

1 **FOREST PRACTICES BOARD**
2 February 11, 2004
3 Natural Resource Building, Room 172
4 Olympia, Washington
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6

7 **Members Present:**

- 8 Pat McElroy, Designee for Commissioner Sutherland, Chair of the Board
- 9 Bob Kelly, General Public Member
- 10 David Hagiwara, General Public Member
- 11 Eric Johnson, Lewis County Commissioner
- 12 John Mankowski, Designee for Director, Department of Fish and Wildlife
- 13 Lee Faulconer, Designee for Director, Department of Agriculture
- 14 Sherry Fox, General Public Member/Independent Logging Contractor
- 15 Toby Murray, General Public Member
- 16 Tom Laurie, Designee for Director, Department of Ecology
- 17 Wendy Holden, Designee for Director, Office of Trade and Economic Development

18
19 **Joining by Phone Conference:**

- 20 Alan Soicher, General Public Member

21
22 **Absent:**

- 23 Keith Johnson, General Public Member/Small Forest Landowner

24
25 **Staff:**

- 26 Ashley DeMoss, Forest Practices Assistant Division Manager
- 27 Karrie Brandt, Board Coordinator
- 28 Lenny Young, Forest Practices Division Manager
- 29 Neil Wise, Assistant Attorney General
- 30 Paddy O'Brien, Assistant Attorney General
- 31 Patricia Anderson, Rules Coordinator

32
33
34 **CALL TO ORDER**

35 Pat McElroy called the meeting to order at 9:00 a.m. Karrie Brandt gave a safety briefing.
36 McElroy announced that February 14, 2004, would be the 30th year anniversary of the Forest
37 Practices Act, which was enacted in 1974.

38
39 **APPROVAL OF MINUTES**

40 Motion to approve November 2003 meeting minutes was postponed at the December 2003
41 meeting to add additional Board comments. Original motion made by Sherry Fox and seconded by
42 Eric Johnson. The motion passed unanimously.

43
44 **MOTION:** Tom Laurie moved to approve December meeting minutes.

1 **SECONDED:** John Mankowski
2 **ACTION:** Motion passed unanimously.

3

4 **TRIBAL COMMUNICATIONS ON CULTURAL RESOURCES RULE MAKING**

5 Wendy Holden shared the list of tribes who communicated government-to-government with the
6 Board. The list of tribes who sent comments supporting the cultural resources protection proposal
7 include: Confederated Tribes and Bands of the Yakama Indian Nation, Jamestown S’Klallam
8 Tribe, Lummi Indian Business Council, Quinault Indian Nation, Suquamish Tribe, Sauk-Suiattle
9 Indian Tribe, and Tulalip Tribes. In addition, the Board had received requests from the
10 Muckleshoot Indian Tribe Cultural Resources Program and the Samish Indian Nation regarding
11 communication on this proposal. In response, the Board issued an invitation to all affected tribes
12 for government-to-government communication and provided an opportunity at this meeting to
13 hear from them.

14

15 Bob Kelly asked if each of the tribes listed submitted resolutions. Holden responded that the
16 Sauk-Suiattle Indian Tribe, Jamestown S’Kallam and the Tulalip Tribes communicated via tribal
17 council resolution. Kelly noted that he was aware of broader support among Tribes than indicated
18 by the written communications to the Board.

19

20 Jeffrey Thomas, Puyallup Tribe, commented that he has not heard any negative sentiments from
21 tribes on the cultural resources plan or rule making. The Puyallup Tribe and its programs still
22 consider cultural resources to be a top priority, and they are ready to move forward and be a part
23 of the process.

24

25 Sherry Fox asked Thomas what progress Mary Thompson has made on the grant and educational
26 workshops for connecting tribes and small forest landowners together. Thomas said the approach
27 is coming along. The work is being done in partnership with the Washington State University
28 (WSU) Cooperative Extension Services, who will deliver these services.

29

30 Dawn Pucci, Suquamish Tribe, added that Thompson has produced a prospectus. The WSU is
31 committed to implementing the plan. The prospectus describes a 3-year pilot program with an
32 approximate cost of \$350,000. Thompson is currently looking for grants to cover the costs.

33

34 In addition, Pucci stated that the Timber, Fish and Wildlife Cultural Resources committee has held

1 their first review of the cultural resources management plan and has committed to an aggressive
2 work schedule to meet the May 2005 deadline for completing the guidelines for landowner-tribal
3 interactions.

4
5 **PUBLIC COMMENT**

6 Kevin Godbout, Weyerhaeuser Company, expressed support for the water typing implementation
7 plan and urged the Board to accept the recommendations from staff. He stated that this
8 implementation plan would provide a smooth transition in the field for the new water typing
9 system.

10
11 **ALTERNATE PLANS**

12 Jed Herman, Department of Natural Resources (DNR), updated the Board on small forest
13 landowner alternate plan templates. The process allows for site-specific situations, minor on the
14 ground modifications, and facilitation of voluntary landscape riparian or stream restorations to be
15 considered while still providing protection of public resources. The stakeholder work group is
16 developing guidance for field staff that should stream line the approval process for forest practice
17 applications and minimize the need for as many identification teams. One of the challenges is to
18 address operational feasibility and efficiency while providing riparian functions.

19
20 Tom Laurie asked how many alternate plans have been approved to date and whether any have
21 been implemented. Herman answered 30 for small forest landowners, in various stages of
22 implementation.

23
24 Kelly wanted to know if there were any incentives for the voluntary restoration opportunities.
25 Herman replied that there is one, with guidance, for large woody debris. The guidance manual
26 allows for harvesting in the outer edge of the riparian buffer. However, this opportunity has not
27 yet been utilized.

28
29 **RULE MAKING – MARBLED MURRELET**

30 David Whipple, Washington Department of Fish and Wildlife (WDFW), requested that the Board
31 adopt the proposed rule language and proposed amendments to board manual sections 14 and 15.
32 The rule proposal will establish the 2003 Pacific Seabird Group’s revised marbled murrelet survey
33 protocol as the method to be used when landowners survey for murrelets and modify the definition
34 of an occupied marbled murrelet site.

1 Ashley DeMoss briefed the Board on the rule making process, including public comment on the
2 rule proposal, the SEPA process, and the economic analysis. DeMoss requested that the Board
3 adopt the rules, direct staff to file the CR103 with the Code Reviser, and approve the amendments
4 to the board manual.

5

6 **MOTION:** John Mankowski moved that the Forest Practices Board adopt the proposed
7 permanent rule for chapter 222-12 WAC and chapter 222-16 WAC,
8 pertaining to marbled murrelets, as presented today and direct staff to file
9 the CR103 with the Code Reviser, and further allow staff the authority to
10 correct any typographical errors as needed.

11 **SECONDED:** Eric Johnson

12 **ACTION:** Motion passed unanimously.

13

14 Fox suggested an amendment to section 14 of the board manual to include a statement
15 encouraging small forest landowners to contact WDFW for technical assistance when planning a
16 survey.

17

18 **MOTION:** Eric Johnson moved that the Forest Practices Board approve the Board
19 Manual Sections 14 and 15 as amended.

20 **SECONDED:** Bob Kelly

21 **ACTION:** Motion passed unanimously.

22

23 **RULE MAKING – PROCEDURE/ETHICS**

24 Patricia Anderson requested that the Board adopt the proposed amended rule language to the
25 practices and procedures chapter, which will establish administrative procedures and ethics
26 standards for the Board.

27

28 Laurie suggested that staff prepare a summary of the ethics rules for the Board and distribute them
29 to new Board members as they are appointed. DeMoss concurred with the idea and assured the
30 Board that further guidance was being developed to assist them.

31

32 **MOTION:** Sherry Fox moved that the Forest Practices Board adopt the proposed
33 permanent rule for chapter 222-08 WAC, pertaining to administrative
34 procedures and ethics, as presented today and direct staff to file the CR103

1 with the Code Reviser, and further allow staff the authority to correct any
2 typographical errors, if needed.

3 **SECONDED:** John Mankowski

4 **ACTION:** Motion passed unanimously

5

6 **CMER 2004 WORK PLAN**

7 Geoff McNaughton, DNR, asked for the Board’s approval of the Cooperative, Monitoring and
8 Evaluation Research (CMER) work plan and 2004 budget. He informed the Board that five of the
9 projects will need further policy discussion and may require modifications to the work plan.

10

11 McElroy congratulated McNaughton and CMER members for putting together a descriptive, well
12 laid out, and understandable work plan.

13

14 Fox suggested using the words “equal and overall effectiveness” on page 11, under 2.6.1 Rule
15 Summary, instead of “equivalent protection of”. She also commented that on page 13, under the
16 rule summary on roads, it would be appropriate to include the emergency rule for small forest
17 landowners. McNaughton said a new section could be added.

18

19 Eric Johnson asked for further clarification on how the methodology works for prioritizing and
20 ranking the projects. McNaughton replied that it comes from the rules. A project can be initiated
21 by going directly to the Board or to himself, and by the CMER process.

22

23 Laurie wanted McNaughton to explain the modifications that would be made to the workplan in
24 light of the five projects identified that will require further policy discussion. McNaughton
25 responded that the text would be modified to address these future policy discussions together with
26 other clarifications on the prioritization process and the essential budget approach that became
27 available after the workplan was distributed to the Board. These would all be minor adjustments
28 that would not change the substance of the workplan.

29

30 **MOTION:** Tom Laurie moved that the Forest Practices Board approve the 2004 CMER
31 Work Plan dated December 19, 2003, and the January 22, 2004, budget for
32 2004 as presented today.

33 **SECONDED:** Toby Murray

34

1 **Board Discussion:**

2 The Board decided that staff should be given the authority to make the modifications and
3 necessary corrections.

4

5 **ACTION:** Motion passed unanimously

6

7 **MOTION:** Tom Laurie moved that the Forest Practices Board accept Jeannette Barreca
8 as the Department of Ecology's new CMER representative.

9 **SECONDED:** Pat McElroy

10 **ACTION:** Motion passed unanimously

11

12 **ADAPTIVE MANAGEMENT**

13 McNaughton reported that the next step for the Adaptive Management Program is to get the
14 projects up and running through contracts and interagency agreements for this summer's field
15 season. Work continues on both the CMER Protocols and Standards Manual, and the Adaptive
16 Management Board Manual. As required by the Forest Practices rules, the CMER program was
17 given a fiscal and performance audit by the Office of Financial Management and passed with
18 100% compliance. He announced that the annual CMER Science Conference is being held
19 Tuesday, February 24, 2004, in Olympia.

20

21 John Mankowski asked what the long-term outlook was for funding and how CMER plans to
22 establish a long-term budget strategy. McNaughton said the state funding is fairly secure and a
23 delegation is heading to Washington D.C. to consult on federal funding. Preliminary indications
24 showed unrealistic expectations in the long-term funding, so CMER has been tightening the
25 project budgets.

26

27 **LEGISLATIVE UPDATE**

28 Lenny Young gave the Board an overview of the 2004 legislative bills that would affect Forest
29 Practices. Of those bills, the following are still active:

30

31 HB 2318, relating to the Forestry Riparian Easement Program, restricts DNR from reviewing an
32 applicant's timber harvest records to verify eligibility.

33

34 HB 2497 requires several state agencies, including DNR, to notify federally recognized Indian

1 tribes about significant natural resource-related actions that could affect them.

2

3 HB 2300/SB 6108 creates two new classes of pesticide applicators.

4

5 SB 6144 is an act that relates to strategies for improving forest health.

6

7 **BOARD MANUAL SECTION**

8 Marc Engel, DNR, reported the status of Board Manual Section 2, Channel Migration Zones

9 (CMZ), to the Board. The CMZ technical working group is approving each section by consensus.

10 In those areas where consensus cannot be achieved, the work group is framing the issues for the

11 Board's consideration. Work remains to be done in the introduction and delineation sections and

12 in the review of the figures and photographs to be used in the manual. An implementation plan has

13 been developed for the manual section, which includes testing at a number of field sites during

14 February and March. After stakeholder review in April, Section 2 will be presented to the Board

15 for approval.

16

17 **PERENNIAL INITIATION POINT**

18 Young updated the Board on the Perennial Initiation Point (PIP) study being done by the Adaptive

19 Management program. A pilot study has been completed, and Forests and Fish Policy is currently

20 discussing the status of that work. The discussion includes determining if there is anything in the

21 pilot study results that is action worthy and what to do with the related information collected by

22 the Northwest Indian Fisheries Commission that interacts with the PIP study.

23

24 **WATER TYPING MODEL**

25 Dennis McDonald, DNR, reported that DNR has successfully produced a water type map for

26 western Washington, and has worked with stakeholders to conduct a preliminary evaluation of the

27 model and mapping process. The DNR has decided that the map and the implementation

28 procedures need further work prior to field deployment. He recommended that the Board delay

29 adoption of the fish habitat water type map until February 2005.

30

31 Mankowski asked how end of fish habitat (EOFH) overshoots, with natural barriers, are dealt with

32 (there may be resident fish above a natural barrier). McDonald stated that this is unresolved. The

33 model looks for the perimeters within a 10-meter digital elevation model; it is not going to see a

1 waterfall unless the contours are close together. Therefore, local knowledge of the landscape is
2 critical.

3

4 Laurie wanted to know if it was possible to identify the categories of streams that the model
5 typically will not recognize so individuals would be alerted to use a different methodology.

6 McDonald told the Board that there would be guidance with the map that would draw attention to
7 these categories.

8

9 **Panel Discussion:**

10 Eric Schroff, DNR, presented DNR's recommendation to delay the deployment of the fish habitat
11 water typing map. The Forests and Fish Policy committee agrees that further development of the
12 new system is necessary to enable a smooth deployment in 2005. The interim water typing rule
13 will remain in effect during the delay.

14

15 Stephen Bernath, Department of Ecology (DOE), representing both DOE and the Environmental
16 Protection Agency recommended that the Board direct the stakeholder group to develop
17 recommendations that would get the map on the ground as indicated by the implementation plan.
18 It needs to be determined how already available data will be used to modify the map. The DNR
19 has received thousands of data points through the water type update process that helped to
20 calibrate the model but they have not been checked against the model. Bernath was concerned
21 about releasing the map prematurely when it did not reflect some of the field data on fish presence.
22 Taking these steps should assure consistent application of the new system in improving aquatic
23 life and the waters of the forested environment.

24

25 Dave Price, WDFW, supported delaying implementation of the map. Some validation data had
26 just been obtained, and an additional year of data would help with validation. Releasing the map at
27 this time would mean having several iterations of it released to the public prior to implementation,
28 which could result in confusion. However, one benefit of releasing the map now is that the timber
29 industry can get an early look at what is coming and perhaps tailor their electro-fishing to more
30 specific areas, which is beneficial to fish.

31

32 Chris Mendoza, representing the conservation caucus, said he supports delayed implementation
33 and that he had serious concerns that the model accurately predicts and delineates EOFH. He
34 pointed out that the current model had not been validated and does not work well in all areas. The

1 model can be useful in eliminating some work for landowners in areas where the model can
2 accurately predict where no fish occur. Mendoza agreed with the recommendation to delay release
3 of the map, knowing that it would be changed in a short period of time.

4

5 Peter Heide, Washington Forest Protection Association (WFPA), supported delaying
6 implementation of the water typing model and map because there is no assurance that the model is
7 performing accurately to the 95% standard. The WFPA is eager to begin discussions on unmapped
8 streams, areas where the model does not appear to be functioning well, and continued use of
9 various survey tools (like electro-fishing) to get these issues resolved. The WFPA members are
10 interested in viewing the map; however, releasing an unfinished product might provoke
11 individuals to react prematurely.

12

13 Allen Pleus, Northwest Indian Fisheries Commission, expressed support for delaying
14 implementation. The delay will provide an opportunity to get quality support in place and have
15 further discussions on allowing the unrestricted use on identification teams to adjust the map. He
16 also shared that tribes want to see the map before this system is implemented.

17

18 Kelly wanted to know if there were any science-based reasons why the map should not be
19 released. Price responded that information already exists on known fish presence, and the rule
20 states that a model will not be provided that would move protection down stream when fish
21 presence is known above. So, before implementing the map, the current fish presence knowledge
22 needs to be used to make sure fish are being protected where they are known to exist.

23

24 McElroy asked what will happen with the additional existing data on fish presence since the model
25 is not going to be run again. Price explained that the data only modifies the map, not the model.
26 The model results are put on a map and the data juxtaposed over the top. When fish presence is
27 known to exist above the modeled point, the known point is accepted as the EOFH point.

28

29 Lee Faulconer asked if landowners would be precluded from fish shocking after the Board
30 approves the model. Price confirmed that ending fish shocking was the intent, but he commented
31 that it might still need to occur.

32

33 Mankowski asked Pleus about the connection between releasing the draft map for public review
34 and the shocking season. Pleus said if you release the map now it is generally thought that it would

1 reduce the need for electro-shocking.

2

3 Bernath indicated that releasing the draft map now would entail spending staff time and energy on
4 unplanned educational processes to inform local governments and others of what the map is and
5 what it is not. Postponing the release would allow time for stakeholders to improve the map and
6 distribute the protocols on implementation.

7

8 Schroff announced that the Small Forest Landowner Advisory Committee supports the new water
9 typing process and model.

10

11 **MOTION:** Pat McElroy moved that the Forest Practices Board direct staff and
12 stakeholders to continue to move forward to fully implement the water
13 typing model, accepting the map by March 1, 2005 as presented today in the
14 work plan.

15 **SECONDED:** Tom Laurie

16

17 **Board Discussion:**

18 Alan Soicher requested an explanation of “validation data” as indicated on the draft water typing
19 project implementation plan. Schroff explained that it is a combination of known information from
20 water type modification forms, additional field surveys from this season, and the validation study.

21

22 **ACTION:** Motion passed unanimously

23

24 **MOTION:** Wendy Holden moved that the Forest Practices Board direct staff to delay
25 the release of the map produced by the water type model until after merging
26 the existing data, on or about July 1, 2004.

27 **SECONDED:** Pat McElroy

28

29 **Board Discussion:**

30 Mankowski said he did not believe the Board was prepared to handle the public reaction to the
31 errors in the draft map, and was concerned that there was no strategy for doing the needed
32 education and outreach for releasing it now.

1 Fox said releasing the map gives small forest landowners the opportunity to verify or not verify
2 fish occurrence and become a part of the process to help work out the problems, which could be
3 beneficial.

4

5 **ACTION:** Motion passed with 6 supporting and 5 opposing.

6

7 **EXECUTIVE SESSION**

8 No executive session was needed.

9

10 Meeting adjourned at 3:17 p.m.