

1 **FOREST PRACTICES BOARD**  
2 **Regular Board Meeting – May 9, 2018**  
3 Natural Resources Building, Room 172, Olympia, WA  
4

5 **Members Present**

6 Stephen Bernath, Chair, Department of Natural Resources  
7 Bob Guenther, General Public Member/Small Forest Landowner  
8 Brent Davies, General Public Member  
9 Carmen Smith, General Public Member/Independent Logging Contractor  
10 Dave Herrera, General Public Member  
11 Heather Ballash, Designee for Director, Department of Commerce  
12 Jeff Davis, Designee for Director, Department of Fish and Wildlife  
13 Lisa Janicki, Elected County Official  
14 Noel Willet, Timber Products Union Representative  
15 Patrick Capper, Designee for Director, Department of Agriculture  
16 Paula Swedeen, General Public Member  
17 Tom Laurie, Designee for Director, Department of Ecology  
18 Tom Nelson, General Public Member  
19

20 **Staff**

21 Joe Shramek, Forest Practices Division Manager  
22 Marc Engel, Forest Practices Assistant Division Manager  
23 Patricia Anderson, Rules Coordinator  
24 Phil Ferester, Senior Counsel  
25

26 **WELCOME AND INTRODUCTIONS**

27 Chair Stephen Bernath called the Forest Practices Board (Board) meeting to order at 9:00 a.m.  
28

29 **REPORT FROM CHAIR**

30 Chair Bernath announced the retirement of Board Member Heather Ballash from state service and  
31 her conclusion from serving as a Board member after today's meeting and thanked her for her  
32 years of service. Ballash conveyed her thanks to staff and fellow Board members for their work.  
33 She introduced her successor, Ben Serr, who works for the Department of Commerce Eastern  
34 Washington Office of Growth Management Services.  
35

36 He also announced retirement of DNR staff member Garth Anderson, who has worked as the  
37 Northwest Region forest practices geologist.  
38

39 Chair Bernath reported that the facilitated cultural resources meetings addressing the protection of  
40 tribal cultural resources continue to be held. An initial group is preparing draft proposals to move  
41 forward to the larger facilitated group to address: how and when tribes are notified of Forest  
42 Practices Applications (FPA) with potential cultural resources; a funding package for tribal  
43 participation; additional staff in the small forest landowner office to facilitate landowner/tribal  
44 discussions and to provide landowner training in partnership with tribes; and a revision of question  
45 nine on the FPA to encourage landowner/tribal communication.  
46

1 He also reported that the annual Taylor’s Checkerspot Butterfly Report has been delayed until the  
2 August meeting.

3  
4 **PUBLIC COMMENT**

5 None.

6  
7 **APPROVAL OF MINUTES**

8 **MOTION:** Tom Nelson moved the Forest Practices Board approve the February 13 and  
9 14 meeting minutes.

10  
11 **SECONDED:** Patrick Capper

12  
13 **ACTION:** Motion passed unanimously.

14  
15 **WATER TYPING SYSTEM RULE MAKING AND GUIDANCE UPDATE**

16 Chair Bernath began the presentation by saying that several parties have suggested slowing down  
17 the water typing system rule process. He said additional time is needed to gather the necessary  
18 data and to evaluate the three potential habitat break (PHB) alternatives. He said the extra time  
19 may also provide an opportunity for folks to come to consensus on one specific PHB alternative.

20  
21 Marc Engel, DNR, provided a brief overview of the development of the water typing rule  
22 beginning with the concerns addressed in 2013 by the conservation caucus, Washington  
23 Department of Fish and Wildlife (WDFW) and the Federal Services about the application of the  
24 current rule. He mentioned the Board’s subsequent direction to the TFW Policy Committee  
25 (Policy) to develop recommendations for a permanent water typing rule in 2016, the Board’s  
26 direction to DNR to begin drafting rule based on Policy’s recommended rule concepts including a  
27 Fish Habitat Assessment Method (FHAM) to delineate fish habitat, the dispute outcome for the  
28 definition of off-channel habitat in 2017 and the Board’s acceptance of three PHB alternatives at  
29 the February 2018 meeting.

30  
31 Engel provided the status on the development of products for inclusion in the rule making packet.  
32 He said two stakeholder meetings have occurred to review the draft rule language and bi-weekly  
33 Board Manual stakeholder meetings have occurred to develop guidance for conducting the FHAM  
34 including best management practices for electrofishing. He stated two field days were scheduled to  
35 evaluate potential guidance for measuring PHBs in the field. In preparation for the economic  
36 analysis, Engel said DNR had assembled an economic panel to discuss the alternatives to  
37 determine the costs and benefits of the proposed rule in advance of the preparation for the cost  
38 benefit analysis and small business economic impact statement. He then walked Board members  
39 through a proposed timeline to extend the rule development process to May 2019.

40  
41 Board Member Tom Nelson voiced concern over receiving this information a day prior to the  
42 Board meeting. He asked that in the future, more time is provided for Board members to review  
43 important recommendations.

44  
45 Engel acknowledged Nelson’s comment and said DNR staff will strive to send out all products as  
46 they are developed in a timely manner.

1 Engel continued the presentation by reminding Board members that the discussions for draft rule  
2 and Board Manual development is following the normal stakeholder process. He said the  
3 collection of the data to conduct an analysis on three PHB alternatives in comparison to the current  
4 rule and prepare the rule making packet is the primary reason an extension is needed. In order to  
5 conduct a statewide analysis, additional time is needed for DNR to obtain the end of fish data.  
6 These data, which are also needed by the expert science panel for the validation study, are being  
7 obtained through a review of water type modification forms (WTMF) to gather the fish data. This  
8 additional review of WTMF data is needed because end of fish data was not used in the initial  
9 expert panel PHB analysis. He said additional time is also needed to understand the idea and  
10 differences contained in the anadromous floor concepts.

11  
12 Engel added that an economist panel will be convened to assess the impacts of the rule using an  
13 analytical model. The key assumptions include costs to landowners, costs to labor, benefit to the  
14 ecosystem including fish, simulation and discount to stumpage values and any differences between  
15 eastern or western Washington.

16  
17 Board Member Paula Swedeen asked why end of fish is important in the economic and  
18 environmental analyses since the new process is not related to end of fish.

19  
20 Engel said existing data is needed to perform the analysis and under the current rule, the end of  
21 fish is an essential point that needs to be identified under the current protocol. He confirmed that  
22 to reduce potential harm to fish through electrofishing, the FHAM process will require folks to  
23 cease electrofishing when the first fish is detected upstream of a PHB. The last fish is needed to  
24 perform the analysis comparing Type F/N breaks established under current rule and Type F/N  
25 breaks established using FHAM for the three PHB options. Although the end of fish point is not  
26 required under the new FHAM process, the end of fish data will establish the stream segment  
27 between PHBs where the last presence of fish is found.

28  
29 Nelson said the current rule is not end of fish or last fish, but a combination of fish presence  
30 informed through protocol surveys and supplemented by information from the 'Lenny memo',  
31 which encompasses additional fish habitat above last fish. He said the current process is fish use  
32 and includes both fish presence and associated habitat.

33  
34 Board Member Bob Guenther asked Engel to define the anadromous floor.

35  
36 Engel said the westside Tribe's anadromous floor proposal begins at salt water and ends when it  
37 reaches a ten percent stream gradient. DNR is working with the industrial landowners to fully  
38 understand the additional elements contributed to laterals. He said the criteria and analysis for the  
39 anadromous floor will include 5, 7 and 10 percent threshold options as directed by the Board.

40  
41 Nelson asked if it would make sense to change the WTMF to capture end of fish.

42  
43 Engel said the WTMF has evolved over time. He said current changes are being evaluated to  
44 modify the form to capture the appropriate information moving forward.

45  
46 Swedeen suggested that additional benefits need to be added to the economic analysis such as  
47 benefits to the ecosystem and individuals. She asked why the rule is being delayed one entire year.

1  
2 Engel said the extension is needed not only for gathering additional data, but to provide additional  
3 time for working with stakeholders to complete all the elements needed for the rule package. He  
4 confirmed that gathering and assessing additional data may take seven weeks to complete and the  
5 time to evaluate and work with stakeholders to complete the economic analysis is estimated to  
6 take approximately thirty weeks.

7  
8 **POTENTIAL HABITAT BREAK (PHB) VALIDATION STUDY**

9 Howard Haemmerle, DNR, and Dr. Jeff Kershner and Dr. Patrick Trotter, science panel members,  
10 provided an update on the PHB validation study design. Haemmerle said the study will be focused  
11 on different ecoregions and will use the end of fish points with longitudinal profiles conducted  
12 both up and downstream from end of fish points at the time of the survey. The study will  
13 document seasonal fish presence and includes surveying each site over multiple seasons. The  
14 approach is to measure sites for each season of the year across seven ecoregions. He said the study  
15 design will also include an eDNA element conducted in the last survey year.

16  
17 Haemmerle said there are two phases to the study design – a pilot study to be conducted in the  
18 summer of 2018 and the full validation study. The pilot will help determine the correct fish  
19 sampling methods to use during the full validation study. The pilot method will look at streams  
20 with geomorphic complexity in eastern and western Washington. He said the science panel  
21 received comments back from stakeholders on the study, but have not received comments back  
22 from the independent science peer review (ISPR). He said the goal is to provide recommendations  
23 on the validation study to the Board in August 2018 and share the results from the pilot study to  
24 the Board at their November 2018 meeting.

25  
26 Regarding the preparation of the validation study, several Board members asked if there should be  
27 a connection with the Cooperative Monitoring Evaluation and Research Committee (CMER) and  
28 any stakeholder or ISPR comments.

29  
30 Haemmerle assured that stakeholder and ISPR comments will be reviewed by the science panel  
31 and where appropriate, incorporated into the validation study recommendations provided to the  
32 Board at the August 2018 meeting.

33  
34 Board Member Lisa Janicki asked how CMER is involved in this process.

35  
36 Haemmerle said the way this project was directed by the Board has not followed the standard  
37 adaptive management process. He acknowledged that normally CMER develops and/or reviews  
38 validation studies, but because of the fast pace set by the Board, neither CMER nor the In-stream  
39 Scientific Advisory Group (ISAG) were asked to provide a validation study framework. He said  
40 the final report for the validation study will follow the normal Adaptive Management Program  
41 protocol involving CMER, ISPR, and Policy.

42  
43 Guenther asked where the eDNA samples will be taken.

44  
45 Haemmerle said the eDNA process will identify the location and provide input for how many  
46 samples will need to be taken above and below the detected end of fish.

1 Swedeen asked how fish seasonality will be incorporated into the study design outside of the  
2 current protocol electrofishing season.

3  
4 Dr. Kershner said the concerns about the seasonal location of fish will be addressed with seasonal  
5 sampling. Multiple sampling will help determine the extent of fish migration and movement. He  
6 suggested that annual variability will capture changes from season to season.

7  
8 Chair Bernath asked what they hope to learn from the pilot.

9  
10 Dr. Trotter said the pilot will inform the way stream slope or gradient is measured. He said they  
11 found people measure slope three different ways and the pilot will refine the most appropriate  
12 measurement procedure in order to arrive at a fixed protocol.

13  
14 Dr. Kershner confirmed that the pilot will refine the method to arrive at the best measuring  
15 protocol to reduce variability.

16  
17 **WATER TYPING SYSTEM RULE MAKING AND GUIDANCE, AND PHB**  
18 **VALIDATION PILOT STUDY RECOMMENDATIONS**

19 Marc Engel, DNR, reiterated the staff recommendation to slow down the water typing rule  
20 development process to ensure full transparency and stakeholder involvement. The extra time will  
21 provide Board members with the benefits from the pilot study, additional time for field review of  
22 FHAM and PHB guidance and ensure that the preliminary economic analysis is fully vetted.

23  
24 Engel recommended the Board consider the following:

- 25 • Amend the timeline for the water typing rule package to be considered in May 2019;
- 26 • Approve and fund the validation pilot study, with a report delivered by the expert science  
27 panel to the Board in November 2018; and
- 28 • Request the expert science panel present a fully scoped validation study at the August 2018  
29 meeting after stakeholder comments have been considered and after the study goes through a  
30 second ISPR.

31  
32 Engel said the consideration in May would include an analyses for each set of the PHB  
33 alternatives. He said upon Board approval at the May 2019 meeting, staff would file a CR-102 and  
34 conduct rule making hearings. This would be in preparation for a final rule adoption by the Board  
35 in August 2019. He concluded by describing the staff-prepared materials for final rule adoption,  
36 which would include: the draft concise explanatory statement; final economic analysis; long term  
37 application analysis; and a rule implementation plan. Once the Board adopts the rule, staff will file  
38 the final rule making order.

39  
40 Nelson said he had not seen the validation study and asked who wrote the study. He said he had  
41 concerns about making a decision about a proposal he had not seen and was reluctant to make  
42 budget decisions on a study he had not seen.

43  
44 Engel said the scientific expert panel prepared the study design which includes a pilot to be  
45 conducted this summer.

1 Swedeen wanted to clarify that the Board is being asked to only approve moving ahead with the  
2 pilot study and that the larger validation study design had not yet been completed and would come  
3 later to the Board for consideration.

4  
5 Bernath confirmed that the decision before the Board was about the pilot component, but the item  
6 in the budget is for both the pilot and the first season of the validation study. Further discussions  
7 about the budget would occur later in the meeting agenda.

8  
9 **PUBLIC COMMENT ON THE WATER TYPING SYSTEM AND PHB VALIDATION**  
10 **PILOT STUDY RECOMMENDATIONS**

11 Steve Barnowe-Meyer, Washington Farm Forestry Association (WFFA), asked for the Board's  
12 continued support for the development of the LiDAR water typing model identified in the CMER  
13 budget. He suggested the study design would provide the correct physical defaults to delineate the  
14 upper end of fish habitat and further develop a LiDAR-based model to accurately predict fish  
15 habitat and avoid bias. He said most small forest landowners utilize the default physicals and  
16 likely not apply the FHAM protocol, but would readily use a model that is balanced and simple to  
17 use. They support a rule package that includes funding and work toward a model.

18  
19 Ken Miller, WFFA, believes the water typing debate is not about fish or fish habitat, but about  
20 additional protection of riparian management zones. He said a precise rule is fraught with error  
21 without a meaningful difference to capture the benefits to fish where they may not exist. He  
22 questioned whether additional science or a validation study would actually lead to concrete  
23 answers and the best outcome.

24  
25 Jenny Knoth, Green Crow, said she was concerned that the current efforts to improve fish habitat  
26 through riparian buffers and road maintenance projects will be undermined by the current rush in  
27 rule making timeline. She said the Board needs to address both the biologic and economic impacts  
28 of the rule, and that the process should be based on science.

29  
30 Kevin Godbout, Weyerhaeuser Company, agreed with DNR staff recommendations to slow down  
31 the water typing rule process. He suggested some approaches could include a tune-up of the  
32 recommendations from the electrofishing technical group and conduct workshops for the  
33 upcoming field season. He said he is okay with the hybrid approach for some of the projects and  
34 supports the motion today for extending the timeline.

35  
36 Karen Terwilleger, Washington Forest Protection Association (WFPA), said their members  
37 support canceling the June Board meeting, support delaying the rule package until 2019 and  
38 support the continued PHB alternative testing. She said they support the validation study only after  
39 an adequate stakeholder review and comment period is established. She mentioned that WFPA has  
40 not received, but would like to see an explanation for how the spatial analysis will be conducted  
41 during the economic evaluation. She mentioned the goals of the Forests and Fish Report and the  
42 Forest Practices Habitat Conservation Plan. She concluded by stating that scientific evidence has  
43 not been brought forward indicating that the current rule does not protect fish or fish habitat.

44  
45 Chris Mendoza, Conservation Caucus, said in his interpretation of the operating standards in  
46 Board Manual Section 22 language, the validation study development is not following the normal  
47 CMER coordination under the Adaptive Management Program. He said because it does not follow

1 the normal process, it has not gained support from all stakeholders. He said one fatal flaw with the  
2 validation study is that participants have yet to see a multi-region approach work, and it could end  
3 up being costly and inefficient. He opined that the current track to have stakeholder comments  
4 after the independent science review is backwards.

5  
6 Jamie Glasgow, Conservation Caucus, said Washington is overdue for a permanent rule. Although  
7 they are disappointed with a delay, they hope a delay will help arrive at a better rule. He believes  
8 the current guidance in Board Manual Section 13 under represents where fish are at various stages  
9 and does not account for seasonal variability. He alluded to the CMER research on Type N buffer  
10 effectiveness, which underscores the need for accurate water typing. He asked the Board to  
11 consider an alternate approach in the interim by having the tribes and WDFW develop a draft  
12 approach to address the inadequacies of status quo before adoption at the August 2018 Board  
13 meeting.

14  
15 Peter Goldman, Washing Forest Law Center, said he is frustrated with the idea of a delay and the  
16 over-complication of what should be a simple approach for a permanent rule. He urged the Board  
17 to establish an interim approach to electrofishing for the 2019 water typing season. He said that  
18 there is no lack of science to inform on fish habitat – delaying further only wastes tax payer’s  
19 money. He mentioned the efforts by various technical and policy groups that have worked to find  
20 a resolution and is surprised that a delay is still being considered. He said the status quo is  
21 unacceptable to the Conservation Caucus and urged the Board to implement an interim process  
22 immediately, such as a guidance memo by DNR staff.

23  
24 Ray Entz, Kalispel Tribe and representing Upper Columbia United Tribes, mentioned four  
25 important concepts to this issue – trust, status quo, delay and fear. He said trust means a lot to the  
26 tribes. He said the current system fails at protecting fish habitat and a delay without an interim  
27 process would further degrade trust. He concluded by saying it would appear to them that their  
28 comments are being ignored if an interim process is not in place during the proposed delay.

29  
30 Jim Peters, Northwest Indian Fisheries Commission and representing western Washington tribes,  
31 requested DNR to work with the co-managers to establish an interim process during this delay. He  
32 referred to the declining salmon runs and habitat and suggested folks work together to protect fish  
33 habitat and work together to rebuild trust. He shared how he wanted to ensure fish are present and  
34 available for his grandchildren to enjoy.

35  
36 **PUBLIC COMMENT**

37 Ken Miller, WFFA, said the proposed small forest landowner riparian template is still moving  
38 forward. The Policy subcommittee will forward the template prescriptions and supporting science  
39 for an ISPR in late summer 2018. The review is scheduled to be completed by the end of the  
40 calendar year. He then asked the Board to schedule their 2018 October field trip to the Miller tree  
41 farm to discuss the proposed small forest landowner riparian template.

42  
43 **BOARD SUBCOMMITTEE UPDATE ON EFFICIENCY AND EFFECTIVENESS**  
44 **IMPROVEMENTS FOR THE ADAPTIVE MANAGEMENT PROGRAM**

45 Board Member Lisa Janicki introduced facilitator Connie Lewis. Lewis stated she has interviewed  
46 about 50 stakeholders and indicated there are a few more she’s hoping to talk with. Her draft  
47 summary of stakeholder concerns and suggestions along with her recommendations on program

1 improvements will be completed around the end of June. She will be including an opportunity for  
2 folks to provide feedback on her recommendations. She shared several key take-away points  
3 stakeholders hold in common: a universal belief in re-invigorating the program, move to a more  
4 useful structure, bring back the original collaborative intent and shared interest of the principal  
5 players, clarify the roles and boundaries between the various parts of the program, and a desire for  
6 process and administrative modifications (consensus models, term appointments).

7  
8 Lewis clarified that interviews will conclude this month and a draft summary report should be  
9 available to all interviewees by mid-June. The timing for involving key principals will depend on  
10 the subcommittee.

## 11 **WATER TYPING SYSTEM AND PHB VALIDATION PILOT STUDY**

12 Marc Engel, DNR, presented the draft motions for the Board to consider regarding the  
13 permanent water typing rule and subsequent studies.

14  
15  
16 **MOTION:** Tom Laurie moved the Forest Practices Board approve the Validation Pilot  
17 study to be completed in the summer and fall of 2018 with a report to the  
18 Board at the November 14, 2018 meeting.

19  
20 **SECONDED:** Brent Davies

21  
22 Board Discussion:

23 Board Member Tom Laurie asked how the pilot and validations study is divided within the  
24 budget.

25  
26 Joe Shramek, DNR, stated that of the \$726,489 identified in the FY 2019 CMER budget,  
27 \$128,000 would be allocated to conduct the pilot study.

28  
29 Guenther asked when Board members might see the validation study design.

30  
31 Chair Bernath said the study design has been through a first round of the ISPR – a second  
32 ISPR review will include stakeholder comments.

33  
34 Haemmerle said they are anticipating comments back from the ISPR this week. The next  
35 step in the process will be to build the comment matrix and the panel will then consider  
36 and address the comments. A meeting later in May will address the comments from both  
37 the ISPR and technical stakeholders. Addressing comments and making any potential  
38 adjustments to the proposed study design should be done by mid-July. He said the July  
39 goal should still provide adequate time for implementing the pilot study and reporting  
40 back to the Board in November.

41  
42 Haemmerle clarified that the program is still waiting on comments from the ISPR on the  
43 overall PHB validation study, which includes both the pilot and the main validation study.  
44 He said that the Policy-approved budget is for fiscal year 2019. \$726,000 is identified for  
45 the PHB study: \$128,000 covers the pilot and the majority is for the first year of sampling.  
46 An ISPR will be conducted for the entire packet.



1 Board Member Jeff Davis acknowledged that obtaining the scientific collector's permit to  
2 perform the study may be difficult to obtain in short order.

3

4 Dr. Kershner agreed that obtaining the permit may be onerous and suggested that  
5 assistance from WDFW to facilitate expediting the effort would help. He was hopeful  
6 that by getting started now, they would be on track to finish within the stated timeline.

7

8 Haemmerle said they would be willing to receive additional comments from those voicing  
9 concern regarding not having enough time to weigh in on the study design leading up the  
10 May meeting with the science panel.

11

12 Nelson suggested that the specific dates be removed from the motion.

13

14 Laurie said he understands the concern, but felt that the date was important to set the goal  
15 for all those involved.

16

17 **ACTION:** Motion passed. 12 Support / 1 oppose (Nelson)

18

19 A new motion was presented:

20

21 **MOTION:** Tom Laurie moved the Forest Practices Board approve the staff  
22 recommended water typing system rulemaking timeline to complete  
23 rulemaking materials for the Boards' May 8, 2019 meeting.

24

25 **SECONDED:** Heather Ballash

26

27 Board Discussion:

28 Board Member Dave Herrera suggested having the tribes and WDFW, as fisheries co-  
29 managers, work together to arrive at an interim approach for the 2019 survey season.

30 He acknowledged some of the requests for an interim process made by individuals  
31 during public testimony earlier in the meeting.

32

33 Chair Bernath clarified that an interim process or solution would need to be done through  
34 an administrative guidance memo rather than by a rule or new Board Manual guidance.

35

36 Davis said that WDFW would be willing to brainstorm ideas to arrive at possible interim  
37 approaches.

38

39 Swedeen suggested the Board memorialize the idea of a tribal and WDFW proposal for  
40 interim solutions for the 2019 season, but questioned whether it would need to be captured  
41 in a formal motion.

42

43 Nelson questioned the basis for a special interim rule for the upcoming protocol survey  
44 season. He suggested that the current process is not the end of fish, but fish use – the end of  
45 fish plus additional habitat. He said that nothing has been brought forward to show the  
46 inadequacies of the current rule that lends itself to an interim process.

1 Engel clarified to make sure to involve DNR Region staff in the development of  
2 recommendations for interim guidance to be applied for the 2019 survey season.

3  
4 **MOTION TO**

5 **AMEND #1:** Brent Davies moved to amend the motion by adding the following to the  
6 end of the motion:  
7 allow the Tribes and DFW to lead a process involving all caucuses to  
8 develop recommendations by August 2018 for interim guidance via an  
9 administrative memo to be applied during the 2019 protocol survey  
10 season.

11 **SECONDED:** Paula Swedeen

12  
13 **Board Discussion:**

14 Board Member Noel Willet said he had concerns putting the two motions together. He felt the  
15 development should include all stakeholders and caucuses to address concerns. He suggested  
16 the wording include 'all caucuses'.

17  
18 **MOTION TO**

19 **AMEND #2:** Noel Willet moved to separate the amended motion into two separate  
20 motions.

21  
22 **SECONDED:** Bob Guenther

23  
24 **Board Discussion:**

25 Chair Bernath confirmed that if Willet's motion passes, the two thoughts would be contained  
26 in separate motions.

27  
28 **ACTION ON**

29 **2nd AMENDMENT:** Motion passed. 10 Support / 2 Oppose (Swedeen & Davies) / 1 abstention  
30 (Capper)

31  
32 **ACTION ON**

33 **1st AMENDMENT:** Motion was modified further and re-offered after Willet's motion separating  
34 the amended motion.

35  
36 **ACTION ON**

37 **ORIGINAL**

38 **MOTION:** Motion passed. 12 support / 1 oppose (Guenther)

39  
40 A new motion was presented:

41  
42 **MOTION:** Brent Davies moved the Forest Practices Board request the Tribes and  
43 DFW to lead a process involving all caucuses to develop recommendations  
44 by August 2018 for interim guidance via an administrative memo to be  
45 applied during the 2019 protocol survey season.

46  
47 **SECONDED:** Paula Swedeen

1  
2 Board Discussion:  
3 Guenther felt this motion captured the intent of what Herrera proposed.  
4  
5 Chair Bernath clarified that any administrative interim process would need to align with  
6 existing rule and Board Manual guidance.  
7  
8 Board Member Carman Smith wanted to clarify that the interim process would be just for the  
9 2019 season and once a permanent rule was in place, the interim process would cease.

10  
11 Nelson, referring to the rule making timeline motion, questioned the need for further  
12 rule changes until the data and science is made available. He referred to the science  
13 panel’s three to five year estimate to inform on the validity for PHBs.

14  
15 Swedeen said she would be opposed to a multi-year delay given all the work done to date.  
16 She said she believes that those who have worked on this effort have all the science and  
17 information they need to move forward.

18  
19 Board members Guenther and Nelson both asked that the motion not include specific  
20 dates.

21  
22 Swedeen said the dates provided are staff recommendations and that the Board did not  
23 impose the dates on them. Delaying it further without dates is unfair to those with strong  
24 concerns about the delay.

25  
26 Janicki asked how modifications would be made if the validation study showed changes are  
27 needed. She asked if the rule process and study would be concurrent paths.

28  
29 Engel clarified that the overlap in the process is intended to adjust and modify as needed.  
30 He said the rule making process is proposed to end in 2019, and that the validation study  
31 would test the adopted rule and conclude in 2023. He said the rule would be constructed  
32 on the framework for the FHAM and if PHB changes were warranted, then rule making  
33 could occur at that point.

34  
35 **ACTION:** Motion passed unanimously.

36  
37 Engel addressed the confusion around the pilot study and the validation study and its  
38 subsequent timeframe. He said staff suggests the Board consider passing a motion for gaining  
39 better understanding of the study design at the August Board meeting.

40  
41 Nelson, although he stated that did not want it be incorporated into the motion, wanted the  
42 ad hoc fish group to be more involved in this process since they have been doing a lot of  
43 the initial work.

44  
45 **MOTION:** Tom Nelson moved the Forest Practices Board receive the  
46 validation study design from the Adaptive Management  
47 Program Administrator including ISPR completed review for

1 the August 2018 meeting in preparation for final Board  
2 approval at the November 2018 meeting.

3  
4 **SECONDED:** Carmen Smith

5  
6 Board Discussion:

7 Davis asked what a fully scoped validation study might look like.

8  
9 Haemmerle said the pilot will inform on the study design for the validation study. A fully  
10 scoped project means that an ISPR of the study design should be completed by August.

11  
12 Guenther asked if CMER will be communicated with as the study design as it moves  
13 along.

14  
15 Chair Bernath said he did not believe so. He said the people on the ground and ISAG will be  
16 involved.

17  
18 Haemmerle said as the study design is being implemented, CMER will be receiving  
19 regular updates.

20  
21 Nelson said he would be okay withdrawing his motion if it is clear to all how the updates will  
22 be provided to the Board.

23  
24 **ACTION:** Motion withdrawn

25  
26 Chair Bernath asked whether Board members had any desire to form a group to work  
27 toward achieving consensus for PHB alternatives.

28  
29 Several Board members expressed uncertainty with what the process would look like to arrive  
30 at one PHB option to analyze, how potential changes would relate to the current direction for  
31 staff, and who the group should be to arrive at consensus.

32  
33 Chair Bernath said any recommendations a group would provide would have to be brought  
34 back to the Board and the Board would have to redirect the rule making process in a formal  
35 manner. He said any decisions to arrive at consensus by folks would have to be done prior to  
36 November.

37  
38 No action was taken and no motion was proposed.

39  
40 **2017-2019 CMER MASTER PROJECT SCHEDULE AND PROPOSED BUDGET FOR 17-**  
41 **19 BIENNIUM**

42 Howard Haemmerle and Angela Johnson, DNR, presented the Master Project Schedule (MPS)  
43 budget for the 17-19 biennium. Haemmerle said that although the Board approved the MPS for  
44 the 17-19 biennium, the Board needs to approve the Adaptive Management Program budget for  
45 FY 2019. Haemmerle highlighted the significant changes to the FY 2019 CMER work plan  
46 within the MPS to arrive at a balanced budget:

- 1 • Two CMER scientists positions identified in the budget will not be filled at this time –  
2 this will be re-evaluated for FY 2019
- 3 • The CMER eastside scientist staff position will be funded for one half year
- 4 • The ISPR funding has been modified to reflect when projects will be completed
- 5 • The LiDAR model and default physical study has been combined. The additional costs  
6 shown on the budget reflect the estimated cost needed to completed this project
- 7 • The PHB validation pilot study has been added to the budget. The \$726,000 covers not  
8 only the pilot, but also a scouting exercise for sampling for 350 sites
- 9 • Additional \$14,000 is allocated for the WFFA proposal initiation riparian template to  
10 address re-hiring a contractor
- 11 • Additional funding was added for the Adaptive Management Program improvement  
12 principals meeting
- 13 • \$75,000 of the \$100,000 for the Wetlands Scientific Advisory Group mapping tool  
14 project will be moved into FY 2019
- 15 • The Type N hard rock study funding will continue into FY 2019. The amounts shown on  
16 the budget will allow funding to finish phase two of the study
- 17 • The amounts allocated for the Eastside Type N Riparian Effectiveness Project reflect funds  
18 needed for the study design. This is an increase in FY 2019 from \$600,000 to \$793,000  
19

20 Johnson outlined additional changes to the budget:

- 21 • Funding for the Unstable Slopes Criteria Project was reduced based on the realistic timing  
22 for the two study designs
- 23 • Funding for the Forested Wetlands Effectiveness Project was reduced for FY 2019 due to  
24 refined study design and ISPR timing
- 25 • The Deep-Seated Landslide Research Strategy will not be funded at this time. This will be  
26 reassessed in the following biennium
- 27 • Policy recommended not to fund the Wetland Management Zone Effectiveness Project at  
28 this time. This will also be reassessed in later years
- 29 • \$28,000 for the Mass Wasting Landscape Scale Effectiveness Project will be moved into  
30 FY 2019 in order to complete a feasible assessment  
31

32 Haemmerle concluded by highlighting that the readjustments and changes made to the budget  
33 created a positive balance of eleven dollars forecasted for the end of the biennium.  
34

35 Chair Bernath mentioned the on-going work for the financial and performance audits. He said the  
36 DNR internal auditor had been temporarily pulled off the work for other priorities. The auditor  
37 would continue the work at a later time, and completion of the performance audit would not be  
38 feasible by August 2018.  
39

40 Nelson asked that continued updates on the performance audit be provided.  
41

42 Davis echoed Nelson's request and asked that perhaps the Board could be proactive in asking the  
43 State Auditor to compete a performance audit.  
44  
45

1 **PUBLIC COMMENT ON 2017-2019 CMER MASTER PROJECT SCHEDULE AND**  
2 **BUDGET**

3 Ray Entz, Kalispel Tribe and representing Upper Columbia United Tribes, acknowledged the  
4 effort to balance the FY 2019 budget, mentioned his caucuses’ concerns that have not been  
5 addressed and the lack of consensus on items within the budget. He said some of their concerns  
6 include ‘add on’ extensive monitoring studies and species-specific studies lacking consensus that  
7 still show up in the “out years” of the budget.

8  
9 Karen Terwilleger, WFPA, mentioned the extensive efforts by the sub-committee and DNR staff  
10 to arrive at the recommended FY 2019 budget. She said WFPA supports the budget. She  
11 suggested one way to conduct performance audits would be to fund it through allocated variance  
12 monies or other unspent funds. She said the State Auditor has a pool of money for performance  
13 audits, but completion for those funds is significant. She said she believes Board-directed projects  
14 such as the LiDAR and PHB study should go back into the normal stakeholder process to help  
15 arrive at consensus over the study design. She said she believes the study for default physical  
16 should continue to be funded.

17  
18 Scott Swanson, Washington Association of Counties, said the counties support the budget as  
19 presented today. He said they recommend the performance audits be conducted through available  
20 funds. He mentioned that he will be stepping down as the Policy co-chair. He mentioned that  
21 consensus for the budget included four support votes and five abstention votes. The reason for this  
22 was due to the outlining years contain several red numbers. He said the budget sub-committee will  
23 continue to work to address these outstanding concerns and hopefully work toward full consensus  
24 throughout the summer with a recommendation by August.

25  
26 Terwilleger clarified that the Board already approved the budget, but there are tweaks to the  
27 spending plan. The Office of Financial Management requires that by September all agencies need  
28 to have their spending plan in place. The subcommittee will be working to help DNR arrive at a  
29 full funded Adaptive Management Program budget.

30  
31 **2017-2019 CMER MASTER PROJECT SCHEDULE AND BUDGET**

32 Haemmerle, DNR reminded Board members that the request is for the changes to the FY 2019  
33 budget. He said the Board will be receiving a proposal from Policy for the next biennium.

34  
35 **MOTION:** Carmen Smith moved the Forest Practices Board approve the FY 2019 Adaptive  
36 Management Program budget with changes.

37  
38 **SECONDED:** Lisa Janicki

39  
40 Board Discussion:

41 None

42  
43 **ACTION:** Motion passed unanimously.

44  
45 A new motion was presented:

1 **MOTION:** Tom Nelson moved the Board chair contact the State Auditor's office and request  
2 an independent performance audit of the AMP at the earliest possible date.  
3 We further request the Auditor's office respond with an estimated timeline and  
4 budget, if necessary, for completion of that request.  
5

6 **SECONDED:** Carmen Smith  
7

8 Board Discussion:

9 Chair Bernath said a financial audit is already underway, therefore a financial request is not  
10 needed for this motion. He said the internal financial audit does not involve any cost to the Board.  
11

12 Laurie suggested the request include the uniqueness of the program and how the direction for the  
13 program was implemented in state law.  
14

15 **ACTION:** Motion passed unanimously.  
16

### 17 **SAFE HARBOR AGREEMENT UPDATE**

18 Lauren Burnes, DNR, said there has not been much progress made; however, DNR is still  
19 committed to this working group and is looking into staffing the group appropriately. She  
20 recapped the purpose of the programmatic voluntary opt-in agreement which is meant to be a win-  
21 win scenario for both owl conservation and for landowners. She said landowners who want to  
22 implement management plans that grow additional spotted owl habitat should not be  
23 penalized for it.  
24

25 She said conversations between herself, Chair Bernath and DNR staff is occurring to reengage this  
26 process. She said they hope to have a plan in place within the next few weeks.  
27

### 28 **STAFF REPORTS**

29 Chair Bernath, addressing western grey squirrel commitments, said only one landowner out of 87  
30 total FPAs denied access to assess western grey squirrel habitat.  
31

32 There were no additional questions on the staff or annual reports.  
33

### 34 **2018 WORK PLAN REVIEW**

35 Marc Engel, DNR, reviewed the changes to the work plan as a result from the last meeting and  
36 today's decisions. The changes include adding the PUB validation study design and pilot to the  
37 work plan, amending the completion date for the Taylor's Checkerspot Butterfly, and the dates to  
38 complete both Board Manual Section 23 and the water typing rule adoption.  
39

40 **MOTION:** Tom Nelson moved the Forest Practices Board approve the 2018 Proposed Work  
41 Plan as amended.  
42

43 **SECONDED:** Bob Guenther  
44

45 **ACTION:** Motion passed unanimously.  
46

47 Meeting adjourned at 4 p.m.