

1 **FOREST PRACTICES BOARD**
2 **REGULAR BOARD MEETING**
3 February 12, 2013
4 Natural Resources Building
5 Olympia, Washington
6

7 **Members Present**

8 Aaron Everett, Chair, Department of Natural Resources
9 Bill Little, Timber Products Union Representative
10 Bob Guenther, General Public Member/Small Forest Landowner
11 Carmen Smith, General Public Member/Independent Logging Contractor
12 Court Stanley, General Public Member
13 Dave Somers, Snohomish County Commissioner
14 David Herrera, General Public Member
15 David Whipple, Designee for Director, Department of Fish and Wildlife
16 Kirk Cook, Designee for Director, Department of Agriculture
17 Paula Swedeen, General Public Member
18 Tom Laurie, Designee for Director, Department of Ecology
19

20 **Members Absent**

21 Mark Calhoon, Designee for Director, Department of Commerce
22 Phil Davis, General Public Member
23

24 **Staff**

25 Mary McDonald, Acting Forest Practices Division Manager
26 Marc Engel, Forest Practices Assistant Division Manager
27 Patricia Anderson, Rules Coordinator
28 Phil Ferester, Assistant Attorney General
29

30 **WELCOME AND INTRODUCTIONS**

31 Aaron Everett called the Forest Practices Board (FPB or Board) meeting to order at 9:00 a.m.
32 Everett welcomed new member Court Stanley who replaced Norm Schaaf.
33

34 **APPROVAL OF MINUTES**

35 **MOTION:** Tom Laurie moved the Forest Practices Board approve the November 13, 2012
36 meeting minutes.
37

38 **SECONDED:** Bill Little
39

40 **ACTION:** Motion passed unanimously.
41

42 **REPORT FROM CHAIR**

43 Aaron Everett shared some changes to the agenda format to promote additional discussion among
44 the Board. He also shared his thoughts on his recent visits to Forests and Fish Policy (Policy)
45 meetings. He said he noticed positive progress resulting from the settlement agreement and having a
46 facilitator for their discussions. He noted CMER's ambitious schedule and said he believes adding
47 staff resources is the only way to accomplish it right now.
48

1 **PUBLIC COMMENT**

2 Kara Whitaker, Washington Forest Law Center (WFLC), reminded the Board that the Northern
3 Spotted Owl Policy Working Group was created because of a settlement agreement. Audubon's
4 lawsuit was necessary because the forest practices rules are inconsistent with the endangered
5 species act by allowing the harvest of all suitable habitats in owl circles outside of spotted owl
6 special emphasis areas, including the nest tree. She said the conservation caucus was pleased to
7 actively participate in this group and believes the expanded scope of the NSOIT should move closer
8 to creating voluntary incentives that will make a strategic contribution from nonfederal lands.
9

10 Chris Mendoza, conservation caucus, commented there is still a need to conduct compliance
11 monitoring on perennial initiation points/upper most point of perennial flow. He is hopeful the data
12 collection efforts now underway will provide critical information to establish a buffering network in
13 headwaters of non-fish bearing streams.
14

15 Peter Goldman, WFLC, presented the conservation caucus' highest priorities within the adaptive
16 management process:

- 17 • Efficient and effective implementation of the adaptive management program, specifically in
18 how the science and policy process is working.
- 19 • The Post-mortem landslide study which will be before Forests and Fish Policy soon to analyze
20 whether the data following the 2007 storm reflects the regulations governing steep and unstable
21 slopes. He added that the conservation caucus believes Policy needs to look at the post-mortem
22 data, conduct a workshop with DNR to see how forest practices applications and the regulations
23 regarding steep and unstable slopes are reviewed and enforced, and analyze what was learned.
- 24 • A quick implementation of Type N and Type F studies. These two studies have key issues in
25 protecting fish-bearing waters and the waters that feed fish-bearing waters.
26

27 **STAFF REPORTS**

28 Adaptive Management

29 Jim Hotvedt, DNR, provided an overview of the need for additional staff to conduct research and
30 scoping of projects in order to initiate and complete projects on the master schedule. Everett noted
31 there is a substantial positive variance for this biennium in the Adaptive Management Program and
32 suggested that the Board approve the hiring of an additional CMER staff person.
33

34 **MOTION:** Dave Somers moved the Forest Practices Board direct DNR to expend adaptive
35 management funds to hire a CMER Scientist with wetlands experience.
36

37 **SECONDED:** Tom Laurie
38

39 Board Discussion:

40 Dave Somers asked why such a high variance. Hotvedt responded that many projects are winding
41 down, and as a result CMER members are now involved in the analysis and writing, versus
42 implementing projects in the field that cost more. Hotvedt said a positive variance is likely for the
43 next couple of years because of the effort to complete current projects and develop study designs for
44 future projects.
45

46 Everett said the position will be a permanent position within the Adaptive Management Program.
47
48

1 Tom Laurie said he thought dedicated CMER staff is the most effective way to advance the Board's
2 work.

3
4 **ACTION:** Motion passed unanimously.

5
6 Northern Spotted Owl Implementation Team

7 Andy Hayes, DNR, provided an update on a recent team meeting. It included the four new members
8 the Board directed to expand the team in order to complete the task of investigating the opt-in
9 federal assurances that are designed to promote conservation banking or other conservation
10 incentive tools. Team members shared their perspective of the new expanded scope. The team will
11 meet again in March and intends to have monthly meetings thereafter.

12
13 Rule Making Activity and Work Plan

14 Marc Engel, DNR, updated the Board on changes to the Board's 2013 work plan. He explained
15 which board manuals will be amended and when they will be completed, and that the Board would
16 have the opportunity to approve the work plan later in the meeting.

17
18 Small Forest Landowner Advisory Committee and Small Forest Landowner Office

19 Tami Miketa, DNR, reported that the Small Forest Landowner Office created a video to promote the
20 Family Forest Fish Passage Program. The Board watched the video. Miketa explained that the
21 office worked with a production company and expressed that she thought the video sends a great
22 message. The Board agreed that the video was well done and achieved its purpose.

23
24 TFW Cultural Resources Roundtable

25 Pete Heide, co-chair, provided additional information to the Board relating to the existence of the
26 roundtable and process to produce consensus work products. Everett acknowledged Heide's
27 retirement in February and thanked him for his work on the roundtable and the many other forest
28 practices projects.

29
30 There was no further discussion on the following staff reports:

- 31
- 32 • Board Manual Development
 - 33 • Compliance Monitoring
 - 34 • Upland Wildlife Working Group

35 **LEGISLATIVE ACTIVITY UPDATE**

36 Mary McDonald, DNR, summarized a list of legislative bills that could affect the Forest Practices
37 Program. A final recap of bills passed will be provided at the May meeting.

38
39 **CLEAN WATER ACT ASSURANCES**

40 Mark Hicks, Department of Ecology, provided an update on the milestones as of January 2013. He
41 stated that three non-CMER project milestones and one CMER research milestone have been
42 completed, and there are many more non-CMER projects that should be completed within the next
43 six to nine months.

44
45 David Whipple asked about the evaluation conducted 2009 by Department of Ecology and next
46 steps. Hicks responded that there is not a second review scheduled, but rather a focus on completing
47 the first set of milestones.

1 **MAZAMA POCKET GOPHER PROPOSED LISTING AND CRITICAL HABITAT**

2 Marc Engel, DNR and David Whipple, Department of Fish and Wildlife (DFW), provided the
3 following information on the proposed listing of the Mazama Pocket Gopher. Engel stated that:

- 4 • The species has a high level of public interest, mostly from the perspective of development and
5 county regulations and linkages to forestlands.
- 6 • The gopher stays underground most of the time and areas with suitable habitat are mostly within
7 the city limits or urban growth areas of Olympia, Tumwater and Lacey, with majority already
8 densely developed.
- 9 • In December 2012, the U. S. Fish and Wildlife Service (USFWS) proposed adding four
10 subspecies of the gopher to the federal list of threatened species and designating critical habitat.
11 In addition, the USFWS proposed a 4(d) rule that would exempt some activities from the
12 Endangered Species Act, Section 9 take prohibitions. USFWS has proposed 9,234 acres of
13 critical habitat in western Washington, however no forest lands are proposed. The final rule is
14 scheduled for late 2013.

15
16 Whipple continued with a review of DFW's recovery efforts:

- 17 • January 2013- Draft Status Update and Recovery Plan released. It identified seven areas in
18 Thurston, Pierce, and Mason counties with substantial existing habitat and significant numbers
19 of gophers.
- 20 • For subspecies only in Mason County- Research to learn gopher habitat needs (vegetation and
21 soils) relative to clearcuts and roadsides.
- 22 • Develop management practices that will not negatively affect forestry objectives.

23
24 **TAYLOR'S CHECKERSPOT BUTTERFLY ANNUAL REPORT**

25 Sherri Felix, DNR and Gary Bell, DFW, provided an overview of the Taylor's Checkerspot
26 Butterfly (TCB) annual report. Felix stated in 2007 the Board approved a voluntary cooperative
27 protection approach as a result of the Washington Fish and Wildlife Commission listing the
28 butterfly as a state endangered species. The first element of the report includes butterfly protection
29 issues associated with individual forest practices applications which noted that none of the 12
30 permits within 1.0 mile of identified butterfly habitat was determined by DFW to pose a potential
31 risk to the butterfly and no protection issues arose during these forest practices activities.

32
33 Bell provided a status update on current and potential management plans and the
34 conservation/restoration efforts. He concluded that there are no conflicts identified for any forest
35 practices activity.

36
37 David Whipple stated he is optimistic that all the plans will be completed soon.

38
39 **U.S. FISH AND WILDLIFE SERVICE PROPOSED LISTING/CRITICAL HABITAT OF**
40 **TAYLOR'S CHECKERSPOT BUTTERFLY**

41 Marc Engel, DNR and David Whipple, DFW, updated the Board on the time line for the proposed
42 listing of the TCB.

- 43 • U.S. Fish and Wildlife Service proposed to list the TCB as an endangered species and designate
44 critical habitat in Washington and Oregon on October 10, 2012.
- 45 • DNR provided comment on December 10, 2012.
- 46 • DFW provided comment on December 10, 2012.
- 47 • USFWS expects to make a final rule decision in about one year.

1
2 **FOREST PRACTICES HABITAT CONSERVATION (HCP) PLAN 5-YEAR REPORT**

3 Carol Walters and Charlene Rodgers, DNR, provided a summary of the 5-year report. The report
4 included accomplishments, challenges, and trends in HCP implementation from June 5, 2006 to
5 June 30, 2011. Walters and Rodgers highlighted accomplishments and challenges from the Forest
6 Practices Board, Adaptive Management Program, Compliance Monitoring Program, and Road
7 Maintenance and Abandonment Planning, and reviewed selected trends.
8

9 **Board Discussion:**

10 Regarding compliance monitoring, Whipple said he noticed there would not be any emphasis
11 samples for 2013, and asked about the strategy for that decision. Everett noted that Walt Obermeyer
12 was not available to respond and offered an explanation from Obermeyer to occur in his next staff
13 report.
14

15 Paula Swedeen noted concrete progress in the road maintenance and abandonment planning, and
16 asked how many miles of road are still left to be fixed, and how many large landowner fish barriers
17 still need to be removed. Walters responded that those are some of the most recent elements added
18 to the report and numbers will be available in the 2013 report.
19

20 Court Stanley asked whether the USFWS had any issues with the report. Walters responded that so
21 far they are satisfied with the 5-year report and the annual reports. She added that the USFWS is
22 involved in reviewing the drafts prior to DNR submitting the final report.
23

24 **PUBLIC COMMENT ON ADAPTIVE MANAGEMENT RESTRUCTURE AND FOREST
25 BIOMASS RULE MAKING**

26 Kara Whitaker, WFLC, said the WFLC supports the rule making on defining forest biomass and
27 amending the “forest practice” definition. She encouraged the Board to implement the additional
28 consensus recommendations presented at the August 2012 meeting.
29

30 **PROGRESS UPDATE ON THE SETTLEMENT AGREEMENT REGARDING THE
31 FOREST PRACTICES HABITAT CONSERVATION PLAN AND IMPLEMENTING THE
32 FOREST PRACTICES BIOMASS WORKING GROUP’S RECOMMENDATIONS**

33 Mary McDonald, DNR, reported that the Adaptive Management Program has completed their
34 review of the settlement agreement and Forests and Fish Policy has reached consensus on the
35 proposed elements for rule making. She indicated that this rule making would also include
36 amending rules recommended by the Forest Practices Biomass Working Group related to forest
37 biomass harvest. She requested the Board to approve a CR101 to notify the public of possible rule
38 making on adaptive management reform and harvest of forest biomass.
39

40 **MOTION:** Tom Laurie moved the Forest Practices Board direct staff to file a CR101
41 Proposal of Inquiry to notify the public that the Board is considering rule making
42 relating to the Adaptive Management Program and harvest of forest biomass. This
43 rule making will incorporate recommendations as a result of the settlement
44 agreement regarding the Forest Practices Habitat Conservation Plan and the Forest
45 Practices Biomass Working Group.
46

47 **SECONDED:** Carmen Smith
48

1 Board Discussion:
2 Tom Laurie said he appreciated the efforts of Forests and Fish Policy for a consensus
3 recommendation.
4

5 **ACTION:** Motion passed unanimously.
6

7 **PUBLIC COMMENT**

8 Pete Heide, Washington Forest Protection Association, stated that the Board should look closer at a
9 couple of the elements in the HCP report:

- 10 • How new road construction is reported;
- 11 • Interpreting the data for water typing when not all the paperwork may be in reviewers' hands
12 when looking at a stream and
- 13 • Determination of inadequate compliance in elements with small sample sizes, which results in
14 deceptively high error rates.
15

16 **PUBLIC COMMENT ON FORESTS AND FISH POLICY WORK PRIORITIES**

17 Mary Scurlock, Conservation Caucus, provided the Board with a summary of the conservation
18 caucus's perspective on the water issues before Policy. They are pleased Policy is ready to work
19 through the Type F issues, and that the Type N strategy is on track for approval.
20

21 **FORESTS AND FISH POLICY WORK PRIORITIES**

22 Stephen Bernath and Adrian Miller, co-chairs, reviewed the priorities which have not changed from
23 November 2012. Priorities include:

- 24 • Type N strategies
- 25 • Forest practices application/hydraulic project integration rule making
- 26 • Adaptive management program reform rule making
- 27 • Type F issues
- 28 • CMER studies
29

30 Everett said he would like to have regular check-ins with Policy in order to be proactive in case the
31 Board needs to change the priorities. This will also allow for consideration of the limited time and
32 resources dedicated to Policy. Everett also noted the use of a facilitator in Policy meetings has
33 shown positive outcomes.
34

35 Tom Laurie asked how the meetings are going with the facilitator and how long the facilitator will
36 be available. Bernath responded that having a meeting facilitator is helping, especially for the co-
37 chairs. The initial contract is for five meetings. Miller stated that the co-chairs will be
38 recommending continuing facilitation for the meetings and making it available for dispute
39 resolutions.
40

41 Paula Swedeen asked if further direction from the Board on priorities is needed. Miller said that an
42 endorsement on the priorities by the Board would be helpful.
43

44 **MOTION:** Aaron Everett moved the Forest Practices Board approve the 2013 Board Work Plan
45 as amended: scheduling the Clean Water Act annual report in August; and changing
46 the Board Manual development adding sections for amendment to complete the
47 requirement to incorporate fish protection standards into the legislatively required

1 Forest Practices Hydraulic Project rule making and technical guidance, and delaying
2 the Wetland Delineation section for a future time.

3
4 Aaron Everett also moved to direct Forests and Fish Policy to complete the work
5 identified in their February 8, 2013 memo to the Board. Priorities must reflect the
6 Board's Work Plan objectives for Board Manual approval and final rule making on
7 Adaptive Management/Settlement Agreement and Forest Practices Hydraulic Project
8 by the August Board meeting.

9
10 **SECONDED:** Bob Guenther

11
12 Board Discussion

13 None.

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15 **ACTION:** Motion passed unanimously.

16
17 **EXECUTIVE SESSION**

18 None.

19
20 Meeting adjourned at 1:20 p.m.