Members Present:

Vicki Christiansen, Chair of the Board
Ann Wick, Designee for Director, Department of Agriculture
Bob Kelly, General Public Member
Brent Bahrenburg, Designee for Director, Department of Community, Trade and Economic Development
Bridget Moran, Designee for Director, Department of Fish and Wildlife
Carolyn Dobbs, General Public Member
Dave Somers, Snohomish County Commissioner
David Hagiwara, General Public Member
Doug Stinson, General Public Member/Small Forest Landowner
Norm Schaaf, General Public Member
Sherry Fox, General Public Member/Independent Logging Contractor
Tom Laurie, Designee for Director, Department of Ecology

Staff:

Chuck Turley, Forest Practices Assistant Division Manager
Erin Daley, Board Support
Lenny Young, Forest Practices Division Manager
Neil Wise, Assistant Attorney General
Patricia Anderson, Rules Coordinator

WELCOME

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

The public meeting reconvened at 9:20 a.m.

INTRODUCTIONS

Introductions were made by Board and staff. Christiansen welcomed new Board member Carolyn Dobbs, general public member from Evergreen State College.

Christiansen thanked Alan Soicher, Sue Mauermann and Toby Murray for their service on the Board. Murray was presented with an appreciation plaque and plaques for Soicher and Mauermann will be mailed to them.

Erin Daley, Department of Natural Resources (DNR or Department), provided an emergency safety briefing.
APPROVAL OF MEETING MINUTES

MOTION: Dave Somers moved to approve the February 14, 2007 meeting minutes.

SECONDED: Doug Stinson

Board Discussion:
Christiansen presented staff with three minor grammatical errors.

ACTION: Motion passed. Norm Schaaf abstained.

PUBLIC COMMENT
Maurice Williamson, Small Forest Landowner Advisory Committee, stated that this committee supports the long-term application rule making. Williamson also commented on Northern Spotted Owls and forest health issues facing the state and encouraged the Board to read “The Desirable Forest Health Program for Washington’s Forests.”

Ken Miller, Washington Farm Forestry Association (WFFA), encouraged the Board to consider the simple recommendation for the thinning options in the Desired Future Condition (DFC) Rule Proposal #2-WFPA.

Stephen Bernath, Department of Ecology (DOE), said he appreciated the efforts made by WFPA in developing a DFC rule proposal; however DOE is reluctant to support the proposal because of the lack of time given to review the proposal. DOE suggested that the Board ask for a third alternative to be developed that could enhance WFPA’s proposal and provide the Board with a more comprehensive rule proposal.

Tim McBride, Hancock Forest Management, expressed support for Forests and Fish Policy’s recommendation on Type N waters to allow additional time for the group to further refine the options.

Peter Heide, Washington Forest Protection Association (WFPA), commented on DFC, specifically the status of riparian forest protection and the origin of the “central tendency” number. He also provided an overview of WFPA’s rule proposal.

Joe Murray, Merrill & Ring, commented on the impacts of DFC Rule Proposal #1-325. One impact is that the additional remaining trees left unharvested above what would be required to meet the 325 square feet. Another would be an increase of 90 feet that is restricted from harvest by leaving the floors in place. Murray concluded that while there are impacts to simply changing the number, he believes it can work but needs further stakeholder work.

Court Stanley, Port Blakely, commented on DFC Rule Proposal #2-WFPA, specifically thinning option 1. This amendment encourages improved stream function and helps landowners with costs and layout on the ground. This rule amendment creates incentives to thin and will provide a better habitat for fish by creating large trees that will create better stream function. Stanley said that he is willing to continue to work with all the caucuses to develop a proposal that will work for everyone.

Kevin Godbout, Weyerhaeuser, supports DFC Rule Proposal #2-WFPA as it reduces the economic impacts but still meets function. He asked the Board to clarify how many DFC rule proposals they
want developed. In regards to the Northern Spotted Owl (NSO), Weyerhaeuser does not support an extension for a moratorium and does not believe it warrants an emergency rule.

David Whipple, Department of Fish and Wildlife, said he supported the NSO emergency rule for a moratorium on decertification. DFW is concerned about the lack of ecological analysis that has been completed thus far, particularly without a functioning model to compare alternatives.

Mary Skurlock, Conservation Caucus, encouraged the Board to amend the DFC Rule Proposal #1 to reflect the basal area per acre number as 341. This is the best option that best preserves the integrity of the adaptive management program and is based entirely on research that has been validated through CMER.

Marissa Lown, Washington Forest Law Center (WFLC), encouraged the Board to amend the DFC rule to reflect what has gone through the adaptive management process, which is 341 basal area per acre.

Ellen Lyndi encouraged the Board to amend the language to reflect 341 basal areas per acre.

Jim Lynch, WFPA, said he supported the appropriate use of scientific peer review, but believed that the law does not require the Board to subject all information or proposed rule making to scientific peer review prior to Board action.

Josh Weiss, WFPA, expressed strong opposition to any action to extend the moratorium for NSO site centers.

Adrian Miller, WFPA, encouraged the Board to approve the DFC Rule Making Proposal #2-WFPA for the public review process.

Robert Meier, Rayonier, said he opposed an extension to the moratorium for NSO site centers and supported the DFC Rule Proposal #2-WFPA.

Becky Kelly, Washington Environmental Council, requested that the Board amend the DFC rule proposal to reflect a 341 basal area per acre.

Rick Dunning, WFFA, encouraged the Board to adopt the small forest landowner long term application rule making. He added that WFFA supports DFC Rule Proposal #2-WFPA.

STAFF REPORTS
Gary Graves, DNR, provided a staff report on Proposed Harvest Activities in Spotted Owl Special Emphasis Areas (SOSEAs). It summarized the total number of applications received to harvest in SOSEAs for years 1999-2002 and 2006.

Chuck Turley, DNR, provided a staff report on the Board’s 2007 Rule Making Schedule that showed the projected time line for the current rule makings.

Leslie Lingley, DNR, provided a status update on the Compliance Monitoring program that included progress thus far and highlights on the review of the program.
Tom Laurie asked if the steering committee, as identified at the last Board meeting, had been convened prior to the peer review. Lingley responded that the decision was to conduct stakeholder meetings rather than a steering committee.

Laurie encouraged DNR to identify a steering committee and to make sure that DOE is consulted to ensure compliance with the Clean Water Act.

David Whipple, Department of Fish and Wildlife, provided a staff report that updated the Board on Upland Wildlife Planning.

Lenny Young, DNR, provided an update on the NSO Federal Recovery Plan. The plan was released on April 26 and has three recovery objectives: 1) spotted owl populations must be sufficiently large and well distributed; 2) adequate habitat is available and will continue to exist; and 3) the threats need to be reduced or eliminated so the NSO populations are stable or increasing and unlikely to become threatened again in the foreseeable future. Young also highlighted five delisting criteria and the two options presented in the plan. The final Plan is scheduled to be published in the Federal Register in April 2008.

Chuck Turley, DNR, provided a staff report on the Puget Sound Steelhead that recommended the Board take no action in adding critical habitat for the Puget Sound Steelhead in the forest practices rules.

**LEGISLATIVE UPDATE**

Lenny Young, DNR, provided an update on legislative activity for the 2007 session. Three bills that passed that directly affect the Forest Practices program are SHB 1409 (transfer of jurisdiction over conversion-related forest practices to local governments); 2SSB 5883 (conversion of forest land to non-forestry uses); and SSB 6141 (forest health). There were five bills that could have indirectly affected the program--HB 1077, EHB 1525, SHB 2008, ESSB 5372, and SHB 1513.

**FORESTS AND FISH POLICY RECOMMENDATION ON TYPE N WATERS**

Bob Turner, NOAA Fisheries, presented the Board with nine options for the Board to consider that address the initial problem. However, Turner asked the Board to support the committee to continue to work through these options to narrow them down.

David Hagiwara asked how long the committee needed to flush out the options. Turner responded it can be done and should be fairly easy to do.

Christiansen expressed concern with the number of options and asked if the continued commitment by the stakeholders was still there to narrow the number of options and present a recommendation to the Board within a reasonable time frame. Turner responded he thought it was possible, but could not speak for the other stakeholders.

Norm Schaaf asked if there are any stakeholders not engaged that should be. Turner stated that he has engaged everyone that he is aware is interested in the issue. Young also added that travel is an issue for some individuals and efforts are being made to provide additional communication and conducting meetings outside of the Olympia area.

Bridget Moran committed DFW to review the options to begin narrowing the number of options.

Christiansen said that she looks forward to quick progress and a recommendation in the near future.
CMER MEMBERSHIP
Darin Cramer, DNR, requested the Board’s approval for five nominees to serve on the CMER committee: Mark Hicks, Department of Ecology; Steve McConnell, Upper Columbia United Tribes; Curt Veldhuisen, Skagit River Systems Cooperative; Todd Baldwin, Kalispel Tribe of Indians; and Lyle Almond, Makah Tribe.

MOTION: Tom Laurie moved that the Forest Practices Board accept Mark Hicks to serve on the CMER Committee.
SECONDED: Brent Bahrenburg
ACTION: Motion passed unanimously.

MOTION: Bob Kelly moved that the Forest Practices Board accept Steve McConnell as recommended by the Upper Columbia United Tribes to serve on the CMER Committee upon completion of his personal services contract with the Department.
SECONDED: Norm Schaaf
ACTION: Motion passed unanimously.

MOTION: Bob Kelly moved that the Forest Practices Board accept Todd Baldwin as recommended by the Kalispel Tribe of Indians to serve on the CMER Committee as an alternate member.
SECONDED: Dave Somers
ACTION: Motion passed unanimously.

MOTION: Bob Kelly moved that the Forest Practices Board accept Curt Veldhuisen and Lyle Almond as recommended by the Northwest Indian Fisheries to serve on the CMER Committee.
SECONDED: Bridget Moran
ACTION: Motion passed. Sherry Fox abstained.

CMER BUDGET
Darin Cramer, DNR, requested the Board’s approval to revise the budget for the Type N Experimental Buffer Treatment project and the 2008 budget and work plan for on-going projects. The 2008 budget and work plan for new projects will be presented to the Board at the September meeting.

MOTION: Bridget Moran moved that the Forest Practices Board approve the revised budget as presented for the Type N Experimental Buffer Treatment.
SECONDED: Carolyn Dobbs

ACTION: Motion passed unanimously.

MOTION: Sherry Fox moved that the Forest Practices Board approve the partial 2008 CMER budget for continuing projects and activities as outlined in Table 1.

SECONDED: Tom Laurie

ACTION: Motion passed unanimously.

LONG TERM APPLICATIONS RULE MAKING
Gretchen Robinson and Mary McDonald, DNR, asked the Board to approve the draft language for the public review process. Two comments were received during the 30-day review from counties, Department of Fish and Wildlife and tribes.

MOTION: Sherry Fox moved that the Forest Practices Board accept the rule proposal for public review modifying chapters 222-12, 222-16, and 222-20 WAC relating to long term applications, and direct staff to file the CR-102 with the Office of the Code Reviser.

SECONDED: David Hagiwara

Board Discussion:
Laurie stated that DOE supports the rule and it appears that it will provide some flexibility for small forest landowners. He encouraged that the board manual and training be developed concurrent with the rule.

Sherry Fox thanked the group who worked on the rule proposal and is pleased to see that a regulatory tool has been developed that provides incentives that will benefit both the protection of resources and small forest landowners.

Christiansen also thanked the collaboration from all those involved in developing a rule with incentives.

ACTION: Motion passed unanimously.

DESIRED FUTURE CONDITION RULE MAKING
Chuck Turley, DNR, presented two DFC rule proposals for the Board’s consideration for the public review process.

Hagiwara asked when Rule Proposal #2-WFPA was presented to Policy. Turley said that it was presented in May.

Schaaf asked for clarification on the median for Rule Proposal #1–325. Turley responded that it is the median of 325 total basal area including conifers and hardwoods.
Fox expressed concern with Rule Proposal #1-325 because of comments made from the peer review. She commended industry for developing a rule proposal and said Rule Proposal #2-WFPA should move forward to public review.

Turley reviewed the next steps for the Board. In order for the Board to accept one or both rule proposals for public review, a 30-day notice and economic analysis must be completed. These two items have not been completed for Rule Proposal #2-WFPA.

Carolyn Dobbs stated that Rule Proposal #2-WFPA needs to go through the adaptive management process. Young stated that DNR believes that this rule proposal is consistent with the recommendation made by Forests and Fish Policy as part of adaptive management.

Discussion continued on how to move the rule proposals forward to the public review process.

Schaaf said he would like Rule Proposal #2-WFPA to move forward to public review but knew it needed further refinement. He wanted to find a solution to move both proposals forward.

Dobbs said she supported Rule Proposal #1-325, and re-stated that #2-WFPA should go through the adaptive management process.

Laurie said DOE is concerned with Rule Proposal #2-WFPA, specifically the removal of the shade requirements and would like to see an economic analysis completed on this rule proposal and further refinement. DOE had not had enough time to review it and would like additional time to ensure that DOE can support this proposal.

Schaaf reassured Tom Laurie that it was not the intent to remove the shade requirements. It was an error in drafting the language. Shade requirements still need to be met.

Christiansen recapped where the Board discussion. She stated that the DFC model should be working soon which could determine the potential unintended consequences of doing just a straight number change.

Hagiwara supported moving both rule proposals forward and said he believed waiting another 30 days would be okay in order for both rule proposals to move forward together.

Dave Somers agreed with Hagiwara and supported scheduling a special Board meeting after the 30 day notice to move the rule proposals to the public review process.

**MOTION:** Dave Somers moved that the Forest Practices Board accept the draft rule proposals #1-325 and #2-WFPA and direct staff to provide notice pursuant to RCW 76.09.040 notifying the counties, Washington Department of Fish and Wildlife and Tribes of rule making intentions.

**SECONDED:** Tom Laurie

**Board Discussion:**

Somers said it was important to keep moving forward and this would acknowledge those that came forward to develop alternatives at the Board’s request.
Dobbs again expressed concern that Rule Proposal #2-WFPA had not gone through the adaptive management process.

Schaaf said he supported the motion. He said he disagreed with Dobbs and believed Rule Proposal #2-WFPA had gone through the adaptive management process.

Fox also agreed that Rule Proposal #2-WFPA had gone through the adaptive management.

Laurie suggested that the Board receive an overview on the adaptive management program at a future meeting.

**ACTION:** Motion passed. 11 yes / 1 no (Carolyn Dobbs)

**MOTION:** Dave Somers moved to convene a special meeting immediately following the close of the 30-day comment period to consider proposals for public review.

**SECONDED:** Brent Bahrenburg

**ACTION:** Motion passed unanimously.

**MOTION:** Vicki Christiansen moved that the Forest Practices Board direct the Department to review and strengthen the benefits section for the economic analysis on the DFC options.

**SECONDED:** Norm Schaaf

**ACTION:** Motion passed unanimously.

**MOTION:** Vicki Christiansen moved that the Forest Practices Board direct staff to implement the short term strategy modifying the DFC growth model to be able to accept a new number for analysis and implementation purposes within 45 days.

**SECONDED:** Dave Somers

**ACTION:** Motion passed unanimously.

**NORTHERN SPOTTED OWL RULE MAKING**

Gretchen Robinson, DNR, requested the Board’s approval to adopt an emergency rule that would extend the current moratorium on decertifying Northern Spotted Owl (NSO) site centers to October 28, 2007 and to approve the filing of a CR101 to start the permanent rule making process.

Fox said that she thought the Board made a commitment to landowners during the 2005-2006 NSO rule making based on the completion of the Federal Recovery Plan, not to extend the moratorium.

Moran stated that the Federal Recovery Plan was published six months later than expected. She shared that the survey protocol was the #1 priority for DFW due to pending decertification requests.
She said the survey protocol needs to be evaluated to ensure that it is an adequate tool. DFW is committed to working on this; however some funding is necessary to update the database.

Christiansen stated that the Board needs to be mindful of having options for landowners; the two decisions before the Board are whether to adopt an emergency rule and to determine whether permanent rule making is necessary.

Moran stated that the bigger issue is whether there is a protection strategy beyond the SOSEAs. She believed the emergency rule would provide relief while the permanent rule making allowed for the discussions to begin.

Schaaf stated that he had concern with extending the moratorium despite efforts to be made by DFW to evaluate the survey protocol. He said the recovery plan is just a recommendation and not a mandate for the Services to develop a new protocol. The Board would still be discussing this two or five years from now.

Moran clarified that the circles are a state construct and do not need any federal involvement or action. In regards to the protocol, DFW would like to work with the Services but it is not a requirement.

**MOTION:** Vicki Christiansen moved that the Forest Practices Board direct staff to file a CR-103 Rule Making Order with the Office of the Code Reviser to change the definition of the “Northern Spotted Owl site center” in WAC 222-16-010 to extend the moratorium on decertifying Northern Spotted Owl site center.

**Northern Spotted Owl site center** means:

1. Until **June 30, 2007 October 28, 2007**, the location of Northern spotted owls:
   - (a) Recorded by the department of fish and wildlife as status 1, 2, or 3 as of November 1, 2005, or
   - (b) Newly discovered and recorded by the department of fish and wildlife as status 1, 2 or 3 after November 1, 2005.

2. After **June 30, 2007 October 28, 2007**, the location of status 1, 2 or 3 Northern spotted owls based on the following definitions:

   **Status 1:** Pair or reproductive – a male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.

   **Status 2:** Two birds, pair status unknown – the presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.

   **Status 3:** Resident territorial single – the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

   In determining the existence, location, and status of Northern spotted owl site centers, the Department shall consult with the Department of Fish and Wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the Department of Fish and Wildlife.
The Board finds that this immediate rule change is necessary for the preservation of the public general welfare because:

1. The amount of suitable habitat within Spotted Owl Special Emphasis Areas, outside areas that are being managed under the aegis of a habitat conservation plan or similar agreement, has declined by an average of 16 percent since this rule was adopted.

2. Habitats recently occupied by spotted owls are potentially important to spotted owl recovery and should be maintained until a draft recovery plan has been completed and the Board has had the opportunity to consider ramifications of decertifying additional sites in light of recovery strategies and goals.

3. Fewer plans to conserve spotted owl habitat at a landscape level have been developed than was anticipated when the rule was adopted, and

4. With few landscape-level plans, the forest practices rules continue to rely heavily upon the regulation of timber harvest at individual spotted owl sites to provide habitat conservation.

SECONDED: Bridget Moran

Board Discussion:
Fox asked where the “16 percent decline since rule was adopted” came from under the reason for immediate rule change. Young responded that this data came from a DFW report commonly referred to as the “Pierce Report.”

ACTION: Motion passed. 9 yes / 3 no

MOTION: Bridget Moran moved that the Forest Practices Board direct staff to file the CR 101 with the Office of the Code Reviser to inform the public that the Board is considering a permanent rule to further extend the moratorium on decertifying Northern Spotted Owl site centers.

SECONDED: Bob Kelly

Board Discussion:
Hagiwara said the motion was a bit aggressive indicating a permanent rule to extend the moratorium. He thought the Board was unclear as to whether it wanted to continue the moratorium and that the Board wanted to discuss more than just extending the moratorium.

Laurie asked how the rule language would be developed. Lenny Young responded that the Board could discuss the scope of the spotted owl habitat conservation rule making at its special meeting in July.

AMENDMENT: Norm Schaaf moved to strike “to further extend the moratorium” from the motion.

SECONDED: Sherry Fox
Board Discussion:
Somers said he viewed the amendment as too broad. Schaaf said that was the intent.

Dobbs said the amendment was too narrow and suggested the motion read “consider a permanent rule on decertifying Northern Spotted Owl site centers including extending the moratorium.”

Moran agreed that the motion could be viewed as permanently decertifying spotted owl circles. She would agree to remove the decertification language and have it read “consider a permanent rule on Northern Spotted Owl.”

The amendment to the motion was amended to:

AMENDMENT: Norm Schaaf moved to amend the amendment to read . . . “considering a permanent rule regarding Northern Spotted Owls.”

SECONDED: Sherry Fox

Board Discussion:
Somers and Moran questioned whether the amendment was too general to serve a purpose. Young responded that the Board would potentially be increasing the scope of the permanent rule making beyond just addressing the moratorium and opening up permanent rule making on any rules related to spotted owls.

Christiansen and Moran did not support the amendment.

ACTION: Motion on amendment failed.

ORIGINAL MOTION: Withdrawn by Bridget Moran.

MOTION: Bridget Moran moved that the Forest Practices Board direct staff to file the CR101 with the Office of the Code Reviser to inform the public that the Board is considering a permanent rule to address decertification process regarding Northern Spotted Owls in the forest practice rules.

SECONDED: Norm Schaaf

ACTION: Motion passed unanimously.

Meeting adjourned at 4:00 p.m.