

1 **FOREST PRACTICES BOARD**

2 **SPECIAL MEETING**

3 January 18, 2001

4 Sawyer Hall

5 Lacey, Washington

6
7
8 **Members Present:**

9
10 Doug Sutherland, Commissioner of Public Lands, Chair of the Board

11 Lee Faulconer, Designee for Director, Dept. of Agriculture

12 John Mankowski, Designee for Director, Dept. of Fish and Wildlife

13 Bob Kelly, General Public Member

14 Steve Wells, Designee for Director, Dept. of Community, Trade and Economic
15 Development

16 Toby Murray, General Public Member

17 Dick Wallace, Designee for Director, Dept. of Ecology

18 Judy Turpin, General Public Member

19 Keith Johnson, General Public Member/Forest Landowner of less than 500 acres

20 Fran Abel, General Public Member

21 Dave Somers, Snohomish County Council

22 Lloyd Anderson, General Public Member/Independent Logging Contractor

23
24 **Staff:**

25 Pat McElroy, Lloyd Handlos, Debora Brown Mungia, Paddy O'Brien, Patricia Anderson,
26 Shari Kincy

27
28 **CALL TO ORDER**

29 The meeting was called to order at 9:15 a.m. Introductions were made. The Board welcomed new
30 member, Dave Somers with the Snohomish County Council.

31
32 Commissioner Doug Sutherland presented a service award plaque to John Daly and Joel Rupley
33 for their tenure on the Board. Joel thanked the Board and urged them to continue their good work.
34 John thanked the Board and expressed his appreciation to them for the work that they have done.

1 Commissioner Sutherland gave a quick update on the current organization chart. The
2 Commissioner will not be using the title of Deputy Commissioner. The Commissioner has
3 appointed Fran McNair as Aquatics Steward and Bruce Mackey as the Lands Steward. The
4 Commissioner recognizes the issues of Forest Practices and the regulatory part of DNR and has
5 appointed Pat McElroy as Executive Director of Regulatory Programs. Pat has also been
6 identified as the Chair designee for this Board and will chair most of the meetings. Bonnie
7 Bunning, who was the Regional Manger for the South Puget Sound Region, has been promoted to
8 Executive Director of Policy and Administration.

9
10 **APPROVAL OF MINUTES**

11 **MOTION:** Dick Wallace moved to approve the August 9, 2000 minutes.

12 **SECONDED** Lloyd Anderson

13 No corrections were made.

14 **ACTION:** Motion passed unanimously.

15
16 **MOTION:** Judy Turpin moved to approve the October 3 and 4, 2000 minutes.

17 **SECONDED:** Dick Wallace

18 Judy Turpin made the following corrections:

19 October 3rd minutes

20 Page 9, line 19 should read: WDFW is concerned that site class 5 might be over
21 represented on the landscape.

22 Page 12, line 27 should read: Yakama Indian Nation.

23
24 October 4th minutes

25 Page 3, line 5 should read: This will be done by a Monitoring Design Team, who will
26 develop and design a program for monitoring.

27 Page 3, line 17 should read: Dave Schuett-Hames.

28 Page 9, line 24 should read John asked what the key elements were so there is not a false
29 start.

30 Page 10, line 16 should read not instead of now.

31
32 Dick Wallace made the following corrections:

33 October 4th minutes

34 Page 10, line 23 should read over instead of this then.

35
36 Keith Johnson made the following corrections:

1 October 4th minutes

2 Page 10, line 21 should read ground rules talked, the word “it” should be dropped.

3
4 Judy Turpin moved to accept corrections. Keith Johnson seconded the motion.

5 Motion to amend was passed. Motion was adopted

6 **ACTION:** Motion passed unanimously.

7
8 **RULES UPDATE**

9 Lloyd Handlos and Debora Brown Mungia provided an update on the rules schedule. The Board
10 needs to decide when they will meet to discuss these issues. This is a very ambitious timeline that
11 we will need to follow in order to meet our deadline. DNR expects all the comments from federal
12 agencies, tribes, board members and stakeholders no later than February 2nd. DNR will
13 summarize the comments that come back from that proposed package and [present to the Board on
14 February 14th. What DNR is proposing is a special board meeting on February 21st. On February
15 14th the Board would receive information in preparation for the February 21st meeting. The Board
16 would receive the summary of comments, the preliminary final EIS, the preliminary final SBEIS
17 and the preliminary final Cost Benefit Analysis. Staff would spend the time between February
18 22nd and March 20th putting together the rule package to submit to the Code Reviser’s Office. It
19 needs to be filed no later than noon on March 21st in order for the document to be published on
20 April 4th, which will be the document that people will be responding to in terms of written
21 comments and at public hearings. We will begin accepting written comments as soon as the
22 document is filed and we will take written comments right up to the last day before the public
23 hearings. The hearings are tentatively scheduled for April 23rd and 24th. There will be one in
24 eastern Washington and one in western Washington and if possible we would like all the Board
25 members to attend both hearings.

26
27 The final EIS will be out by the end of April. The process requires that the EIS be published at
28 least eight days before adoption. After receiving the written comments staff will compile a
29 summary and the information will be filed at the Code Reviser’s Office on April 28th or 29th.
30 Debora proposed that the Board meet May 17th and not on May 9th. In advance of the Board
31 meeting staff would send the Board some comments from the public hearings and the written
32 comments and then on May 17th the Board would meet to adopt a rule package. If the rules are
33 filed by the end of May the effective date would be the end of June, which is when the emergency
34 rules expire.

1 John Mankowski is concerned about the amount of information the Board will be expected to
2 review between the February 14th and 21st meetings. Lloyd answered that these timelines are very,
3 very tight. It is an aggressive timeline, but staff intends to have a rule package in front of the
4 Board for it to discuss and adopt. John stated that there really is no flexibility in terms of a week
5 extra time or so given what we have to do before June 30, 2001. Debora stated that everything has
6 been pushed back as far as it can be.

7
8 Toby Murray commended the staff for an aggressive timeline. Judy thinks it would be a good idea
9 to request an extension. The Board needs to be protected against being forced to take action that is
10 ill advised in order to meet the timeline. The Board needs to be able to consider the comments
11 form public testimony and make the changes on the basis of that testimony if those changes are
12 necessary or advisable. The Board needs to be honest with the Legislature about this schedule.

13
14 Fran Abel asked what are the consequences if the Board does not ask for an extension and the
15 deadline is not met. Lloyd said that if no new rules are adopted, DNR reverts back to the 1998
16 rules and the process begins again. Paddy O'Brien said that there are actually two deadlines in the
17 forests and fish legislation: the authority for the current forest and fish emergency rules expires on
18 June 30, 2001, and the directive to adopt permanent forest and fish rules by June 30, 2001. John
19 stated that if the Board does need an extension that there is a statutory change needed. Dick
20 suggested to let the legislature know of the very tight schedule in which there is no room for
21 extensions. The Board can signal now that we may need the statutory extension and also signal
22 that the Board will let the legislature know some time in February. Debora replied that DNR's
23 goal in February is to have feedback from federal services, the tribes and all the review that is
24 needed in order to know that if there are pieces that need more work. The Board should know at
25 the February Board meeting whether or not an extension is going to be needed and for which
26 pieces. Judy is concerned that if the comments require a substantial change between the rule that
27 is put out for comment and the rule that the Board adopts, it does require additional time. Debora
28 noted that if at the May Board meeting the Board needs to make a change, there is a possibility
29 that the Board could change the proposed rule and have another Board meeting later in May and
30 still adopt the rules by the deadline. Paddy said that if there are any substantial changes to the rule
31 proposal in response to public comments those changes need to be filed with the Code Reviser's
32 Office no later than May 23rd so that there can be a hearing on or after June 26th and that the rules
33 would have to have an emergency effective date of July 1st so that there is no gap. It is not a
34 timeline that Paddy would look forward to working on but it is possible.

1 Commissioner Sutherland suggested that when making the report to the House Committee, the
2 Department could include a brief update on the very aggressive schedule and that it is fraught with
3 hooks that could find the Board not being able to make the June 30th date. Furthermore, that the
4 Board would advise them subsequent to our Board meeting on February 21st.

5
6 The Board agreed that there would be a regular meeting on February 14th and a special meeting on
7 February 21st. Commissioner Sutherland stated that without objection from the Board the House
8 Committee would be so notified.

9
10 Debora also shared the dates for the public meetings which will be held on April 24th in Sea-Tac
11 and April 25th in Yakima. Steve Wells said that all board members may not be present and he
12 wanted to know how crucial it was that all Board members attend. Paddy said that it is not a legal
13 requirement that board members attend public meetings. Commissioner Sutherland's intention is
14 to attend and Chair the hearings. The Board agreed that the regular meeting on May 9th will be
15 cancelled and a special meeting on May 16th will be scheduled.

16
17 Lloyd Handlos updated the Board on the outstanding rules. Out of the five outstanding rule
18 packages that did not get out last time, two of them are now complete and the rest should be
19 completed by the end of this week. DNR recognizes that within each of those rules there may still
20 be some issues that have not been bought off on by the stakeholders and that there may be a
21 couple of instances where the Board may be presented with some alternative language that the
22 Board may have to make some decisions on. Staff is working on a solution for the alternate plan
23 rules that will fit the small landowners needs and DNR's as well. Lloyd encouraged the Board to
24 make any comments, anytime, on anything that the Board has received.

25 26 **ADAPTIVE MANAGEMENT**

27 Lenny Young, Assistant Division Manager, for scientific support within DNR's Business Systems
28 Support Division, gave an update on the Adaptive Management Director position. They
29 recruitment is still open. Unfortunately, the person that was hired in October had to decline due to
30 family issues. In the meantime, Lenny indicated they are searching for an Interim Director and
31 hopes that by February 14th there will be an interim director.

32 33 **CMER COMMITTEE**

34 One of the issues facing this Committee is having individuals who want to do things by consensus.
35 DNR recognizes the difficulty in using consensus because CMER is going to be a long-term
36 program. It would make sense to agree on the groups that will be part of CMER and that the

1 consensus process isn't working very well, then develop some type of fall back plan. Judy says
2 that in the past there was a process for dealing with lack of consensus but it was not a voting
3 process. Lloyd says that he is not advocating a voting process but that there does need to be a
4 process that the Board agrees to assist the CMER committee.

5
6 Commissioner Sutherland asked that Craig Hanson and Dr. Timothy Quinn come forward and
7 address that Board. Dr. Quinn feels that CMER can operate very much like it has in the past and
8 that was without consensus. Right now CMER is operating on the basis that anybody that comes
9 to the CMER meetings, which at a minimum are typically the co-chairs of the Scientific Advisory
10 Groups, and some other interested people have a vote in the matters of CMER. When CMER is in
11 the decision making process, participants at the table are asked whether they are in agreement.
12 When CMER cannot reach consensus, the Policy Committee resolves differences. The key points
13 are trying to get people at CMER who are willing to commit a minimum of a certain amount of
14 time because there is an immense amount of work to do. CMER would like the Board to establish
15 a membership. Because CMER works by consensus and a single person can stop the consensus
16 process it does not really matter that we worry too much about one interest group having too many
17 people on the committee. If a single member were interested in stopping the process they could do
18 that just as well as an entire group of people. The message that needs to come forth is the message
19 that if you participate, you participate as a scientist not as a policy maker. Judy said that the issue
20 is not the need for a voting process but when you come to make consensus that you have a clear
21 view of who the participants in that consensus would be. Dr. Quinn said that is absolutely crucial.
22 The issue of putting people on CMER that have to report and contribute a third of their time will
23 guard against that. There has to be continuity in membership such as a commitment for a
24 minimum of two years. Craig said that is why CMER is asking interest groups to designate
25 individuals, because in doing so they have acknowledged that they are willing to make this
26 commitment.

27
28 John Mankowski believes that the Board needs to take ownership of the CMER program. This is
29 the only Board in the state that has a \$3 million research and monitoring program and some of the
30 best scientists in the state working on some of their key issues. The Board needs to design it and
31 make it work well. The next step should be the Board, in taking ownership, should solicit names
32 from the parties in the memo that was sent out. Judy appreciates the work that they have done.
33 She was glad to hear the comments about not prescribing particular criteria for what constitutes a
34 scientist, because non-profit organizations with small staffs have to rely on volunteers. To get
35 them to commit a third of their time is going to be difficult. The need is for persons who have the

1 ability to separate the scientific issues from the political ones and who have an interest,
2 background, and expertise in a scientific area without asking for a particular level of degree.

3
4 Dick noted the first step in taking ownership of CMER was the adaptive management emergency
5 rule. He recommends that the staff, on behalf of the Board, do the solicitation of members. It is
6 critical that the invitation be extended to environmental groups and local governments. A board
7 manual could identify the qualifications, the technical nature of the work, the expected
8 commitment, the two-year term, the sub-committee structure, the consensus preferred decision-
9 making and potentially the role of the Adaptive Management Director. The Board could then
10 receive the names from the solicitation and through a motion adopt the names. It does allow
11 flexibility if you need to substitute a name we can do it through Board motion.

12
13 Dr. Quinn stated that you can be more effective in the CMER process at the scientific advisory
14 group level then you can at the CMER level. The CMER level does not have such a wide range of
15 topics and often follows the advice of the scientific advisors.

16
17 Commissioner Sutherland summarized that it is the sense of the Board to accept the comments of
18 the co-chairs and concur that a two-year period of time with up to 1/3 of their time be an
19 appropriate commitment for those who are willing to serve on the CMER committee. CMER
20 should function as best as possible on a consensus approach and that it is the sense of the Board
21 that the consensus be derived from a core group of individuals who have been identified by the
22 members of each stakeholder group. John Mankowski also recommended that DNR staff write a
23 letter from the Board to the various constituents seeking nominations and that certain amount of
24 the CMER structure be built into the forest practices WAC and board manual. Also to have DNR
25 staff create a framework for how CMER is going to work in terms of qualifications, what is the
26 decision making process, what is the role of the adaptive management coordinator.

27
28 Commissioner Sutherland stepped out and Pat McElroy stepped in as chair for the remainder of
29 the meeting.

30 31 **RESOURCE OBJECTIVES**

32 Ann Goos presented information on Resources Objectives from Schedule L1. Resource objectives
33 serve as narrative criteria similar to what you would see under water quality. The performance
34 targets are the measures by which you have specific targets that meet those functional objectives.
35 Also in Schedule L1 you have three types of monitoring: compliance monitoring, which is done
36 by DNR, effectiveness/validation monitoring, and performance targets.

1 Judy Turpin felt that was a change from the agreement and wanted an explanation for why that
2 was changed. Ann responded that it is not a significant change from the agreement, the agreement
3 has resource objectives and performance targets, but the performance targets are not defined as
4 resource objectives. They are separated and the commitment is that the Board is to adopt resource
5 objectives and the resource objectives are the general goals and the new definition has them being
6 both functional objectives and performance targets rather than separate from the performance
7 targets. Ann indicated they attempted to clarify for CMER the narrative objectives and what the
8 measures would be and set the targets for those. Judy stated that they also changed the resource
9 objective from the April document to the current one because the Board would be adopting both
10 the functional objective and these particular performance targets. Ann said that is correct, but that
11 it was just an attempt to make the program understandable. She indicated it was the Board's
12 choice on how to set this up.

13
14 Dick feels that the purpose of resource objectives should go into the rules and then it is up to the
15 Board to decide whether they could adopt resource objectives into the board manual, which does
16 have more stability and less flexibility and then adopt the performance targets through a Board
17 motion.

18

19 **SCIENTIFIC REVIEW COMMITTEE**

20 Nancy Sturhan gave a presentation regarding the Scientific Review Committee.

21 Doug Martin prepared the information being presented and also prepared a proposal. One of
22 Doug's recommendations is to develop a process that has some quality control. Judy was
23 concerned that the preferred alternative did not actually have a committee. When she looked at
24 the scientific review preferred alternative, the way that it was set up you do not actually have a
25 committee and the CMER preferred alternative for a scientific review committee, it is a process
26 but it does not under its usual context end up with people in the same place having a meeting.
27 Your actual scientific review has a lot of people involved in the usual peer review journalistic style
28 and she cannot imagine that in fact you mean that group is the committee. Obviously not.

29

30 Doug Martin was asked to come and address the Board. Doug indicated that the "committee"
31 might be a different person each time. Judy was concerned that there might be a serious problem
32 keeping this process moving.

33

34 Dave Somers had a question concerning defining the process. Doug answered that the CMER
35 review process will contract individuals to do that the way it would operate would be a blind
36 survey. The other alternative would be to have several different reviewers. Dick Wallace indicted

1 the intent was to have the adaptive management coordinator help. Dick thought the rule should
2 define the peer review process, but that the manual could provide more details. He concurs with
3 the preferred alternative. He thinks the direction needs to be clear, but not so detailed that the
4 process is tied up. Judy stated it was important for people to have confidence in the process and
5 that means that the Board needs to be involved in where the scientific review is placed.

6
7 Nancy was anticipating that CMER would make some of the decisions and not everything would
8 go through the scientific review process. This difference needs to be defined. Doug commented
9 that they put this procedure into place to deal with the questions. They are willing to change the
10 wording to define the process. Keith feels that the Board should address this issue on February
11 14th and Judy wants to address her earlier questions regarding a smaller group of experts. Doug
12 says that they already have that structure within the other groups. Judy asked if there was money
13 for this project. Nancy indicated that the money would come from a CMER contract and the
14 CMER budget. Lloyd warned that this is a finite pool of money. Dick indicated it was important
15 to do it right. Pat indicated that the Board needed to flush out the adaptive management process.
16 Doug indicated the universities were interested. Judy stressed it was important for the science
17 reports to come to the board from the scientists, not the policy people.

18 19 **AGENDA FOR FEBRUARY 14TH MEETING**

20 The Board reviewed the proposed agenda. A Cultural Resources update will be added to the
21 agenda. John Mankowski has a concern that between the two February meetings that there will
22 not be enough time to review all the documents. Debora responded that there will only be small
23 changes to the new packet versus what the Board has already received. The Board discussed other
24 issues on their workplan and directed staff to adjust the meeting dates to provide more time.

25 26 **AGENDA FOR FEBRUARY 21ST MEETING**

27 The public comments will be before the action items.

28 29 **CLOSING REMARKS**

30 No executive session was needed. The meeting was adjourned at 1:00 p.m. The next regular
31 meeting is scheduled for February 14, 2001, beginning at 9:00 a.m.