FORESTS AND FISH CONSERVATION CAUCUS

c/o Washington Forest Law Center
(Coordinating Organization)
615 Second Avenue, Ste 360
Seattle, WA 98104

Tel: (206) 223-4088
Fax: (206) 223-4280

M E M O R A N D U M

DATE: January 19, 2011

TO: Forest Practices Board
DNR, Forest Practices Division

FROM: Forests and Fish Conservation Caucus
Chris Mendoza, CMER Science Representative
Jamie Glasgow, Director of Research, Wild Fish Conservancy

RE: **Conservation Caucus Presentation to the Forest Practices Board at the February 8, 2011 Meeting**

The Conservation Caucus thanks DNR and the Board for allotting 20 minutes to the Conservation Caucus at the February 8, 2011 Forest Practices Board meeting to give a presentation on "Water Typing: Interpretation and Enforcement Issues." Water typing is a subject that is integral to conservation of aquatic species and DNR's implementation of the forest practice rules. The bottom line is that if rivers and streams are "mis-typed," they will be left without environmentally-crucial forest buffers, as required by the forest practice rules and needed by aquatic species.

The following is an overview of the Caucus' presentation. First, Jamie Glasgow, director of research for Wild Fish Conservancy (a Conservation Caucus member) will give a PowerPoint slideshow presentation illustrating the frequent inaccuracy of the DNR water type "base-maps." Mr. Glasgow's presentation will include actual examples of mis-typed waters. Second, Chris Mendoza, the Conservation Caucus' science representative, will give a presentation on how DNR's own compliance monitoring study reflects that DNR regularly makes water typing errors. Mr. Mendoza will also identify simple measures the Board and DNR can take to rectify landowner and DNR mis-reliance on erroneous DNR base-maps.

A few days before the February 8, meeting, our Caucus will submit additional materials reflecting what the Board, DNR, and our fellow forest stakeholders can do to improve water typing interpretation and enforcement. We are also attaching a Conservation Caucus letter to Lenny Young dated January 2, 2008, which provides an excellent summary of our Caucus' concerns and what DNR and the Board can do to address them.

I. Water Typing

"Water typing" (set forth in WAC 222-26-030 and 031) is the procedure by which forest landowners, DNR, Tribes and other state agencies and stakeholders identify whether a stream or channel is Type S, F, Np, or Ns. This process is crucial to protecting and restoring fish and their habitat because whether or not a forested buffer must be left on a river or stream depends on its "type," i.e., whether it contains fish or constitutes potential fish habitat. Type "S" waters are all waters that are "shorelines of the state" and their associated wetlands. They generally include larger lakes and rivers as well as tidally influenced areas along the salt water. Type F waters include segments of natural waters within the bankfull widths of defined channels and periodically inundated areas of associated wetlands, lakes, ponds, or impoundments greater than one-half acre. Type F waters also includes "off-channel habitat" connected to Type F waters. Type Np waters are segments of natural waters within bankfull width of defined channels that are not fish habitat but which are perennial, which means they do not go dry at any time of the year of normal rainfall. Type Ns waters are segments of natural waters within the bankfull width of defined channels that are seasonal, or where surface flow is not present for at least some portion of a year of normal rainfall and are not downstream of a stream reach classified as Type Np.

II. What Is Not Working With Water Typing?

Water typing has, historically, been an area of forest practices in which on-the-ground enforcement and compliance has lacked accuracy and uniformity. This is largely due to historically inaccurate DNR "base-maps," which do not accurately depict the full extent of waters occupied by fish, and deviations in the ways that different DNR regions, and staff within regions, interpret and apply the complex water typing rules and board manual guidelines.

Mr. Glasgow and Mr. Mendoza will present a PowerPoint slide show based on actual field studies and DNR-obtained compliance monitoring data on what is not "working" with respect to the water typing Board manual and DNR enforcement practices relative to water typing. The following are some of the key points they will be addressing:

1. **Inaccurate DNR Base-maps**. The DNR's base-maps (on which forest landowners must incorporate their proposed forest practice application) continue to be inaccurate and these base-maps unfortunately under-estimate the actual miles of fish-bearing waters. Mr. Glasgow's slideshow will demonstrate the magnitude of the inaccuracy of these base-maps and why it is feasible and crucial for DNR to confirm that water bodies have been typed correctly before approving an FPA.

2. **Failure to Require Landowners to Complete "Water Type Change Forms**:" Often, the DNR "modeled base-map" will mis-classify (or mis-type) stream reaches, and many streams are incorrectly mapped or are not on the base-maps at all. Landowners sometimes rely on the base-map as "rule" and despite instruction do not measure the river or stream to determine whether its "physicals" (stream width and gradient) meet the Type F criteria. However, under WAC 222-16-031, the physical characteristics of the river or stream, not the DNR base-map, controls the "type" of the river or stream. Because the physical measurements control the "type" of stream, it is crucial for DNR to obtain **independent corroboration** from forest landowners that they have, in fact, measured streams typed as N to confirm they do not "meet the physicals" of a Type F stream.

   DNR's website[1] contains misleading information about landowner use of the DNR base-map. Although it provides that landowners must identify and draw all stream location and type corrections on the DNR base-map, it makes submittal of a Water Typing Modification Form **voluntary**. Submittal needs to be changed to **mandatory and landowners should be required to demonstrate and certify they have accurately measured water bodies**.

3. Mr. Mendoza will present to the Board some slides depicting that DNR's recent Compliance Monitoring study reflects concerns about uniform landowner compliance with the water typing rules and Board manual guidelines. In a separate paper, we will also make suggestions to the Board for revising its Board manual governing water typing. We hope this presentation leads the Board to request DNR to better delineate and enforce the water typing rules. This should include making landowner submission of Water Type Change forms mandatory and reviewable by DNR.

[1] http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesApplications/Pages/fp_watertyping.aspx

FORESTS AND FISH CONSERVATION CAUCUS

Conservation Northwest
The Mountaineers
Olympic Forest Coalition
Pacific Rivers Council
Washington Environmental Council
Wild Fish Conservancy

c/o Washington Forest Law Center
(Coordinating Organization)
615 Second Avenue, Suite 360
Seattle, WA 98104
T (206) 223-4088 F (206) 223-4280

Miguel Perez-Gibson
Policy Representative

Chris Mendoza
Science Representative

January 2, 2008

Mr. Lenny Young
Manager, Forest Practices Division
Department of Natural Resources
PO Box 47012
Olympia, WA 98504-7012

RE: <u>Water typing issues discussed at the December 2007 Policy meeting</u>

Dear Mr. Young,

As agreed to at the F&F Policy meeting last month (December 6, 2007), this letter lists improvements that should be made to the WDNR website under "Forest Practices Water Typing" (http://www.dnr.wa.gov/forestpractices/watertyping). This letter also describes Conservation Caucus concerns that water typing compliance is insufficiently monitored under DNR's Compliance Monitoring Program.

This is the second time we have submitted recommendations to DNR for improving its water typing website. The first time was after the ISAG (Instream Scientific Advisory Group) finished updating DNR's stream layer by replacing the old hydro layer with the fish habitat modeled, hydro layer. ISAG contributed a significant amount of time and energy to insuring that the modeled hydro maps were updated with the best available information from past water typing efforts before DNR released the new stream maps to the public for review. However, after several ISAG members and Chris Mendoza explained to Dennis McDonald (ISAG Chair) that the new website scenarios were unrealistic and promoted one-way "downgrades" (Type F to Type N) without counterbalancing promotion of water type "upgrades" (Type N to Type F), DNR failed to respond to our recommendations. Chris Mendoza wrote up more realistic water typing scenarios and submitted them to Mr. McDonald who did nothing in response.

A Brief History of Water Typing

In 1975, Washington developed a water typing process to classify streams, lakes, and wetlands into types, depending on their physical, biological, and human-use characteristics. Water typing is used to regulate forest practices and other land-use

activities that may adversely impact Washington's surface waters. This basic inventory is the most fundamental step in conserving wild-fish habitats. Where are the streams, and where are the fish habitats within them? Unfortunately, water-typing records and maps often underestimate the actual miles of fish-bearing waters. When this happens, productive fish habitats can be damaged because they have been misidentified.

Prior to the "Emergency Rule" for Water Typing that DNR adopted in 1996, landowners were allowed to default to the old DNR hydro-maps and/or rely on physical characteristics that grossly underestimated the presence of salmon and trout in small streams. Only streams wider than five feet with less than 12% channel gradient were assumed to have fish present, omitting many streams that in fact are inhabited by fish. DNR's old stream defaults resulted in thousands of miles of fish bearing streams being clearcut under the old forest practice rules until the 1996 Emergency water typing rule was adopted. Chris Mendoza knows this because he personally surveyed many miles of these streams, along with the Quinault Indian Nation and other fish habitat biologists, who helped prompt the Forest Practices Board to adopt the Emergency Rule in 1996.

That 1996 Emergency Rule has since been included in WAC 222-16-031 as the "Interim Water Typing System." This system relies on default physical characteristics that are much more conservative (conservation minded) than the old rules, and essentially shifts the burden of proof to forest landowners to prove fish absence with a WDFW fish protocol survey.

Recent research conducted by CMER (Cupp 2005) indicates that cutthroat trout inhabit streams that have channel gradients greater than 20% slope. This indicates that in some cases the channel gradient defaults in the existing Interim Water Typing System are not conservative enough to protect all resident fish species (mainly cutthroat trout and bull trout have been found in these steeper gradients).

By contrast, there are also streams that meet the physical characteristics of Type F (fish-bearing) waters under the Interim Water Typing System that are not inhabited by fish. These streams are the ones that get protocol surveyed by fish habitat biologists.

There is presently no way to "Model" fish habitat with "95% accuracy" so that DNR could use the modeled stream maps as a rule. CMER conducted the research and determined that the modeled stream maps did not come close to meeting 95% accuracy as required by Schedule L-1 of the HCP and WAC 222-16-030. The Policy Committee conveyed this to the Forest Practices Board, and the Board decided in 2005 that it could not adopt the modeled stream maps as a rule. Thus DNR's modeled stream maps are not to be treated as if they are a rule; rather the Interim Water Typing System (WAC 222-16-031) is the rule.

However, if landowners are not required to submit Water Type Modification Forms with channel metrics on physical characteristics (outlined in WAC 222-16-031) to verify

where DNR's stream maps are correct or incorrect, there is no way to determine how the landowners "typed" the stream. Several of our recommendations seek to remedy this.

Forest Practices Water Typing website
http://www.dnr.wa.gov/forestpractices/watertyping/

On DNR's website for Water Typing there is conflicting language under "Determining & Changing Your Water Types." After informing landowners that "the landowner needs to identify any errors on the map" and that landowners "must identify and draw all of the corrections on the Activity Map" submitted with the FPA, the next paragraph says that "Submitting a Water Typing Modification Form and Water Type Map is voluntary." Confusion results from this juxtaposition of language that is mandatory ("must") versus optional ("voluntary"), and landowners will tend to default to the interpretation that is more remunerative to the landowner (i.e., allowing more logging and less fish protection by inappropriately relying on DNR modeled stream maps as "rule"). The website states:

> **"Determining & Changing Your Water Types**
> The water types indicated on the Activity Map may not accurately show what is on your property. Landowners must verify water types before a harvest operation. Activity Maps can be printed from the FPARS site or you can request them from the DNR. Compare the water types on the map to your property. If there is a difference between the water types indicated on the Activity Map and what is on the ground, the landowner needs to identify any errors on the map.
> Errors can include:
> • A stream in the wrong location or does not exist
> • A stream that is not identified (not mapped)
> • A stream with a wrong water type
> If you are planning to submit a forest practice application, you must identify and draw all of the corrections on the Activity Map that is submitted along with the **Forest Practices Application/Notification** (FPA/N).
>
> Landowners have the option of making water type changes on the Activity Map permanent by submitting a Water Typing Modification Form with an updated **Water Type Map** to DNR. Submitting a Water Typing Modification Form and Water Type Map is voluntary. However, submitting accurate water type information enables DNR to provide the most up-to-date information. The Water Type Modification Form and Water Type Maps are available on the FPARS website. On the FPARS Mapping website select "Water Type Map" from the Select a map drop down menu in the upper left corner. The Water Type Modification Form and map is reviewed by DNR, Washington Departments of Fish & Wildlife and Ecology and tribes. If the proposed change is approved by DNR, the map information is updated and made available through FPARS."

This is both confusing and inaccurate. Landowners must complete a Water Type Modification Form if they conduct a stream protocol survey that results in "downgrading" a Type F channel (based on physical characteristics) to a Type N channel (and it benefits them financially to do so). The same form should be required for landowners "upgrading" from a DNR mapped Type N channel to a Type F channel based on physical characteristics. The Water Type Modification Form specifically asks if "[ ] Changing water type based on physical characteristics" near the top of the page. In block # 10 the Form asks again if the "Change is based on the following. [ ]physical characteristics" (also see "Instructions for the Water Type Modification Form").

The DNR fish habitat modeled, hydro layer often incorrectly depicts Type F stream as Type N streams, and Type N streams as Type F streams. This inaccuracy is precisely why the DNR modeled maps are not to be used as rule, by default or otherwise. Landowners must measure the physical characteristics of the stream (based on WAC 222-16-031) prior to submitting their FPA. DNR needs to tell them that.

If a DNR modeled map erroneously labels Type N waters that meet the physical characteristics of Type F waters, the landowners are required to either (1) apply the Type F buffer prescriptions; or (2) hire a fish biologist to conduct a protocol survey. Since landowners are already measuring the channel width and gradients as required by WAC 222-16-031 prior to submitting their FPA, they should be required to submit that physical characteristics data on the Water Type Modification Form. That information would then be recorded and coded as a Type F stream based on physical characteristics, not a protocol survey. Stream segment water typings based on fish habitat survey protocols are relatively permanent, but in contrast, changing a stream from Type N to Type F based on the physical characteristics outlined in WAC 222-16-031 is not permanent and may be changed (back to Type N) with a protocol survey at a later date.

Water Typing Scenarios website
http://www.dnr.wa.gov/forestpractices/watertyping/scenarios.pdf

The "Water Typing Scenarios" on DNR's website are intended to assist landowners with interpreting DNR's modeled stream maps, but the website's hypothetical scenarios do a poor job of accurately depicting the real-life scenarios most likely to occur on the ground. In particular, DNR's first two scenarios depict the DNR modeled stream maps as being completely accurate by stating that "every stream" on the landowner's ground matches every stream on the map, but in the real world these are highly *unlikely* scenarios, and by placing them as the first two scenarios described on the website, the website erroneously implies that the modeled stream maps are more reliable than they actually are. Having personally protocol surveyed over one thousands streams in western Washington over the past decade, Chris Mendoza has yet to come across a single DNR modeled stream map that accurately depicts what's on the ground. Moreover, DNR's scenarios are biased in that they instruct how a landowner might choose to downgrade a Type F stream to the Type N stream (biologist survey), but they say little about the reverse (upgrade). In other words, they do little to inform landowners of the likely occurrence of DNR model-mapped Type N streams that match the physical characteristics of a Type F stream outlined in WAC 222-16-031. This information is relegated to one sentence under "Scenario 6" (Sarah) at the very end of the website. As noted below, of the six scenarios described on DNR's website, Scenario 6 is the one most commonly encountered in the real world – it should be expanded and placed first in the sequence of scenarios, not last.

Scenario 1.

1. **Mary** is reviewing the streams shown on the Activity Map she obtained from DNR for her property. The Activity Map indicates there are Type N streams on her forestland, so she walks the property to verify the mapped streams. She finds that every stream on her land is accurately identified on the map and meets the classification of Type N streams. Mary has measured the streams and knows that they are less than two feet wide and that they go dry in the summer. Mary marks the streams on the Activity Map as "Ns" (Non-fish Seasonal) and submits the map with her forest practices application to DNR for review and approval. Mary decides not to submit a Water Type Modification Form.

Main problems with Scenario 1:

1. Mary finds that "every stream on her land is accurately identified on the map."
2. Mary has "measured the streams and knows that they are less than two feet wide and that they go dry in the summer" but says nothing about channel width or gradient.
3. Mary "decides not to submit" a Water Type Modification Form.

First, the vast majority of DNR's hydro maps rarely match up with what's on the ground, so this hypothetical scenario should not be the very first one listed. Second, if Mary measured the streams there should be no problem with filling out the Water Type Modification Form, checking the boxes and submitting it to DNR – there should not be a statement indicating tacit approval when she "decides not to submit" the Form. Third, the landowner "measured the streams and knows they are less than two feet wide" but the WAC criterion is channel width (bank-full), not "stream" width, which is especially important in streams that are small and/or seasonal but nonetheless fish-bearing. DNR should be promoting measurement of bank-full channel width, not stream width. Fourth, using a "dry" channel as a reason to confirm that it's a Type N (without fully explaining the Ns versus Np distinction) perpetuates the false assumption that all seasonally dry channels are non-fish bearing. There are lots of seasonally flowing fish streams in western and eastern Washington that may "go dry in summer" but are nonetheless Type F. For this very reason, WAC 222-16-031 does not use flow for determining fish use. The majority of all headwater channels are greater than 2 feet wide at their channel initiation point. The predominant physical characteristics used to differentiate Type F waters from Type N waters is channel gradient and basin area size.

Recommended Changes to Scenario 1:

Mary should find that half of the DNR mapped Type N channels on her property actually meet the physical characteristics of a Type F water as outlined in WAC 222-16-031. Nowhere in any of these scenarios do we see this WAC section cited as it should be. Mary should also find that there are several other streams on her property that don't show up on the DNR stream maps. Replace the "dry channel" criteria with the channel gradient in both cases, e.g., <u>half of the mapped Type N streams have channels gradients <</u>

20% slope and basin areas > 50 acres (western WA). These channels meet the physical characteristics for a Type F water. The other mapped Type N streams have channel gradients > 20% slope and meet the physicals for a Type N water. The unmapped streams also meet the physicals for Type N waters. Mary applies the appropriate stream buffers in accordance with WAC 222-16-031. Mary submits a Water Type Modification Form.

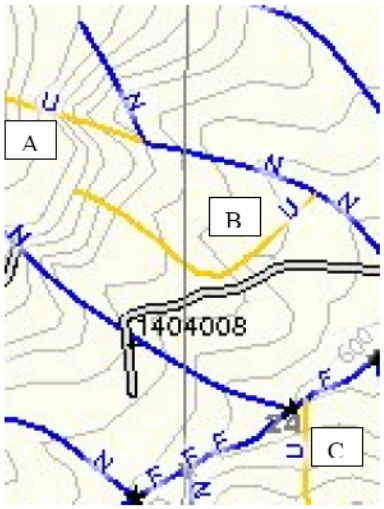
Scenario 2.

2. **Jerry** is reviewing the streams shown on the Activity Map he obtained from DNR for his property. By walking his land, he verifies that all the stream types indicated on the Activity Map are correct on his land. Since no changes are required to his map, he draws the buffer protection required on the Activity Map and submits the map with his forest practices application.

Main problems with Scenario 2:
The main problem with Scenario 2 is that it doesn't mention the physical characteristics describing a Type F water in WAC 222-16-031. Jerry should base his determination that the map call is correct based on the physical characteristics in WAC 222-16-031 or that the Type F waters are main rivers and streams with known fish use by WDFW and the Washington Department of Ecology. Again, the physicals under the Interim Water Typing System are the current rule that needs to be reinforced to the public in all of these scenarios. Spell out the physical characteristics (gradient, basin area, and channel width even though width is rarely the determining factor).

Scenario 3.

3. **Sam** looks at his Activity Map and sees three streams identified as "U". He knows that "U" streams must be correctly typed before he can submit his forest practices application. Sam first looks to see if the streams truly exist on his land. While walking his property he discovers that first stream on the map (A) does not exist (there is no stream channel). He crosses that stream off and writes "does not exist" on the Activity Map. The second "U" stream (B) indicated on the map is a dry channel that connects to a Type N stream that is less than two feet wide and has flowing water. Sam also knows that the area that drains into this stream is less then 13 acres. He marks the dry stream channel on the map as a Type Ns. Finally, the third "U" stream (C) on the Activity Map flows into a Type F stream. Sam has seen fish swim up this last "U" stream to a spring so he marks this final stream as an "F". He then submits his Activity Map along with his forest practices application. Sam wants the information permanently changed, so he also submits a Water Type Modification Form and updated Water Type Map with the application.



Main problems with Scenario 3:

1. If Sam "knows that U streams must be correctly typed before he can submit his forest practices application" he should fill out a Water Type Modification Form while typing them (agreed that an X on the map will do for streams that don't exist).
2. Like the first Scenario (Mary) this one incorrectly uses flow and relies solely on "stream" width (instead of channel width and gradient) as criteria for making the stream determination. Stick with the WAC 222-16-031 criteria and drop flow and "stream" width as examples. Channel gradient and basin area are the most predominantly used physical characteristics for water typing in the absence of conducting a protocol survey with a biologist.
3. The "third U stream" on the map is changed to a Type F water based on a visual observation made by Sam. This needs to be balanced with a statement pertaining to the fact that if you don't see fish do not assume that fish are not present. To the contrary, if you don't see fish and the channel meets the physicals in WAC 222-16-031 that doesn't make the U stream a non-fish Type N. Visual observations are a one-way call and not a good indicator of fish absence. Using the visual observation as a means to make a fish call is misleading in this regard. I'd drop it and/or state that a protocol survey by a qualified biologist is the only way to know for sure.

The last three Scenarios (4, 5 and 6) don't have sample maps associated with them for some reason. Scenarios 4, 5 and 6 are much more common in the real world than Scenarios 1, 2 and 3, and therefore Scenarios 4, 5 and 6 should either have their own independent DNR stream maps and/or be incorporated into Scenarios 1, 2 and 3. Scenarios 4 and 6 are by far the most common, as the majority of the streams on FFR lands are Type 4 waters (~ 80% of the channel network), and the DNR modeled maps have a tendency to put streams where there are none in areas with low topographic relief (e.g. Puget lowlands), or distinct topo-relief with very little rainfall (e.g. Eastern WA).

Scenarios 4, 5 and 6.

The DNR "Water Typing Scenarios" website concludes with these three scenarios:

The following scenarios are examples of when a landowner may need professional assistance to change a water type on an Activity Map.

4. **Kelly's** Activity Map does not match what she finds on the ground. Several of the streams on her property are not identified on the map and one of the streams show Type F when a couple years ago they were Type 4 & 5. Kelly contacts the **DNR Region** office closest to her property and requests assistance from the Small Forest Landowner Specialist or Forest Practices Forester.

5. **Joe** is reviewing the Activity Map for his property. He knows that a stream segment on the map is above a waterfall and the stream is typed as an "F". Since he has never seen fish above the waterfall he wants to permanently change the water type above the waterfall to an "Np". To change a Type F stream to a Type Np or Ns requires the assistance of a qualified biologist. Joe contacts the **DNR Region** office closest to his property and asks the Small Forest Landowner Specialist or Forest Practices Forester for help with finding a fish biologist who can conduct a survey and complete a Water Type Modification Form. When the Water Type Modification Form and Water Type map has been completed, Joe submits them along with his FPA/N and Activity Map to DNR.

6. **Sarah** is reviewing the Activity Map for her property and finds Type N and Type U streams that appear to fit the physical characteristic for Type F waters. Sarah contacts the **DNR Region** office closest to her property and requests assistance from the Small Forest Landowner Specialist or Forest Practices Forester.

Scenario 4 should be amended to include the physical characteristics of the unmapped and unmodeled streams and describe how they should be treated according to WAC 222-16-031. Kelly submits a Water Type Modification Form for the streams that "are not identified on the [Activity] map," based on their physical characteristics.

Scenario 5 should also state that resident cutthroat trout are frequently found above waterfalls and that the chances of seeing one (visual observation) are remote, even when they're present. Protocol Survey is the only way to detect them.

Scenario 6 is the most common scenario encountered in the real world – it should be placed first in the sequence of scenarios and include a map, not last. This scenario addresses the many modeled Type N waters having the physical characteristics of Type F waters. Landowners should be reporting the measurements they take on the Water Type Modification Form with and without conducting a protocol survey by a qualified biologist. The form already has check boxes to accommodate this. The scenario should state that Sarah submits a Water Type Modification Form.

Compliance Monitoring recommendations, and request for data

DNR's Compliance Monitoring Program should be determining whether or not landowners are inappropriately using the DNR modeled stream maps as rule for determining Type F waters and Type N waters. The only way to assess the degree to which landowners are avoiding measuring the physical stream characteristics required under WAC 222-16-031 is for Compliance Monitoring to measure the channels based on what's required by the Forest Practices rules.

Compliance monitoring crews should not be measuring flow or basing water typing compliance on flow as suggested by DNR at the December 2007 Policy meeting, because flow is not one of the physical criteria for water typing under WAC 222-16-031. Channel physical characteristics for determining Type F and N waters are based on (1) channel width, (2) channel gradient and (3) basin area. That's it. Basin area is different for Eastern and Western Washington, but flow is not a criterion, and therefore flow should not be used for Compliance Monitoring purposes. The only circumstance under which DNR Compliance Monitoring crews would not measure channel characteristics would be when the landowner has conducted a protocol survey by a qualified biologist. Those forms should also be readily available with the FPA. Without a protocol survey, and no channel measurements, there is no way that DNR can assess the level of compliance under the Interim Water Typing System.

The Conservation Caucus requests that DNR provide us with copies of the Compliance Monitoring data, complete with forms, on water typing from [2004] to the present, so that we can determine if the methods used for determining compliance versus non-compliance are consistent with WAC 222-16-031. Please send these copies to Chris Mendoza at this address:

ARC Consultants
P.O. Box 6201
Olympia, WA 98507-6201

If there is a need to discuss timing or logistics of providing this data, please phone Chris Mendoza at 360-280-3994.

If landowners are not measuring and submitting channel measurements in order to comply with the Interim Water Typing rule, DNR needs to know. The only way to do so is for DNR Compliance Monitoring crews to take channel measurements, in the absence of a landowner protocol survey, consistent with the criteria for water typing spelled out in WAC 222-26-031.

Conclusions

The Conservation Caucus is concerned that DNR's apparent lack of enforcement of the Interim Water Typing System rule (WAC 222-16-031) is allowing landowners to use DNR's modeled stream maps as rule by default. By not requiring landowners to submit data demonstrating they are following the physical channel characteristics required under WAC 222-16-031, DNR is failing to enforce this important Forest Practice rule critical to insuring the protection of salmon and trout bearing streams. To the extent that forest landowners are inappropriately using DNR modeled stream maps in place of the Interim Water Typing rule, this leaves salmon and trout streams unprotected across F&F lands. Type F stream buffer requirements are both wider and more extensive than Type N stream buffers, which only require a 50-foot RMZ for approximately 50% of the channel length. Type F streams erroneously depicted on DNR's modeled maps as Type N

streams would clearly be under-protected and out of compliance with the F&F Habitat Conservation Plan.

We are equally concerned that DNR's lack of enforcement of the Interim Water Typing Rule represents a step backward to the time before the 1996 Emergency Rule when fish-bearing streams were commonly clearcut. Many of these clearcut fish streams are still recovering from past logging practices, and it will take many more years before they attain mature riparian stands, with riparian functions critical to the recovery and protection of fish bearing rivers and streams. We sincerely hope that DNR has learned from its last water typing failure and will step forward to insure that salmon and trout bearing streams are protected with the appropriate buffers required under the Forests and Fish Habitat Conservation Plan.

Sincerely,

Chris Mendoza
Conservation Caucus Science Representative

Miguel Perez-Gibson
Conservation Caucus Policy Representative

cc: Forests & Fish Conservation Caucus