FOREST PRACTICES BOARD

REGULAR BOARD MEETING
February 12, 2013
Natural Resources Building
Olympia, Washington

Members Present
Aaron Everett, Chair, Department of Natural Resources
Bill Little, Timber Products Union Representative
Bob Guenther, General Public Member/Small Forest Landowner
Carmen Smith, General Public Member/Independent Logging Contractor
Court Stanley, General Public Member
Dave Somers, Snohomish County Commissioner
David Herrera, General Public Member
David Whipple, Designee for Director, Department of Fish and Wildlife
Kirk Cook, Designee for Director, Department of Agriculture
Paula Swedeen, General Public Member
Tom Laurie, Designee for Director, Department of Ecology

Members Absent
Mark Calhoon, Designee for Director, Department of Commerce
Phil Davis, General Public Member

Staff
Mary McDonald, Acting Forest Practices Division Manager
Marc Engel, Forest Practices Assistant Division Manager
Patricia Anderson, Rules Coordinator
Phil Ferester, Assistant Attorney General

WELCOME AND INTRODUCTIONS

Aaron Everett called the Forest Practices Board (FPB or Board) meeting to order at 9:00 a.m. Everett welcomed new member Court Stanley who replaced Norm Schaaf.

APPROVAL OF MINUTES

MOTION: Tom Laurie moved the Forest Practices Board approve the November 13, 2012 meeting minutes.

SECONDED: Bill Little

ACTION: Motion passed unanimously.

REPORT FROM CHAIR

Aaron Everett shared some changes to the agenda format to promote additional discussion among the Board. He also shared his thoughts on his recent visits to Forests and Fish Policy (Policy) meetings. He said he noticed positive progress resulting from the settlement agreement and having a facilitator for their discussions. He noted CMER's ambitious schedule and said he believes adding staff resources is the only way to accomplish it right now.

PUBLIC COMMENT

Kara Whitaker, Washington Forest Law Center (WFLC), reminded the Board that the Northern Spotted Owl Policy Working Group was created because of a settlement agreement. Audubon's lawsuit was necessary because the forest practices rules are inconsistent with the endangered species act by allowing the harvest of all suitable habitats in owl circles outside of spotted owl special emphasis areas, including the nest tree. She said the conservation caucus was pleased to actively participate in this group and believes the expanded scope of the NSOIT should move closer to creating voluntary incentives that will make a strategic contribution from nonfederal lands.

Chris Mendoza, conservation caucus, commented there is still a need to conduct compliance monitoring on perennial initiation points/upper most point of perennial flow. He is hopeful the data collection efforts now underway will provide critical information to establish a buffering network in headwaters of non-fish bearing streams.

Peter Goldman, WFLC, presented the conservation caucus' highest priorities within the adaptive management process:

- Efficient and effective implementation of the adaptive management program, specifically in how the science and policy process is working.
- The Post-mortem landslide study which will be before Forests and Fish Policy soon to analyze whether the data following the 2007 storm reflects the regulations governing steep and unstable slopes. He added that the conservation caucus believes Policy needs to look at the post-mortem data, conduct a workshop with DNR to see how forest practices applications and the regulations regarding steep and unstable slopes are reviewed and enforced, and analyze what was learned.
- A quick implementation of Type N and Type F studies. These two studies have key issues in protecting fish-bearing waters and the waters that feed fish-bearing waters.

STAFF REPORTS

Adaptive Management

Jim Hotvedt, DNR, provided an overview of the need for additional staff to conduct research and scoping of projects in order to initiate and complete projects on the master schedule. Everett noted there is a substantial positive variance for this biennium in the Adaptive Management Program and suggested that the Board approve the hiring of an additional CMER staff person.

MOTION: Dave Somers moved the Forest Practices Board direct DNR to expend adaptive management funds to hire a CMER Scientist with wetlands experience.

SECONDED: Tom Laurie

Board Discussion:

Dave Somers asked why such a high variance. Hotvedt responded that many projects are winding down, and as a result CMER members are now involved in the analysis and writing, versus implementing projects in the field that cost more. Hotvedt said a positive variance is likely for the next couple of years because of the effort to complete current projects and develop study designs for future projects.

Everett said the position will be a permanent position within the Adaptive Management Program.

Tom Laurie said he thought dedicated CMER staff is the most effective way to advance the Board's work.

ACTION: Motion passed unanimously.

Northern Spotted Owl Implementation Team

Andy Hayes, DNR, provided an update on a recent team meeting. It included the four new members the Board directed to expand the team in order to complete the task of investigating the opt-in federal assurances that are designed to promote conservation banking or other conservation incentive tools. Team members shared their perspective of the new expanded scope. The team will meet again in March and intends to have monthly meetings thereafter.

Rule Making Activity and Work Plan

Marc Engel, DNR**,** updated the Board on changes to the Board's 2013 work plan. He explained which board manuals will be amended and when they will be completed, and that the Board would have the opportunity to approve the work plan later in the meeting.

Small Forest Landowner Advisory Committee and Small Forest Landowner Office

Tami Miketa, DNR, reported that the Small Forest Landowner Office created a video to promote the Family Forest Fish Passage Program. The Board watched the video. Miketa explained that the office worked with a production company and expressed that she thought the video sends a great message. The Board agreed that the video was well done and a achieved its purpose.

TFW Cultural Resources Roundtable

Pete Heide, co-chair, provided additional information to the Board relating to the existence of the roundtable and process to produce consensus work products. Everett acknowledged Heide's retirement in February and thanked him for his work on the roundtable and the many other forest practices projects.

There was no further discussion on the following staff reports:

- Board Manual Development
- Compliance Monitoring
- Upland Wildlife Working Group

LEGISLATIVE ACTIVITY UPDATE

Mary McDonald, DNR, summarized a list of legislative bills that could affect the Forest Practices Program. A final recap of bills passed will be provided at the May meeting.

CLEAN WATER ACT ASSURANCES

Mark Hicks, Department of Ecology, provided an update on the milestones as of January 2013. He stated that three non-CMER project milestones and one CMER research milestone have been completed, and there are many more non-CMER projects that should be completed within the next six to nine months.

David Whipple asked about the evaluation conducted 2009 by Department of Ecology and next steps. Hicks responded that there is not a second review scheduled, but rather a focus on completing the first set of milestones.

MAZAMA POCKET GOPHER PROPOSED LISTING AND CRITICAL HABITAT

Marc Engel, DNR and David Whipple, Department of Fish and Wildlife (DFW), provided the following information on the proposed listing of the Mazama Pocket Gopher. Engel stated that:

- The species has a high level of public interest, mostly from the perspective of development and county regulations and linkages to forestlands.
- The gopher stays underground most of the time and areas with suitable habitat are mostly within the city limits or urban growth areas of Olympia, Tumwater and Lacey, with majority already densely developed.
- In December 2012, the U. S. Fish and Wildlife Service (USFWS) proposed adding four subspecies of the gopher to the federal list of threatened species and designating critical habitat. In addition, the USFWS proposed a 4(d) rule that would exempt some activities from the Endangered Species Act, Section 9 take prohibitions. USFWS has proposed 9,234 acres of critical habitat in western Washington, however no forest lands are proposed. The final rule is scheduled for late 2013.

Whipple continued with a review of DFW's recovery efforts:

- January 2013- Draft Status Update and Recovery Plan released. It identified seven areas in Thurston, Pierce, and Mason counties with substantial existing habitat and significant numbers of gophers.
- For subspecies only in Mason County- Research to learn gopher habitat needs (vegetation and soils) relative to clearcuts and roadsides.
- Develop management practices that will not negatively affect forestry objectives.

TAYLOR'S CHECKERSPOT BUTTERFLY ANNUAL REPORT

Sherri Felix, DNR and Gary Bell, DFW, provided an overview of the Taylor's Checkerspot Butterfly (TCB) annual report. Felix stated in 2007 the Board approved a voluntary cooperative protection approach as a result of the Washington Fish and Wildlife Commission listing the butterfly as a state endangered species. The first element of the report includes butterfly protection issues associated with individual forest practices applications which noted that none of the 12 permits within 1.0 mile of identified butterfly habitat was determined by DFW to pose a potential risk to the butterfly and no protection issues arose during these forest practices activities.

Bell provided a status update on current and potential management plans and the conservation/restoration efforts. He concluded that there are no conflicts identified for any forest practices activity.

David Whipple stated he is optimistic that all the plans will be completed soon.

U.S. FISH AND WILDLIFE SERVICE PROPOSED LISTING/CRITICAL HABITAT OF TAYLOR'S CHECKERSPOT BUTTERFLY

Marc Engel, DNR and David Whipple, DFW, updated the Board on the time line for the proposed listing of the TCB.

- U.S. Fish and Wildlife Service proposed to list the TCB as an endangered species and designate critical habitat in Washington and Oregon on October 10, 2012.
- DNR provided comment on December 10, 2012.
- DFW provided comment on December 10, 2012.
- USFWS expects to make a final rule decision in about one year.

FOREST PRACTICES HABITAT CONSERVATION (HCP) PLAN 5-YEAR REPORT

Carol Walters and Charlene Rodgers, DNR, provided a summary of the 5-year report. The report included accomplishments, challenges, and trends in HCP implementation from June 5, 2006 to June 30, 2011. Walters and Rodgers highlighted accomplishments and challenges from the Forest Practices Board, Adaptive Management Program, Compliance Monitoring Program, and Road Maintenance and Abandonment Planning, and reviewed selected trends.

Board Discussion:

Regarding compliance monitoring, Whipple said he noticed there would not be any emphasis samples for 2013, and asked about the strategy for that decision. Everett noted that Walt Obermeyer was not available to respond and offered an explanation from Obermeyer to occur in his next staff report.

Paula Swedeen noted concrete progress in the road maintenance and abandonment planning, and asked how many miles of road are still left to be fixed, and how many large landowner fish barriers still need to be removed. Walters responded that those are some of the most recent elements added to the report and numbers will be available in the 2013 report.

Court Stanley asked whether the USFWS had any issues with the report. Walters responded that so far they are satisfied with the 5-year report and the annual reports. She added that the USFWS is involved in reviewing the drafts prior to DNR submitting the final report.

PUBLIC COMMENT ON ADAPTIVE MANAGEMENT RESTRUCTURE AND FOREST BIOMASS RULE MAKING

Kara Whitaker, WFLC, said the WFLC supports the rule making on defining forest biomass and amending the “forest practice” definition. She encouraged the Board to implement the additional consensus recommendations presented at the August 2012 meeting.

PROGRESS UPDATE ON THE SETTLEMENT AGREEMENT REGARDING THE FOREST PRACTICES HABITAT CONSERVATION PLAN AND IMPLEMENTING THE FOREST PRACTICES BIOMASS WORKING GROUP’S RECOMMENDATIONS

Mary McDonald, DNR, reported that the Adaptive Management Program has completed their review of the settlement agreement and Forests and Fish Policy has reached consensus on the proposed elements for rule making. She indicated that this rule making would also include amending rules recommended by the Forest Practices Biomass Working Group related to forest biomass harvest. She requested the Board to approve a CR101 to notify the public of possible rule making on adaptive management reform and harvest of forest biomass.

MOTION: Tom Laurie moved the Forest Practices Board direct staff to file a CR101 Proposal of Inquiry to notify the public that the Board is considering rule making relating to the Adaptive Management Program and harvest of forest biomass. This rule making will incorporate recommendations as a result of the settlement agreement regarding the Forest Practices Habitat Conservation Plan and the Forest Practices Biomass Working Group.

SECONDED: Carmen Smith

Board Discussion:
Tom Laurie said he appreciated the efforts of Forests and Fish Policy for a consensus recommendation.

ACTION: Motion passed unanimously.

PUBLIC COMMENT
Pete Heide, Washington Forest Protection Association, stated that the Board should look closer at a couple of the elements in the HCP report:

- How new road construction is reported;
- Interpreting the data for water typing when not all the paperwork may be in reviewers' hands when looking at a stream and
- Determination of inadequate compliance in elements with small sample sizes, which results in deceptively high error rates.

PUBLIC COMMENT ON FORESTS AND FISH POLICY WORK PRIORITIES
Mary Scurlock, Conservation Caucus, provided the Board with a summary of the conservation caucus's perspective on the water issues before Policy. They are pleased Policy is ready to work through the Type F issues, and that the Type N strategy is on track for approval.

FORESTS AND FISH POLICY WORK PRIORITIES
Stephen Bernath and Adrian Miller, co-chairs, reviewed the priorities which have not changed from November 2012. Priorities include:

- Type N strategies
- Forest practices application/hydraulic project integration rule making
- Adaptive management program reform rule making
- Type F issues
- CMER studies

Everett said he would like to have regular check-ins with Policy in order to be proactive in case the Board needs to change the priorities. This will also allow for consideration of the limited time and resources dedicated to Policy. Everett also noted the use of a facilitator in Policy meetings has shown positive outcomes.

Tom Laurie asked how the meetings are going with the facilitator and how long the facilitator will be available. Bernath responded that having a meeting facilitator is helping, especially for the co-chairs. The initial contract is for five meetings. Miller stated that the co-chairs will be recommending continuing facilitation for the meetings and making it available for dispute resolutions.

Paula Swedeen asked if further direction from the Board on priorities is needed. Miller said that an endorsement on the priorities by the Board would be helpful.

MOTION: Aaron Everett moved the Forest Practices Board approve the 2013 Board Work Plan as amended: scheduling the Clean Water Act annual report in August; and changing the Board Manual development adding sections for amendment to complete the requirement to incorporate fish protection standards into the legislatively required

Forest Practices Hydraulic Project rule making and technical guidance, and delaying the Wetland Delineation section for a future time.

Aaron Everett also moved to direct Forests and Fish Policy to complete the work identified in their February 8, 2013 memo to the Board. Priorities must reflect the Board's Work Plan objectives for Board Manual approval and final rule making on Adaptive Management/Settlement Agreement and Forest Practices Hydraulic Project by the August Board meeting.

SECONDED: Bob Guenther

Board Discussion
None.

ACTION: Motion passed unanimously.

EXECUTIVE SESSION
None.

Meeting adjourned at 1:20 p.m.