



# Agenda

- Review of proposed settlement
- Proposed Resolution related to the 2025-2034 Sustainable Harvest development, Forest Inventory, and Transparency (Action Item)
- Approval of proposed settlement agreement (Action Item)



# Proposed Settlement:

Concrete School District Plaintiffs and  
Skagit County Plaintiffs

v.

State of Washington, Department of Natural Resources,  
and the Board of Natural Resources

Skagit County Superior Court Case No. 19-2-01469-29 (consolidated)  
Thurston County Superior Court Case No. 20-2-01653-34



# Lawsuit 1 – “Skagit”

## 5 Skagit County Plaintiffs

- Burlington-Edison School District No. 100
- Central Skagit Partial County Library District
- Sedro-Woolley School District No. 101
- Skagit County
- Skagit County Hospital District No. 304



Challenge to the 2015-2024 Sustainable Harvest Calculation (SHC)



# Lawsuit 2 – “Concrete”

## 14 Concrete School District Plaintiffs

- American Forest Resource Council
- City of Forks
- Clallam County Fire District 4
- Clallam County Fire District 5
- Concrete School District
- Darrington School District
- Lewis County
- Mason County
- Naselle-Grays River School District
- Pacific County
- Port of Port Angeles
- Quillayute Valley School District No. 402
- Skamania County
- Wahkiakum County



Challenge to the 2015-2024 Sustainable Harvest Calculation (SHC)

*and*

Marbled Murrelet Long-Term Conservation Strategy (MMLTCS)

# What would the proposed settlement do?

- End litigation brought by the Skagit and Concrete plaintiffs in both superior courts

## STATE OF WASHINGTON

### DEPARTMENT OF NATURAL RESOURCES

#### BOARD OF NATURAL RESOURCES

#### RESOLUTION NO. 1560

A RESOLUTION establishing the **decadal Sustainable Harvest Level** for the planning decade for forested State Trust lands in Western Washington and policies and tasks consistent therewith, consistent with the policy on Recalculation of the Sustainable Harvest Level as adopted by the Board of Natural Resources (BOARD) in Resolution 1134 and the Policy for Sustainable Forests (December 2006). The planning decade is fiscal year 2015 through fiscal year 2024.



# Proposed Settlement

- Staff presented the proposed settlement in July 2022 and heard public testimony in July and at subsequent board meetings.
- Staff and attorneys have met and answered questions for board members individually

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT is entered into between Concrete School District, Quillayute Valley School District No. 402, Naselle-Grays River School District, Clallam County Fire District Number 4, Wahkiakum County, Pacific County, Skamania County, Mason County, City of Forks, American Forest Resource Council (“AFRC”), Port of Port Angeles, Clallam County Fire District Number 5, Lewis County, and Darrington School District (collectively “Plaintiff Coalition”) and the State of Washington, the Washington Department of Natural Resources, and the Washington Board of Natural Resources (collectively “DNR”). Plaintiff Coalition and DNR are collectively “the Parties.”

**I. RECITALS**

A. Plaintiff Coalition challenged the Sustainable Harvest Calculation (“2015 SHC”) for the 2015-2024 planning decade, and the adoption of Resolution 1560 by the Board of Natural Resources on December 3, 2019, and the amendment to the 1997 Habitat Conservation Plan and the adoption of Resolution 1559. That challenge is pending in *Concrete School District, et al. v. State of Washington, et al.*, Skagit County Superior Court Case No. 20-2-00010-29, consolidated with *Skagit County, et al v. State of Washington, et al.*, Case No. 19-2-01469-29, and in *Concrete School District, et al. v. State of Washington, et al.*, Thurston County Superior Court Case No. 20-2-01653-34.

B. The Parties, through their authorized representatives, and without any admission or final adjudication of the issues of fact or law with respect to Plaintiff Coalition’s claims, have reached a settlement that they consider to be a just, fair, adequate, and equitable resolution of the disputes set forth in Plaintiff Coalition’s Complaints. The Parties have agreed to settle the claims, and Plaintiff Coalition agrees to voluntarily dismiss their litigation.

C. This Settlement Agreement is intended to 1) improve the forest inventory data used by DNR for the development of the 2025-2034 Sustainable Harvest Calculation (“2025 SHC”); 2) transition DNR to a plot-based, stand-level inventory program covering all operable acres of forest trust land in Western Washington; 3) prescribe a process to improve the accuracy and precision for identifying the operable land base used in the development of the 2025 SHC; 4) facilitate DNR’s development of the 2025 SHC and a Tactical Plan that will implement the 2025 SHC using modeling that produces spatially explicit harvest schedules (see Paragraph 16); and 5) commit to annual reporting to provide accountability for the 2025 SHC.

D. Nothing in this Settlement Agreement changes or modifies any procedural or substantive obligations DNR has to consult with the Technical Advisory Committee (“TAC”) under 2SHB 1168 related to issues of forestland inventory or the 2025 SHC.

Page 1 of 11

Settlement Agreement  
 Skagit County Superior Court Cause No. 19-2-01469-29  
 Thurston County Superior Court Cause No. 20-2-01653-34



# Proposed Settlement

## I. Recitals

## II. Agreement

- A. Development, Maintenance, and Use of Stand-Based Forest Inventory
- B. Process to Improve the Accuracy and Precision of the Land Base Included in the 2025 SHC
- C. 2025 SHC Development and Implementation
- D. Reporting
- E. Judicial Dismissal of Claims, and Enforcement of the Settlement Agreement
- F. Miscellany

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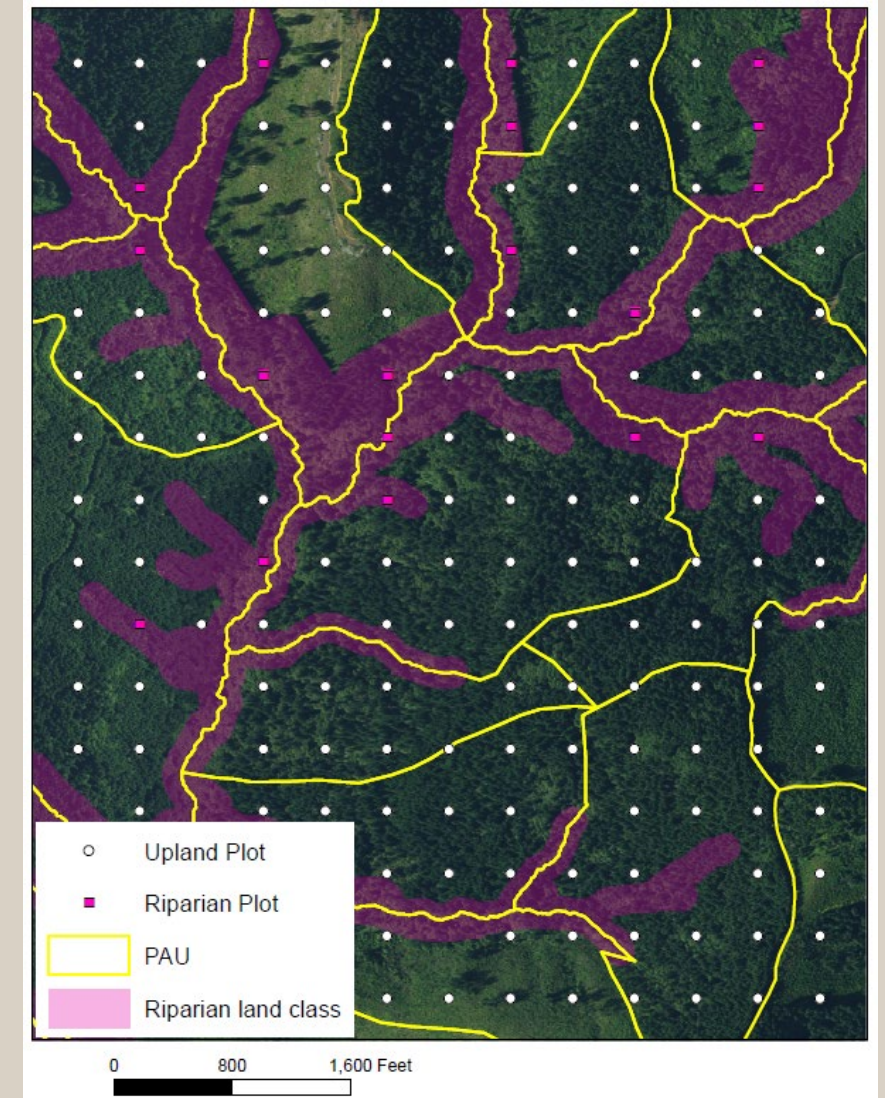
## II.A. Stand-based Inventory

- On average, DNR will sample 1 plot per 5 acres
- Sampling occurs across the operable Westside forests that are at least 20 years old
- Initial inventory sample of 500,000 acres by 12/31/2024
- Sample remaining acres until agreement terminates
- Fulfill a requirement of 2SHB 1168 and uses funding



## II.B. Improve SHC process

- Within 6 months, DNR will delineate Planning Analysis Units (PAUs) across all trust lands in western Washington
- PAUs “approximate harvest units”
- Stand-based Inventory will sample PAUs
- DNR will use its remote-sensed hydrological data in the SHC
- DNR will limit the exclusion of forest road area in the SHC





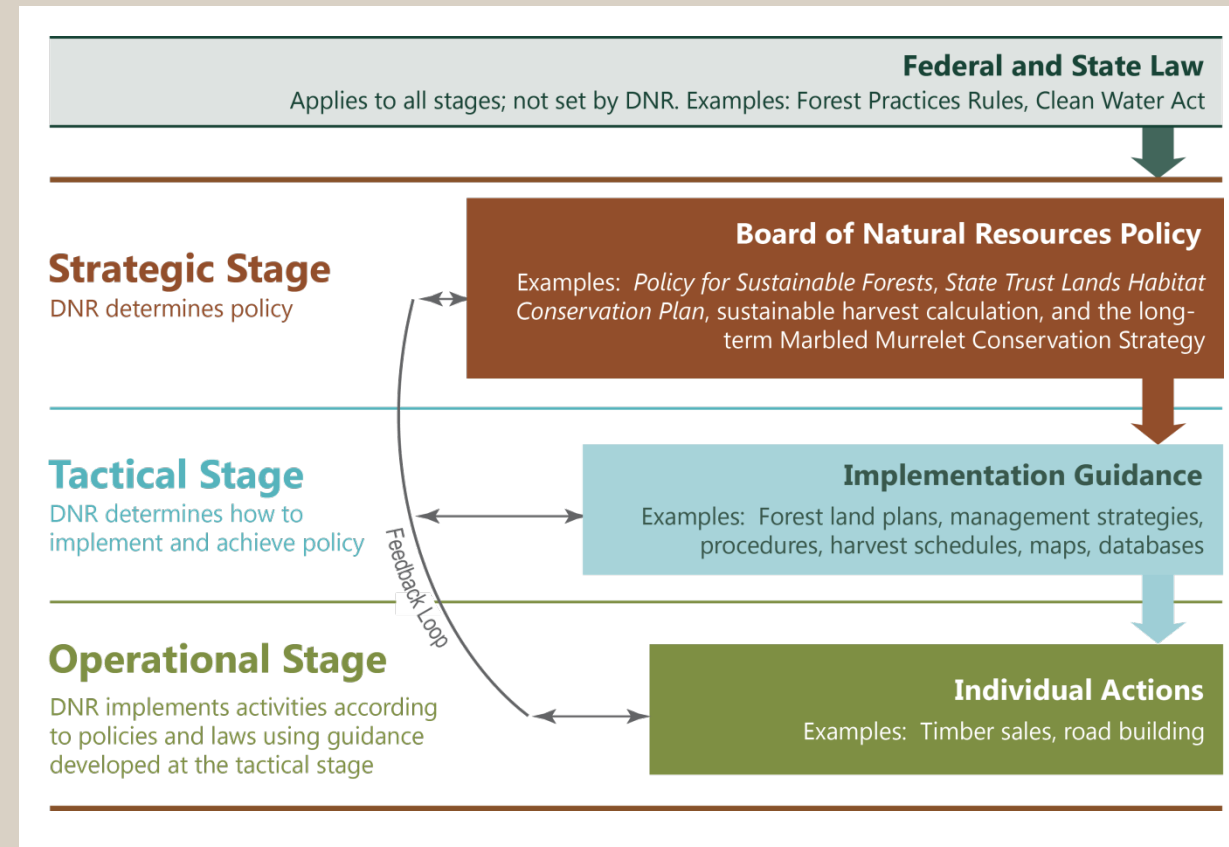
# II.C 2025 SHC Development

- DNR's objective is Board consideration of 2025-2034 SHC by July 2024
- Use Stand-based Inventory in the development of the SHC
- Third-party consultant to develop its growth-and-yield methodology as required by 2SHB 1168
- Review work with Technical Advisory Committee and Plaintiff's Coalition
- Accompanied by a Tactical Plan



# II.C 16 Tactical Plans

- Tool to guide identification of timber sale harvest units and development of 2-year Timber Sale Plans
- Generate maps to illustrate potential harvest schedules by individual beneficiary
- Updated every 2 years with inventory and management changes
- Transparency and accountability for beneficiaries



From DNR 2019 Alternatives for the Establishment of a Sustainable Harvest Level for Forested State Trust Lands in Western Washington - Final Environmental Impact Statement

# II.C 2025 SHC Development

– continued

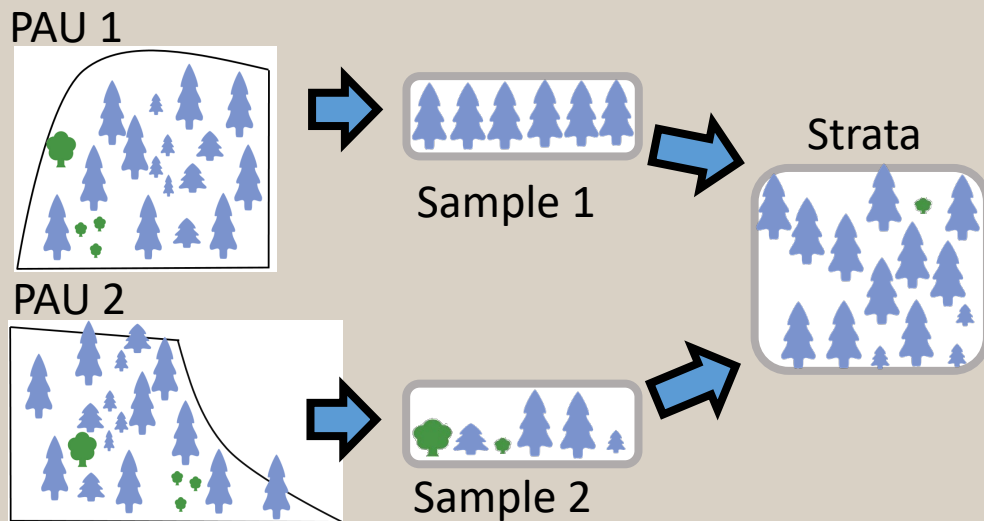
- DNR will recalculate the SHC when 200,000 and 500,000 acres of Stand-based Inventory are collected
- If new data results in a 10% change in volume, staff will recommend amending SHC
- DNR and Plaintiffs agreed to conduct a “comparative analysis of modeling approaches”



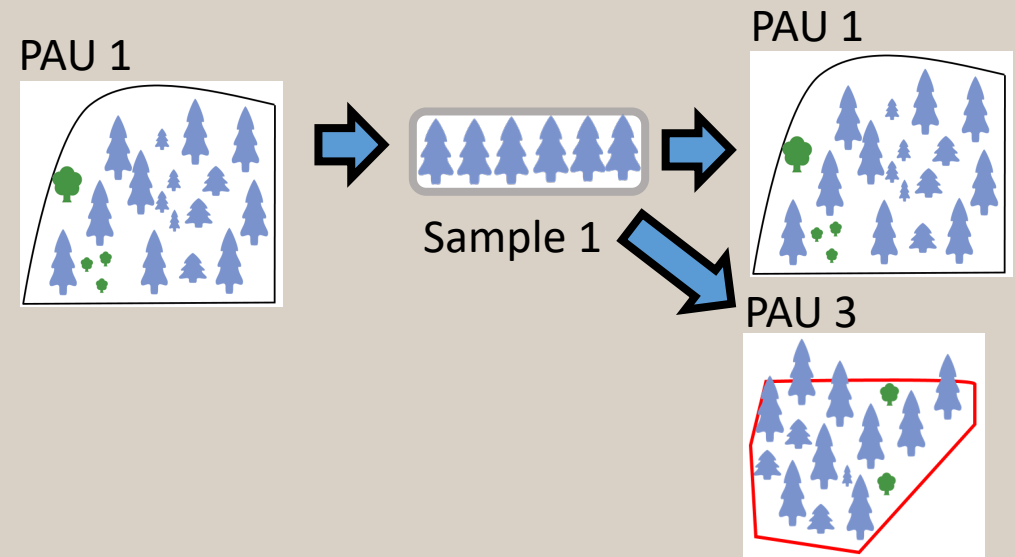
# II.B 20. Comparative Analysis

- After 200,000 acres of the Stand-based Inventory is collected, DNR will analyze it and compare the modeling approaches

One approach will use all inventory sources and stratify yields

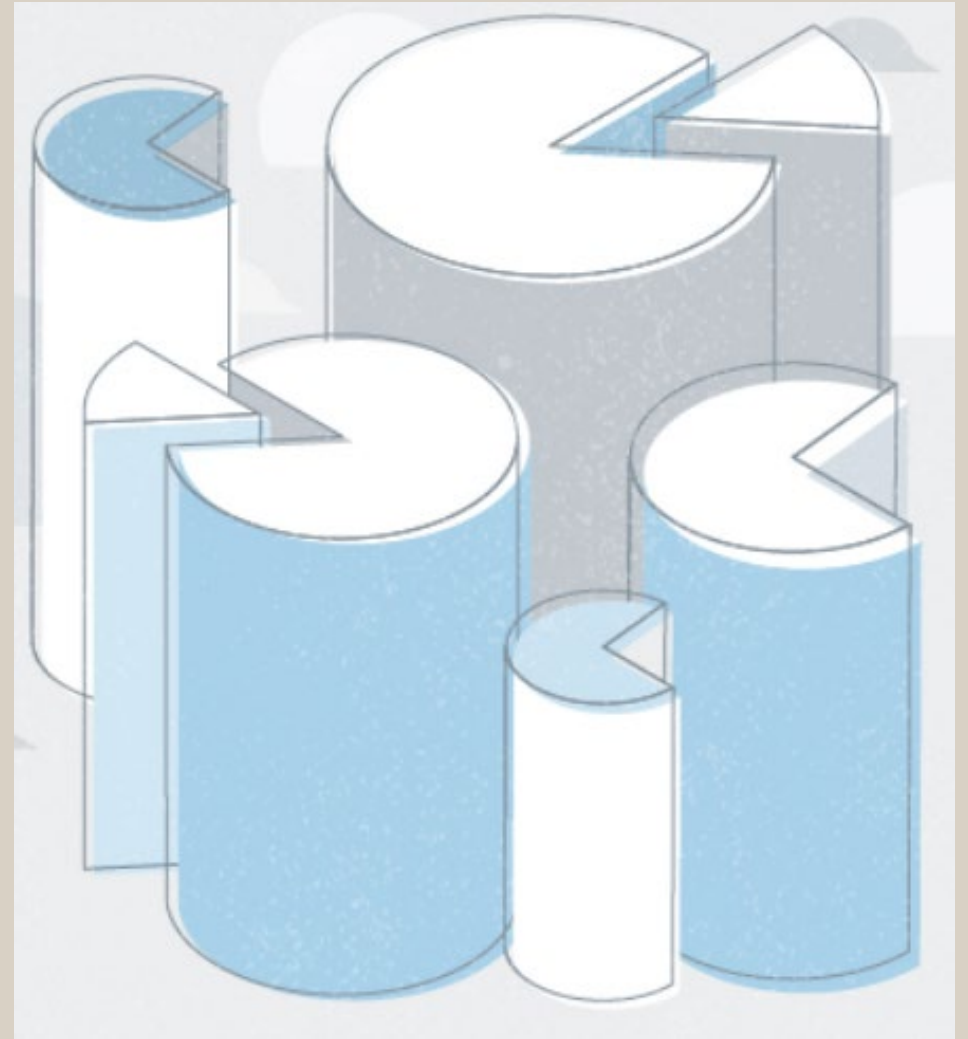


One approach will use the intensive inventory data and impute samples to un-sampled PAUs



## II.D. Reporting

- Increased reporting to the Beneficiaries, Board and Public
- Every year:
  - 2-year Timber Sale Plan
  - Sold sales from previous FY
  - Difference between planned and sold
  - Maps of modeled, scheduled and actuals
  - Cumulative sold sales
- Every two years
  - Tactical Plan – harvest schedule maps





## II.F. 35 Tiered Termination

Reporting requirements expire with the adoption of the 2035-2044 SHC

For remaining terms, whichever happens first:

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



# Questions from the Board



STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES  
BOARD OF NATURAL RESOURCES

**RESOLUTION NO. 1591**

A RESOLUTION affirming the Board of Natural Resources' (Board) authority to set policies for the Department of Natural Resources (DNR), committing to stakeholder engagement in the development of the 2025-2034 sustainable harvest calculation (2025 SHC), and providing direction to DNR staff for 2025 SHC development.

**WHEREAS**, three plaintiff coalitions filed litigation challenging the Board's Resolutions 1559 and 1560, approving the marbled murrelet long-term conservation strategy amending the 1997 State Lands Habitat Conservation Plan and adopting the 2015-2024 Sustainable Harvest Calculation. The beneficiary plaintiffs negotiated a Proposed Settlement Agreement that has been presented to the Board and, if approved, will dismiss all beneficiary claims in two superior courts: Skagit County Superior Court Nos. 19-2-01549-29 and 20-2-00010-29, and Thurston County Superior Court No. 20-2-01653-34.

**AND WHEREAS**, the third plaintiff coalition challenged the same two Board resolutions in Thurston County Superior Court No. 20-2-01051-34. After the superior court dismissed the plaintiffs' claims, the Washington Supreme Court granted direct review. On July 21, 2022, the Washington Supreme Court issued its decision affirming that the beneficiaries of DNR's management of the state trust lands are the common schools, public institutions, and counties. *Conservation Northwest, et al. v. Commissioner of Public Lands, et al.*, 514 P.3d 174 (2022). The decision also affirmed that DNR has a fiduciary duty to make the trust lands financially productive, and has discretion to decide how to manage the lands, given the perpetual nature of the trust.

**AND WHEREAS**, the Legislature delegated decision-making regarding policies to manage the state trust lands "to achieve the maximum effective development and use" to the Board in RCW 43.30.215(2). The Legislature also requires the Board to adopt a sustainable harvest level on a decadal basis. RCW 79.10.300(4). DNR staff have started the process to develop the 2025 SHC.

**AND WHEREAS**, the Board supports the intent in the Proposed Settlement Agreement to collect more and better information to meet DNR's management objectives, which include generating revenue for the trust beneficiaries and allowing compatible uses, including improving forest health, identifying forests of high conservation value, and increasing carbon sequestration and other ecosystem services. The Board recognizes that the trust beneficiaries seek predictability in revenue, and believe that can be achieved through improved information and the use of Tactical Plans for anticipated timber harvest activities.

**AND WHEREAS**, DNR has begun to develop a project to participate in carbon markets as an additional revenue stream for some trust beneficiaries.

**BE IT RESOLVED BY THE BOARD OF NATURAL RESOURCES, DEPARTMENT OF NATURAL RESOURCES, STATE OF WASHINGTON, THAT:**

**SECTION 1.** The Board will give full and careful consideration to the Proposed Settlement Agreement, consistent with its fiduciary duties. If the Board approves the Settlement Agreement, the Board

# Proposed Resolution 1591 related to the 25-34 Sustainable Harvest, Inventory, and Transparency (Action Item)



# Approval of the Settlement Agreement

Staff recommends that the Board moves to approve the terms of the settlement agreement



