FOREST PRACTICES BOARD

REGULAR BOARD MEETING
November 9, 2010
Natural Resources Building
Olympia, Washington

Members Present

Peter Goldmark, Chair of the Board, Department of Natural Resources
Anna Jackson, Designee for Director, Department of Fish and Wildlife
Bill Little, Timber Products Union Representative
Carolyn Dobbs, General Public Member (absent from 1 p.m. – 2:30 p.m.)
Dave Somers, Snohomish County Commissioner (participated by phone)
David Herrera, Skokomish Tribe
Doug Stinson, General Public Member/Small Forest Landowner
Mark Calhoon, Designee for Director, Department of Commerce
Norm Schaaf, General Public Member
Paula Swedeen, General Public Member David Herrera, General Public Member
Sherry Fox, General Public Member/Independent Logging Contractor
Tom Davis, Designee for Director, Department of Agriculture
Tom Laurie, Designee for Director, Department of Ecology

Staff

Darin Cramer, Forest Practices Division Manager
Marc Engel, Forest Practices Assistant Division Manager
Patricia Anderson, Rules Coordinator
Phil Ferester, Assistant Attorney General

WELCOME AND INTRODUCTIONS

Peter Goldmark called the Forest Practices Board (FPB or Board) meeting to order at 9 a.m. He introduced Mark Calhoon as the new Board member representing the Department of Commerce. Patricia Anderson, Department of Natural Resources (DNR or Department), provided an emergency safety briefing.

APPROVAL OF MINUTES

MOTION: Carolyn Dobbs moved to approve the August 10, 2010 meeting minutes.

SECONDED: Doug Stinson

ACTION: Motion passed unanimously.

REPORT FROM CHAIR

Peter Goldmark reported a state lands management plan has been signed for the Taylor's Checkerspot Butterfly. Anna Jackson thanked DNR, especially DNR Olympic Region staff, for collaborating with the Department of Fish and Wildlife. She added the plan is a good example of two state agencies working together on habitat management issues.

Goldmark's report focused on budget challenges:

- The projected state general fund budget deficit is expected to be $4 to $4.5 billion.
- DNR submitted its budget proposal which includes $10 million each for the Forest Riparian Easement Program (FREP) and the Family Forest Fish Passage Program (FFFPP), and $2 million for Riparian Open Space Program (ROSP).
- He and the governor sent a letter to federal officials requesting $15 million for FFFPP and other needs related to the Road Maintenance and Abandonment Plan (RMAP) program.

PUBLIC COMMENT

Ken Miller, Washington Farm Forestry Association, complimented DNR for its efforts to get input on how to respond to the legislature's request for recommendations to improve FREP. He said most of the small forest landowners' pleas were heard, as evidenced by DNR's recommendations, but the eligibility restrictions on unstable slopes and ownership still need to be resolved.

Chris Mendoza said he supported the alternate plan process for small forest landowners. This group has a unique burden; they are asked to provide protections and ecosystem services to an urban society that has elected to forego those same protections and services. He said having worked with the alternative plan process, there is potential that has yet to be tapped into. The rules were negotiated with the understanding there are unique landforms within some ownerships that may not require the same restrictions that are in rules.

Norm Schaaf asked Mendoza if the adaptive management program is the appropriate forum to reach the goal of providing flexibility to the small forest landowners. Mendoza answered the policy track, not the science track, would be the appropriate avenue and gave the examples of the 20 trees per acre issue and the fixed width buffer.

Shawn Cantrell, Seattle Audubon Society, commented on the disappointing rate of progress made on completing the consensus recommendations of the Northern Spotted Owl Policy Working Group. He suggested that the primary problem is that no single entity is responsible for keeping the action moving forward. He said at the recent Northwest Environmental Forum at the University of Washington, he offered to commit $25,000 to help fund a person to facilitate and move the process along. He urged the Board to use its bully pulpit to lead the appropriate entities to help fund such a person.

Carolyn Dobbs said it would be a shame to lose all the progress that has already been made, and asked Cantrell how long this person would need to be employed. Cantrell answered at least two years, and stressed it needs to begin now, not months from now.

Kara Whittaker, Washington Forest Law Center, commented that none of the recommendations the Board accepted from the Northern Spotted Owl Policy Working group have been implemented, and yet harvest of habitat continues to be allowed. She said the circumstances call for the protection of every known owl unless it can be scientifically shown that such protection is unnecessary for the recovery of the population.

Peter Goldman, Washington Forest Law Center, offered two recommendations to help with some of the Board's challenges in completing initiatives:

- Proactively set targets and deadlines to avoid situations like the "post-mortem" study and the incentives program for the Northern Spotted Owl.
- Use the bully pulpit more effectively with the budget process and with DNR. User fees are necessary, and the rules can only accomplish so much in preserving working forestry. Gains for landowners can be made through vehicles such as ecosystem services markets, smart tax policies, and certification. The state budget cannot be relied upon any longer to provide ecosystem services.

Miguel Perez-Gibson, Conservation Caucus, commented that misunderstandings by committee chairs in the legislature may be causing the concerns about FREP. They may need to be educated about how the program was funded and why it was set up. Also the legislature needs to be educated that there is a lot at stake: Washington State's timber industry is a multi-billion dollar industry and is based on the Forest Practices Habitat Conservation Plan (HCP) permit. The issue is not signing off on $10 million for a backlog for the small forest landowner, but how we can keep the entire program viable. He also reminded the Board that the Conservation Caucus made non-consensus recommendations for the spotted owl, and the caucus's fears that action would not occur soon enough are becoming reality.

Kevin Godbout, Weyerhaeuser Company, said the Weyerhaeuser Foundation will be providing a $20,000 grant to facilitate the move toward incentives generating revenue from outside sources to resolve spotted owl conservation issues in a non-traditional way.

Paula Swedeen asked Godbout if the money from the Weyerhaeuser Foundation went straight to the Northwest Forest Forum, to which Godbout said yes, and added he thought the Forum was the only organization serving as the collaborative facility for solving these types of issues.

Carolyn Dobbs asked Godbout if there were particular suggestions from the forum that seemed worth pursuing. Godbout said the best part of the forum was the commitment to try to push through issues like a permanent dedicated funding source for instruments such as transfer of development rights.

STAFF REPORTS

<u>Adaptive Management</u>

Jim Hotvedt, DNR, reported that the Department of Ecology will receive a grant of $694,000 to fund the first four years of the Type N Experimental Buffer Treatment Project in Soft Rock Lithologies. During the eight-year project, Ecology itself will contribute $1.1 million and the Cooperative Monitoring, Evaluation and Research Committee (CMER) will need to request an additional $820,000 in the last four years of the project.

<u>Board Manual</u>

Donelle Mahan, DNR, reported that in the coming months the Board can expect staff to present revisions of the following Board Manual sections for approval: *Guidelines for Forest Roads, Guidelines for Riparian Open Space Program*, and *Standard Methodology for Conducting Watershed Analysis*.

Norm Schaaf asked how the anticipated changes to the *Guidelines for Forest Roads* relate to the best management practices (BMPs) in the manual. Mahan answered BMPs will not be changed; the changes will relate to RMAPs implementation.

Compliance Monitoring

Walt Obermeyer, DNR, reported:

- 2010 field work is nearly finished.
- The 2011 sample selection will take place by the end of the year.
- He will present a summary of the 2008-2009 Compliance Monitoring Biennial Report at the February 2011 meeting.
- Clean Water Act assurances milestones: The dispute resolution milestone was recently completed and accepted, and the riparian noncompliance results will be included in the biennial report.

Rule Making Activity

Marc Engel, DNR, said the Riparian Open Space and Notice of Forest Practices to Affected Indian Tribes rule makings are expected to go to the Board in February for approval to proceed with next steps, and later in this meeting staff will be requesting Board actions on four rule proposals.

Small Forest Landowner Advisory Committee and Small Forest Landowner Office

Mary McDonald, DNR, reported:

- The advisory committee met on October 5 and continued to focus on each of the caucuses' perspectives on alternate plans and alternate prescriptions for harvest.
- The Small Forest Landowner Office (SFLO) is working with Washington State University (WSU) Extension to reintroduce the *Forest Stewardship Notes* newsletter.
- Under the Family Forest Fish Passage Program, 28 fish passage barrier fixes have recently been completed, and the SFLO has submitted several grant applications to acquire funding.
- Since July three long-term applications have been approved.
- Eight applications of eleven submitted have been determined to be eligible for funding under the Riparian Open Space Program.
- The Forest Riparian Easement Program will be discussed later in this meeting.

Sherry Fox asked how the *Forest Stewardship Notes* newsletter was going to be funded and produced. McDonald answered funding is coming from a Washington State University (WSU) grant and WSU will write it with assistance from the SFLO staff.

NORTHERN SPOTTED OWL IMPLEMENTATION TEAM UPDATE

Chuck Turley, DNR, acknowledged that the implementation team is engaged in discussions and not yet implementing on-the-ground actions. He said one of the Board's questions when the implementation team was formed was whether the team needed facilitation. The group members decided "no" based on the fact that everyone's goals were aligned. He added in retrospect perhaps the group should have considered how much time each could devote to the effort, and a dedicated resource would certainly be helpful.

He referred to his November 7, 2010 update to the Board and summarized activities to date, including reviewing the draft Revised Federal Recovery Plan which is expected to be final by the first of the year. The team is particularly focused on the U.S. Fish and Wildlife Service's modeling efforts and what aggregation of federal and nonfederal areas may positively impact the owl.

Carolyn Dobbs suggested looking at a foundation source to provide help with facilitation and gathering information. Turley said he would like more information in order to look into it.

Norm Schaaf asked if the nonfederal land being considered includes state lands covered by DNR's HCP. Turley answered there is a variety of scenarios being modeled, and the U.S. Fish and Wildlife Service has offered to model specific scenarios at the request of the implementation team.

Schaaf asked if the Board should consider changing any of the membership of the implementation team, given the difficulty of some members to devote time. Turley said he couldn't speak for the other members, but none of them, including those that represent the non-governmental entities, are dedicated solely to working on this effort. He acknowledged that every step of the process has taken longer than expected, but he wasn't sure that different membership would resolve that problem.

Paula Swedeen asked for clarification about the timeline for nonfederal lands to be modeled. Turley said the question currently is which lands should be modeled by January and which will be done over the coming year or so after the final recovery plan is out. But, he said, he understands the final plan will include enough modeling for the technical team to take the next step.

Swedeen asked if it may be beneficial to have someone from the U.S. Fish and Wildlife Service brief the Board at the February Board meeting. Besides keeping attention on the topic, it could help the Board understand the approach they are using, findings to date, and how that pertains to the recommendations pertinent to Washington State. Goldmark said that could be discussed with the U.S. Fish and Wildlife Service.

PROPOSED SMALL FOREST LANDOWNER LEGISLATION

Rick Dunning and Steve Stinson, Washington Farm Forestry Association (WFFA), provided a presentation seeking support from the Forest Practices Board for a 2011 legislative proposal. Dunning explained the goal of the legislation is to help fulfill the legislative commitments made to the small forest landowner community in the 1999 Forests and Fish law.

Stinson pointed out ways commitments are not being met.

- The staffing for the Small Forest Landowner Office has been reduced from 12 staff to 2.
- None of the three alternate plan templates developed to date recognize less costly prescriptions on smaller harvest units.
- Forest Riparian Easement Program (FREP) funding is inadequate.

He said the draft legislation provides the option for small forest landowners harvesting 20 acres or less to leave narrower riparian buffers, similar to what is currently allowed for exempt 20-acre parcels under WAC 222-30-023 ("20-acre parcel exempt rule"). Landowners choosing this option would forego the ability to be compensated under the Forest Riparian Easement Program.

Stinson said under the Forest Practices Habitat Conservation Plan (HCP), up to 10 percent of the stream miles in any Watershed Administrative Unit (WAU) may be harvested under the 20-acre parcel exempt rule. In the last decade, no more than one percent of the stream miles have been affected in any WAU.

Dunning said benefits of the legislation would be savings of millions of FREP dollars annually, increases in county tax revenues, jobs in rural communities, and protection of critical timber infrastructure. He explained WFFA has exhausted options to utilize the Forests and Fish adaptive management program to accomplish their goals, and they have dropped out of the Forests and Fish Policy Committee (Policy). They are choosing a legislative solution because the commitments for the small forest landowners in the 1999 law were accomplished through the legislative process, not through Forests and Fish negotiations.

<u>Board Discussion</u>

Anna Jackson asked how their proposal is supported by science. Stinson said there is a wide body of science available to support it, but CMER does not accept science conducted outside of CMER.

Tom Laurie asked how the legislation could impact the HCP and the Clean Water Act assurances. Dunning answered there already is a threshold of 10 percent of stream miles per WAU that must not be exceeded. In this sense it would not have an effect on the HCP because there is a monitoring process in place. Stinson added it may actually strengthen the HCP by making it work for small forest landowners, which is the largest forest landowner class in the state. As for Clean Water Act assurances, Stinson and Dunning said once implemented it would be very informative to monitor for water temperature to see whether there is an issue.

Norm Schaaf asked if any WAUs contain more than 10 percent ownership by the small forest landowner class. Stinson answered in two thirds of the WAUs there is no possibility that the threshold could ever be exceeded.

Paula Swedeen referred to an estimate given in the presentation that an additional 45,000 landowners would qualify for eligibility under the proposal. She asked how they arrived at that estimate. Stinson answered the estimates are from a dataset produced in a federally funded project, and is the difference between the total number of small forest landowners (215,000) and the number of landowners allowed to follow the "20-acre exempt parcel" riparian rules in WAC 222-30-023 (170,000).

Peter Goldmark asked if they had tried to take the proposal through Policy to get the caucuses to endorse it. Dunning answered no because of the association's resource limitations and the lengthy process they felt they would face in going to Policy.

FORESTRY RIPARIAN EASEMENT PROGRAM PROPOSED LEGISLATION

Mary McDonald, DNR, summarized DNR's response to a 2010 legislative directive related to Forest Riparian Easement Program (FREP) reform. She said the legislature directed DNR to work with interested stakeholders to develop recommendations to clarify the eligibility provisions and add prioritization criteria.

She reported that DNR held three open house public meetings to gain input from interested stakeholders. There was overwhelming response from attendees that changing the eligibility criteria is not appropriate because FREP was the legislature's commitment to help mitigate disproportionate losses for small forest landowners when the Forests and Fish rules were passed; the only criterion should be a loss of income imposed by the riparian rules.

She summarized DNR's recommendations to the legislature. She stressed they were developed after considering all stakeholder input, experience derived from implementing the program for almost a decade, and the 2010 budget proviso language.

She explained for the current year the program received $600,000 contingent on DNR utilizing the 2010 budget proviso prioritization and $500,000 from the sale of the agency airplane, for a total of $1,100,000. She said she hired temporary staff to work on easement acquisitions to spend these funds.

Peter Goldmark mentioned that staff worked very hard on the outreach component of accomplishing the requirements of the legislation and did a lot of listening. The legislature gave DNR a deadline of two months to accomplish the work. Marc Engel, DNR, said DNR reached out to the community most affected by changes in the program, and all of the Forests and Fish Policy members were invited to provide input. The legislature directed DNR to consider fulfilling 14 elements listed within the budget proviso which were to be the basis for accomplishing FREP reform.

Fox said she was concerned that the process to involve Policy seemed to have changed from past instances when legislation concerning small forest landowners is passed and Policy negotiated the details.

Engel explained by law there are three ways in which forest practices rules covering aquatic resources may be changed: by legislation, court order, or the adaptive management program. This proposal is not subject to adaptive management program review because it responds to a directive from the legislature. Darin Cramer, DNR, further explained that the primary underpinning of the adaptive management program is to determine if the rules meet resource protection performance targets. If a rule proposal does not affect resource protection standards it is not run through a formal adaptive management process. Any rule changes resulting from this legislation would not fit the purpose of the adaptive management program.

Doug Stinson commented that parts of the proposal are objectionable to quite a few people. Norm Schaaf said he also had concerns, but it is up to individuals, not the Board, to show support or nonsupport as the proposal moves forward in the legislature.

McDonald pointed out that DNR listened to and read all of the 154 comments from stakeholders. If there were comments on both sides of an issue, DNR drew on its experience in administering the program as well as the 2010 budget proviso language to make a decision. For example, there were comments on both sides of the unstable slopes issue – whether or not to include trees on unstable soils outside of riparian management zones. DNR considered that the original Forests and Fish law focused on mitigating the economic impact for small forest landowners of leaving trees inside of riparian zones, not outside riparian zones. DNR also looked at the fact that until now disproportionate sums have been paid for easements on lands that were unstable prior to the Forests and Fish rules. She also pointed out that although the budget proviso recommended 14 prioritization elements, DNR only recommended one, the long-term stewardship plan.

Goldmark asked how much has been spent on easements since the beginning of the program. McDonald answered $26 million since 2001. Cramer informed the Board that on December 10 there will be a House Committee on Natural Resources work session and staff will participate.

ADMINISTRATIVE APPEALS EXPEDITED RULE MAKING

Gretchen Robinson, DNR, requested the Board's adoption of the Administrative Appeals rules. She reported that the required 45-day public comment period ended November 1 and the Board did not receive any comments.

MOTION: Norm Schaaf moved that the Forest Practices Board adopt the rule proposal that eliminates the Forest Practices Appeals Board and adds a definition for "notice of a conversion to a non-forestry use." This rule making incorporates provisions of the 2010 Substitute House Bill 2935 and the 2007 Second Substitute Senate Bill 5883. He further moved to direct staff to file the CR-103 Rule Making Order with the Office of the Code Reviser.

SECONDED: Carolyn Dobbs

ACTION: Motion passed unanimously.

PUBLIC COMMENT ON FOREST BIOMASS RULE MAKING

Karl Forsgaard, Conservation Caucus, said the caucus supports the proposed rule making action for the Forest Biomass rule making. He then urged the Board to approve filing a CR-101 for an additional rule making that would comprehensively address sustainable biomass removal practices. He said filing a CR-101 would show the Board's leadership, and delaying would be bad policy because businesses have a need to realistically plan where their future fuel supply will come from. He said if the Board does not take this action the caucus could file a petition for rule making to ensure the process starts in a reasonable time.

Miguel Perez-Gibson, Conservation Caucus, echoed Forsgaard's comments and said the concern is about sustainability and knowing what and how much must be left. It makes sense to establish protocols for protection of soils and water quality while the industry is incubating, and the Board has the opportunity to direct the industry toward forest health issues and practices that can benefit rather than harm the forests.

Adrian Miller, Washington Forest Protection Association, said he supported the rule proposal which makes it clear that biomass harvest is indeed a regulated forest practice. But additional rule making would send a dramatic signal to those who are considering investing in this technology. He asked the Board to be cognizant that there are a number of initiatives sponsored by the legislature and the governor's office to facilitate the development of this industry. He asked the Board to consider the following existing processes and opportunities:

- DNR's biomass supply study will help to provide realistic supply information.
- The Department of Revenue catalogues the use of tax credits. Cross-tabulating that information with information from forest practices applications could give a good idea of actual impact and inform the question of whether additional rule making is necessary.
- Environmental reviews are already being conducted by companies who are planning facilities.

Paula Swedeen suggested that initiating rule making could be interpreted as a proactive move in support of the industry's endeavors. Miller said in business planning industries need to know there is more material available than actually ends up being used, and the prospect of additional rule making could send the wrong signal. Norm Schaaf said regulations are a very real concern for industries and some are already showing concern about the Board's current rule making.

Anna Jackson asked Miller what kind of a process would be the best forum for having a discussion. Miller said bringing individuals from the manufacturing sector into the discussion would be an important cornerstone, and he was willing to take the time to determine how that could be accomplished.

Carolyn Dobbs asked when the biomass supply study was expected to be completed; Goldmark answered hopefully by July. He said he wished to remind the Board that the reason for the current rule making is that DNR has seen a range of biomass activity, from acceptable to quite alarming.

Peter Goldman, Conservation Caucus, made the following points:

- The reason investors are coming to Washington State is because of the stimulus money aimed at carbon neutral renewable energy.
- Environmental reviews conducted by companies planning local plants are addressing the impacts on air and traffic, not forests.
- Filing a CR-101 would send a positive signal that the Board wants to look at best available science and figure out what is necessary to protect resources.

FOREST BIOMASS RULE MAKING

Gretchen Robinson, DNR, requested the Board's approval to proceed with the 30-day review for the forest biomass rule language pursuant to RCW 34.05040(2). She said staff held three rule development meetings in October and there was good participation from all of the forest practices interest groups. There was general agreement that adding the term "forest biomass" to the forest practice definition was a good idea, but many felt that defining forest biomass in rule, or to attempt any other rule change pertaining to biomass, should occur only within the Forests and Fish adaptive management process. Some expressed concern about the level of biomass

removal activity that could take place in the future and many stressed that best management practices should be established to ensure ecological sustainability.

She explained two approaches were discussed about how to add "forest biomass" to the definition of forest practice in WAC 222-16-010. One was to include "forest biomass removal" in the list of activities given as examples of forest practices, under the lead-in sentence that includes "timber harvest." Those in favor thought it would imply that the only material allowed to be removed would be the material resulting from timber harvest. The other approach discussed was to insert "forest biomass" into the lead-in sentence alongside, "related to growing, harvesting, or processing timber …" She said staff recommends this approach because it gives DNR a clear ability to afford the same environmental protections for biomass harvest as is provided for timber harvest.

Marc Engel, DNR, said the rule proposal does not allow any activity that is not already allowed. The intent is to be clear that all of the current protections in the rules are applied when people harvest biomass. It will also encourage the identification of biomass removal activity on forest practices applications (FPAs) and will contribute to consistent implementation across the state. As always, FPAs will be classified according to the information given on the application.

MOTION: Carolyn Dobbs moved that the Forest Practices Board approve the draft rule proposal that amends WAC 222-16-010 by including forest biomass in the "forest practice" definition, for a 30-day review with the counties, Department of Fish and Wildlife and tribes.

SECONDED: Norm Schaaf

Board Discussion

Tom Laurie said the Department of Ecology concurs with the staff recommendation.

Carolyn Dobbs asked if any of the concerns about harm to soils could be addressed in the exclusion clause at the end of the "forest practice" definition. Engel said he wasn't sure but currently the removal of biomass is occurring in conjunction with the activities listed in the definition.

David Herrera referred to Goldmark's earlier statement that the level of removal on sites currently ranges from acceptable to alarming. He asked what makes one site acceptable and another alarming. Goldmark said that it was a good question, but the motion for discussion does not get at the more difficult issue of ecologically sustainable methods of retrieval. Herrera asked if commenters could provide input on these questions. Goldmark said the Board will take all comments from the targeted entities during the 30-day review period, but with the understanding that comments should be relevant to the scope of the rule making.

Paula Swedeen asked for verification that the comments during testimony would be addressed later in the meeting, to which Goldmark answered he would hold a short work session later in the meeting.

Norm Schaaf expressed support for the change in the definition to include forest biomass which will ensure that the removal of forest biomass is fully regulated under the existing forest practices system. He said that is how DNR is currently regulating it, and putting it in rule clarifies DNR will do exactly as they are doing today.

ACTION: Motion passed unanimously.

PUBLIC COMMENT ON CMER MEMBERSHIP

None.

CMER MEMBERSHIP

Jim Hotvedt, DNR, requested that the Board designate Todd Baldwin to fill a CMER membership vacancy. He said Baldwin has been very active in CMER since 2001 and he co-chairs the scientific advisory group for the eastside (SAGE).

MOTION: Tom Laurie moved that the Forest Practices Board approve Table 2 dated November 2010 as the current CMER roster that reflects Todd Baldwin as a member of CMER.

SECONDED: Doug Stinson

ACTION: Motion passed unanimously.

PUBLIC COMMENT ON EXTENSION OF RMAP FOREST ROAD WORK COMPLETION DATE RULE MAKING

Pete Heide, Washington Forest Protection Association, said he was pleased with how the rule making and associated efforts are going. He noted the importance of getting funding for fish barriers on small forest landowner and county roads – critically important in the lower elevations for fish to get to the improvements in the higher elevations.

Chris Mendoza, Conservation Caucus, echoed Heide's comments about the importance of the lower elevation roads to be addressed sooner rather than later. He said the RMAPs staff work group, of which he was a part, learned much about RMAPs process and acknowledged that some things still need to be worked out like reporting requirements and data management. He said he was confident that with some additional work, the stakeholders and DNR can get it done.

RMAP UPDATE AND EXTENSION OF RMAP FOREST ROAD WORK COMPLETION DATE RULE MAKING

Darin Cramer, DNR, referred to the October 20, 2010 memorandum from Julie Sackett in the Board's materials. He said region specialists have proposed a system to address the stakeholder concerns listed in the memorandum, and Sackett will soon be discussing a proposal with stakeholders. DNR is planning to begin a board manual stakeholder process soon that will include a standardized system to receive, track, and report accomplishments.

Marc Engel, DNR, summarized the proposed rule language and requested the Board's approval to proceed with the 30-day review process pursuant to RCW 76.09.040(2).

Norm Schaaf asked when landowners would be able to request extensions. Engel answered any time between the date the rule is effective and 120 days prior to the initial plan's anniversary date in 2014.

MOTION: Norm Schaaf moved that the Forest Practices Board approve the draft rule proposal that amends WAC 222-24-050 and 222-24-051 relating to the RMAP completion date, for a 30-day review with the counties, Department of Fish and Wildlife and tribes.

SECONDED: Paula Swedeen

Board Discussion

Tom Laurie said the Department of Ecology concurs with the staff recommendation.

Sherry Fox said she appreciated the collaborative spirit in the development of the proposal.

Peter Goldmark mentioned there are challenges to come in finding the resources to help the small landowners and counties complete necessary improvements.

ACTION: Motion passed unanimously. (Carolyn Dobbs absent for vote)

PUBLIC COMMENT ON WATERSHED ANALYSIS RULE MAKING

Adrian Miller, Washington Forest Protection Association (WFPA), said WFPA supports the rule making effort. He commented that much of the rule proposal includes procedural requirements on the part of DNR and the results of that work will be dovetailed into a board manual that stakeholders will be involved in developing.

Karl Forsgaard, Washington Forest Law Center, said the Conservation Caucus supports the rule proposal. There is strong consensus among stakeholders that rule changes are necessary, particularly to make sure that watershed analyses are up to date, and to increase confidence that they are protective enough to warrant exemption from a Class IV-special SEPA review.

Peter Goldman, Conservation Caucus, said this and the RMAP rules are examples of collaborative rule making. He said the Board should be careful not to create loopholes in well-intentioned rules like loopholes created when the original watershed analysis rules were adopted in 1992. He noted there is still only a voluntary monitoring requirement and urged the Board to ask stakeholders what to do about the information deficit.

WATERSHED ANALYSIS UPDATE, RECOMMENDATION FROM FORESTS AND FISH POLICY AND WATERSHED ANALYSIS RULE MAKING

Marc Engel, DNR, provided an update of work that DNR is accomplishing pursuant to recommendations made by the Board's Committee on Watershed Analysis.

- There is stakeholder agreement on the process DNR will use to prioritize required reanalyses for the 52 approved watershed analyses.
- DNR is currently working with stakeholders on what constitutes a reanalysis.

- DNR is polling landowners to find out whether they want to sponsor or participate in a reanalysis or decide to withdraw their mass wasting prescriptions. So far, out of 115 landowners, 6 landowners reported they may participate in reanalysis, 58 may withdraw, and the remaining landowners have not reported their intentions.

Paula Swedeen asked if the point made earlier about the lack of monitoring would be a limitation to having enough information to review the reanalyses. Engel answered that the current characteristics of the watershed will be compared to its characteristics when the original prescriptions were developed. Darin Cramer said first there will be a DNR review of all watershed analyses to determine if reanalyses are necessary, and DNR does not need monitoring data for this review. The landowners who choose to maintain their watershed analyses will be doing the bulk of the reanalysis effort. It is being set up in a way that you can get a sense of what's going on with the prescriptions and a good outcome without a systematic monitoring program in place.

Jim Hotvedt, DNR, delivered Policy's recommended rule changes and explained how each element of the Board's request was addressed in the proposed rule changes.

Sherri Felix, DNR, asked the Board to consider two clarifications to Policy's recommended language.

- Add "reanalysis" to the existing definition of watershed analysis, rather than defining that term separately. She said it would negate the need to add, "and reanalysis" multiple times throughout the rules.
- Clearly state in WAC 222-22-090(4) DNR's authority to prescribe what needs to be included for each reanalysis.

She said staff shared the amendments with Policy members at the November Policy meeting. She then requested the Board's approval to conduct the 30-day review pursuant to RCW 76.09.040(2)(b) of the draft watershed analysis rule language that includes the staff-recommended amendments.

MOTION: Tom Laurie moved that the Forest Practices Board approve the draft rule proposal recommended by Forests and Fish Policy that amends Title 222 WAC relating to watershed analysis. He further moved that the Board accept the amendments suggested by staff and distribute the draft rule proposal to the counties, Department of Fish and Wildlife and tribes for a 30-day review.

SECONDED: Sherry Fox

<u>Board Discussion</u>

Tom Laurie and Norm Schaaf thanked staff for good work implementing the Board committee's recommendations and incorporating stakeholder involvement. Peter Goldmark said he was happy the Board is moving forward with the needed refreshment to watershed analysis.

ACTION: Motion passed unanimously.

FORESTS AND FISH POLICY 2011 PRIORITIES

Stephen Bernath and Jim Peters, Forests and Fish Policy Co-chairs, explained the Forests and Fish Policy Committee's (Policy's) three top priorities for FY 2011. Bernath said they are the same priorities Policy presented to the Board a year ago, but throughout the year the focus was shifted to other work assignments by the Board.

- First priority: Secure adequate long-term funding. Long-term funding continues to be a challenge as federal grant funding is spent, and the general fund-state funding (Forests and Fish Support Account) is not adequate to maintain the program. There is capacity to spend $3 - $3.5 million per year, and intensive effort will be necessary in the next six months to make up for an expected shortfall of at least $1.75 million per year.
- Second priority: Complete Clean Water Act assurances milestones. When Forests and Fish was negotiated it was understood that in ten years there would be a determination of whether the rules are working to attain clean water standards. We are now under a conditional extension of the assurances while CMER projects are completed to tell us if the system is working.
- Third priority: Continue to implement the strategic plan. This includes looking at improvements that can be made to be more efficient and accountable.

Bernath said Policy has decided in order to conserve staff resources in the next few months there will be no in-person meetings unless there is a specific need.

Jim Peters emphasized that Policy members wear many hats and are spread thin, and in order for the group to be functional it must be allowed to plan and manage its workload. He said there have been improvements in the past year and the caucuses are finding solutions to problems together. He added there is always a seat at the table for the small forest landowners when they can attend Policy meetings.

Sherry Fox asked about the status of the Forests and Fish Support Account. Darin Cramer answered the last report from the Department of Revenue showed the account is still down by about 25 percent, and the federal funding will be spent by April 2011.

2011 WORK PLANNING

Marc Engel, DNR, initiated a discussion on cost saving measures for the Board, meeting dates for 2011, and the Board's work plan. The Board decided:

- There will be four regular meetings and no special meetings in 2011.
- The meeting dates will take place on Tuesdays: February 8, May 10, August 8, and November 8.
- Meetings will be face-to-face because no significant savings can be realized by other means.

He summarized the staff-recommended draft 2011 work plan. Paula Swedeen asked if time is factored in for unexpected petitions for rule making. He said the Board must respond to petitions, but hoped the Board would consider the ongoing rule making work load when contemplating a response. Darin Cramer said staff is at capacity now with the five rule makings in play; with the occasional brush fires that flare up now and then, it is a significant challenge to produce high quality work for each rule. Peter Goldmark said he appreciated the importance of allowing staff enough time to do a thorough job and catch potential problems.

TFW CULTURAL RESOURCES COMMITTEE ANNUAL REPORT

Pete Heide, TFW Cultural Resources Committee Co-chair, referred to the committee's written annual report in the Board's materials. He said the committee meets once per month, and mostly discusses guidance and educational topics. The committee has also devoted much meeting time to one particular rule fix in WAC 222-20-120 because of problems brought forward by a member of a tribe, a landowner, and DNR. He said the co-chairs plan to deliver a consensus rule proposal to the Board shortly.

NEW BUSINESS

In consideration of requests made earlier in the meeting regarding forest biomass, Peter Goldmark offered DNR's leadership to start a dialog about what might be involved in addressing sustainable biomass retrieval.

Tom Laurie agreed with that approach, and said he felt it was important but not urgent in this time when the industry is just emerging. He said DNR's study will tell us a lot about what the potential impacts are, and it may be hasty to do much until more is known about biomass availability.

Anna Jackson requested a progress report at the February meeting.

Paula Swedeen noted that WFPA invited her and David Herrera to go out in the field to look at a landowner's biomass harvesting practices. She said it helped her understand some of the current practices, the current state of the economics, and sideboards in which the market may take off and cause concerns. She said it helped to conceptualize ideas she hoped the Board would consider:

- Given that the federal government is encouraging biomass harvest through stimulus spending, shouldn't the Pacific Northwest receive federal support to help keep a handle on the science of the issue?
- What systems can we have in place to help track the extent of biomass harvest so we're not caught off guard?

Norm Schaaf pointed out that currently the University of Washington Natural Resources Center is conducting a study to estimate biomass availability on the Olympic Peninsula. He added it is important to remember the objective of promoting a viable forest products industry along with preventing damage to public resources.

EXECUTIVE SESSION

No executive session.

Meeting adjourned at 3:10 p.m.