

Board of Forestry Meeting Minutes

July 25, 2017

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Items listed in order heard.

Complete audio recordings from the meeting and attachments listed below are available on the web at www.oregonforestry.gov

- (1) Handout, [Peter Daugherty- 2017-19 Legislatively Adopted Budget](#), Agenda Item 1
- (2) Handout, [Ernie Niemi Testimony](#), Agenda Item 1A
- (3) Handout, [Craig Patterson Testimony](#), Agenda Item 1A
- (4) Presentation, [Progress Report and Update of Board Work Plans](#), Agenda Item 3
- (5) Presentation, [Proposed Final Order- John West](#), Agenda Item 4
- (6) Presentation, [Specified Resource Sites Rulemaking for Bald Eagles](#), Agenda Item 5
- (7) Presentation, [2017 Fire Season](#), Agenda Item 6
- (8) Presentation, [Forest Practices Act Rule Policy Review](#), Agenda Item 7
- (9) Handout, [Stacy Detwiler Testimony](#), Agenda Item 7
- (10) Handout, [Mary Scurlock Testimony](#), Agenda Item 7
- (11) Handout, [FTLAC Testimony](#), Agenda Item 8

In accordance with the provisions of ORS 526.016, a meeting of the Oregon Board of Forestry Board was held on July 25, 2017 at the Oregon Department of Forestry, State Forester's Headquarters Office, 2600 State Street, Salem, Oregon 97310.

Chair Imeson called the public meeting to order at 9:00 a.m.

Board Members Present:

Nils Christoffersen
Tom Insko
Tom Imeson
Mike Rose

Absent:

Sybil Ackerman-Munson
Cindy Deacon Williams

Chair Imeson noted that Per ORS **183.335(14)** **No Public comment could be made on Agenda Item 4 and 5** Item 4 was a consideration of a proposed final order and items 5, Specified Resource Sites Rulemaking for Bald Eagles was part of a formal administrative rulemaking process with a public comment period that has since closed.

CONSENT AGENDA:

[Listen to audio](#) MP3 – (35minutes – 16.5 MB)

The matters under the Consent Agenda were considered in one block. No Board member requested removal of any item from the consent agenda.

With Board consensus, Items A through D were approved.

A. June 7, 2017 Meeting Minutes

Action: June 7, 2017 meeting minutes approved.

B. 2017 Board Governance Performance Self-Evaluation

Action: Approved the summary evaluation report as the conclusion of the 2017 self-evaluation process.

C. CFF Appointment for New Member

Action: Approved the appointment of Mark Vroman for the Forest Industry representative on the CFF.

D. Request for a Hearing to Expand Lone Pine RPA Boundary

Action: Approval of the landowner's request to hold a public hearing on the subject of providing protection from fire for rangelands in Harney County.

ACTION AND INFORMATION:

(Continued) [Listen to audio](#) MP3 – (35 minutes – 16.5 MB)

1. **STATE FORESTER AND BOARD MEMBER COMMENTS**

State Forester Peter Daugherty provided a handout ([Attachment #1](#)) that summarized the Legislatively Adopted Budget.

He gave updates on the Legislatively Adopted Budget, legislative session, and the State Forest policy topic. He also recognized the employees who participate in the summer to protect forest from fire.

Legislatively Adopted Budget

- The Budget establishes a Special Purpose Appropriation in the Emergency Fund to pay for fire severity and fire insurance premium costs.
- Adds one new aviation coordinator position to manage severity resources.
- Enhances the agency's capability to support Rangeland Protection Associations (RPAs) by fully funding the RPA coordinator position, and providing additional resources.
- Continues the Federal Forest Restoration Program as a permanent program.
- Additional funding for Sudden Oak Death eradication treatments.
- Bond proceeds (debt financing) to replace the aging ODF Unit Office Facilities Compound located in Toledo.
- Bond proceeds (debt financing) to compensate the Common School Fund for preserving certain non-economic benefits of the Elliott State Forest.
- Funding for developing a Request for Proposals to complete the technical work needed to complete a Habitat Conservation Plan for the Elliott State Forest.

Reductions include Private Forests funding, Agency Admin funding, Common School Lands, funding to forest patrol assessments, and Statewide cost containment reductions.

Legislative Update

- ODF staff tracked four hundred and nine bills. Of these, only fifteen flagged as a high priority for tracking passed both chambers and will be signed by the Governor.
- Seven of these bills were budget-related, including our agency budget, the bonding bill, the end of session bill and our harvest tax bill.
- Five bills were statewide bills, dealing with public records, procurement practices or related to Human Resources.
- Three policy bills passed that had an explicit intersection with ODF core business and relate to recreation, SB 327, SB116, HB 3350
- One other bill noted was SB 847, which establishes a Trust Land Transfer program for Common School Land properties. These properties are owned by the Department of State Lands. The public testimony on this bill included a lot of discussion on the Elliott State Forest.

State Forester Daugherty also mentioned the policy discussions on the Forest Practices Act and aerial herbicide notifications that did not move forward.

State Forest Policy Topic

- Liz Dent, State Forests Division Chief and her staff organized and conducted a workshop focusing on Forest Management Plan (FMP)/financial viability with State Forests' field managers to gain a common understanding and collective thinking on the range of constraints that each district faces and what could be modified in the plan to best reduce those constraints.
- Diversity among Districts. Structure based management is efficient and effective in some districts while not so in others. A flexible forest management plan that provides allowances in how and where silvicultural strategies are applied may help address this diversity.
- Departure from Even Flow. We currently strive for non-declining even-flow of timber. Allowing for a departure from even-flow may increase flexibility to react to market conditions, address forest health and stand productivity, and improve financial outcomes.

State Forester Daugherty talked of re-initiating the FMP revision process with subcommittee meeting on August 3. The intent will be to re-familiarize the committee with the work that has been conducted to date; discuss principles and goals as policy sideboards for decision-making; and describe the process moving forward.

1A. Public Comment

Ernie Niemi from Natural Resource Economics, provided oral and written public testimony ([Attachment #2](#)). He encouraged the Board to look at the overall ecosystem, including the benefits, rather than just the cost of leaving trees unlogged on stream sides. This topic was in conjunction with the recent economic analysis report done for the riparian rule change. Mr. Niemi provided an additional report for the Board's review, highlighting the need to approach the subject looking for the optimal net benefits for forests in general.

The Board asked for clarification from Mr. Niemi on this research and what it intends them to understand from it. The Board asks if it only describes the benefits of unlogged forests or watersheds in general. Ernie Niemi responded that it gave a more encompassing view of total ecosystem services and benefits of a watershed in general not specifically an unlogged forest.

Craig Patterson Written Testimony ([Attachment #3](#))

2. COMMITTEE FOR FAMILY FORESTLAND ANNUAL REPORT [Listen to audio](#) MP3 – (12 minutes – 5.7 MB)

Kyle Abraham Private Forest Deputy Chief and Dr. Ed Weber, Chair for the Committee for Family Forestlands, mentioned providing the 2015-16 annual update in November and are now back on track with updates provided annually in June.

Dr. Ed Weber acknowledged the support received from the Private Forest staff and Oregon Department of Forestry (ODF). Dr. Ed Weber acknowledged contributors including: Oregon Small Woodlands Association, the Oregon Forest Resources Institute, Oregon Tree Farm System, the American Forest Foundation and Oregon State University College of Forestry and Extension.

Dr. Ed Weber discussed prioritized topics for the next year:

- Water quality: voluntary efforts by forestry landowners, complexity and time burdens were simplified and reduced in order to capture the public value added.

- Ecosystem services: there is a need for ecosystem service programs to contribute to natural resource health.
- Ritter Land Management Team Collaborative Project: this is a successful private forest collaborative.
- Seedling Availability: hard to get due to unplanned harvesting and they have made efforts and they believe progress is being made with the seedling workgroup and encourage the BOF to support these efforts now and into the future.

Chair Imeson asked what is next in regard to ecosystem services.

Dr. Weber replied that they need to collect info on what the public value being added is, and that would be the next step.

State Forester Daugherty mentioned that is an issue that was brought up in the riparian rule analysis and the economic impact. It's hard to quantify that impact from the riparian area management practices and can be challenging for obtaining payments. Recommendations for the farm bill includes a request for a pilot program under the conservation resource enhancement program (CREP) to create a CREP analog for forest riparian areas. An analog could be made for taking the riparian area and active management for wood production out of the equation and then have a similar lease payment to land owners.

The Board asked about the seedling stock and if there any sense that the market is responding?

Kyle Abraham feels there is a response, but it is a slow market and they are taking small steps. They did receive a grant from Forest Service which helps them move in that direction for small landowners.

Motion made by Nils Christoffersen to accept the Committee for Family Forestlands annual report and to consider the Committee's policy recommendations.

Tom Insko seconded the motion

All in favor. Motion Passed.

Action: The Board accepted the Committee for Family Forestlands annual report and will consider the Committee's policy recommendations.

3. PROGRESS REPORT AND UPDATE OF BOARD WORK PLANS, JULY 2017-APRIL 2018

[Listen to audio](#) MP3 - (18 minutes – 8.5 MB)

Presentation ([Attachment #4](#))

Chad Davis, Director of Partnership and Planning was joined by Doug Grafe, Division Chief of Fire Protection, Liz Dent, Division Chief of State Forests, and Lena Tucker, Division Chief of Private Forests.

Each department highlighted significant changes to their work plans. The work plans are updated at the end of each two years and will be reset at the upcoming fall retreat in October.

In March 2018, the Board will adopt the new plans and approve legislative concepts at the same time.

Information only.

4. PROPOSED FINAL ORDER REVIEW- JOHN WEST

[Listen to audio](#) MP3 – (20 minutes, 9.3 MB)

Josh Barnard, Private Forest Field Support Manager and Greg Wagenblast, Civil Penalties Administrator asked the board to consider the hearing record for the contested order of the State Forester and make a decision concerning the matter.

The orders contested included John West’s stream crossing failing to meet 50 year storm event and the stream crossing failing to meet fish passage requirements. Greg Wagenblast went over pictures of the culvert and property, inspection reports, warnings, violations, and the administrative law judge (AJ) requirements.

Chair Imeson summarized the discussion before the Board:

“We are ready to consider and review the proposed final order for case numbers 16-SW046 and 16-SW047 issued by Administrative Law Judge (ALJ) Rick Barber on June 19, 2017. This proposed final order contains the recommendation by ALJ Barber that John West has violated the Forest Practices Act in the installation of the culvert crossing over Brimstone Gulch and must repair or replace the crossing in a manner to be approved by ODF. The agency is recommending to amend the finding to remove “to be approved by ODF” and add “consistent with OAR 629-625-0320(2) and Forest Practices Technical Notes Number 4 & 5 by September 15, 2017.” The hearing was held at the request of John West, known as the respondent. The respondent was issued 4 citations which included: failure to notify, failure to submit a statutory written plan, failure to provide fish passage and failure to design crossing to pass a 50 year peak flow. The respondent is contesting the Repair Orders involved with fish passage and 50 year peak flow requirements that instruct the respondent to file a notification, submit a written plan and remove the existing culvert and either do not install any crossing or install a crossing structure consistent with the Oregon Forest Practices Act to allow for fish passage and a 50 year peak flow.”

The Board did not take argument or testimony on this order because no exceptions to the proposed order were filed.

The issues included

- Whether the 2014 crossing replacement over Brimstone Gulch was an “operation” under the Forest Practices Act (FPA), as defined in ORS 527.620(12);
- Whether, if it was an operation under the FPA, Mr. West was an “operator” as defined in ORS 527.620(13);
- Whether Mr. West violated the FPA in the following particulars:
 - Failing to notify ODF of the 2014 crossing replacement
 - Failing to provide a written plan to ODF for the crossing replacement
 - Installing a culvert crossing that did not meet FPA requirements for 50 year peak flow and fish passage; and
- Whether, if Mr. West violated the FPA, he must correct the violations in compliance with the FPA.

Staff recommended the Board to adopt the draft Final Order (Attachment 2) which incorporated and modified the ALJ's proposed order (Attachment 1) to clarify ODF's authority and the timeline for making repairs as the Board's Final Order.

Motion moved by *Tom Insko* and seconded by Mike Rose. All in favor, Motion carried.

Action: the Board adopted the draft Final Order (Attachment 2) which incorporates and modifies the ALJ's proposed order (Attachment 1) to clarify ODF's authority and the timeline for making repairs as the Board's Final Order.

5. SPECIFIED RESOURCE SITES RULEMAKING FOR BALD EAGLES

[Listen to audio](#) MP3 – (8 minutes 3.8 MB)

Lena Tucker, Private Forest Division Chief, *Jennifer Weikel*, ODF Biologist and *Josh Barnard*, Field Support Manager, covered the final piece of the Bald Eagle Rulemaking Process (Presentation [Attachment # 6](#)). They covered the past board decisions, public comments, the changes to the draft rules, and the recommendation to approve the final Bald Eagle Rules and direct the Department to file the final Bald Eagle Rules with the Secretary of State.

Next steps will include filing the rules and having them become effective in September 2017.

Mike Rose made the motion to approve the rules, Nils Christoffersen seconded the motion. All in favor, motion carried.

Action: The Board approved the final Bald Eagle Rules and directed the Department to file the final Bald Eagle Rules with the Secretary of the State.

6. ANNUAL TOPIC: 2017 FIRE SEASON UPDATE

[Listen to audio](#) MP3 – (31 minutes – 14.8 MB)

Doug Grafe, Chief of Fire Protection, and Ron Graham, Deputy Fire Chief, went over the 2017 Fire Season Update so far with a PowerPoint ([Attachment #7](#)). The presentation covered the current season but did not include the lightning events that had happened in the last 24 hours.

Topics covered included wildland fire potential outlooks for 2017, drought monitoring and outlooks for July 2017, ODF significant fire potential, fuels and behavior in Eastern Oregon, current fire activity stats, a large fire tracking map, current fires, and fire preparedness to minimize fire size, suppression cost, and resource loss during the eclipse.

Information Only.

7. FOREST PRACTICES ACT (FPA) RULE POLICY REVIEW

[Listen to audio](#) MP3 – (95 minutes – 44.6 MB)

Lena Tucker, Private Forest Division Chief and Terry Frueh, Interim Manager for Forest Health and Monitoring reported to the Board regarding their prioritization in the monitoring strategy to review riparian protections in Eastern Oregon and Siskiyou forest practices geographic regions.

Lena Tucker indicated that this is an update on the process and there is not a decision making piece at this time. Budget reductions and decision making planning has delayed some of the process.

Terry Frueh went over the policy review presentation ([Attachment # 8](#)) and discussed how to create a good decision making framework to help the department categorize the information.

During the presentation Terry Frueh covered topics including:

- Why Private Forests Division conducts rule reviews
- Why ODF is looking over the streamside protections in the eastern Oregon/ Siskiyou regions
 - The ODF Project Charter including developing: Which topics to focus on, where, and the level of study rigor and timeframe
- What are the pieces involved in creating a decision making process
- Scoping the decisions
- Stakeholder views, miles of streams, ownership, georegion and stream type.
- Voluntary measures, harvest type, harvest notifications by stream type and georegion,
- Preliminary results and levels of rigor needed for decision making,
- Board policy decisions,
- DRAFT decision matrix and next steps.

Lena Tucker addressed the Board's question for clarity that the point of the agenda item was to update the Board on their role to decide what questions to address, then for the Private Forests Division to design a study to address those questions.

Peter Daugherty clarified that this work stems from the Department's efforts to assess adequacy of protections to meet water quality standards for small and medium fish streams. He walked through the steps that got the Board to this process for eastern Oregon and Siskiyou, which included asking if they wanted to focus on water quality standards or if they wanted to have a more holistic approach. State Forester Daugherty indicated to the Board that they needed a decision framework to help the Board decide on the monitoring question(s), geographic location, and level of rigor for the Department to address via monitoring.

Discussion ensued about the process of creating the framework for answering these monitoring questions.

Terry Frueh went over past examples of decisions on monitoring questions, geographic scope, and level of rigor.

The Board asked about scoping and to what degree the partner agencies have weighed in and their role in this question. Terry Frueh responded that we are working with these other agencies and incorporating their input in the process. The Board mentioned how ODF needs to look at the idea if there is a real threat or risk from forest management today or not that the Board needs to respond to.

Public Comment

Stacy Detwiler, Conservation Director at Rogue Riverkeeper gave verbal and written testimony ([Attachment #9](#)). Water prevention rules did not include the Siskiyou region. They are concerned about the delays and timeline that is extended in looking at this additional area. In their region the temperature has increased. They are asking the Board to commit to a specific timeline to finalize the monitoring questions and implement the strategy and consider monitoring questions related to expanding the scope of inference of RipStream and other studies to include the Siskiyou and eastern Oregon.

Mary Scurlock, representing the Oregon Stream Protection Coalition gave verbal and written testimony ([Attachment #10](#)). She feels the project focus is too broad. Her testimony focused on the timeline and preliminarily Board advisory committees input. She points out that the origin for this scoping process comes from the exclusion of the Siskiyou and eastside from the SSBT protecting coldwater rulemaking. They advise the board to prioritize adequacy of the stream protection rules to protect stream temperature in these regions, paying attention to specific parameters of state water quality standards for stream temperature. She touches on points about rigor, the adequacy around specific issues, and the imbalance of stakeholder input.

Heath Curtiss, from the Oregon Forest and Industries Council gave verbal testimony. He touched on section 714 of chapter 527 which requires a certain level of rigor. He indicated that the Board may need to spend more time making sure that they are doing something worthwhile before they do it. Areas where there is a great deal of dispute about what the science says will need more analysis. He would offer that one of the relevant factors in the rigor of the analysis in their view is not agency resources and what is the appropriate level that would support a rulemaking and if ODF does not have those resources then they will need to be found elsewhere. He encourages the Department's review of abundant resources already existing around the impacts of forest practices in eastern Oregon with an eye toward outcome management. He feels that focusing on individual parameters would be a mistake. He thinks the Board will be satisfied with current outcomes in the Eastern Oregon area for the Forest Practices Act.

Bob Van Dyke from the Wild Salmon Center gave verbal testimony. He pointed out that the driver behind this being an agenda topic is the concern about the Siskiyou being left out of the PCW decision so that is where they encourage the Board to start. He encourages for the Board to examine why this area was left out and focus on that narrow topic to move things forward quickly and utilize existing information to move forward with this topic.

The Board asked Heath Curtiss for more information on the Siskiyou region. He answered that a review of the available science would be appropriate. *Mary Scurlock* agreed that a literature review by experts should be done and that areas of controversy be explored more thoroughly.

The Board asked Bob Van Dyke about focusing on Siskiyou more than just the East side, and if that was more important at this time. Mr. Van Dyke affirmed this because the East Side would have even more difference than the Siskiyou, which would be a better first step.

Mary Scurlock brought up the idea of grouping together different regions and what that means was discussed.

State Forester Daugherty addressed Terry Frueh about the systematic review of the riparian areas that were studied in the Siskiyou region. Terry responded that either zero or one studies were found

Lena went back over the decision-making framework.

The Board asked about the issues and tradeoffs in forested landscapes where the predominant disturbance is fire and all the additional factors that come into play. Mary Scurlock responded that there may be certain circumstances that we need to consider and that we should be good about including in the review.

The Board asked for clarity to see if the division is trying to refine the review work and a manageable workload? Terry Frueh agreed that we need more science and look at the studies. He wants the Board to know that they don't have the question so the literature review cannot proceed until that is decided.

Peter Daugherty mentioned how the Board should think about how much rigor would be needed to inform their decision-making.

He asked what the Board needed for narrowing the potential monitoring question(s) and if the decision-making matrix would be helpful to them.

The Board asked if the Division is taking opinions and then trying to back it with science, or looking through the science to see what it is telling us.

The staff and Board discussed narrowing the scope.

Lena Tucker discussed possible question types and examples and offered a further discussion to come back to at a later date. Terry Frueh commented about it being a policy call that they will bring information to help inform and will also include values from the survey that will provide perspective.

Lena Tucker talked about the goal not to find out if there is a problem but if the rules are effective in meeting riparian protections policy.

Next steps would be for the Board to discuss this topic again at a future meeting, prior to making a final decision on the scope and scale of monitoring questions. The Board all agreed that would be the best course of action at that point.

Lena Tucker went over the next steps for the staff going forward.

Information Only.

8. FOREST TRUST LANDS ADVISORY COMMITTEE TESTIMONY

[Listen to audio](#) MP3 – (5 minutes – 2.4 MB)

Kathleen Sullivan, Clatsop County Commissioner, spoke on behalf of Chair Josi who could not come and gave written testimony ([Attachment #11](#)).

She made comment on the Trask Paired Watershed study, the State Forest Division business improvement work, Forest Management Plan Revision, forest planning, modeling processes, the ODF planning team, viability of an HCP, and the Solar Eclipse.

Information Only.

9. EXECUTIVE SESSION

Chair Imeson proceeded with the formal Executive Session announcement.

The Board of Forestry entered into Executive Session for the purpose of consulting with legal counsel regarding the Board's legal rights and duties in regards to current litigation or litigation likely to be filed [ORS 192.6600(2)(h)].

No decisions were made during Executive Session.

The Board exited the Executive Session. With no further business before the Board, Chair Imeson adjourned the public meeting at 2:04pm.

Respectfully submitted,
/s/ Peter Daugherty



Peter Daugherty, State Forester and
Secretary to the Board

JN

Approved at the September 6, 2017 Board Meeting