

November 5, 2019

To: Forest Practices Board

From: Water Typing System Rule Committee

Bob Guenther, Paula Swedeon, Tom Nelson, Dave Herrera and Jeff Davis

RE: Recommendations on Outstanding Water Typing Rule Issues

The Board, at the June 4, 2019 special meeting, passed a motion establishing a Board committee to work on a number of outstanding issues associated with the development of the permanent water typing system rule package and provide recommendations to the Board at the November 2019 meeting.

The Committee recommends the following:

1. Clarifying the goals and targets for the water typing system rule. The target for the rule implementation needs to be consistent with fish habitat as it is defined in rule and the targets for implementation need to also align with the intent of the Forest Practices Habitat Conservation Plan, and be provided to TFW Policy and CMER.
2. Acknowledging that DNR will re-do the potential habitat break (PHB) spatial analysis to include the width, gradient and natural obstacles based PHB's as approved by the Board. DNR will also re-do the anadromous fish floor (AFF) analysis as approved by the Board.
3. Requesting DNR to engage with the TFW Policy caucus leads on the implementation of the PHB and AFF spatial analyses.
4. Delaying adoption of the permanent water typing system rule for eastern Washington and phasing the PHB validation study to start in eastern Washington. Form a cooperative workgroup, modeled on the AFF charter, and consider funding options for the workgroup. The committee discussed, without consensus, the need for potential administrative solutions to protect fish habitat, in the interim.
5. Requesting the Cooperative Monitoring, Evaluation and Research Committee (CMER) to develop revised study designs for the PHB validation, physical characteristics, and map based Lidar model studies. The studies are to be designed for cost savings, including the phasing of the studies with eastern Washington to be initiated first, and the possibility and advisability of combining the PHB validation, physical characteristics and map based Lidar model studies.

6. Acknowledging a map-based modeled water typing system is one of the goals of a permanent water typing system rule. DNR Forest Practices will coordinate with the Washington Geologic Survey to acquire Lidar on forest lands and recommend a funding request to the Legislature for the 21-23 biennium to complete the acquisition of Lidar for forest lands and complete the development of a map-based hydrology layer improved by Lidar coverage.
7. Supporting the establishment of the AFF workgroup and their charter, and consider Board support for funding options for the workgroup.
8. The Water Typing Rule Committee be retained to provide oversight and continue working on water typing rule making issues to provide recommendations to the Board through regularly scheduled reports.
9. Acknowledging that hiring the Center for Conservation Peacebuilding would be beneficial to improve relationships throughout the Adaptive Management Program and resolve issues which are best addressed by the TFW principals.

Attachments:

Committee Charter

Anadromous Fish Floor Workgroup Charter

CHARTER – FOREST PRACTICES BOARD WATER TYPING SYSTEM RULE COMMITTEE

July 2, 2019

I. Introduction

This charter is intended to guide the efforts of the Forest Practices Board Water Typing System Rule committee (committee). The committee, established at the June 4, 2019 special meeting of the Forest Practices Board will address outstanding concerns and gaps within the proposed water typing system rule and supporting documents which have been accepted by the Forest Practices Board in their June 4, 2019 motion.

The Board has been actively engaged in the development of a permanent water typing system rule since 2014. The rule will replace those adopted in 2001 and it will establish how to classify streams, lakes and ponds including how to locate the water type break between stream segments containing fish habitat (Type F) and segments lacking fish habitat (Type N). The objective of the new rule is to meet the 1999 Forests and Fish Report's (RCW 76.09.370(1)) four goals:

1. Provide compliance with the Endangered Species Act for aquatic and riparian-dependent species on nonfederal forest lands;
2. Restore and maintain riparian habitat on nonfederal forest lands to support a harvestable supply of fish;
3. Meet the requirements of the Clean Water Act for water quality on nonfederal forest lands; and
4. Keep the timber industry economically viable in the state of Washington.

The main goal of the new water typing system is to shift from a process based upon fish presence to a more robust and repeatable process relying on fish habitat as the guiding principle for delineating the break between Type F and N waters.

II. Membership

Bob Guenther (chair), Jeff Davis, Dave Herrera, Tom Nelson, and Paula Swedeon.

III. Purpose

This charter will guide the discussions between committee members to develop and make recommendations to the Board on those outstanding issues associated with the proposed water typing system as identified in the Board's June 4, 2019 motion. The committee will receive, when requested, materials and testimony from DNR staff and TFW Policy caucuses.

IV. Tasks and Responsibilities

Meetings will be scheduled for the committee to have a conversation amongst themselves to fulfill the committee requested work in the Board's June 4th motion. The public will provide information and make comments pertinent to the work of the committee at the request of the chair who will also determine if there will be a public comment period for any given meeting. The topics identified in the Board motion include:

- Understanding and working to resolve the spatial analysis for the width-based PHBs;
- Determining how the rule making should be applied in eastern Washington (considering eastside data);
- Determining if and when the potential habitat break validation study should be done and whether it should be combined with the study to determine physicals;
- Determining if rule language, Board resolution, or other non-rule options would suitably encourage moving toward a lidar modelled map-based water typing rule; and
- Address remaining rule language concerns discussed with DNR during rule language development.
- Gather and analyze data for inclusion in any recommendations on an anadromous fish floor.

V. Meeting Process

The committee will conduct four meetings prior to the August 2019 Board meeting to:

- Establish a working charter and ground rules (1st meeting);
- Understand the width based PHB and associated spatial analysis(2nd meeting);
- Address the goal of an anadromous fish floor (3rd meeting);
- Determine remaining rule elements for inclusion into the permanent rule; (4th meeting); and *(time permitting)*
- Discuss options for the PHB validation and stream physical studies.

Additional meetings will be scheduled after the August Board meeting as needed to further develop water type system rule recommendation(s) for the Board's November 2019 meeting.

The committee chair may invite TFW Policy caucus representatives to participate in presentations and discussions to assist in determining recommendations for the Board.

The committee chair will decide the format and procedure during comment periods. Meetings will be conducted according to the Open Public Meetings Act.

VI. Deliverables

The committee will provide:

- A status update on the process made to resolve the issues at the August 2019 Board meeting; and
- Recommendation(s) and supporting work products for proceeding with the water typing system rule at the November 2019 Board meeting.

CHARTER – ANADROMOUS FISH FLOOR WORKGROUP

October 7, 2019

Introduction

The Forest Practices Board (Board) is currently considering including an anadromous fish floor in its permanent water typing system. The anadromous fish floor is defined as measurable physical stream characteristics downstream from which anadromous fish habitat is presumed. This charter guides a multi-stakeholder Anadromous Fish Floor Workgroup (workgroup) that will gather and analyze data from a sample of western Washington watersheds to inform recommendations on criteria for an anadromous fish floor.

Background

In February 2018, the Board decided to consider an anadromous fish floor as part of the water typing rule (https://www.dnr.wa.gov/publications/bc_fb_mtgminutes_20180213_14.pdf?9ovij). Due to stakeholder concerns, in May 2019 the Board passed a motion for a Board Committee to “work with stakeholders to resolve any outstanding issues regarding the anadromous fish floor.” The Board Committee subsequently approved a charter reiterating the new water typing rule goal of shifting from a system based on fish presence to one that relies on fish habitat (WAC 222-16-010) as the guiding principle for delineating the break between Type F and N waters. The Board Committee’s charter further tasks the committee to “gather and analyze data for inclusion in any recommendations on an anadromous fish floor.”

Problem Statement

The Board Committee recognizes that additional data and analysis on physical stream metrics and the distribution patterns of anadromous and other fish species will inform the development of anadromous fish floor recommendation(s).

The Board Committee requests stakeholders gather and analyze data to help evaluate appropriate physical criteria that can define an anadromous fish floor. The workgroup will gather and analyze data on physical stream characteristics and anadromous fish habitat distributions, and to the extent possible make consensus recommendations on the anadromous fish floor.

Anadromous Fish Floor Development

Purpose

The purpose of the workgroup is to engage in a collaborative and productive multi-stakeholder process to assist the Board in making a decision on the anadromous fish floor. The workgroup will evaluate measurable physical stream characteristics downstream from which anadromous fish habitat is presumed. Workgroup tasks may include:

1. Assemble and analyze existing data from a sample of watersheds to evaluate suitability of metrics to inform the development of the anadromous fish floor. The analyses will include assessment of the performance of the metric(s).
2. Recommend potential future field studies, as needed, to address technical uncertainties.

Workgroup Roles and Responsibilities

Water Typing Board Committee:

- Provide guidance and oversight to the workgroup
- Facilitate discussions with the entire Board and facilitate delivery of a final anadromous fish floor recommendations or minority/majority report

Project Manager:

- Organize meetings, set meeting agendas, take notes, and maintain open and timely communication between all members of the workgroup and Board Committee.

Principal Investigators:

- Perform technical analyses and lead in drafting technical report with QA/QC to assure data quality.
- Develop methods for analyzing and describing the relationship between physical stream characteristics and anadromous fish habitat.
- Communicate and collaborate as necessary with technical workgroup members to complete the analyses in the given timeframe.
- Communicate to the workgroup what specific technical questions will be answered in the analyses and what information will result from the analyses.

Caucus Members: (Membership is open to all adaptive management stakeholder participants)

- Provide input, guidance and feedback to Principal Investigators and assist them as requested (and time allows) to complete tasks
- Assist in the drafting of technical report and recommendations based on data and analyses generated by Principal Investigators.

Work Products and Deliverables

The workgroup's efforts will:

1. Focus on all current Board motions that define anadromous fish floor alternatives (Tribal proposal, landowner proposal)
2. Further refine the definition of anadromous fish habitat end points (e.g. stream width/gradient, swale, undefined channels, etc.) within draft rule language.

The workgroup will produce two documents. The first is a technical report that describes how physical stream characteristics relate to anadromous fish habitat distributions in a sample of western Washington watersheds.

The second document is a report with metric/metric combinations and associated performances for determining the anadromous fish floor. The document will include conceptual frameworks on how the anadromous fish floor can be identified and applied in the field in a repeatable manner. If consensus is not reached, the report will identify the differing conclusions and perspectives based on the results of the analyses.

Timeline

Timelines required to produce this report will be developed as part of a work plan. The workgroup will develop a work plan with the following goals:

1. Finalize questions of interest
2. Define project tasks and specific roles of responsibility
3. Summarize literature related to stream characteristics and anadromous fish habitat distributions
4. Select appropriate watersheds for analyses
5. Complete analyses
6. Complete final recommendation(s) to the Board Committee/Board

The workgroup will strive to meet twice a month, with at least one of those meetings being an in-person meeting.

Budget Considerations

The workgroup will determine what tasks will require in-kind support from participants as well as any other budget requirements. Financial requests need to be addressed by the Board Committee.