



STATE OF OUR FORESTS

**An Evaluation of Public Lands
Commissioner Goldmark's Performance**
Based on his Strategic Plan and its Guiding Principles



**WASHINGTON
ENVIRONMENTAL
COUNCIL**

2015

In Washington THE environmental statewide elected position is the Commissioner of Public Lands. This position is responsible for sustainably managing our state lands and protecting natural resources. These lands include 2.1 million acres of forests, 2.6 million acres of aquatic lands, and 1.1 million acres of grazing lands. It is the responsibility of conservation organizations, like Washington Environmental Council, to keep Washingtonians informed on how public officials are performing their duties.

A little over a year into his first term, Commissioner of Public Lands Peter Goldmark produced a strategic plan called The Goldmark Agenda. WEC worked with key staff to help develop the agenda and supported its direction. It served as a roadmap to guide the Department of Natural Resources from 2010 through 2014. While there are some areas, like aquatic lands, where the Commissioner has accomplished his goals, there are other areas where we would like to see improvement. The principles included in his agenda are:

- ⦿ Manage the state's resources sustainably
- ⦿ Make decisions in the public interest and with the public's knowledge
- ⦿ Make decisions based on sound science

Washington Environmental Council has taken a look back to see how the Commissioner has performed using his own criteria for success.

OUR ISSUE:

The extent to which a landowner's forest management practices are certified by the Forest Stewardship Council (FSC) is an excellent indicator of sustainable forest management. Under Commissioner Goldmark, there has been almost no increase in FSC certification on state lands.

Grade: ✘ FAIL

- ⦿ Of 2.1 million acres of DNR-managed state trust forests, only around 172,000 acres (or approximately 8%) have been certified by the Forest Stewardship Council.¹
- ⦿ Approximately 145,000 acres of state lands had received FSC certification before Commissioner Goldmark's administration.²
- ⦿ Under Commissioner Goldmark, FSC certification on state lands has only increased by 27,801 acres, out of a total of 2.1 million acres, or only about 1.3% of all DNR-managed state trust land.

OUR ISSUE:

Has improved management of state aquatic lands.

Grade: ✔ PASS

- ⦿ This summer the Commissioner signed a conservation easement with the United States Navy that will conserve and protect more than 4,800 acres of Hood Canal aquatic lands.³ This is a significant and positive development.
- ⦿ A draft Aquatic Lands Habitat Conservation Plan was released for comment in fall 2014. A strong aquatic lands HCP is a good idea which we support, but the current proposal needs to be strengthened to protect sensitive, threatened, and endangered species that are native to Washington State and dependent on aquatic habitat.⁴

¹ W.A. Dept. of Natural Resources, "Forest Certification for Forested State Trust Lands," http://www.dnr.wa.gov/BusinessPermits/Topics/TimberSaleAuction/Pages/lm_forest_certification.aspx, accessed Oct. 16, 2014.

² Based upon pg. 57 of the 2012 FSC Audit. http://seattletimes.com/html/localnews/2004433574_trees23m.html.

³ http://www.dnr.wa.gov/ResearchScience/News/Pages/2014_07_07_navy_nr.aspx

⁴ http://www.dnr.wa.gov/ResearchScience/Topics/AquaticHCP/Pages/aqr_aquatics_hcp.aspx

OUR ISSUE:

The state's Forest Practices Rules are intended to ensure that timber cutting is done in a manner that protects water quality, fish and wildlife, and the habitat they rely on. A key requirement of the rules is to leave a certain number of trees near fish bearing streams. With a few exceptions, private landowner compliance rates with Forest Practices Rules are unacceptably low and have not improved under Commissioner Goldmark.⁵

Grade: ● NEEDS IMPROVEMENT

- ⊙ In Western Washington, private landowner compliance with rules prohibiting excessive cuts near fish-bearing streams have not significantly improved in Commissioner Goldmark's administration. For the past five years, compliance has hovered between 61% and 66%. This level is too low. Conserving trees along fish-bearing streams and shorelines is critical for the protection of our aquatic species and their habitat.
- ⊙ In some cases, compliance rates have fallen even further under Commissioner Goldmark's watch. For instance, there has been a 13% drop in industrial landowner compliance with a rule requiring trees closest to fish-bearing streams be left standing.
- ⊙ Even for smaller-scale cuts, compliance rates have remained alarmingly low. There are different Forest Practices Rules for logging on parcels less than 20 acres.⁶ These rules allow more trees be taken closer to streams. Compliance with rules for these exempt 20-acre parcels is at 57%. While there are different rules for smaller-scale cuts, these are still important regulations in need of enforcement.

⁵ W.A. Dept. of Natural Resources, Forest Practices Division, *Compliance Monitoring Summary Report: Biennium 2006-2007*, by Leslie Lingley, David Gregory, and Alice Shelly (April 2009), http://www.dnr.wa.gov/Publications/fp_cm_biennial_report_06-07.pdf; W.A. Dept. of Natural Resources, Forest Practices Division, *Forest Practices Compliance Monitoring Report 2008/2009*, by Walt Obermeyer and Alice Shelly (January 2011), available upon request; W.A. Dept. of Natural Resources, Forest Practices Division, *Forest Practices Compliance Monitoring Report 2010/2011*, by Walt Obermeyer and Alice Shelly (April 2012), http://www.dnr.wa.gov/Publications/fp_cm_biennial_report_10-11.pdf; W.A. Dept. of Natural Resources, Forest Practices Division, *2012-2013 Biennium Forest Practices Compliance Monitoring Report*, by Walt Obermeyer, Charlene Rodgers, Carol Walters, and Alice Shelly (July 2014), http://www.dnr.wa.gov/Publications/fp_cm_final_report_2012-2013.pdf.

⁶ For a landowner who already owns less than 80 acres of forest land.

OUR ISSUE:

Under Commissioner Goldmark's leadership, DNR, for the first time in its history, took the position that state timber sales are exempt from environmental review under the State Environmental Policy Act, removing critical evaluation of environmental impacts and public notice and involvement opportunities.

Grade: ✘ FAIL

- ⦿ The State Environmental Policy Act (SEPA) is a state law that ensures consideration of the environment during decision-making by state and local agencies. When a government decision is stripped of the SEPA process, meaningful public input is lost along with an assessment of the potential environmental impacts.⁷
- ⦿ In recent litigation, DNR asserted, for the first time on public lands, that timber sales occurring on state lands are categorically exempt from SEPA requirements.⁸ Until this case, DNR consistently acknowledged that SEPA applies to timber sales on state owned lands. This unilateral reversal of position is unacceptable.⁹
- ⦿ Public land is special. DNR manages forests on public land for the public good. The public has a heightened and direct interest in this management. That is why the SEPA process is so vital during timber sales.

⁷ W.A. Dept. of Ecology, *State Environmental Policy Act Handbook*, Publication # 98-114, by Gordon White (September 2008, Updated 2013), <https://fortress.wa.gov/ecy/publications/publications/98114.pdf>.

⁸ DNR's Brief, *Olympic Forest Coalition v. WA Dept. of Nat. Resources*, No. 14-2-00055-2 (Wash. Super. Ct., 2014).

⁹ RCW 76.09.050 (1)(e); 43.21C.037(1).

COMMISSIONER GOLDMARK'S PRINCIPLE #2:

Make decisions in the public interest and with
the public's knowledge » **MIXED RESULTS**

OUR ISSUE:

During last year's legislative session, Commissioner Goldmark successfully pushed legislation that lets DNR, timber companies, and other landowners avoid liability for damage caused by wildfires that start on their forest lands, even when the fire was caused by the landowner's negligence. This legislation is short sighted and will result in the state's failure to receive full compensation when public resources are damaged by wildfires that begin on private land, creating a windfall for private landowners and a failure to protect public resources.¹⁰

Grade: ✘ FAIL

- ⊙ Passed in 2014, at Commissioner Goldmark's request, this law limits the liability of any landowner who negligently burns public forest lands to a maximum of the appraised value of the damages. However, land like forest service wilderness areas has many values not captured by appraisals. These values include: watershed protection, wildlife habitat, and high quality recreational experiences.
- ⊙ In contrast, oil companies who damage public resources have to pay the public for loss of use and for damage to ecosystem values.

OUR ISSUE:

Forest Practices Board approves more scrutiny of landslide-prone sites before timber harvests.¹¹

Grade: ✔ PASS (but more action will be needed)

- ⊙ Landslides like the one that hit Oso are lurking dangers in Washington State. It's imperative that forest practices do not further de-stabilize potentially unstable slopes that could impact public resources or threaten public safety.
- ⊙ Commissioner Goldmark took an important first step in the right direction by requiring DNR to revise its "Board Manual Guidance" for harvesting on or near glacial deep-seated landslides, and updated its forest practice application process to improve screening applications on steep unstable slopes.
- ⊙ However, the Board Manual by definition is only a "guidance" document. It is not regulatory, and therefore is not enforceable. It has yet to be seen whether Commissioner Goldmark is prepared to make key portions of the board manual enforceable by incorporating them into rule. This is much needed in areas where there is high scientific uncertainty and low confidence in the information used, such as how to locate the groundwater recharge areas feeding glacial deep-seated landslides.

¹⁰ <http://lawfilesexternal.wa.gov/biennium/2013-14/Pdf/Bills/Session%20Laws/Senate/5972-S.SL.pdf>

¹¹ <http://www.komonews.com/news/local/Tougher-logging-requirements-for-landslide-areas-282496601.html#Arrow>

**COMMISSIONER
GOLDMARK'S
PRINCIPLE #3:**

**Make decisions based on sound science »
FAIL**

OUR ISSUE:

Hasn't protected adequate habitat for threatened species, such as the Marbled Murrelet.

Grade: ✘ FAIL

- © Commissioner Goldmark has yet to protect and recover critical habitat for threatened Marbled Murrelets on state lands. This is contrary to the State's 1997 Federal Habitat Conservation Plan. He has also failed to implement the 2008 DNR Science Report regarding protecting the Marbled Murrelet in our state forests.¹²

¹²http://seattletimes.com/html/localnews/2021119646_marbledmurreletxml.html and http://www.dnr.wa.gov/Publications/lm_mamu_sci_team_report.pdf

CONCLUSION

WEC has been working to ensure sound management of Washington's forests for over 45 years. Our mandate is to educate Washingtonians about how public officials are caring for our clean water and spectacular landscapes. The public needs to know whether officials are conserving resources that are important for future generations, recreation, and our economy.

Overall we feel Commissioner Goldmark has done well managing aquatic lands, but needs to improve on forestry issues, and has yet to live up to his commitments to Washingtonians across the state. After learning about our concerns the Commissioner and his staff have expressed interest in improving his performance, now action is needed.

We look forward to working with the Commissioner and his staff to improve the management of Washington's forests and all of the benefits they provide.



**WASHINGTON
ENVIRONMENTAL
COUNCIL**

1402 Third Ave, Suite 1400
Seattle, WA 98101
Phone (206) 631-2600
Fax (206) 622-8113