

Oregon Forest Practices Act: Moving forward



FPA Overview
Oct. 24, 2023

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SFO Forester - Veneta



Changes to the Forest Practices Act

- How did we get here?
- What are the goals?
- What are some of the upcoming changes?
- Where can I find out more?



How did we get here?



- Decades of fierce debates:
 - Forest products sector, and conservation and fishing communities
- Private Forest Accord:
 - Memorandum of Understanding (MOU) signed in 2020
- Parties agreed to work collaboratively to resolve the numerous conflicts.



2022 Private Forest Accord goals:

- Greater certainty:
 - Business
 - Environmental
 - Regulatory
- A science-driven adaptive management process
- Alternatives for small forestland owners



Oregon Legislature

2020 - Senate Bill 1602

- 2020 –
 - SB 1602
- 2022 –
 - Private Forest Accord
 - SB 1501
 - SB 1502
 - HB 2161
 - HB 4055





Forest Practices Act Reconstruction

Vision

- Support Habitat Conservation Plan (HCP)
- Support small forestland owners

Speed

- Improved water quality protection
- Improved fish passage

Strength

- Enhanced education & enforcement efforts

What the new rules will do:

Add protection for fish and amphibian habitat.

Increase stream buffers and add protections for water quality.

Require new design standards for forest roads.

Require more trees retained on steep slopes.

Increase compliance monitoring.

Create a mitigation program.

Create an Adaptive Management Program.

Create a Small Forestland Owner Office.

Provide training.

Additional program support.





New Rule Effective Dates

- **Large Forestland Owner**
(Greater than 5000 acres)

July 1, 2023

- **All Landowners**

January 1, 2024





Endangered Species Act (ESA) of 1973

Habitat Conservation Plan (HCP)





ESA background

- “To conserve endangered and threatened species and their ecosystems” (NOAA, 2023(a))
- Strict language on the ‘Take’ of threatened or endangered species
- Defining ‘Take’:
 - “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.” (NOAA, 2023(b))





HCP background

- Created under a 1982 amendment to the Endangered Species Act
- Agreement between a state or private entity, and USFWS and NOAA
- Allows for **Incidental Take** of Threatened or Endangered species
- Designed to help landowners and communities





HCP process

- Develop HCP with input from steering committee
- ODF administers the HCP through the Forest Practices Act (FPA) and rules
 - Holds Incidental Take Permit on behalf of Oregon private forest landowners
- Landowners receive regulatory assurances through compliance with FPA





Goals

Habitat Conservation Plan (HCP):

- Assurances 'Take' will not violate the ESA
- For selected species, including → → → →

Columbia Torrent Salamander



Coastal Tailed Frog



Coho Salmon





Small Forestland Owner (SFO)

Who is considered an SFO?





Small Forestland Owner Qualifications:

- Owns less than 5,000 acres of forestland, and
- Has harvested no more than 2 million board feet averaged annually over the last 3 years, and
- Not expecting to remove more than 2 million board feet annually over the next 10 years.





SFO Foresters

- Help explain rules & programs
- Help with notification of operation
- Help complete Road Condition Assessments





Small Forestland Owner (SFO) Programs and Options





Programs and Options



Road Condition
Assessment
(RCA)



Small Forestland
Investment in
Stream Habitat
(SFISH)



Forest
Conservation
Tax Credit (FCTC)



Modified Riparian
Management Area
buffer
(SFO Minimum Option)



Division 607-0100



SFO Minimum Option

- Reduced riparian management area widths
- Minimum option capped at 5% of available stream miles in a Fifth-field (HUC-10) watershed
- Options available to landowner if:
 - Cap is reached, or
 - A significantly disproportionately impacted parcel

Fifth-field Watershed (HUC-10)





Division 625-0920

Road Condition Assessment (RCA)





Road Condition Assessment (RCA)

Objectives

1. Describe road conditions that contribute to active or potential sediment delivery to waters of the state.





Road Condition Assessment (RCA)

Objectives (cont.)

2. Document water crossing locations and determine their status of compliance.





Road Condition Assessment (RCA)

Objectives (cont.)

3. Identify potential fish passage barriers, abandoned roads, and roads with a perched fill that present a significant hazard to fish-bearing streams.





Road Condition Assessment (RCA)

When should the SFO submit?

🌲 Notification for harvest of timber

The screenshot shows the FERNS website interface. At the top, there is a navigation bar with the FERNS logo and the text 'FERNS'. Below this is a dark green header with the text 'Create a new Notification of Operations / Application for Permit (NOAP)'. A search bar is visible below the header. A red circle highlights the 'NOAP' button. Below the search bar, there is a list of links: 'I want to (click of that word)', 'Apply to Forests for a new or renewed harvest licence (2016-2017)', 'Apply to Forests for a new or renewed harvest licence (2018-2019)', and 'Apply to Forests for a new or renewed harvest licence (2020-2021)'. At the bottom right, there are two green buttons: 'NOAP' and 'NOAP (2016-2017)'.

🌲 Applying for SFISH program grant



Road Condition Assessment (RCA)



Which roads need assessment?



- 🌲 Existing roads on the parcel where the harvest activity will take place
- 🌲 Do not include roads on neighboring landowners' property
- 🌲 Do not include skid trails

Division 607-0300

Small Forestland Investment in Stream Habitat (SFISH)



Grant Program

- Improve fish habitat
- Mitigate risks to natural resources arising from forest roads





Small Forestland Investment in Stream Habitat (SFISH)

High Conservation Value Sites

- Areas of known chronic sedimentation
- Fish passage barriers
- Roads with a perched fill presenting a significant hazard to fish-bearing streams
- Diverted stream crossings
- Inadequate road drainage





SFISH Requirements



Small Forestland Owner

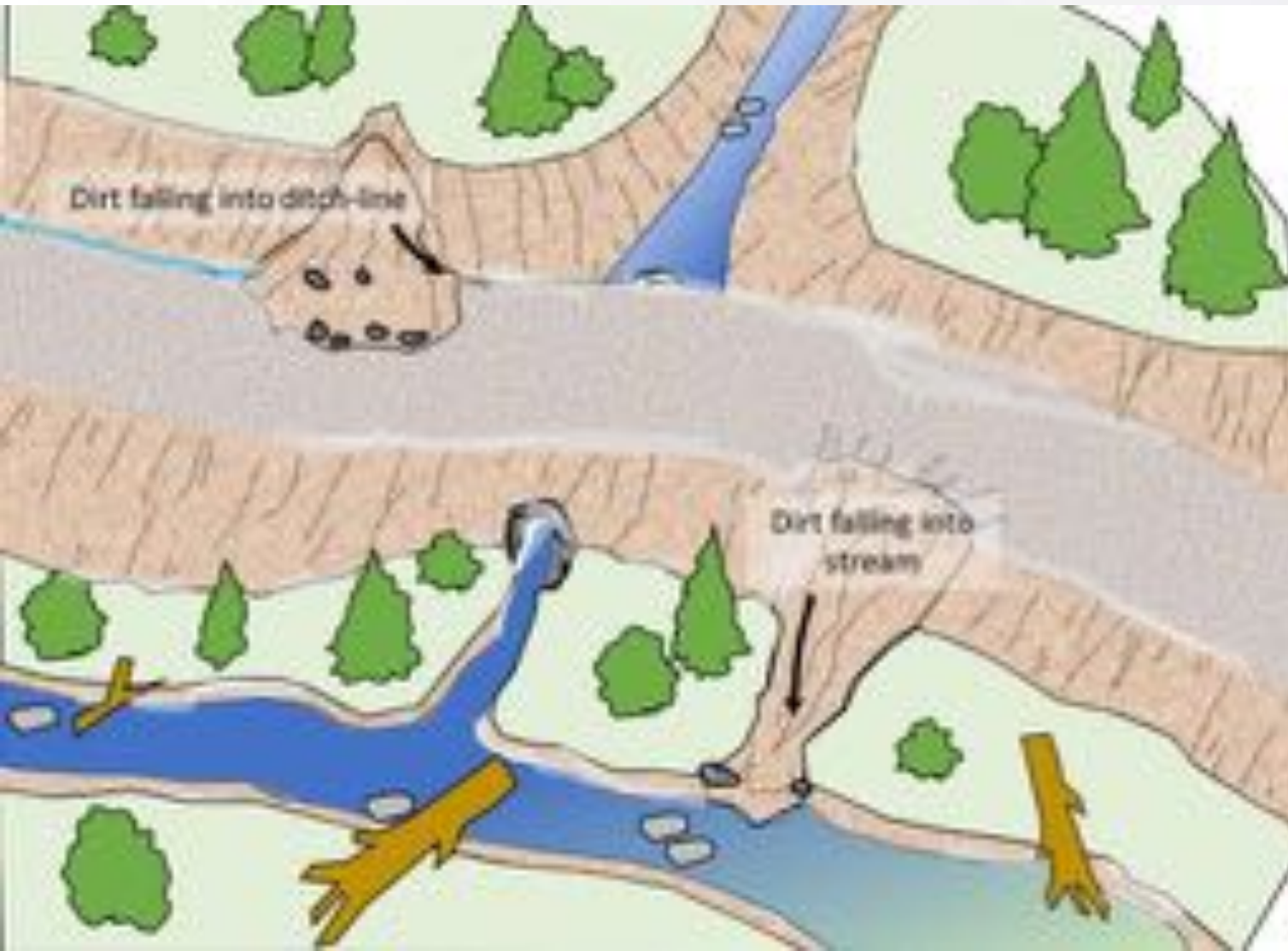


Road Condition Assessment





SFISH Project Examples



- ➔ Replacements of culverts or fords that are no longer functioning
- ➔ Abandoned road repairs that prevent sediment delivery and improve fish passage
- ➔ Remediation of roads with perched fill (side cast)



SFISH Process

- ➔ SFO completes RCA
- ➔ Site visit conducted
- ➔ Eligible project ranked
- ➔ Project is funded



Division 607-0400

Forest Conservation Tax Credit (FCTC)

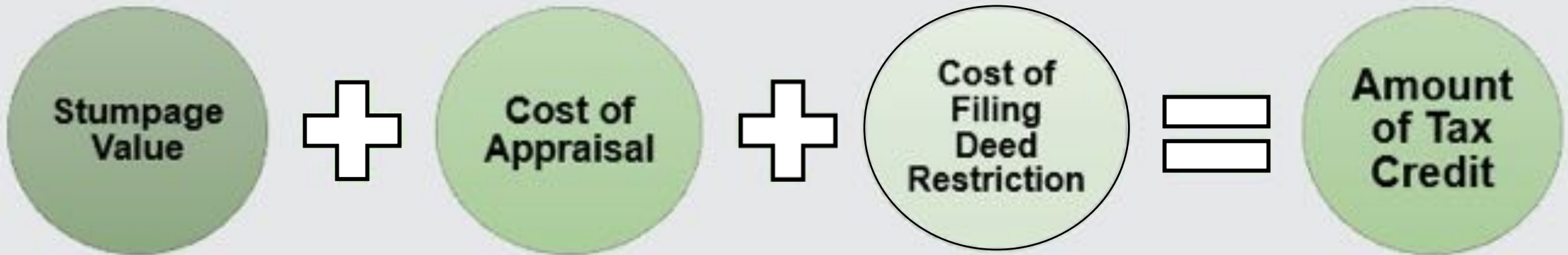


- 🌲 Provides financial benefit for SFOs who support conservation and habitat protection
- 🌲 Tax credit based on unharvested timber in conservation area and related costs





Determination of Tax Credit Amount





Forest Conservation Area

--- Standard Practice

■ Forest Conservation Area

--- Minimum Option





Summary

- Programs:
 - Small Forestland Investment in Stream Habitat (SFISH)
 - Forest Conservation Tax Credit (FCTC)
- Options:
 - Small Forestland Owner Minimum Option
- Requirements:
 - Road Condition Assessment

Break



Oregon Forest Practices Act: Streams and Roads



Streams and Roads
Oct. 24, 2023

Justin White
SFO Forester – Sweet Home

STREAMS





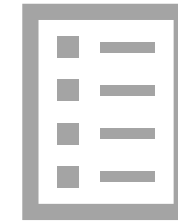
Private Forest Accord Objectives for Streams and Riparian Areas



Develop new
stream
network for
fish use and
stream flow



Simplify
geographic
regions for
administration
of riparian
rules



Equitable and
consistent
riparian
management
across the
state



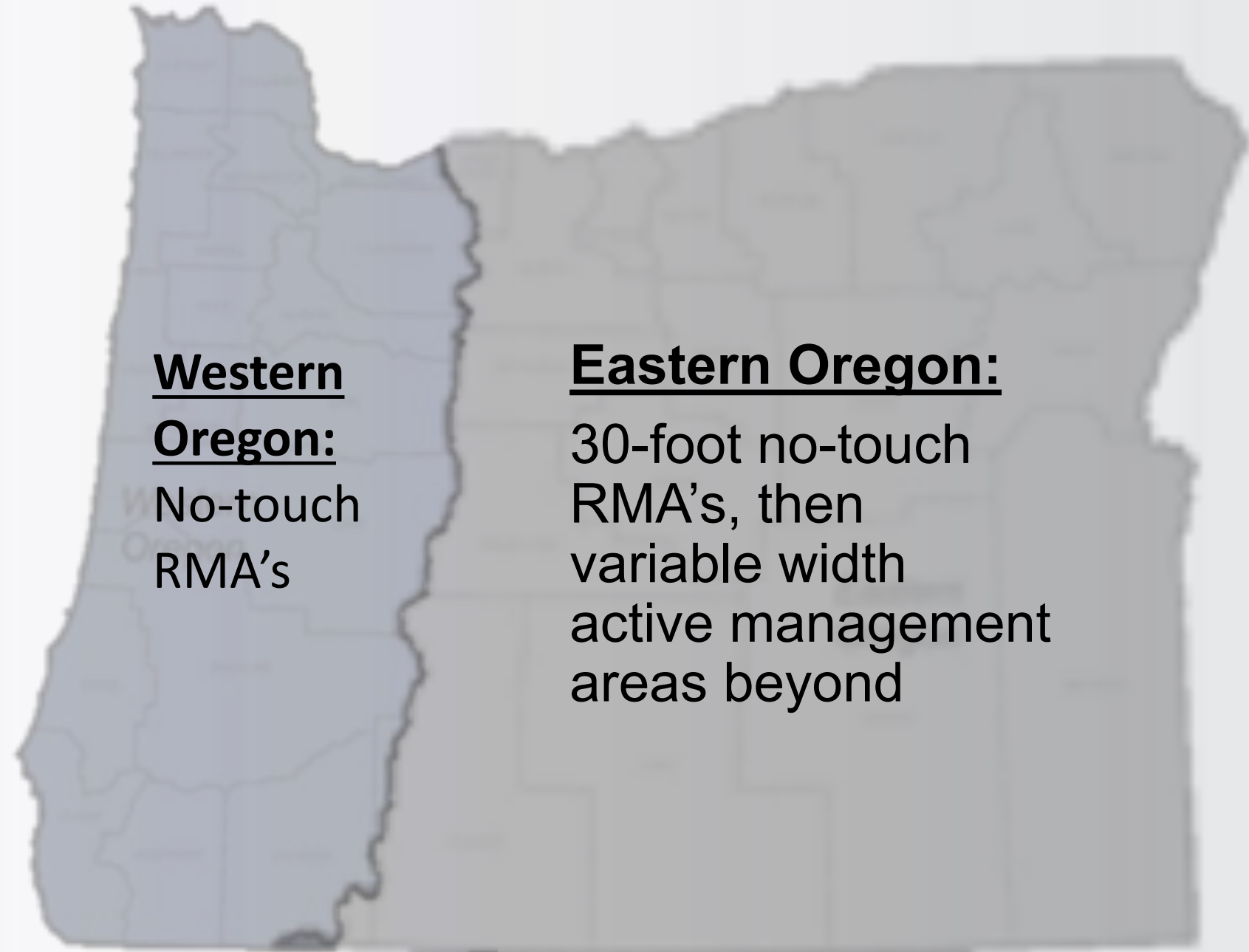
Provide
management
options for
Small
Forestland
Owners

Regional Considerations



Statewide
Now 2 Regions
Statewide

Regional Considerations



Western

Oregon:

No-touch
RMA's

Eastern Oregon:

30-foot no-touch
RMA's, then
variable width
active management
areas beyond



Western Oregon

Standard Practice

Fish Streams



Small Non-fish Stream Requirements

Important Topics

- Tree Retention
- Flow Feature
- Equipment Limitation Zone (ELZ)
- Stream Classification



Equipment Limitation Zones (ELZ)





ELZ & R-ELZ Distances

OAR 629-630-0700,
-0800

Ground Based
Equipment near water
&
Cable Yarding
Equipment near water





Standard Practice



MAP LEGEND

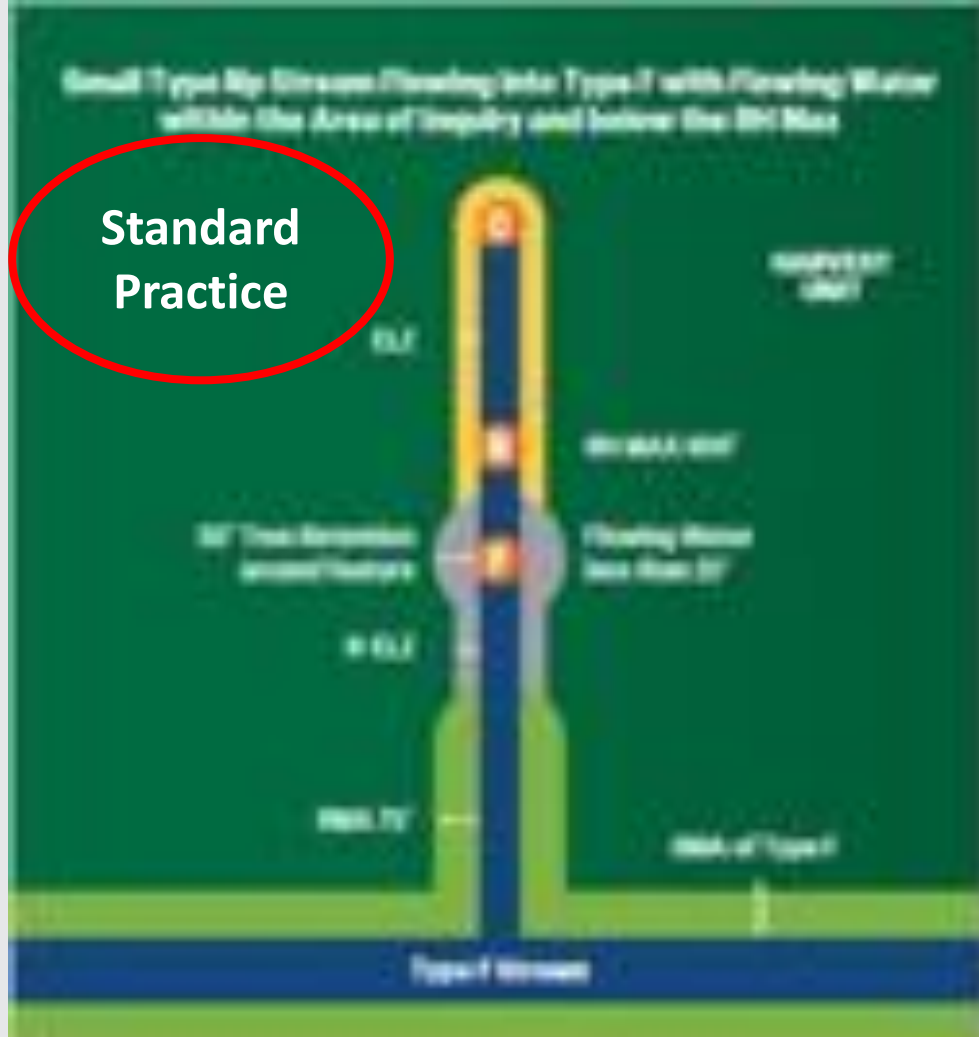
Riparian Management Zone (RMA)	Stream	End of Channel
Riparian Management Zone (RMA)	Equipment Exclusion Zone (EEZ)	All Ways
Riparian Management Zone (RMA)	Riparian Equipment Exclusion Zone (REEZ)	End of Pipe Features

Minimum Option



MAP LEGEND

Riparian Management Zone (RMA)	Stream	End of Channel
Riparian Management Zone (RMA)	Equipment Exclusion Zone (EEZ)	All Ways
Riparian Management Zone (RMA)	Riparian Equipment Exclusion Zone (REEZ)	End of Pipe Features





Perennial Flow Field Survey

Survey

- Surveys on Small, Type N streams
- Looking for end of perineal flow.

Flowing water

- Visible flowing water in channel
- NOT stagnant water
- NOT overland or sub-surface flow



Riparian Areas





Riparian Management Area Goals

Desired Future Condition → old forest structure

- Provide ample shade over the channel
- An abundance of large wood in the channel
- Regular inputs of nutrients through litter fall.



Steep Slopes





Division 630 Harvest Rule

New Purposes

- (5) Reduce the potential for sediment delivery to waters of the state
- (6) Retain trees in designated areas
- (8) Use Div. 623 rules for Landslides and Public Safety





Slopes Model Western Oregon

OAR 629-600-0100

- Designated Debris Flow Traversal Area
- Designated Sediment Source Areas with Trigger Sources
- Areas without Trigger Sources Designated Sediment Source





SFO Minimum Option DDFTA

- Retain 50% of DDFTA prioritizing type SSBT streams
- ODF will assist the small forestland owner in determining the 50%
- RMA shall encompass Stream Adjacent Failure

Roads





All Culverts

- Do not cause stream or bank scouring
- Ensure stream diversion is not likely
- Plant disturbed stream banks





Stream Crossing Culverts

- 50-year peak flow →
Now 100-year peak flow
- Written plans required
for all stream crossings
 - 18-inch minimum
diameter





Fish Stream Crossings

- Stream simulation is required whenever possible
- Specific embedment depths based on stream's type and size



Fish Stream Culvert Width

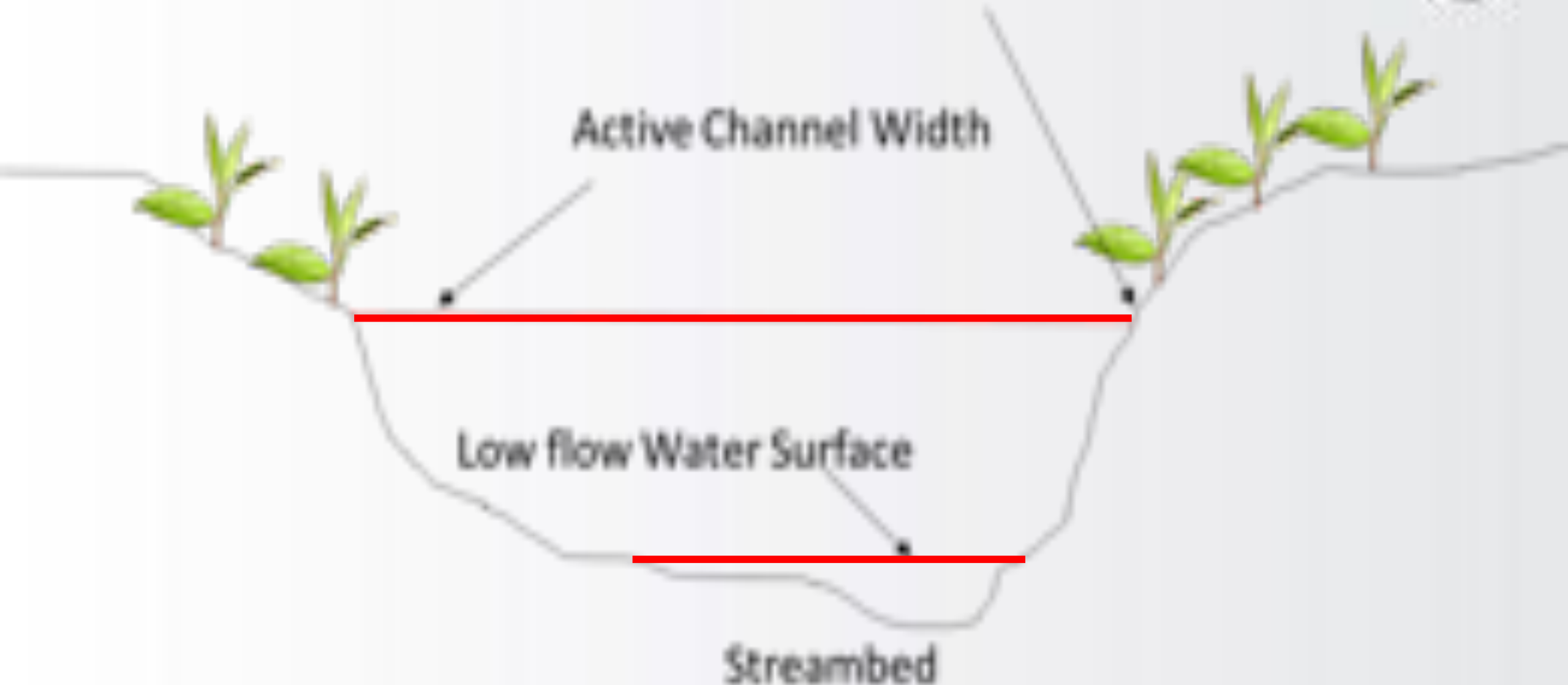


Permanent Vegetation
Starts at or Near Mark

Active Channel Width

Low flow Water Surface

Streambed





Fish Stream Culvert Width

Zero gradient culvert:

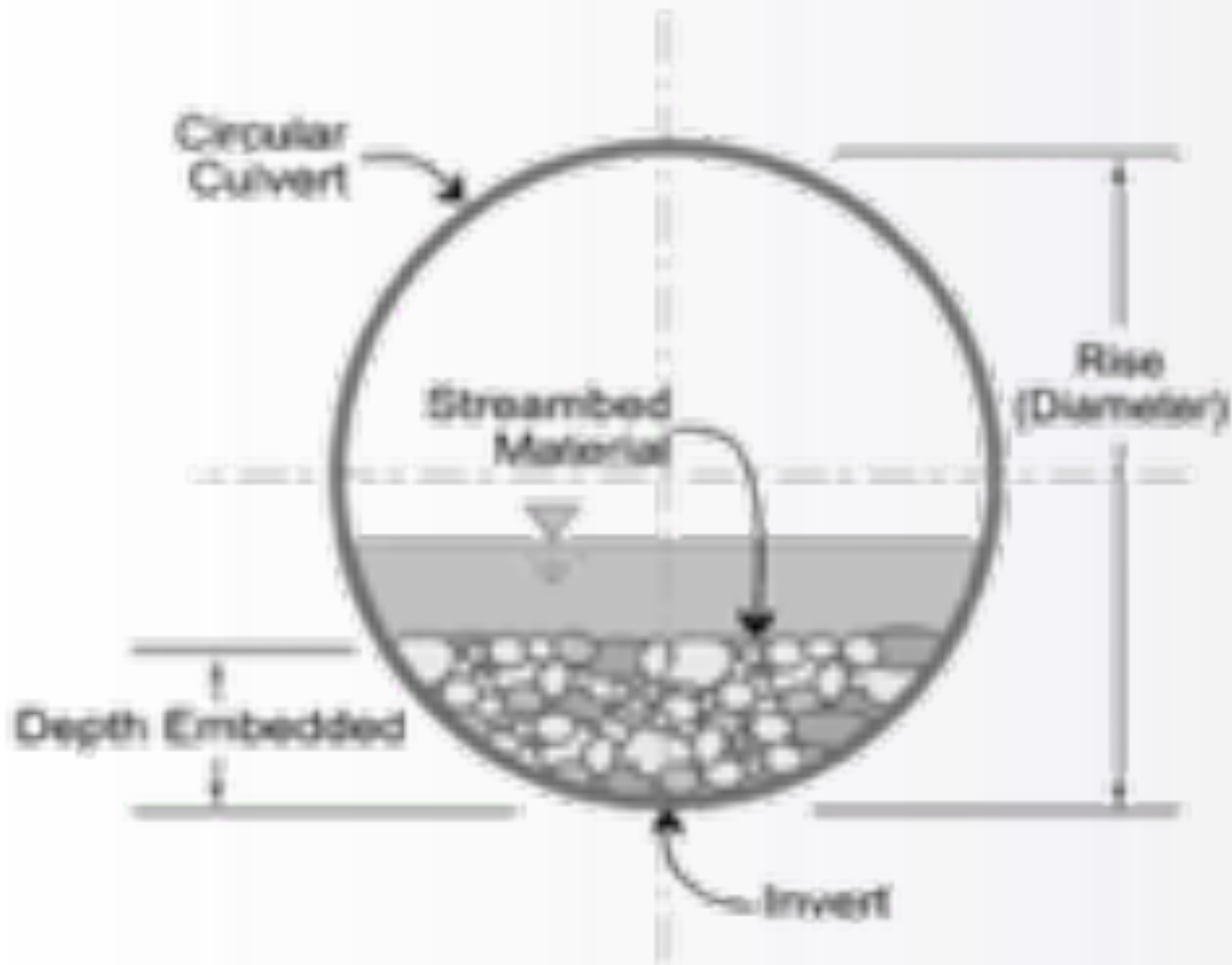
At least as wide as active channel width

All others:

(Active channel width (ft.) X 1.2) + 2



Fish Stream Culvert Embedment



□ 30 – 50% for round culverts

□ 15 – 30% for pipe arch culverts



Fish Stream Culvert Embedment materials

Similar composition to
natural bed materials





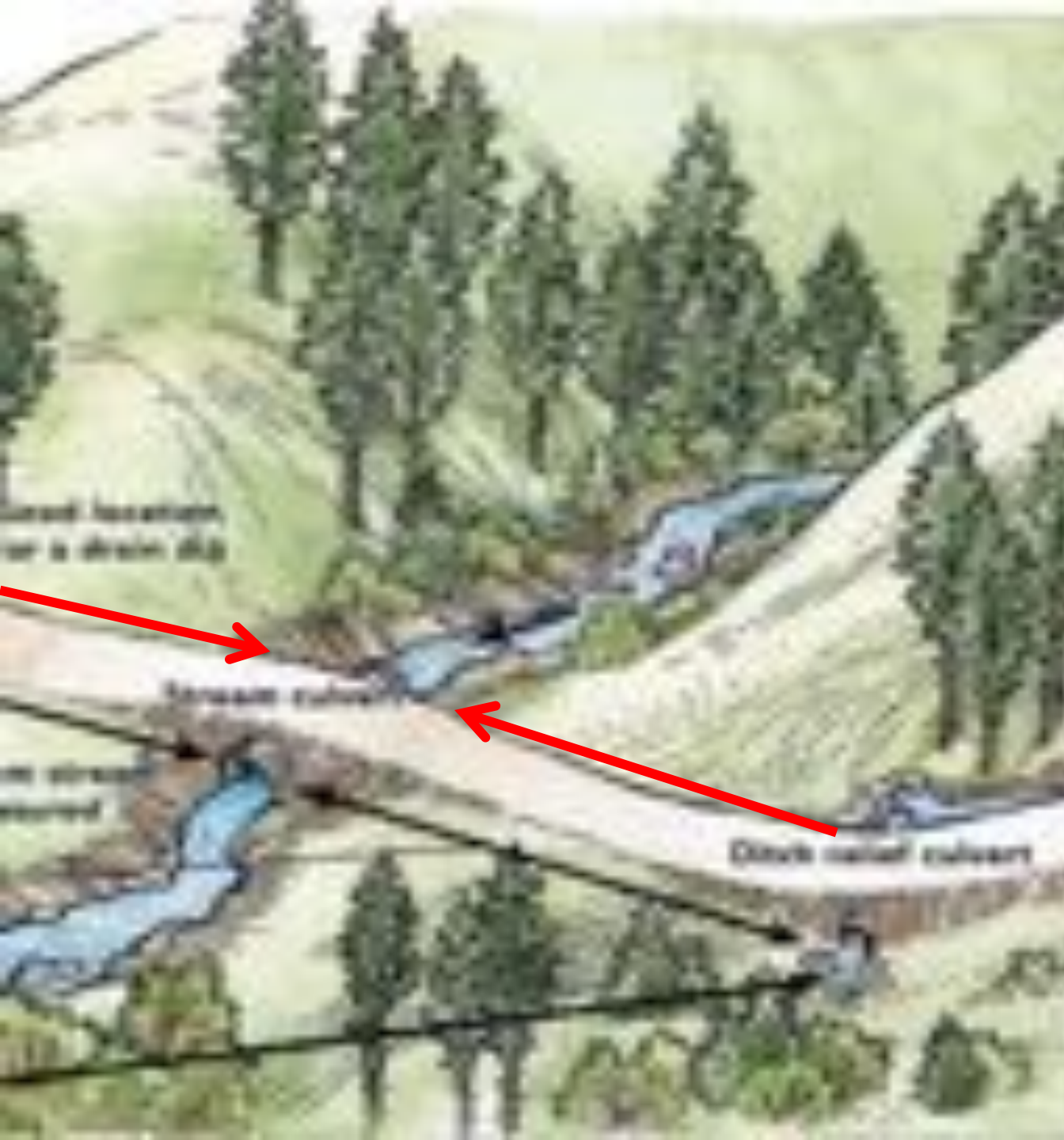
Fish Stream Culvert Embedment strategies

1. New crossings
2. Replacement crossings



Hydrologic Connectivity

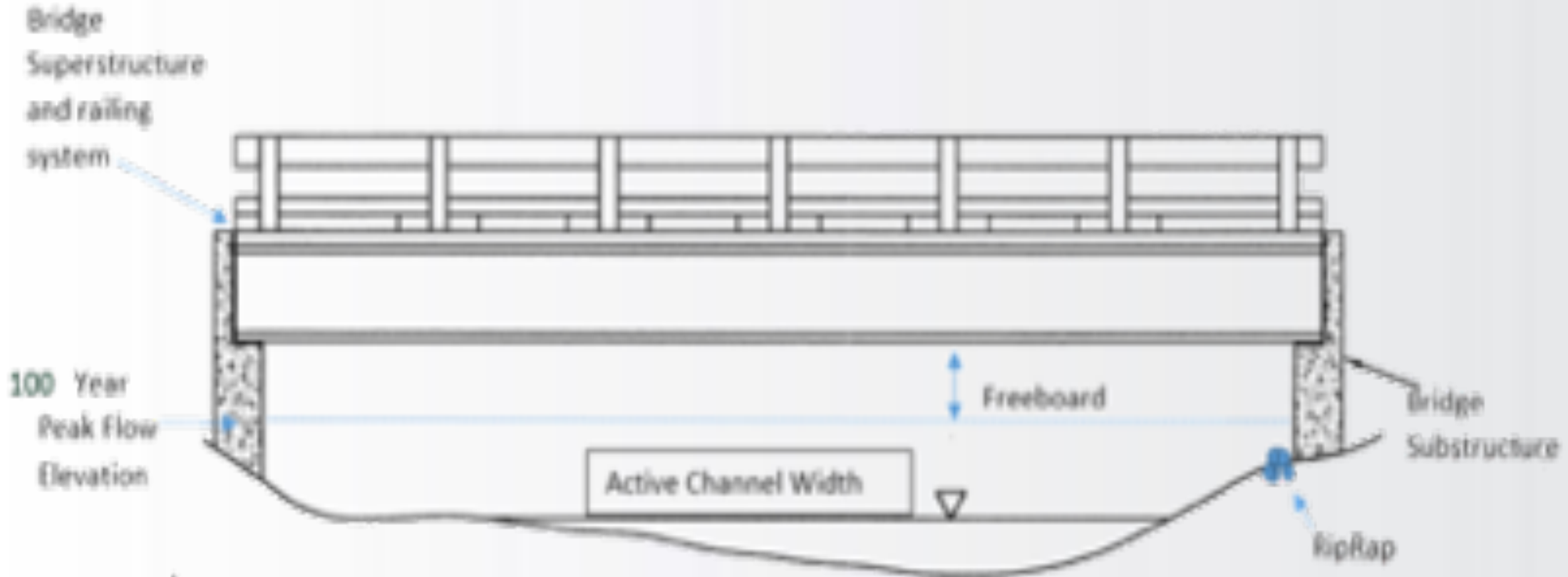
- All road surface and ditch line that drains into waters of the state
- Minimize hydrologic connectivity
 - “distance between ditch relief feature and stream”





All Permanent Channel spanning structures

- ❑ 3 feet of Freeboard from 100-year peak flow elevation
- ❑ Anchoring





All Channel Spanning Structures

- Earthen bridge surfacing
- Elements may not constrict channel... too much





Fords

- Use only during Low/no flows
- Install in dry stream or dewater
- Approaches may not dam floodplain
- Perpendicular
- Minimize velocity
- No wider than 16 feet
- Be fish passable





Temporary crossings

Design to pass the flow expected while in use

Fish streams:

Used only during ODFW in-water work period

Non-fish streams:

Western Oregon

June 1st – September 30th

Eastern Oregon

July 1st – October 15th





Temporary crossings

- Pass expected flow (18" min.)
- Bypass flow during construction
- Use vacating standards to remove



Road Critical Locations

9 critical locations fall within the following categories:

- Steep Areas
- Near Streams
- Wetlands
- Toe of Slides





Avoid Critical Road Locations

Unless can justify:

- Safety
- Greater environmental risk
- Ownership access
- Other legal barriers





Written Plans for Critical Locations:

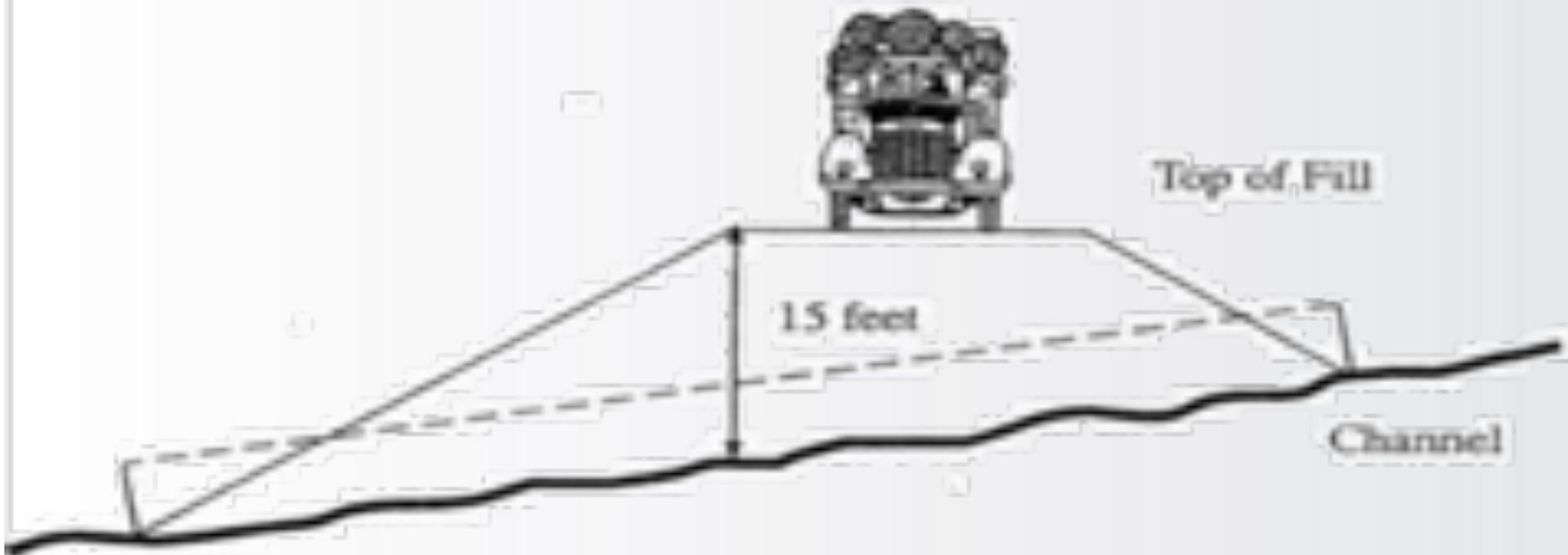
- Required for all Critical Locations
- Onsite review
 - 14 days
- If review doesn't occur
 - No other waiting period



All Water Crossings

- Minimize excavation
- Minimize fill volume
- Armor fills over 15 ft.
- Prevent erosion of the fill and channel

High Fills

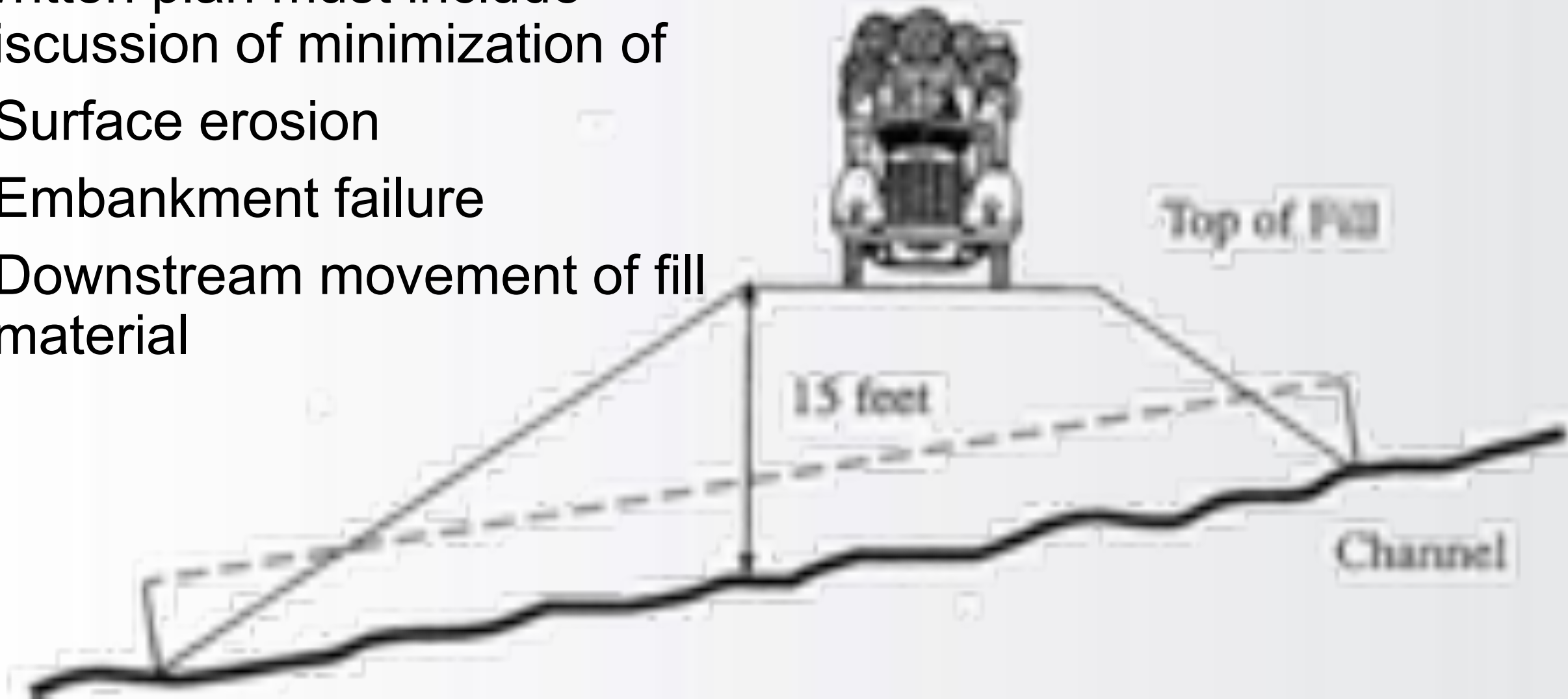




Fills over 15 ft.

Written plan must include discussion of minimization of

- Surface erosion
- Embankment failure
- Downstream movement of fill material





Vacating Forest Road and Water Crossings

Goal:

left in a condition where road-related damage to waters of the state is unlikely.



Vacating Roads - Specifications

- Block road
- Out slope, water bar, or otherwise storm proof
- Remove Fills
- Remove water crossings



Vacating water crossings - Specifications

- Water Crossings
 - Make fish passable
 - Remove all fill material
 - Restore channel and banks
 - Close to natural
 - 2:1
 - Provide erosion control
 - Waste materials
 - Plant exposed stream banks





Waste Materials

Stable locations

- What is a stable location
- Notification
- Written Plan

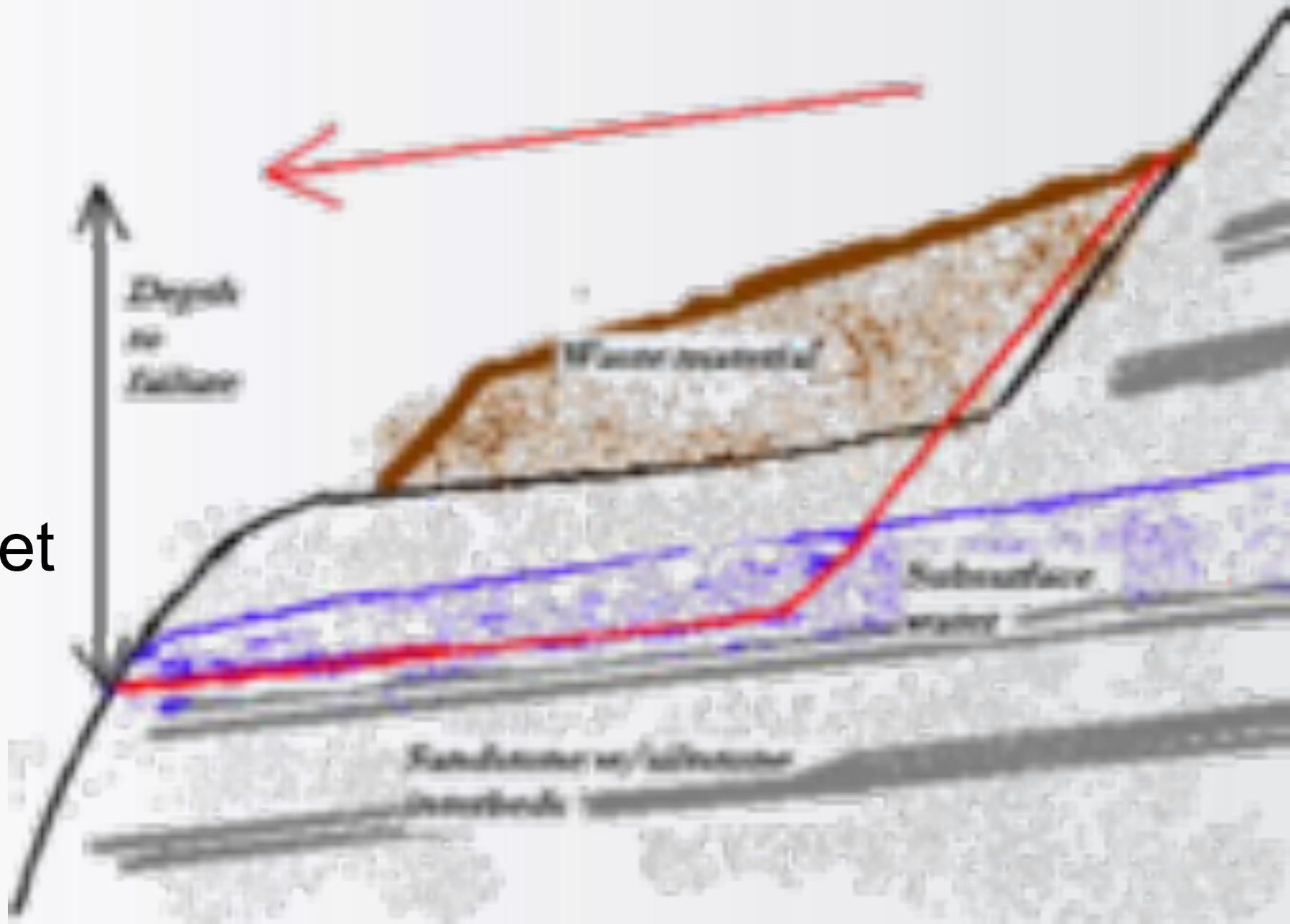




Waste Materials

Near Streams

- Not in RMA's
- Not within 75 feet of WOS
- Unless Temporary





Stabilization

Stabilize exposed materials

- Where:
 - Potentially unstable/erodible
 - Potential sediment delivery locations
- When:
 - ASAP
 - Prior to rainy season
- How:
 - Seeding, mulching, riprapping, light slash, pull back
 - Effectively





Summary

- Programs:
 - Small Forestland Investment in Stream Habitat (SFISH)
 - Forest Conservation Tax Credit (FCTC)
- Options:
 - Small Forestland Owner Minimum Option
- Requirements:
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Closing Remarks

- No continuations of notifications
 - December 1st → can notify for 2024
- Road Condition Assessment (RCA) required before harvest notification



Thank You

