

**Forest Resource Trust Advisory Committee**  
**Meeting Minutes**  
**January 24, 2007**

Members Present:

Mike Atkinson, Ken Everett, Rick Fletcher, Mike Haasken, Mike Heath, Jim Johnson, Tom Stoops, and Sara Vickerman.

Members absent:

John Breese, Jack Carter, Matt Delaney, Douglass Fitting, Patrik Norris, and Ilene Waldorf.

ODF staff present:

Keith Baldwin, Bernie Bochsler, Jim Cathcart, Peter Daugherty, Bob Johnson, Linda Price, Steve Vaught, and Bob Young.

**Agenda Items:**

1. Call to Order / Introductions / Welcome Attending Public
2. Review / Approval of November 6, 2006 Meeting Minutes
3. January 3<sup>rd</sup> Board Decision – Adopted Amended Rules for Stand Establishment Program
  - Summary / Effective Date
  - Changes to Stand Establishment Program Contract Template
    - Discussion – Affirm Meaning of Final Harvest
    - Issue – Adjusting Actual Costs in the Event of Declared Catastrophe to Project
    - Review/Discussion – Springing Lien Concept (Is this a standard contract element?)
4. Draft Revised Contract Language for Retaining Rights to Carbon Offsets
5. Update / Legislative Strategy – House Bill 2293 (Forest Resource Trust Legislation)
6. Progress Report – Stand Establishment Program (Sign-Ups, Projects in Pipeline, Free-to-Grow Certifications)
7. Member Roundtable – Announcements / Information Sharing
8. Other
9. Next Meeting

**Meeting:**

1. **Call to Order / Introductions / Welcome Attending Public:** Jim Johnson acting for Pat Norris, Chairman, called to order the meeting of the Forest Resource Trust Advisory Committee at 10:00 a.m. on January 24, 2007 in the Oregon Department of Forestry's Santiam Room located in Building D, 2600 State Street, Salem, Oregon. Introductions made included Peter Daugherty, the new Director of the Private Forests Program and Jim Johnson, new member of this committee. There were no members of the public present.
2. **Review / Approval of November 6, 2006 Meeting Minutes:** There were no comments or corrections to the November 6 meeting minutes.

3. **January 3<sup>rd</sup> Board Decision – Adopted Amended Rules for Stand Establishment**

**Program:** Jim Cathcart reported that the Board of Forestry adopted the amended rules for the Trust's stand establishment program. The amended rules have been filed with the Secretary of State and went into effect January 11, 2007. Jim gave the following background information about the Trust program and the amended rules:

- The Klamath Cogeneration Plant (KCP) donated funds in 1999 to the Trust in order to receive carbon offsets from Trust projects for the KCP's Energy Site Certification.
- The Trust program has had performance issues. To address those and other issues concerning the Trust program, this Advisory Committee was reconvened in 2006.
- Rule changes have been made and statute changes have been recommended in House Bill 2293 to reduce the program's complexity, to attract more landowners and to make the rules more consistent with the statutes.
- The amendments to the rules include: removal of the expected volume and growout percentage rate; no time limit to the buyout option, it is available the entire length of the contract; the interest rate is 4% simple interest; landowner payments will be credited to principal first to reduce financial burden on owners; use of the lien is now optional; and owners with up to 15,000 low site lands are eligible for the program.
- Jim met recently with a Department of Justice attorney Randy Jordan to review the amended rules and to discuss contract changes needed as a result of the rule changes. Changes to the contract were reviewed and discussed by the committee and some of the comments and questions included:
  - (a) Is there an official reporting requirement for the program? The original Forest Resource Trust statute calls for a biennial report. The agency has interpreted this as a one-time responsibility. The report was produced by Mater Engineering in 1995. No subsequent biennial reports to the legislature have been produced. There is a requirement to report to the KCP concerning use of their funds and accruing of carbon offsets. Despite the fact that the Trust has not met the expectations of its agreement with KCP, the KCP has agreed to give the Trust more time to make program changes in order to improve its chances of meeting performance goals.
  - (b) With the Forest Practices Act (FPA), aren't underproducing lands diminishing? No, even with incentive programs including the Trust, the Reforestation tax credit, federal cost share programs etc. there remain numerous acres of underproducing lands eligible for conversion. The Trust attracts owners who for varying reasons are not interested or eligible for the other incentive programs.
  - (c) There are different goals for different owners; few owners of small parcels are interested in maximizing timber production, while industrial owners are most interested in maximizing timber production and monetary profits. Many owners of small parcels value conservation, wildlife and aesthetics more than timber production. Some owners of small parcels are interested in converting to forestland or conservation land for the property tax benefits. ODF's goal is to support owners meet their goals for their land.
- The term "final harvest" in the contract was discussed:
  - (a) It is tied to the FPA with harvest types 1-3 defined in the statutes. Any other type of harvest is considered a partial harvest.

- (b) It is unclear if part of the project acres is harvested whether full repayment of Trust monies by the landowner is due. Literally taken, the newly adopted rules specify that if any portion of the trust project area is harvested as a Type 1, 2 or 3 harvest, full repayment of the entire financial liability (even that liability ascribed to unharvested acres) is due for payment.
- (c) In discussion with Randy Jordan, Jim said we need to ask “What was the intent of this committee” when rule changes were recommended?
- (d) Jim asked the committee if it intended for partial harvest to trigger a partial (prorated) payment. The committee agreed with this intent.
- The next aspect of the new rules discussed was adjusting actual costs in the event of a Trust project being declared a catastrophe.
  - (a) Is there salvage value sufficient to repay Trust monies?
  - (b) Catastrophe is defined in OAR 629-022-0380 as being “...a forest stand incapable of producing harvest revenues...” What if the owner chooses not to harvest? Should the owner be forced to harvest to repay funds?
  - (c) What if the catastrophe (e.g. Insect infestation) resulted from owner choosing not to do a PCT? Would this fit the definition of a catastrophe since the practice (PCT) was under the control of the owner. Tom Stoops said “beyond owner’s control” should be defined in the rules. As it is now it is very onerous. The Energy Siting Council has this problem also. Jim Cathcart said the Trust contract does not require the owner to harvest and he does not think it should require owner to be forced to do a best management practice (BMP) such as a precommercial thinning. Once the project is certified as free to grow, the Trust will recommend owners get a management plan to meet their objectives. If owner has a written management plan, it should be considered when a catastrophe is being determined.
  - (d) The Trust does have responsibility to the KCP to encourage Trust projects be managed as healthy forests in order to maximize carbon credits.
  - (e) The committee agreed that it needs to develop guidance on this issue.
  - (f) The rules do not require costs to be adjusted when there is a catastrophe. If the owner does not want to harvest to repay costs, the costs remain. If owner chooses to harvest and there is sufficient salvage value to repay costs, there is no catastrophe. Instead it would be considered an unplanned partial harvest. Either way, the committee agreed that it should be the owner’s choice to harvest or not.
  - (g) The Trust should not force harvest if the owner does not want to. There are other values (besides timber values) such as wildlife that benefits from catastrophic events such as blowdown and fire. The Trust assumes the risk of catastrophe and should not force owner to reforest.
  - (h) The Trust should have compassion for the forest loss and not force harvest and not force repayment of costs by refusing to write-off the actual trust costs plus interest if the landowner chooses not to harvest.
  - (i) Randy Jordan said when rules are unclear, the department can clarify intent in the contact and he recommended if the owner chooses not to harvest, costs are not adjusted. If owner chooses to harvest, costs must be repaid just as if it was an unplanned partial harvest.

- (j) How are carbon offsets credited to KCP affected when there is a catastrophe? Offsets should be adjusted. The Trust could encourage salvage harvest to protect carbon offsets given to KCP.
  - (k) Jim reminded the committee that the goal of the amendments to the rules was to simplify the program and the contract to attract more landowners and reforest more acres. Bob Johnson agreed with this and suggested to keep this simple, if the owner harvests they pay part to Trust and if they don't harvest they don't repay costs. The Trust assumes this risk.
  - (l) The definition of catastrophe in rule 629-022-0380 should be amended to be consistent with what the committee decides.
  - (m) The consensus of the committee was:
    - ✓ If there is no salvage value or insufficient to repay Trust costs, the FPA rules are suspended so the lost area could come back to the Trust as a new project.
    - ✓ If there is sufficient value to repay all Trust costs, there is no catastrophe; it is considered an unintended harvest.
    - ✓ If there is enough value but insufficient to repay all costs, it is considered an unplanned partial harvest and this would trigger a 50% split of net receipts (does not include reforestation costs) between the Trust and the owner. If the owner chooses not to harvest, the actual trust costs plus interest ascribed to the area affected by the catastrophe would be written off by the Trust.
  - The “springing lien” concept was reviewed and discussed.
    - (a) The amended rules make the lien an option. Guidance is needed on how to exercise this optional use of the lien. The option discussed previous by the Committee is the use of a springing lien - the lien document is drafted, but will not be signed or recorded unless there is a breach of contract see section. If there is a need to use the lien, the actual costs plus interest will be added to the document and it would be signed by the State Forester or successors thereof (wording suggested by Randy Jordan).
    - (b) A breach is when the owner failed to manage the forest after it was certified as Free to Grow by the Trust or when the owner failed to repay costs due after harvest.
    - (c) The committee agreed that this is how the lien would be used now. This is consistent with what Randy Jordan and Jim discussed.
4. **Draft Revised Contract Language for Retaining Rights to Carbon Offsets:** Next the committee reviewed section 6 of the contract and discussed draft revised contract language for retaining rights to carbon offsets.
- Currently when an owner exercises the buyout option, carbon credits accruing to the forest subsequent to the time of the buyout remain with the owner.
  - For existing contracts, the Trust only has the rights to any carbon credits accruing to the forest during the life of the contract.
  - The contract, section 6 (f) was added in accordance with rule amendments to address the transfer of carbon credits to the Trust after the contract ends. Carbon offsets could thus be retained with the life of the forest instead of the life of the contract. After 200 years the contract expires including this section.

- Using Jim’s stock-flow accounting framework for forestation projects (which has not been formally presented to the Energy Facility Siting Council for approval), the carbon credits from Trust projects begin accruing around age 15 and the maximum amount to be credited would be reached by 30-40 years (maturing timber).
  - Carbon offsets have no value to individual landowners. They only have value to the Trust or to an energy facility (e.g. Klamath Cogeneration Plant). Changes to the rules in 2001 gave the State Forester the authority to enter into agreements with owners to buy carbon credits).
  - Will the Trust pay owners for carbon offsets if they have value in the future? Jim suggested section 6 (f) be changed to add “according to their value subject to available funds” after “carbon offsets”.
  - Owners do not have access to carbon markets. Jim Cathcart and Matt Delaney have been working on this issue of carbon offset values.
  - What do energy facilities such as KCP expect in terms of how long carbon offsets are retained? Tom Stoops suggested that:
    - (a) It should be at least 30 years which is the term of their energy siting license.
    - (b) KCP was attracted to the Forest Resource Trust because it benefits Oregon and that helps them market their siting certificate to the public.
    - (c) Additionally, developers like KCP want to know that a “qualified program” like the Trust is measurable and quantifiable. They want to know how many carbon credits they will gain to offset the carbon dioxide their facility creates to gain approval for licensing by the Department of Energy Siting Council.
  - The committee agreed to keep sections 6 (e) and (f) changes as presented for a period of 100 years. Owners get low interest funds in exchange for any carbon credits generated by their forests.
  - The possibility of making the transfer of carbon credits part of the Reforestation tax credit program was mentioned.
5. **Progress Report – Stand Establishment Program:** Jim Cathcart reported on new application sign-ups, pending contracts and free-to-grow certifications of existing contracts.
- Ready to sign-up – 12 acres, Jackson County
  - Qualified – Moving forward with project plan development
    - (a) 20 acres – Yamhill County
    - (b) 25 acres – Tillamook County
  - Qualified – On Hold
    - (a) 20 acres – Tillamook County – Too costly, need other \$\$\$ to leverage
    - (b) 35 acres – Jackson County – Expansion of existing project with issues
    - (c) 30 acres – Curry County – Legal / access issues need resolution first.
  - Incoming – In the process of being qualified
    - (a) 35 acres – Lane County
    - (b) 10 acres – Lane County

- (c) 66 acres – Curry County
- (d) 60 acres – Curry County
- Newspaper article in Eugene about program changes and an article in Clackamas County Tree School have generated quite a bit of interest.
- Free-to-grow certifications for @103 acres have been processed (83 acres are KCP projects) while another 44 acres surveyed did not meet the minimum standards.
- Need new program brochure to incorporate amended rules requirements and standards and perhaps a revised application form (make it simpler).
- Stewardship Foresters need training and revised guidance before they tell landowners about the revised program.
- Need to use more KCP funds to plant more acres to forest before we seek out new donors in order to sell them on the program. Jim estimates there is @ \$700,000 left for @ 700 more acres.

**6. Update/Legislative Strategy – House Bill 2293 (Forest Resource Trust Legislation)**

- Jim Cathcart gave a brief summary of the bill which expands the Forest Resource Trust beyond the stand establishment program by:
  - (a) Adding a cost share program providing for practices besides stand establishment similar to federal cost share programs administered by ODF; and
  - (b) Providing a placeholder for an environmental services program which would pay landowners (including family forestland owners and qualified nonfederal owners such as metropolitan districts) for providing certain environmental services to society.
  - (c) Converting the Stand Establishment Program into a Simple Loan Program by allowing the inclusion of other eligible practices besides the existing stand establishment loan program.
  - (d) The bill does not include funding for the additional programs. Funding for those was cut from the department’s budget. Other possible sources of funds were discussed including lottery funds, utility fees and OWEB grants etc.
- Committee members were asked to read the bill before its first hearing next Tuesday, January 30 and also encouraged to attend the hearing to support it along with ODF. It is expected that at the hearing a workgroup will be appointed. AC members will have opportunities to testify at workgroup meetings later.
- Sara Vickerman distributed copies of another bill HB 2114 related to stewardship agreements. This bill was developed by Defenders of Wildlife, Department of Forestry and Department of Agriculture and some of it ties in with the Trust’s bill.
  - (a) Sara asked this committee to review this bill and to combine testimony for it with testimony for HB 2293.
  - (b) Sara recommends revising Section 6 of HB 2293 bill so that ODF is not the broker for carbon credits. Accounting of carbon credits needs to be done in coordination with other State agencies to avoid confusion and simplify the program for landowners.
  - (c) Defenders of Wildlife will support HB 2293 at the hearing and will actively look for funding for the environmental services program.

- Jim is preparing the testimony for ODF and will send to others who are interested for review. Rick, Tom and Sara want to review it.

7. **Member Roundtable – Announcements / Information Sharing**

- Sara, Steve and Jim Cathcart attended a workshop on Ecosystems and Banking last week. They all found the information to be very helpful.
- Tom said that Department of Energy has a bill on biomass which discourages burning coal as fuel. Coal plants are being rejected by PUC. He related that to carbon, in that we consume more than we conserve and carbon dioxide is not likely to have a cap.
- Jim reported that a television station in Klamath Falls is featuring this meeting tonight and will be interviewing him after today's meeting. Tom added that there is opposition to the energy facility in Klamath Falls area.
- Also, Jim will be participating in a forest carbon and climate change conference at OSU on February 13 and 14. He and Matt Delaney are authors of the carbon accounting chapter in a book published by Oregon Forest Resources Institute
- Rick mentioned OSWA meetings on April 27 and 28 including a symposium "Ties to the Land" which includes some very good material on the subject of transfer of forestland to the next generation.
- Rick also told the group about County websites that now have GIS information which can be used to develop management plans.
  - (a) OSU will offer workshops and ODF can give owners copies of data and maps to take to consultants to develop plans.
  - (b) Benton County has a county-wide wildlife habitation plan which allows some development while protecting wildlife.
  - (c) Thirty families have a voluntary plan to manage for oak savannah. This is the first voluntary landscape plan, a new way of doing things.
  - (d) Benton County is hosting the OSWA symposium and is giving a presentation on this landscape plan.

8. **Next Meeting:** Wednesday, April 4 from 10-3, here at Salem Headquarters, Bldg. D, Santiam Room. Lunch will be provided. Linda will prepare the minutes and send them to the committee with a reminder about the next meeting.