
Minutes

Board of Natural Resources Meeting

April 1, 2014

Natural Resources Building, Olympia, Washington

BOARD MEMBERS PRESENT

The Honorable Peter Goldmark, Washington State Commissioner of Public Lands

The Honorable F. Lee Grose, Commissioner, Lewis County

JT Austin, Designee for the Honorable Jay Inslee, Washington State Governor

Thomas H. DeLuca, Director, School of Environmental and Forest Sciences, University of Washington

The Honorable Randy Dorn, Superintendent of Public Instruction –*via conference call*

Ron C. Mittelhammer, Interim Dean, College of Agricultural, Human, and Natural Resource Sciences,
Washington State University –*via conference call*

1 CALL TO ORDER

2 Chair Goldmark called the meeting to order at 9:00 AM. All board members introduced
3 themselves. Chair Goldmark noted there is a quorum for this meeting, with Dean Mittelhammer
4 and Superintendent Dorn participating via conference call.

5 SAFETY REVIEW

6 Ms. Vansot gave a safety overview and instruction on evacuating the building in case of an
7 emergency.
8

9 APPROVAL OF MINUTES

10 Chair Goldmark called for approval of the minutes for the March 4, 2014 Regular Board of
11 Natural Resources Meeting.
12

13
14 MOTION: Director DeLuca moved to approve the minutes.

15
16 SECOND: Commissioner Grose seconded the motion.

17
18 ACTION: The motion was approved unanimously.
19

20 PUBLIC COMMENTS FOR TIMBER SALE ACTION ITEMS

21 Graham Taylor, Conservation Organizer, with the Sierra Club, stated that he echoes the
22 comments in the SEPA letter submitted on behalf of OFCO, Seattle Audubon, Sierra Club and
23 the Washington Forest Law Center on March 25th.
24

1 Mr. Taylor thanked DNR for recommending variable retention thinning in its Good Spread
2 Timber Sale located in the Goodman Creek Marbled Murrelet Management Area. He expressed
3 that this type of land management demonstrates a contrast with variable retention harvest that
4 were approved in the Goodman Creek trima at the last board meeting. A thinning approach that
5 is consistent with the best science is preferred. Mr. Taylor stated that their concerns are much
6 more limited with the Good Spread sale than with the previously approved Goodmint and
7 Rainbow Rock timber sales to which they object. While they question Good Spread's plan to
8 harvest inside the voluntary 328 foot buffers around occupied habitat, and would advise any
9 management that would occur within occupied sites, they appreciate DNR's approach which in
10 this case heeds the 2008 Science Report recommendations.

11
12 Mr. Taylor asked the board to modify the sale to respect the buffers and stay outside occupied
13 habitat.

14
15 **TIMBER SALES (Action Item)**

16 **Proposed Timber Sales for May 2014| 3 handouts, including the presentation**

17 Paul Bialkowsky, Product Sales & Leasing Division

18
19 The results of the March auctions were presented to the board by Mr. Bialkowsky. The
20 Department offered 13 sales totaling 48.5 MMBF in March. All sales sold for a total value of
21 \$19.0 million, for an average of \$392/MBF.

22
23 Mr. Bialkowsky noted that the market remains strong, but that prices are expected to soften as
24 markets reach their seasonal decline. Export markets generally decline and the supply of logs
25 increases in the summer months.

26
27 The proposed May sales were then presented to the board.

28
29 The department proposes to offer 16 sales in May totaling 65.3 MMBF. The appraised value of
30 these sales is \$20.2 million, for an average of \$310/MBF.

31
32 Mr. Bialkowsky asked for approval of the proposed May 2014 sales.

33
34 **MOTION:** Commissioner Grose moved to approve the proposed May 2014 sales.

35
36 **SECOND:** Director DeLuca seconded the motion.

37
38 **ACTION:** The motion was approved unanimously.

39
40 **PUBLIC COMMENTS FOR HARBOR AREAS ACTION ITEMS**

41 Ginny Stern, houseboat owner and resident of the West Bay Marina, and the President of the
42 Olympia Liveaboard Association, stated that she is in support of the proposal of the petition by
43 Conner Edward. It is time to update the rule, as the status quo does not adequately reflect real
44 conditions on the ground or the way they have evolved over time.

45
46 Jonathan Walker stated that he supports the proposal. He requests that houseboats owners be
47 allowed to stay in their homes. The proposal is SB 6185, which passed unanimously. A similar

1 bill, SB 6450 was passed through both houses and signed by the Governor. Mr. Walker stated
2 that Legislators said that DNR had assured them that they were working with the Olympia
3 houseboat owners. Recently houseboats were found to be unconstitutional. Mr. Walker asked
4 the board to approve the proposal.

5
6 Mike Currie, houseboat owner residing at Liberty Bay Marina in Poulsbo, stated that his floating
7 home has been there for over 30 years and just now has become a problem for navigation and
8 commerce. Mr. Currie asked that he and his wife be allowed to keep their home where it has
9 been for over 30 years. He added that to date, DNR has not provided him with a list of potential
10 locations, and that he supports the proposal.

11
12 Susan Neff, sailor and houseboat owner, stated that her moving houseboat is designed and used
13 for navigation. Since 2000, there has been an increase in boating space that is being displaced by
14 floating residential structures that do not move. Ms. Neff expressed that there is limited space.
15 In the areas where there is limited space, the only place for the residential floating homes to go is
16 to take up a slip for a vessel. DNR's rules are well written and clear. They need to be enforced.
17 More boaters will be displaced if the rule is amended.

18
19 Connor Edwards thanked the board for hearing his petition to amend rule 332-30-109, subsection
20 11. Mr. Edwards stated that: 1) there are no negative environmental implications associated with
21 houseboats, and 2) houseboats are not impediment to navigation and commerce. To clarify
22 Article XV, it does not say that harbor areas are to be reserved solely for the purposes of
23 navigation and commerce. Mr. Edwards does not believe that DNR has the legislative authority
24 to enact a rule banding houseboats. Mr. Edwards urged the board to adopt the petition to amend
25 the rule.

26
27 Chair Goldmark adjourned the Board of Natural Resources Meeting and he convened an
28 Executive Session.

29
30 Chair Goldmark reconvened the Board of Natural Resources Meeting at 9:50 AM.

31
32 **HARBOR AREAS (Action Item)**

33 **Response to Petition to Amend WAC 332-30-109; Prohibition on Floating Homes in**
34 **Harbor Areas**

35 Megan Duffy, Deputy Supervisor

36 Kristin Swenddal, Aquatic Resources Division Manager

37
38 Ms. Swenddal stated that DNR received a petition to amend DNR rules related to floating homes
39 in harbor areas on February 10th, which was filed by Mr. Conner Edwards, a citizen activist. The
40 Board has 60 days from receipt of the petition to respond; therefore Board action is required
41 today.

42
43 Mr. Edwards submitted a petition to the Board in December of 2013, asking the Board to repeal
44 WAC 332-30-109 (11), which prohibit floating homes in harbor areas. The Board resolution
45 (#1420) adopted in February rejected the petition to repeal the rule, but did direct DNR staff to
46 work with the owners of floating homes in harbor areas to achieve a settlement. DNR staff,

1 along with representation from the Attorney General's office, have met with and extended a
2 formal settlement offer to the floating home owners.

3
4 The petition before the board today asks the Board to amend the current rules to allow floating
5 homes in harbor areas (a) where compatible with existing navigational and commercial uses of
6 the harbor area; and (b) in the same manner as floating houses are allowed outside of the harbor
7 area (c) existing use and presence of a floating house in a harbor area is deemed authorized (d)
8 when a lease expires, DNR can require floating houses to yield to a newly authorized
9 navigational or commercial use where those uses would otherwise create a conflict. In these
10 cases, DNR must provide an affected floating homeowner with at least six months notice.

11
12 Harbor areas are reserved for commerce and navigation as identified in Article XV of the
13 Constitution. DNR rules do not prohibit floating homes outside of harbor areas. There are
14 10,000 acres of harbor areas out of a total of 2.6 million acres of state owned aquatic lands.
15 Floating homes are allowed outside of harbor areas if certain conditions are met.

16
17 Ms. Swendall detailed the potential implications of the proposed rule. Changing the rule to allow
18 this type of use in harbor areas would create new pressure for DNR to allow new floating houses
19 in all 27 harbor areas of the state.

20
21 For these reasons, it is recommended that the Board reject the petitioner's request and allow
22 DNR staff to continue to seek an amiable solution to allow the homeowners the ability to remain,
23 as offered in a recent proposal to the owners of the floating houses.

24
25 Chair Goldmark reiterated that this has been a long standing rule within the department. The
26 Department in good faith and at the instruction of this board has entered into negotiations with
27 the marina and the houseboat owners to reach an equitable solution, which is to grant them the
28 opportunity to stay there for the life of the lease.

29
30 Commissioner Grose asked if eviction notices were given from the DNR to the houseboat
31 owners and Ms. Swenddal answered that DNR has a contractual relationship with the marina
32 operators. Therefore DNR contacted the marina operators and notified them that we needed to
33 work with them to get the marinas in compliance; they in turn provided notices to their tenants.

34
35 Ms. Austin expressed that they have taken this into consideration. She stated that the amount of
36 time and energy that DNR staff showed, and the fact that there are a number of other options
37 available, is the reason we have this resolution.

38
39 MOTION: Dean Mittelhammer moved to approve Resolution 1421.

40
41 SECOND: Commissioner Grose seconded the motion.

42
43 ACTION: The motion was approved unanimously.

44
45 **GEODUCK DIVER SAFETY**

46 **2013 Legislature Passed 2SHB HB 1764 Directing DNR Aquatics to Adopt the Rules**

47 Megan Duffy, Deputy Supervisor for Aquatics and Geology

1
2 Ms. Duffy provided an overview of the Geoduck Diver Safety which will be presented to the
3 board in July for approval. In 2013, the legislature passed HB 1764 which directed DNR
4 Aquatics to adopt the rules. The bill also directed DNR to create a safety program for divers
5 currently engaged in the geoduck industry, which include limited licenses, Geoduck Harvest
6 Safety Committee, and the Geoduck Diver Safety Program.

7
8 DNR will take the Geoduck Harvest Safety Committee recommendations into consideration
9 during the rulemaking process. Ms. Duffy touched on the committee's consensus agreement and
10 dissention. She concluded with the rule-making timeline.

11
12 **PUBLIC COMMENTS FOR SUSTAINABLE HARVEST CALCULATION CHAIR**
13 **REPORT**

14 Rod Fleck, representing the City of Forks, discussed the sustainable harvest calculation and
15 issues associated with the word arrearage. The word arrearage is what was promised to be sold
16 but was not sold. Mr. Fleck states that removing it from the arrearage discussion, or somehow
17 folding it into the next sustainable harvest calculation, may not comport with the trust concepts
18 of intergenerational equity and other duties the board and the Department are required to meet.
19 He requested that the BNR require further review of this subject, further analysis, alternatives
20 (required by statute), and an accountant of this issue before proceeding with a new sustainable
21 harvest calculation.

22
23 Greg Frohn, Peninsula Timber Manager with Interfor U.S., Inc., stated that the Peninsula
24 Operations in Washington and Molalla Division in Oregon rely on Washington DNR timber.
25 The lack of log supply hinders the ability to operate the facilities at full capacity. Interfor
26 strongly supports the board's approval on the timber sale packet as presented to the board. He
27 added that Interfor believes that arrearage should be allocated evenly over the first five years of
28 the next planning decade.

29
30 Mike Davis, Division Forester for the Cowlitz Division of Hampton Lumber, stated that he
31 would like to offer comments concerning the adoption of the upcoming sustained yield harvest
32 calculation. Hampton is one of the largest and most consistent purchasers of DNR timber.
33 Hampton strongly encourages the board to keep the sustained yield harvest calculation process
34 open and transparent.

35
36 Russ Pfeiffer-Hoyt, Chair of the Washington State School Directors Association Trust Land
37 Task Force, stated that recalculation of the sustainable harvest level is one of the most important
38 duties of the BNR. While others impact trust revenues, it is the harvest level that forms the
39 foundation for sustainable earnings. Mr. Pfeiffer-Hoyt urged the board to seek outside experts to
40 help form the critical questions that the board must ask, and answer, to fulfill their responsibility.
41 While DNR may have experienced some challenges in implementing these practices, he thinks
42 that it is important to continue to look for cost-effective methods to generate revenue while
43 enhancing habitat. Sustainable revenue production requires successful answers to these
44 management challenges.

45
46 Ann Forest Burns, Vice President of American Forest Resources Council (AFRC), spoke about
47 the sustained harvest calculation (SHC) for the upcoming decade. The board should expect to

1 hear from other member companies in the weeks to come. That underscores the importance to
2 the timber companies throughout our region's wood basket of the decisions the board makes
3 concerning the SHC. AFRC urged the board to undertake this task with great care and to
4 develop a full understanding of the basis of the numbers. The board must determine with
5 accuracy what the arrearage is. Ms. Burns urged the board to slow the process down.
6

7 **CHAIR REPORT | 1 Handout**
8 **Western Washington Sustainable Harvest Calculation**
9 Kyle Blum, Deputy Supervisor for State Uplands
10 Angus Brodie, Forest Resources Division Manager
11

12 Mr. Blum introduced the chair report, stating that the purpose of the report was to start a
13 discussion to identify the information the board needs to make a decision about arrearage. Mr.
14 Brodie then began the presentation by recapping the discussion from the past two meetings and
15 introducing the topic of the April meeting: arrearage. He started with a definition and then
16 provided historical information about DNR's timber program and its relationship to the nation's
17 economy.
18

19 In 1982 the legislature passed the Forest Products Industry Recovery Act, which in part allowed
20 certain purchasers to default on contracts with minimal penalties. Skamania County appealed this
21 law, and in 1984 the Washington State Supreme Court found the Forest Products Industry
22 Recovery Act to be in violation of DNR's trust mandate because it favored the timber industry
23 over the trust beneficiaries (Skamania vs. State Supreme Court). The amount of default had been
24 high however, and DNR had approximately 1.4 billion board feet of timber in arrears. The State
25 needed funds for school construction, so the idea was to put the arrearage back on the market. In
26 1987 the legislature passed the Arrearage Act.
27

28 Mr. Brodie explained the importance of understanding DNR's harvest policies during the 1980s,
29 as it has bearing on how DNR views sustainability and future predictions. There were five
30 sustainable harvest units (there are 20 today), so when analyzing arrearage it was looking at 5
31 units.
32

33 Mr. Brodie then discussed RCW 79.10.330, which describes the steps DNR is to follow at the
34 end of a sustainable harvest level decade. It is a step-wise process, where first DNR determines
35 whether there is an arrearage. Then if an arrearage exists, economic and environmental analyses
36 are required. The Department needs to provide analysis and choices for the board to consider.
37 The decision made about how to respond to the arrearage must provide the greatest return to the
38 trusts.
39

40 Once an arrearage is determined to exist, the question becomes when to sell it. There are several
41 options, such as over the first 5 years of the next decade, over the entire decade, or rolling it back
42 into the inventory and logging it over time. Factors to consider in decision-making are the
43 income from the arrearage volume, timber values over time, and the staff and budget available to
44 manage both the arrearage and the current sustainable harvest level.
45

46 Mr. Brodie touched on the sustainable harvest units that are in the arrears.
47

1 Chair Goldmark asked whether this number represented the full decade or the first nine years.
2 Mr. Blum replied it is through year ten. Mr. Brodie added that it represents the entire decade,
3 with projections for the remainder of the current fiscal year based on timber sale planning in
4 progress. Commissioner Grose asked for clarification on whether the overage in some units
5 makes up for arrearages elsewhere. Mr. Blum replied that it does not; DNR analyzes each
6 sustainable harvest unit separately.

7
8 Mr. Blum referred to an analogy used by one of the public commenters, comparing arrearage to
9 school absenteeism. He drew a distinction between excused absence and unexcused absence. In
10 terms of arrearage, if timber volume was available for harvest at the beginning of the decade and
11 is still available at the end of the decade, it is similar to an unexcused absence. However, if DNR
12 assumed the timber volume was available at the beginning of the decade and it is not available at
13 the end of the decade, it is similar to an excused absence. An example is timber deferred from
14 harvest for the marbled murrelet.

15
16 Looking at the decade, by half way through we are on target in GEM lands. If DNR were to log
17 only on GEM lands, it would easily reach the sustainable harvest level. It is not sustainable to do
18 this though, so it is important to focus on where the volume is. If we just focus on GEM lands, it
19 gets harder and harder over time.

20
21 Director DeLuca asked why DNR identifies a single number instead of a range or a level of
22 uncertainty, as DNR will never meet an exact number. Mr. Blum replied that the interpretation of
23 the RCW generates a number but DNR does have the flexibility to come back to the board
24 during the decade and request a change in sustainable harvest level.

25
26 Mr. Blum then discussed how deferrals for marbled murrelet habitat affected DNR's ability to
27 reach the sustainable harvest level, referring to the table that has adjustments for marbled
28 murrelet.

29
30 Ms. Austin asked about the timeline for the long-term strategy. Mr. Blum replied that he expects
31 to bring alternatives, drafted and negotiated with the Services, for the board to consider and edit
32 in the next couple of months.


33
34 Mr. Blum clarified that DNR is not asking the board to approve an arrearage amount in the April
35 meeting. The reason for presenting the information is to have a discussion with the board about
36 what assumptions are being used, what data we have, and what information the board will need
37 to make an informed decision later.

38
39 **PUBLIC COMMENTS FOR GENERAL ITEMS OF INTEREST**

40 Rob Kavanaugh, citizen, stated to the board that he requests public records pertaining to the
41 Forest Practice logging permit adjacent to the mudslide.

42
43 Meeting adjourned at 11:27 AM

Approved this 10th day of May, 2014



Peter Goldmark, Washington State Commissioner of Public Lands

absent

JT Austin, Designee for Governor Jay Inslee




Randy Dorn, Superintendent of Public Instruction

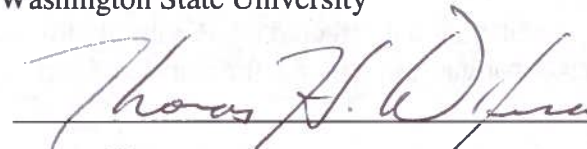




F. Lee Grose, Commissioner, Lewis County



Ron Mittelhammer, Interim Dean, College of Agricultural, Human, and Natural Resource Sciences,
Washington State University



Thomas H. DeLuca, Director, School of Environmental and Forest Sciences,
University of Washington

Attest: 

Sarah Vansot, Board Coordinator