




July 30, 2009

MEMORANDUM

TO: Forest Practices Board

FROM: Marc Engel, Acting Policy and Service Assistant 
Forest Practices Division

SUBJECT: Watershed Analysis Review and Update

In response to the Board's March 31, 2009 motion on watershed analysis, staff is preparing proposal initiation information for the Board to forward to the Adaptive Management Program Administrator in November. In this memorandum I explain staff's understanding of the Board's motion, and would appreciate receiving verification of our understanding of the Board's intentions with the motion at the August meeting.

Also in this memorandum I provide you with the current status of work completed on the Board's May 21, 2008 work plan to address issues raised by the December 2007 storm.

Motion on watershed analysis

This is the Board's March 31, 2009 motion:

"Dave Somers moved that the Forest Practices Board direct staff to prepare a mass wasting adaptive management proposal and answers to the questions listed in Part 3.1, Proposal Initiation of Board Manual Section 22, Guidelines for the Adaptive Management Program. The proposal will include options for respecting the watershed analyses prescriptions that have been done and including those in HCPs . . . (INAUDIBLE) and how the post-mortem study results will be integrated."

Prior to this passing the motion, Board members discussed concerns that the existing mass wasting prescriptions should not be discarded if they are meeting the goals of protecting public resources, including those prescriptions required by habitat conservation plans (HCPs). Board members also expressed interest in the continuation of a Class IV-special exemption in the rule for approved watershed analysis mass wasting prescriptions, and in staff researching what would be needed for interested landowners to modify their existing prescriptions to meet the exemption standards.

Based on the Board's discussion and motion, staff believes the Board's intentions are to:

1. Focus on the mass wasting part of watershed analysis, not on the watershed analysis process as a whole.



2. Focus on the potential to continue to allow the use of existing approved watershed analysis mass wasting prescriptions that protect public resources and public safety, as a Class IV-special exemption for potentially unstable slopes and landforms.
 3. Focus on continuing to respect the mass wasting prescriptions required by approved HCPs.
 4. Incorporate up-to-date science, including the Mass Wasting Prescription Scale Effectiveness (“post mortem”) study, in the Board’s proposal to the Adaptive Management Program.
-

Work plan status

The work plan to address the issues raised by the December 2007 storm was accepted by the Board on May 21, 2008. The plan has four elements:

- Convene a group of experts to determine the appropriate role for watershed analysis prescriptions in the processing of forest practices applications, and report the results to the Board in November;
- Conduct a review of how applications involving unstable landforms are processed, and the current rules and guidance on processing those applications;
- Review the Adaptive Management Program strategies related to unstable slopes; and
- Provide the Board with the most current information about climate change coming from the University of Washington and the Governor’s Climate Action Team.

The current status of work completed is:

- Convene a group of experts. Staff facilitated a meeting in August 2008 that included scientists knowledgeable about watershed analysis development and implementation. In November 2008, staff reported the group’s recommendations and recommended that staff conduct further research to scope how to discontinue the use of mass wasting prescriptions. Staff reported in February 2009 its continuing work to identify a process with the least unintended consequences because of the fairly significant list of rules and laws that would be affected by the elimination of watershed analysis rules. In March 2009, the Board directed staff to prepare a mass wasting Adaptive Management proposal.
- Conduct an operational review. Staff conducted a review of operational processes related to classifying applications that include forest practices on potentially unstable slopes and landforms, reported its findings and recommendations in November 2008, and issued updated guidance on processing applications as Class IV-special for potentially unstable slopes and landforms. In March 2009, staff reported its findings regarding the specificity of mass wasting prescriptions and the status of implementing the November 2008 recommendations.
- Review Adaptive Management Program strategies. In April 2008, Policy discussed unstable slopes research work with the co-chairs of the Upland Scientific Advisory Group (UPSAG). Staff reported to the Board in August 2008 that Policy had determined that UPSAG correctly identified and prioritized the appropriate studies on unstable slopes.
- Provide information on climate change. A climate change presentation is planned for the Board’s November 2009 regular meeting.

Forest Practices Board

July 30, 2009

Page 3

For the Board's convenience, I am enclosing a chronology highlighting the progression of staff updates related to the work plan following the December 2007 storm event. You may use it as a supplement to my above description of completed staff work.

I look forward to discussing our interpretation of the watershed analysis motion with you on August 12 and welcome your insights. In the meantime, please contact me at 360-902-1390 or marc.engel@dnr.wa.gov with any questions.

ME/SF/GR

Attachment

Post December 2007 Storm Work Plan Chronology
Attachment
July 30, 2009

This chronology is intended to help Board members recall the Board's work plan for Forest Practices staff following the December 2007 storm event, and subsequent staff reports, updates, and recommendations. Please refer to the meeting minutes for Board discussions associated with this subject and more thorough accounts of staff presentations.

- February 22, 2008 The Board directed staff to produce a work plan for the Board to consider addressing:
- Watershed analysis prescriptions; whether they continue to provide equal or better protection for public resources and safety than the current rules, and if not, what infrastructure is needed to allow them to be used with confidence and perceived credibility.
 - CMER and other science relative to slope stability.
 - Operational questions that the storm event brought to the Board's attention.
- May 21, 2008 Staff proposed, and the Board accepted, a work plan:
- Convene a group of experts to discuss:
Given the state of science today, are the watershed analysis prescriptions for mass wasting and unstable slopes still appropriate or should that portion of the rules be revised or replaced in some way?
 - Conduct a review of how DNR is processing FPAs involving unstable landforms and the current guidance on that process.
 - With Forests and Fish Policy, review the adaptive management strategies related to unstable slopes.
 - Provide the Board with the most current climate change information coming from the UW and Governor's Climate Action Team.
- August 13, 2008 Staff gave status on work plan items:
- The group of experts would meet August 19, 2008.
 - Review of FPAs involving unstable landforms had begun.
 - UPSAG had correctly identified and prioritized the appropriate studies on slope stability.
- November 12, 2008 Staff gave presentations on work plan progress:
- Recommendations from August 19, 2008 group of experts on the continued use of watershed analysis mass wasting prescriptions.
 - Consensus recommendations:
 - 1) Develop and implement a monitoring program.
 - 2) To gain insights about the effectiveness of mass wasting prescriptions, review the "post mortem" *Mass Wasting Prescription Scale Effectiveness* CMER study and the 5-year watershed analysis reviews that have been performed.

- Non-consensus opinions on the continued use of mass wasting prescriptions:
 - Minority opinion (3 of 8): Continue use; with no monitoring of effectiveness there is no basis for discontinuing their use.
 - Majority opinion (5 of 8): Discontinue use; with no monitoring of effectiveness there is no basis for continuing their use.
- Recommendation on the use of mass wasting prescriptions:
 - Staff research how the Board, if it so chooses, may discontinue the use of mass wasting prescriptions, and will return to the Board with recommendations at its February 2009 meeting.
- Recommendations on operational processes:
 - Develop an FPA attachment to collect WSA prescription information.
 - Develop programmatic review and documentation expectations, and train all staff.
 - Review of a sample of FPAs that used mass wasting prescriptions.
 - Improve interactions with Department of Transportation.

February 11, 2009

Staff updated the Board:

- Staff is sorting out how to discontinue the use of mass wasting prescriptions with the least possible unintended consequences.
- Staff is analyzing whether prescriptions have been used inappropriately, how big the problem is, and how to rectify if necessary.

March 31, 2009

Staff recommendation: Change the rules through the Adaptive Management Program to:

- Remove the exemption for mass wasting prescriptions from the definition of Class IV-special in WAC 222-16-050; and
- Add language in WAC 222-22-070 establishing that the current rules supersede all mass wasting prescriptions.

Staff reported the review of mass wasting prescriptions and FPA classification was completed. Findings included:

- Some FPAs are being misclassified based on Class IV-special exemption criteria.
- 21% of mass wasting prescriptions in existing watershed analyses were determined to be “specific”, and could warrant a Class III classification.

Staff reported progress on implementing the November 12, 2008 recommendations on operational processes.