

Forest Practices Board
Water Typing Rule Committee
April 28, 2021
Meeting conducted via Zoom

Committee Members Present:

Bob Guenther, Committee Chair and General Public Member
David Herrera, General Public Member
Jeff Davis, Director's designee, Washington Department of Fish and Wildlife
Tom Nelson, General Public Member

Staff

Marc Engel and Marc Ratcliff, DNR
Phil Ferester, ATG

Welcome and Introductions

Bob Guenther, Committee chair, called the meeting to order at 2:35 p.m.

Approval of Minutes

MOTION: Tom Nelson moved the Committee approve the April 15, 2021 meeting minutes.

SECONDED: Jeff Davis

Board Discussion:

None.

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

Update on Status of the Anadromous Fish Floor Work

Marc Ratcliff, DNR provided an update on the anadromous fish floor (AFF) contract. He said the time needed to provide data to the contractor and the effort to Qa/Qc the map products has taken considerable more time than original thought. As a result, DNR has extend the contract to June 30, 2021.

Ash Roorbach, Northwest Indian Fisheries Commission, provided a status on the work being done by the AFF project team. He shared a version of the Web map that has been developed by Terrainworks to perform the analysis. The map contains a precise hydro layer, which incorporates known fish and barrier data. He said the project team is interested in the highest resident and anadromous fish locations. The barrier information being incorporated into the map includes road maintenance and abandonment data, USFS data, tribal last fish data, Statewide Washington Integrated Fish Distribution layers and water type modification form (WTMF) data. All of this information helps to identify fish distributions. A Qa/Qc evaluation of the map is still occurring to ensure the data is usable. He said the team still needs to determine the appropriate stream reach length for identifying the AFF.

Marc Engel, DNR, responding to a question whether the AFF project team will be evaluating the current rule against the AFF alternatives, said the Committee is tasked with overseeing the development of the AFF. DNR will compare the current rule process with the forthcoming developed AFF and complete the cost/benefit analysis once the Board has approved the AFF metric.

Ratcliff explained the four AFF alternatives in the project team's memo dated April 14, 2021. He said alternative A is the tribal proposal, alternative C is the AFF proposal as documented at the February 2018 Board meeting, alternative D is the landowner AFF proposal as they had originally intended and alternative E is an option the AFF project team is seeking clarification.

Committee member Nelson recommended that the project team evaluate all four alternatives.

Committee member Davis voiced concern that the AFF project team analyze what the Board requested. He believes the work group is struggling to understand the Board's motion.

Engel reminded the Committee that they have authority to direct the work of the project team. He presented the past action items by the Board and said that the February 2018 discussion did include gradient thresholds of 5, 7 and 10% associated with the landowner AFF proposal. He shared how subsequent motions – May 2019, June 2019 – assigned a Committee to work through outstanding permanent water typing rule component issues. He said the November 2019 direction accepted the AFF project team's charter and gave the Committee continued oversight. This oversight has the ability to direct the project team to analyze the four alternatives outlined in the memo or develop a combined approach to arrive at the best metric.

Roorbach said the landowner technical members have been helpful to clarify their AFF. He added that the analysis might show that a combination/variation of each alternative may arrive at a sound AFF.

Engel confirmed that the goal of the AFF is to arrive at a 'floor' as opposed to the ceiling. He acknowledged that applicants could propose electrofishing surveys within the floor under certain circumstances, but not as the default. He said DNR will re-run the potential habitat break (PHB) analysis once the AFF is developed.

Public Comment on Anadromous Fish Floor Work

Jamie Glasgow, Conservation Caucus, thanked Roorbach for his leadership on the on AFF work group as well as the other participants. He said they are making good progress; it's just taking longer than they had hoped. He asked Roorbach or Engel to share the new timeline relative to the August Board meeting so expectations are clear about what we need to accomplish by when. A timeline with deliverables and deadlines in place would help them stay on track.

Status of the Anadromous Fish Floor Work

Committee members agreed with the AFF project team's recommendation to analyze all four of the alternatives outlined in the April 14, 2021 AFF workgroup memo.

ACTION: Tom Nelson moved the Committee direct the AFF project team to analyze all four of the alternatives that are presented in their memo dated April 14, 2021.

SECONED: Bob Guenther

Board Discussion:

Nelson said he agreed with Glasgow's comments on the timeline and that his biggest concern is that there is no lapse in the contracted work in order to move forward with the spatial analysis.

ACTION: Motion passed unanimously.

Presentation of Eastern Washington Fish Data

Marc Ratcliff, DNR, provided a brief update on the results to finalize the data considered for the eastern Washington PHB spatial analysis. He restated that a majority – not a consensus – of the group supported using a screened subset of the 2001 CMER study, but some still had concerns using a subset of the data. In August 2020, the Board accepted the Committee's recommendation to use a subset of the CMER data and requested DNR facilitate a Qa/Qc evaluation of the tribal data.

Ratcliff said there are approximately 176 points from the 2001 data subset, 23 fish points from the Yakama Nation and 28 fish points submitted by Kalispel Tribe. The tribal data contains WTMF data and rotenone project outcomes. This total exceeds the goal of 20 points/ecoregion in eastern Washington. For the spatial analysis, he said DNR will be using the highest fish point where subsequent surveys found fish higher in a stream system after 2001, but has not begun this step.

Committee member Nelson said his concerns for using a screened CMER data subset is similar to the concerns that Brian Fransen has raised during past Committee meeting discussions.

Committee member Davis said he believes that the screened process is an adequate methodology to arrive at fish distribution.

Public Comment on Presentation of Eastern Washington Fish Data

Darin Cramer, Washington Forest Protection Association, reiterated why they do not support the approach taken for the eastern Washington data. The final draft PHB Validation Study design that the Board received some time ago supported a random selection of streams for the field based PHB study. Screening of a research data set collected by CMER and having gone through the entire CMER process, including peer review is inconsistent with direction that is being taken for the PHB Validation Study. He says it reflects a regulatory preference rather than an objective science driven approach to answer these important questions and it completely ignores the eastern Washington seasonal annual variability research findings. He said this is just a symptom of the larger problem that he has repeatedly brought to the attention of the Committee and the Board – the resolution of the water typing performance target. He said this was the number one recommendation brought before the Board in November, 2019. He would like the Board to take up the issue and if they don't, explain why not.

Ray Entz, Eastside tribal caucus representative, said he thought participating in the eastern Washington fish data technical workgroup went really well. He said it was a good process for the purposes of charting the path forward in rulemaking and analyzing the upper most fish point in order to have a good comparison.

Brian Fransen, technical team member, said he has raised his concerns about the screening process repeatedly during Committee meetings. He said he would like to explain his perspective to DNR on why a process to screen data is not the appropriate process to evaluate the cost and benefit of implementing these alternatives across the state. He said it is important to understand how road crossings or natural barriers may influence the outcome of the rules if they were implemented, and one needs to understand how well the PHB process is accommodating upstream movement for fish. If you start with data that only captures the upper extent of where fish are likely to be, you will not get an objective view of how the PHB alternatives are going to lay out across the state.

Eastern Washington Fish Data

Marc Engel, DNR, said the question before the Committee is to accept all of the data collected as presented at today's meeting. He said documentation is important to capture what DNR will be using to move forward.

Committee member Nelson acknowledged that accepting a subset of the entire 2001 CMER data is the issue at hand. He questioned if the Committee has the ability to make that decision.

Engel said the recommendation for using a screened data subset has already been accepted by the Board. The Board also asked that a Qa/Qc evaluation be done on the tribal data set. The points presented today are intended to supplement the existing 18 points.

Committee member Herrera said it is his understanding that the Board had already accepted the concept of using a screen data subset.

MOTION: Dave Herrera moved the Committee accept the eastern Washington CMER data subset and tribal data as presented to the Committee on April 28 for inclusion in potential habitat break (PHB) spatial analysis.

SECONDED: Jeff Davis

Board Discussion:
None.

ACTION: Motion passed. (3 Support / 1 Oppose (Nelson))

Committee Discussion Regarding Discussion/ Memo for May 2021 Forest Practices Board meeting

Committee member Davis suggested the Committee's memo to the Board include the minority/majority decision.

Committee member Nelson agreed, and suggested that the memo also include a brief mention of the concerns with the process.

All Committee members agreed that DNR would draft a memo with a brief update on the AFF work and a summary of the concerns and vote outcome.

Meeting adjourned at 4:25 p.m.