

1 **FOREST PRACTICES BOARD**

2 **MEETING MINUTES**

3 September 11, 2007

4 Natural Resources Building

5 Olympia, Washington

6  
7 **Members Present:**

8 Vicki Christiansen, Chair of the Board

9 Ann Wick, Designee for Director, Department of Agriculture

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

11 Bridget Moran, Designee for Director, Department of Fish and Wildlife

12 Carolyn Dobbs, General Public Member

13 Doug Stinson, General Public Member/Small Forest Landowner

14 Norm Schaaf, General Public Member

15 Sherry Fox, General Public Member/Independent Logging Contractor

16 Tom Laurie, Designee for Director, Department of Ecology

17 **Absent Members:**

18 Bob Kelly, General Public Member

19 Dave Somers, Snohomish County Commissioner

20 David Hagiwara, General Public Member

21 **Staff:**

22 Chuck Turley, Forest Practices Assistant Division Manager

23 Gary Graves, Acting Forest Practices Division Manager

24 Neil Wise, Assistant Attorney General

25 Patricia Anderson, Rules Coordinator

26  
27 **WELCOME**

28 Vicki Christiansen called the meeting to order at 9:00 a.m. Christiansen announced that the  
29 Forest Practices Board (Board) would convene for an Executive Session to discuss on-going and  
30 pending litigation.

31  
32 The public meeting reconvened at 9:40 a.m.

33  
34 **INTRODUCTIONS**

35 Introductions were made by Board, staff, and attendees.

36  
37 Patricia Anderson, Department of Natural Resources (DNR), provided an emergency safety  
38 briefing.

39  
40 **PUBLIC COMMENT**

41 Stephen Bernath, Department of Ecology (DOE), stated that DOE supports Board approval of  
42 the revised Board Manual Section 21, Guidelines to Alternate Plans. He said DOE was looking  
43 forward to working with Board staff on Conversion Activity rule making, and he provided a  
44 memo regarding DOE's position on the proposed Desired Future Condition (DFC) rule making  
45 proposal.

1 Ken Miller, Washington Farm Forestry Association (WFFA), provided a copy of his testimony  
2 and shared his frustrations with the process of developing the riparian function descriptions in  
3 Board Manual Section 21, Guidelines for Alternate Plans. The frustrations are related to rules  
4 and science that were not included in the document to the detriment of landowners.

5  
6 Curt Veldhuisen, Skagit River System Cooperative, said the DFC rule should be updated via  
7 adaptive management, which is a crucial part of the Forests and Fish Agreement.

8  
9 Peter Goldman, Washington Forest Law Center (WFLC), urged the Board to file a CR102 for  
10 DFC Rule Proposal #1. He also urged the Board to support the Attorney General's Office in  
11 addressing the Northern Spotted Owl rules.

12  
13 Karl Forsgaard, WFLC, urged the Board to file the CR102 for DFC rule making on Rule  
14 Proposal #1 only, not Rule Proposal #2.

15  
16 Miguel Perez-Gibson, Conservation Caucus, suggested that the Board move DFC Rule Proposal  
17 #1 to public review and file a CR102 initiating rule making.

18  
19 Hannah Anderson, Nature Conservancy of Washington, said she supported a voluntary non-  
20 regulatory cooperative protection approach for addressing the listing of Taylor Checkerspot  
21 Butterfly (TCB) as a state endangered species.

22  
23 Adrian Miller, Washington Forest Protection Association (WFPA), said he supported DFC Rule  
24 Proposal #2 to move forward to the public review process.

25  
26 Aaron Perry, Rayonier, said he supported the Board in moving DFC Rule Proposal #2 forward to  
27 the CR102 rule making process.

28  
29 Rick Dunning, WFFA, provided copies of a 12/08/03 document outlining the WFFA's response  
30 to "draft concepts for overstocked stands and hardwood conversion templates" and a Four Point  
31 Plan. The document listed WFFA's proposed amendments to the plan.

32  
33 Joseph Murray, Merrill and Ring, said he supported DFC Rule Proposal #2 and the non-  
34 regulatory approach for the TCB.

35  
36 Peter Heidi, WFPA, thanked the Board for their efforts on the small forest landowner Long Term  
37 Application (LTA) rule. He said he supported the non-regulatory approach to TCB protection,  
38 and moving forward with the Historic Sites rule proposal and both DFC proposals.

39  
40 Josh Weiss, WFPA, provided a historical recap on how the Board got to where it is with DFC  
41 rule making.

42  
43 **Update on Forest Practices Applications within Spotted Owl SOSEAs**

44 Gary Graves, DNR, provided a staff report to the Board updating the numbers of forest practices  
45 application (FPA) for harvest within the Spotted Owl Special Emphasis Areas (SOSEAs) and  
46 numbers of FPAs received in individual SOSEAs. He said the Department of Fish and Wildlife

1 (DFW) would evaluate the FPAs located outside established circles and not managed under  
2 habitat conservation plans (HCPs), to determine the probability of the proposed activities  
3 occurring in Northern Spotted Owl habitat.  
4

#### 5 **Rule Making Schedule**

6 Chuck Turley, DNR, provided a staff report outlining the 2007 rule making schedule, which  
7 includes activities at various stages for Desired Future Condition, Historic Sites, Northern  
8 Spotted Owl, Small Forest Landowner Long-term Applications, Taylor's Checkerspot Butterfly,  
9 and Conversion Activity.  
10

#### 11 **Compliance Monitoring**

12 Leslie Lingley, DNR, provided a compliance monitoring staff report. Bridget Moran asked about  
13 a comment timeline for stakeholders. Lingley responded that the final date for comment  
14 submission is September 12, 2007 and that the Independent Technical Review is scheduled to be  
15 completed in November.  
16

17 Sherry Fox asked if the small forest landowners' forest practices applications with alternate plans  
18 had been distinguished from those of large landowners. Lingley said yes, and that they will be  
19 reported as such.  
20

#### 21 **Upland Wildlife Planning**

22 David Whipple, DFW, provided a staff report on the status of the upland wildlife planning  
23 process, including forward movement on collaborative discussions on the organization and  
24 structure of the Wildlife Work Plan, evaluating the Northern Spotted Owl survey protocol, and a  
25 budget for the Landscape-level Wildlife Assessment, including the hiring of a new project leader  
26 within the next month.  
27

28 Norm Schaaf asked about the anticipated funding shortfall for the landscape level assessment  
29 that has been temporarily resolved by DNR and asked what the future work schedule will be.  
30 Whipple responded that the plan will remain the same and should be finished by the next  
31 biennium. He said he will provide a process update at the October or November Board meetings.  
32

33 Christiansen said she was looking forward to a revised work plan.  
34

35 Fox thanked Moran and Whipple for their work on the Wildlife Work Plan.  
36

#### 37 **NORTHERN SPOTTED OWL HABITAT TYPING REPORT**

38 Gary Graves, DNR, provided a status report on the Northern Spotted Owl habitat typing project:  
39

40 The Forest Practices program has typed almost all of the lands in the ten SOSEAs and has  
41 created a GIS layer to store and update this information. Staff will use it to evaluate harvest  
42 proposals during FPA reviews. The next step is to conduct field reviews, in collaboration with  
43 DFW, of the areas that still need habitat determinations.  
44  
45  
46

1 **CMER 2008 WORK PLAN AND PROJECT BUDGET AMENDMENT**

2 Darin Cramer, Adaptive Management Program Administrator, requested approval of the 2008  
3 work plan. He said that both CMER and Forests and Fish Policy (Policy) had reviewed it and  
4 recommend approval.

5  
6 Fox requested a revised format for future CMER work plans to indicate the tier of each work  
7 plan element and the requested dollar amount. Fox also asked the status of future CMER  
8 funding. Cramer said there was some federal money remaining in the budget but no new federal  
9 money would come in. He added that state funding will maintain the CMER program at the  
10 current level.

11  
12 Schaaf commended Cramer for an informative document and said he appreciated the efforts  
13 made by all involved.

14  
15 **MOTION:** Sherry Fox moved that the Board approve the 2008 CMER Work Plan as  
16 presented.

17  
18 **SECONDED:** Bridget Moran

19  
20 **ACTION:** Motion passed unanimously.

21  
22 **MOTION:** Bridget Moran moved that the Forest Practices Board approve the  
23 revised budget as presented for the Eastern Washington Type F Riparian  
24 Assessment.

25  
26 **SECONDED:** Norm Schaaf

27  
28 **ACTION:** Motion passed unanimously.

29  
30 **CMER MEMBERSHIP**

31 Darin Cramer requested the Board's approval of one new CMER member and the revised roster.

32  
33 **MOTION:** Norm Schaaf moved that the Forest Practices Board approve Laura Vaugeois as  
34 a CMER member. Schaaf further moved that the Board approve Table 2 as the  
35 current CMER roster that reflects Mark Hunter and Ken Reisenhoover as  
36 alternates and the removal of Helen Bressler.

37  
38 **SECONDED:** Doug Stinson

39  
40 **ACTION:** Motion passed unanimously

41  
42 **LONG TERM APPLICATIONS RULE MAKING**

43 Gretchen Robinson, DNR, presented the rule proposal and highlighted some suggested changes  
44 for clarity. Mary McDonald, DNR, provided an overview on the planned training to implement  
45 the rule if adopted. She said training of DNR staff would occur in September and October for the

1 application process, and training on riparian function would occur in October and November,  
2 which would be a joint effort by DNR, DFW and DOE staff.

3  
4 Laurie asked whether the rule addresses the application of aerial pesticides. McDonald said this  
5 rule does not change the current process. Laurie then stated that DOE fully supports the rule  
6 proposal.

7  
8 Christiansen acknowledged the hard and collaborative work that went into the rule development,  
9 and also the heart-felt testimony heard at the public hearings. She said she was impressed with  
10 the creativity of landowners' stewardship approaches and the commitment to doing the right  
11 thing over time, which this rule would help them accomplish.

12  
13 **MOTION:** Sherry Fox moved that the Forest Practices Board adopt the long term  
14 applications permanent rule proposal modifying chapters 222-12, 222-16, and  
15 222-20 WAC, and direct staff to file the CR-103 with the Office of the Code  
16 Reviser.

17  
18 **SECONDED:** Doug Stinson

19  
20 Board Discussion:

21 Schaaf noted one typographical error on page 6, line 28, which is shown as "three-three" rather  
22 than "thirty-three."

23  
24 **ACTION:** Motion passed unanimously.

25  
26 **BOARD MANUAL SECTION 21 GUIDELINES FOR ALTERNATE PLANS**

27 Marc Engel, DNR, asked the Board to consider approval of the revised Board Manual Section  
28 21, Guidelines for Alternate Plans. The revisions included guidance on restoring and maintaining  
29 riparian function, and changing the titles of the management zones in Template 1.

30  
31 **MOTION:** Vicki Christiansen moved that the Forest Practices Board approve Board  
32 Manual Section 21 and that Department staff have the authority to make  
33 changes as necessary for clarity and to finalize for distribution.

34  
35 **SECONDED:** Tom Laurie

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

38  
39 **TAYLOR'S CHECKERSPOT BUTTERFLY RULE MAKING**

40 Sherri Felix, DNR and David Whipple, DFW recommended the Board approve a voluntary  
41 cooperative approach to protecting the Taylor's Checkerspot Butterfly. They described the  
42 outcome of a series of stakeholder meetings in which the merits of both regulatory and non-  
43 regulatory approaches were discussed. They also presented a plan for both agencies'  
44 responsibilities in a non-regulatory strategy.

1 **MOTION:** Bridget Moran moved that in recognition of the work the Departments of  
2 Natural Resources and Fish and Wildlife have done in conjunction with  
3 stakeholders, the commitments from many forest landowners to develop  
4 management plans, and DNR's ability to protect public resources through  
5 conditioning of Forest Practices Applications, the Forest Practices Board adopt  
6 the voluntary protection approach recommended by the Department of Natural  
7 Resources.

8  
9 In light of the precarious status of this endangered species and the related need  
10 for protection and management assistance from forest landowners, I also move  
11 that the Departments of Natural Resources and Fish and Wildlife report to the  
12 Forest Practices Board on two items: first, the status of development of  
13 Taylor's checkerspot butterfly management plans, and secondly, any butterfly  
14 protection issues associated with individual Forest Practices Applications. These  
15 reports to the Board are to occur annually, until the landowners that have  
16 committed to develop management plans with the Department of Fish and  
17 Wildlife have successfully done so, and then every five years thereafter.

18  
19 **SECONDED:** Brent Bahrenburg

20  
21 **ACTION:** Motion passed unanimously.

22  
23 **HISTORIC SITES RULE MAKING**

24 Sherri Felix, DNR, requested approval to proceed with the 30-day review of the Historic Sites  
25 rule proposal pursuant to RCW 76.09.040(2). She explained the proposal is the result of work  
26 done by the TFW Cultural Resources Committee. It is intended to clarify historic sites as Class  
27 IV-special and address ambiguities in and inconsistency between Class IV-special and Class III.

28  
29 **MOTION:** Vicki Christiansen moved that the Forest Practices Board approve the proposed  
30 rule language for 30-day review to counties, Department of Fish and Wildlife,  
31 and affected Indian Tribes that is intended to clarify historic sites as Class IV-  
32 special and address ambiguities in and inconsistencies between Class IV-special  
33 and Class III.

34  
35 **SECONDED:** Ann Wick

36  
37 Board Discussion:

38 Schaaf stated that prior to Board approval to file the CR102 to initiate rule making the Board  
39 needs more information.

40  
41 **ACTION:** Motion passed unanimously.

42  
43 **CONVERSION ACTIVITY (SSB 5883) RULE MAKING**

44 Gary Graves, DNR, asked the Board's approval to begin the rule making process to add a  
45 definition on conversion activities. He explained that 2007 legislation changed the administrative  
46 procedures for landowners, DNR and local governmental entities involving forest land

1 conversions. He said it eliminated the requirement for landowners to file a development  
2 moratorium form with each forest practices application or notification, and instead required DNR  
3 to send a notice to the local government with jurisdiction when conversion activities are  
4 observed. The law, however, did not provide a definition of “conversion activities.” The rule  
5 would add definition to WAC 222-16-010 to provide guidance to field staff.  
6

7 Fox asked if there would be stakeholder involvement in rule development. Graves responded that  
8 there would be.  
9

10 **MOTION:** Brent Bahrenburg moved that the Forest Practices Board direct staff to file the  
11 CR-101 with the Office of the Code Reviser to inform the public that the Board  
12 is considering a permanent rule to implement Second Substitute Senate Bill  
13 5883 that changes the administrative procedures for landowners, DNR and local  
14 governmental entities involving forest land conversions.  
15

16 **SECONDED:** Norm Schaaf  
17

18 **ACTION:** Motion passed unanimously.  
19

#### 20 **ADAPTIVE MANAGEMENT PROCESS REVIEW**

21 Darin Cramer and Chuck Turley, DNR, provided an overview on the Adaptive Management  
22 Program and process. This included the purpose of the program, program components, proposal  
23 process and Policy/science interaction.  
24

25 Laurie asked when dispute resolution should come into play and who can invoke the process.  
26 Cramer responded that anyone at anytime can invoke the dispute resolution process, and that a  
27 detailed description of the that process is outlined in Board Manual Section 22, Guidelines for  
28 Adaptive Management Program.  
29

#### 30 **DESIRED FUTURE CONDITION RULE MAKING**

31 Chuck Turley, DNR asked for the Board’s direction on which DFC rule proposal(s) to file for  
32 public review. Turley explained that Rule Proposal #1 would maintain current rule language  
33 except to change the DFC target basal area for all site classes to 325 square feet per acre. Rule  
34 Proposal #2 includes the target basal area of 325 square feet per acre for all site classes and also  
35 language changes to harvest option 1 – thinning in the inner zone, and harvest option 2 –  
36 concentrating inner zone trees closest to the water. He recommended a proposal developed by  
37 the state caucus: File a CR-102 with both proposals; file an updated preliminary economic  
38 analysis to include both proposals; direct staff to conduct a supplemental EIS; solicit remaining  
39 questions from all caucuses, and turn them over to the Adaptive Management Administrator to  
40 ensure that all the questions are answered via the economic analysis, the SEPA analysis (a  
41 supplement EIS) or decide on some other method for answering them. This was supported by  
42 Policy except not supported by one of the caucuses.  
43

44 **MOTION:** Vicki Christiansen moved that the Forest Practices Board accept the draft rule  
45 proposals #1 and #2 relating to desired future condition and direct staff to file a

1 CR-102 Proposed Rule Making notice with the Office of the Code Reviser to  
2 initiate rule-making.  
3

4 Christiansen further moved that the Board direct staff to update the preliminary  
5 economic analysis and complete further environmental analysis such as a  
6 supplemental EIS or SEPA addendum. In addition, any outstanding  
7 questions/issues will be dealt with through consultation with the Adaptive  
8 Management Administrator.  
9

10 **SECONDED:** Doug Stinson  
11

12 Board Discussion:

13 Fox acknowledged the difficulties and great effort that Policy and stakeholders undertook to  
14 come together with DFC Rule Proposal #2. She supported the motion and said she had faith that  
15 a potential DFC option #3 remains possible.  
16

17 Laurie supported the motion.  
18

19 Carolyn Dobbs did not support the motion, explaining she felt the process was flawed. She  
20 encouraged the Board to be more mindful of the process for future rule makings.  
21

22 Moran supported the motion, saying it had taken a long time to get a rule proposal, and she  
23 would like to see a DFC rule proposal #3 resurrected.  
24

25 Schaaf said he supported the motion and that he appreciated the deliberations of the Board.  
26

27 Christiansen said she supported the proposal and acknowledged the hard work by all involved in  
28 developing Rule Proposal #2.  
29

30 **ACTION:** Motion passed. 8 yes / 1 no (Dobbs)  
31

32 Meeting adjourned at 3:20 p.m.