



**WASHINGTON
HARDWOODS
COMMISSION**

Testimony On NP Streams

Madam Chair and members of the Board, I am Dave Sweitzer, Executive Director of the Washington Hardwoods Commission, a position I have held since the Legislature enabled the formation of the Commission in 1991. The basic purpose of the Commission is to promote a sustainable hardwood industry here in Washington.

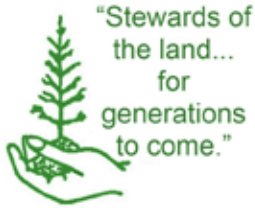
During the early years, it was a common sight to witness an impressive influx of three million tons of hardwood logs being transported to the mills. However, as time passed, the availability of hardwood logs gradually diminished, reaching an alarming low of under one million tons in the year 2022. This decline can be attributed to a combination of harvesting restrictions and the conversion of forested areas into land development projects.

An illustrative study conducted in 2013 by the esteemed University of Washington shed light on this concerning trend. According to the findings, out of the extensive 19.8 billion board feet (BBF) of standing hardwood inventory, only 8.3 BBF remained available for harvest due to various regulatory constraints. The study further revealed that approximately half of the standing hardwood inventory was concentrated within the core and inner buffers, emphasizing the delicate balance that needed to be maintained.

The implications of imposing further restrictions within the Restricted Management Zones (RMZs) were also highlighted in the study, indicating that such actions would inflict even greater harm upon the already struggling hardwood industry. Consequently, it becomes crucial to advocate for a revitalization of the rulemaking process, incorporating an alternative proposal grounded in scientific principles. This alternative should aim to satisfy environmental standards while safeguarding the wood products economy.

The proposed alternative must strike a delicate equilibrium, enabling the maintenance of essential infrastructure, preserving valuable employment opportunities, and sustaining the overall economic contribution of the hardwood industry. It should diligently avoid the disastrous consequences that would arise from massive conversion away from forestry, which would not only jeopardize the delicate ecosystem but also disrupt the socioeconomic fabric of the region.

Therefore, it is imperative that we advocate for a comprehensive and inclusive decision-making process, one that considers the multitude of factors at play. By considering a science-based alternative proposal, we can strike a harmonious balance between environmental concerns and the long-term sustainability of the wood products economy. This approach will ensure that the industry continues to flourish, supporting livelihoods and contributing to the overall prosperity of the region, all while upholding the imperative of preserving our natural resources for future generations.



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May 5, 2023

Re: Support for BM21 Stakeholder Efforts

Washington State Forest Practice Board
P.O. Box 47012
Olympia, WA 98504-7012

Chairwoman Smith and members of the Forest Practices Board:

For the record I'm Ken Miller, representing Washington Farm Forestry Association and SFLOs on the TFW Policy Committee. I have been actively supporting the work of DNR and those on the Board Manual 21 Guidelines for Small Forest Land Owner Alternate Plans Stakeholder group.

I'm of course disappointed that we are late with our collective recommendations, but I do want to echo the optimism in Marc Engel's April 25 update. We've had one meeting since then getting us much closer to a final product for your review. In my opinion we are at least 95% there on content, and I expect we'll close any remaining content gaps in our next meeting.

I wish to applaud the DNR's leadership (Marc Engel and Karen Zirkle) getting us this close on content. I especially wish to applaud the contributions of several stakeholder participants who are definitely helping make the final content recommendations better – true collaboration in the spirit of Timber Fish & Wildlife!

Ken Miller



May 10, 2023

DISTRICT LODGE W24

I.A.M. & A.W. – AFL-CIO

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Chair Smith and Board Members:

My name is Brandon Bryant, President and Directing Business Representative of the International Association of Machinists and Aerospace Workers District W24, the Woodworkers Union. Our District represents thousands of Timber Products Workers in 5 States, with our largest membership block in Washington. Our members have been involved in keeping working-class jobs viable in rural communities since 1937.

Our District and the Wood Products Industry continue to see a decline in the number of those family-wage jobs due to regulation. Our members are Conservationists, the work they do for the Companies they are employed by has done more to restore our forests than any other single group. For every tree harvested in managed forests, 3 are planted. I could go on and on about mitigating fire risk through forest management, carbon sequestration, RMAP, and other voluntary projects to the tune of \$2B to protect 60,000 miles of streams in 9.3 million acres of managed forests.

As Washington's 3rd largest manufacturing sector (and being the 2nd largest wood-producing state) it is irresponsible to blindly adopt new restrictions. The Board's November 9th decision on NP Stream rulemaking is extremely disheartening. Politics and emotion should play no part in a science-based approach to managing our forests. We advocate strongly for sending both the Majority AND Minority Reports forward for rulemaking. The previous success the board has had in collaborating during rulemaking is crucial to the success and future of this working sector of our economy, not to mention the future of the families and communities that rely on these jobs. But it appears that a majority of the Board has abandoned that practice.

Fair and balanced, science-based regulation is the key to sustainability. Sustainability of our Forests, Streams, Fish, Wildlife, Rural Communities, and Jobs.

Sincerely,

Brandon Bryant
President Directing Business Representative
IAMAW District W24
brandon@iamw24.org



ANDERSON, PATRICIA (DNR)

From: ANDERSON, PATRICIA (DNR)
Sent: Friday, May 12, 2023 10:21 AM
To: Cody Desautel; Conklin, Christopher L (DFW); David Herrera [REDACTED]; Doenges, Rich (ECY); Ferester, Phil (ATG) (PhilF1@ATG.WA.GOV); Frank Chandler ([REDACTED]); McLain, Kelly (AGR); Meghan Tuttle [REDACTED]; Pene Speaks; Pruitt, Terry (ATG); Serr, Benjamin (COM); Smith, Alex (DNR); Steve Barnowe-Meyer; Raines, Vickie; Wayne Thompson
Cc: ANDERSON, PATRICIA (DNR); Austin, Brandon (ECY); Champion, Tina (DNR); Clark, Lori (DNR); ENGEL, MARC (DNR); GRANBERG, COLLEEN (DNR); Hawkins, Tracy (DNR); Jarvela, Kimmy; Jawad, Saboor (DNR); Leslie MacMillan [REDACTED]; MAHAN, DONELLE (DNR); McDONALD, MARY (DNR); OBrien, Thomas W (DFW); Stout, Rachel (ECY); Zirkle, Karen (DNR)
Subject: FPB FW: FPB Testimony

Hi Board Members

Below is a comment from Richard Weiss.

Patricia Anderson
Forest Practices Board
Department of Natural Resources
360.890.0277

-----Original Message-----

From: Richard Weiss <[REDACTED]>
Sent: Wednesday, May 10, 2023 7:53 AM
To: ANDERSON, PATRICIA (DNR) <PATRICIA.ANDERSON@dnr.wa.gov>
Subject: FPB Testimony

External Email

Patricia,

Would you please submit my testimony to the Forest Practices Board for today's meeting? I will not be participating as I have a track meet to coach :)

Thanks ever so much :)
Rich Weiss

Madam Chair and Members of the Board:

My name is Rich Weiss. I sit on the Small Forest Landowner Advisory Committee and represent the 220,000 small forestland owners on the Washington Hardwood Commission. I am writing today to oppose expansion of buffers on NP streams.

The University of Washington's report in 2021 analyzing 20 years of Forest and Fish found that between 2007 and 2019 Washington forestland declined by 400,000 acres.

Extensive economic analysis has shown that planting and growing trees is a marginal investment at best. It has been demonstrated that The Forest and Fish law decreased said margins resulting in forestland being converted to alternative uses. Tautologically, more regulations further reduce return on investment and will result in more forestland loss.

Losses maybe acceptable if there was some measurable benefit to fish populations. Unfortunately there isn't any peer reviewed science that suggests fish have benefited, despite tremendous cost.

On behalf of Washington's small forestland owners I oppose expansion of NP buffers.

Respectfully submitted

Rich Weiss



Sent from my iPad



WASHINGTON FOREST PROTECTION ASSOCIATION
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360-352-1500 Fax: 360-352-4621

May 9, 2023

Washington Forest Practices Board
1111 Washington St SE
PO Box 47012
Olympia, WA 98504-7012
Forest.practicesboard@dnr.wa.gov

Re: Np Buffer Rule Making Process

Dear Forest Practices Board Members:

Washington Forest Protection Association (WFPA) is a forestry trade association representing large and small forest landowners and managers of more than four million acres of productive working forests, including timberland located in the coastal and inland regions of the state. Our members support rural and urban communities through the sustainable growth and harvest of timber and other forest products for U. S. and international markets. For more information about WFPA, please visit our website at www.wfpa.org. WFPA respectfully submits the following comments for the Forest Practices Board's (FPB) May 2023 meeting.

WFPA encourages the FPB to have a transparent discussion about how we arrived at the current situation and the long-term consequences of continuing on the current path. Purposeful misinterpretation of law/rules to mislead a deliberative process, and coordination of FPB member votes out of the public view does not bode well for the future of a collaborative system. Forestland owners are asking themselves if the considerable contributions they've made (and continue to make) are worth the cost. Some FPB members are asking themselves if their voice matters and if they should continue serving. It is disappointing that a majority of the caucuses seem willing to risk upending the most successful component of the state's 1999 salmon recovery strategy to achieve a victory which won't meaningfully contribute to the goal.

In addition to the pending Endangered Species Act (ESA) listings of Pacific salmonids in the late 1990s, one of the other motivators for the Forests & Fish (F&F) agreement was forested streams on 303(d) list of impaired water bodies. Fresh water streams are listed as impaired when they do not meet designated use water quality standards as specified in WAC 173-201A-2001. During the F&F era there was a different water body classification system and some of the water quality standards were different than they are today, but the same concept applied regarding listing of impaired water bodies. Once on the 303(d) list, Ecology prioritizes clean-up plans, or Total Maximum Daily Loads (TMDL) to address the impairment, and once achieved removes the water body from the list. At the outset of F&F, there were approximately 150 impaired stream segments on forestland subject to the Forest Practices Rules, or approximately 4% of the total list of impairments². The most common forestland impairments were exceedances of temperature, dissolved oxygen, and fine sediment designated use criteria.

¹ [WAC 173-201A-200](#)

² [2000 Washington State Water Quality Assessment Section 305\(b\) Report](#)

Given F&F resulted in substantial improvements to regulations, formalization of an Adaptive Management Program (AMP) and other commitments, Ecology and the Environmental Protection Agency (EPA) provided Clean Water Act (CWA) assurances as described in Schedule M-2 of the F&F Report³. Since no permit system analogous to ESA Section 10 existed in the CWA, Ecology and EPA used their discretionary authority to deprioritize TMDLs for forested stream segments on the 303(d) list. Ecology and EPA acknowledged the F&F rules represented a substantial improvement in Forest Practices Rules, will improve water quality in the short-term and anticipated meeting water quality standards in the long term. Establishing a baseline dataset and monitoring water quality trends over time were deemed critical to evaluating these expectations. Ecology and EPA presumed ten years would be enough time to set AMP priorities, test some of the assumptions of the regulatory framework and determine initial water quality trends. If monitoring demonstrated water quality standards were being met, stream segments could be removed from the 303(d) list of impaired water bodies.

The CWA assurance conditions described in Schedule M-2 were arguably met by 2009; however, Ecology determined not enough data were available to confidently determine water quality was trending in the right direction. Therefore, Ecology created the CWA assurances milestones, a lengthy list of AMP research and monitoring projects and Forest Practices administrative procedures they deemed necessary to maintain CWA assurances over the long term. The original milestone list has been modified a few times since 2009, but as of March 2022 (the last formal milestone update from Ecology) there were a total of 54 milestones, more than 90% of which are underway or complete⁴. While many of the milestones provide limited or no information about water quality, forestland owners did agree with Ecology in 2009 that limited information about water quality status/trends was available. In fact, in 2009 the first round of landscape scale temperature monitoring was still underway in the field. The final report on this effort took ten years to complete, approved by Timber, Fish & Wildlife (TFW) Policy in 2019⁵. Unfortunately, given the distraction of dozens of milestones and various competing AMP priorities over the last 10+ years, we still have very little information about water quality status/trends, nor do we know the status of the original 303(d) listed streams.

What's more, there continues to be obfuscation and foot dragging in the AMP over establishing an ongoing monitoring program. Thankfully that dynamic has changed to some degree recently with the FPB prioritizing monitoring at the November 2022 meeting. However, monitoring is clearly still not a priority as signified by the absence of emphasis in the latest CWA assurance milestone list. Instead, we are spending inordinate amounts of time/resources debating the application of antidegradation tier II to forested streams which are well below the designated use temperature standards. These streams are not on the 303(d) list, nor would they be if CWA assurances did not exist. Do not confuse these statements to mean the landowners are arguing for no change; we are not. We do, however, insist on fairness, honesty, and proper interpretation of scientific information and application of state law/rules. While the hardrock and softrock studies demonstrated the current Forest Practices Rules are by in large successful in maintaining stream temperature below designated use standards before and after harvest, landowners still proposed an expansion of protection to better mitigate the post-harvest temperature change. We also emphasized the need for monitoring to understand water quality status/trends.

³ [Forests & Fish Report Schedule M-2](#)

⁴ [bc fpb cwaupdate 20220511](#)

⁵ [bc tfw novagenda 10312019](#)

From the time the hardrock phase I report was submitted to TFW Policy in 2018, Ecology repeatedly described the 0.3 °C criteria in tier II as a temperature change limit and maintained proposed solutions must meet that objective⁶. This misinterpretation drove the deliberation in the AMP and was the primary objective of the Np Technical Workgroup's effort per Ecology direction⁷. It continued to influence the AMP following receipt of the Np workgroup report through the completion of the dispute resolution process. The final dispute resolution report from Triangle & Associates describes the antidegradation tier II measurable change criteria as a water quality standard, which is incorrect, and CWA assurances being used as leverage in the process⁸. Even though Ecology began to slightly moderate this position in late 2022, by then it was too late, and the majority report repeatedly references the 0.3 °C measurable change criteria as a limit rather than a trigger for a public interest evaluation process⁹.

Several caucuses are also using potential climate change effects on stream temperature as a rationale to increase protection on streams already meeting or exceeding water quality standards. There have been no AMP efforts to understand this issue nor what, if anything, can be done through best management practices to mitigate the effects. If we had followed through on the commitment to put a long-term, status/trend monitoring program in place at the outset of F&F, adaptive management would be more informed on this topic. Using future potential harm for which no adaptive management information has been produced as a justification to increase regulatory protection is inconsistent with the Forest Practices Act and Rules and is incoherent from a risk management perspective. Such an approach only focuses on one element of risk and ignores all other risks (which exist on all sides) and the costs/benefits of alternative courses of action. It is also incomprehensible that we would prioritize a potential future risk over an actual risk, such as the existing 303(d) list of impaired water bodies.

The lack of interest in long term monitoring indicates many caucuses do not want to know about water quality trends or the status of listed water bodies. Given the no measurable impact allowed stance, it also appears forested streams which are below designated use temperature standards are being seen as a mitigation tool for actual and potential future downstream temperature issues. This is unacceptable to forestland owners as it is a substantial change from the original F&F commitments and is jeopardizing the Forest Practices Habitat Conservation Plan, a 50+ year contract, between the State of Washington, NOAA Fisheries, and the U.S. Fish & Wildlife Service. As demonstrated through the billions of dollars committed through F&F, forestland owners are more than willing to do their fair share to meet the F&F goals by addressing actual resource objective problems resulting from forest management. However, we are not going to ignore actual problems while chasing potential future problems, mitigate problems resulting from other land uses, or contribute substantial additional assets for little meaningful contribution towards meeting the F&F goals¹⁰.

Finally, we understand several FPB members believe they must follow Ecology's lead on any rulemaking related to water quality. This is also not correct. While the FPB must reach agreement with Ecology prior to adopting a rule related to water quality, the legislature did not provide Ecology sole authority to determine the form and content of rule proposals which should be considered, nor the sole authority to adopt said rules. The FPB is the lead and must act consistent with the Forest Practices

⁶ [WAC 173-201A-320](#)

⁷ [bc_tfw_policy_type_n_workgroup_review_final_052021](#)

⁸ [bc_fpb_mtg_packet_20221031](#)

⁹ [bc_fpb_mtg_packet_20221031](#)

¹⁰ [Forest Practices HCP Intro](#)

Act and Rules when considering new or revised rules¹¹. Ecology, as a FPB member, has the additional responsibility to determine that a rule proposed for adoption will reasonably meet water quality standards. This is not a veto over FPB process and decisions. The FPB considers rule performance by evaluating achievement of resource objectives, which for this topic includes a functional objective of providing cool water and a performance target of meeting water quality standards¹². As described earlier, AMP studies to date indicate current Forest Practices Rules are meeting this resource objective. Nonetheless, forestland owners maintain we should have more and better information to inform this conclusion and we proposed a modest increase in protection for Np streams in the meantime.

Recall forestland owners also recommended the FPB should evaluate the majority proposal in the interest of preserving FPB decision space and promoting a fair, objective, and cooperative rule making process. Instead, a majority of the FPB chose an adversarial route, inconsistent with law, rule, and the fundamental tenets of the F&F process. This sets an unproductive tone for the future of collaboration and is very unlikely to produce sustainable and durable solutions. We hope the FPB takes this seriously and reconsiders the decision to exclude the landowner's proposal from the rulemaking process.

Thank you for the opportunity to comment, should you have any questions I can be reached at dcramer@wfpa.org or (360) 280-5425.

Sincerely,

Darin D. Cramer

Sr. Director of Forest & Environmental Policy

¹¹ [RCW 76.09.370](#)

¹² [Forest Practices HCP Schedule L-1](#)