Thank you for the opportunity to comment on the Commission’s proposed report on its Forest Carbon Accounting Project. I was a member of the Commission’s Forest Carbon Accounting Task Force; however, for reasons I’ll explain below, this is my first opportunity to comment on the report. I recommend the Commission not act on the report until it has solicited and considered public comment, as required by the Legislature. If the Commission decides instead to send the report on to other agencies or the Legislature without public review, I recommend it be for informational purposes only, and without Commission endorsement.

The report proposes major changes to the forestry sector in Oregon, the most dramatic of which is to (somehow) require private forest owners to hold trees on their land long after the trees have passed the peak of their economic value, and to the point where the land itself has little or no value. If the proposals were implemented, the state would see disinvestment in forestry rivaling that of the 1930s, and a parallel loss in the carbon stored in well-managed forests. The loss of manufacturing jobs and harm to rural communities and local governments would be catastrophic. And any potential benefits in carbon sequestration would likely be lost as other states and countries fill the large void Oregon would create in the global supply of lumber, especially, as well as other building materials and pulp and paper. Yet despite these risks, the ideas in the report have not been tested through any meaningful public review, either through public notice and comment or through input from the Task Force formed to develop them. My comments below ask the Commission to address this problem.

1. The Commission has not met its statutory obligation to solicit and consider public comment on the report.

The Commission is required to seek public comment on its recommendations. The Commission has broad authority to make recommendations to the Legislature (“statutory changes”) and to other agencies (“administrative changes”), but not without first seeking and considering public comment. This is stated in section 10(1) of Oregon House Bill 3543 (emphasis added):

In furtherance of the greenhouse gas emissions reduction goals established by section 2 of this 2007 Act, the Oregon Global Warming Commission may recommend statutory and administrative changes, policy measures and other recommendations to be carried out by state and local governments, businesses, nonprofit organizations or residents. In developing its recommendations, the commission shall consider economic,

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1 My comments are on my own behalf, and do not represent the views of Weyerhaeuser (from which I retired in 2016) or any other organization. My comments are on the draft report sent to me for comment, titled Forest Carbon Accounting Project Report to the Oregon Legislature, 601818 Discussion Draft. I understand there may have been some changes to this draft, but they have not been made public as of Friday, October 12th.
environmental, health and social costs, and the risks and benefits of alternative strategies, including least cost options. The commission shall solicit and consider public comment relating to statutory, administrative or policy recommendations.

The Commission may feel it has met this obligation through public presentations (e.g., Chairman Duncan’s June 6, 2018 presentation to the Board of Forestry) on the ideas behind the report, or the brief public comments allowed in Commission meetings. But these lack the accountability called for in the legislation and standard administrative procedures. For one thing, the report has not even been finalized, so people can’t have known what version to comment on. For another, the report should be published in a way that alerts the interested and affected public about its procedural setting as well as its content and provides a reasonable amount of time (e.g., 60 or 90 days) for study and comment. Finally, the Commission must genuinely consider the public comment, revise the report accordingly, and explain its responses. To my knowledge, none of this has taken place.

2. The report is not the work of the Forest Carbon Accounting Task Force.

The lack of public comment would be less of an issue (practically if not legally) if the report had come from the Commission’s Forest Carbon Accounting Task Force—at least stakeholders would feel their interests were represented, and they had some input, if indirect. And that sentiment would have been reasonable, based on the Commission’s prior work on forestry, which was successfully developed by a diverse task force: in 2010 the Commission adopted its Roadmap to 2020, which reflected public input and the work of six technical committees, one of which was on forestry. The forestry technical

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2 My comments focus on the procedural problems with the report, specifically the lack of public input or review. It is worth noting, however, that the report also has a major substantive flaw, in that it includes no analysis of the economic or social impacts of its recommendations. The report provides no record for the Commission to meet its statutory obligation to “consider economic, environmental, health and social costs, and the risks and benefits of alternative strategies, including least cost options,” as required by section 10(1). It is especially important for the Commission to understand the costs associated with the report’s recommendations to postpone harvest, and to understand that Oregon would have to pay these costs to compensate private landowners for the taking of the economic value of their property, even if temporary. See Arkansas Game and Fish Commission v. U.S., 568 U.S. ___ (2012) (“Ordinarily, this Court’s decisions confirm, if government action would qualify as a taking when permanently continued, temporary actions of the same character may also qualify as a taking.”) The optimal rotation length on westside, privately owned forests is around 45 years, so mandating an 80-year rotation would mean stopping harvesting for 35 years. This concept has been around a long time in forestry, and related costs analyzed by the University of Washington, for example, in a series of papers for the Washington Forest Landscape Management Project and other projects. See, e.g., Zobrist, Kevin, Bruce R. Lippke and Larry Mason, Discussion Paper 2: The Economics of Westside Forest Management Treatment Alternatives (2007), found at https://www.researchgate.net/publication/242750480_Discussion_Paper_2_DP2_The_Economics_of_Westside_Forest_Management_Treatment_Alternatives. See also Montgomery, Claire A., A Proposal for Evaluating Alternative Approaches to Implementing Sustainable Forestry Practices in Western Oregon, in Understanding Key Issues of Sustainable Wood Production In the Pacific Northwest (date unknown). The costs to Oregon of implementing the recommendations in the report would vary depending on how many acres were affected and when restrictions kicked in—the later in the rotation (i.e., at stand age 30 rather than stand age 0), the higher the cost—with the possible range between approx. $500 per westside acre to the entire market value of the land.
committee, representing state agencies and a diverse group of stakeholders, produced a set of consensus recommendations, described by the Commission as follows:

The Roadmap sets forth an overall goal, between 2010 and 2150, of “no net loss of Oregon forested lands and a net gain in carbon storage in an amount to be determined.”

The Roadmap sees “Eastside [federal] forests . . . managed primarily for ecosystem restoration, safety and climate adaptation with a minimum of incurred carbon (loss). West-side [federal] forests (are) managed . . . to increase carbon storage. . . . private forestlands (are) managed primarily for production of timber and wood products . . .” with carbon stores remaining stable or increasing.

Roadmap to 2020 noted that “Oregon’s forests are a carbon sink, capturing more carbon than they release. As such, Oregon’s forests and its forest sector have and will continue to contribute to the goal of achieving reductions in greenhouse gas emissions by remaining a robust and sustainable sector in Oregon.”

Roadmap to 2020 recommended, among other things, establishing a carbon inventory for Oregon forests. And in 2015 the Commission convened a Forest Carbon Accounting Task Force to do this, chaired by Commission member Catherine Mater.

I was pleased to serve as a member of the Task Force and looked forward to working with a diverse group of experts to develop a technically sound and practical accounting system for Oregon’s forests and products. From my work on forest and environmental policy issues for Weyerhaeuser, I knew our work was preceded by decades of research and well-established protocols developed at the national and international level. I expected robust discussion and the hard work that is typical of a citizen task force in reducing broad discussions into a written work product, striving for consensus, narrowing differences, and articulating dissent where necessary. To my disappointment, however, the Task Force was not allowed to complete this process.

The Task Force met first on July 14, 2016. The discussion indicated general agreement to develop a carbon inventory for the forest sector, as recommended in Roadmap to 2020. Members considered a few potential sources of data, including the data from inventory plots measured by the U.S. Forest Service under its National Forest Inventory and Analysis (FIA) program. The Forest Service had revised its

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3 Oregon Global Warming Commission, Biennial Report to the Legislature 2017 p. 29, found at http://www.keeporegoncool.org/s/2017-OGWC-Legislative-Report.pdf. Much more detail on each task is included in Roadmap to 2020. Specific tasks for forestry included:

- Establish a Carbon Inventory for Oregon Forests
- Pursue Reforestation/Afforestation
- Invest in Key Research Actions - impacts of climate change, adaptation tools, and benefits of durable products
- Advance Energy and Forest policies supporting biomass facilities.


5 The other original members were Tom Buchholz, University of Vermont; Dominick DellaSala, Geos Institute; Andy Elbree, Green Diamond; Jeremy Fried, US Forest Service; Mark Harmon, Oregon State University; Brian Kittler, Pinchot Institute; Greg Latta, University of Idaho; Beverly Law, Oregon State University; Cassie Phillips, Weyerhaeuser (since retired); and Mark Stern, The Nature Conservancy. The Task Force had staff support from Colin McConnaha, Oregon Dept. of Environmental Quality; Jessica Shipley, Oregon Department of Energy; and Andrew Yost, Oregon Department of Forestry. Commission chair Angus Duncan served as an ex officio member.
sampling method and could produce consistent data for Oregon starting in 2001, but not 1990, Oregon’s baseline date for other sectors.\(^6\) The agency agreed to provide FIA data comparing the 2001-2005 and 2011-2015 time periods, with data broken down by region and landowner type. Oregon State University agreed to produce data on fire risks. There was also general agreement to focus on above-ground carbon pools; to include product sequestration in the inventory; and to exclude product substitution. There was little discussion of process, but we were assured that Task Force work products would not go out without our prior review.

At the second meeting, on October 6, 2016, the Task Force reviewed the preliminary data produced by the Forest Service and Oregon State University. The FIA data showed that over the period studied, growth in forest carbon had equaled or exceeded losses to harvesting and mortality in every region in Oregon for every type of landowner.\(^7\) Overall, Oregon’s forests were a net sink, as assumed in Roadmap to 2020, in the amount of 30 million metric tons of CO2 equivalent per year. The data on wildfire emissions showed no significant trend in wildfire area or intensity in Oregon between 1984 and 2014. The Task Force continued to discuss how to measure carbon sequestered in wood products and the implications of leaving out substitution.

In January 2017 Commission staff emailed Task Force members “initial findings” to be sent to the Commission and shortly thereafter to the Legislature. The materials basically presented the FIA data prepared by the Forest Service and asked the Legislature for more time for further analysis. The materials also included some policy questions the Task Force had not discussed, but we were assured the Commission was not drawing conclusions, and we were advised not to comment on the materials “because our deadline is looming,” and only to point out errors.\(^8\)

The Task Force met for the third time on February 27, 2017, for further review of the data we had collected so far, and to discuss next steps. The pre-meeting materials included some policy positions that would have been controversial had they been discussed (e.g., not crediting landowners for growing trees, characterizing net gains in forest carbon as losses, reducing timber harvests, increasing fuels reduction treatments), but they were not raised for discussion. (Such a discussion would have been premature, in any case, because we had not done the ground work, such as economic analysis, necessary to frame the questions or investigate the trade-offs between different policies.)

Despite the lack of discussion, presentations on the Task Force work began to include policy questions and recommendations that had had no meaningful Task Force discussion. The Global Warming Commission met on July 28, 2017, for example, and under the agenda item “OGWC Forest Carbon Task Force,” included a presentation on “Oregon Forest Carbon Policy Choices”\(^9\) posing questions that had never been debated in the Task Force. And in September 2017, Task Force chair Catherine Mater published an op-ed piece in the Oregonian titled, “The Surprising Emissions from Oregon’s Forests,” which triggered an outpouring of frustration from Task Force members.

\(^6\) The Commission’s authorizing legislation set a goal for Oregon to reduce greenhouse gas emissions by at least 10% by 2020 and 75% by 2050, compared to 1990 levels.

\(^7\) There were one or two negative numbers, but they were in small categories and fell within the item’s margin of error.

\(^8\) Email from Jessica Shipley, Oregon Dept. of Energy, to members of the Forest Carbon Accounting Task Force (January 27, 2018).

\(^9\) Oregon Forest Carbon Policy Choices
Seven Task Force members, including me, wrote a letter to Chairman Duncan, attached as Attachment A. Two other Task Force members wrote separate emails, also included in Attachment A. All three letters shared a common theme of concern about the process and lack of engagement with the Task Force before representing its positions publicly. All three letters also emphasized the value of debate and resolving or articulating differences, implicitly or explicitly in a written work product. And all three letters noted the value of the Task Force work.

Task Force Chair Mater responded on October 2nd with an email apologizing for the situation and committing to re-engage the Task Force:

> Rest assured I'll do whatever needs to be done to correct the situation. Working with Angus - very shortly Task Force members will receive a revised strategy plan that helps us think through next steps in getting us back on track in examining all the options and technical scenarios that best prepare us for the presentation to the legislature in November. In addition, it is vital that the Task Force continue its work well beyond the November presentation moving forward in helping to define potential policy directions for the future.¹⁰

Chairman Duncan also responded with an email on October 3rd,¹¹ taking responsibility for “letting the process slide away from us” and proposing what at first sounded like a process to produce a Task Force report: he would get it started by circulating an outline and we would comment either in writing or in a Task Force meeting. The letter went on, however, to say that he, not the Task Force, would write up our results. He was willing to consider attaching dissenting views that we might provide as individuals, but there clearly would be no Task Force work product. We were thus dis-empowered.

The Task Force did not meet again. We were sent draft Commission documents for the Legislature with extensive policy recommendations that had had no Task Force discussion. On October 25th the Forest Service representative resigned from the Task Force, out of frustration that the documentation misinterpreted and misrepresented the FIA data.¹² A Task Force meeting was scheduled for December 19, 2017 but postponed shortly beforehand. I asked Chairman Duncan why the meeting was postponed, and he said it was because the group could not reach consensus. I still do not know how one could conclude that, without having asked the members to collaborate on a written report.

Nearly a year has gone by, and this is the first opportunity I have had to comment on the Forest Carbon Accounting Task Force work, now renamed a “Forest Carbon Accounting Project.” My main comment is that the report before you bears almost no relationship to the work of the Task Force: it has not only had no public review, it has had no review by the stakeholder representatives and technical experts on the Task Force. The Commission’s priority should be to seek the public review the report needs, through a formal public comment period.

Thank you again for the opportunity to comment.

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¹⁰ Email from Catherine Mater to the members of the Forest Carbon Accounting Task Force re: OGWC Forest Carbon Task Force January 2017 update (October 2, 2017).
¹¹ Email from Angus Duncan to Task Force members re OGWC Forest Task Force January 2017 update (October 3, 2017).
¹² Letter from Jeremy Fried to Angus Duncan and Catherine Mater (October 25, 2017).
The Honorable Angus Duncan  
Chair, Oregon Global Warming Commission  
29 September 2017  

Dear Angus,

Several of us serving on the OGWC Task Force on Forest Carbon, at your request, were very surprised to see Task Force Chair Catherine Mater’s Opinion piece published in the Oregonian last week for three reasons: 1) it was signed by Catherine as chair of the OGWC Task Force on Forest Carbon, 2) it pertained directly to the subject matter assigned to the task force to advise upon, and 3) we know of no task force members who were consulted for review of the piece before it was published.

We distinctly recall the articulation of a commitment by you and Catherine, at our first task force meeting in Salem, to engage task force membership in the review of any and all products coming out of the task force’s work. This opinion piece was signed by its author, listing the Task Force chair role as her affiliation, and included the wording “Updated information from the U.S. Forest Service and Oregon State University revolutionized our thinking on this matter”, which implies that the author speaks on behalf of the task force. As has become evident in task force meetings, neither the data sources, pools included, nor treatment of the critical time dimension regarding evaluating and monitoring Oregon’s forest carbon cycle are easily determined. There are several points in this op-ed piece which have been debated in task force meetings and upon which no consensus has been reached. Moreover, the message framing, focus, and timing which emphasizes mortality and fires rather than net growth or change appear to be more politically than educationally motivated.

We are writing to object to what has occurred and to request that 1) you ensure that it not happen again, and 2) you and Catherine honor your commitment to engage task force members in review of information represented or implied as disseminated from the task force, providing adequate time for thoughtful review and revision. Regardless of whether consensus can be fully achieved around every task force conclusion, reviewing input from the task force, if skillfully woven into a consensus report, accompanied by length-limited dissents if necessary, will result in conveyance of more accurate, transparent, and objective science-based information, with appropriate caveats and potentially alternative interpretations, to those responsible for crafting policies around forest carbon. The experienced scientists and professionals serving on the task force, and the organizations that sponsor them, have voluntarily given generously of their time to help you achieve a quality, science-based product; they deserve the courtesy of you hearing them out and the Commission and Legislature deserve the benefit of task force products that reflect their specialized knowledge and interpretation informed by their considerable experience.

Sincerely,

Jeremy S. Fried  
Greg Latta  
Cassie Phillips  
Tomas Buchholz  
Brian Kittler  
Andrew C. Yost, PhD
Catherine,

First, I want to both thank and commend you for your time, effort and commitment in Chairing the OGWC Forest Task Force on Carbon – clearly a complex and challenging assignment. Several of the task force member have visited over the past week, and were surprised to see your Op-Ed in the paper. I understand others have written a letter expressing their concerns, and I share their concerns that there was an absence of good “process.” I know you were acting with the best of intent, but it would have been best to share your proposal to write an op-ed with all of us in advance, and to give us the opportunity review it before you submitted it. That’s water under the bridge now.

Representing The Nature Conservancy, we have been concerned that there hasn’t been better documentation available to the task force and enough opportunity to discuss the results of the two different approaches task force members used to estimate Oregon’s Forest Carbon footprint, as evidenced by differing estimates for soil and live tree carbon pools. The various assumptions in each approach, agreements and disagreements about the approaches and descriptions of limitations that may affect how the results can be used to inform policy. I appreciate that we may not come to a single agreement, but we can document the pros and cons of the two approaches and implications of the difference. I believe both the USFS and the OSU group have/intend to get their individual products peer reviewed and appreciate that this will provide much of what we are looking for. However, in the near term we believe it may be beneficial to have the task force engage in a dialogue and draft a cohesive summary of the task force’s work, providing a written record of the “thinking” that went into the work. I understand that you and Angus are developing a report/update intended for delivery to the legislature during November leg days.

Again, representing The Nature Conservancy, we would like to see the following next steps:

- Host a meeting of the task force to vet the differences in the two approaches and discuss how you intend to use them to inform the report and the messages you plan to deliver.
- Task members of the Task Force to draft a synthesis document of the two approaches as described above
- Provide an opportunity for task force members to review and provide comments on the report you and Angus are drafting for the legislature in advance of its finalization. While The Task Force produced specific findings, the findings have both uncertainty and in some instances may raise as many questions as they answer. Hence, how the message is shaped and delivered will be very important.

Thanks again for your effort, and appreciation to everyone for their work on this project. If we can be of assistance in organizing a meeting, we would be happy to help.
Good day everyone,

I am grateful to be a member of the Oregon Global Warming Commission Forestry Task Force, and for the opportunity to wrestle thorny questions on carbon flux as they may relate to public policy in Oregon (and maybe beyond). You are an esteemed group of folks for whom I have a lot of respect. Collectively we represent a diverse body of work and perspectives. I believe that this Task Force is the best chance we have to distill for the public the best thinking and knowledge accumulated on forest ecosystems and greenhouse gas dynamics.

We are starting to fail in this task. This is in part the result of us not settling on an approach to present the information that has been produced. This information is valuable, yet needs clear interpretation for its relevance in public policy. We must dig into the hard work of getting our disagreements resolved or at least clearly articulated.

It is clear that we may not come to complete consensus on specific areas of analysis--e.g. the influence of wildfire emissions, accounting for end-product utilization, timing and magnitude of emissions within the dead wood pool, among others--but I believe we can come to consensus on how to present the range of interpretations and assumptions. Our task is incomplete if we do not effectively represent areas of disagreement over these factors influencing carbon pools and at least give policymakers guidance on how to make decisions with uncertainty. One way to approach the task of communicating the science might be high- low scenarios or some other sensitivity-based presentation. We must settle on a process by which we handle disagreements and uncertainties, and an empirical way to report them.

Who else do we want to be doing this thinking and communications? I remember a Senate committee hearing many years ago being chaired by Ron Wyden, when he was asking a panel of Forest Service scientists and other experts to provide a workable, policy-relevant definition of old-growth. They could not, prompting Senator Wyden to warn them that if they could not, politicians would do so for them. Forests suffer when the people who care about them most can’t work together. Let us avoid this scenario and try our hardest to serve the public.

I am looking forward to the next opportunity to meet with all of you.

Brian

Brian A. Kittler
Director, Western Regional Office Pinchot
Institute for Conservation