## Minutes

# **Board of Natural Resources Meeting**

July 5, 2022

Webinar/In-Person, Olympia, Washington

### **BOARD MEMBERS PRESENT**

24

The Honorable Hilary Franz, Washington State Commissioner of Public Lands

The Honorable Bill Peach, Commissioner, Clallam County

Jim Cahill, Designee for the Honorable Jay Inslee, Washington State Governor

Dan Brown, Director, School of Environmental and Forest Sciences, University of Washington

The Honorable Chris Reykdal, Superintendent of Public Instruction

Dr. Richard Koenig, Interim Dean, College of Agricultural, Human, and Natural Resource Sciences, Washington State University

1	CALL TO ORDER					
2	Chair Franz called the meeting to order at 9:03 a.m.					
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4	Board members provided self-introduction. A meeting quorum was confirmed.					
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6	WEBINAR FORMAT BRIEFING					
7	Ms. Tami Kellogg, Board Coordinator, provided an overview for viewing and					
8	participating in a combined webinar and in-person meeting.					
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10	CHANGES TO THE AGENDA					
11	Action on the Settlement Agreement (SA) was deferred to afford an opportunity for the					
12	Board to respond to comments and questions.					
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14	APPROVAL OF MINUTES – MAY 3, 2022 & JUNE 7, 2022					
15	Chair Franz requested approval of the minutes for the May 3, 2022 and June 7, 2022					
16	regular Board of Natural Resources meetings.					
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18	MOTION:	Commissioner Peach moved to approve the minutes.				
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20	SECOND:	Mr. Cahill seconded the motion.				
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22	ACTION:	The motion carried unanimously.				
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### LIGHTNING TALK

**Public Outreach for Timber Sales** 

Cory McDonald, Proprietary Forester, Northwest Region

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Mr. McDonald outlined the Department's public outreach process for timber sales, which typically begins one to three years prior to approval of a sale. Outreach is coordinated at the district level within six DNR regions and is dependent upon a number of factors to include variability within the landscapes, haul route, and adjacency of the public to timber sites.

Regular contact via emails, phone calls, and meetings with neighbors by district staff is typical when haul routes are located close to neighborhoods. During recon by foresters, neighbors are often encountered by either foresters or survey crews, which provides the first opportunity to introduce the timber sale and collect contact information to identify any concerns by neighbors. Outreach efforts are initiated after sufficient fieldwork outlining the footprint of the timber sale. Letters are mailed with a map to solicit feedback from surrounding neighbors. Information to the community includes the sale name, location, acres/size, sale timeline, information on the Forest Practice review process, protection policies for managing resources, and the purpose of the sale.

Attendance at community and recreation planning, trail advisory groups, and other organizational meetings are important to help foresters identify users of the forest and their specific interests. Outreach occurs for timber sales at the project level. Many comments received through SEPA and the Forest Practice applications are not necessarily about individual timber sales, but speak to policies that shape state land management. All SEPA comments are analyzed within the agency's EIS management framework covering impacts to determine the balance between economic, social, and environmental impacts. At the timber sale level, staff implement Board policies and ensure all concerns are considered for any timber sale.

#### **PUBLIC COMMENTS**

Esther Kronenberg spoke about a private timber harvest near her residence and Green Cove Creek, an area of 20 acres of 100-year old forest at the headwaters of a critical creek adjacent to a popular city park where a recent clearcut occurred without notice to residents. The City of Olympia disputed the accuracy of the timber map noting a missing stream as did an appeal she and others submitted on behalf of 100 residents and 5 other organizations. Both appeals were submitted prior to the logging operation, which was completed before the appeal period ended. A trestle bridge was damaged during a storm causing a landslide upstream of Green Cove. Green Cove is an environmentally sensitive area with an adopted comprehensive plan by the City of Olympia and Thurston County in 1998. The basin supplies water to City wells and hundreds of private wells. The cove is home to endangered salmon. Thurston County is spending \$8 million to remove fish barriers. The Green Cove Plan recommends decreasing stormwater run-off and increasing tree canopy. She questioned the intent of an appeal process when logging can occur prior to the end of an appeal period, as well as seeking public comments when the Department ignores established scientific facts, falsifies maps by excluding established streams, destroys fish habitat the state is spending millions of dollars to recover, and disrespects

20 years of local comprehensive planning. Autocratic actions by DNR do not consider, protect, or advance the long-term well-being of the state.

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Jerry Dierker spoke about a private timber harvest. He said he lives near Butler Creek, a creek served by Green Cove near the recently logged site. The Department falsified evidence claiming there was no probability of landslides occurring in the area. The area is an obvious debris field. The Department was aware of hazards and the landslide near the park in the mid-2000s causing the loss of a bridge on Green Cove Creek. Logging operations impact fish and wildlife in Eldon and Budd Inlets, which are impaired bodies of water under the 303(d) impaired bodies list within the Federal Clean Water Act. The City of Olympia complained about the logging operation after receiving notice of the logging operation. Local residents were never notified.

Peter Goldman representing the Washington Environmental Council, Conservation Northwest, and the Olympic Forest Coalition conveyed appreciation and thanks to Commissioner Franz for withdrawing the Settlement Agreement. He spoke against characterizing and justifying the Settlement Agreement (SA) as merely a forest inventory good housekeeping effort. The agreement is not about DNR's forest inventory methodology and methods used in collaboration with forest stakeholders and the public to calculate the decadal Sustainable Harvest Level. The SA takes DNR's state-of-the-art forestry inventory method and proposes to replace it with a massively expensive old school plot-based method designed simply to maximize revenue, a methodology typically used for private lands. The settlement is stunningly premature for consideration at this time. He questioned the replacement of an existing forest management system prior to a decision in the Conservation Northwest v. Franz case, which would inform who DNR manages for and under what fiduciary standard for managing forests. The SA is linked to the trust mandate standard. Four American Forest Resource Council (AFRC) declarations allege DNR is negligent in how it conducts forest inventories by minimizing harvests under managing forests. The SA proposes a radically different forest co-management structure that anoints AFRC as a co-manager of public land. AFRC is a timber trade association of mill owners with economic interests that may or may not align with the goals of beneficiaries. The SA also requires seeking funds that could be used for other purposes, such as forest carbon projects, the Trust Land Transfer Program, or restoration. It binds future Lands Commissioners and makes Skagit County the venue for all future legal actions related to forestry when the state has fought hard to maintain such actions in Thurston County. This is not the right time to consider the SA.

Elaine Spencer commented on DNR's obligation to provide harvesting on a continuing basis without major prolonged curtailments. She cited past and recent reductions in sustainable harvests. The sustainable harvest level adopted in 2019 was 46% less than the harvest in 1988. Something is wrong as DNR's record is not only threatening to the beneficiaries, but continues to threaten the economic viability of the agency. The 2006 Policy for Sustainable Forestry mandates DNR to analyze forest stands, optimize economic values of forests and timber production over time, and calculate sustainable harvest, and plan and schedule timber harvests. That similar approach to harvest planning has allowed private fiduciary forest managers to increase productivity of their lands over the last 35 years while not complying with environmental laws DNR is required to

follow. DNR has never implemented the directive for the Sustainable Forestry until now under the SA. The SA brings the department into the 20<sup>th</sup> century of forest management. Trust beneficiaries and mills that provide the market for DNR's timber look forward to working with the department on sustainable management to provide benefits to the trust beneficiaries while also protecting environmental values.

Robert Mitchell commented that his appeals to the Board to cancel the Sauerkraut timber sale have been exhausted so he is speaking directly to loggers. The Sauerkraut timber sale is too expensive today with demand crashing and diesel spiking. A good fiduciary would send Sauerkraut back to DNR as a no bid as the Department will reoffer it later at a lower price. If logging industry lobbyists lecture the Board on its fiduciary duty be advised if Sauerkraut is logged, carbon will be released before it is profitable to sell. The Board should consider future generations by determining how to value the ecosystem services of Sauerkraut and similar parcels. Additionally, previous speakers spoke to how DNR lied about hydrological studies. At one time, DNR once thought it would be a great idea to dump tires in Puget Sound, which we now know kills salmon. DNR may need the public's help to become the transparent open public-spirited servant everyone wishes it would be. He often hears Jerry Franklin's name cited by environmentalists and loggers alike. The Board should ask him to weigh in on turning Sauerkraut and similar parcels into a chemically treated plantation forests.

Ed Bowen, resident of Jefferson County, commented on the Sustainable Harvest Calculation (SHC) scoping and how limiting it has been for citizens to participate. He believes the current calculations established, especially for the Clallam block, are overbearing, and prevent proper management of the forest and the sustainable fiduciary responsibilities of his community. He is hopeful the Board's August field tour includes his county so citizens can speak directly to the Board on how the SHC is directly affecting communities at the local level. The Board should seek the Attorney General's opinion on the RCW directing the Board's oversight versus the agency, as well as the Board's role on complex policies. The goal for board feet harvesting in Clallam County has been seriously impacted with much of the harvest deferred because of older forest conversations and staffing issues.

Ron Wesen, Skagit County Commissioner, spoke in support of the SA with DNR. The revenue is important to small rural school districts in Concrete and Darrington. The schools are starving for programs and need to attract students to increase enrollments, which is worsening problems in the school districts. The county's Comprehensive Plan has elected to keep a viable and commercial forest industry and the land base it requires. Over 60% of Skagit forests are protected and over 3,000 acres remain as harvestable timberlands zoned commercial and industrial forestlands to include 85,000 acres of trust lands. Trust management is expected to be committed to the local community's best interest and at a much better level of easily accessible transparency and good faith communications with DNR. He supports the SA.

Will Honea, Skagit County, conveyed support for the SA because it will provide better data. Ultimately, Skagit County pursued the action because of concerns of philosophical direction and not being consistent with the community's intention to protect its land base

against development by preserving the robust natural resource economies, which require political advocacy for preserving an undeveloped land base. The county has been somewhat successful in ways other communities have not. The county is seeking support in sustaining that success. The SA should provide better data although it is uncertain if the parade of 'horribles', as Mr. Goldman articulated, is going to happen because the county does not perceive that occurring. The county recognizes AFRC is an industry representative, but it is also important to have multiple eyes on the problem working together to help everyone move forward. The county supports the settlement.

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Chuck Holland thanked DNR for creating the legacy of Andy Holland in the naming of the marsh as Holland Marsh. He cited an article in the *Snohomish County Herald* on why the naming of the marsh preserves his legacy. The marsh is part of a forest riparian easement transacted with DNR. The tree farm has been in his family for many years and is an American Tree Farm System Certified tree farm and that will continue for future generations.

 Matt Comisky, American Forest Resource Council, reported on July 6, 2021, DNR staff presented the timber sale proposal for fiscal year 2022 of 518.9 mmbf for western Washington. On April 5, 2022, a new western Washington target was presented of 381.5 mmbf to be sold. June 2022 fiscal year auction results reflect DNR offered 350 mmbf of timber, a variance of 168.8 mmbf. That variance represents enough volume to build 10,555 contemporary 2,000 square-foot homes at a time when housing is needed. Using DNR's own data of 34 direct and indirect jobs per million board feet harvested, the variance represents a loss of supporting nearly 5,700 jobs in western Washington. DNR's average stumpage rates for fiscal year 2022 reflect the Department lost nearly \$70 million in gross revenue as well as \$4.4 million in fees that support road maintenance and engineering salaries for the department. DNR also lost \$18 million in management fees, enough to fill the shortfall in the silviculture budget. The Habitat Conservation Plan (HCP) was supposed to create certainty and while staff offered excuses, no solutions have been offered. It may be time to explore the Deloitte Trust Land Performance Assessment recommendation for a pilot project of a third-party land manager.

Sarah Gardam, Whatcom County, spoke to concerns about clearcutting. She described the scene of a recent clearcut following the Oyster timber sale in Whatcom County, which was once an ecological and complex shady haven watered by cool, clear streams. Today, the sun burns down on a denuded and forsaken wasteland and light glares off the skinned logs, which lay in disordered heaps tangled with piles of severed branches. Logging roads and tire tracks snake across what once was lush forest floor, which is now unrecognizable, as it is now a torn and muddy landscape clogged with sawdust, wood fragments, and withered vegetation. Today, water pools are stagnant in random spots and will likely evaporate rather than be absorbed. Stacked along the logging road, are large logs to be hauled away with some measuring over four feet in diameter. Those remnants of trees once soared high overhead supporting a canopy that helped regulate climate, store carbon, and provide homes for birds and wildlife. The massive stumps' exposed rings are the only sole record, a silent testimony to the quiet mysteries and miracles that only a healthy forest can do for the world. This is land management in 2022 – what a

misnomer. It is too late for Oyster, but there is still time to save the last few legacy forests.

**Doug Cooper, Hampton Lumber,** thanked DNR staff for efforts to communicate with the public. It is possible for timber harvesting, recreation, and resource protections to coexist. He thanked DNR for continuing to educate the public and raise awareness of the risk of wildfire to public and private resources. Destructive and catastrophic risks exist by setting aside forests with no active management of fuel load continues to be a proven failure of past public forest land management. The choice of setting aside acres of productive working forests into an unproductive nonworking status will result in less revenue, less jobs, poor communities, and increased carbon emissions. The shortfall in timber sales in fiscal year 2022 should be a sobering reminder of the Board's fiduciary responsibilities to oversee the department in its primary source of revenue from the timber sale program. On June 30, 2022, DNR's 2022 revenue forecast tables were distributed. The loss in revenue associated with the shortfall in timber should be addressed.

Jessica Randall, resident of Jefferson County, said that despite forest practice laws the health of the forest ecosystem is in a state of decline and with climate change it is worsening. The proposed timber sales include eight sales of forests older than 77 years. Last month's timber sales included seven older forests of the 10 proposed for sale. It appears DNR is trying to cut legacy forests as quickly as possible. The focus should be on forest health and not pushing forests to keep producing. Trees are becoming weaker and weaker. She asked for the conservation of older forests, especially Pennywise, which the Board received 200 signatures requesting conservation and for Beaver Valley Sorts as both are legacy forests in Jefferson County. In Jefferson County, legacy forests compromise 9.3% of the county's trust lands; however, with two larger forests up for auction, it forces the county to cut them to support junior taxing districts. If the state and federal government can support the timber industry with hundreds of millions of dollars during times of economic stress, counties should be able to receive support to protect valuable forests.

Paul Butler, a small forest landowner in Thurston County, recounted a visit to the upper Stony Creek drainage area in Capitol Forest with little change since he last visited the area 10 years ago. He measured a Douglas fir with a DBH of over six feet. His friend indicated another Douglas fir measured 7.5 feet. He was pleased to see that the Critter timber sales unit was no longer included on the 2024 timber sales plan. Units similar to Critter are close to meeting DNR's criteria for old growth. Given the urgency of climate change and the recent global backsliding in meeting carbon emissions targets, carbon sequestration capabilities for all forests is necessary. What is not needed is more acreage converted to plantations. The focus should be on determining ways to meet trust obligations without sacrificing what little remains of older and mature forests.

Jerry Bonagofsky, Washington Contract Loggers Association (WCLA) stated that many WCLA companies rely on DNR's timber sales program to support their organizations. The program is critical to maintain the infrastructure of the industry, provide support for family-wage jobs, and generate revenue for rural communities and

 trust beneficiaries. He thanked DNR staff for continuing to offer sales that meet all regulatory requirements including policies approved by the Board. Meeting the harvest volume of the SHC is essential to ensure adequate supply of logs for mills to convert to climate friendly wood products that society demands.

Ed Martin, Washington Forest Products, reported the company produces renewal products used by society. The results in 2022 reflecting millions of board feet not advertised and sold has real impacts affecting the industry and beneficiaries, as well as the people in the state who benefit from renewable resources. The Board should reflect on the activity and understand what changes need to happen to avoid repeating a similar disastrous result. The start of fiscal year 2023 results is not encouraging as the first three months reflect significantly less volume. The Board should be asking questions and facilitating changes to ensure the program is not another year of failure in achieving the SHC. He encouraged the Board not to accept excuses by the trust land manager for not achieving positive results for the fiscal year.

Bill Turner, Sierra Pacific Industries, reminded the Board of the importance of the timber sales program. It is not only the companies that purchase timber it is the communities, counties, and taxing districts that rely on the timber revenue, as well as the overall state and country that need the products produced from timber. DNR staff prepared many more sales that could have been offered but were postponed. In January 2022, 49 mmbf were withheld from the market. More than a year ago, DNR paused pre-1900 sales for review by staff. The draft report was released for four months ago. The Board should make a decision to move forward one way or the other at the September meeting.

Christy White, resident of Delphi Valley, expressed appreciation of the work by DNR staff acknowledging that many people are examining DNR and its management of trust lands. She supports the withdrawal of the SA as it appeared to be rushed and more work and analysis are needed. A continuing review of the sustainable harvest unit list is necessary, as many forests should be evaluated to determine if they are legacy forests. She hopes DNR continues its work on the mandate of the trust to determine a middle ground to manage forests and provide revenue in a way that is responsible and benefits the future for all citizens in the state.

Miguel Perez-Gibson, Washington Environmental Council, spoke to the SHC and the SA. The SHC is a calculation based on recent DNR policies and forestry plans. He urged an update on the Policy for Sustainable Forestry prior to pursuing any alternatives. The upcoming SHC will be based on policies from 2006. Forestry and applied sciences have dramatically changed over the last 16 years and by the end of the decade the policies will be over 20 years old. In terms of the SA, the Council does not perceive a reason to settle now. In addition to several technical comments, the Council understands that while there are improvements to be made in inventory data, the current inventory forest program is state-of-the-art using technological innovations, measurements, and efficiencies. If the intent is returning to a field plot system that will require millions of dollars to complete, DNR should request to present two approaches to understand the implications fully of all components of the Stand-based Forest Inventory System (SFIS) before agreeing to use it.

He cited other provisions in the agreement that appear to be excessive and should be reconsidered as DNR is committing to more than required at this time.

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Brel Froebe agreed the idea of certainty is important to rural communities. If a reduction in timber sales occurs, funding communities have relied on should be identified elsewhere. He appreciated Commissioner Reykdal's statements that schools should not be funded at the expense of timber sales that also impacts the climate crisis. Members of the Board and Commissioner Franz have unique political power and should work with the Legislature and the Governor's Office to make rural communities whole, while also protecting all legacy forests and state lands, one of the best local tools to mitigate the climate crisis. The agenda includes the next SHC and instead of giving AFRC a collaborative role in creating the next SHC through the SA, the Board should include a preferred alternative in the EIS protecting all pre-1945 naturally regenerated legacy forests in addition to an implicit and detailed analysis of the climate impacts of each alternative in the EIS. Climate science and climate crisis have evolved rapidly and a preferred alternative should be in alignment with Washington's 2050 climate goals.

David Perk, resident of Seattle, said he attends meetings to understand actions by DNR to protect legacy forests. The SA should not be approved because of the lack of a public process. Releasing the proposed agreement prior to a holiday weekend and scheduling a vote immediately afterwards reeks of bad faith. The SA lacks any economic analysis, as the proposed surveying method would be very expensive. He asked about the source of funds to cover this expense, and if more harvests would be necessary to cover the cost. The proposed agreement inappropriately favors commercial interests. Approving the agreement would be a betrayal of the Board's fiduciary trust. It is premature to make a settlement when there has been no decision on the Washington Supreme Court case. Dependent upon the ruling, the SA could be unnecessary. The SA appears to reflect that commercial interests are making Department policy, which is concerning.

Connie Gallant, Olympic Forest Coalition, commented that the Board has a duty to each Washingtonian. She is hopeful the Board does not pretend to listen and pays attention to all comments regardless of the many divergent views. The Board should vote against the Pennywise sale and other sales containing legacy forests. The Board has been miss-served by DNR staff that ignored legal and environmental risks of moving those stands into the sales rotation schedule simultaneously. Other stands are available to harvest to meet the volume target and income to beneficiaries. The Board should not accept the terms of the SA. The rushed agreement preferentially gives away the public's interest in unprecedented power and decision-making to private industry. She is hopeful the Board understands the seriousness of climate change otherwise; the Board is disregarding the long-term interests of the state, country, and the world.

Ed Chadd, resident of Olympic Peninsula, underscored the balanced comments offered by Mr. Froebe. He recognizes the difficulty of the pressures DNR and the Board are experiencing. On one side, there is extreme pressure from the timber industry leveraging local taxing districts that are hostage to harvests because of economic concerns. Secondly, there is the long-term public interest. When considering the issue of sustainability and the SHC, the understanding of sustainability keeps evolving. A

previous speaker decried the decrease in sustainable harvest over the past decades, which speaks to the importance of understanding what sustainability involves and how it continues to evolve and erodes environmental services. Forest science has demonstrated that the timber industry's claims of cutting timber as beneficial to the climate are false. He offered to share some information with the Board on best science. The upcoming SHC should incorporate the latest science and the Board should work with the Legislature on a solution for local taxing districts.

Beverly Parsons, resident of Kitsap County, spoke to greater public involvement as part of the SA and is deeply concerned about the lack of public engagement in the development of the agreement, as well as the level of engagement that may occur before a decision is rendered. The agreement affects far more organizations and entities than those named in the agreement. Problems created through the ways of thinking imbedded in government hierarchies, industry emphasis on extraction and consumption, and the desire for consistency of conditions across time are not going to be solved by the same people thinking about problems in the same way. The public wants to be partners with DNR and not just providers of a few comments addressing problems of our collective future. The public views the issues differently. The Board should be receptive to broader interaction with people about alternative ways of considering the problems and the solutions.

Sherri Dysart representing the League of Women Voters of Washington commented on the proposed SA and thanked DNR for delaying action. The League, a long-time member of the Environmental Priorities Coalition and in alignment with agency partners of the Washington Environmental Council and Conservation Northwest is deeply concerned the public did not have adequate notice of the SA and its implications for management of public resources. The League is aware of the July 1, 2022 letter and agrees with the concerns surrounding Section 22 within the proposed agreement. The Board should take more time, seek appropriate public input, and reconsider the necessity of the proposed SA. An adequate period of public comment is vital to the public's right to understand and influence policy at all levels of government. Forests should be managed for the benefit of all.

Andy Zahn urged the Board to include a preferred alternative in the update of the SHC that protects all pre-1945 naturally regenerated legacy forests. DNR should consider the necessity of growing older, healthy, and more fire drought and wind resilient forests. The destructive outdated forestry practices of clearcutting, low diversity replanting, and short harvest cycles need to be retired. The Board should reject the eight timber sales for consideration containing legacy forests. The majority of timber sales approved last month featured irreplaceable legacy forests. He urged the Board to reject the lawsuit settlement as the agreement is deeply flawed in many ways.

Mark Falcone, resident of Maple Falls in Whatcom County, said he is not opposed to sustainable timber harvesting, but protecting legacy forests is important to him and his family. He wants his community and future generations to enjoy many of the benefits legacy forests provide today, such as recreation and the benefits they provide for climate. DNR should include an in-depth climate analysis as part of the SHC plan, as well as a

preferred alternative that protects all pre-1945 naturally regenerated legacy forests. As the climate is changing rapidly, the EIS should include current climate science to make sound decisions. The SHC should be in alignment with the state's 2050 climate goal.

Lisa Riner, resident of Olympia, thanked the Board for pulling the SA. Northwest forests have the greatest potential of all forests in the world to capture carbon and offset climate change but only if preserved. The amount of carbon per acre sequestered is higher than the world's tropical forests. DNR continues to permit devastating clearcuts of forests unabated in the name of Washington residents but which mostly profit logging companies. That must change. No one owns the trees because the forests are part of a vast ecosystem stretching across earth. The decisions made today on timber sales affect everyone. Include a preferred alternative in the EIS that protects all pre-1945 legacy forests. The decisions today will affect future generations.

Lynn Fitz-Hugh, resident of Thurston County, commented on the fight against climate change and the need for humans to reduce carbon emissions. Trees are protecting the environment by drawing back carbon. Scientists are predicting six years to reduce emissions dramatically and fear the world is past its tipping point when ice caps have begun melting releasing historic carbon and making it impossible to meet climate goals. If emissions are not reduced in the next six years, by 2050 half of the world's population could starve to death. She asked the Board to stop considering trees as board feet and consider trees as protecting the world.

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## TIMBER SALES (Action)

Auction Results for June 2022, Final Sold Report for FY 2022, FY 2023 Plan, & **Proposed Timber Sales for August and September 2022** 

Tom Heller, Interim Assistant Division Manager, Product Sales & Leasing Division

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Mr. Heller presented June auction results. Of the 13 sales offered by the Department, 12 sales sold totaling 53.5 mmbf for \$19.9 million for an average of \$370/mbf. Bids averaged 1.6 bids per sale. The overbid rate was approximately 15%. The timber market is softening and the Department anticipates it will continue to soften over the next several months.

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Mr. Heller responded to a question on the one sale that did not receive bids. The timber sale, T3 Maple Bar, is located within the Olympic Experimental State Forest and is proposed for auction in July. The primary reason for the lack of a sale was no minimum bid and the unit was somewhat more complex for harvesters.

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Mr. Heller reviewed the results of timber sales in FY 2022. Since the last update in April 2022, the volume for fiscal year 2022 remained short of the plan because of a challenging year for the sales program. Although volume was significantly less, revenue generated was close to the target. The fiscal year 2022 plan was 564 mmbf with 424 mmbf sold. As reviewed in April, many factors contributed to the shortfall.

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Commissioner Peach asked about actual revenue versus forecasted revenue. Mr. Heller said the forecast was approximately \$180 million with the actual at \$179.6 million for

1 both sorts and stumpage sales. Commissioner Peach asked that future information on the 2 ratio of budget and actual sales should be reflected separately for sort and stumpage sales. 3 4 Mr. Heller reported the FY 2023 timber sales plan forecasts 498 mmbf for western 5 Washington and 66 mmbf for eastern Washington. Current scheduled sales for the year 6 are tracking as forecasted. 7 8 Mr. Cahill inquired about DNR's forecasted price for the current fiscal year. Mr. Heller 9 replied that the market is slightly less than anticipated for the fiscal year by 10 approximately 10% due to less market activity. However, demand should increase to help 11 stabilize and track closely with the budget forecast through the calendar year. 12 13 Mr. Cahill noted that housing continues to be an issue for staff in the regions. Mr. Heller 14 advised that there are no plans to increase staffing above the approved budget. The 15 Department has attracted more candidates and anticipates achieving full staffing capacity. 16 17 Chair Franz added that progress has been ongoing for hiring; however, part of the issue is training, which takes time. The Department will send an email report to the Board on 18 19 vacancies at the beginning of the fiscal year and current vacancies by region. 20 Additionally, housing continues to be an ongoing struggle that cannot be solved 21 immediately. The Department has taken some steps to address housing challenges, in 22 terms of the cost of housing to match jobs the Department needs to fill. 23 24 Mr. Heller responded to questions about achieving the sales forecast in anticipation of 25 filling vacancies. The forecast as presented is achievable with the current level of staffing and anticipated staffing capacity during the year. 26 27 Mr. Heller recommended approval of the 13 sales for August and September for 52.6 28 29 mmbf for \$15.4 million with an average of cost of \$292 per mbf. 30 31 MOTION: Commissioner Peach moved to approve the timber sales for August and 32 September 2022 as presented. 33 34 SECOND: Dr. Brown seconded the motion. 35 36 ACTION: The motion was approved unanimously. 37 38 Mr. Heller provided additional information on the selection of the Pennywise timber sale 39 explaining how region staff prepare sales in areas where there are concerns about older 40 forests. Staff selects pockets of older trees and other areas that meet the pre-1900 criteria 41 to preserve. However, leave tree policy does not require the preservation of all older 42 trees. The Pennywise timber sale includes retention of areas of older trees. 43 44 **BOARD ON GEOGRAPHIC NAMES (Action)** 

Sara Palmer, Chair, Washington State Committee on Geographic Names

Holland Marsh, Basket Island, Cayou Channel, Chaenn Hill

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1 Ms. Palmer presented the request for names recommended for approved by the 2 Washington State Committee on Geographic Names. 3 4 The first proposal would rename Harney Channel to Cayou Channel located in the San 5 Juan Islands. Renaming would honor Henry Cayou (1869-1959). Mr. Cayou was a 6 prominent member of the commercial fishing industry and processing plant in Deer 7 Harbor and farmed on Decatur Island, Mr. Cayou was the first Native American elected 8 to serve on the San Juan County Council. The community would like to reflect Mr. 9 Cayou's local history through renaming the water port. 10 11 The second proposal would name a small island of 0.15 acres located in West Sound off 12 Orcas Island as Basket Island. The name was chosen by the proponent in reference to the 13 nearby larger Picnic Island. 14 15 The third proposal to name Holland Marsh, an 8-acre swamp near Granite Falls would 16 commemorate Andy Holland, who was an Everett Community College Forestry and Mathematics Professor and a community leader in Snohomish County. 17 18 19 The last proposal corrects the incorrect spelling of "Chain Hill." The area was originally 20 named in honor of Charles Chaenn, who purchased 80 acres in 1884 in Thurston County. 21 22 Ms. Palmer requested approval of the proposed names as presented. 23 24 MOTION: Dr. Brown moved to approve the Washington State Committee on Geographic Names recommendation of four names: Holland Marsh, 25 Basket Island, Cayou Channel, and Chaenn Hill. 26 27 28 Superintendent Reykdal seconded the motion. SECOND: 29 30 ACTION: The motion was approved unanimously. 31 32 Ms. Palmer updated the Board on the status of the committee's work on derogatory names. Currently, the committee has received 14 proposals of the 18 geographic features 33 in question. She thanked tribal colleagues for their investment of time and resources. The 34 35 committee will continue its work on the proposals over the next several months. 36 37 CHAIR REPORT 38 Settlement Agreement 39 **Duane Emmons, Acting Deputy Supervisor, State Uplands** 40 41 Mr. Emmons reported the review would cover the context of the settlement, terms of the proposed settlement, and a request to schedule a special meeting for the Board to 42 consider approval of the settlement. 43 44 In December 2019, the Board approved the Marbled Murrelet Long-Term Conservation 45 Strategy and the 2015-2024 Sustainable Harvest Calculation (SHC) for Western 46 Washington. In December 2019, five Skagit County Plaintiffs (trust beneficiaries) filed a 47

lawsuit challenging the 2015-2024 SHC. On January 2, 2020, Concrete School District Plaintiffs (14 Plaintiffs representing beneficiaries and interested parties) filed a challenge to the Marbled Murrelet Long-Term Conservation Strategy and the SHC. The two distinct actions are closely related. The Marbled Murrelet Long-Term Conservation Strategy identifies which DNR managed lands in western Washington are to be managed for marbled murrelet habitat. The SHC establishes the volume of timber that should be offered for sale from remaining lands not protected in western Washington through 2024. A third lawsuit from a coalition of environmental groups and individuals including Conservation Northwest, Washington Environmental Council, and the Olympic Forest Coalition filed a challenge to both the marbled murrelet strategy and the SHC on January 2, 2020. The filing challenges the agency's interpretation of the trust mandate and responsibilities for managing public lands in the interest of all people. The case is currently under consideration by the State Supreme Court. The first two lawsuits have been stayed until the Supreme Court issues a decision on the third case.

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Superintendent Reykdal asked whether the court determined whether the school districts (Plaintiffs) incurred harm or risk with respect to the SHC. Assistant Attorney General Martha Wehling advised that no substantive decisions were issued by the courts and there were no beneficiary challenges. The Concrete coalition did not identify a claim for damages; however Skagit County Plaintiffs did identify intent to amend the complaint to identify a claim for damages as well as a portion of the management fee that the Department retains. Skagit County Plaintiffs also filed a court claim with the Governor's Office but they did not during the course of litigation and in the settlement negotiations amend its complaint to add the court claim to the pending litigation. DNR has submitted procedural motions and decisions on where the case would be held, but there has never been a decision by the court on the merits of the lawsuit.

Mr. Emmons reported by agreeing to the terms of the proposed agreement, the lawsuits in Skagit and Thurston counties would be dismissed. All Plaintiffs have signed the proposed settlement. Based on receipt of written public communications and public comment during the meeting, staff is requesting scheduling of a special meeting to consider approval of the proposed settlement agreement.

Mr. Emmons provided an overview of the proposed SA and how it is organized.

 Essentially, the Department would develop a stand-based forest inventory resulting in sampling on average one plot per five acres across operable westside forests. During the current biennium, the work fulfills the requirements of Second House Bill 1168, which provides the foundation for improving forest health through improved forest inventory data.

Mr. Emmons addressed questions on funding availability for the inventorying. The funds from the legislation would not be sufficient to inventory all 500,000 acres but would enable inventorying the first 100,000 acres with the Department seeking ongoing funding through 2SHB 1168 or an appropriation from the Legislature during the next session.

Chair Franz noted a clause within the settlement addresses the inability to inventory.

Planning Analysis Units (PAUs) across all trust lands in western Washington within the first six months. PAUs are approximate harvest units. DNR will use remote-sensed hydrological data in the SHC and will limit the exclusion of forest road area from the SHC to only those areas not included in the forest inventory. All DNR data (except in some limited instances) are publicly available through a public disclosure request.

Chair Franz noted that all DNR data is reviewed by the SHC Technical Advisory Committee (TAC). Data layers and other information are presented to the TAC during public meetings.

Mr. Emmons reported improvements to the SHC process include DNR delineating

Mr. Emmons reviewed the membership of the TAC.

Dr. Brown cited a provision stating, "DNR and Plaintiff Coalition's Designated Representatives will meet as needed to discuss the delineation of areas that restrict DNR forest operations." He asked whether TAC addresses that type of action. Mr. Emmons advised that the TAC normally does not discuss operational details. The provision commits DNR to enable areas that are inaccessible and unable to be harvested to be evaluated by the Plaintiffs. The provision speaks to local knowledge of forested areas.

Chair Franz offered to provide statute language guiding the work of the TAC,

Commissioner Peach asked whether six months for delineation of PAUs is a reasonable timeline. Mr. Emmons advised that DNR contracts the work.

 Mr. Emmons reviewed Section C of the agreement, which is complex and contains a number of components. The goal of the proposed SA is to have a timely SHC using improved data by July 2024. Forest inventorying will use stand-based inventory in the development of the SHC. DNR will work with a third-party consultant to develop growth-and-yield methodology as required in 2SHB 1168. All work on the SHC will be reviewed by the Board's Technical Advisory Committee and the Plaintiff's Coalition. The final Board adopted SHC will be accompanied by a Tactical Plan.

 Dr. Brown asked whether there is a specific identification of the level of precision expected in the remote-sensing data because it appears the goal is a greater precision of estimates. He asked whether the Department has accepted that the analysis is not adequate. Ms. Wehling explained that the analysis would be completed in two phases. The first analysis would be of the first 200,000 acres compared against data collected for the entire 500,000 acres to ascertain if there are any differences in the additional level of data. The process is a two-tiered analysis as more data are received to determine if numbers change.

Chair Franz added that the Department has a finite amount of data, which could be more detailed and informed by enabling the Department to add to the stand-based inventory to increase the information available. It would also enable leveraging of the information for forest health products at a much finer detail with more informed information on what

actually exists on the land, such as age of trees, types of trees, and level of forest health. Adding two data methods together produces more accurate data.

Superintendent Reykdal questioned whether terminology in the SA that speaks to a goal of "robust management tool" should pertain to yield or volume. It was noted that the Plaintiff's attorney spoke during public comment of a goal to optimize value, which is not reflected in the agreement but underscores a reasonable question. Mr. Emmons explained that better inventorying produces better data on the land DNR manages and it enables the Board to render a number of decisions ranging from the SHC or the sustained yield under various alternatives.

Superintendent Reykdal remarked that any discrepancy is returned to the TAC, which is represented by a majority of the Department in combination with the Plaintiff's Coalition and other voices. Should the issue remain unresolved he questioned whether any information would be presented to the Board for a final determination or whether the Board might receive two competing proposals. Mr. Emmons explained how membership on the TAC is not overwhelmingly represented by the industry, environmentalists, or the Department but is representative of a balance of interests.

Mr. Emmons described provisions in the SA governing the Department's management fee in response to questions.

 Superintendent Reykdal noted that K-12 schools only receive 7/10ths of one percent from the capital budget supported by timber dollars from the trust. He questioned the benefit to schools if litigation is successful and school districts are able to have more influence on the outcome of a sustainable harvest calculation that costs more money if the result does not change the fact that most school districts receive 97% of its funds from local bonds or a share from state GO bonds. School districts no longer benefit from the trust as the results continue to diminish. Mr. Emmons replied that it may be an issue of changing legislation in terms of how trust funds are allocated.

Mr. Emmons continued the review of Section C of the SA explaining how DNR will recalculate the SHC when 200,000 and 500,000 acres of Stand-based inventory are collected. If new data results in a 10% change in volume, staff will recommend amending the SHC. DNR and the Plaintiffs agreed to conduct a "comparative analysis of modeling approaches." The SA includes provisions requiring comparative analysis.

Director Brown offered that if the comparison of data is less than 10% of the first 200,000 acres, the Department should have an option to stop collecting data to save funds. Ms. Wehling advised of the option of DNR sharing initial data results reflecting less than 10% with the Plaintiffs to determine if additional data should be collected. A contingency clause in Section 8 addresses the issue of adequate funding to continue the collection of data and that the parties can confer with each other to discuss the best approach.

Chair Franz noted that more information is not necessarily a negative especially if the data provides more information on the impacts to the environment, forest health, and

carbon sequestration value of the land. Having more information on the ground and the value of volume as well as the value of environmental health would be beneficial for DNR.

Mr. Emmons explained that after 200,000 acres of Stand-based inventory has been collected, DNR would analyze and compare modeling approaches. DNR is permitted to compare the two methods outlined in the agreement to analyze the results. Results of the comparative analysis will be presented to the Board when DNR and the Plaintiffs agree which method is the most appropriate.

Commissioner Peach asked whether the modeling methods change because of the SA. It appears much of the effort is based on data collection. He asked whether any provisions in the SA would change the analysis. Mr. Emmons responded that the work completed by staff would not change the analysis. DNR presents the data collection approach and methodologies to the TAC. The SA does not dictate the Department's data collection methods.

Mr. Emmons outlined the reporting requirements in the SA.

Dr. Brown questioned the intent of paragraph 5 within the SA. Ms. Wehling explained that the provision is consistent with existing policy but adds a review of Washington Municipal Bonds and a review of the discount rates used by timberland investors of similar scale. The provision does not change the Board policy for selecting the discount rate. Dr. Brown said he could argue that including timberland investors would not be the best comparison for a public agency. Mr. Emmons emphasized that the final decision is by the Board.

Mr. Emmons explained that the reporting requirements within the SA expire with the adoption of the 2035-2044 SHC. For remaining terms, the following applies dependent upon which occurs first:

- Upon completion of the intensive inventory
- On 6/30/2030 if 80% of the intensive inventory is complete; or
- On 6/30/2035

Superintendent Reykdal asked for justification for not including a provision that stipulates after inventory of the initial 200,000 with a difference of less than 5% additional inventorying would not be required. Ms. Wehling explained that provisions in the SA address how circumstances may warrant a change if conditions occur, such as the operating environment or policy changes. The agreement was not designed to prevent the Board or the Department from having flexibility to respond to changes.

Dr. Brown commented that the issue is related to the Board's fiduciary responsibility. Obtaining infinite amounts of data is not consistent with the Board's fiduciary responsibility, as the Department must use the most efficient way to collect data. The SA should include an alternative that combines the methods, such as a lower intensity field sample combined with high-quality remote sensed data.

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Ms. Wehling advised that the SA clause on the comparative analysis provides the option of using two different approaches. Although the SA does not directly address remotesensing versus field inventory, the SA speaks to a forest inventory.

Mr. Cahill cited some public comments that spoke to the SA extending some authorities to the private industry or beneficiaries. He asked staff to speak to those concerns and how it might affect the Board or the Department. Mr. Emmons advised that the SA does not transfer any type of authority to any external organizations other than some requirements for consultation and collaboration. If there is a disagreement between the Department and other parties, the TAC would review the issue. Should disagreement not be resolved by the TAC, the issue would be referred to the Board for a decision. Nothing in the SA circumvents the Board's authority.

Superintendent Reykdal shared that he disagrees fundamentally that the Board does not forfeit some authority if the SA is executed.

Dr. Brown questioned whether the Board would be bound by the agreement to manage according to the 2006 Policy for Sustainable Forests rather than a new policy. Mr. Emmons advised that the Board would not be bound, as any new policies adopted by the Board would become the operating policies. Dr. Brown asked whether the Plaintiff's could challenge the Board if new policies were adopted as the SA speaks to the Department adhering to the existing Policy for Sustainable Forests. Ms. Wehling advised that similar to other actions, the SA does not prevent any entity from challenging decisions the Board might make separately or apart from the SA.

Commissioner Peach expressed interest in pursuing the conversation that speaks to reducing the Board's responsibilities and authorities. Mr. Emmons advised that staff is not able to divulge any of the deliberations on the agreement. Commissioner Peach questioned the possibility of the Board amending the agreement and the ability of the Board to avoid spending taxpayer dollars on continuing an inventory. Mr. Emmons said it speaks to the fundamental issue if the comparative analysis reflects a difference. The Plaintiffs are junior taxing districts, counties, and schools who rely on timber revenue. If one of the elements include increasing the management rate to enable the Department to collect more data, that action would affect the beneficiaries financially. There would be serious considerations for continuing data collection for the sake of collecting data.

Dr. Brown questioned the purpose of executing the SA while the case is still pending by the Supreme Court. Mr. Emmons replied that regardless of the Supreme Court case, the Department continues to have a legal obligation to complete the SHC. Until the statute is changed, the Department is obligated to produce a new SHC. There is also a continuing legal risk if the cases should move forward that could impact the Department.

Ms. Wehling added that the Thurston County Superior Court case has been stayed by the court until the Supreme Court issues a decision; however, the Skagit County Superior Court case is voluntarily stayed by an agreement between the Concrete Coalition and DNR. The informal agreement can be lifted with a two-week notice by any party. The

Skagit County claim did not agree to the order and could begin litigation at any point. However, all parties have agreed to an informal stay of all litigation while settlement negotiations are ongoing.

Superintendent Reykdal reiterated his opposition for an independent state agency to have executive decision-making contingent upon a private party's ability to veto executive action based on a long-term agreement when it is possible conditions would change.

Chair Franz recommended contacting Boardmembers to identify whether a special executive session would be preferable to answer any legal questions as well as discuss whether to schedule a special meeting based on the number of questions and the complexity of the document or defer discussion to the September meeting.

Mr. Emmons advised that there is no deadline for the SA but concern by the parties that the Department approve the settlement or continue with litigation.

The Board supported the Chair's recommendation to defer the Sustainable Harvest Calculation Scoping Comments Update to the September meeting to afford time for the Board's additional discussion and to receive input from the public on the sustainable harvest calculation.

#### **ADJOURNMENT**

Chair Franz adjourned the meeting at 12:08 p.m.

Approved this day of september, 2022
Hilary S. Franz, Washington State Commissioner of Public Lands
Jams Cahill
Jim Cahill, Designee for Governor Jay Inslee
Chris Reykdal, Superintendent of Public Instruction
Bill Peach, Commissioner, Clallam County
Abstain
Dr. Wendy Powers, Dean, College of Agricultural, Human, and Natural Resource Sciences,
Washington State University
OilAm
Dan Brown, Director, School of Environmental and Forest Sciences, University of Washington
Attest:
Tami Kellogg, Board Coordinator

Prepared by Valerie L. Gow, Recording Secretary/President Puget Sound Meeting Services, <a href="mailto:psmsoly@earthlink.net">psmsoly@earthlink.net</a>