

**CFTM**  
**Committee on Forest Land Taxation Methodology**  
**December 17, 2004**  
**9:30 AM – 4:00 PM**  
**1CR5 Idaho State Tax Commission**  
**Boise**

Chairman Watson started the meeting at 9:20 AM. A number of the committee members could not be in attendance due to fogged in airports that had delayed or eliminated flights. Two members of the IFA team were not able to attend this meeting Mark Benson and Kevin Boling. One member of the IAC team was not able to be in attendance Dave Ryals. Following is a list of those in attendance.

Name	Representing	E-Mail
Larry Watson	ISTC Commissioner	<a href="mailto:lwatson@tax.state.id.us">lwatson@tax.state.id.us</a>
Mark Munkittrick	IFOA – CDA	<a href="mailto:baronflyer@icehouse.net">baronflyer@icehouse.net</a>
Phil Davis	Boise County Commissioner	<a href="mailto:pdavis@valley.id.us">pdavis@valley.id.us</a>
Stan Leach	Clearwater Cty Commissioner	<a href="mailto:commissioners@clearwatercounty.org">commissioners@clearwatercounty.org</a>
Steve Fiscus	Latah County Assessor	<a href="mailto:sfiscus@latah.id.us">sfiscus@latah.id.us</a>
Jane Gorsuch	IFA – Boise	<a href="mailto:jane@intforest.org">jane@intforest.org</a>
Dr. William Schlosser	NW Management Inc.	<a href="mailto:schlosser@consulting-foresters.com">schlosser@consulting-foresters.com</a>
Rod Brevig	ISTC	<a href="mailto:rbrevig@tax.state.id.us">rbrevig@tax.state.id.us</a>
Carl Olsson	ISTC	<a href="mailto:colsson@tax.state.id.us">colsson@tax.state.id.us</a>
Scott Gray	Stimson Lumber Company	<a href="mailto:Sgray@stimsonlumber.com">Sgray@stimsonlumber.com</a>
Alan Dornfest	ISTC	<a href="mailto:adornfest@tax.state.id.us">adornfest@tax.state.id.us</a>
Tim Hill	Idaho School Districts	<a href="mailto:thill@sde.state.id.us">thill@sde.state.id.us</a>
George B. Perala	Boise Cascade LLC	<a href="mailto:georgeperala@bc.com">georgeperala@bc.com</a>
Daryl Bertelsen	Whitepine School District	<a href="mailto:dbertelsen@sd288.k12.id.us">dbertelsen@sd288.k12.id.us</a>
Gregory Cade	ISTC	<a href="mailto:gcade@tax.state.id.us">gcade@tax.state.id.us</a>
Mike McDowell	Kootenai County	<a href="mailto:mmcdowell@kdgov.us">mmcdowell@kdgov.us</a>
Vincent Corrao	NW Management Inc.	<a href="mailto:corrao@consulting-foresters.com">corrao@consulting-foresters.com</a>
Harley Hinshaw	ISTC	<a href="mailto:hhinshaw@msn.com">hhinshaw@msn.com</a>
Ron Craig	ISTC	<a href="mailto:Cadist1@direcway.com">Cadist1@direcway.com</a>
Dan Chadwick	IAC	<a href="mailto:dchadwick@idcounties.org">dchadwick@idcounties.org</a>

Chairman Watson asked that Steve Fiscus report on the work of the CFTM legislative subcommittee that had developed proposed language to implement the decisions of the CFTM in Idaho Code.

Steve Fiscus reviewed the changes in language that had been developed by the subcommittee at their meeting in Boise on Monday, December 6, 2004.

Mike McDowell asked about the implementation of the CFTM legislation and if it will be retroactive to January 1, 2005.

Dan Chadwick said that the language concerning the implementation would be in the RS. The date of implementation does not have to be in the statutory language itself.

Steve Fiscus asked Alan Dornfest to describe the rule making process for the benefit of the members of the CFTM.

Alan Dornfest reported that as the STC rules committee chair he wants to emphasize the fact that there has to be clear statutory language that directs the development of any rule. He clarified that the STC does not develop any rule on their own. The STC must obtain permission from the DFM, (Department of Financial Management) to engage in the rule making process. Alan pointed out some reminders in reference to rules: (1) rules provide what code does not, i.e. a formula, (2) rules are intended to clarify vague wording in code, (3) rules should not go beyond code and attempt to make law, and (4) we should not have references to something that should be spelled out in code, i.e. the guiding discount rate of 4% should be in code, not in rule.

Chairman Watson asked about what references and documents can be incorporated into the rule by reference. For instance can internal working documents be included.

Alan Dornfest clarified that anything that is referred to in rule must be a nationally recognized publication that is available to the public.

Steve Fiscus asked if we really have to put the 4% guiding discount rate in code?

Alan said that he would recommend it because in his mind he can easily imagine the 4% being challenged. What about a rate of 2% or how about 10%.

Mark MunKittrick said that the 4% was put in rule so that it could be changed more easily in the future if there should be a need.

Dr. Schlosser suggested that his references to establish the guiding discount rate are nationally published and can be obtained by anyone who would like to investigate them.

Alan said that a nationally published resource may work but the way to cover the issue is to place it in code, then it cannot be easily challenged later.

Chairman Watson asked if it is necessary to include the constant, or discount in the code?

Alan encouraged that the figure be put in code.

Dan Chadwick said that we could write into the statute instructions of intent. With the authority in code we should be able to perform the task of developing the figure or formula components in rule.

Dr. Schlosser clarified the point by saying that there are several different things that could be interpreted by other forest economists when reference is made to an SEV Model.

Mark MunKittrick asked if the code could clarify the language needed in the rule?

Carl Olsson said that he agrees with Alan and disagrees with Dan Chadwick because there has to be specific language in code before a rule can be written. The only thing the rule does is highlight what has already been called for in code. There may not be a problem until there is a plaintive to bring the issue to everyone's attention. However, the assumption that there is not a plaintive should not be the motive behind how the code and rule are written.

Alan said that he feels that the formula can be in rule and the authority for the formula in code.

Dan Chadwick said that the CFTM is charged by statute to come up with specific language because it is a public entity, meeting in an open manner to all those who are interested in the process. Dan asked Carl if he could defend the way the code is being written.

Carl Olsson said that the issue is not whether he would defend it his position requires that. The question is whether he will win if the code or rule is questioned.

George Perala said that the rule making process is public and anyone who is interested can come and take part in the process. If they feel that that something is in error when it is presented before the Idaho legislature they have the right to say so.

Carl Olsson responded that he is aware of the process but he is trying to say that he prefers to have detail in code rather than in the rule, citing the example of a recent court decision overturning an STC rule.

Steve Fiscus said that the process of value development could be explained as part of the ongoing discussions and negotiations recorded in the work of the CFTM over the last year expressed in the process that has been developed by the CFTM.

Alan Dornfest said that when there is a statement of a process of negotiation, which took place in a committee that is not appropriate for a rule.

Mark MunKittrick said that he too feels that the model needs to be in code and was surprised to find that the subcommittee had not already put it there. He asked why the legislative subcommittee had not included the model in the code in their work on the 6<sup>th</sup>?

Dr. Schlosser said that there is not an SEV formula as such; development of valuation models is a process. Because value development is a process he cannot supply a

commonly recognized or universal formula among practitioners in his field. However, he encouraged the committee to incorporate definitions of terms used in the formula, i.e., RPA and others into the code to ensure consistency in the rule.

Chairman Watson asked if we could produce a statement similar to the agricultural section in code?

Alan Dornfest read the agricultural statute to demonstrate that there is direction supplied to the STC for how to develop the property valuation in the methodology described by the statute. He added that rules are guidelines and not “rationale”, and recommended that the rationale be tied to the statute.

Dan Chadwick asked the committee how sub-sec. 3 is any different than the agricultural definition found in IC 63-645?

Steve Fiscus said that we had put in the legislation subsection (c) that lists the items that are to be used in the valuation process.

Alan Dornfest asked for an explanation of where the numbers come from. Are there common definitions that can be found in public documents that will clarify the meaning of descriptive words that are used in the code and rule that are being proposed?

Steve Fiscus said that the rotation ages were for instance negotiated numbers. As an example the rotation age of 68 years for the medium productivity class was negotiated. The figure didn't come from a published document, but were agreed upon by the CFTM.

Chairman Watson asked Alan Dornfest if he could prepare a statement for the statute that compares to the language found in the agricultural definition in IC63-645.

Carl Olsson pointed out that anything can be written in code or rule and be understood by those who developed the figure. The problem occurs if there is a plaintiff who objects to this process. What are the chances that someone will object to this proposal?

George Perala said that he would put the chances at less than 5% for someone to come forward who will challenge the basis for how this rule has been made.

Dr. Schlosser suggested that it might be another taxpayer who feels that they are wrongly paying more because those who own forestland are paying less.

Mike McDowell asked if he could bring the committee's attention back to a consideration of 63-1705 (c). He suggested that the figures of 4% for the constant, and 1.25% the RPA be placed in the code so that there is not a challenge to them in the future. The wording can state that these rates will be in effect until 2012 when they will be reviewed again.

Dr. Schlosser asked if the reference to 2012 is understood by the committee to be January 1<sup>st</sup> or December 31<sup>st</sup> of the year?

Mark MunKittrick asked if it would be appropriate to change the word “formula”, which is presently in the revision of the code to the word “process”?

George Perala said that this is the first time he has seen the rule. He indicated he simply couldn't go through the rule during the course of this meeting and comment on how it should be changed. He said that he may agree with Mike McDowell and by placing reference to the figures for the guiding discount rate in code, however, he cautioned that any time in the future you may wish to make technical corrections or amendments to the formula you have to go back to the legislature and reopen the matter which can cause problems.

Mark MunKittrick asked where the rules that he is looking at came from.

Dr. Schlosser said that he developed them and brought them to the discussion today.

Mike McDowell brought the CFTM back to the code and asked if we can refer to the manual that Dr. Schlosser has developed in the code?

George Perala said that he wanted to keep the manual out of the code. He said that he has witnessed an instance when four forest economists argued about how to value forestland when they were in a legislative committee meeting back in 1982. He doesn't want to see this turn into a similar situation this time. He doesn't want to put the legislators in a position of trying to develop legislation on the spot without adequate preparation and knowledge. He also does not want to put the legislators in the position of being concerned with small changes to the code, which may come up periodically.

Chairman Watson asked if he could appoint a subcommittee to address the development of the rules that will accompany this legislation. He suggested Steve Fiscus, Stan Leach, George Perala, and Mark Benson with support being provided by Alan Dornfest and Dr. Schlosser. This subcommittee will meet at 9 am on January 6<sup>th</sup> in Lewiston.

Mark MunKittrick asked if he could be on the subcommittee also?

Chairman Watson appointed Mark MunKittrick and Mike McDowell to the rules subcommittee also.

Alan Dornfest said that words are important. There must be clear direction in code for what is explained in rule. He emphasized that it is important to have clear legislation to work from.

Dr. Schlosser brought the attention of the committee back to the code changes that had been suggested by the legislative subcommittee. He acknowledged that the discussion of the rule would have to take place later. He displayed the code section revisions that were being recommended by the legislative subcommittee.

Dan Chadwick said that he feels that we can get the answer to the problems that have been posed during the discussions of the morning through this process. We have a committee that has been created by the legislature with the charge of developing a system of valuation for forestland.

George Perala asked if the content of the user's guide were to change from that contained in the 2004 version if the legislature would have to consider the proposed changes?

Alan Dornfest said that there is a problem unless all of the process is explained in public record.

Dr. Schlosser asked if it would be appropriate for him to copyright and date his manual? NW Management could then put it on their web site so anyone in the public could access it. Would this process work to make his manual public?

George Perala said that in 2012 when this process comes up again most of those on the CFTM will not be around any longer due to retirement. He suggested that because Dr. Schlosser is young he could be in a position to explain to the new members of the committee the appropriate process and then things could go from there. He asked if it would be appropriate for all of the work of the CFTM to be a part of the legislative record and in this manner part of a permanent public record.

Harley Hinshaw recommended that the users guide be made part of the public record, referenced as an approved and adopted document by the CFTM and kept on file at the STC as a public record open to inspection and review.

Chairman Watson suggested that he would like to see that take place. He wants the meeting notes, Dr. Schlosser's manual and the suggested legislation to all be a part of the report to legislative services as a reference to the committee's intent and work.

Alan Dornfest asked if he could have a definition of how to reference the: "Users' Guide to the Timber Productivity Options Valuation Method – 2004", that is referenced in the rules that Dr. Schlosser is suggesting?

Dan Chadwick suggested that as the STC is a public agency, they could retain copies of this manual and make it available to the interested public.

Dr. Schlosser took the CFTM back to the revisions of the code that are being suggested for further discussion.

Steve Fiscus asked what happens after January 1, 2012? What is the timing of the CFTM reconvening? How will the cost study be conducted and how will it be reviewed by the CFTM?

George Perala suggested that the committee can share the data from the cost study, evaluate it and the members would then get together to decide on its implementation.

Dr. Schlosser added a (d) portion to 63-1705 to make reference to the point: “and evaluated by the CFTM”. He also recommended that the word “model” be changed to “process”. He added that there are technical changes that must be made to the user’s manual such as a correction to the rotation ages. He suggested that the reference could be made that the user’s manual will be maintained on file with the STC to take care of the concerns about it being in a public place.

George Perala again suggested that he does not feel comfortable with making specific references that will be difficult to come back and change at a later date.

Mark MunKittrick suggested that the title to 63-1705 needs to be amended because it is not only in reference to “large sized forestlands”, a landowner with five acres of forestland can qualify for treatment under this section.

Dr. Schlosser suggested that the committee confine their recommended changes to 63-1701 and 63-1705 and not undertake language changes in other portions of the forest tax code.

Rod Brevig suggested that the first sentence of 1705 (2) could be struck because other statutes already exempt timber inventory.

Alan Dornfest pointed out that 63-602W already provides that all forest products are exempt under the business inventory exemption.

Dan Chadwick suggested that this wording should be left in so that there is no confusion as to the intent of the committee. He argued that if the language is removed there might be a question as to whether the CFTM wanted to change the intent of this portion of the code. He asked if reference should be included for “custodial expenses” as item “15” in the definitions or in sub-sec. (2) or in section 1701.

Dr. Schlosser suggested that the wording in 602W could be inserted into subsection 3 of 1705 so that the two code sections are shown to agree with one another.

Alan Dornfest suggested that the “data for utilization ...” sentence is unnecessary in subsection 3 of 1705.

George Perala suggested that it be left in and moved to subsection (3) (e) of 1705.

Alan Dornfest asked if language could be inserted that would define what is meant by the average levy rate in subsection (3) (c).

Dr. Schlosser asked Rod Brevig to provide the appropriate language for the method of calculating the average levy rate so that it can be included in the rules.

After lunch the CFTM once again took up a discussion of 63-1701 (15), which suggested definitions for “custodial costs”, which had been provided by STC staff. Several revisions of this section were worked out by the committee and the revised section is included in the amendment being developed by the committee.

Carl Olsson said that if the user’s manual is included in the legislative report the committee should be prepared to go back to the legislature for changes that they want to make to it.

Jane Gorsuch asked why a “technical guidance manual”, couldn’t be adopted by the committee? She gave as an example solid waste manuals, which are changed routinely by that committee without legislative approval. Why would the CFTM have to go to the legislature when other committees, which work with similar issues, don’t?

Chairman Watson suggested that we send the amendments to the statute to all of the committee members.

Jane Gorsuch suggested that each person review the proposed language and then there could be a phone vote to formally ratify the proposed statute. She suggested that Chairman Watson could compile any changes and make these available to the committee with emails to each member.

Alan Dornfest and Tim Hill presented his analysis of the change to the forestland values from the 2004 HB 513 values to the 2005 HB 513 values and the CFTM values which are being proposed. The analysis examined the tax shifts with respect to property taxes levied by county government and school districts only. Alan offered the explanation that he only analyzed revenue loss or gain assuming that everything else remains the same. He assumes that there is no new construction for example. Revenue loss only occurs when a district or county has reached its levy limit. Alan pointed out that Adams County has arrived at its levy limit in current expense and the justice fund. Alan found that the information in Chart one and the information in Chart five did not agree. He excused himself so that he could have staff correct the information for the committee.

Dr. Schlosser reviewed his presentation to the legislature with the CFTM and obtained edits that the committee recommended.

Alan returned with corrected information for the committee. The error was that the category 7 data had not been removed from charts five to nine. Chart six showed the portion of total value that category 6 forestland is in each county. Chart seven showed the tax shifting to non-forestland properties, with rates floating up in the first year. Chart eight shows what happens the second year of a tax change. Some school districts rates will float up, after the one-year lag.

Tim Hill pointed out that all but \$23,000 of the tax shift is made up in the second year by the school equalization formula. Avery and McCall/Donnelly lose \$10,000 each. This



example suggests that the remaining (non-floored) amount of \$117,000 would be equalized among the other districts.

George Peralá said that this analysis would suggest that some of the fears from a few years ago about large impacts to school budgets by the new method seem unfounded.

Jane Gorsuch agreed, saying that it is now obvious that there are no large impacts to schools, which will come from this legislation.

Chairman Watson suggested that the draft of the legislation and the corrected report from Alan Dornfest be made available to all of the committee members as soon as possible after the conclusion of the meeting. He closed the meeting at 2:45 pm.