceptions must be filed with the agency.

Please send any exceptions to:

Greg Wagenblast, Civil Penalties Administrator
Department of Forestry, Private Forests Division
2600 State Street
Salem, OR 97310

The exceptions shall be confined to factual and legal issues that are essential to the ultimate and just determination of the proceeding, and shall be based only on grounds that:

1. A necessary finding of fact is omitted, erroneous, or unsupported by the preponderance of the evidence on the record;
2. A necessary legal conclusion is omitted or is contrary to law or the board's policy;
or
3. Prejudicial procedural error occurred.

The exceptions shall be numbered and shall specify the disputed finding, opinions or conclusions. The nature of the suggested error shall be specified and the alternative or corrective language provided.

After the board has received and reviewed the proposed order and the exceptions, if any, the board may:

1. Entertain written and/or oral argument if the board determines it is necessary or appropriate to assist the board in the proper disposition of the case. If allowed, oral argument will be limited to matters raised in written exceptions and shall be presented under time limits determined by the board chair;
2. Remand the matter to the ALJ for further proceedings on any issues the board specifies, and to prepare a revised proposed order as appropriate, under OAR 137-003-0655(2);
3. Enter a final order adopting the recommendations of the ALJ; or
4. Enter an amended proposed order or final order that modifies or rejects the recommendations of the ALJ. If the board decides to modify or reject the proposed order, the board must comply with OAR 137-003-0655 and 137-003-0665.

Whether or not exceptions are filed, the Board of Forestry will issue the final order in this matter.

SERVICEMEMBERS' CIVIL RELIEF ACT

Unless otherwise stated in this order, the Office of Administrative Hearings (OAH) has no reason to believe that a party to this proceeding is subject to the Servicemembers' Civil Relief Act (SCRA). If a servicemember is a party to this proceeding and did not appear for a hearing that convened during the servicemember's period of service or within 90 days after their termination of service, the servicemember should immediately contact the agency to address any rights they may have under the SCRA.

CERTIFICATE OF MAILING

On March 2, 2026, I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 2025-ABC-07433.

By: Electronic and Certified Mail

Mark Wildfang
PO Box 6123
Salem OR 97304
Email: markwildfang@gmail.com

By: Electronic Mail

Greg Wagenblast
Agency Representative
Department of Forestry, Private Forests
2600 State St Bldg D
Salem OR 97310
Email: greg.wagenblast@oregon.gov

Ashley Ziglinski
Agency Representative
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Matthew B Devore
Assistant Attorney General
Department of Justice
1162 Court St NE
Salem OR 97301
Email: Matt.B.DeVore@doj.oregon.gov

Anesia N Valihov
Hearing Coordinator

**BEFORE THE BOARD OF FORESTRY
STATE OF OREGON**

IN THE MATTER OF:

MARK WILDFANG

Respondent.

FINAL ORDER

OAH Case No. 2025-ABC-07433

Agency Case No. 21-W0014, 21-W0015,
21-W0016, 21-W0017,
21-W0018, 21-W0020,
21-W0021

The Board of Forestry, at a meeting in Salem on June 3, 2026, by consensus affirms the Notice of Civil Penalty regarding Citations 21-W0014, 21-W0015, 21-W0016, 21-W0017, 21-W0018, 21-W0020, 21-W0021 issued by Jennifer Erdmann, Stewardship Forester at the time of the violation, and adopts and incorporates by reference the attached proposed order issued by Senior Administrative Law Judge Kate Triana, on March 2, 2026. Neither party submitted exceptions to the proposed final order; hence, none were considered by the Board.

Dated this _____ day of June, 2026

By: _____
Kacey KC
State Forester and
Secretary to the Board of Forestry

RIGHT TO JUDICIAL REVIEW

If you are dissatisfied with the Order, you may request rehearing or reconsideration by the Board. To do so, you must file a petition for rehearing or reconsideration pursuant to OAR 137-003-0675 and OAR 629-001-0050 within 60 days from the day this Order was served on you. If this Order was personally delivered to you, the date of service is the day you received the Order. If this Order was mailed to you, the date of service is the day it was *mailed*, not the day you received it. A petition for rehearing or reconsideration must state with specificity the grounds for objection to the order, and the remedy sought. If you do not file a petition for rehearing or reconsideration within the time limits provided, you will lose your opportunity for rehearing or reconsideration and you will lose your right to appeal to the Oregon Court of Appeals. (OAR 137-003-0675 and OAR 629-001-0050).

If, after you have filed a petition for rehearing or reconsideration, the Board issues an Order you are dissatisfied with, you have the right to appeal that Order to the Oregon Court of Appeals pursuant to ORS 183.482. To appeal, you must file a petition for judicial review with the Court of Appeals within 60 days from the day the Order was served on you.

If, 60 days after you have filed a petition for rehearing or reconsideration, the Board has not issued an order, your petition will be considered denied and at that time you will have the right to appeal the original Order to the Court of Appeals pursuant to ORS 183.480 and ORS 183.482. To appeal, you must file a petition for judicial review with the Court of Appeals within 60 days from the day that your petition is deemed denied. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.