



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



Agenda

- Context for the settlement
- Terms of the proposed settlement
- Approval of proposed settlement agreement



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



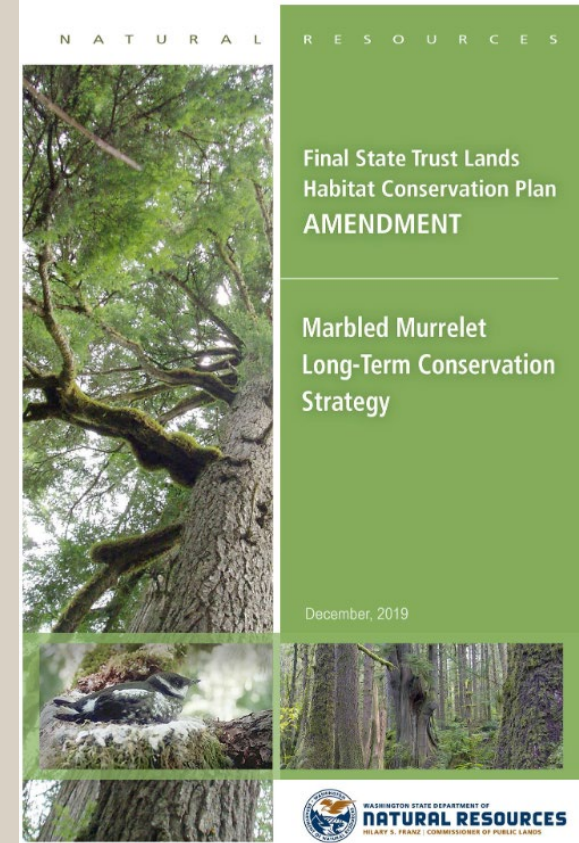
Challenge to the 2015-2024 Sustainable Harvest Calculation (SHC)

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

- Board has heard public comment today
- Settlement posted on DNR’s website prior to this meeting
- Staff will recommend BNR approve the terms of Settlement Agreement

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.

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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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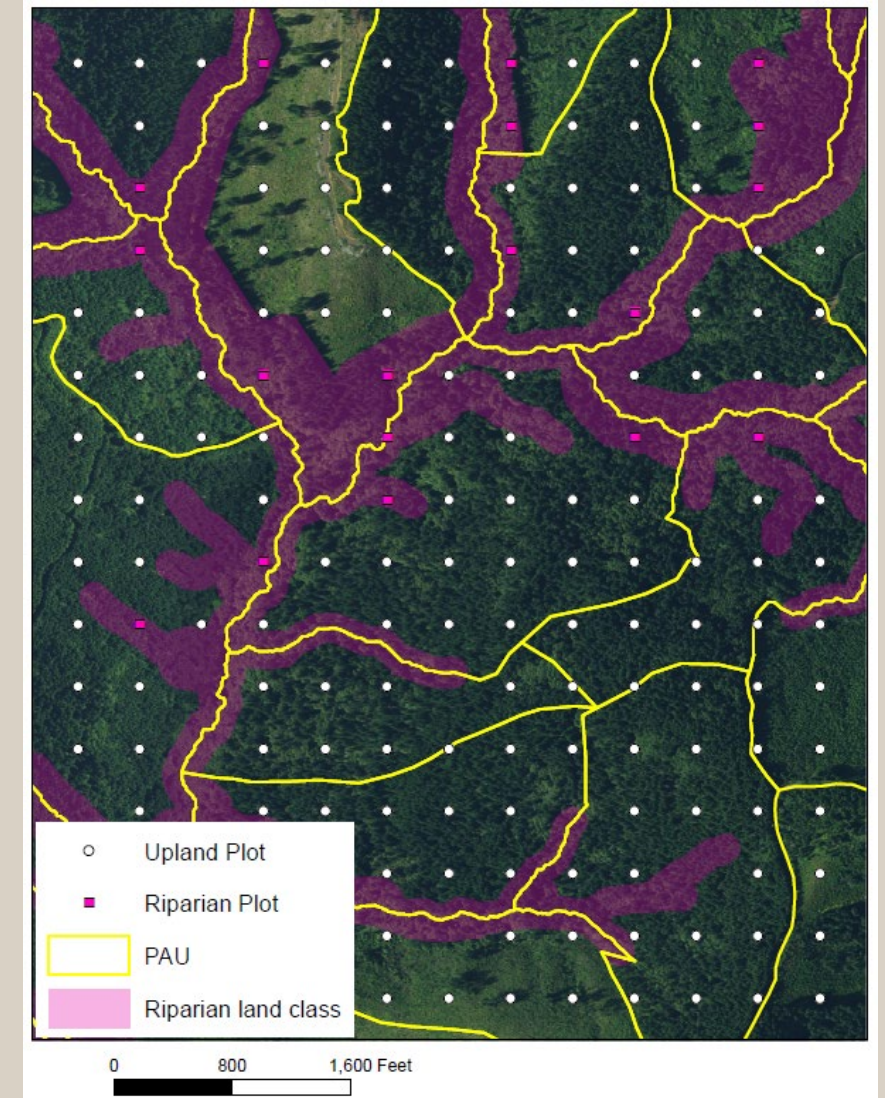
II.A. Stand-based Inventory

- 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



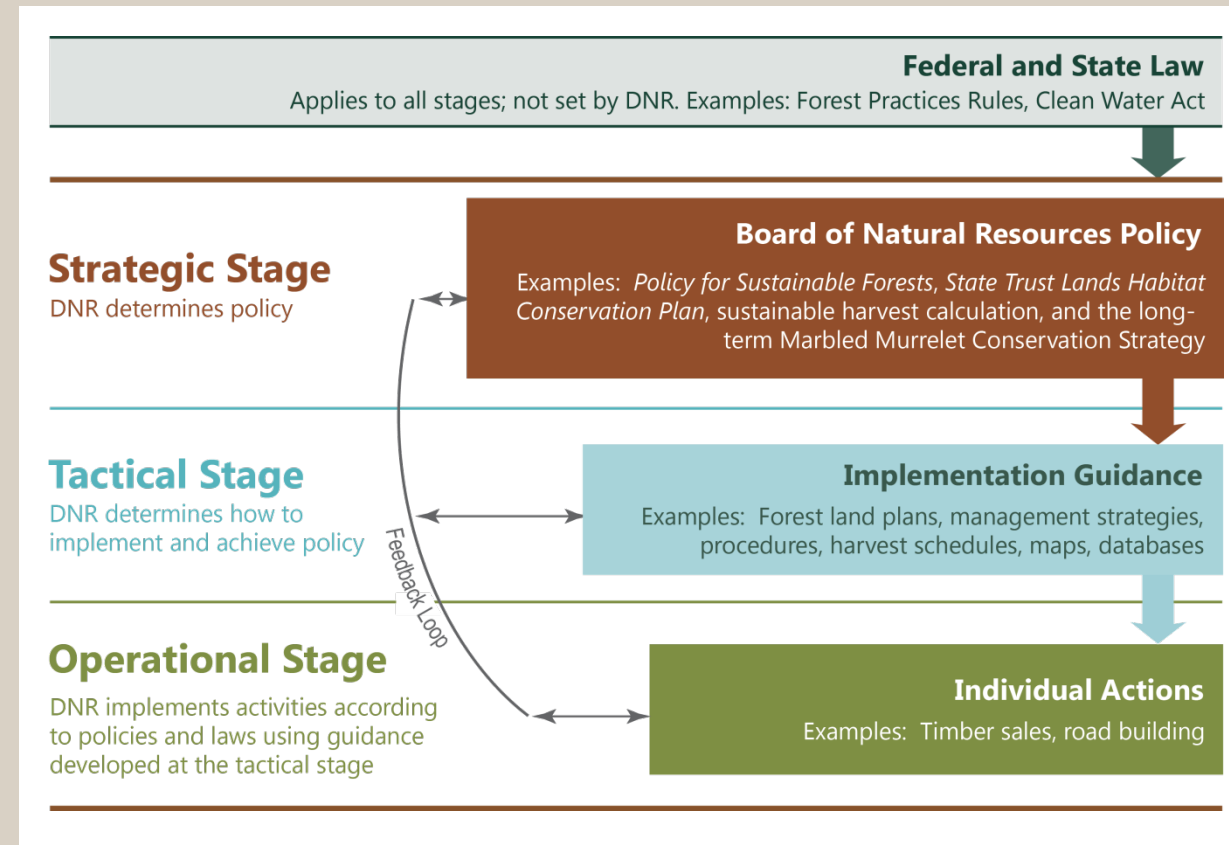
II.C 2025 SHC Development

- 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

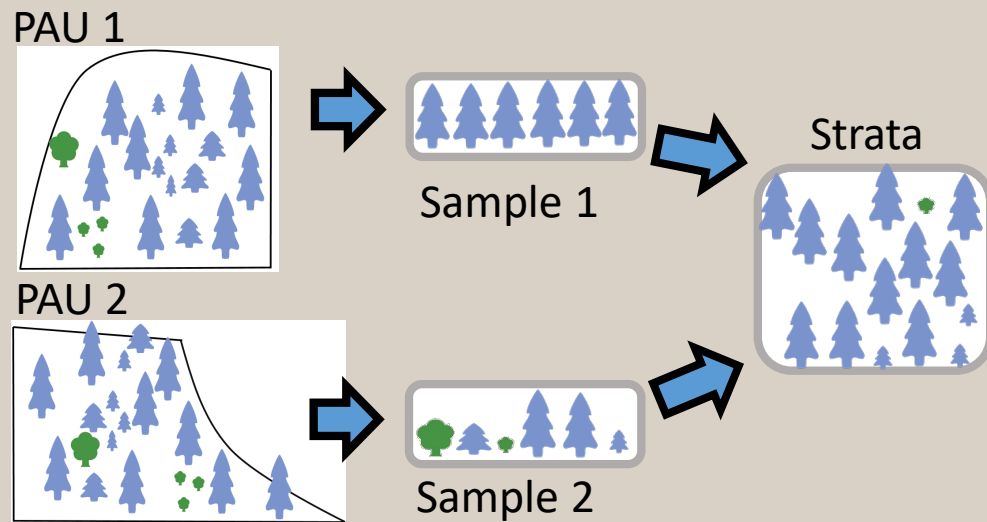
- DNR will recalculate the SHC when 200,000 and 500,000 acres of Stand-based Inventory are collected
- If new data results in a 10% change in volume, staff will recommend amending SHC
- DNR and Plaintiffs agreed to conduct a “comparative analysis of modeling approaches”



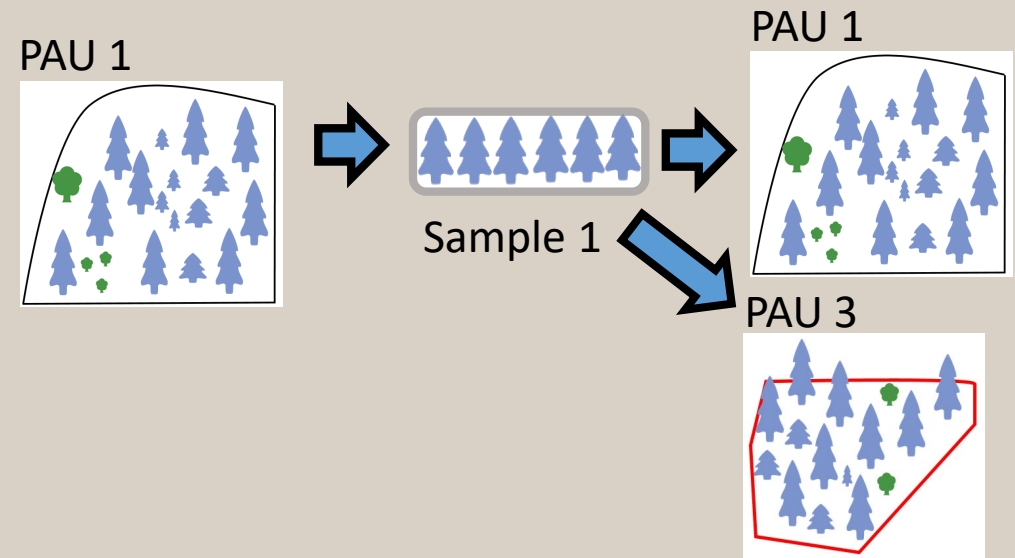
II.B 20. Comparative Analysis

- 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

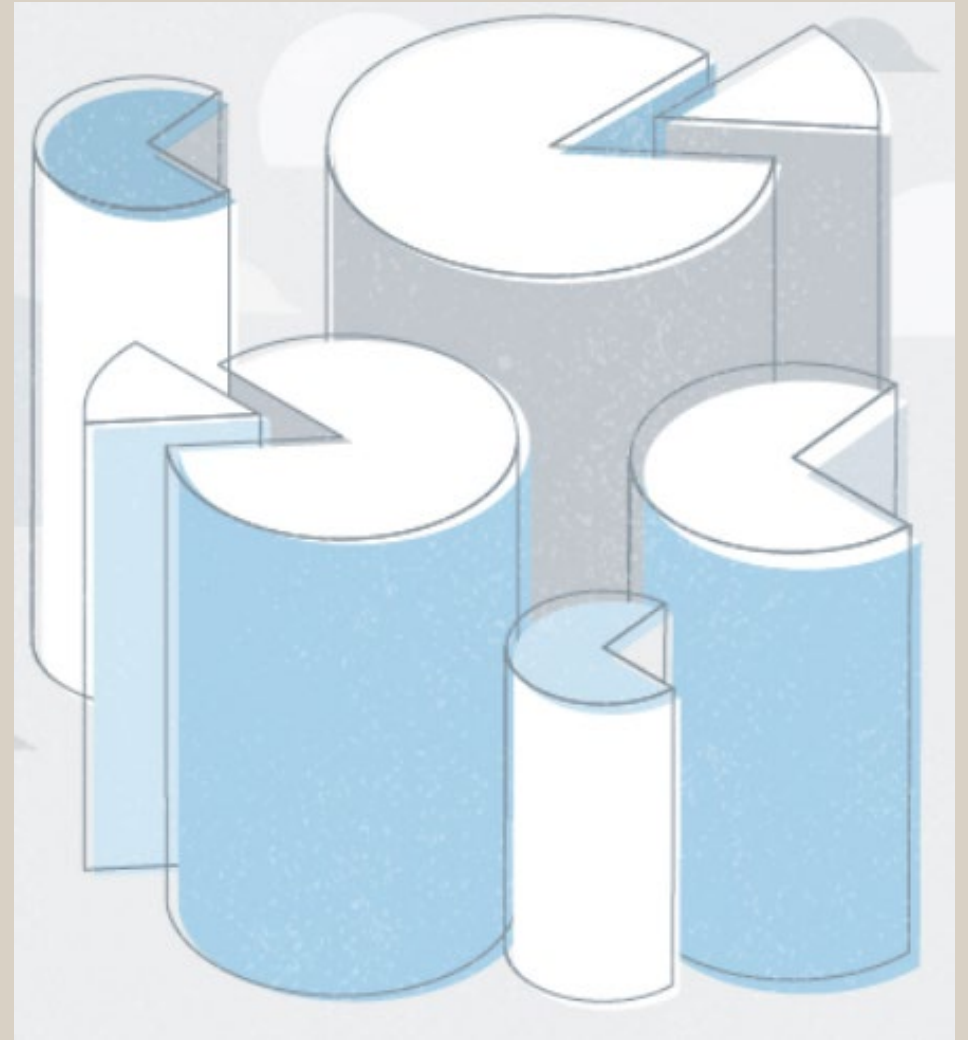


One approach will use the intensive inventory data and impute samples to un-sampled PAUs



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 6/30/3035



Questions from the Board



Approval of the Settlement Agreement

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



