

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
BOARD OF NATURAL RESOURCES

RESOLUTION NO. 1591

A RESOLUTION affirming the Board of Natural Resources' (Board) authority to set policies for the Department of Natural Resources (DNR), committing to stakeholder engagement in the development of the 2025-2034 sustainable harvest calculation (2025 SHC), and providing direction to DNR staff for 2025 SHC development.

WHEREAS, three plaintiff coalitions filed litigation challenging the Board's Resolutions 1559 and 1560, approving the marbled murrelet long-term conservation strategy amending the 1997 State Lands Habitat Conservation Plan and adopting the 2015-2024 Sustainable Harvest Calculation. The beneficiary plaintiffs negotiated a Proposed Settlement Agreement that has been presented to the Board and, if approved, will dismiss all beneficiary claims in two superior courts: Skagit County Superior Court Nos. 19-2-01549-29 and 20-2-00010-29, and Thurston County Superior Court No. 20-2-01653-34.

AND WHEREAS, the third plaintiff coalition challenged the same two Board resolutions in Thurston County Superior Court No. 20-2-01051-34. After the superior court dismissed the plaintiffs' claims, the Washington Supreme Court granted direct review. On July 21, 2022, the Washington Supreme Court issued its decision affirming that the beneficiaries of DNR's management of the state trust lands are the common schools, public institutions, and counties. *Conservation Northwest, et al. v. Commissioner of Public Lands, et al.*, 514 P.3d 174 (2022). The decision also affirmed that DNR has a fiduciary duty to make the trust lands financially productive, and has discretion to decide how to manage the lands, given the perpetual nature of the trust.

AND WHEREAS, the Legislature delegated decision-making regarding policies to manage the state trust lands "to achieve the maximum effective development and use" to the Board in RCW 43.30.215(2). The Legislature also requires the Board to adopt a sustainable harvest level on a decadal basis. RCW 79.10.300(4). DNR staff have started the process to develop the 2025 SHC.

AND WHEREAS, the Board supports the intent in the Proposed Settlement Agreement to collect more and better information to meet DNR's management objectives, which include generating revenue for the trust beneficiaries and allowing compatible uses, including improving forest health, identifying forests of high conservation value, and increasing carbon sequestration and other ecosystem services. The Board recognizes that the trust beneficiaries seek predictability in revenue, and believe that can be achieved through improved information and the use of Tactical Plans for anticipated timber harvest activities.

AND WHEREAS, DNR has begun to develop a project to participate in carbon markets as an additional revenue stream for some trust beneficiaries.

BE IT RESOLVED BY THE BOARD OF NATURAL RESOURCES, DEPARTMENT OF NATURAL RESOURCES, STATE OF WASHINGTON, THAT:

SECTION 1. The Board will give full and careful consideration to the Proposed Settlement Agreement, consistent with its fiduciary duties. If the Board approves the Settlement Agreement, the Board

relinquishes none of its authority to set policy and direction for DNR's management of the state trust lands.

SECTION 2. To ensure transparency and accountability, if the Board approves the Proposed Settlement Agreement, it directs DNR staff to provide a written report to the Board summarizing any and all meetings with the Plaintiff Coalition Designated Representatives related to implementation of the Settlement Agreement. These written reports will include, but are not limited to, any reporting required by the Settlement Agreement ¶¶ A.3, B.10, C.21, and C.22.

SECTION 3. To ensure transparency and accountability, as the DNR Staff implements Second Substitute House Bill 1168 Chapter 298, Laws of 2021 (HB 1168) requirements regarding updating its forest inventory by increasing the intensity of forest sample plots on all forestlands over the next two bienniums, the Board directs staff to provide updates to the Board on technical issues and results related to forest estate modeling and forest inventory. These updates will be provided as they arise during 2025-2034 SHC development. Pursuant to HB 1168, the Technical Advisory Committee (TAC) will be involved in the design, development, and implementation of this forest inventory update. As defined under HB1168, "forest inventory" means "the collection of sample data to estimate the range of forest attributes including, but not limited to, standing volume, stored carbon, habitat attributes, age classes, tree species, and other inventory attributes, including information needed to estimate rates of tree growth and associated carbon sequestration on department lands." HB 1168 Sec. 3(4)(a)(i) and (ii).

SECTION 4. To ensure transparency for all stakeholders, if the Board approves the Proposed Settlement Agreement, any data provided to the Plaintiff Coalition Designated Representatives during the term of the Settlement Agreement will also be available to the public, upon request. DNR will provide assistance in understanding the data to any experts retained by stakeholders, upon request, consistent with the provisions in the Settlement Agreement ¶¶ B.13, B.14, and C.21.

SECTION 5. If the Board approves the Proposed Settlement Agreement, and the Plaintiff Coalition's experts present to the Board under Settlement Agreement ¶ C.22, experts retained by the plaintiff organizations in *Conservation Northwest v. Commissioner of Public Lands* shall be afforded the same opportunity to present to the Board on the same topics.

SECTION 6. Pursuant to HB 1168, the TAC will provide recommendations to the Board for regular maintenance and updates to the forest inventory on a ten-year basis. The Board will also consider input from the TAC in its decision to select the 2025-2034 SHC level, consistent with HB 1168 Section 3(4) (2021). HB 1168 Sec. 3(4)(a)(i) and (ii).

SECTION 7. Pursuant to HB 1168, prior to the determination of the 2025-2034 SHC, DNR must hire a third-party contractor to review, analyze, and advise the department's forest growth and yield modeling, specific to all types forested acres managed by DNR. Also pursuant to HB1168, the TAC must be involved in the design, review, and analysis of DNR's forest growth and yield modeling. HB 1168 Sec. 3(4)(a)(i) and (ii).

SECTION 8. Pursuant to HB 1168, prior to the determination of the 2025-2034 SHC and in the absence of any litigation, pending or in progress, against the 2015-2024 SHC, the joint legislative audit and review committee (JLARC) will oversee and conduct an independent review of the methodologies and data being utilized by DNR in the development of the 2025-2034 SHC, including the associated forest inventory, forest growth, harvest and yield data, and modeling techniques that impact harvest levels. In carrying out the review, the JLARC shall retain one or more contractors with expertise in forest inventories, forest growth and yield modeling, and operational research modeling in forest harvest scheduling to conduct the

technical review. Prior to the determination of the 2025-2034 SHC, JLARC will submit a completed independent review and report with findings and recommendations to the Board and the legislature. Upon receiving the report from JLARC required HB 1168, the Board shall determine whether modifications are necessary to the SHC prior to approving 2025-2034 SHC. HB 1168 Sec. 3(4)(a)(i) and (ii).

SECTION 9. In development of the 2025-2034 SHC, the Board directs DNR staff to follow the direction in the 2006 Policy for Sustainable Forest to utilize a comprehensive approach to review the discount rate including, but not limited to, yield rates for long-term municipal bonds and discount rates used by other public land trusts, in addition to ¶ C.25 of the Proposed Settlement Agreement, if it is approved, before making a recommendation to the Board for the discount rate to be used in the 2025-2034 SHC.

SECTION 10. The Board supports and encourages use of an adaptive, learning approach to data collection and use. The Board directs DNR staff, where funding is available, and in full compliance with HB 1168 to develop and test alternative inventory and planning approaches in addition to the Proposed Settlement Agreement’s detailed plan for inventory and comparative analysis of two alternative approaches to using the inventory in ¶ C.20, if it is approved. These additional inventory and planning approaches shall include, but are not limited to:

- a. Evaluate plot inventories at lower densities and frequencies to identify long-term cost-effective implementation of inventories. This evaluation should include exploration of the potential for, and cost of, remote-sensing technologies (including, but not limited to, LiDAR, Radar, aerial photography and satellite data) in forest inventory planning and implementation.
- b. Use available inventory data in a multi-objective optimization to explore the implications of incorporating, but not necessarily include, additional objectives into the 2025-2034 SHC or Tactical Plans. The additional objectives to be considered may include, but are not limited to: stored carbon, watershed protection, fish and wildlife habitat attributes, ecological functions and values, associated carbon sequestration, forest health, landscape structural diversity, and local community economies.
- c. Exploration and inclusion of specific, alternative harvest techniques in the 2025-2034 SHC or Tactical Plans. Alternative harvest techniques to be considered may include, but are not limited to, varying levels of tree retention and alternative thinning regimes as warranted by site conditions.

APPROVED AND ADOPTED by the Board of Natural Resources, Department of Natural Resources, State of Washington this _____ day of December, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Commissioner of Public Lands.

HILARY S. FRANZ
Commissioner of Public Lands

BILL PEACH
Clallam County Commissioner

CHRIS REYKDAL
Superintendent of Public Instruction

WENDY POWERS
Dean, College of Agricultural,
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JIM CAHILL
Senior Budget Assistant to the
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Approved as to form:



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Date: November 23, 2022