

1 **Forest Practices Board**  
2 **Special Board Meeting – October 31-November 1, 2022**  
3 Type Np Water Buffer Workshop & Field Tour  
4 Zoom Webinar and Room 172, Natural Resources Building, Olympia  
5

6 **October 31, 2022**

7 **Members Present**

8 Alex Smith, Chair, Department of Natural Resources  
9 Cody Desautel, General Public Member  
10 Dave Herrera, General Public Member  
11 Frank Chandler, General Public Member/Independent Logging Contractor  
12 Jeff Davis, Designee for Director, Department of Fish and Wildlife  
13 Kelly McLain, Designee for Director, Department of Agriculture  
14 Meghan Tuttle, General Public Member  
15 Pene Speaks, General Public Member  
16 Rich Doenges, Designee for Director, Department of Ecology  
17 Steve Barnowe-Meyer, General Public Member/Small Forest Landowner  
18 Wayne Thompson, Timber Product Union Member  
19

20 **Members Absent:**

21 Ben Serr, Designee for Director, Department of Commerce  
22 Vickie Raines, Elected County Commissioner  
23

24 **Staff**

25 Saboor Jawad, Adaptive Management Administrator  
26 Karen Zirkle, Forest Regulation Assistant Division Manager  
27 Marc Engel, Senior Policy Advisor  
28 Patricia Anderson, Rules Coordinator  
29 Phil Ferester, Senior Counsel  
30

31 **WELCOME AND INTRODUCTIONS**

32 Chair Alex Smith called the Forest Practices Board (Board) meeting to order at 11:35 a.m. Board  
33 Members and staff introduced themselves.  
34

35 **OVERVIEW OF EXISTING TYPE NP WATER RULE**

36 Marc Engel, DNR, provided an overview of the current rule on Type Np water buffers. He said  
37 current rules state that:

- 38 • Buffering is accomplished through a combination of sensitive sites and riparian management  
39 zone (RMZ) buffers;
- 40 • Two-sided buffers are required for at least 50% of the length of Type Np stream;
- 41 • Buffers are 50- foot wide, two-sided, no-harvest buffers, measured horizontally from the  
42 outer edge of bankfull width; and
- 43 • Length of the buffers are determined using the entire length of the Type Np stream starting at  
44 the confluence of the Type Np water with either a Type S or F water.  
45

46 He described the four-step process, which includes:

- 47 1. Determine the length of required buffer along each side of Type Np Water.
- 48 2. Locate and buffer all sensitive sites within the forest practices operating area.

3. If the percentage of Type Np buffer length is not met by protecting sensitive sites, add Type Np buffers in designated priority areas. This step also includes harvest considerations.
4. Apply the equipment limitation zone (ELZ) provisions. This also includes on-site mitigation if necessary.

## **TFW POLICY MAJORITY/MINORITY REPORT AND TYPE NP WATER BUFFER ALTERNATIVES**

Saboor Jawad, Adaptive Management Program Administrator (AMPA), briefly described why the studies were conducted by CMER and provided an overview of the studies findings. He also described how the studies were designed to address the key questions on how the current rule is meeting the Type Np Water performance targets listed in Schedule L-1. Schedule L-1 outlines the key questions, resource objectives and performance targets for adaptive management.

CMER implemented two studies— Type N Hard Rock lithology Studies (Phase 1 and 2) and the Type N Soft Rock lithology study to answer the adaptive management question in Schedule L-1:

- Hard Rock Studies evaluated whether the riparian buffer prescriptions for Type N waters met the overall Performance Goals to support the long-term viability of stream-associated amphibians and met or exceeded Water Quality Temperature Standards.
- The Soft Rock Study evaluated whether riparian processes and functions are provided by Type N buffers.

Jawad provided the following timeline of activity leading up to today’s discussion:

- The Board approved TFW Policy’s recommendation in 2019 that action needed to be taken to address the Hard Rock Phase 1 study findings and to form a technical Np workgroup to assist Policy in developing a buffer alternative to address the findings.
- At TFW Policy’s November 2021 meeting, dispute was invoked for lack of progress on developing Type Np buffer options for Board consideration
- At their November 2021 meeting the Board approved filing of a CR101 informing the public that Board is considering rule making on the Type Np RMZ rules.
- In January 2022, TFW Policy received the phase 2 of the Hard Rock Study and the Soft Rock Study findings and their final reports.
- July 2022, TFW Policy determined by consensus that the findings for both studies warrant the same action, the development of Type Np buffer options, as the Hard Rock Study, Phase I.
- The Policy formal dispute, stage 2, concluded without consensus, on July 20, 2022. This required Policy caucuses to prepare a majority/minority reports for Board consideration.

The majority and minority recommendations are caucus position papers when consensus cannot be reached in stage 2 of a dispute. Per WAC 222-12-045(2)(h)(D), the Board makes the final determination regarding dispute resolution.

Brandon Austin, Department of Ecology, presented the majority recommendation on behalf of the Westside and Eastside Tribal Caucus, Conservation Caucus and Departments of Ecology and Fish and Wildlife.

He said this option requires all Type Np streams in western Washington to be buffered by a two-sided 75-foot no harvest buffer for the first 600 feet upstream from the F/N break, or for the lowest 600 ft. of the Type Np stream in the case of isolated Type Np streams which have no downstream

1 confluence. Upstream from the first 600 feet of a Type Np stream, the two-sided buffer width is  
2 determined by the bankfull width of the stream (BFW).

3  
4 He said where Type Np streams have a 3-foot BFW or greater, landowners are required to apply a  
5 two-sided 75-foot buffer, where the inner 50-foot is a no harvest zone and the outer 25-foot zone can  
6 be managed; or they can apply a two-sided 65-foot fixed-width no harvest buffer prescription.

7  
8 Where Type Np streams average less than 3-foot BFW, landowners are required to apply a two-sided  
9 50-foot fixed-width no harvest buffer.

10  
11 The majority recommendation will still require application of all existing equipment limitation zones,  
12 sensitive sites, forest practices hydraulic project, roads, yarding corridors, and unstable slope rules to  
13 the full length of all Type Np waters.

14  
15 He said the 75-foot management prescription applies upstream from the first 600 feet of a Type Np  
16 stream for streams having a 3-foot BFW or greater. The management zone is limited to the outer 25  
17 feet of the Type Np buffer. Harvest within the management zone would be an even spaced thinning  
18 strategy where 50 percent of the trees must be retained. The majority proposal requires the thinning  
19 strategy to be both implementable and enforceable.

20  
21 He concluded by stating it is critical that monitoring and future evaluation be a part of the rule  
22 package.

23  
24 Darin Cramer, WFPA, presented the minority report on behalf of large and small landowners and  
25 the counties. He presented the three components in their proposal.

- 26
- 27 • Prescription A - Area control prescription: Type Np stream basins greater than 30 acres and  
28 85percent or more harvested over a five-year or less period require a 75-foot wide, two-  
29 sided, unmanaged continuous buffer from the confluence of a Type S of F water to the  
30 upper point of perennial flow.
  - 31 • Prescription B - 1,000-foot Buffer: Harvest adjacent to Type Np streams require a 75-foot  
32 wide, two-sided, unmanaged buffer for 500 feet upstream from the confluence of a Type S  
33 or F water and a 50-foot wide, two-sided, unmanaged buffer for the next 500 feet for a  
34 total of 1,000 feet. If the 1,000-foot buffer and any other required leave areas due to  
35 sensitive sites and/or unstable slopes do not provide a minimum of 50% of the total Np  
36 stream length buffered, additional 50-foot buffers are required to meet the objective of 50  
37 percent of the Np stream length buffered.
  - 38 • Prescription Small Forest Landowner: This option is the same as prescription A and B, except  
39 the buffer configuration is a 50-foot wide, two-sided buffer with the outer 25 feet manageable  
40 at the landowner's option. Small landowners who choose to manage within the outer 25 feet  
41 buffer may remove half the available volume in a "thin from above" approach.

42 He concluded by adding the importance of monitoring the rules. He said it was a key  
43 commitment of Forests and Fish in understanding the overall effectiveness of the rules being  
44 implemented across the landscape.

45  
46 Board member Cody Desautel asked whether the rising water temperature trend was compared  
47 with a control group and if the rising water temperatures is purely a function of harvest or a  
48 general trend see in Western Washington because of climate change. Cramer responded that

1 both the hard rock and soft rock studies had both treatments and controls. He said a monitoring  
2 program should have been in place to determine the reason for the rising water temperatures.

3  
4 Jawad added that the authors of the hard and soft rock studies concluded that the rising water  
5 temperatures were the result of the harvest buffers based on the statistical analysis.

6  
7 Board member Kelly McLain asked if the data used in the minority recommendations was also  
8 used in the majority proposal. Austin responded any data gathered outside of the CMER  
9 studies was not used in preparing the majority recommendations. However, the Np technical  
10 work group report did evaluate other data and the development of the majority  
11 recommendations was based on the work of the Np technical work group.

12  
13 Board member Meghan Tuttle asked what would be accomplished by reopening Schedule L-1.  
14 Austin responded the majority report recommendation that Schedule L-1 be reviewed to assure  
15 consistency with the Ecology's anti-degradation standards is because that goal is not meeting  
16 water quality standards. Goals need to be developed to address the resource protection objectives  
17 and performance targets of the water quality standards. Cramer agreed with Austin and added  
18 there are a number of other resource targets that need to be addressed that are similarly  
19 complicated.

20  
21 Board member Tuttle also questioned in the majority report, the reference to the streams that  
22 were less than three feet, and the fact that they were not part of the hard rock or soft rock  
23 studies. Austin responded that three foot was chosen because it was the minimum bankfull width  
24 in the study sites.

25  
26 **PUBLIC COMMENT ON THE MAJORITY/MINORITY REPORT AND TYPE NP**  
27 **WATER BUFFER ALTERNATIVES**

28 Ray Entz, Kalispel Tribe of Indians, said the two Type Np studies indicated that the rule did not  
29 protect water quality standards, specifically temperature. The majority of caucuses considered the  
30 studies and technical recommendations from the Np workgroup to determine a reasonable option  
31 that considered the potential impacts to economics. He said there is a disagreement with the  
32 resource and economic objectives.

33  
34 Kevin Godbout, Weyerhaeuser Company, described the process to develop the landowner  
35 proposal was responsive to the CMER studies at the site scale and an adjustment of the  
36 regulatory opportunity to improve the buffering at the landscape level. The "area control" option  
37 was developed and is the only consensus option before the Board. He urged the Board to keep in  
38 mind that the landowner proposal is responsive to the studies.

39  
40 Jason Spadaro, Washington Forest Protection Association (WFPA), said forest landowners put a  
41 high priority on maintaining cold and clean water coming off forestlands. He said as  
42 conversations are held about other land uses and all watershed approaches, we need to remember  
43 the successes that have been made in Forests and Fish, like the Forest Practices Habitat  
44 Conservation Plan (FPHCP). The FPHCP comes with benefits of resource protection on a  
45 landscape level with regulatory certainty for the landowners. He said the minority proposal  
46 increases current protections from the current regulatory scheme, and monitoring data is needed  
47 for further changes to rules.

1 Elaine Oneil, Washington Farm Forestry Association (WFFA), said the issue we are trying to  
2 solve with this proposed rulemaking is one of exceeding a limit established by Department of  
3 Ecology. She said the temperature rise was expected and anticipated in the original Forests and  
4 Fish agreement and it appears that Ecology Director Watson is the only one that this is a problem  
5 for because these streams mostly do not hit the threshold of 16 C (the designated use standard) to  
6 protect salmon and with a little tweaking could avoid ever doing so. The majority proposal will  
7 cost upwards of an additional half billion dollars in direct lost timber value plus additional costs  
8 for extra roads and crossings. She encouraged the Board to read the entirety of the minority  
9 proposal with an open mind. Many solutions are offered that still cost a lot but somewhat  
10 mitigate the half billion dollars in lost revenue.

11  
12 Peter Goldman, Washington Forest Law Center, said the Board needs to honor and defer to  
13 Department of Ecology, and EPA's discretion as to what proposed rule best protects water  
14 quality and which rule prescription protects water quality. He also expressed disappointment  
15 that DNR withdrew from the majority report at the 11<sup>th</sup> hour. If DNR had "technical" concerns  
16 with the Majority report, it could have announced them at TFW Policy and sought to influence  
17 the majority and minority's decision.

18  
19 Ken Miller, WFFA, said he understands Department of Ecology has an interest in seeing their  
20 rules being followed and that industry has economic and regulatory stability interest that has led  
21 them to offer up more leave trees based on questionable inferences from the Hard and Soft rock  
22 studies. He questioned whether the rule needs to be changed or enforced considering there is no  
23 known actual harm to resources. He asked the Board to include a "do nothing" option when  
24 deciding on what needs to occur.

25  
26 **BOARD DISCUSSION with** Brandon Austin, Department of Ecology; Cody Thomas,  
27 Northwest Indian Fisheries Commission; Alec Brown, Conservation Caucus; Darin Cramer,  
28 Washington Forest Protection Association; Ken Miller, Washington Farm Forestry Association;  
29 and Court Stanley, Washington State Association of Counties

30  
31 Chair Smith noted for the record that DNR is not planning to submit a proposal or  
32 recommendation to the Board at this point. She said the Commissioner thought there were  
33 questions that the science did not answer, understanding the study designs were not designed to  
34 answer those questions, but left enough room for questions and that the two proposals  
35 ultimately did not strike a balance between protecting water quality, and a consideration of the  
36 economic hardships to landowners.

37  
38 Board Member Rich Doenges asked how did TFW Policy work together to find commonalities  
39 to bring forward the two proposals. Austin responded that once the Type Np technical work group  
40 report was completed, TFW Policy attempted to hold meetings where the recommendations were  
41 discussed based on the elements of the report. Each caucus had a suggestion/idea on where to  
42 start.

43  
44 Cramer added that positions were drawn long ago prior to the studies being completed that made  
45 it hard for all to move beyond.

46  
47 Board member Doenges asked Austin to explain how the anti-degradation standards apply in the  
48 forested environment. Austin replied the anti-degradation standards have been part of the water

1 quality standards since 1992. He said the anti-degradation standards are an element of tier two  
2 waters that require efforts to repair the impairment of any waters of high quality that don't exceed  
3 the designated use criteria. These waters are not allowed to warm more than 0.3 degrees Celsius  
4 and the standards apply to all Tier two waters, whether they contain fish or not.  
5

6 Chair Smith asked what the Department of Ecology would achieve by conducting a Tier two  
7 analysis. Austin replied there's a number of factors that are looked at once there's a proposed rule  
8 to determine whether the waters meet the water quality standard of 0.3 C, and if they don't,  
9 Ecology must determine if the rise in stream temperature is necessary and by how much the  
10 temperature rise will not meet the standard.  
11

12 Austin stated if a rule making was initiated (CR-102) and a Tier 2 analysis failed to meet the  
13 anti-degradation standards, Department of Ecology and the Board would need to work together  
14 to ensure the rule proposal is acceptable to Ecology.  
15

16 Board member Steve Barnowe-Meyer asked why there is not a different prescription for small  
17 forest landowners in the majority recommendation. Alec Brown responded that it did come up  
18 during Stage two of dispute resolution but one was never presented. Therefore, the caucuses  
19 never developed one. Austin said the results of the study did not have an allowance for reducing  
20 the width of the buffers; is very site specific and the alternate plan process is available. Cody  
21 Thomas added the Eastside proposal did have a small forest landowner component early on in  
22 the discussions but it did not go any further.  
23

24 Board member Pene Speaks asked if there was agreement on the study design of the Hard rock  
25 and Soft rock studies and why there is disagreement with the results. Cramer responded there  
26 was agreement on the study designs and we are not in disagreement with the results. It is how you  
27 interpret and apply those results in the policy environment.  
28

29 Board member Barnowe-Meyer suggested TFW Policy review the Type Np technical report for  
30 additional opportunities to make use of the Hard and Soft Rock study data to further inform or  
31 identify future Type Np studies including extensive monitoring.  
32

33 Board member Jeff Davis said our system is designed to look back and test decisions that were  
34 made over twenty years ago which he stated is a bit worrisome, and he questioned whether there  
35 is a do- loop in the process. He is hoping that the effectiveness monitoring study will be forward  
36 looking forward in its design because the streams are warming up, no matter what, because of  
37 climate change.  
38

39 Austin said the two Type N studies produced enough information to make a recommendation on a  
40 rule change and all the caucuses agree that more monitoring needs to happen. He stated a rule  
41 change needs to happen and then the adaptive management program will study the change.  
42

43 Chair Smith asked if there were any conversations on implementation and enforcement  
44 regarding Prescription A. Cramer responded that it was brought up many times but the details  
45 were never discussed. Cramer said TFW Policy is confident they could figure it out if the  
46 Board chose this prescription.  
47  
48

1 **OVERVIEW OF FIELD TOUR**

2 Marc Engel, DNR, provided an overview of the field tour sites. He said the tour would be on  
3 Port Blakely Tree Farm. Board members and members of the public who are attending will meet  
4 in the visitor parking area at 8:30 a.m. Tour packets will be handed out tomorrow morning.  
5

6 The tour will include the majority and minority alternatives as well as the current rule flagged  
7 out on the ground.  
8

9 **EXECUTIVE SESSION**

10 None.

11  
12 Meeting adjourned at 2:35 p.m.  
13  
14  
15

1 Day Two – Field Tour

2 **Members Present**

3 Alex Smith, Chair, Department of Natural Resources

4 Dave Herrera, General Public Member

5 Kelly McLain, Designee for Director, Department of Agriculture

6 Meghan Tuttle, General Public Member

7 Pene Speaks, General Public Member

8 Rich Doenges, Designee for Director, Department of Ecology

9 Steve Barnowe-Meyer, General Public Member/Small Forest Landowner

10 Wayne Thompson, Timber Product Union Member

11

12 **Members Absent:**

13 Ben Serr, Designee for Director, Department of Commerce

14 Cody Desautel, General Public Member

15 Frank Chandler, General Public Member/Independent Logging Contractor

16 Jeff Davis, Designee for Director, Department of Fish and Wildlife

17 Vickie Raines, Elected County Commissioner

18

19 The Forest Practices Board visited Port Blakely Tree Farm to see how the current Type Np water  
20 buffer rules are applied in the field and alternatives for how the rule could be modified in the  
21 future.

22

23 Tour concluded at 2 p.m.



1 **Forest Practices Board**  
2 **Special Board Meeting – November 28, 2022**  
3 ZoomWebinar and Room 172, Natural Resources Building  
4

5 **Members Present:**

6 Alex Smith, Chair, Department of Natural Resources  
7 Ben Serr, Designee for Director, Department of Commerce  
8 Jeff Davis, Designee for Director, Department of Fish and Wildlife  
9 Dave Herrera, General Public Member  
10 Kelly McLain, Designee for Director, Department of Agriculture  
11 Meghan Tuttle, General Public Member  
12 Pene Speaks, General Public Member  
13 Rich Doenges, Designee for Director, Department of Ecology  
14 Steve Barnowe-Meyer, General Public Member/Small Forest Landowner  
15 Wayne Thompson, Timber Product Union Member  
16 Vickie Raines, Elected County Commissioner  
17

18 **Members Absent:**

19 Cody Desautel, General Public Member  
20 Frank Chandler, General Public Member/Independent Logging Contractor  
21

22 **Staff**

23 Mary McDonald, Acting Forest Regulation Division Manager  
24 Karen Zirkle, Forest Regulation Assistant Division Manager  
25 Marc Engel, Senior Policy Advisor  
26 Patricia Anderson, Rules Coordinator  
27 Phil Ferester, Senior Counsel  
28

29 **WELCOME AND INTRODUCTIONS**

30 Chair Alex Smith called the Forest Practices Board (Board) meeting to order at 9:00 a.m.  
31 Introductions of Board members and staff was made.  
32

33 **GENERAL PUBLIC COMMENT**

34 Ken Miller, Washington Farm Forest Association (WFFA), apologized to the Board for his “sit  
35 down” at the last meeting causing the Board to reschedule today’s agenda topic. He said they remain  
36 profoundly disappointed in the Board’s action on November 10<sup>th</sup> that failed to follow the rules  
37 regarding alternate plans. He intends to keep the lines of communication open and maintain some  
38 sense of humor as they struggle through the next steps. He believed that staff may have some ideas  
39 for further modification and respectfully requested a meeting with Chair Smith as soon as possible to  
40 explore those ideas.  
41

42 Jim Peters, Northwest Indian Fisheries Commission (NWIFC), said the western Washington tribes  
43 continue to support the TFW, Forests and Fish process and the Adaptive Management Program. They  
44 recognize the process and sometimes the outcome is not a consensus product and that decision is then  
45 move to the Board. They honor the Board’s responsibility and the decision making process that is set  
46 up. He is hoping that everyone can get over this situation and move on and back to working together.  
47

48 Robert Mitchell said he believes the Board is charged with developing financial incentives or options  
49 and asked if there is a way to compensate small forest landowners for compliance on more restrictive

1 rules. He said DNR's Trust Land Transfer program is going to have an influx of money and  
2 suggested using that money to buy out small forest landowner if they want to sell.

3  
4 Jenny Knoth, PNK Consulting, said from her perspective the forests are in good hands. There is no  
5 crisis on the landscape. She said there are wonderful riparian zones that support a myriad of life in a  
6 very protective manner under the current rules. She also said CMER does produce good science. She  
7 asked the Board to guard against policy goals and personal agendas becoming a barrier to open and  
8 honest technical discussions as they proceed forward.

## 9 10 **WATER TYPING SYSTEM RULE MAKING**

11 Marc Engel, DNR, presented the water typing system rule components which were resolved by the  
12 Board at the August 2022 meeting and summarized the elements in which the Board requested to be  
13 addressed at the November 2022 meeting.

### 14 15 Components Resolved:

- 16 • Approved two anadromous fish floor (AFF) alternatives, A4 (7%) and D, for inclusion in the draft  
17 water typing system rule and to be analyzed for inclusion in the CBA, SBEIS and SEPA as part of  
18 the rule making packet.
- 19 • Confirmed the permanent water typing system rule including an AFF will apply to eastern  
20 Washington.

### 21 To be discussed:

- 22 • Delay initiation of the analysis for the AFF until after the November meeting of the Board;
- 23 • Goals and targets for the water typing system rule;
- 24 • Goals and targets of an AFF; and
- 25 • Address the inclusion of the map-based modeled water typing in the permanent water typing  
26 system rule.

27  
28 Engel presented a generic chart outlining a timeline of both the water typing system rule and the Type  
29 Np Water rule for the Board to visualize how the rule makings could move forward depending on  
30 which is determined the priority.

31  
32 Board member Steve Barnowe-Meyer asked what the status is of the map-based model. Engel  
33 responded the current interim rule does not have a map-based model element and it has not been  
34 included within the current Water Typing System draft rule. Board member Barnowe-Meyer believes  
35 the Board already agreed to have this included as it is included in the Master Project Schedule.

36  
37 Phil Ferester, Office of the Attorney General, clarified that the map-based model does exist in rule,  
38 however it is not in effect. This causes confusion by having two rules on the books as they are  
39 numerically next to one another. He suggested a possible goal of the Board is clarify which rules are  
40 in effect by only having one rule in effect.

41  
42 Board member Jeff Davis stated that based on what he heard during the Board's water typing rule  
43 committee meetings, the lidar based map model is very important to the small forest landowners and  
44 said it needs to be included in the rule making.

45  
46 Board member Steve Barnowe-Meyer said the current permanent water typing system rule that is on  
47 the books but is not in effect, is one of the methodologies for establishing fish habitat. He wants to  
48 ensure there is a continued goal to have one of the tools for use by small forest landowners for  
49 establishing end of fish habitat is using a lidar map based model.

1 **MOTION:** Steve Barnowe-Meyer moved the Forest Practices Board confirm a lidar map-based  
2 model as one of the goals of the permanent water typing system rule.  
3

4 **SECONDED:** Meghan Tuttle  
5

6 **PUBLIC COMMENT ON THE WATER TYPING SYSTEM RULE MAKING**

7 Darin Cramer, Washington Forest Protection Association, said the current rule requires the default  
8 physical criteria be used; however, if a landowner does not want to use the default physical criteria  
9 they can use a protocol survey. The maps produced in the early 2000 were 90% accurate and most of  
10 the error was with the terminal points. He does not know how a decision can be made if there is no  
11 measureable criteria. He said the Board's water typing rule committee may have been disbanded  
12 prematurely. There is still hard work to do in order for the Board to make an informed decision  
13 consistent with the Forests and Fish Report.  
14

15 Jim Peters, NWIFC, said they are still concerned that landowners have a choice of not using the  
16 default physical criteria. Doing a protocol survey indicates at the time they did the survey, there was  
17 no fish. He said there is a small working group, based on the principal's process, working on the  
18 barriers causing blockage of fish passage which they support.  
19

20 Elaine Oneil, WFFA, questioned how many years and how much money spent to research and  
21 develop the components of a very complex water typing system and the Board is just now clarifying  
22 the goals and targets of this system. Most concerning to her is revisiting the idea if a map based lidar  
23 model is one of the goals of the permanent water typing system. She thought that was already agreed  
24 to in the past. She said they are vehemently opposed to dropping a lidar map based model water  
25 typing rule that balances risk and meets the ninety-five percent threshold for certainty.  
26

27 Kendra Smith, Skagit County, said the Board is already deviating from the Adaptive Management  
28 process on several account and now appears potentially dropping the model based lidar map which is  
29 an important element to the county and small forest landowners. She questioned whether the Board  
30 has defined the goals and objectives for the water typing system rule and whether any action really  
31 needs to occur.  
32

33 **WATER TYPING SYSTEM RULE MAKING**

34 Chair Smith requests further discussion on the motion.  
35

36 Chair Smith asked Board member Barnowe-Meyer to clarify his intent of the motion. Board member  
37 Barnowe-Meyer said his intent is very responsive to the specifics in Engel's presentation that DNR  
38 staff needed to know if the model is one of the goals. This is aspirational for future rule making and  
39 would like the Board to confirm.  
40

41 Board member Speaks asked Engel if the motion provided enough direction. Engel responded if the  
42 Board wants language added to the rule draft then the motion needs to reflect that, however, because  
43 a lidar map-based model is not available it would make part of the rule not implementable. Or the  
44 motion could include "when the day comes, the rule will be written using a lidar based model."  
45

46 Board member Tuttle said if it has been a goal all along then the motion should stand.  
47

48 Board member Barnowe-Meyer said his intent is aspirational and does not have to be handled with  
49 the current rule making.

1 **ACTION: Motion passed unanimously.**  
2

3 Chair Smith said the Board would now work on the remaining two items staff asked for in terms of  
4 clarification on the water typing system rule:

- 5 • Goals and targets of the water typing system rule which TFW Policy made recommendations to  
6 the Board; and
- 7 • Goals and targets for the AFF which the Board has received.  
8

9 Board member Tuttle questioned what the goals and targets and problem statement are for the AFF.  
10 Referring to Kendra Smith's comment "what is the Board basing their decision on?"  
11

12 **MOTION: Meghan Tuttle move the Forest Practices Board reconvene the Board's Water Typing  
13 Rule Committee to determine goals and objectives to move rule making forward.**  
14

15 Chair Smith stated she hesitates to go back to square one after so much work has been done. Engel  
16 explained the process and decision made by the Board regarding the PHB's and AFF.  
17

18 Chair Smith asked the Board what would be helpful in helping the staff determine what the goals and  
19 targets are.  
20

21 Board member Herrera said the issues being discussed are not what the Board should be addressing.  
22 He believes there are bigger issues that get at "why we are here" and why the principal's process has  
23 not worked because it has focused on problem solving rather than relationship building so we all are  
24 comfortable and on the same page. These questions and these issues need to go to the principals.  
25

26 Board member Speaks agreed with Board member Herrera and inferred that staff is ready to move  
27 forward with the rule making.  
28

29 **SECONDED: Steve Barnowe-Meyer**  
30

31 Board member Barnowe-Meyer seconded the motion because he does not believe there are clear  
32 goals and objectives, mostly objectives for specifics of a permanent water typing rule. We have this  
33 need to protect all fish habitat, but do not know what that is. He said to the extent that this motion can  
34 move us along he is supportive.  
35

36 Board member Davis questioned whether they have uncertainty. He does not support the motion. He  
37 agreed with Board member Herrera to have the Principals answer these questions. He believes the  
38 Board has provided staff clarity and is surprised that there is still a need for more clarity.  
39

40 Chair Smith asked Engel if staff has what they need to move forward or do they need more clarity.  
41 Engel responded that the Board's committee did address these issues and recommendations were  
42 provided to the Board at their May 2019 meeting. Engel responded yes staff has what is needed for  
43 the preparation of the cost benefit analysis, the small business economic impact statement and the  
44 environmental analysis.  
45

46 Board member Barnowe-Meyer questioned whether there are outstanding issues to resolve. Engel  
47 stated that there may be some additional outstanding elements. He said when the Board chooses to  
48 move forward on rule making that when specific questions arise that staff can bring them to the  
49 Board.

1  
2 Board member Tuttle asked if would add additional time to the rule making process. Engel said it  
3 could. This is a complex rule with many aspects.

4  
5 **ACTION:** Motion failed. 4 Support (Tuttle, Raines, Thompson, Barnowe-Meyer) 7 Oppose  
6 (Doenges, Speaks, Davis, Serr, McLain, Smith, Herrera)  
7

8 Board member Tuttle asked for an update on the Board motion to prepare proposal initiation to  
9 request CMER develop an anadromous fish floor validation study. Engel responded that staff had not  
10 prepared it.

11  
12 Chair Smith proposed the Board table further discussion until February 2023. At which time staff can  
13 have a draft motion prepared for the Board to vote on.

14  
15 Board members expressed concern in delaying the rule making process.

16  
17 **MOTION:** Alex Smith moved the Forest Practices Board acknowledge the following elements for  
18 the water typing system rule have been approved by the Board:

- 19 • To balance error
- 20 • Minimize electrofishing;
- 21 • Address stream segments not shown on the DNR hydro layer;
- 22 • Improve the water typing map over time;
- 23 • Include methods to locate the type F/N break on the ground; and ensure the  
24 methods provide the ability to be applied by small forest landowners; and
- 25 • Be consistent with fish habitat as defined in rule.

26 She further moved the Board acknowledge that the following definition for the  
27 anadromous fish floor has been accepted by the Board: “measurable physical stream  
28 characteristics downstream from which anadromous fish habitat is presumed and an  
29 agreement that the AFF would establish the location upstream of which fish protocol  
30 surveys may begin under fish habitat assessment methodology.”

31 Smith further moved the chair direct staff to initiate the completion of the draft water  
32 typing system rule and associated analysis in preparation for Board action to initiate  
33 rule making through the filing of a Proposed Rule Making (CR102).  
34

35 **SECONDED:** Jeff Davis  
36

37 Board Discussion:

38 Board member Tuttle asked how would the alternatives be chosen and what metric would be used to  
39 choose between the options. Engel responded that it will come out in the analyses.  
40

41 **ACTION:** Motion passed. 7 support (Smith, Davis, Herrera, Speaks, Doenges, McLain, and  
42 Serr)/4 oppose (Tuttle, Thompson, Barnowe-Meyer and Raines)  
43

44 Chair Smith ask the Board what is the preference for priority. Board member Doenges asked if staff  
45 has a preference, efficiency wise. Engel said staff has a bigger head start on the water typing rule.  
46

47 Board member Barnowe-Meyer asked what the status might be from Department of Ecology on the  
48 Clean Water Act Assurances extension and whether it would impact one rule over the other. Board  
49 member Doenges said that the decision will not affect Ecology’s actions on the assurances.

1  
2 **MOTION:** Dave Herrera moved the Forest Practices Board move the water typing system rule  
3 making forward as priority one.  
4  
5 **SECONDED:** Pene Speaks  
6  
7 Board Discussion:  
8 None.  
9  
10 **ACTION:** Motion passed unanimously.  
11  
12 **EXECUTIVE SESSION**  
13 None.  
14  
15 Meeting adjourned at 11:45 a.m.

1 **Forest Practices Board**  
2 **Regular Board Meeting – November 9 & 10, 2022**  
3 ZoomWebinar and Room 172, Natural Resources Building, Olympia  
4

5 **November 9, 2022**

6 **Members Present:**

7 Alex Smith, Chair, Department of Natural Resources  
8 Ben Serr, Designee for Director, Department of Commerce  
9 Chris Conklin, Designee for Director, Department of Fish and Wildlife  
10 Cody Desautel, General Public Member  
11 Dave Herrera, General Public Member  
12 Kelly McLain, Designee for Director, Department of Agriculture  
13 Meghan Tuttle, General Public Member  
14 Pene Speaks, General Public Member  
15 Rich Doenges, Designee for Director, Department of Ecology  
16 Steve Barnowe-Meyer, General Public Member/Small Forest Landowner  
17 Wayne Thompson, Timber Product Union Member  
18 Vickie Raines, Elected County Commissioner

19  
20 **Members Absent:**

21 Frank Chandler, General Public Member/Independent Logging Contractor  
22

23 **Staff**

24 Mary McDonald, Acting Forest Regulation Division Manager  
25 Karen Zirkle, Forest Regulation Assistant Division Manager  
26 Marc Engel, Senior Policy Advisor  
27 Patricia Anderson, Rules Coordinator  
28 Phil Ferester, Senior Counsel  
29

30 **WELCOME AND INTRODUCTIONS**

31 Chair Alex Smith called the Forest Practices Board (Board) meeting to order at 9:00 a.m.  
32 Introductions of Board members and staff was made.  
33

34 **REPORT FROM CHAIR**

35 Chair Smith said the Board received the Type Np water buffer majority and minority reports at the  
36 Board's meeting on October 31 as well as detailed presentations by TFW Policy caucus  
37 representatives. The Board also visited a field site on November 1 and observed the proposals as laid  
38 out on an actual Type Np streams in comparison to the current Type Np buffer rules.  
39

40 Chair Smith also provided an update on employee transitions including Joe Shramek retiring and  
41 Saboor Jawad replacing Shramek as the Division Manager.  
42

43 **APPROVAL OF MINUTES**

44 **MOTION:** Steve Barnowe-Meyer moved the Forest Practices Board approve the August 10, 2022  
45 meeting minutes.  
46

47 **SECONDED:** Meghan Tuttle  
48  
49

1 Discussion:

2 None.

3

4 **ACTION:** Motion passed unanimously.

5

6 **TYPE NP WATER BUFFER: BACKGROUND ON FINDINGS OF THE TYPE N STUDIES**

7 Saboor Jawad, Adaptive Management Program Administrator (AMPA), reviewed the five Type N  
8 studies, presented a summary of the findings for the Hard Rock Phase I and II and Soft Rock studies  
9 as well as a summary of the Np Workgroup recommendations and majority and minority  
10 recommendations.

11

12 CMER studies included:

- 13 • Buffer integrity – Shade Effectiveness (Amphibian), 2018
- 14 • Westside Type N Buffer Characteristics, Integrity and Function (BCIF), 2019
- 15 • Extensive Riparian Status and Trends Temperature Monitoring – Type N/F (Westside and  
16 Eastside), 2019
- 17 • Type N Experimental Buffer Treatment in Hard Rock Lithology, Phases 1 and 2, 2018 and 2022
- 18 • Type N Experimental Buffer Treatment in Soft Rock Lithology, 2022

19

20 Summary of the Hard and Soft Rock Studies findings related to temperature:

- 21 • Studies provided two temperature response metrics: Maximum Monthly Temperature Response  
22 (MMTR) and Seven Day Temperature Response (7DTR).
  - 23 ○ 7DTR increased in all buffer treatments.
- 24 • The studies showed temperature responses were due to harvest.
- 25 • Shade was the main driver of temperature response.

26

27 Summary of Np Workgroup Recommendations for Policy consideration:

- 28 • Recommended and encouraged Policy to consider the adoption of a combination of the following  
29 three alternatives which the workgroup evaluated for stream temperature, economic impact, and  
30 wind throw:
  - 31 1. A continuous 75-foot buffer with managed outer 25 foot;
  - 32 2. A continuous buffer that varied from 25-to-75 feet based on stream orientation;
  - 33 3. A site-specific buffer that retains that portion of buffer that provides effective shade.
- 34 • The workgroup noted that alternatives 2 and 3 are experimental and that not all landowners would  
35 be able to apply them without assistance.

36

Summary of Majority and Minority Type Np Buffer Recommendations to the Board

37

- 37 • Minority
  - 38 ○ Prescription A: 75-foot, two-sided, unmanaged continuous buffer when an Np basin greater  
39 than 30 acres is to be harvested 85 percent or more over a five year period.
  - 40 ○ Prescription B: 75-foot, two-sided, unmanaged buffer for the first 500 feet upstream of the  
41 Type F/N Water break and a 50-foot wide, two-sided, unmanaged buffer for the next 500 feet.
    - 42 • Retain the equipment limitation zone (ELZ) and sensitive site buffers
    - 43 • Additional 50-foot buffers would be required if an operating area is 2,000 feet upstream of  
44 Type F/N Water break and the Type Np stream length is more than 2,000 feet and if 50-  
45 percent buffer objective is not met within the ELZ and sensitive site buffers.



- 1 • Majority
- 2 ○ **Option 1:** 75-foot wide, two-sided, no-harvest buffer on all Type Np streams for the first 600
- 3 feet upstream of Type F/N Water break or for the lowest 600 feet for isolated Type Np
- 4 streams.
- 5 ○ Upstream from the first 600 feet, bankfull width (BFW) determines the width of a two-
- 6 sided buffer:
- 7     ▪ Two option for Type Np streams greater than 3 feet BFW:
- 8         1. Two-sided 75-foot buffer with the outer 25 feet manageable; or
- 9         2. A 65-foot, two-sided, fixed-width, no-harvest buffer.
- 10 1. For Type Np streams less than 3-foot BFW, a two-sided, 50-foot, fixed-width, no-harvest
- 11 buffer.
- 12 2. All existing ELZ, sensitive sites, forest practices hydraulic project, roads, yarding
- 13 corridors and unstable slope rules will continue to be applied to the full length of the Type
- 14 Np stream.
- 15 ○ **Option 2:** A 75-foot, two-sided, unmanaged continuous buffer when a Type Np Water basin
- 16 greater than 30 acres is to be harvested 85 percent or more over a five year period.

17  
18 Jawad stated that the process at TFW Policy has now concluded and the matter is now before the  
19 Board to make the final determination regarding dispute resolution.

20  
21 **PUBLIC COMMENT ON TYPE NP WATER BUFFER ALTERNATIVES**

22 Dan Brown, Environmental Protection Agency (EPA) said that EPA is ultimately responsible for the  
23 implementation and enforcement of the Clean Water Act CWA, however EPA is not weighing in on  
24 any of the proposals. He said he is providing comment to affirm what anti-degradation means in the  
25 context of the CWA. The CWA and associated regulations require states to implement a  
26 comprehensive approach to water quality that must include anti-degradation requirements and  
27 methods. Washington State has established anti-degradation rules and implementing procedures  
28 consistent with the CWA.

29  
30 Mike Warjone, Port Blakely Timber Company, said that any changes to buffer requirements should  
31 include extensive monitoring, in particular for water temperature.

32  
33 Ken Miller, Washington Farm Forestry Association (WFFA), said the tour last week hardly  
34 mentioned the county proposal including a 50-foot buffer just for small forest landowners. He said  
35 he hoped the Board was struck by the incredible complexity of the two proposals shown, particularly  
36 to small forest landowners. Their response to all the confusion and complexity is a simple 50-foot  
37 buffer that is partially managed for desired future condition.

38  
39 Peter Goldman, Washington Forest Law Center, representing the conservation caucus, said they  
40 support the majority report as it meets the water quality requirements as determined by Department of  
41 Ecology.

42  
43 Alec Brown, Conservation Caucus, provided comments regarding the negotiation perspective. He  
44 said his caucus quickly latched on to the one response that said 100% of the time meet the water  
45 quality standard. He explained how the process then evolved once they presented it to TFW Policy to  
46 go forward with this option. The other caucuses had other ideas which led to the reports before the  
47 Board. Their belief is that if the Board believes the water quality standards need to be met then a full  
48 length buffer all the way up the Np stream should be approved.

1 Darin Cramer, Washington Forest Protection Association, said he supports the Board moving the  
2 landowner and counties proposal forward. Proposals include a full length buffer prescription and  
3 includes a small landowner component that increases buffer area protection but allows for a  
4 management option and maintains the 50-foot width to address the economic hardship associated  
5 with small forest landowners. He said he does not oppose the majority's recommendation and  
6 supports the Board consider all three proposals.

7  
8 Elaine Oneil, WFFA, said both the majority and minority recommendations include a correction that  
9 limits harvest of cold basins, which is a rare situation that is likely to result in triggering both the  
10 threshold and exceedance of the beneficial use standard of 16 degrees centigrade. She said the sites of  
11 the hard rock and soft rock studies exceeded the beneficial use standards but believes that could be  
12 managed through this rule making process. She also noted that the small landowners have stepped up  
13 even though it's going to cost a lot of money they care about the resource and trying to meet the  
14 needs of everyone else.

15  
16 Robert Mitchell said he commended the use of error bars in many of the graphs in the minority report  
17 but questioned why it was not included other graphs like figure 1. He concluded it was because it  
18 would not support their argument.

19  
20 Ray Entz, Kalispell Tribe of Indians, said the dispute resolution process was one of the better ones  
21 that TFW Policy has engaged in. He believes there was a true vetting of interest based negotiations  
22 and a willingness for all caucuses to engage in concession related changes to recommended  
23 outcomes. TFW Policy did a great job of participating in an attempt to try to resolve issues from a  
24 difference of opinion and perspective.

25  
26 Jason Spadero, WFFA, expressed the need for monitoring data of stream temperatures and extensive  
27 monitoring of water quality. He said the Forest Practices Habitat Conservation Plan recognizes that  
28 temporary increased in stream temperatures could occur but did not create persistent or permanent  
29 changes in water temperature.

30  
31 Kendra Smith, Skagit County, urged the Board to accept the large landowner proposal as well as the  
32 monitoring. She said the impacts are too great on the timber resource counties, especially to the jobs.

33  
34 Court Stanley, Washington Association of Counties, said he agreed with Entz that TFW Policy did an  
35 exemplary job working through the dispute resolution process. He said they support the minority  
36 report because it is an incremental approach to increasing the protections on non-fish bearing streams.  
37 They also support extensive monitoring of the new prescriptions.

38  
39 Jim Peters, Northwest Indian Fisheries Commission (NWIFC), said they support the majority report.  
40 He said he also agrees that the dispute resolution process went very well.

41  
42 Kevin Godbout, Weyerhaeuser Company, urged the Board to accept the large and small landowner  
43 and county proposal. He said the only consensus recommendation from TFW Policy is the area  
44 control or whole basin approach. He said if the Board did not recognize that, it would send a poor  
45 message that consensus does not matter. He urged the Board to make it a stand-alone option.

46  
47 **TYPE NP WATER BUFFER RULE MAKING**

48 Marc Engel, DNR, provided a brief summary of the Type Np Water buffer alternatives and presented  
49 next steps for the Board to consider.

1 Next steps for the Board to consider include:

- 2 • Accept the majority or minority recommendations;
- 3 • Mix elements from both alternatives; or
- 4 • Consider additional buffer alternatives

5

6 Board member Dave Herrera expressed his concerns with the recommendations that do not support  
7 the science. He believes it is a process foul that caucuses not in support of the majority  
8 recommendations were allowed to develop a different product and bring it forward. It does not seem  
9 like a legitimate project because it has not been through CMER and it appears DNR is enabling this  
10 to happen. He questions the next time a CMER study is completed and what that process would look  
11 like.

12

13 **MOTION:** Dave Herrera moved to approve the majority report and move that forward for rule  
14 making.

15

16 **SECONDED:** Rich Doenges

17

18 Discussion:

19 Board member Alex Smith described DNR's position which is to move elements of both proposals  
20 forward which would be Option 1 of the majority report and prescription Type B from the minority  
21 report as well as inclusion of an operational study on current harvest practices within Type Np  
22 streams and a proposal for extensive monitoring. DNR is concerned that neither proposal struck the  
23 right balance between ensuring water quality protection and taking into account the economic impact  
24 to landowners and analyzing both will shed light that would be helpful to the Board when adopting  
25 the rule. She also believes everyone will still be invested and engaged if both move forward.

26

27 Board member Meghan Tuttle expressed disappointment with Board members expressing concern  
28 now when TFW Policy was regularly reporting to the Board on the disputes and ongoing work. She  
29 said TFW Policy potentially could have changed direction if Board members would have voiced their  
30 concerns when TFW Policy was reporting on the disputes rather than now at the end. She voiced her  
31 concern that the Board needs to ensure they are giving TFW Policy clear direction and signal when  
32 there are concerns with their process. She also said the Board needs to recognize areas of agreement  
33 and be sensitive to the kind of message they send to the TFW participants. This report includes two  
34 options, one of which is a consensus from all TFW Policy caucuses.

35

36 Board member Rich Doenges supports the motion. He believes this is the best path forward as it is  
37 soundly rooted in science and will ensure that the water stays clean and cool which is the goal with  
38 this rule making.

39

40 Board member Steve Barnowe-Meyer said his interests are to make sure that the best decision  
41 possible for the resource is made by the Board. He said the one commonality of the majority and  
42 minority recommendations is prescription A of the minority report and whole basin harvest in the  
43 majority recommendations. He supports moving option B of the minority report forward.

44

45 Board member Pene Speaks said she supports the motion as it is based on science and provides for  
46 resource protection.

47

48 Board member Vickie Raines supports moving both the majority and minority recommendations  
49 forward.

1  
2 Board member McLain said she appreciates all of the attention and energy that has gone into the  
3 collaboration of the design of the studies; however she cautioned the Board that one of the variables  
4 that was identified by CMER was using site specific information to drive statewide change which is  
5 difficult to do. She encouraged future science to address the type of variability seen in the forest  
6 landscape across the state as that will be the most valuable for the landowners that are charged with  
7 helping regulate and protect the resources.

8  
9 Board member Wayne Thompson said based on a labor perspective he agrees with Board member  
10 Barnowe-Meyer and Tuttle. He supports moving all recommendations forward.

11  
12 **MOTION TO**

13 **AMEND:** Vickie Raines moved to amend the motion to include moving the minority report  
14 forward.

15  
16 **SECONDED:** Steve Barnowe-Meyer and Wayne Thompson

17  
18 Board member Barnowe-Meyer said part of the rationale to move both the majority and minority  
19 recommendation is to have a fair comparison of the alternatives and would be more efficient.

20  
21 **ACTION:** Motion failed. 6 Support (Thompson, Chandler, Tuttle, Raines, Smith, Barnowe-  
22 Meyer / 7 Oppose (Speaks, Doenges, Herrera, McLain, Conklin, Desautel, Serr)

23  
24 **ORIGINAL**  
25 **MOTION**

26 **ACTION:** Motion passed. 7 Support (Speaks, Doenges, Conklin, Herrera, McLain, Desautel,  
27 Serr) / 6 Oppose (Tuttle, Raines, Smith, Barnowe-Meyer, Chandler, Thompson)

28  
29 **MOTION:** Alex Smith moved the Forest Practices Board direct TFW Policy Committee and  
30 CMER to prioritize and begin scoping both an effectiveness (prescription scale) study  
31 and an extensive (landscape) scale monitoring study, including a systematic literature  
32 review, as part of their Type N and Type F rule-group studies and to follow the Board  
33 manual guidance for the development and implementation of these studies.

34  
35 **SECONDED:** Kelly McLain

36  
37 **Discussion:**

38 Board member Barnowe-Meyer recommended a friendly amendment to add “TFW Policy  
39 Committee” after “direct”.

40  
41 Board member Tuttle recommended a friendly amendment to include “and Type F” after “Type N”.

42  
43 Board member Doenges asked how long it will take before any results. Jawad responded that until  
44 the full scoping is completed there is no way of knowing. He said it will be a costly endeavor and  
45 will take many years to complete.

46  
47 Board member Ben Serr asked if the Board is a prioritizing effective monitoring then what will not be  
48 done. Jawad said the extensive monitoring is among the priorities of the Master Project Schedule that  
49 the Board has approved.

1  
2 **ACTION:** Motion passed unanimously.  
3

4 **MOTION:** Meghan Tuttle moved the Forest Practices Board advance prescription B and the small  
5 forest landowner option of the minority report for analysis in preparing the CR102 rule  
6 making packet.  
7

8 **SECONDED:** Wayne Thompson and Vickie Raines  
9

10 **ACTION:** Motion failed. 6 Support (Thompson, Barnowe-Meyer, Smith, Raines, Tuttle,  
11 Chandler) / 7 Oppose (Serr, McLain, Conklin, Herrera, Doenges, Speaks, Desautel)  
12

### 13 **GENERAL PUBLIC COMMENT**

14 Peter Goldman, WFLC, explained how the Forests and Fish negotiations occurred and why the Board  
15 is making the decisions they are today. He said there were a lot of things that the Forests and Fish  
16 Report could not agree on like the width of a buffer for fish bearing streams and non-fish bearing  
17 streams. So they put these really open items in a “parking lot”. The parking lot is a place where  
18 really difficult issues that required more study would sit until time to study those. He said they are  
19 not here to make life more difficult, more expensive for the forest industry. They believe that if we  
20 have 50 year permits are the Clean Water Act and the Endangered Species Act assurances they want  
21 to have confidence that the system is going to work, it will follow the science, be informed by TFW  
22 Policy and signed off by the agencies.  
23

24 Ken Miller, WFFA, said it’s the small forest landowner reality to often feel under represented or  
25 mere afterthoughts in the Adaptive Management Program (AMP). He mentioned several moments  
26 when their caucus has felt slighted within the process. They appreciate the next days meeting when  
27 the focus will be on small landowner issues. He encouraged the Board to read through all of the  
28 email they received from small landowners.  
29

30 Ray Entz, Kalispel Tribe of Indians, said the Board’s discussion regarding the Type Np rules has  
31 them concerned regarding potential conflicts of interest to potential process fouls to the high  
32 likelihood of continued disenfranchisement of AMP participants. He encouraged everyone to pass the  
33 message along to their respective leadership. He is concerned the principals have not met for some  
34 time and there has been no communication on the principal’s process. He said they continue to  
35 engage and wait patiently for communication and progress and are ready to continue to participate  
36 when it is found to be important to all interested parties.  
37

38 James Peters, NWIFC, said they prefer to have consensus going forward with everybody feeling  
39 satisfied. However, they knew going into Forests and Fish that was not always going to be the case.  
40 He expressed concern for when DNR’s TFW Policy representative was pulled from completing the  
41 majority report at the last minute and learning today that DNR had their own proposal. For TFW and  
42 Forests and Fish to work you need to know who you are working with.  
43

44 Jason Spadaro, WFFA, he said he agree with Entz and is concerned about the future of TFW and  
45 about collaboration. He said the most important thing they can do with all the controversial natural  
46 resource issues is work together finding solutions to the problems. The forest industry will remain  
47 committed to that.  
48  
49

1 **CMER MEMBERSHIP**

2 Saboor Jawad, AMPA, said the Upper Columbia United Tribes (UCUT) have nominated Hans Berge  
3 to serve as their voting member on the Cooperative Monitoring, Evaluation and Research Committee  
4 (CMER). Jawad reminded the Board that CMER voting members are approved by the Board as  
5 required by WAC 222-12-045, and the rule requires that CMER members have expertise in a  
6 scientific discipline.

7  
8 **PUBLIC COMMENT ON CMER NOMINEE**

9 Ray Entz, Kalispel Tribe, said they appreciate the opportunity to proffer another quality scientist to  
10 the CMER committee with the intent of continuing to have quality science come out of the program  
11 and inform Board decisions.

12  
13 Jim Peters, representing Western Washington Tribes, Northwest Indian Fisheries Commission, said  
14 that the credentials speak for themselves. Peters said that any caucus that proposes someone to  
15 represent them at the CMER level with the necessary credentials should be approved.

16  
17 **CMER MEMBERSHIP**

18 **MOTION:** Cody Desautel moved the Forest Practices Board approve Hans Berge as a voting  
19 member of CMER.

20  
21 **SECONDED:** Dave Herrera

22  
23 Discussion:  
24 None.

25  
26 **ACTION:** Motion passed unanimously.

27  
28 **TFW POLICY COMMITTEE’S RECOMMENDATIONS ON A NET GAINS APPROACH**  
29 **(#5 OF THE STATE AUDITOR’S REPORT)**

30 Saboor Jawad, AMPA, said that the memo included in the Board packet provides a status on progress  
31 to address the SAO’s January 2021 Performance Audit recommendations and provides consensus  
32 recommendations for five net-gains options, which are in response to SAO recommendation #5 for  
33 Board consideration for approval.

34  
35 Jawad reported that the principals have met twice to discuss the decision-making process (SAO  
36 Recommendations #1 and #2). Jawad said the status of these action items have changed from on-  
37 track to delayed, primarily because any changes to the decision-making model would require a rule  
38 change. The Principals will continue to work on these recommendations in 2023.

39  
40 Jawad said that the net-gains options developed and recommended by consensus through the TFW  
41 Policy workgroup and the AMPA are:

- 42 • Adopt Multi-Criteria Decision Making
- 43 • Clarify Process for Outside Science
- 44 • Set Clear AMP Priorities
- 45 • Initiate Reform Dialogue with CMER
- 46 • Develop Guidance or Manual for TFW Policy

1 Jawad stated that TFW Policy requests Board approval to fully develop all options for  
2 implementation of a net-gains approach. Jawad said that work would likely return to the Board for  
3 consideration of all the options in the form of a proposed amendment to Board Manual Section 22.  
4

5 **PUBLIC COMMENT ON TFW POLICY COMMITTEE’S RECOMMENDATIONS ON A**  
6 **NET GAINS APPROACH (#5 OF THE STATE AUDITOR’S REPORT)**

7 None.  
8

9 **TFW POLICY COMMITTEE’S RECOMMENDATIONS ON A NET GAINS APPROACH**  
10 **(#5 OF THE STATE AUDITOR’S REPORT)**

11 **MOTION:** Steve Barnowe-Meyer moved the Forest Practices Board approve TFW Policy’s net  
12 gains options and direct TFW Policy to fully develop each option and bring forward,  
13 for the Board’s review and approval, an amended Board Manual Section 22 Guidance  
14 for Adaptive Management Program.  
15

16 **SECONDED:** Meghan Tuttle  
17

18 Discussion:

19 Board member Barnowe-Meyer commended TFW Policy on a good work product and thanked Jawad  
20 for his assistance. He supports the motion.  
21

22 Board member Tuttle agreed with Barnowe-Meyer. She said this project and responding to the audit  
23 is more important to get correct than to do fast. Appreciates the extra time that was taken to reach  
24 consensus within the program.  
25

26 **ACTION:** Motion passed unanimously. (Chandler not available for the vote.)  
27

28 **OVERSIGHT OF THE CMER WATER TYPING STUDIES TO TFW POLICY**

29 Saboor Jawad, AMPA, said the TFW Policy Committee (TFW Policy) is requesting the Board to  
30 assign oversight responsibilities of CMER’s water-typing group of projects back to TFW Policy. He  
31 said the water-typing projects are currently supervised directly by the Board after assigning to CMER  
32 in November 2019 the responsibility of developing the study designs for the PHB validation, default  
33 physical characteristics, and Lidar based model studies.  
34

35 If the Board approves, TFW Policy would review scoping documents, recommend budgets for the  
36 Master Project Schedule, and receive findings reports from CMER on the water-typing studies and  
37 then TFW Policy would make recommendations to the Board.  
38

39 Jawad said there is a broad understanding within TFW Policy that Policy oversight would not re-start  
40 the work, it would start from where the projects stand now.  
41

42 **PUBLIC COMMENT ON THE TFW POLICY OVERSIGHT OF CMER WATER TYPING**  
43 **STUDIES**

44 Ray Entz, Kalispel Tribe of Indians, said the Board would have not had to make this decision had  
45 TFW Policy at the time understood how long it would take to complete the permanent water typing  
46 rule. TFW Policy would have taken the time to thoughtfully go through and create opportunities for  
47 success for the rule and the products that would come to the Board. Remanding it back to TFW  
48 Policy is both a good and bad.  
49

1 Chris Mendoza, Conservation Caucus, said CMER has made a lot of progress on the potential habitat  
2 break study design and other related projects and will be going through the ISPR review. He said  
3 CMER goes through a rigorous process of offering alternative to TFW Policy on study designs.  
4 CMER also looks at outside science in the context of our study designs.

5  
6 **OVERSIGHT OF THE CMER WATER TYPING STUDIES TO TFW POLICY**

7 **MOTION:** Kelly McLain moved the Forest Practices Board assign oversight of the CMER water  
8 typing studies to the TFW Policy Committee to be administered and completed under  
9 the established process as outlined in Board Manual Section 22: Guidance for the  
10 Adaptive Management Program.

11  
12 **SECONDED:** Steve Barnowe-Meyer

13  
14 Discussion:

15 None.

16  
17 **ACTION:** Motion passed unanimously. (Chandler not available for vote.)

18  
19 **STAFF REPORTS**

20 There were no questions on the following reports.

- 21 • Adaptive Management Program Update
- 22 • Small Forest Landowner Office Update
- 23 • TFW Policy Committee Update
- 24 • Upland Wildlife Update

25  
26 **EXECUTIVE SESSION**

27 None.

28  
29 Meeting adjourned at 2:05 p.m.

30



1 November 10, 2022

2 **Members Present**

3 Alex Smith, Chair, Department of Natural Resources

4 Ben Serr, Designee for Director, Department of Commerce

5 Chris Conklin, Designee for Director, Department of Fish and Wildlife

6 Cody Desautel, General Public Member

7 Dave Herrera, General Public Member

8 Kelly McLain, Designee for Director, Department of Agriculture

9 Meghan Tuttle, General Public Member

10 Pene Speaks, General Public Member

11 Rich Doenges, Designee for Director, Department of Ecology

12 Steve Barnowe-Meyer, General Public Member/Small Forest Landowner

13 Vickie Raines, Elected County Commissioner

14 Wayne Thompson, Timber Product Union Member

15  
16 **Members Absent:**

17 Frank Chandler, General Public Member/Independent Logging Contractor

18  
19 **WELCOME AND INTRODUCTIONS**

20 Chair Alex Smith called the Forest Practices Board (Board) meeting to order at 9 a.m. Introductions  
21 of Board members and staff was made.

22  
23 **REPORT FROM THE CHAIR**

24 Chair Smith stated that at the August, 2022 Board meeting, the Board recognized a number of small  
25 forest landowner issues that should be discussed in a dedicated Board meeting. Today, the Board will  
26 hear from small forest landowners and from TFW Policy caucuses on small forest landowner policy  
27 disputes and issues.

28  
29 **TFW POLICY CONSENSUS RECOMMENDATIONS TO RESOLVE THE CRITERIA FOR**  
30 **SFL LOW IMPACT ALTERNATE PLANS DISPUTE**

31 Saboor Jawad, AMPA, said the dispute centered on a proposal initiation request, submitted by  
32 Washington Farm Forestry Association, that indicated a definition of relatively low impact alternative  
33 plans is required and be available only to small landowners. Three criteria were developed and  
34 requested to be included in Board Manual Section 21.

35  
36 Criteria to define the relatively low impact included:

- 37
- 38 • an activity with short-term impact which produces a better long-term outcome;
  - 39 • an activity beyond the point of diminishing returns for resource protection; and
  - 40 • smaller harvest units with stream reaches that are relatively smaller, and shorter in length than  
41 typical large land owner harvests.

42 Jawad said the mediation process concluded with the consensus recommendation on July 20, 2022.

43 The key points of the consensus recommendation from TFW Policy include:

- 44
- 45 • Amend Board Manual Section 21 Alternate Plans through a stakeholder group comprised of field  
46 staff and identification team (ITD) members.
  - 47 • Provide guidance on how to access the Small Forest Landowner office for online assistance.
  - 48 • Restore the Board approved imminent mortality guidance that was erroneously deleted.

1 **PUBLIC COMMENT ON THE TFW POLICY CONSENSUS RECOMMENDATIONS FOR**  
2 **THE CRITERIA FOR SFL LOW IMPACT ALTERNATE PLANS**

3 Ken Miller, Washington Farm Forestry Association (WFFA), said he did not have high hopes for this  
4 process but believes there is the potential of coming out better than what was done in the Small  
5 Forest Landowner Advisory Committee. He said the alternate plan process is intimidating to small  
6 landowners and the steps they envision taking will help.

7 Elaine Oneil, WFFA, said she is grateful for the consensus product and is hopeful it may help more  
8 small landowners to consider the option of an alternate plan.

9 John Hendrickson urged the Board to accept the recommendations that will give a path forward and  
10 make it easier for small landowners to be better stewards.

11  
12 **CRITERIA FOR SFL LOW IMPACT ALTERNATE PLANS RECOMMENDATIONS**

13 **MOTION:** Kelly Mclain move the Forest Practices Board approve TFW Policy Committee's  
14 consensus recommendation to address small forest landowner alternate plans, and for  
15 the Board to affirm the key points of agreement. She further moved that the Board  
16 request the Board chair to direct DNR staff to convene a stakeholder group to amend  
17 Board Manual Section 21 following the process outlined in WAC 222-12-090.

18  
19 **SECONDED:** Steve Barnowe-Meyer

20  
21 Board Discussion:

22 Board member Meghan Tuttle said she found the process complicated and a little intimidating when  
23 she participated on an IDT for an alternate plan for WFFA's smart buffer project last summer. She  
24 said it's exciting to hear that the small forest landowner office is getting staffed up, and that  
25 everybody is coming together to work on these issues and make it easier. She also applauded TFW  
26 Policy in using the processes that are in the board manual and the tools at their disposal to go through  
27 the dispute resolution process to solve issues and get them moving forward.

28  
29 **ACTION:** Motion passed unanimously.

30  
31 **SUMMARY OF MAJORITY AND MINORITY REPORTS: SMALL FOREST**  
32 **LANDOWNER BUFFER WIDTH DISPUTE**

33 Saboor Jawad, AMPA, provided a summary of the small forest land owner buffer width dispute  
34 which was presented to the Board at their August 2022 meeting. The Washington from Forestry  
35 Association submitted a proposal initiation request in 2015 asking for alternate plan templates for  
36 small forest landowners. The Board accepted TFW Policy's plan to address that proposal by directing  
37 TFW Policy to determine whether that proposal meets the criteria of an alternative plan template as a  
38 listed in the WAC. TFW Policy formed three work groups:

- 39 1. In 2013 the alternate plan template work group was formed and they delivered their  
40 recommendation to TFW Policy in 2019. The Board accepted TFW Policy's recommendation that  
41 the proposal did not meet the criteria for a template.
- 42 2. In 2020, the Board formed two additional work groups - alternate harvest prescription work group  
43 and small forest landowner prescription technical work group that were tasked to determine under  
44 what site-specific conditions using 75 foot and 50 foot buffers would be acceptable prescriptions.  
45 The technical work group could not meet consensus and dispute resolution was invoked. The  
46 majority and minority report recommendations is a result of the dispute resolution process.

1 **PUBLIC COMMENT ON MAJORITY AND MINORITY REPORTS: SMALL FOREST**  
2 **LANDOWNER BUFFER WIDTH DISPUTE**

3 Darin Cramer, WFFA, said the Legislature set up a lot of commitments for small landowners under  
4 Forests and Fish that were never fully realized. He said there is concern about resource risk and doing  
5 things different than the current rules, however there is an opportunity to set it up that will manage  
6 the risk. He said WFFA is not willing to go as far as some of the specifics in the proposal but there is  
7 an opportunity to explore the issue.

8  
9 Ken Miller, WFFA, shared part of a presentation he made to TFW Policy five years ago in support of  
10 their template. “We are joined at the hip with the industry on many issues. We rely on their expert  
11 counsel, the markets, the infrastructure they help create that benefit our survival. We live in the  
12 counties who benefit from our taxes, whose citizens benefit from our scenic viewscapes, recreational  
13 opportunities and jobs. . . .We strongly believe we are the preferred land use for the environment. The  
14 future of Washington’s natural resources requires we work together in win-win relationships. . .”

15  
16 Jason Spadaro, WFFA, requested the Board give serious consideration to the template proposal the  
17 small landowners need. Small forest landowners are our brothers and sisters, they are an integral part  
18 of this industry.

19  
20 John Gold requested the Board advance all the alternative buffer prescriptions as recommended by  
21 WFFA. Compromises and promises were made to gain support such as offset the disproportionate  
22 impact on small landowners and follow the science to adjust the rules. He said the Board has a chance  
23 to restore the Forests and Fish legacy to promote effective policy, to honor commitments, follow the  
24 science and to reduce impacts on small landowners without compromising the environmental  
25 benefits.

26  
27 Dave Switzer, Washington Hardwoods Commission, said since Forest and Fish was implemented the  
28 following 20 years has not been good for harvest particularly on DNR land. Therefore, the burden  
29 was put upon the small or the private landowners to harvest enough to support the mills. There are  
30 only a handful of mills now and not enough wood to keep them economically viable at capacity. He  
31 said it boils down to economics and the environmental. Wood sequesters carbon for the life of the  
32 lumber. He urged the Board to approve the science produced template.

33  
34 Elaine Oneil, WFFA, stated the Board received upwards of 250 letters from small forest landowners  
35 from across the state. Some letters made you laugh, some made you cry but all made WFFA proud to  
36 represent a group of people that is committed to doing the right thing, knowing that this may be the  
37 last of the family farm. She highlighted comments from some of the letters –“Why not allow vested  
38 timberland owners manage more of their riparian lands?” “Raising timber should be encouraged,  
39 awarded, and applauded and it must be sustainable from both an economic and resource perspective.”

40  
41 Cody Thomas, Upper Columbia United Tribes, said they do not believe the alternative plan template  
42 is the correct vehicle for the regulatory relief sought by the small forest landowners. He said template  
43 prescriptions are designed to address situations and prescriptions that are repeatedly proposed in  
44 alternative plans. He also said they do not believe any of the proposed templates would protect public  
45 resources at least equal in overall effectiveness to the protections offered by current rule as required.  
46 They do empathize with the frustrations the small forest landowners are experiencing and look  
47 forward to continue to work with them to find solutions.

1 Tom Westergreen, WFFA, said the letters the Board received shows a disconnect between what  
2 actually is happening on the family forest land compared to what the decisions are being made in  
3 Olympia. He said it's been painful to watch WFFA jump through the adaptive management process.  
4 He said the Board should be promoting a viable timber industry and protecting our forest resources  
5 by providing landowners with incentives.

#### 7 **SMALL FOREST LANDOWNER BUFFER WIDTH PANEL DISCUSSION**

8 Marc Engel, DNR, stated the majority caucus does not support the proposal because:

- 9 • The eligibility requirements are way too broad. They lack that site specific element that is  
10 required for an alternate plan template;
- 11 • The proposal is for Western Washington only;
- 12 • The prescriptions do not provide protection to public resources at least equal to those required in  
13 the rule; and
- 14 • The science used to support the prescriptions does not conclusively demonstrate that any of the  
15 prescriptions will provide protection for public resources.

16  
17 The majority caucus recommends the development of alternate plans, specifically designed to be  
18 included in Board Manual Section 21 to address site-specific conditions to facilitate small forest  
19 landowner land management of riparian management zones and recommends the Board direct TFW  
20 Policy to review and refine the experimental alternate harvest prescriptions for conifer restoration and  
21 conifer thinning.

22  
23 Ken Miller and Elaine Oneil, WFFA, said the goal of their presentation is to summarize the reasons  
24 the Board should approve the buffer width proposals as written.

25  
26 Oneil said they have been working hard to ensure a successful proposal that would address legislative  
27 requirement for harvest restrictions that are equal in overall effectiveness to the current rule. She  
28 reviewed the four prescriptions within their proposal on how the prescriptions did or did not provide  
29 equal and overall effectiveness for large woody debris and shade.

30  
31 She said it costs landowners about \$17 million a year for those that own designated forest land and  
32 costing the counties about \$800,000 a year, and lost revenue from small forest land on a harvest. If a  
33 75-foot buffer is approved, the cost burden is reduced to about \$8 million a year with virtually no  
34 impact on function. If a 50-foot buffer is approved, cost is reduced by 64% with a 6% loss of  
35 deadwood and 8% loss of shade. According to both our science and the adaptive management  
36 program science. She urged the Board to read all of the letters as they provide a testament to the  
37 strength of these people that want to do the right thing.

38  
39 Miller summarized the pros to approve their proposal initiation:

- 40 • The current buffers were the result of definitive science rather than a simple negotiated settlement  
41 of one tree length that resulted in an overly complex set of rules to match the negotiated  
42 settlement.
- 43 • Assumptions they made are current buffers are based on science. Despite multiple RCW and  
44 WAC references to low impact options, the proposal relies only on equal and overall  
45 effectiveness.
- 46 • Cumulative impacts on resources are low, if at all.
- 47 • Cumulative impacts on landowners is huge.
- 48 • Non-template forms are extremely complex or intimidating for small forest landowners.

1 He requested the Board to:

- 2 • Embrace the common sense notion of variable width buffers already allowed in some other rules.
- 3 • Return buffer width decision to TFW Policy for recommendations about management within the
- 4 buffers to address desired future conditions.
- 5 • Reconsider proposal to approve template prescriptions that will reduce the demand for the
- 6 underfunded Forestry Riparian Easement Program.

7

8 Court Stanley, Washington Association of Counties (Counties), said the Counties went their own way  
9 because they believe there is a middle ground that simplifies the rules and lessens the economic  
10 impact to small landowners. The counties support the 75-foot and 50-foot buffers but prefers a 30-  
11 foot buffer rather a 25-foot buffer. He said the science is solid and believes some caucuses are  
12 hesitant of any amount of risk. He suggested the Board send the discussion back to a subset of TFW  
13 Policy using a subset of the county's proposal as a basis to continue working.

14

15 Board member Barnowe-Meyer asked Brandon Austin and Alec Brown for additional rational for  
16 supporting the majority recommendations or objecting to the minority.

17

18 Austin responded that the primary issue was with the scientific justification through the reviews. The  
19 science used was not complete and did not fully support the buffer widths that were proposed. He  
20 said the shade model is also not effective for the forest environment because it assumes the riparian  
21 areas grow without the input of uplands. Brown said he agreed with Austin on the incomplete science  
22 and the level of regulatory relief that was promised did not materialize.

23

24 Chair Smith asked Austin what about the science that gave him pause. Austin responded both the  
25 template review and ISPR review did not have agreement and there were comments that there was  
26 not a completed literature review on the subject.

27

28 Board member Conklin said he noticed the tree data in Oneil's presentation was not addressed and  
29 asked for clarification. Oneil said she did not do the modeling but understands control variables and  
30 provided specific examples on Ecology's shade model.

31

32 Board member Pene Speaks asked for clarification on hardwood conversion in the RMZ. Engel  
33 explained the rules allow for the conversion of hardwood or deciduous trees back into conifer trees  
34 within the RMZ provides an opportunity for a landowner to bring their riparian forests back into  
35 conifer production.

36

37 Board member Speaks said that there are obvious concerns about the proposed buffer widths and  
38 suggested a review of solutions to find better support for small forest landowners.

39

40 Chair Smith said the Legislature increased funds for FREP as they recognize that we want to keep  
41 small forest landowners on the landscape.

42

43 Board member Tuttle asked if a forest practices application (FPA) is required if a template is  
44 approved. Engel responded that the template is an alternate harvest plan and a FPA is still required.

45

46 Miller said the idea of an alternate plan is that it does not follow the rules but needs to provide equal  
47 and overall effectiveness.

48

1 Board member Barnowe-Meyer asked what would improve the proposal in eligibility criteria and site  
2 specificity. Alec Brown confirms there were discussions about the definition of small forest  
3 landowner and not prescriptive enough for a template. He said he is not sure if his caucus would be  
4 ready to support the framework that the Counties proposed.

5  
6 Panel members discuss the nature and variability of alternate plans and the concern that one size does  
7 not fit all. Engel summarizes how sites are not created equal and there are many factors at play that  
8 give alternate plans a variety of complex situations that they are trying to address.

9  
10 Board member Barnowe-Meyer asked for more detail on variable versus fixed width templates.  
11 Miller explained the concerns for the majority caucus on the variable width being subjective. He said  
12 agreement was not achievable on where they looked for the specificity on the site and felt that the  
13 subjective ability to make that decision was a barrier.

14  
15 Miller concluded by saying in the small landowner world this is an intimidating process. The concept  
16 the Legislature had for a template is between the rule and full meal deal and they just want to use the  
17 process and let the profession make the decision.

### 18 19 **SMALL FOREST LANDOWNER BUFFER WIDTH RECOMMENDATIONS**

20 **MOTION:** Steve Barnowe-Meyer moved that the 25-foot template width buffer prescription for  
21 Type S and F waters less than 5 feet bankfull width for small forest landowners  
22 originally proposed by Washington Farm Forestry Association's (WFFA) Alternate  
23 Plan (AP) Template proposal initiation be rejected.

24  
25 **SECONDED:** Meghan Tuttle

26  
27 Board Discussion:

28 Board member Barnowe-Meyer clarified the intent of the motion is to have it on record that the  
29 Board does not need to consider this prescription due to lack of supporting science.

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

32  
33 **MOTION:** Steve Barnowe-Meyer moved the Forest Practices Board approve a 75-foot template  
34 variable width buffer prescription for Type S and F waters greater than 15 feet  
35 bankfull width for small forest landowners. He further moved to direct DNR to add  
36 this 75-foot template width buffer prescription to Board Manual Section 21 to be  
37 available to small forest landowners while further management options are reviewed  
38 by the TFW Policy Committee, with TFW Policy to deliver, by no later than one year  
39 after approval of this motion, their recommendations for "variable width" parameters  
40 and metrics, as well as additional management recommendations that focus on user-  
41 friendly, outcome-based low impact prescriptions intended to facilitate long-term  
42 Desired Future Condition / Outcome.

43  
44 **SECONDED:** Vickie Raines

45  
46 Board Discussion:

47 Board member Herrera asked what the intent is with "one year after approval". Board member  
48 Barnowe-Meyer said it is to confine the discussion and review for one year.

1 Board member Doenges questioned whether TFW Policy would be able to complete the task within  
2 the year. Engel responded that is discussion for the Board during the work plan topic and a matter of  
3 prioritization of the Board.

4  
5 Board member Barnowe-Meyer said the motion applies to Western Washington only.

6  
7 **ACTION:** Motion fails. 4 Support (Raines, Barnowe-Meyer, Tuttle, Thompson) / 8 Oppose  
8 (Smith, Serr, McLain, Desautel, Speaks, Herrera, Conklin, Doenges)

9  
10 **MOTION:** Steve Barnowe-Meyer moved the Forest Practices Board approve a 50-foot template  
11 variable width buffer prescription for Type F waters up to 15 feet bankfull width for  
12 small forest landowners. He further moved to direct DNR to add this 50-foot template  
13 width buffer prescription to Board Manual Section 21 to be available to small forest  
14 landowners while further management options are reviewed by the TFW Policy  
15 Committee, with TFW Policy to deliver, by no later than one year after approval of  
16 this motion, their recommendations for “variable width” parameters and metrics, as  
17 well as additional management recommendations that focus on user-friendly,  
18 outcome-based low impact prescriptions intended to facilitate long-term Desired  
19 Future Condition / Outcome.

20  
21 **SECONDED:** Meghan Tuttle

22  
23 **Board Discussion:**  
24 None.

25  
26 **ACTION:** Motion fails. 4 Support (Raines, Barnowe-Meyer, Tuttle, Thompson) / 8 Oppose  
27 (Smith, Serr, McLain, Desautel, Speaks, Herrera, Conklin, Doenges)

28  
29 **MOTION:** Steve Barnowe-Meyer moved the Forest Practices Board approve a 30-foot template  
30 fixed-width full-length buffer prescription for all Type Np waters for small forest  
31 landowners. He further moved to direct DNR to add this 30-foot template width buffer  
32 prescription to Board Manual Section 21 to be available to small forest landowners  
33 while further management options are reviewed by the TFW Policy Committee, with  
34 TFW Policy to deliver, by no later than one year after approval of this motion, their  
35 recommendations regarding a potential consideration of a 50-foot template managed  
36 Type Np prescription option and / or other potential changes that focus on user-  
37 friendly, outcome-based low impact prescriptions intended to facilitate long-term  
38 Desired Future Condition / Outcome. Any such user-friendly options should consider  
39 simplification opportunities such as eliminating (for small forest landowners only)  
40 “intermittent dry portions”, and the potential of using the same buffer width  
41 prescription for smaller Type F and Np waters.

42  
43 **SECONDED:** Wayne Thompson

44  
45 **Board Discussion:**  
46 Board member Barnowe-Meyer clarified that this motion is for a fixed width, no-cut buffer  
47 prescription.

1 **ACTION:** Motion fails. 4 Support (Raines, Barnowe-Meyer, Tuttle, Thompson) / 8 Oppose  
2 (Smith, Serr, McLain, Desautel, Speaks, Herrera, Conklin, Doenges)  
3

4 Chair Smith introduced a motion to recognize the value of the small forest landowners and all the  
5 work that has gone into trying to find a mutually acceptable way to reduce the regulatory burden on  
6 them as well as recognize TFW Policy for work on the development of the experimental harvest  
7 prescriptions.  
8

9 **MOTION:** Alex Smith moved the Forest Practices Board makes the final determination on the  
10 SFL Buffer Width Dispute. The Board recognizes the value of small forest landowners  
11 and keeping them on the landscape, as well as the disproportionate economic impact  
12 forest practice rules have on small forest landowners, Therefore the Board:

- 13 ■ Requests the Board chair to direct DNR to convene a stakeholder group to identify  
14 common situations that warrant the development of alternate plans or alternate  
15 harvest prescriptions that provide, at the same time, an opportunity to manage  
16 forests within the riparian management zone while meeting public resource  
17 protection standards; and

18 She further moved the Board direct the TFW Policy Committee to complete their  
19 development of experimental alternate harvest prescriptions for conifer restoration and  
20 conifer thinning which would be available only to small forest landowners in Western  
21 Washington.  
22

23 **SECONDED:** None.  
24

25 **ACTION:** Motion withdrawn  
26

27 Board member Barnowe-Meyer states because of the late presentation of the motion it is not enough  
28 time to review and consider. He suggests taking it up at the February 2023 Board meeting. Chair  
29 Smith accepted the suggestion and will share concepts with caucuses in advance of the February  
30 meeting in order to present a motion for the Board to consider at the February 2023 meeting.  
31

### 32 **GENERAL PUBLIC COMMENT**

33 Darin Cramer, WFPA, said his observation is that the processes and standards are inconsistently  
34 applied depending on the topic and depending on the caucus promoting the idea. He said there is no  
35 risk tolerance—any idea that even looks like risk on paper is stomped on. He said he is not sure  
36 whether the dispute resolution process is a benefit to the adaptive management process. It should be  
37 conceptually but his opinion is that TFW Policy does not resolve the issues because they don't talk  
38 about them; they would rather avoid them and compete to win. He believes the Board should  
39 exemplify the values and principals of Forests and Fish. The actions the Board took today sends a  
40 clear message to landowners.  
41

42 Elaine Oneil, WFFA, expressed her disappointment with the Board's unwillingness to consider  
43 options or look at any of the criteria sent to them. She said she doesn't know what her caucus will do  
44 as it is clear that small forest landowners are coming to the end of their patience. The alternative to  
45 forest land management is never their choice but now may be their decision since there is so little  
46 flexibility for them to manage their land in way that they think will support or improve habitat for the  
47 creatures that live on their property. She wants to find a kernel of useful information to use to move  
48 forward and believes the opportunity to come to a consensus is not being taken advantage of.  
49



1 Ken Miller, WFFA, recited a chant of shared Forests and Fish commitments. He said they don't know  
2 what the next steps will be; perhaps being disruptive would be effective. Miller continued to express  
3 his extreme disappointment of the Board's actions, stated he was not leaving his seat at the table and  
4 began to repeat the chant.

5  
6 Due to the interruption of the meeting and unwillingness of Miller to leave his seat,  
7 Chair Smith moved to adjourn the meeting and reconvene in another location per RCW 42.30.050.

8  
9 Motion passed. 8 Support (Speaks, Barnowe-Meyer, Doenges, Herrera, Conklin, Serr, Mclain, Smith)  
10 / 3 Oppose (Raines, Tuttle and Thompson) / Desautel not available for vote.

11  
12 The Board reconvened at 2:15 p.m. in room 411 of the Natural Resources Building without public  
13 attendees.

#### 14 15 16 **WATER TYPING SYSTEM RULE MAKING**

17 Marc Engel, DNR, presented rule elements the Board has approved or agreed to complete as well  
18 Board decisions to be made. The elements include: clarifying the goals and targets for the water  
19 typing system rule; confirming the goals and targets of an anadromous fish floor (AFF); and whether  
20 a map-based modeled water typing will be included in the permanent water typing system rule.

21  
22 Chair Smith said at the August 2022 meeting, the Board accepted two AFF alternatives for inclusion  
23 in the water typing system rule. The Board allowed an additional three months for the principals to  
24 reach consensus on one AFF alternative that could be presented to the Board and that did not happen.  
25 Based on the August motion staff will move forward with the two AFF alternatives approved for  
26 analysis in the draft water typing system rule.

27  
28 Board member Barnowe-Meyer reported on the principals group working on the AFF. He said they  
29 are moving towards consensus on one AFF alternative rather than two.

30  
31 Board member Dave Herrera agreed with Barnowe-Meyer and stated he was unclear when a decision  
32 could happen and wants staff to start working on the rule making now.

33  
34 Chair Smith said the Board needs to address the last few elements listed by Engel for the rule making  
35 to move forward.

36  
37 Board member Barnowe-Meyer said the map-based model is critical to small forest landowners. A  
38 commitment to create the model based maps when the CMER water typing studies are completed and  
39 the statewide high resolution Lidar coverage exists was made.

#### 40 41 **PUBLIC COMMENT ON THE WATER TYPING SYSTEM RULE MAKING**

42 None due to moving the meeting location.

#### 43 44 **WATER TYPING SYSTEM RULE MAKING**

45 Board member Tuttle said she takes the public process extremely seriously and is why she voted  
46 against relocating the meeting. She is uncomfortable making any decision since the Board is not  
47 having public comment.

1 Chair Smith said the Board can adjourn prior to taking any action and hold a special meeting to  
2 address this topic.

3  
4 **MOTION:** Steve Barnowe-Meyer moved to table water typing system rule discussion.

5  
6 **SECONDED:** Meghan Tuttle

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

9  
10 **2023 BOARD WORK PLAN**

11 Marc Engel, DNR, presented the draft work plan for calendar year 2023. He also reviewed the  
12 updates to the work plan as a result of the meeting today.

13  
14 Chair Smith requested staff to present an action plan for rule making and board manual at the  
15 February 2023 meeting.

16  
17 The Board agreed to start on Type Np rule and have progress reports on each rule making at each  
18 regular meeting. Staff will present a timeline for each rule making that will indicate tasks that can be  
19 done concurrently.

20  
21 No action was taken by the Board on the 2023 Board Work Plan.

22  
23 The next meeting is scheduled for November 28, 2022, 9 a.m. – 11 a.m.

24  
25 **EXECUTIVE SESSION**

26 None.

27  
28 Meeting adjourned at 3:35 p.m.



## Northern Spotted Owl Safe Harbor Agreement

A bill has been introduced in the Legislature to allow the state to negotiate and enter into a programmatic Safe Harbor Agreement with the U.S. Fish and Wildlife Service to enhance the conservation of northern spotted owl habitat. The agreement would give forest landowners the choice to voluntarily grow habitat on their lands in exchange for regulatory assurances that the landowner may harvest the habitat when the agreement ends.

The agreement would apply to all non-federal forestlands within northern spotted owl territory in the state. DNR would administer the associated Safe Harbor Agreement, with the Washington Department of Fish and Wildlife providing technical expertise in evaluating northern spotted owl habitat.

The proposed Safe Harbor Agreement is an element of the Forest Practices Board's continued efforts to provide landowners with voluntary conservation incentives and assurances regarding threatened and endangered species. This course was recommended by the Board's northern spotted owl implementation team, which the Board formed as part of a 2008 settlement agreement between conservation interests, the timber industry, and the state. The implementation team found that strategic additions of spotted owl habitat can make meaningful contributions to the conservation of the species.

Currently, there is a disincentive for forest landowners to retain older forests that could become suitable owl habitat if not harvested. By growing more habitat, the risk to landowners under the Endangered Species Act can grow as well. Landowners can remove this risk by enrolling into a Safe Harbor Agreement.

Participants who volunteer to enroll in the Safe Harbor Agreement would do so under rules that the Forest Practices Board would adopt. Landowners who opt in to the Safe Harbor Agreement could manage their lands for longer rotations, increasing the amount of suitable habitat during the agreed-to term with the landowner. If the landowner chooses to opt out of the agreement, they can return to managing their lands under the state and federal laws and rules in place at that time without fear of "take" of the threatened northern spotted owl under the Endangered Species Act.

The Safe Harbor Agreement will be designed to provide landowners with an incentive to manage for older forests, providing conservation benefits for the northern spotted owl.



*Entering into an agreement with the U.S. Fish and Wildlife Service would provide Washington's forest owners, large and small, the voluntary opportunity to provide meaningful conservation of northern spotted owl habitat while providing them with regulatory certainty.*

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**SENATE BILL 5390**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Shewmake, Warnick, Rolfes, Stanford, Nguyen, and C. Wilson

Read first time 01/16/23. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to establishing a programmatic safe harbor  
2 agreement on forestlands; and adding a new section to chapter 76.09  
3 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 76.09  
6 RCW to read as follows:

7 (1) The legislature finds that the federal government has  
8 established programs under the endangered species act, 16 U.S.C. Sec.  
9 1539(a)(1)(A), that seek to provide regulatory incentives for private  
10 and other nonfederal property owners to recruit, enhance, or maintain  
11 habitats for species that are or may become listed as threatened or  
12 endangered. These activities are designed to enhance the propagation  
13 or survival of the affected species and provide assurance to  
14 participating landowners that their future land management activities  
15 would not be subject to the endangered species act's restrictions as  
16 long as they adhere to the terms of the programmatic safe harbor  
17 agreement. The legislature aims to encourage these programs in the  
18 forested environment, as they accomplish multiple desirable goals for  
19 multiple parties.

20 (2) The legislature recognizes the value of voluntary, incentive-  
21 based programs to nonfederal forestland owners to support the

1 northern spotted owl, and finds that this section will facilitate  
2 participation in these programs if they can be made more accessible  
3 and streamlined. The federal agencies administering the endangered  
4 species act have developed programs under 16 U.S.C. Sec.  
5 1539(a)(1)(A) whereby administrative authorities over species  
6 enhancement activities are transferred to state agencies under a  
7 programmatic permit, under which the department would enroll  
8 participants, issue certificates of inclusion, and facilitate program  
9 implementation and compliance. Therefore, the legislature intends for  
10 these incentive-based programs to be available to nonfederal  
11 landowners consistent with the board's process.

12 (3) The department may enter into and administer a programmatic  
13 safe harbor agreement for the northern spotted owl for any forestland  
14 owner. Participation in this agreement by forestland owners is  
15 strictly voluntary and at the sole discretion of the landowner. The  
16 department shall consult with and rely upon technical assistance from  
17 the department of fish and wildlife regarding habitat assessments of  
18 candidate parcels and implementation of the programmatic safe harbor  
19 agreement. The department and the department of fish and wildlife  
20 shall enter into and maintain an interagency agreement to ensure  
21 implementation of the state's obligations under the safe harbor  
22 agreement and to ensure the department of fish and wildlife's  
23 technical expertise is available to support the safe harbor  
24 agreement.

25 (4) In administering the programmatic safe harbor agreement for  
26 the northern spotted owl described in subsection (3) of this section,  
27 the department has all authority necessary to successfully administer  
28 the federal permit, monitor compliance with the terms of certificates  
29 of inclusion, suspend or terminate landowner participation from the  
30 program, and provide all other landowner technical assistance as is  
31 needed to facilitate program implementation. For the purposes of  
32 administering the safe harbor agreement, the department must be able  
33 to access candidate parcels to ensure program eligibility or  
34 compliance.

35 (5) The board may adopt or amend its rules, if necessary, to  
36 implement the programmatic safe harbor agreement for the northern  
37 spotted owl described in this section.

38 (6) Decisions of the department to issue certificates of  
39 inclusion or to suspend or terminate a landowner's participation in

1 the program may be reviewed in the same manner as forest practices  
2 applications under RCW 76.09.205.

3 (7) The provisions of this section are subject to the  
4 availability of amounts appropriated for this specific purpose.

--- **END** ---



DEPARTMENT OF  
NATURAL  
RESOURCES

OFFICE OF THE  
COMMISSIONER OF  
PUBLIC LANDS  
1111 WASHINGTON  
STREET SE  
OLYMPIA WA 98504

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WWW.DNR.WA.GOV

## MEMORANDUM

January 26, 2023

**TO:** Forest Practices Board

**FROM:** Lori Clark, Acting Adaptive Management Program Administrator (AMPA)  
[lori.clark@dnr.wa.gov](mailto:lori.clark@dnr.wa.gov) | 360-819-3712

**SUBJECT:** Eastside Type N Riparian Effectiveness Project (ENREP) and Riparian Characteristics and Shade (RCS) Pilot Rule Request (CR-101)

Two ongoing CMER studies require your approval of pilot rules to implement treatments specific to these studies. Both pilot rule applications are submitted with this memo for your consideration of approval. These are:

1. A pilot rule request for the **Eastside Type N Riparian Effectiveness Project (ENREP)** is necessary to authorize a single cooperating forest landowner company to conduct a harvest within the inner zone riparian area of a single fish-bearing stream (Type F) in excess of what is permitted currently in the forest practices rules (WAC 222-30-022(1)). This deviation from the rules is needed to allow the stream to be included in a scientific study. This pilot rule would apply only to one landowner for only one approximately 250-foot upper section of the lower 500-foot section of stream above the confluence with Fish Creek, identified as necessary by the researchers with the AMP. The upper approximately 250-foot of the lowest 500' of the study stream, currently typed as Type F, would be treated as Type Np under this pilot rule for the purposes of this scientific study, to ensure consistent harvest intensity throughout the study basin and across study sites.
2. A pilot rule request for **Riparian Characteristics and Shade Response (RCS)** is necessary to authorize the implementation of experimental harvest treatments on approximately 5 sites in **western Washington** in excess of what is currently permitted in the forest practice rules (WAC 222-30-021, -040(2), and -050) as part of the RCS experimental research study. The purpose of this study is to evaluate how stream shade responds to a range of riparian harvest treatments of varying intensity within multiple environments common to commercial forestlands covered under the Forest Practices Habitat Conservation Plan (FPHCP 2005).

Please let me know if you have any questions or need more information.

### Attachments:

- 1- Eastside Type N Riparian Effectiveness Project (ENREP) Pilot Rule Application
- 2- Riparian Characteristics and Shade (RCS) Pilot Rule Application

# PREPROPOSAL STATEMENT OF INQUIRY



**CR-101 (October 2017)**  
**(Implements RCW 34.05.310)**  
Do **NOT** use for expedited rule making

**Agency:** Forest Practices Board

**Subject of possible rule making:** Experimental Research Treatments

**Statutes authorizing the agency to adopt rules on this subject:** The Forest Practices Board's authority to adopt forest practices rules is granted under RCW 76.09.040, .050, and .370. The pilot project process is authorized by RCW 34.05.313.

**Reasons why rules on this subject may be needed and what they might accomplish:** This rule is necessary to authorize a single cooperating forest landowner to conduct a harvest within the inner zone of the riparian area buffer of the upper reach of a single fish-bearing stream (Type F) in excess of what is permitted currently in the forest practices rules (WAC 222-30-022(1)). This deviation from the rules is needed to allow the stream to be included in a scientific study. This study is being conducted by the state's formal Forest Practices Board's Adaptive Management Program (AMP) with regulatory oversight by the state Department of Natural Resources. The purpose of this study is to determine the extent to which the prescriptions found in the eastside Type N Riparian Prescriptions Rule Group are effectively achieving performance targets, particularly as they apply to sediment and stream temperature and their effects on aquatic life. This pilot rule would apply only to the one landowner for only one ~250' section of Type F stream, identified as necessary by the researchers with the AMP. The upper ~250' of the lowest study stream reach within the harvest basin, that is currently typed F, would be treated as Type Np under this pilot rule for the purposes of this scientific study, to ensure consistent harvest intensity throughout the study basin and across study sites.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** The state Forest Practices Board is the oversight agency with the authority to approve this pilot activity. The pilot rule is being requested as part of the formal state Forest Practices Board's Adaptive Management Program, which includes representatives from state agencies, including the Departments of Fish and Wildlife, Ecology, and Natural Resources; federal agencies, including National Marine Fisheries Service, US Fish and Wildlife Service, and the Environmental Protection Agency; forest landowners; the environmental community; county governments; and tribal governments.

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

Name: Patricia Anderson,  
Forest Practices Board Rules Coordinator  
Address: Department of Natural Resources  
Forest Practices Division  
1111 Washington Street E, 4<sup>th</sup> floor  
PO Box 47012  
Olympia, WA 98504-7012  
Phone: 360-902-1413  
Fax: 360-902-1428

(If necessary)

Name:  
Address:  
Phone:  
Fax:

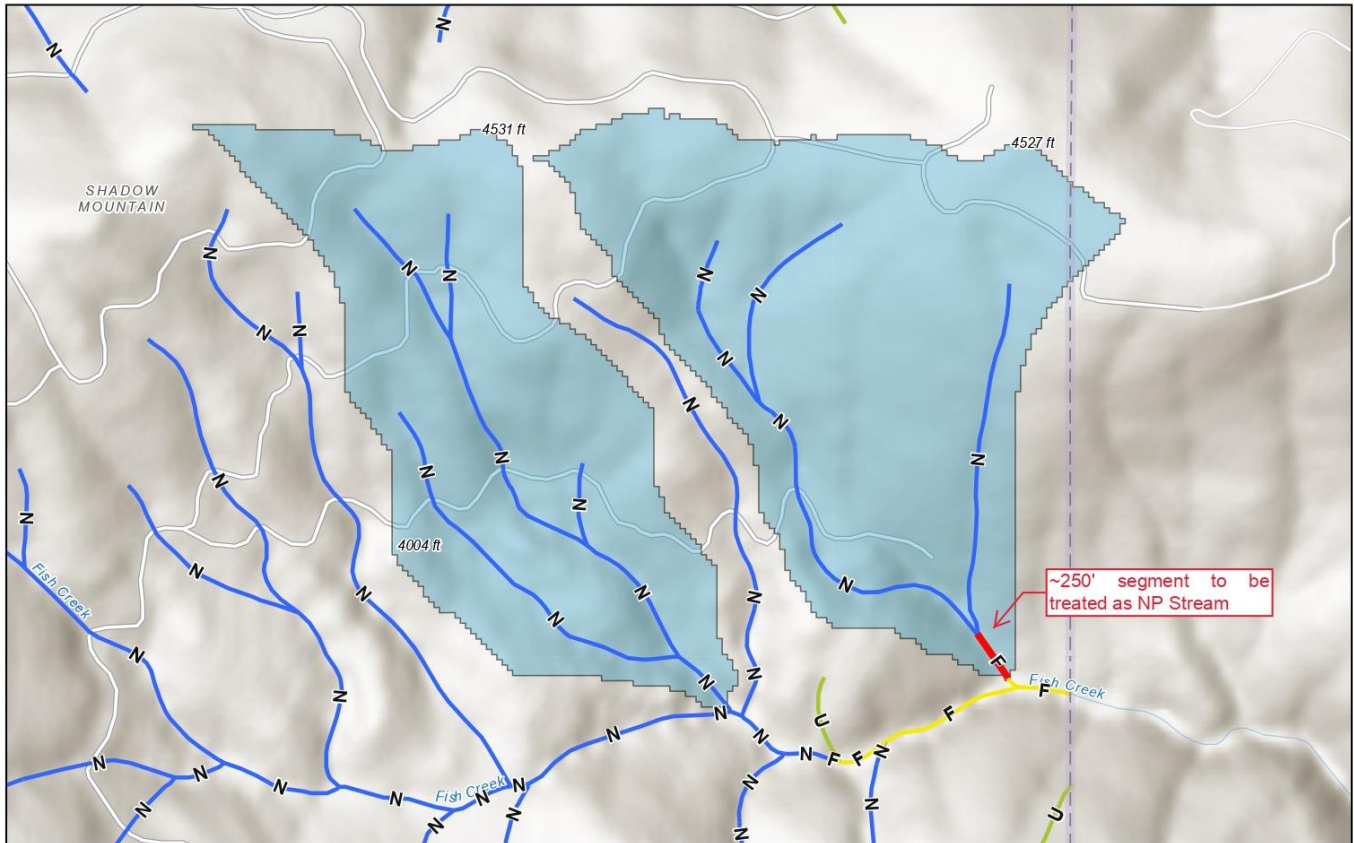


TTY:  
Email: forest.practicesboard@dnr.wa.gov  
Web site:  
Other:

TTY:  
Email:  
Web site:  
Other:

Additional comments: The Eastern Washington Type N Riparian Effectiveness Monitoring Project (ENREP) is an active field study being conducted by the state's Forest Practices Adaptive Management Program. As depicted in red in the figures below, this proposed pilot rule would apply to the upper ~250' of the lowest study stream reach within the harvest basin. This Type F stream segment will be buffered with a Type Np buffer which is a 50' two sided buffer for the 250' stream reach. This rule is needed to allow the implementation of this study to adhere to the research approach described in the study design, which has been approved by the Cooperative Monitoring, Evaluation, and Research (CMER) Committee. Pilot rules have been used in prior studies developed by CMER to allow cooperating landowners to selectively deviate from specific elements of the rules in order to test rule-alternatives or to ensure consistent harvest intensities across test sites.

### Fish Creek



1/9/2023

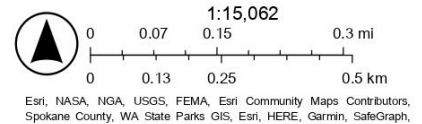
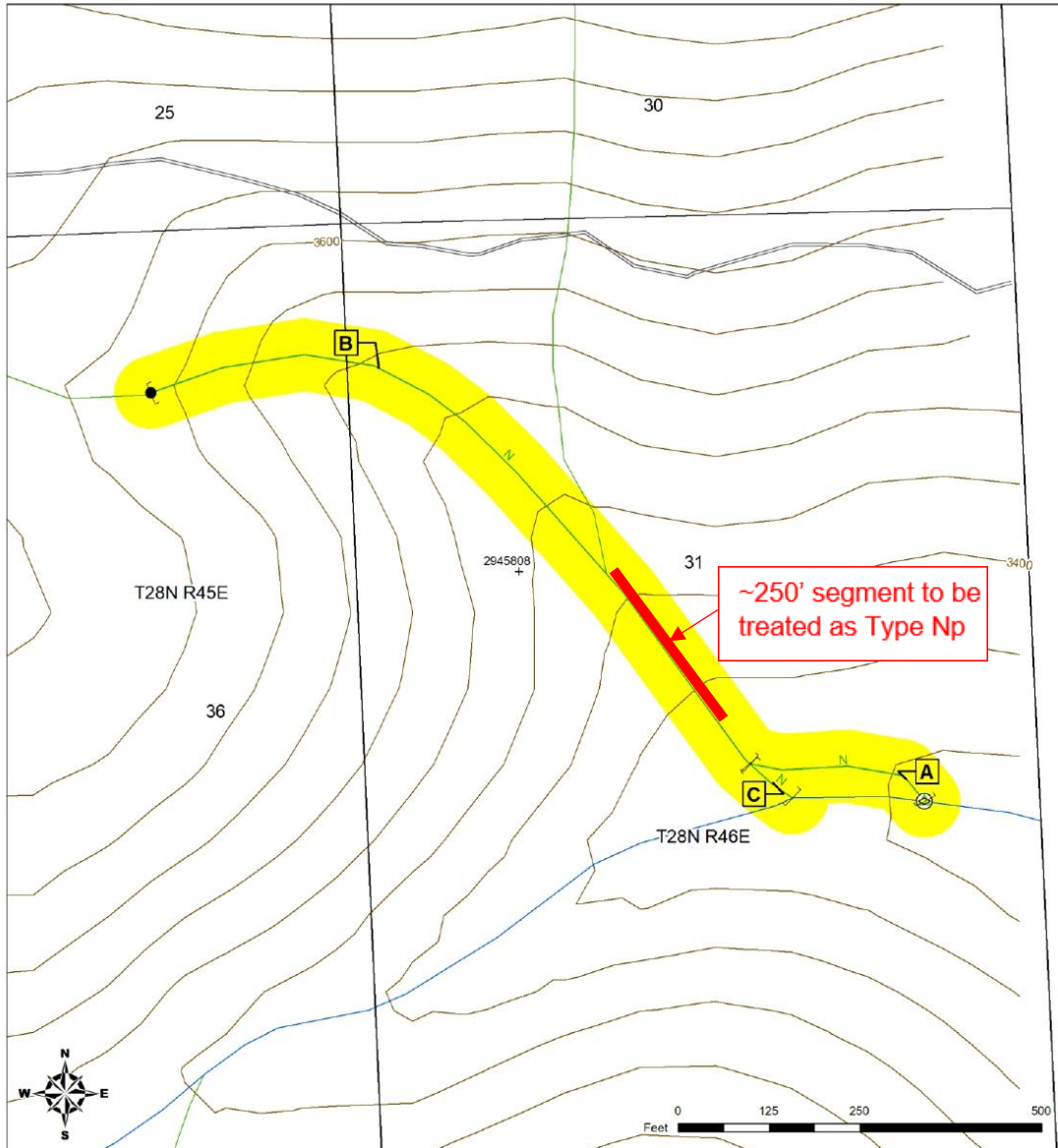


Figure 1. Map depicting the 250' segment of stream to be treated as Type Np.

## Zoomed Extent Map

West Fork Environmental Report ID: DNR\_100622\_01A\_28N46E31H



Elevation contours: 40 Feet  
 Map created: Oct 20 2022  
 Map datum: NAD 83 HARN  
 Coordinate system: WA State Plane, South Zone  
 DNR hydro layers: Updated February 2018  
 Map Scale: 1:2,400



Legend					
<b>Survey Points</b> ○ Start of survey ● End of survey ◆ Last detected fish ▲ Proposed type break ▼ Natural limitation ▲ Man-made barrier	<b>Streams</b> — F — N — S — U — X	<b>Water bodies</b> ■ F ■ N ■ S ■ U ■ X	<b>Modified segment</b> ■ (Yellow) ✖ Incorrect location ✖ Segment break	<b>DNR Transportation</b> — Road - - - Trail + + Railroad + + Railroad grade - - - Ferry crossing	<b>Elevation contours</b> — PLS sections □ Map reg. tics +

Figure 2. Zoomed extent map. The red line depicts the 250' segment of stream to be treated as Type Np. *Note: This map was developed as part of a stream survey, and the labels "A," "B," and "C" are not pertinent to this preproposal statement of inquiry.*

<b>Date:</b> <hr/> <b>Name:</b> <hr/> <b>Title:</b> <hr/>	<b>Signature:</b> <div style="text-align: center; height: 40px; vertical-align: middle;">                 Place signature here             </div>
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# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)**  
**(Implements RCW 34.05.310)**  
 Do **NOT** use for expedited rule making

**Agency:** Forest Practices Board

**Subject of possible rule making:** Experimental Research Treatments

**Statutes authorizing the agency to adopt rules on this subject:** The Forest Practices Board's authority to adopt forest practices rules is granted under RCW 76.09.040, .050, and .370. The pilot project process is authorized by RCW 34.05.313.

**Reasons why rules on this subject may be needed and what they might accomplish:** This rule is necessary to authorize the implementation of experimental harvest treatments on approximately 10 sites in western Washington in excess of what is currently permitted in the forest practice rules (WAC 222-30-021, -040( 2 ), and -050) as part of the Riparian Characteristics and Shade Response (RCS) Experimental Research Study. The purpose of this study is to evaluate how stream shade responds to a range of riparian harvest treatments of varying intensity within multiple environments common to commercial forestlands covered under the Forest Practices Habitat Conservation Plan (FPHCP 2005). The RCS study requires 20 sites in total (including east side and west side) to be implemented over six years; this Pilot Rule pertains to the 5 study sites in western Washington. These sites will be winnowed down with upcoming stakeholder and landowner feedback from the list of western Washington sites provided in Figure 1, with target implementation dates to occur in summer 2023 and summer 2024. Estimated total length of impacted stream is 1.5 km (0.93 miles) for the eventual 5 sites that would be selected for the application of this pilot rule.

Washington's Forest Practices regulations include riparian prescriptions that incorporate stream-adjacent no-harvest buffers of varying widths. The rules include no-harvest riparian buffers that can be applied alone or in some cases applied in combination with adjacent riparian buffers of varying width within which some amount of harvest (thinning) is allowed within the riparian management zone (RMZ). Field research is particularly limited when examining the combined effects of no-harvest zones and different thinning intensities on stream shade within RMZ's. This study will address a key question about how shade could be affected by using forest thinning as a riparian management tool (e.g. to promote old growth characteristics).

In order to answer this question, we are applying for permission to allow for additional timber harvest within forest practices RMZ's under three scenarios: clearcut to riparian buffer width of 25', heavy thin (Curtis's relative density of 20) to riparian buffer width of 25', and moderate thin (Curtis's relative density of 40) to riparian buffer width of 25'. Treatments will be applied in three, 325' by 100' segments (plots) which will be thoughtfully placed throughout the length of the stream. Thinning will be "from below", meaning that the largest trees in the plot will be painted as leave trees first, followed by the next largest trees, and so on, until the target relative density is reached. Curtis' Relative Density is an integrated measure of basal area and trees per acre, and varies with species composition, but can be easily converted back to more commonly used metrics such as trees per acre or basal area.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** The state Forest Practices Board is the oversight agency with the authority to approve this pilot activity. The pilot rule is being requested as part of the formal state Forest Practices Board's Adaptive Management Program, which includes representatives from state agencies, including the Departments of Fish and Wildlife, Ecology, and Natural Resources; federal agencies, including National Marine Fisheries Service, US Fish and Wildlife Service, and the Environmental Protection Agency; forest landowners; the environmental community; county governments; and tribal governments.

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

Name: Patricia Anderson, Forest Practices Board Rules Coordinator	(If necessary) Name:
Address: Department of Natural Resources Forest Practices Division 1111 Washington Street E, 4 <sup>th</sup> floor PO Box 47012 Olympia, WA 98504-7012	Address:
Phone: 360-902-1413	Phone:
Fax: 360-902-1428	Fax:
TTY:	TTY:
Email: forest.practicesboard@dnr.wa.gov	Email:
Web site:	Web site:
Other:	Other:

Additional comments: The RCS Study has a peer-reviewed Study Design and is supported by the Forest Practices Adaptive Management Program. An initial field trial has been conducted, and full study implementation is underway. The Timber Fish and Wildlife Policy Committee has approved the scoping document and has recommended funds for this study. This proposed pilot rule is needed to implement the study in western Washington which will evaluate stream shade response to a range of riparian harvest treatments. Pilot rules have been used in prior studies developed by CMER to allow cooperating landowners to selectively deviate from specific elements of the forest practices rules in order to test rule-alternatives or to ensure consistent harvest intensities across test sites.

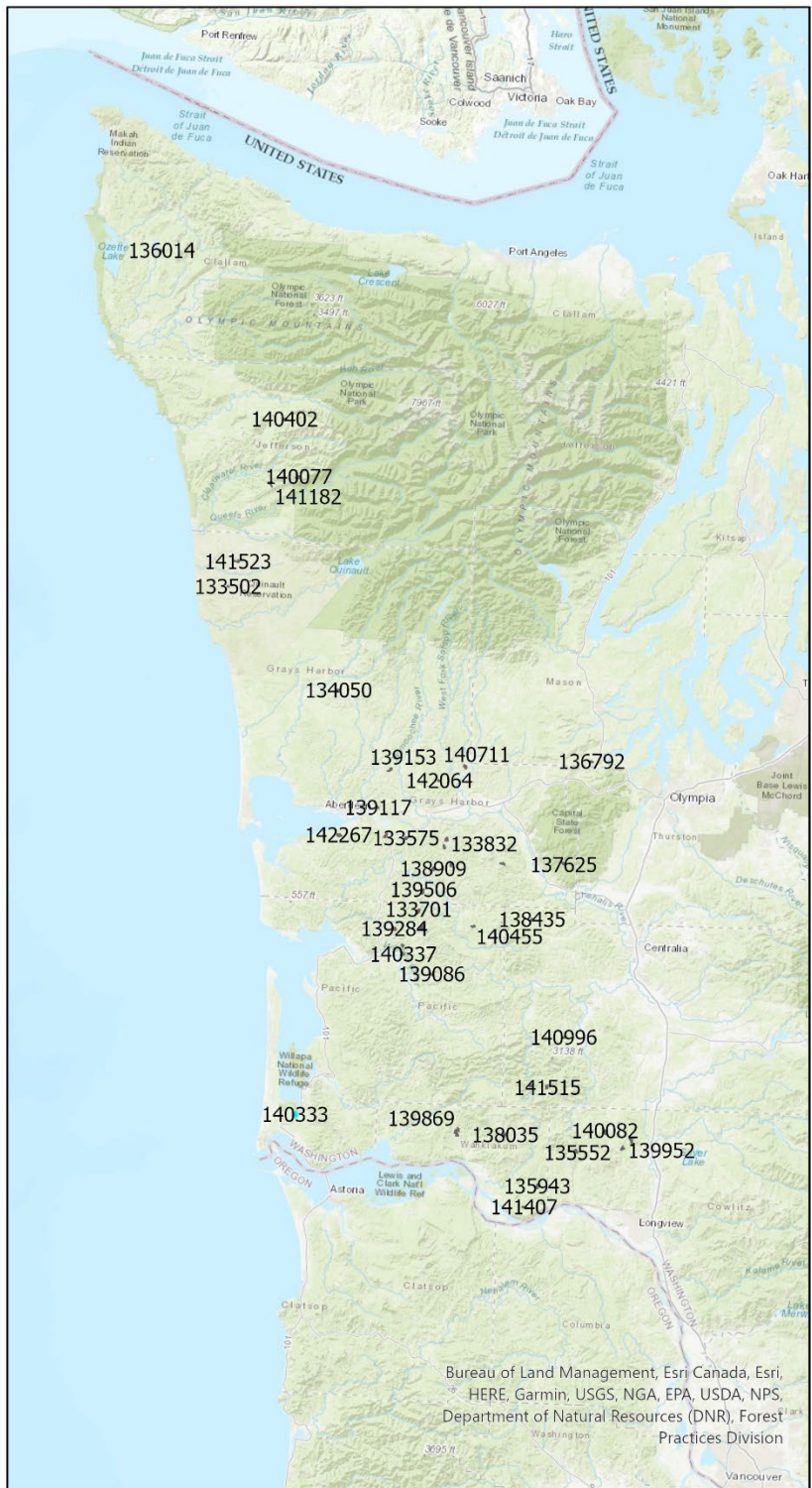
The full Study Design proposes implementation at 20 study sites across the state (10 in eastern Washington, 10 in western Washington) in riparian forests growing on Site Classes II and III ground, adjacent to Type Np and F streams with bankfull widths from 5' to 25'. Because forest practices applications (FPA) expire in 3 years, this pilot rule seeks permission for the implementation of the study for the 10 western Washington sites beginning with 5 sites located in the Northwest Coast Ecoregion. The following criteria were applied so far to constrain the FPA screening process in the Northwest Coast Ecoregion:

1. Riparian stands between 40-70 years old (harvest age)
2. Site class II or III
3. Type Np or F stream with a harvest unit directly adjacent
4. Steams have a bankfull width of 5' to 25'

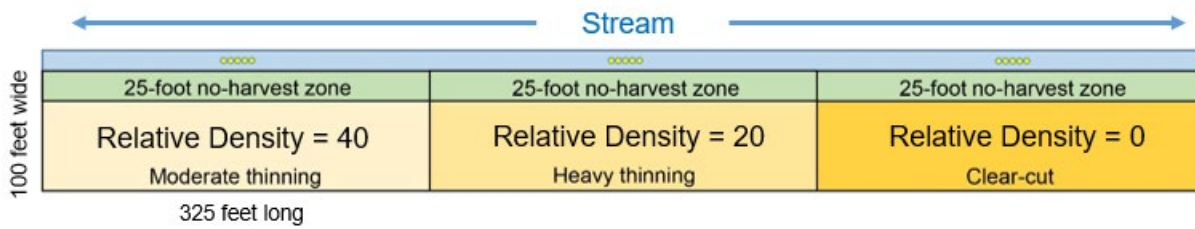
Additionally, we excluded sites with DFC harvest plans because we anticipate challenges in implementing the study on top of existing thinning plans. We also excluded sites that had HCP's due to their unique harvest prescriptions. Under this pilot rule, the 5 sites in western Washington will be winnowed down from the list of 40 potential sites (FPA's displayed on the map below), for implementation in 2023 or 2024 (**Fig 1**). Having pilot rule approval on a constrained set of sites will give us the leeway we need to move forward with planning the RCS study, which is time and resource intensive.

For western Washington, each study site will contain three plots with different harvest treatments. Each plot will measure 325' long by 100' wide (**Fig 2**). The most intensive treatment will include an RMZ clearcut harvest to a riparian buffer width of 25'. The mid-level treatment will include heavy thin (Curtis's relative density of 20) to 25'. The least intensive treatment will include moderate thin (Curtis's relative density of 40) to 25'. Relative density increases with basal area and tree size, and therefore provides a more integrated density metric to ensure similar treatment effects across a range of forest types and tree species across Washington. Within this pilot rule, we are proposing thinning in areas that do not meet minimum basal area requirements in the Western Washington rules (WAC 222-30-021) that allow for thinning in the RMZ.

Outside of the three 325' by 100' plots, all applicable Forest Practice rules will be applied at all treatment sites. For instance, in western WA, the outer zone rules (leave tree requirements) would still be applied at Site Class III sites. When applying thinning treatments, all best practices will be adhered to as described in WAC 222-30-021 and -050.



**Fig 1** Map depicting 40 potential sites for implementation during the 2023 or 2024 field seasons. FPA’s were screened using site selection criteria in the approved study design, along with ArcGIS for potential site suitability based on stream orientation and local topography. We are in the process of contacting landowners to confirm harvest schedules and their interest in working on the project, and we will also consult with tribes to ascertain resource impacts once the sites are narrowed down to a short list.



**Fig 2** Experimental design for each of the 20 sites for the RCS study. A study site consists of three plots revised to have a 25 foot no harvest core zone, measured from the stream edge (outer edge of bankfull width), which deviates from WAC 222-30-021 (Western WA; 50 ft. core zone). Riparian forest thinning from 100 ft to 25 ft will be performed to a relative density of 0 (clear cut), 20, and 40, for each of the plots, irrespective of basal area requirements detailed in the WAC. This pilot rule application only applies to RMZ rule exceptions to the core zone, inner zone, and outer zone where it overlaps the three plots. Outside of the plots, existing rules in WAC 222-30-021 would still apply, for instance the RMZ widths to be applied for Site Class II (RMZ width of 170ft) and III streams (RMZ width 140ft).

<b>Date:</b>	<b>Signature:</b> Place signature here
<b>Name:</b>	
<b>Title:</b>	



DEPARTMENT OF  
NATURAL RESOURCES

Forest Regulation Division  
1111 Washington St SE  
Olympia, WA 98504

January 23, 2022

**TO:** Forest Practices Board

A handwritten signature in blue ink, appearing to be "ME", is placed over a light blue rectangular background.

**FROM:** Marc Engel, Senior Policy Planner, Forest Regulation Division

**SUBJECT:** Northern Spotted Owl Conservation Advisory Group Update

The Forest Practices Board is required to annually determine whether the Northern Spotted Owl Conservation Advisory Group continues to be needed for spotted owl conservation (WAC 222-16-010). This group is convened when the Washington Department of Fish and Wildlife approves a northern spotted owl protocol survey demonstrating the absence of owl detections within the habitat supporting an owl site center. When convened, the group evaluates if the owl habitat needs to be maintained in support of northern spotted owl recovery.

There were no northern spotted owl surveys submitted to WDFW for review and approval during the past year; as such, the group was not convened. I will be requesting you confirm the Board's support of the Northern Spotted Owl Conservation Advisory Group at the upcoming February meeting.

Should you have any questions please feel free to contact me at [marc.engel@dnr.wa.gov](mailto:marc.engel@dnr.wa.gov).

ME




**DEPARTMENT OF  
NATURAL RESOURCES**

**Forest Practices Division**  
1111 Washington St SE  
Olympia, WA 98504

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[WWW.DNR.WA.GOV](http://WWW.DNR.WA.GOV)

January 19, 2022

**TO:** Forest Practices Board   
**FROM:** Marc Engel, Senior Policy Planner, Forest Regulation  
**SUBJECT:** Rule Making and Board Manual Action Plan

The Board, during their regular and special meetings in November, approved the initiation of two significant rule makings and the creation or amendment of four sections of the Board Manual. A summary of these actions for rule making and board manual guidance:

- Approval for staff to initiate the Type Np Water buffer rulemaking using the majority report buffer recommendations;
- Approval the TFW Policy net gains options and direction to TFW Policy to bring forward an amended Board Manual Section 22: *Guidance for Adaptive Management Program* for the Board's review and approval;
- Approval of the TFW Policy Committee's consensus key points of agreement for amendment of alternate plan guidance for small forest landowners, and for DNR staff to convene a stakeholder group to amend Board Manual Section 21: *Guidance for Alternate Plans*;
- Acknowledgment that all elements for the water typing system rule have been approved by the Board and approval for staff to initiate the completion of the water typing system rulemaking; and
- Approval to sequence the completion of the water typing system rule before the Type Np Water rule.

At the November 10<sup>th</sup> and 28<sup>th</sup> meetings the Board agreed that progress reports on the rule makings would be provided at each regular meeting. In addition, Chair Smith requested staff to present an action plan for rule making and board manual at the February 2023 regular meeting.

DNR staff have prepared a DNR Rule Making and Board Manual Development Action Plan for presentation to the Board at the February 8, 2023 meeting, attached. The plan outlines the elements needed for the completion of each rule or board manual guidance, stakeholder involvement, and an estimated timeline for completion of each element.

DNR will provide an update to the Board on the status of the Water Typing System and Type Np Water Buffer rulemakings and Board Manual Section development at each quarterly regular meeting, beginning at the February 8<sup>th</sup> meeting.

I look forward to providing the first rulemaking and board manual guidance progress report. Please feel free to contact me at [marc.engel@dnr.wa.gov](mailto:marc.engel@dnr.wa.gov) if you have any questions.



## Rule Making and Board Manual Action Plan January 19, 2023

DNR presents a rule making and board manual action plan to accomplish the Board approved actions. The action plan lists the Board approved rule makings, and their associated board manual guidance, beginning with the development of the water typing system rule first followed by the development of the Type Np buffer rule. The development of additional guidance for the adaptive management program in BM Section 22, and additional guidance for alternate plans for small forest landowners in BM Section 21 are listed after the rule makings.

The action plan reflects the coordination of DNR staff and stakeholders, and essential contracted work to sequence the rulemakings and to facilitate the concurrent completion of all Board approved actions. DNR will provide a rulemaking and board manual guidance update at every quarterly meeting of the Board.

A summary of the Board actions:

- Initiation of the Type Np Water buffer rulemaking using the majority report buffer recommendations;
- Directing TFW Policy to amend Board Manual Section 22: *Guidance for Adaptive Management Program* to add net gains options;
- DNR staff to convene a stakeholder group to amend Board Manual Section 21: *Guidance for Alternate Plans* to address TFW Policy Committee's consensus key points of agreement for amendment of alternate plan guidance for small forest landowners;
- Initiation of the completion of the water typing system rulemaking incorporating approved additional Board elements; and
- Approval to sequence the completion of the water typing system rule before the Type Np Water rule.

Board Action	Lead	Elements	Description	Timeline	Status
Water Typing System Rule	DNR/ Stakeholder Group	Draft Rule	Incorporate Board elements and complete draft rule	3 months after stakeholder group convened	DNR staff initiated draft rule preparation in January 2023  Stakeholder group identified and meetings to be scheduled
	DNR/ Contractor	Spatial Analysis	Contract: SOW, award contract	3 months	DNR initiated SOW preparation in January 2023, contract has not been advertised.
			Complete analysis for Water Typing System rule, prepare analysis report	3 months	Contract will be for analysis of water typing and Type Np Water buffer rulemaking.
	DNR/ Economic Workgroup/ Contractor	CBA/SBEIS	Reconvene Economic Workgroup to finish fish element of quantitative analysis; establish elements for evaluation in qualitative analysis	3 months	Reconvene workgroup in April 2023
Contract: SOW, award contract			2 months		
DNR	SEPA	Redo quantitative analysis and perform qualitative analysis with spatial data; and prepare preliminary CBA/SBEIS	4 months	Draft rule and spatial analysis need to be completed before initiating CBA	
		Contract: SOW, award contract	3 months	Draft rule and spatial analysis need to be completed before initiating SEPA	
		Complete SEPA checklist	3 months		

			Responsible Official – Review SEPA and issue threshold determination		
	DNR/ Stakeholder Group	BM Section 23	Address added rule elements and complete draft BM Section 23 Part 1	4 months	Draft rule needs to be completed before convening stakeholder group
	DNR	CR-102	Staff prepare rule making packet to present to Board (draft rule, preliminary CBA/SBEIS)		
	Board		Include a copy of the SEPA determination and draft BM guidance		
	Board		Board approval of draft rule and analysis to consider in rulemaking	November 2023	
	Board		Conduct rule making hearings Receive comments on proposed rule, CBA/SBEIS, SEPA	2 months	
	DNR		Prepare Concise Explanatory Statement	3 months	
Board	CR-103	Board adopt permanent rule (includes Draft CES, all comments received)	May 2024		
Type Np Water Buffer Rule	DNR/ Stakeholder Group	Draft Rule	Prepare draft Type Np buffer rule	5 months after stakeholder group convened	DNR staff initiated draft rule preparation in January 2023  Stakeholder group identified
	DNR/ Contractor	Spatial Analysis	Complete Type Np Water buffer analysis, prepare analysis report	3 months	Type Np Water analysis will be conducted after Water Typing System analysis is completed
	DNR/ Economic Workgroup/	CBA/SBEIS	Convene Economic Workgroup to scope quantitative and qualitative analysis	4 months	Convened after work completed for Water Typing System rule

	Contractor		Contract: SOW, award	3 months	New contract
			Perform quantitative and qualitative analysis with spatial data; and prepare preliminary CBA/SBEIS	4 months	Draft rule and spatial analysis need to be completed before initiating CBA
	DNR	SEPA	SOW, award contract	3 months	Draft rule and spatial analysis need to be completed before initiating SEPA
			Complete SEPA checklist	3 months	
			Responsible Official – Review SEPA and issue threshold determination		
	DNR/ Stakeholder Group	BM Section 7, 23	Amend BM Section 7 and prepare draft BM Section 23 Part 2	6 months	Draft rule needs to be completed before convening stakeholder group
	DNR	CR-102	Staff prepare rule making packet to present to Board (draft rule, preliminary CBA/SBEIS)		
			Include a copy of the SEPA determination and draft BM guidance		
Board	Board approval of draft rule and analysis to consider in rulemaking		February 2024		
Board	Conduct rule making hearings Receive comments on proposed rule, CBA, SEPA		2 months		
DNR		Prepare Concise Explanatory Statement	3 months		
Board	CR-103	Board adopt permanent rule (includes final CBA, Draft CES and all comments received)	August 2024		

AMP Guidance	Policy/DNR	BM Section 22	<p>Policy recommendations for BM Section 22 development action plan</p> <p>BM Section 22 presented to Board for approval</p>	<p>May 2023</p> <p>TBD</p>	Policy scheduling meetings to prepare action plan
SFL Guidance	<p>DNR/ Stakeholder Group</p> <p>DNR</p>	BM Section 21	<p>Amending existing guidance to consolidate small forest landowner guidance, develop new guidance on low impact harvests.</p> <p>Present amended BM guidance for Board approval</p>	<p>4 months</p> <p>TBD</p>	<p>DNR preparing draft guidance for stakeholder review</p> <p>Stakeholder group identified</p>

To: Washington State Forest Practices Board  
From: Bill Poss, Langley WA and Allison Warner, Camano Island WA  
Date: January 26, 2023

Please consider the following citizen inquiry/request to the Forest Practices Board:

We are concerned the about the clarity of language in, and definitions related to, and affecting enforcement of:

*WAC 222-30-110 Timber harvesting on islands. On an island: (1) A landowner shall not harvest by clearcut so that more than forty contiguous acres of that landowner's forest land are in a clearcut condition;*

Is the language clear and adequate to prevent multiple forest practice applications submitted by shell entities for separate permits and circumventing the intent of WAC 222-30-110? This is not merely a rhetorical question, but has been experienced here in Island County. This concern is brought to the fore by recent purchase in Island County of over 120 acres of contiguous forestland by an ownership entity of 4 Limited Liability Corporations all with the same foreign address.

Are the definitions of "*Forest landowner*" in WAC 222-16-010 and the related definitions of "*Forestland owner*" and "*Person*" in RCW 76.09.020 used by the WA Department of Natural Resources (DNR) when reviewing forest practice applications?

Note these definitions do not directly reference Limited Liability Corporations (LLC) which are often employed for forest land property ownership.

When forest practice applications are submitted does the DNR perform an entity affiliate analysis to identify if adjacent forest lands are under the "*actual control*" of the same beneficial owner(s)? If not, we request DNR consider establishing such a procedure to remain in compliance with the intent of WAC 222-30-110.

We request that the Definitions should be amended and/or directly referenced in WAC 222-30-110 to bring clarity and prevent multiple applications under shell entities applying for separate permits and circumventing the intent of WAC 222-30-110.

Whereas the definition of *Forestland Owner* seems to speak to this issue by clarifying it is the exact "*person in actual control of forestland*". "*Person*" is separately being defined to include "*any association of individuals of any nature*",

and “any private corporation” might allow circumventing of the 40-AC rule by merely creating separate LLCs.

References:

- WAC 222-16-010 \*General definitions. Unless otherwise required by context, as used in these rules:  
*"Forest landowner" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner. However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest landowner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.*

RCW 76.09.020 has the same definition of “Forestland owner” and also includes a definition of the referenced word “person”-see below.

- RCW 76.09.020 Definitions :  
  
*(16) "Forestland owner" means any **person** in actual control of forestland, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner. However, any lessee or other person in possession of forestland without legal or equitable title to such land shall be excluded from the definition of "forestland owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forestland.*  
  
*(24) "Person" means any individual, partnership, private, public, or municipal corporation, county, the department or other state or local governmental entity, or association of individuals of whatever nature.*

Because of the limited extent of Forest Resource lands in Island County, this issue is of growing concern as more development pressures occur within Island County.

Lastly, if the intent of the WAC 222-30-110 is to limit harvest to less than 40 AC of contiguous forestland, even addressing these definitions to prevent single entities from creating shell entities to circumvent its intent, legitimately separate

landowners could still harvest greater than this amount of acreage. Please consider mechanisms for better protecting forestland resources in Island County. Please confirm receipt of the comments and provide a response from the Board or the DNR.

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Sincerely,

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**FOREST PRACTICES BOARD  
2023 DRAFT WORK PLAN**

**2023 Meeting Dates: February 8 / May 10 / August 9 / November 8**

TASK	STATUS	COMPLETION DATE (CY 2023 unless noted)
<b>Adaptive Management Program</b>		
• CMER Master Project Schedule*		May
• AMPA is facilitating TFW Policy and CMER Committees development of recommendations for implementing trigger for dispute resolution (SAO recommendation #4)	On-going	May
• TFW Policy Recommendations to address SAO recommendation #6 to provide options on ways that decision criteria could be made part of the AMP process	On-going	May
• Westside Type F Riparian Prescription Monitoring Pilot Project		February
• Small Forest Landowner Experimental Alternate Harvest Prescriptions*		TBD
• Water Typing Studies – PHB Validation, Default Physical Criteria	On-going	TBD
• Proposal Initiation for AFF Validation Study		May
• Riparian Characteristics and Shade Response Study Pilot Rule for Western Washington		February
• Eastern Washington Type N Riparian Effectiveness Monitoring Project Pilot Rule		February
<b>Annual Reports</b>		
• WAC 222-08-160 Continuing review of FP rules (Annual Evaluations), <i>by tradition the Board has received an annual evaluation of the implementation of cultural resources protections</i>		TBD
• Northern Spotted Owl Conservation Advisory Group		February
• TFW Policy Committee Priorities*		August
• Western Gray Squirrel		August
<b>Board Manual Development</b>		
• Section 15 Marbled Murrelet Nesting Platforms		2024
• Section 21 Guidelines for Small Forest Landowner Alternate Plans		TBD
• Section 22 Adaptive Management Program <ul style="list-style-type: none"> <li>○ TFW Policy is developing Action Plan for development of guidance for SAO Recommendations #4, 5, 6 – trigger for dispute resolution/ net gains guidance / decision criteria</li> </ul>		TBD May
• Section 23 (Part 1) Field Protocol to Locate Mapped Divisions Between Stream Types*	On-going	
<b>CMER Membership</b>		As needed

*Italics = proposed changes*  
 \*= TFW Policy Committee

**FOREST PRACTICES BOARD  
2023 DRAFT WORK PLAN**

<b>TASK</b>	<b>STATUS</b>	<b>COMPLETION DATE (CY 2023 unless noted)</b>
<b>Critical Habitat</b> - State/federal species listings and critical habitat designations		As needed
<b>Field Tour</b>	TBD	
<b>Rule Making</b>		
• Water Typing System (CR102)	On-going	<b>November</b>
• Marbled Murrelet (CR101)		May
• Np Buffer (CR102)		February 2024
<b>NSO Recommendations</b>	Ongoing	
<b>Quarterly Reports</b>		
• Adaptive Management Program*		Each regular meeting
• Board Manual Development		As needed
• Clean Water Act Assurances		May
• Compliance Monitoring		As needed
• Legislative Activity		February & May
• NSO Implementation Team		As needed
• Rule Making Activities		As needed
• Small Forest Landowner Advisory Committee & Office		Each regular meeting
• TFW Cultural Resources Roundtable		To be determined
• TFW Policy Committee Work Plan Accomplishments & Priorities*		Each regular meeting
• Upland Wildlife Working Group		Each regular meeting
• <b>Work Planning for 2024</b>		November

# Washington State Department of Natural Resources

## Adaptive Management Program



### Quarterly Updates to the Forest Practices Board

#### Summary

The Cooperative Monitoring, Evaluation, and Research Committee (CMER) held regular monthly meetings this quarter. The committee approved or advanced to TFW Policy the following Adaptive Management Program (AMP) project deliverables:

- Approved the Forested Wetlands Effectiveness Project (FWEP) Project Management Plan,
- Approved the Westside Type F Riparian Prescription Effectiveness- Exploratory Field Study and initiated Independent Scientific Peer Review (ISPR),
- Approved the 2023-2023 CMER Work Plan, and
- Approved 2023 Project Summary Sheets.

CMER has one outstanding dispute over the Study Design for the Empirical Evaluation of Shallow Landslide Susceptibility and Frequency by Landform (Project 3) and the Empirical Evaluation of Shallow Landslide Runout (Project 4) due to concerns about Project 3 and 4 being advanced to ISPR before Project 2, Object-Based Landform Mapping with High-Resolution Topography Study report, was finalized. The first informal meeting was held on November 1, 2022 with the disputing parties, AMP staff and CMER Co-Chairs. An agreement was made on a path ahead and the Study Design is expected to go back to CMER for approval in spring 2023.

TFW Policy Committee attended an Interest Based Negotiation training on October 13-14, 2022, and a follow up session on December 21, 2022. They discussed their interests, resolving differences of opinion, collaboration versus competition, how each caucus interests are being served, and the challenges they face in the AMP. Committee members will have another workshop to continue these conversations in May 2023.

**February 2023**

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## ADAPTIVE MANAGEMENT TEAM



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## PROJECT UPDATES

### ROADS

The **Roads Prescription Scale Effectiveness Monitoring Project** examines high-traffic, near-stream forest logging roads as sources of sediment and seeks to better understand and evaluate mitigating best management practices. The Project Team has completed three years of main experiment data collection, with three additional years of data collection planned. The project team has also recently completed the final year of data collection for the Ditch Line Hydraulics parametrization experiment which is a controlled experiment in which the hydraulic radius is measured to assess the component of the shear stress causing sediment to be transported in the ditch. To implement this experiment, the project team executed a week of intense field operations including coordinating and operating heavy machinery; methodically executing salt tracing and flow rate recording processes; and collecting numerous soil, water, and vegetation samples for lab analysis. The project team has now begun the annual site and road maintenance process, working closely with regional DNR crews to reset, rebuild, and maintain our 78 project sites in Western Washington. Update this quarter: In this last quarter the Project Team developed a Project Summary Sheet for FY23 and updated the Roads Rules section of the Work Plan, both of which have been approved by CMER and have been submitted to TFW Policy for approval. The Project Team will be continuing to implement the main experiment and parametrization experiments including starting a new sub-project in the coming quarter, the Cost Vs. Maintenance Survey which aims to query road managers and engineers on the BMPs they utilize and related details.

### FORESTED WETLANDS EFFECTIVENESS PROJECT (FWEP)

The **Forested Wetlands Effectiveness Project (FWEP)** projects will look at the effectiveness of forest practices prescriptions to protect, maintain, and restore aquatic resources, namely water quality and wetland hydrologic and ecological functions. It will be evaluated to determine if they achieve the FPHCP goal of no-net-loss of functions of those wetlands by half of a timber rotation cycle while meeting water quality standards (FPHCP). FWEP has an approved Study Design.

Update this quarter: Tanner Williamson, CMER Wetland Scientist, along with the Project Team completed the instrumentation of 4 pilot sites and have collected some preliminary data. Preliminary data is being used to verify instrumentation methods and plan for additional site implementation. Site Selection and landowner permissions continuing through January for the additional twenty sites, with on-ground site evaluations continuing through February. Instrumentation is planned for completion in May 2023.

## WESTSIDE TYPE F

The **Westside Type F Riparian Prescription Effectiveness- Exploratory Field Study** evaluates the effectiveness of Westside riparian prescriptions for F and S streams in achieving resource objectives and performance targets. This exploratory study is intended to reduce uncertainties associated with the relative sensitivity of post-harvest riparian stand conditions and riparian functions to harvest prescriptions and to potential harvest-associated disturbances as well as to be used to focus and refine the development of a future Study Design for a more rigorous test of the effectiveness of the Type F rule buffers.

Update this quarter: In this last quarter, the Project Team developed a Project Summary Sheet for FY23 and updated the Westside Type F Riparian Effectiveness Program section of the Work Plan, both of which have been approved by CMER and were submitted to TFW Policy. The project team has worked diligently to incorporate recommended changes from CMER members in multiple rounds of review, culminating in the exploratory report gaining CMER approval and going to ISPR in November 2022. The project team anticipates reviewing ISPR responses in early 2023, and subsequently developing the final report package including six questions document and AMPA summary in early 2023.

## EASTSIDE TYPE N RIPARIAN EFFECTIVENESS PROJECT (ENREP)

The **Eastside Type N Riparian Effectiveness Project (ENREP)** will help inform if, and to what extent, the prescriptions found in the Type N Riparian Prescriptions Rule Group are effective in protecting water quality and some riparian functions, particularly as they apply to sediment and stream temperature in eastern Washington. The project is currently in full implementation. Springdale and Tripps basins were harvested in 2021. Two years of pre-harvest data, harvest year, and one year of post-harvest data have been collected at these basins. Blue Grouse basin harvest was completed in 2022. Three years of pre-harvest data and harvest year data have been collected here. Fish Creek and Coxit basins are scheduled for harvest in 2023. Two years of pre-harvest data have been collected in these basins. Data collection includes: biophysical variables, including streamflow, wetted channel extent, suspended sediment concentrations, stream shade, riparian forest mensuration, large wood, temperature, and stream cross sections, aquatic life (benthic macroinvertebrates), and habitat.

Update this quarter: In this last quarter, the project team wrapped up the 2022 field season, and has initiated QA/QC on 2022 data. The project team is preparing for the 2023 field season, and is expecting to present a pilot rule to the Forest Practices Board to request a small segment of Type F stream in one of the harvest basins be treated as Type Np for the purposes for the study.

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## EASTSIDE TIMBER HABITAT EVALUATION TYPES (ETHEP)

The **Eastside Timber Habitat Evaluation Types (ETHEP)** project is scoped to develop an ecologically meaningful and reliable framework for applying riparian harvest rules along fish-bearing (Type S and Type F) streams in eastern Washington. A post-doc was hired to assist in completion of the Study Design. The post-doc and other Project Team members provided an initial draft of the Study Design to SAGE.

Update this quarter: In this last quarter, SAGE initiated review of the Study Design. SAGE reviewers provided an initial round of comments, which the authors addressed in a revised Study Design. SAGE reviewers will provide a second round of comments for the authors to consider. The Study Design is expected to be sent to CMER to initiate re-

## WATER TYPING STRATEGY

The **Water Typing Strategy** projects are intended to determine possibility/advisability of combining the 'Potential Habitat Breaks (PHB),' 'Default Physical Criteria (DPC),' and/or 'LiDAR Model' studies. The **Potential Habitat Breaks (PHB)** Project Team developed a Study Design to assess PHBs, which was approved by CMER in September 2022, and has entered an interactive (open) ISPR process. The **Default Physical Criteria (DPC)** Project Team has initiated work on the DPC Study Design that will allow an assessment of the default physical criteria. That Study Design is expected to be delivered to CMER to initiate a concurrent CMER/ISAG review in spring 2023.

Update this quarter: A statistical consulting firm is assisting the Project Team in evaluating methods for the PHB and DPC Study Designs. Once these two projects are complete, the results would then be used in the development of a study to try and create an effective LiDAR-based water typing model. The PHB Project Team will meet with ISPR reviewers as part of the interactive ISPR process, and will respond to ISPR comments in January 2023. The DPC Project Team will continue work on developing the DPC Study Design.

## RIPARIAN CHARACTERISTICS AND SHADE (RCS)

The **Riparian Characteristics and Shade (RCS)** project is a field research project intended to evaluate the combined effect of stream-adjacent no-harvest zone width and adjacent-stand harvest intensity (i.e., thinning density) on stream shade. The Project Team completed a field trial in summer 2022 to provide a more detailed understanding of the cost and logistical elements of implementation.

Update this quarter: In this last quarter, the Project Team has been working on site selection and preparation for the 2023 field season. The Project Team is planning to present a pilot rule request to the Forest Practices Board to authorize the implementation of experimental harvest treatments on five sites in western Washington.

## EXTENSIVE MONITORING

The **Extensive Riparian Status and Trends Monitoring- Riparian Vegetation and Stream Temperature Project's** purpose is to inform and provide context regarding the distribution of environmental conditions across the riparian landscape regardless of management history as FFR rules are applied and to assess the effectiveness in achieving performance targets and resource objectives. This project is in an early stage of development in which the Riparian Scientific Advisory Group (RSAG) is considering how to scope and design the long-term study as well as how to tackle the development of specific critical questions and objectives. To support the development of this project, a joint workshop between CMER and TFW Policy was held in August 2022 in which goals, problems, and solutions were discussed.

Update this quarter: RSAG developed Project Summary Sheet for FY23 and updated the extensive monitoring passages of the Work Plan, both of which have been approved by CMER and were submitted to TFW Policy. Additionally, the Forest Practices Board (FPB), in their November 9<sup>th</sup>, 2022, meeting, designated extensive monitoring as an Adaptive Management Program (AMP) priority. TFW Policy and RSAG/CMER had a joint workshop to discuss the development of the “Extensive Monitoring Project” on January 18, 2023.

## WETLAND MANAGEMENT ZONE EFFECTIVENESS MONITORING PROJECT (WMZ)

The **Wetland Management Zone Effectiveness Monitoring Project (WMZ)** will evaluate wetland functions to determine if the target of no-net-loss of hydrologic function, CWA assurance targets, and hydrologic connectivity are being achieved. Following the April 2022 CMER approval of the project charter, the project team has begun to plan out the scoping process. The development of scoping documents such as the Best Available Science Document and Prospective Six Questions Document are slated to begin in the next quarter, with an initial draft to be completed in Spring 2023. Funding for the WMZ begins in FY26, with implementation funding slated to begin in FY28. The initial scoping will begin in FY23. Funding to assist in this work was moved out 3 years on the MPS, approved in August 2020 (funding begins FY26) due to the AMP budget limitations.

## Riparian Function Literature Synthesis

The **Riparian Function Literature Synthesis** will address questions regarding the effects of timber harvest on riparian functions.

Update this quarter: TFW Policy approved a list of focal questions that will be addressed in the literature synthesis. The Project Manager is developing a contract with University of Idaho to complete the literature synthesis.

## EASTSIDE FOREST HEALTH STRATEGY

The **Eastside Forest Health Strategy** workgroup developed a report that was reviewed by CMER in April 2022. The Eastside Forest Health Strategy workgroup recommended the development of a research and monitoring strategy investigating active RMZ management approaches that build on current RMZ prescriptions and are designed to balance disturbance resiliency and resource protection objectives outlined in the FP HCP (Schedule L-1 functional objectives and performance targets, Appendix N). The Eastside Forest Health Strategy document was discussed at the July Policy meeting and a motion was passed to reconvene the Eastside Forest Health Strategy workgroup to finalize the strategy guidance. In this upcoming quarter the workgroup will reconvene in mid-January and is expected to be approved at Policy early this year. Work will begin in Spring 2023 to develop the strategy.

## UNSTABLE SLOPES CRITERIA PROJECT

The **Unstable Slopes Criteria project** will evaluate the degree to which the landforms described in the unstable slopes rules identify potentially unstable areas with a high probability of impacting public resources and public safety. This quarter, the Project Team made progress on Project 2, Object-Based Landform Mapping with High-Resolution Topography Study report.

Update this quarter: The Object-Based Landform Mapping with High-Resolution Topography Study report has been under reviewed by the Criteria Project Team. Greg Stewart, former CMER Scientist, was the Principle Investigator for this project and his departure means the report will be delayed getting to CMER for review/approval. Dan Miller will support the Project Team in making edits/revisions to the report moving forward.

The Study Design for the Empirical Evaluation of Shallow Landslide Susceptibility and Frequency by Landform (Project 3) and the Empirical Evaluation of Shallow Landslide Runout (Project 4) was finalized and approved by UPSAG and the Project Team and then presented to CMER for approval on October 25, 2022. It was not approved, and Dispute Resolution was called due to concerns about Project 3 and 4 being advanced to ISPR before Project 1 was finalized. The first informal meeting was held on November 1, 2022. Agreement was made on a path ahead and the Study Design is expected to go back to CMER for approval in spring 2023.



## TYPE N EXPERIMENTAL BUFFER TREATMENT PROJECT IN HARD ROCK LITHOLOGIES AMPHIBIAN MONITORING PHASE III

The **Type N Experimental Buffer Treatment Project in Hard Rock Lithologies Amphibian Monitoring Phase III** project is in implementation, collecting additional data for stream-associated amphibians and other relevant covariate data (e.g., stream temperature data) to evaluate continued trends in amphibian densities. Amphibian demographics sampling began June 2022 and continued through early October. The team have QA/QCed the data and some preliminary summaries have been developed. The final sampling event for this project will begin in June.

## DEEP-SEATED LANDSLIDE RESEARCH STRATEGY

The **Deep-Seated Landslide Research Strategy** utilizes the results of the literature reviews for forest harvest effects on glacial and bedrock deep-seated landslides to address key knowledge gaps identified during the literature reviews and to address questions from the Forest Practices Board and Policy regarding the potential effects of forest practices on deep-seated landslides.

A consultant was hired to assist UPSAG in the development of the DSL Study Design based on the Policy-approved Scoping Document for the Landslide Mapping and Classification Project (4.5 and 4.6) under the Deep-Seated Landslide Research Strategy.

Update this quarter: BGC Engineering delivered a draft Study Design to the Project Team on December 15, 2022. The Project Team and UPSAG will work with BGC to finalize the report over the next few weeks. The draft Study Design is expected to be delivered to CMER in April 2023 for approval to submit to ISPR.



**DEPARTMENT OF  
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January 20, 2023

**TO:** Forest Practices Board

**FROM:** Tami Miketa, Manager, Small Forest Landowner Office

**SUBJECT:** Small Forest Landowner Office and Advisory Committee

**Small Forest Landowner Advisory Committee**

The Small Forest Landowner Advisory Committee met on January 17, 2023. Stephan Petrovic, DNR's Boards and Commissions Manager was introduced to the Committee. Discussion topics included SFLAC value and mission, potential future Charter and Work Plan, what can we do to keep communication and work going between meetings, future inclusion of cultural resources in committee topics, FP Board decisions and future work regarding Alternate Plan templates, Update of Board Manual 21, and Alternate Harvest Prescriptions.

**SFLO Program Updates**

DNR recently expanded staff in the Service Forestry Program, the Small Forest Landowner Regulation Assistance Program, the Urban and Community Forestry Program, and the Community Resilience Program. In October DNR facilitated an all staff training on the Integrated Small Forest Landowner Assistance Program. This new program has now been established in RCW 76.13.190.

The 2-day training that took place was for all staff in the Small Forest Landowner Office, the Service Forestry Program, the Urban and Community Forestry Program, the Forest Resilience Program, the Forest Regulation Program, and the Community Resilience Program. The intent of this training was to help increase education and outreach opportunities for small forest landowners. Our goal was to inform all staff about the programs, resources, and services available to the small forest landowner community. We sought to give almost 100 staff attending the training the tools and information on the services offered both within DNR and with other forestry-related collaborators in order to better serve small forest landowners.

For information outside of DNR we invited representatives from the WA Farm Forestry Association, the WA Tree Farm Program, the Natural Resources Conservation Service, WSU Extension Forestry, the Conservation Districts, the Cascades to Coast Landscape Collaborative, and the Dept. of Revenue to give presentations to staff on the information and services they provide to small forest landowners.

Want to talk to someone directly? You can now call 1-800-523-TREE (8733). Or you can email us at [OneStopShop@dnr.wa.gov](mailto:OneStopShop@dnr.wa.gov)

**Long-Term Applications (LTA)** In this Forest Practices Board report, the SFLO regularly shows the status of Long-Term Applications. There are currently 313 approved long-term applications, which is two more approved LTA's since the end of the last reporting period (10/23/2022).

<b>LTA Applications</b>	<b>LTA Phase 1</b>	<b>LTA Phase 2</b>	<b>TOTAL</b>
Under Review	4	1	<b>5</b>
Approved	1	313	<b>314</b>
<b>TOTAL</b>	<b>5</b>	<b>314</b>	<b>319</b>

## Upcoming Events

### Classes

[Winter 2023 Online Forest Stewardship Coached Planning Courses](#)

Wednesdays

January 25 – March 22

6:00 pm – 8:30 pm

(online with one in-person field trip)

[Forest Stewardship University](#)

Online, register for free, on-demand, self-paced learning modules

[WSU Forestry Extension Forest Stewardship University Modules](#)

On-demand, self-paced, online learning on forest stewardship topics.

### Podcast Series

[The Forest Overstory Podcast- WSU extension forestry](#)

For more information regarding these events, go to <http://forestry.wsu.edu/>

Please contact me at (360) 902-1415 or [tamara.miketa@dnr.wa.gov](mailto:tamara.miketa@dnr.wa.gov) if you have questions.

TM/



**Timber, Fish and Wildlife Policy Committee  
Forest Practices Board**

**PO BOX 47012, Olympia, WA 98504-4712**

**Policy Co-Chair:**

Court Stanley, Washington Association of  
Counties  
Brandon Austin, Department of Ecology

January 25, 2023

TO: Forest Practices Board  
FROM: Court Stanley and Brandon Austin  
SUBJECT: TFW Policy Committee Report

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The Timber, Fish, & Wildlife Policy Committee (Policy) workload is driven by internal process deadlines and priorities directed by the Forest Practices Board (Board). To accommodate the heavy workload, Policy relies on additional meetings, email communications between meetings and policy workgroups to address specific issues and meet deadlines to accomplish their work.

**TFW POLICY COMMITTEE BUSINESS UPDATE for November, 2022- January,2023**

Type Np Buffer Recommendation Development

Policy delivered to the FPB the Majority and Minority reports for the November 9<sup>th</sup> meeting. Policy is beginning Board directed work on this issue.

Extensive Monitoring

The AMP held another joint Policy/CMER workshop on January 19, 2023 to discuss specific CMER's questions related to Policy's request for the development of an extensive monitoring study design to be implemented under the Boards approval at the November 9<sup>th</sup> meeting. Policy is discussing the monitoring goals for riparian stand conditions on their February 2<sup>nd</sup> meeting and will prepare a memo for CMER.

SAO Recommendation #5

Policy had formed an SAO working group and is meeting monthly to develop implementation strategies for the Audit findings. The co-chairs are meeting with a consultant that is an expert in Structured Decision-making on February 6 to discuss next steps on introducing the Policy Committee to the this process.

Budget Workgroup

The Policy budget workgroup continues to meet to discuss projects and funding in future years and has developed a contingency budget should the legislature reduce adaptive management program funding for the Board approved Master Project Schedule. This contingency budget will become a regular part of the ongoing budget requests to the FPB.

Interest Based Negotiation Training.

Policy has attended a two-day seminar on Interest based negotiations and a recent 4-hour follow-up session. Policy is planning a one day offsite facilitated retreat on May 3<sup>rd</sup> to work on our shared values and continue to practice interest based negotiations. This retreat will have no policy decisions but is intended to create trust and a collaborative attitude with all caucuses.

## MAJOR TFW POLICY COMMITTEE TOPICS FOR CALENDAR YEAR 2023

- **Adaptive Management Program (AMP) budget and the Master Project Schedule (MPS):** Policy will review and prepare recommendations to present to the Board at the May 2023 meeting
- **CMER Work Plan:** CMER delivered to Policy for review in January 2023
- **SAO:** Policy is developing the implementation criteria for SAO recommendation #5 for inclusion in the rule or guidance in calendar year 2023.
- **Small Forest Landowner Experimental Harvest Prescriptions:** Policy has received the workgroup recommendations for two alternative harvest prescriptions. With the conclusion of the small forest landowner buffer dispute, it is expected Policy will complete the review to bring forward recommendations for experimental harvest prescriptions to the Board in 2023.
- **Water Temperature and Amphibians in Discontinuously Flowing Type Np Water Reaches:** Policy will receive from CMER for approval the study scoping document in March 2023.
- **Unstable Slope Criteria Project – Object Based Landform Mapping with High Resolution Topography Report:** CMER will deliver to Policy in April 2023.
- **Extensive Riparian Monitoring:** Policy will receive for approval from CMER a recommended extensive riparian monitoring scoping document for riparian vegetation and stream temperature in July 2023.
- **Riparian Literature Synthesis Report:** CMER will deliver to Policy in August 2023
- **Eastside Forest Health Strategy:** CMER will deliver to Policy in November 2023
- **Wetland Management Zone Effectiveness Monitoring Program Scoping Document:** CMER will deliver to Policy in December 2023

### New Projects:

The Policy Committee workload is heavy yet must also remain sensitive to the changes in various timelines and to new issues as they come up. The capacity for Policy to accept any new work as assigned by the Forest Practices Board or taken on for other reasons could require delaying existing priorities and/or scheduling additional meetings.



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January 25<sup>th</sup>, 2023

## MEMORANDUM

**To:** Forest Practices Board  
**From:** Darric Lowery, WDFW Forest Habitats Section Manager  
**Subject:** Upland Wildlife Update

The following provides a brief status update for ongoing or pending actions pertaining to priority wildlife species in forested habitats:

### Marbled Murrelet

1992: Federally listed as Threatened  
1993: State listed as Threatened  
1996: Federal critical habitat designated  
1997: FPB enacted State Forest Practices Rules  
2017: State uplisted to Endangered

The status of the Marbled Murrelet has not changed since the October 2022 update. The Forest Practices rules review initiated in 2018 is nearly complete. On January 3, 2023, the Marbled Murrelet Wildlife Working Group (WWG) met and worked through the remaining items and addressed feedback in the final drafts of the rule recommendations and the supporting briefing report. The WWG materials are in the process of being finalized and will be submitted to the Washington Department of Natural Resources (WDNR) and the Washington Department of Fish and Wildlife (WDFW) management for final review in mid-February. With the support of the WWG, WDFW will present the recommendations and the supporting material at the May 2023 Board meeting. A memo requesting consideration was presented at the Board's August 2022 meeting.

The species' status has not improved since state listing in 1993. State-wide, Washington's murrelet population has declined by 4.1% annually (2001-2020) overall. It has declined by 3.3% annually along the Washington coast (2001-2021) and 5.0% in the U.S. portion of the Salish Sea (2001-2020) (McIver et al. 2022). To put these numbers in perspective, in the Salish Sea during the breeding season in 2001 for example, there were an estimated 5,740 birds. In 2020, there were approximately 3,140 birds in this same area. There has been nearly a 50% decline in the regional population over those 20 years. Following the 2017 state uplisting to endangered status, the WDNR, in consultation with the WDFW, recommended that the Forest Practices Board (Board) support a forest practices rule assessment including relevant stakeholders. WDFW established a WWG to evaluate efficacy of the rules, identify potential rule modifications to improve clarity and implementation, and provide recommendations to the Board.

WDFW continues to monitor Marbled Murrelet populations at-sea in the Puget Sound and Straits (most recently monitored in 2022) and the Washington coast (monitored in 2021) every other year during the nesting season. These are the only data available to assess murrelet abundance and trends. The NW Forest Plan Effectiveness Monitoring team's 25-year report has been published ([https://www.fs.fed.us/pnw/pubs/pnw\\_gtr996.pdf](https://www.fs.fed.us/pnw/pubs/pnw_gtr996.pdf)) as well as a report on trends in habitat conditions (<https://www.fs.usda.gov/treeearch/pubs/63314>). The 2020 and 2021 at-sea survey reports are now available (Lance & Pearson, 2021; Pearson et al. 2021; McIver et al. 2022) and a paper on winter trends over an 8-year period was recently published that found strong non-breeding season declines in Puget

Sound ([Pearson et al. 2022](#)). Ongoing research in collaboration with Dr. Beth Gardner and PhD Student Sierra Gillman at the University of Washington is developing predictive density surfaces for the murrelet and examining the factors driving changes in abundance and distribution.

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### **Canada Lynx**

1993: State listed as Threatened  
1994: FPB enacted voluntary management approach  
2000: Federally listed as Threatened  
2017: State uplisted to Endangered

With the 2017 uplisting to state endangered status, it was recommended that no action be taken to include lynx in the forest practices rule designation for critical habitat (state) and to maintain existing voluntary protections. WDFW continues to explore lynx conservation opportunities in collaboration with landowners, Canadian federal and provincial entities, US Fish & Wildlife Service (USFWS), US Forest Service (USFS), conservation organizations, tribes, and academic partners. The goal is to refine recovery actions that can be implemented in the near- and long-term to benefit lynx conservation in Washington.

Evaluation of Forest Practices Applications (FPAs) on private lands continues in order to identify potential impacts to lynx habitat. Given wildfire impacts in northcentral Washington, WDFW has pursued ongoing coordination with partners to bring awareness of the importance of balancing habitat protection with the need to address fire risk, including on federal lands.

Under DNR's Lynx Habitat Management Plan (2006), DNR and Washington State University (WSU) have begun developing a proposal to investigate the effects of different pre-commercial thinning designs on snowshoe hare use of habitat, vulnerability to predation, and sources of mortality. The information gathered may then be used to better inform forest management treatments favorable for snowshoe hares while also providing increased foraging opportunities for lynx. Additionally, Colville Confederated Tribes is leading a lynx conservation project and they have released 19 lynx from 2021 to 2022 into the Washington Kettle Range.

To further lynx conservation, WDFW participates in ongoing multi-agency surveys for lynx in the North Cascades, WDFW maintains a current database of verifiable lynx detections, and WDFW is currently updating the periodic status review for the lynx (last done in 2017), and this updated version is expected to be available for public review in early 2023.

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### **Northern Spotted Owl**

1988: State listed as Endangered  
1990: Federally listed as Threatened  
1996: FPB enacted State Forest Practices Rules  
2012: USFWS designation of revised critical habitat  
2016: State retention of Endangered status

The Northern Spotted Owl (NSO) population has continued to decline primarily due to ongoing competitive interactions with Barred Owls. The Barred Owl removal experiment, which included study areas in Washington, Oregon, and California, indicated, among other findings, a positive response in survival rates by Spotted Owls following Barred Owl removal (Wiens et al. 2021).

In February 2021 a Bill was introduced to the legislature that, if passed, would give WDNR the authority to develop and manage a Programmatic Safe Harbor Agreement (SHA) for NSO with the US Fish and Wildlife Service. Before granting authority, the legislature determined that it wanted to see a draft of the SHA and gave WDNR funding to complete that effort. WDNR, WDFW, and the Northern Spotted Owl Implementation Team (NSOIT) worked with WDNR's consultant to develop the SHA. The team completed drafts of the SHA, Environmental Assessment (EA), and an explanation of an enrollment mechanism for landowners to voluntarily enroll in June 2022. The SHA is designed to provide federal

regulatory assurances to nonfederal landowners through a voluntary program regarding forest management of Spotted Owl habitat. On January 16, 2023, the Bill was reintroduced to the legislature for consideration. WDFW submitted a Bill Analysis on January 19, 2023, that supports the Bill.

The USFWS has continued to address Barred Owl management and subsequent conservation of Spotted Owls in Washington, Oregon, and California. WDFW is an active partner in a process to develop management concepts and scenarios that will guide decision making by USFWS about the scope of Barred Owl management options that will be evaluated in an Environmental Impact Statement.

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### **Fisher**

1998: State listed as Endangered

2016: Federal status: Final decision for west coast DPS - not warranted for listing (April 2016)

2018: Ruling on 2017 withdrawal of proposed ESA listing, USFWS ordered to revisit that decision

2019: Federal revised proposed rule to list fishers, excluded fisher in Washington

The status of fisher remains unchanged since the October 2022 quarterly report. Fisher reintroductions into Washington have been completed by WDFW and cooperating partners, with a total of 260 fishers, including 90 in Olympic National Park (2008-2010), and 170 in other federal lands within the Cascade Range. Non-federal landowners can continue to voluntarily enroll in the Candidate Conservation Agreement with Assurances (CCAA) and receive federal regulatory assurances if the fisher were to become listed under the ESA in the future. By enrolling in the CCAA, landowners agree to follow basic conservation measures that protect fishers that may use their lands. To date, 62 entities who own or manage 3,442,491 acres of non-federal forest lands are enrolled in the CCAA.

WDFW and project partners are continuing the long term monitoring of reintroduced fisher populations in the state, following the 2013- 2016 monitoring project on the Olympic Peninsula. WDFW and project partners, beginning October 2022, have initiated a distribution and occupancy survey of much of the federal lands in the South Cascades Ecosystem (between I-90 and the Columbia River). This survey will be completed in July of 2023 and then WDFW and partners will conduct a similar survey in the North Cascade Ecosystem (from I-90 north to the WA-BC border) from October 2023 to July 2024.

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### **Western Gray Squirrel**

1993: State listed as Threatened

2002: Petitioned for Federal listing

2003: Federal listing denied

2013: FPB enacted voluntary management approach

2016: State retention of Threatened status

A final report has been completed that summarizes results of the statewide western gray squirrel hair tube survey concluded in 2020. A report summarizing results of a statewide habitat change assessment was recently completed as well. Results of these reports will be incorporated into the periodic status review currently underway. We expect the periodic status review report will be released for public review in winter 2023 and reviewed by the Fish and Wildlife Commission in spring 2023.

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### **Future Updates to the Board**

The forest practices rules require that when a species is listed by the Washington Fish and Wildlife Commission and/or the U.S. Secretary of the Interior or Commerce, WDNR will consult with WDFW and makes a recommendation to the Forest Practices Board as to whether protection is needed under the Critical Habitat (State) rule (WAC 222-16-080). WDFW and WDNR coordinate to anticipate federal actions and to respond to changes in the status of species addressed by the rules.



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