
Minutes

Board of Natural Resources Meeting

August 18, 2015

Natural Resources Building, Olympia, Washington

BOARD MEMBERS PRESENT

The Honorable Peter Goldmark, Washington State Commissioner of Public Lands

The Honorable Jim McEntire, Commissioner, Clallam County

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

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

The Honorable Randy Dorn, Superintendent of Public Instruction

BOARD MEMBERS PRESENT

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

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 was a quorum for the meeting.
4

5 SAFETY REVIEW

6 Ms. Gillum 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 July 7, 2015 Regular Board of Natural
11 Resources Meeting.
12

13 MOTION: Superintendent Dorn moved to approve the minutes.
14

15 SECOND: Director DeLuca seconded the motion.
16

17 ACTION: The motion was approved unanimously.
18

19 PUBLIC COMMENTS FOR GEODUCK DIVER SAFETY RULE (ACTION ITEMS)

20 Jeff Dickinson, representing Squaxin Island Tribe, stated he has been with the Tribe for 29 years
21 – since the development the geoduck fishery. He emphasized the hazards of commercial diving
22 in hyperbaric conditions and that the Squaxin Tribe requires annual dive physicals as part of its
23 moral obligation to ensure dive safety.

1 Renee, representing West Coast Seafood Association (8 companies), stated the association is
2 concerned that (1) the safety requirements in the current form are not adequate; and (2) limited
3 licensing threatens business sustainability. She emphasized that the number of available divers is
4 significantly lower than the 77 license limit. Effectively, approximately only 34 of the licensed
5 divers regularly participate in harvest diving. She highlighted that annual physical examinations
6 should be required to minimize the risks associated with the inherently hazardous profession and
7 asked the board to consider its decision in the interest of safety.

8
9 Jason Li, representing Grayzone Seafood and Trade, LLC, reiterated his support for an annual
10 physical exam and drug testing, and hopes the Board take the concerns of his previously
11 submitted letter into consideration. He closed by stating if the Board approves the rules in the
12 current form, they should reconsider the decision in a few months.

13
14 Robert Mead and Gordon Baxter, representing the Washington Harvesters Association,
15 emphasized their support of the amended rule proposal and thanked DNR staff for their work to
16 address diver safety.

17
18 Shirley Wong, representing Sunrise Marine, stated she has been a geoduck track holder since
19 1989. She stated that she previously submitted written comments to the Board on March 14,
20 2015. She emphasized that limited licensing is being used to manipulate harvest fees and could
21 jeopardize the sustainability of state revenue. She closed by asking DNR to amend the proposed
22 rule and look into the impact of the limited entry fishery on revenue.

23 24 **GEODUCK DIVER SAFETY RULE (ACTION ITEMS)**

25 Megan Duffy, Deputy Supervisor, Aquatics and Geology

26
27 Ms. Duffy presented the legislative background and timeline for the geoduck diver safety
28 program rule making process. Although Second Substitute House Bill 1764 included provisions
29 related to (1) limited licenses; (2) formation of the geoduck harvest safety committee, and (3)
30 establishing a geoduck diver safety program, Ms. Duffy emphasized that the scope of today's
31 presentation is limited to the establishment of a safety program. The rule-making process was
32 initiated in February 2014 and staff has went through a number of iterations and public meetings
33 to arrive at the current proposal. DNR convened the geoduck harvest safety committee in 2013.
34 The committee reached consensus agreement on recommendations for (1) CPR/first aid
35 certification; (2) emergency oxygen administration certification; (3) WA State Boater Education
36 Card; and (4) an annual safety refresher. The committee was split on the recommendation for an
37 annual hyperbaric physical. DNR filed an original proposal in April 2014 for a safety program
38 based on the committee recommendation, including the requirement for an annual hyperbaric
39 physical. It was met with near unanimous opposition from the diver and harvester community.
40 Two public meetings were attended by approximately 60 individuals representing divers and
41 harvesters. Ms. Duffy summarized industry concerns with the originally proposed rule.
42 Predominate concerns included that: a physical is overly stringent; there is no precedent in other
43 fisheries; temporary impairments could jeopardize a diver's career; and it undermines the
44 legislative intent to preserve existing jobs. Ms. Duffy stated that DNR revised the proposed rule
45 to remove the hyperbaric physical in response to unanimous opposition. The revised rule
46 received unanimous support from the harvesters. She also highlighted that a number of
47 purchasers expressed opposition to the revised proposal. Specifically, they felt that: industry and

1 tribal standards were more stringent; a physical, drug testing, and diver certification should be
2 included in the safety program; and a hyperbaric physical is essential to ensure the limited pool
3 of divers is fit to dive.

4 Ms. Duffy closed by requesting Board approval of Resolution 1473. She also stated that the
5 Aquatic Resources Division staff will continue to work with geoduck harvest industry
6 representatives to advance safe practices, including operational considerations.

7

8 Chair Goldmark asks the board members for questions on Ms. Duffy's proposal.

9

10 Superintendent Dorn inquired about the difference between a regular physical and hyperbaric
11 physical.

12

13 Ms. Duffy and Blain Reeves (Assistant Division Manager) explained that a hyperbaric physical
14 is completed by a physician certified in hyperbaric medicine. It focuses on ensuring an individual
15 is medically fit for conducting activities in a hyperbaric environment.

16

17 Dean Mittelhammer inquired about how the 77 license limited was derived. Since there are that
18 many on the books, does that mean there are that many active divers?

19

20 Ms. Duffy clarified that the limit was established at a level that was approximately 15-20
21 licenses above the number of licenses issued annually in recent years. She also stated that some
22 of licensed divers have additional out-of-state employment, such as seasonal commercial fishing
23 in Alaska.

24

25 Dean Mittelhammer inquired about how inactive divers get removed from the list, so that new
26 divers have an opportunity to become licensed.

27

28 Ms. Duffy clarified that a diver would relinquish his license if he/she failed to be listed on a
29 DNR geoduck harvest plan of operations or failed to complete one of the safety requirements of
30 the diver safety program, once effective.

31

32 Chair Goldmark made a note that it was pointed out in testimony, that this would be the only
33 fishery which requires a hyperbaric exam.

34

35 Director DeLuca asked how this new rule would affect the opportunity of others coming into the
36 industry to obtain a license.

37

38 Ms. Duffy responded by emphasizing that the current requirements were only put into effect last
39 year, so it is hard to tell at this point.

40

41 Director DeLuca asked about the recent increase in the number of available licenses.

42

43 Ms. Duffy replied that there was generally 50 to 60 licenses issued in a given year. However, all
44 77 licenses have been issued in the first year of limited licensing.

45

1 Commissioner McEntire commented that there are a number of existing regulations that apply to
2 commercial fishing, including OSHA and the U.S. Coast Guard. He stated that he would support
3 the passage of Resolution #1473, provided staff reports back to the Board in 18 months on the
4 effectiveness of the safety program.

5
6 Ms. Duffy clarified that the existing statute provides DNR authority to periodically review,
7 evaluate, and propose amendments to the safety program as needed. Ongoing quarterly safety
8 committee meetings will help evaluate the success and shortcomings of the safety program.

9
10 Chair Goldmark called for a motion to approved Resolution No. 1473.

11
12 **MOTION:** Commissioner McEntire moved to approve the motion.

13
14 **SECOND:** Director DeLuca seconded the motion.

15
16 **ACTION:** The motion was approved unanimously.

17
18 **PUBLIC COMMENTS FOR ARREARAGE (ACTION ITEMS)**

19 Russ Pfeiffer-Hoyt, representing WSSDA, states his concern for option 3, of Mr. Blum's
20 presentation, saying it would work against the trust rolling over the arrearage into the next
21 decade.

22
23 Joe Monks, representing Washington Hardwoods Commission, states his support for, and
24 commends DNR on its use of environmentally sound timber harvests, as well as training,
25 recognition and development of the economic resources by DNR field staff.

26
27 Will Miller, Timber Manager for Bues Timber & Sales Co., states Bues struggles to meet sales
28 due to DNR not meeting their allowable cut. He suggests DNR needs to protect the infrastructure
29 that exists or there will be more closures.

30
31 Phillip Kitchel comments his condolences to the people in Eastern WA who have lost their
32 homes and property to the fires. He compliments the DNR and all their crews and staff in
33 support of fire suppression efforts. He states his concern for the arrearage proposals – suggesting
34 it needs significant work.

35
36 Matt Cominsky, American Forest Resource Council, states his concern that presentations on the
37 Board of Natural Resources website change without fair notice to the public. Mr. Cominsky
38 states is concern in the narrow list of options the in the proposal, and offers alternatives for
39 DNR's consideration; Mr. Cominsky closes by stating AFRC stands ready to assist in any way to
40 meet fiduciary and ecological responsibilities.

41
42 Rod Fleck, City Attorney for Forks, WA, states his concern for lack of notification to the public
43 when changes are made to the web posted materials. Mr. Fleck spoke about his concerns with the
44 proposed plan on arrearage; he urged the board to have discussions as to why volume was not
45 being met.

1 Ann Forest-Burns, Vice President of American Forest Resource Council, states she feels this
2 issue is of substantial importance, she spoke to her support of keeping SEPA analysis as two
3 separate processes.
4

5 Wyatt Golding, with the Washington Forest Law Center, representing the Olympic Forest
6 Coalition, the Sierra Club, and Seattle Audubon, spoke about his concern that arrearage was
7 from modeling error, not negligence of logging choices, he closes by saying the board does not
8 have a fiduciary responsibility to the mills, it has one to the trust and its beneficiaries.
9

10 **ARREARAGE (ACTION ITEMS)**

11 Kyle Blum, Deputy Supervisor for State Uplands
12

13 Mr. Blum presented the Board with three proposed decisions, Arrearage, Long-term HCP for
14 Marbled Murrelets, and Sustainable Harvest Calculation. Mr. Blum presents the Arrearage
15 decision, stating steps DNR will take if an arrearage does exist – including sale of the arrearage,
16 in addition to the sustainable harvest level, if not in the best interest of the trust.
17

18 Chair Goldmark comments this does not count against the sustainable harvest.
19

20 Mr. Blum replies, yes that is correct.
21

22 Mr. Blum continues by updating the Board by highlighting causes of the Arrearage the
23 Department is faced with, citing arrearage numbers from land transactions, Marbled Murrelet
24 Interim Habitat Conservations Strategy and Riparian areas. He then presented the Board with
25 topics recently discussed by the Arrearage Subcommittee, and its recommendations. One of the
26 main topics is SEPA analysis choices, will it be separate or together - arrearage ahead of
27 sustainable harvest and Marbled Murrelett?
28

29 Mr. Blum requests direction form the board of whether to do analysis separate or on a combine
30 basis. Mr. Blum continues by stating you cannot make a decision on one without voting in the
31 other two issues and taking into consideration the other two issues.
32

33 Commissioner McEntire comments on his SEPA education he has gained from the committee.
34 He continues by stating these topics of arrearage, habitat and conservation plan are something
35 near to him. He states, simultaneity is key, we need to make sure we have checked all the boxes
36 both from a trustee standpoint, and legal standpoint.
37

38 Director DeLuca states he spent a lot of time deliberating on these issue - SEPA, historical
39 documents, last EIS and how we could use a supplemental. Inability to take the issues separately
40 drove the point to have the Sustainable Harvest Calculation and EIS, made the most sense.
41

42 Dean Mittelhammer comments simultaneity absolute necessity. Economically we cannot do it
43 without doing it simultaneously. It will be conceptually flawed on the outset if not done so.
44

45 Chair Goldmark notes the board seems to agree on the simultaneously.
46

1 Mr. Blum continues that based on discussions from the Subcommittee, there are three options for
2 arrearage to present to the Board. The first option is arrearage sold over the next 5 years based
3 upon a proportional distribution amongst the sustainable harvest units in arears. Option two is
4 arrearage sold over the next 10 years based upon a proportional distribution amongst the
5 sustainable harvest units in arrears and a proportion to ecologically catchup using alternative
6 silvicultural operations, and lastly, option 3 would be to incorporate arrearage into the starting
7 forest inventory and schedule harvests over the planning horizon (over the next 100 years).

8
9 Mr. Blum continues by stating the next steps would be to present a final report to the Board.

10
11 Chair Goldmark asks, is this a decision you would like the board to make in the future? Making
12 the assumption that the volume is still accessible – is that correct?

13
14 Mr. Blum replies, yes, absolutely.

15
16 Chair Goldmark asks, to achieve a sustainable harvest and there will be a 462 mmbf added onto
17 the inventory?

18
19 Mr. Blum replies, yes

20
21 Chair Goldmark comments to the Board, we are not expecting a decision today – we want to start
22 a conversation with you on these specific options.

23
24 Director DeLuca agrees with Chair Goldmark and comments that what got us into arrearage in
25 the first place was riparian setbacks, Marbled Murrelet, and TLT, moving into sustainable
26 harvest decade.

27
28 Commissioner McEntire comments that OESF is an unzoned forest that contains all different
29 trusts, the question is how do we do forestry better, with making adaptive management better
30 over time? If there is an arrearage and we have to do something about it, option 1 and 2, to me,
31 are the options. He continues by asking, what is the time frame in working the arrearage off? It
32 could be less than five years, but not more?

33
34 Commissioner McEntire highlights a discussion in the subcommittee on what number to put on
35 the arrearage. He continues by commenting what number we are going to have on the arrearage,
36 is a discussion we need to have as a board.

37
38 Mr. Blum asks, is there any feedback from the board on the options? Which options am I going
39 to analyze?

40
41 Commissioner McEntire states, I would not be in favor of option 3. In my language it is simply
42 rolling the arrearage forward. I think it needs to be addressed separately.

43
44 Chair Goldmark responds by asking, would you be comfortable with 5 years, as a period of time?

45
46 Commissioner McEntire replies, yes.

1 Superintendent Dorn asks Commissioner McEntire, the sustainable harvest has not been met, so
2 is that why you do not like option 3?

3
4 Mr. Blum asks, am I clear you do not want us to analyze this option? Environmental or
5 economical?

6
7 Commissioner McEntire states, any analytical effort has to be compared to a baseline
8 description. We need a description to compare other options to – ultimately I will not be in favor
9 of option 3.

10
11 Chair Goldmark replies, I would make the proposal that we need to analyze all three. We may be
12 derelict in our duty to the trusts if we don't.

13
14 Dean Mittelhammer comments, I agree, the solutions that gives you the least optimal is generally
15 the least strained. It may be in the best interest of the trust to sell none of it. We have to look at
16 all options to fulfill out fiduciary responsibility of the trust.

17
18 Superintendent Dorn adds, option 3 seems to be the “steady-eddy”.

19
20 Chair Goldmark replies, during these last 20 years, this board has had some issues around
21 species and there have been very intractable issues we have been faced with. This is an
22 extremely difficult management period.

23
24 Superintendent Dorn comments, these are all steps in making the state a great place to live and
25 work. Yet, not everyone has the capability to interrupt SEPA.

26
27 Mr. Blum thanks Commissioner McEntire and Director DeLuca for being part of the
28 Subcommittee.

29
30 Chair Goldmark adds his thanks to Commissioner McEntire and Director DeLuca for their work
31 on the Subcommittee.

32
33 **PUBLIC COMMENT FOR MANAGEMENT FEE**

34 Russ Pfeiffer-Hoyt, representing WSSDA, comments that he agrees with some increase of
35 management fees.

36
37 Rod Fleck, City Attorney for Forks, WA, states he support the fee increase as temporary. He
38 suggests if it is approved, the board should ask for periodical status updates.

39
40 Cindy Kelly, representing the Port Angeles School Board, states her support for the decision to
41 increase the management fee increase.

42
43 **MANAGEMENT FEE PROPOSAL (ACTION ITEMS)**

44 Kyle Blum, Deputy Supervisor for State Uplands

45
46 Mr. Blum presented the Board with a proposal to increase DNR's Resource Management Cost
47 Account (RMCA) management fees from 29% to 31%. Mr. Blum discussed the background on

1 management fees for RMCA funded management activities, highlighting the history of the
2 changing costs. He explained the various land management activities funded by RMCA funds,
3 and how much percentages are returned to the different trusts.
4

5 Chair Goldmark asks Mr. Blum to brief the board on the decision just passed by the legislators
6 influencing the reasons for this request.
7

8 Mr. Blum responds by stating the Cost of Living Adjustments (COLAs) decision that was passed
9 encompasses rising costs on health care, pensions, and COLAs, all these total approximately \$9
10 million in additional costs.
11

12 Commissioner McEntire comments that the assumed rate of return over year of pension funds
13 and trust funds - the decision was an unpleasant surprise to the county workforce as well.
14

15 Mr. Blum continues by discussing the acreage of DNR managed state trust lands, showing that
16 RMCA lands account for the largest amount - approximately 76% of lands managed by DNR are
17 RMCA lands. Due to the recent COLAs and rise in pension and health care costs, activities
18 funded by the RMCA account are facing a \$9 million deficit. DNR, due to stable carryforward
19 levels, has been able to account for just short of half of the \$9 million increase - covering
20 approximately \$4.8 million for FY 16-17.
21

22 Mr. Blum explains in order to cover the costs of the cost of living adjustments, and to avoid
23 widespread layoffs of valuable, experienced employees, it is being proposed to increase the
24 management fee percentage for RMCA lands.
25

26 Commissioner McEntire asks, is that a biennial or permanent fee increase?
27

28 Mr. Kyle responds, biennial, the fees are based on a budget cycle basis.
29

30 Commissioner McEntire comments, the \$9 million was not funded for DNR as it was for other
31 state entities.
32

33 Mr. Blum continues to discuss that with the new legislative authority, came direction to decrease
34 working capital reserves.
35

36 Chair Goldmark comments, to add emphasis, looking at chart we remember back to when we
37 had to lay off 200 staff due to lack of funding for management activities.
38

39 Mr. Blum adds, due to DNR carrying such a stable carryforward balance, the cuts were not as
40 drastic to staff as they could have been.
41

42 Mr. Blum recommends to the Board to increase RMCA from 29% to 31%.
43

44 Mr. Blum thanked all who made comment today, on both the matters of Arrearage and the
45 RMCA fee increase.

1 Dean Mittelhammer comments, \$9 million costs are to the Department (DNR)? We are still short
2 by half due to inefficiencies, we still have not covered the cost of living? This is not a great
3 statement to the trusts.
4

5 Director DeLuca comments that due to the high turnover of employees, seasoned DNR field
6 employees are having to spend a great majority of their time continuously training new
7 inexperienced employees. The cost of living increase would help retain valuable seasoned staff,
8 in turn aid in getting timber out the door, training is time consuming and expensive.
9

10 Commissioner McEntire comments, if there are things this board can do to increase efficiencies,
11 we can make adjustments.
12

13 Commissioner McEntire continues, perhaps a management report - board check-in to see how we
14 avoid getting into an arrearage next time. A management dashboard on how are we doing with
15 adjustments, and so on. Not a management board, more like a policy board.
16

17 Chair Goldmark calls for a motion to approved Resolution No. 1472.
18

19 MOTION: Director DeLuca moved to approve the motion.
20

21 SECOND: Dean Mittelhammer seconded the motion.
22

23 ACTION: The motion was approved unanimously.
24

25 Chair Goldmark adds, it is serious, tough times for lands management. A number of times prior
26 the fees have been reduced, this increase hopefully will increase our ability to retain these
27 trained, valuable staff.
28

29 **PUBLIC COMMENTS FOR GENERAL ITEMS OF INTEREST**

30 Rod Fleck, comments to the Board when there is a discussion and decision on arrearage, there
31 needs to be notification
32

33 Phillip Kitchel, comments on OESF, questioning when there will be a management plan adopted.
34

35 Patty Wood, School Board member, Kelso WA, speaks to her appreciation to the board in
36 managing the state trust lands.
37

38 Kevin Schmetzman, comments on a Marbled Murrelete survival project will host, and invites
39 the Board to two panel events in October.
40

41 Meeting adjourned at 11:48 AM.

Approved this 1st day of September, 2015



Peter Goldmark, Washington State Commissioner of Public Lands

n/a - not in attendance

JT Austin, Designee for Governor Jay Inslee

n/a - not in attendance

Randy Dorn, Superintendent of Public Instruction



Jim McEntire, Commissioner, Clallam County

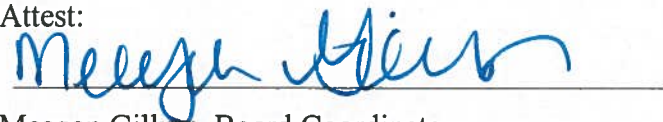
via telephone conference

Ron Mittelhammer, 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:



Meagan Gillum, Board Coordinator