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FOREST PRACTICES BOARD
MEETING MINUTES

June 6, 2007
Natural Resources Building
Olympia, Washington

8 **Members Present:**

9 Vicki Christiansen, Chair of the Board
10 Ann Wick, Designee for Director, Department of Agriculture
11 Bob Kelly, General Public Member
12 Brent Bahrenburg, Designee for Director, Department of Community, Trade and Economic
13 Development
14 Bridget Moran, Designee for Director, Department of Fish and Wildlife
15 Carolyn Dobbs, General Public Member
16 Dave Somers, Snohomish County Commissioner
17 David Hagiwara, General Public Member
18 Doug Stinson, General Public Member/Small Forest Landowner
19 Norm Schaaf, General Public Member
20 Sherry Fox, General Public Member/Independent Logging Contractor
21 Tom Laurie, Designee for Director, Department of Ecology

22 **Staff:**

23 Chuck Turley, Forest Practices Assistant Division Manager
24 Erin Daley, Board Support
25 Lenny Young, Forest Practices Division Manager
26 Neil Wise, Assistant Attorney General
27 Patricia Anderson, Rules Coordinator
28

29 **WELCOME**

30 Vicki Christiansen called the meeting to order at 9:00 a.m. Christiansen announced that the Forest
31 Practices Board (FPB or Board) would convene for an Executive Session to discuss on-going and
32 pending litigation.
33

34 The public meeting reconvened at 9:20 a.m.
35

36 **INTRODUCTIONS**

37 Introductions were made by Board and staff. Christiansen welcomed new Board member Carolyn
38 Dobbs, general public member from Evergreen State College.
39

40 Christiansen thanked Alan Soicher, Sue Mauermann and Toby Murray for their service on the
41 Board. Murray was presented with an appreciation plaque and plaques for Soicher and Mauermann
42 will be mailed to them.
43

44 Erin Daley, Department of Natural Resources (DNR or Department), provided an emergency safety
45 briefing.

1 **APPROVAL OF MEETING MINUTES**

2 **MOTION:** Dave Somers moved to approve the February 14, 2007 meeting minutes.

3
4 **SECONDED:** Doug Stinson

5
6 **Board Discussion:**

7 Christiansen presented staff with three minor grammatical errors.

8
9 **ACTION:** Motion passed. Norm Schaaf abstained.

10
11
12 **PUBLIC COMMENT**

13 Maurice Williamson, Small Forest Landowner Advisory Committee, stated that this committee
14 supports the long-term application rule making. Williamson also commented on Northern Spotted
15 Owls and forest health issues facing the state and encouraged the Board to read “The Desirable
16 Forest Health Program for Washington’s Forests.”

17
18 Ken Miller, Washington Farm Forestry Association (WFFA), encouraged the Board to consider the
19 simple recommendation for the thinning options in the Desired Future Condition (DFC) Rule
20 Proposal #2-WFPA.

21
22 Stephen Bernath, Department of Ecology (DOE), said he appreciated the efforts made by WFPA in
23 developing a DFC rule proposal; however DOE is reluctant to support the proposal because of the
24 lack of time given to review the proposal. DOE suggested that the Board ask for a third alternative
25 to be developed that could enhance WFPA’s proposal and provide the Board with a more
26 comprehensive rule proposal.

27
28 Tim McBride, Hancock Forest Management, expressed support for Forests and Fish Policy’s
29 recommendation on Type N waters to allow additional time for the group to further refine the
30 options.

31
32 Peter Heide, Washington Forest Protection Association (WFPA), commented on DFC, specifically
33 the status of riparian forest protection and the origin of the “central tendency” number. He also
34 provided an overview of WFPA’s rule proposal.

35
36 Joe Murray, Merrill & Ring, commented on the impacts of DFC Rule Proposal #1-325. One impact
37 is that the additional remaining trees left unharvested above what would be required to meet the 325
38 square feet. Another would be an increase of 90 feet that is restricted from harvest by leaving the
39 floors in place. Murray concluded that while there are impacts to simply changing the number, he
40 believes it can work but needs further stakeholder work.

41
42 Court Stanley, Port Blakely, commented on DFC Rule Proposal #2-WFPA, specifically thinning
43 option 1. This amendment encourages improved stream function and helps landowners with costs
44 and layout on the ground. This rule amendment creates incentives to thin and will provide a better
45 habitat for fish by creating large trees that will create better stream function. Stanley said that he is
46 willing to continue to work with all the caucuses to develop a proposal that will work for everyone.

47
48 Kevin Godbout, Weyerhaeuser, supports DFC Rule Proposal #2-WFPA as it reduces the economic
49 impacts but still meets function. He asked the Board to clarify how many DFC rule proposals they

1 want developed. In regards to the Northern Spotted Owl (NSO), Weyerhaeuser does not support an
2 extension for a moratorium and does not believe it warrants an emergency rule.

3
4 David Whipple, Department of Fish and Wildlife, said he supported the NSO emergency rule for a
5 moratorium on decertification. DFW is concerned about the lack of ecological analysis that has
6 been completed thus far, particularly without a functioning model to compare alternatives.

7
8 Mary Skurlock, Conservation Caucus, encouraged the Board to amend the DFC Rule Proposal #1 to
9 reflect the basal area per acre number as 341. This is the best option that best preserves the integrity
10 of the adaptive management program and is based entirely on research that has been validated
11 through CMER.

12
13 Marissa Lown, Washington Forest Law Center (WFLC), encouraged the Board to amend the DFC
14 rule to reflect what has gone through the adaptive management process, which is 341 basal area per
15 acre.

16
17 Ellen Lyndi encouraged the Board to amend the language to reflect 341 basal areas per acre.

18
19 Jim Lynch, WFPA, said he supported the appropriate use of scientific peer review, but believed that
20 the law does not require the Board to subject all information or proposed rule making to scientific
21 peer review prior to Board action.

22
23 Josh Weiss, WFPA, expressed strong opposition to any action to extend the moratorium for NSO
24 site centers.

25
26 Adrian Miller, WFPA, encouraged the Board to approve the DFC Rule Making Proposal #2-WFPA
27 for the public review process.

28
29 Robert Meier, Rayonier, said he opposed an extension to the moratorium for NSO site centers and
30 supported the DFC Rule Proposal #2-WFPA.

31
32 Becky Kelly, Washington Environmental Council, requested that the Board amend the DFC rule
33 proposal to reflect a 341 basal area per acre.

34
35 Rick Dunning, WFFA, encouraged the Board to adopt the small forest landowner long term
36 application rule making. He added that WFFA supports DFC Rule Proposal #2-WFPA.

37 38 **STAFF REPORTS**

39 Gary Graves, DNR, provided a staff report on Proposed Harvest Activities in Spotted Owl Special
40 Emphasis Areas (SOSEAs). It summarized the total number of applications received to harvest in
41 SOSEAs for years 1999-2002 and 2006.

42
43 Chuck Turley, DNR, provided a staff report on the Board's 2007 Rule Making Schedule that
44 showed the projected time line for the current rule makings.

45
46 Leslie Lingley, DNR, provided a status update on the Compliance Monitoring program that
47 included progress thus far and highlights on the review of the program.

1 Tom Laurie asked if the steering committee, as identified at the last Board meeting, had been
2 convened prior to the peer review. Lingley responded that the decision was to conduct stakeholder
3 meetings rather than a steering committee.
4

5 Laurie encouraged DNR to identify a steering committee and to make sure that DOE is consulted to
6 ensure compliance with the Clean Water Act.
7

8 David Whipple, Department of Fish and Wildlife, provided a staff report that updated the Board on
9 Upland Wildlife Planning.
10

11 Lenny Young, DNR, provided an update on the NSO Federal Recovery Plan. The plan was
12 released on April 26 and has three recovery objectives: 1) spotted owl populations must be
13 sufficiently large and well distributed; 2) adequate habitat is available and will continue to exist;
14 and 3) the threats need to be reduced or eliminated so the NSO populations are stable or increasing
15 and unlikely to become threatened again in the foreseeable future. Young also highlighted five
16 delisting criteria and the two options presented in the plan. The final Plan is scheduled to be
17 published in the Federal Register in April 2008.
18

19 Chuck Turley, DNR, provided a staff report on the Puget Sound Steelhead that recommended the
20 Board take no action in adding critical habitat for the Puget Sound Steelhead in the forest practices
21 rules.
22

23 **LEGISLATIVE UPDATE**

24 Lenny Young, DNR, provided an update on legislative activity for the 2007 session. Three bills
25 that passed that directly affect the Forest Practices program are SHB 1409 (transfer of jurisdiction
26 over conversion-related forest practices to local governments); 2SSB 5883 (conversion of forest
27 land to non-forestry uses); and SSB 6141 (forest health). There were five bills that could have
28 indirectly affected the program--HB 1077, EHB 1525, SHB 2008, ESSB 5372, and SHB 1513.
29

30 **FORESTS AND FISH POLICY RECOMMENDATION ON TYPE N WATERS**

31 Bob Turner, NOAA Fisheries, presented the Board with nine options for the Board to consider that
32 address the initial problem. However, Turner asked the Board to support the committee to continue
33 to work through these options to narrow them down.
34

35 David Hagiwara asked how long the committee needed to flush out the options. Turner responded
36 it can be done and should be fairly easy to do.
37

38 Christiansen expressed concern with the number of options and asked if the continued commitment
39 by the stakeholders was still there to narrow the number of options and present a recommendation
40 to the Board within a reasonable time frame. Turner responded he thought it was possible, but could
41 not speak for the other stakeholders.
42

43 Norm Schaaf asked if there are any stakeholders not engaged that should be. Turner stated that he
44 has engaged everyone that he is aware is interested in the issue. Young also added that travel is an
45 issue for some individuals and efforts are being made to provide additional communication and
46 conducting meetings outside of the Olympia area.
47

48 Bridget Moran committed DFW to review the options to begin narrowing the number of options.
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50 Christiansen said that she looks forward to quick progress and a recommendation in the near future.

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CMER MEMBERSHIP

Darin Cramer, DNR, requested the Board’s approval for five nominees to serve on the CMER committee: Mark Hicks, Department of Ecology; Steve McConnell, Upper Columbia United Tribes; Curt Veldhuisen, Skagit River Systems Cooperative; Todd Baldwin, Kalispel Tribe of Indians; and Lyle Almond, Makah Tribe.

MOTION: Tom Laurie moved that the Forest Practices Board accept Mark Hicks to serve on the CMER Committee.

SECONDED: Brent Bahrenburg

ACTION: Motion passed unanimously.

MOTION: Bob Kelly moved that the Forest Practices Board accept Steve McConnell as recommended by the Upper Columbia United Tribes to serve on the CMER Committee upon completion of his personal services contract with the Department.

SECONDED: Norm Schaaf

ACTION: Motion passed unanimously.

MOTION: Bob Kelly moved that the Forest Practices Board accept Todd Baldwin as recommended by the Kalispel Tribe of Indians to serve on the CMER Committee as an alternate member.

SECONDED: Dave Somers

ACTION: Motion passed unanimously.

MOTION: Bob Kelly moved that the Forest Practices Board accept Curt Veldhuisen and Lyle Almond as recommended by the Northwest Indian Fisheries to serve on the CMER Committee.

SECONDED: Bridget Moran

ACTION: Motion passed. Sherry Fox abstained.

CMER BUDGET

Darin Cramer, DNR, requested the Board’s approval to revise the budget for the Type N Experimental Buffer Treatment project and the 2008 budget and work plan for on-going projects. The 2008 budget and work plan for new projects will be presented to the Board at the September meeting.

MOTION: Bridget Moran moved that the Forest Practices Board approve the revised budget as presented for the Type N Experimental Buffer Treatment.

1
2 **SECONDED:** Carolyn Dobbs

3
4 **ACTION:** Motion passed unanimously.

5
6
7 **MOTION:** Sherry Fox moved that the Forest Practices Board approve the partial 2008
8 CMER budget for continuing projects and activities as outlined in Table 1.

9
10 **SECONDED:** Tom Laurie

11
12 **ACTION:** Motion passed unanimously.

13
14 **LONG TERM APPLICATIONS RULE MAKING**

15 Gretchen Robinson and Mary McDonald, DNR, asked the Board to approve the draft language for
16 the public review process. Two comments were received during the 30-day review from counties,
17 Department of Fish and Wildlife and tribes.

18
19 **MOTION:** Sherry Fox moved that the Forest Practices Board accept the rule proposal for
20 public review modifying chapters 222-12, 222-16, and 222-20 WAC relating to
21 long term applications, and direct staff to file the CR-102 with the Office of the
22 Code Reviser.

23
24 **SECONDED:** David Hagiwara

25
26 **Board Discussion:**

27 Laurie stated that DOE supports the rule and it appears that it will provide some flexibility for small
28 forest landowners. He encouraged that the board manual and training be developed concurrent with
29 the rule.

30
31 Sherry Fox thanked the group who worked on the rule proposal and is pleased to see that a
32 regulatory tool has been developed that provides incentives that will benefit both the protection of
33 resources and small forest landowners.

34
35 Christiansen also thanked the collaboration from all those involved in developing a rule with
36 incentives.

37
38 **ACTION:** Motion passed unanimously.

39
40 **DESIRED FUTURE CONDITION RULE MAKING**

41 Chuck Turley, DNR, presented two DFC rule proposals for the Board's consideration for the public
42 review process.

43
44 Hagiwara asked when Rule Proposal #2-WFPA was presented to Policy. Turley said that it was
45 presented in May.

46
47 Schaaf asked for clarification on the median for Rule Proposal #1-325. Turley responded that it is
48 the median of 325 total basal area including conifers and hardwoods.

1 Fox expressed concern with Rule Proposal #1-325 because of comments made from the peer
2 review. She commended industry for developing a rule proposal and said Rule Proposal #2-WFPA
3 should move forward to public review.
4

5 Turley reviewed the next steps for the Board. In order for the Board to accept one or both rule
6 proposals for public review, a 30-day notice and economic analysis must be completed. These two
7 items have not been completed for Rule Proposal #2-WFPA.
8

9 Carolyn Dobbs stated that Rule Proposal #2-WFPA needs to go through the adaptive management
10 process. Young stated that DNR believes that this rule proposal is consistent with the
11 recommendation made by Forests and Fish Policy as part of adaptive management.
12

13 Discussion continued on how to move the rule proposals forward to the public review process.
14

15 Schaaf said he would like Rule Proposal #2-WFPA to move forward to public review but knew it
16 needed further refinement. He wanted to find a solution to move both proposals forward.
17

18 Dobbs said she supported Rule Proposal #1-325, and re-stated that #2-WFPA should go through the
19 adaptive management process.
20

21 Laurie said DOE is concerned with Rule Proposal #2-WFPA, specifically the removal of the shade
22 requirements and would like to see an economic analysis completed on this rule proposal and
23 further refinement. DOE had not had enough time to review it and would like additional time to
24 ensure that DOE can support this proposal.
25

26 Schaaf reassured Tom Laurie that it was not the intent to remove the shade requirements. It was an
27 error in drafting the language. Shade requirements still need to be met.
28

29 Christiansen recapped where the Board discussion. She stated that the DFC model should be
30 working soon which could determine the potential unintended consequences of doing just a straight
31 number change.
32

33 Hagiwara supported moving both rule proposals forward and said he believed waiting another 30
34 days would be okay in order for both rule proposals to move forward together.
35

36 Dave Somers agreed with Hagiwara and supported scheduling a special Board meeting after the 30
37 day notice to move the rule proposals to the public review process.
38

39 **MOTION:** Dave Somers moved that the Forest Practices Board accept the draft rule
40 proposals #1-325 and #2-WFPA and direct staff to provide notice pursuant to
41 RCW 76.09.040 notifying the counties, Washington Department of Fish and
42 Wildlife and Tribes of rule making intentions.
43

44 **SECONDED:** Tom Laurie
45

46 **Board Discussion:**

47

48 Somers said it was important to keep moving forward and this would acknowledge those that came
49 forward to develop alternatives at the Board's request.
50

1 Dobbs again expressed concern that Rule Proposal #2-WFPA had not gone through the adaptive
2 management process.

3
4 Schaaf said he supported the motion. He said he disagreed with Dobbs and believed Rule Proposal
5 #2-WFPA had gone through the adaptive management process.

6
7 Fox also agreed that Rule Proposal #2-WFPA had gone through the adaptive management.

8
9 Laurie suggested that the Board receive an overview on the adaptive management program at a
10 future meeting.

11
12 **ACTION:** Motion passed. 11 yes / 1 no (Carolyn Dobbs)

13
14
15 **MOTION:** Dave Somers moved to convene a special meeting immediately following the
16 close of the 30-day comment period to consider proposals for public review.

17
18 **SECONDED:** Brent Bahrenburg

19
20 **ACTION:** Motion passed unanimously.

21
22
23 **MOTION:** Vicki Christiansen moved that the Forest Practices Board direct the Department
24 to review and strengthen the benefits section for the economic analysis on the
25 DFC options.

26
27 **SECONDED:** Norm Schaaf

28
29 **ACTION:** Motion passed unanimously.

30
31
32 **MOTION:** Vicki Christiansen moved that the Forest Practices Board direct staff to
33 implement the short term strategy modifying the DFC growth model to be able to
34 accept a new number for analysis and implementation purposes within 45 days.

35
36 **SECONDED:** Dave Somers

37
38 **ACTION:** Motion passed unanimously.

39
40 **NORTHERN SPOTTED OWL RULE MAKING**

41 Gretchen Robinson, DNR, requested the Board's approval to adopt an emergency rule that would
42 extend the current moratorium on decertifying Northern Spotted Owl (NSO) site centers to October
43 28, 2007 and to approve the filing of a CR101 to start the permanent rule making process.

44
45 Fox said that she thought the Board made a commitment to landowners during the 2005-2006 NSO
46 rule making based on the completion of the Federal Recovery Plan, not to extend the moratorium.

47
48 Moran stated that the Federal Recovery Plan was published six months later than expected. She
49 shared that the survey protocol was the #1 priority for DFW due to pending decertification requests.

1 She said the survey protocol needs to be evaluated to ensure that it is an adequate tool. DFW is
2 committed to working on this; however some funding is necessary to update the database.
3

4 Christiansen stated that the Board needs to be mindful of having options for landowners; the two
5 decisions before the Board are whether to adopt an emergency rule and to determine whether
6 permanent rule making is necessary.
7

8 Moran stated that the bigger issue is whether there is a protection strategy beyond the SOSEAs.
9 She believed the emergency rule would provide relief while the permanent rule making allowed for
10 the discussions to begin.
11

12 Schaaf stated that he had concern with extending the moratorium despite efforts to be made by
13 DFW to evaluate the survey protocol. He said the recovery plan is just a recommendation and not a
14 mandate for the Services to develop a new protocol. The Board would still be discussing this two or
15 five years from now.
16

17 Moran clarified that the circles are a state construct and do not need any federal involvement or
18 action. In regards to the protocol, DFW would like to work with the Services but it is not a
19 requirement.
20

21 **MOTION:** Vicki Christiansen moved that the Forest Practices Board direct staff to file a
22 CR-103 Rule Making Order with the Office of the Code Reviser to change the
23 definition of the “Northern Spotted Owl site center” in WAC 222-16-010 to
24 extend the moratorium on decertifying Northern Spotted Owl site center.

25 ***Northern Spotted Owl site center” means:***

26 (1) *Until ~~June 30, 2007~~ October 28, 2007, the location of Northern spotted owls:*

27 (a) *Recorded by the department of fish and wildlife as status 1,2, or 3 as of*
28 *November 1, 2005, or*

29 (b) *Newly discovered and recorded by the department of fish and wildlife as*
30 *status 1, 2 or 3 after November 1, 2005.*

31 (2) *After ~~June 30, 2007~~ October 28, 2007, the location of status 1, 2 or 3*
32 *Northern spotted owls based on the following definitions:*

33 *Status 1: Pair or reproductive – a male and female heard and/or observed in*
34 *close proximity to each other on the same visit, a female detected on a nest,*
35 *or one or both adults observed with young.*

36 *Status 2: Two birds, pair status unknown – the presence or response of two*
37 *birds of opposite sex where pair status cannot be determined and where at*
38 *least one member meets the resident territorial single requirements.*

39 *Status 3: Resident territorial single – the presence or response of a single*
40 *owl within the same general area on three or more occasions within a*
41 *breeding season with no response by an owl of the opposite sex after a*
42 *complete survey; or three or more responses over several years (i.e., two*
43 *responses in year one and one response in year two, for the same general*
44 *area).*

45 *In determining the existence, location, and status of Northern spotted owl site*
46 *centers, the Department shall consult with the Department of Fish and Wildlife*
47 *and use only those sites documented in substantial compliance with guidelines or*
48 *protocols and quality control methods established by and available from the*
49 *Department of Fish and Wildlife.*
50

1 The Board finds that this immediate rule change is necessary for the preservation
2 of the public general welfare because:

- 3 1. The amount of suitable habitat within Spotted Owl Special Emphasis Areas,
4 outside areas that are being managed under the aegis of a habitat conservation
5 plan or similar agreement, has declined by an average of 16 percent since this
6 rule was adopted
- 7 2. Habitats recently occupied by spotted owls are potentially important to
8 spotted owl recovery and should be maintained until a draft recovery plan has
9 been completed and the Board has had the opportunity to consider
10 ramifications of decertifying additional sites in light of recovery strategies
11 and goals,
- 12 3. Fewer plans to conserve spotted owl habitat at a landscape level have been
13 developed than was anticipated when the rule was adopted, and
- 14 4. With few landscape-level plans, the forest practices rules continue to rely
15 heavily upon the regulation of timber harvest at individual spotted owl sites
16 to provide habitat conservation.

17
18 **SECONDED:** Bridget Moran

19
20 **Board Discussion:**

21 Fox asked where the “16 percent decline since rule was adopted” came from under the reason for
22 immediate rule change. Young responded that this data came from a DFW report commonly
23 referred to as the “Pierce Report.”

24
25 **ACTION:** Motion passed. 9 yes / 3 no

26
27
28 **MOTION:** Bridget Moran moved that the Forest Practices Board direct staff to file the CR
29 101 with the Office of the Code Reviser to inform the public that the Board is
30 considering a permanent rule to further extend the moratorium on decertifying
31 Northern Spotted Owl site centers.

32
33 **SECONDED:** Bob Kelly

34
35 **Board Discussion:**

36 Hagiwara said the motion was a bit aggressive indicating a permanent rule to extend the
37 moratorium. He thought the Board was unclear as to whether it wanted to continue the moratorium
38 and that the Board wanted to discuss more than just extending the moratorium.

39
40 Laurie asked how the rule language would be developed. Lenny Young responded that the Board
41 could discuss the scope of the spotted owl habitat conservation rule making at its special meeting in
42 July.

43
44 **AMENDMENT:** Norm Schaaf moved to strike “to further extend the moratorium” from the
45 motion.

46
47 **SECONDED:** Sherry Fox

1 **Board Discussion:**

2 Somers said he viewed the amendment as too broad. Schaaf said that was the intent.

3

4 Dobbs said the amendment was too narrow and suggested the motion read “consider a permanent
5 rule on decertifying Northern Spotted Owl site centers including extending the moratorium.”

6

7 Moran agreed that the motion could be viewed as permanently decertifying spotted owl circles. She
8 would agree to remove the decertification language and have it read “consider a permanent rule on
9 Northern Spotted Owl.”

10

11 The amendment to the motion was amended to:

12

13 **AMENDMENT:** Norm Schaaf moved to amend the amendment to read . . . “considering a
14 permanent rule regarding Northern Spotted Owls.”

15

16 **SECONDED:** Sherry Fox

17

18 **Board Discussion:**

19 Somers and Moran questioned whether the amendment was too general to serve a purpose. Young
20 responded that the Board would potentially be increasing the scope of the permanent rule making
21 beyond just addressing the moratorium and opening up permanent rule making on any rules related
22 to spotted owls.

23

24 Christiansen and Moran did not support the amendment.

25

26 **ACTION:** Motion on amendment failed.

27

28 **ORIGINAL**

29 **MOTION:** Withdrawn by Bridget Moran.

30

31 **MOTION:** Bridget Moran moved that the Forest Practices Board direct staff to file the
32 CR101 with the Office of the Code Reviser to inform the public that the Board is
33 considering a permanent rule to address decertification process regarding
34 Northern Spotted Owls in the forest practice rules.

35

36 **SECONDED:** Norm Schaaf

37

38 **ACTION:** Motion passed unanimously.

39

40

41 Meeting adjourned at 4:00 p.m.