	FOREST PRACTICES BOARD
	Regular Board Meeting
	May 12, 2015
	Natural Resources Building, Room 172
	Olympia, Washington
	Chair, Department of Natural Resources
	aber Products Union Representative
	General Public Member/Small Forest Landowner (participated 9-11:40 a.m.)
	General Public Member
	, General Public Member/Independent Logging Contractor
•	General Public Member
	Snohomish County Commissioner
	General Public Member (participated by telephone)
	ignee for Director, Department of Fish and Wildlife (participated 9-3:10 p.m.)
	h, Designee for Director, Department of Commerce
	r, Designee for Director, Department of Agriculture
I om Laurie, D	esignee for Director, Department of Ecology
Mambana Aba	
Paula Swedeel	i, General Public Member
Stoff	
	Meyer, Forest Practices Division Manager
	orest Practices Assistant Division Manager
•	son, Rules Coordinator
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i iii i crester, e	counser
WELCOME	AND CALL TO ORDER
	called the Forest Practices Board (FPB or Board) meeting to order at 9 a.m.
ranon Everett	cance the 1 stept 1 factions board (11 b of board) meeting to order at 7 a.m.
APPROVAL	OF MINUTES
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MOTION:	Bob Guenther moved the Forest Practices Board approve the February 10-12, 2015
11011011.	meeting minutes.
SECONDED:	Court Stanley
BECOMBED.	Court Summey
Brent Davis su	ggested that the word "policy" be added before "recommendation to page 6, line 28.
Brone Buvis su	ggested that the word poney of daded series recommendation to page of the 20.
ACTION:	Motion passed unanimously.
nemon.	Proton passed unummously.
REPORT FRO	OM CHAIR
	vledged Kirk Cook, Department of Agriculture, for his service on the Board and
	replacement, Patrick Capper.
	r ,rr.
	Bill Little, Tim Bob Guenther, Brent Davies, Carmen Smith Court Stanley, Dave Somers, David Herrera, Joe Stohr, Des Heather Ballas Patrick Capper Tom Laurie, D Members Abs Paula Swedeer Staff Chris Hanlon-I Marc Engel, Fo Patricia Anders Phil Ferester, S WELCOME A Aaron Everett APPROVAL MOTION: SECONDED: Brent Davis su ACTION:

Everett also acknowledged Stephen Bernath's work as TFW Policy Committee co-chair for the past six years. He will be stepping down after the May or June TFW Policy Committee meeting.

GENERAL PUBLIC COMMENT

Mary Scurlock, conservation caucus, said that no work has been done on the Type N board manual for over a year, and that discussions were at an impasse. She suggested the Board direct DNR to initiate a Board Manual process because TFW Policy consensus is not required and stakeholder input would still occur. The Conservation Caucus recommends this course rather than following dispute resolution at Policy because adequate data is available for DNR to act. She said dispute resolution would be resource intensive and unlikely to produce consensus.

Chris Mendoza, conservation caucus, said that the identification of the uppermost point of perennial flow has been an issue for a long time. He said it is not an issue with the data rather its Policy members not able to agree on how to use the data to develop the wet season method. He indicated much frustration within the technical committees in putting in all the work and then stopping at TFW Policy with no good reason and not moving it forward to the Board.

Karen Terwilleger, Washington Forest Protection Association (WFPA), stated that a technical/science group dedicated to the Type F issue is needed in order to do the policy work that needs to be done. She said science is extremely critical in this process especially determining a solution for the large water type issues. She also mentioned that the key study Chris Mendoza referred to for Type N focused on an issue relating to finding the upper most point of perennial flow but looked at only one methodology. She said the dispute has to do with the methodology to identify a default method to locate the upper most point of perennial flow during the wet season not that TFW Policy cannot decide on what to do with the data.

Peter Goldman, WFLC, expressed concern with the lack of progress on a permanent water typing rule. He said TFW Policy has been grappling with this for almost $2\frac{1}{2}$ years. He said most caucuses agree on the parameters of what a rule should look like and asked the Board to direct TFW Policy to bring a majority and minority report to the Board in November. He indicated that they would soon release a White Paper to TFW Policy and the Board explaining why the existing interim water typing rule is not biologically adequate to the extent it permits take and excludes potential fish habitat.

STAFF REPORTS

Joe Stohr expressed his frustrations with the adaptive management program and the pace for the work on stream typing where decisions take 10-20 years to make and questioned if there is something else the Board could do to expedite the process or if there was some other process to put in place.

Adaptive Management

Hans Berge, DNR, updated the Board on the water typing model evaluation using LiDAR. He also provided an update on CMER's work on the Hard Rock Study.

Small Forest Landowner Advisory Committee and Small Forest Landowner Office

- Tami Miketa, DNR, reported on the small forest landowner communities RMAP progress and how
- 45 they are in meeting the requirements of RMAPs. She indicated in preparation for a small forest
- landowner's roads report it appears that good management practices are being taken on small
- landowner roads, the report providing an overview on the status of small forest landowner's RMAP
- 48 obligations will be available later this year.

She said the biggest challenge faced in performing the roads surveys was landowners not wanting "government employees" on their property.

Tom Laurie asked what the percentage of roads owned by small versus large forest landowners is and Miketa said it is unknown. She added the answer to this is a challenge.

Court Stanley asked if Washington Farm Forestry Association (WFFA) could help. Miketa responded WFFA is helping do outreach with the one dedicated DNR staff person working on this which has been helpful.

- Northern Spotted Owl Conservation Advisory Group
- 12 The Board considered whether this group should continue and they agreed it should.

Joe Stohr stated that Washington Dept. of Fish and Wildlife (WDFW) has had the northern spotted owl (NSO) on its review list for state listing and the review is expected to be completed by the end of 2015. He suggested a presentation to the Board on the review at the February 2016 meeting. He also said that the US Fish and Wildlife Service (USFWS) are also looking at the listing status and looking at a barred owl pilot project that may help the NSO.

Stohr agreed with Everett to have a "process check-in" at the August meeting in order to keep this topic front and center. Everett also suggested having USFWS provide an update on their process of the species status review and the barred owl experiments.

- No further discussion on the following staff reports:
- Board Manual Development
- Compliance Monitoring
- Rule Making Activity & 2014 Work Plan
 - Upland Wildlife Working Group

LEGISLATIVE UPDATE

Chris Hanlon-Meyer, DNR, reported the only bill to pass that affects the Forest Practices program is Senate Bill 5088 requiring expansion of LiDAR mapping of geologic hazards. He also reviewed the status of DNR's requested budget enhancements. He also recognized all the work done by DNR and the Timber, Fish and Wildlife collaborators to get the Adaptive Management Program fully funded in the Governor's, House and Senate proposed budgets.

BOARD MANUAL SECTION 16 PROGRESS

Marc Ratcliff, DNR, said the stakeholder group is working to incorporate guidance for identifying methods for assessing run-out potential for unstable slopes and are well into drafting guidance for estimating run-out distances.

He said since the landslide risk can involve initial screening and possibly an in-depth analysis, it is important to provide guidance for both the general practitioner and the qualified expert. As a result, the group decided to provide an initial framework for the general practitioner to use for determining possible run-out distances for particular landslides. He also said that brief descriptions of specific methodologies will be included which will provide the qualified experts with options for determining the appropriate method depending on geographical location and landslide risk.

- 1 He said the methods for calculating distances for run-out will be for shallow rapid landslides only.
- 2 These are by far the most frequent landslide types observed on the landscape, they cause the most
- damage, and the parameters for initiation can be calculated somewhat readily.

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He concluded that given the expectation of this group and the fact that they have day jobs apart from this work group, the commitment is impressive.

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8 Marc Engel responded there is no data available to Everett's questions regarding methods to calculate 9 runout for deep-seated landslides. .

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- 11 Engel said DNR would like to field test the manual before Board approval but would not have time
- before the August Board meeting and requested the Board delay their review and approval for their
- 13 November meeting.

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Everett noted the concern of timeline but was not willing to change the due date. He said at the August meeting the Board can reevaluate the situation.

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TFW POLICY COMMITTEE'S WORK PRIORITIES

- Stephen Bernath, co-chair reported that in addition to the Type N and F priorities, Policy has worked on the following:
- Bull trout overlay
- Small forest landowner template proposal
- Schedule Nancy Sturhan to conduct Adaptive Management training for TFW Policy members.

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He said that nothing has occurred on the Type N issue since 2013 due to other priorities and lack of consensus on a pathway forward.

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Adrian Miller, co-chair, reported on progress made with Type F which included field trips, identified concerns with the rules, initiated a literature review on the use of electro-fishing and mentioned that DNR will submit a proposal initiation for a concept for off-channel habitat.

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Hans Berge, DNR described what electrofishing is and provided an overview on the literature review that he developed.

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Bernath and Miller agreed that TFW Policy needs to keep moving forward and not dawdle on this topic. Somers expressed the same concern and said that he appreciates the option to bring the majority/minority opinions to the Board for a decision to get to a resolution sooner rather than later.

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Court Stanley cautioned Somers in that approach as he wants to ensure the adaptive management process is adhered to.

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Joe Stohr said he is encouraged of progress, however not encouraged with the length of time for a recommendation.

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TFW Policy co-chairs will present at the August meeting a schedule to reach a recommendation plan for the off-channel habitat and a progress report for electrofishing.

CLEAN WATER ACT ASSURANCES

- 2 Mark Hicks, Department of Ecology, reported that during this period, the following four milestones were completed:
- Developing guidance strengthening the process for issuing Alternate Plans
- 5 Bull Trout Overlay Temperature Effectiveness Monitoring Study
 - Forested Wetlands Literature Synthesis
 - Revised Wetland Program Research Strategy

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He also reported that work was initiated on several additional milestones and that the Type N strategy was changed from "Completed" to "Off Track" to reflect the substantial delay in implementing a key milestone component.

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TAYLOR'S CHECKERSPOT BUTTERFLY ANNUAL REPORT

- Sherri Felix, DNR, said that this was the seventh annual report that implements the Board's
- protection strategy for the Taylor's checkerspot butterfly (TCB). She said the approach relies on the following process.
 - Tracking FPAs proposed within one mile of WDFW identified butterfly habitat (new, renewed, or amended FPAs);
- Conditioning FPAs if/when WDFW determines the FPA poses a potential risk to the butterfly;
- Voluntary landowner planning with WDFW to develop TCB management plans;
- Annual reports to the Board by DNR and WDFW on program issues associated with individual FPAs and the status of landowner-WDFW management plans.

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She said the Board's unanimous approval in 2014 to expand its protection approach to include the newly designated Federal critical habitat sites that have private or state managed forest land within one mile added about half dozen habitat areas, and added Skagit and Island counties to the screening process.

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She said 17 permits were within one mile of either WDFW identified TCB habitat or Federal habitat and were evaluated by WDFW concerning any potential risk to the butterfly. No FPAs needed to be conditioned and no protection issues have arisen during those activities.

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Gary Bell, WDFW, said that there are currently three large landowners with TCB plans in place and all are going well.

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He said conservation activity continues in North and South Puget Sound areas and counties continue to utilize WDFW's data for planning.

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Bob Guenther asked what is involved in the restoration efforts. Bell responded that most restoration efforts to date have included targeted brush and limited conifer removal to maintain nectar plants that support the butterfly.

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WESTERN GRAY SQUIRREL REPORT

- Donelle Mahan, DNR, provided highlights of the report that implements the Board's protection
- strategy for Western Gray Squirrel (WGS). She said the voluntary protection approach involves the following process:
- Tracking and screening FPA's proposed within 0.25 miles of WDFW identified occurrences/habitat;

- WDFW determines WGS presence/absence via nest surveys; if present, develop voluntary
 management plan with landowners
- WGS plan completed/implemented.

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- 5 Gary Bell, WDFW, said for the period of January 1 through December 31, 2014, there were 109
- 6 FPA/Ns identified as potentially being associated with WGS with the majority in Klickitat County.
- 7 He said 42 were associated with large landowners and 67 were associated with small forest
- 8 landowners.

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He said 100 of the 109 FPA/Ns needed further review, including confirming presence or absence, conducting a nest survey, or confirming appropriate protection measures implemented. Thirty-one of those 100 required development or implementation of a management plan.

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He said overall, all known WGS related FPAs were identified and plans continue achieving conservation.

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Tom Laurie said he is pleased with the report and that it seems like an effective in tracking. He noted that all FPA have been reviewed and thought it was great. He asked when the formal status review will begin and how long it will take. Bell stated the status review should be going out for public review in August, and a final report with recommendations will be presented to the Fish and Wildlife Commission in January 2016.

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Brent Davis asked what the process for the FPAs that were identified with less than ideal conditions. Bell responded that there is no regulatory process as it is a voluntary approach; however they are required by law to maintain the required nest trees.

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UPDATE ON DEPARTMENT OF ECOLOGY'S NONPOINT PLAN

Melissa Gildersleeve, Department of Ecology, provided an update on what the plan looks like and how the work by the Board fits into the plan. She said the updates will include short and long-term goals, objectives and strategies; have an implementation focus; strengthening partnerships and management measures. She said that the Board's rules addressing forestry nonpoint pollution will be a critical piece of the plan as well as the regulatory framework on forest practices for implementing the plan as well as the adaptive management process and effectiveness monitoring.

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PUBLIC COMMENT

Karen Terwilleger, WFPA, said they support the CMER budget and additional staff position within
 Adaptive Management Program.

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Marc Gauthier, Upper Columbia United Tribes, recommended that the Type F literature review consider seasonal variability, winter fish habitat or limitations of electrofishing technology itself to determine if the appropriate call on viable fish habitat and potential fish habitat is made.

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PUBLIC COMMENT OF SMALL FOREST LANDOWNER ALTERNATE PLAN TEMPLATE PROPOSAL INITIATION

- 45 Ken Miller, WFFA, thanked the Board for moving the template into the adaptive management
- process. He said that small landowners believe this will help them resolve what they believe was the
- 47 intent with the Regulatory Fairness Act and the Small Business Economic Impact Statement 15 years
- ago. He also invited the Board to a mini field day at his family tree farm on June 6, 2015.

Doug Hooks, WFPA, said he supports the Adaptive Management Program Administrator's recommendation for a science and policy track for the proposal.

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SMALL FOREST LANDOWNER ALTERNATE PLAN TEMPLATE PROPOSAL INITIATION

Hans Berge, DNR, recommended a three step strategy which would include a "policy track" and a "science track" to move this proposal through the adaptive management process. The 3 steps include:

- TFW Policy Committee to determine whether the alternate plan template proposal meets the criteria outlined in WAC 222-12-0403 for alternate plans by October 2015.
- Conduct a literature synthesis to evaluate the forest practices functions of the riparian zone by March 2016.
- Provide recommendation to the Board at the May 2016 meeting.

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MOTION: Tom Laurie moved the Forest Practices Board direct TFW Policy to implement the strategy as recommended. The steps forward include

- Beginning no later than October 2015, determine whether the alternate plan template proposal meets the criteria outlined in WAC 222-12-0403 and consider different strategies for moving forward;
- Beginning October 2015 initiate a literature synthesis to evaluate forest practices functions of the riparian zone; and
- Providing a recommendation of next steps to complete the evaluation of the proposal at the May 2016 Board meeting.

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SECONDED: Heather Ballash

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ACTION: Motion passed unanimously.

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PUBLIC COMMENT ON THE ADAPTIVE MANAGEMENT PROGRAM 2016-2017 BUDGET

31 None.

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ADAPTIVE MANAGEMENT PROGRAM 2016-2017 BUDGET AND CMER MASTER PROJECT SCHEDULE PROGRESS

- Hans Berge, DNR, reviewed the budget with the Board and highlighted the following:
- Continuing Lean improvements/staffing Environmental Planner 3
- LiDAR model
- Riparian Function Literature Synthesis
- TFW Policy Committee facilitation
- 40 CMER Conference
- Report to Legislature

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Berge requested the Board's approval of the 2016-2017 budget as proposed with the expectation that the budget may need to be revised at the August 2015.

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Tom Laurie asked what the contingency fund is used for. Berge responded that it is used for

47 unplanned projects that may come up.

1 2 MOTION: Dave Somers moved the Forest Practices Board approve the 2016-2017 budget

3 dated 5/12/15.

5 SECONDED: Tom Laurie

AMENDMENT

8 TO MOTION: Court Stanley moved to amend the motion to include an additional \$140,000 per

fiscal year for CMER Science Staff (line 7).

11 SECONDED: Carmen Smith

13 ACTION ON

14 AMENDMENT: Motion passed unanimously.

16 ACTION: Motion passed unanimously.

PUBLIC COMMENT ON CULTURAL RESOURCE PROTECTION CONCERNS AND TFW CULTURAL RESOURCES ROUNDTABLE PROPOSED ACTION ITEMS

John Sirois, Upper Columbia United Tribes, said he was concerned about the recent inconsistencies that have taken place in terms of change or interpretation of the authorities DNR has for protecting cultural resources. He added that as we move forward we need to look at commitment to uphold the original HCP that provided a basis of establishing a process for protecting cultural resources. He encouraged the Board to engage in the discussions and process.

Marc Gauthier, Upper Columbia United Tribes (UCUT), stated that there are some shortcomings in the current process that have hindered his Tribes ability to appropriately protect cultural resources. He is hopeful that a resolution will come to pass and applications will be conditioned again to protect cultural resources. He also referenced the UCUT's resolution that identified six suggestions that they would like to see occur.

David Powell, Yakama Nation, spoke on behalf of Councilwoman Ruth Jim. Jim submitted a comment that referenced a letter sent to the Board in March 2015 that included a solution for implementing the cultural goals of the 1987 TFW Agreement. Powell shared his disappointment with the Forest Practices Division in not consistently complying with WAC 222-20-120. He indicated that if the Forest Practices Division continues to approve FPAs without the required tribal-landowner meeting, they will be forced to appeal one of those FPAs. He encourage the Board to advise the division to comply with all provisions of WAC 222-20-120 to avoid costly appeals.

Jim Peters, Squaxin Island Tribe, said he disappointed that DNR has back stepped from where they were when he was at DNR as the tribal liaison. He said at that time the Forest Practices Division worked on ways to implement protection measures and provide training for FP foresters and others. He said the Division then encouraged tribes and landowners to develop plans to work on prior to the application submittal.

1 TFW CULTURAL RESOURCES ROUNDTABLE REPORT AND PROPOSED ACTION 2 **ITEMS**

- 3 Karen Terwilleger, co-chair, provided an overview on the "draft discussion strategy" document
- 4 which outlines the issue and next steps as well as identifies additional information needed for
- 5 discussion to move the issue forward. She said understanding DNR conditioning authority under 222-
- 6 20-120(4) is key in order for the group to move forward with a solution.

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She also asked the Board for funding for a facilitator to assist the Roundtable in developing solutions and place the Cultural Resources Roundtable quarterly report as a standing agenda topic rather than a staff report.

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Jeffrey Thomas, co-chair, stated that this is a Board issue and that the Roundtable is doing work on the Board's request. He stated that this has been a long standing issue and that the Board should have acted on it last year. He presented and referenced several documents that referenced the issues and commitments made by stakeholders to protect cultural resources.

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Everett said that he supports the request for funding for a facilitator and that the Roundtable should continue with the task of sorting out the conditioning authority issue. He also thought the Roundtable should expand the scope of the annual survey.

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Terwilleger and Dave Herrera both acknowledged the frustration by the Tribes with the process and how long of an issue this has been.

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Dave Somers acknowledge the long standing issue and the commitment from day one as Thomas presented. He noted some progress, however is unclear if the current issue is a legal or policy issue. He said he is also confused that a process was in place that was working and now it's not. He also supports funding for a facilitator.

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Herrera stated Commissioner Goldmark has spoken in support of resolving the issue and made a commitment for his staff to work with the Tribes for a resolution. He said that all parties need to be involved for the solution and supports funding for facilitation and note taking.

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Court Stanley suggested the Tribal, industry and agency leaders get together to reenergize the commitment made long ago.

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Brent Davies acknowledged the Tribal members who attended the meeting today from Spokane, Yakima and Colville. She also stated that she is looking forward to hearing more about the issue and getting to a solution together.

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Joe Stohr noted the importance of protecting these cultural resources and making a commitment in some way is necessary.

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43 MOTION: Aaron Everett moved the Forest Practices Board recommend and request DNR to allocate funding from the Forests and Fish Support Account to retain professional facilitation and note taking services at TFW Cultural Resources Roundtable meetings.

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He further moved the Forest Practice Board direct the TFW Cultural Resources 47 48 Roundtable to:

1 Continue work to resolve the Forest Practices Application conditioning issues identified in the "draft discussion strategy" dated April 21, 2015; by 2 3 Understanding the extent of DNR's conditioning authority, and the role of the 4 Department of Archaeology and Historic Preservation in the Forest Practices 5 Application approval process; Expanding the scope of the annual survey to collect more complete 6 7 information on how the current system of cultural resource protection is 8 working; 9 o Reporting to the Board on its progress in a standing agenda item at each quarterly meeting; and 10 At the August 2015 meeting, the report will include a strategy and a timeline for 11 12 reaching resolution. 13 14 He further moved the Board request a short public memo from the Board's counsel on 15 the extent and nature of DNR's conditioning authority for cultural resource protection. 16 17 SECONDED: Bill Little 18 19 **Board Discussion:** 20 Dave Somers asked if the public memo would be available by the August Board meeting and Everett 21 responded ves. 22 23 Tom Laurie asked if there would be a duration or the facilitation services. Everett suggested to start 24 with a year. 25 26 **ACTION:** Motion passed unanimously. 27 28 PUBLIC COMMENT ON RIPARIAN MANAGEMENT ZONE CLARIFICATION RULE 29 30 Kevin Godbout, Weyerhaeuser, said he believes that this rule making is more than just a clarification 31 of the current rule. He said the ability to move outer zone trees around within one riparian 32 management zone segment is a practical way in which they manage their riparian management zones. 33 34 Doug Hooks, Washington Forest Protection Association, said he agrees with Kevin Godbout and 35 questioned the priority of this rule making at this time. He asked the Board to consider the current 36 workload of all stakeholders and if this can be put off for a while. 37 38 RULE MAKING ON RIPARIAN MANAGEMENT ZONE CLARIFICATION 39 Sherri Felix, DNR, asked the Board to consider rule making to clarify the riparian management zone 40 (RMZ) rules for outer zone leave trees by approving the filing of a CR-101 Preproposal Notice of Inquiry with the Code Reviser's Office to notify the public of the Board's consideration. 41 42 43 She said that current RMZ rules set up three different zones starting from the water; the core, inner

zone of the RMZ according to certain harvest options.

and the outer. The outer zone is furthest from the water. The rules require trees to be left in the outer

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- 1 Staff is recommending the Board considering clarifying when more than one harvest option is chosen
- 2 along a stream that outer zone leave trees are to be left in the same RMZ segment as the chosen
- 3 harvest option.

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- 5 Several board members questioned the priority of this rule making and asked for additional
- 6 information to warrant the need for rule making. The Board rescheduled this discussion for a future
- 7 meeting.

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- 9 ADAPTIVE MANAGEMENT PROGRAM WETLAND RESEARCH AND MONITORING
- 10 STRATEGY: FOREST PRACTICES AND WETLANDS REPORT AND EFFECTS OF
- 11 FORESTED ROADS AND TREE REMOVAL IN OR NEAR WETLANDS OF THE PACIFIC
- 12 NORTHWEST LITERATURE SYNTHESIS
- Due to time constraints, topic moved to the August meeting.

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- 15 PUBLIC COMMENT ON BOARD'S 2015 WORK PLAN
- None.

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18 **2015 WORK PLANNING**

- Marc Engel, DNR, recapped some of the changes made today. The Board adjusted their work plan to reflect the following:
- Adjust time line from November to August for Type F;
- Adjust time line from November to 2016 work plan for RMZ rule clarification and Board Manual
 Section 7; and
- Add Cultural Resources Roundtable Recommendations task for August

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- 26 **EXECUTIVE SESSION**
- None.

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29 Meeting adjourned at 4:15 p.m.