



**DEPARTMENT OF  
NATURAL RESOURCES**

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July 19, 2018

**MEMORANDUM**

TO: Forest Practices Board 

FROM: Marc Engel, Assistant Division Manager, Policy and Services  
Forest Practices

SUBJECT: Water typing system rule update

Board staff has, since the February Board meeting, conducted four meetings with stakeholders regarding rule drafting and has convened board manual stakeholder meetings almost consistently every two weeks. In addition, field visits have occurred to assess the feasibility of identifying the proposed PHB for each of the three options.

It became clear during the stakeholder rule drafting and board manual guidance meetings that one caucus had a different understanding of the contents of the Board's February motion than DNR did. Specifically, WFPA asserts the Board approved its "Landowner Proposal" at the February 2018 meeting, and that this proposal contained a provision for a size-based potential habitat break (PHB) at a tributary stream junction with a mainstem stream, when that tributary stream occurred outside of the anadromous fish floor. For such tributaries, a PHB would be established where the tributary stream was some width (e.g., 80% or less) of the width of the mainstem stream it joins, regardless of whether the tributary stream is accessible by fish. WFPA acknowledges that this aspect of their proposal is at odds with the PHB Science Panel's Final Report dated January 16, 2018, but they contend that the Board approved this aspect of the Landowner Proposal nevertheless.

DNR believed the Board's February motion did not address tributary streams. DNR observed that WFPA produced three separate but different documents which described its proposal (one document distributed on February 12, 2018, one on February 13, 2018 and one on February 14, 2018). Before the Board addressed its PHB motion, a WFPA representative referenced the third document it had prepared (the only one on WFPA letterhead, distributed on February 14th but dated February 13, 2017). The WFPA representative referred the Board to page five of this document which had a bulleted summary of the Landowner Proposal.<sup>1</sup> That document did not

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<sup>1</sup> [FPB February 13 & 14 Meeting Minutes](#), at 18 lines 39-40.

address tributary streams. WFPA's discussion of their proposal did not address tributary streams. The Board's discussion of the topic prior to the motion did not address tributary streams. The Board did not discuss the ramifications of moving forward with an alternative at odds with the Science Panel's recommendation.<sup>2</sup> DNR also felt that the Board's prior focus on PHBs was whether fish could access the stream, and WFPA's proposal appears to disregard the access issue. DNR therefore interpreted the Board's February 14, 2018 motion as using the Science Panel's recommended approach for applying PHBs at tributary stream junctions with mainstem streams.<sup>3</sup>

Another unique aspect of the WFPA proposal concerns the anadromous fish floor concept. DNR's understanding was that all streams under the anadromous floor gradient (no matter which gradient was finally selected) would be treated as Type F fish habitat, regardless of stream width, which would minimize surveying for fish presence within the anadromous fish floor. WFPA's proposal would apply either obstacle or gradient PHBs to tributaries within the anadromous fish floor, which would lead to surveying under fish habitat assessment methodology (FHAM) to determine fish presence or fish absence above each tributary stream PHB. This conceptual difference was not presented to or addressed by the Board.

DNR wants to follow the wishes of the Board in drafting rule and studying the PHB alternatives. DNR hopes the Board can clarify its intent regarding the size change PHB at tributary stream junctions and the nature of the anadromous floor at its August meeting.

Should you have any questions please feel free to contact me at 360-902-1309 or [marc.engel@dnr.wa.gov](mailto:marc.engel@dnr.wa.gov).

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<sup>2</sup> RCW 76.09.370(6) and (7) contemplate using the best available science and information in new rules involving aquatic resources. The rules describing which waters should be Type F involve aquatic resources.

<sup>3</sup> The Science Panel recommended, "That the PHB criteria for tributaries of Type F waters (laterals) start at the most downstream end of the tributary (the tributary junction) and changes or thresholds associated with PHB criteria be measured upstream from that location." Dr. Phil Roni of the Science Team also addressed this issue at the February Board meeting. [FPB February 13 & 14 Meeting Minutes](#), at 4 line 37 to 5 line 7. This was a rejection of the idea that the width of the tributary mouth be compared to the width of the downstream mainstem.