FOREST PRACTICES BOARD
SPECIAL MEETING
January 18, 2001
Sawyer Hall
Lacey, Washington

Members Present:

Doug Sutherland, Commissioner of Public Lands, Chair of the Board
Lee Faulconer, Designee for Director, Dept. of Agriculture
John Mankowski, Designee for Director, Dept. of Fish and Wildlife
Bob Kelly, General Public Member
Steve Wells, Designee for Director, Dept. of Community, Trade and Economic Development
Toby Murray, General Public Member
Dick Wallace, Designee for Director, Dept. of Ecology
Judy Turpin, General Public Member
Keith Johnson, General Public Member/Forest Landowner of less than 500 acres
Fran Abel, General Public Member
Dave Somers, Snohomish County Council
Lloyd Anderson, General Public Member/Independent Logging Contractor

Staff:
Pat McElroy, Lloyd Handlos, Debora Brown Mungia, Paddy O’Brien, Patricia Anderson,
Shari Kincy

CALL TO ORDER
The meeting was called to order at 9:15 a.m. Introductions were made. The Board welcomed new member, Dave Somers with the Snohomish County Council.

Commissioner Doug Sutherland presented a service award plaque to John Daly and Joel Rupley for their tenure on the Board. Joel thanked the Board and urged them to continue their good work. John thanked the Board and expressed his appreciation to them for the work that they have done.
Commissioner Sutherland gave a quick update on the current organization chart. The Commissioner will not be using the title of Deputy Commissioner. The Commissioner has appointed Fran McNair as Aquatics Steward and Bruce Mackey as the Lands Steward. The Commissioner recognizes the issues of Forest Practices and the regulatory part of DNR and has appointed Pat McElroy as Executive Director of Regulatory Programs. Pat has also been identified as the Chair designee for this Board and will chair most of the meetings. Bonnie Bunning, who was the Regional Manager for the South Puget Sound Region, has been promoted to Executive Director of Policy and Administration.

APPROVAL OF MINUTES

MOTION: Dick Wallace moved to approve the August 9, 2000 minutes.
SECONDED: Lloyd Anderson

No corrections were made.

ACTION: Motion passed unanimously.

MOTION: Judy Turpin moved to approve the October 3 and 4, 2000 minutes.
SECONDED: Dick Wallace

Judy Turpin made the following corrections:
October 3rd minutes
Page 9, line 19 should read: WDFW is concerned that site class 5 might be over represented on the landscape.
Page 12, line 27 should read: Yakama Indian Nation.

October 4th minutes
Page 3, line 5 should read: This will be done by a Monitoring Design Team, who will develop and design a program for monitoring.
Page 3, line 17 should read: Dave Schuett-Hames.
Page 9, line 24 should read John asked what the key elements were so there is not a false start.
Page 10, line 16 should read not instead of now.

Dick Wallace made the following corrections:

October 4th minutes
Page 10, line 23 should read over instead of this then.

Keith Johnson made the following corrections:
October 4th minutes

Page 10, line 21 should read ground rules talked, the word “it” should be dropped.

Judy Turpin moved to accept corrections. Keith Johnson seconded the motion. Motion to amend was passed. Motion was adopted

ACTION: Motion passed unanimously.

RULES UPDATE

Lloyd Handlos and Debora Brown Mungia provided an update on the rules schedule. The Board needs to decide when they will meet to discuss these issues. This is a very ambitious timeline that we will need to follow in order to meet our deadline. DNR expects all the comments from federal agencies, tribes, board members and stakeholders no later then February 2nd. DNR will summarize the comments that come back from that proposed package and [present to the Board on February 14th. What DNR is proposing is a special board meeting on February 21st. On February 14th the Board would receive information in preparation for the February 21st meeting. The Board would receive the summary of comments, the preliminary final EIS, the preliminary final SBEIS and the preliminary final Cost Benefit Analysis. Staff would spend the time between February 22nd and March 20th putting together the rule package to submit to the Code Reviser’s Office. It needs to be filed no later than noon on March 21st in order for the document to be published on April 4th, which will be the document that people will be responding to in terms of written comments and at public hearings. We will begin accepting written comments as soon as the document is filed and we will take written comments right up to the last day before the public hearings. The hearings are tentatively scheduled for April 23rd and 24th. There will be one in eastern Washington and one in western Washington and if possible we would like all the Board members to attend both hearings.

The final EIS will be out by the end of April. The process requires that the EIS be published at least eight days before adoption. After receiving the written comments staff will compile a summary and the information will be filed at the Code Reviser’s Office on April 28th or 29th. Debora proposed that the Board meet May 17th and not on May 9th. In advance of the Board meeting staff would send the Board some comments from the public hearings and the written comments and then on May 17th the Board would meet to adopt a rule package. If the rules are filed by the end of May the effective date would be the end of June, which is when the emergency rules expire.
John Mankowski is concerned about the amount of information the Board will be expected to review between the February 14th and 21st meetings. Lloyd answered that these timelines are very, very tight. It is an aggressive timeline, but staff intends to have a rule package in front of the Board for it to discuss and adopt. John stated that there really is no flexibility in terms of a week extra time or so given what we have to do before June 30, 2001. Debora stated that everything has been pushed back as far as it can be.

Toby Murray commended the staff for an aggressive timeline. Judy thinks it would be a good idea to request an extension. The Board needs to be protected against being forced to take action that is ill advised in order to meet the timeline. The Board needs to be able to consider the comments form public testimony and make the changes on the basis of that testimony if those changes are necessary or advisable. The Board needs to be honest with the Legislature about this schedule.

Fran Abel asked what are the consequences if the Board does not ask for an extension and the deadline is not met. Lloyd said that if no new rules are adopted, DNR reverts back to the 1998 rules and the process begins again. Paddy O’Brien said that there are actually two deadlines in the forests and fish legislation: the authority for the current forest and fish emergency rules expires on June 30, 2001, and the directive to adopt permanent forest and fish rules by June 30, 2001. John stated that if the Board does need an extension that there is a statutory change needed. Dick suggested to let the legislature know of the very tight schedule in which there is no room for extensions. The Board can signal now that we may need the statutory extension and also signal that the Board will let the legislature know some time in February. Debora replied that DNR’s goal in February is to have feedback from federal services, the tribes and all the review that is needed in order to know that if there are pieces that need more work. The Board should know at the February Board meeting whether or not an extension is going to be needed and for which pieces. Judy is concerned that if the comments require a substantial change between the rule that is put out for comment and the rule that the Board adopts, it does require additional time. Debora noted that if at the May Board meeting the Board needs to make a change, there is a possibility that the Board could change the proposed rule and have another Board meeting later in May and still adopt the rules by the deadline. Paddy said that if there are any substantial changes to the rule proposal in response to public comments those changes need to be filed with the Code Reviser’s Office no later than May 23rd so that there can be a hearing on or after June 26th and that the rules would have to have an emergency effective date of July 1st so that there is no gap. It is not a timeline that Paddy would look forward to working on but it is possible.
Commissioner Sutherland suggested that when making the report to the House Committee, the Department could include a brief update on the very aggressive schedule and that it is fraught with hooks that could find the Board not being able to make the June 30th date. Furthermore, that the Board would advise them subsequent to our Board meeting on February 21st.

The Board agreed that there would be a regular meeting on February 14th and a special meeting on February 21st. Commissioner Sutherland stated that without objection from the Board the House Committee would be so notified.

Debora also shared the dates for the public meetings which will be held on April 24th in Sea-Tac and April 25th in Yakima. Steve Wells said that all board members may not be present and he wanted to know how crucial it was that all Board members attend. Paddy said that it is not a legal requirement that board members attend public meetings. Commissioner Sutherland’s intention is to attend and Chair the hearings. The Board agreed that the regular meeting on May 9th will be cancelled and a special meeting on May 16th will be scheduled.

Lloyd Handlos updated the Board on the outstanding rules. Out of the five outstanding rule packages that did not get out last time, two of them are now complete and the rest should be completed by the end of this week. DNR recognizes that within each of those rules there may still be some issues that have not been bought off on by the stakeholders and that there may be a couple of instances where the Board may be presented with some alternative language that the Board may have to make some decisions on. Staff is working on a solution for the alternate plan rules that will fit the small landowners needs and DNR’s as well. Lloyd encouraged the Board to make any comments, anytime, on anything that the Board has received.

**ADAPTIVE MANAGEMENT**

Lenny Young, Assistant Division Manager, for scientific support within DNR’s Business Systems Support Division, gave an update on the Adaptive Management Director position. They recruitment is still open. Unfortunately, the person that was hired in October had to decline due to family issues. In the meantime, Lenny indicated they are searching for an Interim Director and hopes that by February 14th there will be an interim director.

**CMER COMMITTEE**

One of the issues facing this Committee is having individuals who want to do things by consensus. DNR recognizes the difficulty in using consensus because CMER is going to be a long-term program. It would make sense to agree on the groups that will be part of CMER and that the

*Approved FPB minutes for January 18, 2001*
consensus process isn’t working very well, then develop some type of fall back plan. Judy says that in the past there was a process for dealing with lack of consensus but it was not a voting process. Lloyd says that he is not advocating a voting process but that there does need to be a process that the Board agrees to assist the CMER committee.

Commissioner Sutherland asked that Craig Hanson and Dr. Timothy Quinn come forward and address that Board. Dr. Quinn feels that CMER can operate very much like it has in the past and that was without consensus. Right now CMER is operating on the basis that anybody that comes to the CMER meetings, which at a minimum are typically the co-chairs of the Scientific Advisory Groups, and some other interested people have a vote in the matters of CMER. When CMER is in the decision making process, participants at the table are asked whether they are in agreement. When CMER cannot reach consensus, the Policy Committee resolves differences. The key points are trying to get people at CMER who are willing to commit a minimum of a certain amount of time because there is an immense amount of work to do. CMER would like the Board to establish a membership. Because CMER works by consensus and a single person can stop the consensus process it does not really matter that we worry too much about one interest group having too many people on the committee. If a single member were interested in stopping the process they could do that just as well as an entire group of people. The message that needs to come forth is the message that if you participate, you participate as a scientist not as a policy maker. Judy said that the issue is not the need for a voting process but when you come to make consensus that you have a clear view of who the participants in that consensus would be. Dr. Quinn said that is absolutely crucial. The issue of putting people on CMER that have to report and contribute a third of their time will guard against that. There has to be continuity in membership such as a commitment for a minimum of two years. Craig said that is why CMER is asking interest groups to designate individuals, because in doing so they have acknowledged that they are willing to make this commitment.

John Mankowski believes that the Board needs to take ownership of the CMER program. This is the only Board in the state that has a $3 million research and monitoring program and some of the best scientists in the state working on some of their key issues. The Board needs to design it and make it work well. The next step should be the Board, in taking ownership, should solicit names from the parties in the memo that was sent out. Judy appreciates the work that they have done. She was glad to hear the comments about not prescribing particular criteria for what constitutes a scientist, because non-profit organizations with small staffs have to rely on volunteers. To get them to commit a third of their time is going to be difficult. The need is for persons who have the
ability to separate the scientific issues from the political ones and who have an interest, background, and expertise in a scientific area without asking for a particular level of degree.

Dick noted the first step in taking ownership of CMER was the adaptive management emergency rule. He recommends that the staff, on behalf of the Board, do the solicitation of members. It is critical that the invitation be extended to environmental groups and local governments. A board manual could identify the qualifications, the technical nature of the work, the expected commitment, the two-year term, the sub-committee structure, the consensus preferred decision-making and potentially the role of the Adaptive Management Director. The Board could then receive the names from the solicitation and through a motion adopt the names. It does allow flexibility if you need to substitute a name we can do it through Board motion.

Dr. Quinn stated that you can be more effective in the CMER process at the scientific advisory group level then you can at the CMER level. The CMER level does not have such a wide range of topics and often follows the advice of the scientific advisors.

Commissioner Sutherland summarized that it is the sense of the Board to accept the comments of the co-chairs and concur that a two-year period of time with up to 1/3 of their time be an appropriate commitment for those who are willing to serve on the CMER committee. CMER should function as best as possible on a consensus approach and that it is the sense of the Board that the consensus be derived from a core group of individuals who have been identified by the members of each stakeholder group. John Mankowski also recommended that DNR staff write a letter from the Board to the various constituents seeking nominations and that certain amount of the CMER structure be built into the forest practices WAC and board manual. Also to have DNR staff create a framework for how CMER is going to work in terms of qualifications, what is the decision making process, what is the role of the adaptive management coordinator.

Commissioner Sutherland stepped out and Pat McElroy stepped in as chair for the remainder of the meeting.

**RESOURCE OBJECTIVES**

Ann Goos presented information on Resources Objectives from Schedule L1. Resource objectives serve as narrative criteria similar to what you would see under water quality. The performance targets are the measures by which you have specific targets that meet those functional objectives. Also in Schedule L1 you have three types of monitoring: compliance monitoring, which is done by DNR, effectiveness/validation monitoring, and performance targets.
Judy Turpin felt that was a change from the agreement and wanted an explanation for why that was changed. Ann responded that it is not a significant change from the agreement, the agreement has resource objectives and performance targets, but the performance targets are not defined as resource objectives. They are separated and the commitment is that the Board is to adopt resource objectives and the resource objectives are the general goals and the new definition has them being both functional objectives and performance targets rather than separate from the performance targets. Ann indicated they attempted to clarify for CMER the narrative objectives and what the measures would be and set the targets for those. Judy stated that they also changed the resource objective from the April document to the current one because the Board would be adopting both the functional objective and these particular performance targets. Ann said that is correct, but that it was just an attempt to make the program understandable. She indicated it was the Board’s choice on how to set this up.

Dick feels that the purpose of resource objectives should go into the rules and then it is up to the Board to decide whether they could adopt resource objectives into the board manual, which does have more stability and less flexibility and then adopt the performance targets through a Board motion.

**SCIENTIFIC REVIEW COMMITTEE**

Nancy Sturhan gave a presentation regarding the Scientific Review Committee. Doug Martin prepared the information being presented and also prepared a proposal. One of Doug’s recommendations is to develop a process that has some quality control. Judy was concerned that the preferred alternative did not actually have a committee. When she looked at the scientific review preferred alternative, the way that it was set up you do not actually have a committee and the CMER preferred alternative for a scientific review committee, it is a process but it does not under its usual context end up with people in the same place having a meeting. Your actual scientific review has a lot of people involved in the usual peer review journalistic style and she cannot imagine that in fact you mean that group is the committee. Obviously not.

Doug Martin was asked to come and address the Board. Doug indicated that the “committee” might be a different person each time. Judy was concerned that there might be a serious problem keeping this process moving.

Dave Somers had a question concerning defining the process. Doug answered that the CMER review process will contract individuals to do that the way it would operate would be a blind survey. The other alternative would be to have several different reviewers. Dick Wallace indicted
the intent was to have the adaptive management coordinator help. Dick thought the rule should define the peer review process, but that the manual could provide more details. He concurs with the preferred alternative. He thinks the direction needs to be clear, but not so detailed that the process is tied up. Judy stated it was important for people to have confidence in the process and that means that the Board needs to be involved in where the scientific review is placed.

Nancy was anticipating that CMER would make some of the decisions and not everything would go through the scientific review process. This difference needs to be defined. Doug commented that they put this procedure into place to deal with the questions. They are willing to change the wording to define the process. Keith feels that the Board should address this issue on February 14th and Judy wants to address her earlier questions regarding a smaller group of experts. Doug says that they already have that structure within the other groups. Judy asked if there was money for this project. Nancy indicated that the money would come from a CMER contract and the CMER budget. Lloyd warned that this is a finite pool of money. Dick indicated it was important to do it right. Pat indicated that the Board needed to flush out the adaptive management process.

Doug indicated the universities were interested. Judy stressed it was important for the science reports to come to the board from the scientists, not the policy people.

AGENDA FOR FEBRUARY 14TH MEETING

The Board reviewed the proposed agenda. A Cultural Resources update will be added to the agenda. John Mankowski has a concern that between the two February meetings that there will not be enough time to review all the documents. Debora responded that there will only be small changes to the new packet versus what the Board has already received. The Board discussed other issues on their workplan and directed staff to adjust the meeting dates to provide more time.

AGENDA FOR FEBRUARY 21ST MEETING

The public comments will be before the action items.

CLOSING REMARKS

No executive session was needed. The meeting was adjourned at 1:00 p.m. The next regular meeting is scheduled for February 14, 2001, beginning at 9:00 a.m.