

1 **FOREST PRACTICES BOARD**

2 **Regular Board Meeting**

3 August 11, 2015

4 Natural Resources Building, Room 172

5 Olympia, Washington

6
7 **Members Present**

8 Stephen Bernath, Chair, Department of Natural Resources

9 Bill Little, Timber Products Union Representative

10 Bob Guenther, General Public Member/Small Forest Landowner

11 Brent Davies, General Public Member

12 Carmen Smith, General Public Member/Independent Logging Contractor

13 Court Stanley, General Public Member

14 Dave Somers, Snohomish County Commissioner

15 David Herrera, General Public Member (participated 9 a.m. – 12 p.m.)

16 Joe Stohr, Designee for Director, Department of Fish and Wildlife

17 Patrick Capper, Designee for Director, Department of Agriculture

18 Tom Laurie, Designee for Director, Department of Ecology

19 Paula Swedeen, General Public Member

20
21 **Members Absent**

22 Heather Ballash, Designee for Director, Department of Commerce

23
24 **Staff**

25 Chris Hanlon-Meyer, Forest Practices Division Manager

26 Marc Engel, Forest Practices Assistant Division Manager

27 Patricia Anderson, Rules Coordinator

28 Phil Ferester, Senior Counsel

29
30 **WELCOME AND INTRODUCTIONS**

31 Stephen Bernath called the Forest Practices Board (FPB or Board) meeting to order at 9 a.m.

32 Introductions of Board and staff were made. Bernath acknowledged Aaron Everett, Department of
33 Natural Resources (DNR), for his service on the Board.

34
35 **APPROVAL OF MINUTES**

36 Joe Stohr made the following changes to the May 12, 2015 meeting minutes:

- 37 • Added “and the pace for the work on stream typing” after “program” on page 2, line 35.
- 38 • Modified the sentences on page 5, starting on line 29 to read as follows:
- 39 “She said 17 permits were within one mile of either WDFW identified TCB habitat or Federal
- 40 habitat and were evaluated by WDFW concerning any potential risk to the butterfly. No FPAs
- 41 needed to be conditioned and no protection issues have arisen during those activities.”
- 42 • Modified paragraphs on page 6, lines 21-27 as follows:
- 43 “. . .will begin and how long it will take. Bell stated ~~starting in May/June and go for 2-3 years~~the
- 44 status review should be going out for public review in August, and a final report with
- 45 recommendations will be presented to the Fish and Wildlife Commission in January 2016. This
- 46 will be the best way to determine the broader population and distribution.
- 47

1 ~~Joe Stohr asked Bell to confirm the status listing until the 3-year information gathering was done to~~
2 ~~take action. Bell agreed not until info is gathered can any action be taken/decision.”~~

3
4 Stephen Bernath made the following change:

- 5 • Added “on the Type N issue” after “occurred” on page 4, line 26.

6
7 **MOTION:** Dave Somers moved the Forest Practices Board approve the May 12, 2015 meeting
8 minutes as amended.

9
10 **SECONDED:** Bill Little

11
12 **ACTION:** Motion passed. (11 support / 1 abstention (Swedeen))

13 14 **REPORT FROM CHAIR**

15 Stephen Bernath acknowledged the Timber, Fish and Wildlife (TFW) caucuses in supporting and
16 obtaining funding for the Adaptive Management Program this past legislative session. He announced
17 that the Board will have an opportunity to go out into the field on October 27, 2015 to better
18 understand how water typing works.

19
20 He also reported on changes to the agenda which include moving action items to the beginning of the
21 day and moving the staff reports to the end of the day. He also confirmed the use of the second public
22 comment period for those not in attendance in the morning.

23 24 **GENERAL PUBLIC COMMENT**

25 None.

26 27 **PUBLIC COMMENT ON BOARD MANUAL SECTION 16 UNSTABLE SLOPES**

28 Chris Mendoza, conservation caucus, requested the Board defer approval of Board Manual Section
29 16 to the November meeting. He said the conservation caucus disagrees with certain word changes
30 such as striking the word “recommend” and replacing “should be” with “may be”. They believe these
31 edits go against the Board’s November 2014 motion.

32
33 Karen Terwilleger, Washington Forest Protection Association (WFPA), said they support the
34 amendments to Section 16 and requested the Board approve the board manual section.

35 36 **BOARD MANUAL SECTION 16 UNSTABLE SLOPES**

37 Marc Ratcliff, DNR, requested the Board’s approval of Board Manual Section 16, Guidelines for
38 Evaluating Potentially Unstable Slopes and Landforms.

39
40 He said in November, the Board requested DNR to complete the second phase by convening a Policy
41 stakeholder group to review the revised material and continue to development guidance for
42 estimating delivery potential.

43
44 He said the time required to complete both a stakeholder review and complete the delivery
45 assessment guidance was not sufficient due to the research needed for and review of different
46 methodologies and the competing work priorities that delayed products from group participants.

47
48 Ratcliff highlighted some areas of disagreement among stakeholders and how staff dealt with them:

- 1 • Relating the technical methods to determine the groundwater recharge areas (GWRA) for glacial
2 landslides with non-glacial landslides: Staff remedied this by separating the technical guidance
3 for glacial landslides with considerations that groundwater assessment may need evaluation when
4 subsurface water has the potential to influence a non-glacial deep-seated landslide.
- 5 • Using a risk matrix that would lead to a prescriptive outcome based on tools or methods used for
6 the analysis: Staff chose not to include the risk matrix because prescriptive outcomes are
7 appropriate for rules, not guidance in the Board Manual.
- 8 • Combining Parts 7.5 Synthesis, and Part 8 Geotechnical Reports into one part went beyond the
9 Board’s motion: Staff decided combining the content of the two parts is easier to follow and
10 minimizes redundancy.
- 11 • Using the terms ‘suggested’ and ‘recommended’ and the use of ‘must’ replacing ‘may’: Staff
12 amended sentences to avoid using recommended or suggested and used ‘must’ only in the context
13 of rule requirements.

14
15 He concluded by recognizing the participants and requested the Board approve the board manual
16 section.

17
18 Tom Laurie commented on a job well done in a short amount of time.

19
20 Dave Somers voiced concern over certain wording still not agreed to by all caucuses. He said based
21 on his experience words do matter and suggested the language be dealt with before taking any action.

22
23 **MOTION:** Court Stanley moved the Forest Practices Board approve Board Manual Section 16,
24 Guidelines for Evaluating Potential Unstable Slopes. He further moved the Board
25 allow staff to make minor editorial changes if necessary prior to distribution.

26
27 In addition, Stanley moved the Board direct DNR staff to continue the stakeholder
28 process to complete the board manual revisions specific to assessing delivery potential
29 for shallow rapid landslides by the November 10, 2015, Board meeting.

30
31 **SECONDED:** Tom Laurie

32
33 Board Discussion:

34 Paula Swedeen said if an expert thinks a certain method in a certain context should be used to get the
35 best result and “should” was their original language, it is the expert’s opinion and does not cross the
36 line to rule. She suggested approving the manual as presented but deal with the wording issues in the
37 next phase for approval at the November Board meeting.

38
39 Stephen Bernath asked staff if the language issues could be dealt with in the next phase. Marc Engel
40 responded that staff could initiate conversations, but wanted it to be limited to only those issues
41 identified in the public comments.

42
43 Brent Davies supported limiting the wording issues to just those highlighted in the Conservation
44 Caucus’s comment letter.

45
46 Joe Stohr said he supported getting the wording issues resolved for a final product.
47

1 Dave Somers said he also supported limiting the discussion to those highlighted in the Conservation
2 Caucus's comment letter.

3
4 Court Stanley supported the guidance as presented and to limit discussions on wording issues to those
5 expressed in the WFPA and Conservation Caucus's letters.

6
7 Bernath supported approving the manual as presented and have the stakeholders continue discussion
8 on those issues outlined in the comments presented.

9
10 Court Stanley amended the second paragraph of his motion to read:

11
12 **In addition, Stanley moved the Board direct DNR staff to continue the stakeholder**
13 **process, complete the board manual revisions specific to assessing delivery potential**
14 **for landslide runout, and address Conservation Caucus's and WFPA's comments**
15 **submitted to the Board today by the November 10, 2015.**

16
17 **SECONDED: Tom Laurie**

18
19 Board Discussion:

20 Dave Somers said he would support the motion and stressed the importance of retaining the technical
21 recommendations that were made.

22
23 Tom Laurie agreed with Somers that the wording issues are nuances of emphasis and context matters.

24
25 **ACTION: Motion passed. (Capper not available for vote.)**

26
27 **PUBLIC COMMENT ON CULTURAL RESOURCE ROUNDTABLE REPORT**

28 None.

29
30 **TFW CULTURAL RESOURCES ROUNDTABLE ANNUAL REPORT**

31 Karen Terwilleger, co-chair, reviewed the activities completed on the conditioning authority task on
32 their annual report. She said this topic has increased the number of active participants in the TFW
33 Cultural Resources Roundtable (Roundtable). She also said in 2016 the Roundtable will continue
34 working on the issues related to WAC 222-20-120 interpretation and DNR's conditioning authority
35 and will bring a timeline and schedule to the Board.

36
37 Bernath asked for an update on the facilitator and note taker contract. Marc Engel said a Request for
38 Proposal went out for bid, four proposals were received, and a subcommittee of the Roundtable is in
39 the process of rating them.

40
41 Jeffrey Thomas, co-chair, shared some activities that the Roundtable is involved in, specifically
42 WAC 222-20-120. He said the Roundtable is looking at the rule content, what it does, and how it
43 should be written.

1 **PUBLIC COMMENT ON THE ADAPTIVE MANAGEMENT PROGRAM WETLAND**
2 **RESEARCH AND MONITORING STRATEGY: FOREST PRACTICES AND WETLANDS**
3 **REPORT AND EFFECTS OF FORESTED ROADS AND TREE REMOVAL IN OR NEAR**
4 **WETLANDS OF THE PACIFIC NORTHWEST LITERATURE SYNTHESIS**

5 None.

6
7 **ADAPTIVE MANAGEMENT PROGRAM WETLAND RESEARCH AND MONITORING**
8 **STRATEGY: FOREST PRACTICES AND WETLANDS REPORT AND EFFECTS OF**
9 **FORESTED ROADS AND TREE REMOVAL IN OR NEAR WETLANDS OF THE PACIFIC**
10 **NORTHWEST LITERATURE SYNTHESIS**

11 Hans Berge, DNR, reviewed the reports with the Board and requested the Board accept TFW Policy
12 Committee's recommendation to take no action at this time. He said the two reports together form the
13 basis of the best available science to guide an assessment of forest practices in and around wetlands.

14
15 **MOTION:** Tom Laurie moved the Forest Practices Board accept TFW Policy Committee's
16 recommendation to take no action on the Wetland Research and Monitoring Strategy:
17 Forest Practices and Wetlands Report.

18
19 **SECONDED:** Paula Swedeen

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

22
23 **MOTION:** Brent Davies moved the Forest Practices Board accept TFW Policy Committee's
24 recommendation to take no action on the Effects of Forested Roads and Tree Removal
25 in or Near Wetlands of the Pacific Northwest Literature Synthesis.

26
27 **SECONDED:** Patrick Capper

28
29 **Motion passed unanimously.**

30
31 **LEGISLATIVE UPDATE**

32 Chris Hanlon-Meyer, DNR, provided an update on DNR's 2015-2017 budget. He said the following
33 appropriations were made.

- | | |
|--|-------------|
| 34 • Forests and Fish Support Account Appropriation | \$9,011,000 |
| 35 • Forests and Fish Adaptive Management GF-State Appropriation | \$5,894,000 |
| 36 • Forest Practices Application Account | \$1,763,000 |
| 37 • DNR - Forest Practices | |
| 38 o Forest Riparian Easement Program | \$3,500,000 |
| 39 o Rivers and Habitat Open Space Program | \$1,000,000 |
| 40 • Family Forest Fish Passage Program | \$5,000,000 |
| 41 • Geological Hazards and LiDAR | \$4,645,000 |

42
43 He also said DNR promoted several legislative proposals successfully, including SB 5088 which
44 establishes an efficient and cost-effective process for acquiring and analyzing LiDAR data that will
45 be available to the public.

1 **PUBLIC COMMENT ON TFW POLICY COMMITTEE’S WORK PRIORITIES**

2 Mary Scurlock explained why the Conservation Caucus believes Board direction may be needed prior
3 to the conclusion of the Type F process. Because the permanent water typing rule is still in dispute
4 resolution, caucuses are allowed to pursue resolution in outside forums, including in court as stated in
5 TFW Policy Committee ground rules.

6
7 Karen Terwilleger, WFPA, explained how rules are amended in the adaptive management process.
8 She said the process is very strict and conservative.

9
10 **TFW POLICY COMMITTEE’S WORK PRIORITIES**

11 Adrian Miller, co-chair, reviewed the water typing matrix the co-chairs developed and said it was not
12 a TFW Policy Committee consensus document. He said the matrix is a dynamic document that tracks
13 what has been done and details the decisions made. He reviewed some of the elements in the matrix
14 as they relate to the Board’s motion, and he indicated that DNR will submit a proposal initiation for
15 off-channel habitat, which is essential for the adaptive management process to work.

16
17 Chris Hanlon-Meyer, co-chair, said the description of the physical criteria in the matrix is the only
18 part that is not part of the Board motion, but it is valued by the TFW Policy Committee.

19
20 Hans Berge, DNR, reviewed the Adaptive Management Administrator’s responsibilities on the matrix
21 which includes the hydro layer model evaluation process.

22
23 **MOTION:** Carmen Smith moved the Forest Practices Board direct TFW Policy Committee to
24 accept the Type F matrix as the framework to complete the evaluation of all
25 components needed to establish a permanent water typing rule. The Board recognizes
26 the incorporation into the Type F matrix of the Policy work on electrofishing, off-
27 channel habitat and the Adaptive Management Program Administrator work on the
28 water typing model.

29
30 In addition, Smith moved the Board direct the TFW Policy co-chairs to facilitate
31 implementation of the matrix to get to a permanent rule, guidance and/or training. The
32 Board acknowledges that there may be adjustments to the matrix to account for
33 additional necessary steps.

34
35 She further moved the Board direct the co-chairs to report on progress toward
36 completing the work described in the matrix at each regular Board meeting until
37 completed. The Board considers the Type F work assigned to TFW Policy Committee
38 to be consistent with the adaptive management process including decision making by
39 consensus. The co-chair reports will include a description of any non-consensus issues
40 and the basis for each diverging viewpoint.

41
42 The Board generally expects TFW Policy Committee to:

- 43 • use the existing information,
- 44 • develop a method for addressing streams not on the hydro layer,
- 45 • make methods as accurate as possible,
- 46 • balance error,
- 47 • minimize electrofishing,
- 48 • improve map over time,

- develop methods to locate the stream break points on the ground, and
- ensure the methods address small forest landowners.

She moved the Board direct the TFW Policy Committee to bring recommendations to establish a permanent water typing rule to the Board by the November 2016 regular meeting.

SECONDED: Bill Little

Board Discussion:

Bernath acknowledged the hard work conducted by the co-chairs in putting the matrix together. He encouraged the Board to support the motion as a path forward to having a permanent water typing rule.

Paula Swedeen asked what happens if recommendations are not provided in 2016. Hanlon-Meyer responded that progress reports will be provided at the Board's quarterly meetings, allowing the Board to provide further direction if needed prior to November 2016.

Motion passed unanimously. (Herrera not available for vote.)

PUBLIC COMMENT

Marc Gauthier, Upper Columbia United Tribes, asked for the Board's assistance in obtaining a phone line to allow tribal participation at the TFW Cultural Resources Roundtable meetings. Bernath responded that DNR would be happy to get that established. Gauthier also said there is concern with the pace of moving through the Type F issue, having a drought year, and how to address the water typing determinations that are made now. He also voiced concerns over the reduction in sample size for compliance monitoring.

BARRED OWL CONTROL MEASURES UPDATE AND NSO SPECIES REVIEW PROCESS

Penny Becker, Washington Department of Fish and Wildlife, provided an update on the Periodic Status Review process that includes the Northern spotted owl (NSO) as one of 46 state-listed species. She said WAC 232-12-297 requires a status review every five years to determine if a species requires uplisting, downlisting, or no change. The NSO listing status is currently under review.

Robin Bown, U.S. Fish and Wildlife Service (Service), provided an update on the federal NSO status review process. She said a petition to list the NSO as federally endangered occurred in August 2012, and in April 2015 a positive 90-day finding was determined. She said the Service is on track to complete their 12-month status review on or before June 30, 2017, to determine if the petitioned uplisting to endangered is warranted.

NORTHERN SPOTTED OWL IMPLEMENTATION TEAM UPDATE

Lauren Burnes, DNR, provided an update on the team's activities which included:

- Meeting on August 7, 2015 to discuss the scope and structure of a programmatic Safe Harbor Agreement
- Forming a subgroup of technical representatives to work on:
 - defining and determining baseline habitat conditions and net conservation benefit above baseline

- 1 o developing management options; and
- 2 • Assisting DNR in evaluating and prioritizing Riparian and Habitat Open Space Program
- 3 applications for Northern spotted owl benefit.

5 **PUBLIC COMMENT ON CMER MEMBERSHIP**

6 Marc Gauthier, Upper Columbia United Tribes, said recruiting a chair for the Cooperative
7 Monitoring, Evaluation and Research Committee (CMER) Scientific Advisory Group-Eastside group
8 was difficult. Historically it has been co-chaired by tribal participants who do not want to continue.
9 He asked for assistance in dealing with the situation.

11 **CMER MEMBERSHIP**

12 Hans Berge, DNR, requested the Board approve Marc Hayes as a CMER member.

14 **MOTION:** Joe Stohr moved the Forest Practices Board approve Table 2 dated August 2015 as the
15 current CMER roster that reflects Marc Hayes as a member of CMER.

17 **SECONDED:** Bob Guenther

19 **ACTION:** Motion passed unanimously. (Dave Herrera not available for vote.)

21 **STAFF REPORTS**

22 Adaptive Management

23 Hans Berge, DNR, updated the Board on a plan to spend 5.9 million general fund state money in the
24 next two years. He said the issues are capacity, accountability, and flexibility. He will provide further
25 direction needed from the Board at the November meeting.

27 Small Forest Landowner Advisory Committee and Small Forest Landowner Office

28 Tami Miketa, DNR, provided a summary of accomplishments for the 2013-2015 biennium which
29 included the Forestry Riparian Easement, Family Forest Fish Passage, Rivers and Habitat Open
30 Space, and the Forest Stewardship programs.

32 No further discussion on the following staff reports:

- 33 • Board Manual Development
- 34 • Compliance Monitoring
- 35 • Rule Making Activity and 2014 Work Plan
- 36 • Upland Wildlife Working Group

38 **PUBLIC COMMENT ON BOARD'S 2015 WORK PLAN**

39 Chris Mendoza, Conservation Caucus, provided comments on Type N perennial initiation point board
40 manual and DNR's letter stating that the state is in a severe drought. He suggested gathering all the
41 information pertinent to the manual if it is to be completed by November.

43 **2015 WORK PLANNING**

44 Marc Engel, DNR, recapped some of the changes the Board made via Board motions during the
45 meeting. He said the work plan will be adjusted to reflect the following changes:

- 46 • TFW Policy Committee to report quarterly on water typing matrix
- 47 • Board Manual Section 16 added for November meeting
- 48 • TFW Cultural Resources Roundtable recommendation moved to 2016

- 1 • Type F moved to 2016
- 2 • October 27, 2015 field tour relating to water typing

3

4 **NEW BUSINESS**

5 **TFW Co-chairs - Method for all TFW committees to have rotation of members serving as co-**
6 **chairs**

7 Bernath asked the co-chairs from each TFW committee to share their processes for selecting co-
8 chairs and the rotation schedule. The co-chairs and committees are:

- 9 • Adrian Miller and Chris Hanlon-Meyer, TFW Policy Committee
- 10 • Doug Hooks and Todd Baldwin, CMER
- 11 • Jeffrey Thomas and Karen Terwilleger, TFW Cultural Resources Roundtable

12
13 Doug Hooks said CMER’s process is outlined in the CMER Protocol Standard Manual. Adrian
14 Miller responded that TFW Policy Committee does not have a process, but currently is in discussions
15 to develop a process. Karen Terwilleger said the TFW Cultural Resources Roundtable does not have
16 a formal process for service or nomination, and it has long-standing co-chairs.

17

18 **MOTION:** Brent Davies moved the Forest Practices Board request each of the TFW committees
19 that do not have a process for selecting co-chairs, to discuss a possible process and
20 report back to the Board in November. The process should consider terms limits, how
21 many consecutive terms, staggered terms, how co-chairs are elected whether by
22 consensus or by a majority quorum of members. The co-chairs should be reflective of
23 the participant pool.

24

25 **SECONDED:** Paula Swedeen

26

27 Board Discussion:

28 Joe Stohr stated he does not see a problem with the various styles of selection processes.

29

30 Bernath stated the TFW committees should spend some time developing a process to assist with
31 recruiting for co-chairs.

32

33 **ACTION:** Motion passed. 10 support / 1 oppose (Stohr) (Herrera not available for vote.)

34

35 **EXECUTIVE SESSION**

36 None.

37

38 Meeting adjourned at 3:15 p.m.