

**FOREST PRACTICES BOARD
COMMITTEE ON WATER TYPING RULE**

July 30, 2019
Natural Resources Building
Olympia, Washington

Committee Members Present:

Bob Guenther, General Public Member/Small Forest Landowner
David Herrera, General Public Member
Jeff Davis, Designee for Director, Department of Fish and Wildlife
Paula Swedeen, General Public Member
Tom Nelson, General Public Member

Staff

Marc Engel, Marc Ratcliff, and Patricia Anderson, DNR
Phil Ferester, ATG

Welcome and Introductions

Bob Guenther, Committee chair, called the meeting to order at 9 a.m.

Approval of Minutes

Board member Swedeen said that portions of the July 17 discussion were not reflected in the minutes. She expressed that the way the Tribes had analyzed the gradient threshold and the way WFPA described their analysis in their July 17 presentation was different, which means it is difficult to compare results. She said she had raised this point during the July 17 meeting and that the minutes needed to reflect that.

The committee approved the July 17, 2019 meeting minutes with the addition of “The committee members noted that it appears that the tribes and landowners used a different method to measure their gradient threshold and in order to have a comparison that needs to be recognized.”

Public Comment

Chris Mendoza, Conservation Caucus, said that the Cooperative Monitoring, Evaluation, and Research Committee (CMER) is ready and available if the Board chooses to send the lidar and default physical studies to CMER.

Jaime Glasgow, Conservation Caucus, reminded the committee that the science panel concluded that potential habitat breaks (PHB) need to be applied to the tributaries of Type F waters. He said the panel stated that the analysis “start at the most downstream end of the tributary junction . . .” which means that the width criteria they analyzed are to also be applied within the tributary stream channel.

Width Based Potential Habitat Breaks

The committee had committed to report back to the Board on the progress made to resolve outstanding issues associated with the water typing system. In preparation for the August Board

meeting, committee members discussed potential recommendations and what relevant information should be shared with the Board related to width-based PHBs.

Committee member Nelson said he is not sure that the draft rule language for option C needs to be amended. He said time could be spent on clarifying how to apply the width-based PHB, but the intent has remained the same, it just wasn't analyzed by DNR as industry intended. He also stated he believes the Board needs to hear a summary of the width-based PHB presentations given to the committee.

Committee member Swedeen said if tributary junctions were intended to act as width-based PHBs in option C, then the rule language would need to be amended – the current draft rule language does not reflect how to apply the width PHB at the tributary junctions as the landowners have stated as their intent.

Committee member Davis suggested that the Board needs to understand the added clarity for how the width-based PHB in option C was intended to be applied. He said width-based PHBs are problematic from a fish perspective and suggested that width alone does not prevent fish accessibility such as flow or gradient.

Committee member Swedeen questioned if a width component should be used as a PHB at all. She also expressed concern of the accuracy of the GIS analysis because of the difficulty to determine the width of the stream.

Committee member Nelson said applying width for tributaries does not just improve accuracy for analysis, but is also a field enforcement issue. He said identifying an upstream width reduction of 70% or 80% for a stream channel is difficult, but identifying a width reduction at tributary junction is more implementable and enforceable.

Committee member Herrera said his understanding was the PHB scientific panel recommended against using tributary junctions as a PHB.

Committee member Swedeen said she is uncomfortable using tributaries since the science panel recommended against it and doubts option C meets the intent of the rule. She said the rule language for option C needs to be amended before any reanalysis. She said the analysis either needs to incorporate the risks of not finding fish using tributaries as PHBs or the Board needs to consider dropping width from all PHBs.

Committee member Davis said width plus something – such as gradient or obstacle – is a better indicator of fish habitat. He understands why width is hard to capture in these analyses and understands why Mr. Fransen used tributary junctions instead of main stream segments.

Committee member Swedeen said the analysis has to evaluate the intent of the rule and acknowledged that PHBs need to be implementable and repeatable. She stated there are options the Board could consider such as combining PHBs or dropping a PHB component, but the analysis needs to assess the options equally.

Committee member Nelson suggested the committee needs to address how gradient was measured for the two different methods brought forward in the tribal PHB options versus the landowner PHB option. He said DNR needs to perform their analysis based on the method Mr. Benda used in his analysis, which used tributary junctions.

Committee member Nelson did not think width-based PHBs should be removed from the proposals since that is not what was accepted by the Board. He said the original analysis performed by the landowners defaulted to tributaries because they could not accurately identify the point where a main stem stream channel is reduced by 70% or 80%. He said test #15 in the PHB report – the landowner option – includes tributary junctions as PHBs and was found to perform the best.

Committee member Davis said the report found no data supporting width alone as a habitat break – the literature does not support using a 2-foot width threshold in the absence of other criteria such as gradient, nor does width alone accurately reflect the boundary of fish distribution. He acknowledged that the three PHB options are different and any analysis is similar to comparing apples to oranges.

Board member Nelson said option C is not just a width alone option, but incorporates both a gradient and obstacle criteria as well. He said the report listed the width PHB as a stream junction, ratio 0.7 and a stream junction, ratio of 0.8.

Committee member Swedeen said the science team recommended in their report against using tributary junctions as PHBs.

Committee member Davis said he believed that the landowner caucus always intended tributary junction be used as a PHB, but believes committee members are struggling with how the proposal was originally drafted. He added that using tributary junctions as the width PHB is problematic from his perspective given risks to false positives and seasonality of fish use.

Committee member Herrera said he is concerned with analyzing two different types of width-based PHBs – similar to apples to oranges. He said that is why he favors removing the width-based element so the analysis comparison would be similar.

Board member Nelson did not agree with removing the width-based PHB since it may modify the accuracy rating for option C. He suggested instead of removing the width-based PHB from option C, the focus should be on making options A and B more accurate.

Marc Engel, DNR, said DNR GIS staff is determining the process to analyze a 20% width reduction in a similar method to how the industry landowner analysts assessed their width assessment at tributary junctions using modeling and stream flow data. If DNR staff cannot internally determine the width PHB at tributary junctions then DNR would need to enter a new contract and secure additional funding.

Engel said the spatial analysis could not identify a 2-foot stream width location as applied in options A and B and part from using stream flow calculations, stream width cannot be easily

identified at tributary junctions. He added that DNR could assess the possibility of improving the accuracy on the 2-foot bankfull width options prior to the August Board meeting.

Committee member Swedeen suggested the committee make a recommendation to the Board to have DNR look at improving the accuracy of width-based PHBs; and decide to either request the Board to direct DNR to analyze option C as proposed by the industry, small forest landowner and county caucuses, which uses tributaries as width-based PHBs, or analyze PHBs as recommended by the science panel in their final report, which recommends not to use tributaries as a width-based PHB.

She said if the recommendation is to analyze option C as clarified by the industrial landowners to the Board committee, then the Board needs to be aware of the issues and that some options may not accomplish the goals of the rule.

Committee member Davis suggested that the committee make a recommendation to the Board to ensure landowners submit survey information associated with a Forest Practices Application in order to update the hydro layer.

Committee members requested a copy of the final PHB report (January 26, 2018) and the two subsequent tributary reports addressing the science regarding tributaries.

Public Comment - Anadromous Fish Floor

Jim Peters, Northwest Indian Fisheries Commission (NWIFC), shared how the Squaxin Island Tribe and other tribes have had to put off their annual first salmon ceremonies due to the timing of first fish return. He voiced concern on the length of time these discussions are taking and the delay for moving forward to secure fish habitat.

Darin Cramer, Washington Forest Protection Association, said he was concerned with the comments made during the width-based PHB discussion and that it is okay to have an analysis comparing different alternatives. He said the term accuracy was mentioned several times without context and feels a Board discussion related to accuracy is needed. He clarified that the size-based criteria does not apply to tributaries within the anadromous fish floor. Outside the anadromous floor, size-based criteria as well as the obstacle and gradient criteria does apply at tributaries junctions. He said they chose width changes because width thresholds are not implementable in the field. He also suggested the Board see a visual of all the proposals.

Ash Roorbach, NWIFC, reported on the committees' request to have the Western Washington tribes compare their results from the Skagit River Watershed analysis with the current DNR hydro data within the Skagit River Watershed; and the tribal efforts to meet with the stakeholder technical group to refine their anadromous fish analysis to be applied throughout western Washington.

When the DNR hydro data was overlaid onto the tribal anadromous analysis it was found that approximately 78% of concurred Type F/N points are located above a 10% gradient anadromous fish floor, 85% of concurred Type F/N points are located above a 7% anadromous fish floor, and 90% of concurred Type F/N points are located above a 5% anadromous fish floor.

Roorbach reported on the technical group convened to determine how to gather and analyze data from multiple western Washington watersheds for arriving at metrics for an anadromous fish floor. He said the first meeting was positive and focused mostly on policy issues rather than addressing technical issues. Concepts in general agreement include the need for gathering the appropriate data for where to start the fish habitat assessment method and that an anadromous fish floor will reduce electrofishing where it is assumed fish habitat. He said there is agreement within the group to continue working together.

Jaime Glasgow, Conservation Caucus, referred to test #15 in the science panel report and asked for clarification because he is interpreting test #15 differently than some committee members. He also supported Roorbach's comments on the anadromous fish floor analysis.

Anadromous Fish Floor

The committee agreed that the technical group should continue working on the data requirements necessary for the anadromous floor analysis. The committee requested the technical group provide a final charter that includes an agreed upon set of tasks and a timeline with an estimated end date. They also requested the group ensure that they arrive at a consistent process for measuring the floor gradient. They encouraged the technical group to work efficiently and determine if the charter and recommendations for analysis could be achieved by the August 14 Board meeting and presented as part of a report to the Board.

Report for the Forest Practices Board

The committee agreed that they should provide a summary report at the August Board meeting regarding the committee's work to date and if possible, the summary should include recommendations from the technical group working on the anadromous fish floor. Committee chair Guenther stated that he will lead the discussion and requested that committee members help articulate what the report should include. He also requested that DNR staff assist with coordinating those efforts and developing presentation materials.

Committee chair Guenther acknowledged that more work is needed on the issues associated with stream width. Committee members also agreed that more work is needed to clarify what is intended by accuracy as it relates to the analysis and what is meant by accuracy related to determinations of water-types on the ground.

Board member Swedeen asked that DNR staff help the committee lay out the issues they have discovered. She also requested legal counsel assist with determining the Board's decision space for arriving at 'accuracy' as it relates to the water typing system rule making.

Future meeting dates will be scheduled through a doodle poll.

Meeting adjourned at 11:55 a.m.