FOREST PRACTICES BOARD

REGULAR BOARD MEETING
November 13, 2012
Natural Resources Building
Olympia, Washington

Members Present

Lenny Young, Chair, Department of Natural Resources
Bill Little, Timber Products Union Representative
Carmen Smith, General Public Member/Independent Logging Contractor
David Herrera, General Public Member
David Whipple, Designee for Director, Department of Fish and Wildlife
Kirk Cook, Designee for Director, Department of Agriculture
Mark Calhoon, Designee for Director, Department of Commerce
Norm Schaaf, General Public Member
Paula Swedeen, General Public Member
Phil Davis, General Public Member
Tom Laurie, Designee for Director, Department of Ecology

Members Absent

Bob Guenther, General Public Member/Small Forest Landowner
Dave Somers, Snohomish County Commissioner

Staff

Darin Cramer, Forest Practices Division Manager
Marc Engel, Forest Practices Assistant Division Manager
Patricia Anderson, Rules Coordinator
Phil Ferester, Assistant Attorney General

WELCOME AND INTRODUCTIONS

Lenny Young called the Forest Practices Board (FPB or Board) meeting to order at 9:00 a.m.

Young welcomed new member Kirk Cook from Department of Agriculture, who is replacing Jaclyn Ford. He presented a plaque to Norm Schaaf for his service on the Forest Practices Board from December 2006 to December 2012.

Young announced that the Governor has appointed Court Stanley as Schaaf's replacement for the remainder of his term and has reappointed Bill Little and Paula Swedeen.

APPROVAL OF MINUTES

MOTION: Bill Little moved the Forest Practices Board approve the August 14, 2012 meeting minutes.

SECONDED: Carmen Smith

AMENDMENT: David Whipple moved to amend the minutes on page 4, line 34 as follows:

After a short discussion, Engel clarified that WDFW's current fish protection standards are required to be incorporated in the HPA/FPA approval process, and David Whipple clarified that when WDFW updates the hydraulic code rules in chapter 220-110 WAC, they will invoke as appropriate the adaptive management process through Appendix M of the Forests and Fish Report in the revisions of fish protection standards.

SECONDED: Norm Schaaf

ACTION ON AMENDMENT: Motion passed unanimously.

ACTION: Motion passed unanimously.

REPORT FROM CHAIR

Lenny Young reported:

- Department of Natural Resources (DNR) and the Washington Department of Fish and Wildlife (WDFW) staffs are preparing comments to be submitted by December 10, 2012 to the U.S. Fish and Wildlife Service (USFWS) on the proposed federal listing of the Taylor's Checkerspot Butterfly. David Whipple added: this butterfly is currently a federal candidate species and a state endangered species; the federal listing will trigger DNR/WDFW consultation, followed by a report to the Board; and the USFWS's proposal includes a designation of critical habitat.
- Aaron Everett, DNR's Deputy Supervisor for Forest Practices and Federal Relations, will be the Commissioner of Public Lands' designee to chair the Board beginning at the February 12, 2013 Board meeting.

PUBLIC COMMENT

Mary Scurlock introduced herself as the new Conservation Caucus designee to the Adaptive Management Program's Forests and Fish Policy Committee (Policy). She listed the following as top priorities for the caucus: perennial initiation point guidance and other elements of the Type N strategy; permanent water typing rules; and improvements in identifying areas prone to mass wasting.

Chris Mendoza commented that improvement is needed on compliance monitoring of perennial initiation points.

PROGRESS UPDATE ON THE SETTLEMENT AGREEMENT REGARDING THE FOREST PRACTICES HABITAT CONSERVATION PLAN

Darin Cramer, DNR, reported on progress made by Policy on the proposed Adaptive Management Program (AMP) reform elements outlined in the settlement agreement:

- A professional facilitator is expected to begin assisting Policy at its December meeting.
- Policy has reached conceptual agreement on reforms related to membership/voting and dispute resolution.
- Policy is currently considering the CMER master schedule and intends to conclude that discussion in December.
- Once agreement is reached on the reforms, Policy will ask staff to develop revisions to the AMP rules and Board Manual Section 22.

- Rule making and board manual development will start in 2013, with adoption anticipated in August 2013.

STAFF REPORTS

Young asked if Board members had questions about any of the staff reports. There were no questions.

PUBLIC COMMENT ON NORTHERN SPOTTED OWL CRITICAL HABITAT BOARD SUBCOMMITTEE

Kara Whittaker, Washington Forest Law Center (WFLC), urged the Board to take actions necessary to reverse the decline of the Northern Spotted Owl, citing declines in the owl's population and non-federal habitat since its listing.

Shawn Cantrell, Seattle Audubon, commented in support of the draft motion on Northern Spotted Owl Critical Habitat, but requested that more pointed language be added to the motion to provide clear direction that regulatory approaches must be considered in addition to the incentives element.

Peter Goldman, WFLC, echoed Cantrell's comments and urged the Board to seek deadlines and commitments so the state's rules will comply with the Endangered Species Act and conserve wildlife.

Kevin Godbout, Weyerhaeuser and member of the Northern Spotted Owl Implementation Team, said the team must be smart about adding a new task. He reminded the Board that thousands of acres have been dedicated to owl conservation by private landowners through SOSEAs, habitat conservation plans (HCPs), and safe harbor agreements.

Cindy Mitchell, Washington Forest Protection Association, commented on spotted owl conservation already taking place on 12.9 million acres of federal, state, tribal, and private forest lands. She pointed out that the federal 2011 revised recovery plan recognizes Washington's considerable habitat protection mechanisms (HCPs, safe harbor agreements, and the state forest practices rules) and encourages the development of economic incentives for non-federal landowners.

NORTHERN SPOTTED OWL CRITICAL HABITAT

Aaron Everett, DNR, explained activities since the August 2012 Board meeting related to the upcoming designation of federal critical habitat for the spotted owl by the USFWS. He said he had engaged members of the industry caucus and conservation caucus to discuss a productive path forward, and urged the Board to pass a motion that assigns a new task to the NSOIT.

MOTION: Norm Schaaf moved the Northern Spotted Owl Implementation Team (NSOIT), in addition to its duties assigned in February 2010 and in accordance with its approved Charter, is further directed to:

- Investigate and make recommendations to the Board not later than the August 2013 Board meeting, as to whether the State should consider seeking: Voluntary "opt-in" federal assurances for forest landowners, designed to promote the establishment, use and operation of a Northern Spotted Owl conservation bank or other voluntary conservation incentive planning tools; or, a programmatic Habitat Conservation Plan, Safe Harbor Agreement or other

federal assurance mechanisms. The NSOIT recommendations shall, at minimum, include:

- An evaluation of the process, planning requirements, time and costs (up-front and ongoing) required to secure and maintain such assurances;
- An evaluation of forest landowners' interest in enrolling with such programs;
- The degree to which achieving the NSOIT chartered purpose and duties may be enhanced by securing such assurances;
- The degree to which such assurances and planning structures would support Northern Spotted Owl conservation in light of the Washington State Forest Practices rules, the Northwest Forest Plan, the 2012 federal Northern Spotted Owl Recovery Plan and anticipated federal Critical Habitat designations.

To accomplish this task, DNR is directed to form an expanded NSOIT of nine members, to include: DNR (chair), WDFW, two industry caucus representatives, two conservation caucus representatives, a land trust group, a small forest landowner representative, and one US Fish & Wildlife Service representative. Board member engagement and participation in the NSOIT is strongly desired.

DNR is further directed to provide interim progress reports on these discussions at the February and May, 2013 meetings of the Board.

SECONDED: Carmen Smith

Board Discussion:
David Whipple commented in support of the motion. He said it was sufficiently broad to capture everybody's concerns, and also was consistent with the current NSOIT charter which focuses on incentive-based mechanisms but also recognizes that the state rules may need to be modified.

Everett clarified that the membership of the NSOIT would be expanded from five members to nine and that he would be DNR's designee on the team and chair the meetings.

Norm Schaaf indicated that the expansion of the NSOIT would be an effective way to ensure continued progress.

Paula Swedeen said she supported the motion and believed federal assurance mechanisms would complement the incentives element.

ACTION: Motion passed unanimously.

PUBLIC COMMENT ON NORTHERN SPOTTED OWL CONSERVATION ADVISORY GROUP

Shawn Cantrell, Seattle Audubon, encouraged the Board to confirm support for the existence of the advisory group.

Kevin Godbout, Weyerhaeuser, said it was important to keep the decertification process open and that landowners should not be permanently encumbered where there are circles on the map but no

owls present. He explained the reason the advisory group has not been used is because the federal protocols now require five years of surveying.

Peter Goldman, Conservation Caucus, explained there is a new way to survey for spotted owls that is economical and effective. He explained the method was developed by Dr. Sam Wasser from the University of Washington and involves the use of dogs who can quickly locate trees where the owls are by detecting their scat and pellets.

NORTHERN SPOTTED OWL CONSERVATION ADVISORY GROUP

Marc Engel, DNR, provided the annual report of the Northern Spotted Owl Conservation Advisory Group. He said the group did not convene in the past year because no surveys were submitted requesting decertification of site centers. He then requested that the Board approve Aaron Everett to serve as DNR's representative to fill the vacancy created when Bridget Moran departed DNR. He added that the other members of the group are Marty Vaughn representing the forest products industry, and Kara Whitaker representing a conservation group actively involved with spotted owl conservation.

MOTION: David Whipple moved the Forest Practices Board approve Aaron Everett to serve on the Spotted Owl Conservation Advisory Group.

SECONDED: Paula Swedeen

ACTION: Motion passed unanimously.

RULE MAKING ON LEGISLATIVE CHANGES TO CONVERSION ACTIVITIES AND FOREST PRACTICES APPLICATIONS

Gretchen Robinson, DNR, requested that the Board adopt the Conversions and Applications rule changes. She explained:

- No comments were received on the proposed rule language; one hearing was held in Olympia on October 10 in which one person provided testimony but later withdrew it.
- Staff does, however, proposed a revision to the changes proposed in WAC 222-16-050 in the Class II and Class III definitions to:
  - Simplify the language by cross referencing instead of repeating language; and
  - Provide for better consistency with RCW 76.09.050(1), so the first sentence of the new subsections will be, "Forest practices <u>involving timber harvest and road construction</u> within urban growth areas."
- An analysis of the small forest landowner long-term applications is not required for this rule package because nothing in it revises any resource protection objectives in the rules.

MOTION: Tom Laurie moved the Forest Practices Board adopt the rule proposal amending Title 222 WAC that incorporates provisions of Second Engrossed Substitute Senate Bill 6406 (2012 legislation) and other legislative changes made in 2007 and 2011. I further move that the Board direct staff to file a CR-103 Rule Making Order with the Office of the Code Reviser.

SECONDED: Norm Schaaf

Board Discussion:

Tom Laurie suggested an amendment to the rule proposal to reinsert the definition of large forest landowner. He indicated it was deleted inadvertently (and it is still used in chapter 222-24 WAC). Young asked if this was a house keeping change, to which Laurie answered yes.

AMENDMENT: Tom Laurie moved the Forest Practices Board amend the rule proposal by adding a definition for "large forest landowner" to WAC 222-16-010 to read as follows: "Large forest landowner" is a forest landowner who is not a small forest landowner.

SECONDED: David Whipple

ACTION ON AMENDMENT: Motion passed unanimously.

ACTION: Motion passed unanimously.

2013 WORK PLANNING

Marc Engel, DNR, provided a summary of the 2012 accomplishments. He explained that most of the 2012 goals were completed, but the goals under "Board Manual Development" were not completed because of staff capacity and the breadth of issues before Policy and the Board.

He recommended the 2013 Board meeting dates be the second Tuesday of February, May, August, and November instead of the second Wednesday of those months as indicated in rule (WAC 222-08-040). This is to accommodate Board member Dave Somers' schedule as Snohomish County Commissioner.

He further summarized the task list in the 2013 Draft Work Plan, and recommended that the top priorities be:

- FPA/HPA Integration per Second Engrossed Substitute Senate Bill 6406 (2012) which requires rule making and a hydraulic projects board manual section to be completed in 2013; and
- Tasks associated with the settlement agreement including Adaptive Management Program tasks, and likely rule and board manual amendments.

David Whipple verified that rule making for gray wolf critical habitat is on track for August completion, not earlier in the year as indicated in his October 19, 2012 upland wildlife staff report.

EXECUTIVE SESSION

None.

Meeting adjourned at 10:30 a.m.