

1 **FOREST PRACTICES BOARD**  
2 November 10, 2004  
3 Natural Resource Building, Room 172  
4 Olympia, Washington  
5

6 **Members Present:**

7 Pat McElroy, Designee for Commissioner Sutherland, Chair of the Board  
8 Alan Soicher, General Public Member  
9 Bob Kelly, General Public Member  
10 David Hagiwara, General Public Member  
11 Doug Stinson, General Public Member/Small Forest Landowner  
12 Eric Johnson, Lewis County Commissioner  
13 John Mankowski, Designee for Director, Department of Fish and Wildlife  
14 Lee Faulconer, Designee for Director, Department of Agriculture  
15 Toby Murray, General Public Member  
16 Tom Laurie, Designee for Director, Department of Ecology  
17

18 **Absent:**

19 Sherry Fox, General Public Member/Independent Logging Contractor  
20 Sue Mauermann, Designee for Director, Community, Trade and Economic Development  
21

22 **Staff:**

23 Jed Herman, Forest Practices Assistant Division Manager  
24 Karrie Brandt, Board Coordinator  
25 Paddy O'Brien, Assistant Attorney General  
26 Patricia Anderson, Rules Coordinator  
27

28 **CALL TO ORDER**

29 Pat McElroy called the meeting to order at 8:00 a.m. Karrie Brandt gave an emergency safety  
30 briefing. Introductions were made of the Board, staff, and attendees.  
31

32 **APPROVAL OF MEETING MINUTES**

33 **MOTION:** Toby Murray moved to approve the June 2 and 3, 2004, meeting minutes.  
34 **SECONDED:** Bob Kelly  
35 **ACTION:** Motion passed unanimously.  
36

37 **PUBLIC COMMENT**

38 Peter Revesz, a Clark County tree farmer, gave his support for the Board Manual Section 21. He  
39 commented that it was a landmark document that was equal to or better than the existing rules. It is  
40 a hopeful beginning of what is to come in rebuilding the confidence, willingness, and financial  
41 liability of the small forest landowner.

1 Rick Dunning, Washington Farm Forestry Association (WFFA), gave his support for the over  
2 stocked stand template associated with Board Manual Section 21. He thanked the Board for the  
3 recognition and involvement of Washington tree farmers in the stakeholder process and urged the  
4 Board to find more resolutions like the proposed template.

5

6 Walt and Dardean Wheaton, Clark County tree farmers, stated that they support the over stocked  
7 stand template.

8

9 Bill and Erin Woods, King County tree farmers, gave support for the over stocked stand template.

10

11 Sam Comstock, a Mason County tree farmer, offered his support for the over stocked stand  
12 template. He is in favor of the site-specific approach and likes the diversity and choices the template  
13 allows for.

14

15 Ken Miller, WFFA, gave support for Board Manual Section 21. The template gives small forest  
16 landowners hope that the Forests and Fish process will work for them and takes a small step  
17 towards changing the relationships between small forest landowners and the Washington  
18 Department of Fish and Wildlife (WDFW). Miller thanked those who have worked in support of the  
19 template. However, he also voiced his frustration with the time it took to develop and the amount of  
20 acreage taken out of forestland designation during that time.

21

22 Robert Bower, Four B's Farm, conveyed his support of the over stocked stand template and was in  
23 agreement with Miller's remarks.

24

25 Robert Meier, Rayonier, commented on the rule clarifications package. He asked the Board to  
26 withdraw the proposed changes to the riparian open space rule stating that the changes are  
27 substantive. The term "alternative plan" has specific requirements and limitations that are not  
28 ascribed to the term "alternative management options" and to change this would limit the harvest  
29 rights that private landowners retained within channel migration zones (CMZ) and were guaranteed  
30 under Forests and Fish.

31

32 Toby Thaler, Washington Forest Law Center (WFLC), conveyed his concerns with Board Manual  
33 Section 2 on CMZs stating that there has been a lack of peer review and field testing and that

1 additional work needs to be conducted on some of the technical aspects. He would like the Board to  
2 not approve Section 2 and have it go through the adaptive management process to resolve the policy  
3 and technical issues brought up by the technical working group.

4  
5 Kendra Smith, Skagit County Administration, shared the county commissioners' concerns with the  
6 current water typing model and how inaccurately it functions for their region. She informed the  
7 Board that as the map is today, it would become a permitting and coordinating nightmare for them.  
8 The Tribes, developers, and industry in Skagit County are all united in this opinion. The  
9 commissioners are hoping the Board will delay adopting the map until more accuracy can be built  
10 into the model and hope the Board will consider incorporating some of the work Skagit County has  
11 completed on fish presence and absence.

12  
13 Alan Soicher asked if the county would use the maps if they were accurate enough. Smith said yes,  
14 that Skagit County would like to see everyone using the same system to avoid mistakes.

15  
16 Jack Kleinhoff, Riffe Lake Timber, believes a shift is necessary in evaluating the forest practices of  
17 small forest landowners because of their interface with the urban and rural landscapes and the  
18 economic viability necessary to keep that land in forestry. A new base line for measuring the  
19 impacts of forest practices on small forest landowners needs to be established that considers the  
20 alternative as farmland, 5-acre lots, and parking lots. When that is applied it is clear that practically  
21 any forest practice would be a benefit to the public.

22  
23 Peter Heide, Washington Forest Protection Association (WFPA), said that WFPA continues to work  
24 with the water typing stakeholder group to put together a flexible implementation plan that will  
25 allow the maps to be modified as needed. This will be presented to the Board in February 2005. He  
26 then stated that if the Board retained the existing CMZ board manual section or adopted the rewrite  
27 that WFPA would support either decision. WFPA also supports the revised Board Manual Section  
28 16 and Section 21, and the rule making changes outlined in the cultural resources protection and  
29 management plan submitted by the Cultural Resources Committee. In addition, he encouraged the  
30 Board to drop #16 in the rule clarifications package, which changes punctuation in the interim  
31 water-typing rule believing it to have a substantial impact on the continued implementation of the  
32 interim rule.

1 Eric Harlow, WFLC, reported that new information has been developed on the status of the  
2 Northern spotted owl by a non-federal owl expert panel convened as part of the federal 5-year  
3 review requirement by the Endangered Species Act (ESA). Their report entitled “Scientific  
4 evaluation of the status of the Northern spotted owl” found that owl populations are suffering the  
5 most in Washington State with a 7.5% rate of decline annually. Some current and potential threats  
6 to the spotted owl include: the effects of past and present harvesting, fire, the invading barred owl,  
7 sudden oak death, and the west Nile virus. In addition, several aspects of the federal conservation  
8 efforts were never implemented such as adaptive management, sufficient monitoring, and coherent  
9 research strategies. Harlow’s conclusions were that the spotted owl is facing new threats that were  
10 not adequately considered in the past, and the rules are not functioning as intended and continue to  
11 allow owl habitat to be harvested. He urged the Board to consider this new information and make  
12 the necessary rule changes to prevent further population declines.

13  
14 Alex Morgan, Seattle Audubon Society, also expressed concern with the current Northern spotted  
15 owl population trends. While disease, fire, and invasive species all contribute to their decline,  
16 habitat is still the keystone to recovery of the owls. The Department of Natural Resources (DNR)  
17 continues to permit excessive logging in owl habitat areas, and in the past 10 months the DNR has  
18 issued over 150 forest practice applications in spotted owl habitat without considering the  
19 cumulative effects. Additionally, the state de-certifies owl circles after only three years of  
20 surveying, resulting in the elimination of any protections for that habitat or owls that may still be  
21 there. Finally, the Spotted Owl Special Emphasis Areas (SOSEA) are categorized by fragmented  
22 forests and conditions that are far from ideal for owl recovery. The Audubon Society believes these  
23 conditions are not only in violation of the ESA but also contribute significantly to the population  
24 declines. The Audubon Society would like the Board to take the necessary steps to protect the  
25 Northern spotted owl species in the immediate future.

26  
27 Peter Goldman, WFLC, mentioned that WFLC is putting forth the effort to preserve several  
28 working forests and is sensitive to small forest landowners and the economic issue. He highlighted  
29 efforts from last year’s 60-day ESA notice requesting the Board to modify its Forest Practices Rules  
30 intended to protect the owl and its habitat. Goldman shared that the cumulative effects petition,  
31 denied by the Board, is now before Thurston County Superior Court with a hearing scheduled for  
32 January 28, 2005. He went on to say that Chris Mendoza, conservation caucus representative, is a  
33 Cooperative Monitoring, Evaluation, and Research (CMER) committee member nominee, and as

1 members of the conservation caucus, Goldman acknowledged WFLC's commitment to the Forests  
2 and Fish process. In conclusion, he stated that the WFLC has completed a scenic protection study  
3 and requested that the Board encourage DNR, WFPA, and other forest stakeholders to review the  
4 study and explore approaches to the aesthetics issue.

5

## 6 **WATER TYPING**

7 The Board received a written interim status report of the water-typing project from Dennis  
8 McDonald, DNR, describing the current progress in implementing the new water typing system. On  
9 July 1, 2004, the preliminary fish habitat water type map was released for public comment, and  
10 DNR is updating the Geographic Information Systems database with the new field survey data. The  
11 processing of eastern Washington field survey data is complete and the statistician team has run the  
12 model, however, further development is required. Field tests are currently being conducted to locate  
13 the end of fish habitat points on the ground. The input from those tests will be incorporated in the  
14 development of a board manual section. The water typing stakeholder group and DNR will be  
15 working to develop and provide training to landowners, forest practitioners, regulators, and  
16 agencies. The DNR is also evaluating the various issues to implement the rule to ensure complete  
17 deployment of the new water typing system and formulating different deployment options.

18

19 Pat McElroy asked McDonald to respond to Skagit County's earlier comments about the  
20 involvement of the counties. McDonald reassured the Board that while the counties have not been  
21 involved in the stakeholder group they have been involved in providing comments and participating  
22 in the regional Timber, Fish, and Wildlife (TFW) meetings. Kendra Smith's comments collaborate  
23 what is currently being discovered in the northwest region. McDonald committed to keeping the  
24 counties involved.

25

26 Tom Laurie suggested that the Board schedule a water-typing work session in January to hear from  
27 the public and what the proposed deployment options currently being formulated are.

28

29 McElroy asked McDonald if there was a consensus that action could be taken in February.  
30 McDonald said the water typing stakeholder group is committed to sticking with the deadline to  
31 adopt the map for a March 1, 2005, implementation. McElroy mentioned that if the Board does not  
32 make the decision to adopt in February 2005, it would default to the 2006 survey season.

1 Toby Murray commented that this is clearly a complicated and immense project, and it is absolutely  
2 critical that the Board understand the issues before taking any action. McDonald responded to  
3 Murray's comment saying DNR is preparing the map for a February 2005 adoption. The Board  
4 Manual Section 23, is currently being field tested and is scheduled for public comment on  
5 December 3, 2004. Overall the early preview of the map has proven to be helpful to ease fears.

6  
7 John Mankowski stated his interest in knowing the consequences of delaying in terms of federal  
8 assurances, especially if there are any requirements or expectations by the federal agencies.

9  
10 David Hagiwara asked for a status of the current field studies. McDonald told the Board that the  
11 field-testing was going well and would be completed next Friday.

12  
13 Alan Soicher asked how the validation of the model is progressing. McDonald said the validation  
14 committee is working on the study design, and the intent is to start collecting data next year.

#### 15 16 **ADAPTIVE MANAGEMENT**

17 The Board received a written update from Geoff McNaughton, DNR, on the Adaptive Management  
18 program reporting that the CMER 2005 work plan and budget are being submitted for Board  
19 approval. They are requesting approximately \$6 million dollars to fund 34 projects.

20  
21 The Board Manual Section 22 is currently under development and will provide overall guidelines  
22 for the program. There is stakeholder representation for its development and the Northwest Indian  
23 Fisheries Commission has provided a technical writer to help draft the document, which should be  
24 presented to the Board in February 2005.

25  
26 CMER will present the status and potential research options of the Desired Future Condition (DFC)  
27 Validation Project to Forests and Fish Policy for a recommendation before expanding the study.  
28 Also, the CMER and Tribal Perennial Stream Initiation Point (PIP) studies have both undergone  
29 peer review by the Scientific Review Committee (SRC), and are currently having comment  
30 responses prepared. These SRC reviews are expected to be presented to Forests and Fish Policy at  
31 their February 3, 2005, meeting.

1 **RMAP RULEMAKING**

2 The Board received a written report from Jed Herman stating that initial rule development has  
3 begun on the permanent rulemaking process to implement Second Substitute House Bill 1095, road  
4 maintenance and abandonment plans (RMAP). Forest Practices staff have met with the Department  
5 of Ecology (DOE) to gain their perspectives on how the emergency rules are being implemented  
6 and what rules, if any, need to be clarified. A meeting is also scheduled with stakeholders to discuss  
7 ideas for the permanent rules and to schedule future rule development meetings.

8

9 **2005 CMER WORK PLAN AND BUDGET**

10 Geoff McNaughton asked for the Board’s approval of the 2005 CMER Work Plan and \$6,000,675  
11 budget. Both the work plan and budget have had substantial stakeholder input and received  
12 consensus approval by CMER. The projects are directly linked to Schedule L-1 priorities outlined in  
13 the Forests and Fish Report (FFR) and correspond to the higher program rankings previously  
14 approved by the Board.

15

16 **MOTION:** Tom Laurie moved that the Board approve the 2005 CMER Work Plan, dated  
17 June 29, 2004, and associated budget dated July 27, 2004.

18 **SECONDED:** John Mankowski

19

20 **Board Discussion**

21 Eric Johnson asked McNaughton to explain the statement in his Adaptive Management update that  
22 if CMER program participants do not provide project managers, additional staff would need to be  
23 hired. McNaughton responded that CMER is struggling with project management. Project managers  
24 must have the support of their management to take on the role, and currently only about two-thirds  
25 of the projects are assigned to a manager. The concern is that individuals are not coming forward  
26 and volunteering, and historically this has caused delays with starting projects.

27

28 Doug Stinson is concerned that small forest landowners do not have enough input in the CMER  
29 process because they have been unable to provide for the required scientific technical experts to  
30 participate. However, small forest landowners are the ones that must implement CMER decisions.

31

32 John Mankowski commented that perhaps the CMER group could choose small forest landowner  
33 sites to implement studies as a way to involve them better.

1 Mankowski then asked McNaughton if Forests and Fish Policy and CMER agreed in the project  
2 priority rankings. McNaughton replied that the projects are not ranked politically but scientifically  
3 in terms of what is already known, how much more needs to be known, and what the risks are to the  
4 resources.

5  
6 Alan Soicher noted that the 2005 CMER Work Plan indicates that the Type N Experimental Buffer  
7 Treatment project will address resource objectives including shade and stream temperature, litter  
8 fall, and stream bank erosion, at a cost of over \$3.8 million. He noted that the Work Plan calls for  
9 study sites to be confined to basins with “basaltic geology” in the southwestern part of the state. He  
10 then noted that basalt, as a competent rock type, is not representative of the majority of rock types  
11 in Washington. The study will therefore be of limited value with respect to stream bank integrity in  
12 basins with other less competent rock types. He questioned whether the project design could be  
13 revised to make the results more broadly applicable. McNaughton disclosed that CMER debated  
14 this topic, but the costs were astronomical to expand the study beyond basalt and have it remain  
15 statistically valid for the amphibians.

16  
17 **ACTION:** Motion passed unanimously.

## 19 **CMER MEMBERS**

20 Geoff McNaughton presented CMER member nominations to the Board. The United States Fish  
21 and Wildlife Service (USFWS) requested that the Board approve Sally Butts to replace Craig  
22 Hansen. The National Marine Fisheries Service requested that the Board approve Steve Keller, and  
23 the conservation caucus nominated Chris Mendoza to be appointed as a member.

24  
25 **MOTION:** Pat McElroy moved that the Board accept Chris Mendoza as recommended  
26 by the conservation caucus to serve on the CMER committee.

27 **SECONDED:** John Mankowski

28

## 29 **Board Discussion**

30 Doug Stinson voiced his disappointment in Mendoza’s understanding of forest practices in  
31 Washington State and would like to see a representative with a broader understanding of forest  
32 values and the private sector’s position.

33

34 Eric Johnson asked for Mendoza’s educational background.

35



1 Mendoza shared that he has been a part of the CMER process, participating in CMER meetings and  
2 subcommittee meetings for a year. He mentioned that he has worked for the private sector for most  
3 of his career and holds a Bachelor of Science degree from The Evergreen State College. He is  
4 currently finishing his graduate degree thesis based on forest processes as they relate to the FFR.

5  
6 John Mankowski commented that the first need from our science community is people with  
7 experience in their field. Mendoza has spent more time in streams than many state agency  
8 biologists. Mankowski has been on a number of field visits with Mendoza and is confident that he is  
9 qualified. In addition, he is concerned about ensuring that the conservation caucus is engaged in the  
10 CMER program because they too, like small landowners, have a difficult time obtaining the  
11 resources and expertise to participate.

12  
13 **ACTION:** Motion passed 9 to 1.

14  
15 **MOTION:** Pat McElroy moved that the Board accept Sally Butts to replace Craig  
16 Hansen to serve on the CMER committee as recommended by the USFWS.

17 **SECONDED:** Doug Stinson

18 **ACTION:** Motion passed unanimously.

19  
20 **MOTION:** Pat McElroy moved that the Board accept Steve Keller to serve on the CMER  
21 committee as recommended by the National Marine Fisheries Service.

22 **SECONDED:** Doug Stinson

23 **ACTION:** Motion passed unanimously.

24  
25 **CULTURAL RESOURCES RULEMAKING**

26 Gretchen Robinson, DNR, requested the Board’s approval to proceed with the cultural resources  
27 rulemaking proposal and to file the CR102 with the Office of the Code Reviser. Upon approval an  
28 environmental analysis will be conducted and a public hearing on both the proposal and analysis  
29 will be scheduled for mid-January 2005. It is anticipated that staff will request adoption of the rules  
30 and the new watershed analysis module for the Board Manual at the February 2005 Board meeting.

31  
32 **MOTION:** Bob Kelly moved that the Forest Practices Board accept for public review the  
33 rule proposal as recommended by the TFW Cultural Resources Committee to  
34 amend Washington Administrative Codes (WAC) 222-08-160, 16-010, and  
35 chapters 222-12 and 222-22 and that staff file the CR-102 with the Office of  
36 the Code Reviser to begin the permanent rule-making process.

37 **SECONDED:** Toby Murray

38 **ACTION:** Motion passed unanimously.

1 **BOARD MANUAL**

2 Marc Engel, DNR, stated that the procedures for developing Board Manual sections are being  
3 reviewed for consistency with the Adaptive Management program. Quarterly, stakeholders are  
4 invited to review and provide input to the Board Manual development list and scoping documents  
5 used to develop the Board Manual sections. It is proposed that DNR will present the scoping  
6 documents for all proposed, new, or revised Board Manual sections pertaining to aquatic resources  
7 to Forests and Fish Policy for approval.

8

9 Alan Soicher asked how stakeholders get engaged in the Board Manual development and how  
10 disputes get resolved. Pat McElroy said it is DNR’s job to prepare the Board Manual using the  
11 appropriate agencies and interested parties. It is not a consensus or policy process. In adopting the  
12 adaptive management process, the Board stated that approved guidance documents would go  
13 through Forests and Fish Policy. The Board Manual is a guidance document in how to implement  
14 the rule, so those sections that pertain to the Forests and Fish rules must go to Forests and Fish  
15 Policy.

16

17 Soicher then asked how policy issues that come up during Board Manual development get flagged  
18 and brought to the Board with alternatives. McElroy said policy questions are rule questions and the  
19 law as it relates to Forests and Fish says that it has to go through the adaptive management process.

20

21 Engel gave the Board an overview of the revised Board Manual Section 16, Guidelines for  
22 Evaluating Potentially Unstable Slopes and Landforms, which further explains the required contents  
23 of a geo-technical report when required under WAC 222-10-030. The Section was also reworked to  
24 enhance the descriptions of potentially unstable slopes and landforms, add additional figures for  
25 clarity, and to present its content in the same order as the DNR sponsored Unstable Slopes Training.

26

27 **MOTION:** Pat McElroy moved that the Board approve the Board Manual Section 16 as  
28 amended and that the Department staff have the authority to make changes as  
29 necessary for clarity and to finalize for distribution.

30 **SECONDED:** Toby Murray

31

32 **Board Discussion**

33 Soicher asked if the goal was to try and prevent any management related landslides. Jed Herman  
34 said no. The section was developed to help give guidance to field practitioners.

35

1 Eric Johnson wanted to know if Section 16 was drafted under typical DNR methodology unlike the  
2 CMZ board manual section and if so how was it done. Engel said Section 16 was a specialized  
3 board manual section that involved licensed geologists.

4

5 **ACTION:** Motion passed unanimously.

6

7 Engel also reported that the DNR, as directed by WAC 222-12-090, has prepared Board Manual  
8 Section 21, Guidelines for Alternate Plans, which has been approved by Forests and Fish Policy.

9

10 **MOTION:** Doug Stinson moved that the Board approve Board Manual Section 21 and  
11 that Department staff have the authority to make changes as necessary for  
12 clarity and to finalize for distribution.

13 **SECONDED:** Toby Murray

14

#### 15 **Board Discussion**

16 Toby Murray agrees with the frustration that it has taken three years to develop one template and  
17 hopes that other templates will move much faster.

18

19 McElroy commented that there has been a lot of pressure on those limited number of people  
20 engaged in the adaptive management effort, but mentioned he too was hopeful that the timeframe  
21 could be cut down in the future.

22

23 **ACTION:** Motion passed unanimously.

24

25 Engel informed the Board that Board Manual Section 2 was presented to Forests and Fish Policy  
26 who recommended that no action be taken until further discussion and recommended conducting a  
27 workshop to distinguish the operational issues from the policy issues. Therefore DNR is not  
28 recommending approval of Section 2 at this time.

29

30 McElroy disagreed with the recommendation from Forests and Fish Policy. He recapped past Board  
31 discussions, reminding members that this issue has been before the Board since August 2002.

32

1 Soicher reminded the Board that the charter for the CMZ technical working group states that where  
2 consensus cannot be achieved the group will clearly describe the issues and develop alternatives for  
3 the Board’s consideration. He said the board manual section will be done once those three issues are  
4 developed and the Board decides on them.

5  
6 Tom Laurie asked Joseph Pavel to come forward and discuss what Forests and Fish Policy thinks  
7 about Board Manual Section 2 and the remaining policy issues.

8  
9 Pavel, co-chair of Forests and Fish Policy, said there are a dozen items that need further exploration  
10 before recommending approval. Some policy issues need to be addressed and Policy feels it would  
11 be appropriate to meet with the CMZ technical working group to work through those issues and  
12 either come to consensus or provide informed alternatives for the Board.

13  
14 Johnson asked if the alternatives were associated with rule or the Board Manual. Engel replied that  
15 the issue is the definition of “near term” and valley confinement on a river. They are both rule  
16 issues and not technical issues as part of the board manual section.

17  
18 **MOTION:** Pat McElroy moved that the CMZ workgroup engaged to rewrite the CMZ  
19 Board Manual Section 2 has fulfilled the charter obligation in reviewing  
20 Board Manual Section 2 and recommending changes as appropriate to meet  
21 the intent of the rule, and the group is no longer required to continue.

22  
23 Thus, McElroy moved that the Board approve the Board Manual Section 2  
24 and that Department staff have the authority to make changes as necessary  
25 for clarity and to finalize for distribution. McElroy further moved that any  
26 outstanding issues resulting from the CMZ Board Manual process be  
27 remanded to the adaptive management process for analysis and that the  
28 CMER Committee consider those issues in light of its other priorities and  
29 projects.

30 **SECONDED:** Toby Murray

31  
32 **Board Discussion**

33 Johnson asked if Section 2 needed to be adjusted, would the clarification come through new rule  
34 making. McElroy said the Board Manual is not intended to interpret rule. If there are issues of  
35 clarity in the rule the Board needs to clarify the rule, and if the rule changes, then the board manual  
36 section will change to reflect it.

37

1 John Mankowski said it is time to take action on this, but the motion needs to be clearer on exactly  
2 what the Board wants Forests and Fish Policy to refine and report back on. He also stated that if the  
3 Board approved Section 2 that DNR develop a feedback mechanism for WDFW and Forests and  
4 Fish Policy to track how many times the C1 categories occur, how many times are people exempted  
5 from those CMZs, and provide feedback about whether or not the channel is diverting.

6  
7 McElroy gave a commitment to Mankowski that the Forest Practices staff will work with WDFW to  
8 discuss how that would be accomplished.

9  
10 **AMENDED**  
11 **MOTION:** Pat McElroy moved that the CMZ workgroup engaged to rewrite the CMZ  
12 Board Manual Section 2 has fulfilled the charter obligation in reviewing  
13 Board Manual Section 2 and recommending changes as appropriate to meet  
14 the intent of the rule, and the group is no longer required to continue.

15  
16 Thus, McElroy moved that the Board approve the Board Manual Section 2  
17 and that Department staff have the authority to make changes as necessary  
18 for clarity and to finalize for distribution. McElroy further moved that any  
19 outstanding issues resulting from the CMZ Board Manual process be  
20 remanded to Forests and Fish Policy to identify and define policy issues and  
21 recommend alternative solutions and report to the Board at its February 2005  
22 meeting.

23 **SECONDED:** Toby Murray

24

## 25 **Board Discussion**

26 Soicher reminded the Board that the timeframe for calculating erosion rates is one of the policy  
27 issues for Section 2. Whether it is 200 or 400 years, the workgroup has identified the need for  
28 definition in its memo: “Neither the FFR nor the WAC specifically define “near-term”, resulting in  
29 disagreements as to time frames for understanding the CMZ planning horizon or for estimating  
30 bank erosion over time.” Engel said that a definition of “near-term” would allow the CMZ technical  
31 working group to put that timeframe into the board manual section.

32

33 McElroy encouraged the Board to take action today saying that Board Manual Section 2 is good  
34 enough to move forward and if necessary the Board has a process in place to change the Board  
35 Manual and rules.

36

37 **ACTION:** Amended motion passed unanimously.

38

1 **RULE CLARIFICATIONS**

2 Gretchen Robinson requested the Board’s approval to start the rulemaking process on the rule  
3 clarifications package by distributing a 30-day notice to the WDFW, counties, and Tribes and to file  
4 a CR101 with the Office of the Code Reviser. Board staff has prepared a preliminary list of minor  
5 rule changes pursuant to the “rules clean up” task on the Board’s work plan. None of the proposed  
6 rule changes should trigger “significant rule making” as described in the Administrative Procedure  
7 Act. The suggested rule revisions for this package are to make typographical corrections, clarify the  
8 language (without changing the affect of the rule), and incorporate language related to legislation  
9 that has amended the Forest Practices Act.

10

11 **MOTION:** David Hagiwara moved that the Forest Practices Board direct staff to file the  
12 Pre Proposal of Inquiry (CR101) with the Office of the Code Reviser to  
13 inform the public of rule making to clarify language, correct typographical  
14 errors, and incorporate legislative changes in Title 222 WAC. He further  
15 moved that staff provide notice pursuant to RCW 76.09.040 notifying the  
16 counties and WDFW of rulemaking intentions.

17 **SECONDED:** Doug Stinson

18

19 **Board Discussion**

20 Pat McElroy asked if Robinson considered the motion to give her the latitude to make any  
21 necessary minor adjustments to the package, specifically Peter Heide’s comments suggesting  
22 removal of #16. Robinson responded that she did and would research the concerns before any  
23 distribution.

24

25 Eric Johnson added that Robert Meier’s comment to withdraw the proposed “alternative  
26 management options” should also be considered before any distribution. Jed Herman agreed to  
27 contact Rayonier to resolve any issues.

28

29 **ACTION:** Motion passed unanimously.

30

31 **UPLAND WILDLIFE PLANNING**

32 John Mankowski pointed out that the Board’s timeline for assessing current wildlife rules, Element  
33 1 of the wildlife work plan, called for reviewing the current spotted owl rule first. Therefore,  
34 WDFW has been conducting technical and policy level stakeholder meetings facilitated by Dan  
35 Silver.

36

1 Silver discussed the results of those meetings as presented in the spotted owl progress report. He  
2 explained that the members of the Spotted Owl Policy group included both small and large  
3 landowners from the timber industry, the environmental community, Tribal government, and  
4 regulators (DNR, WDFW, USFWS). The group received multiple briefings by experts, and the  
5 report is a product of those briefings.

6  
7 After a short review of the current state rule, Silver stated that SOSEAs were developed to  
8 compliment the federal Northwest Forest Plan (NFP). Roughly 90% of the suitable habitat is in  
9 federal lands and protected by that plan. Since rule adoption in 1996 about half of the 1.5 million  
10 acres in SOSEAs have been covered by Habitat Conservation Plans (HCP) with additional  
11 protections anticipated through the Forests and Fish process. The central aspect of the Spotted Owl  
12 Policy group's work was prompted by the decline of the spotted owl over the last 15 years in  
13 Washington, which has led it to be identified by both the state and federal agencies as either  
14 threatened or endangered. A demographic study found that out of the 14 geographic study areas,  
15 five showed a substantial decline of the Northern spotted owl. Four of these five areas are located in  
16 Washington State. The estimated rate of decline from 1987 to 2003 was 45% to 60%. By way of  
17 contrast in Oregon the spotted owl declined 2.8% annually, California's decline was 2.2% annually,  
18 and Washington populations declined 7.3% annually.

19  
20 The 5-year federal status review study panel affirmed the conservation biology of the NFP. The  
21 review found new threats to the spotted owl: increased presence of barred owl, habitat loss due to  
22 forest fires, and the emergence of the west Nile virus. It did not find the causing factor of the  
23 decline. In fact it asserted that there might not be any single overarching explanation.

24  
25 Silver said the barred owl is abundant in Washington, and since the spotted owl was first protected  
26 the barred owl population has sharply increased and is regularly detected in traditional spotted owl  
27 territory. There is evidence that it may be displacing the spotted owl.

28  
29 Another aspect of the review study panel's work focused on what has happened with harvest and  
30 habitat over a period of time. WDFW and DNR are gathering information to conduct a spotted owl  
31 habitat assessment study. The study will contrast suitable habitat in 1996 with habitat in 2004 and  
32 will focus on SOSEAs and look at owl circles outside the SOSEAs. The study will not model future  
33 conditions.

34

1 Tom Laurie asked if the study would look at both federal and state land. Silver replied that it would  
2 be primarily state and private lands.

3  
4 The Spotted Owl Policy group focused on several regulatory or management subjects such as  
5 landscape management. Landscape planning covers activities conducted over time and space; it  
6 often focuses on biological outcomes rather than prescriptive procedures. At the time of rule  
7 adoption, the Forest Practices Board created the Landowner Option Plan (LOP). To date there has  
8 only been one LOP signed. In addition, the Legislature established a Landowner Landscape Plan  
9 (LLP) pilot project. Seven pilot efforts were started, but none of the plans were ever developed.

10

11 WDFW hosted a meeting with large landowners to talk about how the LLP pilot project process  
12 could be improved. The group learned that in order for landscape management plans to be  
13 successful the following issues need to be addressed:

14

- 15       ▪ Better coordination with the federal government.
- 16       ▪ Specific resource objectives that are provided by policy makers.
- 17       ▪ Clearer lines of accountability for the agencies.
- 18       ▪ SEPA interpretation needs to be resolved.
- 19       ▪ Sufficient resources for the agencies to support the planning effort.
- 20       ▪ At the outset of the planning process discuss DNR's condition authority and how it creates  
21        uncertainty for landowners.

22

23 Silver informed the Board that decertification received a lot of attention in both the technical and  
24 policy committees. WDFW categorizes owl circle status by the numbers 1-5. A status 1 site would  
25 include a pair of spotted owls while a status 5 is a historical site that is not currently occupied. The  
26 way decertification works is that if an owl survey conducted for three consecutive years did not  
27 detect an owl, the site status could be moved to a 5, which does not have the same harvest  
28 restrictions as a higher status owl circle. There are concerns that the process is taking away  
29 potentially valuable habitat, which is problematic because owls have long term fidelity to sites and  
30 three years may not be long enough to denote a historical site. Since rule adoption, 12 circles have  
31 been decertified.

32



1 Eric Johnson asked Silver to elaborate on WDFW’s authority to decertify. Silver said the protocol,  
2 which governs this, was produced by federal scientists prior to the owl rule and was never formally  
3 adopted. So, while decertification itself is a term not found in the rule, the procedures that come out  
4 of the survey protocol, to see what the circle should be, end up governing the harvest.

5  
6 At the final Spotted Owl Policy group meeting, the group decided they would like to continue  
7 working toward further analysis and to bring potential recommendations to the Board by the  
8 February 2005 Board meeting. They recommend that the Board host a workshop before then to  
9 receive more in depth briefings on some of these issues.

10  
11 Silver concluded with the following list identified by the Spotted Owl Policy group as items that  
12 need to be worked on in preparation for developing recommendations to the Board:

- 13
- 14 1. Landscape management for areas in SOSEAs that are not covered by HCPs or other  
15 management schemes.
  - 16 2. An analytical process for adjusting SOSEA boundaries with measurable objectives.
  - 17 3. Explore the possibility of a hiatus on decertification while the other discussions continue,  
18 with the exception of the USFWS and WDFW’s review of the spotted owl survey protocol.
  - 19 4. Adaptive management for owl regulation.
  - 20 5. Coordinate barred owl science and management strategies with USFWS and WDFW to  
21 address any potential competition between the barred and spotted owls.
  - 22 6. The forest health legislative task force will include issues associated with the northern  
23 spotted owl and managing for healthy, sustainable forests.
  - 24 7. Recommendation to eliminate the annual review requirement in the rule or request the  
25 Board’s insistence that agencies commit sufficient resources to complete annual reviews.
  - 26 8. Work at protecting the federal NFP in Washington State.

27  
28 **MOTION:** Eric Johnson moved that the Forest Practices Board approve the  
29 recommendations as outlined in the spotted owl progress report dated  
30 November 4, 2004.

31 **SECONDED:** Toby Murray  
32

### 33 **Board Discussion**

34 Alan Soicher suggested that the Board affirm the policy and resource conservation goals before they  
35 go back to the technical group. Mankowski agreed, and said that the Board has to make some

1 decisions about the policy objectives. Broad goals are already embedded in the rule about what the  
2 Board's expectations are. The Spotted Owl Policy group would like to see if they could be more  
3 explicit and detailed in interpreting those goals so they can promote landscape planning.

4  
5 Pat McElroy commended Silver and the Spotted Owl Policy group for all their hard work.

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

8  
9 David Whipple, WDFW, gave an update on the wildlife work plan. He reported that in addition to  
10 progress being made on the spotted owl rule assessment, work continues on the draft briefing  
11 document for the Marbled murrelet. After an internal review, WDFW would like to convene a TFW  
12 like group to review the document prior to presenting it to the Board.

13  
14 McElroy recommended that they follow through with that idea.

15  
16 Whipple reported that because the spotted owl assessment has taken longer than first anticipated  
17 and staff resources are so limited for both WDFW and the stakeholder groups, they are not certain  
18 when the other species in Element 1 of the work plan are going to be forthcoming.

19  
20 Work continues with stakeholders on Element 2, the Landscape Level Wildlife Assessment, and  
21 developing the framework for that process. For instance, links were created between the forest  
22 growth models and the species habitat requirement models, so not only current conditions can be  
23 assessed but also future conditions and habitat growth. A workshop is schedule for  
24 November 15, 2004, to discuss and put landscape level wildlife assessment into context with the  
25 other wildlife work plan elements.

26  
27 McElroy asked if that would coordinate with what the Board heard earlier about the spotted owl  
28 issues related to landscape level planning, and specifically were those going to be connected.

29 Whipple responded that it might. There is some discussion on which species to include in the  
30 landscape level assessment and what kind of information that process will produce that will be  
31 useful in assessing both the current habitat and species rules.

32

1 WDFW has also made progress on Element 3, Incentives for Landscape Planning and Habitat  
2 Protection. A number of meetings have been held with small landowners to develop concepts on  
3 existing incentives and what disincentives could be dropped.

4  
5 In September this year a meeting was held with industry forest landowners to hear their views on  
6 the LLP pilot project. Again, WDFW was interested in hearing what worked, what did not, what  
7 kind of incentives and disincentives existed, and where landowners' interests are in terms of a  
8 potential future landscape planning process. The next step is to continue stakeholder meetings to  
9 gain perspectives.

10  
11 McElroy asked if Whipple saw those as being multi-landowner or single landowner processes.  
12 Whipple responded that they had not chartered a firm direction yet. Obviously the LLP pilot project  
13 was landowner specific, and there was some interest from industry forest landowners to have a  
14 more programmatic approach that could still be landowner specific.

15  
16 Concluding, Whipple stated that WDFW has discovered that if they reorganize the species listed  
17 under Element 1 in the work plan, they might be able to create some efficiency getting the rules  
18 assessed more quickly and proceed with the work plan. They still need to do some work internally  
19 to see what those potentials are, but they feel they will be bringing the Board a revised work plan in  
20 February 2005.

21  
22 **2005 WORK PLANNING**

23 Jed Herman and Patricia Anderson presented the Board's draft 2005 work plan for discussion.

24  
25 Pat McElroy stated that it has been the Board's intent to address aesthetics following the completion  
26 of the wildlife work because the same kind of work that WDFW is doing to look at the landscape  
27 level effect and the cumulative effect of the rules on the landscape would need to be accomplished.  
28 He was interested to know if the Board felt there was any need to change that approach.

29  
30 Alan Soicher pointed out that because the wildlife work plan timelines are consistently being  
31 lengthened that it would be prudent to work on both aesthetics and wildlife simultaneously.

32 McElroy replied that there are a lacking number of resources to accomplish the tasks  
33 simultaneously.

34

1 Toby Murray inquired as to the Board’s obligation to aesthetics at the present time. McElroy  
 2 explained that the Board is committed to looking at the overall impact of the Forest Practices Rules  
 3 on the landscape after addressing the wildlife issues to determine what if anything needs to be done  
 4 in regards to aesthetics.

5  
 6 Herman reviewed the Board’s accomplishments from 2004 and identified the actions that were not  
 7 addressed (those items were placed on the 2005 work plan). He then presented the following draft  
 8 2005 Board work plan:

<b>TASK</b>	<b>TIMEFRAME</b>
<i>In Progress from 2004 or Ongoing</i>	
• Adaptive Management Protocol and Standards Manual	February
• Adaptive management rulemaking	2005
• Board Manual development	Ongoing
• Bull trout overlay update from USFWS designation of Critical Wildlife Habitat	
• Cultural Resources rulemaking & adoption of watershed Analysis board manual section	February
<b>Rulemaking</b>	
1. Family forest landowner RMAP	2005
2. Chapter 222 WAC in response to past legislation	February
3. Chapter 222 WAC rule clean up	February
• Upland Wildlife	Ongoing
• Water typing maps and repeal interim water typing rules	February 2005 – Adopt W map February 2006 – Adopt E map
<i>Other Work Plan Items Due in 2005</i>	
• Federal Assurances Update	February
• 2006 Work Planning	September – November
• CMER 2006 Work Plan	November
<b>Rulemaking</b>	
1. Historic Sites	2005

34 McElroy reminded the Board that the United States Fish and Wildlife Service did not designate any  
 35 critical wildlife habitat on state and private forestlands and therefore no action needs to be taken for  
 36 the Bull trout overlay update on the proposed work plan. Herman said it would be stricken.

37  
 38 John Mankowski stated that he would like to see the work plan reflect an adaptive management  
 39 project timeline with anticipated release dates and expected presentation dates to the Board.

40

1 Tom Laurie expressed his interest to see the Board Manual development list incorporated into the  
2 work plan as well.

3  
4 McElroy proposed an update on the eastern Washington water type map development for May.

5  
6 The following is the agreed upon 2005 Forest Practices Board meeting schedule:  
7

8	<u>Regular Meetings</u>	<u>Special Meetings</u>	
9	February 9 <sup>th</sup> *Rescheduled *	February 2 <sup>nd</sup>	(water typing workshop)
10	May 11 <sup>th</sup>	February 9 <sup>th</sup>	(spotted owl workshop)
11	August 10 <sup>th</sup>	February 16 <sup>th</sup>	(reschedule from Feb 9 <sup>th</sup> )
12	November 9 <sup>th</sup>	September 14 <sup>th</sup> & 15 <sup>th</sup>	(SFLO issues)

13  
14 **FORESTS AND FISH PANEL**

15 Gary Graves, DNR, introduced a panel of six forest field practitioners to report to the Board on how  
16 well the Forests and Fish rules are working. The panel members were asked to review their  
17 responses to the four following questions:

- 18
- 19 1. How are the rules working on the ground?
  - 20 2. What is working well?
  - 21 3. Where do we still have the greatest need for implementation improvement?
  - 22 4. Give a specific example of one implementation success, or challenge, that you think is  
23 particularly noteworthy.

24  
25 Steve Barnowe-Meyer, Weyerhaeuser, stated that the rules were generally working well. There is  
26 still some ambiguity with PIP, DFC, and CMZ, but the resources are being protected. The working  
27 relationships with the other agencies are going well, and the interim water typing rules are properly  
28 working. Field staff have the tools with the fish presence surveys to identify where last fish is.  
29 However, Barnowe-Meyer had concerns with the water typing map because it only includes  
30 modeled habitat. He told the Board that the greatest area for improvement would be to simplify the  
31 Forest Practices Application (FPA) process.

32

1 Charlie McKinney, DNR, commented that the rules are being implemented successfully on the  
2 ground and are accomplishing what they were intended to do in terms of resource protection.  
3 Compliance on Type 1 through 3 riparian management zones (RMZ) and RMAP are going well,  
4 and they have been seeing some good examples of how alternate plans have been used in the  
5 southeast region of the state. He then mentioned three areas that still have a need for  
6 implementation improvement: Type 4 stream definitions, lack of harvest in RMZs related to forest  
7 health issues, and conversion and Class IV General applications.

8  
9 Jerry Johnson, DNR, also stated that the rules are working well with a general understanding from  
10 the public that there is protection for public resources. The rules training programs, the cost share  
11 program for small landowners, the new Forest Practices Application Review System, and the  
12 interdisciplinary (ID) team process for the landowner assistance side of forest practices are all  
13 working very well. He mentioned that site class information is currently inadequate, and raised the  
14 question of basal area being high enough within the inner zones of RMZs. The Class IV General  
15 conversion process needs improvement; staff spends a lot of time dealing with conversion  
16 problems. He said one option would be to transfer jurisdiction to the counties. Johnson also stated  
17 that the water type model did not do very well in practice. Finally, he cited the RMAP program as  
18 being a huge success on the landscape.

19  
20 Don Nauer, WDFW, said the Forests and Fish rules are working well to engage all the stakeholders,  
21 and through ID teams, alternate plans, and FPA reviews there is opportunity for stakeholders to  
22 come up with consensus decisions. The cooperation level amongst stakeholders and the progress  
23 from the large landowner RMAP program in improving fish passage, addressing road failures, and  
24 stream adjacent road segments are working well. However, the small landowner RMAP program  
25 needs improvement. He mentioned that about 95% of the small landowner's RMAP checklists only  
26 apply to the immediate harvest unit and not the rest of the landowner's ownership. Therefore the  
27 ability to inventory all the road failures, ditch disconnects, and non-fish pipes that are creating  
28 problems in channels and delivering stream adjacency issues is being lost. Another improvement  
29 issue he raised was riparian protection. Due to the complexity of the DFC computation  
30 measurements, it has created a tough situation for monitoring and compliance. Nauer also  
31 mentioned there are site index problems; the DFC curve and targets are way too low. On a positive  
32 note, he wanted the Board to know that Green Diamond Resource (formerly Simpson) has done a  
33 good job to set the RMAP standard. In the last three years they have completed roughly 40 fish

1 passage restoration projects including six large bridge spans.

2

3 Charles Toal, DOE, commented that the rules are working and so are the RMAP regulations. The  
4 DOE is seeing major improvements in water quality and fish habitat. Consistency improvements  
5 need to be made among the DNR regions and how they interpret regulations. Also, the wetland  
6 regulations and the “no net loss” policy need to have clearer guidance on how to implement on the  
7 ground. For instance, how much roading can occur in a wetland before mitigation is needed and  
8 what mitigation is needed? He would also like to see some side boards placed on the small  
9 landowner alternate plans to help guide field staff and ID teams to a product. Another issue is the  
10 water type model and how the maps that exist with known points are going to transfer to the map  
11 that the model produced. Again, Toal noted that the RMAP process has been particularly successful  
12 in helping water quality, fish passage, and landowners with options to manage their road systems  
13 and suggested seasonal harvest operations for hauls on stream adjacent roads.

14

15 Brian Loucks, small forest landowner, told the Board that the rules are causing a lot of anger and  
16 frustration for the members of WFFA. Small forest landowners were told the increased stream  
17 buffers were absolutely necessary due to expected losses in the fish populations. Yet in the last few  
18 years there have been recorded record fish runs with several extended fishing seasons. Small forest  
19 landowners feel they are being singled out financially, and with loss of property rights to correct the  
20 situation it is not sensible. He commended the foresters and the staff in the Small Forest  
21 Landowners Office for their willingness to help the small forest landowners. The FPA process  
22 needs to be simplified. It is too complex and the costs are driving many small forest landowners into  
23 larger harvest unit sizes. Loucks example of an implementation challenge is water typing and the  
24 burden it places on the small forest landowner. The landowner is charged with determining the  
25 water type in the FPA process and if correct is responsible for those decisions, however, the process  
26 is beyond their skill level.

27

28 Doug Stinson asked McKinney what he thought the reason was for seeing so many conversions on  
29 the eastside and is it more than in previous years. McKinney stated that conversion rates have  
30 increased over the years and are mostly attributed to many of the large landowners selling portions  
31 of their land to land developers who then sell those tracts in smaller acreage packages.

32

1 Pat McElroy asked McKinney to what extent is the conversion rate driven by the complexity and  
2 cost of the rules versus the population wave coming from western Washington. McKinney believes  
3 it is caused more by the changing population shifts, where individuals choose to purchase land, and  
4 the large landowners selling blocks of land rather than from small landowners converting.

5  
6 McElroy then agreed with Loucks's comment to simplify the FPA process and asked Graves to give  
7 a brief update on its modification process. Graves stated that the FPA has been reduced to four  
8 pages plus a map; however, additional pages may be necessary for issues such as unstable slopes.  
9 The FPA will also offer landowners examples in the instructions of what is required on the  
10 application. The DNR regions will complete their review of the revised FPA next week and then it  
11 will be distributed to stakeholders the week of Thanksgiving. The intent is to have the new  
12 application in place by January.

13  
14 Toby Murray asked McKinney to elaborate on the challenges the southeast region is experiencing  
15 while attempting to identify Type 4 and 5 streams. McKinney stated that the Type 4 rule definition  
16 is not as logical as other rules that identify the values and functions that are being protected, and  
17 how you identify stream types or whatever it is you are identifying really keys into the functions  
18 that are trying to be protected. In some instances, identifying a stream below a point of perennial  
19 water as a Type 4 rather than a Type 5 is like putting an isolated spring in a Type 5 water and  
20 calling the stream below that point a Type 4. It is hard to understand why the isolated spring would  
21 change the protection on the stream below. Also, perennial water can only be defined as something  
22 that exists 12 months out of the year. There may be only a one month window to evaluate whether it  
23 is perennial or not, and it needs to be a year of normal precipitation, which has not been defined  
24 very clearly.

25  
26 John Mankowski asked if the Forests and Fish funding that DNR, WDFW, and DOE are receiving,  
27 allows the regions to keep up on the work load. Toal responded that DOE only has two employees  
28 to cover Clallam County down to Skamania County with approximately 6,500 FPAs to process in  
29 one year. They do not come close to looking at 5% of those. Therefore he does not feel that DOE  
30 has enough people on the ground.

31  
32 Nauer interjected that unfortunately what continues to fall to the end of the priority list is the  
33 compliance. McElroy stated that there is a budget request to increase compliance monitoring in



1 DNR's 05-07 budget.

2  
3 Stinson asked Toal to explain what he was looking for in sideboards regarding ID teams for small  
4 forest landowner alternate plans. Toal said that every ID team reviews the same processes again and  
5 again with all the same issues. He would like some basic sideboards such as "How wide can you  
6 cut the RMZ down to?" and "What does it mean by meet or exceed?" Just some of those basic  
7 questions so field staff are not re-inventing the wheel each time they go out.

8  
9 Jed Herman stated that this is a topic that has been coming up on a number of different levels. Staff  
10 is currently developing some criteria to better identify and understand riparian function upon sight  
11 or how to evaluate what is needed, so when a proposal comes through it can be tested. The  
12 framework for this product will be done by the end of this month.

13  
14 A brief video, hosted by Rick Roames, DNR, and Fred Nicoll of Hampton Tree Farms, regarding  
15 RMAPs was shown to the Board. The content was a review of the Hampton Road Re-alignment and  
16 Culvert Removal Project managed by Mid-Valley Resources, Inc, an affiliate of Hampton Tree  
17 Farms, located at the Deer Creek mainline in Skagit County on the North Cascade Tree Farm.

18  
19 **MOTION:** Toby Murray moved to adjourn the meeting.  
20 **SECONDED:** John Mankowski  
21 **ACTION:** Motion passed unanimously.

22  
23 Meeting adjourned at 3:32 p.m.