

1
2 **FOREST PRACTICES BOARD**
3 **MEETING MINUTES**
4 February 14, 2007
5 Natural Resources Building
6 Olympia, Washington
7

8 **Members Present:**

9 Vicki Christiansen, Chair of the Board
10 Alan Soicher, General Public Member
11 Ann Wick, Designee for Director, Department of Agriculture
12 Bob Kelly, General Public Member
13 Brent Bahrenburg, Designee for Director, Community, Trade and Economic Development
14 Bridget Moran, Designee for Director, Department of Fish and Wildlife
15 Dave Somers, Snohomish County Commissioner
16 David Hagiwara, General Public Member
17 Doug Stinson, General Public Member/Small Forest Landowner
18 Norm Schaaf, General Public Member
19 Sherry Fox, General Public Member/Independent Logging Contractor
20 Tom Laurie, Designee for Director, Department of Ecology

21 **Staff:**

22 Lenny Young, Forest Practices Division Manager
23 Chuck Turley, Forest Practices Assistant Division Manager
24 Neil Wise, Assistant Attorney General
25 Patricia Anderson, Rules Coordinator
26 Erin Daley, Board Support
27

28 **WELCOME**

29 Vick Christiansen called the meeting to order at 9:00 a.m. Christiansen announced that the Forest
30 Practices Board (FPB or Board) would convene for an Executive Session to discuss on-going
31 litigation.
32

33 The public meeting reconvened at 9:40 a.m.
34

35 **INTRODUCTIONS**

36 Introductions were made by Board, staff, and attendees. Christiansen welcomed new Board
37 members Ann Wick, Department of Agriculture, Norm Schaaf, general public member from Merrill
38 & Ring, and Brent Bahrenburg, Department of Community, Trade and Economic Development.
39

40 Christiansen thanked Sue Mauermann and Toby Murray for their service on the Board.
41

42 Erin Daley, Department of Natural Resources (DNR or Department), provided an emergency safety
43 briefing.
44

45 **APPROVAL OF MEETING MINUTES**

46 **MOTION:** Sherry Fox moved to approve the August 9, 2006 meeting minutes.
47

48 **SECONDED:** David Hagiwara
49

1 **Board Discussion:**

2 Bridget Moran requested a correction to page 6, line 45. Sentences should read “. . . budget of
3 ~~\$400,000~~ \$397,000. The goal is to develop a wildlife habitat models to show expected wildlife
4 responses to habitat conditions on the ground, now and into the future ~~that allows a look at current~~
5 ~~habitat needs. . . .~~
6

7 **ACTION:** Motion passed unanimously.
8
9

10 **MOTION:** Dave Somers moved to approve the September 13 & 14, 2006 meeting minutes.

11
12 **SECONDED:** Doug Stinson
13

14 **ACTION:** Motion passed unanimously.
15
16

17 **MOTION:** David Hagiwara moved to approve the November 1, 2006 meeting minutes.

18
19 **SECONDED:** Bob Kelly
20

21 **Board Discussion:**

22 Christiansen noted a correction made by staff on page 6, line 44. Paragraph refers to Amendment
23 #4, should be Amendment #3. Christiansen also recommended a correction that “riparian functions”
24 should be “aquatic resources” on page 8, line 1.
25

26 **ACTION:** Motion passed unanimously.
27

28 **PUBLIC COMMENT**

29 Joe Murray, Merrill & Ring encouraged the Board to allow the adaptive management process to
30 work before changing the DFC rule. He also recommended the Board review how the rule works in
31 the field and develop a simpler rule that still protects public resources.
32

33 Aaron Perry, Rayonier, encouraged the Board to delay rule making on DFC until all the scientific
34 information has been reviewed. He said Rayonier believes that riparian resources are currently
35 being protected and are not at risk.
36

37 Teresa Loo, Port Blakely, stated that the Board should take the necessary time to address the issues
38 and questions regarding DFC in order to simplify the rule and make it more effective.
39

40 Peter Heide, Washington Forest Protection Association, commended the Department and Leslie
41 Lingley for the work on compliance monitoring. He said WFPA appreciated having input on the
42 draft report and will have comments in by the requested date.
43

44 Peter Goldman, Washington Forest Law Center, urged the Board to commit to a decision at the next
45 meeting that will move the DFC rule making to the public review process. He referenced an article
46 in the Seattle PI on compliance monitoring and asked that the Board direct the Department to begin
47 conducting compliance monitoring reports immediately. He expressed support of the small forest
48 landowner long term application rule making.
49

1 Kevin Godbout, Weyerhaeuser, said he supported previous comments made by industry. He
2 expressed concern that the Board will make decisions based on artificial timelines established by
3 the rule making process rather than gathering the necessary data to ensure the right resolution made.
4 He also commented on compliance monitoring, stating that he was concerned with the short turn
5 around time to submit comments.

6
7 Rick Dunning, Washington Farm Forestry Association, said he supported the small forest
8 landowner long term application rule making and encouraged the Board to move forward with the
9 rule making process.

10
11 Becky Kelly, Washington Environmental Council, said she supported the small forest landowner
12 long term application rule making. She encouraged the Board to approve the Department's
13 recommendations on the DFC rule making.

14
15 Miguel Perez-Gibson, conservation caucus, stated that there is a problem with the adaptive
16 management process. Stakeholders should not be arguing science before the Board and the Board
17 should receive a consensus recommendation. He also encouraged the Board to direct that the
18 compliance monitoring report go through a peer review to avoid any criticism.

19
20 Joseph Pavel, Northwest Indian Fisheries Commission, expressed support of the small forest long
21 term application rule making and the Department's recommendations on DFC. He also agreed that
22 the compliance monitoring report should be subject to a peer review.

23 24 **STAFF REPORTS**

25 Update on Forest Practices Applications within Spotted Owl SOSEAs

26 Gary Graves, DNR, provided a staff report to the Board that summarized the total number of
27 applications received to harvest in spotted owl special emphasis areas for years 1999-2002 and
28 2006.

29 30 Rule Making Schedule

31 Chuck Turley, DNR, provided a staff report to the Board that showed the projected time line for the
32 current rule makings.

33
34 Alan Soicher asked whether the Board should take action on the Northern Spotted Owl
35 decertification rule that will expire June 30, 2007. Young replied that staff will have a proposal for
36 the Board's consideration at the next meeting. Soicher requested that this topic be on the agenda for
37 the next meeting.

38 39 **LEGISLATIVE UPDATE**

40 Lenny Young, DNR, gave the Board an overview of the 2007 legislative bills that could impact the
41 Forest Practices Program. There are currently 15 bills that could impact the program: HB 1077 and
42 companion bill SB 5126, HB 1184, HB 1318, HB 1355, HB 1374 and companion bill SB 5372, HB
43 1408, HB 1409, HB 1495, HB 1525, HB 2008, SB 5126, SB 5493, and SB 5834.

44
45 He said he would provide an update on the final outcome on legislative bills at the next meeting.

46 47 **ADAPTIVE MANAGEMENT**

48 Darin Cramer, DNR, asked for the Board's approval to move \$120,000 from Tier 2 to Tier 1 for the
49 Eastside Riparian Current Condition Assessment project for fiscal year 2007.

1 **MOTION:** Alan Soicher moved that the Forest Practices Board approve the revised budget
2 as presented for the Eastside Riparian Current Condition Assessment project.

3
4 **SECONDED:** Bridget Moran

5
6 **ACTION:** Motion passed unanimously.
7

8 **2006 COMPLIANCE MONITORING DATA ANALYSIS RESULTS**

9 Leslie Lingley, DNR, provided an overview and an update of the compliance monitoring program.
10 In order to see trends and have adequate sampling of all aspects of the forest practices rules,
11 compliance monitoring will be a long term project. Program objectives include: Developing and
12 maintaining an assessment and reporting procedures that are statistically valid, repeatable, and
13 adaptable; developing tools to streamline compliance monitoring; providing biennial reports to the
14 Board and identifying opportunities for improving implementation of the rules. Lingley also
15 provided information on the program structure, how compliance reporting is done and preliminary
16 compliance results for 2006.

17
18 The results for the 280 activities reviewed were 80% compliance, 19% non-compliance and 1%
19 indeterminate. Of the 19% non-compliance, 46% were determined to be trivial in the professional
20 judgment of the field reviewers and only two activities were referred to the regional offices.

21
22 She said the Department intends to carry out scientific review of the monitoring program by a group
23 of experts in the Pacific Northwest.

24
25 Bridget Moran stated that she is pleased to hear that DNR intends to subject the compliance
26 monitoring program to expert scientific review. She said it is important to determine whether
27 adjustments need to be made to the program, and it will ensure that monitoring results and
28 conclusions can be viewed with confidence by the Board, stakeholders, and the public.

29
30 **MOTION:** Bridget Moran moved that the Forest Practices Board note DNR's intention to
31 convene an expert scientific review of the Forest Practices Compliance
32 Monitoring Program and request DNR to report the results of this review to the
33 Board at the Board's November 14, 2007 meeting.

34
35 **SECONDED:** Tom Laurie

36 37 **Board Discussion:**

38 Dave Somers asked what CMER's role is in this process and why the review would not be
39 conducted by CMER. Gary Graves, DNR, responded that the Department reviewed CMER's role
40 and concluded that this scientific validation should be conducted by an independent scientific group
41 that would report its findings to CMER. This process is outlined in Board Manual Section 22.

42
43 Bob Kelly asked for clarification on the tribal participation being voluntary. Lingley clarified that
44 the label "volunteer" was used because tribes willingly participated without additional funds to
45 support their participation.

46
47 Tom Laurie suggested a steering committee be created that would help shape the independent
48 scientific review committee. Graves responded that this is something the Department can consider
49 doing as a similar group served in a similar capacity in 2004 when the Department was getting the
50 program started.

1
2 Doug Stinson commended Lingley for a job well done and is appreciative of her work.

3
4 Somers encouraged as much stakeholder participation as possible.

5
6 Alan Soicher also asked why the review would not be conducted by CMER. Moran responded that
7 there is an additional need for experts outside of the CMER group but agreed that the two groups
8 should work together. She views the independent review as an addition to the process, not
9 circumventing the process.

10
11 David Hagiwara asked what will be reported to the Board. Moran said she hopes that any
12 recommendations for program changes will be reported along with how the Department plans to
13 incorporate those changes.

14
15 Soicher asked that the motion include what is expected to be reported back to the Board.
16 Christiansen recapped the motion which includes “report the results”.

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

19
20 Lingley and Graves received several suggestions from Board members to enhance the compliance
21 monitoring program. Lingley said she will provide the Board with a staff report at each quarterly
22 meeting.

23 24 **TYPE N RMZ PILOT RULE MAKING**

25 Darin Cramer, DNR, requested the Board’s approval to conduct pilot rule making for Type N
26 riparian buffer treatment project.

27
28 **MOTION:** Alan Soicher moved that the Forest Practices Board approve the Type N RMZ
29 pilot rule making and direct staff to file the pre-notice of inquiry (CR 101) with
30 the Office of the Code Reviser to inform the public of the pilot.

31
32 The pilot will test the effectiveness of the Type Np riparian rules in WAC 222-
33 30-021(2)(b). Forest practices conducted under this pilot will vary from existing
34 forest practice rules for certain study sites and the Board determines that the pilot
35 rule is in the public interest and necessary to conduct the riparian treatments.
36 Forest practices will be processed and conducted in accordance with the study
37 plan and the CR101.

38
39 **SECONDED:** Bridget Moran

40 41 **Board Discussion:**

42 Tom Laurie, on behalf of Department of Ecology (DOE), expressed support of the pilot rule making
43 as it affects water quality rules. He stated that DOE staff has been involved in ensuring that
44 appropriate sites are selected that will minimize damage to water quality.

45
46 **ACTION:** Motion passed unanimously.

47 48 **LONG TERM APPLICATIONS RULE MAKING**

49 Gretchen Robinson and Mary McDonald, DNR, asked the Board to approve draft language for the
50 30-day review by counties, Department of Fish and Wildlife and tribes.

1
2 Sherry Fox expressed appreciation of all stakeholder efforts in developing the proposed rule that
3 will help small landowners retain their property.
4

5 **MOTION:** Sherry Fox moved that the Forest Practices Board accept the draft rule language
6 and direct staff to provide notice pursuant to RCW 76.09.040 notifying the
7 counties, Washington Department of Fish and Wildlife and tribes of rule making
8 intentions.
9

10 **SECONDED:** Doug Stinson
11

12 **Board Discussion:**

13 Tom Laurie, on behalf of DOE, expressed support of the rule proposal. However, Laurie noted
14 some concerns that should be considered prior to rule adoption. 1) there may be some additional
15 upfront workload issues associated with the new rule; 2) supporting documents such as the board
16 manual should be ready for approval at the time of rule adoption; and 3) training should be
17 developed for landowners and staff.
18

19 **ACTION:** Motion passed unanimously.
20

21 **UPDATE OF CMER MEMBERSHIP**

22 Darin Cramer, DNR, requested the Board's approval on the revised CMER committee list.
23

24 **MOTION:** Tom Laurie moved that the Forest Practices Board revise the CMER committee
25 membership by removing the names highlighted in Table 1 and adopt the list as
26 presented in Table 2.
27

28 **SECONDED:** Norm Schaaf
29

30 **ACTION:** Motion passed unanimously.
31

32 The Board received a recommendation from Washington Farm Forestry Association to approve
33 Dick Miller as CMER committee member.
34

35 **MOTION:** Sherry Fox moved that the Forest Practices Board accept Dick Miller as
36 recommended by Washington Farm Forestry Association to serve on the CMER
37 committee.
38

39 **SECONDED:** Tom Laurie
40

41 **ACTION:** Motion passed unanimously.
42

43 **DESIRED FUTURE CONDITION RULE MAKING**

44 Chuck Turley, DNR, provided a recommendation for the Board's consideration on the next steps for
45 the DFC rule making. The recommendation is that the Department will:

- 46 1. Take appropriate steps to verify what the most appropriate measure of central tendency is to
47 include in a revised metric that retains DFC.
48 2. Take the steps necessary to complete the economic analysis of the revised DFC target number
49 compared to the current rule.

- 1 3. “Repair” the model that allows inclusion of the revised number and the ability for the
2 Department to maintain the model
3 4. Proceed to formulate options for accomplishing the desired outcomes in time to allow for
4 economic analysis of those option(s) prior to the next Board meeting.
5

6 Schaaf acknowledged the amount of work to be completed by the next meeting and asked about
7 stakeholder involvement in the development of the recommendation. Turley responded that
8 stakeholders were given an opportunity to provide input on the recommendation.
9

10 **MOTION:** Alan Soicher moved to ensure that the Board's decision-making on Desired
11 Future Condition continues to move ahead, I move that the Forest Practices
12 Board directs DNR to:

- 13 • determine the most appropriate measure of central tendency to describe the
14 DFC target;
- 15 • if necessary, revise the proposed rule language to reflect this target, and
- 16 • complete the required Cost-Benefit Analysis and Small Business Economic
17 Impact Statement, so that the Board can make a decision on whether to file a
18 CR-102 at the Board's next meeting.

19 Further, the Board requests that DNR immediately begin whatever action is
20 necessary to repair the DFC model so that if the Board adopts a new DFC target,
21 that target can be promptly implemented.
22

23 The Board encourages DNR to complete one or more alternatives to continuing
24 to use a basal area DFC target to regulate timber harvest in the RMZ inner zone.
25 However, the Board intends to take action on DFC at its next meeting whether or
26 not such alternatives have been completed and analyzed.
27

28 **SECONDED:** Bridget Moran
29

30 **Board Discussion:**

31 Tom Laurie expressed support of the motion because it is consistent with Turley’s
32 recommendations. He said the motion lays out the next steps for both the Board and the Department
33 which Laurie finds essential at this time.
34

35 Doug Stinson said he opposed the motion because he felt that the process was being rushed. He said
36 there is more information that needs to be made available before the Board moves forward on this
37 issue. He would like to slow the process down in order to do it right the first time.
38

39 David Hagiwara said he supported the motion except for the last sentence. He said he did not think
40 the Board should predetermine an action for the next meeting.
41

42 Sherry Fox agreed with Hagiwara. She said she would support the motion if the last sentence was
43 removed.
44

45 Bridget Moran said she thought the process should move forward to support the adaptive
46 management process, and that this issue has been on the Board’s work plan since 2005.
47

48 Dave Somers supported the motion. He said he was concerned with the short time line to develop
49 any alternatives, and questioned whether alternatives would be available for the Board’s

1 consideration at the next meeting. He encouraged the Department and CMER to begin work
2 immediately.

3
4 Bob Kelly stated that the DFC study was completed in 2003 and peer reviewed in 2005 by Policy;
5 said he did not believe the Board was moving too fast. As new information becomes available the
6 Board can use it. Until then the Board needs to consider the information it has and make a decision.

7
8 **AMENDMENT:** Sherry Fox moved to amend the last sentence of the motion to read “However,
9 the Board ~~intends-hopes~~ to take action on DFC at its next meeting whether or not
10 such alternatives have been completed and analyzed.”

11
12 **SECONDED:** David Hagiwara

13
14 **Board Discussion:**

15 Norm Schaaf said he supported the amendment but believed in either case that the Board is not
16 bound by either word and can decide at the June meeting whether to move forward or not.

17
18 Tom Laurie agreed with Schaaf and supported the amendment.

19
20 **ACTION:** Motion failed; 6 for/6 against.

21
22 **AMENDMENT:** Ann Wick moved to amend the last sentence of the motion to read “However, the
23 Board ~~intends-recognizes the importance~~ to take action on DFC at ~~its~~ the next
24 ~~meeting-whether-or-not-such-alternatives-have-been-completed-and-analyzed.~~”

25
26 **SECONDED:** Sherry Fox

27
28 **ACTION:** Motion failed; 4 for/7 against/1 abstention.

29
30
31 **ACTION:** Original motion passed; 9 for/3 against.

32
33 **UPLAND WILDLIFE PLANNING**

34 Bridget Moran, FPB, provided a progress update on landscape level assessments. She also reported
35 on the Timber, Fish and Wildlife (TFW) reinvigoration efforts underway to commit to moving
36 forward on upland wildlife.

37
38 Christiansen commented on the TFW collaboration process and said she looked forward to the
39 commitment from all stakeholders.

40
41 Somers recapped his experience with TFW in the early stages and commented that it will take
42 commitment on everyone’s part and encouraged all stakeholders to commit to reinvigoration.

43
44 Meeting adjourned at 2:25 p.m.