

STAFF REPORT

Agenda Item No.:	F
Work Plan:	Forest Resources Division
Presentation Title:	Proposed Final Order- Scott Churchill
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 a forest practices violation by Scott Churchill and to make a decision on the final order regarding the matter. The Department issued a Notice of Civil Penalty to Scott Churchill for a FPA violation involving diversion/relocating stream flow out of a tributary of Beaver creek into a new manmade channel.

Mr. Churchill contested the Notice of Civil Penalty. The matter was referred to the Office of Administrative Hearings for a contested hearing. Senior Administrative Law Judge Joe Allen conducted the hearing, resulting in a ruling in favor of the Department. ALJ Allen 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. 22-WL012

Mr. Churchill filed a Notification of Operation for a 21.3 acre Commercial Thinning/Selective Cutting operation in Coos County (NOAP 2022-740-06443).

ODF received a complaint concerning a logging operation that had pushed dirt into a creek involving Churchill Road and a culvert crossing and corner section of the road. Stewardship Forester Jon Laine (ODF Coos Bay office) completed a site inspection to investigate and determined there was a violation involving the operation.

ODF issued a citation with orders to cease further violation and to repair for this operation. These enforcement documents were not contested and became a final order. Repairs were completed by Mr. Churchill.

A civil penalty notice (CPN) was issued to Mr. Churchill on August 19, 2025 at which time he contested the civil penalties totaling \$475.00 for the violation. While preparing for the hearing additional information came to light about Mr. Churchills forestry history resulting in an amended CPN being issued reducing the civil penalty to \$350.00 on November 19, 2025. A hearing was held by Office of Administrative Hearings (OAH) on January 21, 2026 in Coos Bay, Oregon. Administrative Law Judge (ALJ) Joe L. Allen 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. 22-WL012 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 March 23, 2026, counting seven calendar days after March 16, 2026.

No exceptions were received from Mr. Churchill.

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 ODF Case No. 22-WL012 Churchill
- (2) Draft Final Order for ODF Case No. 22-WL012 Churchill

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

IN THE MATTER OF:) **PROPOSED ORDER**
)
SCOTT CHURCHILL) OAH Case No. 2025-ABC-07386
) Agency Case No. 22-WL012
)

HISTORY OF THE CASE

On August 19, 2025, the Oregon Department of Forestry, Private Forests (ODF or Department) issued a Notice of Proposed Order and Opportunity to Request a Hearing (Notice) proposing to issue a civil penalty of \$475 against Scott Churchill for alleged violations of the Forest Practices Act¹ (FPA). On August 29, 2025, Mr. Churchill requested a hearing.

On September 5, 2025, the Department referred the hearing request to the Office of Administrative Hearings (OAH). The OAH assigned Senior Administrative Law Judge (ALJ) Joe L. Allen to preside at hearing. ALJ Allen convened a prehearing conference on October 20, 2025. The purpose of the prehearing conference was to identify the issues for hearing, select hearing dates, and establish a calendar of prehearing filing deadlines. Assistant Attorney General (AAG) Matthew Devore appeared with Greg Wagenblast, Civil Penalty Administrator, on behalf of the Department. Mr. Churchill appeared without counsel.

On November 19, 2025, the Department issued an Amended Notice of Proposed Order and Opportunity to Request a Hearing (Amended Notice) reducing the proposed civil penalty from \$475 to \$350 based on a reassessment of Mr. Churchill’s familiarity with the FPA.

A hearing was held on January 21, 2026, in Coos Bay, Oregon. Mr. Churchill appeared without counsel. Terri Churchill and Austin Churchill also attended the hearing. AAG Devore appeared on behalf of the Department with Mr. Wagenblast. Testifying on behalf of the Department were Ryan Greco, Unit Forester for Coos Bay, and Mr. Wagenblast. Mr. Churchill did not provide testimony or call any witnesses on his behalf. The record closed at the conclusion of the hearing on January 21, 2026.

ISSUE

Whether the Department may impose a civil penalty of \$350 against Mr. Churchill for one violation of the Forest Practices Act. ORS 527.683 and 527.685; OAR 629-670-0040(1), -

¹ ORS 527.610 to 527.770, 527.990(1) and 527.992.

EVIDENTIARY RULING

Exhibits A1 through A38, offered by the Department, were admitted into the record without objection. Exhibits R1 through R3 and R13 through R47, offered by Mr. Churchill, were admitted into the record over the Department's objections. The ALJ excluded Exhibits R4 through R12 based on the Department's relevance objection.

FINDINGS OF FACT

1. Scott Churchill is the owner of 21.3 acres of land and timber located at Township 27 South, Range 13 West, Section 11 (T27S, R13W, Sec11), and T27S, R13W, Sec14 in Coos County Oregon (collectively, the subject property). (Test. of Greco; Ex. A3 at 1, 3.)
2. On or about May 13, 2022, Mr. Churchill filed a Notification of Operations/Permit to Operate Power-Driven Machinery (NOAP) informing the Department of his intent to conduct logging operations on the subject property for the purpose of commercial thinning/selective cutting. (Ex. A3 at 1-3.)
3. At the time of filing the NOAP, Mr. Churchill informed the Department that the logging operation would not be conducted within a 50-foot buffer of any stream or waterway. (Ex. A4.)
4. The creek in the immediate vicinity of the subject property is an unnamed, non-fish bearing, tributary to Beaver creek. (Test. of Greco.)
5. On June 24, 2022, Department Stewardship Forester John Laine received a voicemail complaint from a neighbor whose land abuts the subject property to the south. The complainant stated that Mr. Churchill's logging crew had pushed dirt and debris into an unnamed creek as part of work on the logging road necessary to access the subject property. (Test. of Greco; Ex. A5.)
6. On June 27, 2022, the complainant sent Forester Laine an email containing photos showing soil, root, and woody debris nearly covering the entirety of the creek bed and bank. (Ex. A8 at 1-3.)
7. On June 30, 2022, Forester Laine conducted an inspection of the subject property to determine compliance with the Forest Practices Act. Forester Laine observed sediment, root, and woody debris covering nearly the entirety of the creek as it exited a culvert on the left side (downhill side) of the logging road. (Ex. A7 at 1-3: test. of Greco.) Forester Laine determined Mr. Churchill's logging operation was not in compliance with the Forest Practices Act. To address the violations, Forester Laine instructed Mr. Churchill to take remedial measures to prevent soil erosion and stabilize the nearby creek bank including spreading hay and straw over

² The Department amended OAR 629-660-0040 in 2022, after the events giving rise to the proposed civil penalty. As such, the operative version of the rule is applicable to the penalty assessment and calculation.

exposed soil and installing a silt fence. (Ex. A6 at 1-2.)

8. On July 9, 2022, complainant contacted the Department of State Lands and Forester Laine via email and reported that Mr. Churchill had rerouted the unnamed creek by hand-digging a new channel and straightening the natural meander of the creek at that location. The complainant also alleged the new channel was much narrower and shallower than the natural stream channel, raising concerns about stream capacity during high flows. (Ex. A10 at 1-3; test. of Greco.)

9. On July 20, 2022, Forester Laine conducted a second inspection of the subject property to check on the status of the previously ordered remedial and stabilization measures. Forester Lane noted that while the remedial measures had been completed Mr. Churchill had also straightened the channel of the unnamed creek without authorization. Forester Laine advised the landowner that redirecting a stream without authorization was a violation of OAR 629-660-0040(1). (Ex. A14 at 1-2; test. of Greco.)

10. On September 19, 2022, the Department issued a Notice of Violation/Citation, Order to Cease Further Violation, and Order to Repair Damage or Correct Unsatisfactory Condition Caused by Violation. (Ex. A1 at 1-6.) With the notice of violation, the Department included a guide, published by the Department, to compliance and civil penalty assessments. (Test. of Greco and Wagenblast; Ex. A1 at 7-11.)

11. The notice of violation contained the following provisions:

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.)

12. Mr. Churchill did not request a hearing on the Notice of Violation. (Test. of Wagenblast.)

13. On September 23, 2022, the Department issued a letter amending the Notice of Violation to correct an erroneous rule citation. (Ex. A2 at 1; test. of Wagenblast.) Mr. Churchill received the Amended Notice of Violation via certified mail delivered by the United States Postal Service on September 28, 2022. (Ex. A2 at 13.)

14. Mr. Churchill did not request a hearing on the Amended Notice of Violation and that notice became a final order by default. (Test. of Wagenblast and Greco.)

15. According to the Department's Order to Repair Damage or Correct Unsatisfactory Condition, Mr. Churchill was required to complete repairs to the unnamed creek by September 30, 2022. (Ex. A2 at 4; test. of Greco.)

16. On September 29, 2022, Forester Laine conducted a follow-up inspection of the subject property to ascertain how repairs were progressing. At that time, Forester Laine determined that Mr. Churchill's logging operation was in compliance with the provisions of the FPA. Forester Laine found that Mr. Churchill had restored creek to its original channel and made efforts to stabilize the banks to avoid sediment erosion in the creek and downstream waterways. (Exs. A20 and A21; test of Greco.)

17. Based on the post-correction inspection, the Department determined that Mr. Churchill remediated approximately 70 percent of the damage to the water resource. The Department also estimated that 30 percent of the damage to the stream and downstream waterway was uncorrectable. (Test. of Greco.)

18. The Department assessed the damage level as "serious" due to the fact that Mr. Churchill removed a tree of substantial size – from within the wetland riparian area surrounding the creek – that was not expected to regrow within 10 years and because the unnamed creek flows into a fish bearing waterway (Beaver Creek) and the narrow, straightened channel permitted increased flow rates capable of carrying sediment and debris into Beaver Creek. (Test. of Greco.)

19. Once a notice of violation becomes final, the Department moves the matter to its civil penalty queue. Typically, staff working on civil penalty assessments will wait for repairs or remediation to be completed to determine the extent of cooperation from the landowner and extent of uncorrectable damage. (Test. of Wagenblast.)

20. Civil penalty matters may take some time to move through the queue, depending on the extent of repairs necessary, the number of civil penalty cases in the queue, and the number

of staff available to process civil penalty calculations. During fire season, most Department employees focus on fire suppression, reducing the number of staff available to address civil penalty cases. (Test. of Wagenblast.)

21. On October 26, 2022, the Department issued a letter to Mr. Churchill notifying him that the Amended Notice of Violation became a Final Order by Default effective October 25, 2022. In that letter, the Department provided Mr. Churchill with information pertaining to his right to appeal the Final Order by Default. The letter also notified Mr. Churchill that the Department would “next consider issuance and calculations of civil penalties up to \$5,000.” (Ex. A23 at 1; test. of Wagenblast.)

22. Mr. Churchill did not appeal the Department’s October 25, 2022 Final Order by Default. (Test. of Wagenblast.)

23. On August 19, 2025, the Department issued a Notice of Proposed Order and Opportunity to Request a Hearing (Notice) to Mr. Churchill proposing to assess a civil penalty in the amount of \$475 for violations of the FPA addressed in the amended notice of violation. (Ex. A24; test. of Wagenblast.)

24. On August 22, 2025, Mr. Churchill requested a hearing. (Ex. A25.)

25. On November 19, 2025, the Department issued an Amended Notice of Proposed Order and Opportunity to Request a Hearing (Amended Notice) to Mr. Churchill, reducing the proposed civil penalty from \$475 to \$350 after the Department’s civil penalty administrator determined Mr. Churchill had little or no prior knowledge of the FPA’s statutes and rules. (Test. of Wagenblast; Ex. A31.)

CONCLUSION OF LAW

The Department may impose a civil penalty of \$350 against Mr. Churchill for violation of OAR 629-660-0040(1).

OPINION

In this matter, the Department proposes to assess a civil penalty of \$350 against Mr. Churchill based on a single violation of the FPA, specifically OAR 629-660-0040(1) (2021). As the proponent of that position, the Department bears the burden of proving its allegations by a preponderance of the evidence. ORS 183.450(2) and (5); *Reguero v. Teachers Standards and Practices Commission*, 312 Or 402, 418 (1991) (burden is on Commission in disciplinary action); *Dixon v. Board of Nursing*, 291 Or App 207, 213 (2018) (in administrative actions, the standard of proof that generally applies in agency proceedings, including license-related proceedings, is the preponderance standard.) Proof by a preponderance of the evidence means that the fact finder is convinced that the facts asserted are more likely true than false. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

The burden of proof encompasses two burdens, the burden of production and the burden

of persuasion. *Marvin Wood Products v. Callow*, 171 Or App 175 (2000) (Conceptually, the burden of proof encompasses two distinct burdens: the burden of producing evidence of a particular fact (*i.e.*, the burden of production), and the burden of convincing the trier of fact that the alleged fact is true (*i.e.*, the burden of persuasion)). Accordingly, any party advocating a particular position bears the burdens of production and persuasion as to that position.

The Board of Forestry, established under ORS 526.009, is responsible for overseeing forest policy and management practices in the state, with limited exceptions. ORS 526.016. The State Forester, appointed by the Governor, acts as the executive officer of the Department. ORS 526.031. OAR 629-670-0010(7) (2021) defines the “State Forester” to also include any duly authorized representative of the State Forester. *See also* ORS 537.620(17).

Under ORS 527.680, the State Forester is authorized to issue a citation to any operator who has committed a violation of the FPA. An operator includes the land/timber owner who conducts a logging operation. ORS 527.620(13). The State Forester shall also, at that time, issue an order directing the landowner or operator to cease further violation. ORS 527.680(2)(a). The State Forester may also require the landowner or operator to make reasonable efforts to repair damage or correct unsatisfactory conditions. ORS 527.680(2)(b). *See also* OAR 629-670-0130(1),(2) (2021).

OAR 629-660-0040(1) (2021), adopted under ORS 527.710, prohibits channelizing, relocating, or diverting water from any stream, except as allowed in the forest practice rules for construction of roads, stream improvement projects or temporary stream crossings.

OAR 629-670-0010 (2021) provides definitions for the FPA and provides, in relevant part:

(9) “**Unsatisfactory condition**” means the circumstance which exists when an operator or landowner fails to comply with a practice specified in a forest practice rule or statute listed in ORS 527.990(1) or 527.992 and the State Forester determines that all of the following conditions exist:

- (a) The forest practice rule or statute applies to the type of operation conducted;
- (b) The forest practice is necessary to meet the purpose of the statute or rule; and
- (c) The operator has not been exempted from the rule or statute by obtaining approval for, or having obtained approval has not followed, a plan for an alternate practice as prescribed by OAR 629-605-0100.

(10) “**Violation**” means the circumstances which exist any time one or more of the following occurs:

- (a) An operator fails to comply with any provision of ORS 527.670(6)

or (7) requiring notification to the State Forester before commencing an operation.

(b) 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; or

(C) A written statement of unsatisfactory condition has been issued to the operator, the deadline for action has passed and appropriate action has not been taken by the operator.

(c) The operator has failed to follow a procedural practice required in statute or rule including, but not limited to, failure to submit a required written plan.

(d) An operator has failed to comply with any term or condition of any order of the State Forester issued in accordance with ORS 527.680.

Emphasis in original.

Mr. Churchill initiated a logging operation on the subject property in May 2022. In June 2022, the Department received complaints from a neighbor that Mr. Churchill and/or his logging crew had pushed significant amounts of dirt and plant debris into a roadside creek on her property while widening a logging road that crosses her land. On June 30, 2022, following an inspection of the logging road and creek mention in the complaint, a Department forester notified Mr. Churchill that his operation was not in compliance with the FPA and instructed him to remove sediment and debris from the creek and to take remedial measures to prevent soil erosion and stabilize the creek bank.

On July 20, 2022, a Department forester again visited the subject property to ascertain the state of the repairs and remediation in and around the creek. At that time, the Department's forester noted that, while Mr. Churchill's crew had removed silt and woody debris from the creek bed and stabilized the banks with straw and silt fencing, the crew also rerouted the channel of the creek as it exited a culvert under the road, removing a natural meander and narrowing the channel. The Department's forester again notified Mr. Churchill that the logging operation was not in compliance with the FPA.

On September 19, 2022, the Department issued a Notice of Violation/Citation, Order to Cease Further Violation, and Order to Repair Damage or Correct Unsatisfactory Condition Caused by Violation – alleging violation of OAR 629-660-0040(1) for unauthorized rerouting of the unnamed creek – to Mr. Churchill following the July 20, 2022 inspection. The Department amended that notice on September 23, 2022 to correct an erroneous rule citation. The

Department's notices informed Mr. Churchill that he could appeal the decision but had to do so within 30 days. Mr. Churchill did not request a hearing in response to the initial or Amended Notice of Violation.

On October 26, 2022, the Department notified Mr. Churchill via letter that the Amended Notice of Violation had become final by default and that the Department would next consider civil penalties up to \$5,00 per violation. In that letter, the Department also notified Mr. Churchill that he could appeal the final order and provided instructions for doing so. Mr. Churchill did not file an appeal challenging the Department's final order.

ORS 527.992 authorizes the State Forester to assess civil penalties for, *inter alia*, any violation of ORS 527.670 or any rule adopted by the Department under ORS 527.710.³ *See also* OAR 629-670-0200(1) (2021). ORS 527.685 permits the State Board of Forestry to establish, by rule, the amount of civil penalty to be assessed per violation, within the statutory limit. In assessing a civil penalty against a landowner or operator, the Department may consider several factors including:

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

ORS 527.685(2).

OAR 629-670-0210 (2021) sets forth the formula for calculating a civil penalty and provides, in relevant part:

³ ORS 527.710(1) provides, "In carrying out the purposes of ORS 527.610 to 527.770, 527.990 (1) and 527.992, the State Board of Forestry shall adopt, in accordance with applicable provisions of ORS chapter 183, rules to be administered by the State Forester establishing standards for forest practices in each region or subregion."

(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.

* * * * *

(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:

* * * * *

(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

(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:

* * * * *

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

* * * * *

(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. * * *.

On August 19, 2025, the Department issued a Proposed Order and Opportunity to Request a Hearing Case No. 22-WL012 proposing to assess a civil penalty in the amount of \$475 against Mr. Churchill as the owner of the subject property. Using the formula set forth in OAR 629-670-0210 (2021), the Department determined the base penalty (\$B) value to be \$250 for one violation of OAR 629-660-0040(1) pursuant to OAR 629-670-0210(2) (2021). Exhibit A24 at 10. The Department set the cooperation value (C) at 1 because Mr. Churchill cooperated with the State Forester by ceasing further violation and taking prompt action to repair damage where feasible. *Id.* Additionally, the Department initially determined the prior knowledge value (P)

should be set at 1 because it understood Mr. Churchill had general knowledge of the FPA but no prior experience with the rule or practice violated. *Id.* Next, the Department assigned a damage value (D) of 3 based on the nature and extent of resource damage, finding Mr. Churchill deposited approximately three cubic yards of debris in the waterway and, if left uncorrected, that condition would not self-correct within 10 years. Exhibit A24 at 10. Finally, the Department established the repair value (R) to be 0.3 as the degree of present and future damage that cannot be prevented even after repairs were completed. *Id.*

Applying the Department's factors to the applicable formula, $\$B(C \times P) + (\$B \times D \times R)$ results in $\$250 (1 \times 1) + (\$250 \times 3 \times 0.3) = \475 .

In November 2025, the Department's Civil Penalty Administrator, Greg Wagenblast, determined that the Department had overestimated Mr. Churchill's experience with and knowledge of the FPA. Accordingly, Mr. Wagenblast recalculated the proposed civil penalty using a more appropriate factor of .5 for the prior knowledge (P) value. Thereafter, on November 19, 2025, the Department issued an amended civil penalty notice reducing the civil amount to \$350 based on the reduced prior knowledge (P) value. Exhibit A31 at 10. Applying the formula with the revised (P) value, the Department recalculated the civil penalty as follows, $\$250 (1 \times .5) + (\$250 \times 3 \times 0.3) = \350 .

Accordingly, as the owner of the subject property, Mr. Churchill is liable for a civil penalty of \$350 for the damage caused by unsatisfactory conditions resulting from his crew's failure to comply with the forest practice laws and rules.

ORDER

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

Mr. Churchill shall pay \$350 for one violation of OAR 629-660-0040(1) as set forth in the Department's November 19, 2025 an Amended Notice of Proposed Order and Opportunity to Request a Hearing.

/s/ Joe L. Allen

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.

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 March 16, 2026, I mailed the foregoing Proposed Order issued on this date in OAH Case No. 2025-ABC-07386.

By: Electronic and Certified Mail

Scott Churchill
2220 Maine Ct
North Bend OR 97459
Email: Shaggy3doo3@gmail.com

By: Electronic Mail

Greg Wagenblast, Agency Representative
Oregon Department of Forestry
2600 State St Bldg D
Salem OR 97310

Ashley Ziglinski, Agency Representative
Oregon Department of Forestry
2600 State Stree Bldg D
Salem OR 97305

Matthew B Devore, Assistant Attorney General
Department of Justice
1162 Court St NE
Salem OR 97301

Lucy M Garcia
Hearing Coordinator

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

IN THE MATTER OF:

SCOTT CHURCHILL

Respondent.

FINAL ORDER

OAH Case No. 2025-ABC-07386

Agency Case No. 22-WL012

The Board of Forestry, at a meeting in Salem on June 3, 2026, by consensus affirms the Notice of Civil Penalty regarding Citations 22-WL012 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 Joe L. Allen, on March 16, 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.