WASHINGTON STATE DEPARTMENT OF
Natural Resources
Doug Sutherland - Commissioner of Public Lands

REPORT TO THE LEGISLATURE

LAKE WHATCOM LANDSCAPE PILOT PROJECT

December 2004

Doug Sutherland
Commissioner of Public Lands

December 30, 2004

The Honorable Bob Morton, Chair,
Senate Natural Resources, Energy & Water Committee
115 D Irving R. Newhouse Building
P.O. Box 40407
Olympia, WA 98504-0407

The Honorable Kelli Linville, Chair,
House Agriculture & Natural Resources Committee
328 John L. O'Brien Building
P.O. Box 40600
Olympia, WA 98504-0600

Dear Senator Morton and Representative Linville:

In the 2000 Session, the legislature passed Second Substitute Senate Bill 6731 which directed the department to create the Lake Whatcom landscape management pilot project on state-owned forestlands in the Lake Whatcom watershed.

For the past four years, we have worked with local elected officials, state agency representatives, tribal members, and local citizens to develop the landscape plan. Because of intense local interest in water quality and public safety related to landslides, we decided to combine the landscape plan with the Environmental Impact Statement process. The resulting plan represents good faith work by both my staff and these many dedicated individuals.

In November 2004, the Board of Natural Resources passed Resolution No. 1141 authorizing DNR to implement the plan. The Board's Resolution directed DNR to immediately prepare a report to the legislature on the actual costs and benefits of implementing the legislatively directed landscape plan. The attached document is that report.

This direction from the Board stems from reservations held by Board members over the balance of the costs and benefits of the landscape plan and the fairness of their distribution between local and statewide trust beneficiaries. Implementing the landscape plan incurs additional management costs at the local level that will be borne by the trusts statewide.

In addition, the Board is mindful that significant new information has become available since 2000. The EIS and planning process indicate there will be slight reductions in risk

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of water pollution and landslides related to forest management. However, current forest practices already greatly reduce risk of these potential problems. Current forest practices are much more strict than those in place in 2000. Board members felt this and other new information has a direct bearing on the legislative intent regarding requirements needed to protect drinking water quality and public safety.

Sincerely,

Doug Sutherland
Commissioner of Public Lands

C: The Honorable Ken Jacobson, Chair, Senate Natural Resources, Energy & Water Committee
The Honorable Brian Sullivan, Chair, Natural Resources, Ecology & Parks Committee

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EXECUTIVE SUMMARY

The Lake Whatcom watershed, which provides drinking water to a majority of residents of Whatcom County, has a history of damaging, storm-induced landslides from its steep forested slopes, occurring both before and since urban development and timber harvesting began to take place in the watershed. In 1993, at the request of Whatcom County, DNR doubled its acreage of state-owned trust forestland within the Lake Whatcom watershed through a land exchange with Trillium Corporation. Whatcom County indicated at the time that commercial forestry was the preferred use on the now 15,700 acres of state trust land.

In 1999, and again in 2000, Whatcom County residents urged the Washington legislature to pass legislation relating to DNR's planning and trust land management within the watershed, placing a temporary moratorium on timber harvest on those lands. The major purposes of the legislation were to address local residents' concerns over drinking water quality, and public safety in relation to landslides. The 2000 legislation (E2SSB 6731) directed DNR to work with a local Interjurisdictional Committee (IJC) to develop a "Lake Whatcom landscape management pilot project." The pilot project was required to include riparian management zones for streams of any size; prohibition of road construction on unstable slopes; careful regulation of timber harvest and road construction on potentially unstable slopes; development of a road management plan; and development of a specific sustained timber harvest model for the watershed.

DNR worked with the Interjurisdictional Committee from 2000 to 2004 to develop a Lake Whatcom Landscape Plan and accompanying Environmental Impact Statement. The Plan represents DNR-IJC consensus on most management issues, including:

- Protection of streamside "riparian" areas and unstable slopes that go beyond current forestry regulations but meet E2SSB 6731 requirements.
- Instituting "government-to-government" consultation with local Indian tribes to protect cultural resources important to the tribes, including archeological sites and sites for culturally significant gathering of plants and related tribal activities.

According to DNR analysis, supported in writing by the Departments of Health and Ecology, the Landscape Plan's strategies will slightly reduce the risk of water pollution and landslides from forest management. However, current forestry practices without the plan strategies already result in low risk of such problems.

By law, DNR manages about 3 million acres of trust lands statewide to produce revenues for K-12 school construction, county government and other trust beneficiaries. As a result of a major increase in land taken out of commercial forest management due to the plan's requirements – beyond current regulatory law – trust land asset value in the watershed is reduced by about 35 percent, and trust revenues will be reduced by close to $1 million each year, on average. The planning process directed by the legislature cost DNR about $800,000 to undertake. DNR estimates that the additional cost to implement the plan will

be about $800,000 over two decades. The 1999 Lake Whatcom legislation provided that trust beneficiaries should be compensated for additional land management costs solely to protect drinking water quality.

The Board of Natural Resources, in acting to adopt the proposed Landscape Plan, expressed concerns over the balance of costs and benefits of implementing the plan, in relation to the State's fiduciary responsibilities to manage for the trust beneficiaries. The Board also stated concerns about the equity of locally enjoyed benefits at the expense of statewide trusts that must pay the increased management costs. The Board directed DNR to develop information on actual costs and benefits from early implementation of the plan, and to immediately prepare a report to the legislature on the outcome of the legislatively directed planning process. This document is that report.

INTRODUCTION

Legislative Direction

State law, 2000 Washington Laws Chapter 205, directed the Department of Natural Resources (DNR) to create "the Lake Whatcom landscape management pilot project" on approximately 15,000 acres of state forest trust land located in the Lake Whatcom watershed area. The major purposes of the legislation were to protect water quality in the Lake Whatcom watershed and to address slope stability issues associated with past and prospective forest management.

The following is a summary of what the legislature directed DNR to address in the landscape plan:

- Riparian management zones for all streams
- Carefully regulate harvest and road construction on potentially unstable slopes
- Prohibit new road construction on unstable slopes and limit old road reconstruction
- Develop a sustained yield model specific to Lake Whatcom watershed consistent with the model for western Washington
- Develop a road management plan
- Establish an Interjurisdictional Committee to provide recommendations to the department on a case-by-case basis

On January 30, 2004 DNR released the Final Environmental Impact Statement (EIS) for the Lake Whatcom Landscape Plan. On November 2, 2004, the Board of Natural Resources (Board) passed Resolution No. 1141 authorizing DNR to implement the plan. The purpose of the plan is to present a set of management strategies which provide environmental protection on DNR-managed lands (consistent with E2SSB 6731), while also preserving the economic vitality of those same lands for the long-term benefit of the trust beneficiaries. The Board directed DNR to present a report to the legislature, detailing "the findings as to the benefits and costs associated with the implementation of this pilot project." This report is in response to that request.

Lake Whatcom Landscape Planning Area – Overview and History

Overview

The Lake Whatcom Landscape Planning Area encompasses approximately 15,700 acres of state trust lands, primarily in western Whatcom County with a small portion in Skagit County. The planning area lies east and southeast of the city of Bellingham and includes lands within the Lake Whatcom watershed boundary, as well as some small contiguous parcels outside the hydrographic boundaries of the watershed. The Lake Whatcom Landscape Plan applies only to state trust lands within the landscape planning area.

The Lake Whatcom watershed land use is composed of:

- 31 percent urban residential
- 46 percent state forestland
- 23 percent private forestland

The watershed provides drinking water to a majority of the residents of Whatcom County.

The State of Washington manages about 2.1 million acres of forestlands across the state in trust to generate revenue to a number of public institutions. About 1.5 million acres were given to the state at statehood by the federal government as a perpetual trust to provide capital construction funds for designated beneficiaries including K-12 schools, universities, and state government buildings. In addition, the state manages approximately 600,000 acres of State Forest land to produce revenue for 18 counties and their junior taxing districts. This land generally came into state ownership through tax foreclosure, or, in some cases, purchase. In recent years, these trust forestlands have generated on average over $200 million per year for all the trust beneficiaries.

Judicial rulings over the years have held that the state acts in a fiduciary capacity with respect to these land trusts, and must act with undivided loyalty to the interests of the beneficiaries in decisions regarding trust lands. These lands are also subject to all generally applicable regulatory laws pertaining to natural resources, the environment, public safety, and to federal treaties with Washington Indian tribes. DNR manages trust lands on behalf of the state, guided by state laws and policy direction from the Board of Natural Resources. The Board is a six-member body consisting of the Commissioner of Public Lands, the Governor or the Governor's designee, the Superintendent of Public Instruction, the Dean of the University of Washington College of Forest Resources, the Dean of the Washington State University College of Agriculture and Home Economics, and a county commissioner from a county that contains State Forest Lands.

In managing trust lands, DNR is subject to laws generally applicable to state agencies, including open public meetings and freedom of information laws, as well as the state budget process. Two dedicated management accounts finance management of trust lands, the Resource Management Cost Account for federally granted lands, and the Forest Development Account for State Forest Lands. These accounts are funded from a deduction of up to 25 percent of gross proceeds from management of the trust lands, primarily timber sales. DNR manages forestlands under a carefully controlled, long-term sustainable harvest program. DNR also is subject to the State Forest Practices Act and accompanying regulations. In 1996 DNR negotiated a 70-year Habitat Conservation Plan (HCP) to provide habitat protections on state trust lands for species of fish and wildlife listed as threatened or endangered under the Federal Endangered Species Act. The HCP is a contract with the U.S. Fish & Wildlife Service and NOAA Fisheries that satisfies the

state's legal obligations for state trust lands under that federal law. Finally, all major trust forestland actions by DNR are subject to the State Environmental Policy Act.

DNR has a number of other duties, including managing public access and recreation on its land base, managing non-forested trust lands (agricultural lands and commercial properties), managing various designated natural areas, managing 2.5 million acres of submerged aquatic lands, serving as the state's principal wildland fire control agency, and administering several regulatory programs including the Forest Practices Act. The State Multiple Use Act (RCW 79.10) provides for watershed protection for public drinking water supplies as a land management purpose consistent with managing trust lands to produce revenues for trust beneficiaries.

State trust lands in the Lake Whatcom Landscape Planning Area generate revenue for seven different trusts. Each trust's acreage is shown in the table below.

Trusts	Acres	Percent
Forest Board Transfer Lands (Whatcom County)	8,473	54
Forest Board Transfer Lands (Skagit County)	690	4
Forest Board Purchase Lands (Whatcom County)	881	6
Common School (K-12 schools)	4,627	30
Agricultural School (WSU)	193	1
Capitol Buildings	286	2
Scientific School (WSU)	557	3
Total trust acres	15,707	100

Recent History

In 1983 a large storm event dumped several inches of rain in a relatively short period of time over much of Whatcom and Skagit Counties. Several stream drainages experienced significant mud and wood debris flows. In the Lake Whatcom watershed several streams experienced such flows, which in turn impacted the community and water quality. Some homes were flooded, roads were blocked and an immense amount of wood debris ended up in the lake causing damage to docks and other improvements.

Concerned over the increasing conversion of forestland to housing development and associated infrastructure, and in an effort to better protect the safety and welfare of the community, in 1989 Whatcom County requested DNR acquire much of the land owned by Trillium Corporation around the lake. The County indicated that commercial forestry was the preferred land use and they wanted DNR to expand its ownership there. In 1993, DNR completed a land exchange with Trillium, resulting in a doubling of trust forestland around Lake Whatcom.

Not long after the land exchange was completed, DNR began the development of a landscape plan for approximately 15,000 acres of state forestlands around Lake

Whatcom. In 1997, DNR completed a watershed analysis for the Lake Whatcom watershed, placing conditions on forest practices for both state and private property. In 1998, prior to completing the plan, the Commissioner of Public Lands suspended all DNR landscape plans until an appropriate plan template could be developed.

In 1999 the legislature passed 2SSB 5536, directing DNR to initiate a pilot project for determining what additional management actions can be taken on state trust lands in the Lake Whatcom watershed that can contribute to higher water quality standards. The legislation amended RCW 79.01.128 that says DNR may alter its land management practices to exceed water quality standards established by the Department of Ecology, provided the trusts are compensated for increased costs or lost revenue by the city or town requesting such alterations. Consistent with 2SSB 5536, DNR placed a moratorium on timber harvest activities adjacent to Lake Whatcom and established an advisory committee consisting of a representative each from Whatcom County; City of Bellingham; Whatcom County Water District 10; Department of Ecology; Department of Health; Department of Fish and Wildlife; and three general citizens. In December 1999, the committee made recommendations to DNR covering such topics as road maintenance and construction, streamside buffers, use of pesticides and communications with the community. In February 2000 DNR responded to the committee recommendations in presentations to the Board of Natural Resources and legislature.

State law, 2000 Washington Laws Chapter 205 (E2SSB 6731) directed DNR to create "the Lake Whatcom landscape management pilot project" on state-owned forestlands located in the Lake Whatcom watershed area. Many of the requirements in this legislation came from the committee recommendations made to DNR in December 1999. The legislation also continued the moratorium of timber harvest activities on state forestland until a plan was completed.

On January 30, 2004, DNR released the Final Environmental Impact Statement for the Lake Whatcom Landscape Plan. On November 2, 2004, the Board of Natural Resources passed Resolution No. 1141 authorizing DNR to implement the plan.

PLANNING PROCESS

Interjurisdictional Committee

Consistent with the legislative direction, DNR collaborated with a variety of interested groups and individuals in developing the landscape plan. One such directive was for DNR to establish an Interjurisdictional Committee (IJC) who in turn made recommendations to DNR on the plan. The IJC included representatives from: Whatcom County; City of Bellingham; Lake Whatcom Water and Sewer District; Department of Ecology; Department of Fish and Wildlife; Department of Health; Lummi Nation; and two members of the public. DNR met with the committee 37 times from 2000 through 2003. DNR provided staff support and professional meeting facilitators for a majority of their meetings.

Community, Legislators and the Board of Natural Resources

DNR also met with representatives of forest industry, local community members, tribes and local legislators to keep them informed. In September 2003, DNR and representatives of the IJC made a presentation to the House Agriculture and Natural Resources Committee. Six presentations were made to the Board of Natural Resources, including a field visit, during 2003 and 2004.

SEPA

Because of the interest in water quality and public safety around Lake Whatcom, the department decided to combine the landscape plan with the Environmental Impact Statement (EIS) process for state forestlands around Lake Whatcom. DNR worked with the Interjurisdictional Committee to develop five management alternatives for analysis that were published in the Preliminary Draft EIS in September 2002. The Draft EIS in September 2003 and the Final EIS in January 2004 followed. The three documents are posted on the DNR website, in addition to the published copies that were distributed at their respective times. There were six public meetings throughout the SEPA review process.

Timeline for Planning

One of the requirements of E2SSB 6731 in 2000, was to delay all timber harvesting and road construction on state land until the landscape plan was completed, scheduled for June 30, 2001. The fact that the landscape plan was not implemented until 2004 was due to several factors:

- Time necessary for the Interjurisdictional Committee to become informed before making recommendations (37 meetings from 2000 through 2003).
- DNR's decision to prepare an Environmental Impact Statement (EIS), including a Preliminary Draft EIS (not normally done), and a Draft EIS.
- Complying with E2SSB 6731 directive to address "A sustained yield model specific to the Lake Whatcom watershed that encompasses the revised

management standards and that is consistent with the sustained yield established by the board of natural resources shall be created and implemented." The Board of Natural Resources, at their September 2004 meeting, approved a set of sustainable forest management policies, including a sustainable harvest level, for all forest trust lands in western Washington. DNR was able to run various sustainable harvest computer model scenarios for the Lake Whatcom landscape plan, consistent with the statewide model.

Local state legislators, including the sponsors of E2SSB 6731, were kept informed of the planning process and understood the need for additional time.

RESULTS

Description of Major Elements of the Plan

The Lake Whatcom Landscape Plan focuses on three primary resources -- protecting water quality, maintaining slope stability and protecting cultural resources. The latter consist of specific locations and vegetation important to Native Americans to help maintain their culture. While not a requirement of the legislation, cultural resources were determined to be an important resource needing special attention.

Interjurisdictional Committee Recommendations

The Interjurisdictional Committee and DNR staff came to a consensus on most of the management strategies in the landscape plan. The committee was unable to come to a consensus within their group regarding how many green trees should be retained on site after harvest. The committee did not have a recommendation to DNR regarding this strategy.

DNR and the committee did not come to a consensus on two strategies. The committee recommended that DNR not allow any oil and gas drilling outside of the watershed that could result in diagonal drilling underneath the watershed – potentially contaminating ground water. DNR's response in the EIS document indicated the necessary scientific information did not support an outright prohibition of directional drilling from outside the watershed. The response goes on to say that directional drilling is a common and environmentally safe practice throughout the world.

A majority of the members on the Interjurisdictional Committee also made a recommendation that would transfer DNR's decision-making authority to the committee in each case involving a disagreement over a proposed activity. This is incompatible with DNR's legal obligation as a trust manager and is inconsistent with E2SSB 6731, which states "The department shall establish an Interjurisdictional Committee for the development of the landscape plan, to review the site-specific activities and make recommendations."

Water Quality and Slope Stability

In developing the landscape plan, DNR complied with several legislative requirements in E2SSB 6731 which are aimed at reducing the risk of harm to water quality and slope stability – the latter potentially affecting public safety as well as water quality. These requirements go beyond current laws and policies normally guiding state forest trust land management.

After completing a very comprehensive EIS process for the Lake Whatcom Landscape Plan, DNR analysis determined that there would be no probable significant impacts to either water quality or slope stability from forest

management activities following current laws and policies. The analysis indicated the additional requirements of E2SSB 6731 would further decrease any risk. The Department of Ecology in a letter to DNR regarding the Lake Whatcom Landscape Plan commented that, "Proper implementation and enforcement of forest practices rules should appropriately control pollution."

The requirements of E2SSB 6731 increased the landscape area left in special protection by more than 70 percent – an increase of 3,114 acres of forestland either not available for, or significantly restricted from, harvest. This in turn reduced the revenue from timber harvesting by 160 million dollars total revenue – a reduction by almost half over the 200-year planning period. (Source: Lake Whatcom Landscape Plan Draft EIS, September 8, 2003, Table 7.)

Water Quality Strategies

The landscape plan has several different strategies addressing water quality protection including:

- Design forest management activities to protect unstable slopes from disturbance.
- Plan and implement a road maintenance and abandonment plan (RMAP) within 4 years. (Improperly maintained roads are a potential source of sediment to streams; Forest Practices Rules require landowners to have this completed by 2015.)
- Create 33-foot riparian buffers on Type 5 streams, the smallest and sometimes-intermittent streams. While this strategy meets the legislative requirement for riparian zones for all streams in the Lake Whatcom watershed, it goes beyond current policies and regulations for state forest trust land management. As a result, this strategy increases the amount of landscape left in special protection and reduces future revenue to the trusts.
- Eliminate aerially applied fertilizer or herbicides.
- Do not allow surface oil or gas drilling on state land within the hydrographic boundaries of Lake Whatcom. (Note: The EIS preferred alternative allows for directional drilling from outside the watershed, as the information provided and analyzed in the EIS does not support a prohibition. A separate regulatory permit and environmental review would be conducted should there be any future proposed oil or gas drilling on either state or private land. However, because of some community and Interjurisdictional Committee concerns and questions about the potential impacts to Lake Whatcom, the Board of Natural Resources in Resolution 1141 directed DNR to temporarily suspend the processing of future oil and gas leases for directional drilling underneath the Lake Whatcom watershed for up to two years, allowing time for additional scientific information to be gathered and reviewed.)

Water Quality Findings From EIS

The Lake Whatcom Landscape Plan EIS indicated there would be no probable significant impacts to water quality with or without the landscape plan, even if normal forest management practices occur using the Habitat Conservation Plan

and Forest Practices Rules. The EIS also stated that water quality coming from state forestlands would likely improve over time.

In a letter to DNR, the Department of Ecology wrote "While the DNR's "contribution" to pollution in Lake Whatcom is not expected to be a significant part of the problem, your efforts to evaluate and control pollution are a good example for all jurisdictions... Proper implementation and enforcement of forest practices rules should appropriately control pollution... The controls you describe for the state lands in the Lake Whatcom watershed are currently the state of the art for reducing the risk of pollutions from commercial forestland." A similar letter from the Department of Health indicated they would not request any changes to the Lake Whatcom Landscape Plan beyond current regulations and legislative requirements.

Slope Stability Strategies

The Lake Whatcom Landscape Plan has several strategies addressing slope stability including:

- Carefully regulate timber harvest and road construction on potentially unstable slopes.
- Road maintenance and abandonment within 4 years (see comments under water quality strategies).
- No road construction on unstable slopes. While this strategy meets the legislative requirements for the Lake Whatcom Landscape Plan, it goes beyond current policies and regulations for state forest trust land management. State forest practices rules allow forest roads to be constructed across slight to moderately unstable slopes provided they are properly designed and constructed – much the same way that city, county, state and federal roads are built. This strategy makes a significant amount of timber across the landscape either physically and/or economically unavailable to harvest – thus increasing the amount of area left in special protection and reducing future revenues to the trust.

Slope Stability Findings From EIS

The Lake Whatcom Landscape Plan EIS indicated there would be no probable significant impacts to slope stability as a result of the landscape plan, or from DNR normal land management practices using the Habitat Conservation Plan (HCP) and Forest Practices Rules.

Cultural Resources

Cultural Resources Strategies

The landscape plan has strategies addressing cultural resource protection including:

- Develop a government-to-government agreement with local tribes addressing
  - A consultation process
  - Cultural resource protection

    - Tribal access
  - Identifying and protecting cultural resources by following state and federal laws, policies and agreements

Cultural Resource Findings From EIS:
The Lake Whatcom Landscape Plan EIS indicated that most, but not all, known cultural resources on state forest trust lands covered by the landscape plan would be protected. However, unknown or unidentified cultural resources may be impacted.

Benefits

Benefits of the Lake Whatcom Landscape Plan and EIS

The Lake Whatcom Landscape Plan EIS provides everybody with a better understanding of state forestland's positive contribution to water quality, while generating millions of dollars of revenue to various trust beneficiaries. The landscape plan indicates these forestlands will generate an estimated $177 million of revenue over 200 years. (Source: Lake Whatcom Landscape Plan Draft EIS, September 8, 2003, Table 7.) The strategies in the landscape plan reduce an already low risk of impact to water quality and slope stability compared to current forest practices applied to state forestlands elsewhere. Strategies and resource information in the plan will be very helpful in identifying and protecting important Native American cultural resources. The Lake Whatcom Landscape Plan EIS enabled DNR to better quantify the economic loss of revenue to trust beneficiaries to provide for marginal increases in both water quality and slope stability.

Benefits of the Planning Process

The decision to do an EIS, preceded by a Preliminary Draft EIS and Draft EIS, along with six public meetings, enabled all interested parties to become involved and informed.

The nine-member Interjurisdictional Committee, after 37 meetings, was certainly the most involved group to make recommendations to DNR. The process brings forth the best available information to make forest management decisions, consistent with the legislature's directives.

Costs

Costs of the Plan

The value of all trust assets covered by the Lake Whatcom Landscape Plan is reduced by 35 percent, compared to normal state forest management practices, in order to comply with the legislative directives in E2SSB 6731. (Source: Lake Whatcom Landscape Plan DEIS, September 8, 2003, Table DEIS4-1.) A DNR economic analysis indicates that the plan reduces the revenue to the trusts by $160 million over a 200-year planning period compared to managing the landscape using the Habitat Conservation Plan (HCP) and the Forest and Fish Forest Practices Rules. (Sources: Lake Whatcom Landscape Plan DEIS, September 8, 2003, Table 7.)

There are somewhat fixed management costs that come with managing any given forest landscape – costs such as road maintenance; fire protection assessments; working with the local neighbors, tribes and community; as well as a certain amount of risk and liability that comes with ownership. Along with the reduced revenue to the trusts as a result of implementing the Lake Whatcom Landscape Plan, DNR also will receive less revenue for its management funds. The result will be that DNR will need to use an inordinate amount of trust management funds to manage the block of state forestland around Lake Whatcom, compared to other trust lands around the state. (The Resource Management Account (RMCA) is used to manage federally granted trusts and the Forest Development Account (FDA) is used to manage county forest board lands.)

Along with reduced timber harvesting and the associated revenue to the trusts and to DNR's management funds, there will be a reduction of approximately $500,000 in fees DNR will collect during the first two decades for road maintenance. The fees are placed in the DNR Access Road Revolving Fund (ARRF), a management fund used to help ensure state forest roads meet the regulatory standards set by Forest Practices Rules. The Board of Natural Resources and several counties with forest board trust lands have expressed concerns over the apparent inequitable use of DNR management funds for state lands around Lake Whatcom.

Costs of the Planning Process

DNR spent approximately $800,000 to prepare the Lake Whatcom Landscape Plan and EIS. This does not include the time of the Interjurisdictional Committee members. DNR estimates it will cost the department an additional $800,000 to work with the Interjurisdictional Committee and the community over the first two decades of implementing the plan.

IMPLEMENTATION OF THE PLAN

Action by the Board of Natural Resources

The Board of Natural Resources, DNR's policy-making oversight body, received six presentations during plan development, including a 2003 field visit accompanied by community members.

In April 2004 the Board received a presentation from DNR staff recommending adoption of the Preferred Alternative from the Final EIS. Board members declined to immediately adopt the Preferred Alternative, unanimously stating concerns about the balance and distribution of costs and benefits of the plan. Board members questioned the technical rationale for measures such as no-harvest buffers on all small feeder streams, which may not greatly benefit water quality. Board members also stated concerns that while perceived benefits would accrue to the local community, the higher than normal management costs would negatively affect all other counties and other beneficiaries, whose trust lands are managed with funds from the same trust land management accounts. Finally, Board members stated concern over the lack of a clear, consistent position by local elected officials regarding the authority of the proposed Interjurisdictional Committee to veto proposed DNR activities in the watershed. The Board requested DNR to develop further cost-benefit analysis and explore with local officials broader alternatives such as exchanging or transferring jurisdiction over the lands to Whatcom County.

After further staff analysis and attempted consultation with officials from Whatcom County and the City of Bellingham, DNR brought the Preferred Alternative back to the Board of Natural Resources at its November 2004 meeting. At that time, Board members stated a desire to act on the Preferred Alternative in keeping with legislative direction, but also a frustration with the difficult position the legislative requirement put the Board in, and the potential effects of their action, which the Board members saw as potentially being inconsistent with the state's fiduciary responsibility to trust beneficiaries. Board members stated concern over a possible precedent of exceeding normal management costs without a clear corresponding benefit to protected public resources such as water quality. Board members also expressed concern over feasibility of trust land management in the watershed.

Board members stated a belief that during the four years since the passage of E2SSB 6731, new information was available, including information from the Lake Whatcom planning process, and more restrictive Forest Practices regulations had been adopted. They felt that the legislature should be made aware of this. Board members stated the importance of implementing the Preferred Alternative, both to add to the new information since 2000 on management costs and benefits, as well as to repair the lack of trust with the local community that had originally given rise to the legislation.

Finally, Board members suggested that the local community seriously consider whether local ownership of watershed lands, as in some other jurisdictions, would be the most effective and equitable means of ensuring that watershed management meet local objectives.

The Board unanimously passed Resolution 1141, which directed DNR to begin implementing the Preferred Lake Whatcom Landscape Plan. In part, the Resolution states, "In approving this resolution, the Board of Natural Resources has material concerns about the fiduciary efficacy of the Preferred Alternative. In order to address the Board's fiduciary responsibility, the Board directs the Department to start implementing the Plan and producing revenues as expeditiously as possible... Further, the Board of Natural Resources has substantial concerns that the management costs of Lake Whatcom will inequitably impact statewide trust operations " ..."The Environmental Impact Statement generated substantial scientific and other information not available in 2000, when the legislation requiring this pilot project on state-owned forest lands was adopted. Water quality studies by the Department of Ecology have increased the scientific understanding of the complex water quality dynamics within Lake Whatcom. Therefore, the Department of Natural Resources is directed to produce a report to Legislature. Said report shall be completed not later than December 31, 2004 and delivered to the Chairs of the appropriate committees, with copies to the legislative leadership and the Governor. Said report will detail the findings as to the benefits and costs associated with the implementation of this pilot project."

In the resolution the Board directs DNR to temporarily suspend the processing of future oil and gas leases for directional drilling which would access an area beneath the hydrographic boundary of the Lake Whatcom watershed. For one year from the date the Board approved the resolution, all interested parties are asked to provide DNR with documentation that identifies the scientific basis for probable environmental impacts of directional drilling. The temporary suspension shall expire not later than November 2006, unless extended by the Board.

Action taken by DNR since adoption of Board Resolution 1141

Since the November 2004 action by the Board of Natural Resources, DNR has engaged in the following activities related to the Lake Whatcom watershed:

- Preparation of this report
- Development of timber sale plans
- Development of road maintenance and abandonment plans

DNR will share information on these plans with Interjurisdictional Committee (IJC) members in early 2005. The Commissioner of Public lands will work with local officials to select members of the successor IJC by February 2005.

CONCLUSION

The Lake Whatcom watershed, which provides drinking water to a majority of residents of Whatcom County, has a history of storm-induced landslides from its steep forested slopes, occurring both before and since urban development and timber harvesting began to take place in the watershed. In 1993, at the request of Whatcom County, DNR doubled its acreage of state-owned trust forestland within the Lake Whatcom watershed through a land exchange with Trillium Corporation.

In 1999, and again in 2000, the Washington legislature, at the urging of Whatcom County residents, passed legislation relating to DNR's planning and trust land management within the watershed, placing a temporary moratorium on timber harvest on those lands. The major purposes of the legislation were to address local residents' concerns over drinking water quality, and public safety in relation to landslides. The 2000 legislation (E2SSB 6731) directed DNR to work with a local Interjurisdictional Committee to develop a "Lake Whatcom landscape management pilot project". The pilot project was required to include riparian zones for streams of any size, prohibition of road construction on unstable slopes, and careful regulation of timber harvest and road construction on potentially unstable slopes, development of a road management plan, and development of a specific sustained timber harvest model for the watershed.

DNR worked with the Interjurisdictional Committee from 2000 to 2004 to develop a Lake Whatcom Landscape Plan and accompanying Environmental Impact Statement. The Plan represents DNR-IJC consensus on most management issues, including:

- Protection of streamside "riparian" areas and unstable slopes that go beyond current forestry regulations but meet E2SSB 6731 requirements.
- Instituting "government-to-government" consultation with local Indian tribes to protect cultural resources important to the tribes, including archeological sites and sites for culturally significant gathering of plants and related tribal activities.

According to DNR analysis, supported in writing by the Departments of Health and Ecology, the Landscape Plan's strategies will slightly reduce the risk of water pollution and landslides from forest management; however current forestry practices without the plan already result in low risk of such problems. The planning process directed by the legislature cost DNR about $800,000 to undertake. As a result of a major increase in land taken out of commercial forest management due to the plan's requirements, beyond current regulatory law, trust land asset value in the watershed is reduced by about 35 percent, and trust revenues will be reduced by close to $1 million each year, on average. DNR estimates that the additional cost to implement the plan will be about $800,000 over two decades. The 1999 Lake Whatcom legislation provided that trust beneficiaries should be compensated for additional land management cost solely to protect drinking water quality.

The Board of Natural Resources, in acting to adopt the proposed Landscape Plan, expressed concerns over the balance of costs and benefits of implementing the plan, in relation to the state's fiduciary responsibilities to manage for the trust beneficiaries, and also over the equity of locally enjoyed benefits at the expense of statewide trusts which must pay the increased management costs. The Board directed DNR to develop information on actual costs and benefits from early implementation of the plan, and to immediately prepare this report to the legislature on the outcome of the legislatively-directed planning process.

APPENDIX

Second Substitute House Bill 5536

Engrossed Second Substitute Senate Bill 6731

Lake Whatcom FEIS Preferred Alternative Map

Resolution No. 1141

Letter from DNR to Dept. of Ecology

Letter from DNR to Dept. of Health

Letter from Dept. of Ecology to DNR

Letter from Dept. of Health to DNR

Board of Natural Resources Meeting Minutes

CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE SENATE BILL 5536

Chapter 257, Laws of 1999

56th Legislature
1999 Regular Session

LAKE WHATCOM MUNICIPAL WATERSHED--PILOT PROJECT ON WATER QUALITY

EFFECTIVE DATE: 7/25/99

Passed by the Senate April 22, 1999
YEAS 45 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 16, 1999
YEAS 95 NAYS 0

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Approved May 10, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5536** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

May 10, 1999 - 4:47 p.m.

Secretary of State
State of Washington

SECOND SUBSTITUTE SENATE BILL 5536

AS AMENDED BY THE HOUSE

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Spanel and Gardner)

Read first time 03/08/1999.

1 AN ACT Relating to state forest lands and municipal drinking water
2 protection; and amending RCW 79.01.128.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 79.01.128 and 1971 ex.s. c 234 s 11 are each amended
5 to read as follows:
6 (1) In the management of public lands lying within the limits of
7 any watershed over and through which is derived the water supply of any
8 city or town, the department may alter its land management practices to
9 provide water with qualities exceeding standards established for
10 intrastate and interstate waters by the department of ecology:
11 PROVIDED, That if such alterations of management by the department
12 reduce revenues from, increase costs of management of, or reduce the
13 market value of public lands the city or town requesting such
14 alterations shall fully compensate the department.
15 (2) The department shall initiate a pilot project for the municipal
16 watershed delineated by the Lake Whatcom hydrographic boundaries to
17 determine what factors need to be considered to achieve water quality
18 standards beyond those required under chapter 90.48 RCW and what
19 additional management actions can be taken on state trust lands that

can contribute to such higher water quality standards. The department shall establish an advisory committee consisting of a representative each of the city of Bellingham, Whatcom county, the Whatcom county water district 10, the department of ecology, the department of fish and wildlife, and the department of health, and three general citizen members to assist in this pilot project. In the event of differences of opinion among the members of the advisory committee, the committee shall attempt to resolve these differences through various means, including the retention of facilitation or mediation services.

(3) The pilot project in subsection (2) of this section shall be completed by June 30, 2000. The department shall defer all timber sales in the Lake Whatcom hydrographic boundaries until the pilot project is complete.

(4) Upon completion of the study, the department shall provide a report to the natural resources committee of the house of representatives and to the natural resources, parks, and recreation committee of the senate summarizing the results of the study.

(5) The exclusive manner, notwithstanding any provisions of the law to the contrary, for any city or town to acquire by condemnation ownership or rights in public lands for watershed purposes within the limits of any watershed over or through which is derived the water supply of any city or town shall be to petition the legislature for such authority. Nothing in this section, RCW 79.44.003 and chapter 79.68 RCW shall be construed to affect any existing rights held by third parties in the lands applied for.

Passed the Senate April 22, 1999.
Passed the House April 16, 1999.
Approved by the Governor May 10, 1999.
Filed in Office of Secretary of State May 10, 1999.

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6731

Chapter 205, Laws of 2000

56th Legislature
2000 Regular Session

LAKE WHATCOM LANDSCAPE MANAGEMENT

EFFECTIVE DATE: 6/8/00

Passed by the Senate March 7, 2000
YEAS 44 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House March 1, 2000
YEAS 98 NAYS 0 CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is ENGROSSED SECOND SUBSTITUTE SENATE BILL 6731 as passed by the Senate and the House of Representatives on the dates hereon set forth.

CLYDE BALLARD
Speaker of the
House of Representatives TONY M. COOK
Secretary

FRANK CHOPP

Speaker of the

House of Representatives

Approved March 29, 2000 FILED

March 29, 2000 - 2:59 p.m.

GARY LOCKE

Governor of the State of Washington Secretary of State

State of Washington

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6731

AS AMENDED BY THE HOUSE

Passed Legislature - 2000 Regular Session

State of Washington 56th Legislature 2000 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Spanel and Gardner)

Read first time 02/08/2000.

AN ACT Relating to Lake Whatcom; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

{+ NEW SECTION. +} Sec. 1. The Lake Whatcom landscape management pilot project is created.

The department of natural resources shall develop a landscape plan regarding state-owned forest lands in the Lake Whatcom watershed area.

Where appropriate, the department will consult with other major forest landowners in the watershed and shall involve watershed residents in management activities. The department shall consult with the Lake Whatcom management committee on proposed timber harvest and road management activities. The department shall establish an interjurisdictional committee for the development of the landscape plan, to review the site-specific activities and make recommendations. The interjurisdictional committee shall include two members of the public who have an interest in these activities. The landscape plan shall address at least the following topics:

(1) Establishing riparian management zones along all streams, as classified under chapter 4, Laws of 1999 sp. sess. The department shall manage lands within such zones to protect water quality and riparian habitat. The interjurisdictional committee may recommend to the department restrictions upon timber harvest and yarding activities on a case-by-case basis;

(2) Harvest and road construction upon potentially unstable slopes shall be carefully regulated;

(3) On unstable slopes, new road construction shall be prohibited and old road reconstruction shall be limited;

(4) A sustained yield model specific to the Lake Whatcom watershed that encompasses the revised management standards and that is consistent with the sustained yield established by the board of natural resources shall be created and implemented;

(5) The department should build on the existing draft Lake Whatcom landscape plan and incorporate both new information from the community and new scientific information when available; and

(6) The development of a road management plan for the watershed.

The landscape plan shall be completed and implementation initiated by June 30, 2001. Timber harvest and all road construction in the watershed on state land shall be delayed until the plan is completed.

Passed the Senate March 7, 2000.

Passed the House March 1, 2000.

Approved by the Governor March 29, 2000.

Filed in Office of Secretary of State March 29, 2000.

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6731

State of Washington 56th Legislature 2000 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Spanel and Gardner)

Read first time 02/08/2000.

1 AN ACT Relating to Lake Whatcom; and creating a new section.

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4 project is created.
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6 regarding state-owned forest lands in the Lake Whatcom watershed area.
7 Where appropriate, the department will consult with other major forest
8 landowners in the watershed and shall involve watershed residents in
9 management activities. The department shall consult with the Lake
10 Whatcom management committee on proposed timber harvest and road
11 management activities. The department shall establish an
12 interjurisdictional committee to review the site-specific activities
13 and make recommendations. The interjurisdictional committee shall
14 include two members of the public who have an interest in these
15 activities. The landscape plan shall address at least the following
16 topics:
17 (1) Establishing riparian management zones along all streams, as
18 classified under chapter 5, Laws of 1999 sp. sess. The department
19 shall manage lands within such zones to protect water quality and

riparian habitat, and interdisciplinary technical teams may recommend to the department restrictions upon timber harvest and yarding activities on a case-by-case basis;

(2) Harvest and road construction upon unstable slopes should be carefully regulated, including limiting new road construction and old road reconstruction on unstable slopes, including windthrow buffers during harvest, as necessary;

(3) Creating and implementing a sustainable yield model specific to the Lake Whatcom watershed that encompasses the revised management standards and that is consistent with the sustained yield established by the board of natural resources;

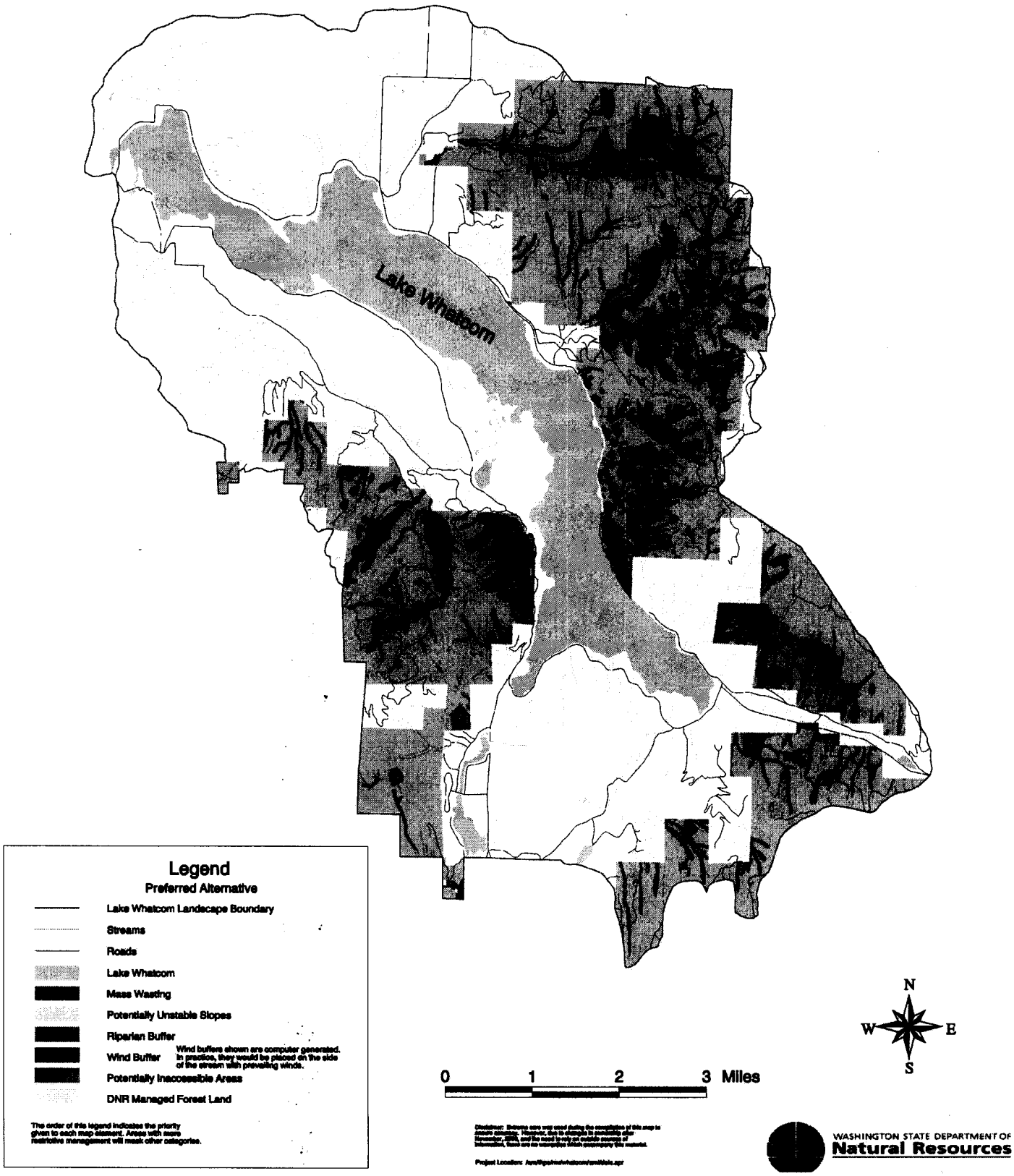
(4) The department should build on the existing draft Lake Whatcom landscape plan and incorporate both new information from the community and new scientific information when available; and

(5) The development of a road management plan for the watershed.

The landscape plan shall be completed and implementation initiated by June 30, 2001. Timber harvest and all road construction in the watershed on state land shall be delayed until the plan is completed.

--- END ---

Lake Whatcom Landscape Plan
Final Environmental Impact Statement
Preferred Alternative



Map Created December 19, 2003

STATE OF WASHINGTON

DEPARTMENT OF NATURAL RESOURCES

BOARD OF NATURAL RESOURCES

RESOLUTION NO. 1141

A **RESOLUTION** authorizing the Department of Natural Resources to implement the Lake Whatcom Landscape Management Plan Pilot Project, as identified in the January 30, 2004 Final Environmental Impact Statement for the Lake Whatcom Landscape Plan, subject to the various sections of this Resolution.

BE IT RESOLVED BY THE BOARD OF NATURAL RESOURCES, DEPARTMENT OF NATURAL RESOURCES, STATE OF WASHINGTON, THAT:

SECTION 1. State law, 2000 Washington Laws Chapter 205 (E2SSB 6731) directed the DNR to create "the Lake Whatcom landscape management pilot project" on state-owned forest lands located in the Lake Whatcom watershed area.

SECTION 2. The major purposes of the legislation were to protect water quality in the Lake Whatcom watershed and to address slope stability issues associated with past and prospective forest management. The law directed specific management strategies that included the following:

- Riparian management zones on all streams;
- Careful regulation of harvest and road construction on potentially unstable slopes;
- Prohibited new road construction on unstable slopes and limited reconstruction of old roads on unstable slopes;
- Sustained yield model specific to the Lake Whatcom watershed;
- Use of community and scientific information;
- Development of a road management plan; and
- Delayed all harvest and road construction until the plan is completed.

SECTION 3. Except as otherwise provided in this Resolution, the Board of Natural Resources adopts the Preferred Alternative discussed in the Final Environmental Impact Statement as the Landscape Plan for the Lake Whatcom watershed. This action shall complete the development of the Lake Whatcom Landscape Management Plan required by the Legislature.

SECTION 4 The legislation also requires an interjurisdictional committee to make recommendations to the Department concerning the implementation of the Landscape Plan. The Board of Natural Resources directs the Commissioner of Public Lands to appoint a five member interjurisdictional committee to review site-specific activities in the watershed, and make recommendations to the Department of Natural Resources. The committee shall evaluate any planned activities against the strategies contained within the Lake Whatcom Landscape Plan. The City of Bellingham, Lake Whatcom Water and Sewer District, and Whatcom County (together comprising the Lake Whatcom Management Committee) are each asked to provide the Commissioner of Public Lands with two recommendations for technical specialists. The Commissioner of Public Lands shall evaluate the nominees and make final selections, so as to have one technical specialist from each of the previously specified jurisdictions. If no nominees are received from these entities within ninety (90) days following the adoption of this resolution, the Commissioner of Public Lands shall independently select the committee members. The Northwest Region Manager shall nominate members of the general public for the interjurisdictional committee. Following informal consultation with each of the jurisdictions named above, the Commissioner of Public Lands shall select two members of the general public from the list of nominees. This section replaces the strategies under Objective 22 as identified in the January 30, 2004 Final Environmental Impact Statement for the Lake Whatcom Landscape Plan.

SECTION 5. The Environmental Impact Statement generated substantial scientific and other information not available in 2000, when the legislation requiring this pilot project on state-owned forest lands was adopted. Water quality studies by the Department of Ecology have increased the scientific understanding of the complex water quality

dynamics within Lake Whatcom. Therefore, the Department of Natural Resources is directed to produce a report to the Legislature. Said report shall be completed not later than December 31, 2004 and delivered to the Chairs of the appropriate committees, with copies to the legislative leadership and the Governor. Said report will detail the findings as to the benefits and costs associated with the implementation of this pilot project.

SECTION 6. The Department of Natural Resources shall annually report to the Board of Natural Resources on the results of implementation of the Lake Whatcom Landscape Management Plan Pilot Project. Said reports shall identify new information and implementation costs. The annual report also shall include an analysis of the management of the Lake Whatcom Landscape Management Plan Pilot Project in relation to the Sustainable Harvest and associated Forest Resource Plan (adoption pending), and in comparison to management of the remaining trust lands under DNR jurisdiction. Reports are required not later than July 1, 2005 and by July 1 of each subsequent year through 2011, unless otherwise directed by the Board of Natural Resources (see Section 8). Copies of said reports shall be delivered to the appropriate committees of the Legislature, so as to inform the Legislature regarding the status of this pilot project.

SECTION 7: The Department is directed to temporarily suspend the processing of future oil and gas leases for directional drilling that would access an area beneath the hydrographic boundary of the Lake Whatcom watershed. All interested parties are asked to provide the Department with written documentation that identifies the scientific basis for probable environmental impacts of directional drilling not later than November 30, 2005. This suspension shall expire not later than November 30, 2006 unless extended by the Board of Natural Resources. This section amends the strategies under Objective 16 as identified in the January 30, 2004 Final Environmental Impact Statement for the Lake Whatcom Landscape Plan.

SECTION 8. The Board of Natural Resources shall evaluate the report or reports identified in Section 6 to assess the sustainability of the Lake Whatcom Landscape Management Plan Pilot Project, paying specific attention to the economic impacts. Based

on the report(s) and the best interests of the trusts, the Board of Natural Resources may, at any time, direct the Department to revise the Plan, consistent with all applicable laws. The Board of Natural Resources shall comprehensively evaluate the pilot project not later than July 15, 2007. In addition, the Board of Natural Resources shall conduct a review, on or before July 15, 2011, to determine if the pilot project should be revised or if the Board of Natural Resources should recommend to the legislature its termination.

SECTION 9. In approving this resolution, the Board of Natural Resources has material concerns about the fiduciary efficacy of the Preferred Alternative. In order to address the Board's fiduciary responsibility, the Board directs the Department to start implementing the Plan and producing revenues as expeditiously as possible. In the previously identified reports, the Board directs the Department of Natural Resources to fully analyze issues that may compromise the long-term practice of sustainable forestry on state trust lands in the Lake Whatcom Watershed. The reports shall provide information to assist the Board of Natural Resources in its evaluation of its fiduciary responsibilities to ensure that the proper balance is maintained across all trusts in the Lake Whatcom watershed. Further, the Board of Natural Resources has substantial concerns that the management costs of Lake Whatcom will inequitably impact statewide trust operations.

APPROVED AND ADOPTED by the Board of Natural Resources, Department of Natural Resources, State of Washington, this 2nd day of November, 2004.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Commissioner of Public Lands.

DOUG SUTHERLAND
Commissioner of Public Lands

Approved as to form,
this 2nd day of November, 2004

Christy Thompson, AAG

WASHINGTON STATE DEPARTMENT OF
Natural Resources

DOUG SUTHERLAND
Commissioner of Public Lands

November 8, 2001

Megan White, Program Manager
Department of Ecology
300 Desmond Drive
PO Box 47600
Lacey, WA 98504-7600

Dear Megan,

Thanks for sharing information with me regarding Ecology's TMDL Water Quality Study (TMDL) for Lake Whatcom. It is very helpful, however I have a follow-up request for some additional information.

Engrossed Second Substitute Senate Bill 6731 directs the DNR to develop a landscape plan for approximately 15,00 acres of state-owned forestlands in the Lake Whatcom watershed area. Public comments made during the DNR EIS scoping process in September raised some questions about the relationship of the TMDL and the landscape plan – some suggesting that the DNR plan should wait for the completion of the TMDL. Their comments document that the perception by some members of the community is that state forestlands are a significant source of the water quality problems in the lake. One of principal objectives for the plan is to protect water quality.

In your November 1, 2001 e-mail to me you indicated that due to the length of the TMDL study (submit to EPA end of June 2004) "we don't think it makes sense to us to have you wait to complete the landscape plan. We think the risk of having to revisit your work is small since the likelihood, once the TMDL is completed, of our asking a property owner who is engaged in a land use activity that generates a comparatively low level of pollution is small. Moreover, from Ecology's perspective, it doesn't make sense to stop activities that are likely to lead to pollution reductions".

For DNR to successfully complete the landscape plan, prior to the completion of the TMDL, all stakeholders must have a clear understanding of the role state forest lands have on water quality in the Lake Whatcom watershed. That information is essential to balancing the necessary watershed protection and restoration with other forest management objectives and strategies.

Given the public's perception of DNR's forest management in relation to water quality in the watershed, it would be helpful if you would clarify in writing the Department of Ecology's understanding of the following:

1111 WASHINGTON ST SE ▮ PO BOX 47001 ▮ OLYMPIA, WA 98504-7001
FAX: (360) 902-1775 ▮ TTY: (360) 902-1125 ▮ TEL: (360) 902-1004
Equal Opportunity/Affirmative Action Employer

RECYCLED PAPER

- The water quality pollution problems of the Lake Whatcom watershed
- Which of the pollution problems, and their approximate relative share, that originate on state forest land and
- What additional water quality protection measures, if any, should DNR consider beyond those already set forth in the Forest Practices Rules and the Lake Whatcom Watershed Analysis; the DNR Forest Resource Plan and HCP for state trust lands, and the additional requirements set forth in E2SSB 6731.

As you are aware, Steve Hood of Ecology is chair of the Lake Whatcom Landscape Planning Committee and is very knowledgeable of these requirements as they apply to Lake Whatcom. DNR Northwest Region staff tells me that Steve is doing a tremendous job as chair, as well as representing DOE.

I will be seeking similar Lake Whatcom water quality information from the Department of Health as it relates to the Safe Drinking Water Act.

The next meeting of the Lake Whatcom Landscape Planning Committee is scheduled for November 16th. Your written response, prior to then would allow us to share the information with the committee.

Thanks for your time and assistance.

Sincerely,

Doug Sutherland
Commissioner of Public Lands

Cc: Tom Fitzsimmons, Director, DOE

WASHINGTON STATE DEPARTMENT OF
Natural Resources

DOUG SUTHERLAND
Commissioner of Public Lands

November 8, 2001

Mary C. Selecky, Secretary
Washington State Department of Health
1112 SE Quince Street
PO Box 47890
Olympia, WA 98504-7890

Dear Mary:

I have some questions regarding water quality in the Lake Whatcom watershed. Given your agency' regulatory responsibility to implement the federal Safe Drinking Water Act, including source water protection plans, your response will be especially helpful.

As you probably are aware, Engrossed Second Substitute Senate Bill 6731 directs the DNR to develop a landscape plan for approximately 15,000 acres of state-owned forestlands in the Lake Whatcom watershed area. Public comments made during the DNR EIS scoping process in September raised questions about the relationship of Ecology's recently announced TMDL Water Quality Study (TMDL) for Lake Whatcom and the DNR landscape plan. Some comments even suggested that the DNR plan should wait for the completion of the TMDL. Their comments document that some members of the community perceive state forestlands to be a significant source of water quality problems in the lake. One of the principal objectives for the plan is to protect water quality.

For DNR to successfully complete the landscape plan, prior to the completion of the TMDL in 2004, all stakeholders must have a clear understanding of the role state forestlands have on water quality in the Lake Whatcom watershed. That information is essential to balancing the necessary watershed protection and restoration with other forest management objectives and strategies.

Given the public's perception of DNR's forest management in relation to water quality in the watershed, it would be helpful if you would clarify in writing the Department of Health's understanding of the following:

- Pollution sources identified in the Source Water Protection Plan for Lake Whatcom.
- Which of the pollution problems, and their approximated relative share, originate on state forest land and
- What additional water quality protection measures, if any, should DNR consider beyond those already set forth in the Forest Practices Rules and the Lake Whatcom Watershed Analysis; the DNR Forest Resource Plan and HCP for state trust lands; and the additional requirements set forth in E2SSB 6731.

1111 WASHINGTON ST SE ▮ PO BOX 47001 ▮ OLYMPIA, WA 98504-7001
FAX: (360) 902-1775 ▮ TTY: (360) 902-1125 ▮ TEL: (360) 902-1004
Equal Opportunity/Affirmative Action Employer

RECYCLED PAPER

Richard Rodriguez of DOH is a member of the DNR Lake Whatcom Landscape Planning Committee and is familiar with these requirements as they apply to Lake Whatcom. DNR Northwest Region staff tell me that Richard is a tremendous asset to the committee.

I am seeking similar information about Lake Whatcom water quality from the Department of Ecology as it relates to the TMDL.

The next meeting of the DNR Lake Whatcom Landscape Committee is scheduled for November 16th. Your written response prior to then would allow us to share the information with the committee.

Many thanks for your help.

Sincerely,

Doug Sutherland
Commissioner of Public Lands

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

RECEIVED
NOV 19 2001
TO THE COMMISSIONER

November 15, 2001

The Honorable Doug Sutherland
Commissioner of Public Lands
Department of Natural Resources
1111 Washington St. SE
P.O. Box 47001
Olympia WA 98504-7001

Dear Commissioner Sutherland:

Thank you for your interest in integrating the landscape planning activities that you are undertaking with Ecology's TMDL study of Lake Whatcom. Our experience to date indicates that the most successful TMDLs are those in which pollution reductions are implemented while data collection and analysis are taking place – before load allocations are even established.

While the Department of Natural Resource's "contribution" to pollution in Lake Whatcom is not expected to be a significant part of the problem, your efforts to evaluate and control pollution are a good example for all jurisdictions. When our TMDL study is complete in 2004, Ecology will likely require controls on the pollutants in stormwater. The areas where those controls are likely to be most needed are in the areas that have been developed. Pollution controls may be imposed as part of a stormwater permit issued to an appropriate jurisdiction by Ecology. The likelihood of Ecology imposing additional controls on pollution from commercial forestland is remote. Proper implementation and enforcement of forest practice rules should appropriately control pollution.

In your letter you asked for specific responses to three points. I have addressed each of them below.

- **The water quality pollution problems of the Lake Whatcom watershed**

Lake Whatcom fails clean water standards for dissolved oxygen. Low dissolved oxygen in the lake is partly caused by lake eutrophication processes. These processes are driven by the availability of nutrients and the physical conditions present in the lake during the summer and fall. In the case of Lake Whatcom, the limiting nutrient is phosphorus. Additions of phosphorus lead to greater production of algae. Dissolved oxygen is consumed as dead algae decomposed at the bottom of the lake.

The lake is also polluted with mercury. The problem is manifested in high levels of mercury in fish tissue. The mercury pollution problem is probably related to the dissolved oxygen problem. Profound and extended periods of anaerobic conditions (i.e., low/no oxygen) in the lake sediments favor conversion of mercury from inorganic forms to methylated forms. It is the methylated forms of mercury that bio-accumulate in fish tissue and are toxic to humans consuming fish.

The lake is also contaminated with PCBs, which have accumulated in fish tissue. The degree to which this contamination represents normal or abnormal levels in western Washington has not been determined. The level of contamination may represent ambient conditions for lakes in temperate regions of the world.

High levels of bacteria contaminate several of the tributaries of Lake Whatcom, though there are no indications of bacteria at the city of Bellingham's drinking water intake. Bacteria such as fecal coliform indicate a risk of exposure to pathogens when humans come into direct contact with polluted water during recreation or other water-based activities.

There have been suggestions that all of the tributaries of Lake Whatcom be placed on the 303(d) List for pollution of fine sediment. To date we have not received data to support this suggestion. Ecology's decision to propose listing based on fine sediment violations would require establishing an acceptable level of fine sediment for that particular waterbody, and documenting that unacceptable levels of sediments are due to human, rather than natural, causes. Forest practices have often been identified as a source of fine sediment pollution. However, Department of Natural Resource's compliance with current Forest Practice Rules should limit the contribution of fine sediment to streams from forestry activities. Until other sources have been similarly curtailed, we do not believe it would be appropriate to suggest additional reductions from forest sources.

- **Which of the pollution problems, and their approximate relative share, originate on state forest land**

Phosphorus enters a lake either through rain runoff (in its dissolved form) or by attaching to soil particles that are eroded into the lake. Historic forest practices that led to the mass wasting events of 1983 certainly contributed phosphorus to Lake Whatcom. However, recent forest practices such as Department of Natural Resource's watershed analysis and the Forest and Fish Agreement have focused on minimizing the risk of landslides. Phosphorus is essentially stripped from rainfall if stormwater is allowed to filter through forest soils. Overall, forestland is therefore expected to produce the lowest loads of phosphorus per acre.

It is also important to note that the problems with dissolved oxygen have been seen only in the most northern portions of the lake. Much of the phosphorus that enters the southern end of the lake is expected to settle to the bottom of the lake before it can impact the portion of the lake that has been identified as impaired.

Causes of increased phosphorus pollution of the lake are most likely the result of decreased permeability and increased runoff as the watershed around the lake is developed. Other sources include residential fertilizers and leakage from septic systems. Keeping land in forestland uses is an appropriate measure to protect against increasing phosphorus loading to the lake.

The sources of mercury in Lake Whatcom have not been fully evaluated but there is no reason to expect that forestry land uses are contributing to the problem unless airborne mercury pollution has been deposited over wide areas of trees for an extended period of time. Some of the potential mercury sources include natural mineral deposits, leacheate from historic mining activities or solid waste disposal sites, deposition by air from industrial sources, and runoff from pesticides containing mercury.

PCB contamination is a global problem that has reached far beyond near proximity to sources. It is unlikely that any of the activities on state lands are contributing to the PCB contamination in Lake Whatcom.

Fecal coliform contamination in the tributaries of the Lake Whatcom watershed is associated with human residential development. Tributary samples from forest areas typically do not contain fecal coliforms.

- **What additional water quality protection measures, if any, should Department of Natural Resources consider beyond those already set forth in the Forest Practices Rules and the Lake Whatcom Watershed Analysis; the Department of Natural Resources' Forest Resource Plan and HCP for state trust lands, and the additional requirements set forth in E2SSB 6731**

The controls you describe for the state lands in the Lake Whatcom watershed are currently the state of the art for reducing the risk of pollution from commercial forestland. Properly managed commercial forestland has been recognized as the most benign active land use for watershed protection for some time. The possibility of additional controls being imposed as a result of a Lake Whatcom TMDL is remote. Cleanup of Lake Whatcom is more likely to be focused on reducing pollution from non-forestry land uses.

I hope that these answers help you move forward with developing you Landscape Plan.

Sincerely,

Megan White

Megan White, P.E., Manager
Water Quality Program

cc: Tom Fitzsimmons, Ecology Director

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
1112 SE Quince Street • PO Box 47890
Olympia, Washington 98504-7890
Tel: (360) 236-4010 • FAX (360) 586-7424
TDD Relay Service: 1-800-833-6388

RECEIVED
NOV 29 2001
TO THE COMMISSIONER

November 27, 2001

The Honorable Doug Sutherland
Commissioner of Public Lands
Washington State Department of Natural Resources
1111 Washington Street Southeast
Post Office Box 47001
Olympia, Washington 98504-7001

Dear Mr. Sutherland:

Thank you for your recent letter regarding water quality in the Lake Whatcom watershed. I appreciate the opportunity to share with you and the Whatcom Landscape Committee our understanding of some of the issues surrounding the watershed. In addition, I would like to thank you for acknowledging the work of Richard Rodriguez. I will let him know that his efforts are appreciated.

The state's drinking water regulations require Group A water systems using surface water as a source of drinking water to develop watershed control programs. An essential element of a watershed control program is the identification of "activities/land uses detrimental to water quality." This element of the watershed control program should identify all activities/land use practices within the watershed that affect or have the potential to affect source water quality.

The Source Water Protection Plan for Lake Whatcom prepared by the City of Bellingham and Whatcom County Water District #10 (WCWD #10) identifies a number of activities, conditions, and land use practices within the watershed that have or could have an adverse impact on water quality. Additionally, these activities are prioritized by their potential to adversely impact water quality. These activities are generally classified as follows:

TIER 1: Residential development, municipal/commercial uses, and transportation;
TIER 2: Domestic livestock grazing and timber management;
TIER 3: On-site septic, recreation and fish and wildlife;
TIER 4: Mining;
TIER 5: Alluvial fans; and
TIER 6: Research and Education.

We expect that the City of Bellingham and WCWD #10 assess the public health risk associated with each of these types of activities/land uses.

It is our understanding that very few of the potential contaminant sources identified in the Source Water Protection Plan for Lake Whatcom could originate from State Forest Lands or DNR activities. In addition, the water treatment facilities located on Lake Whatcom have been designed and constructed in response to activities historically associated with the state forest lands. A significant increase in the intensity of an activity or a significant change in the type of activities that are occurring would, of course, cause us concern about water quality.

At this time, the Department is not requesting any changes to the programs and documents mentioned in your letter. We have not received requests from the Lake Whatcom purveyors or from our Water Supply Advisory Committee to seek changes to the water quality protection measures that they identify. It is our understanding that the Forest Practice Rules and the DNR Forest Resources Plan and HCP were developed to protect the environment; typically, practices that protect the environment usually protect drinking water sources.

The Department participated in DNR's 1999 Lake Whatcom Interagency Advisory Committee. That advisory committee developed water quality protection recommendations that targeted prevention or reduction of future sediment loads reaching Lake Whatcom from DNR's activities in the watershed. DNR should consider implementing the recommendations of that committee. As noted, the Department is currently participating in DNR's Lake Whatcom Landscape Plan advisory committee. Site-specific recommendations identified by that process related to enhancing water quality should also be considered.

If you should have any further questions, please contact Bob James, Division of Drinking Water, Northwest Regional Office at 360-395-6768.

Sincerely,

Mary C. Selecky
Secretary

cc: Bob James
Richard Rodriguez

Minutes
Board of Natural Resources

November 2, 2004
Natural Resources Building, Olympia, Washington

BOARD MEMBERS PRESENT

Doug Sutherland, Commissioner of Public Lands
Bob Nichols for Governor Gary Locke
Glen Huntingford, Commissioner, Jefferson County
Bruce Bare, Dean, University of Washington, College of Forest Resources
R. James Cook, Interim Dean, Washington State University, College of Agricultural, Human, and Natural Resource Sciences

CALL TO ORDER

Chair Sutherland called the meeting to order at 9:10 a.m. on, November 2, 2004, in Room 172 of the Natural Resources Building.

APPROVAL OF MINUTES

MOTION: Glen Huntingford moved to approve the October 5, 2004 & August 19, 2004, Board of Natural Resources Meeting Minutes.

SECOND: Bruce Bare seconded.

ACTION: Motion passed unanimously.

PUBLIC COMMENTS FOR AGENDA ACTION ITEMS

Steve Hood - Chair of Lake Whatcom Landscape Committee

Mr. Hood began by saying that he was Chair of the Lake Whatcom Landscape Committee and an employee of Department of Ecology. He thanked the Board for entertaining the Landscape Plan and all the effort that DNR put into the process. Mr. Hood stated that from the beginning the committee's goal was to come to a consensus and then attempt to come to a consensus with DNR. The only area where they did not reach consensus was on green tree retention; he noted that DNR came up with a strategy to address that issue. The committee differed on how much authority the Interjurisdictional Committee (IJC) should have. He was glad that the resolution allowed more time to gather information on the oil and gas drilling issue. He thanked the Board for considering the Lake Whatcom Landscape Plan.

Dan McShane - Lake Whatcom Landscape Plan Committee

Mr. McShane thanked the Board and DNR for working with the committee and reaching consensus on most of the issues.

Bob Dick - American Forest Resource Council (AFRC)

Mr. Dick read a sentence from Senate Bill 6731 (Lake Whatcom) "Where appropriate the Department will consult with other major forest land owners in the watershed", he explained that through no fault of anyone in the room, that did not happen, and was not allowed to happen. He stated that he understood why the Board would most likely adopt the Lake Whatcom Landscape Management plan but he felt that the plan was wrong and the only way out of this travesty would be to take it back to the legislature and explain that the Board had to adopt this plan and were forced into it. Mr. Dick feels there has to be a better way to resolve the Lake Whatcom issue.

Kendra Smith - Natural Resource Lands Policy Coordinator - Skagit County

Ms. Smith said that Skagit County is seriously questioning the preferred alternative for the Lake Whatcom Landscape Plan from a fiduciary standpoint, and whether it's treating the seven trusts involved on an equitable basis. She said that there are three primary concerns from Skagit County: 1) Direct loss of revenue, Skagit County has 600 acres involved in this planned area, 60 of which are not within the hydrographic boundary of the watershed; this has cost the County $161,000 since December 03'. 2) DNR's cost for managing the area, which is a hit to the beneficiaries and is unfair that the beneficiaries should have to incur the indirect cost of road maintenance and abandonment costs. Skagit County had no voice in putting this plan together even though they have lands in the watershed. 3) The potential precedent it may set by adopting this plan. Skagit County understands that the Board has a mandate to manage this land but they would like to request that the Board put off the decision for one more month to really look at a creative solution that would benefit all. She referenced a letter that the Skagit County Board of Commissioner's submitted that included a proposed amendment to the Lake Whatcom Resolution suggesting that the revenues generated in this management area exceed the implementation costs each year and that DNR and other trusts be compensated for the expected reductions in revenue and increase in cost of adopting this plan. They also suggested trading lands and looking at RCW.79.10.070 which says, "If such alternatives of management by the Department reduce revenues from, increase costs of management of, or reduce the market values of public lands the city or town requesting such alternations shall fully compensate the Department." In consideration of this RCW Skagit county believes the Board should require Whatcom County to reimburse the other impacted trusts which include Skagit County, the Common School Trusts, and Washington State University for any reductions in revenue that will result from the adoption of this resolution. Ms. Smith submitted a letter from Richard Jones, Superintendent of the Burlington-Edison School District, in which he aligns himself with Skagit County on the Lake Whatcom issue.

TIMBER SALES

Proposed Timber Sales for December 2004 (Handout1)

Jon Tweedale, Assistant Division Manager, Product Sales and Leasing, presented. Mr. Tweedale began his presentation with an overview of the October 2004 sales results: 6 sales offered & 6 sold; 22 mmbf offered & 22 mmbf sold; $5.1 million minimum b id offered & $6.9 million sold; $229/mbf offered & $315/mbf sold; average number of bidders, 4; 37% above minimum bid.

Proposed December 2004 Board Sales: 15 sales for 41 mmbf; $14.2 million minimum bid; average $350/mbf.

December 2004 Board Sales: Recommend all 15 sales at 40,683 mbf with a minimum bid of $14,241,000 be approved for auction for the month of December 2004.

Mr. Tweedale commented on the timber market stating that it had reached a plateau and the lumber prices have decreased from record highs. He explained that the margin between revenue and log cost was so high that mills were making incredible profits but the margins have gone back to normal and he doesn't anticipate a decrease in stumpage prices.

Chair Sutherland asked Mr. Tweedale to discuss the SEPA (State Environmental Policy Act) letter received regarding an easement on a timber harvest.

Mr. Tweedale explained that there is a US Forest Service trail with no easement and the Forest Service asked if they could enter into an easement agreement. The Department did not feel it was necessary to enter into that easement however they would still allow use of the trail. Northwest Region mitigated by talking with US Forest Service and continuing to allow the use of the trail.

Chair Sutherland asked if there would be a temporary diversion during harvest?

Mr. Tweedale responded that there would be a diversion but at the end of harvest it would be brought back to trail use.

Ms. Bergeson asked if that resolved the issue.

Mr. Tweedale said yes.

Mr. Tweedale directed the Board's attention to another SEPA significant letter regarding Little River Aerial, there was an addendum for Class 4 special responsible official being Forest Practices instead of the Region Manager. He explained that it's basically an administrative rule that allows an additional look at a class 4 special by Forest Practices.

MOTION: Glen Huntingford moved to approve December 2004 timber sales.

SECOND: Terry Bergeson seconded.

DISCUSSION: Mr. Tweedale said the market is strong and DNR is on track to achieve the 570/mmbf.

ACTION: Motion passed unanimously.

CHAIR REPORTS

Forest Resource Plan Update (Handout2)

Mr. Sprague began by discussing his July presentation, which was an overview of the policy subject areas they were proposing to include in the Forest Resource Plan (FRP); the areas were identified through the scoping process, review of existing policies and internal agency discussions. Since then his team has been busy developing alternative approaches for those subject areas and have also begun work on a Department recommended alternative along with draft policies in that same time frame. He stated that agency staff is ready to support the Board's discussions of alternative approaches. He said his goal today would be to review the timeline up to the final decision point in June 2005. He stated that in January 2004 the process began by identifying what the need, purpose, and policy objectives of the plan should be. The policy objectives were built on the principles adopted during the SHC (Sustainable Harvest Calculation) process. The SEPA scoping phase began in March 2004 and the comments received were shared with the Board at the May 2004 meeting. Based on the final scoping comments received, the plan, purpose statement, and policy objectives were updated. He explained that the publication date of the DEIS (Draft Environmental Impact Statement) had changed from early January to early February; the DEIS will contain the Department's recommendation to the Board on the preferred set of policies. He said that all the work that has been done and would continue to be done is in preparation for support of the Board's discussions of the alternatives and policy statements for each of the subject areas and the selection of policies that will guide Department management of 2.1 million acres of state

forested trust lands for the next decade and beyond. He explained that the Board would be receiving more information at the December meeting as well as individually scheduled meetings later in the month.

Ms. Bergeson asked if today's presentation was informational?

Mr. Sprague said yes.

Ms. Bergeson wondered how the public could stay involved in this process.

Mr. Sprague responded that in February and March the public would be able to submit their comments and additionally the comment period would be 45 days instead of 30.

Ms. Bergeson wondered if the Forest Resource Plan would be discussed at the upcoming WSSDA (Washington State School Directors Association) meeting?

Chair Sutherland said the meeting with WSSDA is an important place to begin alerting the public to the plan however he felt that the December meeting would really be the best place for the public to become more aware of the complexities of the plan and the intention of how much coverage is going to be in it.

Ms. Bergeson suggested giving a hand out to the public at the WSSDA meeting.

Mr. Cook asked if this plan would cover all lands, Eastside included?

Mr. Sprague said the whole state had been considered in this process; Eastern Washington was included in the scoping process and public hearings.

Mr. Huntingford asked if there would be an opportunity for the Board and public to review the scoping comments and what issues had been raised in that process?

Mr. Sprague said they could include that as an appendix in the DEIS or some other method.

Mr. Huntingford felt that as a Board Member it would be important to see what the issues were and how they were transformed into the DEIS. He expressed his desire for the public really getting involved in the process early on so that issues could be addressed as soon as possible.

Ms. Bergeson commented on the fact that the Forest Resource Plan, SHC, and the future SHC for the Eastside are all closely related and it's important for the public to see the big picture and be involved.

Mr. Sprague said he agreed that the integration needs to occur with the Forest Resource Plan and he intends to achieve that goal.

<u>05-07 Trust Land Transfer Update (Handout 3)</u>

Robin Estes, Asset Management Transactions Manager, presented. She introduced Evert Challstedt and explained that he would be giving the presentation on the 05-07 Trust Land Transfer program.

AGENDA:

- Program goals and process
- Historical summary
- 05-07 Proposal
- Selection criteria & process
- Proposal

- Time Line
- Property characteristics
- Property map & list

Trust Land Transfer Program Goals

- Immediate revenue for schools
    - Timber Value funds schools directly
    - Land Value funds schools indirectly
- Divest of underperforming land assets that have special ecological and social attributes
- Reinvest in revenue productive properties
    - Commercial Forest Land
    - Commercial Agricultural Land
    - Commercial Real Estate
- Diversify trust assets
- Protect special properties for public benefit

Legislative funds serve a dual purpose by providing revenue for school construction and acquiring special properties for public benefit.

Mr. Challstedt talked about the historical summary of the legislative appropriations stating that from 1989-2005 the total appropriation was $477,352,000. The proposal for 2005-2007 is $67,000,000.

Account Distribution 1989-2003

Common Schools	$348,496,720	82.5%
Land Replace	$65,402,000	15.5%
Administrative Costs	$8,453,280	2.0%
Total	**$422,352,000**	**100%**

Recipients 1989-2003

NAP/NRCA	$248,769,000	58.9%
State Parks	$95,916,000	22.7%
Counties/Cities	$46,468,500	11.0%
Fish & Wildlife	$1,605,000	0.4%
Administrative Costs	$8,453,280	2.0%
Common School (unused)	$21,140,220	5.0%
Total	**$422,352,000**	**100%**

Land transferred from 1989-2003, Value: $65,402,000; Acres: 75,139; Value/Acre: $870

Land replaced from 1989-2003, Value: $58,413,636; Acres: 34,632; Value/Acre: $1,687
The above values illustrate long-term program benefits. Low valued timberland is replaced with higher valued income producing forestland, agricultural land, and commercial real estate.

Trust Land Transfer Property Selection Criteria 2005-2007
The Department used the following criteria as a guide for selecting properties for the 2005-2007 Trust Land Transfer list:

- Trust land with special ecological and social attributes that are underperforming for revenue production
- Suitable properties with older timber

- Aggregate timber to land ratio 80% or greater.
- TLT considered most appropriate disposal method
- Public agency willing to accept and manage property for designated public use.

TLT Process:

- 03-05 legislation used as model
- Regions submitted candidate properties and coordinated with receiving agencies
- The Department compiled the state property list and established the appropriation request following discussions with OSPI, WDFW, State Parks, counties, recipients and others.
- Over 50 properties considered, 25 selected

Ms. Bergeson asked how properties come in from the regions?

Mr. Challstedt responded that the Region field staff has close ties with community groups and land trusts so they are able to list properties that meet the criteria.

Ms. Bergeson asked how many people in the community inquire about the Trust Land Transfer program to the regions?

Ms. Estes responded that DNR is continuing to market and advertise the program through their website and news releases. She added that the land trusts are active in working with local communities in that regard.

Mr. Cook referred to a bullet on slide 2 (Handout 3) that states the Department's goal of divesting of under performing land assets that have special ecological and social attributes. He felt that the statement described the current situation with Lake Whatcom and would continue to if the preferred alternative were adopted. He wanted to know what the procedure would be to put the 7,000 acres in the Lake Whatcom watershed into this program?

Mr. Challstedt said he couldn't comment specifically on Lake Whatcom because he was not familiar with that particular parcel but the same criteria as used for the current list would apply to any parcel being considered for the program.

Chair Sutherland noted that the Trust Land Transfer program only allows Common School Trust lands and because most of the land in Lake Whatcom is Forest Board it does not meet the criteria. If DNR were to pursue that route they would have to go through a transfer of ownership of equal value finding Common School Lands for the same value and do a transactional trade; then the Lake Whatcom land would be Common School Trust as opposed to Forest Board Lands. It would then go through a legislative process with them paying for it if they were willing; at approximately $30 million dollars ($2,000/acre for Lake Whatcom Lands) you'd be looking at almost a whole biennial appropriation.

Mr. Bare asked if there were sufficient acres in Whatcom County to make that transfer and if not could you go outside the County?

Chair Sutherland explained that you could go outside of the County for a trade as explained earlier but the junior taxing districts and School Districts get very nervous because it can have a significant impact on their revenue.

<u>The Department is submitting the following legislative budget request to fund the 2005-2007 Trust Land Transfer Proposal</u>

Appropriation authority: $67,000,000 for the transfers and 20% or $13,400,000 for the purchases. The purchase authority enables the Department to replace lands that have been transferred in the same biennial process as the transfers. The Department is requesting a 80/20 timber to land ratio and for the legislature to continue the 30 year timber restrictive lease/easement clause that allows properties to be transferred by easement, the value of which goes directly to the Common School Trusts. Additionally DNR will ask to retain the 30+ year deed restriction for the designated use.

The following conditions will be included with the transfers

- Minerals to be reserved as provided by statute
- DNR's Habitat Conservation Plan (HCP) will be retained on critical habitat lands

The following is the anticipated distribution of appropriated funds

Common School Construction Account: $52,400,000

Land Replacement Account: $13,100,000

Administrative Cost Estimate: $1,500,000

Mr. Huntingford asked what the HCP being retained on critical habitat lands would mean for the Department?

Mr. Challstedt responded that it helps retain the integrity of the HCP. DNR would retain credit for critical habitat under the HCP.

Ms. Bergeson said her understanding was that legislation was already in place and wondered why this was a request for legislation?

Mr. Challstedt said it is strictly a budget request; they are not changing legislation.

Ms. Bergeson asked if the lands aren't disposed of by the end of the biennium is the appropriated money lost?

Mr. Challstedt responded that any unused appropriated funds revert to the Common School Construction Account at the end of the biennium.

TLT Process Timeline:

11/2/04: DNR submits proposal for Board review

12/04: DNR submits proposal to Office of Financial Management (OFM) and Legislature

04/05: Legislature approves budget bill to include TLT appropriation, direction and property transfer list

7/1/05: DNR begins implementation; appraisals are initiated; projects presented for BNR approval

10/06: 07-09 TLT list presented to BNR

6/30/07: 05-07 TLT transfer complete and remaining funds transferred to schools

The following is the Trust Land Transfer list of 25 properties proposed for transfer in the 2005-2007 biennium

Property Values *

#	Property Name	Acres	County	Recipient	Timber	Land	Total	T/L%
1	Caspers Timber Reserve	50	King	Seattle	910,000	0	910,000	100
2	Charley Creek Phase 1	1,100	King	DNR-NAP	18,040,000	670,000	18,710,000	96
3	Tahoma Forest	410	Lewis	DNR-NRCA	2,030,000	100,000	2,130,000	95
4	Lake Cushman	1,040	Mason	Tacoma	3,660,000	310,000	3,970,000	92
5	Bite Hill	355	Clallam	DNR-NAP	2,000,000	230,000	2,230,000	90
6	Far Out	640	King	Tacoma	1,250,000	220,000	1,470,000	85
7	West Tiger Mountain	145	King	DNR-NRCA	860,000	170,000	1,030,000	83
8	Kittitas-Wildlife	575	Kittitas	WDFW	3,310,000	800,000	4,110,000	81
9	Okanogan-Wildlife	350	Okanogan	WDFW	60,000	100,000	160,000	38
10	Camp Bonneville	820	Clark	Clark Co	4,840,000	1,410,000	6,250,000	77
11	Mount Si Phase 1	1,100	King	DNR-NRCA	5,410,000	1,710,000	7,120,000	76
12	Horseshoe Lake	350	Pierce	Key Pen Parks	2,540,000	880,000	3,420,000	74
13	South Pierce Wetland	160	Pierce	Pierce Co	1,020,000	400,000	1,420,000	72
14	High Point	40	Island	Island Co	400,000	160,000	560,000	71
15	Kopachuck	20	Pierce	Pierce Co	300,000	140,000	440,000	68
16	Newkirk	150	Spokane	State Parks	160,000	80,000	240,000	67
17	Sultan Basin Phase 2	3,800	Snohomish	DNR-NRCA	1,860,000	1,290,000	3,150,000	59
18	Stavis Creek Phase 1	800	Kitsap	DNR-NRCA	2,000,000	1,550,000	3,550,000	56
19	Upper Maxwelton Valley	205	Island	SWPRD	1,330,000	1,100,000	2,430,000	55
20	Skyline West	40	Island	Island Co	210,000	190,000	400,000	53
21	Lake Easton	160	Kitittas	State Parks	880,000	840,000	1,720,000	51
22	Brainers Road	40	Island	Island Co	200,000	360,000	560,000	36
23	Glendale Creek	40	Island	Island Co	200,000	380,000	580,000	34
24	Wahl Road	20	Island	Island Co	100,000	200,000	300,000	33
25	Harry Osborn Park	5	King	King/Redmond	70,000	160,000	230,000	30
	TOTALS	12,415			53,640,000	13,450,000	67,090,000	80

* All values are estimates.
Actual values to be determined by market appraisals after project implementation.

Ms. Bergeson referred to the list of properties and asked if the higher valued lands would be transferred first?

Mr. Challstedt said they would move as quickly as possible with appraisals on the higher valued timber lands, but that the first properties might not be the most valuable due to appraisal schedules.

Ms. Estes added that the appraisal process drives a lot of the elements in a transaction so they will group properties based on geographic location and elevation.

Chair Sutherland noted that the "Far out" parcel is located in King County however the recipient is the City of Tacoma; he assumed the property was in the Tacoma City Watershed (their drinking supply).

Mr. Challstedt said that was correct it would be transferred to the City of Tacoma to manage as part of their watershed.

Lake Whatcom Landscape Management Plan (Action Item) (Handout 4)

Mr. Mackey explained that today's goal would be to answer the Board's questions on the cost of implementing the preferred alternative and then presenting the draft resolution for the Board's consideration.

Bill Wallace, Northwest Region Manager, presented. He began with a review of the key elements of the "Lake Whatcom Landscape Management Pilot Project" (E2SSB 6731)

- Riparian zones for all streams
- Carefully regulate harvest and road construction on potentially unstable slopes
- Prohibit road construction on unstable slopes
- Develop a sustained yield model that is consistent with the one just adopted for Western Washington
- Develop road maintenance and abandonment plan
- Establish an interjurisdictional committee (IJC) that would assist in development of the plan, review site-specific activities, and make recommendations.
- No timber harvest until plan is complete
- Plan was to be completed by June 2001 but due to time constraints with the IJC, EIS, and integrating the SHC, it has caused a delay in completion.

Chair Sutherland commented that he and Mr. Wallace continued to brief legislative committee members and they were fully aware of the progress being made on the development of the plan and the issues being discussed by the IJC. He asked Mr. Wallace if at any time legislators expressed concern over the length of time that the process was taking?

Mr. Wallace said none were expressed to him and he felt they understood the complexities of the issues and appreciated the large public participation process brought about by the EIS.

Mr. Wallace said he would be answering the Board's previous questions on implementation costs.

Implementation of Costs: Review of April Board Meeting

Board questions/comments on costs:

- What is the cost benefit ratio?
- At what point would it be considered non-profitable?
- Where would the increased management costs come from?
- Is it fair and equitable to beneficiaries?
- Concern over financial impact to other counties

Mr. Wallace said the information shared today in terms of analysis would be based primarily on what was presented in the EIS, a relative comparison of the no action alternative and the preferred alternative.

He referred to lands in special protection (off-base acres)

Portion of Landscape in Special Protection

	No Action Alternative	Preferred Alternative
Acres in Special protection	4,317	7,431
% Of Landscape	27%	47%

*Source: Lake Whatcom Landscape Plan DEIS, September 8, 2003, Table 6

Summary of Undiscounted Revenue* (For 200 year planning period)

Alternative	TotalRe venue
No Action	$337 million
Preferred Alternative	$177 million
Difference	**$160 million**

*Source: Lake Whatcom Landscape Plan DEIS, September 8, 2003, Table 7

Mr. Wallace explained that there would be an approximate $16.00 per thousand board foot, net cost increase. With the preferred alternative DNR anticipates less road cost but an increase in yarding and overall operational costs (due to more skyline and helicopter yarding), amounting to an increase of about 15% in logging costs.

Logging Costs:

- Higher costs for preferred alternative
  - $16/MBF net cost increase
  - $1.1 million trust revenue reduction over first 2 decades
  - Purchasers will bid less for timber to make up for increased logging costs; reducing stumpage prices

Chair Sutherland asked if those dollars were reflected in the DEIS?

Mr. Wallace said those dollars were built into the model. He was showing an example of what's embedded into the model and reflected in the next slide:

Net Present Value of Timber Production*

Alternative	Net Present Value
No Action	$32.1 million
Preferred Alternative	$20.8 million
Difference	**$11.3 million**
Reduction of asset value by 35%	

*Source: Lake Whatcom Landscape Plan DEIS, September 8, 2003, Table DEIS4-1

Based on 200 year planning period

Additional Management Fund Expenditures*

- $0.8 million to prepare EIS and landscape plan
- $0.8 million** for DNR staff time to work with interjurisdictional committee and community over first 2 decades

*Not included in FEIS

**Costs are estimated

Road Revenue and Costs* (For First Two Decades)

	No Action	Preferred Alternative
Revenue: ARRF fee	$2.1 million	$1.5 million
Cost: RMAP (first 4 years)	-$1.6 million	-$1.6 million
Cost: Ongoing Maintenance	-$1.2 million	-$1.1 million
Balance	**-$0.7 million**	**-$1.2 million**

*Not included in EIS. All costs are estimated.

MOTION: Terry Bergeson moved to approve Resolution #1141.

SECOND: Chair Sutherland seconded.

DISCUSSION: Ms. Bergeson stated that it was important for the Board to adopt the resolution today. She commented that no one was happy about the current form the plan is in and people have been working really hard to bring the best possible scenario together. She noted that she would be submitting several amendments to the resolution as they move along. She emphasized the importance of passing the resolution to see what impact it would have on revenue and also stressed the need to educate the legislature on the impacts of their legislation put in place four years ago.

Mr. Huntingford pointed out that the Department acquired the Lake Whatcom Land at the request of Whatcom County, but with the restriction of management on the land it puts the Board and DNR in an awkward position to produce revenue for the trusts. He emphasized that from a county & junior taxing district standpoint it's not fair for them to bear the cost of Lake Whatcom. He added that clean drinking water is important but the whole issue puts BNR/DNR in a position to try and address all those concerns. He reiterated his concern from a county standpoint that if the Resolution is adopted because it's the "right" thing to do, what kind of precedent would that set for future issues similar to this? He wondered if the legislation regarding Lake Whatcom had taken into account the impacts on the other trusts.

Mr. Nichols referred to Mr. Dick's statement during public comment regarding the consultation of other landowner's; he asked Mr. Wallace if he had a response to that?

Mr. Wallace said that comment was based on the premise that the forest industry and forest landowners were not members of the first IJC; the previous administration chose the members. He added that although they weren't formally on the IJC, they were invited to the meetings, minutes from the meeting were provided, and the EIS process included all interested parties, including the forest industry.

Mr. Huntingford asked what percentage of the watershed is managed by DNR? He also wondered what restrictions private landowners have or would DNR bear the brunt of the restrictions?

Mr. Wallace said that State Forestland makes up 46% of the land in the watershed. He clarified that this plan only applies to state lands and what is being proposed would not apply to private landowners.

Mr. Cook directed the Board's attention to section 9 of the draft resolution, which states "In approving this resolution the Board of Natural Resources has material concerns about the fiduciary efficacy of the preferred alternative." He commented on how important that statement is in his decision on the Lake Whatcom Landscape Management Plan explaining that essentially their hands are tied and the Board members are very frustrated about the position they are in with this issue.

Ms. Bergeson stated that she would like to insert an amendment to the resolution on page 3, line 10, after "costs." Insert "The annual report shall also include an analysis of the management of the Lake Whatcom Landscape Management Plan Pilot Project in relation to the Sustainable Harvest and associated Forest Resource Plan (adoption pending), and in comparison to management of the remaining trust lands under DNR jurisdiction."

MOTION: Terry Bergeson moved to approve the proposed amendment to Resolution 1141.

SECOND: Bruce Bare seconded.

DISCUSSION: Ms. Bergeson added that she proposed this amendment because it provides an additional component for the annual report to analyze management of the Pilot Project. She said there are clear ramifications associated with cost but there may be other impacts that present themselves as this is implemented. She commented that the reason the legislation for Lake Whatcom passed four years ago was due to a lack of trust by the people in the community. The legislative action had a much bigger impact than many people understood. She expressed her desire to build trust with the IJC and commented that the Board needs data to inform them in the future; she'd like to get specific about that data not only for the legislature but also for the Board and stakeholders.

Mr. Cook said he supported the amendment but wanted to know what the fiscal responsibility would be for that extra amount of work?

Mr. Mackey responded that what Ms. Bergeson is asking for is compatible with what they are trying to implement and the Board would be briefed on that.

ACTION: Motion passed unanimously.

Ms. Bergeson referred to her next proposed amendment: On page 4, line 6, after "Alternative." Insert "In order to address the Board's fiduciary responsibility, the Board directs the Department to start implementing the Plan and producing revenues as expeditiously as possible."

MOTION: Terry Bergeson moved to approve the proposed amendment to Resolution 1141.

SECOND: Jim Cook seconded.

DISCUSSION: Ms. Bergeson said she'd like to implement the Plan and see what they can do within the preferred alternative instead of just talking about it.

ACTION: Motion passed unanimously.

MOTION: Mr. Cook suggested an amendment on page 3, line 27, the insertion of a single word, where it reads "to assess the long term viability", replace "long term" with "economic", to clarify viability in this context.

SECOND: Terry Bergeson seconded.

DISCUSSION: Mr. Cook added that the word viability is a little ambiguous and he wanted to be sure that the economic viability be reflected in the resolution.

Mr. Bare wondered if "economic viability" would be too restrictive, he felt that it didn't include the three metrics used to define sustainability.

Mr. Cook said he wanted it to specifically refer to the economic because he felt the social and environmental aspects had been covered adequately. He felt the economic side needed a little more visibility.

Mr. Nichols remarked that the plan as a whole encompasses the three circles (social, environmental, & economic) and if it were to read "economic" than it pulls it off to one circle.

Mr. Huntingford stated that the Lake Whatcom Landscape Plan currently presented makes the three circles different sizes, none of them being consistent. He felt that it wouldn't get them to their goal in the SHC of trying to balance those; it puts it out of balance in this particular watershed and plan.

Mr. Nichols remarked that the Lake Whatcom Landscape Plan includes the three circles but the amendment suggested by Dr. Cook would put the resolution out of sync with the plan by focusing primarily on the economic.

Mr. Huntingford noted that the inconsistency was already present before Dr. Cook suggested the amendment.

Mr. Nichols commented that there have been a lot of concerns expressed by the Board Members regarding the fiduciary responsibilities but he felt the proposed amendment was inconsistent with what the plan is really focused on which is the three circles together. He felt that the economic side is covered throughout the resolution and in Board comment.

Mr. Huntingford stated that keeping the three circles consistent with one another is a great goal but how do you address the economic impact to the Department to operate in the watershed, let alone benefit the trusts? He doesn't see the Department being able to operate in the watershed in a responsible manner, and further, for the Board not to speak up and say that doesn't send a clear message to the legislature. The water quality issues are important and need to be addressed but he doesn't think the Department can keep absorbing those costs and continue management of the watershed year after year with more restrictions and less timber on base. He wondered how they could get that message to the legislature.

Ms. Bergeson said although she seconded Dr. Cook's proposed amendment she wasn't opposed to not accepting that change. She felt that the economic aspect had been voiced and is covered in the resolution. She stated that the environmental and social aspects had been carefully attended to in the plan but the fiduciary had not, to the satisfaction of the Board, however because the Board is mandated by law they would follow it as a Board; if the plan doesn't work it will be apparent whether or not the word "economic" is in the resolution.

Mr. Bare commented that the Board had spent a lot of time talking about sustainability and what it means; he felt the Board was in agreement that it means the proper dynamic balance across the spectrum of the three circles. He suggested that as a compromise page 3, line 27, could be modified to read, "to assess the sustainability of the Lake Whatcom Landscape Management Pilot Project Plan paying specific attention to the economic impacts."

Mr. Cook said he would accept that as a friendly amendment. He added that he wasn't trying to discount the social and environmental components in any way but he felt the only way it would make sense to him was to include the economic aspect; but he agreed that sustainability covers that.

Mr. Nichols said he was comfortable with the proposed friendly amendment.

Chair Sutherland concurred.

ACTION: Motion passed unanimously.

MOTION: Mr. Huntingford made a motion to adopt section 10 as proposed by Skagit County into the resolution.

SECOND: Jim Cook seconded.

DISCUSSION: Chair Sutherland read Section 10: "In order to address the Board's fiduciary responsibility to equitably treat all trusts, including those trusts with lands inside the Lake Whatcom watershed, the Board directs the Department to implement the Lake Whatcom Pilot Project Plan such that revenues generated from trust lands inside the Plan area must exceed all implementation costs, including but not limited to road maintenance and abandonment costs, and all administrative and other costs, for each fiscal year of Plan implementation. The Board further directs the Department to insure that all cost of the Plan implementation will be borne on a proportional basis to each trusts' ownership inside the Plan area for each fiscal year of Plan implementation. The Department is directed to prepare and provide a detailed accounting of revenues and costs by trust as part of the annual reporting requirement described in Section 6."

Mr. Huntingford said that section 10 and the insertion of it into the resolution would address the issues brought up earlier regarding the trusts being treated equally. He asked for the opinions of the other Board Members.

Chair Sutherland said he understood what Skagit County was trying to achieve with the proposed amendment, section 10. He referred to the earlier statutory requirements that states if there are unusual management costs incurred as a result of request by a jurisdiction, city, or county that the city or county bear the burden of those costs. He said he did not disagree with their position but he suggested that the way section 10 was written could become a nightmare because the Department doesn't work on an annualized basis, it takes anywhere from 6-14 months to put together a harvest plan, with Lake Whatcom it could take longer and become more complex. He added that it then would come to the Board for concurrence, and then to Auction, then up to 18 months for harvest, to try and keep track of those costs on an annual basis would be a fiscal nightmare. He said he understood what the objective of section 10 tries to achieve but it would be onerous on the Department to put together. He spoke in opposition to the insertion of section 10 to the draft resolution 1141.

Mr. Cook said it may set a precedent and wondered if there was a downside to it from that point?

Mr. Mackey said that the Department is required to implement the Road Maintenance and Abandonment plan across all state lands and explained that it's legislatively mandated and you can't do it with the revenues generated. The AARF funds are a loss for the first four years but over time it generates positive. The expenses that occur in forest management are lumpy and large and section 10 would create a legal issue and timing problem; under section 10 the Department would not be able to meet the legal requirements for the Forest & Fish agreements.

Ms. Bergeson said she didn't think it would be possible to "direct" the Department to make sure the revenues generated exceeded the implementation costs. In her opinion section 10 was borne out of frustration over the economic issues that have been discussed and many share. She didn't feel that section 10 would be the solution but felt that working together on the management of the Plan with the community and Department and then analyzing the progress would produce a better end result.

Mr. Huntingford said he agreed with what the Board had expressed but he still had concerns about how they would track the progress in the watershed.

Mr. Mackey said Dr. Bergeson's amendment to section 6 where she asks for specific analysis on the Lake Whatcom Landscape Plan in relation to the Sustainable Harvest Calculation and the Forest Resource Plan would show opportunity costs over time associated with this plan versus what would happen with the SHC, it would also show who bears the cost.

ACTION: Motion failed.

Mr. Bare read a statement regarding the Lake Whatcom Landscape Management Plan:
"In considering the Lake Whatcom Landscape Plan, I am conflicted over several issues which have, in part, been discussed by other Board members today.

E2SSB 6731 requires that the Department develop and implement a management plan that appears to exceed the requirements of existing rules and regulations that address water quality, slope stability and road construction issues. What is lacking in the existing management plan that would indicate these are problem areas not being appropriately addressed by the existing rules and regulations?

No one questions that the Department must adhere to all existing state and federal laws impacting the management of our trust lands. However, I believe the Board has an obligation to identify instances of an unfunded mandate that originate at either the state or federal level that conflict with our fiduciary responsibility. The Department's preferred landscape alternative, developed by a broad constituency of user groups and interested parties, calls for reduced levels of economic activity when compared to the current management plan.

The goal of directives, such as E2SSB 6731, presumably is to enhance the production of public goods and perhaps protect public safety. But this law does not request a scientific study to determine the effects of current forest management activities on the public good to determine what kind of relationship exists between the two. Instead, it presumes there is a negative relationship and requires an alteration of management procedures based on that assumption.

Should such activities be funded by the trust beneficiaries at the risk of reduced income levels or should the state general fund absorb these costs? Even if there was a negative relationship, where does one

draw the line between an expenditure undertaken to produce a public good such as water quality and management activities designed to enhance the income potential of the land?

Lastly, although the state trust lands are public lands they are not managed under provisions of the public trust doctrine. Rather, they are managed as legal trusts for the benefit of designated beneficiaries. Hence, I do not believe that it is proper to impose the costs of producing additional levels of public goods onto the trust beneficiaries without just compensation.

Therefore, I believe that the Department should: (a) immediately undertake to investigate ways to transfer ownership of appropriate state lands out of the watershed and (b) seek ways to compensate trust beneficiaries for unwarranted reductions in asset value induced by the preferred landscape alternative."

Mr. Nichols asked what percentage of State Land was in the Lake Whatcom Watershed? He stated that the implications of the Lake Whatcom issue had been known since the legislation was passed; he felt that anyone who paid attention would see the clear and obvious fiduciary impacts versus the social aspects. He said that in the last four years a lot of time had been spent by DNR staff and local communities to bring together a plan that made sense for everyone. Mr. Nichols extended his appreciation to Bill Wallace and staff for their hard work on this plan and bringing this difficult issue to a conclusion; he said it was an outstanding job.

Mr. Wallace said that State Lands accounted for 46% of the land in the Lake Whatcom watershed.

Chair Sutherland stated that he felt that the legislature responded to the community as a result of significant fears and concerns about their safety. He stated that there had also been some question whether or not Forest Practices in the watershed had a negative impact on the quality of water in Lake Whatcom; as a result of those concerns the legislature adopted the bill regarding Lake Whatcom that gave the Department direction to proceed. He stated that throughout this process and through the additional lessons learned with new forestry it has provided new information that the legislature did not have four years ago when adopting the Lake Whatcom bill. Chair Sutherland agreed that historically there had been mass wasting in the watershed long before settlements and he felt that harvest activity, if done right, could minimize the safety concerns while at the same time recognizing the benefits that harvesting in the watershed would bring to local jurisdictions. He commented that any forest management plan would be complex as you try to envision harvest activity in long narrow strips and he felt that there would be unidentified ramifications from the implementation of this plan. He stated that the field activity would determine what this resolution is going to develop; he felt it was important to proceed with the resolution to find out what the impacts may be so the Department could have solid information to present to the legislature, which is why section 8 of the resolution states that on or before the year 2011 the pilot project would be assessed to see if it should continue. He stressed that it's extremely important to have this information for the legislature to determine how to proceed in the Lake Whatcom watershed in the most beneficial way for all parties involved. He emphasized that it's really important that Whatcom County, City of Bellingham, and others involved start thinking on a broader scale what the impacts from development and land use issues in this watershed are and how that community should come together and start discussions with themselves on whether or not they want someone else managing the watershed for them. He testified that when he was working for the City of Tacoma they purchased the City of Lester and the School District that was located in the City of Lester; the reason for that acquisition was to make sure that the watershed that the City of Tacoma was dependant upon was properly managed and preserved to adequately protect the water supply of the community of Tacoma. A significant factor in that situation was that the property was located in King County not Pierce County; recognizing the importance of protecting the water supply the City and the community made the obligatory financial commitments to be able to secure and protect their watershed. Chair Sutherland

remarked that in his opinion its time for the people of Bellingham and Whatcom County to start thinking about their own responsibility to protect their watershed; it shouldn't be pushed onto another entity, additionally it would give them the power to make the kinds of management decisions that they feel are the best for their community. He stated that he would be more than willing to bring those folks to the table to begin those serious discussions. He said the watershed is worth somewhere from $30-$60 million dollars, which would be a significant consideration of any jurisdiction but at the same time over the long term it would be in their best interest and he recommended that the Lake Whatcom communities start thinking in those terms.

ACTION: Motion to adopt Resolution #1141 as amended passed unanimously.

Mr. Huntingford said there had been changes in Forest Practices since the legislation regarding Lake Whatcom was passed and he felt that DNR should do a documentary to tell their story about what the Department is doing on the ground. He felt that the public is not aware that DNR is doing what is required by the Forest & Fish rules and above and beyond that.

Chair Sutherland agreed and he commented that since taking office four years ago he has seen how uninformed the public is about what the Department does and what they are legally required to do. He said they would try and figure out a way to get the story documented and out to the public.

Ms. Bergeson thanked Bill Wallace and his staff for their dedication and work on this plan and thanked Dan McShane and Steve Hood for being present for the discussion on Lake Whatcom. She stated that she was relieved that the resolution had been adopted and now the next step is implementation. She testified that the process started based on mistrust and that it now needs to grow on trust, knowledge, and information on the best things that can be done including the ability to build the kinds of relationships that Chair Sutherland just mentioned regarding the communities looking at their overall bigger picture. She added that it would be a learning process for everyone but one that could be worked on and explored as DNR/BNR meets with the IJC committee and staff; she would like to get past confrontational issues and focus on mutual problem solving.

Mr. Wallace wanted to recognize Steve Hood for his great work as a DOE representative and the Chair of the Lake Whatcom DNR Landscape Plan Committee. He wanted to thank Jeff May for his work on the plan and with the committee; they would now be working on the implementation of the plan. Lastly, he wanted to thank the Board for their dedication and perseverance in this process.

PUBLIC COMMENTS FOR GENERAL ITEMS OF INTEREST

David Atchison - Campaign Director - Cascade Conservation Partnership

Mr. Atchison expressed his support for DNR, the Trust Land Transfer program, and the Cabin Creek Sale. He stated that in the past few years there has been a number of groups working together to help make the Yakima River Wildlife corridor a reality and that campaign is now coming to an end. He added that the Cabin Creek Sale dovetails the efforts of what they are trying to achieve.

Chair Sutherland asked if there was anyone else present wishing to make comment before the Board? Seeing none, hearing none.

Meeting adjourned at 11:44 a.m.

Approved this ____ day of _____, 2004

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Doug Sutherland, Commissioner of Public Lands

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Bob Nichols for Governor Gary Locke

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Bruce Bare, Dean, University of Washington

_____

R. James Cook, Dean, Washington State University (Interim)

_____

Terry Bergeson, Superintendent of Public Instruction

_____

Glen Huntingford, Commissioner, Jefferson County

Attest:

_____

Sasha Lange, Board Coordinator