

1 **FOREST PRACTICES BOARD**

2 **REGULAR BOARD MEETING**

3 May 20, 2009

4 Natural Resources Building

5 Olympia, Washington

6  
7

8 **Members Present:**

9 Peter Goldmark, Chair of the Board, Department of Natural Resources

10 Brad Avy, Designee for Director, Department of Agriculture

11 Brent Bahrenburg, Designee for Director, Community, Trade and Economic Development

12 Bill Little, Timber Products Union Representative

13 Carolyn Dobbs, General Public Member (*arrived at 3:00 p.m.*)

14 David Hagiwara, General Public Member

15 David Herrera, Skokomish Tribe (*absent in the afternoon*)

16 Doug Stinson, General Public Member/Small Forest Landowner

17 Joe Stohr, Deputy Director, Department of Fish and Wildlife

18 Norm Schaaf, General Public Member (*participated by phone for DFC & Fixed Width topics*)

19 Sherry Fox, General Public Member/Independent Logging Contractor

20 Tom Laurie, Designee for Director, Department of Ecology

21

22 **Absent:**

23 Dave Somers, Snohomish County Commissioner

24

25 **Staff:**

26 Julie Sandberg, Acting Forest Practices Division Manager

27 Marc Engel, Acting Forest Practices Assistant Division Manager

28 Patricia Anderson, Rules Coordinator

29 Phil Ferester, Assistant Attorney General

30

31 **WELCOME AND INTRODUCTIONS**

32 Peter Goldmark called the Forest Practices Board (FPB or Board) meeting to order at 9:00 a.m.

33 Patricia Anderson, Department of Natural Resources (DNR or Department), provided an emergency  
34 safety briefing.

35

36 **APPROVAL OF MINUTES**

37 **MOTION:** Bill Little moved to approve the February 11, 2009 meeting minutes as amended.

38

39 **SECONDED:** Sherry Fox

40

41 **Board Discussion:**

42 Sherry Fox noted a correction on page 12, line 26 that the word “zero” should be replaced by “over.”

43

44 Fox also asked if the letter of support for federal stimulus money referenced on page 5, line 27, had  
45 been completed. Staff responded it had not.

46

47 **ACTION:** Motion passed unanimously.

1 **MOTION:** Tom Laurie moved to approve the March 31 and April 10, 2009 meeting minutes.

2  
3 **SECONDED:** Joe Stohr

4  
5 **Board Discussion:**

6 Fox noted duplication in the March 31 minutes on page 6, lines 8-17.

7  
8 **ACTION:** Motion passed unanimously.

9  
10 **PUBLIC COMMENT ON GENERAL BOARD TOPICS**

11 Stephen Dylan, Hancock Forest Management, explained Hancock's revenue losses this year resulting  
12 from a 30 percent harvest reduction. He said prior to the economic downturn the company was on  
13 track to complete road maintenance and abandonment (RMAPs) by July 2016. However, because of  
14 the company's firm belief in sustainable forest stewardship, RMAPs must be balanced with  
15 completing environmental enhancement projects and meeting financial obligations. He said the  
16 company believes that good stewardship is good business.

17  
18 Karl Forsgaard, Washington Forest Law Center (WFLC), said they still have major legal and policy  
19 concerns with the proposal to extend the Clean Water Act assurances past 2009. He offered the  
20 following additional comments for the Department of Ecology (DOE) to consider:

- 21 1. Adequate funding will not be available to conduct the required studies.
- 22 2. The Adaptive Management Program has major structural and political problems and DOE does  
23 not have a proposed fix. The timeline is unrealistic.
- 24 3. The proposal fails to account for existing science that shows the impacts of current logging under  
25 the current rules on water quality in the state.
- 26 4. The proposal fails to comply with the Clean Water Act requirement to prepare total maximum  
27 daily loads (TMDLs) for all impaired surface waters.

28 He said he recognized this is still a draft and encouraged DOE to address the WFLC's concerns  
29 before issuing its decision at the end of June.

30  
31 Peter Goldman, WFLC, urged the Board to consider a historical view of the timber industry. After the  
32 Northwest Forest Plan the industry enjoyed 14 great years of high log prices and increasing output  
33 and profits. But now the situation has changed with international market, development pressure, etc.  
34 He suggested new strategies for helping the industry through the regulatory changes: A stronger  
35 Growth Management Act, a development rights transfer system, smart timber taxes, ecosystem  
36 payment services, local wood purchasing incentives, true independent forest certification, and  
37 creative financing mechanisms.

38  
39 Rick Dunning, Washington Farm Forestry Association (WFFA), explained the main focus of WFFA  
40 is education and a sensible voice against over regulation and over taxation. He provided a handout to  
41 the Board which explained the issue and asked the Board to look back at public comments given to  
42 the Board at the March 31, 2009 meeting highlighting WFFA's involvement and attempt at  
43 collaboration with Forests and Fish Policy (Policy) and with the Board. He pointed out the second  
44 page of his handout was an op-ed piece that ran in the Capital Press and soon was to be published in  
45 The National Woodlands magazine, which he called a desperate attempt by frustrated citizens. He  
46 said when they agreed to Forests and Fish, small forest landowners were promised the Forest

1 Riparian Easement Program, the Small Forest Landowner Office, and an alternate planning process  
2 for the achievement of less costly prescriptions. He said essentially those are gone now.

3  
4 Miguel Perez-Gibson, Conservation Caucus, provided a list of Species of Concern (state). He said  
5 marginal economic incentives may be insufficient to prevent forest land conversion, and that  
6 purchase of development rights may be the only reliable way to retain land and working forests. He  
7 asked the Board to be cautious with regulatory incentives as a means to maintain a viable timber  
8 industry.

9  
10 **FOREST INDUSTRY ECONOMIC IMPACTS**

11 Goldmark read a letter dated May 20, 2009 from himself and Jay Manning, Director of the  
12 Department of Ecology. The letter focused on convening a multi-stakeholder workgroup to examine  
13 how to ensure that RMAPs meet the 2016 deadline in light of the forest industry slowdown,  
14 convening a series of meetings of caucus principals to discuss renewing collaborative implementation  
15 of the rules, and promoting working forests as a cornerstone of Washington’s economic and  
16 environmental strategies.

17  
18 Fox noted that the letter mentioned a low interest loan program for landowners to continue work  
19 identified in RMAPs, and asked if the intent was a federal or state focus, and how the money would  
20 be raised. Goldmark said there are no limits as to where they may look.

21  
22 Fox asked if the expectation is for Board participation. Goldmark said yes, and that he would work  
23 with staff to come up with strategies that will be brought back to the Board.

24  
25 Joe Stohr commended Jay Manning and Peter Goldmark for bringing these topics to the surface.

26  
27 **PUBLIC COMMENT FOR COLLABORATION AND WORKING RELATIONSHIPS**

28 Tim McBride, Washington Forest Protection Association (WFPA), said landowners feel that they  
29 have a huge investment in trying to maintain the Forests and Fish Habitat Conservation Plan (HCP),  
30 and they would appreciate a more collaborative working environment to see that all of the Forests  
31 and Fish goals are implemented. He spoke positively about the Goldmark-Manning letter and asked  
32 that staff check with industry for creative ideas.

33  
34 Ken Miller, WFFA, said he didn’t think stakeholders have dealt with economic viability in any  
35 meaningful way. CMER and Policy agendas all point to less harvest and blinders are put on where  
36 other science points in any other direction. He said he felt the desired future condition (DFC) mess  
37 could have been dealt with if real collaboration had taken place and there was a commitment to all  
38 the cornerstones including economic viability. He questioned if DFC would still be on the agenda if  
39 someone other than landowners had proposed the cost savings to offset the economic losses of  
40 increased DFC basal area.

41  
42 Pete Heide, WFPA, explained that collaboration and consensus requires common goals, equal voices,  
43 leadership, and facilitation. He stressed that some people are going to have to change their approach  
44 if the system is going to work.

45  
46 Peter Goldman, WFLC, said that collaboration and cooperation are key. He pointed out that in 1982  
47 the Board committed to dealing with cumulative effects in the Rollie Gephardt report which never got

1 implemented. In 1992 the Board committed to watershed analysis which never got funded, and there  
2 was a commitment in 1996 to Northern Spotted Owls which ended in litigation. Good collaboration is  
3 an agreement to stick by one's ideals, to stick with the science, and to use good policy. He said the  
4 environmental community and the timber industry must fight together to protect the industry.

5  
6 Miguel Perez-Gibson, Conservation Caucus, asked Goldmark what the order of actions will be and  
7 how the process will work. Goldmark said it will be clearer within the next couple of weeks.

## 8 9 **COLLABORATION AND WORKING RELATIONSHIPS**

10 Chuck Turley, DNR, said this agenda item was provided for the Board to have a discussion on the  
11 program's working relationships. Under the Board's previous chair, DNR conducted almost 90  
12 interviews with individuals from the various TFW/Forests and Fish entities to try to understand what  
13 is needed to improve relationships. He referred to the Goldmark-Manning letter and said there is now  
14 a renewed focus to try to move forward with some concrete steps.

15  
16 Tom Laurie expressed concern about the Adaptive Management Program, and that DFC rule making  
17 highlighted the underlying problems. A consensus decision wasn't reached at the adaptive  
18 management level, and the Board, in effect, accepted that failing which continues to plague the Board  
19 today. He quoted the Goldmark-Manning letter, "It is time to examine and reestablish our collective  
20 commitment to a consensus-driven process for achieving our common goal ..." and stressed that is  
21 not a small matter. Again using DFC as an example, he said it was amazing how the relatively small  
22 impacts of the proposed rule change had such large implications. The focus has been largely on  
23 process, namely the adaptive management process.

24  
25 Laurie added that ensuring forest roads be maintained by 2016 must be a priority, and it was going to  
26 take collaboration to find solutions.

27  
28 Goldmark said he was very aware of the delicate nature of adaptive management. He explained he  
29 and Director Manning wanted to convene the caucus principals to attempt to reinvigorate the vision  
30 that created the Forests and Fish approach, and create a new vision of how to go forward in our state  
31 with our forests, the timber industry, climate change and many issues. He said when the principles  
32 work together collaboratively it will help improve the whole process. It will make adaptive  
33 management work better, but will also make the Board's job much easier.

34  
35 Doug Stinson challenged the conservation caucus to become educated about forest management – to  
36 buy 2,000 acres of forest land with a nice fish stream running through it, manage it, and try to get a  
37 six percent return on the investment.

38  
39 Fox said there is not a common goal among the caucuses, and until that changes there will be no  
40 collaboration.

41  
42 Stohr mentioned a facilitator and mediator may be helpful.

43  
44 Goldmark said he had been in contact with the Ruckelshaus Center, and with funding being an issue  
45 everyone needed to work together.

46  
47 Fox said she felt facilitation was necessary.

1 David Herrera explained that commitment was necessary and his tribe was committed to  
2 collaboration.

3  
4 **PUBLIC COMMENT FOR DESIRED FUTURE CONDITION RULE MAKING**

5 Jim Peters, Northwest Indian Fisheries Commission (NWIFC), spoke in support of Proposal 1, but  
6 said the Commission could support Proposal 3 if the Adaptive Management process showed that  
7 impacts would not be significant. He thanked the Commissioner for the letter and said the tribes will  
8 be with them in any process that protects natural resources, salmon resources, and the fishing and  
9 timber industries.

10  
11 Peter Goldman, WFLC, thanked the Commissioner and staff for drafting the motion that would  
12 propose to continue the DFC discussion until August. He suggested the directive to CMER should be  
13 whether Proposal 3 provides less protection than what already exists in the HCP with the 20 tree per  
14 acre exemption.

15  
16 Miguel Perez-Gibson, Conservation Caucus, said very few rule changes have been adopted over the  
17 last decade which is different from the previous decade. This means there's been a fair degree of  
18 regulatory certainty, and much collaboration along the way.

19  
20 Pete Heide, WFLC, said it was important that Proposal 2 continue to be considered. It provides  
21 additional environmental protection for the resources and at significantly less cost than the other  
22 proposals.

23  
24 Karl Forsgaard, WFLC, said his organization supports the staff recommendation to direct CMER to  
25 examine Proposal 3.

26  
27 **DESIRED FUTURE CONDITION RULE MAKING**

28 Lenny Young and Chuck Turley offered a staff recommendation to:

- 29 1. Defer action on DFC until its August 12, 2009 meeting;  
30 2. Direct CMER to estimate whether implementation of Proposal 3 would result in environmental  
31 impacts that are significantly different from the environmental impacts of implementing  
32 Proposal 1, and provide the Board with a written report at least one week prior to the Board's  
33 August 12, 2009 meeting; and  
34 3. Direct staff to re-file the CR-102 with a new anticipated adoption date to provide public notice  
35 of the ongoing rule making.

36  
37 Turley explained Proposal 3 can be tied to the underlying study because the data was collected for all  
38 trees on site, and the 20 trees per acre were not excluded in the basal area calculations. He said staff  
39 didn't believe Proposal 2 could be tied to the study because the proposal allows timber harvest to take  
40 place in areas where harvest is not allowed under current rule, namely site class III and IV forest  
41 lands on large streams.

42  
43 Tom Laurie asked if staff's intent was that CMER use existing information in their analysis, and not  
44 conduct new research. Young answered yes.

1 Fox asked for more information about why staff didn't include Proposal 2. Turley said the proposal  
2 was developed during a time when the stakeholders were discussing options, and it never got to the  
3 point where all parties were comfortable with it.

4  
5 David Hagiwara asked if the CR-102 would continue to include all three of the proposals. Young said  
6 yes.

7  
8 Joe Stohr wanted to know if this action was likely to help the Board be in a better position to make a  
9 decision. Young said there wasn't complete certainty that CMER would develop a unanimous  
10 opinion. If not, the Board would receive a written description of the views at least one week prior to  
11 the August 12 meeting.

12  
13 Stohr said he thought the environmental threshold determination allowed Proposal 2 to be kept on the  
14 table. Turley explained that the SEPA determination was that none of the proposals would likely  
15 result in a significant adverse environmental impact when compared to current rule. The staff  
16 recommendation is for CMER to analyze whether counting the 20 trees per acre in the basal area  
17 calculation would still produce the desired future condition. Young added that staff wasn't trying to  
18 take away any of the Board's options or shape the Board's decision, but the recommendation was  
19 only for Proposal 3 to undergo CMER's analysis.

20  
21 Brent Bahrenburg made the following motion:

22 **MOTION:** Since the Forest Practices Board's April 10, 2009 meeting, Board staff has  
23 been attentive to concerns expressed by some Board members and caucus  
24 representatives as to what action the Board will take on DFC at its regularly  
25 scheduled meeting on May 20, 2009. Staff has attempted to address a major  
26 concern that has been expressed: that the alternative recommended to the  
27 Board (Proposal 3) was generated for the Board after the petition for rule  
28 making was delivered to the Board by the Forests and Fish Policy Committee,  
29 and has not been reviewed by the Cooperative Monitoring, Evaluation and  
30 Research Committee (CMER). To address this concern, I move that the Board  
31 1. Defer action on DFC until its August 12, 2009 meeting;  
32 2. Direct CMER to estimate whether implementation of Proposal 3 (in other  
33 words, allowing the 20 trees per acre to be counted toward 325 square feet  
34 basal area requirement) will affect the ability of riparian stands to achieve  
35 desired future condition at age 140, and provide the Board with a written  
36 report at least one week prior to the Board's August 12, 2009 meeting.  
37 3. Direct staff to re-file the CR-102 with a new anticipated adoption date to  
38 provide public notice of the ongoing rule making.

39  
40 **SECONDED:** Doug Stinson

41  
42 **Board Discussion:**

43 Norm Schaaf said he supported deferring until August, but wished to amend the motion.

44 **AMENDMENT #1:** Norm Schaaf moved to amend the motion by proposing that Proposal 2 be  
45 included in the referral to CMER.

46  
47 **SECONDED:** Sherry Fox

1 **Board Discussion:**

2 Herrera asked if adding Proposal 2 to the CMER analysis would require additional data collection,  
3 and David Hagiwara asked if August 12 was a reasonable timeframe.

4  
5 Goldmark said he hoped the DFC rule making could be resolved collaboratively and expeditiously.  
6 He said he knew Proposal 3 was not necessarily everyone's favorite, but a reasonable compromise.  
7 But, he added, it is the Board's decision.

8  
9 After a short break and additional discussion and consultation with CMER co-chairs, Young  
10 answered that a CMER evaluation by the August meeting would not be possible if Proposal 2 were  
11 included. This was due to additional analysis and possibly additional information gathering. He  
12 stressed the importance of framing the question exactly the way the Board wanted it answered.

13  
14 Brad Avy said he'd rather have all questions resolved even if it takes more time.

15  
16 Bahrenberg asked how much more time it would take to include Proposal 2. Young said he couldn't  
17 estimate with confidence.

18  
19 **ACTION ON**

20 **AMENDMENT #1:** Motion failed. (4 support (Stinson, Little, Avy Schaaf) / 7 oppose

21  
22 **AMENDMENT #2:** Tom Laurie moved to amend the motion to change the language of the second  
23 (CMER) portion of the motion to: *Direct CMER to estimate whether*  
24 *implementation of the degree to which implementing Proposal 3 ... will affect*  
25 *the ability of riparian stands to achieve desired future condition ...*

26  
27 **SECONDED:** David Herrera

28  
29 **Board Discussion:**

30 Fox indicated she didn't believe the time extension and CMER evaluation would help prepare the  
31 Board for a decision.

32  
33 Young said he agreed that the amendment would improve the recommendation. Instead of getting a  
34 simple yes/no answer, the Board would receive more descriptive information about how Proposal 3  
35 would likely affect the stand over time, and what the eventual configuration of the stand would look  
36 like.

37  
38 **ACTION ON**

39 **AMENDMENT #2:** Motion passed. (9 Support / 1 Oppose (Avy) / 1 Abstention (Schaaf)

40  
41 **ACTION** Motion passed. (8 Support / 3 Oppose (Fox, Avy, Schaaf)

42  
43 **NEW BUSINESS**

44 Laurie initiated a discussion on the prospects of building in some administrative flexibility for  
45 landowners who have already invested in the activities associated with applying for forest practices  
46 management in the riparian inner zone. Specifically he wanted to discuss flexibility in forest practices  
47 application (FPA) renewal timeframes in the event the Board adopts a new DFC rule.

1 Turley said in DNR's current procedure requests for FPA renewals are accepted within 60 days of the  
2 expiration date. Renewals are for two years. It would be possible to broaden the time window in  
3 which landowners are allowed to request renewals. Young added it would be allowed for only one  
4 renewal period. Turley said any renewals approved after a new rule was effective would be subject to  
5 the new rules.

6  
7 Goldmark said he was sensitive to the current delicate economic situation of the industry, and  
8 supported not requiring landowners to resurvey and make those investments all over again if the  
9 Board adopts a new rule. He suggested for FPAs approved prior to rule adoption, possibly increasing  
10 the renewal request window to 12 months before FPA expiration.

11  
12 Hagiwara asked when rules become effective after adoption. Turley answered if the Board adopts a  
13 rule on August 12 it would be effective early October.

14  
15 Laurie asked Stephen Bernath to help explain the concept. Bernath said before the effective date of a  
16 new DFC rule, a landowner would be allowed to submit an early request for renewal of an unexpired  
17 application. As with any renewal, this would allow their application under current rules to be active  
18 for two additional years.

19  
20 Sherry Fox thanked Laurie for moving this idea forward, and said she supported it. She asked  
21 whether it should be put in the form of a motion.

22  
23 Turley said the Board could request that the Board's Chair as Commissioner direct DNR staff to be  
24 prepared to accept these early requests for FPA renewals.

25  
26 From the audience Peter Goldman requested that the Commissioner reopen the meeting to a comment  
27 period because this subject was not on the agenda.

28  
29 Several Board members asked questions about the affected FPAs, but Turley and Young didn't have  
30 answers immediately. Herrera suggested putting this discussion on the August agenda so the Board  
31 could make an informed decision.

32  
33 Goldmark said he wanted to abide by transparency as much as possible and allow time for public  
34 comment.

35  
36 **PUBLIC COMMENT ON THE DFC APPLICATION RENEWAL CONCEPT**

37 Peter Goldman, WFLC, said applications wouldn't be necessary because landowners can already  
38 withdraw permits and apply the next day to get a new two-year permit. He said it was a quid pro quo  
39 for implementing the adaptive program, and he rejected it. He added there were legal implications for  
40 DNR to change an existing policy, which could require SEPA. He said this was exactly the lack of  
41 collaboration his organization is concerned about.

42  
43 Pete Heide, WFLC, first commented on the apparent new way of managing the Board's agenda –  
44 simply jump up from the audience and demand to speak. He stressed that what the Board is  
45 discussing is not new trees being harvested, but trees that would have been harvested if the economy  
46 hadn't worsened. He then explained renewals are different than new applications. On the applications  
47 the Board was discussing, the work of preparing an application was done but harvest hadn't occurred



1 because the demand for logs was down. He said preparing new applications means additional work  
2 for the applicant, and there is a significant difference between a Class III application and Class II in  
3 terms of the work required and necessary review.  
4

5 Becky Kelly, Washington Environmental Council, urged the Board not to approve this provision. She  
6 said the science showed the (basal area target) number is wrong five years ago, and yet landowners  
7 have continued to be allowed to operate under incorrect numbers. She stressed this was very  
8 important to the integrity of the adaptive management process. She explained that prior to the  
9 effective date of the Forests and Fish rules there was a huge round of permits for a total acreage the  
10 size of Rhode Island. She said the Board should not do something that would cause that type of thing  
11 to happen again. She added there is currently a tension between the scientific uncertainty inherent in  
12 the HCP and the economic downturn, and taking an action like this would exacerbate that tension and  
13 not be helpful to the long-term viability of the HCP.  
14

15 Jim Peters, NWIFC, said the potential impacts needed to be looked at and understood collectively.  
16 Knowing where these applications are located would help to determine the impacts on the resources.  
17

#### 18 **Board Discussion:**

19 Laurie asked staff to provide the following information for the Board:

- 20 1. Number of FPAs that include a DFC analysis which have not been harvested.
- 21 2. The difference in costs to landowners to renew an application vs. withdrawing and re-applying.
- 22 3. The percentage of these applications that are large landowners and small landowners.
- 23 4. Total number of FPAs and number of affected acres.
- 24 5. Costs to DNR for renewals vs. new FPAs; expected workload.  
25

26 Goldmark explained that there is no requirement that landowners notify DNR after harvest is  
27 complete, which would add complexity to the task. Young agreed and said that particular part of  
28 Laurie's request would be a labor intensive, manual exercise to get the information about applications  
29 in which harvests hadn't been completed, and this information changes day to day.  
30

31 Laurie said he didn't want to add a costly exercise.  
32

33 Goldmark said the Board would be revisiting this subject in August.  
34

#### 35 **PUBLIC COMMENT FOR CMER WORK PLAN AND BUDGET**

36 Chase Davis, Upper Columbia United Tribes, requested that the eastside Type F channel instream  
37 wood study be added back into the Fiscal Year (FY) 2010 budget in the amount of \$175,000. He said  
38 the recently released publication of the CMER review states two important findings: Eastside work  
39 has been neglected, and CMER work in general suffers from a lack of integration. He said the work  
40 plan has already been postponed one year and postponing another year will likely mean a lost  
41 sampling opportunity and a conflict with the upcoming Type N hydrology study scheduled for 2011.  
42

43 Miguel Perez-Gibson, Conservation Caucus, questioned whether a 70 percent reduction in the CMER  
44 budget is sustainable for the Adaptive Management Program.

45 Karl Forsgaard, WFLC, said no caucus supports the reduced funding level as a viable Adaptive  
46 Management Program. The viability of the HCP depends on the viability of the Adaptive

1 Management Program. The incidental take permit that went with that HCP is premised on the  
2 viability of the program and without adequate funding it's likely the HCP will be challenged.

#### 3 4 **CMER WORK PLAN AND BUDGET**

5 Darin Cramer, DNR, requested approval of the FY2010 CMER Work Plan and Budget, as well as the  
6 Board's support and commitment in addressing funding needs.

7  
8 Fox said she was concerned about the proposed budget. She said it didn't reflect good business sense  
9 because it starts projects in 2010 that wouldn't necessarily be funded in 2011. She asked if there were  
10 any discussions about funding the high priority projects for the years 2010 and 2011, and not  
11 budgeting for other projects at all until funds are known to be available.

12  
13 Cramer said the work plan does not start any projects in FY2010. He said all the projects that are  
14 listed are active ongoing projects. It does show new projects starting in FY2011 under the assumption  
15 that we can obtain extra funding by then.

16  
17 Avy asked for Cramer's assessment of the program's ability to deliver overall. Cramer offered his  
18 opinion that expectations are unreasonable for a largely voluntary organization. It relies on  
19 participation from people who already have full time jobs. The program's authority is completely  
20 decentralized. There isn't a project on the list that most people don't think needs to be done, and done  
21 quickly. But projects take years to develop and complete. And we continue to add other things for the  
22 program to accomplish. Also, the program is consensus-based, which takes time, and when you  
23 overlay the nature of the relationships now with the huge amount of work needed to be accomplished,  
24 it makes for an untenable situation.

25  
26 Fox repeated her concern with the budget showing a negative \$2 million in 2011. She said there  
27 should have been a budget more focused on completion, with other projects put aside until funding is  
28 available.

29  
30 Stephen Bernath, DOE and Policy co-chair, clarified that only the 2010 budget needed the Board's  
31 approval that day, and the Board would receive another budget request for 2011 next year. He  
32 explained that Policy developed two budgets during its retreat in the spring. One was Policy's  
33 preferred budget which relies on receiving additional funding, and the second was a worse-case  
34 budget in which projects and staff would have to be reduced by 30 percent this year. The  
35 recommended budget consisted of those two put together with the intent of securing additional  
36 funding from state and federal sources. This would keep experienced CMER staff for a longer time  
37 and, in the event additional funding is available, the capacity to continue projects.

38  
39 Fox asked if the Board could see the "worst case" budget. Cramer showed it (labeled "Option 2") to  
40 the Board and explained the overall impact of about 25 percent phased-in reductions in 2010, 2011,  
41 and 2012. In the preferred budget, if funding cannot be obtained, reductions would need to occur  
42 more quickly after FY2010.

43  
44 Laurie asked Bernath for the effects on the studies needed for the Clean Water Act assurances.  
45 Bernath said those projects would be moved out further in time if the funding level isn't increased.  
46 The ongoing projects would be finished but those not started would be delayed even farther out under  
47 Option 2 than in the Policy-recommended option.

1 Cramer pointed out there is additional risk in losing institutional experience and capacity, and  
2 existing efforts to queue up some of those projects could be sacrificed.

3  
4 Laurie asked Bernath about the budget retreat, and asked if Tom Robinson, Washington State  
5 Association of Counties and Policy co-chair, could provide more insight on Policy's recommended  
6 budget.

7  
8 Tom Robinson, Washington Association of Counties and Policy co-chair, asked the Board to consider  
9 how important the program is to them. The budget presented to the Board was considered at length  
10 and shows what is needed to continue a viable program. He asked if the Board was willing to step up  
11 and help acquire the necessary funding. The alternative was to take the other budget, which basically  
12 takes the program down to a \$1 million dollar program, a third of current level, and which doesn't  
13 maintain a viable program.

14  
15 Fox said she didn't think any Board member doesn't want to support the program, and that she  
16 wanted to help get money, but the reality of that occurring within 12 months is very slim. If not, the  
17 Board would be a million dollars in the hole in 2011 which is not fiscally responsible.

18  
19 Stinson said the Board should be willing to retrench.

20  
21 Goldmark said DNR has had to go through an enormous budgetary reduction, and, yes, had to  
22 retrench to a certain extent. He said that means we can't do what we want to do or what people  
23 expect. It is a different way of doing business, and it would be unwise as chief executive to plan on  
24 finding funding someplace else.

25  
26 Stohr said he was worried that despite the Board's best efforts, the program won't be successful. He  
27 said he was hesitant to step away from Policy's recommendation.

28  
29 Fox asked if the budget had to be approved immediately. Cramer replied yes, the 2010 budget had to  
30 be approved before the end of the fiscal year. He suggested each of Board members' individual  
31 organizations could consider helping to find funding. He added there was some mention around the  
32 Policy table that adopting the Option 2 budget would be sending a signal for a different type of  
33 program that people may not want to participate in.

34  
35 Robinson said Policy's discussions revolved around the notion that if you're asking for money and  
36 yet you have a budget on the table that shows you can run a program with a certain amount, the  
37 perception will be that you have all the money you need. He said Policy agreed to forward a budget  
38 that takes all the cuts in the second year instead of the first year to maintain options through the first  
39 12 months. That is the difference between the two budgets.

40  
41 Stohr said any possibilities to get federal or state help will be known by the end of June. He  
42 suggested the Board approve Option 1 and retrench if the indicators go down.

43  
44 Bernath said if we can tap into some federal dollars and reallocate some existing state dollars instead  
45 of finding new state dollars that is the initial strategy for making up for the \$2 million shortfall.

1 **MOTION:** Doug Stinson moved to approve the Option 2 FY2010 CMER work plan and  
2 budget presented to the Board.

3  
4 **SECONDED:** Brad Avy

5  
6 **Board Discussion:**

7 Laurie said he liked Stohr's suggestion to adopt the recommended budget and be prepared to go back  
8 in the near future if we have to.

9  
10 Cramer said under Option 2 the program would have to phase down staff and administrative support  
11 quickly.

12  
13 Goldmark said he thought it would be premature to expect that by July 1 it could be known with any  
14 certainty whether we could acquire additional funding.

15  
16 **ACTION:** Motion failed. (3 Support (Avy, Stinson, Fox) / 5 Oppose (Bahrenburg, Laurie,  
17 Hagiwara, Herrera, Little) / 1 Abstention (Goldmark)

18  
19 **MOTION:** Joe Stohr moved to approve Option 1 and to be prepared by the August  
20 meeting to fall back onto Option 2.

21  
22 **SECONDED:** Dave Hagiwara

23  
24 **ACTION:** Motion passed. (7 Support / 1 Oppose (Avy) / 1 Abstention (Goldmark)

25  
26 **FORESTS AND FISH POLICY PRIORITIES**

27 Policy co-chairs Stephen Bernath and Tom Robinson explained three priorities that will take all of  
28 Policy's time for the remainder of the calendar year:

- 29 1. Finding funding for the adaptive management program;  
30 2. Clean Water Act assurances; and  
31 3. Adaptive management strategic plan implementation.

32 Robinson added another priority is to re-educate themselves with Board Manual Section 22, and  
33 suggested Board members may want to do the same to understand adaptive management processes.

34  
35 **PUBLIC COMMENT ON CLEAN WATER ACT ASSURANCES**

36 Don Hamerquist, WRIA 19 Planning Unit, said he was very familiar with Clean Water Act  
37 assurances and the underlying issues. He said he thought DOE was going to have a transparent public  
38 process, and was prepared to participate in it, but that isn't the case. He asserted that CMER has  
39 deliberately not implemented the basic trend and status monitoring necessary to determine whether  
40 water quality standards are being met. He said he was not sympathetic to the lack of money being the  
41 reason that forest practices are not on a trajectory towards achieving clean water standards, because  
42 that hasn't been the issue in the past years when it wasn't implemented, and when groups  
43 independently volunteered to help the process through volunteer efforts. The timber industry will not  
44 allow any water quality monitoring access except through CMER, and CMER won't do it unless if  
45 determining the effectiveness of rules. He said he thought the problem is highlighted in DNR's  
46 comment on page 7 of DOE's draft 2009 report, which says the expectations are completely  
47 unrealistic and we all know it.

1 Janeen Porter, WRIA 19 Planning Unit, said if it weren't for pushing from the outside, DOE would  
2 not have done anything toward this 2009 deadline. She strongly recommended against continuing  
3 clean water assurances.

#### 4 5 **CLEAN WATER ACT ASSURANCES**

6 Stephen Bernath, Department of Ecology, explained that the Clean Water Act does not provide the  
7 same contractual mechanism as the Endangered Species Act. The assurances were offered as an  
8 alternative to provide some predictability about how clean water would be dealt with within the ten  
9 years following the Forests and Fish Agreement. It essentially requires DOE to rely on the forest  
10 practices rules and programs in association with the formal Adaptive Management Program to restore  
11 and maintain forested waters in compliance with state water quality standards. The need for the  
12 review was established in Schedule N2 of the Forests and Fish Report.

13  
14 Mark Hicks, Department of Ecology, said DOE is rapidly approaching the end of their July 1, 2009  
15 deadline to show that Washington's Forest Practices program can continue to be relied on as a  
16 mechanism for bringing waters into compliance with state water quality standards and the federal  
17 Clean Water Act. It is DOE's intention to have a final draft by July 1, 2009 and that DOE is, for the  
18 most part, confident that the milestones set for forest practices operations and compliance monitoring  
19 activities can be done with existing processes and staff, except for some fine tuning to improve  
20 coordination.

21  
22 However, he said, DOE is very concerned about the pace and the progress of the Adaptive  
23 Management Program. It has been 10 years since Forests and Fish and no studies have been  
24 completed to examine the effectiveness of the forest practices rules in protecting water quality. The  
25 way things are going now under one of the budgets, the first of the studies would not be completed  
26 until around 2013. If there is no new funding, many of the water quality studies that could be used to  
27 validate that the forest practices rules are effective will not be finished for 25 to 30 years.

28  
29 He said it is equally concerning that cooperators have different opinions of what it means to be  
30 engaged in this process. As a result, once we get the technical studies done there may not be a system  
31 of decision making that will make full use of the results because everyone has a different view of  
32 what the intention is and how those studies are considered by Policy or by the Board.

33  
34 DOE remains committed to this process, but important changes are needed. DOE has been working  
35 with Policy on budget and planning to try to make sure water quality studies are set as high priority.  
36 Also, DOE has tried to set realistic milestones to use available processes and monies, but this budget  
37 shortfall is dire and we need to find new money or new ways of getting the job done. Otherwise we  
38 will have difficulty holding on to the assurances.

39  
40 Laurie asked about the process for responding to comments on the draft review. Hicks replied that  
41 once all the comments are received, DOE will prepare a document with all the comments and DOE's  
42 responses, send this to all who have been engaged in the process. He said he expected to report back  
43 to the Board at the August meeting.

44  
45 Fox referred to the water quality risk assessment for the 20-acre exempt rules, page 27, D. She said  
46 according to the 2007 Forest Practices HCP annual report only about 111 out of 6,533 applications

1 were for 20 acre exempt lands. She said the risk should be assessed by the amount of folks that are  
2 practicing and the locations of those lands.

3  
4 Hicks said the HCP does look at some elements but not water quality. He said he generally agreed  
5 that a lot of the information is probably out there and they should be able to use existing information  
6 fairly efficiently. It is a combination of looking at the extent of 20-acre exempts on the landscape, the  
7 size of the activities, and the amount of stream effect.

8  
9 Fox maintained that the HCP has already been conditioned; if over 10 percent of the watershed is  
10 impacted then the feds step in.

11  
12 Hicks said all would be taken into account as the document is finished up. He said he was also  
13 committed to work with small forest landowners in developing the analysis.

14  
15 **PUBLIC COMMENT FOR FIXED WIDTH ADAPTIVE MANAGEMENT PROPOSAL**  
16 **INITIATION**

17 Stephen Bernath, DOE, recommended that the proposal be split into two: One to develop a solution  
18 to address disproportionate impacts to small forest landowners and the other to develop a long term  
19 solution based on science for all landowners.

20  
21 Miguel Perez-Gibson, Conservation Caucus, commented that the fixed width buffer options must  
22 ensure a comparable level of riparian function as expected from current rules.

23  
24 Peter Goldman, WFLC, said his organization is on record for supporting this for small forest  
25 landowners. CMER is over-burdened, and to add the larger landscape would be a renegotiation of the  
26 whole thing when it should be targeted as regulatory reform for small forest landowners.

27  
28 Pete Heide, WFFA, said that small landowners need relief but all landowners need to meet the same  
29 objectives. There should not be a separate set of rules divided by classes of landowners.

30  
31 Ken Miller, WFFA, said he supported the fixed width buffer proposal. He said it will provide  
32 simplicity and general parity to what is available to all professionals. However, he wished it included  
33 the Eastside and dealt with the low impacts on the land from small forest landowners.

34  
35 **FIXED WIDTH ADAPTIVE MANAGEMENT PROPOSAL INITIATION**

36 Marc Engel, DNR, presented the draft proposal initiation to the Board which requests the adaptive  
37 management investigation of a fixed width, no entry management option for riparian areas adjacent to  
38 Type S and F Waters in Western Washington. He mentioned the proposal timeline includes Policy  
39 providing a petition for rule making at the Board's November 2009 meeting.

40  
41 Laurie said he was concerned about the adaptive management work load, and conducting a review for  
42 small forest lands would not be as lengthy an investigation as for all forest lands. He said he wanted  
43 to see it go forward in two steps as Bernath suggested.

44  
45 Fox said the concept is for overall equal protection and it was never intended to be just for small  
46 forest landowners.

1 Goldmark asked Engel if the adaptive management workload would be greater if the proposal is for  
2 all landowners.

3  
4 Engel said the Board could ask Policy to answer that question.

5  
6 Cramer said Board Manual Section 22 contemplates a certain process playing out. Deliberation  
7 would initially take place around the Policy table to determine how to handle a proposal and how to  
8 provide a consensus recommendation to the Board.

9  
10 Fox asked if the recommendation delivered to the Board had to be a consensus recommendation.  
11 Cramer said yes, and also the dispute resolution process is available to help get to consensus. Fox  
12 added if there is not Policy consensus that Board Manual also provides an option to Policy to give  
13 relevant materials to the Administrator for delivery directly to the Board.

14  
15 Goldmark asked if it can be forwarded as it is, or would it be more complex if all landowners are  
16 allowed to utilize it.

17  
18 Engel replied that Cramer could come back to the Board in August and report that Policy determined  
19 additional time is necessary. The draft proposal initiation memo is a reflection of the draft rule the  
20 Board approved for 30-day review which made the fixed width available to all landowners.

21  
22 **MOTION:** Sherry Fox moved that the Board forward to the Adaptive Management Program  
23 Administrator the fixed width riparian buffer proposal to implement the Adaptive  
24 Management proposal stages. The Adaptive Management Program Administrator will  
25 provide a status report to the Board at their August meeting and will submit a rule  
26 proposal and petition for rule making from Policy to the Board at their November  
27 meeting.

28  
29 **SECONDED:** Doug Stinson

30  
31 **Board Discussion:**

32 Fox commented that this would provide cost savings for small forest landowners - costs of laying out  
33 riparian management zones and hiring consultants to run the DFC model, etc. This will save an  
34 average of about \$2,000 to \$3,000.

35  
36 **ACTION:** Motion passed unanimously.

37  
38 **SPOTTED OWL POLICY WORKING GROUP**

39 Chuck Turley, DNR, explained at a past meeting there was some discussion about the Spotted Owl  
40 Policy Working Group that state participation part of the charter may need to be revised. After some  
41 discussion between the group and the state, it was determined that no changes to the charter are  
42 needed after all.

43  
44 **STAFF REPORTS**

45 Adaptive Management

46 Darin Cramer, DNR, gave a status report on the Adaptive Management Strategic Plan  
47 implementation.

1 Rule Making Activity

2 Marc Engel, DNR, provided an update on the Board's rule making efforts.

3  
4 Compliance Monitoring

5 Mary McDonald, DNR, announced that the Compliance Monitoring biennial report was recently  
6 distributed and that the advisory/steering committee has met and is finalizing their charter.

7  
8 Small Forest Landowner Advisory Committee and Small Forest Landowner Office

9 Dan Pomerenk, DNR, explained how the recent budget cuts have affected the Small Forest  
10 Landowner Office.

- 11 • Several positions are cut.
- 12 • The Forest and Riparian Easement Program is on hold. The Department will continue to accept  
13 easement applications but no work will be done.
- 14 • The Small Forest Landowner Advisory Committee will meet six times per year rather than  
15 twelve.

16  
17 Upland Wildlife Planning

18 David Whipple, DFW, explained that little work has been done to investigate alternative assessment  
19 pathways. He said work does continue with the Spotted Owl Policy Working Group. On the  
20 landscape level wildlife assessment, he said that DFW did not receive funding to complete the report  
21 that was to be given to the Board in the future. He also added that there is no money for incentives.

22  
23 Board Manual

24 Marc Engel, DNR, explained that a group of stakeholders are working to amend Board Manual  
25 Section 21 for the Board's approval at the August or November meeting. The amendment would add  
26 a conifer restoration template for the small forest landowners.

27  
28 Spotted Owl Policy Working Group

29 Lois Schwennesen, Schwennesen & Associates, explained that the group is working very hard and  
30 putting in a lot of time. A fair amount of work is science based and on incentives research. The key  
31 areas of the program are finding the common denominators to work with each other and to focus on  
32 the biggest issues that need attention.

33  
34 Fox asked how many individuals are still involved in this group.

35  
36 Schwennesen explained that there is one staff member from DFW and one from DNR, and there are  
37 requests in for additional participation.

38  
39 Legislative Activity

40 Marc Engel, DNR, provided an update on two bills that passed during the 2009 legislative session.

- 41 • House Bill 1484 and the companion Senate Bill 5401 expanded the Riparian Open Space  
42 Program to include lands that contain critical habitat for threatened and endangered species as  
43 designated by the Forest Practices Board. Acquisitions will be in the form of conservation  
44 easements. Staff will recommend a rule making strategy at a future Board meeting.



- 1 • Senate Bill 5562 protects the ability of forest landowners to continue active forestry operations.  
2 Owning land that has a growing crop of trees is added to the list of reasonable forest practices  
3 even if the tree growth is managed passively. The land must be capable of supporting a  
4 merchantable stand of timber and must not be actively used for a use that's incompatible with  
5 timber growing.  
6

7 He added that DNR will provide a detailed presentation on the budget impacts to the Forest Practices  
8 program at the August meeting.  
9

10 TFW Cultural Resources Committee

11 Pete Heide, on behalf of the TFW Cultural Resources Committee, recommended that:

- 12 • There be a TFW Cultural Resources Committee report as a standing quarterly staff report on the  
13 Board's agenda to formally recognize this committee as the Board's committee of expertise on  
14 cultural resources;  
15 • Staff support be provided to the committee; and  
16 • Testing of the Board's cultural resource module, which is in the watershed analysis manual, is  
17 completed.

18 The committee is providing the Board with an updated copy of the Cultural Resources and  
19 Management Protection and Management Plan. He encouraged the Board to attend any committee  
20 meetings, on the third Tuesday of the month. He reminded the Board the committee produces results  
21 in a collaborative way.  
22

23 **NEW BUSINESS**

24 Goldmark said a Board retreat is not anticipated this year due to very scarce resources. He added that  
25 Board members should let him know if something comes up that needs discussion and he could  
26 arrange for extra meeting time before or after a scheduled Board meeting.  
27

28 **EXECUTIVE SESSION**

29 No executive session.  
30

31 Meeting adjourned at 3:30 p.m.