

**MINUTES
ALABAMA FORESTRY COMMISSION
January 27, 2010**

PRESIDING – Melisa Love, Chairman

SECRETARY - Linda Casey, State Forester

COMMISSIONERS PRESENT – Melisa Love, Don Heath, Jerry Smith, Jett Freeman, Ken Real, Randy Gilmore

ALABAMA FORESTRY COMMISSION PERSONNEL PRESENT - Linda Casey, Patrick Glass, Tom Conway, Gary Cole, Jim Jeter, Kelvin Daniels, Craig Hill, and Regina Miller.

GUESTS – Roy McAuley, Steve Guy, Chauncey Wood, Chris Potts, Jason Davis, Sam Duvall Heather Coleman.

MEETING CALLED TO ORDER – Chairman Melisa Love called this regular meeting of the Alabama Forestry Commission to order at 10:04 a.m. on January 27, 2010 in the Forestry Commission's State Office Auditorium located at 513 Madison Avenue, Montgomery, Alabama 36104.

ROLL CALL– Regina Miller called roll. All Commissioners except Johnny McReynolds were present. Miller announced that a quorum was present.

Miller announced that the meeting had been properly advertised.

MINUTES OF THE NOVEMBER 30, 2009 MEETING – Don Heath made a motion to approve the minutes of the November 30, 2009 meeting. Ken Real seconded the motion and the motion passed by unanimous vote.

NOMINATING COMMITTEE REPORT – Ken Real presented the nominating committee's recommendations of Don Heath as Chairman and Johnny McReynolds as Vice-Chairman. Chairman Love asked if there were nominations from the floor; there being no other nominations, the motion was seconded Randy Gilmore. The vote was unanimous in favor of the motion.

10:15 a.m. – Newly-elected Chairman, Don Heath presided over the remainder of the meeting.

STATE FORESTER'S PERFORMANCE REVIEW – Chairman Heath asked Melisa Love to report on the State Forester's performance review having chaired the committee.

Love stated that two years ago, Commissioners voted to give Linda Casey a merit raise. Linda graciously declined the raise due to the Commission's declining budget situation. Today, Love stated, we have no option to give her a raise. Therefore, Love made a motion to commend Linda for her diligent pursuit to improve the operations of the Commission, to bring stakeholders together and to assist landowners throughout the state. Don Heath seconded the motion with the vote unanimous in favor of the motion.

DISCUSSION OF PROPOSED REGULATIONS AND 2010 LEGISLATION – State Forester Linda Casey discussed the Attorney General's Opinion regarding five of the regulations that the Alabama Forestry Association had requested Senator Jabo Waggoner to formally request: Inspection of forestry records, Timber trespass, Failure to Remit Payment to Owner after Purchase of Timber Purchase of Forest Products, Maintenance of timber Harvesting Records, and Providing False Information to the Alabama Forestry Commission. The three law enforcement regulations that

pertained to state forests, which also carry a criminal penalty, were not included in the opinion request. These regulations were approved by unanimous vote at the Nov. 30, 2009 Commission meeting.

The Attorney General's ruling stated that the Alabama Forestry Commission had not been granted authority by the Legislature to impose criminal penalties and therefore, the proposed regulations are not supported by statute and are unenforceable. She stated that according to the opinion the three regulations related to state forests are also in question.

Based on the Attorney General's Opinion, State Forester Casey made the following recommendations to Commissioners:

1. Propose that the Alabama Forestry Commission work with other agencies and the Attorney General's office to determine the constitutionality of a state agency's ability to propose regulations that carry a criminal penalty.
2. Recommend **no action** be taken to certify the remaining five proposed regulations.
3. Recommend that the team, established at the request of the Commissioners, identify alternate approaches to address issues identified in the regulations be allowed to continue their work. That group represents the major forestry and landowner groups in the state including Auburn University, Alabama Forestry Association, Alabama Forestry Commission, Alabama Farmers Federation, Alabama TREASURE Forest Association and the Alabama Forest Owners Association.

Casey went on to report that when the committee met in December one of the proposed regulations, Maintenance of Timber Harvest Records was addressed. The group agreed to work toward developing a landowner education program that would cover all aspects of selling their timber and include similar information in the Professional Logging Manager training program.

The State Forester recommended that this group be given until the end of this year to develop both training programs and address the remaining four proposed regulations. She further recommended that if this team cannot come to an agreement on the best course of action to address concerns outlined in the five proposed regulations, that the Alabama Forestry Commission would then either repurpose these regulations or submit bills in the 2011 Legislative session that would accomplish the intent of the proposed regulations.

Casey said that the Alabama Forestry Association supports the intent of the regulations and that the Commission needs to take them at their word. She stated that either a consensus should be reached or legislation should be pursued.

Following discussion, Commissioners voted on each of the State Forester Casey's recommendations:

Recommendation #1: Jett Freeman made a motion to approve Recommendation #1 as proposed by Casey. Melisa Love seconded the motion and the motion passed by unanimous vote.

Recommendation #2 – Melisa Love made a motion to approve Recommendation #2 as proposed by Casey. Ken Real seconded the motion and the motion passed by unanimous vote.

Recommendation #3 – Randy Gilmore made a motion to approve Recommendation #3 as proposed by Casey (as underlined above.) Melisa Love made a motion to second the motion and the motion passed by unanimous vote.

2010 LEGISLATION – State Forester Casey stated that the Commission is pursuing four bills and asked Tom Conway to report on each.

Conway reported that the four bills are intended to strengthen law enforcement regulations:

- **ENFORCEMENT OF REGULATIONS AT STATE FORESTS**
Current law allows the Forestry Commission to promulgate rules and regulations related to forestry. The Commission's rules prohibit certain conduct at the 13 state forests operated by the Commission, but the penalties for violating these rules are inconsistent and unclear. This bill would specify that the violation of a rule regarding the conduct of a visitor to a state forest is a Class C misdemeanor.
- **SEIZURE OF VEHICLES & EQUIPMENT USED IN FORESTRY RELATED CRIMES**
This bill would clarify the circumstances under which vehicles and equipment used to steal forest products may be seized and condemned. It would also add that vehicles and equipment used to steal timber harvesting equipment may be seized and condemned.
- **WOODLANDS ARSON**
Under current law, it is a crime to intentionally set fire to the woodlands of another without that person's permission. This bill would add that it is a crime to attempt to set such a fire or to be in possession of any time-delay device intended to start a fire on a landowner's property without the landowner's permission. It would also make it a crime to recklessly allow a fire to escape from one's own property onto the property of another.
- **PENALTY FOR THEFT OF FOREST PRODUCTS, CRIME TO ALTER WEIGHT MEASURING DEVICE**
Under existing law, it is a crime to steal, destroy, or transport the forest products of another without the owner's permission. The penalty for this crime was established in 1940 and only specified a fine or imprisonment and did not specify the class of the crime under the state's criminal code.

WINSTON COUNTY OFFICE PROPERTY – Legal Counsel, Tom Conway, explained that the Commission entered into an agreement to lease a building in Winston County to use as a county office due to the uninhabitable condition of the former county office. This new agreement calls for the Commission to purchase the building for \$100,000 upon the approval of the State Forester and the commission. Due to the Commission's current budget situation, the State Forester recommends that the Commission vote to not proceed with the purchase of the building. MOTION: Ken Real made a motion to accept the State Forester's recommendation to not purchase the building and continue with the lease. Melisa Love seconded the motion and the motion passed by unanimous vote.

CHOCOLOCCO STATE FOREST RIGHT-OF-WAY-REQUEST – Tom Conway explained that a property owner adjacent to the Choccolocco State Forest has requested a right-of-way across a small portion of the State Forest to construct a family home. The landowner has access to the property by another route but it would be very costly to gravel or pave. A driveway across a strip of the state forest property would involve one-half acre and could be done on or parallel to an existing utility easement.

The State Forester requested approval to grant access to the landowner across AFC property with any conveyance to the landowner to be made a fair market value and with the landowner to bear any costs associated with the transfer (surveys, recording fees, etc.)

MOTION: Melisa Love made a motion to accept the State Forester's recommendation with two stipulations – the road construction be consistent to one required for a one family dwelling, and that the Commission choose the appraiser. Randy Gilmore seconded the motion and the vote was unanimous in favor of the motion.

REVIEW OF SOUTHWEST REGION – Regional Forester, Gary Cole presented an overview of the Southwest Region. He stated that the region's 10 counties contain 6,889,686 acres with 5,620,394 acres of forest. Characteristics of the region include 48 personnel, two state forests, more fires and acres burned than other regions, and important water quality issues.

STATUS OF CENTRAL DISPATCH – Fire Operations Chief, Balsie Butler stated that narrow banding has been completed throughout the state. As of Dec. 1, 2010, all outlying dispatch centers were brought under the Central Dispatch Center in Montgomery. Effective January 31, 2010, Central Dispatch will be the only operating dispatch center in the state.

RESULTS OF USFS HAZARD MITIGATION GRANT – Butler and Assistant State Forester, Patrick Glass, presented the results of the grant review that took place Nov. 3-6, 2009. The review addressed the Forestry Commission's implementation of projects/programs in Alabama through National Fire Plan grant funds. Butler reported that the review team was pleased with the projects and programs of the commission. The Review Team stated that the Commission is a leader in identifying hazard mitigation needs and implementing innovation solutions. The draft review report is attached.

State Forester Casey noted that one of the innovative programs actually originated by Butler is 'FIRE DAWGS' – a cooperative program with Alabama A&M where forestry students serve as an additional resource in wildfire suppression efforts and prescribed burning. She stated that it is a win-win situation where A&M students are trained in fire and forestry techniques and then can provide additional manpower to the AFC. Casey told Commissioners that a MOU signing ceremony is scheduled on Fri., Jan. 29, 2010 at Alabama A&M University.

Chairman Heath adjourned the meeting for lunch at 11:52 a.m.

Chairman Heath reconvened the meeting at 12:29 p.m.

ARRA PRESCRIBED BURNING GRANT – Assistant State Forester Glass informed Commissioners that the Commission received this grant for \$5,000,000 in Dec., 2009. Initially, the intention of the grant was to employ eight full-time positions to implement the grant, a Coordinator and Assistant coordinator to handle program administration, and six regional mitigation specialists that would be responsible for on the ground program delivery.

However, a ruling by the Office of Management and Budget dated December 18, 2009, altered the way jobs are counted as part of the ARRA programs and this ruling also coincided with the delivery of a smoke modeling application. Due to these developments, a grant narrative is being finalized to allow the addition of two administrative positions and the addition of eight pick-up trucks and six ATV/trailer units to assist in the programs if justification is provided. Tentatively, the program should begin in April with an ending date of Dec., 2011.

ARRA LONGLEAF GRANT UPDATE – Assistant State Forester Glass summarized the grant by saying that the commission received the grant award of \$1.757 million dollars in July, 2009. In September, 2009, the Longleaf Alliance was selected as the grant administrator. The Alabama

Department of Conservation's Division of Wildlife and Freshwater Fisheries received two sub-grants, one for establishment of Longleaf Pine on the Barbour Wildlife Management Area and for the reimbursement of Longleaf Pine seedling costs for landowners participating in the Landowner Enhancement Program. Overall progress is being made in spite of the abnormally high amount and frequency of rainfall which delay chemical treatment applications. State Forester Casey added that the AFC grant was part of a \$9 million dollar grant divided among 5 states.

2009 BMP RESULTS – State BMP Coordinator/Hardwood Specialist Jim Jeter told commissioners that the Commission, through a Memorandum of understanding with the Alabama Department of Environmental Management, monitors implementation of Best Management Practices (BMP's) for forestry on an annual basis.

This year, a total of 246 sites were randomly selected for the survey. The sites were located on the property of 188 different landowners and represented some type of harvest on 26,550 acres. Each site was visited on the ground and implementation was evaluated for the following parameters: timber harvesting techniques, site preparation, forest roads, stream crossings, streamside management zones, firebreak stabilization, forest chemical application, and overall implementation of BMP's on the tract. If a needed BMP practice was not implemented or implemented improperly, then the significant risk to water quality was evaluated.

Significant risk to water quality from failure to implement a BMP was found on three tracts that were evaluated. Two additional tracts showing significant risk to water quality were discovered through inspections for technical assistance for cost-share practices. Educational activities corrected the problems.

STATUS OF STEWARDSHIP PLAN INTEGRATION – Assistant State Forester Glass informed Commissioners that the Commission is partnering with the USDA Forest Service and Natural Resources Conservation Service to use Web-DET, a data entry tool used to prepare, edit and manage landowner management plans. The features of the system include data entry and mapping components. The Forest Service is providing this service at no cost to us as well as training and technical support at no cost.

Glass said that our existing management plans, over 1,500, have been electronically transferred into the new database. A target date of July 1, 2010 has been set to have the system on-line for field use.

STATE FORESTER'S REPORT – State Forester Casey told Commissioners that the Governor had cut most state agency budgets by 12% from the 2010 appropriation. She discussed the budget situation as follows:

2011 Estimated Operating Costs
Versus Projected Revenue

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| • | 2011 Revenue | \$22,500,000 |
| • | Operating Costs | \$28,000,000 |
| • | Shortfall | \$ 5, 500,00 |
- Estimated Revenue is based on governor's General Fund Recommendation for FY 2011 & AFC funding estimates from other sources
 - Operating costs is based on 2010 forecasted spending

With this reduction and continued reductions in severance tax, acreage assessment, timber sales, other sales, county funds and state funds, the Commission will not have enough funds to operate as

usual. We will hopefully know by mid-April if the Legislature will provide an increase in funding. She stated that the Leadership Team has been analyzing avenues to generate funds or cut spending. One action taken was to discontinue allowing personnel to drive AFC vehicles to commute between office and home. The agency will save over \$700,000 on an annual basis which can be used to pay salaries of almost 11 people per year.

Some Commissioners volunteered to attend regional meetings and speak to personnel regarding budget expectations.

STATE FORESTER'S REPORT –

State Forester Casey

- presented a draft leaflet designed for landowners called **Selling your Timber**. The informational piece addresses steps and considerations to assist forest landowners in making the best decisions to conduct and profit from their sale. When finalized, the leaflets will be available in all AFC county offices and posted on the Commission's website. Other agencies and organizations have committed to participate in this educational effort.
- reviewed the November Accomplishment Scorecard showing the status of objectives, annual targets and status of accomplishments to date, and
- presented her 2010 goals.

DATE AND LOCATION OF NEXT MEETING

Waiting for the arrival for the next speaker, Commissioner's scheduled their next meeting tentatively on May 19, 2010 at the Commission's state office in Montgomery.

ARRA COGONGRASS UPDATE – Stephen Pecot, Communications Manager for Larson & McGowin (L&M) briefed Commissioners on activities since L&M was named project coordinator.

- Sept., 2009 – began project with Ernest Lovett, Coordinator & Stephen Pecot as Communications Coordinator
- Fall, 2009 – Contracted with two applicators (vendors) who began spraying in Greene and part of Sumter Counties (130 Cogongrass sites on 31 acres)
- Spring, 2010 – Official enrollment – vendors (15-20 with 1-2 men teams) and landowners
- June, 2010 - begin spraying and continue through October.

ADJOURNMENT – Chairman Heath adjourned the meeting at 3:04 p.m.