Oregon
Kate Brown, Governor

Department of Forestry
State Forester's Office
2600 State Street
Salem, OR 97310
503-945-7200
FAX 503-945-7212
TTY 503-945-7213 / 800-437-4490
http:/ /www.odf.state.or.us

Samantha Fair
Administrative Law Judge
Office of Administrative Hearings
7995 SW Mohawk St. Entrance B.
Tualatin, Oregon 97602

RE: In the Matter of Brad Reeser
OAH Case No.: 2018-ABC-01648
Agency Case No.: 16-CN029

Dear Judge Fair,

Enclosed for filing are the following documents submitted by the Oregon Department of Forestry ("ODF") in the above-captioned matter:

1. OREGON DEPARTMENT OF FORESTRY'S WITNESS LIST; with certificate of filing/service; and

2. OREGON DEPARTMENT OF FORESTRY'S EXHIBITS LIST and Exhibits A1 through A31; with certificate of filing/service.

Sincerely,

Greg Wagenblast
Civil Penalties Administrator
Oregon Department of Forestry – Private Forest

Enclosures

OREGON DEPARTMENT OF FORESTRY

IN THE MATTER OF BRAD REESER

OAH Case No. 2018-ABC-01648
Agency Case No. 16-CN029

Oregon Department of Forestry's

Witness List and Exhibit Index

Exhibits A1 through A31

Oregon
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Enclosures

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

In The Matter of

Brad Reeser

Respondent.

OAH Case No. 2018-ABC-01648
Agency Case No. 16-CN029

OREGON DEPARTMENT OF FORESTRY WITNESS LIST

	NAME	CONTACT	SCOPE
1.	Brad Reeser	[redacted]	Landowner
2.	Joe Arbow	Oregon Department of Forestry 2600 State Street Salem, Oregon 97310	ODF Stewardship Forester; Observations at the site; contacts attempts with LO
3.	Jay Walters	Oregon Department of Forestry 2600 State Street Salem, Oregon 97310	ODF Forest Practices Field Coordinator; FPA policy coordinator
4.	Levi Hopkins	Oregon Department of Forestry 22965 N Fork Rd SE Lyons, OR 97358	ODF Stewardship Forester; Observations at the site
5.	Greg Wagenblast	Oregon Department of Forestry 2600 State Street Salem, Oregon 97310	ODF Policy Analyst and Civil Penalties Administrator

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The Oregon Department of Forestry ("ODF") may call any or all of the above-named individuals to testify as a witness in the above matter at the time of hearing, and ODF reserves the right to modify or supplement the above Witness List and to call additional witnesses in this matter.

DATED this 3rd day of July 2018.

Respectfully submitted,

Greg Wagenblast
Civil Penalties Administrator
Oregon Department of Forestry – Private Forest

CERTIFICATE OF SERVICE

I hereby certify that on July 3, 2018, I served a full, true and correct copy of the OREGON DEPARTMENT OF FORESTRY'S EXHIBIT LIST upon the party or parties hereto as follows:

Samantha Fair
Administrative Law Judge
Office of Administrative Hearings
7995 SW Mohawk St. Entrance B.
Tualatin, Oregon 97602

☐ by regular mail, postage prepaid
☒ by hand-delivery
☐ by facsimile #_____
☐ by certified mail #_____
☐ Other: _____

Brad Reeser
[redacted]

☒ by regular mail, postage prepaid
☐ by hand-delivery
☐ by facsimile #_____
☐ by certified mail #_____
☐ Other: _____

DATED this 3rd day of July 2018

Greg Wagenblast
Civil Penalties Administrator
Oregon Department of Forestry

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Tualatin, Oregon 97602

- ☐ by regular mail, postage prepaid
- ☒ by hand-delivery
- ☐ by facsimile #_____
- ☐ by certified mail #_____
- ☐ Other: _____

Brad Reeser
[redacted]

- ☒ by regular mail, postage prepaid
- ☐ by hand-delivery
- ☐ by facsimile #_____
- ☐ by certified mail #_____
- ☐ Other: _____

DATED this 3rd day of July 2018

Greg Wagenblast
Civil Penalties Administrator
Oregon Department of Forestry

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

In The Matter of

Brad Reeser

Respondent.

OAH Case No. 2018-ABC-01648
Agency Case No. 16-CN029

OREGON DEPARTMENT OF FORESTRY EXHIBIT INDEX

NO.	DATE	DESCRIPTION	OFFER	ADMIT	PAGES
A1	07/19/2016	16-CN029 citation and repair order packet			8
A2	08/30/2016	16-CN029 corrected citation and repair order packet			8
A3	02/22/2013	Notification of Operation #2013-582-00077 handwritten form filed w/ODF			2
A4	02/22/2013	ODF Notification 2013-582-00077 map			1
A5	02/22/2013	Notification of Operation #2013-582-00077 Landowner & Timber owner printouts			4
A6	June 2014	ODF courtesy reforestation reminder letter			1
A7	12/1994	ODF Forest Practices Notes #2 - REFORESTATION			8
A8	2012/2014	Airphoto of Reeser property – Pre & Post harvest			2
A9	06/27/2016	Photos of violation property			8
A10	06/16/2016	ODF reforestation violation letter			1
A11	2010-2018	Linn County Property Statements			8
A12	09/2006	ODF Forest Practices Rule Guidance Division 600 - Definitions			28
A13	06/2009	ODF Forest Practices Rule Guidance Division 610 – Reforestation Rules			51
A14	09/19/2017	ODF Initial Civil Penalty Notice packet mailed to Mr. & Mrs. Reeser			13
A15	9/26/2017	Returned mail envelope labels from the [redacted]			2
A16	10/09/2017	Research attempts to locate Mr. & Mrs. Reeser			5

A17	10/10/2017	ODF Civil Penalty Notice packet mailed to [redacted]			13
A18	10/18/2017	Phone notes from 10/18/2017 of G. Wagenblast			1
A19	10/24/17	Demand for Hearing			4
A20	11/06/2017	Research to locate Ms. Sarah Stark-Reeser			22
A21	11/28/2017 12/05/2017	Returned documents sent to Ms. Stark-Reeser			2
A22	12/29/2017	Court Documents locating Ms. Stark-Reeser			3
A23	02/13/2018	Final Order by Default			4
A24	02/13/2018	Phone notes from 02/13/2018 of G. Wagenblast			1
A25	02/20/2018	Email 2/20/18 from G. Wagenblast to Mr. Reeser			2
A26	02/20/2018	Response email 2/20/18 from Mr. Reeser to G. Wagenblast			3
A27	03/02/2018	ODF Letter rescinding previous Civil Penalty notice and reissuing a new Civil Penalty			2
A28	03/02/2018	ODF Civil Penalty Notice issued to Mr. Brad Reeser			15
A29	03/12/2018	Email correspondence from Mr. Reeser to G. Wagenblast			4
A30	03/19/2018	Demand for Hearing by Mr. Reeser			10
A31	07/02/2018	Curriculum vitae for Jay Walters			3

The Oregon Department of Forestry ("ODF") reserves the right to modify or supplement this Exhibit List and to submit additional exhibits for its case-in-chief and in rebuttal in this matter.

Dated this 3rd day of July, 2018

Respectfully submitted,

Greg Wagenblast

Greg Wagenblast
Civil Penalty Administrator
Oregon Department of Forestry

For Peter Daugherty, State Forester

CERTIFICATE OF SERVICE

I hereby certify that on July 3, 2018, I served a full, true and correct copy of the OREGON DEPARTMENT OF FORESTRY'S EXHIBIT LIST upon the party or parties hereto as follows:

Samantha Fair
Administrative Law Judge
Office of Administrative Hearings
7995 SW Mohawk St. Entrance B.
Tualatin, Oregon 97602

- ☐ by regular mail, postage prepaid
- ☒ by hand-delivery
- ☐ by facsimile #_____
- ☐ by certified mail #_____
- ☐ Other: _____

Brad Reeser
[redacted]

- ☒ by regular mail, postage prepaid
- ☐ by hand-delivery
- ☐ by facsimile #_____
- ☐ by certified mail #_____
- ☐ Other: _____

DATED this 3rd day of July 2018

Greg Wagenblast
Civil Penalties Administrator
Oregon Department of Forestry

629-1-1-1-001
629-6-3-1-001

OREGON DEPARTMENT OF FORESTRY
NOTICE OF VIOLATION / CITATION

4/97

STATE OF OREGON

County of Linn District North Cascade Operation No. 201358200077

THE UNDERSIGNED STATE FOREST OFFICER CERTIFIES AND SAYS:

THAT ON THE 19th DAY OF July, 2019 AT N/A CLOCK P M

AT (location): T09S R01E S23 NE SW Tax lot: 00803 Site Address: 44100 Highway 226 SE Stayton, OR 97383

(legal description)

NAME Reeser & Stark-Reeser Brad & Sarah

LAST FIRST MIDDLE

RES. [redacted]

CITY [redacted] STATE OR ZIP [redacted] PHONE Unknown

DATE OF BIRTH OCCUPATION SEX

DID THEN AND THERE UNLAWFULLY COMMIT THE FOLLOWING OFFENSE:

Failed to complete planting or seeding within 24 months of a harvest operation that resulted in a reforestation requirement.

IN VIOLATION OF ORS OAR NO. 629-610-0040(3)

RESULTING IN THE FOLLOWING UNSATISFACTORY CONDITIONS:

The harvest area has not been planted or seeded to minimum stocking levels required for the site, resulting in lost productivity.

DATE SERVED 07/19/16 OFFICER Joseph Arbow NO. 5822

☒ COURT APPEARANCE NOT REQUIRED
☐ APPEAR IN ☐ JUSTICE ☐ DISTRICT COURT

ON: DAY OF , 20 , AT M

LOCATED AT

Citation Form.doc/Jaz D

EXHIBIT A1
Page 1 of 8

629: Form
6-3-0-110
(Revised 4/97)

STATE OF OREGON
DEPARTMENT OF FORESTRY

TO: Brad Reeser & Sarah Stark-Reeser

ORDER TO CEASE FURTHER VIOLATION

Pursuant to ORS 527.680(2), you are hereby directed to cease further violation of OAR 629-610-0040(3) which requires that landowner complete planting or seeding within 24 months unless a written plan for natural regeneration has been approved by the State Forester.

ORDER TO REPAIR DAMAGE OR CORRECT UNSATISFACTORY CONDITION CAUSED BY VIOLATION

You are hereby directed to take the following action to repair damage or correct the unsatisfactory condition resulting from violation of OAR 629-610-0040(3):
Complete mechanical and/or chemical site preparation and tree planting by the end of the next full planting season, as necessary to result in at least 200 Free-To-Grow trees of acceptable species by the end of 4 growing seasons following planting AND/OR submit and implement an "alternate plan" for developing forestland for a non-forest use.

Such action is to be completed on or before May 1st 2017.

Date 7/19/16 Joe Arbow
State Forester - Authorized Representative

As provided in ORS 527.700(1), any operator, timber owner or landowner affected by a finding or order of the State Forester issued under ORS 527.610 to 527.730 may request a hearing within 30 days of the issuance of the order. 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.

Failure of the person requesting the hearing to appear at the hearing shall be deemed a default and shall result in a final order being entered upon a prima facie case made on the record of the agency.

This notice becomes a final order unless the above-named party makes a written request for a hearing within 30 days from the date of service or mailing of the notice.

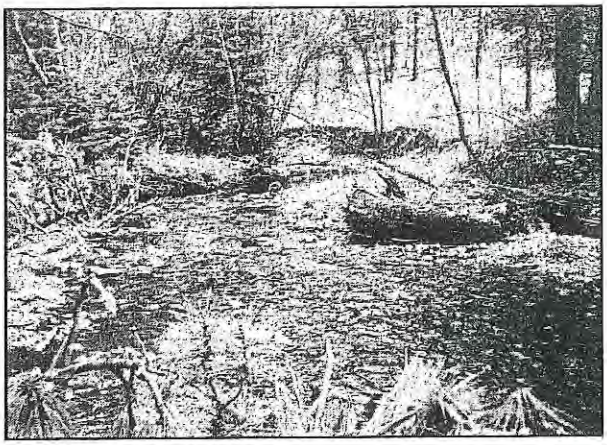
OPERATOR

OrderToCeaseRepairForm.doc/Jaz D (FP)

FOREST PRACTICE NOTES

OCTOBER 2002 NUMBER 7 (Revised)

PUBLISHED BY
THE FOREST PRACTICES PROGRAM
OREGON DEPARTMENT OF FORESTRY
2600 STATE STREET
SALEM, OREGON 97310
http://www.odf.state.or.us



CIVIL PENALTIES

Your cooperation can minimize civil penalty assessments.

Measures can be undertaken to minimize the amount of a civil penalty that is assessed following a Forest Practices Act (FPA) violation in Oregon. If the activities that are in violation are ceased and damage is repaired in a timely manner, where feasible, your cooperation will be considered in assessing a civil penalty.

A primary goal of the Board of Forestry and the Oregon Department of Forestry (ODF) is to protect forest resources.

Even though civil penalties are used to discourage operators, landowners and timber owners from committing violations that could result in resource damage, ODF's Civil Penalty program is primarily focused on preventing and correcting damage to Oregon's forest resources. The program is set up so that resource enhancement and mitigation measures can be substituted for all or part of a civil penalty. Of course, the extent and feasibility of such mitigation depends not only upon your level of cooperation, but your previous record in abiding by the FPA's rules and regulations.

ODF's civil penalty program is primarily focused on preventing and correcting damage to Oregon's forest resources

By making an investment in enhancing the resources protected by the Forest Practices Act that include air quality, water, soil productivity, fish, wildlife and scenic resources, you may be able to offset some or all of the civil penalty you have been assessed.

This is accomplished by entering into an agreement with ODF to perform a resource enhancement project. Projects may include, but are not limited to:

- Planting a greater number of trees per acre in a set timeline for a reforestation violation
- Reconstructing, relocating or vacating roads that present a higher risk to the protection of water quality than if they had been located and designed to current forest practice rule standards
- Restoring or enhancing upstream/downstream fish passage, including replacing crossing structures not designed to current forest practice rule standards
- Restoring or enhancing fish habitat by placing large woody debris or other structures in or adjacent to stream channels
- Retaining conifers adjacent to streams to supplement current forest practice rule requirements that are consistent with forest health considerations
- Restoring or enhancing threatened or endangered habitat or other wildlife habitat
- Restoring or enhancing the protection of salmonid spawning areas
- Controlling noxious weeds or exotic species

(con't on page 2)

EXHIBIT A1
Page 3 of 8

- Reducing the risk of catastrophic fire, or insect or disease damage

In addition, you may also agree to donate all or an agreed-upon portion of the penalty to a local watershed council or other program that does habitat enhancement projects.

Forest practices foresters (FPFs) issue written statements in an attempt to avoid resource damage and citations or penalties.

Forest practices foresters who work in ODF district and unit offices are responsible for administering FPA rules and monitoring forest operations on state and private forestlands. If a forest practices forester discovers you have not followed the forest practice rule, but determines there is still time to correct the action and prevent damage, you will receive a *written statement of an unsatisfactory condition*. The FPF will consider:

- Local site conditions
- Weather forecasts
- Availability of equipment
- Your expertise to accomplish the job
- Access to the site.

Although a written statement is *not* a citation, a citation will follow if steps aren't taken to correct the situation or resource damage occurs before action is taken. The written statement will include:

- A description of the problem
- The corrective action that should be undertaken
- A deadline for the work to be completed
- A notice that enforcement action will be initiated if damage results before the corrective action is completed or if the action is not completed by the date specified.

When written statements are followed and damage is avoided, you are considered to have complied and no citations or penalties are issued. Written statements are also often appropriate for administrative violations such as failure to notify, failure to obtain prior approval or failure to have an approved written plan.

If resource damage has already occurred, citations are issued.

If the FPF determines damage has already occured, or there is not enough time to correct a situation before damage occurs, a citation will be issued. The determination of resource damage is not necessary for administrative violations. The citation will be accompanied by an order to

The Forest Practices Act (FPA)

The 1971 Forest Practices Act (FPA), administered by the Oregon Department of Forestry (ODF), requires landowners to use specific forest management practices to protect forest resources. There are regulations for:

- Reforestation
- Constructing & maintaining roads
- Timber harvesting
- Applying chemicals
- Disposing of logging slash

Forest resources protected by the FPA include:

- Air
- Water
- Soil
- Fish and wildlife
- Scenic resources along Oregon's highways

Enforcing the FPA

ODF emphasizes education and planning to achieve the purposes of the FPA. This is accomplished through operator education programs, on-site inspections, written recommendations for avoiding resource damage and requiring prior notification of operations and written plans.

In 1987, the FPA was amended to include civil penalties for enforcement. Prior to this change, criminal penalties were the only enforcement method.

The Civil Penalty program is very effective. Throughout the 1990s, the Board of Forestry continued to improve the program by addressing new rules, making administrative corrections and refining enforcement policies. In 2002, the board adopted additional administrative and policy changes, and the Central Hearing Process was initiated.

EXHIBIT AGENDA ITEM D
Page 4 of 8
Attachment 3
Page 14 of 115

Forest Practices Foresters (FPFs) and the Oregon State Forester's Office Enforce the Forest Practices Rules

Forest practices foresters in ODF district and unit offices are responsible for administering FPA rules and monitoring forest operations on state and private forestlands in Oregon. Each FPF is responsible for an assigned geographic area. Civil penalties staff, under the direction of the Forest Practices program director, directs the policy of the program and provides support to FPFs around the state.

FPFs review operation notifications filed in their administrative area and prioritize them based on the type of resources requiring protection. Inspections are concentrated on operations with the highest potential for damage.

FPFs are also responsible for granting prior approval and approving written plans for certain forest practices. Once an operation begins, an FPF will continue to monitor the operation for compliance with the FPA. Recommendations are made to the operator, when necessary, to avoid problems or rule noncompliance.

cease further violation and repair resource damage, if necessary and feasible. Copies of the citations are always sent to the landowner and timber owner.

If you disagree with a citation, the local ODF district office should be contacted *before* a penalty is assessed.

You may review the facts of your case with the FPF and supervisor before a civil penalty is assessed.

A consent order to do additional repair work or a mitigation project can potentially reduce a civil penalty assessment.

After the FPF issues a citation with orders to cease further violation and repair damage, you and the district, may discuss the possibility of doing additional repair work or completing a mitigation project. The possibility of revising operational procedures to prevent future problems may also be discussed. Salem staff may be involved in this process. These actions could potentially offset a portion of the civil penalty or the entire civil penalty if the work is done in a timely manner.

If an agreement is reached, a "consent order" will be prepared. A consent order is a binding document indicating your commitment to perform mitigation. You also waive current appeal rights. When you meet the terms of the order, no additional penalty is assessed. Failure to meet the terms will most likely result in efforts to collect suspended penalties (or to impose additional ones).

In addition, the civil penalty staff may, after consultation with the district, contact you and offer a settlement prior to assessing a civil penalty.

However, if terms of the agreement are not met, additional action may be taken.

If you do not enter into a consent order and the deadline for completing repairs has passed, the civil penalty staff will assess a penalty.

You will be notified of the civil penalty by certified and first class mail or by personal service. The notice includes:

- A reference to the particular statute, rule, or standard.
- A short statement of the alleged violation
- A statement of the amount of the penalties imposed and how they were calculated
- Statements about how and when a hearing, collaborative dispute resolution or mitigation of the penalty can be requested.

ODF may be required to use other civil remedies to repair damage if corrective action was required and not completed in a timely manner.

These civil remedies could include ODF obtaining court orders to force compliance. The Board of Forestry can also complete the repairs and bill the costs to the landowner, timber owner or operator. If these charges are not paid, a joint lien can be held against the real and personal property of the operator, timber owner and landowner.

EXHIBIT A2 AGENDA ITEM D
Page 5 of 8 Attachment 3

A formula is used to provide a uniform and consistent system of assessing forest ractices civil penalties.

Copies of citations, along with any other information pertaining to the violations, are sent to the ODF Civil Penalty Administrator. The administrator reviews the circumstances of each violation and determines the amount of the penalty to be assessed by applying a formula set by the Oregon Board of Forestry.

The assessment begins with a base penalty of $100 to $1,000, depending upon the type of violation. Other factors are then applied to the base penalty, including:

- The operator's level of cooperation
- The operator's knowledge and record of previous violations
- The severity of the damage created by the violation
- The extent that damage has been repaired or mitigated.

The minimum penalty is $25. However, any penalty less than $100 will be suspended, unless additional violations occur within the next year. The maximum civil penalty is $5,000.

NOTE: Violations involving the harvest of trees required o be left for resource protection can be regarded as multiple violations, each subject to a penalty of up to $5,000.

The civil penalty formula is designed to determine a penalty that is just enough to demonstrate that it is more cost efficient to conduct an operation in compliance with the forest practice rules than it is to violate them.

The objective of the rules is to have the penalties serve as a deterrent to prevent future violations. All monies collected through civil penalty assessments go directly to the state's General Fund account; the money is not directed to any particular agency or budget.

Besides being subject to a civil penalty, an operator can be cited to court. Criminal penalties, however, are usually only used for serious violations.

Criminal penalties may be sought in cases where, in the udgement of the State Forester, the operator acted intentionally, knowingly, or recklessly. This enforcement method can also be used when the operator has made substantial financial gain in excess of the amount recoverable by a civil penalty.

When criminal penalties are sought, the citation is presented to the District Attorney where the violation occurred, along with a case brief, for the misdemeanor prosecution.

Contesting a civil penalty requires you to submit a written request to the Oregon Board of Forestry.

If you are issued a civil penalty, you have the right to contest the penalty before a hearing officer through the contested case hearing process. This process is established in statute with administrative rules set by the Attorney General. The Oregon Board of Forestry has adopted those rules for its hearing processes. To contest a penalty, *you must submit a written request for a hearing within 20 days from the day that the civil penalty notice is served.* In addition, you may request mitigation of the penalty, and/or collaborative dispute resolution.

When requesting a hearing, or within ten days of making the initial request, you must state in writing:

- What is true or false about the matters stated in the notice of penalty and
- Your arguments and facts that contradict the findings in the penalty notice.

In many cases, an agreement may be reached outside the formal hearing process, with all parties signing a consent order.

A hearing officer from the Central Hearing Panel will hear any case that cannot be settled informally or through mediation.

Hearings will be held not less than 45 days and not later than 180 days from the day the notice of penalty was served, unless all parties agree to set aside the time limit.

Hearings are held at an ODF field office or by telephone. The hearing officer will then summarize the facts and propose an order to the board. The proposed order is presented for action at the next scheduled board meeting.

After the board reviews the proposed order and any exceptions, it makes a decision and issues a final order. All involved parties receive a copy of the final order. The Oregon Court of Appeals may review final orders in contested cases.◆

EXHIBIT B-1
Page 6 of 8

Certificate of Service

RE: In the Matter of Brad Reeser and Sarah Stark-Reeser, Notice of Violation, Orders to Cease Further Violation and Repair Damage or Correct Unsatisfactory Condition Case No. 16-CN029

I HEREBY CERTIFY that I have made service of copies of the foregoing Notice of Violation and Orders to Cease Further Violation and Repair Damage or Correct Unsatisfactory Condition upon the following party by causing them to be **mailed in the United States Post Office** at **Lyons**, Oregon, on **07/19/16**, a true, exact and full copy thereof, enclosed in an envelope **with postage thereon prepaid addressed to:**

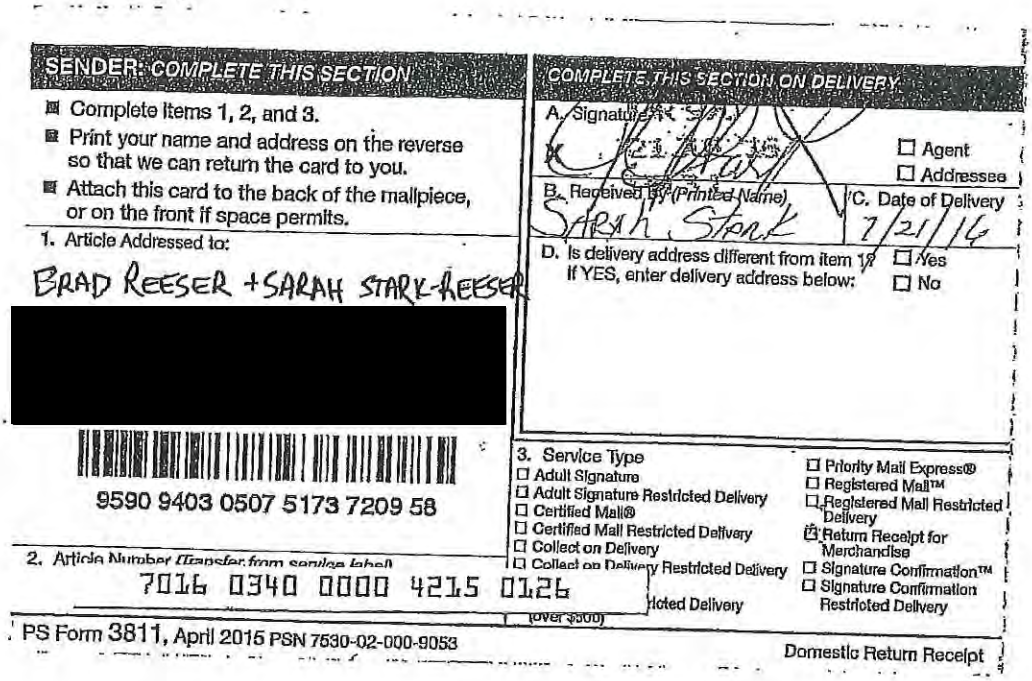
Brad Reeser and Sarah Stark-Reeser
[redacted]

By CERTIFIED MAIL and FIRST CLASS MAIL

Joe Arbow 7/19/16

Joe Arbow
North Cascade District/Santiam Unit 503-859-2151

EXHIBIT A1
Page 1 of 8



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

BRAD REESER + SARAH STARK-REESER

[redacted]

9590 9403 0507 5173 7209 58

2. Article Number (Transfer from service label)

7016 0340 0000 4215 0126

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) SARAH STARK

C. Date of Delivery 7/21/16

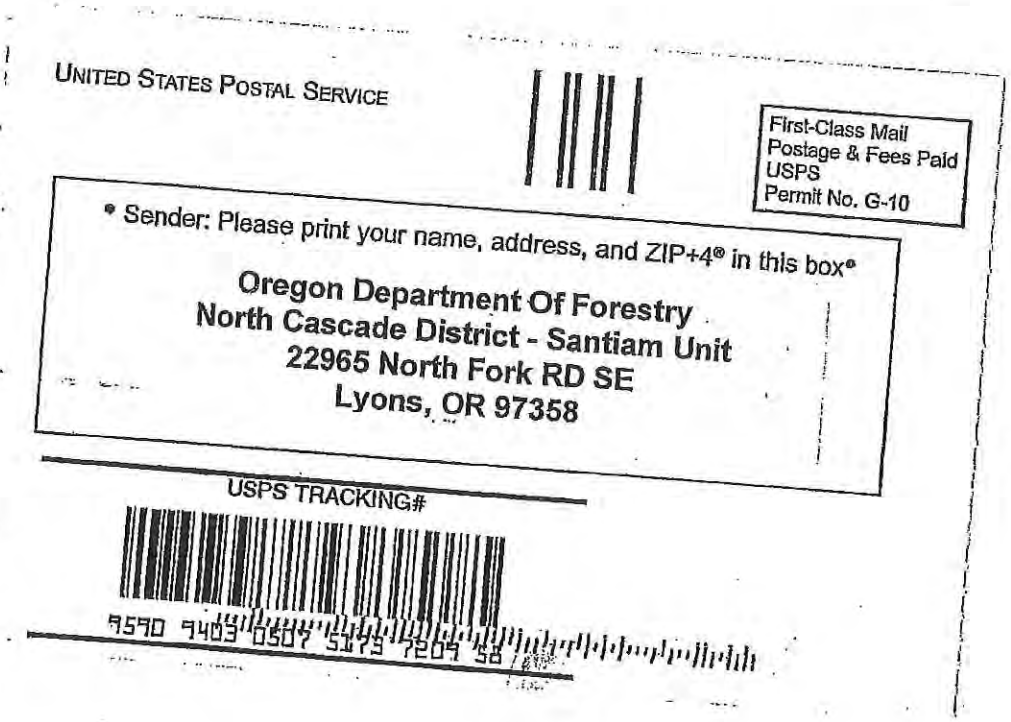
D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☑ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

(over $500)

PS Form 3811, April 2015 PSN 7530-02-000-9053 Domestic Return Receipt



UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

* Sender: Please print your name, address, and ZIP+4® in this box*

Oregon Department Of Forestry
North Cascade District - Santiam Unit
22965 North Fork RD SE
Lyons, OR 97358

USPS TRACKING#

9590 9403 0507 5173 7209 58

EXHIBIT A1
Page 8 of 8

629-1-1-1-001
629-6-3-1-001

OREGON DEPARTMENT OF FORESTRY
NOTICE OF VIOLATION / CITATION

4/97

STATE OF OREGON

County of Linn District North Cascade Operation No. 201358200077

THE UNDERSIGNED STATE FOREST OFFICER CERTIFIES AND SAYS:

THAT ON THE 30th DAY OF August, 2016 AT N/A CLOCK P M

AT (location): T09S R01E S23 NE SW Tax lot: 00803 Site Address: [redacted]

(legal description)

NAME Reeser & Stark-Reeser Brad & Sarah

LAST FIRST MIDDLE

RES. [redacted]

CITY [redacted] STATE OR ZIP [redacted] PHONE Unknown

DATE OF BIRTH OCCUPATION SEX

DID THEN AND THERE UNLAWFULLY COMMIT THE FOLLOWING OFFENSE:
Failed to complete planting or seeding within 24 months of a harvest operation that resulted in a reforestation requirement.
IN VIOLATION OF ORS OAR NO. 629-610-0040(3)
RESULTING IN THE FOLLOWING UNSATISFACTORY CONDITIONS:
The harvest area has not been planted or seeded to minimum stocking levels required for the site, resulting in lost productivity.

DATE SERVED 08/30/16 OFFICER Joseph Arbow NO. 5822

☒ COURT APPEARANCE NOT REQUIRED
☐ APPEAR IN ☐ JUSTICE ☐ DISTRICT COURT

ON: DAY OF , 20 , AT M

LOCATED AT

Citation Form.doc/Jaz D

EXHIBIT A2 AGENDA ITEM D
Page 1 of 8 Attachment 3

629: Form
6-3-0-110
(Revised 4/97)

STATE OF OREGON
DEPARTMENT OF FORESTRY

TO: Brad Reeser & Sarah Stark-Reeser

ORDER TO CEASE FURTHER VIOLATION

Pursuant to ORS 527.680(2), you are hereby directed to cease further violation of OAR 629-610-0040(3) which requires that landowner complete planting or seeding within 24 months unless a written plan for natural regeneration has been approved by the State Forester.

ORDER TO REPAIR DAMAGE OR CORRECT UNSATISFACTORY CONDITION CAUSED BY VIOLATION

You are hereby directed to take the following action to repair damage or correct the unsatisfactory condition resulting from violation of OAR 629-610-0040(3):
Complete mechanical and/or chemical site preparation and tree planting by the end of the next full planting season, as necessary to result in at least 200 Free-To-Grow trees of acceptable species by the end of 4 growing seasons following planting AND/OR submit and implement an "alternate plan" for developing forestland for a non-forest use.

Such action is to be completed on or before May 1st 2017.

Date 6/30/16 _____
State Forester - Authorized Representative

As provided in ORS 527.700(1), any operator, timber owner or landowner affected by a finding or order of the State Forester issued under ORS 527.610 to 527.730 may request a hearing within 30 days of the issuance of the order. 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.

Failure of the person requesting the hearing to appear at the hearing shall be deemed a default and shall result in a final order being entered upon a prima facie case made on the record of the agency.

This notice becomes a final order unless the above-named party makes a written request for a hearing within 30 days from the date of service or mailing of the notice.

OPERATOR

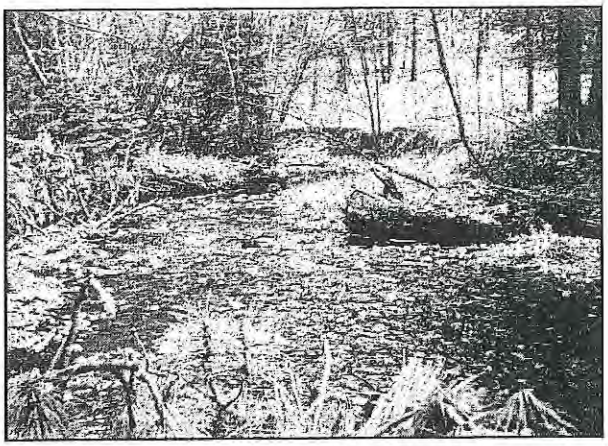
OrderToCeaseRepairForm.doc/Jaz D (FP)

EXHIBIT A2
Page 2 of 6

FOREST PRACTICE
NOTES

OCTOBER 2002 NUMBER 7 (Revised)

PUBLISHED BY
THE FOREST PRACTICES PROGRAM
OREGON DEPARTMENT OF FORESTRY
2600 STATE STREET
SALEM, OREGON 97310
http://www.odf.state.or.us



CIVIL PENALTIES

Your cooperation can minimize civil penalty assessments.

Measures can be undertaken to minimize the amount of a civil penalty that is assessed following a Forest Practices Act (FPA) violation in Oregon. If the activities that are in violation are ceased and damage is repaired in a timely manner, where feasible, your cooperation will be considered in assessing a civil penalty.

A primary goal of the Board of Forestry and the Oregon Department of Forestry (ODF) is to protect forest resources.

Even though civil penalties are used to discourage operators, landowners and timber owners from committing violations that could result in resource damage, ODF's Civil Penalty program is primarily focused on preventing and correcting damage to Oregon's forest resources. The program is set up so that resource enhancement and mitigation measures can be substituted for all or part of a civil penalty. Of course, the extent and feasibility of such mitigation depends not only upon your level of cooperation, but your previous record in abiding by the FPA's rules and regulations.

ODF's civil penalty program is primarily focused on preventing and correcting damage to Oregon's forest resources

By making an investment in enhancing the resources protected by the Forest Practices Act that include air quality, water, soil productivity, fish, wildlife and scenic resources, you may be able to offset some or all of the civil penalty you have been assessed.

This is accomplished by entering into an agreement with ODF to perform a resource enhancement project. Projects may include, but are not limited to:

- Planting a greater number of trees per acre in a set timeline for a reforestation violation
- Reconstructing, relocating or vacating roads that present a higher risk to the protection of water quality than if they had been located and designed to current forest practice rule standards
- Restoring or enhancing upstream/downstream fish passage, including replacing crossing structures not designed to current forest practice rule standards
- Restoring or enhancing fish habitat by placing large woody debris or other structures in or adjacent to stream channels
- Retaining conifers adjacent to streams to supplement current forest practice rule requirements that are consistent with forest health considerations
- Restoring or enhancing threatened or endangered habitat or other wildlife habitat
- Restoring or enhancing the protection of salmonid spawning areas
- Controlling noxious weeds or exotic species

(con't. on page 2)

- Reducing the risk of catastrophic fire, or insect or disease damage

In addition, you may also agree to donate all or an agreed-upon portion of the penalty to a local watershed council or other program that does habitat enhancement projects.

Forest practices foresters (FPFs) issue written statements in an attempt to avoid resource damage and citations or penalties.

Forest practices foresters who work in ODF district and unit offices are responsible for administering FPA rules and monitoring forest operations on state and private forestlands. If a forest practices forester discovers you have not followed the forest practice rule, but determines there is still time to correct the action and prevent damage, you will receive a *written statement of an unsatisfactory condition.* The FPF will consider:

- Local site conditions
- Weather forecasts
- Availability of equipment
- Your expertise to accomplish the job
- Access to the site.

Although a written statement is *not* a citation, a citation will follow if steps aren't taken to correct the situation or resource damage occurs before action is taken. The written statement will include:

- A description of the problem
- The corrective action that should be undertaken
- A deadline for the work to be completed
- A notice that enforcement action will be initiated if damage results before the corrective action is completed or if the action is not completed by the date specified.

When written statements are followed and damage is avoided, you are considered to have complied and no citations or penalties are issued. Written statements are also often appropriate for administrative violations such as failure to notify, failure to obtain prior approval or failure to have an approved written plan.

If resource damage has already occurred, citations are issued.

If the FPF determines damage has already occured, or there is not enough time to correct a situation before damage occurs, a citation will be issued. The determination of resource damage is not necessary for administrative violations. The citation will be accompanied by an order to

The Forest Practices Act (FPA)

The 1971 Forest Practices Act (FPA), administered by the Oregon Department of Forestry (ODF), requires landowners to use specific forest management practices to protect forest resources. There are regulations for:

- Reforestation
- Constructing & maintaining roads
- Timber harvesting
- Applying chemicals
- Disposing of logging slash

Forest resources protected by the FPA include:

- Air
- Water
- Soil
- Fish and wildlife
- Scenic resources along Oregon's highways

Enforcing the FPA

ODF emphasizes education and planning to achieve the purposes of the FPA. This is accomplished through operator education programs, on-site inspections, written recommendations for avoiding resource damage and requiring prior notification of operations and written plans.

In 1987, the FPA was amended to include civil penalties for enforcement. Prior to this change, criminal penalties were the only enforcement method.

The Civil Penalty program is very effective. Throughout the 1990s, the Board of Forestry continued to improve the program by addressing new rules, making administrative corrections and refining enforcement policies. In 2002, the board adopted additional administrative and policy changes, and the Central Hearing Process was initiated.

EXHIBIT AGENDA ITEM D
Page 4 Attachment 3
Page 22 of 115

Forest Practices Foresters (FPFs) and the Oregon State Forester's Office Enforce the Forest Practices Rules

Forest practices foresters in ODF district and unit offices are responsible for administering FPA rules and monitoring forest operations on state and private forestlands in Oregon. Each FPF is responsible for an assigned geographic area. Civil penalties staff, under the direction of the Forest Practices program director, directs the policy of the program and provides support to FPFs around the state.

FPFs review operation notifications filed in their administrative area and prioritize them based on the type of resources requiring protection. Inspections are concentrated on operations with the highest potential for damage.

FPFs are also responsible for granting prior approval and approving written plans for certain forest practices. Once an operation begins, an FPF will continue to monitor the operation for compliance with the FPA. Recommendations are made to the operator, when necessary, to avoid problems or rule noncompliance.

cease further violation and repair resource damage, if necessary and feasible. Copies of the citations are always sent to the landowner and timber owner.

If you disagree with a citation, the local ODF district office should be contacted *before* a penalty is assessed.

You may review the facts of your case with the FPF and supervisor before a civil penalty is assessed.

A consent order to do additional repair work or a mitigation project can potentially reduce a civil penalty assessment.

After the FPF issues a citation with orders to cease further violation and repair damage, you and the district, may discuss the possibility of doing additional repair work or completing a mitigation project. The possibility of revising operational procedures to prevent future problems may also be discussed. Salem staff may be involved in this process. These actions could potentially offset a portion of the civil penalty or the entire civil penalty if the work is done in a timely manner.

If an agreement is reached, a "consent order" will be prepared. A consent order is a binding document indicating your commitment to perform mitigation. You also waive current appeal rights. When you meet the terms of the order, no additional penalty is assessed. Failure to meet the terms will most likely result in efforts to collect suspended penalties (or to impose additional ones).

In addition, the civil penalty staff may, after consultation with the district, contact you and offer a settlement prior to assessing a civil penalty.

However, if terms of the agreement are not met, additional action may be taken.

If you do not enter into a consent order and the deadline for completing repairs has passed, the civil penalty staff will assess a penalty.

You will be notified of the civil penalty by certified and first class mail or by personal service. The notice includes:

- A reference to the particular statute, rule, or standard.
- A short statement of the alleged violation
- A statement of the amount of the penalties imposed and how they were calculated
- Statements about how and when a hearing, collaborative dispute resolution or mitigation of the penalty can be requested.

ODF may be required to use other civil remedies to repair damage if corrective action was required and not completed in a timely manner.

These civil remedies could include ODF obtaining court orders to force compliance. The Board of Forestry can also complete the repairs and bill the costs to the landowner, timber owner or operator. If these charges are not paid, a joint lien can be held against the real and personal property of the operator, timber owner and landowner.

EXHIBIT NO. 3
Page 5 of 8

A formula is used to provide a uniform and consistent system of assessing forest ractices civil penalties.

Copies of citations, along with any other information pertaining to the violations, are sent to the ODF Civil Penalty Administrator. The administrator reviews the circumstances of each violation and determines the amount of the penalty to be assessed by applying a formula set by the Oregon Board of Forestry.

The assessment begins with a base penalty of $100 to $1,000, depending upon the type of violation. Other factors are then applied to the base penalty, including:

- The operator's level of cooperation
- The operator's knowledge and record of previous violations
- The severity of the damage created by the violation
- The extent that damage has been repaired or mitigated.

The minimum penalty is $25. However, any penalty less than $100 will be suspended, unless additional violations occur within the next year. The maximum civil penalty is $5,000.

NOTE: *Violations involving the harvest of trees required) be left for resource protection can be regarded as multiple violations, each subject to a penalty of up to $5,000.*

The civil penalty formula is designed to determine a penalty that is just enough to demonstrate that it is more cost efficient to conduct an operation in compliance with the forest practice rules than it is to violate them.

The objective of the rules is to have the penalties serve as a deterrent to prevent future violations. All monies collected through civil penalty assessments go directly to the state's General Fund account; the money is not directed to any particular agency or budget.

Besides being subject to a civil penalty, an operator can be cited to court. Criminal penalties, however, are usually only used for serious violations.

Criminal penalties may be sought in cases where, in the idgement of the State Forester, the operator acted ntentionally, knowingly, or recklessly. This enforcement method can also be used when the operator has made substantial financial gain in excess of the amount recoverable by a civil penalty.

When criminal penalties are sought, the citation is presented to the District Attorney where the violation occurred, along with a case brief, for the misdemeanor prosecution.

Contesting a civil penalty requires you to submit a written request to the Oregon Board of Forestry.

If you are issued a civil penalty, you have the right to contest the penalty before a hearing officer through the contested case hearing process. This process is established in statute with administrative rules set by the Attorney General. The Oregon Board of Forestry has adopted those rules for its hearing processes. To contest a penalty, *you must submit a written request for a hearing within 20 days from the day that the civil penalty notice is served.* In addition, you may request mitigation of the penalty, and/or collaborative dispute resolution.

When requesting a hearing, or within ten days of making the initial request, you must state in writing:

- What is true or false about the matters stated in the notice of penalty and
- Your arguments and facts that contradict the findings in the penalty notice.

In many cases, an agreement may be reached outside the formal hearing process, with all parties signing a consent order.

A hearing officer from the Central Hearing Panel will hear any case that cannot be settled informally or through mediation.

Hearings will be held not less than 45 days and not later than 180 days from the day the notice of penalty was served, unless all parties agree to set aside the time limit.

Hearings are held at an ODF field office or by telephone. The hearing officer will then summarize the facts and propose an order to the board. The proposed order is presented for action at the next scheduled board meeting.

After the board reviews the proposed order and any exceptions, it makes a decision and issues a final order. All involved parties receive a copy of the final order. The Oregon Court of Appeals may review final orders in contested cases. ◆

EXHIBIT 12a
Page 4 of 5
AGENDA ITEM D
Attachment 3
Page 24 of 115

Certificate of Service

RE: In the Matter of Brad Reeser and Sarah Stark-Reeser, Notice of Violation, Orders to Cease Further Violation and Repair Damage or Correct Unsatisfactory Condition Case No. 16-CN029

I HEREBY CERTIFY that I have made service of copies of the foregoing Notice of Violation and Orders to Cease Further Violation and Repair Damage or Correct Unsatisfactory Condition upon the following party by causing them to be **mailed in the United States Post Office** at **Lyons**, Oregon, on **08/30/16,** a true, exact and full copy thereof, enclosed in an envelope **with postage thereon prepaid addressed to:**

Brad Reeser and Sarah Stark-Reeser

[redacted]

By CERTIFIED MAIL and FIRST CLASS MAIL

Joe Arbow

Joe Arbow
North Cascade District/Santiam Unit 503-859-2151

EXHIBIT A2
Page 7 of 8



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

BRAD REESER + SARAH STARK-REESER

[redacted]

9590 9403 0507 5173 7210 78

2. Article Number (Transfer from service label)

7016 0340 0000 4215 0157

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

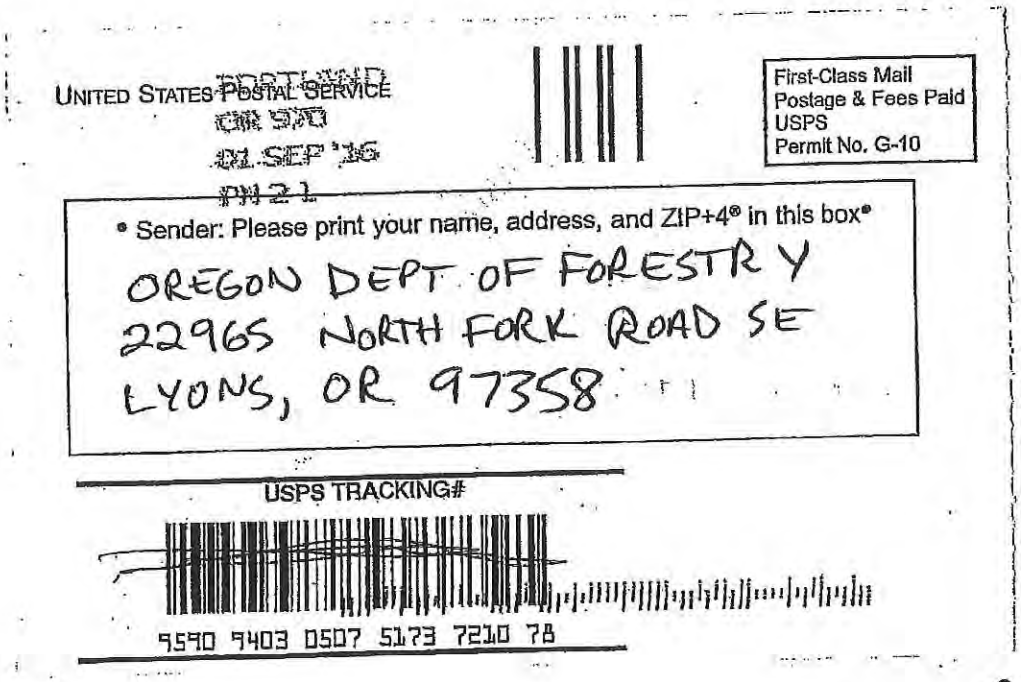
C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature
☐ Adult Signature Restricted Delivery
☑ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☑ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



UNITED STATES POSTAL SERVICE
PORTLAND OR 970
01 SEP '16
PM 2 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box•

OREGON DEPT OF FORESTRY
22965 NORTH FORK ROAD SE
LYONS, OR 97358

USPS TRACKING#

9590 9403 0507 5173 7210 78

EXHIBIT A2
Page 8 of 8

NOTIFICATION OF OPERATIONS/APPLICATION FOR PERMIT

STATE OF OREGON

"STEWARDSHIP IN FORESTRY"

DEPARTMENT OF FORESTRY

OREGON DEPARTMENT OF REVENUE

DEPARTMENT OF REVENUE

Notification Number: 13-582-00077

OP TO LO

Geographic Area:

Date Received: Time:

Initials:

District: Office:

Correction:

FILING THIS NOTIFICATION DOES NOT GRANT PERMISSION TO REMOVE FOREST PRODUCTS! FIRST OBTAIN PERMISSION FROM THE LANDOWNER AND TIMBER OWNER.

ON-SITE INSPECTIONS MAY BE CONDUCTED BY THE STATE FORESTER/STEWARDSHIP FORESTER TO ENSURE COMPLIANCE WITH STATE LAWS AND RULES GOVERNING FIRE PROTECTION AND FOREST PRACTICES ON PRIVATE LAND.

1. **COUNTY** Write in one county name: Linn

2. **NOTICE AND PERMIT TYPE**

Check Appropriate Boxes (2A, 2B, and/or 2C)

- ☒ 2A NOTICE TO THE STATE FORESTER THAT OPERATION WILL BE CONDUCTED ON LANDS DESCRIBED ON REVERSE (ORS 527.670).
- ☒ 2B APPLICATION FOR PERMIT TO OPERATE POWER DRIVEN MACHINERY (ORS 477.625).
- ☒ 2C NOTICE TO THE STATE FORESTER AND THE DEPARTMENT OF REVENUE OF THE INTENT TO HARVEST TIMBER (ORS 321.550).

3. **REPRESENTATIVE:** Chris Demers — PLEASE PRINT! Person to be contacted in case of Fire Emergency (Designated Representative). Area Code & Phone No. [redacted]

4. **Timber Sale Name and/or Number:**

CHECK ONE BOX BELOW TO INDICATE WHO FILLED OUT THE APPLICATION.

5. **OPERATOR** ☒

ATTENTION: If you are conducting timber harvesting or road construction within 100 feet of overhead or underground utility lines, call the Oregon Utility Notification Center at 1-800-332-2344. Request that the owner of the line be notified, and record the number issued to you by the Oregon Utility Notification Center here:

Name: ATR Services
Business Name:
Mailing Address – Street Address: [redacted]
City, State and Zip Code: [redacted] Area Code & Phone No.: [redacted]

6. **LANDOWNER** ☐

Timber harvesting may result in a tree planting requirement on the landowner. The landowner has the responsibility to reforest if the harvest results in an understocked condition. Call a Department of Forestry office for more information.

For activities or operations within an urban growth boundary, the applicant is advised to contact the appropriate local government regarding land use regulations which may apply to the future use or development of this site.

Name: Brad & Reeser / Sarah Stark-Reeser
Business Name:
Mailing Address – Street Addres: [redacted]
City, State and Zip code: [redacted] Area Code & Phone No.: [redacted]
RC:
EG:
S: 15

7. **TIMBER OWNER AND TAX PAYER** ☐

The timber owner must provide either a Tax payer identification number OR the last 4 digits of the Social Security number (see ORS 321.550(1) and (2)). Social Security number information will be used ONLY for the purpose of identifying the timber owner to the Department of Revenue for the collection of Timber Tax, and will be held in confidence.

Name: Same As Landowner
Business Name:
Mailing Address – Street Address:
City, State and Zip Code: Area Code & Phone No.:
Timber Owner Employer Identification Number OR Last 4 digits of the Social Security Number: [redacted]

Please describe the intent of the operation, and any other information that may be relevant to the Stewardship Forester.

APPLICANT REMARKS:

RECEIVED
FEB 22 2013
SANTIAM UNIT

ACTIVITY DATE

Attachment 2
Page 27 of 115

8. TYPE OF ACTIVITY							9. ACTIVITY PERIOD		10. SITE CODES				11.	12. LOCATION OF OPERATION																					
														LEGAL DESCRIPTION																					
					Quantity (by unit)									NE				NW				SW				SE									
SF No (s)	FIRE / FPA	Unit No.	Activity Codes	Methods Used	Acres	Feet	Estim. MBF Removed	Est. Activity Starting Date	Est. Activity Ending Date	Conditions: W100, W300, WNA, S1, S2, S3 T1, T2, T3	Concerns: ARG, CGG, CGS, SH, SW, UGB, WG	SIGNIF. WET. OTHER WET., LAKES>8, OTHER LAKES STREAMS, EOS, BOG, ES, DWS, SEEP	BEN, BEP, BER, BIO, BPS, CC, CWD, GBH, GLD, HLH, MUR, NSO, OSP, RAP, SBS, TorE	Govt. Lot # if outside std section	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	SEC	TWP	RGE	Regulated Use Area
41	L/M		7b	Cable/Ground/Other	13		110	3/1/13	12/31/13	WNA, S1												X							13	9S	1E	CUM
			6	Burning																														

13. The applicant may request a waiver of the fifteen-day waiting period by checking this box. Requesting a waiver does not necessarily mean one will be granted. ☒

14a. Print name of applicant here: x Angela Demers

14b. I (applicant) certify that all information I have provided is true and correct. (Signature and date.)

x [signature] Date: 2/28/13

15. ATTACH MAP AND/OR AERIAL PHOTOS!

WRITTEN PLANS	NAMES OF PROTECTED RESOURCES	WATERSHED CODE	STREAM CLASS CODE
170a	Domestic Water		

STEWARDSHIP FORESTER COMMENTS:

SUBSCRIBERS:

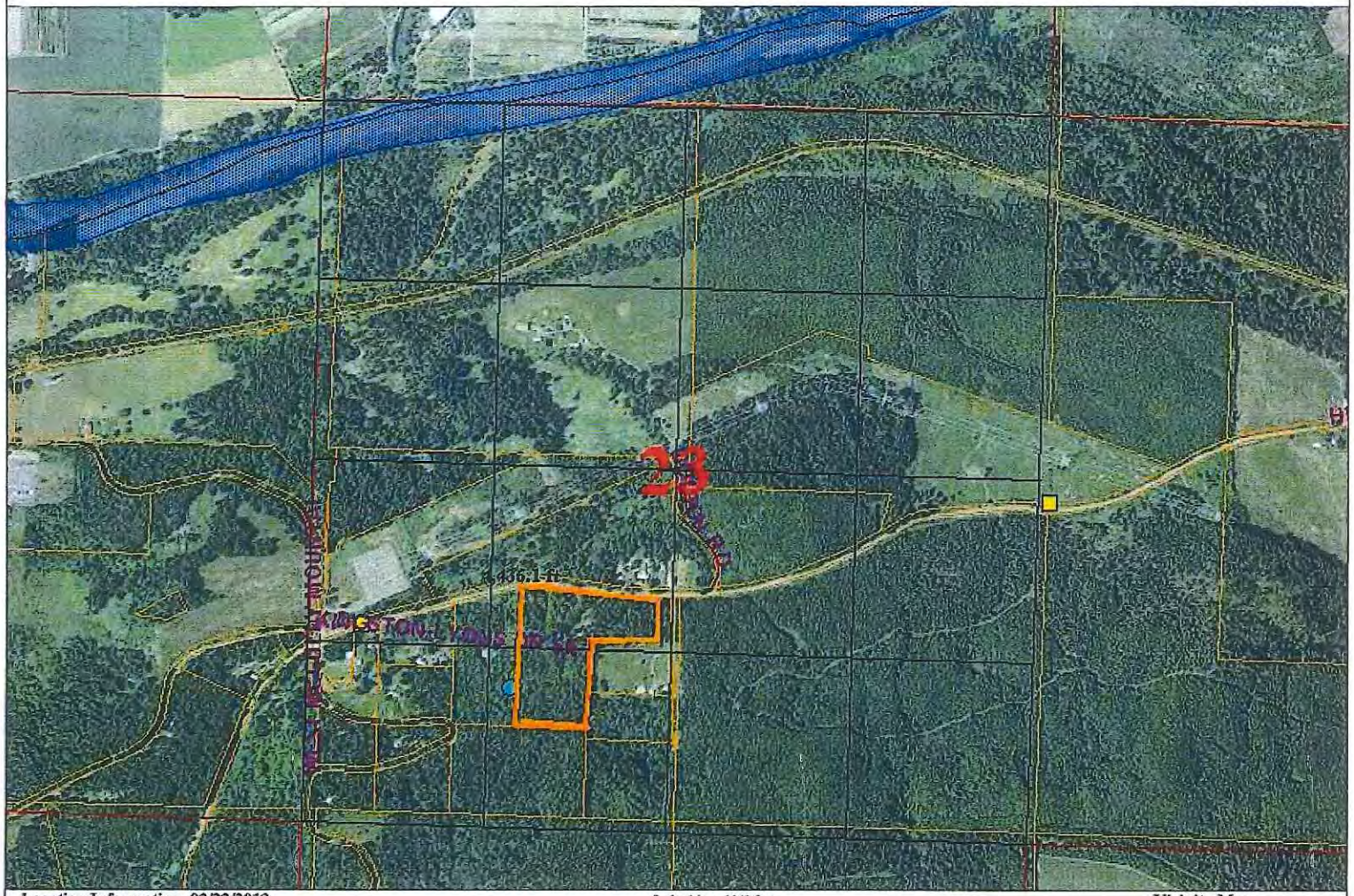
WATER RIGHTS SUBSCRIBERS:

Fifteen-day waiting period waived by:

X Date: / /

AGENDA ITEM D
Attachment 3
Page 28 of 215

FANS Map



Location Information 02/22/2013
Legal: T9S R1E S23, NESW
Latitude: 44°46'23", (44°46.3886' or 44.7731°)
Longitude: -122°39'7", (-122°39.1244 or -122.6521°)
Miles West of Lyons
Miles East of Stayton
Elevation (approximate): ft.
LandMark: Stout Mountain, Or
Dname 7 Dam
Watershed 6th Field: LOWER NORTH SANTIAM RIVER
Watershed SubBasin and Basin: NORTH SANTIAM, WILLAMETTE
Quad Name and Number: STOUT MOUNTAIN, 44122G6
County and ODF District: LINN, Non ODF
Ownership: Private,

Scale: 1 in. = 1143 feet
Feet 400 800 1200 1600 2000

Elevation 1500 ft
Magnetic Declination 2009: -16.3
ODFW Field Offices: Salem, Springfield
ODFW Hunt Unit: WILLAMETTE, 17
Wetland Type: NO WETLANDS DIGITIZE
Raws Station: STAYTON
Forester Area and Number: Alan Brog, 41
Smoke Sensitive RA:
Seed Zones (Doug-fir and Ponderosa P) 8, 11

Vicinity Map



EXHIBIT A4
Page 1 of 1

Legend

- Bald Eagle
- Bird Review 1/2 Mile
- Mile Posts
- Peregrine Falcon
- Scenic Hwy 300 ft
- Scenic Stream 1320 ft
- Surface Water Rights
- Taxlots-Linn2011
- Tree Ordinance
- Urban Growth Bdy
- Lakes
- No Wetlands Data
- Wetlands

N

Oregon Department of Foresty
Date Printed: 02/22/2013

AGENDA ITEM D
Attachment 3
Page 29 of 115

State of Oregon
Department of Forestry - Department of Revenue
Notification Number: 2013-582-00077
Timber Sale:

REPRINT

OREGON DEPARTMENT OF REVENUE

Attached is the processed information from the Notification of Operation/Application for Permit signed by ANGELA DEMERS representing the Operator, and received by Department of Forestry on February 22, 2013. Please review this information and retain for future reference.

Notices and Permits

Notice is given to the State Forester that an operation will be conducted on the lands described herein.

A permit to use fire or operate power driven machinery is issued for the land described herein.

A notice is given to the State Forester and the Department of Revenue of the intent to harvest timber.

SF Comments:

LEGAL NOTICE:

The following section provides legal notification of the requirement to submit a written plan before certain portions of this Operation may begin. The requirements are indicated below:

A statutory Written Plan is required before operation activities begin near the protected resource(s) listed in the following Unit Information Page(s) or otherwise described to you by the Stewardship Forester (see OAR 629-605-0170(1)).

The Written Plan must describe in detail how the resource(s) be protected during the operation. There is a waiting period written plans that is separate from the notification waiting period. Contact the Stewardship Forester shown on the following Unit Information Page(s) for more information on Written Plans and waiting periods.

A portion or all of your operation may be eligible for a waiver of the statutory written plan requirement. Use the 'Resource Description' information provided on the following unit page(s) in conjunction with Technical Note #10 to determine your eligibility. Go to the following link or contact your stewardship forester for more information: http://www.oregon.gov/odf/PRIVATE_FORESTS/docs/20130816_Technote_Flowchart_Final.pdf

District: **North Cascade**

Office: **Santiam Unit**

County: **Linn**

Notification 15 Day Waiting Period:
This Operation is subject to the 15 day Waiting Period. A waiver was requested and was denied.

Operator:
ATR SERVICES
PO BOX 876
VENETA, OR 97487
(541) 935-3626

Fire Contact:

(541) 520-4935

Land Owner:
BRAD REESER SARAH STARK- REESER
[redacted]

Notice to Land Owner: If timber harvesting is part of the proposed operation, the party shown above, is responsible for reforestation of the site if so required.

Timber Owner:
BRAD REESER SARAH STARK- REESER
[redacted]

Notice to Timber Owner: If timber harvesting is part of the proposed operation, the party shown above, owning the timber at the point it is first measured is responsible for payment of Oregon timber taxes.

(Land Owner Copy)

Doug Decker, State Forester
Steve Wilson, **District Forester**

BRAD REESER SARAH STARK-
REESER
[redacted]

EXHIBIT 15
Page 1 of 2

Unit Information - Notification: 201358200077
Unit 1 of 1 Start: 03/01/13 End: 12/31/13
Status: Open
vardship Forester: JOE ARBOW

Site Conditions Waters: Not Applicable.
Soils: No mass soil movement.
Slope: 0% to 35%.
SF Phone Number: (503)859-4323

Priorities: **Fire: Low FPA: Medium**

Statutory Written Plan Required.

Twp	Rge	Sec	NE				NW				SW				SE				Government Lot Number	Tax Lot No.	Reg Use
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
09S	01E	23	☐	☐	☐	☐	☐	☐	☐	☐	☑	☐	☐	☐	☐	☐	☐	☐			CM1

Activity	Method	Acres	Feet	MBF	Comment
1b - Clear-Cut, Overstory Removal	Ground; Operation will utilize Cable retrieval; Other (explain)	13.00	0	110	
6 - Treatment of Slash	Burning	0.00	0	0	

Resource Name	Resource Description
DOMESTIC WATER	
No Subscribers to this Unit.	

EXHIBIT 25
Page 2 of 4

State of Oregon
Department of Forestry - Department of Revenue
Notification Number: 2013-582-00077
Timber Sale:

REPRINT

OREGON DEPARTMENT OF REVENUE

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SF Comments:

LEGAL NOTICE:

The following section provides legal notification of the requirement to submit a written plan before certain portions of this Operation may begin. The requirements are indicated below:

A statutory Written Plan is required before operation activities begin near the protected resource(s) listed in the following Unit Information Page(s) or otherwise described to you by the Stewardship Forester (see OAR 629-605-0170(1)).

The Written Plan must describe in detail how the resource(s) be protected during the operation. There is a waiting period written plans that is separate from the notification waiting period. Contact the Stewardship Forester shown on the following Unit Information Page(s) for more information on Written Plans and waiting periods.

A portion or all of your operation may be eligible for a waiver of the statutory written plan requirement. Use the 'Resource Description' information provided on the following unit page(s) in conjunction with Technical Note #10 to determine your eligibility. Go to the following link or contact your stewardship forester for more information: http://www.oregon.gov/odf/PRIVATE_FORESTS/docs/20130816_Technote_Flowchart_Final.pdf

District: **North Cascade**

Office: **Santiam Unit**

County: **Linn**

Notification 15 Day Waiting Period:
This Operation is subject to the 15 day Waiting Period. A waiver was requested and was denied.

Operator:
ATR SERVICES
PO BOX 876
VENETA, OR 97487
(541) 935-3626

Fire Contact:

(541) 520-4935

Land Owner:
BRAD REESER SARAH STARK- REESER
[redacted]

Notice to Land Owner: If timber harvesting is part of the proposed operation, the party shown above, is responsible for reforestation of the site if so required.

Timber Owner:
BRAD REESER SARAH STARK- REESER
[redacted]

Notice to Timber Owner: If timber harvesting is part of the proposed operation, the party shown above, owning the timber at the point it is first measured is responsible for payment of Oregon timber taxes.

(Timber Owner Copy)

Doug Decker, State Forester
Steve Wilson, **District Forester**

BRAD REESER SARAH STARK-
REESER
[redacted]

EXHIBIT A5
Page 3 of 4

Unit Information - Notification: 201358200077
Unit 1 of 1 Start: 03/01/13 End: 12/31/13
Status: Open
Stewardship Forester: JOE ARBOW

Site Conditions Waters: Not Applicable.
Soils: No mass soil movement.
Slope: 0% to 35%.
SF Phone Number: (503)859-4323

Priorities: **Fire: Low FPA: Medium**

Statutory Written Plan Required.

Twp	Rge	Sec	NE				NW				SW				SE				Government Lot Number	Tax Lot No.	Reg Use
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
09S	01E	23	☐	☐	☐	☐	☐	☐	☐	☐	☑	☐	☐	☐	☐	☐	☐	☐			CM1

Activity	Method	Acres	Feet	MBF	Comment
1b - Clear-Cut, Overstory Removal	Ground; Operation will utilize Cable retrieval; Other (explain)	13.00	0	110	
6 - Treatment of Slash	Burning	0.00	0	0	

Resource Name	Resource Description
DOMESTIC WATER	
No Subscribers to this Unit.	

EXHIBIT A5
Page 4 of 5

Oregon
John A. Kitzhaber, MD, Governor

Department of Forestry
North Cascade District
Santiam Unit
22965 North Fork Rd SE
Lyons, OR 97358
503-859-2151
FAX 503-859-2158

Brad Reeser Sarah Stark-Reeser
[redacted]

RE: REQUIRED REFORESTATION
Notification #201358200077 **Twp 9S, Rge. 1E, Sec 23**

This is a courtesy letter regarding the forest operation that took place on your property in 2013. The forest operation reduced the tree stocking below the minimum standard defined by the Oregon Administrative Rules 629-610-0000 through 629-610-0900. The reforestation rules require the landowner to complete: 1) tree planting, 2) a land use change, or 3) some combination within two years after completing the operation. The objective of the rules is to ensure productive forest lands do not become underproductive brush lands.

Reforestation activities must begin within 12 months of the completion of harvest, which could involve site preparation activities and ordering tree seedlings. Forest operations requiring reforestation will be inspected by Department of Forestry personnel to determine compliance.

- Tree planting should be completed by April 30, 2016, although it is strongly advised to plant during the first available planting season to get ahead of the competing vegetation.
- A minimum of 200 well-distributed trees per acre must reach the free-to-grow condition by Dec. 31, 2020.

The reforestation requirement is "attached" to the land and affects the present landowner. The law requires the seller of land (having a reforestation requirement) to notify the buyer of the assumed reforestation requirements. The landowner's property tax status could also adversely change for failure to reforest or complete a land use change. Failure to reforest or complete a land use change in a timely manner may result in a civil penalty of up to $5,000. County zoning or tax classification does not affect the reforestation requirement.

Please contact this office if you have any questions regarding the reforestation requirements or if you want a referral for technical assistance on reforestation.

Sincerely,

Joe Arbow
Stewardship Forester

EXHIBIT A/6
Page 1 of 1

FOREST PRACTICE
NOTES

DECEMBER 1994 • NUMBER 2

PUBLISHED BY
THE FOREST PRACTICES PROGRAM
OREGON DEPARTMENT OF FORESTRY
2600 STATE STREET
SALEM, OR 97310



REFORESTATION

How do the rules affect you?

Listed below are the key steps landowners should take to comply with the reforestation rules. The following pages describe each step in more detail.

Topic — Page #

Understand the meaning of "free to grow" 2

Determine productivity level of your forest land 2-3

Apply the tree stocking standards to your operation, including:
- a. Determining the stocking standard that applies to your land 3
- b. Determining if your harvest unit requires reforestation 3-4
- c. Determining how many trees must be added to the unit to comply with the rules 4

Meet the conditions for use of natural reforestation methods 4

Meet the time lines for completion of reforestation 5

Use tree species suitable for reforestation 6

Other considerations (suspension of the requirements on some units, revegetation when reforestation is not required, changes to nonforest uses) 7

This *Forest Practice Note* explains the State of Oregon's current regulations for reforesting lands after forest operations. The Oregon Department of Forestry enforces these regulations under the authority of the Oregon Forest Practices Act. This *Forest Practices Note* replaces a previous note on reforestation, dated December 1979.

The requirements discussed in this note apply to all operations completed after January 1, 1995. Operations completed prior to that date remain subject to the rules or statutes in effect at the time of completion. Contact your local Department of Forestry forest practices forester (FPF) if you have questions about reforestation obligations on operations completed before 1995.

Purpose and Summary of the Reforestation Rules

The purpose of the reforestation rules is to ensure that forest tree cover is maintained or re-established after harvest of forest trees. The Oregon Board of Forestry recognizes that optimum tree stocking levels are desirable, but that this objective is best met on private lands through incentives and other cooperative efforts rather than through regulation. Therefore, the rules are designed to require reforestation that ensures stands of trees continue to occupy forest land sites, but at somewhat less than optimum levels. Most landowners should easily be able to comply with these rules by continuing the sound harvesting and reforestation practices they already use.

Reforestation is required on areas where harvest operations have taken place and post-operation tree stocking is below specified levels. These required stocking levels vary by site productivity. The reforestation rules allow either artificial (usually tree planting) or natural methods to be used. The rules also describe time limits in which reforestation must be accomplished. In significant change from past rules, reforestation requirements apply anytime post-operation stocking is below the levels specified in the rules, even if stocking

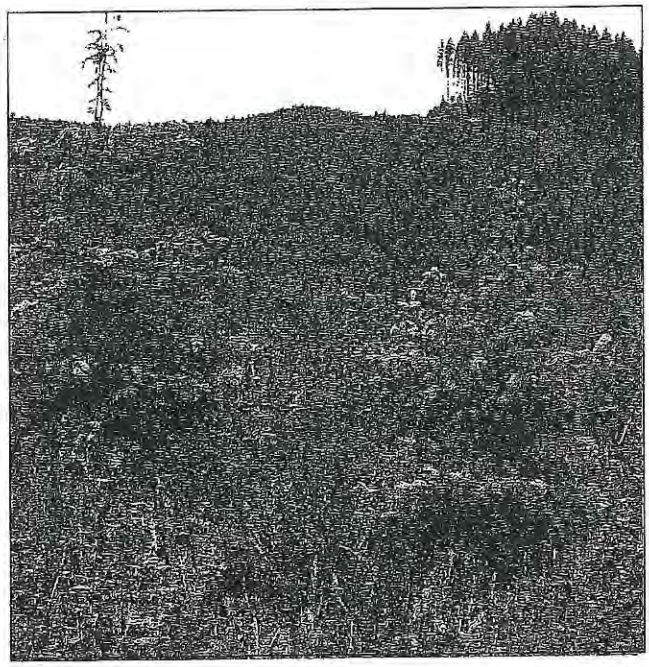
was below those levels before the operation. This means landowners often must reforest following salvage harvests and conversions of underproducing stands. The rules also specify some new procedures for operations involving forest incentive programs, and developing forestlands to non-forest uses.

Landowner Responsibility

The reforestation rules hold landowners, not operators, responsible for reforesting their lands after forest operations. Landowners will be expected to understand and apply the rules. This technical note is designed to help landowners in that task. Local FPFs will be able to offer limited assistance, such as sharing of rule information and some technical information, but landowners needing further help should contact qualified consulting foresters or other professional foresters for advice. Landowners should be aware that ***planning for reforestation before harvesting operations begin*** will be necessary to comply with the rules. In addition, landowners need to know that if the department identifies a reforestation rule violation, the landowner will be ordered to comply with the rules, and may be assessed a civil penalty of up to $5,000.

"Free to Grow" Trees

The concept of a "free to grow" tree or stand of trees is important for understanding the reforestation rules. "Free to grow" means a tree or a stand of well-distributed trees that are of acceptable species, are of good form, and have a high probability of remaining vigorous, healthy and dominant over undesired, competing vegetation.



In general, an FPF will consider a tree "Free to Grow" if:

(a) It is not severely damaged by insects, disease, fire, wildlife, weather or logging;
(b) It exhibits the potential for continued height growth, consistent with the normal growth for the species on similar sites;
(c) It has at least one-third of the tree height in full, live crown; and
(d) It is taller than, and out-competing any grass, shrubs, or other trees growing within a ten-foot radius from the tree.

What Lands are Subject to the Reforestation Rules?

Any land which is rated as Cubic Foot Site Class I, II, III, IV, V or VI forest land is subject to the requirements of the reforestation rules. These are forest lands that are capable of growing at least 20 cubic feet of wood fiber on an acre in a year. In eastern Oregon, very high elevation timber stands or stands dominated by juniper trees probably do not meet this standard. In western Oregon, 94 percent of the privately owned forest lands are capable of growing at least 20 cubic feet per acre per year. Less productive westside forest lands are located primarily in interior southwest Oregon and are often intermingled with more productive lands.



Landowners should become familiar with the productivity of their forest lands. Site productivity may be determined directly by tree growth and stocking measurements throughout the operation area or determined indirectly using applicable USDA Soil Conservation Service soil survey information, USDA Forest Service plant association guides, Oregon Department of Revenue western Oregon site class maps, or other information of comparable quality. Consult a professional forester if you are unsure how to determine the productivity of your land.

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Page 2 of 6
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~ee Stocking Standards

After a forest operation subject to the reforestation rules is conducted, the landowner must maintain or reestablish free to grow stocking of acceptable tree species to at least levels listed in ***Table 1*** within the time limits set in the rules. Landowners are responsible for determining if reforestation will be required after harvest and determining how many additional trees are needed. Landowners will usually be sent a courtesy letter from the department that informs them of their reforestation obligations.

TABLE 1: Minimum Tree Stocking Standards

Site Productivity	Seedlings (less than 1-inch DBH*)	Saplings and Poles (1 to 10-inches DBH)	Trees 11-inches DBH and larger
Cubic Foot Site Class I, II, and III (Douglas-fir 100-year site index 124 and higher)	200 per acre	120 trees per acre	80 square feet of basal area** per acre
Cubic Foot Site Class IV and V (Ponderosa pine 100-year site index 64 to 108)	125 per acre	75 trees per acre	50 square feet of basal area per acre
Cubic Foot Site Class VI (Ponderosa pine 100-year site index 40 to 63)	100 per acre	60 trees per acre	40 square feet of basal area per acre

* "DBH" means the tree diameter, including bark, at 4.5 feet above the ground (breast height).
** Basal area means the area of a cross section of a tree stem at breast height, expressed in square feet.

The stocking of residual, "free to grow" seedlings, saplings and poles, and larger trees will be weighted to determine stand stocking. Generally, the larger the trees are, the fewer are needed to satisfy the reforestation rules. Regardless of the site productivity of the operation area, 100 seedlings will be considered equal to 60 saplings and poles and equal to 40 square feet of basal area of 11-inches DBH and larger trees when calculating stocking. Expressed as an equation:

$$\text{New Trees} = \text{Rule Standard} - \left[\#\ \text{Seedlings} + \left(\#\ \text{Saplings \& Poles} / 0.6\right) + \left(\text{Basal Area} / 0.4\right)\right]$$

Where: "**New Trees**" means the minimum number of additional free to grow seedlings the landowner must establish per acre.

"**Rule Standard**" means the seedling stocking standard for the site listed in the rules (100, 125, or 200 seedlings per acre).

"**# Seedlings**" means the number of free to grow seedlings per acre already present.

"**# Saplings & Poles**" means the number of free to grow saplings and poles per acre already present.

"**Basal Area**" means the basal area per acre of free to grow trees 11-inches in DBH and larger already present.

The example on page 4 shows how this equation is used.

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PAGE 2 OF 8
AGENDA ITEM D
Attachment 3

Example Using Stocking Equivalents:

A partial cut harvest unit on Site IV forest land contains the following tree stand after the operation:

Average number of seedlings per acre	= 35
Average number of saplings and poles per acre	= 8
Average square feet of basal area per acre of trees 11-inches DBH and larger	= 15

1 seedling = 0.6 saplings and poles = 0.4 square feet of basal area of 11-inch DBH and larger trees; therefore:

8 saplings and poles per acre / 0.6 = 13 seedling equivalents
15 sq. ft. of basal area per acre / 0.4 = 38 seedling equivalents

35 + 13 + 38 = 86 seedling equivalents already present

One hundred and twenty-five (125) seedlings or equivalent larger trees is the minimum stocking standard for Site IV land; therefore, establishment of an additional 39 free to grow seedlings per acre is required on this site [39 =125 - (35 + 13 + 38)].

(Example assumes all trees are healthy, undamaged, and well distributed)

Live conifer trees 11 inches DBH and larger left standing in harvested areas to meet the Forest Practices Act's green tree and snag retention requirements may also be counted towards meeting the tree stocking standards if the trees are free to grow.

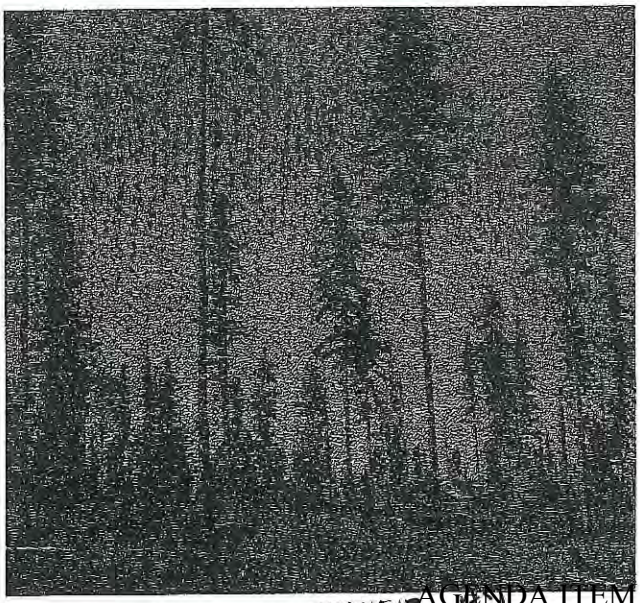
Table 2 provides approximate conversions between trees per acre and tree spacing when evaluating trees less than 11-inches DBH. For trees 11-inches DBH and larger, ***Table 3*** *(opposite)* provides approximate conversions between trees per acre, tree spacing, and basal area per acre.

Landowners should be aware that if planting is planned, the number of planted seedlings will usually need to be higher than the applicable seedling levels listed in these rules because some seedlings may die between planting and the free to grow deadline.

The reforestation rules provide flexibility for forest practices foresters and landowners to tailor reforestation requirements to site-specific situations. Landowners may submit plans for alternate practices that do not conform to the reforestation stocking levels established under these rules. Such plans may be approved if the FPF determines that there is a high probability that the purpose of the reforestation rules will be achieved.

TABLE 2: Relationship Between Trees Per Acre and Average Tree Spacing

Trees per acre	Average spacing between tree centers (in feet)
200	15
125	19
120	19
100	21
75	24
60	27



Using Natural Reforestation Methods

Natural reforestation methods may be the best means to meet a variety of resource management objectives on some forestlands. Successful natural reforestation requires careful, flexible, site-specific pre-harvest planning and post-harvest monitoring. On Cubic Site Class VI forestlands and in wetlands, the use of silvicultural systems that promote natural reforestation and the

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Attachment 3
Page 4 & Page 38 of 115

ble 3: Relationship Between Basal Area Per Acre and Tree Spacing
r Different Tree Diameters

Average DBH of trees 11-inches and larger	Average trees per acre for 80 sq. ft./ac. basal area	Average spacing between tree centers for 80 sq. ft./ac. basal area (in feet)	Average trees per acre for 50 sq. ft./ac. basal area	Average spacing between tree centers for 50 sq. ft./ac. basal area (in feet)	Average trees per acre for 40 sq. ft./ac. basal area	Average spacing between tree centers for 40 sq. ft./ac. basal area (in feet)
11	122	19	76	23	61	26
12	102	21	64	26	51	29
14	75	24	47	31	37	34
16	58	27	36	35	29	39
18	46	31	28	39	22	44
20	37	34	23	44	18	49
22	31	37	19	48	15	54
24	26	41	16	52	13	58
26	22	44	14	56	11	63
28	19	48	12	60	10	68
30	17	51	11	63	8	73
32	15	54	9	69	7	78

retention of good quality residual trees after operations often have a higher probability of success than artificial reforestation methods.

When natural reforestation methods are planned, landowner must first obtain written approval by the forest practices forester of a written plan which describes how reforestation will be accomplished. Information in the plan must include:

(a) A description of the seed sources that will be used;
(b) Site preparation and vegetation competition control methods;
(c) An estimate of the time needed to obtain an adequately stocked free to grow stand;
d) How progress towards natural reforestation will be evaluated; and
(e) Alternative strategies that will be used if natural reforestation does not progress as planned.

The written plan must be submitted no later than twelve months after tree stocking is reduced.

Forest practices foresters will closely review any plans that rely on naturally regenerated hardwood species to meet the reforestation requirements. In some cases, such as cottonwood and quaking aspen groves, natural reforestation with the same hardwood species is probably the best option. However, written plans proposing natural reforestation on conifer sites with species such as red alder will generally not be approved unless strong evidence is provided that establishes a high probability of reforestation success.

Landowners may not need to submit a new written plan every time natural reforestation methods are used if an approved plan already exists and future operations on the ownership will take place under similar conditions. However, approval will still be required.

Time Line for Completing Reforestation Activities

The time period for compliance with the reforestation rules begins at the completion of the operation or 12 months after tree stocking has been reduced, which-

ever comes first. "Completion of the operation" means harvest activities have been completed to the extent that an operation area will not be further disturbed. FPFs may require reforestation on a logical portion of a harvest unit even if activities on other portions of the operation are continuing.

Once the compliance period begins, the landowner must begin reforestation, including any necessary site preparation, within 12 months. If artificial reforestation is planned, the landowner must complete planting or seeding within 24 months. By the end of the sixth full calendar year, the landowner must have established an adequately stocked, free to grow stand of trees.

When natural reforestation methods are planned, the time limits for evidence of successful germination and for establishing a free to grow stand of trees, which meets or exceeds the minimum stocking level required for the site, will be established in the approved written plan.

If reforestation cannot be accomplished within the specified time due to circumstances determined by the forest practices forester to be beyond the landowner's control, the time to accomplish reforestation may be extended. Examples of such circumstances include:

(a) Nursery failure;
(b) Inadequate seedling availability following salvage harvesting;
(c) Extreme drought;
(d) Insect infestation;
(e) State smoke management restrictions on the burning of slash;
(f) Wildfire or disease damage; or
(g) Severe wildlife damage that could not be reasonably anticipated or controlled by the landowner.

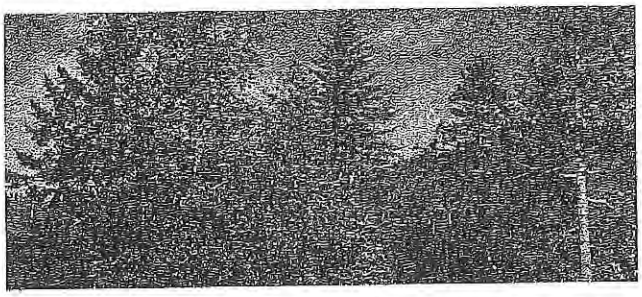
The following situations are examples of where extensions will *not* be granted:

(a) Failure of artificial reforestation efforts is due to landowner's failure to secure appropriate seed or seedlings following the harvest of free to grow trees. Exceptions may be granted for salvage harvests that the landowner could not anticipate.
(b) Natural reforestation failures are due to inadequate seed sources or poor seed crops in the years immediately after an operation.
(c) Failures on harsh reforestation sites resulting from harvest area design or competing vegetation.
(d) Wildlife damage that could have reasonably been anticipated and controlled, such as from mountain beavers.

Tree Species Suitable for Reforestation

Tree species are acceptable for artificial reforestation, natural reforestation, and as residual tree stocking based on all of the following criteria:

(a) The species must be ecologically suited to the planting site;
(b) The species must be capable of producing logs, fiber, or other wood products suitable in size and quality for the production of lumber, sheeting, pulp or other commercial forest products; and
(c) The species must be marketable in the foreseeable future.



Native species will generally be considered "ecologically suited" and the preferred reforestation species.

Up to 20 percent of required tree stocking may be met by using free to grow hardwood trees remaining after harvest. Prior approval by the FPF is required before more than 20 percent of the required stocking may be met with residual, post-operation hardwood trees.

Landowners are encouraged to reforest with a mixture of acceptable tree species where appropriate to reduce the risk of insect and disease losses and to promote stand diversity.

Seedlings or seeds used for artificial reforestation should be from seed sources that are genetically adapted to the growing site. If local seed sources are not available, landowners should not use off-site seeds or seedlings that may result in poor survival. A delay while waiting for appropriate seedlings is preferable to planting off-site stock.

When a landowner intends to plant or seed a tree species not native to the operation area, the landowner must obtain prior approval of a written plan which describes the tree species and how it will be used to meet the reforestation requirements. Information in the plan must include:

(a) The tree species that will be used;
(b) Evidence that the species is ecologically suited to the planting site;
(c) Evidence that the species is capable of producing commercial forest products that will be marketable in the foreseeable future; and

EXHIBIT AGENDA ITEM D
Page 6 of 8
Attachment 3
Page 40 of 115

(d) Available research or field test findings which demonstrate the tree species has been successfully used in reforesting sites similar to the operation area.

Written plans for the use of non-native tree species must be submitted for approval no later than twelve months after tree stocking is reduced and prior to planting. For the purpose of the rules, any tree species that has naturally existed and reproduced in the operation area or on similar sites will be considered a native species.

Suspension of the Reforestation Requirements

A landowner may request a suspension of the reforestation rules for the salvage or conversion of low value forest stands. Forest practices foresters will suspend the reforestation rules in such cases if the landowner is approved for funding from a forest incentive program administered by the Department of Forestry and the gross harvest revenues will not exceed the total costs of harvest, taxation, and reforestation. The intent of this suspension option is to allow landowners to fully qualify for federal cost-share funds and state incentive programs.



The suspension of the reforestation rules may be revoked at any time within six years of completing the operation if the landowner fails to establish a forest stand according to the specifications and time lines required under the applicable forest incentive program.

Contact your local Department of Forestry service forester if you wish to apply for this rule suspension.

Revegetation When Reforestation is Not Required

When reforestation is not required, the landowner must ensure sufficient revegetation of the site to provide continuing soil productivity and stabilization within 12 months of the completion of the operation. Revegetation may be planted or naturally established, and must consist of trees, shrubs, grasses, or forbs suitable for soil stabilization and productivity protection. Landowners are encouraged to revegetate the operation area with native plants.

Exemption from Reforestation when Developing Land for Non-Forest Uses

Nothing in the Forest Practices Act or the forest practice rules is intended to prevent a landowner from converting land to a non-forest use. However, when a land use change is planned following a harvest operation, the landowner must take certain steps for the operation area to receive an exemption from the reforestation requirements.

In seeking a reforestation exemption, the landowner must provide written documentation to the Department of Forestry which establishes:

(a) The specific portion of the operation area necessary for the proposed change in land use;
(b) The intended change in land use and the incompatibility of the land use with forest tree cover;
(c) The intended change in land use is authorized under local land use and zoning ordinances, and all necessary permits and approvals have been obtained, or will be obtained within 12 months following the reduction in tree stocking; and
(d) The county assessor and local planning department have been notified in writing of the proposed change in land use.

The Department of Forestry has developed a written plan form for this exemption request.

Reforestation exemptions will only be granted for the smallest land area necessary to carry out the intended change in land use. Reforestation will be required on the portions of operation areas not directly involved in the land use change.

Reasonable progress towards the change in land use, as determined by the forest practices forester, must be made within 12 months of the completion of the operation. The change in land use must be completed and continuously maintained within 24 months of the completion of the operation. Compliance extensions may be granted by the forest practices forester based on written evidence provided by the landowner, that the landowner made reasonable attempts to comply, but was prevented from doing so by circumstances beyond the landowner's control.

To remain exempt from the reforestation requirements the landowner must continuously maintain the land in the new use until at least six calendar years following the completion of the operation.

EXHIBIT A7
Page 7 of 8
AGENDA ITEM D

ODF Field Offices Directory

Northwest Oregon Area

Astoria District
Route 1, Box 950
Astoria, OR 97103
(503) 325-5451

Tillamook District
4907 E. 3rd St.
Tillamook, OR 97141
(503) 842-2545

Forest Grove District
801 Gales Creek Road
Forest Grove, OR 97116
(503) 357-2191

Clackamas-Marion District
14995 S. Hwy 211
Molalla, OR 97038
(503) 829-2216

West Oregon District
25433 Alsea Hwy
Philomath, OR 97370
(541) 929-3266

Southern Oregon Area

Douglas District
1758 N.E. Airport Road
Roseburg, OR 97470
(541) 440-3412

Western Lane District
P.O. Box 157
Veneta, OR 97487
(541) 935-2283

Eastern Lane District
3150 Main St.
Springfield, OR 97478
(541) 726-3588

Linn District
4690 Hwy 20
Sweet Home, OR 97386
(541) 367-6108

Southwest Oregon District
5286 Table Rock Road
Central Point, OR 97502
(541) 664-3328

Coos District
300 5th St., Bay Park
Coos Bay, OR 97420
(541) 267-4136

Eastern Oregon Area

Central Oregon District
3501 E. 3rd Street
Prineville, OR 97754
(541) 447-5658

Klamath-Lake District
3200 DeLap Road
Klamath Falls, OR 97601
(541) 883-5681

Northeast Oregon District
611 20th St.
La Grande, OR 97850
(541) 963-3168

Salem Headquarters

2600 State Street
Salem, OR 97310
(503) 945-7470

Revised 2/98-5M

OREGON DEPARTMENT OF FORESTRY
FOREST PRACTICES PROGRAM
2600 STATE STREET
SALEM, OR 97310

"STEWARDSHIP IN FORESTRY"

EXHIBIT A7
Page 8 of 8



EXHIBIT A8
Page 1 of 2



EXHIBIT A8
Page 2 of 2

Oregon Department of Forestry
Private Forests Division
2600 State Street, Salem, OR 97310

Case Brief Photo Log

ODF Case No. 16-CN029	Notification No. 2013-582-00077
Respondent: Brad Reeser abd Sarah Stark-Reeser	District: North Cascade
Photos taken by: Joseph Arbow	
Date photos taken: June 27, 2016	

Photo #1



Location:
Picture taken from Highway 226 right-of-way of the front gate of driveway to [redacted]

Description:
Brush is observed from this vantage adjacent to driveway with no visible seedlings.

EXHIBIT A9
Page 1 of 8

Photo #2



Location:

Picture taken from driveway adjacent to Reeser property along eastern edge of taxlot.

Description:

Brush is observed from this vantage adjacent to driveway with no visible seedlings.

Photo #3



Location:

Picture taken from driveway adjacent to Reeser property along eastern edge of taxlot.

Description:

Brush is observed from this vantage adjacent to driveway with no visible seedlings.

EXHIBIT A9
Page 2 of 8

Photo #4



Location:

Picture taken from driveway adjacent to Reeser property along eastern edge of taxlot.

Description:

Brush is observed from this vantage adjacent to driveway with no visible seedlings.

Photo #5



Location:

Picture taken from driveway adjacent to Reeser property along eastern edge of taxlot.

Description:

Brush is observed from this vantage adjacent to driveway with no visible seedlings.

EXHIBIT A9

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Page 7 of 8

Oregon
Katherine Brown, Governor

Department of Forestry
North Cascade District-Santiam Unit
22965 North Fork Rd SE
Lyons, OR 97358
503-859-2151
FAX 503-859-2158

"STEWARDSHIP IN FORESTRY"

June 16, 2016

Brad Reeser and Sarah Stark-Reeser
[redacted]

REQUIRED REFORESTATION
Notification: 201358200077 Location: T09S, R01E Sec.23

This letter is regarding the forest operation completed on your property in 2013. A letter was sent in 2014 reminding you of the obligation to plant the area within two years (As per the letter from 2014 the planting should have been accomplished by April 30, 2016). The two years are now up and it does not appear that you have replanted the area. Several attempts have been made to contact you via phone with no success based on the information included in the notification from 2013. As per the county taxlot records you are still the landowner of record.

At this point I would like to meet with you and discuss further action. Please contact the stewardship forester to set up a meeting by July 15th, 2016. If you have not contacted ODF to discuss this obligation by July 15th, 2016 a citation will be issued.

Sincerely,

Joe Arbow- Stewardship Forester
Joseph.M.Arbow@oregon.gov
503-859-4323

EXHIBIT 2 AGENDA ITEM D
Page 1 of 2 Attachment 3

LINN COUNTY, OREGON PROPERTY TAX STATEMENT

300 4TH AVE SW RM 214
PO BOX 100
ALBANY, OR 97321
JULY 1, 2010 TO JUNE 30, 2011

ACCOUNT NO: [redacted]

EAL PROPERTY DESCRIPTION

CODE: 02703 PCL: 649
MAP: [redacted]
ACRES: 15.30
SITUS: [redacted]

COLE DENNIS A & JUDITH GJ
[redacted]

VALUES	LAST YEAR	THIS YEAR
REAL MARKET		
LAND	245,000	215,750
STRUCTURES	65,990	62,230
TOTAL RMV	310,990	277,980
TOTAL ASSESSED VALUE	68,002	70,030
EXEMPTIONS		0
NET TAXABLE:	68,002	70,030
TOTAL PROPERTY TAX:	855.06	858.35

WILLAMETTE RG ESD	20.78
CHEMEKETA CC	43.83
NORTH SANTIAM SD #29	307.94
EDUCATION TOTAL:	372.55
LINN COUNTY	89.19
LINN COUNTY LOC OP	163.87
CHEMEKETA LIBRARY	5.73
LYONS RFD	115.33
LINN SOIL-WATER DST	0.00
4H EXTENSION DISTRICT	3.64
GENERAL GOVT TOTAL:	377.76
CHEMEKETA CC BND	5.56
CHEMEKETA CC BND 2	6.16
N SANTIAM SD #29 BND	45.32
LYONS RFD BONDS	51.00
BONDS - OTHER TOTAL:	108.04

-POTENTIAL ADDITIONAL TAX LIABILITY-
PAY OPTIONS: ..IN PERSON OR ..ONLINE
..BY CREDIT CARD: 2.95% FEE
BY E-CHECK ONLINE: $1.50 FEE
AIL: USE ENCL ENV, NOV 15TH POSTMARK ACCEPTED

FOR TAX QUESTIONS CALL: (541) 967-3808

YOUR CANCELLED CHECK IS YOUR RECEIPT

2010 - 2011 TAX (Before Discount) 858.35

PAYMENT OPTIONS			
Date Due	3% Option	2% Option	Trimester Option
11/15/10	832.60	560.79	286.12
02/15/11			286.12
05/16/11		286.12	286.11
Total	832.60	846.91	858.35

TOTAL DUE (After Discount and Pre-payments) 832.60

↑ Tear Here — PLEASE RETURN THIS PORTION WITH YOUR PAYMENT — Tear Here ↑

2010 - 2011 PROPERTY TAXES — LINN COUNTY REAL — ACCOUNT NO. [redacted]

PAYMENT OPTIONS	Discount	Date Due	Amount	Date Due	Amount	Date Due	Amount
Full Payment Enclosed	3%	11/15/10	832.60				
or 2/3 Payment Enclosed	2%	11/15/10	560.79			05/16/11	286.12
or 1/3 Payment Enclosed	0%	11/15/10	286.12	02/15/11	286.12	05/16/11	286.11

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE ☐ Mailing address change on back

Enter Payment Amount
$

811 - 016654 - 83260
COLE DENNIS A & JUDITH GJ
[redacted]

MAKE PAYMENT TO:

LINN COUNTY TAX COLLECTOR
PO BOX 309
ALBANY, OR 97321

EXHIBIT A-1
Page 1 of 8

FOR CREDIT CARD PAYMENT INFO:
www.co.linn.or.us/assessorshomep/PayOnLine.htm

2210000706974000002861200000560790000852602

LINN COUNTY, OREGON PROPERTY TAX STATEMENT

300 4TH AVE SW RM 214
PO BOX 100
ALBANY, OR 97321
JULY 1, 2011 TO JUNE 30, 2012

ACCOUNT NO: [redacted]

EAL PROPERTY DESCRIPTION

CODE: 02703 PCL: 649
MAP: [redacted]
ACRES: 15.30
SITUS: [redacted]

REESER BRAD & STARK SARAH
[redacted]

VALUES	LAST YEAR	THIS YEAR
REAL MARKET		
LAND	215,750	213,790
STRUCTURES	62.230	60,400
TOTAL RMV	277,980	274,190
TOTAL ASSESSED VALUE	70,030	72,110
EXEMPTIONS		0
NET TAXABLE:	70,030	72,110
TOTAL PROPERTY TAX	858.35	870.89

WILLAMETTE RG ESD	21.40
CHEMEKETA CC	45.13
NORTH SANTIAM SD #29	317.09
EDUCATION TOTAL:	383.62
LINN COUNTY	91.84
LINN COUNTY LOC OP	186.04
LINN COUNTY LOC OP II	13.70
CHEMEKETA LIBRARY	5.90
LYONS RFD	118.76
LINN SOIL-WATER DST	0.00
4H EXTENSION DISTRICT	3.75
GENERAL GOVT TOTAL:	419.99
CHEMEKETA CC BND	6.17
CHEMEKETA CC BND 2	12.18
N SANTIAM SD #29 BND	48.93
BONDS - OTHER TOTAL:	67.28

-POTENTIAL ADDITIONAL TAX LIABILITY-
PAY OPTIONS: ..IN PERSON OR ..ONLINE
..BY CREDIT CARD: 2.95% FEE
BY E-CHECK ONLINE: $1.50 FEE
AIL: USE ENCL ENV, NOV 15TH POSTMARK ACCEPTED

FOR TAX QUESTIONS CALL: (541) 967-3808

YOUR CANCELLED CHECK IS YOUR RECEIPT

2011 - 2012 TAX (Before Discount) 870.89

PAYMENT OPTIONS			
Date Due	3% Option	2% Option	Trimester Option
11/15/11	844.76	568.98	290.30
02/15/12			290.30
05/15/12		290.30	290.29
Total	844.76	859.28	870.89

TOTAL DUE (After Discount and Pre-payments) 844.76

↑ Tear Here — PLEASE RETURN THIS PORTION WITH YOUR PAYMENT — Tear Here ↑

2011 - 2012 PROPERTY TAXES — LINN COUNTY REAL — ACCOUNT NO. [redacted]

PAYMENT OPTIONS	Discount	Date Due	Amount	Date Due	Amount	Date Due	Amount
Full Payment Enclosed	3%	11/15/11	844.76				
or 2/3 Payment Enclosed	2%	11/15/11	568.98			05/15/12	290.30
or 1/3 Payment Enclosed	0%	11/15/11	290.30	02/15/12	290.30	05/15/12	290.29

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE

☐ Mailing address change on back

Enter Payment Amount
$

956 - 016435 - 84476
REESER BRAD & STARK SARAH
[redacted]

MAKE PAYMENT TO:

LINN COUNTY TAX COLLECTOR
PO BOX 309
ALBANY, OR 97321

EXHIBIT A11
page 2 of 8

FOR CREDIT CARD PAYMENT INFO:
www.co.linn.or.us/assessorshomep/PayOnLine.htm

2210000706974000002903000000568980000084760

LINN COUNTY, OREGON PROPERTY TAX STATEMENT

300 4TH AVE SW RM 214
PO BOX 100
ALBANY, OR 97321
JULY 1, 2012 TO JUNE 30, 2013

ACCOUNT NO: [redacted]

EAL PROPERTY DESCRIPTION

CODE: 02703 PCL: 649
MAP: [redacted]
ACRES: 15.30
SITUS: [redacted]

REESER BRAD & STARK SARAH
[redacted]

VALUES	LAST YEAR	THIS YEAR
REAL MARKET		
LAND	213,790	194,410
STRUCTURES	60,400	56,340
TOTAL RMV	274,190	250,750
TOTAL ASSESSED VALUE	72,110	74,260
EXEMPTIONS		0
NET TAXABLE:	72,110	74,260
TOTAL PROPERTY TAX:	870.89	897.43

WILLAMETTE RG ESD	22.03
CHEMEKETA CC	46.48
NORTH SANTIAM SD #29	326.54
EDUCATION TOTAL:	395.05
LINN COUNTY	94.58
LINN COUNTY LOC OP	191.59
LINN COUNTY LOC OP II	14.11
CHEMEKETA LIBRARY	6.07
LYONS RFD	122.30
LINN SOIL-WATER DST	0.00
4H EXTENSION DISTRICT	3.86
GENERAL GOVT TOTAL:	432.51
CHEMEKETA CC BND	6.31
CHEMEKETA CC BND 2	13.89
N SANTIAM SD #29 BND	49.67
BONDS - OTHER TOTAL:	69.87

-POTENTIAL ADDITIONAL TAX LIABILITY-
PAY OPTIONS: ..IN PERSON OR ..ONLINE
..BY VISA DEBIT: $3.95 FEE
..BY CREDIT OR DEBIT CARD: 2.5% FEE
Y E-CHECK ONLINE: $1.50 FEE
.AIL: USE ENCL ENV, NOV 15TH POSTMARK ACCEPTED
FOR TAX QUESTIONS CALL: (541) 967-3808

YOUR CANCELLED CHECK IS YOUR RECEIPT

2012 - 2013 TAX (Before Discount) 897.43

PAYMENT OPTIONS			
Date Due	3% Option	2% Option	Trimester Option
11/15/12	870.51	586.32	299.15
02/15/13			299.14
05/15/13		299.14	299.14
Total	870.51	885.46	897.43

TOTAL DUE (After Discount and Pre-payments) 870.51

↑ Tear Here — PLEASE RETURN THIS PORTION WITH YOUR PAYMENT — Tear Here ↑

2012 - 2013 PROPERTY TAXES — LINN COUNTY REAL — ACCOUNT NO. [redacted]

PAYMENT OPTIONS	Discount	Date Due	Amount	Date Due	Amount	Date Due	Amount
Full Payment Enclosed	3%	11/15/12	870.51				
or 2/3 Payment Enclosed	2%	11/15/12	586.32			05/15/13	299.14
or 1/3 Payment Enclosed	0%	11/15/12	299.15	02/15/13	299.14	05/15/13	299.14

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE

☐ Mailing address change on back

Enter Payment Amount
$

1066 - 016386 - 87051
REESER BRAD & STARK SARAH
[redacted]

MAKE PAYMENT TO:

LINN COUNTY TAX COLLECTOR
PO BOX 309
ALBANY, OR 97321

EXHIBIT A11
Page 3 of 8

FOR CREDIT CARD PAYMENT INFO:
www.co.linn.or.us/assessorshomep/PayOnLine.htm

2210000706974000002991500000586320000089511

LINN COUNTY, OREGON PROPERTY TAX STATEMENT

300 4TH AVE SW RM 214
PO BOX 100
ALBANY, OR 97321
JULY 1, 2013 TO JUNE 30, 2014

ACCOUNT NO: [redacted]

AL PROPERTY DESCRIPTION

CODE: 02703 PCL: 649
MAP: [redacted]
ACRES: 15.30
SITUS: [redacted]

REESER BRAD & STARK SARAH
[redacted]

VALUES	LAST YEAR	THIS YEAR
REAL MARKET		
LAND	194,410	182,210
STRUCTURES	56,340	56,010
TOTAL RMV	250,750	238,220
TOTAL ASSESSED VALUE	74,260	76,470
EXEMPTIONS		0
NET TAXABLE:	74,260	76,470
TOTAL PROPERTY TAX	897.43	953.71

WILLAMETTE RG ESD	22.69
CHEMEKETA CC	47.86
NORTH SANTIAM SD #29	336.26
EDUCATION TOTAL:	406.81
LINN COUNTY	97.39
LINN COUNTY LOC OP	197.29
LINN COUNTY LOC OP II	14.53
CHEMEKETA LIBRARY	6.26
LYONS RFD	125.94
LINN SOIL-WATER DST	0.00
4H EXTENSION DISTRICT	3.98
GENERAL GOVT TOTAL:	445.39
CHEMEKETA CC BND	6.07
CHEMEKETA CC BND 2	11.62
N SANTIAM SD #29 BND	83.82
BONDS - OTHER TOTAL:	101.51

-POTENTIAL ADDITIONAL TAX LIABILITY-
PAY OPTIONS: ..IN PERSON OR ..ONLINE
..BY VISA DEBIT: $3.95 FEE
BY CREDIT OR DEBIT CARD: 2.5% FEE
/ E-CHECK ONLINE: $1.50 FEE
AIL: USE ENCL ENV, NOV 15TH POSTMARK ACCEPTED
FOR TAX QUESTIONS CALL: (541) 967-3808

YOUR CANCELLED CHECK IS YOUR RECEIPT

2013 - 2014 TAX (Before Discount)	**953.71**
DELINQUENT TAXES:	
2012-13 TAX AND INTEREST DUE	657.91
TOTAL DUE (After Discount and Pre-payments)	**1,583.01**

PAYMENT OPTIONS

Date Due	3% Option	2% Option	Trimester Option
11/15/13	1,583.01	1,281.00	975.82
02/18/14			317.90
05/15/14		317.90	317.90
Total	1,583.01	1,598.90	1,611.62

↑ Tear Here — PLEASE RETURN THIS PORTION WITH YOUR PAYMENT — Tear Here ↑

2013 - 2014 PROPERTY TAXES — LINN COUNTY REAL — ACCOUNT NO. [redacted]

PAYMENT OPTIONS	Discount	Date Due	Amount	Date Due	Amount	Date Due	Amount
Full Payment Enclosed	3%	11/15/13	1,583.01				
or 2/3 Payment Enclosed	2%	11/15/13	1,281.00			05/15/14	317.90
or 1/3 Payment Enclosed	0%	11/15/13	975.82	02/18/14	317.90	05/15/14	317.90

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE

☐ Mailing address change on back

Enter Payment Amount
$

1173 - 016270 - 158301
REESER BRAD & STARK SARAH
[redacted]

MAKE PAYMENT TO:

LINN COUNTY TAX COLLECTOR
PO BOX 309
ALBANY, OR 97321

EXHIBIT A11
Page 4 of 8

FOR CREDIT CARD PAYMENT INFO:
www.co.linn.or.us/assessorshomep/PayOnLine.htm

2210000706974000009758200001281000000158301 3

LINN COUNTY, OREGON PROPERTY TAX STATEMENT

300 4TH AVE SW RM 214
PO BOX 100
ALBANY, OR 97321
JULY 1, 2014 TO JUNE 30, 2015

ACCOUNT NO: [redacted]

AL PROPERTY DESCRIPTION

CODE: 02703 PCL: 649
MAP: [redacted]
ACRES: 15.30
SITUS: [redacted]

REESER BRAD & STARK SARAH
[redacted]

VALUES	LAST YEAR	THIS YEAR
REAL MARKET		
LAND	182,210	157,180
STRUCTURES	56,010	56,090
TOTAL RMV	238,220	213,270
TOTAL ASSESSED VALUE	76,470	78,812
EXEMPTIONS		0
NET TAXABLE:	76,470	78,812
TOTAL PROPERTY TAX:	953.71	1,024.87

WILLAMETTE RG ESD	23.38
CHEMEKETA CC	49.33
NORTH SANTIAM SD #29	346.56
EDUCATION TOTAL:	419.27
LINN COUNTY	100.37
LINN COUNTY LOC OP	223.04
LINN COUNTY LOC OP II	14.97
CHEMEKETA LIBRARY	6.45
LYONS RFD	129.80
LINN SOIL-WATER DST	0.00
4H EXTENSION DISTRICT	4.10
GENERAL GOVT TOTAL:	478.73
CHEMEKETA CC BND 2	21.15
N SANTIAM SD #29 BND	92.07
LYONS RFD BONDS	13.65
BONDS - OTHER TOTAL:	126.87

-POTENTIAL ADDITIONAL TAX LIABILITY-
PAY OPTIONS: ..IN PERSON OR ..ONLINE
..BY VISA DEBIT: $3.95 FEE
BY CREDIT OR DEBIT CARD: 2.5% FEE
E-CHECK ONLINE: $1.50 FEE
.AIL: USE ENCL ENV, NOV 17TH POSTMARK ACCEPTED
FOR TAX QUESTIONS CALL: (541) 967-3808

YOUR CANCELLED CHECK IS YOUR RECEIPT

2014 - 2015 TAX (Before Discount) 1,024.87

PAYMENT OPTIONS			
Date Due	3% Option	2% Option	Trimester Option
11/17/14	994.12	669.59	341.63
02/17/15			341.62
05/15/15		341.62	341.62
Total	994.12	1,011.21	1,024.87

TOTAL DUE (After Discount and Pre-payments) 994.12

↑ Tear Here — PLEASE RETURN THIS PORTION WITH YOUR PAYMENT — Tear Here ↑

2014 - 2015 PROPERTY TAXES — LINN COUNTY REAL — ACCOUNT NO. [redacted]

PAYMENT OPTIONS	Discount	Date Due	Amount	Date Due	Amount	Date Due	Amount
Full Payment Enclosed	3%	11/17/14	994.12				
or 2/3 Payment Enclosed	2%	11/17/14	669.59			05/15/15	341.62
or 1/3 Payment Enclosed	0%	11/17/14	341.63	02/17/15	341.62	05/15/15	341.62

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE

☐ Mailing address change on back

Enter Payment Amount
$

1297 - 016041 - 99412
REESER BRAD & STARK SARAH
[redacted]

MAKE PAYMENT TO:

LINN COUNTY TAX COLLECTOR
PO BOX 309
ALBANY, OR 97321

EXHIBIT A11
Page 5 of 8

FOR CREDIT CARD PAYMENT INFO:
www.co.linn.or.us/assessorshomep/PayOnLine.htm

2210000706974000003416300000669590000094128

LINN COUNTY, OREGON PROPERTY TAX STATEMENT

300 4TH AVE SW RM 214
PO BOX 100
ALBANY, OR 97321
JULY 1, 2015 TO JUNE 30, 2016

ACCOUNT NO: [redacted]

EAL PROPERTY DESCRIPTION
CODE: 02703 PCL: 649
MAP: [redacted]
ACRES: 15.30
SITUS: [redacted]

REESER BRAD & STARK SARAH
[redacted]

VALUES	LAST YEAR	THIS YEAR
REAL MARKET		
LAND	157,180	162,180
STRUCTURES	56,090	66,780
TOTAL RMV	213,270	228,960
TOTAL ASSESSED VALUE	78,812	81,168
EXEMPTIONS		0
NET TAXABLE:	78,812	81,168
TOTAL PROPERTY TAX:	1,024.87	1,052.50

WILLAMETTE RG ESD	24.08
CHEMEKETA CC	50.80
NORTH SANTIAM SD #29	356.92
EDUCATION TOTAL:	431.80
LINN COUNTY	103.38
LINN COUNTY LOC OP	229.71
LINN COUNTY LOC OP II	15.42
CHEMEKETA LIBRARY	6.64
LYONS RFD	133.68
LINN SOIL-WATER DST	0.00
4H EXTENSION DISTRICT	5.68
GENERAL GOVT TOTAL:	494.51
CHEMEKETA CC BND 2	23.79
N SANTIAM SD #29 BND	90.04
LYONS RFD BONDS	12.36
BONDS - OTHER TOTAL:	126.19

-POTENTIAL ADDITIONAL TAX LIABILITY-
PAY OPTIONS: ..IN PERSON OR ..ONLINE
..BY VISA DEBIT: $3.95 FEE
BY CREDIT OR DEBIT CARD: 2.5% FEE
Y E-CHECK ONLINE: $1.50 FEE
.AIL: USE ENCL ENV, NOV 16TH POSTMARK ACCEPTED
FOR TAX QUESTIONS CALL: (541) 967-3808

YOUR CANCELLED CHECK IS YOUR RECEIPT

2015 - 2016 TAX (Before Discount) 1,052.50

PAYMENT OPTIONS

Date Due	3% Option	2% Option	Trimester Option
11/16/15	1,020.92	687.64	350.84
02/16/16			350.83
05/16/16		350.83	350.83
Total	1,020.92	1,038.47	1,052.50

TOTAL DUE (After Discount and Pre-payments) 1,020.92

↑ Tear Here — PLEASE RETURN THIS PORTION WITH YOUR PAYMENT — Tear Here ↑

2015 - 2016 PROPERTY TAXES — LINN COUNTY REAL — ACCOUNT NO. [redacted]

PAYMENT OPTIONS	Discount	Date Due	Amount	Date Due	Amount	Date Due	Amount
Full Payment Enclosed	3%	11/16/15	1,020.92				
or 2/3 Payment Enclosed	2%	11/16/15	687.64			05/16/16	350.83
or 1/3 Payment Enclosed	0%	11/16/15	350.84	02/16/16	350.83	05/16/16	350.83

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE

☐ Mailing address change on back

Enter Payment Amount
$

1431 - 016607 - 102092
REESER BRAD & STARK SARAH
[redacted]

MAKE PAYMENT TO:

LINN COUNTY TAX COLLECTOR
PO BOX 309
ALBANY, OR 97321

EXHIBIT A11
Page 6 of 8

FOR CREDIT CARD PAYMENT INFO:
www.co.linn.or.us/assessorshomep/PayOnLine.htm

2210000706974000003508400000687640000102092

LINN COUNTY, OREGON PROPERTY TAX STATEMENT

300 4TH AVE SW RM 214
PO BOX 100
ALBANY, OR 97321
JULY 1, 2016 TO JUNE 30, 2017

ACCOUNT NO: [redacted]

AL PROPERTY DESCRIPTION
CODE: 02703 PCL: 649
MAP: [redacted]
ACRES: 15.30
SITUS: [redacted]

REESER BRAD & STARK SARAH
[redacted]

VALUES	LAST YEAR	THIS YEAR
REAL MARKET		
LAND	162,180	183,710
STRUCTURES	66,780	74,370
TOTAL RMV	228,960	258,080
TOTAL ASSESSED VALUE	81,168	83,600
EXEMPTIONS		0
NET TAXABLE:	81,168	83,600
TOTAL PROPERTY TAX	1,052.50	1,089.85

WILLAMETTE RG ESD	24.80
CHEMEKETA CC	52.33
NORTH SANTIAM SD #29	367.61
EDUCATION TOTAL:	444.74
LINN COUNTY	106.47
LINN COUNTY LOC OP	236.59
LINN COUNTY LOC OP II	15.88
CHEMEKETA LIBRARY	6.84
LYONS RFD	137.68
4H EXTENSION DISTRICT	5.85
GENERAL GOVT TOTAL:	509.31
CHEMEKETA CC BND 2	23.07
N SANTIAM SD #29 BND	98.51
LYONS RFD BONDS	14.22
BONDS - OTHER TOTAL:	135.80

-POTENTIAL ADDITIONAL TAX LIABILITY-
PAY OPTIONS: ..IN PERSON OR ..ONLINE
..BY VISA DEBIT: $3.95 FEE
..Y CREDIT OR DEBIT CARD: 2.5% FEE
E-CHECK ONLINE: $1.50 FEE
..MAIL: USE ENCL ENV, NOV 15TH POSTMARK ACCEPTED
FOR TAX QUESTIONS CALL: (541) 967-3808

YOUR CANCELLED CHECK IS YOUR RECEIPT

2016 - 2017 TAX (Before Discount)	1,089.85
DELINQUENT TAXES:	
2015-16 TAX AND INTEREST DUE	1178.80
TOTAL DUE (After Discount and Pre-payments)	2,235.95

PAYMENT OPTIONS

Date Due	3% Option	2% Option	Trimester Option
11/15/16	2,235.95	1,890.84	1,542.09
02/15/17			363.28
05/15/17		363.28	363.28
Total	2,235.95	2,254.12	2,268.65

↑ Tear Here — PLEASE RETURN THIS PORTION WITH YOUR PAYMENT — Tear Here ↑

2016 - 2017 PROPERTY TAXES — LINN COUNTY REAL — ACCOUNT NO. [redacted]

PAYMENT OPTIONS	Discount	Date Due	Amount	Date Due	Amount	Date Due	Amount
Full Payment Enclosed	3%	11/15/16	2,235.95				
or 2/3 Payment Enclosed	2%	11/15/16	1,890.84			05/15/17	363.28
or 1/3 Payment Enclosed	0%	11/15/16	1,542.09	02/15/17	363.28	05/15/17	363.28

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE

☐ Mailing address change on back

Enter Payment Amount
$

1516 - 016318 - 223595
REESER BRAD & STARK SARAH
[redacted]

MAKE PAYMENT TO:

LINN COUNTY TAX COLLECTOR
PO BOX 309
ALBANY, OR 97321

EXHIBIT A11
Page 7 of 8

FOR CREDIT CARD PAYMENT INFO:
www.co.linn.or.us/assessorshomep/PayOnLine.htm

2210000706974000015420900001890840000295993

LINN COUNTY, OREGON PROPERTY TAX STATEMENT

300 4TH AVE SW RM 214
PO BOX 100
ALBANY, OR 97321
JULY 1, 2017 TO JUNE 30, 2018

ACCOUNT NO: [redacted]
[redacted] CLG DMI

EAL PROPERTY DESCRIPTION
CODE: 02703 PCL: 649
MAP: [redacted]
ACRES: 15.30
SITUS: [redacted]

BERSS EVAN L ET AL
[redacted]

VALUES	LAST YEAR	THIS YEAR
REAL MARKET		
LAND	183,710	202,540
STRUCTURES	74,370	90,380
TOTAL RMV	258,080	292,920
TOTAL ASSESSED VALUE	83,600	86,107
EXEMPTIONS		0
NET TAXABLE:	**83,600**	**86,107**
TOTAL PROPERTY TAX	**1,089.85**	**1,121.16**

WILLAMETTE RG ESD	25.55
CHEMEKETA CC	53.89
NORTH SANTIAM SD #29	378.64
EDUCATION TOTAL:	458.08
LINN COUNTY	109.67
LINN COUNTY LOC OP	243.68
LINN COUNTY LOC OP II	16.36
CHEMEKETA LIBRARY	7.04
LYONS RFD	141.81
4H EXTENSION DISTRICT	6.03
GENERAL GOVT TOTAL:	524.59
CHEMEKETA CC BND 2	23.40
N SANTIAM SD #29 BND	101.21
LYONS RFD BONDS	13.88
BONDS - OTHER TOTAL:	138.49

-POTENTIAL ADDITIONAL TAX LIABILITY-
CALL YOUR LENDER IF YOU ARE NOT CERTAIN WHO PAYS

PLEASE READ INFORMATION ON BACK OF FORM

FOR TAX QUESTIONS CALL: (541) 967-3808

YOUR CANCELLED CHECK IS YOUR RECEIPT

2017 - 2018 TAX (Before Discount) 1,121.16

PAYMENT OPTIONS			
Date Due	3% Option	2% Option	Trimester Option
11/15/17	1,087.53	732.49	373.72
02/15/18			373.72
05/15/18		373.72	373.72
Total	1,087.53	1,106.21	1,121.16

TOTAL DUE (After Discount and Pre-payments) 1,087.53

↑ Tear Here — PLEASE RETURN THIS PORTION WITH YOUR PAYMENT — Tear Here ↑

2017 - 2018 PROPERTY TAXES — LINN COUNTY REAL — ACCOUNT NO. [redacted]

PAYMENT OPTIONS	Discount	Date Due	Amount	Date Due	Amount	Date Due	Amount
Full Payment Enclosed	3%	11/15/17	1,087.53				
or 2/3 Payment Enclosed	2%	11/15/17	732.49			05/15/18	373.72
or 1/3 Payment Enclosed	0%	11/15/17	373.72	02/15/18	373.72	05/15/18	373.72

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE

☐ Mailing address change on back

Enter Payment Amount
$

1693 - 011073 - 108753
BERSS EVAN L ET AL
[redacted]

MAKE PAYMENT TO:

LINN COUNTY TAX COLLECTOR
PO BOX 309
ALBANY, OR 97321

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DISCOVER VISA ELECTRONIC

FOR CREDIT CARD PAYMENT INFO:
www.co.linn.or.us/assessorshomep/PayOnLine.htm

2210000706974000003737200000732490000[redacted]

DIVISION 600
DEFINITIONS

DEFINITIONS
629-600-0100

As used in OAR Chapter 629, Divisions 605 through 669 and Divisions 680 through 699, unless otherwise required by context:

(1) "Abandoned resource site" means a resource site that the State Forester determines is not active.

(2) "Active resource site" means a resource site that the State Forester determines has been used in the recent past by a listed species. 'Recent past' shall be identified for each species in administrative rule. Resource sites that are lost or rendered not viable by natural causes are not considered active.

(3) "Active roads" are roads currently being used or maintained for the purpose of removing commercial forest products.

(4) "Aquatic area" means the wetted area of streams, lakes and wetlands up to the high water level. Oxbows and side channels are included if they are part of the flow channel or contain fresh water ponds.

(5) "Artificial reforestation" means restocking a site by planting trees or through the manual or mechanical distribution of seeds.

(6) "Basal area" means the area of the cross-section of a tree stem derived from DBH.

(7) "Basal area credit" means the credit given towards meeting the live tree requirements within riparian management areas for placing material such as logs, rocks or rootwads in a stream, or conducting other enhancement activities such as side channel creation or grazing exclosures.

(8) "Bog" means a wetland that is characterized by the formation of peat soils and that supports specialized plant communities. A bog is a hydrologically closed system without flowing water. It is usually saturated, relatively acidic, and dominated by ground mosses, especially sphagnum. A bog may be forested or non-forested and is distinguished from a swamp and a marsh by the dominance of mosses and the presence of extensive peat deposits.

(9) "Channel" is a distinct bed or banks scoured by water which serves to confine water and that periodically or continually contains flowing water.

(10) "Chemicals" means and includes all classes of pesticides, such as herbicides, insecticides, rodenticides, fungicides, plant defoliants, plant desiccants, and plant regulators, as defined in ORS 634.006 (8); fertilizers, as defined in ORS 633.311; petroleum products used as carriers; and chemical application adjuvants, such as surfactants, drift control additives,

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anti-foam agents, wetting agents, and spreading agents.

GUIDANCE:
Chemicals – The definition of "chemicals" includes animal repellents. Adjuvants are ingredients added to a pesticide formulation to make it more effective. More information on "chemicals" is provided in the guidance for OAR 629-620-0000.

(11) "Commercial" means of or pertaining to the exchange or buying and selling of commodities or services. This includes any activity undertaken with the intent of generating income or profit; any activity in which a landowner, operator or timber owner receives payment from a purchaser of forest products; any activity in which an operator or timber owner receives payment or barter from a landowner for services that require notification under OAR 629-605-0140; or any activity in which the landowner, operator, or timber owner barters or exchanges forest products for goods or services. This does not include firewood cutting or timber milling for personal use.

GUIDANCE:
Commercial - Note the discussion of this term in guidance for the definition of an "operation".

(12) "Completion of the operation" means harvest activities have been completed to the extent that the operation area will not be further disturbed by those activities.

GUIDANCE:
Completion of the operation - Generally, the completion of yarding is considered completion of disturbance.

(13) "Conflict" means resource site abandonment or reduced resource site productivity that the State Forester determines is a result of forest practices.

(14) "Debris torrent-prone streams" are designated by the State Forester to include channels and confining slopes that drain watersheds containing high landslide hazard locations that are of sufficient confinement and channel gradient to allow shallow, rapid landslide movement.

(15) "Department" means the Oregon Department of Forestry.

(16) "Diameter breast height" (DBH) means the diameter of a tree inclusive of the bark measured four and one-half feet above the ground on the uphill side of the tree.

(17) "Domestic water use" means the use of water for human consumption and other household human use.

GUIDANCE:
Domestic water use - Irrigation and livestock watering are not considered domestic water use.

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(18) "Dying or recently dead tree" means a tree with less than ten percent live crown or a standing tree which is dead, but has a sound root system and has not lost its small limbs. Needles or leaves may still be attached to the tree.

(19) "Estuary" means a body of water semi-enclosed by land and connected with the open ocean within which saltwater is usually diluted by freshwater derived from the land. "Estuary" includes all estuarine waters, tidelands, tidal marshes, and submerged lands extending upstream to the head of tidewater. However, the Columbia River Estuary extends to the western edge of Puget Island.

(20) "Exposure categories" are used to designate the likelihood of persons being present in structures or on public roads during periods when shallow, rapidly moving landslides may occur.

(21) "Filling" means the deposit by artificial means of any materials, organic or inorganic.

(22) "Fish use" means inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the federal or state endangered species acts.

(23) "Fledgling tree" means a tree or trees close to the nest which the State Forester determines are regularly used by young birds to develop flying skills.

(24) "Foraging area" means an area (usually a body of water) where bald eagles concentrate their hunting activities.

(25) "Foraging perch" means a tree or other structure that overlooks a portion of a foraging area and is habitually used by bald eagles as a vantage point while hunting.

(26) "Forestland" means land which is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied.

GUIDANCE:
Forestland - Note the discussion of this term in guidance for the definition of an "operation."

(27) "Free to grow" means the State Forester's determination that a tree or a stand of well distributed trees, of acceptable species and good form, has a high probability of remaining or becoming vigorous, healthy, and dominant over undesired competing vegetation. For the purpose of this definition, trees are considered well distributed if 80 percent or more of the portion of the operation area subject to the reforestation requirements of the rules contains at least the minimum per acre tree stocking required by the rules for the site and not more than ten percent contains less than one-half of the minimum per acre tree stocking required by the rules for the site.

GUIDANCE:
Free to grow - The definition of "well distributed" trees says it is acceptable if ten percent of the area subject to reforestation is at less than one-half the minimum per acre stocking. That does not mean landowners need not attempt reforestation on ten percent of the operation area that is

below the reforestation threshold. An operator must have made an effort to reforest the entire area suitable for reforestation before being able to qualify for the "well-distributed" and "close enough" standards in the definition.

(28) "Further review area" means an area of land that may be subject to rapidly moving landslides as mapped by the State Department of Geology and Mineral Industries or as otherwise determined by the State Forester.

(29) "Geographic region" means large areas where similar combinations of climate, geomorphology, and potential natural vegetation occur, established for the purposes of implementing the water protection rules.

GUIDANCE:
Geographic region - should not be confused with "Forest Practices Regions" in OAR 629-605-0160.

(30) "High landslide hazard location" means a specific site that is subject to initiation of a shallow, rapidly moving landslide.

(31) "High water level" means the stage reached during the average annual high flow. The "high water level" often corresponds with the edge of streamside terraces, a change in vegetation, or a change in soil or litter characteristics.

(32) "Hydrologic function" means soil, stream, wetland and riparian area properties related to the storage, timing, distribution, and circulation of water.

(33) "Important springs" are springs in arid parts of Eastern Oregon that have established wetland vegetation, flow year round in most years, are used by a concentration of diverse animal species, and by reason of sparse occurrence have a major influence on the distribution and abundance of upland species.

(34) "Inactive roads" are roads used for forest management purposes exclusive of removing commercial forest products.

(35) "Key components" means the attributes which are essential to maintain the use and productivity of a resource site over time. The key components vary by species and resource site. Examples include fledgling trees or perching trees.

(36) "Lake" means a body of year-round standing open water.
(a) For the purposes of the forest practice rules, lakes include:
(A) The water itself, including any vegetation, aquatic life, or habitats therein; and
(B) Beds, banks or wetlands below the high water level which may contain water, whether or not water is actually present.
(b) "Lakes" do not include water developments as defined in section (81) of this rule.

(37) "Landslide mitigation" means actions taken to reduce potential landslide velocity or re-direct shallow, rapidly moving landslides near structures and roads so risk to persons is

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reduced.

(38) "Large lake" means a lake greater than eight acres in size.

(39) "Live tree" means a tree that has 10 percent or greater live crown.

(40) "Local population" means the number of birds that live within a geographical area that is identified by the State Forester. For example: the area may be defined by physical boundaries, such as a drainage or subbasin.

(41) "Main channel" means a channel that has flowing water when average flows occur.

GUIDANCE:
Main channel - Channels scoured down to river rock or bedrock, or with any significant soil scour are considered main channels. Usually there is little perennial vegetation in main channels, although it is sometimes present in smaller main channels. See the definition of "side channel" in section (62) of this rule. Oxbows or beaver pond complexes that are connected to main channels are considered part of main channels.

(42) "Natural barrier to fish use" is a natural feature such as a waterfall, increase in stream gradient, channel constriction, or other natural channel blockage that prevents upstream fish passage.

(43) "Natural reforestation" means restocking a site with self-grown trees resulting from self-seeding or vegetative means.

(44) "Nest tree" means the tree, snag, or other structure that contains a bird nest.

(45) "Nesting territory" means an area identified by the State Forester that contains, or historically contained, one or more nests of a mated pair of birds.

(46) "Operation" means any commercial activity relating to the establishment, management or harvest of forest tree species except as provided by the following:
- *(a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on land used solely for the production of Christmas trees.*
- *(b) The establishment, management or harvest of hardwood timber, including but not limited to hybrid cottonwood that is:*
  - *(A) Grown on land that has been prepared by intensive cultivation methods and that is cleared of competing vegetation for at least three years after tree planting;*
  - *(B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;*
  - *(C) Harvested on a rotation cycle that is 12 or fewer years after planting; and*
  - *(D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect control and disease control.*
- *(c) The establishment, management or harvest of trees actively farmed or cultured for the production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.*

(d) The establishment, management or harvest of ornamental, street or park trees within an urbanized area, as that term is defined in ORS 221.010.

(e) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership.

(f) The establishment or management of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands.

(g) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced.

GUIDANCE:

APPLICATION:

Operation - This definition is not used directly for enforcement action. However, in combination with other definitions in law and rule, it is a key factor in determining whether an activity is within the jurisdiction of the forest practice regulations and whether notification is required.

ADMINISTRATION:

This definition of an "operation" is relevant in evaluating any commercial activity (also defined in this section) associated with establishing, managing, or harvesting forest tree species (also defined in this section) with designated exceptions. These exceptions are discussed individually below.

This guidance uses the definitions of **"forestland," "forest practice"(as found in ORS 527.620), "forest tree species"(as found in ORS 527.620), "commercial",** and **"operation." (in ORS 527.620)** These definitions are key in **determining if forest practice regulations apply to a specific activity.** These definitions also provide the criteria needed for determining FPA jurisdiction using the following checklist.

(1) Is the activity one of those exempted from being an operation under FPA jurisdiction? If so, the activity is, by definition, excluded from forest practice's authority.

(2) Is the activity on "forestland"? If not, there is no forest practice's jurisdiction.

(3) Does the activity relate to the "establishment, management, or harvesting" of forest tree species? If not, there is no forest practice's jurisdiction.

(4) Is the activity "commercial"? If not, there is no forest practice's jurisdiction.

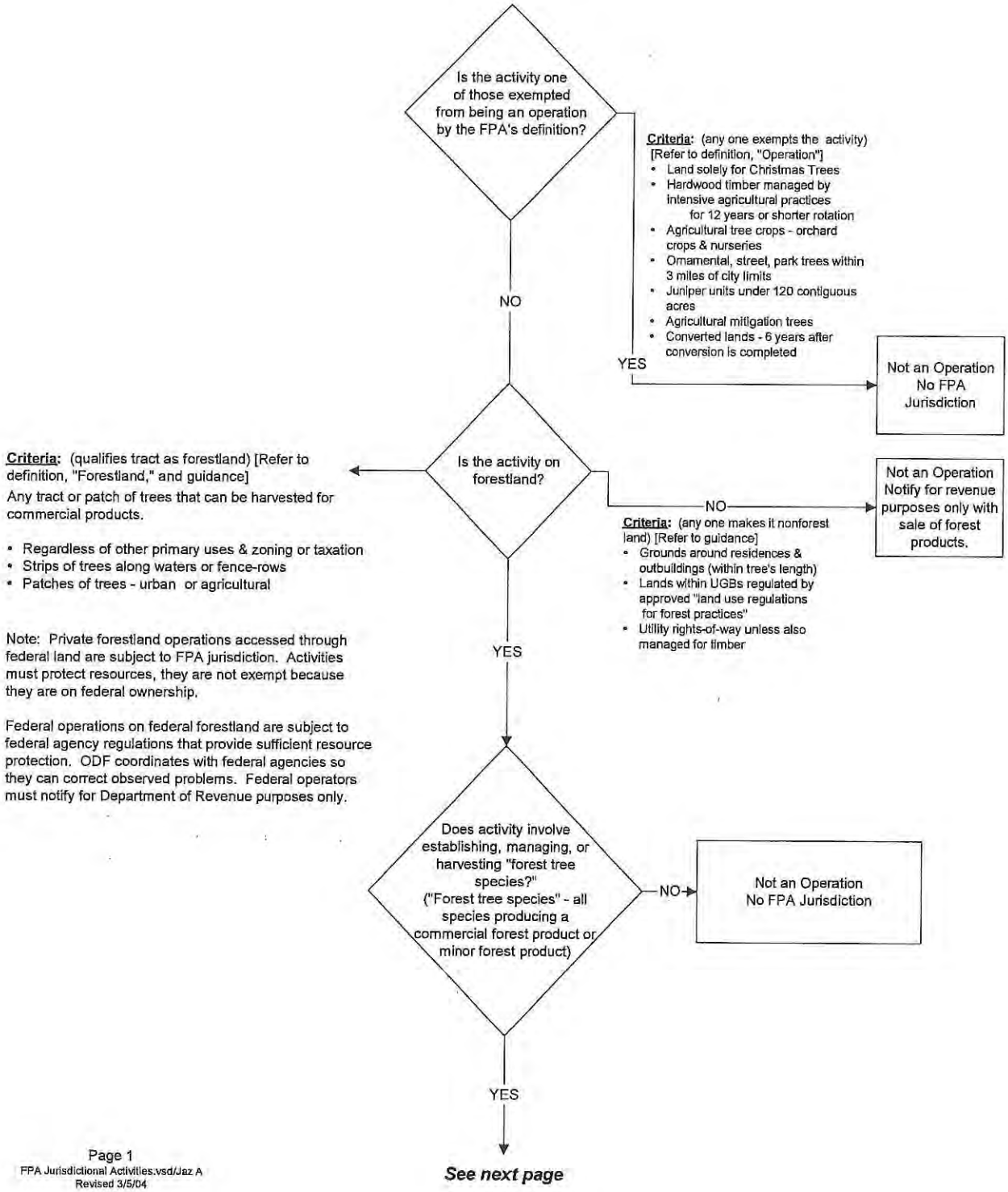
(5) Is the activity an "operation"? If not, there is no forest practice's jurisdiction.

The following flowchart illustrates these decision checkpoints for determining whether an activity is an operation within the jurisdiction of the FPA.

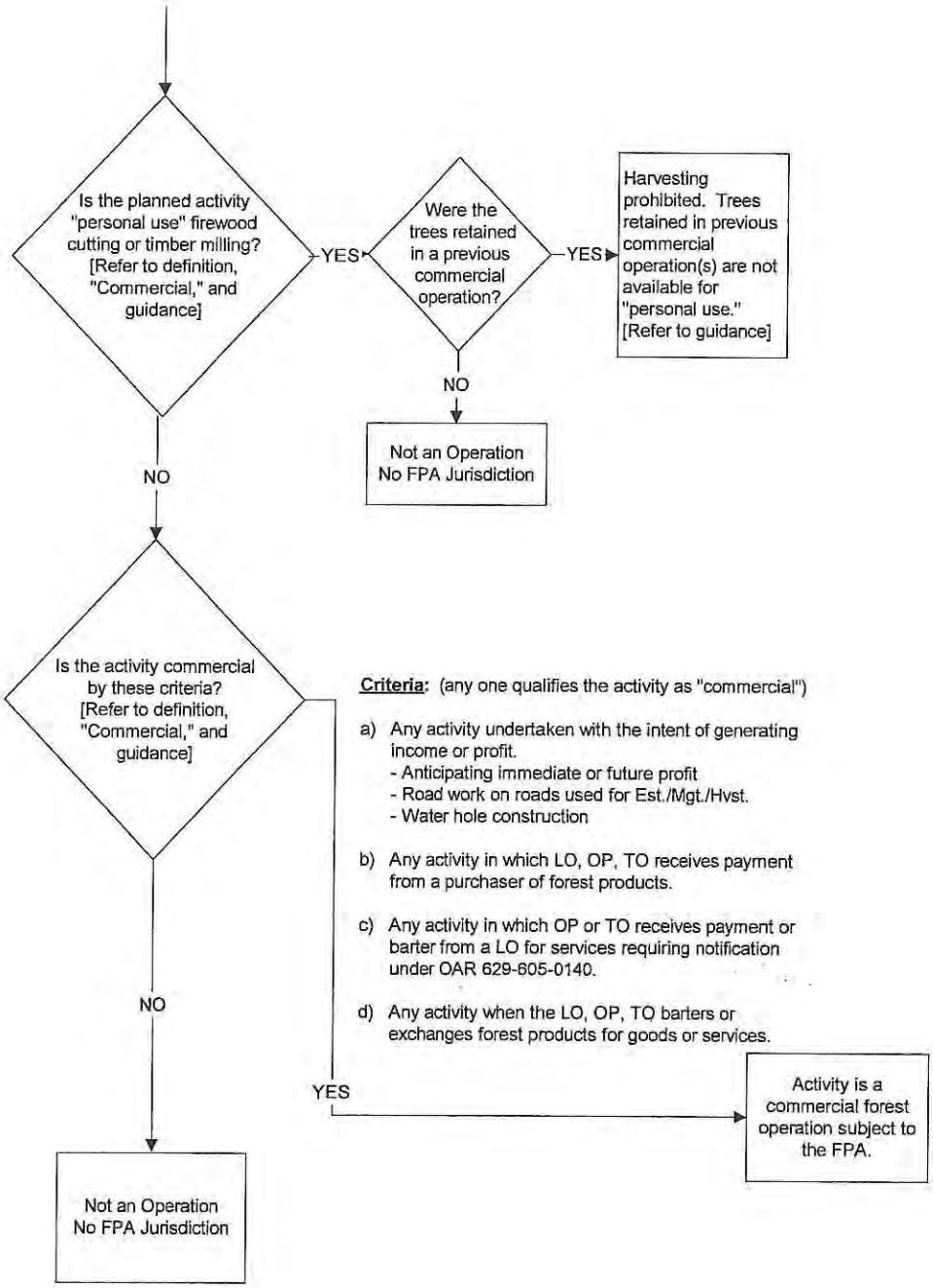
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Identifying Commercial Forest Operations

(This is how the definitions of "operation," "forestland," "forest tree species," and "commercial" go together with ODF policy guidance in determining Forest Practices Act jurisdiction over an activity.)



Identifying Commercial Forest Operations



Page 2
FPA Jurisdictional Activities.vsd/Jaz A
Revised 3/5/04

1. Is the activity one of those exempted from being an operation under FPA jurisdiction?

The statute and rule defining an "operation" lists seven exemptions. An activity that is on this list is generally, but not always, excluded from forest practice's authority. Approved land use changes are an example. Note the explanation under that exemption (g) below.

OAR 629-605-0140(2) "Notification to the State Forester - Types of Operations" lists activities that are "operations" but do not require notification. OAR 629-600-0100(46) takes some of those same activities which do NOT require notification and exempts them from being considered as "operations", and therefore explicitly exempt from FPA jurisdiction.

(a) Land devoted solely to Christmas tree growing.

"Operation" means any commercial activity . . . except. . . :
"The establishment, management or harvest of Christmas trees, as defined in ORS 572.505, on land used solely for the production of Christmas trees."

Christmas tree management on lands devoted solely to that use is outside FPA jurisdiction.

However, an intermixed plantation strategy where a portion of the trees are for Christmas trees and a portion are to be managed for timber is within FPA jurisdiction. Regulated activities would include forest management activities such as vegetation control using herbicides or pre-commercial thinning. In addition, harvesting of forest products would come under FPA regulation.

One way to distinguish Christmas tree growing from timber growing is to determine if the landowner is licensed with the Oregon Department of Agriculture as a Christmas tree grower under ORS 571.525.

Paragraph (a) adds the ORS 571.505 reference to define Christmas trees. ORS 571.505 defines Christmas trees as follows.

> (2) "Christmas tree" means a cut evergreen tree:
> (a) Of a marketable species;
> (b) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agricultural Marketing Service of the United States Department of Agriculture; and
> (c) Evidencing periodic maintenance practices of shearing or culturing, or both, for all Christmas tree species; weed and bush control and one or more of the following practices: Basal pruning, fertilization, insect and disease control, stump culture, soil cultivation and irrigation.

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(b) Hardwoods intensively managed for fiber.

"Operation" means any commercial activity . . . except. . . :

"(b) The establishment, management or harvest of hardwood timber, including but not limited to hybrid cottonwood, that is:

(A) Grown on land that has been prepared by intensive cultivation methods and that is cleared of competing vegetation for at least three years after tree planting;

(B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;

(C) Harvested on a rotation cycle that is 12 or fewer years after planting; and

(D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect control and disease control."

The distinguishing characteristics of this tree growing activity are the intensive cultural methods that relate more to agricultural practices than to forest practices. These same hardwood species, when grown under normal silvicultural practices that depart from the specifics in this definition, would be considered within FPA jurisdiction.

ODF will not consider hardwood fiber plantations left to grow past 12 years to be automatically subject to forest practice harvesting regulations. These remain agricultural lands, not forestland. Determine what the hardwoods are to be used for and contact program staff for further coordination with the Department of Agriculture. Notification for harvesting would be required by the Oregon Department of Revenue if timber were the product harvested. Clarification with the Department of Revenue will be necessary.

(c) Agricultural tree crops.

"Operation" means any commercial activity . . . except. . . :

"(c) The establishment, management or harvest of trees actively farmed or cultured for the production of agricultural tree crops, including nuts, fruits, seeds and nursery stock."

Agricultural trees include fruit and nut trees in actively managed orchards (apple, pear, cherry, walnut, filbert, etc.) and all ornamental trees grown in nurseries. Agricultural trees also include trees such as yew or Douglas-fir that are managed in nurseries or seed orchards for the continuous production of seed or other "crops" such as taxol.

Old orchard trees growing on sites that have not been maintained for agricultural production should also be treated as agricultural trees. However, if old orchard sites have grown back into native tree cover that includes some remnant fruit trees, harvesting them for timber or commercial firewood would be considered a part of the overall "operation."

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(d) Ornamental, street, or park trees.

"Operation" means any commercial activity . . . except. . . :
"(d) The establishment, management or harvest of ornamental, street or park trees within an urbanized area, as that term is defined in ORS 221.010."

This exception applies to "urbanized areas". The reference, ORS 221.010 states:

> "(4) "Urbanized area" means territory within three miles of a city.
> *Furthermore, "city" is defined also:*
> (2) "City," except in the term "incorporated city" in ORS 221.020, means a city incorporated under ORS 221.020 to 221.100 or proposed to be incorporated. "

The first category of trees exempted from "operations" in urbanized areas is "ornamental trees." Ornamental trees are interpreted by ODF to be those in the "yard" immediately surrounding a house and its associated outbuildings. The "yard" is the area within any on-site tree's length of these buildings, sometimes enclosed by a fence, hedge or other recognizable boundary. Harvesting in this area is often done because of windthrow threats to the buildings. ODF will not dispute these homeowner concerns. **ODF does not consider the area within the "yard" to be forestland.** Note: "yards" as nonforest land are discussed in detail under the topic, "Is the activity on "forestland?"

However, outside of the "landscaped and maintained yard," such as on large lots with a house or undeveloped lots, harvesting groups of trees for sale as a commercial forest product is an operation.

The second category of trees exempted from "operations" in urbanized areas is "street trees." ODF interprets street trees to be those lining city and urban streets and those located in parking lot and urban highway medians.

The third category of trees exempted from "operations" in urbanized areas is "park trees." Park trees are interpreted to be those located within state, county, and city parks that are in urbanized areas. Forest management activities should not be considered an operation when they occur in designated parks in or within three miles of city limits. A "park-like" forest stand should not be confused with a park, owned and maintained by a public entity.

Technical questions or conflicts about the culturing or harvesting of ornamental trees should be handled by the city government or directed to the department's urban foresters.

This provision of the ORS 527.620 and OAR 629-600-0100 definition of an "operation" relieves ODF of administering resource protection rules for only ornamental street or park tree harvesting in and around cities. Harvesting of remnant stands of forest within urbanized areas remains subject to ODF regulation unless: a) the city has adopted "land use regulations for forest practices" under ORS 527.722(5); or b) the activity is otherwise exempted by the definition of an "operation" as discussed in this section.

Notification is still required when any urban trees are going to be sold. Such notification will often be solely for the purposes of the Department of Revenue as stated in ORS 321.550 "Notice of intent to harvest; rules; effect of failure to file notice." as follows:

> "(1) No person shall harvest or cause to be harvested any timber from land in Oregon without first having notified the State Forester in writing with a copy to the Department of Revenue on forms prepared by the State Forester and the department of intent to harvest pursuant to ORS 321.005 to 321.185, 321.257 to 321.390, 321.405 to 321.515 and 321.560 to 321.600."

Prior to 2003's legislative changes to the forest tax law, ORS 321, operators had to have a notification number to supply to mills and other log buyers before the logs could be received. The Department of Revenue no longer can require a notification number for each transaction. The Department of Revenue encourages mills to maintain a record of notification numbers, but it is not mandatory. This reduces the usefulness of the one "sort yard" notification specifically for operators who make a business of collecting small batches of logs from numerous landowners and selling them as a batch. Because of the difficulty of ensuring forest resource protection and the statute change, **"sort yard" notifications should no longer be accepted.** This activity will be edited out of the notification form at the next opportunity.

FPA statutes require an operator to have a notification for each site that qualifies as an "operation." An operator, whether logger or tree-service company, that collects logs from sites that are **not** operations will need to notify for Revenue purposes only. They must do this for each accumulated batch of logs. ODF will no longer accept open-ended "sort yard" notifications. Until they learn of this change, operators may become less consistent in notifying for small harvest areas.

There is some need for vigilance by ODF to prevent operators from taking advantage of the change in the statute to market logs harvested from sites not listed on a notification to avoid filing multiple notifications on small jobs or to avoid applying forest practice resource protection requirements on those sites.

(e) Juniper species management or harvest under 120 acres.

"Operation" means any commercial activity . . . except. . . :
"(e) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership."

Landowners may separate juniper harvest units by breaks of any width to keep the adjacent unit acreages from being counted together. The 120-acre exemption is meant to apply to lands where juniper dominates. Harvesting that includes components of ponderosa pine or other non-juniper forest tree species is subject to the FPA regardless of harvest unit size.

The 120-acre exemption originated with Senate Bill 1151 (1999), which directed ODF to review department programs related to juniper management and to recommend changes to benefit landowners and improve watershed health. The department convened an ad hoc juniper issues group to help conduct the review. The group concluded that juniper management was needed, but that rangeland owners might see FPA regulatory procedures as a disincentive. The group recommended that juniper harvests be regulated only by Agricultural Water Quality Management Plans (administered by the Oregon Department of Agriculture), not by the FPA. The 120-acre threshold figure was introduced during legislative negotiations in 2001, and is the standard below which juniper harvest units are exempt from the FPA.

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Juniper harvest units 120 acres or larger **are** subject to the FPA. However, because juniper tends to grow on low-productivity sites, some of the FPA requirements may not apply. The following table provides more detail.

Statutory and Rule Standards for Commercial Juniper Harvests exceeding 120 acres	
Statutory or Rule Standard	**Standard applies to juniper harvest?**
Notification (OAR 629-605-0140, 629-605-0150)	Yes. The activity is an operation, and is not exempted from notification.
Written plans (OAR 629-605-0170)	Yes, if a statute or rule requires a written plan for the specific activity and location, e.g., operations within 100 feet of a Type F stream.
Retain trees along scenic highways listed in ORS 527.755(1)	Yes, but the landowner may file a plan for alternate practices to remove the trees and convert to grazing land.
120-acre size limitation on harvest type 3 units (ORS 527.740, 527.750)	No, if below cubic foot site class VI; Yes, if site class VI or above. Harvest type definitions do not include lands below site class VI (ORS 527.620).
Retain green trees, snags, and down wood in harvest type 2 or type 3 units exceeding 25 acres (ORS 527.676)	
Reforestation rules (OAR 629-610)	No, reforestation is not required after juniper-only harvesting on lands below cubic foot site class VI; there are no stocking standards for these low-productivity lands. Reforestation stocking standards apply on lands at site class VI or higher.
Protection of waters and specified resources sites during slash treatment, chemical application, harvesting, and road construction and maintenance	Yes. The activity is an operation.

Juniper harvesting is by law (ORS 321.005(6) and 321.405(7)) exempt from harvest taxes and privilege taxes; therefore, notification to the Department of Revenue is not required for harvesting of any amount of juniper acreage. Notifications on juniper-only tracts larger than 120 acres need not be sent to the Department of Revenue.

Juniper management activities in or within one-eighth mile of a fire protection district will require application to ODF for a permit to operate power-driven machinery to comply with fire prevention rules.

(f) Trees mitigating agricultural practices.

"Operation" means any commercial activity . . . except. . . :
"The establishment or management of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands."

Forest practices regulation does not apply to establishing and managing trees to mitigate agricultural practices. Site preparation, planting, chemical vegetation control, and non-commercial thinning are exempt from forest practice regulations. However, "harvesting" is not included in the exemption wording. This was intentional and means that any commercial harvesting among such trees is an operation subject to the forest practice rules. Non-commercial removal of such trees would be subject to the Department of Agriculture's (ODA) Water Quality Management Area Plans for the basin. ODF will contact and inform ODA when learning of such activities.

(g) Approved land use change.

"Operation" means any commercial activity . . . except. . . :
"(g) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced."

This provision establishes a point in approved land use change operations when FPA resource protection jurisdiction ends, except for completion and maintenance of the land use change. The phrase "after timber harvest activities have been completed" should usually be interpreted as the completion of yarding. The commencement of "land use conversion activities" occurs with the beginning of any activity that is not a forest practice. The definition reads "and" so both conditions must be present before the site is no longer an operation subject to forest practice rules. Note: There is a more complete discussion of land use changes in the guidance for OAR 629-610-0090 Exemption from Reforestation for Land Uses Not Compatible with Forest Tree Cover. It is important to administer the processes for a plan for alternate practice, interagency coordination (refer to the interagency Land Use Conversion Memorandum of Agreement (LUC MOA)), and completion of LUCs.

Note: Two other types of activities are exempt from forest practice regulations:

A. Emergency insect eradication projects sponsored or conducted by the Oregon Department of Agriculture are not regulated by the FPA. Examples are applications of B.t. for gypsy moth eradication, even if portions of the application take place on forestland. This conclusion is based on the finding that these types of projects are not commercial activities directly related to growing and harvesting forest tree species.

Insecticide applications that are conducted by forest landowners and that are clearly related to growing and harvesting forest tree species remain subject to the FPA. An example of this type of activity would be a pesticide application on forestland for control of Douglas-fir tussock moths.

B. Invasive weed control projects are not subject to the FPA if the projects meet the following conditions:

- They are sponsored or conducted by the Oregon Department of Agriculture, a cooperative weed management area, or similar entity other than a forest landowner; and
- The purpose is clearly to control invasive and/or noxious weeds, not to control vegetation for the purpose of growing and harvesting forest tree species.

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Examples of this type of activity are knotweed control projects in coastal streamside areas. These projects are coordinated by local weed control organizations in cooperation with the Oregon Department of Agriculture.

Vegetation control activities that are done or directed by the landowner and that are clearly connected to the purpose of growing and harvesting forest trees species are subject to the FPA, even though control of invasive weeds might be involved. Control of overtopping Scotch broom in a conifer plantation is an example of this type of activity.

The distinctions in A and B above may not always be clear, especially when landowners are directly involved in the projects. Contact Salem staff to work out the appropriate policy in these instances.

2. Is the activity on "forestland?"

Forestland defined for Forest Practices Administration.
"Forestland" is defined broadly in ORS 527.620 "Definitions" and includes any land being used to grow and harvest forest tree species, even if that is not the **primary** use of the land. The zoning, tax status, other state or local statutes, ordinances, rules or regulations that may apply to the parcel are not considered in determining what is forestland. If forest tree species are growing on the land and activities for managing or harvesting trees for commercial purposes have been or are being conducted, it is forestland.

ODF interprets these lands to be included as forestland:

- Any size tract or patch of trees that can be harvested as a commercial forest product regardless of the surrounding land use or zoning of the land including
  - Strips of timber along streams on farm or range land (See exemption for harvesting of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands.)
  - Patches of timber that remain inside urbanized areas that are not exempted by the definition of "operations" or that are within the UGB of local governments that have not adopted land use regulations for forest practices and timber patches in rural areas on larger lots, farms, or ranches.

ODF interprets these to be already converted to non-forest land uses:

- The "yard" or grounds around residential structures and their outbuildings to the extent of the height of on-site trees that could fall on a structure
- Utility rights-of-way such as power line or gas pipeline corridors

Because the definition of an "operation" reads ". . . activity relating to the establishment, management or harvest of forest tree species . . .," forest practice's jurisdiction extends to adjacent land crossed in order to access forestland. An example is a road, used however occasionally in forest operations, that crosses residential or agricultural land to reach forestland. In another example, ODF will regulate the resource-affecting activities on a road crossing federal land to access an operation on private forestland.

Local Government Regulation.
Note that ORS 527.722 relieves the State Forester of the responsibility to administer the FPA on those forestlands within urban growth boundaries (UGBs) where a local government has adopted "land use regulations for forest practices." Salem staff maintains a list of qualifying local government regulations on the program website. Districts should periodically review the status of local government regulation within UGBs and inform Salem staff of any changes. Since the law directs local governments to develop such regulations in coordination with ODF, districts and Salem staff should be aware of and involved in development and revision of such land use regulations. ODF will foster a cooperative relationship with local governments developing or revising land use regulations for forest practices inside their UGBs. Until this cooperative process is complete, ODF will continue to administer forest practices within the local government's UGB.

Forestland Conversions.
If a landowner is converting forestland to an approved use not compatible with forestry, the land is forestland until timber harvest activities have been completed and land use conversion activities have commenced (see subparagraph (g), defining "operation" above). Harvest completion means yarding and all forestry-related disturbance is complete on the site. The commencement of land use conversion is marked by initiation of any activity, not a forest practice, that contributes to the non-forest use.

Landowners who intend land use conversions must first obtain approval of a plan for an alternate practice for the exemption from reforestation requirements. This requires written approval from ODF and other agencies as appropriate. Refer to the guidance for OAR 629-610-0090, Exemption from Reforestation for Land Uses Not Compatible with Forest Tree Cover, for details.

Afforestation.
Where a landowner is converting non-forest land to forestland, the forestland designation applies when the afforestation activity (clearing, piling, spraying, for example) begins. These activities require notification and observance of the relevant rule requirements, such as water quality protection practices.

ODF should use investigate to determine whether the rules apply in cases where the landowner's intent to convert to forest tree species is not clear (for example, they may be only growing Christmas trees).

FPA Authority and Federal Forestland.
Though federal forestlands fit under the FPA's definition of forestland, the State Forester does not generally administer the FPA on federal lands. The topic of federal lands is not addressed directly by ORS 527.620. Compliance with resource protection standards similar to the FPA is achieved on federally-owned lands through their forest planning and environmental assessment processes. However, activities conducted by the BLM, Forest Service, or other federal agencies on private lands are directly subject to all requirements of the FPA as administered by the State Forester. An example is construction of a road for access to federal lands through an easement on the private lands.

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Operations on Private Land that Cross Federal Land.
Private operations that use federally-controlled haul roads are responsible to maintain state water quality standards. This is analogous to compliance with state game laws on federal land. It is a fine point, legally, that the FPA will be applied to federally-controlled lands and roads, but ODF will only inform federal agencies of unsatisfactory conditions on federally-owned lands and roads. ODF will require operators to address unsatisfactory conditions on federally-controlled lands and roads they are using, even though the conditions are due to inadequate road design, materials, or road maintenance by the federal agency.

If, for example, a private operator is hauling on a federally-controlled road and causes or contributes to a turbidity standard violation, they will be required by ODF to stop the damage by adequate road maintenance practices or by ceasing use of the road. Failure to comply will result in enforcement action by ODF against the operator.

To correct the problems, the private operator may attempt to apply the terms of the road use agreement with the federal agency or otherwise negotiate with them to correct the unsatisfactory condition.

When the landowner is the USFS or BLM, ODF will first report the violation to them for correction. ODF will not take direct enforcement action against the federal landowner. ODF may report the violation to the Department of Environmental Quality (DEQ) if the federal agency continues to contribute to the unsatisfactory condition whether by inaction or inadequate repair. The federal agencies are required by the federal Clean Water Act to comply with the state Water Quality Standards and are subject to enforcement action by DEQ.

An operator, harvesting on federal forestlands, must file a notification with ODF for Department of Revenue purposes only.

Violations of the standards of the FPA observed by ODF on federal lands, and unrelated to operations on private land, should be reported to the local BLM, Forest Service, or other federal agency office. Both the USFS and BLM are DEQ designated management agencies for compliance with the state water quality standards and unsatisfactory conditions on their lands can be referred to DEQ.

3. Does the activity involve establishing, managing, or harvesting "forest tree species?"

Establishing, managing, or harvesting forest trees includes, but is not limited to: reforestation; road construction and maintenance; harvesting of forest tree species; application of chemicals; disposal of slash; site preparation; pre-commercial thinning; pruning; development of rock pits for forest road use; collecting cones and seeds; tree protection such as bud capping; and harvesting of minor forest products.

"Forest tree species" includes all tree species that can produce a commercial forest product, including minor forest products. Forest trees grown as Christmas trees on land dedicated wholly to growing Christmas trees are excluded from this definition. However, "forest tree species"

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does include those planted as Christmas trees that are allowed to outgrow their initial purpose and are instead managed for timber or other forest products.

4. Is the activity a "commercial" "operation?"

"Operation" means any "commercial" activity relating to the establishment, management, or harvesting of forest tree species. "Commercial" is a key characteristic in determining whether an activity is an "operation." Until 2002, it was defined only in guidance, but it is now defined in rule OAR 629-600-0100 Definitions.

By this rule, **"commercial" means of, or pertaining to, the exchange or buying and selling of commodities or services. This includes . . .**

a) any activity undertaken with the intent of generating income or profit;

- Operations are commercial when they include activities that are being conducted because of the anticipation of either immediate or future profit. Therefore, precommercial thinning, fire prevention, chemical release, fertilizing, and site preparation are commercial operations.
- Construction or reconstruction of any road on or accessing forestland that was built for or has been used as part of a commercial forest operation is a commercial operation. For example, industrial forest landowners are in the "business" of growing trees, thus any road on their ownership is part of their commercial operation. This also includes any roads used by non-industrial landowners that are or have been used for harvesting trees and managing timber, notwithstanding other additional uses such as agriculture.
- Excavating water holes for fire protection "pump chances" or for chemical mixing water sources is a commercial activity. It's an aspect of forest management, ultimately for income or profit. ODF may determine that a plan for an alternate practice is required for machine work in the stream in order to minimize the activity as required in OAR 629-625-0430(2), Stream Protection.

b) any activity in which a landowner, operator or timber owner receives payment from a purchaser of forest products;

- Harvesting forest products for sale is the most common commercial operation.

c) any activity in which an operator or timber owner receives payment or barter from a landowner for services that require notification under OAR 629-605-0140; or

- Except when firewood cutting or timber milling for personal use is involved, there is a commercial operation any time an activity occurs on forestland and someone is paid or in some way compensated for conducting forest practices requiring notification under OAR 629-605-0140. Note that if the activity occurs on land already converted to non-forest use, such as a residential yard or a utility right-of-way, the activity will not be considered an "operation" because it is not on forestland; therefore, notification will not be required by OAR 629-605-0140. However, notification for Department of Revenue (DOR) purposes will be needed when any saleable or personal use, timber or firewood is produced. Have the operator check only block 2C on the notification form.

Examples:

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- It is a commercial activity when an operator is hired to rebuild a road for access to a woodlot for planting and further forest management.
- It is not a commercial activity if a landowner pays a logger to cut trees from their woodlot solely for the landowner's personal use as firewood or milled timber, but a notification for DOR use is required.
- It is a commercial activity if a landowner pays a logger to cut trees from their woodlot to be sold or traded.
- It is not a commercial activity when a landowner pays someone to cut, with the intent to leave trees lie unused on the landowner's forestland. Note: This is an extreme example, but one that has been brought up by a few disgruntled landowners.
- It is commercial if a landowner pays to have danger trees cut from within reach of the structures around his house. However, this is not an operation because the land is considered non-forest land by ODF. The landowner may need a notification for DOR purposes because they sell the logs, but forest practices regulations will not be enforced.
- It is a commercial operation to cut and clear trees, whether they are sold or not, from existing forestland in order to clear the land for conversion to a non-forest use (OAR 629-605-0140(e)).

d) any activity in which the landowner, operator, or timber owner barters or exchanges forest products for goods or services.

- It is a commercial operation if a landowner exchanges some of his logs with the mill for cash and some in exchange for milling of lumber that he uses for construction on his own land.

e) This does not include firewood cutting or timber milling for personal use.

- If all criteria are met, this exclusion overrides any of the above conditions in this definition that might be present. It is intended to allow individual landowners to cut their own trees for firewood or lumber they process, or to pay someone to do so, solely to obtain these products for their personal use. It is important to use a standard meaning for the term "personal use". ODF interprets "personal use" to mean that the landowner makes use of the firewood or lumber from their land for its primary purpose. That is, the landowner burns the firewood in their structures or builds on their own land with the lumber. A key criterion is that they use the firewood or lumber themselves and do not sell it or barter it for any other purpose than to obtain the products for their personal use. This means they do not give these products away, even as a charitable donation. Any use outside this meaning of "personal use" is "commercial", and if all other criteria for an "operation" are met, the activity is an "operation" that must comply with appropriate forest practice regulations. Although this may seem strict, it is necessary to prevent attempts by some landowners to evade protecting forest resources by claiming personal use, exempt from regulation.
  In summary this exemption from regulation as a commercial forest operation applies when:
  I. The only forest products of the activity are firewood or lumber, and
  II. The landowner cuts and processes the products himself or pays someone to do so in currency or barter, but solely for the purpose of obtaining firewood or lumber; and
  III. The firewood or lumber are used only on the landowner's property for their primary and normal purposes, except that product bartered in return for its production; and
  IV. The landowner receives no monetary return from the product bartered to someone else in return for product production.

Technically, firewood and lumber harvested and processed for personal use must be declared as income in reporting to the DOR. Therefore, notification for DOR purposes only is appropriate for such activities even though they are not considered commercial. ODF will inform the operator of this should the occasion present itself.

Note: Trees retained as required in a commercial operation, such as in-unit wildlife leave trees or riparian trees, remain part of that commercial operation until they would otherwise become available for harvest under rule (usually this is when replacement trees have grown in the stand). If the land use is changed to non-forest use, the removal must be approved by the appropriate agency with regulatory jurisdiction over the non-forest use. Such trees are not available for personal use harvesting for firewood or lumber. This is because leave tree requirements would be meaningless if the trees can be harvested for some non-commercial purpose. Interpretations of legal requirements that result in a meaningless outcome are generally not supported by courts during legal actions.

Non-commercial activities include the following.

(1) The cutting of firewood or milling of lumber by the landowner personally or by someone they pay or trade some of the wood or lumber only for the service, solely for the landowner's personal use.

(2) Utility companies' rights-of-way are usually considered by ODF to be land converted to non-forest use, with no trees being intentionally grown for commercial forest products. Therefore, vegetation management on rights-of-way is not a commercial operation requiring notification. A Power Driven Machinery (PDM) permit may be required however.

In contrast, utility companies cutting and selling trees alongside their rights-of-way to protect the power lines are conducting a commercial operation under clause c) of the "commercial" guidance above. When this is the situation, the utility company must notify ODF of the operation.

If, however, the utility company leaves the merchantable trees for the landowners alongside the right-of-way to sell, then, not the utility company, but those landowners must notify, primarily for Department of Revenue purposes. If the landowner cuts up the trees for firewood or mills them for personal use as lumber, there is no commercial operation.

When outside their rights-of-way, utility companies may cut normally-retained trees (in an RMA, for example) to protect their installation under the rule modifications allowed by OAR 629-605-0500, Modification of Requirements for Forest Health and Public Safety. If such trees are outside the utility right-of-way, the utility company must notify and submit written plans (when required by rule or statute) for approval of their alternate practices when the trees are on forestland.

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The examples below show how to apply the guidance to determine if an activity is a commercial operation.

(1) Situation: A landowner annually harvests a year's worth of firewood from his woodlot for heating his house. Trees required to be retained as part of a previous commercial operation are not involved. The landowner does all the work.

Analysis:

(a) *Is the activity exempt from being a forest operation?*
The activity is not exempt in the definition of "operations".

(b) *Is the activity on "forestland"*
The activity occurs on forestland, used for growing and harvesting forest trees.

(c) *Does the activity relate to the "establishment, management or harvesting" of "forest tree species"?*
The activity is related to harvesting forest trees.

(d) *Is the activity "commercial"?*
- (A) The wood is not harvested to generate income, nor is it bartered for services or products.
- (B) The landowner receives no payment for the firewood.
- (C) No money or bartered product or service is exchanged, although harvesting usually requires a notification under OAR 629-605-0140.
- (D) The landowner cut the firewood for personal use.
- (E) The trees harvested were not retained as obligations under a previous commercial operation.

Conclusion: The activity is not commercial because of factor (d)(D). Cutting firewood solely for personal use is not considered commercial activity. Notification for forest practices purposes is not required, but technically notification to DOR is required.

Variations on this scenario are common and can change the conclusion. ODF must consider the relative weight of each factor to make the determination. If the landowner plans to exchange money or barter for services in harvesting, hauling, or processing the wood, but will only supply his personal use, the activity would not be considered commercial. If the landowner plans to sell or barter some or all of the wood, the activity would be commercial.

(2) Situation: A landowner plans to hire a faller to cut down five large trees which the landowner will process into lumber on site with his own portable sawmill. The lumber will be used to build a barn on the property. The landowner will do all the yarding and processing work. The trees are within 100 feet of a large Type F stream, but there has never been a commercial operation along this riparian area.

Analysis:

(a) *Is the activity exempt from being a forest operation?*
The activity is not exempt in the definition of "operations".

(b) *Is the activity on "forestland"?*

The activity occurs on forestland, used (at least in part) for growing and harvesting forest trees.

(c) *Does the activity relate to the "establishment, management or harvesting" of "forest tree species"?*
The activity is related to harvesting forest trees.

(d) *Is the activity "commercial"?*
(A) The Department of Revenue rules require reporting the value of the lumber as income.
(B) The landowner would receive no payment for the lumber.
(C) Money or barter would change hands for services, and harvesting requires a notification under OAR 629-605-0140.
(D) The landowner plans to mill the wood for personal use.
(E) The trees planned for harvest were not retained as obligations under a previous commercial operation.

Conclusion: **This activity is not commercial because of factor (d)(D).** (Note: The landowner is required by Department of Revenue rules to report the value of the lumber as income.)

(3) Situation: In a commercial harvesting activity a landowner reluctantly leaves the required vegetative components in the 1,000 foot long RMA on one side of a small Type F stream. However, the landowner advises ODF he will remove most of those trees himself for personal use firewood.

Analysis (applies to the firewood cutting):

(a) *Is the activity exempt from being a forest operation?*
The activity is not exempt in the definition of operations.

(b) *Is the activity on "forestland"?*
The activity would occur on forestland, used for growing and harvesting forest trees.

(c) *Does the activity relate to the "establishment, management or harvesting" of "forest tree species"?*
The activity would be harvesting forest trees.

(d) *Is the activity "commercial"?*
(A) The wood would not be harvested to generate income.
(B) The landowner would receive no payment for the firewood.
(C) Money or barter will not change hands for services, but harvesting usually requires a notification under OAR 629-605-0140.
(D) The landowner plans to cut the firewood for personal use.
(E) The trees to be cut for firewood are being retained as a requirement under a previous commercial operation.

Conclusion: **The activity is not commercial, because of factor (d)(E). It's not commercial in itself, but the RMA trees must be maintained as part of the preceding commercial operation under the applicable forest practice requirements.** While the woodcutting is separated in time from a specific harvest activity, it would take trees that are being maintained as

part of a commercial operation; this cannot be overridden by claiming non-commercial status for this activity.

(4) Situation: A residential landowner (or group of landowners) wishes to hire a contractor to clear excess and ladder fuels from around their houses and outbuildings to reduce fire danger. Some merchantable trees will be removed by the contractor who is working in the area and will combine logs from many homeowners and sell them, paying the homeowners for their net value.

Analysis:

(a) *Is the activity exempt from being a forest operation?*
The activity is not exempt in the definition of "operations".

(b) *Is the activity on "forestland"?*
The activity will not occur on forestland, used for growing and harvesting forest trees. ODF views this area around the house and outbuildings as converted to non-forest use.

Conclusion: **No operation or FPA jurisdiction is involved because the land is not forestland.** However, the operator who is selling the logs must notify the Department of Revenue.

The analysis checklist should be applied for each unique set of conditions to consistently determine the applicability of the FP rules in each case. Consult local supervisors or Salem staff in situations where application of the test criteria is uncertain.

(47) "Operator" means any person, including a landowner or timber owner, who conducts an operation.

(48) "Other wetland" means a wetland that is not a significant wetland or stream-associated wetland.

(49) "Perch tree" means a tree identified by the State Forester which is used by a bird for resting, marking its territory, or as an approach to its nest.

(50) "Plan for an Alternate Practice" means a document prepared by the landowner, operator or timber owner, submitted to the State Forester for written approval describing practices different than those prescribed in statute or administrative rule.

(51) "Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity.

(52) "Removal" means the taking or movement of any amount of rock, gravel, sand, silt, or other inorganic substances.

(53) "Replacement tree" means a tree or snag within the nesting territory of a bird that is identified by the State Forester as being suitable to replace the nest tree or perch tree when these trees become unusable.

(54) "Resource site" is defined for the purposes of protection and for the purposes of

requesting a hearing:

(a) For the purposes of protection:

(A) For threatened and endangered bird species, "resource site" is the nest tree, roost trees, or foraging perch and all identified key components;

(B) For sensitive bird nesting, roosting and watering sites, "resource site" is the nest tree, roost tree or mineral watering place, and all identified key components;

(C) For significant wetlands "resource site" is the wetland and the riparian management area as identified by the State Forester.

(b) For the purposes of requesting a hearing under ORS 527.670(4) and ORS 527.700(3), "resource site" is defined in OAR 629-680-020.

GUIDANCE:

Resource site - is defined here for protection, with the area subject to protection described in (A), (B), or (C). When a person requests a hearing, the definition in OAR 629-680-0020 is applied. That definition limits the area that is subject to appeal.

For those sites that have not gone through technical analysis and rulemaking, such as mineral watering places, we have only the inventory of sites in the 1984 Cooperative Agreement between the Board of Forestry and the Fish and Wildlife Commission and the interim process in OAR 629-605-0180 to go on in identifying sites and key components.

(55) "Riparian area" means the ground along a water of the state where the vegetation and microclimate are influenced by year-round or seasonal water, associated high water tables, and soils which exhibit some wetness characteristics.

(56) "Riparian management area" means an area along each side of specified waters of the state within which vegetation retention and special management practices are required for the protection of water quality, hydrologic functions, and fish and wildlife habitat.

GUIDANCE:

Riparian management area - The following waters have riparian management areas: Type F and D streams; large and medium size Type N streams; significant wetlands; large lakes; lakes that have fish (regardless of size); and lakes larger than one-half acre.

Small Type N streams, lakes less than one-half acre with no fish, other wetlands, seeps and springs do not have riparian management areas. Table 5 and OAR 629-640-0200(6) specify vegetation retention along perennial small Type N streams in selected geographic regions.

(57) "Roosting site" means a site where birds communally rest at night and which is unique for that purpose.

(58) "Roost tree" is a tree within a roosting site that is used for night time roosting.

(59) "Saplings and poles" means live trees of acceptable species, of good form and vigor, with a DBH of one to 10 inches.

(60) "Seedlings" means live trees of acceptable species of good form and vigor less than one inch in DBH.

(61) "Shallow, rapidly moving landslide" means any detached mass of soil, rock, or debris that begins as a relatively small landslide on steep slopes and grows to a sufficient size to cause damage as it moves down a slope or a stream channel at a velocity difficult for people to outrun or escape.

(62) "Side channel" means a channel other than a main channel of a stream that only has flowing water when high water level occurs.

GUIDANCE:
Side channel - This definition describes channels with infrequent flows, perhaps during only a few events each year. Perennial vegetation is often growing in side channels. Minor soil scour is usually evident. Channels with scour down to river rock or bedrock, or with any significant soil scour are considered main channels. See the definition of " main channel" in section (41) of this rule. Oxbows or beaver pond complexes connected only to side channels are considered part of side channels.

(63) "Significant wetlands" means those wetland types listed in OAR 629-680-0310, that require site specific protection.

GUIDANCE:
Significant wetlands are further defined in OAR 629-645-0000.

(64) "Snag" means a tree which is dead but still standing, and that has lost its leaves or needles and its small limbs.

(65) "Sound snag" means a snag that retains some intact bark or limb stubs.

(66) "Staging tree" is a tree within the vicinity of a roosting site that is used for perching by bald eagles before entering the roost.

(67) "Stream" means a channel, such as a river or creek, that carries flowing surface water during some portion of the year.
- *(a) For the purposes of the forest practice rules, streams include:*
  - *(A) The water itself, including any vegetation, aquatic life, or habitats therein;*
  - *(B) Beds and banks below the high water level which may contain water, whether or not water is actually present;*
  - *(C) The area between the high water level of connected side channels;*
  - *(D) Beaver ponds, oxbows, and side channels if they are connected by surface flow to the stream during a portion of the year; and*
  - *(E) Stream-associated wetlands.*
- *(b) "Streams" do not include:*
  - *(A) Ephemeral overland flow (such flow does not have a channel); or*
  - *(B) Road drainage systems or water developments as defined in section (81) of this rule.*

(68) "Stream-associated wetland" means a wetland that is not classified as significant and that is next to a stream.

(69) "Structural exception" means the State Forester determines that no actions are required to protect the resource site. The entire resource site may be eliminated.

(70) "Structural protection" means the State Forester determines that actions are required to protect the resource site. Examples include retaining the nest tree or perch tree.

(71) "Temporal exception" means the State Forester determines that no actions are required to prevent disturbance to birds during the critical period of use.

(72) "Temporal protection" means the State Forester determines that actions are required to prevent disturbance to birds during the critical period of use.

(73) "Tree leaning over the channel" means a tree within a riparian management area if a portion of its bole crosses the vertical projection of the high water level of a stream.

(74) "Tyee Core Area" means a location with geologic conditions including thick sandstone beds with few fractures. These sandstones weather rapidly and concentrate water in shallow soils creating a higher shallow, rapidly moving landslide hazard. The Tyee Core area is located within coastal watersheds from the Siuslaw watershed south to and including the Coquille watershed, and that portion of the Umpqua watershed north of Highway 42 and west of Interstate 5. Within these boundaries, locations where bedrock is highly fractured or not of sedimentary origin as determined in the field by a geotechnical specialist are not subject to the Tyee Core area slope steepness thresholds.

(75) "Type D stream" means a stream that has domestic water use, but no fish use.

(76) "Type F stream" means a stream with fish use, or both fish use and domestic water use.

(77) "Type N stream" means a stream with neither fish use nor domestic water use.

(78) "Unit" means an operation area submitted on a notification of operation that is identified on a map and that has a single continuous boundary. Unit is used to determine compliance with ORS 527.676 (down log, snag and green live tree retention), ORS 527.740 and ORS 527.550 (harvest type 3 size limitation), and other forest practice rules.

(79) "Vacated roads" are roads that have been made impassable and are no longer to be used for forest management purposes or commercial forest harvesting activities.

(80) "Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation and duff so that it does not gain the volume and velocity which causes soil movement or erosion.

(81) "Water development" means water bodies developed for human purposes that are not part of a stream such as waste treatment lagoons, reservoirs for industrial use, drainage ditches, irrigation ditches, farm ponds, stock ponds, settling ponds, gravel ponds, cooling ponds, log ponds, pump chances, or heli-ponds that are maintained for the intended use

by human activity.

GUIDANCE:
Water developments – are water bodies like those specifically mentioned in this definition that are not constructed in a stream. "Not part of a stream" means the man-made water bodies are not installed in any part of a stream nor in an area that was part of a stream before development (sloughs, flood channels, oxbows and the like). A heli-pond, excavated and maintained for that purpose where it collects runoff from a small swale, is a water development. In contrast, a pump chance built by excavating in a streambed above a road crossing culvert is part of the stream, and is part of a "water of the state", not a separate "water development."

A manmade, and maintained water body is a water development even though it receives water from or delivers water to a stream, such as drainage or irrigation ditches or canals that branch off of, but do not overlay or follow a natural stream channel.

"Maintained for the intended use" means that actions required to maintain the intended use are undertaken when needed.

By definition, water developments are not lakes, streams, or wetlands. However, some water developments are waters of the state, and protection practices described in rule for waters of the state would apply.

See the following definition of "waters of the state" for a discussion on the relationship of "waters of the state," "lakes," "streams," "wetlands," and "water developments."

(82) "Waters of the state" include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

GUIDANCE:
Waters of the state- This is a standard definition used by state agencies. As shown in the following, this definition is related to the definitions for "lakes," "streams," "wetlands," and "water developments."

"Waters of the state" defines a broad category of waters, including all natural or artificial waters that form junctions with natural surface or underground waters. The definition exempts from this category any private waters that are isolated from natural surface or underground waters. Road drainage ditches are not waters of the state, provided that the ditches do not intercept water from or discharge water directly into lakes, streams, or wetlands. In addition, puddles on landings or roads are not waters of the state.

"Waters of the state" is used in many of the forest practice rule divisions requiring specific practices for resource protection. The rules typically (1) identify waters of the state as an umbrella category to generally describe waters that must be protected, and then (2) identify

specific protection practices that are applied only to defined **subsets** of the "waters of the state" category, i.e., lakes, streams, and wetlands. The Water Protection Rules (OAR 629-635 and 629-640) are an example of this method. In contrast, some rules require specific practices for protection of waters of the state **in general**; these rules usually involve keeping sediment or chemicals out of those waters. An example of this method is OAR 629-625-0400, which requires operators to keep road construction debris, sidecast, or waste from entering waters of the state.

(83) "Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include marshes, swamps, bogs, and similar areas. Wetlands do not include water developments as defined in section (81) of this rule.

GUIDANCE:
Wetland - In some cases, wetlands may appear seasonally dry on the surface. Some wetlands may not show surface water at any time of the year. Surface water may be an indicator of wetland status, but the key factors are the presence of wetland vegetation and wetland soils.

ODF designates wetlands using procedures in the *1987 U.S. Army Corps of Engineers Wetland Delineation Manual (Manual)* along with any supporting technical or guidance documents issued by the department and other state or federal agencies for making wetland determinations for the area in which the wetlands are located. The *Manual* describes certain biologic and physical features, namely plants, soils, and signs of hydrology to establish criteria for verifying the presence or absence of wetland.

(84) "Written plan" means a document prepared by an operator, timber owner or landowner that describes how the operation is planned to be conducted

GUIDANCE:
Written plan - A written plan requires certain information to be included in the document in order for it to be considered a complete written plan. The purpose of a written plan is found in OAR 629-605-0170(6) and states that the written plan must contain enough information to allow the Forester to evaluate the likelihood that the operation or practice described in the plan would comply with the FPA.

The required elements of a written plan are identified in OAR 629-605-0170(7). This rule outlines the basic information required in the written plan to make such an assessment. If a document is submitted that does not contain this information, it is not considered a complete written plan and therefore does not satisfy the requirement to submit a written plan.

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DIVISION 610
REFORESTATION RULES

PURPOSE
629-610-0000

(1) Timely reforestation of forestland following operations that reduce tree stocking below established standards is an essential factor in assuring continuous growing and harvesting of forest tree species, considering landowner objectives and consistent with the sound management of timber and other forest resources. Reforestation or other forms of revegetation are also important for continued productivity and stabilization of soils exposed as a result of operations.

(2) OAR 629-610-0000 through 0090 shall be known as the reforestation rules.

(3) The purpose of the reforestation rules is to establish standards to ensure the timely replacement and maintenance of free to grow forest tree cover following forest operations at or above stocking levels that will use the tree growth potential of forestlands in Oregon.

(4) The reforestation rules are designed to:
- ***(a) Define forestland subject to reforestation requirements;***
- ***(b) Describe the conditions under which reforestation shall be required;***
- ***(c) Specify the minimum number of trees per acre;***
- ***(d) Specify the maximum time period allowed for establishment of such trees after an operation reduces stocking;***
- ***(e) Describe the acceptable species for reforestation;***
- ***(f) Describe the conditions under which revegetation shall be required in lieu of reforestation; and***
- ***(g) Specify the conditions under which an exemption from the reforestation requirements may be approved.***

APPLICATION:

This section is not used for enforcement action; it is the rule purpose statement. Enforcement action should be taken as appropriate under OAR 629-610-0010 through 0090.

ADMINISTRATION:

The purpose of the reforestation rules is to continuously maintain healthy, growing tree cover on operated forestland, occupying the site to a large degree, but not necessarily with the most economically and biologically optimum species or stocking levels. Stewardship Foresters need to be aware that bona fide land use conversions are valid compliance with these rules along with reforestation. Administering conversions is discussed in the guidance for OAR 629-610-0090, Exemption from Reforestation for Land Uses Not Compatible with Forest Tree Cover.

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Free to Grow.
Whether an individual tree or stand of trees is "free to grow" is a key decision in determining compliance with the reforestation requirements. OAR 629-600-0100 defines "**free to grow**" as a tree or a stand of well-distributed trees, of acceptable species and good form, having a high probability of remaining or becoming vigorous, healthy, and dominant over undesired competing vegetation . . . " It is useful to examine these criteria individually and combine them to determine compliance.

Well-distributed.
OAR 629-600-0100 Defines "Well-distributed trees" as 80 percent or more of the area containing at least the minimum per acre tree stocking required for the site, and not more than 10 percent of the operation area containing less than one-half the minimum. The well-distributed concept is to be applied only when evaluating efforts to reforest after harvesting. In that context, it is a prerequisite that a bona fide effort has been made to reforest 100 percent of the area that is capable of forest production. The well-distributed concept is intended to recognize that in spite of reasonable efforts to reforest an entire harvest unit, small portions of the unit may not meet the reforestation stocking standards. The intent is not to allow a landowner to simply write off 10 percent of the unit and make no effort to reforest that area.

For example, if a 50-acre unit contains 40 acres stocked with 200 or more seedlings per acre, as required for that site, 5 acres averaging only 80 seedlings per acre, and 5 acres averaging over 100 seedlings per acre, the "well-distributed" criteria would be met.

If stocking levels vary from under stocked to overstock in different parts of the harvest unit, evaluation by sub-units should be used to prevent overstocked portions of an operation area from skewing the overall unit stocking determination.

Overstocking may also lead to conditions not considered free to grow. However, precommercial thinning usually takes place 10 to 15 years after planting so overstocking does not automatically mean a stand is not free to grow. (Also see the guidance for OAR 629-610-0030 regarding consideration of stump sprouts as free to grow trees.) When evaluating stocking, trees should generally be spaced according to the minimum stocking (13 to 15 feet apart for 200 trees per acre), and not suppressed beyond recovery.

Landowners should be encouraged to the maximum extent practical to manage tree stocking. However, as a last resort in hardship cases when the landowner is unable to do or fund stocking management, an overstocked stand that will eventually thin itself can be accepted rather than investing time in futile enforcement on a landowner who cannot do or fund more intensive management.

Stewardship Foresters should obtain the best reforestation outcome they can, using their judgment regarding enforcement or acceptance. If the landowner has the physical and financial capacity to create a better stand through a written plan and management of a naturally-established stand, the Stewardship Forester should encourage those actions. If the naturally-established stand is the best we can expect from the landowner and civil penalties are unlikely to be effective, Stewardship Foresters may consider the reforestation requirement to be met.

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Stocking within Riparian Management Areas is considered separately from the rest of the harvest unit [see OAR 629-610-0020 (9)].

Acceptable species.
In nearly all cases, native species will be considered "ecologically suited" and are the preferred reforestation species. An exception may exist where a species exhibits poor productivity, health, and vigor, or is not capable of producing a product, or is not now or nor can be foreseen to be marketable. Refer to the discussion of acceptable species under OAR 629-610-0050(1).

Good form, vigorous, healthy, and dominant.
Seedlings, saplings, pole-sized trees, and trees over 11 inches dbh meeting the following standards are considered free to grow:
1. At least one-third of the tree height in full, live crown, not suppressed beyond recovery;
2. Potential for continued height growth consistent with the site's productivity;
3. Freedom from damage by insects, disease, fire, wildlife, weather, or logging that would prevent growth to site potential; and
4. Likely to out-compete the surrounding grass, shrubs, and young trees to reach site potential growth.

These general criteria may be modified on a case-by-case basis, following on-site evaluation by the Stewardship Forester. Decisions about free to grow trees and stands should be heavily weighted by the Stewardship Forester's knowledge of local conditions.

The Stewardship Forester might be able to evaluate any nearby sites that were logged 10 to 20 years ago, where similar residual trees were left and determine if the resulting stand remained free to grow. Comparison will help predict if the trees will "release," put on acceptable height growth, and remain vigorous or if they will "go into shock," and either continue to be stagnant or die.

Another example where the free to grow criteria could be modified is a healthy, well-stocked ponderosa pine plantation overtopped with ceanothus. Controlling the ceanothus without also damaging the pine is very difficult and the shrubs usually re-establish themselves very quickly. The pine trees will eventually grow through the shrubs and become the dominant vegetation. Overtopped seedlings could still be considered free to grow in this case. **Knowledge of local growing conditions is essential in modifying the free to grow compliance criteria.**

REFERENCES:

- OAR 629-600-0100 *"Free to grow"*
- OAR 629-610-0020 Reforestation stocking standards
- OAR 629-610-0030 Natural reforestation methods
- Oregon Department of Forestry. 1994. Forest Practices Notes No. 2, *Reforestation*
- Oregon Forest Resources Institute. 2002. *Oregon's Forest Protection Laws An Illustrated Manual.*

PURPOSE
629-610-0000

(5) Except as described below, the reforestation rules shall become effective on January 1, 1995 and shall be applied as follows:

(a) Operations completed after January 1, 1995 must comply with the reforestation rules;

(b) Except as provided in subsection (c) operations completed before January 1, 1995 must comply with the applicable reforestation requirements of ORS 527.745 and OAR 629-24-400 to 404, OAR 629-24-500 to 503, and OAR 629-24-600 to 604 as they existed on September 6, 1994;

(c) Landowners subject to subsection (b) may request to have the reforestation rules apply to an operation at any time following January 1, 1995. The State Forester shall approve such requests so long as the landowner will fully apply the reforestation rules on the operation.

APPLICATION:

This section is no longer applicable to current operations. There are a few pending reforestation enforcement cases on harvest units completed prior to January 1, 1995. This rule will be suspended in a future administrative rule edit.

FORESTLANDS SUITABLE FOR REFORESTATION
629-610-0010

(1) Any forestland which is capable of annual wood production of at least 20 cubic feet per acre at culmination of mean annual increment (Cubic Foot Site Class VI or better) shall be subject to the requirements of the reforestation rules.

(2) Potential site productivity is determined directly by tree growth and stocking measurements throughout the operation area or determined indirectly using applicable USDA Natural Resources Conservation Service soil survey information, USDA Forest Service plant association guides, Oregon Department of Revenue western Oregon site class maps, or other information determined by the State Forester to be of comparable quality.

APPLICATION:

These sections are not used for enforcement. These sections establish the lower limit of productivity below which reforestation is not required, and provide guidance on sources of productivity information.

ADMINISTRATION:

Twenty cubic feet per acre per year at culmination of mean annual increment is the dividing point between Cubic Foot Site Class VI and Site Class VII forestlands. Significant islands of Site VII land within units will not require reforestation and should be deducted from the acreage factor in calculations.

The Stewardship Forester will monitor whether an operation area is above the 20 cubic foot per acre per year threshold based on the best available information and may provide this information to landowners. Landowners are responsible for determining if their lands are subject to reforestation requirements, and stand data provided by the landowner may be used to determine site productivity. The Stewardship Forester is not responsible for collecting stand data to determine site productivity.

Other sources of site productivity information are:

- USDA Natural Resources Conservation Service (NRCS) soils survey. The soil survey maps are available at http://websoilsurvey.nrcs.usda.gov/app/.
- Oregon Department of Revenue western Oregon site maps. **These maps are only applicable to Site V and better forestlands.** Revenue site class codes FA, FB, FC, and FD correspond to Cubic Foot Site Class III and better lands. Lands coded as FE site class lands may be either low Cubic Foot Site Class III or high Site Class IV. Soil survey information may be needed to differentiate between the two. Revenue codes FF and FG correspond to Cubic Foot Site Class IV and V.
- USDA Forest Service Plant Association guides. In some parts of the state, particularly low elevation areas in western Oregon, plant associations on private lands may not be represented in these Forest Service guides. A site visit or first-hand knowledge of the tree, shrub, and

forbs species present is needed. A summary of the general plant associations in eastern Oregon that correspond to the three site productivity ranges designated in the rules is available from the Salem staff. Eastside plant association guides may be more useful than soil survey data.

It is important to note that the "productivity index" ratings in these guides will differ from the cubic foot productivity calculated from site indices ("productivity index" ratings will generally be lower). Cubic foot productivity calculated from site indices are biological maximums, but can result in overstocked, stagnant stands, particularly on poorer sites. The Forest Service productivity indices tend to be lower to reflect stocking levels that are less likely to stagnate.

REFERENCES:

- OAR 629-610-0020 Reforestation stocking standards
- USDA Soil Conservation Service. June 1986. *"Culmination of Mean Annual Increment for Commercial Forest Trees of Oregon"*. Technical Note No. 2. Portland Oregon.
- Oregon Department of Forestry. October 6, 1994. Simplified guidance for making site determinations based on plant associations in eastern Oregon.
- USDA Natural Resources Conservation Service. Soil survey information at http://websoilsurvey.nrcs.usda.gov/app/

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REFORESTATION STOCKING STANDARDS
629-610-0020

(1) The landowner shall increase tree stocking to a level that meets the applicable productivity-based stocking standards described in sections (4), (5), and (6) of this rule within the time limits established by OAR 629-610-0040 whenever post-operation free to grow tree stocking in all or a portion of the operation area is below the applicable stocking standards and:
(a) Trees or snags of acceptable species are harvested; or
(b) Free to grow tree stocking is reduced as a result of the operation.

APPLICATION:

This section is used for enforcement. Use this section if a landowner takes action within the time limits, but the resulting free to grow stocking is below standards. Use OAR 629-610-0040 if the landowner has not taken action within the time limits.

COMPLIANCE:

The landowner complies with this section when they provide for prompt regeneration, either planted or natural, to return the stand to the applicable standard in the prescribed time.

Unsatisfactory Condition: There is an unsatisfactory condition when **all** of the following conditions exist:

1. An operation was conducted harvesting trees or snags of acceptable species or reducing free to grow stocking.
2. Post-operation tree stocking is below the site-based standards listed in Sections (3) through (6) or alternative standards set through an approved plan for alternate practice under (10).
3. An exemption has not been granted, (OAR 629-610-0090) for development of forestland for uses not compatible with forest tree cover.
4. The reforestation requirements have not been suspended (OAR 629-610-0070).
5. A free to grow stand has not been established that meets or exceeds the site-based standards listed in sections (3) through (6) or alternative standards approved under (10).
6. The compliance deadline, (OAR 629-610-0040) and any granted extension, has passed.

Damage: There is damage when the landowner takes action before the compliance deadline but the resulting free to grow stocking is inadequate. (Enforcement action should be taken under OAR 629-610-0040 if the landowner fails to take action within the required time limits.)

Written Statement of Unsatisfactory Condition: Issue a Written Statement when stocking is within 90 percent of being adequate or where adequate stocking is not entirely free to grow.

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ADMINISTRATION:

This section states that post-operation stocking conditions will determine if additional reforestation is needed. Salvage and conversion harvests are not exempt from the reforestation requirements even if stocking was below the standards prior to the operation. Below-standard pre-operation stocking levels do not exempt the operation from the reforestation requirement.

The Stewardship Forester will make the decision on whether or not reforestation is required. The "reforestation required" form letter, which provides this information as a courtesy, should be sent to the landowner. However, landowners are responsible for determining if, and to what level, their lands will be reforested, at or above the minimum stocking required by these rules. Stewardship Foresters should refer landowners to extension foresters, or qualified consulting foresters for technical advice.

Stewardship Foresters are responsible for determining whether an adequately stocked stand has been planted and remains free to grow within the time limits set in the rules.

No minimum operation area size requiring reforestation is provided in the rules; however, areas smaller than one acre need not be recorded and tracked as a matter of workload efficiency.

In cases of unsatisfactory reforestation, repair orders shall require the needed actions, such as replanting, inter-planting, or release from competing vegetation, to achieve an adequately stocked, free to grow stand in a timely manner.

Based upon Department of Justice advice, in cases where a timber harvesting or timber ownership agreement exists between a timber owner and a landowner, only the current legal landowner can be held responsible for reforestation, even if the timber owner has a contractual responsibility for reforestation. It is up to the landowner to obtain fulfillment of any agreements with others.

Field offices must inform county assessors' offices of forest operations in violation of the reforestation rules. In addition, a copy of the letter to the county assessor must also be sent to the landowner

Such violations may result in higher property taxes on the affected parcels as tax deferrals are forfeited, serving as an incentive to reforest as required.

REFERENCES:

- OAR 629-605-0173 Plans for an alternate practice
- OAR 629-610-0040 Time allowed for reforestation
- OAR 629-610-0070 Suspension of the reforestation rules
- OAR 629-610-0090 Exemption from reforestation for land uses not compatible with forest tree cover

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REFORESTATION STOCKING STANDARDS
629-610-0020

(2) Reforestation is not required on those portions of the operation area:
- ***(a) Where adequate free to grow tree stocking remains after the completion of the operation;***
- ***(b) That are not disturbed by operation activities; or***
- ***(c) On soils or sites not meeting the minimum productivity requirements of OAR 629-610-0010.***

APPLICATION:

This section is not used for enforcement. It simply describes areas that need not be reforested.

ADMINISTRATION:

If necessary, the Stewardship Forester should stratify harvest units after completion and determine areas requiring reforestation using the rule criteria. Under stocked areas smaller than one acre need not be recorded and tracked as a matter of workload efficiency, although they should be reforested and will be subject to compliance inspection.

Judgment must be used in determining areas "that are not disturbed by operation activities." This does not allow repeated thinning or "high-grading" until the unit is below minimum stocking, upon which trees are planted only where the last trees removed were harvested. Rather, the entire unit must be returned to minimum stocking standards. If patches larger than one acre are harvested, they should be treated as individual units for reforestation rather than being averaged in with surrounding well-stocked areas.

Patch reforestation limited to planting only around where individual trees or clumps were harvested has been accepted by the Stewardship Forester in very unique circumstances where harvesting was limited to isolated trees and clumps of trees. This will probably be proposed infrequently by some landowner, but the question has come up. The acceptability of such patch reforestation should depend upon the history of the patchy stand being such that there is not already someone who should have responsibility for reforesting the entire area. Such situations should be rare.

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REFORESTATION STOCKING STANDARDS
629-610-0020

(3) The State Forester shall approve a plan for an alternate practice to waive or modify the reforestation requirements following a stand improvement operation such as a pre-commercial thinning, commercial thinning, overstory removal, or other partial cut harvest if the State Forester determines that the residual stand conditions after such an operation will result in enhanced long-term tree growth and there is a high probability that the purpose of the reforestation rules will be achieved.

APPLICATION:

This section is not used for enforcement. It authorizes thinning and partial cuts to temporarily below-standard stocking.

ADMINISTRATION:

It is consistent with the purpose of the reforestation rules, developed under ORS 527.745(2), to allow temporary stand stocking reduction below the stocking standards in order to enhance tree growth and site production. Operations such as pre-commercial thinning, commercial thinning, or other partial cuts can be conducted under an approved plan for alternate practice. By design, these operations should increase long-term tree growth and value. If the Stewardship Forester determines that, in the long term, free to grow stocking will fully occupy the site, reforestation is not necessary and such plans for alternate practice should be approved.

For example, a landowner might pre-commercial thin a stand of 6-inch DBH trees on a steep slope on Site II land down to 110 trees per acre because future entries are not practical until final harvest. The retained trees should quickly grow to reach the 80 square foot basal area standard for 11-inch DBH and larger trees on high site land. No additional reforestation would be required in this case.

The Stewardship Forester does not need to conduct stocking surveys on every operation to determine precisely if the stocking standards have been met. The Stewardship Forester may also visually evaluate post-operation stands to ensure the trees are free to grow. Questionable stands that are not clearly restocked and free to grow should be surveyed.

REFERENCES:

- OAR 629-605-0173 Plans for an alternate practice

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REFORESTATION STOCKING STANDARDS
629-610-0020

(4) For Cubic Foot Site Class I, II and III forestlands (capable of producing at least 120 cubic feet per acre per year at culmination of mean annual increment), the minimum tree stocking standards are:
- *(a) 200 free to grow seedlings per acre; or*
- *(b) 120 free to grow saplings and poles per acre; or*
- *(c) 80 square feet of basal area per acre of free to grow trees 11-inches DBH and larger; or*
- *(d) An equivalent combination of seedlings, saplings and poles, and larger trees as calculated in section (7) of this rule.*

(5) For Cubic Foot Site Class IV and V forestlands (capable of producing between 50 and 119 cubic feet per acre per year at culmination of mean annual increment), the minimum tree stocking standards are:
- *(a) 125 free to grow seedlings per acre; or*
- *(b) 75 free to grow saplings and poles per acre; or*
- *(c) 50 square feet of basal area per acre of free to grow trees 11-inches DBH and larger; or*
- *(d) An equivalent combination of seedlings, saplings and poles, and larger trees as calculated in section (7) of this rule.*

(6) For Cubic Foot Site Class VI forestlands (capable of producing between 20 and 49 cubic feet per acre per year at culmination of mean annual increment), the minimum tree stocking standards are:
- *(a) 100 or more free to grow seedlings per acre; or*
- *(b) 60 free to grow saplings and poles per acre; or*
- *(c) 40 square feet of basal area per acre of free to grow trees 11-inches DBH and larger; or*
- *(d) An equivalent combination of seedlings, saplings and poles, and larger trees as calculated in section (7) of this rule.*

(7) In both even-aged and uneven-aged stands, the stocking of residual seedlings, saplings and poles, and larger trees shall be weighted to determine stand stocking and potential reforestation requirements. For this purpose, seedlings, saplings and poles, and trees 11-inches DBH and larger are proportionally equivalent in the following ratios: 100 free to grow seedlings are equivalent to 60 free to grow saplings and poles, which are equivalent to 40 square feet of basal area of free to grow trees 11-inches DBH and larger.

APPLICATION:

These sections are not used for enforcement. Enforcement actions for failure to adequately restock should reference OAR 629-610-0020 (1).

ADMINISTRATION:

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These sections describe the site productivity-based stocking levels that must exist after an operation for compliance without reforestation and the stocking conditions that must exist by the free to grow timeline set in OAR 629-610-0040.

These stocking requirements may be relaxed or waived if the conditions in subsection (2), undisturbed or unproductive areas, or subsection (3), stand improvement operations, are met.

The information sources for determining cubic foot site productivity are listed in the guidance for OAR 629-610-0010.

When an operation area contains more than one site productivity range in distinct, manageable islands, The Stewardship Forester should stratify the operation area and require different stocking levels on the different sites. If small areas of differing site productivity ranges are too intermingled to stratify easily, reforestation should be required at the level required for the predominant site productivity range present. In no case will landowners be required to reforest Site VII (<20 cubic feet per acre per year) lands.

All trees counted toward meeting stocking requirements must be free to grow or likely to soon become free to grow. The criteria for determining if a tree is free to grow, is provided in the guidance for OAR 629-610-0000.

Landowners should be informed that the number of planted seedlings usually needs to be higher than the applicable seedling levels listed, in anticipation of the mortality that will likely occur between planting and the free to grow timeline.

REFERENCES:

- OAR 629-600-0100 (59) *"Saplings and poles"*
- OAR 629-600-0100 (60) *"Seedlings"*
- OAR 629-610-0000 Purpose
- OAR 629-610-0010 (2) Forestlands suitable for reforestation
- OAR 629-610-0040 Time allowed for reforestation

REFORESTATION STOCKING STANDARDS
629-610-0020

(8) Live conifer trees 11-inches DBH and larger left standing in harvested areas to meet the green tree and snag retention requirements of Section 5, Chapter 919, Oregon Laws 1991 [now ORS 527.726] shall be counted towards meeting the tree stocking standards if the trees are free to grow.

APPLICATION:

This section is not used for enforcement.

ADMINISTRATION:

This section is intended to provide additional incentive for landowners to retain conifers, rather than hardwoods, as wildlife trees by allowing only conifers to be double counted.

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REFORESTATION STOCKING STANDARDS
629-610-0020

(9) For the purposes of determining compliance with the tree stocking requirements of the reforestation rules, tree stocking in riparian management areas within an operation area will be considered separately from stocking in the rest of the operation area.

APPLICATION:

This section is not used for enforcement.

ADMINISTRATION:

The intent of this section is to emphasize restoration of full stocking in riparian management areas (RMAs) that have harvested areas from an operation.

Adequate stocking of riparian management areas after harvesting is essential to achieving the desired future conditions required by the water protection rules. Units will not be acceptable if under stocked areas due to harvesting, otherwise allowed under the definition of free to grow, are concentrated within the RMA.

Even under ideal conditions, it is likely that rampant competing vegetation near water may make achieving adequately stocked, free to grow stands more difficult in RMAs than in uplands. Stewardship Foresters may consider accepting a slightly below-standard level of free to grow stocking in portions of an RMA to be preferable to repeated entries into these sensitive RMAs with chemical or mechanical methods to establish or reestablish a fully stocked free to grow stand. The Stewardship Forester must determine by investigation and judgment if the landowner has made a reasonable effort to comply with the reforestation rules.

Free to grow trees retained in the **undisturbed portions** of the RMA are not to be included in an average stocking calculation that would offset the need to restock harvested areas. Conversely, reforestation cannot be required in portions of the RMA that were not disturbed by the operation, even if they are under stocked, because the operation did not cause the under stocked condition.

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REFORESTATION STOCKING STANDARDS
629-610-0020

(10) Landowners may submit plans for alternate practices that do not conform to the reforestation stocking levels established under these rules. A plan for alternate practices may be approved if the State Forester determines that there is a high probability that the purpose of the reforestation rules will be achieved, or if the plan carries out an authorized research project conducted by a public agency or educational institution.

APPLICATION:

This section is not used for enforcement.

ADMINISTRATION:

Alternate Practices.

A plan for an alternate practice should be submitted before the operation is begun. The Stewardship Forester will evaluate such plans to determine whether they ensure the replacement and maintenance of free to grow forest tree cover at or above stocking levels that will use the tree growth potential of the site.

Some landowners wish to manage stands to favor and maintain a particular species and its associated habitat, for example Oregon white oak in below-standard-stocked open stands. Often the operation involves cutting the competing conifers and the remaining stand is below threshold reforestation stocking levels. However, these oak stands are naturally of low stocking, and replanting with conifers or hardwoods is not the landowner's objective.

These stands may be unique ecosystems, and the Oregon Department of Forestry supports the landowners' objectives but is obligated to ensure that there are solid management activities supporting such plans for alternate practice. Approval of such plans for alternate practice will be predicated on the following criteria.
1. The landowner must submit for Stewardship Forester approval a plausible plan for an alternate practice describing a schedule of activities necessary to create and maintain such a below-standard-stocked stand.
2. The stand management plan must have written approval of a credible academic forest management advisor, probably a Forestry Extension representative, or a wildlife management agency representative such as Oregon Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, or the like.

The landowner should be advised to check with their county assessor to determine if the county will continue to recognize such below-standard-stocked stands as forestland if they are interested in retaining any forest tax deferral status they may have.

Research Projects.

Research projects by public institutions such as the College of Forestry at OSU, community college forestry programs, state forests, and county forests that will result in lower stocking levels may be approved if part of a formally designed and conducted project. The approved plan should specify full compliance with reforestation stocking levels will be provided should the research project be discontinued or abandoned for any reason.

Although not specifically permitted by this rule, private landowners with professional research programs will also be allowed to conduct research projects that result in alternative stocking levels, under these same guidelines.

NATURAL REFORESTATION METHODS
629-610-0030

(1) Natural reforestation methods may be the best means to meet a variety of resource management objectives on some forestlands. Successful natural reforestation requires careful, flexible, site-specific pre-harvest planning and post-harvest monitoring.

(2) Reforestation may be difficult on Cubic Foot Site Class VI forestlands due to factors such as poor soils, harsh climate, and competing vegetation. Reforestation in wetland areas may be difficult because of high water tables, competing vegetation, and inaccessibility. Careful reforestation planning is needed before operations are conducted on these sites. On Cubic Site Class VI forestlands and in wetlands, the use of silvicultural systems that promote natural regeneration and the retention of good quality residual trees after operations often have a higher probability of success than artificial reforestation methods.

APPLICATION:

These sections are not used for enforcement.

ADMINISTRATION:

Natural reforestation methods require additional planning prior to harvesting to ensure success. On harsh Site VI lands and in forested wetlands, reforestation is often difficult. On all harvest units, but particularly on these types of sites, the Stewardship Forester should encourage pre-operation planning to prevent post-operation problems, although the plan for an alternate practice is not required to be submitted for twelve months following harvest. (See section (4) below.) Often on marginal sites, retaining some trees to provide natural seed sources and a favorable microclimate for new trees can increase the chances of reforestation success and lower reforestation costs. The required plan may include flexibility in meeting the free to grow timeline.

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NATURAL REFORESTATION METHODS
629-610-0030

(3) When an operation will result in a reforestation requirement and natural reforestation methods are planned, the landowner shall obtain written approval from the State Forester of a plan for an alternate practice which describes how reforestation will be accomplished. Information in the plan shall include:

- ***(a) A description of the seed sources that will be used;***
- ***(b) Site preparation and vegetation competition control methods;***
- ***(c) An estimate of the time needed to obtain an adequately stocked free to grow stand;***
- ***(d) How progress towards natural reforestation will be evaluated; and***
- ***(e) Alternative strategies that will be used if natural reforestation does not progress as planned.***

(4) The plan for an alternate practice required in section (3) of this rule must be submitted no later than twelve months after tree stocking is reduced.

(5) Plans for an alternate practice for the use of natural reforestation methods shall be approved by the State Forester if a determination is made that the information provided accurately indicates there is a high probability that the purpose of the reforestation rules will be achieved.

APPLICATION:

These sections are not used for enforcement. Failure to submit a plan for an alternate practice will result in the landowner being held to the compliance requirements for artificial reforestation (OAR 629-610-0040, i.e. planting or seeding within 24 months and a free to grow stand within six years of completion of the operation). Submitting and securing approval of a plan for an alternate practice for natural reforestation may be one way for a landowner to come back into compliance after violating the planting requirement.

ADMINISTRATION:

If natural reforestation methods will be used, these sections require the landowner to obtain approval of a plan for an alternate practice describing how natural reforestation will be achieved. The intent of this is to both force the landowner to plan reforestation early in the operation, and to increase the probability of successful natural reforestation. Section 3 lists five topics that must be addressed in the plan. To fully address these topics the following information needs to be provided:

(a) Seed Sources: The species, size, condition and locations of trees that will be used as seed sources must be described. Landowners cannot rely on an adjacent landowner's trees as a seed source unless the plan includes a written and signed statement from the adjacent landowner that the trees will not be harvested during the life of the plan.
The basal area of retained in-unit seed trees may also be counted toward the stocking requirement if they are free to grow.

(b) Site Preparation: For successful seed germination, a favorable seedbed is needed. Site preparation methods must be described along with the time within which site preparation will be completed. If vegetative means, such as hardwood sprouting, will be used, how excess sprouts will be controlled and cultured must also be described.

(c) Time: The plan must include an estimate of how long it will take to establish an adequately stocked free to grow stand using the proposed natural reforestation methods.

(d) Evaluation: The plan must describe how stocking success will be assessed.

(e) Alternate Strategy: Each plan for an alternate practice must also describe what actions the landowner will take to achieve an adequately stocked stand before the free to grow deadline if natural reforestation is not succeeding as anticipated.

When evaluating natural reforestation success, little weight should be given to the presence of first-year germinants. Most germinants do not survive the first year. Seedlings at least one-year old have a much higher probability of continued survival.

Once a plan for an alternate practice has been approved and is on file at the District or unit office, a landowner may refer to that approved plan when future operations on similar growing sites will be reforested in the same manner. If the Stewardship Forester determines that the sites are not similar, or that modifications are needed in the plan, a new plan will be required.

Plans for alternate practices for natural reforestation which rely on hardwood species, should be closely reviewed before approval. In some cases, such as cottonwood and quaking aspen groves, natural reforestation with the same hardwood species is probably the best option. Plans for an alternate practice proposing natural reforestation with red alder or madrone on sites suited for growing conifers, should not be approved unless the plan thoroughly addresses site preparation and stocking control. The quality and specificity of the plan submitted by the landowner may provide an indication of whether they are serious about managing for hardwoods or if they are attempting to avoid reforestation costs. Landowners are responsible for demonstrating in their plans that they have the knowledge and ability to successfully use natural reforestation methods to comply with the rules. If the Stewardship Forester determines this is not the case, especially where technical information is limited on how to obtain successful natural regeneration of hardwoods from seed or sprouts, natural reforestation plans relying on these methods should generally not be approved.

It is not possible to discuss natural reforestation methods for hardwoods generically. Instead each species must be considered separately. Excellent summaries of current site preparation, natural reforestation, and vegetation management guidelines for the most commonly encountered hardwood species in Oregon are available and listed in the reference section.

The following are some very general guidelines for evaluating natural reforestation plans involving common hardwood species. These guidelines should be used to alert you to potential problems with proposed plans, but a more in-depth evaluation of the plan and the site, as well as your local knowledge is needed before a plan for an alternate practice is approved or denied.

Bigleaf maple, California black oak, California-laurel (myrtle), Giant chinquapin: Natural reforestation using managed sprouts* is an acceptable practice. Natural reforestation using seeds is unreliable and is not an acceptable practice. Fire can encourage sprouting of chinquapin.

Limited research indicates for bigleaf maple sprout clumps, a better stem quality is produced if all stems are retained until the clump canopies begin to close upon one another; removing all but the best-form stem from each clump at this point encourages continued straight-form growth. The time to culture the clumps seems to be 8-10 years after severing of the original tree stems.

Black cottonwood: Natural reforestation using seeds or managed sprouts* should be considered an acceptable practice only in wet bottomlands where the species was present before harvesting. Control of competing vegetation is important.

Oregon ash: Natural reforestation using seeds or managed sprouts* should be considered an acceptable practice only in wet bottomlands where the species was present before harvesting.

Oregon white oak: Regeneration from seed is difficult. In the absence of fire and grazing, soil disturbance is needed for seed germination. Shoot growth is very slow the first few years and protection from rodents and other predators is needed. Use of managed sprouts* is a more viable option.

Pacific madrone: Natural reforestation using managed sprouts* in clear-cuts with control of competing vegetation is an acceptable practice.

Red alder: Natural reforestation from seeds is an acceptable practice in areas where site preparation has exposed mineral soil. Alder establishment (both natural and artificial) is likely to be unsuccessful on south aspects in the valley side of the Coast Range and in the Cascades. Using stump sprouts is not considered a viable alternative.

Tanoak: Natural reforestation using seeds is an acceptable practice in areas with a partial canopy and a duff layer over mineral soil. Seed survival is poor in clear-cuts. Using managed sprouts* is also a viable alternative. Fire helps to trigger vigorous sprouting.

**"Managed sprouts" means the landowner thins the sprout clumps prior to the free to grow date set in the plan to suppress all but one to four of the most desirable stems. For the purpose of determining free to grow stocking, only one stem per clump may be counted.*

When evaluating plans for an alternate practice for natural reforestation, the Stewardship Forester is encouraged to consult with Salem staff or their local extension forester, and to use their knowledge of local conditions. Over time, successful plans can be referenced as guides for evaluating new plans on similar sites.

Overstocking of acceptable tree species (both naturally and artificially regenerated) may lead to conditions that may not be considered free to grow. However, pre-commercial thinning usually takes place at least 10 to 15 years after planting, not within the four-year free to grow compliance period after planting under the rules. Therefore, overstocking does not disqualify a stand from being considered free to grow. Landowners should still be encouraged to manage tree stocking. When evaluating stocking, remember the criteria requires that for free to grow

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trees to be counted they should generally be 10 feet apart and not overtopped. This partially addresses overstocking and prevents grossly overstocked portions of an operation area from skewing the overall unit stocking.

Landowners should be encouraged to the maximum extent practical to manage tree stocking. However, as a last resort in hardship cases when the landowner is unable to do or fund stocking management, an overstocked stand that will eventually thin itself can be accepted rather than investing time in futile enforcement on a landowner who cannot do or fund more intensive management.

Stewardship Foresters should obtain the best reforestation outcome they can, using their judgment regarding enforcement or acceptance. If the landowner has the physical and financial capacity to create a better stand through a written plan and management of a naturally-established stand, the Stewardship Forester should encourage those actions. If the naturally-established stand is the best we can expect from the landowner and civil penalties are unlikely to be collectable, Stewardship Foresters may consider the reforestation requirement to be met.

Landowners who intend to use natural reforestation methods should be encouraged to submit the required plans as early in the operation as possible. The deadline is set at 12 months after felling begins because, on some eastern Oregon and interior southwest Oregon partial cuts, it may not be evident that reforestation will be required until after the operation is completed.

In some cases, natural reforestation has been approved after repeated failure of planted seedlings on harsh sites or where vegetative competition is hard to control. On harsh sites, the pre-fire or pre-harvest stand of trees indicates sufficient soil productivity to support a stand, but only with the necessary combination of weather conditions that allow seedling establishment. On brush-dominated sites, vegetative control costs can be so high that economic feasibility is beyond the landowner's means. Instead of requiring the landowner to continue investing in planting, a plan for alternate practice using natural reforestation and an extended free to grow compliance date may be approved.

If the Stewardship Forester becomes aware that ownership has changed during the period of an approved natural reforestation plan, the new landowner should be contacted to ensure they are aware of the provisions of the plan. They may choose to continue under the plan, seek approval of an amended plan, or abandon the plan and use artificial reforestation methods.

REFERENCES:

- OAR 629-600-0100 *"Artificial reforestation"*
- OAR 629-605-0173 Plans for an alternate practice
- OAR 629-600-0100 *"Natural reforestation"*
- OAR 629-610-0040 Time allowed for reforestation
- Example of an adequate written plan for use of natural reforestation methods; Oregon Department of Forestry, November 14, 1994
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- Burns, R.M. and B.H. Honkala. December 1990. Silvics of North America: Volume 2, Hardwoods. Agriculture Handbook 654, USDA Forest Service, Washington D.C.

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- Vesely, David. G. Tucker. 2005. A Landowner's Guide for Restoring and Managing Oregon White Oak Habitats. U.S. Department of the Interior Bureau of Land Management. Salem, Oregon. Available at http://www.oregonoaks.org/landguide.shtml.

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TIME ALLOWED FOR REFORESTATION
629-610-0040

(1) The time period for compliance with the reforestation rules begins at the completion of the operation or 12 months after tree stocking has been reduced, whichever comes first.

(2) The landowner shall begin reforestation, including any necessary site preparation, within 12 months when reforestation is required.

(3) The landowner shall complete planting or seeding within 24 months unless a plan for an alternate practice for natural reforestation has been approved by the State Forester.

(4) By the end of the sixth full calendar year, the landowner shall have established a free to grow stand of trees which meets or exceeds the minimum stocking level required by OAR 629-610-0020.

(5) When natural reforestation methods are planned, the time limits for evidence of successful germination and for establishing a free to grow stand of trees which meets or exceeds the minimum stocking level required for the site shall be established in the approved plan for an alternate practice required for such methods.

APPLICATION:

These sections are used for enforcement. These sections establish the timeline for carrying out the reforestation obligation. Section (1) starts the "compliance clock" that determines the compliance dates for sections (2) through (4). These sections are used if the landowner does not meet the compliance dates. If the planting completion date is met, but stocking is inadequate, use OAR 629-610-0020(1) for enforcement.

COMPLIANCE:

The landowner complies with these sections when they:

(a) Begin reforestation efforts within 12 months after the compliance period has started. "Completion of the operation" means harvest activities have been completed to the extent that the operation area will not be further disturbed" (OAR 629-600-0100 (12)). This is usually considered completion of yarding.
"After trees stocking has been reduced" equates to when the trees have been felled.

(b) Plant or seed to the minimum stocking level required for the site within 24 months after the compliance period has started.

(c) Establish a free to grow stand of trees which provides at least the minimum stocking level required by OAR 629-610-0020 by December 31 of the sixth full calendar year after the compliance period has started.

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(d) Meet the timeline established through an approved plan for an alternate practice for natural reforestation methods.

Unsatisfactory Condition: There is an unsatisfactory condition when the landowner fails to meet any of the requirements of sections (a) through (d).

Damage: There is damage when the landowner fails to take the rule-referenced action before the planting or free to grow compliance deadlines because there is loss of productivity from delaying subsequent compliance dates and a loss of growing seasons. There is also damage when the landowner takes action before the free to grow compliance deadlines but the resulting free to grow stocking is inadequate. In such cases, the landowner's planting actions (such as planting during the summer or using non-viable seedlings), and not the site conditions after planting (such as competing vegetation or frost damage), are the primary factors leading to non-compliance. Such cases may be more logically enforced on the basis of the stocking standards, OAR 629-610-0020(1), rather than this rule. Consult Salem staff prior to writing the citation to discuss the stronger rule basis for the case.

Written Statement of Unsatisfactory Condition: Issue a Written Statement when a landowner fails to begin reforestation actions with time to complete planting within 12 months. The Stewardship Forester may also issue a Written Statement when stocking is within 90 percent of being in full compliance or when adequate stocking is not entirely free to grow. Our counsel at the Department of Justice advises that the deadline for correcting the latter two unsatisfactory conditions must be the free to grow due date, the end of the six years following the operation's completion.

ADMINISTRATION:

Special Cases and Enforcement:
If planting has not been completed and a natural regeneration plan for an alternate practice has not been approved, **but** there is a viable, well-distributed stand of natural reproduction of acceptable species on the operation area, enforcement action depends on the circumstances. Procedurally the landowner has failed to plant or to obtain approval of a natural reforestation plan. However, they have a stand of natural reproduction that meets the intent of the rules. There is no requirement in the rules that the trees evaluated at the free to grow deadline be only those that were planted. If an adequate number of well-distributed, naturally-regenerated trees of acceptable species (conifer or hardwood) has supplemented or replaced the planted trees at the compliance deadline and the trees are free to grow, rule compliance is achieved.

If the natural reproduction will mature into a productive, well-distributed, adequately-stocked stand at some time beyond the normal free to grow compliance date, it is acceptable. It is not ODF's place to dictate that the landowner's objectives be to produce an optimum stand in the shortest period, just one that achieves the purposes of the reforestation rules.

If there is some natural reproduction but there are also under stocked areas large enough that the definition of "well-distributed" is not met, the repair order can take into account those areas that have viable natural reproduction. The landowner may plant the whole area, or plant the under stocked areas and obtain approval of a plan for an alternate practice for the rest.

Determining Whether Reforestation is Required:
The Stewardship Forester will make the decision on whether or not reforestation is required. The rules do not require the Stewardship Forester to inform every landowner on every harvest operation of this decision. However, the F.A.C.T.S. "reforestation required" form letter, or a similar letter, which provides this information as a courtesy, should be sent to the landowner whenever possible. Regardless of whether they receive a letter, landowners also have a responsibility for determining if, and to what level, their lands must be reforested. Stewardship Foresters should assist landowners with technical advice, but can also do so by referring landowners to extension foresters or qualified consulting foresters.

Visual surveys should be used to determine if an operation area is obviously stocked or not stocked with free to grow trees. If compliance status is not obvious, a stocking survey shall be conducted by the Stewardship Forester.

To the extent workload allows, each district will seek to conduct planting and free to grow compliance inspections and enforcement on all possible non-industrial operation areas larger than one acre.

Spot-checking non-industrial landowners with a record of past reforestation compliance will be sufficient. Planting and free to grow compliance field inspections should be made on at least five percent (by landowner) of industrial forestland operations. These operation areas should be randomly selected. Company records may be used for determining compliance on up to 95 percent of industrial lands.

Where zoning will likely result in development to a non-forest use during the next ten years, such as within urban growth boundaries and areas zoned for "rural residential" development, districts may place a lower priority on inspections on one to ten-acre operation areas.

Field offices must inform county assessors' offices of forest operations in violation of the reforestation rules.

Such violations may result in higher property taxes on the affected parcels as tax deferrals are forfeited, serving as an incentive to reforest as required.

Compliance Dates:
Section (1) permits the Stewardship Forester to require reforestation on a logical portion of a harvest unit even if other portions of the operation are not finished. Usually the completion of yarding will be equivalent to completion of the operation. In some cases an operation may consist of only felling and bucking. Yarding is completed as a second operation. This may occur due to fluctuating markets or occasionally to avoid new regulations. To prevent long delays in reforestation, section (1) also allows the reforestation compliance time period to begin no later than 12 months after stocking has been reduced, that being when the trees were felled.

When the actual completion date (the month) is known, it should always be used. In many cases, the Stewardship Forester may not know the exact completion date. There is some opportunity for confusion because the planting preparation and planting completion time periods are measured in months after operation completion (OAR 629-610-0040(1)), and free to grow compliance is

measured in "full calendar years" (OAR 629-610-0040(4)). Furthermore the reforestation threshold used for compliance with the unit size limitation in ORS 527.750(1)(c) is measured in months "since the stand was created", meaning it was planted or seeded. An exact determination of these compliance dates is mainly needed when landowners do not take advantage of the first available preparation and planting seasons. When that happens, use the best available determination of the compliance dates, and document how they were set. An estimated completion date of the next July 1 or December 31 may be used.

Artificial Reforestation:
Planting or seeding must be completed within 24 months after the compliance period has started. Visual observation should be sufficient to make this determination in most cases. If the planting completion date falls in the middle of a planting season, and planting has not taken place, a written statement should be issued directing the landowner to complete planting by the end of that season.

Reforestation timing is critical if the harvest is completed in the fall. If a harvest is completed in October, the site preparation, such as burning or spraying, may not be possible due to fall and winter wet weather. In this case, the first planting season would be lost. Site preparation would have to be completed before the second planting season and planting must be completed during the second planting season.

Plans for an alternate practice utilizing natural reforestation should contain the following:
- Operation-specific time limits for site preparation, evidence of reforestation success, and establishment of a free to grow stand. (Typically the approved deadline for establishing a free to grow stand should not be shorter than six years and rarely longer than ten years.)
- Control methods for competing vegetation that will be used.
- Monitoring and evaluation methods that will be used; and
- Alternative strategies (including time lines) that will be used if natural reforestation does not progress towards a free to grow status as planned.

On some very harsh Site VI lands, harvesting may have changed the microclimate to the extent that repeated reforestation efforts may result or have already resulted in one or more failures. A plan for alternate practice that provides for natural regeneration over an extended time period may be considered in place of continued failure of plantings. In some rare cases, the Stewardship Forester may eventually waive the reforestation requirements. If such waivers are granted, the Stewardship Forester should document the site conditions, harvest design, and reforestation practices that led to the failure in order to prevent similar results in the future. Consultation with Salem staff is strongly recommended in such cases.

REFERENCES:

- OAR 629-600-0100 "Completion of the operation" definition
- OAR 629-600-0100 "Artificial reforestation" definition
- OAR 629-605-0173 Plans for an alternate practice
- OAR 629-610-0020 Reforestation stocking standards
- *FACTS Manual;* Oregon Department of Forestry;
- Oregon Department of Forestry, October 31, 1994. Reforestation stocking survey procedures.

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