FOREST PRACTICES BOARD
Special Board Meeting
May 9, 2017
Natural Resources Building, Room 172
Olympia, Washington

Members Present
Stephen Bernath, Chair, Department of Natural Resources
Bill Little, Timber Products Union Representative
Bob Guenther, General Public Member/Small Forest Landowner
Brent Davies, General Public Member
Carmen Smith, General Public Member/Independent Logging Contractor
Dave Herrera, General Public Member
Heather Ballash, Designee for Director, Department of Commerce
Joe Stohr, Designee for Director, Department of Fish and Wildlife
Lisa Janicki, Elected County Official
Patrick Capper, Designee for Director, Department of Agriculture
Paula Swedeen, General Public Member
Tom Laurie, Designee for Director, Department of Ecology
Tom Nelson, General Public Member

Staff
Joe Shramek, Forest Practices Division Manager
Marc Engel, Forest Practices Assistant Division Manager
Patricia Anderson, Rules Coordinator
Phil Ferester, Senior Counsel

WELCOME AND INTRODUCTIONS
Stephen Bernath called the Forest Practices Board (FPB or Board) meeting to order at 9:00 a.m.

PUBLIC COMMENT
Jim Peters, Northwest Indian Fisheries Commission, said he attempted to gather stakeholders last week to resolve some outstanding stream typing issues in order to obtain consensus that was not attainable through the mediation process. He encouraged that this type of gathering be allowed as a way to build relationships and to possibly reach consensus once issues are presented at TFW Policy Committee (TFW Policy). Peters also asked the Board not to take action on the Adaptive Management Program (AMP) improvements until caucuses have had a chance to review the recommendations with their respective caucuses.

Adrian Miller, Olympic Resource Management, said there are many areas where TFW Policy reached consensus recommendations on the water typing system. Concerning two non-consensus issues, he said off-channel habitat clearly has a majority of agreement; however, from a landowner's perspective, it needs to be enforceable, repeatable and measurable. The establishment of an F and N water type break is not so clear, but ensuring it is enforceable, measureable and repeatable would lend to improvement.

Jenny Knoth, Green Crow, said they commend the efforts made by TFW Policy to come to consensus on a number of water typing topics; however, efforts are undermined through an artificial rush to produce a change in rule. She said there has been no evidence presented that the current rule requires change and to set arbitrary regulatory points is inconsistent with the goals of the 30-year old Timber, Fish and Wildlife agreement and the subsequent Forests and Fish Report. She asked the Board to make decisions based on science.

Norm Schaaf, Merrill & Ring, urged the Board to reflect on how to develop a rule that does not have unintended consequences and is implementable, repeatable and based on science. He also noted that the map-base is inaccurate for their timberlands and does not address all habitat situations. He urged the Board to remember that ambiguity adds cost and uncertainty to the process without adding resource protection and he doubted the goal of a probability approach for determining fish passage.

Mary Scurlock, Conservation Caucus, said while the framework for a permanent stream typing rule has more agreement among TFW Policy caucuses than is apparent, she encouraged the Board to delve deeply into the disagreements because they are important. She said the interim stream typing system relies too heavily on where fish can be detected today to be consistent with the definition of fish habitat in WAC. She suggested that the 80/20 probability for fish passage is not an arbitrary point but is a policy objective to set and guide the work for the metrics. She concluded by describing her caucus' concerns with the Adaptive Management Program Administrator's (AMPA) majority/minority report.

Karen Terwilleger, Washington Forest Protection Association (WFPA), said their goal for the water typing system is to develop a legally supportable, durable, scientifically sound water typing system that meets the Forests and Fish requirements and is implementable, repeatable and enforceable. She stated that science has to drive the process for these issues and that they support the consensus recommendations before the Board.

Kendra Smith, Washington State Association of Counties, said she appreciated DNR providing a framework for the water typing issues and asked the Board to continue the technical group. She said they support the adaptive management process and decisions based on science.

Kevin Godbout, Weyerhaeuser Company, said that the 'day of' Board document packet comes too late to allow the public to have enough time to prepare for agenda topics and discussion. He said that using probability for determining fish passage is arbitrary and a departure from Forest and Fish. He asked the Board to direct the technical group to evaluate whether is it possible to establish a probability for fish barriers and evaluate the potential economic impacts.

RULES VS. GUIDANCE DISCUSSION

Steven Reneaud, Attorney General's Office, provided an overview on the subject of what is considered rule versus guidance. Reneaud described for the Board the statutory requirements for establishing rules, the reliance on an adaptive management process and non-binding nature of agency guidance documents. Reneaud explained how the Board Manual could not be used to dictate conduct or outcomes, but rules established by the Board can because rules have a legally binding effect.

He said the distinction matters because guidance cannot be enforced by an agency. He said if a guidance document alters a basis for obtaining or maintaining a benefit provided under the rules, the directive included in the guidance document must go through the rule making process and become a rule.

Swedeen asked for clarification on how technical guidance would apply when it is a requirement versus when one might have flexibility in the outcome. Ferester responded that if an agency required an individual to do something all the time and in a particular way that situation would be appropriate to be a rule rather than guidance. Guidance explains and illustrates how to act on and apply the rules.

TFW POLICY COMMITTEE'S RECOMMENDATIONS ON WATER TYPING SYSTEM COMPONENTS

Hans Berge, Adaptive Management Program Administrator (AMPA), provided an overview and history of Board actions pertaining to a permanent water typing rule, including the matrix TFW Policy used for framing the work, the Board's direction at the November 2016 meeting, and the outcomes from the dispute resolution process. He outlined TFW Policy's recommendations and consensus elements thus far. There is consensus on not changing most elements of the existing Type F rules, accepting past approved water type modification changes, and the acceptance of a framework for the fish habitat assessment. He said conceptual agreement was achieved for off-channel habitat (OCH), including using bankfull width (BFW) for channelized waters and ordinary high water line (OHWL) for non-channelized waters. However, disagreement still exists regarding the OHWL and whether fish habitat (the outer edge of the Type F water) ends at the wetland edge or at the edge of the periodically inundated areas within the OHWL within the wetland.

Berge said that conceptual agreement regarding the framework for a fish habitat assessment methodology (FHAM) was reached. The outstanding issues still needing resolution are minimizing electrofishing and the criteria used for potential habitat barriers (PHB). Consensus was not reached for whether a probability should be used, and if so, what threshold should be used for determining that probability. Berge described how the PHB criteria would equate to the established targeted probability.

Board members discussed the pros and cons with using a probability criteria and the uncertainty of providing numbers to the technical group tasked with the goal of establishing a process to identify the PHB.

Berge continued by presenting the minority/majority summary reports for OCH and the methods for determining the PHB including a description of the results of the votes and how the application of the votes would influence the water typing system rule. He also reviewed the disagreements outlined in the summary report.

PUBLIC COMMENT

Norm Schaaf, Merrill & Ring, let the Board know that wetlands that transition from within the stream to upland gradients do occur on their ownership quite often.

Ken Miller, Washington Farm Forestry Association (WFFA), expressed his concerns on the effectiveness of the AMP, which includes lack of collaboration, and the federal services having an integral part and vote in all discussions. He recommended that the principals meet at least annually to reaffirm the principals of Forests and Fish and the Board affirm their unwillingness to entertain any changes to Forests and Fish rules unless there is clear science, a law that requires action, or TFW stakeholders unanimously request a change.

Mark Hicks, Department of Ecology (Ecology), commented on the AMP review. He said Ecology supports making changes to improve the program and wants to ensure any changes are well vetted to achieve the intended outcome. He requested the Board ensure adequate time is provided for any proposed revision to be discussed and refined with joint participation by both TFW Policy and Cooperative Monitoring, Evaluation and Research Committee (CMER).

Peter Goldman, Conservation Caucus, provided his perspective on the relationship between rules versus guidance. He provided three suggestions to clarify the issue: improve rules by stating standards, adopt a general rule relying on the Board Manual for implementation of the rule, or re-write the manual so DNR has discretion to enforce elements of the manual.

Chris Mendoza, Conservation Caucus, clarified that his caucuses' interpretation of OCH is found in existing rule and guidance. They believe the wetland is equal to Type F water when the ordinary high water line is the wetland edge.

Jamie Glasgow, Conservation Caucus, urged the Board to help DNR meet its obligations under the Forest Practices Habitat Conservation Plan (FPHCP) by adopting habitat accessibility as the driver of the permanent habitat-based stream typing rule; defining potential habitat breaks as permanent natural stream features that have at least an 80% likelihood of preventing upstream fish passage; and making the primary metrics for determining PHBs are stream gradient and stream width or their combination. He also requested the Board direct DNR and WDFW to lead the board-directed technical analysis for identifying specific metrics for PHBs; set timelines for implementation of the FHAM that ensure rule implementation by March 1, 2018 and develop and finalize a revised protocol-fishing survey method.

Steve Barnowe-Meyer, WFFA, said they support WFPA's letter dated May 5 that describes the significant gains in reaching consensus and areas of disagreement at TFW Policy regarding FHAM. He also urged the Board to rely on the definition of Type F waters in WAC 222-16-030 that only "periodically inundated areas of their associated wetlands" be considered OCH.

Ray Entz, Kalispel Tribe of Indians, urged the Board to take immediate action to strengthen leadership within the AMP. He suggested that this might require rule making and substantial changes since the status quo is not working.

Harry Bell, WFFA, expressed concerns about the AMP that include concerns regarding members of the TFW Policy Committee continually having fractious debates or trying to reinterpret the FPHCP. He said the solution for improvement is for TFW Policy members to be given authority and incentive to provide clear and prioritized direction for CMER research per the goals in the FPHCP and Forests and Fish Agreement.

Karen Terwilleger, WFPA, said there are two overall challenges surrounding the AMP:

1. A loss in focus of the common goal at the table. She said this needs to be reinvigorated and needs to start with the principals reestablishing effective relationships.
2. A breakdown of trust. She asked the Board to consider three criteria when making decisions:
    - Does the action enhance trust around the table?
    - Does it enhance transparency?
    - Does it enhance participation from the caucuses around the table?

Mary Scurlock, Conservation Caucus, spoke to the probability idea within the FHAM framework. She said her caucus believes that the use of probability for potential habitat breaks is not arbitrary. She felt Berge's minority/majority report misrepresented second vote outcomes.

TFW POLICY COMMITTEE'S PROGRESS REPORT ON UNSTABLE SLOPES PROPOSAL INITIATION

Hans Berge, AMPA, walked the Board through TFW Policy's consensus recommendations for all of the elements within the unstable slopes proposal initiation. He focused on the next steps for the following six components:

- Component 1: Non-glacial deep-seated landslides
- Component 2: Deep-seated landslides, Public Safety Risk and Reactivation
- Component 3: Dr. Anne Weekes Landslide Screening Tool for complex or composite rotational deep-seated landslide assessment
- Component 4: Shallow-rapid landslide coarse screen
- Component 5: Run-Out Path Analysis
- Component 6: Policy Track. Landslide Risk Flow Chart

Stephen Bernath suggested that the state geologist from Washington Geologic Survey provide a presentation on the new DNR web portal for LiDAR at an upcoming meeting.

EFFICIENCY AND EFFECTIVENESS IMPROVEMENTS FOR THE ADAPTIVE MANAGEMENT PROGRAM

Bernath reminded the Board that a financial audit of the AMP is required by rule and stated that it will occur after the close of the biennium. He said discussion with the state auditor's office have begun regarding a performance audit.

Howard Haemmerle, DNR, provided a presentation based on his analysis of the Lean process. He reviewed the three principle goals within the Lean process and that the original Lean assessment began in 2012.

He shared benefits evaluated from the analysis included that the expert technical skills needed for the technical writing implementation group are adequately being established and the number of participants is adequate.

He said the negatives included the goal of reducing process cycle time is not being met because either initial times to complete projects may have been unrealistic, lack of time to meet timelines, or the firewall to separate policy agenda has negatively affected the scientific process.

His recommendations included:

- Incorporate components of the Lean Process into the AMP project development process.
- Review/revise CMER process
- Revise structure of project teams
- Review/revise the CMER work plan
- Establish a monitoring group with the purpose of identifying and proposing corrective actions as needed.
- Develop success criteria.

Bernath asked if the Lean process could be incorporated into the backend of the process. Haemmerle responded there is no commitment among the stakeholders; however, the Board could direct them to do this.

Bernath said at the February 2017 Board meeting, direction was given to AMPA to identify the range of comments gathered from caucuses to help construct and suggest a path forward in response to some of those comments.

Hans Berge, AMPA, said those individuals and sources contributed to the suggestions and feedback contained in the recommendations. He provided a brief outline of the goals of the AMP and why the program is important.

He also outlined his perspectives and recommendations in four areas: leadership, TFW Policy, CMER and overall adaptive management improvements.

Bernath asked if the trust building in recommendation #13 is about building relationships. Berge responded yes it is. Swedeen expressed support of this concept.

Heather Ballash asked for advice about where to start and Berge responded with leadership making a commitment as the first action, followed by action on the Lean process recommendations and then on emphasizing Board priorities regarding AMP (particularly focusing on evaluating effectiveness of existing rules).

Swedeen requested a motion be presented at tomorrow's meeting.

Berge concluded by saying that implementation of the recommendations will improve the efficiency and effectiveness of the AMP. However, given the performance audit that will occur in the next biennium, there will likely be additional improvements recommended.

REVIEW OF IMPLEMENTATION OF BOARD MANUAL 16 ONE YEAR LATER

Joe Shramek, DNR, provided a one-year status update on how the guidance for Board Manual Section 16 is being implemented operationally. He reminded the Board about the additional information rulemaking in 2015 and the approval of amendments to Section 16 in 2016.

Implementation measures included:

- Staff training occurred in 2016 to help staff know what to focus on during Forest Practices Applications (FPA) screening, specifically to responses to questions regarding unstable

slopes and the supplemental slopes stability form and ensuring completeness of geotechnical reports/memos.

- Training was provided to the stakeholder community in 2016, mainly through regional TFW meetings. This training focused on explained DNR's expectations from applicants related to questions and material submitted.
- Shramek described his program guidance memo regarding expectations and processes related to screening and reviewing forest practice applications associated with potentially unstable landforms.

He mentioned changes completed in June 2016 regarding FPA questions 11 and 12 to align with rule language specifically related to the concept of on or around. DNR also conducted in 2016 an internal review of Class III and IV FPAs. DNR found that classification decisions were accurate, that forest practice program licensed geologist involvement for Class IV-Special FPAs met established expectations, and that field verification by foresters during FPA review met expectations. Areas for improvement included office processing, where about 25% of sampled FPAs included one or more error. The review also revealed that internal documentation gaps existed and there was inconsistency within how Regions conducted screenings.

Follow-up measures include focused training of regional program staff and the program's commitment to conduct a second internal review in autumn/winter 2017.

Shramek mentioned that large industrial landowners are generally providing adequate unstable slope information, but that the small landowner community would benefit from greater assistance. He mentioned that DNR is committed to making this work.

Paula Swedeen requested an update at the August Board meeting on the adequacy of the content contained in Section 16. She wanted to know how the manual being implemented and whether clearer instructions are needed.

PERFORMANCE MEASURES AND STATISTICS

Joe Shramek, DNR, began by describing the forest practices program's overall approach for ensuring FPAs are reviewed, acted on and complied to meet the forest practices rules. When corrective actions are needed, DNR has a suite of tools available to bring about compliance.

Shramek illustrated the program's approach by reviewing information about the numbers of FPAs classified, reviewed and complied in the last fiscal year: approximately 4,500 FPAs were classified; 3,800 FPAs were field-reviewed prior to a decision; 1,570 post-FPA field compliance visits were conducted for three strategic program deliverables; 93 enforcement Stop Work Orders and Notice to Comply actions were taken; and 5 appeals of enforcement orders.

He summarized three specific post-FPA compliance deliverables. The deliverable for conducting field compliance reviews on all Class IV-Special FPAs involving unstable slopes was exceeded, with 118% of the target number of site visits made. The deliverable for ensuring that riparian management prescriptions were followed was exceeded, with actual site visits amounting to 147% of the target. The deliverable for ensuring that hydraulic projects on Type S and F waters

were installed as approved was exceeded, with actual number of site visits amounting to 166% of the target number.

Shramek explained the difference between how a Notice to Comply is used versus how a Stop Work Order is used. He explained that over the last five years, less than one percent/per year of active FPAs required issuance of either a Notice to Comply or Stop Work Order. He explained that completed information within an FPA is important to ensure DNR has the adequate information to classify and review the activity. There has been an increase in the number of FPAs DNR disapproved due to incomplete information or voluntary withdrawn by landowners.

Meeting adjourned at 5 p.m.

FOREST PRACTICES BOARD
Regular Board Meeting
May 10, 2017
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Members Present
Stephen Bernath, Chair, Department of Natural Resources
Noel Willet, Timber Products Union Representative
Bob Guenther, General Public Member/Small Forest Landowner
Brent Davies, General Public Member
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WELCOME AND INTRODUCTIONS
Stephen Bernath called the Forest Practices Board (FPB or Board) meeting to order at 9:00 a.m.

APPROVAL OF MINUTES
MOTION: Tom Laurie moved the Forest Practices Board approve the February 8, 2017 meeting minutes.

SECONDED: Bob Guenther

ACTION: Motion passed, 11 support / 2 abstentions (Herrera and Davies).

REPORT FROM CHAIR
Stephen Bernath said that because of the extremely wet winter in northeastern Washington, the region has experienced more than 160 landslides, which has affected forest land and non-forest land as well as numerous public and private roads. Triage is occurring to determine the jurisdiction over these landslides.

He reported on two legislative bills: 1-HB 1531 relating to the importance of forest riparian easements for sequestering carbon. It would require DNR to share information about the amount

of carbon sequestered when the state has a climate strategy; 2-HB 1275 relating to streamlining permitting around forest practices hydraulic projects and eliminating the need for landowners having to get substantial shoreline development permits from the local government.

PRESENTATION OF RMAP CERTIFICATES TO LANDOWNERS

Stephen Bernath shared how the concept of road maintenance and abandonment plans came about. He said that new standards for road construction and maintenance were incorporated into the Forests and Fish negotiations including fish barrier removal, which became one of the cornerstones for the Forest Practices Habitat Conservation Plan (FPHCP). He said the federal services viewed the 15-year period to accomplish Road Maintenance and Abandonment Plans (RMAP) as short-term mitigation while riparian areas recovered. He emphasized the importance of large landowner's willingness to do this work over a 15-year period without any public financing.

Hilary Franz, Commissioner of Public Lands, acknowledged that 43 companies worked to complete the plans on time. She shared several statistics: 50,000 miles of forest roads upgraded, 6,000 fish passage barriers replaced, and 3,500 stream miles opened up for fish habitat up to 300 million dollars involved in these projects.

Heather Bartlett, Department of Ecology (Ecology), acknowledged the improvements done through this effort, especially from the perspective of a fish biologist. She said Ecology commends the success seen in these projects.

Jeff Davis, Washington Department of Fish and Wildlife (WDFW), mentioned the importance restoring fish passage is for WDFW. He mentioned the importance these projects are for providing upstream habitat access and allowing the natural flow of sediment and large wood downstream. He highlighted the importance landowner's commitment to the program through the economic down turn.

Several Board members thanked those companies who worked to complete their plans and some shared their experience with the program. Companies with completed plans were announced and presented with a certificate signed by the Commissioner of Public Lands, and the directors of Ecology and Fish and Wildlife. Commissioner Franz, and Heather Bartlett and Jeff Davis were on hand to present the certificates.

<u>Companies with completed RMAPS:</u>

Ahtanum Irrigation District
Alco Holdings LLC
Aloha Lumber
American Forest Resources
Arbor Pacific
Arden Tree Farms, Inc.
Baring Timber
Bascom Pacific LLC
Bloedel Timberlands
C&G Timber
Camball Global
City of Bremerton
City of Montesano
Forecastle Timber Co
Forest Capital Partners
GMO Fund VIII
Grays Harbor County
Green Crow Corporation
Green Crow Timber LLC
Guy Bennett Lumber Co

Herbrand
Hancock Renewable Energy Group
Inland Empire Paper Co
Keystone Forest Investments
Manke Lumber
Menasha Forest Products Corp
Muckleshoot Federal Corporation
North Cascades Timberlands LLC
ORM Timber Operating Co
Plum Creek (Weyerhaueser)
Pope Resources
Port Blakely
Riley Creek Lumber
Seattle City Light
Seefeld Corporation
Springboard Wallace
Stimson Lumber
TCI & Chinook
The Nature Conservancy
The Timber Exchange
Vaagen Brother Lumber
WAFC TA LLC
Western Pacific Timber

PUBLIC COMMENT

Ken Miller, Washington Farm Forestry Association (WFFA), invited the Board to conduct a field tour on his tree farm to provide the Board a better understanding of the disproportionate impact to small landowners regarding the rules and to see what their RMZ template proposal looks like on the ground.

Ray Entz, Kalispel Tribe and Upper Columbia United Tribes, implored the Board to not assign the unresolved issues within the AMP back to TFW Policy.

Jim Peters, Northwest Indian Fisheries Commission, acknowledged the commitment taken by landowners and state agencies to the RMAP program. He mentioned that the main reason the western tribes stayed with Forests and Fish was the AMP. He acknowledged the importance of having the caucus principle's presence was in keeping members accountable.

Jenny Knoth, Green Crow, said their RMAP improvements included opening fish habitat on 12 river miles at a cost of about $1.8 million. She said their community involvement is due to providing forest products and asked the Board to consider the impact of Board decisions on those communities in providing stable family wage jobs.

Adrian Miller, Olympic Resource Management, said the AMP works well when the rules are followed. He also added that supervision and accountability is critical for making the system work well. He reminded the Board that the funding for these projects is huge compared to other states.

Tim Romanski, U.S. Fish and Wildlife Service, said development of a water-typing model will take time and therefore robust field procedures to accurately delineate fish habitat are needed more immediately. He said they value the Board's work to implement the FPHCP and look forward to working with the Board and DNR to develop field procedures for Type F streams, and/or providing concurrence on significant adaptive management actions affecting the FPHCP.

Chris Mendoza, Conservation Caucus, mentioned that the CMER Procedures Standards Manual is important for keeping projects on task and members accountable. He acknowledge the benefit

of the program in research and gathering information. He also acknowledged RMAP accomplishments achieved by landowners. He added that uncompleted RMAP projects in headwater systems could be related to the current FHAM discussion for how those streams will be typed and protected.

Peter Goldman, Washington Forest Law Center/Conservation Caucus, said they have been working cooperatively with DNR on addressing a problematic Snohomish County FPA involving steep and unstable slopes. He said there are still major gaps in Board Manual Section 16 and DNR's interpretation of it as the FPA in Snohomish County demonstrates. He urged the Board to ask DNR when they are going to take steps to better address reactivation, landslide dormancy, and accuracy in laying out groundwater recharge areas.

RECOMMENDATIONS FOR NEXT STEPS IN RULE AND GUIDANCE DEVELOPMENT FOR WATER TYPING SYSTEM

Marc Engel, DNR, reminded the Board that TFW Policy has completed stage one and two of dispute resolution and re-capped the items where dispute resolution has ended and those still in dispute. He presented staff recommendations based on TFW Policy's consensus for elements of the permanent water typing process: acceptance of past water typing modification forms (WTMF), the FHAM framework and the Adaptive Management Program Administrator's (AMPA) role in forming a technical expert group to evaluate and describe what would potentially constitute a fish barrier.

Engel said that PHBs could conceptually be different for different geographical parts of the state and could involve seasonal fluctuations. The technical group will be tasked with determining those parameters that constitute a change in habitat.

Swedeen said she believes a change in habitat means an acknowledgement that those areas above PHBs means we assume no longer supports fish.

Engel concluded with the progress and outcome for OCH. He said in that channelized streams would use BFW and non-channelized streams would use OHWL. He added that the habitat break evaluation and final recommendation would include an accessibility element.

Swedeen stated that the language regarding OCH still needs discussion to reach agreement. She proposed a field visit with conservation caucus technical staff to further discuss and evaluate to resolve this issue.

PUBLIC COMMENT ON NEXT STEPS FOR WATER TYPING

Bill Monahan, Rayonier, said they continue to operate in Washington and look for opportunities to grow here because they believe there is regulatory consistency. He said their experience with the existing stream typing rules is that they are working well as evidenced by their data. He said overreaction on this issue, like going to default physicals, would not be balanced and is inconsistent with the concept of shared risk. He said lots of consensus has come through the technical work group and at TFW Policy. He encouraged that this process continue to let science help to get at accurate and balanced results for non-consensus issues.

Ken Lentz, WFFA, urged the Board to consider the disproportionate impacts to small forest landowners regarding these new rules resulting from the moving of the Type F/N break point upstream.

Ken and Bonnie Miller, WFFA: Ken Miller described his views on the struggle to understand the "end of fish habitat" debate. He said the whole issue has been a moving target making it difficult to get meaningful public comment adding another disproportionate impact on small forest landowners. Bonnie Miller shared excerpts from comments made by small landowners that typifies the discouragement of most small forest landowners.

Elaine Oneil, WFFA, provided comments on the proposal to modify the terms of the protocol survey and an eventual fish habitat model to characterize all habitat with a 20% chance of having fish as "fish habitat." She said the proposal violates the principals of shared risk and pushes more people out of forestry and off the land.

Claudine Reynolds, Port Blakely Tree Farm, suggested that before decisions are made to change the protocol, a better understanding of what the implications are on the ground is needed. She said that could not be done without rigorous science and thorough vetting with multiple stakeholders. She requested the Board direct the Fish Habitat Technical Group to determine the metrics to identify potential habitat breaks and report directly to the Board as a path forward.

John Gold, Sierra Pacific Industries, said the Board has not received any independent analysis demonstrating that resource protection standards are not being met under the current water typing system. He stated that he believes the current practice by forest landowners not only meets, but also far exceeds the current rule. He said they support the consensus elements summarized in DNR's May 5, 2017 memo and the majority opinion related to OCH. He urged the Board to reject the departure from current policy, rule and the Forests and Fish Report performance target that the "line demarcating fish and non-fish habitat waters be drawn so as to be equally likely to be over and under inclusive," and to consider the costs and benefits in advance of adopting any new rule.

Ray Entz, Kalispel Tribe/Upper Columbia United Tribes, said that the term "significant" concerning a change in habitat to establish the PHB is not a good description. He suggested that accessibility by fish is perhaps a better description.

Peter Goldman, Conservation Caucus, reminded the Board that the accomplishments today regarding fish habitat was the original intent of the water typing rule and that the motion needs to include "accessibility" for fish. He asked the Board to consider including into the motion the term accessibility after the terms "significant change in habitat."

Kevin Godbout, Weyerhaeuser Company, asked the Board to consider a motion that can be workable, backed by scientific criteria, and that ensures protocol surveys are part of the assessment that include more than just barriers. He said they support the conceptual starting point for the FHAM and staff recommendations, but still have some concerns regarding the use of probability metrics.

Adrian Miller, Olympic Resource Management, said electrofishing is one tool used for determining fish habitat, but is not the only one. He encouraged the Board to accept staff's recommendations and make this a Board process moving forward.

Chris Mendoza, Conservation Caucus, stated that a technical group had come up with a framework and that this proposal goes against that group's efforts. He said that "probability" and "significant changes" are ambiguous terms and suggested that the second bullet under OCH definition goes against current rule.

Kris Northcutt, Merrill and Ring Timber Company, said electrofishing is one of many tools used for determining fish use but not the only one. He said models are a good starting point, but do not meet every situation.

Karen Terwilleger, WFPA, asked the Board to consider staff recommendations for forming a technical group with members of the existing technical group. She supports staff recommendations on OCH and the FHAM framework.

Jaime Glasgow, Conservation Caucus, said that PHBs should be linked to potential fish passage and should not be based on present day fish use or focused on simple changes to habitat. He suggested that PHBs should be defined as having a high likelihood of preventing upstream fish passage.

Mary Scurlock, Conservation Caucus, wanted to clarify that the recommendations for accepting WTMF as regulatory break points remain subject to the current process for review and should rely on the actual language of TFW Policy's dispute resolution recommendations. She encouraged the Board to use a method that can be simple and easily applied across the landscape and one that relied on specific metrics for establishing breaks may be prone to failure.

PUBLIC COMMENT (PM)

Joe Murray, WFPA, said participants have been working on improvements to the AMP since its inception and will likely continue for as long as the program lasts. He asked that the proposed recommendations have further discussion and evaluation by the participants. He also suggested a sub group of principals be formed to develop the proposal and standards for the final recommendations that could then be used to produce a manual.

BOARD DIRECTION ON NEXT STEPS FOR THE WATER TYPING SYSTEM

Marc Engel, DNR, presented staff recommended actions for the Board to consider.

Dispute Resolution

MOTION: Tom Laurie moved that the Forest Practices Board acknowledge that TFW Policy has completed both stages of Dispute Resolution and the board is assuming management for the development of the final issues needed to have a complete permanent water typing system in the forest practices rules.

SECONDED: Paula Swedeen

Discussion:
None.

ACTION: Motion passed unanimously.

Consensus Recommendations

MOTION: Tom Laurie moved that the Forest Practices Board accept TFW Policy's consensus recommendations on existing approved Water Type Modification Form break points.

SECONDED: Heather Ballash

Discussion:
Laurie acknowledged Mary Scurlock's testimony that suggested additional wording for this motion. Engel reported that the motion does include the suggestion by Scurlock.

ACTION: Motion passed unanimously.

Forest Habitat Assessment Methodology

MOTION: Carmen Smith moved the Forest Practices Board accept TFW Policy's framework for a Fish Habitat Assessment Methodology (FHAM).

SECONDED: Lisa Janicki

Discussion:
None.

ACTION: Motion passed unanimously.

MOTION: Jeff Davis moved the Forest Practices Board direct the AMPA to contract a third party technical expert to convene and lead a group of internal and external science/technical experts to work under the direction of the Board, the third party expert will consult with the TFW Policy Committee caucuses to identify team members.

SECONDED: Bob Guenther

Discussion:
Tom Nelson commented that this new technical group is on a very short time schedule and suggested the existing diverse group continue as the core group working on this task.

Dave Herrera agreed with Nelson.

Lisa Janicki said she would have liked a redline version of what became a motion rather than trying to figure out what was changed. She noted the change in this motion that added another

layer with the AMPA contracting a third party to lead a group versus having the AMPA convene and lead a group.

Jeff Davis responded that he is concerned with all of the AMPA's responsibilities and also concerned with bias from the group. He is mainly concerned with helping the AMPA deliver recommendations to the Board in August.

Tom Nelson said he is still concerned with the time lines set forth and when the contracting would occur.

Hans Berge, DNR, said he agrees that the extra layer would be problematic to complete by the Board's August meeting.

Discussion continued on whether to contract with a third-party expert and/or to use the existing technical group. The Board determined it was best to revise the motion.

Nelson suggested as a friendly amendment to revert to the original recommendation for Board action.

MOTION: Jeff Davis moved the Forest Practices Board direct the AMPA to convene and lead a group of internal and external science/technical experts to work under the direction of the Board, in consultation with the TFW Policy Committee caucuses to identify team members.

SECONDED: Bob Guenther

Discussion:
Brent Davies clarified that this action will provided the AMPA with the ability to draw from existing experts as well as others outside the program.

Berge requested the Board to help recruit experts for this group that

ACTION: Motion passed unanimously.

ACTION: Jeff Davis moved the Forest Practices Board direct the group of internal and external science/technical experts to determine those elements that would constitute a barrier and/or potential habitat break (PHB). The group is directed to review the FHAM listed habitat break features for combinations of primary/secondary features to determine those physical, biological and chemical elements that would individually or in combination constitute a high probability the PHB is coincident with a significant change in habitat including stream size, stream gradient, the interaction of size and gradient and the presence of barriers that limit accessibility, thus the appropriate point to initiate a protocol survey.

SECONDED: Tom Laurie

Discussion:
Paula Swedeen suggested removing the word "or" in the third line of the motion. She explained that based on public comment she wanted to ensure that a habitat break could not occur where a tributary stream exists that would allow for electrofishing.

Tom Nelson agreed with Swedeen; however, he said it should be taken care of with the technical team. He would also like to revert to the original recommendation.

Tom Laurie said he wants all possibilities to be considered by the technical team.

Jeff Davis said his preference is to keep "and/or" because there will be other barriers or reasons why fish may not use the habitat.

Swedeen agreed regarding the wording, however disagreed with Nelson about reverting to the original recommendation, which did not include verbiage on accessibility.

Noel Willet said he felt blindsided on what was originally presented from staff prior to lunch because there was much wordsmithing done that he is now trying to interpret. He also asked why the second sentence was revised so dramatically.

Bernath responded that Board members received comments that accessibility was important as well as receiving consensus recommendations on size and gradient, which staff felt should be incorporated into the recommendation.

Nelson said he is concerned with listing some, but not all, of the conditions for the technical team to consider.

Bernath said that there was no intention of limiting the technical group.

ACTION: Motion passed unanimously.

MOTION: Tom Laurie moved the Forest Practices Board direct the AMPA to bring the PHB recommendations to the Board for the August 2017 meeting. The recommendations need to include the metrics to identify the PHBs and a plan for validation of the eventual rule.

SECONDED: Patrick Capper

Discussion:
Tom Nelson suggested a friendly amendment by adding . . ." and a plan for validation of the eventual rule" to the end of the motion.

ACTION: Motion passed unanimously.

Off-Channel Habitat

MOTION: Tom Nelson moved off-channel habitat (OCH) to include:

- Type F channelized streams: The edge of OCH is bankfull elevation, the outer edge of inundation as defined at the bankfull elevation ("edge" as defined in WAC 222-16-010);
- Type F non-channelized streams: The edge of OCH is the OHWL, which includes those portions of wetlands periodically inundated at the ordinary high water level.

SECONDED: Lisa Janicki

AMENDMENT TO MOTION: Paula Swedeen moved to amend the motion as follows:

. . . Type F non-channelized streams: The edge of OCH is the OHWL~~, which includes those portions of wetlands periodically inundated at the ordinary high water level~~.

SECONDED: Brent Davies

Discussion:
Tom Laurie commented that OHWL includes portions of wetlands when you find it there and questioned the removal of language. Swedeen said that based on the public comments there is disagreement that it is not portions versus the edge of the wetlands.

Laurie said the original motion uses the term "includes" to mean that it is not an inclusive statement.

ACTION ON AMENDMENT: Amendment fails, (2 support (Davies and Swedeen) / 10 oppose / 1 abstention (Ballash)).

ACTION: Motion passed (11 support / 2 oppose (Davies and Swedeen)).

Bob Guenther asked for an update prior to the August meeting on how the technical group is progressing.

DESIGNATION OF RESPONSIBLE OFFICIAL FOR SEPA
Marc Engel, DNR, reported on the need for the Board to designate a person to serve on the Board's behalf as the responsible SEPA official. He said staff recommends the Board designate the chair.

PUBLIC COMMENT ON RESPONSIBLE OFFICIAL DESIGNATION
None.

DESIGNATE RESPONSIBLE OFFICIAL FOR SEPA ASSOCIATED WITH BOARD RULEMAKINGS

MOTION: Stephen Bernath moved the Forest Practices Board designate the Board's Chair to serve as the responsible official for complying with the SEPA process.

SECONDED: Heather Ballash

Discussion:
None.

ACTION: Motion passed unanimously.

TFW POLICY COMMITTEES PRIORITIES FOR CMER WORK PLAN

Hans Berge, AMPA, presented changes to the biennial CMER work plan. He highlighted important changes and status on various science advisory group projects that are included in the budget.

2017-2019 CMER MASTER PROJECT SCHEDULE AND PROPOSED BUDGET FOR 17-19 BIENNIUM

Hans Berge, AMPA, described recommended changes to the current master project schedule and the recommended CMER budget for the next two years. He highlighted the addition of science staff in eastern Washington to help with the development of various projects. The other item of importance is technical support for the TFW Policy. Support is needed for the continued work regarding unstable slopes, Type F, and OCH. He mentioned that the budget reflects allocations for active projects that will be completed within the biennium. He then provided a status review, included estimated completion timeframes, for several on-going projects contained within the budget.

Berge said one recommendation is focused on showing funding for various projects to provide justification and avoid errors. He stated that the requests for research expenditures in 2018 is $3.6 million. He said the difference by a positive $3,000 dollars between year 1 and year 2 is because the program will under spend by a little over $100,000 in the first year and over spend just under $100,000 in the second year.

Berge said that the master project schedule and proposed budget numbers are consensus recommendations of the TFW Policy for the Board's consideration and action.

PUBLIC COMMENT ON 2017-2019 CMER MASTER PROJECT SCHEDULE & BUDGET

Ray Entz, Kalispel Tribe, shared his caucus' concerns with the budget and suggested that consensus will be difficult in the future, if some of their priorities are not addressed. He described their concerns about extended project timelines and non-essential projects that have the potential to stress the budget.

2017-2019 CMER MASTER PROJECT SCHEDULE AND BUDGET

Berge requested the Board to approve the 2017-2019 schedule and budget.

MOTION: Heather Ballash moved the Forest Practices Board approve the updates to the CMER work plan, the updated 2017-2019 CMER Master Project Schedule and associated Adaptive Management Program Budget as presented.

SECONDED: Noel Willet

Discussion:
Brent Davies expressed her concern over the lack of resources for Eastside science advisory group and asked if this could be improved. Berge responded that he has dedicated some of his staff to help but the gap is still alarming.

ACTION: Motion passed unanimously.

NEW BUSINESS

ADAPTIVE MANAGEMENT PROGRAM RECOMMENDATONS

Bernath said it is clear that Board members are interested in encouraging the AMP review to continue. Tom Laurie began the discussion by presenting a motion.

MOTION: Tom Laurie moved the Forest Practices Board recognize the Adaptive Management Program is not progressing as effectively as needed and that changes in the operation and structure of the program may be needed.

The Board directs AMPA to contract with a facilitator to bring together the TFW Policy Committee and CMER to review proposed revisions to the Adaptive Management Program brought forward to the Board on May 9, 2017, and to report back to the Board by its November 2017 meeting.

The report to the Board will identify why specific recommended changes are or are not supported by consensus, along with any alternative consensual recommendations.

Non-consensus alternative recommendations may be included in the report, along with the level of support for the alternatives and the reason why.

In November, the Board may take action on all or part of the recommendations or move to consider these results along with recommendations from any forthcoming performance audit.

SECONDED: Stephen Bernath

Discussion:
Laurie said the Board could take action to support the changes discussed at yesterday's meeting. He said he wanted to make sure the stakeholders have an opportunity to participate and comment.

Bernath said that after hearing many of the caucuses interested in bringing the principals together and after consulting with the Commissioner of Public Lands, DNR would make a commitment to work with caucuses to plan a principals meeting.

Hans Berge, DNR, recapped his recommended priorities that include the Board setting clear direction on a path forward.

Brent Davies suggested a motion that would support the convening of a principals meeting. She also recognized that perhaps sending it back to TFW Policy and CMER may not get the Board where they want to go in a quick time frame suggested the motion include

Swedeen and Nelson agreed with Davies. Nelson suggested that Berge present his recommendations to the principals and report at the August meeting on progress.

Laurie is open to modifying his motion as it was not his intent to put this on TFW Policy rather involve the stakeholders for comments.

Berge said that it is more CMER focused and his goal is to get a recommitment to the spirit of TFW that will enable better collaboration and be more efficient.

Lisa Janicki suggested a joint meeting of the principals and the Board.

PUBLIC COMMENT ON ADAPTIVE MANAGEMENT PROGRAM RECOMMENDATIONS

Ray Entz, Kalispel Tribe, reminded the Board that the AMP issues have been discussed for some time and no challenge within the program is easy to resolve. He implored the Board to take leadership and facilitate the process to make the needed changes. He doubted the ability for current members to fix the problems.

Doug Hooks, WFPA, provided observations of the CMER committee that result in conflicting priorities given the wide perspective and interests from members. Setting priorities and goals, instilling trust and transparency will help these issues. He added that the first step is to define the problem.

ADAPTIVE MANAGEMENT PROGRAM RECOMMENDATONS

Laurie withdrew his motion.

ACTION: Motion withdrawn

MOTION: Stephen Bernath moved the Forest Practices Board commit to the TFW approach and its ground rules and recommend that a subcommittee of the Board work with the Adaptive Management Program Administrator and the Commissioner of Public Lands (staff) to develop an improvement plan and have a meeting of the principals before or in conjunction with the Forest Practices Board at their August 2017 meeting to make the Adaptive Management Program system work better.

SECONDED: Lisa Janicki

Discussion:
Bernath said the concept of the motion is that the Board is committed to working with TFW Policy and CMER on these issues to make progress as well as gather the principals together.

Bob Guenther said he views the motion as everyone making the commitment.

Dave Herrera asked what the role of the subcommittee is. He also said that he does not believe it is broken as described because work products and recommendations are being delivered to the Board. He wants to ensure all participants are able to provide comment.

Bernath said the subcommittee would work with the AMPA to ensure conversations occur with TFW Policy and CMER and they are not left out of the process.

Bernath invited Jim Peters, NWIFC, to provide comment on the motion. Peters recognized that some improvements are needed, but he reminded the Board that because TFW Policy does not reach consensus does not mean the process is broken. He said he would work to encourage his principals to commit to these discussions.

ACTION: Motion passed unanimously.

The subcommittee members are Lisa Janicki, Brent Davies, Paula Swedeen and Dave Herrera.

STAFF REPORTS
The following reports were not discussed:

- Adaptive Management Update
- Board Manual Update
- Compliance Monitoring
- Northern Spotted Owl Implementation Team
- Rule Making Activity
- Small Forest Landowner Advisory Committee and Small Forest
- Landowner Office Update
- Upland Wildlife Update Taylor's Checkerspot Butterfly Annual Report
- Western Gray Squirrel Annual Report

2017 WORK PLAN
Marc Engel, DNR, presented changes to the work plan reflecting the decisions made during today's meeting: the target date for final rule and guidance for the permanent water typing system was moved from November 2017 to February 2018, the PHB technical group's recommendations will be presented at the August 2017 meeting, and a report will be provided by the Board's AMP subcommittee at the August 2017 meeting.

MOTION: Tom Laurie moved to accept the work plan as mended.

SECONDED: Carmen Smith

ACTION: Motion passed unanimously.

EXECUTIVE SESSION

None.

Meeting adjourned at 5:20 p.m.