



**DEPARTMENT OF
NATURAL RESOURCES**

**OFFICE OF THE COMMISSIONER
OF PUBLIC LANDS**

1111 WASHINGTON ST SE
MS 47001
OLYMPIA, WA 98504-7001

360-902-1000
WWW.DNR.WA.GOV

September 11, 2023

Dear legislators and other interested parties,

Thank you for writing to Commissioner Franz and the Board of Natural Resources to express your concerns with the Power Plant timber sale and the Department of Natural Resources' (DNR) management of state trust lands within the Elwha River watershed. Natural resource issues are complex and, like many issues that come before legislators, they are often contentious. With complex issues such as these, the greatest understanding can come after you see things on the ground, so I would like to invite you to meet with DNR's scientists and staff out on the sale site to see firsthand the care and consideration we put in to making management decisions. If that does not work out, we would be happy to meet with you either in Olympia or virtually.

I must first start by noting that the Power Plant sale was reviewed and approved by the Board of Natural Resources in June 2023 and was auctioned in July 2023 to Murphy Company. Rights to harvest the timber have been transferred under contract, and canceling the sale absent a judicial order would put the State at risk of breach of fiduciary duty claims from beneficiaries (see [Skamania v. State](#)) and breach of contract claims by the purchaser.

DNR began to plan the Power Plant sale in 2022. Field foresters, geologists, biologists, and forest hydrologists began to assess the sale area soon after. Forest Practices geologists and regulatory staff provided further review of the sale, issuing an approved Forest Practices Application. Staff submitted a State Environmental Policy Act (SEPA) checklist and held a 14-day public comment period. Proprietary staff responded to the SEPA comments received and the responsible official determined that all issues had been adequately addressed and no further mitigation was required. Staff discussed the proposed sale in detail at a Clallam County Board of Commissioners work session, and the sale has the full support of the commissioners.

The sale is currently being challenged in Clallam County Superior Court by the Earth Law Center, the Center for Whale Research, and the Keystone Species Alliance. In a ruling on a preliminary injunction to stop the auction of the sale, the judge ruled against the appellants, stating "...the record demonstrates the respondents followed their rules and procedures, engaged in a deliberative process, and specifically considered the unique aspects of the project." In denying the injunction, the judge ruled that, "the Appellants have not demonstrated that they have a clear legal right to relief, as the likelihood of them prevailing on the merits is low."

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I would like to note a few facts about the Power Plant sale to dispel some of the inaccuracies we have heard about the sale.

First, and most importantly, only 64 acres of the Power Plant sale is within the Elwha watershed, which is 206,864 acres in size. That is less than 0.03 percent of the watershed. Trust lands account for less than 10 percent of the entire watershed, while the vast majority is held in federal ownership. The science is clear that there would be no discernable change in summer low flows or peak flows with a 0.03 percent change in forest cover. Even a 10 percent change in forest cover would be likely not be detectable (Grant et al., 2008; Perry & Jones, 2016).

DNR's forest hydrologist, Dr. Jeff Keck, assessed the sale for any potential impacts to the Elwha river. It was determined that no mitigation outside our normal riparian protections were required. Dr. Keck is DNR's leading expert in geomorphology and forest hydrology and leads the Olympic Experimental State Forest hydrology monitoring program. He is also a licensed civil engineer and engineering geologist.

DNR's riparian buffer strategies to protect habitat and water quality have been approved by the National Marine Fisheries Service and U.S. Fish and Wildlife Service under our federal Habitat Conservation Plan to protect salmonids and other riparian-dependent species. These protections are the most conservative in the state and surpass the state Forest Practices Rules and the Clean Water Act rules required by the Washington State Department of Ecology.

We recognize the concerns expressed by the City of Port Angeles regarding its municipal water source and we are confident our management does not put that water source at risk. [RCW 79.10.070](#) requires DNR to consider our land management within watershed areas supplying water for cities or towns, stating:

“The department may alter its land management practices to provide water with qualities exceeding standards established for intrastate and interstate waters by the department of ecology.”

The Legislature also recognizes its fiduciary duty as the trustee of these lands, and by extension DNR's duty as the trust manager. RCW 79.10.070 goes on to state:

“However, if such alterations of management by the department reduce revenues from, increase costs of management of, or reduce the market value of public lands the city or town requesting such alterations shall fully compensate the department.”

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We feel our management within the Elwha protects these important resources under our current HCP and Policy for Sustainable Forests and further mitigation is not required. The City of Port Angeles would need to fund changes to department management of the lands as required in statute if they desire additional protections.

Concerns have also been raised regarding the recreation that occurs on the Olympic Adventure Trail and a trail to the old lower dam site. The Multiple Use Act ([RCW 79.10.100](#)) directs the department to adopt a multiple-use concept on lands we manage so long as those additional uses are compatible with “the financial obligations of trust management.” It further requires that, “If such additional uses are not compatible with the financial obligations in the management of trust land they may be permitted only if there is compensation from such uses satisfying the financial obligations.” To achieve this legislative intent, the forester who designed the Power Plant sale protected the Colville bike loop and other authorized recreation trails to minimize disruption. The unauthorized “old lower dam” trail is not an approved recreation trail.

The Clallam County commissioners made clear in their public work session when discussing the sale that they value the easements that they have acquired for the Olympic Discovery Trail, which crosses both state and private working forestlands, and that they do not intend to impede management of these working forests. They noted that any actions that caused DNR to alter its management based on recreation concerns would make it difficult for them to acquire easements over both DNR and private lands in the future.

Finally, I want to review the management history of Power Plant, and why claims that this is a “clearcut” that will impact carbon, climate, and the watershed are false.

The Power Plant sale is a shelterwood removal, the final stage in a decades-long thinning of the stand that “shelters” the understory seedlings as they mature.

The first harvest in the sale area occurred in 1995 and removed a small selection of high-quality logs for utility poles. A subsequent harvest, completed in 1999, removed all trees greater than 10 inches and less than 24 inches in diameter.

The winter following harvest, 3 percent of the remaining stand blew over in a windstorm, and those trees were sold in a small salvage sale. Following harvest, DNR replanted portions of the sale area that experienced more intensive harvest with Douglas fir and western hemlock at densities of 232 seedlings per acre. As part of the reforestation operation, sixth-graders from Dry Creek Elementary School planted two acres along the west side of Colville Road.

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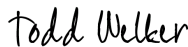
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Next, in 2004, DNR foresters surveyed the area for regeneration and determined that hardwood competition needed to be managed to promote conifer species. That treatment was completed later that year. Additional vegetation surveys completed in 2012 determined that the units were well-stocked with merchantable trees, but staff found that additional treatment of undesirable woody competition was needed. A second removal of excessive hardwood competition was completed in 2014.

After this final harvest, the forest will contain a mixture of large mature leave trees, a predominant cohort of 25-year-old trees, and areas of newly established seedlings. As the sale area matures, it will develop a multi-layered canopy with a diverse mix of species.

My staff and I would like to schedule a meeting at your earliest convenience to answer any questions you may have about the Power Plant sale and future management of DNR lands in the Elwha watershed.

Sincerely,



Todd Welker

Deputy Supervisor for State Uplands

cc: Commissioner Franz
Representative Chapman
Representative Tharinger
Representative Doglio
Representative Simmons
City of Port Angeles Councilmember Suggs
City of Port Angeles Councilmember Schromen-Wawrin
City of Port Angeles Councilmember Carr
King County Council Chair Upthegrove
Port of Seattle Commissioner Hasegawa
Board of Natural Resources
Brian Considine, Legislative Director