

1 **FOREST PRACTICES BOARD**
2 November 13, 2002
3 Natural Resource Building, Room 172
4 Olympia, Washington
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7 **Members Present:**

8 Pat McElroy, Designee for Commissioner Sutherland, Chair of the Board
9 Lloyd Anderson, General Public Member/Independent Logging Contractor
10 Toby Murray, General Public Member
11 Tom Laurie, Designee for Director, Department of Ecology
12 Lee Faulconer, Designee for Director, Department of Agriculture
13 Judy Turpin, General Public Member
14 Robin Pollard, Designee for Director, Office of Trade and Economic Development
15 Eric Johnson, Lewis County Commissioner
16 John Mankowski, Designee for Director, Department of Fish and Wildlife
17 Bob Kelly, General Public Member

18 **Members Absent:**

19 Keith Johnson, General Public Member/Small Forest Landowner
20

21 **Staff:**

22 Lenny Young, Forest Practices Division Manager
23 Ashley DeMoss, Forest Practices Assistant Division Manager
24 Paddy O'Brien, Assistant Attorney General
25 Patricia Anderson, Rules Coordinator
26 Karrie Brandt, Board Coordinator
27

28 **CALL TO ORDER**

29 Pat McElroy called the meeting to order at 9:00 a.m. Karrie Brandt gave an emergency briefing.
30

31 Lenny Young introduced two new assistant division managers in the Forest Practices Division: Eric
32 Schroff will manage the Operations section and Jed Herman will manage the Forests and Fish section.
33

34 McElroy announced that the Forest Practices Board, herein referred to as the Board, had a plaque for Fran
35 Abel in recognition of her service on the Board, and Lloyd Anderson resigned his position effective upon
36 a newly appointed member by the Governor. He also mentioned that Judy Turpin's term expires
37 December 31, 2002.
38

39 **MOTION:** Tom Laurie moved to approve the May 8, 2002, meeting minutes.

40 **SECONDED:** Judy Turpin
41

1 **Board Discussion**

2 Judy Turpin proposed an amendment to the minutes on line 46, page 7, to read "...15-31 et seq", instead
3 of "...15-31 et set".
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5 **ACTION:** Motion passed unanimously as amended.
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7 **FEDERAL ASSURANCES UPDATE**

8 The Board received an update by memorandum from Debora Brown Munguia, on the Federal Assurances
9 project detailing accomplishments, current tasks, and questions that were being explored.
10

11 Judy Turpin asked what the plans were for public participation on review of the Federal Assurances
12 project. Darin Cramer, Assistant Manager, replied that there would be at least two informal and three
13 formal opportunities for public participation through the established environmental impact statement
14 process.
15

16 **LEGISLATIVE UPDATE**

17 Lenny Young discussed the differences between two draft versions of Road Maintenance and
18 Abandonment Plan (RMAP) legislation being developed. They differ only in how the watershed
19 inventory and prioritization process for identifying and prioritizing fish blockage culverts would be
20 carried out.
21

22 Tom Laurie asked who was working on the language for the new legislation. Young told the Board that
23 the House of Natural Resources staff was drafting the language with input from a sub-group of the Forests
24 and Fish Policy RMAP working group. Laurie also wanted to know if the draft would go back to the
25 Forests and Fish Policy Committee for a final look. Young confirmed adding that currently the draft is on
26 its fourth revision and that there will be a broad distribution with the fifth draft.
27

28 Eric Johnson inquired whether the limiting factors analysis would provide the level of detail necessary to
29 get a prioritized list. John Mankowski said that in most cases the answer would be no. The limiting
30 factors analysis did not include going out into the field and measuring pipes to determine any blockages.
31

32 **FOREST HEALTH LEGISLATION**

33 Karen Ripley, Forest Health program, described draft legislation to update the current Forest Insect and
34 Disease Control law and clarify the relationship between emergency forest insect and disease

1 management activities and the forest practices regulations. One adjustment concerned differentiating
2 between strategies for native insects and diseases and strategies for exotic insects and diseases found in
3 forest systems.

4
5 With regard to the native insects and diseases, Department of Natural Resources (DNR) would offer
6 technical assistance and coordination, but would not force landowners to participate in management
7 efforts. Ripley expressed that in those instances all forest practices laws would need to be followed. In the
8 event that an exotic insect or disease was detected, an emergency would be declared by either the
9 Commissioner of Public Lands, the Department of Agriculture, or the Governor, and landowners would
10 be required to participate in treatment efforts. The forest practices rules and regulations would be waived
11 unless related to roads, riparian protections, or forest chemical applications. These definitions would only
12 relate to a pest that has the potential to cause damage in a forest environment.

13
14 John Mankowski asked for an example of not having the authority to waive the forest practices rules upon
15 exotic insect infestation. Ripley said the control strategy for last year's detection of the citrus long horn
16 beetle in Tukwila was to cut the trees and chip them. In a traditional forest environment the alternate plan
17 process would not allow such an aggressive activity in a riparian area. Furthermore, some of the
18 landowners did not consent to this treatment. Under the forest practices permitting process, a consenting
19 landowner is required.

20
21 **SFLO REPORT TO BOARD AND LEGISLATURE**

22 Steve Stinson, Small Forest Landowner Office (SFLO), gave updates on some of the things that became
23 known through the 2002 report process. From the easement program, 30 forestry riparian easements were
24 complete with 29% of those landowners exceeding the high impact over ride. The average impact for
25 those landowners had been 75%, however, 12 of the easements had been 100% impacted. This meant that
26 the entire Forest Practices application area was not harvestable.

27
28 Stinson explained that the only way to get a handle on the demographic numbers for small forest
29 landowners was by looking at people who pay forest tax fees for their parcels. Currently, there are an
30 estimated 23,000 landowners in the forest tax parcel classifications. This represents 1.6 million acres and
31 there are an assumed 3 to 4 million acres in non-industrial private landowner classifications. This shows
32 that there are landowners with timber on their lands that have not decided what to do with it in the long
33 term.

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A small forest landowner survey was completed based on the tax parcels that were forested. The survey included approximately 1800 people. Of those, 75% knew very little or nothing about the Forests and Fish rules and less than 20% knew about the SFLO. The report is currently being reviewed by the advisory committee to the SFLO. The report will be submitted to the legislature on December 1, 2002.

John Mankowski asked if the report would breakdown the amounts of non-industrial forests to include a category of the 2 million board feet per year. Stinson replied that it could not be done from a statewide perspective. Individual landowners who have harvested less than 2 million board feet could be determined, but there was no way to quantify landowners that harvest less than 2 million board feet on a large scale. The data did not pick up those individuals who do not harvest.

Pat McElroy expressed that the report only picked up people who have self-selected to sign up for the forest tax provisions on their property. Stinson confirmed, and clarified that they had a subset of counties where they had special coverage of the tax parcel information. The forest ortho photos were taken and overlaid onto the tax parcels to pick up the forested parcels that were not in the tax parcel classifications. This gave a description of where the trees were located on the landscape. The completion of the spatial database would give an excellent view of where the small forest landowners were, regardless of whether they were in a forest tax classification.

PUBLIC COMMENT

Peter Goldman, Washington Forest Law Center (WFLC), commented on channel migration zone (CMZ) process. He stated that the environmental community had been working to notify the Board of issues that needed attention. Their work included a site detection of incorrect CMZ analysis, urging both the landowner and the DNR to review the site, appealing to the Forest Practices Appeals Board, filing a petition to the Board, and loaning CMZ experts to assist the Board. Goldman requested the Board make a determination that their manual needed reconsideration in light of points Dr. McNaughton outlined in his memo to the Board answering their question on CMZ delineation methodology. Goldman urged the Board to submit the manual back for a re-write.

On another topic, Goldman commented on WAC 197-11-305 and how it gave DNR an opportunity to signal when landowners appeared to be segmenting their forest practices permits. The Board should determine whether to allow forest landowners to file individual State Environmental Policy Act (SEPA)

1 exempt permits, avoiding the larger question about whether all of the exempt permits are, in fact, causing
2 cumulative adverse impact. The petitioners felt it was the Board's duty to determine their responsibility
3 under SEPA to make sure that individual forest practices permits did not escape SEPA review, and to take
4 a closer look at the cumulative impact of multiple related forest practices proposals in a specific
5 geographic area.

6
7 Becky Kelley, Washington Environmental Council (WEC), informed the Board that WEC was one of the
8 petitioners asking the Board to amend the CMZ language in the Board Manual. She said there was a
9 problem in terms of accurately identifying CMZs. This was demonstrated in the Greenwater litigation, the
10 Forks field tours in October, Dr. Montgomery's declaration, and in the memo from the science group
11 convened by Dr. McNaughton. WEC would like to request that the Board direct DNR staff to prepare new
12 language using a scientifically credible rigorous peer process and have it available for action in February.
13 Kelly remarked that the Board is not obligated to act on the petition at this meeting, but the question
14 should be resolved in a timely manner.

15
16 Ann Goos, Washington Forest Protection Association (WFPA), in regards to the CMZs and vertical bed
17 movement, reminded the Board of the EIS process that was followed when originally passing the rules.
18 One of the strengths in the EIS was how the new riparian rules would take into effect the CMZs. What is
19 being said by those who helped develop the rule is that the Board still does not have consensus within the
20 science process—this is why the Adaptive Management Program was set up.

21
22 Regarding WAC 197-11-305, Goos explained that the Department of Ecology was not repealing WAC
23 197-11-305 but that it was clarifying the relationship of statutorily exempt class I, II, and III forest
24 practices to the application of SEPA. The operating rules and the substantive rules under the Forest
25 Practices Act have been improved by the Board numerous times, and most of the rule packages since
26 1982 have gone through SEPA analysis. In addition, she stated that the Board had classified those forest
27 practices that should go under class IV special, obligated itself to SEPA, had an EIS that looked at the
28 cumulative effects, and made the rules available to the public for review.

29
30 Allen Pleus, Northwest Indian Fisheries Commission, stated that Section 2 of the Board Manual regarding
31 CMZ and bankfull channel features needed improving. His experience with the current methodology was
32 that it was very difficult to implement, it was controversial, and it had been difficult to come to consensus
33 in the field as to where the boundaries were. He encouraged the Board to ask DNR and the stakeholder

1 group to review the process.

2 Nels Hanson, Washington Farm Forestry Association, commented on small landowner alternate plans. A
3 year ago last August the Joint Policy Technical Taskforce (JPTTF) visited four different field situations
4 that covered seven different types of opposed or possible alternate plans. Since that time field applications
5 have been submitted that addressed one or more of those seven options. Currently, one or two of the
6 overstocked young stands and the hardwood conversion harvest has been nearing template status. Hanson
7 asked for clarification of who was responsible for the approval process, and if a couple of plans were
8 ready, could they be approved independently.

9

10 Pat McElroy informed Hanson that the Board had referred that subject to the JPTTF, but offered that he
11 would be open to the idea of templates coming in one at a time to the Board. Judy Turpin agreed, and
12 Lenny Young confirmed that the templates could certainly be moved out one at a time.

13

14 **CMZ DELINEATION AND VERTICAL BED MOVEMENT**

15 Lenny Young set the context for the Adaptive Management response. He said DNR staff was looking for
16 guidance from the Board as to whether the Board Manual addresses vertical bed movement. DNR also
17 seeks direction to continue using the current method of delineation until a better method is developed
18 through a formal adaptive management process.

19

20 Dr. Geoff McNaughton submitted a memorandum dated November 13, 2002, answering the Board's
21 question of whether the available historical data and observable field evidence of past changes in vertical
22 bed movement and lateral channel position was sufficient to make a reasonable prediction of future near-
23 term migration. (*See Attachment A.*)

24

25 Pat McElroy wanted to know, based on the discussions with the scientific panel, if Dr. McNaughton
26 believed that vertical bed movement was addressed in the Board Manual. He said yes, but it could be
27 improved.

28

29 John Mankowski inquired about putting together some of the best ideas from the science report together
30 with recent input from the tribes to provide guidance within the context of the current structure. Dr.
31 McNaughton said that could be done, however, it was apparent that there was not a lot of data to support
32 CMZ dynamics and it was not well understood.

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MOTION: Pat McElroy moved that the Forest Practices Board Manual Section 2, Standard Methods for Identifying Channel Migration Zones and Bankfull Channel Features, does address vertical bed movement, and that the Forest Practices Board directs the Department of Natural Resources, Forest Practices Division to continue to use the manual guidance to review Forest Practices Applications until and unless a better method is developed and adopted through the Forest Practices Adaptive Management process.

SECONDED: Eric Johnson

Board Discussion

Bob Kelly commented that when the Board adopted the Board Manual, the stakeholder process had not had enough time to run its course. Therefore, he would like to see DNR and the stakeholder group spend more time on the outstanding issues, with a set time limit in order to reach consensus.

Toby Murray said he wanted a result or a recommendation from the adaptive management process. McElroy said if the motion passed, he intended to make a further motion that would refer the Washington Forest Law Center’s petition to the Adaptive Management Program for review, and that Dr. McNaughton return to the Board’s next meeting in February to talk about any need for further scientific work.

McElroy decided to connect the current motion to the following motion referring the Washington Forest Law Center’s petition to the Adaptive Management Program to link the two actions. The new motion will affirm that the Board Manual does address vertical bed movement and refers the subject matter back to adaptive management.

MOTION: Pat McElroy moved that the Forest Practices Board refers the Washington Forest Law Center petition, dated August 7, 2002, to the Forest Practices Adaptive Management Program for the purpose of evaluating the relative importance of refining methods for delineating channel migration zones with respect to resource risk, cost, and other scientific work needed to support implementation of the Forest Practices Rules. He further recommends that the Adaptive Management Administrator provide recommendations to the Board by the February 2003 Board meeting, and that after receipt of these recommendations at the February Board meeting that the Board makes a decision in regards to the petition.

1 **SECONDED: Eric Johnson**

2 **Board Discussion**

3 Mankowski asked to include a statement in the motion that asks the Adaptive Management Program to
4 review the petition and report to the Board to present potential recommendations on short-term guidance
5 for making field decisions to improve the accuracy of the methodology.

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7 At this time, McElroy suggested that all motions currently before the Board be withdrawn.

8

9 **MOTION:** McElroy moved that the Forest Practices Board Manual Section 2, Standard Methods for
10 Identifying Channel Migration Zones and Bankfull Channel Features, does address vertical
11 bed movement, and that the Forest Practices Board directs the Department of Natural
12 Resources, Forest Practices Division to continue to use the manual guidance to review
13 Forest Practices Applications until and unless a better method is developed and adopted
14 through the Forest Practices Adaptive Management process.

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16 Furthermore, McElroy moved that the Forest Practices Board refers the Washington Forest
17 Law Center petition, dated August 7, 2002, to the Forest Practices Adaptive Management
18 Program for the purpose of evaluating the relative importance of refining methods for
19 delineating channel migration zones with respect to resource risk, cost, and other scientific
20 work needed to support implementation of the Forest Practices Rules. He further
21 recommended that the Adaptive Management Administrator provide recommendations to
22 the Board, including short-term guidance to improve the accuracy of the methodology
23 based on field experience, by the February 2003 Board meeting, and that after receipt of
24 these recommendations at the February Board meeting, that the Board makes a decision in
25 regards to the petition.

26 **SECONDED: Toby Murray**

27

28 **Board Discussion**

29 Judy Turpin verbalized that there was not an adequate discussion of vertical bed movement in the Board
30 Manual, and she further stated that the words “vertical bed movement” were not present in Section 2 of
31 the Manual. She said DNR asserted that it was possible to use the Manual in the interim in an appropriate
32 way, applying available information, so she proposed an amendment to the motion to insert the word “as
33 applied by the Department of Natural Resources, Forest Practices Division.”

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Young said that consideration of vertical bed movement was in the Board Manual. In respect to Turpin’s proposed amendment, he was concerned that sometimes there could be multiple organizations involved in the process of delineating, and therefore did not want to quantify the amendment.

MOTION: Turpin proposed that the Forest Practices Board amend the current motion to include “as applied by the Department of Natural Resources, Forest Practices Division” on the second line after the words “Channel Features.”

SECONDED: Bob Kelly

ACTION: Motion to amend failed with two in favor and eight opposed.

ACTION: The original motion passed with nine in favor and one opposed.

NEW CMER COMMITTEE MEMBER

MOTION: Judy Turpin moved that the Board accept Mathew Green to serve on the CMER committee and Helen Bresler as an alternate as recommended by Department of Ecology.

SECONDED: Tom Laurie

ACTION: Motion passed unanimously.

CULTURAL RESOURCES UPDATE

Tim Thompson, Thompson Consulting Group, said the Cultural Resources committee was making progress on clarifying what the overall goals and objectives were for the Cultural Resources Protection and Management Plan and highlighted issues that needed to be worked on. The committee was finalizing the details of the language on the overall description of the plan with an emphasis on the appendices. One dilemma slowing their progress was the language that will go on paper and how it might be interpreted. Thompson also disclosed they were in the process of looking at the classifications. Significant progress had been made on the idea of clarifying rules that are equally important to both tribes and landowners, more specifically, class III and IV trigger issues associated with cultural sites.

He said that each party had come to terms with the idea that landowner relationships were essential to progress on cultural sites. If there was no understanding of the importance of the plan, and if it was just a regulation, the plan would largely fail. Landowners needed to understand the obligations, buy into them, and find them acceptable. Landowners have been very responsive to the tribes’ needs and the tribes have

1 truly understood some of the complications of what is not working in the current system.
2 Turpin asked Thompson to explain how the small forest landowners have been involved. Thompson said
3 the small forest landowners had been well represented and had proposed language. The small forest
4 landowner group's participation has been very helpful in understanding that the committee needed to be
5 pragmatic and clear on what was expected of the small forest landowner, and had been one of the parties
6 that really contributed to the success to date.

7
8 Tom Laurie asked if outreach to forest landowners would be available. Thompson said that education
9 would be addressed to have people understand the overall goals, and hoped it would become an ongoing
10 process.

11
12 **MOTION:** Pat McElroy moved that the Forest Practices Board reaffirm its commitment to moving
13 forward on the Cultural Resources issue and ask all parties to dedicate their time and
14 efforts to complete the negotiations and report its recommendations to the Board in
15 February 2003.

16 **SECONDED:** Toby Murray

17 **ACTION:** Motion passed unanimously.

18

19 **WILDLIFE WORK PLANNING**

20 John Mankowski, Department of Fish and Wildlife (DFW) addressed the Board about developing and
21 adopting a wildlife strategy. He wanted the Board's thoughts on what the scope of the DFW's wildlife
22 strategy should be, what approach should be taken, what the general sense of timing relative to other
23 priorities were, and ideas about the process to move forward. The strategy elements for the Board to
24 address are as follows:

- 25 1) Effectiveness of the current rules at meeting the Board's intent or expectations
- 26 2) Contribution of Forests and Fish to non-riparian dependent species
- 27 3) Wildlife resource protection needs not addressed in rule, planning processes, or other means
- 28 4) Operational improvements:
 - 29 a) Alternate plans for family forest owners
 - 30 b) Improved incentives and effectiveness of wildlife planning options
 - 31 c) Better integration between state rules and federal rules and planning processes
 - 32 d) Adaptive management for wildlife resources

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1 The rules that need to be reviewed are the development of a comprehensive regulatory system for wildlife
2 as stated in WAC 222-16-080(5)(b), the spotted owl rule assessment under WAC 222-16-080(8), the
3 development of voluntary cooperative management planning process and plans as listed with WAC 222-
4 08-035(3), and the annual general rule evaluations as directed under WAC 222-08-035(1).

5

6 In addition, the Board will need to look more comprehensively at how well the rules are working for
7 wildlife, decide whether to adjust the protection plan, and decide how to track progress through Adaptive
8 Management.

9

10 The current wildlife protection elements are species-specific rules, species-specific cooperative
11 agreements, science analysis for Forests and Fish and other landscape features and how that is
12 contributing, and finally, a report to the Board on what needs to be done, if anything.

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14 Mankowski delivered a draft wildlife planning strategy to the Board. The strategy would start with a
15 species-specific current rule assessment followed by a report to the Board pending its completion. Then a
16 broader scientific landscape analysis for the effectiveness of the rules would be prepared and brought
17 back to the Board. On the non-biological side of things, DFW could concurrently begin an analysis of the
18 rule structure, small landowner approaches, and Adaptive Management.

19

20 Robin Pollard asked for clarification of the current rule assessment and asked what Mankowski
21 envisioned going into the assessment. He responded that he would create a matrix of all the species-
22 specific rules, review each one, work through the science, collaborate with others that work on the
23 species, and bring a report back to the Board.

24

25 Pat McElroy asked if the DFW would work collaboratively with the scientific community and
26 stakeholders in completing a comprehensive review. Mankowski said yes.

27

28 Eric Johnson inquired about the potential impacts of wildlife habitat land conversions and what incentives
29 could the forest practices rules provide to prevent that from occurring. Mankowski answered that the
30 SFLO had been putting the location of small landowner blocks of land into a geographic information
31 system. With the DFW's efforts to model what the landscape would look like, the areas that have the
32 biggest conversion threat could be identified along with at-risk species and populations. In addition, the
33 Board should grant plans to small forest landowners willing to stay in forestry for the long-term. The

1 plans that would allow them some flexibility in exchange for a commitment not to convert. Johnson asked
2 about DFW's strategic goals and how they meshed with the Forest Practices Board's goals. Mankowski
3 conveyed that because of the level of science now available, they know which species occur in which
4 habitats and their specific needs. The DFW could develop a precise species- specific plan that would
5 drive the habitat needs.

6
7 Lee Faulconer said he would like a status report on Marbled Murrelet.

8
9 Mankowski said he would develop a scoping plan for the Board to adopt at the next meeting. Once
10 adopted, he would come back with a revised work plan and ask for the Board's approval. He would like a
11 regular wildlife segment on the Board's agendas so DFW would not get off track or head in the wrong
12 direction. McElroy instructed staff to add a wildlife section to the next year of meeting agendas.

13
14 McElroy announced that some of the Board meeting dates in 2003 were changed. The scheduled meetings
15 for 2003 are now as follows: February 19th, May 14th, August 13th, retreat September 9th-11th, and
16 November 12th.

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18 **EXECUTIVE SESSION**

19 Board began executive session at 1:35 p.m. and adjourned at 2:03 p.m.

20 **MOTION:** Lee Faulconer moved to adjourn the meeting.

21 **SECONDED:** Bob Kelly

22 **ACTION:** Motion passed unanimously.

23 Meeting adjourned at 2:04 p.m.

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