

Agenda Item No.:	E
Work Plan:	Forest Resources Division
Presentation Title:	Proposed Final Order- Ernest A. Bussman
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 two forest practices violations by Ernest Bussmann and to make a decision on the final order regarding the matter. The Department issued a Notice of Civil Penalty to Mr. Ernest Bussmann for two FPA violations, 1. Failing to provide effective cross drainage on all roads causing road surface and fill erosion with delivery into Waters of the State and 2. Failing to remove berms on the edges of roads or provide effective drainage through the berms resulting in road surface and fill erosion into Waters of the State. Mr. Bussmann contested the Notice of Civil Penalty. The matter was referred to the Office of Administrative Hearings for a contested hearing. Administrative Law Judge Allison Webster conducted the hearing, resulting in a ruling in favor of the Department. ALJ Webster 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. 19-CS021 & 19-CS022

Mr. Bussmann is the owner of land and timber, approximately 130 acres (T23S R12W Section 20 and T23S R12W Section 17), in Coos County adjacent to Ten Mile Lake. In March 2018, Mr. Bussmann notified for commercial thinning, selective cutting, and constructing a road (NOAP 2018-740-03876).

ODF received a complaint with concerns about the harvesting activity on the Bussmann property. Stewardship Forester Laine (ODF Coos Bay office) completed a site inspection and determined

operation in compliance but did note concerns about road construction and exposed soils for the landowner/operator.

In February 2019, Mr. Bussmann submitted for a new NOAP for 2019 operations. Heavy rainfall occurred mid-September resulting in erosion of road surface/sediment and road fill material. Both situations resulted in sediment delivery to waters of the state with 1 location into a wetland and second location into Tenmile Lake. ODF investigated and determined 2 FPA violations which resulted in enforcement action. Two citations with orders to cease violation and orders to repair (19-CS021 & 19-CS022) were issued to Mr. Bussmann. These enforcement documents were not contested and became final orders. Repairs were completed by Mr. Bussmann and a final inspection of long-term repairs was completed by SF Laine in 2023.

A civil penalty notice was issued to Mr. Bussmann in August of 2025 at which time he contested the civil penalties totaling \$2,500.00 for the two violations. A hearing was held by Office of Administrative Hearings (OAH) on January 27, 2026 in Coos Bay, Oregon. Administrative Law Judge (ALJ) Webster 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. 19-CS021 and 19-CS022 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 Oder 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 February 19, 2026, counting seven calendar days after February 12, 2026.

No exceptions were received from Mr. Bussmann.

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) Proposed Order for ODF Case No. 19-CS021 and 19-CS022 Civil Penalty
- (2) Draft Final Order for ODF Case No. 19-CS021 and 19-CS022 Civil Penalty

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

IN THE MATTER OF:) **PROPOSED ORDER**
)
ERNEST A. BUSSMANN) OAH Case No. 2025-ABC-07388
) Agency Case Nos. 19-CS021 and 19-CS022
)
)

HISTORY OF THE CASE

On August 12, 2025, the Oregon Department of Forestry, Private Forests (ODF or Department) on behalf of the Board of Forestry issued a Notice of Proposed Order and Opportunity to Request a Hearing (Civil Penalty Notice) to Ernest Bussmann proposing to impose a civil penalty totaling \$2,500 for two citations issued to Mr. Bussman on October 29, 2019, that became final on November 29, 2019. On August 18, 2025, Mr. Bussmann timely requested a hearing on the Civil Penalty Notice.

On October 1, 2025, ODF referred the matter to the Office of Administrative Hearings (OAH) for a hearing on Mr. Bussmann’s challenges to the Civil Penalty Notice. The OAH assigned Senior Administrative Law Judge (ALJ) Alison G. Webster to preside at hearing.

On October 17, 2025, ALJ Webster convened a prehearing conference by telephone. Assistant Attorney General (AAG) Matt Devore participated for the Department along with ODF representative Greg Wagenblast. Respondent Ernest Bussmann participated without counsel. During the phone conference, the parties agreed to an in-person hearing at the Coos Forest Protective Association (CFPA) Office to be held January 27, 2026.

ALJ Webster convened the hearing as scheduled on January 27, 2026, in Coos Bay, Oregon. AAG Devore represented the Department. Mr. Bussmann appeared without counsel. The following witnesses testified at the hearing: Ryan Greco, ODF Unit Forester, Coos Bay; Greg Erb, ODF Natural Resource Specialist; Greg Wagenblast, ODF Policy Analyst and Civil Penalty Administrator; Mr. Bussman; and Elizabeth Potter, daughter of Mr. Bussman. The record closed on January 27, 2026, at the conclusion of the hearing.

ISSUE

Whether ODF may impose a civil penalty totaling \$2,500 against Mr. Bussman for two violations of the Forest Practices Act, ODF Case Nos. 19-CS021 and 19-CS022.

///

EVIDENTIARY RULINGS

Department Exhibits A1 through A10, A12, A13, A15, A17 to A20, A23, A24, A27 to A31, and A33 to A54 were admitted without objection. Department Exhibits A11, A14, A16 A21, A22, A25, A26, and A32 were admitted over Mr. Bussman's relevancy objections.

Mr. Bussmann's Exhibits R1 to R9 were admitted without objection.

FINDINGS OF FACT

1. Mr. Bussman is the owner of land and timber, approximately 130 acres (T23S R12W Section 20 and T23S R12W Section 17), in Coos County adjacent to Ten Mile Lake. (Ex. A3 and A4.)

2. In March 2018, Mr. Bussman notified ODF of his plan to operate power driven machinery on his private forest land for the purposes of commercial thinning, selective cutting, and constructing a road. Mr. Bussman worked with ODF Stewardship Forester (SF) Jon Laine, who eventually approved starting work on clearing the road after discussing concerns about the complexity of the site. (Ex. A34 at 1-2.) ODF issued Mr. Bussman a permit for the operation (the 2018 Bussman Lakeside piece), NOAP 2018-740-03876C. (Ex. A3.)

3. On October 24, 2018, a neighboring landowner contacted ODF with concerns about the harvesting activity on the Bussman property. SF Laine notified the landowner that Mr. Bussman had a permit for the work. SF Laine also agreed to go out to the Bussman property to check out the work being performed under the permit. (Ex. A34 at 2.)

4. On October 25, 2018, SF Laine went to the Bussman property to inspect the area where the trees had been felled. SF Laine determined that Bussman had not felled trees onto the neighboring property or into any high landslide hazard location (HLHL). However, on this visit, SF Laine noted some areas of concern regarding the road construction project. He saw exposed soil in three locations where there was a potential for sediment entering waters of the state. (Ex. A34 at 2.)

5. On October 31, 2018, SF Lane spoke with Mr. Bussman about the operation. They discussed SF Laine's concerns about wet weather road building and the need to keep sediment out of waters of the state. (Ex. A34 at 3.) In a November 1, 2018 comment on the NOAP, SF Laine wrote:

I contacted the landowner and operator today and discussed potential issues with road construction within the notified area. There are concerns with drainage from the road potentially entering waters of the state. The landowner and operator were made aware of the locations and [we] discussed ways to keep sediment out of the waters of the state. I reminded the landowner and operator of the requirements before operating in the HLHL areas of concern that have been identified. I also expressed concerns about any further road construction in the northern end of the

notified area with regards to HLHL areas, and sediment entering waters of the state.

(Ex. A3 at 2.)

6. On February 21, 2019, Mr. Bussmann submitted another notification to ODF through the Department's electronic reporting and notification system (FERNS). This notification set out Mr. Bussman's intent to harvest timber and to continue with the road construction project on the property. ODF granted Mr. Bussman a permit for the operation (2019 Bussmann Lakeside piece), NOAP No. 2019-740-02806. (Ex. A4.) In the comments on the NOAP, SF Quackenbush wrote: "Replacement notification for 2018-740-03876C - change of timber ownership made, new notification submitted and WP, maps and LUC information transferred from previous notification." (*Id.* at 2.)

7. For the period of September 1, 2019 through September 18, 2019, the remote weather station closest to the Bussman property (Charlotte Ridge) registered 12 days of measurable precipitation, including .75 inches on September 15; 1.08 inches on September 17; and 1.17 inches on September 18, 2019. (Ex. A33 at 8.)

8. On September 18, 2019, SF Laine and Unit Forester Ryan Greco conducted a site inspection on the Bussman Lakeside operation and observed what they deemed to be unsatisfactory conditions where the road was being constructed. At what they described as the wetland location at the south end of the property (Site 1), Laine and Greco saw that sediment from the road construction had drained into a wetland area to the left of the road. At a location to the north, described as the lake location (Site 2), Laine and Greco saw that fill and sediment from the road construction had drained through hillside vegetation and made its way into Ten Mile Lake. (Test. of Greco; Ex. A11; Ex. R8.)

9. In his inspection notes for the September 18, 2019 site visit, SF Laine wrote, "Road failure and erosion with sediment delivery at one location, erosion of road surface with sediment delivery in the other location. Lack of effective cross drainage, and failure to remove berms." (Ex. A9.)

10. SF Laine also documented the following in his Case Log notes:

9/18/19 – I performed a site inspection with Unit Forester Ryan Greco. We observed multiple locations with unsatisfactory conditions and damage[] had occurred. Specifically the road work had not provided proper drainage, causing sediment to enter waters of the state. This resulted in a Violation and I began the process of issuing a citation. I contacted the landowner, let Mr. Bussman know that he had a problem with the operation, and set up a time to meet with him the next day.

(Ex. A34 at 3.)

11. During the inspection, SF Lane and Unit Forester Greco took numerous photographs

at Site 1 and Site 2 to document the drainage damage, loss of fill material, and sediment trail. (Ex. A11.) Unit Forester Greco also estimated the extent of the damage, determining that approximately 33 cubic yards of sediment left the roadway at Site 2, and approximately 10 cubic yards drained into the lake. (Ex. A10; test. of Greco.)

12. On September 19, 2019, SF Laine met with Mr. Bussman and his daughter, Ms. Potter, at the Bussman property. SF Laine showed Mr. Bussman the areas of concern and the two locations where damage occurred. SF Laine advised that Mr. Bussmann would be receiving violation notices for the damage to waters of the state. In his Case Log notes, SF Lane wrote as follows:

[Mr. Bussmann] acknowledged that there was resource damage. He also acknowledged that the responsibility was his. He and his daughter began to perform the initial work to repair the damage that day.

(Ex. A34 at 3.)

13. On September 27, 2019, SF Laine returned to the property for a follow-up inspection to check on the progress of the repairs. SF Laine found the operation in compliance with the permit. (Ex. A13; Ex. A34 at 3.)

14. On October 4, 2019, SF Laine notified the Oregon Department of Fish and Wildlife (ODFW) and the Oregon Department of Environmental Quality (DEQ) about the resource damage on the Bussman operation. SF Laine wrote:

The operator built a road that has failed. The fill material washed down and delivered sediment to the lake. At this point it is a violation of the FPA rules, and I am in the process of issuing a citation. I have informed the landowner as well as going to the site with them. The landowner has been cooperative. They have started [] repairs and work to prevent further sediment from reaching waters of the state.

(Ex. A17.)

15. On October 7, 2019, SF Laine returned to the property for a follow-up inspection to check on the progress of the repairs. SF Laine found the operation in compliance with the permit. (Ex. A15; Ex. A34 at 3.)

16. On October 11, 2019, SF Laine returned to the property with SF Greg Erb to inspect the ongoing repairs. They determined that additional repairs and protections were necessary at both violation sites to prevent sediment from entering waters of the state. (Ex. A34 at 3.) On October 14, 2019, SF Laine notified Mr. Bussmann of the additional recommended repairs. (*Id.* at 4.)

17. On October 25, 2019, SF Laine emailed Mr. Bussmann a list of short-term and long-term repair work to be done on the property. The repair list was intended as a preview of the

forthcoming notice of violation and repair orders. (Ex. 18.)

18. On October 29, 2019, ODF issued Mr. Bussmann a Notice of Violation/Citation, Order to Cease Further Violation, and Order to Repair Damage or Correct Unsatisfactory Condition Caused by Violation (Violation Notice) in ODF Case numbers 19-CS021 and 19-CS022. ODF also sent Mr. Bussman a copy of Forest Practices Note 7, a document describing ODF's civil penalties process. (Ex. A1.)

19. In Case 19-CS021, ODF alleged that on September 18, 2019, Mr. Bussmann "failed to provide effective cross drainage on all roads, including temporary roads," in violation of OAR 629-625-0420(2), causing erosion on the road surface and fill slopes, resulting in sediment being deposited into waters of the state. (Ex. A1 at 2.) ODF ordered Mr. Bussman 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 3.)

20. In Case 19-CS022, ODF alleged that on September 18, 2019, Mr. Bussmann "failed to remove berms on edges of roads or provide effective drainage through these berms, except for those berms intentionally designed to protect road fills," in violation of OAR 629-625-0420(5), causing water to concentrate on, and run down the road surface, causing erosion of the road surface and road fills, resulting in sediment from the road and fill entering waters of the state. (Ex. A1 at 6.) ODF ordered Mr. Bussman to cease further violation of the rule and directed him to take specific short and long-term actions to repair damage and correct unsatisfactory conditions resulting from the violation of OAR 629-625-0420(5). (*Id.* at 7.)

21. The Violation Notice included information about Mr. Bussmann's right to a hearing on two the citations 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 hearing within 30 days of the date of service or mailing of this Notice and Orders. 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 material 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, 8.)

22. The Department sent the Violation Notice and supporting documentation to Mr. Bussmann via certified and regular mail to his address of record, PO Box 282, Sixes, OR 97476.¹ (Ex. A1 at 1, 14.)

23. Also on October 29, 2019, SF Erb met with Mr. Bussmann and his grandson, Jake, to discuss the short-term and long-term repair work set out in SF Laine's October 25, 2019 email and the Repair Orders. (Test. of Erb; Ex. A19; Ex.A34 at 4.)

24. On November 6, 2019, SF Laine returned to the property for a follow up inspection. He found the operation in compliance with the permit. (Ex. A20; Ex. A34 at 5.) In his Case Log notes for November 6, 2019, SF Laine wrote:

Silt fencing at lower location has been installed on both sides of the road. An additional water bar has been added. A catch basin has also been installed. At the upper location the contractor was in the process of laying straw down over the bare road surface and was nearly complete.

(Ex. A34 at 5.)

25. On November 27, 2019, SF Laine returned to the property once again to check on the status of the short-term repairs listed in the Repair Orders. He determined that all short-term repairs had been satisfactorily completed and long-term repairs still needed to be completed. (Ex. A23; Ex. A34 at 6.)

26. Mr. Bussmann did not request a hearing on either citation referenced in the Notice of Violation notice by the November 28, 2019 deadline. (Test. of Wagenblast.)

27. On December 2, 2019, ODF sent Mr. Bussmann a courtesy letter by regular mail to his address of record, PO Box. 282, Sixes, OR 97476 and by electronic mail advising that the citations in ODF Case Nos. 19-CS021 and 19-CS022 were now final orders by operation of law. The letter, with the reference line "Final Order on Default," stated in pertinent part:

On October 29, 2019, the Department of Forestry sent you a Notice of Violation, Cease Order and Repair Order. Failure to respond to the Agency requesting a hearing by November 28, 2019 has resulted in a Final Order by default. * * *

If you feel there are valid reasons why you could neither schedule the hearing, nor respond in a timely manner to schedule, you may petition for reconsideration or rehearing. * * *

¹ This is the same address Mr. Bussmann provided to the ODF in the 2018 and 2019 notifications of operations. (Exs. A3 and A4.)

This letter serves as a Default Final Order for Case Numbers: 19-CS021 & 19-CS022.

(Ex. A24 at 1.) ODF enclosed a copy of the October 29, 2019 Violation Notice in the December 2, 2019 Final Order letter. (*Id.* at 2-9.)

28. On January 22, 2020, SF Laine returned to the property to check on the repairs. He determined that the repairs were holding, although he noted some “cracking parallel with the road in the center and on the edges with some raveling on the fill” at both locations. (Ex. A34 at 6.) SF Laine returned to the Bussmann property again on February 28, 2020. He determined that the repairs were continuing to hold. (*Id.*)

29. During 2020, SF Laine and SF Erb periodically checked in with Mr. Bussmann about the status of the road construction project on the property. (Ex. A28; test. of Erb.) In a letter to Mr. Bussmann dated January 11, 2021, SF Erb identified concerns about the construction project and explained why the planned road and the specifications were inconsistent with standard road location practices commonly used for forest harvest activities. He suggested that, going forward, Mr. Bussmann obtain approvals and necessary permits from the county and DEQ, and not ODF. (Ex. A29.)

30. On March 10, 2023, SF Laine went to the Bussmann property to check on the long-term repairs required by citation numbers 19-CS021 and 19-CS022. He found the operations in compliance at that time. In his Inspection Notes, SF Laine wrote:

Long-term road repairs as listed in the citations have been completed. Cross drains were installed. Road has been sloped and water bars installed to achieve drainage and maintenance of road surface. Berms concentrating water on the road were removed and fill was moved to a stable location.

(Ex. A30.)

31. Having determined that all short-term and long-term repairs required by the Repair Orders had been satisfactorily completed, the Department conducted a damage estimate for the two violation sites. As to Site 1 (wetland location), ODF determined:

Road sediment entered the wetland from two locations. The road above the wetland and the road next to the wetland. Because of the way the sediment dispersed throughout the wetland there was no way to measure the volume of sediment that actually entered the wetland.

(Ex. A31.) As to Site 2 (lake location), ODF determined:

Loss of fill from the road was measured at 33 cubic yards. The fill traveled downhill approximately 300’ to the lake, dispersing as it went. A visual assessment of delivery to the lake was estimated at 10 cubic yards.

(*Id.*) ODF also concluded that there was no way to remove the sediment from the lake or the wetland without causing more damage. (*Id.*; test of Wagenblast.)

32. As documented in FERNS, ODF’s electronic reporting system, Mr. Bussman has been involved with forest practices operations and ODF permitting process since at least 2015. (Ex. A40; test. of Wagenblast.)

33. On August 12, 2025, the Department sent Mr. Bussmann, at his post office address of record in Sixes, Oregon, the Notice of Proposed Order (Civil Penalty Notice) proposing a civil penalty of \$2,500 based on the two citations – Case Nos. 19-CS021 and 19-CS022 – issued on October 29, 2019, which became final by operation of law on November 29, 2019. (Ex. A2.) Applying the law and standards in effect at the time of the violations in 2019, the Department determined that Mr. Bussmann was subject to a civil penalty of \$1,250 for each violation citation, for a total civil penalty of \$2,500. (*Id.*)

CONCLUSION OF LAW

ODF may impose a civil penalty of \$2,500 against Mr. Bussman for two violations of the Forest Practices Act, Case Nos. 19-CS021 and 19-CS022.

OPINION

As set out above, ODF has proposed assessing a civil penalty against Mr. Bussman in the amount of \$2,500 based on violations of the Forest Practices Act, specifically two violations of OAR 629-625-0420 (2018), occurring in September 2019.² ODF has the burden of establishing by a preponderance of the evidence that it is entitled assess against Mr. Bussmann the civil penalty proposed in the August 12, 2025 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

² ODF amended OAR Chapter 629, Division 625 Forest Road Construction and Maintenance rules in 2022. At the time of the events in issue, OAR 629-625-0420 (2018) stated as follows:

Drainage

- (1) Operators shall clear channels and ditches of slash and other road construction debris which interferes with effective roadway drainage.
- (2) Operators shall provide effective cross-drainage on all roads, including temporary roads.
- (3) Operators shall install drainage structures on flowing streams as soon as feasible.
- (4) Operators shall effectively drain uncompleted roads which are subject to erosion.
- (5) Operators shall remove berms on the edges of roads or provide effective drainage through these berms, except those berms intentionally designed to protect road fills.

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 Forest Practices Act (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) (2018). An “unsatisfactory condition,” as defined in OAR 629-670-0010(9) (2018), means the failure to comply with a practice specified in a forest practice statute or rule that applies to the type of operation conducted.

Whenever the State Forester issues 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, 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) (2018). Pursuant to ORS 527.683, ODF may not impose a civil penalty for a violation of the FPA until the operator 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 (2018). 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) (2018). Except for circumstances not pertinent to this matter, a civil penalty may not exceed \$5,000 per violation. ORS 527.685(1) (2019).³

As discussed in further detail below, in imposing a civil penalty authorized by ORS 527.685, 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.

³ ORS 527.685 was amended in 2022 and increased the civil penalty limit to \$10,000 per 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.
- (h) The cooperativeness of the person incurring the penalty and the person's efforts, if any, to correct the violation.

OAR 629-670-0210 (2018) 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 \$5,000 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:

* * * * *

(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:

* * * * *

(b) A value of 1 is appropriate when the operator has general knowledge of the Oregon Forest Practices Act and rules, but has not had significant past experience with the practice in question, or has significant past experience with the practice, but the violation is determined by the State Forester to be inadvertent or accidental.

* * * * *

(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:

* * * * *

(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.

* * * * *

(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.

The Violations

As set out in the findings above, SF Laine and Unit Forester Greco visited the Bussman road construction operation on September 18, 2019, and observed unsatisfactory conditions at two locations. At Site 1, at the south end of the property, sediment from the road construction had drained into the wetlands to the left of the road. At Site 2 to the north, fill and sediment from the road construction drained down through hillside vegetation and into Ten Mile Lake.

SF Laine promptly notified Mr. Bussman of the unsatisfactory conditions at the two locations and advised that violation citations and repair orders would be forthcoming. On September 19, 2019, Mr. Bussman took immediate action to cease the violation and begin repairs. On October 29, 2019, in accordance with the requirements of ORS 527.680, ODF issued Mr. Bussmann the Violation Notice (including the Cease Orders and Repair Orders) in ODF Case numbers 19-CS021 and 19-CS022.

As set out in the findings above, in Case 19-CS021, ODF alleged that on September 18, 2019, Mr. Bussmann failed to provide effective cross drainage on all roads, including temporary roads, in violation of OAR 629-625-0420(2) (2018), causing erosion on the road surface and fill slopes, resulting in sediment being deposited into waters of the state. And, in Case 19-CS022, ODF alleged that on September 18, 2019, Mr. Bussmann failed to remove berms on edges of roads or provide effective drainage through the berms, except for those berms intentionally designed to protect road fills, in violation of OAR 629-625-0420(5) (2018), causing water to concentrate on, and run down the road surface, causing erosion of the road surface and road fills, resulting in sediment from the road and fill entering waters of the state. ODF sent the Violation Notice to Mr. Bussmann by regular and certified mail, to his address of record in Sixes, Oregon.

Although Mr. Bussman began repairs immediately after he was notified of the violations, he did not request a hearing on either citation referenced in the Violation Notice by the

November 28, 2019 deadline. Therefore, the violations and citations became final by operation of law. Thereafter, by letter dated December 2, 2019, mailed to Mr. Bussman's address of record in Sixes and sent by email, ODF notified Mr. Bussman of the Default Final Order for Case nos. 19-CS021 and 19-CS022. ODF enclosed a copy of the October 29, 2019 Violation Notice in the December 2, 2019 Final Order letter.

Civil Penalty Amount

On August 12, 2025, the Department sent Mr. Bussmann the Civil Penalty Notice in issue herein, proposing a civil penalty of \$2,500 based on the two citations, Case Numbers 19-CS021 and 19-CS022, which became final by operation of law on November 29, 2019. Based on the statutes, rules, and standards in effect in 2019, the Department determined that Mr. Bussmann was subject to a civil penalty of \$1,250 for each citation.

As set out above, for the two violations established in this case, the amount of 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. 19-CS021: For the violation at Site 1 (wetland location), the appropriate civil penalty amount is \$1,250, calculated as follows:

The base penalty ($\$B$) value is \$250 for failing to provide effective cross-drainage in violation of OAR 629-625-0420(2) (2018). OAR 629-670-0210(2)(b) (2018).

The cooperation value (C) is 1 because Mr. Bussmann cooperated with the State Forester. He immediately ceased further violation and took prompt action to repair damage and correct the unsatisfactory condition where feasible. OAR 629-670-0210(3)(b) (2018); ORS 527.685(2).

The prior knowledge value (P) is 1 because Mr. Bussman has been involved with forest practices operations and ODF permitting process since at least 2015. He has general knowledge of the FPA and its implementing regulations, but the State Forester determined the violation to be inadvertent or accidental. OAR 629-670-0210(4)(b) (2018); ORS 527.685(2).

The damage value (D) is 10 based on the nature and extent of resource damage. Sediment from the road construction entered the wetland at two locations and dispersed throughout the wetland. There was no way to measure the volume of sediment that actually entered the wetland, but 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) (2018); ORS 527.685(2). *See also* Exhibit A52.

As to the repair value (R), the State Forester appropriately assigned 0.4 as the degree of damage that occurred and future damage that cannot be prevented even after the repairs are completed. OAR 629-670-0210(6) (2018); ORS 527.685(2).

Applying the formula, $\$250 (1 \times 1) + (\$250 \times 10 \times 0.4) = \$1,250$.

Case no. 19-CS022: For the violation at Site 2 (lake location), the appropriate civil penalty amount is also \$1,250, calculated as follows:

The base penalty (\$B) value is \$250 for failing to provide effective cross-drainage in violation of OAR 629-625-0420(2) (2018) and failing to remove or provide effective drainage through the berms along the edge of the road in violation of OAR 629-625-0420(5) (2018). OAR 629-670-0210(2)(b) (2018).

The cooperation value (C) is 1 because Mr. Bussmann cooperated with the State Forester, immediately ceased further violation and took prompt action to repair damage and correct the unsatisfactory condition where feasible. OAR 629-670-0210(3)(b) (2018); ORS 527.685(2).

The prior knowledge value (P) is 1 because Mr. Bussman has been involved with forest practices operations and ODF permitting process since at least 2015 and has therefore had general knowledge of the FPA and its implementing regulations, but the State Forester determined the violation to be inadvertent or accidental. OAR 629-670-0210(4)(b) (2018); ORS 527.685(2).

The damage value (D) is 10 based on the extent of resource damage. SF Laine and Unit Forester Greco determined that approximately 33 cubic yards of sediment and fill left the road at Site 2, and traveled downhill approximately 300' to the lake, dispersing as it went. Laine and Greco estimated that approximately 10 cubic yards of fill drained into the lake. The State Forester appropriately determined that damage left uncorrected was major in relative effect, with natural self-restoration taking up to 10 years. OAR 629-670-0210(5) (2018); ORS 527.685(2). *See also* Exhibit A52.

As to the repair value (R), the State Forester appropriately assigned 0.4 as the degree of damage that occurred and future damage that cannot be prevented even after the repairs are completed. OAR 629-670-0210(6) (2018); ORS 527.685(2).

Applying the formula: $\$250 (1 \times 1) + (\$250 \times 10 \times 0.4) = \$1,250$.

Mr. Bussmann's Claimed Defenses

At hearing, Mr. Bussman raised several defenses to the citations and the proposed \$2,500 civil penalty. As explained below, these defenses lack merit.

Lack of Notice – Mr. Bussmann first argues that he should be allowed to challenge the underlying citations (which became final by default on November 29, 2019) because, to his knowledge, he did not receive written notice of the violations and his right to request a hearing as required by law.⁴ Mr. Bussmann asserts he has no memory of receiving a written violation notice and that, had he known in 2019 he could have requested a hearing on the Violation Notice, he would have done so then. Mr. Bussmann also asserts that he moved from Sixes to

⁴ See Exhibit R2 at 2.

North Bend “years ago” and stopped receiving mail from the post office box in Sixes at that time.⁵

The record establishes that on October 29, 2019, the Department served the Violation Notice on Mr. Bussmann by regular and certified mail addressed to PO Box 282 in Sixes, OR. This is the same address that Mr. Bussmann provided to the Department in the notifications of operations submitted in March 2018 and February 2019. This was his address of record with the Department at the pertinent time. By mailing the Violation Notice to Mr. Bussman at his address of record, the Department satisfied the requirements of ORS 527.680(1) (requiring the State Forester to mail or deliver a copy of the citation to the timber owner and landowner) as well as ORS 183.415 (setting out the requirements for a notice of right to hearing in a contested case).

Mr. Bussmann asserts the only documentation he recalls receiving was the “required repair work” and he was not made aware of the citations.⁶ However, the record establishes that the citations, the orders to cease violation, and the repair orders were all part of the same document, the Violation Notice issued and served by mail on October 29, 2019. If Mr. Bussmann received the repair orders in written form, then it is more likely than not that he also received the violation citations, the order to cease further violation, and notice of his right to a hearing on the Violation Notice at the same time. Also, as Mr. Bussmann concedes, he was in frequent contact with SF Laine during the fall of 2019, from September 19, 2019, when SF Laine orally notified Mr. Bussmann of the unsatisfactory conditions, until late January 2020, when SF Laine notified him that the repairs were working but there were new concerns about cracking along the road. At any point during this time, Mr. Bussmann could have formally contested the citations alleging violations of OAR 629-625-0420(2) and (5) (2018). He did not do so.

Given these circumstances, Mr. Bussmann is not entitled to relief from default on the Final Orders in Case Nos. 19-19-CS021 and 19-CS022. His claim that he did not receive proper notice of his right to request a hearing in 2019 is unavailing. He has not shown good cause for failing to request a hearing on the Violation Notice.⁷ At this point in the process, Mr. Bussmann is prohibited from contesting the underlying violations. *See, e.g., Farmers Insurance Co. of Oregon v. Stockton*, 112 Or App 120, 123 (1992), citing *State ex rel Nilsen v. Cushing*, 253 Or 262, 265 (1969) (a default judgment against a party “amount[s] to admissions by them of all of the material facts alleged against them.”)

Erroneous or incomplete facts – Next, Mr. Bussmann contends that the Civil Penalty Notice contains false and/or incomplete facts which should preclude imposition of the proposed civil penalty. For example, Mr. Bussmann challenges the statement in the Civil Penalty Notice

⁵ Mr. Bussman did not provide the year or a more specific date for when he and his wife moved from Sixes to North Bend.

⁶ Exhibit R9 at 2.

⁷ Moreover, the appropriate procedure for challenging the underlying violations would have been for Mr. Bussman to file a petition for relief from default or a motion to set aside the December 2, 2019 Default Final Order for Case Nos. 19-CS021 and 19-CS022, rather than collaterally attacking the underlying citations during the civil penalty phase. *See e.g., State v. Godfrey*, 263 Or App 562 (2014).

that rocks were added to the road where the cross-drain culvert was installed. He claims that he added no rock when constructing the road.⁸ Mr. Bussman also maintains that he never removed the berms along the side of the road, and they remain in place to this day.⁹ Mr. Bussmann further contends that these berms were and are an appropriate measure to control and reduce erosion during road construction.¹⁰

Mr. Bussman’s challenges to the findings of fact recited in the Civil Penalty Notice are not relevant or material to the determination of the civil penalty amount. Moreover, as discussed above, Mr. Bussmann is precluded from challenging the underlying violations which became final by operation of law in 2019. The civil penalty, based on the factors and considerations in ORS 527.685 and OAR 629-670-0210 (2018) is warranted and appropriate.

Act of God – Finally, Mr. Bussmann argues that he should not be liable for civil penalties because the damage to the resource (sediment draining into waters of the state) was caused by an act of God, *i.e.*, the significant rainfall during September 2019. This contention also lacks merit. First, there is nothing in the FPA or the Department rules promulgated thereunder that recognizes an “act of God” as an affirmative defense to a FPA violation.¹¹ Second, even if such a defense were recognized in this context, there is nothing about the rainfall amount during September 2019 that was extraordinary or unforeseeable. Moreover, Mr. Bussmann has not demonstrated that the precipitation was the sole cause of the damage or that his road construction activities did not contribute to the sediment delivery to waters of the state.

In short, as the operator of the 2019 Bussman Lakeside road construction project, Mr. Bussmann bears responsibility for compliance with all applicable forest practice laws and rules, responsibility for unsatisfactory conditions resulting from the failure to comply with the laws and rules, and responsibility for any damage caused by the unsatisfactory conditions. ORS 527.630 (2019); ORS 527.680; OAR 629-625-0000 (2018); and OAR 629-625-0420 (2018).

ORDER

I propose ODF issue the following order:

For the violations in ODF Case Nos. 19-CS021 and 19-CS022, Mr. Bussman is assessed a total civil penalty in the amount of \$2,500, as set forth in the August 12, 2025 Civil Penalty

⁸ See Exhibit R9 at 2.

⁹ *Id.*

¹⁰ See Exhibits R5 and R6.

¹¹ In Oregon case law, an “act of God” has been defined as a natural occurrence of “extraordinary” and “unprecedented proportions” that is “not foreshadowed by the usual course of nature, and whose magnitude and destructiveness could not have been anticipated or provided against by the exercise of ordinary foresight.” See *Northwestern Mut. Ins. Co. v. Peterson*, 280 Or 773, 777 (1977), citing *Schweiger v. Solbeck*, 191 Or 454, 464 (1951). For the defense to apply, the natural event must be the sole proximate cause of the injury complained of. *Id.*

Notice.

Alison G. Webster
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 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.

RECONSIDERATION AND REHEARING

Under the provisions of OAR 137-003-0675, you may file a petition for reconsideration or rehearing of the final order with the board within 60 calendar days after this order is served. Any such petition shall set forth the specific grounds for reconsideration or rehearing and the remedy sought. The petition may be supported by a written argument. Under OAR 629-001-0050, you must file a petition for reconsideration as a condition for further appeal.

APPEAL

You may appeal by filing a petition for judicial review with the Oregon Court of Appeals within 60 days following the date the final order on reconsideration or rehearing is issued, or within 60 days following denial of the request for reconsideration or rehearing. *See Oregon Revised Statutes 183.480 et seq.*

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 February 12, 2026, I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 2025-ABC-07388.

By: First Class and Electronic Mail

Ernest A Bussmann
3560 Chinook Ave
North Bend OR 97459
Email: Erniebussmann@yahoo.com

By: Electronic Mail

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

Ashley Ziglinski
Agency Representative
Oregon Department of Forestry
2600 State Stree Bldg D
Salem OR 97305
Email: ashley.m.ziglinski@odf.oregon.gov

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:

ERNEST BUSSMANN

Respondent.

FINAL ORDER

OAH Case No. 2025-ABC-07388

Agency Case No. 19-CS021

19-CS022

The Board of Forestry, at a meeting in Salem on June 3, 2026, by consensus affirms the Notice of Civil Penalty regarding Citations 19-CS021 & 19-CS022 issued by Jon Laine, Stewardship Forester at the time of the violation, and adopts and incorporates by reference the attached proposed order issued by Senior Administrative Law Judge Alison G. Webster, on February 12, 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.

AGENDA ITEM E

Attachment 2

Page 1 of 2

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.