

**NOTE: THESE MINUTES ARE DRAFT UNTIL REVIEWED AND APPROVED BY THE BOARD OF FORESTRY
AT THE SPRING 2016 BOARD MEETING**

DRAFT MINUTES

Board of Forestry Meeting

November 12-13, 2015

DEC Conference Room, 555 Cordova St., Anchorage

Call to Order and Roll Call. Chris Maisch, State Forester, called the meeting to order at 8:___ a.m. Remote sites were connected by teleconference. Members Matt Cronin, Denise Herzog, Erin McLarnon, Eric Nichols, Will Putman substituting for Wayne Nicolls, Chris Stark, Mark Vinsel, Brian Kleinhenz substituting for Ron Wolfe. A quorum was established.

Public Meeting Notice. The meeting was noticed by issuing public service announcements and press releases (*See handout*), mailing announcements to interested parties, and posting a notice on the state and Department of Natural Resources (DNR) website.

Announcements. Wayne Nicolls has resigned from the Board due to health reasons.

Approval of agenda. (*See handout*) The agenda was unanimously approved with correction of the prior meeting date.

Approval of Minutes. The Board reviewed and approved the July 28-29, 2015 minutes with minor corrections. (*See handout*)

Forest practices budgets. Michelle -DEC-Division of Water: The Division of Water received budget cuts in FY16; more anticipated in FY17. Half of Kevin Hanley's time is dedicated to Forest Resources and Practices Act (FRPA) work, which is in line with the decline in FRPA activity. Section 319 funds have been reduced from \$2.6M to \$1.8M in the last 10 years, and in the interim DEC has picked up the Alaska Pollutant Discharge Elimination System (APDES) program, which also uses that funding.

Stark: Are you in danger of losing the expertise that Hanley has built up over a long period?
Hale: DEC has a person in the Southeast office that is starting to shadow Hanley to learn some of the job. The budget cuts are forcing more cross-training within the agency. Hanley is planning two trips this year with three inspections on each trip.

Chris Maisch-DOF: General Fund support for DOF has declined in recent years, but it is still the largest source of revenue for the Division. Federal funding and timber sale receipts have stayed relatively level. The trend in positions has also declined significantly. The State is preparing the FY17 budget proposal and the divisions have been asked to prepare options for reductions of 3% and more. The Governor will release the proposed budget soon, and then the Legislative review will begin. DNR generates revenue for the State. Maisch doesn't expect major additional changes in permanent positions; but there may be changes in non-perms. The Haines office will close from late November to mid-January, open for two weeks, and then close again until March. The Haines Area Forester position was cut; the remaining seasonal position is supported through other funds. The best interest final (BIF) was released for the Baby Brown

timber sale in Haines. The BIF was appealed, but the Commissioner upheld the BIF decision, and no court case was filed. The fire program and budget is bigger than the forest management budget, and cuts will be hard to absorb. The 2015 season was large and difficult as it would be hard to manage a similar fire season with additional cuts. The forest practices program is down to two dedicated positions, plus support from area foresters as needed.

Nichols: Are incentives for early retirement likely? Maisch: A bill was introduced last year, but not acted on. In DOF, Clarence Clark just retired and is working as a short-term non-perm; Mike Curran plans to retire in the next few months. They have a lot of experience and talent in Southeast.

Jim Durst, ADF&G-Division of Habitat reported two new appointments in the Division of Habitat:

- David Rogers was appointed Director of the Division in October. He previously served as Special Assistant to the Commissioner of Fish and Game.
- Audra Brase is the new Habitat Regional Supervisor in Fairbanks. She previously served in management and research positions in FRPA regions II and III with the divisions of Sport Fish and Commercial Fisheries.

Durst: The Division of Habitat depends on general funds for FRPA implementation. In FY16, Habitat received a 13.5% reduction in general funds. We are closely monitoring our expenses and are being very selective in filling vacancies. The division and department remain committed to fulfilling our roles under FRPA, and will continue to do the best we can, both in the field and in the office, with the General Fund money provided.

The Division of Habitat application for Alaska Sustainable Salmon Fund monies to help with anadromous fish surveys on timber lands recently conveyed to Sealaska Corporation and added to the Southeast State Forest was recently granted.

Forest practices funding options. *(See handouts on funding in other states and chart of FRPA funding history.)*

Maisch reviewed the summary chart on forest practices funding in other states. Nichols: Washington also has a severance tax instead of a higher property tax rate on forest land. Fees for land use conversions and other fees accumulate and keep people from developing their property. Maisch: Alaska has some limitations not present in other states – there isn't a county structure in many areas for delivering services, and there are restrictions on taxation on Native land. Taxes provide large sums of money; fees and fines don't generate major streams of funding. Eleven states have regulatory programs; other states don't have regulatory BMPs. The NASF report on forest practices nationwide was important in preventing federal regulation of forest practices on other than federal land. The overlap of significant forest production with anadromous fish populations helped push regulatory programs in the western states. Hale: The Legislature passed a fuel tax last year to fund part of the spill prevention and response program.

Nichols: Native corporations are the major users of FRPA services. Dividing the cost of the program (\$277,000-500,000/year for the three agencies) by the number of Detailed Plans of

Operation (DPOs) per year (roughly 50), would require fees of up to \$10,000/DPO. Collecting severance taxes is also costly – there would be lots of paperwork, exclusions for logging costs, and complex accounting. The tax comes out of the value of the trees, and therefore out of the landowner's pocket. Landowners would rather pay a fee per MBF basis that is simpler to account for.

Kleinhenz: To what degree do other states capture revenue from harvests on their state land?
Freeman: Other states don't have the same general state land base as Alaska; their lands are primarily dedicated trust lands.

Cronin: If you put what you need for the program in the budget, what happens? Maisch: The Division has to work through the Governor and the Office of Management and Budget; they submit the budget to the legislature. Hale: DEC and the other agencies are seeking options for funding other than GF wherever possible; reliance on General Fund money is dangerous at present.

Nichols: Instituting a new sales tax is challenging. Stark: Timber is cheap at Lowe's or Home Depot. With a sales tax, the user is paying for the service. Kleinhenz: Fees based on development activity for revenue generation is preferable to a tax. The Division has been doing well in learning how to do FRPA cheaper with less time on the ground. There may be ways to extend that through options like technical service providers. Putman: Tanana Chiefs Conference has one person who is a technical service provider for Natural Resource Conservation Service programs.

Maisch: Participants originally considered making FRPA a consultant-based program; it was not clear that it would be cheaper to require private consultants. McLarnon: Contracting with people already in the area would lower travel costs.

Putman: What is the threshold for insisting that we find another funding mechanism? Maisch: There's not a lot of slack left in the forest resources budget. FRPA protects the landowners from environmental challenges. About \$1.2 billion in timber value has gone through the Anchorage customs district in the last 10 years. Maintaining FRPA is required by statute and a high priority for the Division. Selling timber from state land isn't required, but it generates revenue that keeps the Division going. We can't continue the program in Southeast with fewer people than we have now. The fire program provides jobs across Alaska, but doesn't generate revenue. DOF can't sell more timber without more of an industry. The industry future in Southeast is unclear.

Frank Woods: In Bristol Bay, we charge users on the Native lands, and develop cooperative agreements on land management to increase efficiency and available funding. Maisch: Some of that is happening, e.g., the DEC position for FRPA is federally-funded.

Nichols: There is a head tax on tourists in Southeast that is collected locally, and the tourists use the forests. Currently the head tax revenue must be used for infrastructure related to tourism. Hale will find out more about it.

Cronin: The Governor should be told that private owners have sacrificed timber, and the state should fund it. Kleinhenz: It is wise to continue to consider funding options, it's important to the mission. Herzog: We need to think ahead for when it gets worse; we need to have something in our back pocket. It should be tied to the revenue stream to keep it easy to administer and collect. Stark and McLarnon concurred; McLarnon added that it will take education, and we need to be proactive to bring people along. Putman and Vinsel – keep this on the agenda. Putman noted that emerging energy markets could increase the need and cost for FRPA.

Legislation and regulations.

Negotiated timber sale statutes. Maisch: SB32/HB87 is still pending regarding large negotiated sales. The bill passed the Senate and is pending in the House with two committee referrals. It wasn't scheduled for a House hearing in 2015 because of concerns from some Tok constituents. DOF has been working with interests and legislators in the interim. The bill would remove the limitation on excess annual cut which limits the opportunity for negotiated sales in Southeast where the allowable cut is fully used. This is the second year of the session.

Timber and material sale regulations. Marty Freeman, DOF: The DNR Division of Mining, Land, and Water (DMLW) is drafting changes to the material sale regulations. Currently those regulations are in 11 AAC 71 and are combined with the regulations for timber sales. The proposed changes will remove the material sale regulations and establish them in a new section. They will also make changes in 11 AAC 71 to conform to current regulation drafting standards such as using gender-neutral language, and will correct grammar. DOF is working with DMLW to include a change to 11 AAC 71.045(e) to extend the duration of small negotiated sales under AS38.05.115 to up to two years (*see handout*). DMLW is still working on new sections for the material sale regulations; there is no date scheduled for public review yet. Maisch: Extending small negotiated sales for up to two years was a recommendation from the Alaska Timber Jobs Task Force.

Coastal forest management.

Roadless Rule update and Big Thorne litigation. Tom Lenhart, AGO reported on three federal cases and two state timber sale appeals.

- The Big Thorne case is on the February 2016 docket for oral argument. No stays are in place and none are pending. It takes several months for a decision. Timber harvest can continue in the meantime.
- Roadless Rule challenge in DC District Court. The case is fully briefed. It is up to the judge's discretion on whether they want oral argument. The case is likely ripe for decision, and that could happen at any time. The decision is likely to be appealed with either outcome.
- Tongass exemption from Roadless Rule. A 6-5 en banc ruling in the 9th Circuit declared the Tongass exemption invalid. There was a very strong dissenting minority position. Alaska has filed for Supreme Court review. Only 5% of cases are accepted. Tomorrow is the deadline for amicus briefs; there has been a good response from the industry. Opposing responses are due mid-December. A decision on whether to hear the case is likely in spring.

- Administrative appeals on Baby Brown timber sale in Haines. The DNR Commissioner upheld the BIF for the sale. We are now five days beyond the deadline for an appeal to the Superior Court; surprisingly, no notice of appeal has been received yet.
- An administrative appeal on Vallenar Bay timber sale on Gravina Island is pending.

Maisch: DOF has also signed the BIF for a 25 MMBF Parley timber sale at Edna Bay. The Division has received a public records request on that sale; an appeal is likely.

Lenhart: The appeals address broad issues, and are written as though based on federal National Environmental Policy Act (NEPA) requirements. State requirements aren't as demanding as NEPA. The appeals raised issues of insufficient environmental analysis, economics, and timber analysis. Freeman: Viewshed impacts were also a big issue in Haines. Lenhart: The Vallenar decision should be out in 30-60 days. Maisch: Other BIFs and State Forest Management Plan will also be released soon. DOF is pushing for a quick turnaround on the Vallenar appeal.

Nichols: It is inexpensive to write an appeal letter, but it's expensive to go to court. The state standards are also different. Lenhart: It's harder to win in state court.

Tongass plan advisory committee (TAC) and plan amendment process. Nichols: The last TAC meeting will be in early December in Ketchikan. One big push is trying to stand up an implementation and monitoring committee and how to fund it and establish membership. The plan process is getting delayed some, but the US Forest Service (USFS) hopes to have the plan amendment in place in mid-summer 2016. The USFS is struggling through the process. Maisch: The process of implementing what the TAC agreed to in concept is important. The USFS has new leadership. The state is trying to support the transition to young growth. The Governor sent a letter on this and other southeast issue (including more state land ownership) to the Congressional delegation. The TAC sunsets in February; the monitoring group is intended to continue beyond that without crossing Federal Advisory Committee Act (FACA) requirements. There would be a Memorandum of Understanding (MOU) governing the group, and members would have to sign the MOU. One option is to convene the group outside the USFS umbrella. Nichols: But then there's no reason for the USFS to pay more attention to it.

Maisch: The Governor has reaffirmed his support for state forestry; the budget reductions to forestry were done by the Legislature. Cronin: If the Tongass exemption to the Roadless Rule is decided in the state's favor is it irrelevant if there is a move to young-growth? Nichols and Slenkamp: About 200,000 acres of prior harvests were included in the Roadless Rule based on timing of the entry. Maisch: It is not clear how a favorable ruling would affect a TLMP amendment that focuses on young-growth management. Nichols: Purchasers are burning through their federal timber – there's very little left, and loss of the federal timber would be the end for many operations.

Stark: When groups were weeded out of the implementation and monitoring committee was that in just one sector? Nichols: The TAC wants a variety of groups, including conservation, local government, etc. However, not all groups were on the TAC. There were complaints from some industry, tourism, and commercial fishing groups that were disgruntled to not be included. Some made it clear that they were not represented by the TAC and vowed to fight the agreement. Some

are opposed to all timber harvesting in Tongass, including state sales. They believe that the best use of the Tongass is as a carbon reserve. Maisch: Some groups were scared that the TAC would reach consensus, and the TAC worked harder to reach consensus as a result of that outside pressure. Nichols: There is particular opposition to going into some areas that were previously in non-development land-use designations to get enough young growth to make a quicker transition to young-growth harvesting feasible. Nichols: Continued pressure will be needed to ensure that the USFS implements the plan. If you don't manage the young-growth stands, the deer and wolf issues become bigger as the stands go into a stem-exclusion phase.

The Working Forest Group (TWFG) update. Clare Doig, TWFG: TWFG is a non-profit that aims to educate Alaskans on forest management. It is working on a USFS contract for two reports. The Group would like to extend into more outreach, e.g., through media ads, interpretive signs on forest management for tourist facilities.

TWFG started in Southeast, but is interested in all Alaska. Gana-A-Yoo signed a contract to provide wood for a biomass project that will generate sustainable wood energy for the Galena Interior Learning Academy. The TWFG second annual meeting is tomorrow – all are welcome to participate. TWFG is interested in expanding and diversifying. The main office is in Anchorage. Maisch: The biomass sector has the most growth potential in forestry, but there are questions about how it will weather the low oil prices and expansion of natural gas.

Mental Health Trust (MHT) land exchange update. Paul Slenkamp, DOF: The MHT and USFS are working on an exchange of 18,000 acres around five communities. It's a slow process. The project is entering the NEPA process and we hope to start scoping in February. Everything has to go through the USFS national, regional, and Tongass offices. Forrest Cole retired from the USFS in June; Earl Stewart is the new Tongass supervisor and he supports the project.

The USFS has no timber sale projects in their pipeline. Even a new project would be 5-6 years out. There's no bridge timber to carry the industry through. The main industry players in Southeast are Sealaska, Viking, and Alcan. The Sealaska agreement took care of one segment; the others have no timber in the near term. The MHT exchange is the quickest way to get timber to those sectors. We need this to be a Governor's priority and have continued Congressional support. It will take another four years to complete this project in the best case scenario. Slenkamp asked the Board to ask the Governor to get behind this exchange. The project will have to go through the state land exchange process, which will require state legislative approval. The state process requires a value-for-value exchange, and appraisals are only good for one year. Legislation has to be introduced with 10 days of the start of a session. The MHT is working with Sen. Stedman's office to draft legislation. The Trust has budgeted \$2 million to pay its costs. The Trust wants to minimize the risk of having the project get stuck in the Legislature.

Cronin: Do the feds consider there is a nexus to bring MHT under Endangered Species Act (ESA) control if species are listed? Maisch: The Washington State forest practices act includes a section set up to deal with ESA controls on spotted owls. States would probably have to avoid takings through a Habitat Conservation Plan or other action. Slenkamp: Every additional layer adds costs and risks. The Trust expects to hear issues during the NEPA process on wolves in the Naukati area on Prince of Wales Island. This exchange would complement the USFS transition

to young growth. With the exchange, the MHT could help provide a bridge to Tongass second-growth management.

Young Growth Initiative. Maisch, DOF: The USFS-State and Private Forestry program and DOF developed a two-year cost-share agreement using State infrastructure development in Southeast as match funding. The goal of the agreement is to facilitate the transition to young-growth management through:

- Stand-based inventory of old-growth and young-growth resources (\$2.5 million) starting with young-growth stands ≥ 45 years old which are the near-term harvestable timber, followed by stand exams for younger stands, then identification of 20,000 old-growth acres that could provide economic volume in the transition. Much of the work will be involve state and federal crews. Confidence in the numbers is essential; some recent sales had so little trust that the industry didn't bid on them. There are only about 35,000 acres of the older young growth across the Tongass.
- Work-force development (\$1.5 million):
 - Infrastructure inventory in Southeast and development of five appraisal points.
 - Technical assistance to other landowners to help get timber out; may augment existing forest stewardship plans, support pre-commercial thinning, etc.
 - Training Southeast residents to take jobs created in restoration and stewardship contracting.

It is taking time to mesh USFS and DOF systems so that they work together effectively in the field. DOF wants crews to be in the field as early as possible this spring. This was one of the key recommendations from the TAC. The existing USFS data on young-growth was insufficient. Not all young-growth stands will be economically harvestable at 55 years of age. McLarnon: TWFG developed a report on this but doesn't yet have the USFS approval to release the report. Kleinhenz: Will there be new mapping? Maisch: Not sure yet. The USFS growth models are based on their definitions of "stand." Kleinhenz: Is there an opportunity to get people on the ground with expertise on how to lay out an economically feasible sale? There has been a loss of people with that expertise in the USFS, and now in DOF as well due to retirements. We need reliable numbers and maps.

Wood energy. Devany Plentovich, AEA, reported on recent activities.

- Round 9 Renewable Energy Fund applications are in, including \$8.4 million in biomass projects in Ketchikan, Ambler, Huslia, Klawock, Hoonah, and Knik Arm Power Plant (uses solid waste). Klawock would be the last school on Prince of Wales Island to heat with wood.
- AEA conducted two 3-day biomass decision-maker tours of 10 facilities between Anchorage and Fairbanks for 21 people. AEA hopes to reoffer the tour in alternate years, and open it up to more people.
- USFS Alaska-specific Community Biomass Handbook is available with information on where biomass can work, and how to identify those areas.
- Galena is conducting a test harvest and training on 35 acres with a focus on safety. They are including poplar in the harvest, and are uncertain of how it will work.
- Future priorities include case studies with lessons learned, Fairbanks project development, construction/start-up of new systems with the Ketchikan airport, Koyukuk, Prince of Wales Southeast Island School District, Haines, and Tanacross. The Sitka Coast Guard station

decided not to complete their project, so the boilers have moved to Haines. It is more difficult to develop projects while oil and gas prices are low.

- AEA is addressing some boiler flame tube failures.

Nichols noted a lot of wood pellet manufacturing from waste wood in China on his recent visit, and some new technology for pellet use. He is concerned that pellets that are now produced locally would be imported from Canada if Viking doesn't survive.

Plentovich: Some new Scandinavian equipment for small-scale pellet to electricity generation that is emerging, but is still in testing. Superior Pellets is having good success with their pressed log product.

SE State forest management plan. Jim Schwarber, DOF: The Division is completing remaining edits to the plan, and working with DMLW on the land classification order and mineral leasehold location order. The classification order reclassifies all land from its prior classifications to forestry. The leasehold location order closes land to mining claims, but allows mining leasing which gives DOF a role in establishing stipulations to address forest impacts. The final plan should go to the Commissioner for the decision to adopt by the end of the year, followed by the appeal period. Freeman: A leasehold location order covers activities for which a mining claim would have been used. Gravel is managed under material sale regulations.

Public comment: No commenters

Wetlands permitting and mitigation forum

Sealaska mitigation banking. Ron Wolfe, Sealaska: Cost and effectiveness of "in lieu" fee programs are problematic. Management of ecosystems is superior to postage-stamp size actions for individual designations. Sealaska established a regional mitigation banking instrument that is an umbrella for site-specific banks. Guidelines and procedures are established for the site-specific banks. The goal is to provide effective compensatory mitigation under the Clean Water Act for unavoidable wetland impacts. The regional bank consists of anadromous streams, adjacent wetlands, estuarine wetlands, and riparian buffers. Mitigation measures include restoration, enhancement, and preservation. There are numerous federal and state authorities related to mitigation banking.

Natzuhini Bay is the first site-specific bank within the regional bank (148.01 acres). Treatment goals include large woody debris, biodiverse habitat, streambank protection, mitigation credits, and creating a self-sustaining bank that doesn't require future inputs. The required work occurs mostly at the beginning of the project. The site prescription is based on Doug Martin's FRPA monitoring work, Mark Wipfli's research on the role of red alder, and Newton and Cole research on creating free-to-grow conditions for future large woody debris through brush control and fertilizer. Sealaska also wants to become familiar with ecological credit and debit systems. The results of managing ecosystems are worth the effort. Credits are not necessarily on an acre-for-acre basis; we want to get to the point where they are ecologically based.

The mitigation bank requires deed restrictions. Sealaska had to think hard about that in relation to its land rights. Timber harvest is not permitted on this site unless it would further the purposes of the bank.

Herzog: Can this bank be used to sell credits to others? Kleinhenz: The bank now has a credit surplus, and Sealaska is looking for clients interested in using credits in the bank. Nichols: The Ketchikan Gateway Borough set aside land for a mitigation bank has not achieved any financial return from sale of mitigation credits.

Vinsel: If an activity would damage chums but mitigation would benefit pinks, it would shift impacts between users; that's even truer if credits are sold outside the region. What are the limits are on use? Wolfe: Forest management in the 1960s-70s favored pink salmon, e.g., through stream cleaning. Current practices emphasize continued large woody debris supply and streambank protection, which probably favors kings and cohos. Vinsel: chums and pinks migrate right away, so they have different needs than kings and cohos. Kings and cohos are more valuable per pound, but there are more pinks and chums, so those fisheries are more valuable overall. We want to provide habitat for both, including rearing habitat. Policies can favor one over another.

Wolfe: In the prior system of in-lieu fee mitigation, it wasn't clear what would be achieved for the cost. Kleinhenz: Costs are upfront for mitigation banks. In-lieu fee programs pay another entity to do actions that offset the impacts, but the actions can be unclear. There isn't a lot of private land available for mitigation banks in Alaska. Woods: This is revolutionary in dealing with the federal system.

Overview of 404 permitting and mitigation. Michelle Hale, DEC: The Clean Water Act Section 404 Permitting Program regulates discharges to waters and wetlands from dredge and fill operations. Section 10 permitting is for things like bridges and docks. Only two states have assumed the 404 program. The Army Corps of Engineers implements 404 permitting under Environmental Protection Agency (EPA) oversight; EPA has veto authority. States can certify 404 permits to show that they meet state water quality standards; Alaska participates in this program. Section 404(f) provides an exemption for silvicultural operations from the 404 permit requirement. Wolfe: The exemption does not apply to some activities such as upland camps, or permanent roads for more than silvicultural use. Hale: Having FRPA helps meet the Section 404 requirements.

The definition of "waters of the United States" is under debate. That determines where Section 10 (things in the water), and Section 404 (things in the water and adjacent wetlands) apply. There have been years of conflicting court cases on this definition. Federal guidance was adopted last summer, and it was immediately challenged in court with a stay in all 50 states. There are multiple court cases in process. A jurisdictional determination is needed on each waterbody and wetland now unless the applicant just decides to treat it as a "water of the US". Under the new rule, virtually everything in Alaska that is wet would come under the rule. Some people argue that all waters and wetlands are covered by the new rule because of connectivity. In Southeast, all land with 4,000 feet of a beach, wetland, or stream would be covered, which is almost everything. Nothing in the literature determines that 4,000 feet is the appropriate "bright line" for what is covered. The original definition covered "navigable waters." Wetlands and "adjacent" lands were added in 1977, and numerous court battles over the definition of "adjacent" continue.

The Legislature passed a bill directing the State to explore whether to pursue assumption of the 404 permit program in Alaska. The direction still exists, but funding for the work was removed. Assumption would not cover all waters, and would not cover Section 10 permitting. There is not clarity on which waters the State could or could not assume. EPA has formed a federal advisory subcommittee to provide advice on this question, and Hale is on that subcommittee. EPA is part of that effort, and they want states to assume this program. Alaska maintains interest in the assumption question even without current funding for an assumption effort. There is no federal funding for state implementation of the program. The incentive for assumption is that the State can be more flexible than EPA in implementation, and Section 404 requirements affect most development activities. Alaska now has a Wetlands Program Plan, increased knowledge, and attention at the federal level as a foundation for revisiting assumption in the future, but there is a budget issue at present. If the State assumes the program, the State would be the responsible party in lawsuits. Assumption only makes sense if Alaska can assume authority for most waters. Woods: Industry has a huge interest in the State assuming this program.

DNR Wetlands Compensatory Mitigation. Sara Longan, DNR-Office of Project Management and Permitting (OPMP): OPMP helps applicants through federal, state, and local permitting processes. DNR has seen the difficulties in working with the mitigation requirements. EPA develops rules for mitigation. Regulations are developed through the Statewide Interagency Review Team (SIRT). DNR hears that there is a lack of consistency and transparency in EPA wetlands determinations and classifications, and the cost of those determinations has increased. Landowners can restore, enhance, create, or preserve wetlands for compensatory mitigation. There are three options in order of preference: mitigation bank credits, in-lieu fee program credits, and permittee-responsible mitigation within the same watershed. Mitigation bank credit sales are a private transaction and costs are not set by the federal agencies.

A “no net loss” policy doesn’t make sense in Alaska – wetlands are ubiquitous and not rapidly declining. A 1994 federal report said a flexible regulatory program is needed in Alaska, but it hasn’t happened. There is new EPA and Army Corps leadership in Alaska, and they are trying to be more flexible. In-lieu fee instruments for gravel projects can range from \$44,000 to \$125,000/acre depending on wetland type, value, and geographic area. The agency has little discretion on when to apply the rules, but may exercise some discretion in how fines are applied.

A new presidential memo has charged the federal departments of Defense, Interior, Agriculture, EPA, and NOAA to streamline regulations for offsetting environmental harm; it seeks no net loss of land, water, wildlife, or other ecological resources from federal actions or permitting. There may not be a public rule-making process. The USFS is developing regulations, and are scheduled to have a policy within two years. Cronin: How does this apply to non-federal lands? Longan: Currently it is at the discretion of the agency. DNR is going to work hard to understand what is happening, including on state land. Woods: We need a rule to regulate common sense. He asks the Board, Governor, and ANILCA staff to get exemptions or establish a statewide mitigation bank. Longan: Alaska will continue to seek clarification from the Council on Environmental Quality.

Longan: There's not a lot of private land that can be used for mitigation purposes. Woods: There is a lot of Native land that is private. Longan: Most of the private land is Native land, and its value is huge in the potential for mitigation.

DNR is asking whether the State can be part of the solution by using state land to mitigate through restoration and enhancement. Setting up a state mitigation bank will be arduous. The State is very involved in the SIRT teams in Alaska. DNR is mapping wetlands and reviewing options and advantages for State participation in mitigation banking. It will require funding.

Use of Southeast State Forest for mitigation. Greg Staunton, DNR-DOF: Edna Bay has older second-growth that is merchantable in the near term on State, USFS, University, and Sealaska land. This is a remote area dependent on water transportation, and therefore needs a log transfer facility (LTF). The site is on state tideland under DMLW management. We need to protect other uses in the area, water quality, and wetlands. An LTF is not covered by the Section 404 silvicultural exemption. The LTF requires a Construction General Permit and an LTF General Permit for operating the facility. DNR hired a consultant to work on the definition of "jurisdictional wetlands" for this project. Jurisdiction is based on drainage, and the accompanying water table, soil characteristics, and vegetation. Wetland value is based on quantity, quality, location, and type. Mitigation can be preservation, restoration, enhancement, or monetary compensation.

DOF proposed counting the Southeast State Forest (SESF) as the basis for mitigation because it is legislatively reserved and is managed under FRPA. FRPA and the State Forest designation include soil and water quality protection, mandated retention, due deference clauses to DEC and ADF&G. It ensures that no resource bears an undue burden for resource protection, and access is a stakeholder requirement. DOF permit application stated that mitigation has already occurred through FRPA and the State Forest designation -- wetlands have more protection by being reserved from general use. The SESF is a working forest that can be managed for environmental, social, and economic outcomes; without access, a State Forest would have diminishing value to future generations which could lead to its being removed from State Forest status.

The USFWS focused on the water quality aspects of FRPA and not the land management potential. There was no permittee dialog on the mitigation proposal. The Corps focused on the avoidance and minimize compensation techniques. They did not debate the merits of using the SESF as mitigation; they did issue the permit with no stipulations for additional mitigation.

Nichols: How can the state help remote communities where development is constrained by mitigation requirements? Longan: A State mitigation bank could be financially feasible – it doesn't take a lot of staff, and credits could be offered on the public market. Progress is being made, DNR is working hard, but it can take years to get a bank reviewed. Stark: How much land is needed annually to mitigate timber development? Longan: It depends on the value of the wetland. Private landowners and non-profits can also get in to the mitigation banking business.

Region II-III Reforestation standards review. Freeman, DOF, reviewed the Science & Technical Committee (S&TC) process, key background findings, and recommendations and

research needs identified by the S&TC (*see handout chart on consensus points and copy of PowerPoint*). The process to date has included 11 meetings of the S&TC, including 16 overview presentations, development of an annotated bibliography with nearly 500 relevant references, and outreach to a group of technical experts (48) and the broader public (375 organizations, businesses, agencies, and individuals).

Freeman highlighted the following concepts from the background findings:

- Continued seedling recruitment
- Factors predicting likely natural regeneration success
 - Seed bed conditions
 - Minimal soil disturbance in areas of vegetative reproduction
 - Seed source availability
 - Low risk of vegetative competition (esp. grass)
 - Low herbivory pressure
 - Not spruce beetle infested, not Tomentosus root rot
- Patchiness occurs in natural stands; some patchiness is beneficial for wildlife
- Southern seed sources successful; diversity provides resilience for climate change
- Harvest and site prep planning can increase positive/decrease negative interactions between wildlife and regeneration; keeping some coarse woody debris/snags is key
- Climate change can affect regeneration success; effects depend on site specific as well as regional conditions
- Invasives not impeding regeneration yet; prevention is key; imported firewood/pallets known to move invasives.

In general, flexibility will be needed to adapt to climate change.

The S&TC did not recommend any changes to FRPA. Potential regulatory changes include:

- 11 AAC 95.220(a)(10) – DPO information regarding natural regeneration
- 11 AAC 95.235 and 11 AAC 95.375(c) – regarding variations from reforestation standards
- 11 AAC 95.375(d)(4) – reducing the stocking distribution standard to 80% in light of continued recruitment, natural patchiness, and benefits of patchiness for wildlife
- 11 AAC 95.375(f) – allowing for mixing local seed with seed from further south in keeping with results of provenance trials.
- 11 AAC 95.375(g) – expanding the methods that can be used to document where stands are significantly composed of dead and dying trees.
- 11 AAC 95.375 – adding a subsection allowing a 12-year period for natural regeneration in Regions II and III where site conditions indicate that natural regeneration will be likely to be successful
- 11 AAC 95.380 – clarifying that section (a) applies to operations that will rely on natural regeneration from seed rather than vegetative reproduction.
- 11 AAC 95.385(a) – requiring a regeneration survey and report after five years if a 12-year period is allowed for natural regeneration.
- 11 AAC 95.900 – amending the definitions for “(9) commercial operation” and “(10) commercial timber harvest” to include thresholds for operations that are not based on sawtimber (board foot) measurements. This could also be addressed through the implementation handbook (“purple book”).

The S&TC consensus points also identify 11 research needs regarding silvics of Region II-III species, adaptation to climate change, and interactions between wildlife and reforestation.

At the request of the Board, the S&TC reviewed the consensus points and identified those that they believe could apply to reforestation in the Kodiak-Afognak area of Region I. However, they emphasized that the S&TC process was focused on Regions II and III and did not do the same in-depth review of the literature, management results, and reforestation standards.

Stark: Will the bibliography be issued as a peer-reviewed paper? That would help keep the information available over time. Glenn Juday, UAF: Offered to coordinate on a peer-reviewed paper.

Putman: The S&TC process was well-organized. The Interior landowners involved in forestry are working on a relatively small scale, and reforestation costs can be significant. Nichols: Maintaining the 450 seedling/acre requirement is in excess of natural levels and seems high. Putman: The literature is variable on whether the numbers are too high or too low. The S&TC recognizes that there is seedling mortality over time. Durst: Putman and Hanson brought knowledge of practical considerations to the S&TC. The group often trended toward an implementation group discussion. Nichols: It's the landowner that has to pay the bill. Freeman: The net result of the recommendations increases flexibility for landowners. Nichols remained surprised that the stocking density number wasn't reduced. Juday: Stocking distribution is probably more important than the stocking density. 450 seedlings per acre is a low number compared to the way natural stands develop – it's at the low end of the range for natural stands. With older stands, 450 trees/acre would be closer to the site potential. Nichols: If you are planning for sawtimber, you can require a lower number. Tom Paragi, ADF&G: These are minimum guidelines. Freeman: If an owner wants to manage intensively, they can apply for a variation to plant fewer trees. Maisch: We can ask the implementation group to look at the economics of this.

Nichols expressed concern about the recommendation to avoid den sites with site preparation equipment. There is a risk of creep on addressing wildlife protection on private land. Freeman stressed that the recommendation is not proposed as a regulation change; it could be addressed through voluntary work with landowners.

Stark moved that this process be forwarded to a stakeholder implementation group. McLarnon seconded. The motion passed without opposition.

Kleinhenz: This is great work. Don't recycle too many members from the S&TC to the Implementation Group so there is a good balance and opportunity for thorough discussion.

DOF updates.

Area overview. Tim Dabney, DOF: The Division now has one region with five areas, a consolidation from the prior system with two regions and ten areas. DOF is interviewing candidates for the Fairbanks/Delta Area Forester position, and plans to recruit for the Southeast Area Forester position. There are some prospects for USFA Forest Inventory and Analysis

(FIA) funding in the Interior. This would be a joint venture between DOF, USFS-FIA, and University employees to remeasure legacy plots. DOF will start measuring new plots next summer. Area reports follow.

- Fairbanks: Held three salvage sales in October. DOF laid out and will administer three sales on University land that will be offered in December. The BIF for a long-term value-added timber sale for Superior Pellets was issued, and a draft contract prepared. However, sales are down due to low oil prices. This would be a five-year contract for 600 acres per year. An archaeological survey was completed on two Nenana Ridge units. A seedling planting contract was issued. DOF conducted road work conducted on the Two Rivers Road to help fix problems where no one was taking responsibility. DOF provided technical assistance for the Galena biomass project.
- Delta: Mississippi Salvage Sale harvesting continues. Six other sales are proposed for offering in December.
- Tok: Young's Timber is constructing facility to produce wood pellets and densified logs, and has a new Pendu shaper in operation making milled house logs. They employ 12 now and expect to double that with the new facility. Tok School is using wood from a hazardous fuel reduction project – it will have a three-year supply. The Tok Area received ADF&G habitat enhancement funding for moose and grouse habitat improvement in the 1990 Tok burn area.
- Cordova: Airport expansion is clearcutting timber and providing wood to the local community.
- Mat-Su: Offering another 200 acres of sales next month. The Area is upgrading two miles of the Zero Lake Road to a year-round road. The winter road was creating water quality problems due to non-forestry uses off-season. They will also build additional road access to Kashwitna River.
- Southwest: A McGrath forest inventory was conducted last summer; the final report is in preparation. DOF issued a contract for 400 acres of timber to provide bagged firewood and bundled logs to villages along the Kuskokwim River.
- Kenai-Kodiak: FRPA inspections continue on Kodiak and Afognak islands. Leisnoi wrapping up operations in 2016 at Chiniak. DOF is reviewing planting mortality from the Twin Creeks fire. Kenai firewood demand is high. Loggers await frozen conditions to start winter sales.
- Haines: The Commissioner upheld DOF's decision for the 20 MMBF Baby Brown BIF. The Haines Area is continuing to put out small sales on state and MHT land.
- Southeast: The Vallenar sale has been appealed. The Parley sale appeal period is open. A Coffman Cove timber sale BIF is almost ready for signature. DOF needs to complete the preliminary BIFs for the North Thorne and Heceta sales.
- DOF found a 24" dbh aspen that may qualify as a state champion.

Road projects. Ed Soto, DOF: The DOF road office does infrastructure projects with dedicated funding, and supports DOF area projects statewide.

- DOF is ready to advertise the Vallenar Road for construction; we are waiting for the Commissioner's decision on the timber sale appeal.
- The Hollis Ferry Road improvement for a state and local road to access state timber is 70% designed.
- Fortune Creek Bridge replacement is 35% designed.

- In the Tanana Valley State Forest, the Cache Creek Road has been graded and brushed and culverts have been replaced. DOF is trying to build roads that endure in an area where it is hard to find rock. The Standard Creek Road repair is 50% designed; work will repair half a dozen sites that washed out in 2014 storms.
- DOF received preliminary approval for an Alaska Sustainable Salmon Fund grant to replace two culverts on state land in the Tyonek area that were identified in the road condition surveys. The Fund originally denied the grant due to concerns of northern pike invasion. DOF worked with ADF&G to determine that pike wouldn't infiltrate due to the gradients.
- A Zero Lake Road maintenance contract is out to bid.

Sustainability certification. Kleinhenz: Sealaska is interested in having DNR certify that Native land harvesting is sustainable. The certification could be similar to the form DOF uses to provide letters documenting lawful procurement. This would be an alternative to other third party certification systems. Private owners could ask for State review of their harvest plan. This would provide assurance to shareholders, landowners, the general public, customers, foreign governments, and conservation groups. It could also facilitate sale of carbon sequestration credits under the California cap-and-trade system, and sale of ecosystem services credits.

Sealaska exports timber to the Lower 48 and Asia. Customers are concerned with whether logging is legal; they are less interested in sustainability certification. Getting a premium from sustainability certification is not real at this time.

Third-party certification systems include the Forest Stewardship Council (FSC), Sustainable Forestry Initiative, Canadian Standards Associate Sustainable Forest Management System (Canada), and American Tree Farm System Certification. The first two go beyond sustainable timber management, and the extensive rules require relinquishment of some management control. None of the systems are set up to handle old growth harvesting. The third-party systems are costly.

DOF is a natural fit because sustainability is embedded in the Alaska Constitution and FRPA, and other state laws on state lands. DOF has the necessary expertise to make this determination, determines sustainability on state land, approves Forest Stewardship Plans on private lands, and issues Certificates of Lawful Procurement.

No FRPA amendment is needed. Current Forest Stewardship plans could be expanded to include more information on harvest, inventory, and growth provided by landowners. DOF would do a comprehensive review of the plan and annual reports on harvest rates.

Herzog: Is the state considered enough of a "third-party" to satisfy public opinion? Nichols: People that demand certification have bought into FSC. The Lawful Procurement certificate is sufficient for legality rather than sustainability. The entities asking for this don't really know what they're asking for. How is sustainability defined: annual, decadal, or a rotational basis? Kleinhenz: Oregon and Washington are now doing this and it is well-enough accepted to allow entry into new markets. Start with the state definitions, which are a decadal, rolling average. That definition wouldn't work for some village corporations – that would require a different track. The existing state system works in Alaska. Vinsel: Contact the Alaska Seafood

Marketing Institute (ASMI) regarding the Marine Stewardship Council (MSC) certification of Alaska fisheries. ASMI developed their own program in a separate wing of the Institute. It has developed credibility over time and is getting more use. Alaska is using both MSC and the ASMI system. ASMI went back to the International Organization for Standardization (ISO) standards to side-step the social requirements. We don't know yet whether the public will buy it.

Mental health support letter to Governor. Slenkamp handed out a draft based on a prior Board letter to Governor Parnell plus information on the transition to young growth decision. We need to include an update on the TAC recommendation and plan decision. The letter needs to include assurance that state decisions are timely given the tight time frames. Nichols: Emphasize that the Governor needs to do everything possible to support this exchange. Maisch: Explain more fully why the exchange is important to the transition to young growth. Slenkamp: The MHT has a mandate to generate revenue; in the absence of the exchange they will have to generate revenue from the existing MHT lands.

Cronin moved and Stark seconded a motion to send a letter to the Governor supporting the MHT-USFS land exchange that includes the following points.

- History of exchange
- The need to expand and diversify the land base for timber management
- Board support for the exchange
- Benefits for community watersheds and viewsheds
- The MHT mandate to generate revenue
- Contribution to a successful transition to young-growth management
- Reference to the Sec. Vilsack letter

The motion passed unanimously. Slenkamp and Freeman will work on the draft and circulate it to the Board for final approval.

Wrap-up

Next meeting: March 1-2, 2016 in Juneau.

Agenda items:

- Sustainability certification
- Budgets
- Legislation and regulations re negotiated sales; 2016 proposals
- Region II-III review report
- SE forest management issues
- ESA issues
- Wood energy
- DPOs overview – process and contents
- FRPA training

Adjourned: 6:15 pm

Board comments.

Putman and Kleinhenz: Appreciated the chance to participate.

McLarnon and Stark: It is good to meet with the Board in person. Nichols and Herzog: If we need to save money, it is better to do long one-day meetings than teleconferences.

Herzog: I learned a lot.

Cronin: Presentations were good.

Vinsel: Appreciated the mitigation presentation and the S&TC organization – this process is a good model. Take economics into account in Implementation Group. We need to adhere to the science and have practical standards.

Attendees

- Tim Dabney, DOF, (teleconf.)
- Clare Doig, speaker
- Jim Durst, ADF&G-Habitat (speaker)
- Marty Freeman, DOF, speaker
- Jessica Guritz, Fairbanks SWCD
- Michelle Hale, DEC, speaker
- Glenn Juday, UAF
- Patrick Kelly, UAF-Land Mgmt.
- Deborah Koons, FNSB-Land Mgmt.
- Tom Lenhart, AGO, speaker (teleconf.)
- Sara Longan, DNR-OPMP, speaker
- Todd Nichols, ADF&G-Habitat
- Devany Plentovich, AEA, speaker
- Jim Schwarber, DOF, speaker, (teleconf.)
- Paul Slenkamp, MHTLO, speaker
- Jim Smith, DOF-Forest Stewardship
- Ed Soto, DOF, speaker
- Frank Woods BBNA

Handouts

- Agenda
- Public notice
- Draft Minutes July 28-29, 2015 Board of Forestry meeting
- Minutes S&TC meetings
 - #8 – July 23, 2015 (final)
 - #9 – September 8, 2015 (final)
 - #10 – September 24, 2015 (final)
 - #11 – October 24, 2015 (draft)
- Chart of reforestation S&TC findings and recommendations
- Summaries of reforestation bibliography sections
- Petition to list on an emergency basis the Alexander Archipelago Wolf (*Canis lupus ligoni*) as threatened or endangered under the Endangered Species Act
- USFWS response to emergency petition – Letter from USFWS to Greenpeace et al.
- Forest practices funding in states with regulatory forest practices programs (chart)
- DOF Total FRPA funding by source FY94-FY16, adjusted for inflation using Alaska CPI index (chart)
- Rough draft of potential reforestation regulation changes
- Proposed regulation changes in 11 AAC 71 (timber and material sales) that affect forestry sections
- 2015 Alaska Biomass Tour, Oct. 5-7 or 8-10, Anchorage to Fairbanks.(folder of briefing materials)