

1 **FOREST PRACTICES BOARD**
2 **MEETING MINUTES**
3 February 8, 2006
4 Natural Resource Building, Room 172
5 Olympia, Washington
6
7

8 **Members Present:**

9 Pat McElroy, Designee for Doug Sutherland, Chair of the Board
10 Alan Soicher, General Public Member
11 David Hagiwara, General Public Member
12 Lee Faulconer, Designee for Director, Department of Agriculture
13 Doug Stinson, General Public Member/Small Forest Landowner
14 David Whipple, Designee for Director, Department of Fish and Wildlife
15 Sherry Fox, General Public Member/Independent Logging Contractor
16 Toby Murray, General Public Member
17 Tom Laurie, Designee for Director, Department of Ecology
18

19 **Absent:**

20 Bob Kelly, General Public Member
21 Sue Mauermann, Designee for Director, Community, Trade and Economic Development
22

23 **Staff:**

24 Lenny Young, Forest Practices Division Manager
25 Jed Herman, Assistant Forest Practices Division Manager
26 Neil Wise, Assistant Attorney General
27 Patricia Anderson, Rules Coordinator
28

29 **WELCOME AND INTRODUCTIONS**

30 Pat McElroy called the meeting to order at 9:00 a.m. McElroy introduced David Whipple, who was
31 recently appointed to replace John Mankowski as designee for the Director of the Department of
32 Fish and Wildlife. Mankowski has accepted a position as the Governor's Natural Resource Policy
33 Advisor. Introductions were made by Board members, staff, and attendees. Patricia Anderson
34 provided an emergency safety briefing.
35

36 **APPROVAL OF MEETING MINUTES**

37 **MOTION:** Sherry Fox moved to approve the November 9, 2005, meeting minutes.
38

39 **SECONDED:** Doug Stinson
40

41 **Board Discussion**

42 The following corrections were requested to the minutes:

- 43 • Page 1, line 39, change "considerate" to "considered."

- 1 • Page 29, line 23, strike “or anticipation.”
- 2 • Page 33, line 26; replace “Eric Johnson” with “John Mankowski.”

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ACTION: Motion passed unanimously as amended.

PUBLIC COMMENT

Rick Dunning, Washington Farm Forestry Association, thanked the Board for their time and attention to small forest landowner issues. He reminded the Board of the importance of focusing on long-term plans and requested the Board pursue long-term management plans expeditiously.

Toby Thaler, Washington Forest Law Center, commented on the Adaptive Management Program that recognizes changes will occur to the Forest Practice Rules. A goal of the Adaptive Management Program is to “close the loop” when it is necessary or advisable to adjust the rules and guidance to achieve the projected results. The Cooperative, Monitoring, Evaluation and Research Committee (CMER), conducted a thorough study on desired future condition (DFC) which concluded that there is no statistically significant difference in the target basal area among site classes and that the numbers are incorrect. It was determined that a value of 330 square feet per acre for all site classes would be an appropriate adjustment, which is significantly different than current rules. No data has been submitted that justifies the DFC numbers. The Board has the first Adaptive Management study results and it is the Board’s responsibility to “close the loop.”

Peter Heide, Washington Forest Practices Association (WFPA), reported that Forests and Fish Policy reviewed the CMER data on the DFC study. A recommendation to the Board included further study because the study raised a number of questions about the site classes. Current efforts include accurately characterizing basal area in natural riparian stands and developing a solution.

CMER APPOINTMENTS

MOTION: Pat McElroy moved that the Forest Practices Board accept Bill Ehinger as recommended by Department of Ecology to serve on the CMER Committee.

SECONDED: David Whipple

ACTION: Motion passed unanimously.

1 **STAFF REPORTS**

2 Adaptive Management

3 Lenny Young invited comments from the Board regarding the update provided about the Adaptive
4 Management Program. There were no questions from the Board.

5
6 Legislative Update

7 Lenny Young provided an update on legislative bills that could potentially impact forest practices:

- 8 • SSB 6005 – an act relating to state public preservation by the State Library Services within
9 the Office of the Secretary of the State.
- 10 • SSB 6211 – an act relating to the creation of the Timber Land Revitalization Board.
- 11 • SSB 6429 & SHB 2675 – an act relating to disclosure of certain Native American cultural
12 resources information.
- 13 • SSB 6266 – an act relating to county and city participation in the rule making process.
- 14 • SHB 2401 – an act relating to developing regional compacts for siting transmission lines.
15 SHB 2740 – an act relating to reauthorizing the DNR to have exclusive jurisdiction over all
16 forest practices applications.
- 17 • SHB 3188 – an act relating to the transfer of jurisdiction over the conversion-related forest
18 practices to local governments.

19
20 Forests and Fish Policy Recommendation on Channel Migration Zones

21 Young referred the Board to the channel migration zones (CMZ) information submitted to the
22 Board from Forests and Fish Policy.

23
24 Tom Laurie noted there apparently is no consensus for the definition of “channel.” Young said the
25 Board posed the question of, “What is the intent?” It is a difficult question because different
26 caucuses remember the intent differently. The Forests and Fish Report is silent on whether CMZs
27 should be applied to streams where the valley width is less than two times bankful width.

28
29 McElroy commented that there has been a disservice to Forests and Fish Policy by asking them to
30 pursue the question. The Board made its decision several years ago when it adopted the Board
31 manual.

32

1 **MOTION:** Pat McElroy moved to release Forests and Fish from any further consideration of the
2 CMZ issue unless it is pursued through the Adaptive Management process. The
3 Board thanks Forests and Fish Policy for their diligence concerning the matter.
4

5 **SECONDED:** Sherry Fox.
6

7 **Board Discussion**

8 Alan Soicher said he does not foresee any problems with not having Forests and Fish Policy
9 engaged in the issue but there are issues that the Board should be engaged in that are not included in
10 the motion. He suggested another motion.
11

12 **AMMENDMENT:** Pat McElroy further moved that the Board has spoken on the issue in its
13 entirety and its action in adopting the Forests Practice Board manual and that
14 this is a subject matter that is closed unless addressed through the Adaptive
15 Management process.
16

17 **SECONDED:** David Whipple
18

19 **Board Discussion**

20 Soicher spoke against the motion. When the Board adopted the manual there were outstanding
21 issues that had not been resolved and there was no consensus by the developers of the Board
22 manual. The Board was presented with three outstanding questions for resolution before finalizing
23 the Board manual. That did not occur. The motion defers the issues that are unresolved. McElroy
24 disagreed and indicated the motion is to conclude the issues. Soicher said the issue about whether
25 certain streams should be exempt from having a CMZ is a policy that is now embedded in the Board
26 manual, which has not been resolved.
27

28 **AMENDMENT:** Alan Soicher moved to stipulate that the exemption for streams where valley
29 width is less than twice bankful width is removed from the Board manual so
30 that the CMZ is delineated on any stream that migrates.
31

32 **SECONDED:** Pat McElroy declined the amendment.
33

34 **Board Discussion**

35 Laurie questioned the effect of the motion. He asked whether the Board can close its discussion.
36 McElroy indicated it is not the intent of the motion but that if the issue is addressed through the
37 normal process, whatever that process may be, the Board will consider the issue. The Board has

1 much bigger issues to address and it is time for the Board to acknowledge the issue has been
2 addressed sufficiently.

3
4 Toby Murray said he presumes the issue will work through CMER's priority list to be dealt with at
5 that time. There has not been any communication from CMER that suggests that it is a problem.

6
7 Laurie asked whether the exemption for CMZs is sufficiently clear in the Board manual. McElroy
8 asked whether there have been any obstacles in implementing the rule using the Board manual.

9 Young said that staff is following the specific direction in the Board manual. If valley width is less
10 that two times bankful width, delineation of the CMZs is not occurring. An appeal of the decision
11 can be pursued through normal channels.

12
13 Whipple referred to John Mankowski's questions about the potential to track the number of
14 instances when less than two times bankful width situations occurred. WDFW committed to work
15 with DNR to investigate whether it could be tracked. Young said as the report from Forests and Fish
16 Policy indicates, based on commitments exchanged at Policy, DNR added a CMZ flag to FPAs.
17 Any application with a CMZ involved can be quickly identified by reviewers and others. The
18 practice was implemented on October 5, 2005. Since then, four applications have been processed
19 involving CMZs.

20
21 Soicher asked whether that practice is also to include FPAs where the channel migrates but is less
22 than twice bankful width and is exempt from delineating a CMZ. Young said he didn't believe so
23 but will follow up. Soicher said it is the streams where the channel migrates, and that have no
24 CMZs delineated, that are the issue. Young indicated that would be difficult to apply.

25
26 McElroy indicated the discussion is outside the purview of the motion.

27
28 Soicher referred to the timeframe to calculate bank erosion rates. He asked how calculations are
29 occurring without specific guidance in the Board manual. Young said the recommendation from
30 Policy is 140 years.

31
32 **ACTION:** Motion passed. 8 support/1 oppose

33

1 Water Typing, Eastern Washington Maps

2 Dennis McDonald referred to the staff report and invited questions from the Board.

3
4 McElroy advised the Board that the policy objectives are in the right direction as well as the
5 science-based information. However, operationally, there may be unintended consequences in
6 individual cases, which is an area of concern. Young reported Forests and Fish Policy is addressing
7 the issue and is working on what a hybrid solution might be: Where the model can be used and
8 when it is not effective, and what other means and methods can be used to supplement the effort
9 when the model is not effective.

10
11 Sherry Fox commented on the accuracy of the model and maps and offered a suggestion of
12 developing a site-specific process for those areas with different circumstances. Young advised there
13 is no change in regulatory procedures, but it is providing new, improved information. McElroy said
14 his concern focuses on a permanent rule that stipulates at some point that only the maps will be
15 used, which is troublesome. The issue is how to deal with different circumstances, and sometimes it
16 is necessary to change the underlying expectation within the rule to make sure the practices are
17 consistent with that expectation.

18
19 Whipple shared that Policy is addressing it through CMER's Instream Scientific Advisory Group
20 (ISAG) who has prepared a compilation of data collected from six different groups to demonstrate
21 the performance of the model. The information will be presented to Policy to help initiate the
22 conversation.

23
24 Soicher suggested water typing is not an adaptive management issue but rather a rule issue that was
25 to be addressed in 2000 but has not been resolved.

26
27 McElroy pointed out adaptive management is not just about science. Often on-the-ground situations
28 need to be addressed, and can also be handled through an adaptive management process. Doug
29 Stinson added that site-specific approaches are a step forward in ensuring land remains as forest
30 land.

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32
33

1 **STATE WILDLIFE LISTINGS UPDATE**

2 Jed Herman reported on the recent decision by the Washington Fish and Wildlife Commission
3 affecting the state wildlife listings. Three new species have been listed as threatened or endangered.

4
5 Under current regulations, DNR and WDFW must consult after a state listing of a threatened or
6 endangered species. The agencies must prepare and submit a proposed list of critical habitat state.
7 The list must be completed within 30 days from the effective date of the listing. Staff will submit a
8 report to the Board of critical habitat state, and consideration of potential impacts on forest
9 practices, by April 1, 2006.

10
11 Whipple addressed questions from the Board about the listings and how they intersect with Forests
12 Practice rules. He reviewed the three species listed and one species delisted on January 13:

- 13 • Mazama pocket gopher – state threatened
- 14 • Streaked horned lark – state endangered
- 15 • Taylor’s checkerspot butterfly – state endangered
- 16 • Aleutian Canada Goose - delisted

17
18 Whipple reviewed the biological backgrounds, remaining population sizes, habitat loss/degradation,
19 factors affecting the species, and research/management activities of each species listed.

20
21 Next steps include assessing any forest practices implications from the listings. Consultation
22 between DNR and WDFW staff will occur prior to submission of information to the Board.

23
24 **2004 WATER QUALITY ASSESSMENT AND WATER QUALITY STANDARDS**

25 Stephen Bernath, Department of Ecology (DOE), briefed the Board on the Clean Water Act (CWA),
26 2004 Water Quality Assessment and new Water Quality Standards, and how they may impact forest
27 practices. He outlined the basic components of the CWA.

28
29 Fox asked whether the standards vary from state-to-state or are nationally accepted. Bernath replied
30 that in some cases, the Environmental Protection Agency (EPA) suggests nationwide criteria, which
31 is then up to the state to decide whether to adopt the criteria. Basically, it is up to each state to adopt
32 standards. If a state chooses not to adopt a national criterion and EPA disagrees with the decision,

1 EPA can disapprove the standards leaving the state with a choice to adopt the criteria or risk EPA
2 overruling the state's standards.
3 The 2004 Water Quality Assessment is based on 1997 standards, which includes a comprehensive
4 report identifying impaired waters, waters in good condition, and waters of unknown condition, as
5 well as waters with cleanup permits. The identification of the different categories of water began
6 with a publicly reviewed policy identifying quality assurance and controls required for submission
7 of data for the listing process. A data call is advertised for submission of monitoring data that meets
8 quality assurance and quality conditions.

9
10 Bernath described CWA assurances and how they work with the Forest Practices Program.
11 Landowners with Habitat Conservation Plans (HCPs) may petition for CWA assurances. It is
12 assumed listed waters will remain so until water quality standards are achieved.

13
14 The basis for federal assurances' is attainment of water quality standards as a goal, expectation for
15 steady progress in water quality trends, meeting water quality standards in the long-term,
16 implementing Forests and Fish, and landowners and others sharing data.

17
18 DOE and EPA will use the adaptive management process to determine if changes to the Forest
19 Practices rules are needed.

20
21 Bernath described DOE's and EPA's continued obligations and commitments. McElroy noted the
22 Legislature enacted legislation to implement the CWA in the state through the Forest Practices
23 Program as the implementing mechanism for state and private forest lands.

24
25 Bernath said that CWA assurances could be affected by new standards being adopted, failure to
26 implement Forest Practice Program, failure of the Adaptive Management process, and legal and
27 legislative changes. He then reviewed research priorities that will focus on temperature and
28 sediment.

29
30 Soicher referred to Category 4 that involves non-pollutant streams and asked whether it is factored
31 in the assurances. Bernath said EPA has not clarified its expectation about Category 4C. DOE's
32 expectation is that water quality that can be affected by forestry, such as large woody debris, will be
33 achieved over time because of the way current Forest Practices rules for aquatic resources are

1 established and implemented. However, there are no specific actions other than Forest Practices
2 rules.

3
4 Bernath reported that DOE adopted rules on standards defining water quality goals for water bodies
5 by designating beneficial uses to the waters and established criteria that protect those uses.

6
7 Changes included revised criteria for temperature and ammonia in fresh water and for bacteria in
8 marine water. DOE established a water quality antidegradation implementation goal and
9 restructured the way uses are designated to water bodies for protection.

10
11 Bernath reviewed temperature criteria and differences in temperature dependent upon the type of
12 water body, as well as changes in how temperature is measured. Temperature standards were
13 established dependent upon the fish species. Antidegradation is the state's pollution prevention part
14 of the rule. Three tiers of protection were established to 1) fully protect existing uses; 2) ensure
15 waters that are clean and cool are not unnecessarily degraded, and 3) provide a pathway for
16 preserving outstanding resource waters.

17
18 Additionally, rules will be reviewed through an adaptive management stakeholder process. The
19 most obvious rule is the shade factor and how it is approached currently.

20
21 McElroy commented on shade rule issues experienced in eastern Washington. Rigid adherence to
22 the shade rule is causing more opening and exposure of streams to sun. He suggested the process
23 should be mindful of the issues and not take such a rigid approach with respect to trees.

24
25 Soicher asked whether it will be an internal DOE/EPA review process. Bernath said the assessment
26 will involve Forests and Fish stakeholders. Soicher asked whether it will entail adaptive
27 management through CMER studies. Bernath replied the criteria have been established. It will entail
28 a process to determine whether the current rules meet current criteria.

29
30 DOE staff is working with Board staff on the Board's rule makings. If the Board proposes a rule
31 that potentially degrades a stream, it may be necessary for DOE to undertake Tier II analysis as part
32 of the rule making. He said it is important that it is integrated into the process upfront to avoid any

1 surprises at the end of the rule making process. Staff is currently undertaking such a process for the
2 RMAP rule making process.

3
4 Staff will continue working with the Board on integrating anti-degradation into the rule making
5 process, continue working with CMER to review existing and future study designs to ensure the
6 right data is collected, and working with stakeholders to review current rules to ensure standards are
7 achieved with any rule changes.

8
9 McElroy commented that during the last several weeks, there have been some substantial landslides,
10 which are natural occurrences and one of the ways streams receive the sediment for long-term
11 reconstruction and health. He cited an example of a large landslide and asked how natural
12 occurrences are recognized. Bernath said one of the studies to be undertaken by CMER is analyzing
13 whether the rules pertaining to unstable slopes will result in less human-induced landslides than
14 what occurred previously. That is one of the goals of Forests and Fish. Streams react differently
15 based on what is occurring in the environment. McElroy noted that streams do not annually have
16 such major events such as the one he described. Generally, major events occur on a geological
17 timescale. Laurie asked whether the water body that experienced the landslide will show up on the
18 303(d) list due to a major event occurring. Bernath said that usually criteria require multiple
19 occurrences of standards being exceeded. For example, for new temperature criteria, a seven-day
20 average daily max is required. A single episodic occurrence may not meet the new criteria. McElroy
21 pointed out that the total sediment load within that system will be high over the next several years,
22 and thereafter likely will normalize. These are the issues that are important as the discussion moves
23 forward. Bernath said sediment issues will be considered through the context of cumulative affects
24 because sediment is a natural occurrence. The question is how much sediment increased because of
25 human influence.

26
27 Fox asked whether the antidegradation Tier II process is being integrated into the RMAP rule.
28 Bernath confirmed that it is. The EIS documented that there is more risk to small forest landowners
29 such as roads not being repaired. Fox asked whether the Board will receive a report prior to rule
30 making. Bernath said no specific report will be developed, but it will include taking the information
31 from the EIS and working with Board staff on a response. For example, the EIS documented a
32 higher risk, which triggered Tier II analysis. However, based on legislation, no alternatives analysis
33 was completed. The second issue pertains to public interest. There is a commitment in the

1 legislation to follow up in 2008 and 2013. Staff is working on how to articulate to the Legislature
2 how that risk will be minimized and how to include a process that will show progress.

3

4 **FEDERAL ASSURANCES**

5 Darin Cramer, DNR, explained that the Final Forest Practices Habitat Conservation Plan (HCP) and
6 Final Environmental Impact Statement were published with a notice in the Federal Register on
7 January 27, 2006, which initiates a 30-day waiting period. The waiting period provides the public
8 with an opportunity to review the final documents prior to the federal decision process. The U.S.
9 Fish and Wildlife Service (USFWS) is expected to act on the state's application by mid-April.

10

11 Soicher asked for a summary of suggested changes/issues that may impact Forest Practices rules.
12 Cramer acknowledged that there were changes to the documents and that staff responded to
13 comments. The table at the beginning of each section guides the reader to changes. Most of the
14 changes were direct responses to public comments.

15

16 Soicher asked if the Federal Assurances Program is funded through the state. Cramer said the
17 program is funded through a Section 6 grant from USFWS. McElroy said when the Board
18 undertook the Forests and Fish HCP, the intent was to complete the job through the development of
19 a team that worked on the project exclusively. But Federal Assurances is not something in and of
20 itself. It is full implementation of the Forests and Fish rules including adaptive management and the
21 entire suite of programs covered under the HCP. Accordingly, there is some work in the arena of
22 monitoring that will be incorporated into the Forest Practices Program.

23

24 Young reported that the Department hired an HCP Implementation Manager to monitor the
25 fulfillment requirements associated with the start-up of the HCP implementation. The position will
26 be funded through the end of the biennium. The USFWS is making a decision based on what is
27 occurring on the ground today.

28

29 **NORTHERN SPOTTED OWL UPDATE**

30 Status report on landowner option plans and cooperative habitat enhancement agreements.

31 Herman reported as requested by the Board during its November 2005 meeting on convening a
32 group to discuss impediments for landowners completing cooperative habitat enhancement
33 agreements. To date, the group has not been established because of the connection to landscape

1 plans under discussion through the Upland Wildlife Planning process, and to a lesser extent,
2 because of limited staff resources.

3
4 Whipple asked about the connection between incentives and the impediments for landscape
5 planning for the upland wildlife strategy in the context of owls. Herman replied that one of the most
6 obvious connections is that for landowners to complete a plan it needs to cover the entire realm of
7 forest practices and not just for one particular forest practice issue. There have been discussions
8 about reinvigorating the Timber, Fish and Wildlife (TFW) process and focusing on upland issues.
9 Another element is considering a smarter way to undertake SEPA and determining the hurdles for
10 landowners. At the last Board meeting, information was presented on different strategies for
11 undertaking a SEPA process. All of these elements are issues to consider.

12
13 McElroy said John Mankowski is very committed to prompting the agencies to work together to
14 reinvigorate TFW. The issue is high on the agenda.

15
16 Whipple said he also sees a connection between potential ways to pursue landscape planning for
17 owls, or multi-species, especially when defining resource objectives as part of the owl discussions.
18 It would facilitate using Landowner Option Plans. Herman agreed and said the resource objectives
19 are the foundation and building blocks.

20
21 Report on operational review of procedures used to evaluate forest practices applications and
22 notifications involving the harvest of suitable spotted owl habitat within median home range circles.

23 Gary Graves, DNR, provided a presentation on the operational review of the implementation of the
24 owl rule. During December 2005 and January 2006, staff conducted an operational review of the
25 process by visiting five regions and conducting a phone interview with Northeast Region because
26 there are only three owl circles within the region that involve approximately 95% federal
27 ownership.

28
29 Graves reported the survey questions pertained to lands within circles, both inside and outside
30 Spotted Owl Special Emphasis Areas (SOSEAs). He described the process for the habit typing
31 conducted in the field and WDFW's role during the process.

32

1 Graves reviewed SOSEAs by name. All circles were typed and in instances where circles involved
2 federal ownership, only the private ownership was typed. McElroy asked if there are any significant
3 issues relating to the 40% issue. Graves said the review needs to account for federal ownership and
4 whether the typing is the same. That element is not entirely completed.

5

6 Graves reviewed the status of the typing for each individual SOSEA, specific circumstances, and
7 any unresolved issues.

8

9 The next phase was application review. When typing has been performed within a circle and an
10 application is received for a non-habitat location, the application moves forward through the
11 process. If the application is located within habitat, there is an evaluation of whether the circle is
12 above 40% or below 40%. Additionally, if the circle is above 40%, there is an evaluation to
13 conclude whether the application will reduce the circle below 40%. If the application drops the
14 circle below 40%, a determination of significance is required. If the circle is above 40% and the
15 proposal does not affect the status, the proposal receives a determination of non-significance and
16 moves through the application review process.

17

18 Graves outlined the application review for areas outside of SOSEAs. If the applicant proposes to
19 harvest within the 70 acres of the best quality habitat within the window of March 1 through August
20 31, the application is classified as a Class IV-Special. If the operation is confined to September 1 to
21 February 28, the application is processed as a Class III. Most landowners confined their operations
22 to a window to retain the Class III application status.

23

24 Soicher asked about other restrictions outside of SOSEAs. Graves said the timing restriction is the
25 only restriction. Soicher indicated it is possible the landowner could cut trees containing owl nests.
26 Graves said if the landowner can recognize the tree, they are required to save the tree with the nest.

27

28 In six of the ten SOSEAs, most of the typing is completed. One SOSEA has habitat within the circle
29 identified and the associated sections that are touched. Two SOSEAs underwent partial typing and
30 another SOSEA had no typing completed.

31

32 Outside of the SOSEAs, approximately 56% of the circles include the identification of the best 70
33 acres. Seventy percent of those circles that have the 70 acres also fall on HCP lands.

1
2 Graves reported that the Department believes the process for applications within SOSEAs is
3 completed correctly. For applications outside of SOSEAs, all are being processed correctly with one
4 exception. One region had an application where the landowner did not clarify that they were
5 narrowing the operating window from September 1 to February 28. The region was conditionally
6 approving the application as a timing restriction as a Class III rather than a Class IV-Special.
7 Another issue is that not all circles located on federal ownership are being treated correctly. It is a
8 matter of ensuring that they are typed correctly and that they have the same criteria that is applied to
9 a circle within a SOSEA.

10
11 For operational changes within the Department, regions will be asked to complete typing of all
12 circles that are currently not typed by the end of the biennium (June 30, 2007). Where necessary,
13 completed typing will be revisited. If the typing is more than 10 years old, a review will be
14 requested. Finally, all current information will be consolidated as well as future information to
15 begin building a statewide GIS layer to manage the owl information as the Department moves
16 forward. As part of that process, an operational review will occur every quarter. Once the harvest
17 has occurred, the activity will be recorded. Over the next four months, additional training of region
18 staff will occur to ensure all region staff have a clear understanding of the rule to maintain
19 consistency in implementing the rule across the landscape as well as maintaining a consistent
20 WDFW consultation as required for habitat typing or application review. Staff will also review the
21 rules that apply to federal circles that overlap on SOSEAs to ensure all the regions understand the
22 proper implementation of the owl rule. The Board will receive a report on the accomplishments at
23 the August 2007 meeting.

24
25 Doug Stinson asked about the habitat typing process. Gary Graves replied that it depends on the
26 location. It is fairly easy to walk through most stands that meet the old forest criteria. The difficulty
27 is in areas of young marginal forest stands. As the Department moves forward it will be important
28 that the criteria are very specific about the information needed for the inventory.

29
30 Fox asked whether staff plans to survey sites to ensure they are occupied prior to completing the
31 typing. Gary Graves replied the current database will be used. As new information becomes
32 available, adjustments will be made.

33

1 McElroy and Young provided additional details about the implementation of the procedures and the
2 various phases of review. Young emphasized the process is about self-inspection and improvement
3 and undertaking a credible and diligent job of rule implementation.

4
5 Whipple referred to owl sites and owl trees located outside SOSEAs. There are both federal and
6 state laws that pertain to the protection of the nest tree. WDFW is also identifying ways to assist in
7 developing a wall-to-wall habitat map.

8
9 Gary Graves said at the Board's May meeting staff will present information compiled since the first
10 of the year through April to provide the Board with a historical perspective.

11

12 **NORTHERN SPOTTED OWL RULE MAKING**

13 Gretchen Robinson, DNR, requested the Board's approval to proceed with permanent rule making
14 for Northern Spotted Owl protection. It is anticipated the rule making will contain the same
15 language as the emergency rule that is currently in effect until March 29, 2006. For the emergency
16 rule to remain in effect until the permanent rule is in place, the Administrative Procedure Act
17 requires the Board to initiate permanent rule making before the emergency rule expires. Robinson
18 asked for the Board to take the following actions:

- 19 • Approve a 30-day review and comment period pursuant to RCW 76.09.040.
20 • Direct staff to file a CR-102 to initiate permanent rule making.

21

22 If the Board approves the steps, a SEPA analysis will be conducted for a threshold determination.
23 One or more public hearings will be planned likely to take place during May 2006. Adoption of a
24 permanent rule would occur at the August Board meeting.

25

26 **MOTION:** Tom Laurie moved that the Forest Practices Board direct staff to provide
27 notice pursuant to RCW 76.09.040 notifying the counties, Washington
28 Department of Fish and Wildlife and Tribes of rule making intentions. He
29 further moved that upon receiving no significant comments from the 30-day
30 notice that the Forest Practices Board accept for public review the rule
31 proposal as presented today to amend WAC 222-10-041 and 16-010
32 pertaining to Northern Spotted Owl and that staff file the CR-102 with the
33 Code Reviser to begin the permanent rule making process.

34

35 **SECONDED:** David Whipple

36

1 Murray asked if the willingness to pay concept used in the RMAP economic analysis was included
2 in the economic analysis. Don Krug, DNR, replied that it was not necessary because it is a non-
3 market commodity. Murray asked if there is any instance in any economic analysis where the
4 willingness to pay concept has been used. Krug replied that it has been used in some academic
5 journals.

6

7 **ACTION:** Motion passed unanimously.

8

9 **MOTION:** Pat McElroy moved that the Forest Practices Board readopt the emergency rule and
10 direct staff to file a CR 103 with the Code Reviser by March 29, 2006 to allow time
11 to complete the permanent rule making process.

12

13 **SECONDED:** David Whipple

14

15 **ACTION:** Motion passed unanimously

16

17 **2006 WORK PLANNING**

18 McElroy offered some opening remarks on staff resources and on Board questions regarding policy
19 versus science. He urged the Board to be mindful of issues that need a policy decision versus
20 referral to staff for more science research. Herman acknowledged staff can complete the work but
21 that it will take some time. McElroy said sequencing of the rule making process is very important as
22 well.

23

24 Herman presented the 2006 Draft Work Plan.

25

26 Herman and the Board reviewed and discussed the list of rule makings listed on the 2006 Work
27 Plan. He indicated it is likely that the Board can move three rules concurrently at various stages of
28 the process. Doing more entails difficulty for staff to track and monitor issues without incurring
29 some minor mishaps. He described staff's strategy for sequencing the rule making. He noted if the
30 Board wishes to move forward on one particular issue it will impact timing of another.

31

32 McElroy commented on the practicality of devoting time on a limited number of issues. The
33 Department is trying to be very responsive to landowner and conservation communities. The list
34 represents a practical intent in terms of sequencing.

35

1 Fox commented that it took two years to complete the overstocked stand template and from a field
2 perspective, is working well. It would be a fairly easy to combine any rule making for overstocked
3 stand template with long-term permitting, but there is much work remaining on hardwood
4 conversion or imminent mortality templates to complete in the proposed timeframe. The most
5 important issues are to complete long-term permits. At this point it is not practical to package the
6 issue together. The working group has agreed to a 15-year plan with a five-year permit test period to
7 work out all the issues before undertaking a rule making process.

8

9 Herman said the proposed timeline is realistic based on work load and complexity.

10

11 McElroy said it is likely that the DFC rule will be drafted with participants invited in the rule
12 making process, and based on the outcome of the study.

13

14 **UPLAND WILDLIFE PLANNING**

15 Whipple referred to the Draft Board Wildlife Work Plan Discussion Concepts that was previously
16 provided to the Board. The information covers all the concepts within the Wildlife Work Plan. The
17 Principles/Outcomes are very important and pertinent:

- 18 1. Increased priority on Landscape Assessment (Element 2 on work plan).
- 19 2. Increased collaboration among caucuses.
- 20 3. Increased use of the TFW process.
- 21 4. Clear identification of budget and implementation schedules to ensure progress.
- 22 5. Open process; level playing field.
- 23 6. Tightening of the connection between Board's Wildlife Work Plan and CMER's ongoing
24 and future wildlife projects.

25

26 Whipple provided an updated budget that is being utilized to secure funding for the project. Funding
27 was not included in the Governor's budget. WDFW is working collaboratively to include it within
28 the House and Senate budgets. There have been some responses from the Legislature. The request
29 has been received well and early reports indicate support from the Senate. Staff continues to work
30 with the House to help legislators understand the proposal and benefits.

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32 Another aspect of the budget is inclusion of money for participation grants to involve more
33 stakeholders, specifically small forest landowners, the Conservation Caucus, and the Tribes.

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Fox thanked Whipple and the WDFW for stepping forward to secure some funds to involve stakeholders.

Whipple referred to the last Board discussion and a motion that WDFW and DNR work with the Governor's Office and stakeholder policy leads to transition the Wildlife Work Plan to a TFW approach. Whipple shared he has had some discussions with Forests and Fish Policy as well as the Small Forest Landowner Advisory Committee about the plan. The Governor's Office has been talking with agency directors and other stakeholder leads to develop more interest. The Governor's Office is sponsoring some brown bag lunch sessions to discuss about the next steps in reinvigorating TFW. This process will favorably affect the funding and in carrying out the reformatting of the Wildlife Work Plan. Some ideas considered include segregating some of the rules assessments that are lengthy and difficult in their review from parts of some rules that are more administrative in nature and easier to identify fixes. Additionally, explore the possibility of putting wildlife rules through the adaptive management process.

Fox asked about the process of the recovery plan from USFWS for the spotted owl. McElroy advised that a Request for Proposal has been released for managing the project. He said he tried to visit the Chief of USFWS during his visit to Washington, D.C. last week but was unsuccessful. The next step is an invitation from the USFWS to the Governor. Staff has met with the former agency director about the state's role in the recovery plan.

ADJOURNMENT

- MOTION:** Sherry Fox moved to adjourn.
- SECOND:** David Hagiwara
- ACTION:** Motion passed unanimously. Meeting adjourned at 3 p.m.

Prepared by: Valerie Gow, Recording Secretary
Puget Sound Meeting Services