

1 **FOREST PRACTICES BOARD**
2 **SPECIAL MEETING**

3 February 14, 2001

4 Department of Natural Resources Building, Room 172
5 Olympia, Washington
6

7 **Members Present:**

8 Pat McElroy, Designee for Commissioner Sutherland, Chair of the Board
9 Lee Faulconer, Designee for Director, Department of Agriculture
10 John Mankowski, Designee for Director, Department of Fish and Wildlife
11 Steve Wells, Designee for Director, Department of Community, Trade and Economic
12 Development
13 Toby Murray, General Public Member
14 Dick Wallace, Designee for Director, Dept. of Ecology
15 Judy Turpin, General Public Member
16 Keith Johnson, General Public Member/Forest Landowner of less than 500 acres
17 Fran Abel, General Public Member
18 Lloyd Anderson, General Public Member/Independent Logging Contractor
19 Dave Somers, Snohomish County Council
20

21 **Members Absent:**

22 Bob Kelly

23 **Staff:**

24 Lloyd Handlos, Debora Brown Munguia, Patricia Anderson, Shari Kincaid, Paddy O'Brien
25

26 **CALL TO ORDER**

27 Pat McElroy called the meeting to order at 9:00 a.m. Introductions were made. Lloyd Handlos
28 introduced Jeff Grizzel as the interim Adaptive Management Director and Jed Herman as the lead
29 in updating the Board Manual.
30

31 **APPROVAL OF MINUTES**

32 **MOTION:** Judy Turpin moved to approve the November 8, 2000 minutes.

33 **SECONDED:** Dick Wallace
34

35 Lloyd Anderson made the following correction:

36 Page 5, line 13 change having to have

37 Page 5, line 26 change then to that

1
2 Judy Turpin moved to accept corrections. Dick Wallace seconded. Motion to amend the minutes
3 was passed unanimously.
4

5 **ACTION:** Motion passed unanimously.

6 **MOTION:** Lee Faulconer moved to approve the January 18, 2001 minutes.

7 **SECONDED:** Keith Johnson
8

9 Pat McElroy made the following corrections:

10 Page 3, line 11 should read: May 17th not May 16th

11 Page 3, line 13 should read: May 17th not May 16th
12

13 Dick Wallace made the following correction:

14 Page 5, line 35 should read: clarification on adaptive management about taking ownership
15 – sort out elements.
16

17 Lloyd Anderson made the following correction:

18 Page 3, line 35 should read: June 30, 2001 not June 30, 2000
19

20 **MOTION:** Toby Murray moved to accept corrections.

21 **SECONDED:** Dick Wallace seconded the motion.
22

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

25 **PUBLIC COMMENT**

26 **Dave Sweitzer** of the Washington Hardwoods Commission stated that the Commission continues
27 to have concerns with the permanent rules. It appears that changes are being made to the proposal
28 that had been worked out previously. The Commission is not sure where these changes are
29 originating from or what the scientific basis behind them is.
30

31 The Commission is asking the Board to give serious consideration to the draft hardwood
32 conversion language. They are specifically concerned with the 500 foot up and down- stream
33 assessment. As the Commission understands it, this would disproportionately impact small
34 landowners and would likely impact the amount of hardwood available. The rule would not allow
35 for case-by-case planning to meet riparian requirements without input from the Commission or
36 scientific evidence. The Commission would petition the Board to consider the draft that the

1 Commission agreed to prior to NMFS making the latest changes. They would lose considerable
2 hardwood under such a “one size fits all” rule. The Commission proposes a no foot rule up and
3 down the stream as in the last draft. The Commission welcomes the opportunity to work on these
4 issues. They also support starting adaptive trials as soon as possible, using existing research data
5 rather than waiting until new research is designed, developed and published. As for the SBEIS
6 and the CBA, small companies are disproportionately affected and the Commission would suggest
7 that the Board consider that impact against the permanent rule and hardwood conversion.
8

9 **Nels Hanson**, a small forest landowner and an officer in the Washington Farm Forestry
10 Association, also voiced concerns about the hardwood conversion rules, stating they are extremely
11 complex and that the effect of the 500-foot requirement is that it almost amounts to a ban on
12 harvesting of hardwoods for smaller landowners. He also expressed concern with the forest
13 riparian easement rule. He stated the easement program has one purpose, which is to recognize
14 the tremendous economic costs of the new rules on the small landowner and to mitigate the cost
15 ~~burden~~burden, that small landowners face. The small landowner office and the advisory
16 committee have worked very hard against considerable opposition to get everything in the
17 easement document that would make it palatable to small landowners. However, the document
18 requires that landowners protect functions. There are no criteria for quantifying or putting a dollar
19 value on damages to functions and it imposes uncertain and ambiguous costs to landowners. Few
20 small landowners will be willing to sign onto such a document.
21

22 **Ann Goos**, WFPA: Ann urged the Board to adopt the Adaptive Management proposal that is
23 before them today. She stated that Adaptive Management is a process that allows us to deal with
24 uncertainty and she believes that everyone agrees that there are some uncertainties in this package.
25 She stated that it also allows for the rapid transfer of knowledge from the scientist to the
26 management community, and will allow people who have biological science expertise to work
27 with people who have silvicultural expertise. She stated that this kind of teaming is going to
28 improve our knowledge of managed forests in relation to the functions, and that good people
29 worked on it and everyone who is working on it now is excited about the progress that is being
30 made.
31

32 **Alan Soicher**, Washington Forest Law Center: Alan stated that he was not speaking for the
33 Washington Forest Law Center but rather as a private citizen. He stated that the fish are very
34 complex and that the industry has gone to great lengths to make sure that the new rules are as
35 complicated as possible. He believes the Forest and Fish rule making has engaged the Board to
36 the extent that it has taken the Board away from other issues that are also very important. He

1 would like to see the Board's energy put toward wildlife, cultural resources, recreation and
2 aesthetics, once they get beyond the rules. He feels what needs to happen is long range, landscape
3 level planning to get at the bigger issues, which have not being addressed, and which are creating
4 the cumulative effects for us. He wants an honest discussion of the viability of the industry and
5 how it translates into protection of the public resources he outlined.

6
7 **ADAPTIVE MANAGEMENT**

8 Debora Brown-Munguia briefed the Board on the action items for Adaptive Management. At the
9 last Board meeting on January 18th, the Board reviewed the resource objectives that were specified
10 in Schedule L1. The Board is asked to formally adopt the resource objectives today.

11
12 The Board received the CMER Scientific Review process proposal and asked CMER to define a
13 decision process for what gets reviewed by the scientific review committee and to present the
14 names and qualifications to the Board of those who could manage the scientific review committee
15 for the Board to make the final selection. CMER has not had the opportunity to do this yet and the
16 Board is asked to defer action on this item at this time.

17
18 The Board also directed staff to send out a letter on its behalf to solicit a core group of members
19 for CMER. The letter went out from the Chair of the Board to representatives of timber
20 landowners, the environmental community, tribal government and state and federal agencies.
21 There are a few names to add to the list the Board received. The names to be added to the CMER
22 list are: tribal representatives; Dawn Pucci of the Suquamish Tribe; Mark Mobbs with the
23 Quinault Indian Nation; and Lawrence Peterson, with Upper Columbia United Tribes. Also,
24 Joseph Pavel and Allen Pleus with the Northwest Indian Fisheries Commission would like to serve
25 as alternates for any of the above people if they are unavailable.

26
27 The Board also asked staff to develop for the Board's review a proposed permanent rule on
28 adaptive management, stating the intent and purpose of the rule and that guidance would be in the
29 Board manual. Staff has developed a proposed permanent rule on adaptive management, which
30 will be presented later today.

31
32 **MOTION:** Dick Wallace moved that the Board adopt the proposed initial resource
33 objectives and performance targets as specified in the June 21, 2000 version
34 of the Schedule L-1. This includes a description of the four overall
35 performance goals, resource objectives as defined by the proposed

1 functional objectives and performance targets, and three key questions
2 concerning compliance, effectiveness, and validation monitoring.

3 **SECONDED:** Toby Murray

4
5 **Board Discussion:**

6 Dick Wallace stated ist was important for the Board to take ownership of the adaptive
7 management process. He recommended minor amendments. (See proposed changes below.)

8
9 Under the key questions, change the wording of question number one to read: Are forest practices
10 being conducted in compliance with “the Forest Practices Board rules”, and strike “the
11 prescriptions contemplated in this report”. Again it is a matter of the Board taking ownership.

12
13 On the second page on the last paragraph, with the bold validation and monitoring and research,
14 about the 4th sentence it says, “current targets are those the authors believe will be met” and Dick
15 would substitute “the Board believes will be met by the rules” and strike “prescriptions in this
16 report”.

17
18 Judy Turpin suggested that in Key Question 2 the word “prescriptions” be replaced with “rules”.

19
20 John Mankowski agrees with Dick’s comments but he also thinks that a short discussion is
21 warranted on how this document is to be used – that it is not intended to be a WAC. It is science-
22 based guidance on where research needs to go and where limited dollars need to be spent. Over
23 time, the Board may need to make adjustments. John suggested adoption by resolution of the
24 Board, with continued public and scientific input on research priorities and how the rules are
25 working on the ground.

26
27 Steve Wells commented on the first edit that Dick suggested, pointing out that Schedule L1 is
28 rather specific about what functions are and how they are to be measured. However, testimony
29 from small landowners on functions in the forest riparian easement document is that they have no
30 idea what functions are or how they can be measured. There is a big difference in the two
31 positions. He wondered whether the forest riparian easement program fit into the proposed
32 language.

33
34 Dick responded by stating that the schedule would help as an educational tool as well as resource
35 objectives. It provides the targets we are after, translating it into real numbers and putting a little

1 more meaning into functions. There is no resource objective specifically for the forest riparian
2 easement program, but that could be something that the Board would think about in the future.
3 Pat McElroy added that in the riparian easement program it is incumbent on the department to
4 make the information that flows from this sort of work available through the Small Landowner
5 Office to the small landowners. It is not just the regulatory part of the department but also the
6 education element that is a necessary part of enforcing the regulations.

7
8 Judy Turpin asked whether the Forest Practices Board rules produce forest conditions in processes
9 that achieve the performance targets, rather than resource objectives. Dick responded by saying
10 that they would use both, so it would basically say processes that achieve resource objectives as
11 measured by the performance targets.

12
13 Dick Wallace added that he feels this is a great piece of work; it is the third time it has been in
14 front of the Board and it is extremely critical as a part of the overall package on how the rules are
15 working and the Board's ability to conduct adaptive management. After the permanent rules are
16 in place, it might be a good time to revisit them because there might be some areas, whether it is
17 equipment limitations zones or hydrology that the Board could build on. Dick would encourage
18 the Board to adopt it today and keep it in front of the Board down the road.

19
20 Steve Wells agreed that this is a great piece of work. A new approach to probability not only
21 would define the performance targets but also ask, "what is the probability or risk associated with
22 the adoption of these performance targets?" There is no certainty that if we achieve these
23 performance targets we will in fact achieve our overall performance goals. Steve Wells asked
24 whether there is any measure in the evaluation of this schedule.

25
26 John Mankowski responded that he was not aware of any test that could come up with a
27 probability statement. During the two years of Forests and Fish, the scientists in the room drew on
28 their knowledge and the published literature to create these connections, such as shade and how to
29 measure and create shade. John thinks this is the best information we have today and it is strongly
30 related to those performance targets. If over time we understand we are measuring the wrong
31 thing or asking the wrong questions, he supports mid-course corrections. Dick Wallace added that
32 adaptive management was designed to deal with risk.

33
34 Judy Turpin commented that the independent science panel has made some recommendations to
35 the legislature that are incorporated into a proposed bill, which talks about having a more
36 comprehensive state-wide look at the monitoring program. What she is hearing is that it would

1 not be difficult for the Board to comply with this bill if the Board was required to participate
2 consistently across the board.

3

4 **MOTION** Dick Wallace moved to adopt resource objectives as amended.

5 **SECONDED:** Judy Turpin.

6

7 Dick Wallace made the following corrections:

8 Page 1, middle of the page, change the sentence from “Resource objectives are intended
9 for use in adaptive management, rather than in the regulatory process” to “Resource objectives are
10 intended for use in the Forest Practices Board’s adaptive management rather than in the
11 department’s regulatory process.”

12 Question 1 would be amended to read, “Are forest practices being conducted in
13 compliance with the prescriptions contemplated in the Forest Practices Board’s rules”.

14 Question 2 would be amended to read, “Will the rules produce forest conditions and
15 processes that achieve resource objectives as measured by the performance targets, while taking
16 into account etc.”

17 Page 2, last paragraph, middle of the paragraph, the sentence will change from “Current
18 targets are those the authors believe will be met by the prescriptions in this Report” to “Current
19 targets are those the Forest Practices Board believes will be met by the rules.”

20

21 **ACTION:** Motion passed unanimously.

22

23 **Establish CMER Committee**

24

25 **MOTION** Dick Wallace moved that the Board establish CMER as recommended to the Board
26 on January 18, 2001 and add the additions that were recommended by staff today,
27 including the recognition that CMER will advance the science to support the
28 Board’s adaptive management program, will work through consensus wherever
29 possible, will be made up of dedicated scientists who meet the defined credentials
30 as stated in a letter dated 2/1/01, will select a chair, will establish Scientific
31 Advisory Groups to conduct and develop research and monitoring, and will use a
32 hierarchical structure for issue resolution. It is further moved that the Board accept
33 the initial list of CMER participants as recommended by various stakeholders as
34 added to today.

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36 **SECONDED** Toby Murray

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Board Discussion

Toby Murray asked about the list and if the Board was going to receive more names from various groups. It is the Board’s understanding that staff is encouraging participants from local government and environmental organizations.

John Mankowski asked where the defined credentials for participants are defined. Debora Brown-Munguia clarified by saying that there was a discussion on this subject that is reflected in the January 18, 2001 meeting minutes. John said that was fine as long as it was clear and can be found. Debora said that the letter that went out to the various groups states in the second paragraph that the CMER Committee will be made up of the members that have expertise in a scientific discipline that will enable CMER to be most effective in addressing forestry, fish, wildlife and landscape process issues and who bring the perspective of timber interest, environmental interest, state agencies, local government, federal agencies and tribal governments from a scientific rather than a policy standpoint. Dick suggested that a better way to state it would be to meet the credentials defined in the (and then the date of the letter by the Board Chair) so it is clear where it can be found.

Dave Somers wanted to know if the list of potential people would remain open; for example, the Board has not received any names from the environmental community. Pat responded that it is the Board’s intention that this is the preliminary list and there will be additions by Board resolution as time goes on. The staff expects there will be additions made by Board resolution. Dick asked that the minutes reflect that the Board still encourages other participants, particularly local government and the environmental community to submit names.

ACTION: Motion passed unanimously.

CULTURAL RESOURCES UPDATE

Steve Wells gave a status report and sought a reaffirmation of the Board’s intent to support and continue the work that the committee has initiated. The committee’s work has its origins in the Timber Fish and Wildlife Agreement and in the Forests and Fish Report a very articulate statement of the problem and of the goals that the committee has set out before them. In addition TFW included a series of 10 measures, related to archaeology and cultural resources that the parties agreed to. Several of the measures refer to roles to be played by the Office of Archaeology and Historic Preservation, which is within the division that Steve works in at the Department of

1 Community Trade and Economic Development. His division will take a close look at, and follow
2 up on, those agreed upon measures which are outside the view of the committee's and the Board's
3 work.

4
5 The Forests and Fish Report recommends the adoption of statutes, rules and regulations necessary
6 to implement the following prescriptions. In G.1(b) it states that watershed analysis modules for
7 restoration monitoring and cultural resources will be cooperatively developed through a process
8 which includes policy direction, project proposal, committee assignment, peer review and policy
9 action. The policy development process in Forests and Fish does not contemplate the Board itself
10 creating a committee to deal with this. Forests and Fish goes further to say that the Board is
11 committed to completion of the cultural resource module within two years of the date of the
12 report, which was dated April 29, 1999. He stated there were only two months left to meet the
13 Forests and Fish Report assignment and the committee is not going to make it. Considering the
14 incomplete implementation of the TFW measures and serious questions about the prescription
15 included in the Forests and Fish Report and the deadline to which we committed, Steve asked for
16 this time on the agenda today. The Forests and Fish Report relies heavily on the watershed
17 analysis module, which is possibly a good approach but certainly not totally endorsed by all the
18 Forests and Fish participants and there is significant concern about that proposed prescription.
19 The Board needs to reconsider whether that is the right way to go.

20
21 The action Steve Wells asked for is a decision from the Board that recognizes that there is a new
22 Commissioner of Public Lands, a new chair of the Board, and Steve's time on the Board is short,
23 as a new designee will replace him as soon as the Board adopts the Forests and Fish rules. In
24 addition, the scope of the problem is much larger and more complex than he had thought when he
25 had originally committed to this path in October. The committee is not going to get this work
26 done by the date the Board adopts the Forest and Fish rules. Keith Johnson and Steve both
27 recommend that the Board continue with its committee work and if the Board agrees to recharter
28 the committee and endorse that work, the committee needs a new chair. That is the action item
29 that is before the Board.

30
31 Steve then gave a status report and some background on where the committee is and why Steve
32 thinks this is important work that needs to be continued but it is not a trivial assignment and it is
33 going to take a lot of work and effort. The committee has five findings.

34
35 The committee heard a litany of issues and concerns, many of which are within the purview of the
36 Forest Practices Board and many that are well beyond the scope of the Board. Steve stated that

1 many of the people who spoke to the committee do not understand the difference between the
2 Forest Practices Board, the Department of Natural Resources, and the Office of Archaeology and
3 Historic Preservation and they do not care about those distinctions. They have a real life problem;
4 a real life concern and they are basically coming to government to fix it. The committee heard a
5 lot of criticism of the Office Archaeology and Historic Preservation and its performance, and of
6 DNR's performance, and the U. S. Forest Service, and everyone who has involvement in this
7 issue.

8
9 The second finding is that everybody that has participated in these deliberations agrees that there
10 is a broad need for education and training to achieve better understanding of cultural resource
11 protection issues. Not the least of which is that people who are involved in forest practices must
12 understand that the term cultural resources is much more than archaeological sites. It involves
13 religious practices and customs that are softer than sites, which are known or mapped.

14
15 The third finding was that in addition to the watershed analysis module there are many other tools
16 and policy development processes that may work as well or better. These include SEPA,
17 voluntary agreements, alternative dispute resolution strategies, and model agreements. An
18 agreement between the Quinalts and Associated Forest Landowners work well. The Tulalips
19 spoke to the committee eloquently about their efforts in the tri-county negotiations on salmon
20 restoration to create native plants nurseries. This point is that the watershed module may be the
21 right thing to do but not everybody has bought into that. There are many other tools and processes
22 that the Board ought to be taking a close look at to solve the problem

23
24 The fourth point is that the record on enforcement of existing laws is poor. It is unknown at this
25 point how many of the issues and concerns that have been brought to the Board's attention would
26 be addressed simply by better enforcement of existing law.

27
28 The last point is that there is a tremendous absence of trust among the parties and that clouds what
29 people hear, what they say, and how people interpret what is said and what is not said. There is a
30 lot of fear and a lot of history that causes people to not trust the Board's good intentions or any
31 one else's good intentions.

32
33 A commitment to better education and training as soon as possible is generally recognized by the
34 committee participants as an appropriate first step to building better trust, as well as better
35 enforcement of existing laws, better implementation of the commitments the Board has made and
36 the like. It is pretty fundamental to the success of this committee. Steve asked whether the Board

1 wants to continue with this committee work, what the committee should do and whether there
2 should be a new chair?

3
4 Dave Somers asked if Steve felt he had a strong commitment on the part of the committee
5 members that the committee's work should continue. Steve responded with a resounding yes.
6 Dave also wanted to know what were the main concerns with the watershed analysis module.
7 Steve welcomed any observations from Keith Johnson, when he stated there are concerns coming
8 from two directions. One is that it is a regulatory approach and there are some who would prefer a
9 more voluntary agreement approach, negotiated on a case-by-case basis among the participating
10 tribes and landowners, rather than the more formal process of a watershed module. Those who
11 prefer a more voluntary approach recognize that a voluntary agreement and a less formal structure
12 might be better for preserving confidentiality and be more flexible for the landowners. However,
13 the problem with voluntary agreements is that there is not always an agreement reached. Steve
14 also wondered what the future of watershed analysis would be, given the Forests and Fish
15 package. Does it make sense to pursue a module when the rest of watershed analysis may not be
16 used as frequently as it has been in the past?

17
18 Keith Johnson agrees completely with Steve's report and he strongly believes that the committee
19 should be continued. Keith also agrees with Steve that there is a lot of work to do and it is very
20 complicated. There are people that have participated in the committee meetings who would
21 strongly recommend that the Board stick with voluntary agreements. The problem with that is, as
22 the tribes will point out, they have worked fine with some landowners and some corporations and
23 they have not worked at all with others. Which has lead the committee to believe that there needs
24 to be some sort of process of conflict resolution for situations where one of the parties will not
25 enter into voluntary agreements or where voluntary agreements to negotiate simply break down.

26
27 Judy Turpin remembered that at the workshop in October there had been a presentation on the
28 subject of cultural resources and Mr. Thomas of the Puyallup Tribe mentioned some potential rule
29 language. She asked if that had been discussed among the committee. Steve responded that it had
30 been discussed and they had spent a lot of time talking about the prior work in TFW.
31 Unfortunately, he believes there is no formal agreement among the committee members as to what
32 they have accomplished and what they have not, or what the unfinished agenda is. Steve believes
33 the committee needs to acknowledge the tremendous amount of work that went into the TFW
34 report that is appended to Forests and Fish, and look at what Forests and Fish did with it, which is
35 to affirm a commitment to the completion of a watershed analysis module by April. The

1 committee has a lot of unfinished work. This is a difficult problem that demands continued work
2 and attention and that there is no question that it is important work, but not easy.

3
4 Judy Turpin stated that when the Board was discussing the Bald Eagle rules, the Board did
5 something that was different from anything they have done in the other rules. The Board requires
6 an agreement, which they provide with their forest practices application. Steve pointed out there
7 is a similar process in the forest practice rules right now that calls for a meeting between the
8 landowner and the tribes. However, it falls short because if there is no agreement then there is
9 little instruction. The ten TFW measures do speak to what you do in that case but those measures
10 are not being implemented. This is why Keith Johnson has continually talked about the need for
11 alternative dispute resolution. If you can reach agreement the system works pretty well, but the
12 committee does not have very good guidance as to what happens when the landowner and the tribe
13 can't reach agreement.

14
15 John Mankowski stated that in the case of the Bald Eagle if a landowner does not secure an
16 agreement they are in SEPA, and the rules of SEPA apply. That is not the case in cultural
17 resources. Judy Turpin suggested that was a model that provided an option that the Board could
18 look at.

19
20 Pat McElroy recognized that there were tribal members who would like to address the Board. He
21 asked them to come forward and introduce themselves and the tribes that they represented.

22
23 Jeffery Thomas of the Puyallup Tribe stated that he is a member of the cultural resources
24 committee and that he has three points he would like to make. The first point that the work on
25 these committees is very important to tribal interests, and because of that they are looking for
26 particular things in the committee work in order to participate. That means that the committee
27 work really does have to be as structured as possible and be in harmony. It is too difficult to have
28 conflict and a disharmonious approach. Also because the Board is expecting top-notch results
29 from this committee they are asking for a very top-notch team and top-notch players of the tribes
30 come in and try to produce results. Top-notch leadership has to be very evident in the work that
31 the committee does. Secondly, the tribe wants to make sure that in the committee they are focused
32 on the commitments that are in the Forests and Fish Report which are 1) to create this module, not
33 discuss whether or not there is a need for it, and 2) to create the cultural resource management
34 protection plan, not discuss whether there is a need for it.

1 Mr. Thomas went on to talk about the work of the TFW committee and then the watershed
2 analysis idea itself. The work of the TFW committee was in mid-step at the time that the group
3 went into hiatus, which culminated at the time the TFW policy group quit meeting officially.
4 Because they were in mid-step you cannot expect that their work products were in any degree
5 final. There were, however, some very important milestones that had been packaged as a result of
6 that committee's work and presented but could not move forward with other ideas they had.

7
8 The idea behind the watershed analysis module is not to create a regulatory tool for addressing
9 tribal cultural resource protection but more or less to develop a tool that is effective in a watershed
10 scale when it comes to assessing, analyzing, and providing for cultural resources protection and
11 management needs. It is different than something that you might find otherwise implied in the
12 TFW cultural resource protection plan, which has as its general target an emphasis on protecting
13 cultural resources at a site scale and using voluntary, non-regulatory approaches.

14
15 In closing Mr. Thomas said to the Board that the Puyallup Tribe did submit an alternative proposal
16 to compare with what is found in the Forests and Fish Report. In that proposal there was a cultural
17 resource management protection plan. It basically builds upon most of the ideas that had
18 developed within the work of the TFW cultural committee, such as creating a directory of tribal
19 cultural resource management protocols and contact information, cultural resource protection
20 standards and guidelines manual. He stated that is what we think should be happening within that
21 work as a part of developing the cultural resource management protection plan. The tribe supports
22 the creation of the committee and realizes that it is still in the beginning stages and taking on a
23 very broad and extensive challenge. Mr. Thomas recommends Keith Johnson for the future chair.

24
25 Tom Edwards with the Lummi Nation thanked the Board for allowing him to state his concerns
26 and then he spoke of the spiritual significance of cultural resources to the Lummi Nation. It is the
27 policy of the Lummi Nation to protect and preserve the integrity of cultural resources. These
28 cultural resource sites contain the stories of aboriginal people who lived in this area for thousands
29 of years; in many cases, these sites contain the last remaining information about the people who
30 created them. Cultural resource management is a process involving three basic steps 1) location,
31 identification, and documentation; 2) the assets of valuable significance of the resource to the
32 community or sections of the community, and 3) the management of cultural resources to retain
33 their conservation strategies, or mitigation options for relocation or reassigned cultural resources
34 monitoring during this development. There are four basic principals, which underlie all cultural
35 resources management actions. These are that the physical evidence of past cultural activities,
36 remains, sites and place is finite, sacred, non-renewable and valued. Cultural resources can be

1 classified as four types; traditional place names, archaeological resources, historical sites and
2 traditional cultural properties. Through careful planning we can assure that the remaining parts of
3 the puzzle are properly examined and recorded so that children can inherit an accurate and realistic
4 picture of the lives who preceded them. In closing, Mr. Edwards supports the Board taking a close
5 look at cultural resources, which are valuable to the community. The Lummi have a cultural
6 resource management plan in place. Mr. Edwards thanked the Board for allowing him the time to
7 address them on behalf of the Lummi Nation.

8
9 Steve Wells said that it would be very helpful to have the reports that both speakers referenced and
10 he asked that the both make sure that the Board receives those materials.

11
12 Judy Turpin says that there was a document that some of the Board received when the tribes sent
13 in their alternatives to the rules that had a section on cultural management. Judy stated that some
14 of the members of the Board that are new may not have received and it might be wise to make sure
15 the newer members receive a copy of this document.

16
17 Mr. Thomas said that is what he would offer as his summary of where the group left off and the
18 Board agreed that would be satisfactory.

19
20 **MOTION:** Keith Johnson moved the Board continue the existence of the cultural
21 resources committee until its work is finished which will not be by the April
22 deadline

23 **SECONDED:** Dick Wallace

24
25 **Board Discussion**

26 Dave Somers had a comment about watershed analysis. What he heard was that, despite the fact
27 that watershed analysis may not be used very much in the future; the concept of having a
28 watershed-based or landscape-based assessment tool may still have utility. He encouraged the
29 committee to consider it in that context.

30
31 John Mankowski congratulated Steve on a great job of putting this together and providing
32 leadership and he wanted to thank him for that. He also wanted to let Steve know that he shares
33 enthusiasm for supporting this effort. The committee is still sifting through ideas to fix this
34 problem and this should be done at the committee level. John also felt that the person
35 recommended being chair is a good choice.

1 Pat McElroy said that in a couple of discussions that he has had with the committee that there
2 were a couple of issues that need to be dealt with. The first one is a work plan timeline for the
3 Board's review. One of the other issues that would need to be looked at by the committee is the
4 legal framework or basis for regulating, and then the alternatives to that approach for dealing with
5 cultural resource issues.

6
7 **ACTION:** Motion passed unanimously.

8
9 Keith Johnson agreed to chair that committee. The decision of a new committee member would
10 be deferred until a later date. Keith Johnson commented on the complexities before the committee
11 and that Steve has been able to bring with him the archaeologists in Washington State government
12 to alleviate those difficulties. His successor from Trade and Economic Development will not be
13 associated with those archaeologists, which will add to the difficulty of gathering and
14 understanding information. Steve Wells added that the Office of Archeology and Historic
15 Preservation needs to be involved in some way.

16
17 **PERMANENT RULE WRITING UPDATE**

18 Terry Ruff gave a presentation on the permanent rules. Terry referred to the proposal from the
19 stakeholders committee and stated that they have consensus on it. He then passed out a handout
20 with a summary of the comments that had been collected. Terry gave a special thanks to Joanne
21 Wearley and Cindy Townley for the long hours of hard work that they have put into this
22 document.

23
24 Terry referred to the cover letter that was sent out with the document and he thanked everyone for
25 their comments. All the comments have been read, and those, which they felt did not need further
26 stakeholder review, have been added to this draft. If a comment looked like it could be
27 controversial it was kept out and raised with the stakeholder committee to get agreement. The
28 comments that were added to this draft included spelling errors, unintended deletion of previous
29 language, previously agreed upon stakeholder committees language, incorrect WAC references
30 and small non-controversial changes such as the change from cross drainage to relief culverts.
31 Terry pointed out there were several other points that were raised and work would begin on these
32 tomorrow. They received over 100 comments and they will make these available.

33
34 The last stakeholder meeting was on February 9th. Some of the issues in the handout came about
35 in the comments, and what Terry tried to do was to capture some of the main issues from each

1 stakeholder. There are many more issues than those listed on the handout but the list should give
2 the Board an idea of what still needs review by the stakeholders.

3
4 Dick Wallace wanted to know if all the comments had been received from the federal agencies.
5 Terry responded that they have all been received by the 9th and were incorporated into the
6 document. Some of the issues still need stakeholder discussion. Some of the issues in the
7 document are easily fixed and some them are a little more complicated.

8
9 There were questions about how many of the issues were unresolved. Terry stated that it was
10 about 10% of the issues and that a lot of the issues were already incorporated into the document.
11 Terry explained that if the Board was talking about what percent was submitted to the stakeholders
12 as comments saying that there needed to be a fix then it is probably about 10% of that number.
13 The ones that Terry covered with the Board today were the major issues and a lot of the other ones
14 Terry made a judgment call on.

15
16 Judy Turpin had a concern that the department has sent a document that is incomplete. She feels
17 that the document needs to be amended by next week. There could either be a stakeholder
18 recommendation or the Board could amend the draft with or without stakeholder meetings, but
19 some of these things look like they ought to be corrected when the draft goes out for public
20 hearing. She hopes that there would be some mechanism for having amendments for this draft for
21 next week.

22
23 Pat McElroy said that it seems that one approach may be that the stakeholders can work these out
24 and come to resolution and another alternative is in cases where they cannot it might be good for
25 the Board to have two different approaches to consider so the Board would know what the range
26 of difficulty is in those areas.

27
28 Dick Wallace suggested that staff schedule some stakeholder meetings, and try to work these
29 issues out. If for some reason the stakeholders are unable to work them out then they can bring
30 two or three options to the Board so the Board can have an idea of what is being considered.

31
32 Judy Turpin thinks that the stakeholders are at a stage where the Board needs to make decisions so
33 she agrees with the Chair's suggestion that staff come to the Board with optional language and the
34 Board can have that discussion here. It needs to be done next week. Pat McElroy also suggested
35 to the stakeholders that they make sure they are empowered to speak for their organization.

1 John Mankowski agreed there are some significant issues on the list as well as some less
2 significant ones. The Board does need to hear public comment on the issues. The stakeholder
3 group should take a crack at trying to get them wrapped up if there is no consensus he would ask
4 staff to bring back the different options based on stakeholder comments so that the Board can get
5 public dialog and scrutiny of the issues. In his mind the controversial issues on the list are the
6 ones on which the Board needs to hear the public views. Pat McElroy said that the Board may
7 want to take the two or more forward as alternative language, which is an option the Board always
8 has.

9
10 Judy Turpin stated that she feels the Board is asking the stakeholders to do about three weeks
11 worth of work in just one. She wanted to know if it is more of a problem to have a stakeholder
12 meeting in that intervening week or to try to draft options. One of the things that the Board can do
13 is take options forward to the hearings if that is what is needed. From the testimony, the Board
14 can gauge whether they need to leave the options open or not. Terry responded by saying that he
15 thinks the stakeholders can get agreement on most of the issues, and Terry will bring those, which
16 they cannot agree upon forward to the Board with options.

17
18 John Mankowski said that it would be useful if the stakeholders could indicate which issues would
19 likely be resolved with more time and those where the stakeholders have clearly reached an
20 impasse. On those that the stakeholders have reached an impasse, the Board can create the option
21 and move forward. The Board needs to make some decisions on which issues are resolvable with
22 more time.

23
24 Terry wanted to make sure that the Board understands what is in the draft. The draft includes
25 everything that was in the December 20th draft, the alternate plan, financial assurances, the RMZ
26 open space, Small Forest Landowner Riparian Easement Program and the HCP exemption.
27 Everything is here and Terry thanked Debora Brown Munguia for taking a lead and forming a
28 subcommittee to discuss adaptive management. They brought it back to the stakeholders and there
29 has been a lot of good input. Next week Terry plans to meet with the stakeholder and present their
30 work to the Board.

31
32 Pat McElroy gave a well done to Terry, Lloyd and the staff and stakeholders for all the work they
33 have done to put out such a fine product. The Board and audience gave them all a round of
34 applause.

35

1 **BOARD'S WORKPLAN/FUTURE MEETING AGENDAS**

2 Debora Brown Munguia gave a presentation on the Board's work plan. It was agreed that wildlife
3 would not be discussed at today's meeting. The May regular meeting has been cancelled but there
4 is a special meeting scheduled for May 17th. It was agreed that the Board would come back to this
5 work plan recognizing that there are some critical issues on it that the Board wants to address to
6 determine when they would do so. There does need to be a discussion after the Board hears from
7 the consultants and where we are to date with the EIS. Debora will introduce Kim Sellers, the
8 project manager, who will go over the timeline. The timeline handed out at the January meeting
9 for rule adoption is still on track. If the Board decides to request an extension from the legislature
10 it may affect how the Board addresses this work plan as well.

11
12 Pat McElroy mentioned that the Board may want to reinsert the work of the cultural resources
13 committee into the work plan. He indicated the board may want to schedule a meeting in early
14 March, with the intention to complete the Forest and Fish work if it is needed, or cancel it if not.
15 The first thing the Board needs to do is decide how far forward they want to move the work of the
16 committees. Pat asked John Mankowski when he thought a reasonable time would be for him to
17 come forward with wildlife issues. Since there will not be a regular May meeting, he mentioned
18 August. John Mankowski said that there were a couple of things driving this in his mind. One is
19 the need to focus Board attention on wildlife issues. He really does not want to piggyback it on or
20 put it between Forests and Fish hearings, but he would like to do it as soon after as possible. John
21 would like to watch the schedule to see the first opportunity to get some Board focus on this. He
22 hopes to discuss it by mid to late summer.

23
24 Pat McElroy asked if the Board wanted to keep the same schedule in the work plan and then move
25 to recreation, then island soils, procedure on ethic rules, then watershed analysis and then cultural
26 resources. Pat asked whether this would give the cultural resources committee time to do their
27 important work and Keith Johnson indicated they were just getting started so putting cultural
28 resources later in the year is fine. Dick Wallace commented that cultural resources seems to be a
29 two-step process. The first is to come back with some idea of a work plan and a timeline and
30 schedule of actual substance within the work plan. Keith Johnson agrees even though he shares
31 the sense of urgency about the problem

32
33 Pat McElroy suggested to John that the Board should schedule wildlife in August, with the
34 possibility of an earlier opportunity, and at the August meeting also have the timeline from
35 cultural resources.

1 Judy Turpin expressed concern about the order of the watershed analysis piece, which deals with
2 the adjustments that are necessary because of the changes in the rules. If the Board pushes that by
3 two meetings it would be a year from May, which does not make sense. The Board may have to
4 jump it ahead of one of the others. Dick Wallace said that when the Board discussed this it did not
5 have to do with the specifics of any one module or any one piece of work, but the bigger picture of
6 the long term role for watershed analysis – given that there is now Forests and Fish, does
7 watershed analysis drop off or will people continue to do it because of other reasons. In part, the
8 Board scheduled it for later to see how the whole package unfolds, not necessarily to hold up any
9 module. Judy said that is why she asked because if it was a problem to move it to May or not
10 really depends on what the content is.

11
12 Pat asked whether the island soils issue could slip more than perhaps some of the others. Could
13 there be a trade so watershed analysis could be moved to February, and then deal with the island
14 soils at a later date. Dick Wallace said that it was fine with him although the Board did have John
15 and Lloyd working on their parts. Lloyd Anderson expressed concerns since he missed the last
16 meeting and John Daly is no longer with the Board so that means he and Pat get to work on
17 something that they don't know about yet. Dick Wallace answered that it was in response to a
18 petition and concerns about soil compaction. When the Board got the petition they looked at the
19 existing rules that address soil compaction and whether they needed to be expanded, or if there are
20 administrative things that could be done to get better rules implemented on the ground. Right now
21 there are rules but they are fairly brief. The petition had much more detail. Lloyd Anderson asked
22 Pat to assist him and Pat agreed, with the aid of staff to help him. Lloyd said to put it on the
23 agenda.

24
25 Pat McElroy scheduled the August meeting, or if there is a need or an opportunity before that, for
26 the Board to deal with wildlife issues. At that time there would be an update, timeline, work
27 schedule, etc. for cultural resources. In November, the Board has a petition, some legal issues
28 regarding recreation and aesthetics strategy, and a discussion on procedural ethics. In February
29 the Board would work on the watershed analysis and the discussion that Dick just had. Then in
30 May the Board will deal with island soils. The Board agreed to this schedule

31
32 Debora asked if the Board wanted to put on the schedule when they would like to discuss the
33 substance of the cultural resources work plan. Pat said that it would be August of next year.

34
35 The Board discussed scheduling a special meeting in early March to discuss continuing the rule
36 adoption process if it is necessary. Dave Somers reminded the Board that he is unavailable on

1 Wednesdays. They scheduled a special Board meeting for Tuesday March 6 in an alternate
2 location, as the room would be unavailable. Debora wanted to remind the Board that the rules
3 have to be filed with the Code Reviser no later than the March 21 at noon.

4
5 Dave Somers advised the Board that there was a House Bill that amended the permanent rule
6 adoption schedule. Pat was not aware of this but the Board has been working on a draft to send to
7 the legislature. The Board is looking at proposing a three-month extension until September 30.

8
9 Dick Wallace said that he is aware of another Bill that would exempt agriculture areas from the
10 Forest Practices Act if the lands were enrolled in what is called the Conservation Reserve
11 Enhancement Program. Farmers were concerned they would be subject to Forest Practices. The
12 Bill did receive broad support, although they are working on a definition of agricultural lands. Pat
13 said that one of the issues is that the definition of agricultural land could be extended to be
14 basically all the grazing lands in eastern Washington, which is basically, forested lands. Dick said
15 that they did narrow the definition so that it is only those lands that are enrolled in that program
16 with a federal citation.

17
18 Pat McElroy said that in looking at the work plan and the work that needs to be done, he has
19 several concerns. The Board is very close to the end and a three-month extension may be a
20 reasonable amount of time to get that job done. Pat said that there are three places that the existing
21 statutory language has to be changed and two places where there is a specific date that is involved.
22 The bill establishes September 30th for completing the rule making and expiration of the
23 emergency rule, however Section II of the bill says that the Board shall defer final adoption of
24 such rules for 60 days of the legislative session to allow for the opportunity for additional public
25 involvement and legislative oversight, and September 30 is more than 60 days past the legislative
26 session.

27
28 Paddy O'Brien said under the current statute, the Board is required to give the legislative
29 committee notice of differences between its proposed rule and the Forest and Fish report 60 days
30 of a legislative session prior to adoption. Unless the Board knows what the differences are now,
31 you will need to change that section as well to make an extension usable. Pat said that he was
32 proposing two date changes and removal of the 60-day section and that the Board will have to
33 make the decision whether to go for that at the next meeting. The Board agreed to that approach.

34
35 Judy Turpin said that removing that language makes sense because the legislature will have had
36 the proposal that the Board is taking out for public hearing for some time; it is not like the Board

1 is springing it on them. Dick Wallace suggested working with some of the key legislators and
2 policy folks. It might be something short of complete deletion. For example, they could submit a
3 report to the committee chairs or something that clearly indicates the Board will stay in contact
4 with the Legislature and their intent. Pat is aware that the Commissioner and several other of the
5 Board's representatives have been in contact with key legislators, committee chairs and so forth,
6 keeping them apprised of the potential need for an extension and that they are in general hoping
7 that it is not a necessity. It will probably depend upon what kind of changes come out next week.

8
9 **DESIGNATE COMMISSIONER SUTHERLAND AS SEPA OFFICIAL**

10 Pat McElroy brought to the Board's attention that at the last meeting there was a discussion
11 regarding the necessity to designate the responsible SEPA Official and at that time the discussion
12 was that Commissioner Sutherland would be so designated.

13
14 **MOTION:** Dick Wallace moved that the Board designate the Commissioner of Public
15 Lands to act as the responsible official for the purposes of complying with
16 SEPA rules.

17 **SECONDED:** Judy Turpin

18
19 **ACTION:** Motion passed unanimously

20
21 **PRELIMINARY FINAL EIS, SBEIS, CBA UPDATE**

22 Debora Brown-Munguia introduced Kim Sellers, who is the project manager for the EIS, SBEIS
23 and the Cost Benefit Analysis. Kim introduced and thanked Randy Fairbanks and Alan Olsen
24 from Foster Wheeler, which is the consulting firm that has been contracted to work with DNR on
25 the EIS for all the hours and hard work that they have put into this document.

26
27 Kim described the review process. Last August Charlene Rodgers provided the Board with a
28 summary of the comments that were raised on the draft EIS. As stated in the final preliminary EIS
29 over 1400 comments were received from 240 individual letters, e-mails and oral testimonies.
30 Each of those comments has now been addressed and the responses can be found in Appendix K
31 of the preliminary final EIS. The DNR put together an interagency team made up of the U.S. Fish
32 and Wildlife Service, National Marine Fisheries Service, Washington Department of Fish and
33 Wildlife, Washington Department of Ecology and DNR, which provided technical reviews of the
34 responses and recommendations for additional analysis. This review insured that each comment
35 received consideration. The same interagency team is currently in the process of a final review of

1 the rest of the preliminary EIS, the second time this group has reviewed the EIS. Given the results
2 of the review of Chapters 1 and 2, comments are expected to be minor, rather than substantive.

3
4 Expectations are that the final EIS will be available to send to the printer by the end of March and
5 a final printed copy out for public distribution by the end of April. Additionally DNR is planning
6 to publish the final EIS on the DNR website concurrent with public distribution. Currently the
7 Board is scheduled to approve going forward with the final EIS on February 21; Commissioner
8 Sutherland is responsible for approving the final EIS prior to sending it to the printer in March.
9 There are some changes to the document that are expected before the final document comes out,
10 such as in response to comments received from the interagency team, as well as changes to
11 Alternative 2 based on the updated proposed rule language. Alternative 2 was the preferred
12 alternative adopted by the Board, and it is based on the Forests and Fish Report. Alternative 2 will
13 need to be updated to reflect minor changes as the proposed rule evolves.

14
15 Kim then introduced Randy Fairbanks and Alan Olson of Foster Wheeler who provided the Board
16 with an update of changes in the final EIS as compared to the draft EIS. The Board had previously
17 asked that there be some additional analysis in preparation for the final EIS so Mr. Fairbanks and
18 Mr. Olson will also be discussing what additional analysis has been done.

19
20 Randy Fairbanks began his part of the presentation with a summary of the work they have done on
21 the draft. The work covered two major phases, one addressed the comments by reviewing and
22 categorizing the 240 comments and then responding to them, and the second phase was a review
23 of the EIS where we conducted a new literature review and analysis for the draft.

24
25 This is the process they followed for responding to the comments. For each letter, e-mail and
26 testimony, they identified, delineated and numbered each individual comment. Each letter ended
27 up with anywhere from 1 to 248 individual comments so that the grand total was somewhere over
28 1500 individual comments. The comments were then categorized into 1 out of 25 broad subject
29 areas. Each subject area was assigned to an appropriate team member. Then individual team
30 members went through all the comments that were assigned to that subject area and identified
31 individual issues within each subject area so there were two hundred individual issues. Next they
32 took all the comments that were related to that issue and prepared a summary comment. Finally,
33 an initial response was prepared for each comment summary, which they submitted to DNR staff
34 for review. Following this phase, Foster Wheeler began to revise the draft EIS.

1 In their draft database in which Foster Wheeler kept track of their responses, they identified
2 wherever they needed to make a revision to the EIS. They also identified a number of areas where
3 they needed to conduct a new analysis or review new literature, correct mistakes in some cases or
4 just simply clarify the document. The first step was gathering all the additional references that
5 they needed to look at and then reviewing them, conducting additional analysis and revising the
6 EIS text. That is where they are now with the preliminary final EIS.

7
8 A number of sections have been expanded. Section 3.1.3 explains their risk statements. Other
9 sections include literature reviews on sediment production, timber harvest affects on peak flows,
10 LWD and inputs to fish streams from non-fish streams, flow down affects on buffers. There was
11 an expanded description of existing condition of riparian areas including disturbance regimes.
12 One of the bigger, new analyses was conducted on the level of riparian protection using both 100-
13 year and 250-year site potential tree types. Expanded consideration was given to the affects of
14 yarding corridors and riparian roads on riparian functions. Another quantitative analysis was the
15 estimation of the proportion of lands affected by the small landowner exemption and an expanded
16 consideration of it was in the affects analysis (Appendix A).

17
18 There were expanded literature reviews on forest chemical effects on water quality, and the affects
19 on amphibians. They conducted a number of interviews of agencies, tribal and industry staff to try
20 to determine the future of watershed analysis and how it relates to Forests and Fish and the process
21 of what it would look like under Alternative 1 or Alternative 2. The results of this assessment are
22 located in several different places in the preliminary final EIS, but a good place to look is in the
23 Cumulative Affects Section. An expanded evaluation of natural fire regimes on the eastside was
24 conducted. Modifications were made primarily in response to the Office of Archaeology and
25 Historic Preservation comments regarding cultural resource affects analysis and the additions of
26 definitions that they wanted in the glossary.

27
28 Dick Wallace wanted to know if Mr. Fairbanks assumed that all landowners eligible for the 20-
29 exemption would act on that. Mr. Fairbanks said they did not necessarily assume that they would
30 all act on it. Basically in Appendix A, they are just identifying the percent of lands that would
31 qualify for that. Dick said that there is no way of knowing and it sounds like they really did look
32 at all the landowners that were eligible. Mr. Fairbanks said that one of the best sources of
33 information came from the SBEIS.

34
35 There has been a lot of time spent looking at the whole document for inconsistencies. The
36 document will be checked for citation, references, acronyms and the like.

1
2 Dick Wallace indicated that he thought the Board needs to adopt the preliminary final EIS in a
3 week. Mr. Fairbanks was asked whether they had developed an addendum; he believes that the
4 one they handed out is the revised version and they only plan on adding new comments before it
5 goes to the public. Judy Turpin asked whether the Board would be approving the preliminary final
6 on the 21 and then adopting the final in a week.

7
8 John Mankowski asks whether, based on the first version and the comments that have been
9 received, if there was a substantial change in the analysis or assessment? Randy stated that there
10 were no substantial differences but there were minor changes in maybe five or six of the risk calls.

11
12 Pat McElroy thanked Foster Wheeler for all the hard work they have done on this project. Paddy
13 O'Brien made it clear that Commissioner Sutherland will be the one adopting the final as the
14 SEPA responsible official.

15
16 Debora Brown introduced John Perez Garcia, the contractor working on the SBEIS and Dr. Bruce
17 Glass, the leading economist at DNR, who are working on the Cost Benefit Analysis.

18
19 Dr. Glass began the presentation on the Cost Benefit Analysis. Findings will also be presented on
20 information compiled in the SBEIS and the Cost Benefit Analysis for the Board to make three
21 determinations as required by RCW. These are that: there is a disproportionate impact of the
22 proposed new rules on small versus large businesses; that, provided fish populations respond by at
23 least 5% to the changed forest practices embodied in those new proposed rules as specified in
24 Alternative 2 of the EIS, the probable benefits will likely exceed probable costs for that
25 alternative; and that Alternative 2 is the least burdensome alternative of the two alternatives
26 examined. The Board was reminded that Alternatives 2 and 3 correspond to the alternatives
27 outlined in the EIS. Alternative 2 is the new proposed rule package based on the Forests and Fish
28 Report, Alternative 3 is the rule package put forth by the tribal and environmental groups.

29
30 John Mankowski asked Dr. Glass to repeat what he mentioned about a 5% adjustment in the fish
31 population. Dr. Glass explained that a conditional finding has been made which basically says
32 that if provided fish populations respond by at least 5% to changed forest practices as specified in
33 Alternative 2, then it is likely that probable benefits will exceed the probable costs for that
34 alternative.

35

1 Dick Wallace asked whether, based on that assumption, the other alternatives were also looked at
2 as to whether or not they met the benefit costs or did they just focus on Alternative 2. Dr. Glass
3 stated that they did the analysis only on Alternative 2, which was the preferred alternative. The
4 requirement is that they determine that Alternative 2 is less burdensome, less costly than
5 Alternative 3.

6
7 Dr. Glass started with the SBEIS and presented information on the legal basis for it and the
8 Regulatory Fairness Act, which requires that agencies determine whether the proposed rule will
9 have a disproportionate impact on small businesses. To do this, the cost of compliance for small
10 businesses is compared with the cost of compliance for the 10% of businesses that are the largest
11 businesses required to comply with the proposed rules. There are also one or two allowances that
12 must be made which are specified in the Salmon Recovery Act, including an estimate provided on
13 the average impact on small businesses in eastern and western Washington as required in Section
14 504, which is essentially a break point for change in compensation to small landowners. They
15 also have to take into account a small tax credit to small landowners and others, with an allowance
16 made for small landowners based on their parcel ownership configuration.

17
18 John Perez Garcia gave a multi-media presentation of a set of tables that outline how
19 determinations were made between small and large businesses of the affect of Alternative 2 on
20 timber asset values. Since the last presentation, they have calculated costs associated with road
21 maintenance and abandonment plans, stream crossings, setup costs for small and large businesses.
22 Costs in Western Washington, a total cost for foregone sales in riparian zones is \$17.6 million for
23 large businesses v. \$7.6 million for small businesses, with a ratio of 25.6% for small businesses v.
24 18.5%. For Eastern Washington the costs for large is \$1 million and for small it is \$1.2 million
25 dollars, with a ratio of 22% for large and 31% for small. The biggest difference between east and
26 west is the contribution for road maintenance and abandonment plans will have for all businesses.
27 It is larger than the riparian values.

28
29 He then stated that for secondary impacts, the lack of timber would have a greater impact on
30 smaller versus larger mills. The small businesses also have more hardwood vegetation than large.

31
32 He also included a mitigation section. Dick Wallace observed that according to the table it looked
33 like there could be disproportionate impact yet, through the mitigation, the conclusion is that there
34 is not a disproportionate impact. Both Dick and Judy Turpin wanted to know how much it
35 mitigated. Dr. Garcia responded that the effect of the 80-acre exemption rule is applied, while the
36 effect of the easement is not included in the table. The question before the Board is whether the

1 disproportionate impact is mitigated by the 50% compensation for participating in the easement
2 program. Dr. Garcia does not think the data is there to measure that effectiveness. Dick's
3 understanding of the statute is that it is not necessarily a requirement to mitigate to such a point
4 where you completely eliminate.

5
6 Lloyd Anderson is concerned about the timeline; he would like to know when the Board needs to
7 resolve this. Pat McElroy explained that the Board does not have to resolve it, as he understands
8 it, the issue is to do a finding that there is a disproportionate impact but that in the Cost Benefit
9 Analysis the benefit to society outweighs the cost. Pat said that he is not sure that more analysis is
10 required information for the Board to make its decision regarding the impact and its relationship to
11 the benefits side. Dr. Glass said that there is a section in the SBEIS that does specifically provide
12 some estimates of the value of the various mitigations involved. Dr. Glass explained what the
13 Board is required to do is determine that the probable benefits of the rule are greater than its
14 probable costs, taking into account both qualitative and quantitative benefits and costs in relation
15 to the objective of the applicable statutes. Second, the legislative requirement revolves around
16 determining that the rule is the least burdensome alternative.

17
18 Dr. Garcia then went on to the Cost Benefit Analysis. There are a lot of benefits associated with
19 Alternative 2. Some of them can be quantified and some cannot: improved fisheries resources,
20 improved habitat for upland wildlife, improved carbon sequestration, improved water quality,
21 reduced threat to public safety from unstable land forms, employment benefits from implementing
22 road maintenance plan. Likewise for the costs, there are some costs that can be measured and
23 some that cannot: lost revenues due to timber asset retirement, net costs associated with road
24 planning and maintenance, set-up costs to delineate riparian management, net income losses due to
25 employment, costs set aside for unstable slopes, costs associated with forested wetland rules, costs
26 associated with pesticide restrictions, and social and economic dislocation costs and well as lost
27 recreation and fire control access.

28
29 In order to determine quantifiable benefits, a study done by Layton, Brown and Plummer that
30 looked at the value of the fisheries resources as the measure of fishery resource value for the
31 residents in the state of Washington and constructed an incremental value chart. Dr. Garcia
32 responded to Board questions that the chart included commercial sport fishing and travel fishing,
33 that it was a non-passive value as well as commercial value of fisheries in the state of Washington
34 and that it included recreational as well as tribal and non-tribal commercial fishing.

1 Dr. Garcia said that the study presented two alternatives and they are a high status quo alternative
2 and a low status quo alternative.

3
4 Dave Somers asked why the first 5% increment was worth a lot more than the second 5%
5 increment, and since it is worth more if the state has a declining resource rather than a stable.
6 John Perez said that he takes the marginal increment.

7
8 Pat McElroy said that the second part of the question was if you are able to build a 5% increase in
9 a declining population it has more value than a 5% increase in a stable population because you are
10 building it back up. Dr. Garcia said that was the difference in values between the low status and
11 the high status. Dick Wallace said under low status, if you actually wanted to know what the
12 benefit of 10% was, you would add the 10.5 plus 4.2 so the total would be 15. Dr. Garcia said that
13 yes that was almost correct, it is not actually adding up in this case because of the way they have
14 constructed their total benefit curve.

15
16 Dr. Garcia then discussed quantified costs. A table was produced from the SBEIS but it is blown-
17 up to statewide numbers. For Alternative 2 on the Westside there is a \$2.6 billion loss timber
18 asset value and in eastern Washington it is \$93 million. The chart is broken down into water
19 types. The largest component of the costs is for buffers around the shoreline and fresh water and
20 fish bearing waters and these buffers contain the largest percentage of hardwood resources.
21 Without managing these hardwood resources the beneficial effects of the buffers has been brought
22 out in studies that are questionable but Dr. Garcia has not adjusted any of the numbers to reflect
23 that.

24
25 John Mankowski asked and Dr. Garcia responded that these were total costs statewide and across
26 the period of an assumed rotation length. Dr. Garcia said that the basic data was derived from the
27 same sample.

28
29 The zeros in the table for the seasonal non-fish bearing streams are assumptions that there are no
30 costs associated with equipment limitation when working in those areas. There is also a wage bill
31 that has the lost tax revenue for the state in it. The wage costs under Alternative 2 are based on
32 assumptions using a study done in 1992 by Richard Conway for the reduction of federal harvest
33 and what that did to the Washington state economy. Dr. Garcia assumes those multipliers are still
34 in effect today and calculated what the reduced harvest from riparian management zones would do
35 to the state economy on an annual basis, which is about \$881 million in today's dollars.

36

1 Dr. Garcia stated lost economic activity is being measured as lost wages. It is a net figure so it
2 includes the transfer of labor to other sectors. Lloyd Anderson asked what percentage of gross
3 state timber product is the loss factor. John said he did not have that information off the top of his
4 head.

5
6 There is a substantial decline in fishery resource value from the first 5% increment to the second
7 5% increment. The break-even point for benefit equating costs is likely to be associated with the
8 first 5% increment in fish population. Any larger increment in fish population would result in
9 greater benefit; any smaller increase in fish population would reduce the probable benefits to
10 below probable costs. Also should the new rule changes affect fish populations other than the first
11 5%, the benefits are also likely to fall below the cost associated with Alternative 2.

12
13 Dave Somers wanted John to explain the willingness to pay. John responded by saying that if
14 each person paid their price that is the willingness to pay.

15
16 The last part of the study is the least burdensome alternative, for which Dr. Garcia focused on
17 costs. It was not a charge for this study to look at the benefits associated with Alternative 3, but
18 there would be the same sort of issues. The costs associated with Alternative 3 are shown and
19 again the timber asset values. These are net, in addition to what Alternative 2 produces. They are
20 \$5.3 billion in western Washington and almost \$400 million in eastern Washington. A large
21 portion of that added cost is what is being done to the seasonal non-fish bearing streams. In
22 Western Washington, it accounts for another \$1.1 billion, whereas in eastern Washington it is
23 close to \$50 million. Under Alternative 2, the assumption is that there is no cost associated with
24 equipment limitation zones. There are road maintenance costs. Instead of taking out the road
25 plans to a 15-year time horizon it is taken out to a 10-year time horizon.

26
27 The biggest study limitation is that there is no data that directly links environmental effects, which
28 are what is being measured, as the output of the changes in rules, with a change in fish population.
29 Only assumptions can be made about what is currently happening. Other benefits studies that
30 have attempted to value the fish resources really do not provide any reduction in uncertainty of
31 linking fish resources with habitat, riparian management zone changes.

32
33 John Mankowski states the WDFW would agree that there is no data linking environmental effects
34 to fish populations but there is technology being developed called Ecosystem Diagnostics (EDT),
35 as a means to test whether or not certain restoration projects are more effective than others. It
36 requires a tremendous amount of money and a couple of years before you get answers. So while

1 the analysis is difficult to understand and assimilate, the Cost Benefit Analysis is required and
2 there is no other way to do this with current technology. Pat McElroy stated that, while there is no
3 direct link data, the Board has to work on the best information that they have available at this time.
4 The whole process of adaptive management is designed to factor in new information as it becomes
5 available.

6
7 Judy Turpin wanted to let Dr. Glass and Dr. Garcia know that she appreciates all the work that
8 they have done and that she does not expect them to do anymore. The Board needs to make their
9 own assessment. Dick Wallace agreed with Judy's statement that this is excellent work and it
10 provides the Board the basis to make the kind of judgments that Judy talked about. He stated that
11 5% is a very reasonable assumption.

12

13 **AGENDA FOR FEBRUARY 21 MEETING**

14 Debora Brown-Munguia discussed the draft agenda for the next meeting. The Board accepted the
15 agenda as proposed and added a discussion on the EIS.

16

17 **CLOSING REMARKS**

18 No executive session was needed. The meeting adjourned at 2:45 p.m. A special Board meeting
19 is scheduled for February 21, 2001 beginning at 9:00 a.m.