

OREGON STATE BOARD OF FORESTRY

October 15, 2008 Conference Call Minutes

In accordance with the provisions of ORS 526.016, a meeting of the Oregon Board of Forestry was held via telephone conference call at the State Forester's Headquarters, 2600 State Street, Salem, Oregon. In the absence of an appointed Chair, Calvin Mukomoto agreed to facilitate the conference call and convened the meeting at 8:39 a.m.

Board Members Present via telephone port:

Calvin Mukomoto
Bill Hutchison

Larry Giustina
Barbara Craig

Peter Hayes

Absent:

Jennifer Phillippi

Present at State Forester's Headquarters:

Marvin Brown, State Forester
Jim Paul, Chief, Private Forests Division
Peter Daugherty, Deputy Chief, Private Forests
Sandy Middleton
Dan Postrel, Agency Affairs Program Director
Mary Schmelz
Kevin Weeks

Present via telephone port:

Shannon Loffelmacher, North Cascade District

Denial of Petition for Reconsideration or Rehearing Regarding Appeal of Notice of Civil Penalty Case No. 06-CN020

Peter Daugherty reviewed the Staff report and background of the case. At the June 4, 2008 Board of Forestry meeting a final order was adopted. On August 18, 2008 Mr. Ford filed a petition for reconsideration. Pursuant to OAR 137-003-0675 the Board had 60 days to issue an order granting or denying Mr. Ford's petition for rehearing, or to rehear the case or reconsider the final order.

The Private Forests staff reviewed the rules and Mr. Ford's petitions. The issues Mr. Ford raised regarding a fair hearing had been raised in the past and addressed in both past proceedings and in the June 19, 2008 final order. The Board was provided with the hearing record prior to the June 14, 2008 Board meeting and appropriately adopted the administrative judge's order as its final order. There was no basis for granting the petition to reconsider the order or rehear the case.

The Board had three options: 1) Grant Mr. Ford's petition to reconsider or rehear the case; 2) allow the 60 day period to lapse (considered a denial); 3) or adopt the draft order Denial for Reconsideration or Rehearing.

The Board did not take argument or testimony on this petition because nothing within the regulations of the Department or the Attorney General permitted oral argument. It was noted that Mr. Ford did not appear at the hearing.

The primary issues considered at this hearing were 1) whether Mr. & Mrs. Ford had a fair hearing regarding the \$500 civil penalty assessed for replanting their forestland required by law; and 2) whether the Board followed legal procedures when it adopted the final order at its June 4, 2008 meeting.

Following discussion, and with Board consensus, Cal Mukomoto ordered:

The Draft order for Denial of Petition for Reconsideration of Rehearing (Attachment 1) is adopted.

The State Forester is delegated the authority to sign the final orders on behalf of the Board.

There being no further business before the Board, Cal Mukomoto adjourned the conference call at 8:55 a.m.

Respectfully submitted,

/s/ Marvin Brown

Marvin Brown, State Forester and
Secretary to the Board

MS

Approved by the Board at its January 7, 2009 meeting.

Attachments are available on the web @
<http://egov.oregon.gov/ODF/Board> _____ October 15, 2008 Conference Call Meeting.

Attachments:

(1) Final Denial of Petition for Reconsideration or Rehearing Case 06-CN020