

1 **FOREST PRACTICES BOARD**
2 February 16, 2005
3 Natural Resource Building, Room 172
4 Olympia, Washington
5

6 **Members Present:**

7 Pat McElroy, Designee for Commissioner Sutherland, Chair of the Board
8 Alan Soicher, General Public Member
9 David Hagiwara, General Public Member
10 Doug Stinson, General Public Member/Small Forest Landowner
11 Eric Johnson, Lewis County Commissioner
12 John Mankowski, Designee for Director, Department of Fish and Wildlife
13 Lee Faulconer, Designee for Director, Department of Agriculture
14 Sherry Fox, General Public Member/Independent Logging Contractor
15 Sue Mauermann, Designee for Director, Community, Trade and Economic Development
16 Toby Murray, General Public Member
17 Tom Laurie, Designee for Director, Department of Ecology
18

19 **Absent:**

20 Bob Kelly, General Public Member
21

22 **Staff:**

23 Jed Herman, Forest Practices Assistant Division Manager
24 Karrie Brandt, Board Coordinator
25 Lenny Young, Forest Practices Division Manager
26 Paddy O'Brien, Assistant Attorney General
27 Patricia Anderson, Rules Coordinator
28

29 **CALL TO ORDER**

30 Pat McElroy called the meeting to order at 9:00 a.m. Introductions were made of the board, staff,
31 and attendees. Karrie Brandt gave an emergency safety briefing.
32

33 **LEGISLATIVE UPDATE**

34 Lenny Young updated the Board on the status of current forest practice legislation. He said there
35 were 18 bills currently being tracked that could potentially have an affect on the Board or the Forest
36 Practices program. Two of the bills are specific to forest practices. One is House Bill (HB) 1404 and
37 its companion, Senate Bill (SB) 5376, that would replace the process whereby local governments
38 assume regulatory authority over forest practices in developing urban areas and specifies which
39 counties and cites must assume the responsibility. No rulemaking is necessary and there is no fiscal
40 impact. The Department of Natural Resources (DNR) supports this bill.
41

42 Alan Soicher asked if DNR would still administer the Class IV General conversions or would the

1 responsibility fall onto local governments. Young replied that local governments would be
2 responsible but that DNR would be available to provide technical assistance during the
3 implementation. Eric Johnson added that the bill would eliminate redundant processes between the
4 state and county government. It folds the forest practices requirements back into the counties'
5 critical area ordinances for land development purposes.

6
7 David Hagiwara asked which counties are affected. Young stated that any county with more than 25
8 Class IV General forest practices applications filed with DNR between January 1, 2000, and
9 December 31, 2002. Also, the deadline for the transfer of regulatory jurisdiction is extended to
10 December 31, 2007. It then becomes optional for the other counties. Johnson added that this affects
11 primarily the western Washington counties.

12
13 Young then reported on SB 5761, which has to do with forest practices as they affect family forest
14 landowners. The bill sharpens the focus of existing programs on family foresters rather than on
15 entities such as public utilities, and requires biennial progress reports back to Legislature. There is
16 also direction to the Board to implement multi-year permits for long-term management plans. The
17 bill will require rule changes to title 222 and there is a heavy fiscal impact. DNR supports this bill.

18
19 Soicher asked if SB 5761 addressed the 20-acre exemption rule. Young said that it did not.

20
21 Tom Laurie wanted to know if a fiscal note was completed for the bill. Young explained that the
22 fiscal note included \$250,000 for an Environmental Impact Statement (EIS) and economic analysis
23 and establishes seven new positions for rulemaking development and implementation.

24
25 There are five other bills on natural resource issues currently being tracked by DNR. Young said
26 that SB 5345 would create a new "Timber Land Revitalization Board" to administer grants in
27 maintaining and revitalizing forestland. SB 5405 establishes the "Future of Washington Forests
28 Review Council" and while it is not the council's main objective, there is a potential for the council
29 to provide policy recommendations to the Board. SB 5446 deals with licensing soil scientists and is
30 supported by DNR. SB 5610 is on salmon recovery and watershed health and would require DNR to
31 coordinate more with salmon recovery efforts but would not require rulemaking. Last, SB 5818
32 would transfer the DNR law enforcement program to the Washington State Department of Fish and
33 Wildlife (WDFW). The bill would not transfer forest practices enforcement, so DNR supports the

1 bill. Young then shared a list of general government bills that DNR is also tracking.

2
3 Laurie asked about the forest health bill. McElroy said the bill extends the existence of the Forest
4 Strategy Work Group through 2006 and states that the Group must hold at least five hearings on its
5 proposed report, which is now out of the Senate Committee for Natural Resources.

6
7 **ADAPTIVE MANAGEMENT**

8 Geoff McNaughton, DNR, submitted a written program update report. His report stated that
9 Cooperative Monitoring, Evaluation and Research Committee (CMER) is in the process of
10 preparing their 2006 work plan and budget and anticipates presenting it to the Board at its May
11 2005 meeting. Reports for both the Perennial Initiation Point (PIP) and Desired Future Condition
12 (DFC) studies are scheduled to be presented to Forests and Fish Policy on February 3, 2005. His
13 report also commented that he has begun to coordinate with the Governor's Monitoring Forum to
14 investigate possible cooperative opportunities with the Salmon Recovery Funding Board.

15
16 Alan Soicher wanted to know if the PIP and DFC studies were presented to Forests and Fish Policy
17 as stated in McNuaghton's report. Lenny Young said that the studies had not gone to Forests and
18 Fish Policy but will be submitted in March. Soicher voiced his concerns with the adaptive
19 management process taking three years to bring these projects forward, and would like the Board to
20 discuss this issue further.

21
22 **FORESTS AND FISH POLICY RECOMMENDATION ON CMZ**

23 Lenny Young's report reminded the Board that in November 2004 the Board remanded three
24 unresolved issues raised during development of the revised CMZ portion of Board Manual Section
25 2 to Forests and Fish Policy for recommendations. In the report he states that Policy is just now
26 taking up this assignment due to the heavy workloads of many participants and their staff, and that
27 the recommendations will be forth coming as soon as possible.

28
29 Alan Soicher said it was his understanding that the Board invited Forests and Fish Policy to give its
30 opinions on the outstanding CMZ issues. Since they did not act on that opportunity as requested,
31 Soicher wanted to know if the Board could continue with the discussion or did they need to wait for
32 the recommendations.

33

1 Pat McElroy stated that there is a relatively small group of individuals who work on policy issues
2 for the Board, and their workload is heavy and time consuming. The Board directed them to look at
3 the CMZ issues and report back at this meeting without considering the workload impact, and
4 unfortunately the deadline was missed.

5
6 McElroy then asked Young to have the CMZ discussions with Forests and Fish Policy and to
7 attempt to report the recommendations at the May Board meeting.

8

9 **EASTERN WASHINGTON TYPE 4 WATER**

10 Charlie McKinney, DNR, submitted an update on the implementation problems associated with the
11 current Type 4 Waters definition in eastern Washington. The update stated that a major complaint
12 of landowners is that there is a disconnect in the rule requirements between the Type 4
13 characteristics and the values and functions to be protected. At the same time, there is general
14 recognition that many non-fish habitat streams have important functions that need to be protected.
15 The document also provided and described examples of ambiguous terminology such as *the*
16 *uppermost point of perennial flow*, the criteria for *flow* and *for the intermittent dry portions* of a
17 *perennial channel*, what determines *a year of normal rainfall*, and the criteria for a *defined channel*.

18

19 McKinney's report outlined the situational difficulties with the definition. It stated that in order to
20 determine if an uppermost point of flow is truly perennial, it must be observed at the driest time of
21 the year, which places narrow constraints on when streams need to be inspected and applications
22 can be processed. Also, manmade influences, particularly spring developments, can complicate
23 Type 4 determinations. It is not uncommon to find springs in a channel that have been developed at
24 some time in the past and the water diverted. The water may flow out of those structures and back
25 into the channel for some distance, so it is impossible to know if perennial surface water existed
26 prior to the development of the spring.

27

28 Alan Soicher said that if the Board needs to do more than modify ambiguous terminology to clarify
29 the intent of the rule, such as changing the protection measures or the resources to be protected, then
30 the Board would need to remand this discussion to adaptive management.

31

32 John Mankowski explained that the problem is not just with ambiguous terms but that it is a
33 fundamental question about whether or not the rules fit the resource protection objectives of Forests

1 and Fish. He agreed with Soicher and said that this would be a question for adaptive management.

2

3 Pat McElroy thanked McKinney for helping the Board understand the field implementation
4 difficulties.

5

6 **CULTURAL RESOURCES RULEMAKING**

7 Gretchen Robinson, DNR, reported on the rules for Cultural Resources Management. She said that
8 after careful consideration of the public comments received, department staff and the Timber, Fish
9 and Wildlife (TFW) Cultural Resources Committee recommend delaying Board action on the rule
10 proposal until the May 11, 2005, Board meeting. The Committee will use the time to determine
11 whether the rule proposal should be amended because of the comments received.

12

13 Eric Johnson commented that three Tribes had expressed concerns with the proposal and he wanted
14 to know if Tribes were represented in the Committee. Jed Herman said there has been regular
15 participation from Dawn Pucci, Suquamish Tribe, and Jeffrey Thomas, Puyallup Tribe, and that the
16 Yakama Nation has had some representation in the Committee. The Committee wants to do some
17 additional outreach with the specific commenters.

18

19 Johnson also mentioned that two of those Tribes commented that the government-to-government
20 communications on cultural resources is not adequate. He wanted to know if that was in regards to
21 rule making or the watershed analysis process and the implementation of the rule. Herman replied
22 that DNR staff had not yet had the opportunity to connect with those Tribes regarding their
23 comments.

24

25 **BOARD MANUAL UPDATE**

26 Marc Engel, DNR, reported that Board Manual Section 22, Guidelines for the Adaptive
27 Management Program is still under development due to high priority policy issues in the
28 stakeholder development process and would be brought before the Board for approval at a
29 subsequent meeting.

30

31 Alan Soicher made the comment that Section 22 was suppose to have already come to the Board for
32 approval and was concerned with the continuing delays.

33

1 Engel reminded the Board that all the stakeholders involved in this process are also involved in all
2 the other adaptive management issues. They have, however, put together a timeline in order to
3 complete the preparation of the Section 22.

4

5 Pat McElroy asked Engel to also develop a schedule to ensure that the Board members receive the
6 new Board Manual in a timely way. This is going to be a big deal for the Board so they will need
7 ample time to review it.

8

9 **PUBLIC COMMENT**

10 Stephen Bernath, Department of Ecology (DOE), said DOE supports the permanent rule making
11 process for Road Maintenance and Abandonment Plans (RMAP), but has remaining concerns
12 regarding the definitions of road maintenance and road construction and the change to the Class III
13 definition for road construction in Washington Administrative Code (WAC) 222-16-050. The
14 proposed changes further confuse the issue. The definitions of road construction and road
15 maintenance were discussed in the Forests and Fish Roads Committee and were not recommended
16 to be included in the Forests and Fish rules. The working definitions agreed to at the time are as
17 follows:

18

- 19 • **Road maintenance** is the simple maintenance required to maintain an existing road as under
20 a Class I forest practice, such as grading, cleaning ditches, replacement of cross drains, etc.
- 21 • **Road construction or reconstruction** is when a new road is constructed (more than 600
22 feet) or an existing road needs more than normal maintenance such as widening of the road
23 prism or relocating the road, replacement of a stream crossing, or road abandonment. These
24 are to be considered Class III forest practices with two exceptions: spurs up to 600 feet that
25 do not involve water crossings, which are considered Class II and road
26 construction/reconstruction involving a disturbance near or on an unstable slope, which is
27 considered a Class IV Special.

28

29 DOE supports replacing the water typing base map with the new modeled/data map along with
30 changing the water typing system from numeric to alphanumeric. DOE also supports the proposed
31 rule clarifications package submitted by DNR. In regards to the CMER Pilot/Feasibility Study,
32 DOE recommends that the Board allow CMER to identify and utilize new sites as needed for the
33 bull trout shade study (up to the 40 required) without having to resubmit them to the Board for

1 approval but still maintain that sites be checked against DOE's 303d listed waters list to ensure
2 additional protective overlay treatments are used when needed.

3
4 Eric Harlow, Washington Forest Law Center (WFLC), commented that the situation for the spotted
5 owl is more urgent than ever. A federal study that reviewed population data across Washington,
6 Oregon, and California showed that spotted owl populations in Washington have been declining at
7 an average annual rate of 7.5% over the past 12-15 years with some populations plunging 50-60%.
8 He stated that this rate of decline is much higher than anticipated under the Northwest Forest Plan.
9 The study also indicates that the major threats to the spotted owl at this time include the effects of
10 past and current harvesting, loss of habitat, and barred owls.

11
12 WDFW is scheduled to release a study within the next month that addresses how much habitat has
13 been affected by logging on state and private lands. WDFW has also updated the draft owl briefing
14 report that was previously presented to the Board. The latest draft includes new sections that
15 describe how the 1996 owl rule was developed, how the rule departed from the scientific advisory
16 group recommendations, and how the accompanying EIS showed that the regulations were unlikely
17 to protect the owl adequately. Harlow concluded that the time has come for the Board to amend the
18 rules to comply with state and federal laws, as well as give the owl a fighting chance.

19
20 Ken Miller, Washington Farm Forestry Association (WFFA), reaffirmed to the Board that WFFA
21 supports water typing option 3 as presented at the February 2, water typing workshop and likes the
22 simpler proposed alphanumeric system. They also believe that the new maps are better at showing
23 stream channel locations and believes that the new system has the potential to become much more
24 accurate over time. However, WFFA continues to be concerned about the potential for regulatory
25 creep further up stream channels. He commented that stream buffers remain the largest impediment
26 to the economic viability for small landowners.

27
28 Miller continued saying that small forest landowners own over half the private forestland in
29 Washington, and they do not and cannot understand all the nuances of determining end of fish
30 habitat (EOFH). He said small forest landowners need technical assistance by people who
31 understand their issues. Thousands of forest landowners should not be forced through a water type
32 change system that is beyond their resources. It is not prudent or practical for the state, or small
33 forest landowners to move toward a one size fits all EOFH criteria. The complexity and theoretical

1 aspects of water typing, combined with thousands of nonprofessional owners, creates a situation for
2 policy decisions that offer reasonableness in protection and rules that are understandable by
3 thousands of folks expected to follow them.

4
5 Peter Heide, Washington Forest Protection Association (WFPA), provided a brief history of the
6 Forests and Fish negotiations on water typing and stated that the fish habitat model is complete. A
7 pilot field study to explore approaches to independently measure model performance has been
8 drafted, and a study for a full independent assessment of model performance is nearly ready for
9 contracting. He said the model is the best, unbiased scientific approach to identifying the upper
10 extent of likely fish habitat. However, the model does not perform up to the 95% standard indicated
11 in the rule and the perception among field practitioners is that the model does not work well at all.

12
13 The permanent rule allows for the maps to be adjusted. If the opportunities for correction were
14 implemented as intended in Forests and Fish, much of the fear of being “locked into the maps”
15 would dissipate. CMER’s work in developing the model has led to a better understanding of the
16 technical limitations of estimating fish habitat with this approach. Both Forests and Fish Policy and
17 the Board should look at what has been learned and consider adapting the rules to fit current
18 knowledge.

19
20 WFPA supports the recommendation to delay action on moving to the permanent water typing
21 definition under WAC 222-16-030 along with revisions to Board Manual Section 13. They also
22 agree with the decision to move from a numerical typing system to an alphanumeric one. Heide
23 urged DNR and Forests and Fish stakeholders to continue to work on a manageable, accurate, and
24 balanced interim solution to reduce dependence on electroshocking surveys so that the Forests and
25 Fish goal of regulatory water type maps is reached.

26
27 John Mankowski wanted to know how a landscape level of accuracy would work when classifying
28 waters for fish or non-fish bearing. Heide responded that the current system really focuses on
29 finding the point where the waters change from fish habitat to non-fish habitat. He thought that the
30 model was going to estimate where fish habitat was across the state, do it in a statistical way, maps
31 would be drawn up, and that would be the answer along with a system to change that point if
32 physical evidence suggested otherwise. The idea was that the map would identify habitat across the
33 state and not habitat for each individual stream.

1
2 Allen Pleus, Northwest Indian Fisheries Commission (NWIFC), commented on the eastern
3 Washington Type 4 water staff report. He expressed the Tribes' disappointment in the report stating
4 that it provided a limited viewpoint. The Tribes have been participating in the eastside TFW
5 meetings on the issue and have been providing information to landowners, stakeholders, and DNR
6 personnel on what resources are in need of protection, but their information has not come forward to
7 the Board. Pleus stated that the Colville tribe has been offering to take these issues to CMER for
8 discussion. The Tribes have been willing to work with landowners to develop alternate plans and
9 they believe that some of the answers can and may be answered by some of the current PIP studies.

10
11 Chris Mendoza, Conservation Caucus, provided comments on the water typing model. He stated
12 that until the pending performance validation studies are completed, no one really knows how the
13 model will work. Currently, the model performs inconsistently, especially in highly variable areas,
14 and while the new virtual stream layer does a better job depicting the channel network it has a
15 tendency to overdo and identify streams where none exist. Also, the Conservation Caucus agrees
16 with WDFW and their concerns with having adequate personnel to handle the regulatory load of
17 implementing a water type mapping system. Mendoza continued saying that the small forest
18 landowners share a disproportionate burden of the new regulations and hopes that the Small Forest
19 Landowner Office could address their economic issues with funding and support. In closing, he said
20 that electroshocking is a very effective tool to use as a starting point to determine EOFH and to
21 address the concerns of using electroshocking is to adjust the methods in which it is conducted.
22 Finally, the Conservation Caucus supports the "hybrid option" DNR is proposing.

23
24 Kendra Smith, Skagit County Administration, thanked the Board for listening to the County's
25 concerns last November regarding the water typing model and how inaccurately it functions for
26 their region. She stated that Skagit County supports the "hybrid option" proposal but wants to make
27 sure that the electroshocking protocol is not eliminated until a time when more accuracy with the
28 model is obtained.

29
30 Joseph Pavel, NWIFC, supports Pleus's comments on the eastside Type 4 issues. He stated that the
31 Tribes are willing to work with the alternate plan approach but if it becomes necessary to go down a
32 different path the Adaptive Management program should be involved. Pavel went on to say that the
33 Tribes see a need for improvement in the hydrographic (hydro) layer for water typing and have

1 identified alternate sources of information through the Tribal Department of Fish and Wildlife
2 Salmon and Steelhead Habitat Inventory and Assessment Program, which mapped streams and
3 identified fish presence.

4
5 Pat McElroy asked if the Tribal stream mapping was a completed project and in a compatible digital
6 format with DNR's system. Pavel did not know and encouraged the Board to work with the Tribes
7 to look into that.

8
9 Pavel continued his comments saying that the 15-year schedule to repair fish blockages should be
10 maintained through the emergency rule. Forests and Fish Policy proposed a solution to small forest
11 landowner's concerns with RMAPs that adhered to the 15-year timeline, but through the actions of
12 the legislature and rule writing, there is fear that the timeline will not be maintained. In closing,
13 Pavel stated that he and Marc Engel would be meeting to develop a closing timeline for Board
14 Manual Section 22, Adaptive Management Program.

15
16 Maurice Williamson, forest landowner, supports the Forest Health Strategy Work Group (FHSWG)
17 and their strategic plan. During the last year while the plan was being devised, some of the forest
18 practices rules were identified as challenges to future implementation provisions of the forest health
19 plan. While some are minor, others are more substantial and involve science, policy, and
20 interpretation of language. Williamson said the agencies will need direction from the Board,
21 particularly with regard to short or intermediate term risk versus long term sustainability to have
22 meaningful results in allowing flexibility in riparian management zone (RMZ). He also expressed
23 concern with relying exclusively on CMER to come up with answers to the science questions
24 because they tend to be inefficient in regards to time.

25
26 **WATER TYPING**

27 Gary Graves, DNR, asked the Board to take "no action" on implementing a new water typing
28 system at this time, with the understanding that the DNR will put in place the "hybrid option" as
29 outlined at the February 2 Board workshop. He reported that on March 1, 2005, DNR will start to
30 administratively update the water base and activity maps and incorporate the new symbology of S,
31 F, and N water types. In addition, DNR will provide guidance on how to implement the S, F, and N
32 system. A validation study needs to be completed by CMER. Graves also reported that the "hybrid
33 option" moves the program toward identifying and protecting fish habitat. Over the next several

1 months fish habitat criteria will be established, habitat features will be identified, Board Manual
2 Section 13 will be revised, and training will be developed.

3

4 Pat McElroy asked Graves to explain the guidance that will be provided on how to implement the
5 new system. Graves said there would be a field work product to aid foresters or the landowners on
6 how to interpret the map and work with it on the ground.

7

8 Doug Stinson was curious to know how to deal with streams that are inaccurately put on the map.
9 Graves provided two methods for existing streams: either use the existing WAC 222-16-031 rule to
10 adjust the EOFH point through physical criteria or do a protocol survey. For non-existing streams or
11 for streams that exist but do not show up on the map, a landowner can request an addition or
12 removal to the system by submitting a hydro modification form.

13

14 McElroy stated that landowners are required to identify new streams on their forest practice
15 applications (FPA), and DNR has acknowledged that there is no transfer of that data onto the hydro
16 layer. McElroy wanted to know the method to get those streams identified in the system. Graves
17 said through the hydro modification form. If a landowner is doing a FPA they will need to submit
18 the modification form with it to adjust the hydro layer data.

19

20 Lee Faulconer asked if a landowner would be penalized for using the EOFH point identified on the
21 map. Graves said not if that point met the 2-foot, 20% gradient stream requirements from
22 WAC 222-16-031.

23

24 David Hagiwara pointed out that the “hybrid option” included an evaluation over a one to two year
25 period plus a CMER validation study. He asked Graves if the study period was feasible and if this
26 year’s unusual rainfall would impact the study. Graves responded that the one to two year period
27 will give DNR enough information to decide where to go next with the model or rule to modify it to
28 get to a more desirable point. He also stated that the amount of rainfall could influence the study
29 results and would need to be taken into consideration.

30

31 John Mankowski asked if the CMER validation study was on track. Graves replied yes.

32

1 *McElroy asked each Board member to comment on the proposal.*

2 **Lee Faulconer** Faulconer stated that he was comfortable with the “hybrid option”.

3 **Alan Soicher** Soicher said he was mostly comfortable with the “hybrid option” but that
4 practitioners will need to be informed that EOFH points on the map are non-
5 regulatory and that emergency rule criteria still apply. There has been a lot of
6 unnecessary anxiety due to artificial timelines, which continues to concern
7 him since now the stakeholders are being asked to continue working over the
8 next several months to develop yet another set of fish habitat criteria.

9 **Sherry Fox** Fox commented that there could be problems with the EOFH points versus
10 the 2-foot, 20% gradient requirement. However, her biggest concern is the
11 hydro modification form and how it will interfere with the 30-day compliance
12 for a FPA. She would like to see a process with a timeline developed for
13 small forest landowners in regard to completing a FPA, including the hydro
14 modification form.

15 **Sue Mauermann** Mauermann said it is going to be necessary to develop a very clear process to
16 help people understand what they need to do in order to comply. It will also
17 be a significant workload to do the education and training before even
18 starting on the issues of what constitutes fish habitat and how to move from
19 the current interim rule to a permanent one.

20 **David Hagiwara** Hagiwara echoed Fox’s comments and noted that the “hybrid option” will
21 give the Board time to review all the issues again. Hopefully in a year or two
22 there will be a better understanding of what the model can do. He expressed
23 his appreciation for the efforts DNR made in educating the Board, listening to
24 the comments and input from stakeholders, and presenting the Board with
25 alternative options.

26 **Tom Laurie** Laurie believes the “hybrid option” is the right choice to move the Board
27 forward but he is still concerned about the next steps. Grave outlined
28 establishing fish habitat criteria and identifying habitat features but he did not
29 determine when or how. Laurie feels the Board could benefit from an
30 oversight group to help sort out the issues as things move forward.

31 **John Mankowski** Mankowski feels the Board is conducting the water typing process correctly.
32 The Board has been responsive to comments and slowed down to really look
33 at what it was trying to do. The progress has really narrowed down what used

1 to have a terrible error rate to a smaller error rate. He believes the “hybrid
2 option” is a good choice and is comfortable in where the Board is going from
3 a broad policy perspective.

4 **Eric Johnson** Johnson said he feels good moving forward with the “hybrid option”, and that
5 the real contentious issues are the details of establishing fish habitat criteria,
6 identifying habitat features, and completing Board Manual Section 13.

7 **Toby Murray** Murray concurs but stated that the landscape is more variable then the model
8 can predict. The model is supposed to be balanced. However, it appears to
9 error more often in over predicting EOFH than in a balanced over and under
10 prediction. It is likely that the same thing will occur when trying to establish
11 habitat criteria and features.

12 **Doug Stinson** Stinson appreciated the time spent on the water typing issue. It is critical and
13 needs to be well understood. He is concerned that it keeps getting harder for
14 small landowners to stay in business and asked the Board to make water
15 typing workable for them and not another reason to stop growing trees.

16 **Pat McElroy** McElroy said the Forests and Fish negotiators imagined a science-based
17 process and agreed at the outset never to walk thousands of miles of streams
18 to find the EOFH points. However, the idea of doing so, at least for the last
19 few feet, keeps coming up. He reminded the Board that there is not enough
20 money to physically do that, and gave his support for the “hybrid option”
21 DNR is recommending.

22

23 McElroy reminded the Board that by taking “no action” they are implying approval for DNR to
24 move forward and implement the “hybrid option” as described at the February 2, 2005, Board
25 workshop. The Board agreed to take “no action”.

26

27 Lenny Young clarified that no FPA would ever be held up for a modification form.

28

29 Hagiwara asked if the Board could add regular updates and progress reports on water typing to its
30 work plan. McElroy asserted that more appropriately he wants to see a work plan schedule
31 developed to keep the Board informed of the work staying on schedule.

32

33 Soicher said the rule, WAC 222-16-030, calls for field verified validation, and so far, a validation

1 study has not been done. He thinks the Board needs to deal with what scale does 95% need to apply
2 because he doesn't feel that the goal of 95% has been clearly articulated.

3

4 **UPLAND WILDLIFE PLANNING**

5 John Mankowski provided the Board with a verbal update on the Northern spotted owl workshop
6 and wildlife work plan. The workshop is being rescheduled for a later date so the Board can receive
7 information on demographics and on the research gathered for the federal spotted owl status review,
8 which supports the continued threatened status for the owl. WDFW also wanted to wait until the
9 federal habitat monitoring project is released to discuss a segment that looks at how habitat has
10 grown or been lost in Washington State.

11

12 WDFW is still organizing background information on the spotted owl rule and continues to conduct
13 technical and policy level stakeholder involvement. The policy stakeholders have provided their
14 thoughts on the strengths and weaknesses of the rule, and another draft of the spotted owl technical
15 report was released for stakeholder comment. Policy negotiations have slowed down because of that
16 but WDFW is working to rebuild the momentum and provide the Board with a set of policy
17 recommendations on the rule.

18

19 Eric Johnson commented that many of the elements on the wildlife work plan are getting behind
20 schedule and asked WDFW to provide an update on the overall progress of their work plan at the
21 next meeting. Mankowski responded that WDFW has found the work plan's structure and sequence
22 of events challenging. He believes the Board needs to take another look at the strategy and figure
23 out if there is a more efficient and collaborative way to address the wildlife issues.

24

25 Alan Soicher asked why the spotted owl technical report that was first released in February 2004
26 was still not complete. Mankowski stated that ultimately their energies and resources were shifted to
27 work on a policy recommendation for the Board regarding the effectiveness of the rules. But
28 WDFW also chose to redistribute the report due to the many substantive comments received from
29 stakeholders, a method that has cost more energy than a more collaborative process like TFW.

30

31 Pat McElroy suggested inviting the stakeholders and or potential collaborators to come to the
32 Board, comment on the current wildlife process, and give the Board guidance on what they believe
33 to be the most efficient way to work through the wildlife issues.

34

1 Sherry Fox stated that the discussions on small forest landowner incentives for wildlife protections
2 were set-aside since making spotted owl the priority, and urged Mankowski to refocus on this issue
3 between now and September as it will be a topic of discussion at this year’s Board retreat.

4
5 Soicher expressed his frustration with the lack of results from the current spotted owl status review
6 process and is anxious for the Board to take action on a product. He is interested in a process that
7 would cut deliberations after a determined timeframe with or without consensus to have those issues
8 brought directly to the Board for decisive action.

9

10 **RMAP RULMAKING**

11 Jed Herman presented a draft rule proposal to implement Second Substitute House Bill 1095, and
12 asked for the Board’s approval to distribute a 30-day notice for review to WDFW, counties, and
13 Tribes. The proposal changes the following rules: WAC 222-16-010, -050, Chapter 222-20 WAC,
14 and Chapter 222-24 WAC.

15

- 16 **MOTION:** Lee Faulconer moved that the Forest Practices Board direct staff to provide
- 17 notice pursuant to RCW 76.09.040 notifying the counties, Washington
- 18 Department of Fish and Wildlife, and Tribes of rulemaking intentions.
- 19 **SECONDED:** John Mankowski
- 20 **ACTION:** Motion passed unanimously.

21

22 **RULE CLARIFICATIONS**

23 Gretchen Robinson asked for the Board’s approval to file a CR 102 to initiate the public comment
24 period for rule clarifications. If approved staff will conduct a hearing on Monday, April 11, 2005.

25

26 Alan Soicher suggested that the language under the Conversion to nonforest use section on Page 15,
27 line 26, where the words “...or if harvesting takes place without an application...” be clarified to
28 reflect that it relates to Class I and II forest practices and does not imply that an individual could
29 harvest without a permit. He also expressed concern about deleting the text “As required by RCW
30 76.13.130...” under RMZs for exempt 20-acre parcels on page 23, line 34. Soicher stated that if the
31 20-acre exemption were a legislative requirement, it would be valuable to leave the reference in.

32

33 Lenny Young informed the Board that the language Soicher referenced on Page 15 is specifically
34 targeted at situations where someone either unknowingly or willfully did not obtain the required
35 permits before harvesting but would still have to comply with the conversion moratorium

1 **MOTION:** David Hagiwara moved that the Forest Practices Board accept for public
2 review the rule proposal as presented today to clarify language in Title 222
3 WAC, and that staff file the CR-102 with the Code Reviser to begin the
4 permanent rulemaking process.
5 **SECONDED:** Sherry Fox
6 **ACTION:** Motion passed unanimously.

7

8 **CMER PILOT FEASIBILITY STUDY**

9 Geoff McNaughton submitted a written report reminding the Board that the Bull Trout Overlay and
10 Hardwood Conversion studies require experimental forest practices riparian treatments that are
11 conducted via the Pilot Project/Feasibility study. His report stated that many of the original Bull
12 Trout Overlay research sites have proved to be unsuitable for use and new sites are required.

13

14 Lenny Young reported that action is not required by the Board to substitute study sites. The study is
15 being finalized and DOE is looking at the replacement sites for additional compliance.

16

17 John Mankowski asked if locating sites for the study was difficult because of the screening criteria.
18 Young said that while some sites may be lost due to Class IV triggers and DOE's 303(d) list, most
19 of the sites are just incompatible with the study design. A site may have been scoped using air
20 photos, maps, or remote sensing imagery and then found not suitable after it was inspected on the
21 ground.

22

23 **FOREST HEALTH**

24 Pat McElroy reported that as directed by the Legislature, the FHSWG was established to meet the
25 requirements of Second Substitute Senate Bill 6144. They were charged with identifying
26 opportunities and developing recommendations to improve the forest health conditions in
27 Washington. During discussions, three areas were identified where current Forest Practices Rules
28 may be inhibiting landowners from making forest health improvements:

29

30 **1. Potential Limits on Active Management:**

31 Some rules may restrict landowners from effectively treating a stand to improve its
32 resistance to health threats or prevent landowners from taking action if health issues are
33 currently impacting stands. These rules are the eastern Washington riparian rules and other
34 leave areas, such as spotted owl circles that can restrict harvesting. In some situations,
35 current conditions may not promote functioning habitat or riparian characteristics and may

1 increase risk of catastrophic loss from disturbances such as insects, disease, windstorm or
2 fire.

3 **2. Applications:**

4 The second area that the Forest Practice Rules impact landowners is the permit process
5 needed for salvage, and pesticide spraying. There are no emergency procedures for when
6 landowner resources are at risk of economic loss. A rapid permitting process can be critical
7 for effective pesticide treatments or for salvage. Moreover, green-up rules may restrict the
8 size of the area being salvaged, causing additional economic losses.

9 **3. Reforestation Requirements:**

10 Reforestation standards require a certain number of native trees. In eastern Washington,
11 reforestation standards that specify insect and disease resistant seral species should be
12 considered.

13
14 The FHSWG recommends the Forest Practices Board study these three issues and review those
15 rules to ensure that they do not conflict with forest health management goals, and evaluate if there
16 are ways to improve forest health, and make riparian forests more fire resistant while protecting
17 public resources.

18
19 John Mankowski said the FHSWG report, A Desirable Forest Health Program For Washington's
20 Forests, identified a need to geographically determine forest health problems and the science to
21 determine at what level should stand densities be managed to have healthy forests. Mankowski
22 asked if the FSHWG expected a response from the Board now that the report is going to be out for
23 review.

24
25 McElroy responded that the forest health issue is not ready for a Board decision. He wanted the
26 Board to know that the issues exist and to beware of the principle of unintended consequences.

27
28 Sherry Fox commented that the Small Forest Landowner Working Group has been discussing
29 eastside riparian management. A few months ago the Group was presented with an overstocked
30 stand template approach and had a similar debate about the layers, the complexity, the species, the
31 sites, the elevation, etc. It was discussed that when there is eminent risk to losing the entire
32 riparian zone, what is the risk to getting it back into a healthy stand. Fox hopes the Group will come
33 to the Board with a template approach that will address eminent danger riparian stands.

1 McElroy asked staff to work with the landowner community particularly in eastern Washington on
2 reforestation by discussing what kind of trees should be required, if there is a way to accomplish it
3 that does not have unintended consequences, and report back to the Board.

4

5 **MOTION:** John Mankowski moved to adjourn the meeting.

6 **SECONDED:** Eric Johnson

7 **ACTION:** Motion passed unanimously.

8

9 Meeting adjourned at 2:24 p.m.