

1 **FOREST PRACTICES BOARD**
2 **REGULAR BOARD MEETING**
3 August 9, 2011
4 Natural Resources Building
5 Olympia, Washington
6
7

8 **Members Present**

9 Bridget Moran, Chair of the Board, Department of Natural Resources
10 Anna Jackson, Designee for Director, Department of Fish and Wildlife
11 Bill Little, Timber Products Union Representative
12 David Herrera, General Public Member
13 Mark Calhoun, Designee for Director, Department of Commerce
14 Norm Schaaf, General Public Member
15 Paula Swedeen, General Public Member
16 Sherry Fox, General Public Member/Independent Logging Contractor
17 Tom Davis, Department of Agriculture
18 Tom Laurie, Designee for Director, Department of Ecology
19

20 **Members Absent:**

21 Dave Somers, Snohomish County Commissioner
22 Doug Stinson, General Public Member/Small Forest Landowner
23

24 **Staff**

25 Darin Cramer, Forest Practices Division Manager
26 Marc Engel, Forest Practices Assistant Division Manager
27 Patricia Anderson, Rules Coordinator
28 Phil Ferester, Assistant Attorney General
29

30 **WELCOME AND INTRODUCTIONS**

31 Bridget Moran called the Forest Practices Board (FPB or Board) meeting to order at 9 a.m. Patricia
32 Anderson, Department of Natural Resources (DNR or Department), provided an emergency safety
33 briefing.
34

35 **APPROVAL OF MINUTES**

36 **MOTION:** Tom Laurie moved to approve the May 10, 2011 meeting minutes.

37
38 **SECONDED:** Anna Jackson
39

40 **ACTION:** Motion passed unanimously.
41

42 **REPORT FROM CHAIR**

43 Bridget Moran announced Board member and staff changes. Commissioner Peter Goldmark has
44 designated her to chair the Board indefinitely, starting June 29, 2011. Dave Somers is reappointed,
45 and the Governor's office is currently working on filling the vacant general public member position.
46 Staffing changes include Julie Sackett leaving the program to manage the Forest Resources and
47 Conservation Division, and Tami Miketa joining the Forest Practices Division to manage the Small
48 Forest Landowner Office.

PUBLIC COMMENT

Ken Miller, Washington Farm Forestry Association, said he and other developers of the low impact template are disappointed with the state agencies' conclusions that patch cuts and directional falling are not acceptable elements. He commented that he and others thought their draft template would go a long way toward resolving the disproportionate impact of the Forests and Fish rules on small forest landowners. He said the system is unrealistically risk averse and is not taking economic viability seriously. He said he hoped the Board will take an active leadership role in the final template and make an effort to resolve these long standing issues. Bill Little asked for clarification on the role of the Board, to which Bridget Moran answered the Board is a rule making body and must balance environmental and economic considerations in its decisions.

Chris Mendoza, Conservation Caucus, thanked DNR staff for working so hard on the RMAP and watershed analysis rule language and board manuals. He also commented that small forest landowners do suffer from economies of scale with all of the set asides required in the rules. He added that templates are tricky because they have to be effective for a broad array of variable landscapes.

Shawn Cantrell, Seattle Audubon, said the Northern Spotted Owl Implementation Team is moving forward and thanked the Board for its ongoing attention. He cited parts of the federal 2010 Draft Revised Recovery Plan pertinent to the Board. He said the Board should now reevaluate its rules in addition to the implementation team's work on incentives.

Kara Whitaker, Washington Forest Law Center, said a year and a half has passed since the formation of the implementation team and owl habitat continues to be harvested at a faster rate than it is being created. She urged the Board to task the team with developing a timeline with more frequent meetings, defining more specific actions within their work plan, and identifying and applying for funding sources. She said if there is not tangible progress soon, the Conservation Caucus may file a petition for rule making to halt further loss of habitat.

Jim Peters, Northwest Indian Fisheries Commission, commented on two issues: the timing of agenda items in past meetings and salmon habitat loss.

- When agenda items occur hours before their scheduled time it causes difficulty and wasted time for people travelling to a meeting to provide public comments for a particular topic.
- The tribes are working on the state of the watersheds to target the efforts needed for habitat protection and restoration. They are finding habitat is continually being lost in spite of the millions being spent on habitat restoration. This information will be shared with the state agencies as it is completed.

STAFF REPORTS

Bridget Moran asked for any questions related to the staff reports received prior to the meeting. Board members had questions about the Upland Wildlife Update and the Small Forest Landowner and Advisory Committee report.

Upland Wildlife Update

Paula Swedeen said eight years ago the Wildlife Workplan included assessing the effectiveness of the rules for marbled murrelets. She asked David Whipple if it was time to get marbled murrelets on the Board's docket, given new U.S. Fish and Wildlife Service (USFWS) data on the murrelet's population decline. Whipple said the Washington Department of Fish and Wildlife (WDFW) could

1 provide a marbled murrelet update at a future meeting. Norm Schaaf said it would be helpful to
2 understand all of the reasons for the continuing declines.

3
4 Sherry Fox said that years ago there was useful habitat information that came out of the Wildlife
5 Working Group's efforts. Whipple said wildlife models were developed for several guilds and
6 individual species when funding ended. They are still in need of a formal peer review but it could be
7 discussed whether that level of review is necessary in today's budget climate.

8
9 Anna Jackson said she would support the Board revisiting the landscape level wildlife assessment
10 because it could yield useful results for issues such as climate change planning and the contribution
11 of working forests to general habitat connectivity. Bridget Moran said the Board would take that
12 under advisement.

13
14 Whipple added, regarding the Taylor's Checkerspot Butterfly, that the Weyerhaeuser Company has
15 submitted a management plan for that species and WDFW is reviewing it.

16 Small Forest Landowner Office and Advisory Committee

17 Sherry Fox said she noticed that since April there are 12 additional approved small forest landowner
18 long-term applications. She gave credit to the Washington Farm Forestry Association for
19 presentations made at its last annual meeting promoting the long-term application.

20 **LEGISLATIVE SUMMARY AND FY 2011-2013 BUDGET UPDATE**

21
22 Darin Cramer, DNR, briefly summarized legislation signed by the Governor in April that would
23 affect the forest practices program:

- 24 • EHB 1509, forestry riparian easement program will require rule making.
- 25 • HB 1582, forest practices applications leading to conversion for development purposes will
26 require rule making but will be implemented in the meantime.
- 27 • 2ESHB 1087/ESSB 5860, fiscal matters reduced the forest practices program by \$6 million for
28 the biennium and three percent salary reduction and leave for most employees.
- 29 • SB 5500, rule making process for state economic policy requires agencies to provide notice of
30 rule making to small businesses through publications likely to be obtained by small businesses
31 of the types affected by the rule.
- 32

33
34 Tom Laurie asked about the community trust legislation. Bridget Moran explained it established a
35 new classification of trust at DNR for lands under threat of conversion. The intent is to create
36 public/private partnerships within communities that want to retain working forests adjacent to
37 developed areas. She said the Board could have a presentation on this subject in the future.

38 **NW ENVIRONMENTAL FORUM AND ESHB 2541**

39 Bridget Moran said she participated in the June 2011 Northwest Environmental Forum meeting and
40 explained that Craig Partridge is DNR's lead for this project. ESHB 2541, 2010 legislation, directed
41 DNR to evaluate incentives for the forest industry. DNR wants to test the feasibility of conducting
42 transactions with forest landowners in the upper watersheds for the ecosystem services they provide
43 downstream.

44
45
46 The first day of the forum included lessons learned from past forums, valuing ecosystem services,
47 possible regulations needed, financing, and forming groups that had an interest in establishing a
48 work group in particular areas. Two watershed groups were formed by members of the Nisqually

1 and Snohomish watersheds. There is also interest in the formation of a Yakima watershed group.
2 She said she and Partridge can continue to update the Board as those efforts mature.

3
4 Norm Schaaf asked about landowner participation. Moran said she participated in the Nisqually
5 group where the large timberland owners were present and eager, and said Craig Partridge is
6 participating with the Snohomish group and representing the state as a timberland owner.

7
8 Paula Swedeen commented that the legislation emphasized water services but there was robust
9 discussion at the forum about Northern Spotted Owl incentives and opportunities to bundle a variety
10 of services. Also there is interest from small forest landowners; the Northwest Natural Resource
11 Group is part of the organizing committee, and the Washington Farm Forestry Association is
12 welcome to form a group as well.

13 14 **NSO FEDERAL RECOVERY PLAN**

15 Jodi Bush, U.S. Fish and Wildlife Service (USFWS), presented an overview of the Final Revised
16 Recovery Plan for the Northern Spotted Owl, including the species' status and threats, and next
17 steps for recovery. She explained the population has continued to decline at about three percent per
18 year since 1990, and its range has contracted. Its main threats are habitat loss and barred owl
19 expansion. Next steps include protecting high value habitat, consider contributions from state and
20 private lands, promote active management to promote ecosystem health and resilience, manage
21 barred owls, and use habitat modeling in future critical habitat revisions. She mentioned that a third
22 of the plan's recovery actions are focused on the barred owl and a draft environmental impact
23 statement will be out this fall on proposed scientific experiments to test barred owl management
24 options.

25
26 She said the recommendations primarily affect federal lands, but there is more emphasis on the role
27 of state and private lands than in the past. The USFWS will work with its stakeholders to evaluate
28 potential recovery contributions, identify non-regulatory incentives, and expand voluntary safe
29 harbor agreements and habitat conservation plans (HCPs). She mentioned that Washington State has
30 made substantive progress and the plan suggests that the Forest Practices Board can use the final
31 recovery plan and modeling tool to inform processes currently underway to identify non-federal
32 lands that can make strategic contributions to owl conservation over time (Recovery Action 18).

33
34 Anna Jackson said WDFW is looking for more clarification regarding the goals of protecting owl
35 sites and pursuing active management strategies that might impact active owl sites. Bush answered
36 it will have to involve a balance of identifying occupied sites believed essential for long-term
37 recovery, and managing those and adjacent sites. She said folks at the USFWS hope the Board will
38 work them on that.

39
40 Norm Schaaf asked about the USFWS's level of confidence with the modeling it has developed.
41 Bush said there is general comfort with it; it has the benefit of a lot of factual information and has
42 undergone separate peer review.

43
44 Paula Swedeen said the Board will have a technical team that will generate a variety of questions
45 that modeling may be able to answer and asked if the USFWS has the resources with the model
46 runs. Bush answered they plan to provide that service, but they are looking into how they will find
47 the extraordinary amount of time, computer power, and financial assistance it will take.

1 Anna Jackson asked when the critical habitat modeling may be completed. Bush said the USFWS is
2 already using it and is currently writing a draft critical habitat rule which is due in September.

3
4 Sherry Fox asked if there is a plan to simplify the process to accomplish safe harbor agreements and
5 HCPs. Bush answered they hope to establish a programmatic approach to helping landowners who
6 want to do this.

7
8 Tom Davis asked if it is unusual to manage one species over the other when both came through
9 natural migration. Bush said the USFWS faces that situation a lot with listed species, but the spotted
10 owl and barred owl situation is unusual because they are the same genus. Moran commented that
11 when a species is listed under the Endangered Species Act all of the threats to those species are
12 considered, and in this case the barred owl is a threat.

13 14 **NSO IMPLEMENTATION TEAM UPDATE**

15 Bridget Moran explained that the Board will receive a written update of the implementation team's
16 work. The team is making progress on many of its eight deliverables:

- 17 • Voluntary incentives program: Opportunities are being explored for connections with ESHB
18 2541 as mentioned earlier in the meeting, and additional conversations are taking place but are
19 not ready to report.
- 20 • Outreach to landowners: on hold until incentives programs are developed; however there is
21 good coordination with the Washington Forest Protection Association (WFPA) on the approach.
- 22 • Promoting barred owl control research: The team will be watching for the USFWS's barred owl
23 research and results.
- 24 • Decertification process: The current process continues.
- 25 • Initiating two pilot projects: moving slowly. One approach was to seek Section 6 (Endangered
26 Species Act grant) funding, but the team wants to recalibrate to figure out the best approach for
27 particular projects. Perhaps now it can be in alignment with the recovery plan.
- 28 • Developing a flagship project: on hold until a pilot can inform what will and won't work.
- 29 • Recommendations to approve measures of success: still to be determined; could be something
30 like pilot projects underway and a flagship identified.
- 31 • Convening a technical team to assess the spatial and temporal allocation of conservation efforts
32 on non-federal lands. The question is, where would we concentrate our conservation dollars if
33 we did receive funding to get the best impact for spotted owls in Washington? The team's intent
34 is to partner with the USFWS to use the models put in the landscapes specific to Washington,
35 i.e., SOSEAs, state, federal, and private forest lands, and figure out where we should put our
36 effort.

37
38 She added that the team is refining the list of prospective technical team members.

39
40 Swedeen asked if the Board should create a subcommittee that could look at the output from the
41 technical team and examine the effectiveness of the rules. Anna Jackson said she supported having
42 more discussion on that idea.

43
44 Moran said she would like the Board to contemplate for the November meeting how to move ahead
45 in response to the recovery plan. By then the implementation team will have had some interaction
46 with the modeling team and a sense of the timing and utility of the information it can offer. She said
47 she would like to keep the implementation team focused on incentives, and a Board subcommittee
48 could be the way to accomplish the other needs.

1
2 Schaaf asked if the draft critical habitat mapping will be available from the USFWS by the
3 November meeting. Moran answered the USFWS is under a court-mandated deadline to have it out
4 by November. Certainly it will be part of the conversation at the November meeting if it is out by
5 November 8. Schaaf said it will be a very important conversation to the degree that state and private
6 lands are suggested to be part of the critical habitat.

7
8 Fox asked if the implementation team has talked about Landowner Option Plans (LOPs) and
9 Critical Habitat Enhancement Agreements (CHEAs). Moran answered the team has focused on
10 other approaches such as Section 6 funding, thinning opportunities, and other habitat enhancement
11 work due to the infrequent use of LOPs and CHEAs.

12 **CLEAN WATER ACT ASSURANCES ANNUAL REPORT**

13 Mark Hicks, Department of Ecology, summarized the status of the Clean Water Act milestones. He
14 said in the last six months no non-research milestones were completed and only one CMER
15 research milestone was completed. He said a significant number remain overdue, and said three are
16 particularly problematic: obtaining an independent review of the Adaptive Management Program;
17 developing a training and certification program for cooperators; and assessing the condition of small
18 forest landowner roads. There are past-due CMER research milestones for which the design process
19 hasn't even begun – rule effectiveness on non-fish waters in Eastern Washington, and mass wasting
20 studies. The biggest threats to meeting the CMER research milestones are the lack of funding and
21 volunteer research capacity to design and carry out the needed research.

22
23
24 He explained Ecology has made changes to specific milestones. They include: replacing the wetland
25 road mitigation study with a literature synthesis followed by the design of a research program;
26 simplifying and moving the mass wasting accuracy and bias study to the DNR science program
27 because it is more of a compliance monitoring type of project; and delaying the amphibian and
28 intermittent stream study at least until the Type N basalt study is completed.

29
30 He said even applying for grant funding is a challenge. CMER does not have study designs on the
31 shelf ready to be funded.

32
33 Bridget Moran commented on the non-research milestones:

- 34 • DNR was very disappointed that the Auditor's Office decided not to audit the Adaptive
35 Management Program; somehow an audit should take place to resolve inherent issues with the
36 program.
- 37 • DNR is taking the training issue seriously, and is sacrificing other forest practices program
38 funding to rebuild a training program this biennium.
- 39 • It will be challenging to get funding to assess small forest landowner roads because the
40 legislature believes it has funded a road inventory already, which is not the case.

41
42 She stressed that the Clean Water Act assurances are of very high value to Washington State, and
43 that DNR and Ecology will be continuing their dialogue to be sure that DNR's responsibilities are
44 understood and clearly meeting the needs of Ecology. She said this Clean Water Act assurances
45 milestone update will be useful when the Board has its planning session in November.

46
47 Sherry Fox commented that the next small forest landowner demographic report is due to the
48 legislature in 2013. She also said the training element is very important for her because the small

1 forest landowners have lost a lot since the training program was cut.

2
3 David Herrera commented that hearing about the past due milestones is another example of how the
4 state is not meeting its responsibility to protect salmon habitat. He cited two other recent reports by
5 the National Oceanic and Atmospheric Administration (NOAA) and the Northwest Indian Fisheries
6 Commission concluding that habitat continues to be lost in spite of the hundreds of millions of
7 dollars spent on salmon recovery. State and federal agencies are failing to do the appropriate land
8 use planning to protect habitat. This is becoming an increasingly alarming issue for the tribes. He
9 stressed the importance of appropriate prioritization as the Board looks forward to planning for the
10 coming year.

11
12 Moran suggested DNR could put a link on its web site to the NOAA report which documents a
13 dramatic loss of habitat for Puget Sound Chinook in the years from 2001 to 2006. Many would
14 argue that the timber component of that is probably farthest ahead, and there have been
15 conversations about responsibilities at all government levels, including the federal government's
16 responsibility to meet its treaty obligations. She emphasized the Board's responsibility is to focus
17 on the Clean Water Act component.

18
19 Norm Schaaf asked if there is money in the CMER budget for a grant writer. Darin Cramer
20 answered it is in the budget for any research project ready to go.

21
22 Schaaf asked Hicks to inform the Board whenever there is a significant accomplishment or problem
23 regardless of the timing of the semi-annual reports. Hicks agreed. Schaaf echoed others' comments
24 about the importance of training to understand and ensure better compliance with the rules, and said
25 landowners are willing to cooperate in that effort.

26
27 Paula Swedeen said it would be helpful in preparation for the November meeting if there was an
28 explanation of how different priorities would affect the accomplishment of milestones. Moran said
29 perhaps a staff dialog should take place to get clarity about how each milestone connects to water
30 quality. Hicks said all of the milestones need to be met to achieve water quality, but Ecology could
31 probably give an indication of which are relatively more important than others and how they relate
32 to the Board's potential work list.

33
34 **PUBLIC COMMENT ON ROADS SUB-BASIN REPORT AND TYPE N EXPERIMENTAL**
35 **BUFFER TREATMENT (AMPHIBIAN GENETICS) REPORT**

36 None

37
38 **ADAPTIVE MANAGEMENT PROGRAM – ROADS SUB-BASIN REPORT AND TYPE N**
39 **EXPERIMENTAL BUFFER TREATMENT (AMPHIBIAN GENETICS) REPORT**

40 Jim Hotvedt, DNR, informed the Board that Mark Hicks will fill the position of CMER co-chair
41 recently vacated by Terry Jackson. He then briefly summarized two recently completed CMER
42 reports: *Washington Road Sub-Basin Scale Effectiveness Monitoring First Sampling Event (2006-*
43 *2008) Report*; and *Type N Experimental Buffer Treatment Study: Baseline Measure of Genetic*
44 *Diversity and Gene Flow of Three Stream-Associated Amphibians*. He explained both are the first in
45 a series of two or more sampling efforts to inform underlying key questions, and said the Forests
46 and Fish Policy Committee recommends that the Board take no action at this time based on the
47 results of the two studies.

1 Tom Laurie asked how the reporting on roads standards was done in the sub-basin effectiveness
2 analysis; Hotvedt answered reporting was by the landowners of the 60 sample blocks. He added that
3 the study results indicate that there is still an issue with reducing connectivity, but on the other hand
4 the sediment delivery from those roads that are connecting is being reduced significantly. The
5 implication is that landowners are going after the worst roads first. He said there will be at least one
6 or two re-samples to see if connectivity is reduced over time.

7
8 Norm Schaaf asked if small forest landowner roads were included in the study. Hotvedt answered
9 the majority of the lands in the sample blocks were large landowner forest lands, but about half of
10 the cooperating landowners were small forest landowners. In general, however, there have been
11 challenges getting the small landowner component to the studies, particularly getting cooperation
12 from small forest landowners on the eastside. The question is do you put in additional effort to
13 make sure you have a sample of small landowners, or do you set up a separate parallel study
14 targeting small landowners?

15
16 **MOTION:** Norm Schaaf moved that the Forest Practices Board accept the Forests and
17 Fish Policy Committee's recommendation to take no action at this time on
18 the Washington Road Sub-Basin Scale Effectiveness Monitoring First
19 Sample Event Report and the Type N Experimental Buffer Treatment Study
20 for Baseline Measures of Genetic Diversity and Gene Flow of Three Stream-
21 Associated Amphibians.

22
23 **SECONDED:** Sherry Fox

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

26 27 **FORESTS AND FISH POLICY ANNUAL REPORT**

28 Stephen Bernath, Forests and Fish Policy Co-Chair, summarized the documents the co-chairs sent
29 to the Board prior to the meeting. He said Policy will provide a new prioritized work list before the
30 Board's November meeting. In regard to Adaptive Management Program funding, he mentioned
31 that DOE Director Ted Sturdevant is willing to put effort into obtaining the funding needed for the
32 Adaptive Management Program, and there has been a positive response from some of the other
33 principals also. In addition the Governor made a commitment to the tribes to deal with the
34 participation grant issue this year.

35
36 Jim Peters, Co-Chair, said he will be stepping down as Policy co-chair due to the reduction in
37 funding for tribal participation, and explained the effect on tribal staff in general. He said the tribes
38 believe their role in the Forests and Fish Agreement is critical to secure the Forest Practices HCP
39 which everyone has agreed is important for the state.

40
41 Moran thanked Peters for his service, and said conversations among the principals will begin soon
42 to look at how to address the long-term funding issue. She said the more Policy can do on
43 prioritization the better it will help the Board to plan its priorities at the November meeting.

44 45 **CULTURAL RESOURCES ANNUAL REPORT**

46 Jeffrey Thomas, TFW Cultural Resources Roundtable Co-Chair, provided an overview of the
47 Roundtable's activities in the past year including its charter, drafting rule language to amend WAC
48 222-20-120, considering comments from the 30-day review of the draft language, and continuing to

1 produce guidelines for implementing the Cultural Resources Protection and Management Plan,
2 forest practices rules, and forestry-related statutes regarding cultural resources. He said the
3 guidelines are for the purpose of being included in either a board manual or as a website posting.
4

5 Pete Heide, Co-Chair, explained the Roundtable's work for the next year will include completing
6 the guidelines, working to improve early identification of potential cultural sites during forest
7 practices activity planning, and educating people who are involved in state-regulated forest
8 practices. The latter is a matter of getting all of the resource professionals on the same page to
9 recognize cultural resources where they are present. He said the Roundtable could use DNR's help
10 in getting the guidelines into a format that people can use.
11

12 Tom Laurie asked whether the Roundtable planned to conduct some sort of effectiveness review.
13 Heide said the Roundtable is dealing with things that are not easily measured, however the
14 cooperators are asked how it is working for them individually and most of the feedback has been
15 positive. Thomas said he would like cultural resources added as part of the suite of projects in the
16 compliance monitoring program.
17

18 **LOW IMPACT TEMPLATE**

19 Marc Engel, DNR, said a low impact template is almost ready to be presented to Small Forest
20 Landowner Advisory Committee and hopefully to the Board prior to the November meeting. He
21 explained the draft template has already been shown to representatives of the federal services,
22 tribes, Conservation Caucus, and the Washington Farm Forestry Association. It incorporates the no-
23 harvest buffer widths from the board manual template, "Fixed Width Riparian Buffers for Small
24 Forest Landowners in Western Washington", but also allows thinning within the inner zone. He said
25 the goals for this template are to ensure the template can be used in eastern and western Washington
26 and would be simple to apply. Landowners need only measure the width and the length of the
27 riparian management zone (RMZ), measure the diameter of the trees within the template area, and
28 use a simple table to determine if thinning will be allowed within the RMZ.
29

30 Tom Laurie, referring to an earlier comment by Ken Miller, asked what is directional falling. Engel
31 said the concept was large woody debris placement or removing timber closer to the water without
32 taking equipment into the core zone. However, the State Caucus proposes a relative density of 50,
33 and does not see the need for landowners to manufacture down woody debris or standing snags
34 because the stand will naturally do that.
35

36 Sherry Fox asked Engel to explain any discussions related to the patch cut concept and associated
37 stream length restrictions for patch cuts. Engel explained the original proposal by the small forest
38 landowners was to allow small clear cuts along prescribed stream lengths within the RMZ. He said
39 the State Caucus determined this was impractical because the narrow 50-foot width of the core zone
40 would reduce riparian function to an unacceptable level. He said the caucus determined that
41 pursuing the potential for patch cuts would require going through the adaptive management process.
42

43 **FOREST BIOMASS UPDATE**

44 Bridget Moran, DNR, provided an update on the activities of the Forest Biomass Harvest Work
45 Group. The intent of this effort is to determine if the current rules would be sufficient if the market
46 for biomass expands in Washington State. Since the May Board meeting, the group discussed all of
47 the forest practices rules that apply to biomass harvest activity and went to the field to view biomass
48 removal on the ground, the equipment used, and retention after harvest has occurred. Next the group

1 will evaluate best management practices (BMPs) used in other states and countries, and the group
2 plans to report its findings to the Board and any recommendations for rules by May 2012. She said
3 participation is open to the public and the meeting agendas and updated work plan are posted on
4 DNR's website.

5
6 Norm Schaaf said he could understand the need to look at BMPs only if there is a risk to resources,
7 and suggested the group seek information on resource risk. Anna Jackson said that was always the
8 purpose. Schaaf said he hoped the information coming back to the Board will explicitly include risk
9 to resources with existing rules. Moran said it will be a risk-driven conversation; after the analysis
10 of the BMPs the group will look at each rule and determine how each rule prevents risk or not.

11
12 **PUBLIC COMMENT ON ROAD MAINTENANCE AND ABANDONMENT PLANNING**
13 **(RMAP) RULE MAKING AND BOARD MANUAL SECTION 3 GUIDELINES FOR**
14 **FOREST ROADS**

15 Chris Mendoza, Conservation Caucus, commented that the success of the RMAPs and watershed
16 analysis rules and manuals, shows what the work groups, staff, and Policy can accomplish if
17 everyone puts their minds to it.

18
19 Stephen Bernath, Department of Ecology, said Ecology is committed to making the RMAPs
20 extension process a success and will make extension reviews a high priority as they come in. He
21 pointed out that two Clean Water Act assurances milestones will be fulfilled with the
22 implementation of new rules: to ensure better tracking of the RMAPs program and individual
23 landowners' roads, and improved stakeholder involvement. There were also commitments by the
24 principals for funding for adaptive management; a commitment to accelerate the Family Forest
25 Fish Passage Program (FFFPP); and a commitment to seek funding to assess the status of small
26 forest landowner roads.

27
28 Sherry Fox asked if State Forester Aaron Everett has requested federal funding for the cost-share
29 program. Bernath answered yes, the caucuses created a publication and the Governor and
30 Commissioner sent letters to the secretaries of transportation, commerce, interior and agriculture
31 regarding the FFFPP for that purpose. Moran said Everett was in Washington, D.C. last week and
32 continues to work on possible funding opportunities. She added that Everett is going to come to the
33 Board in November to talk about his role as state forester and as federal liaison.

34
35 **ROAD MAINTENANCE AND ABANDONMENT PLANNING (RMAP) PROCESS**

36 Darin Cramer, DNR, provided an overview of the forms DNR has produced for RMAP annual
37 reports and extension requests. He explained DNR's goals were to provide consistent information
38 and interpretation of the elements for reports, provide a better way for region staff to track RMAP
39 implementation, and diminish the need for staff to do field checks. He said DNR is working on a
40 statewide database that DNR RMAPs specialists use to track implementation, make updates, and
41 have available when they are planning. He pointed out that all landowners with RMAPs will use the
42 new annual reporting forms, and three reporting items have been added to the reporting
43 requirements so the worst first and even flow goals can be assessed more effectively: total number
44 of barriers identified in each RMAP, total miles of forest road needing improvement, and
45 percentage of road improvement by road management block.

46
47 Norm Schaaf referred to the form in which landowners will provide a road management block
48 priority ranking, and asked if DNR will require fulfillment of that ranking. Cramer said it is

1 intended to be a general guide, recognizing that sometimes there will be deviations based on
2 circumstances. But the accomplishment reports will generally be expected to reflect the order given.

3 **ROAD MAINTENANCE AND ABANDONMENT PLANNING (RMAP) RULE MAKING**

4 Marc Engel, DNR, summarized the proposed RMAPs rule. He said it will allow for an extension of
5 RMAPs performance periods up to five years, provide a 45-day review period of the amended
6 RMAP, and require landowners to use standardized forms. He said in addition to the proposed
7 language before the Board, based on recommendations made during the public comment period,
8 DNR recommends changing the work completion date to October 31 instead of July 1 so
9 landowners can take advantage of a full construction season before their deadline.

10
11
12 He explained the Board held three public hearings in Sedro Woolley, Port Angeles, and Centralia
13 where the comments were largely in support of the proposal except for concerns about the increased
14 workload for landowners to fill out the new annual reporting forms. He said DNR did not receive
15 comments on SEPA analysis except one from the Department of Ecology's Southwest Region
16 Office regarding the requirements related to contaminated soil or groundwater; this comment was
17 not specifically targeted to the rule proposal.

18
19 He mentioned staff will make a correction to the economic analysis. It indicates that the Board
20 made the SEPA threshold determination, when it actually was DNR. The Board's designee for
21 SEPA responsible official is the Commissioner of Public lands, not the Board. Finally, he said staff
22 recommends delaying the effective date of the rule to October 3 to allow DNR sufficient time to
23 inform stakeholders about the rule and forms.

24
25 Sherry Fox asked for an additional change to the economic analysis – anywhere large landowners
26 are discussed, change to “forest landowner” because the rule also applies to the small forest
27 landowners who completed full RMAPs. Engel agreed and said staff will make sure that is done.

28
29 **MOTION:** Tom Laurie moved that the Forest Practices Board adopt the rule proposal
30 amending WAC 222-24-050 and 222-24-051 as presented by staff. This rule
31 making provides landowners the opportunity to request an extension of the
32 performance period for their road maintenance and abandonment plans. He
33 further moved to direct staff to file a CR-103 Rule Making Order with the
34 Office of the Code Reviser that specifies an effective date for the rule of
35 October 3, 2011.

36
37 **SECONDED:** Paula Swedeen

38 **Board Discussion:**

39 Tom Laurie and Anna Jackson both said they appreciated DNR's handling of the concerns brought
40 forward at the May 2011 Board meeting. Laurie said Ecology concurs with the rule making, and he
41 believed the final product was very responsive to industry while also making improvements so
42 stakeholders can count on better information when tracking RMAP progress.

43
44 Tom Davis asked if the forms would eventually become electronic documents. Cramer said initially
45 they will be available electronically although they will need to be printed, but the intent is to move
46 everything to a dynamic online environment.
47
48

1 Schaaf extended his thanks on behalf of landowners and also thanked the staff in the regions for
2 their work during this process.

3
4 Moran commented that the RMAPs program serves the state well; she added thanks to
5 Washington's timber landowners for their tremendous investment in roads because it has made a
6 huge difference.

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

9
10 **BOARD MANUAL SECTION 3 GUIDELINES FOR FOREST ROADS**

11 Donelle Mahan, DNR, said the changes to the forest roads board manual include the Forest and Fish
12 Policy Committee's extension recommendations, instructions for the clarifications per Ron Mally's
13 petition regarding the placement of slash and debris generated within riparian management zones
14 during road construction, and clarifications regarding disconnection of road surface run-off water
15 when implementing drainage structures adjacent to streams. She explained the latter component was
16 a recommendation from Policy after receiving input from a science advisory group. She said most
17 of the extension process is contained in part 2.1; it includes information about the forms and the
18 rule, and is meant to help landowners with the extension process if they choose to request an
19 extension.

20
21 **MOTION:** Tom Davis moved that the Forest Practices Board approve Board Manual
22 Section 3 Guidelines for Forest Roads. He further moved to allow staff to
23 make minor editorial changes if necessary prior to distribution.

24
25 **SECONDED:** Norm Schaaf

26
27 **ACTION:** Motion passed unanimously.

28
29 Marc Engel added that one of the components of Policy's recommendation for this revised RMAPs
30 program was for cooperators to engage in an effort to get funding to accelerate fish passage
31 improvements on small forest lands and county access roads. Although federal funding has not
32 come through, the state legislature did appropriate \$2 million toward the Family Forest Fish Passage
33 Program for the new biennium and DNR is also looking into grant funding through the Natural
34 Resources Conservation Service and Bonneville Power Administration.

35
36 Moran emphasized that the rule and board manual are only two of several components of the
37 RMAPs package, and work on the other pieces are still necessary. Darin Cramer said there is still a
38 lot of work to do to implement the rule.

39
40 **PUBLIC COMMENT ON NOTICE OF FOREST PRACTICE TO AFFECTED INDIAN**
41 **TRIBES RULE MAKING**

42 Pete Heide, WFPA, said he believed the rule proposal is acceptable for public review and the Board
43 can consider any future comments as it is finalized. He explained the rule proposal is the TFW
44 Cultural Resources Roundtable's approach to a balanced rule that ensures landowners fulfill the
45 meeting requirement and also prevents unreasonable costs and restriction on landowners.

1 **NOTICE OF FOREST PRACTICES TO AFFECTED INDIAN TRIBES RULE MAKING**

2 Marc Engel requested that the Board initiate rule making amending WAC 222-20-120 and 222-30-
3 021 as proposed by the TFW Cultural Resources Roundtable. He said the amendments will
4 streamline the permitting process and allow open and constructive dialog between the landowners
5 and tribes.
6

7 He said several comments were received via the 30-day review of the rule proposal by WDFW,
8 counties, and tribes: The Confederated Tribes and Bands of the Yakama Nation and the City of
9 Seattle commented in support of the proposal; the Puyallup Tribe of Indians provided alternate
10 language for consideration. He said the Roundtable considered all comments and agreed the
11 language is sufficient to carry forward, with the understanding that the Board may receive and
12 consider additional comments during the public review and hearing process.
13

14 Norm Schaaf asked how DNR determines a tribe's area of concern related to cultural resources.
15 Engel said DNR has asked each tribe to complete a reviewer profile in the Forest Practices
16 Application Review System (FPARS) for any individual that wants to review FPAs for cultural
17 resources, and to identify the tribe's geographic area of interest for cultural resources. Some tribes
18 have not made the distinction between areas that biologists want to review and areas that their
19 cultural resource expert will want to review. DNR is going to again ask the tribes to identify their
20 geographic areas of interest specific to cultural resources to receive notification from DNR when
21 applications are within those areas.
22

23 Schaaf said several tribes can identify the same area of interest, and asked how a landowner can
24 know in advance which tribes have requested a particular area. Moran said landowners can contact
25 a DNR office for that information.
26

27 **MOTION:** Anna Jackson moved that the Forest Practices Board approve for public
28 review the draft rule proposal that amends WAC 222-20-120, notice of forest
29 practices to affected Indian tribes, and corrects WAC 222-30-021(1)(c)(ii),
30 Western Washington riparian management zone clumping strategy. She
31 further moved that the Board direct staff to file a CR-102 with the Office of
32 the Code Reviser to initiate permanent rule making.
33

34 **SECONDED:** Dave Herrera
35

36 **Board Discussion:**

37 Schaaf said he would like to propose a modification that would be simpler and less expensive for
38 landowners in the communications process. He said he had no disagreement with the necessity to
39 contact the tribes and give them an opportunity to consult. But the modification would allow a
40 landowner to utilize an email trail or a log of telephone calls made to the tribe instead of having to
41 send a certified letter. He said every certified letter costs five dollars; multiply that times several
42 tribes, times hundreds of applications or thousands in this state, it becomes a significant cost burden
43 both in time and money.
44

45 **AMENDMENT:** Norm Schaaf moved to amend the rule proposal by changing the word "and"
46 to "or" at the end of the line on page 1, line 28.
47

48 **SECONDED:** Sherry Fox
49

1 Board Discussion:

2 David Herrera suggested that maybe this issue could be addressed at a local level and timber
3 companies could focus on engaging with the local tribes. He said he read in the language that the
4 certified letter option addresses the worst case scenario and assumes the landowner probably
5 doesn't talk to the local tribe. He said a lot can be gained for timber companies and local tribes if
6 they develop relationships to support each others' common interests.

7
8 Sherry Fox said she supported Schaaf's proposal because the certified letter is an extra burden,
9 especially when there are multiple tribes to contact.

10
11 Tom Davis suggested a rule that allows landowners to work out a process with each individual tribe.

12
13 Paula Swedeen asked for the TFW Cultural Resources Roundtable co-chairs to explain the
14 discussions that led to the certified letter language.

15
16 Pete Heide said the Roundtable did not spend a lot of time deciding that particular issue. The group
17 acknowledged some method was needed to show DNR that the landowner made a good faith effort
18 to contact each of the tribes that DNR says they are supposed to contact because there have been
19 circumstances where a landowner is unable to get a response from a tribe, resulting in DNR not
20 approving their work. He added it is possible to receive an email back that says it was opened.

21
22 Jeffrey Thomas said he remembered it was discussed that documentation of telephone and email
23 attempts was not compelling enough to demonstrate a good faith effort to make contact. He said in
24 his opinion written communication is insufficient for meeting the intention of consultation, and
25 should be backed up with the extra measure of telephone and email contact – something to try for
26 face-to-face communication if at all possible. But where there are established relationships, where
27 mail communication is mutually agreed to be sufficient, it could suffice.

28
29 Moran said at this point she wasn't supportive of the amendment to the motion. She said she wasn't
30 comfortable with changing the consensus recommendation but said there is opportunity to proceed
31 to public review and comment of the rule as written, allow the Roundtable to revisit the
32 conversation, and hear if there is a sufficient alternative before adopting a rule.

33
34 Anna Jackson suggested the certified letter concept could be part of subsection (d) as an example of
35 "other acceptable documentation."

36
37 Tom Laurie said he was sympathetic with the desire to simplify the process but was not willing at
38 this point to vote to override the consensus process at least through the public hearing process. He
39 said he was very interested in hearing from the tribes about how necessary this is; it seems like a
40 pretty simple change but we need to make sure that we are communicating with tribes in the way
41 that is most meaningful to them.

42
43 Schaaf agreed that having a one-on-one relationship is the best thing, but if there continues to be no
44 response to landowners' attempts to make contact, a lot of effort goes into trying to achieve
45 something that will never happen. He said he was simply trying to find a way to accomplish the
46 goal more expediently, and appreciated everyone's thoughts. He asked whether the rule making
47 process will have to start all over again if the Roundtable discussions or public comment results in a
48 change to the language. Moran said no as long as it is not substantially different than what the

1 public had to comment on, like simply an easier way to achieve the same outcome.

2
3 Schaaf requested that the Roundtable continue to discuss this issue to determine an acceptable
4 alternative to address his concern; there was general agreement among Board members.

5
6 **ACTION:** Motion withdrawn.

7
8 **ACTION – MAIN**
9 **MOTION:** Motion passed unanimously.

10
11 **PUBLIC COMMENT ON BALD EAGLE RULE MAKING**

12 Pete Heide, WFPA, commented that the rule is appropriate. The bald eagle remains protected under
13 the Bald and Golden Eagle Protection and Management Act, and the USFWS website shows the
14 required protection measures for distances to stay away from active eagle nests. He said one of
15 WFPA’s members found the federal service to be very responsive and flexible.

16
17 Kara Whitaker, Conservation Caucus, said the caucus is concerned about a potential gap in bald
18 eagle protection. She urged the Board to add rule changes in addition to those currently being
19 considered: add eagles to the Class IV-special section, make trigger distances consistent with the
20 federal guidelines, and provide a Class IV-special exemption for activities consistent with federal
21 guidelines.

22
23 Tim McBride, Hancock Forest Management, commented that the proposed rule presents an
24 opportunity to show the industry that by working collaboratively we can do good things for wildlife
25 and the conservation of public resources.

26
27 **BALD EAGLE RECOMMENDATION AND PROCESS**

28 David Whipple, Department of Fish and Wildlife (WDFW), said WDFW recommends removing
29 the peregrine falcon and bald eagle from the critical habitat list in WAC 222-16-080 and changing
30 the common name and genus for the Western pond turtle on the list to “Pacific pond turtle.” He
31 explained:

- 32 • In 2002, the Washington Fish and Wildlife Commission down-listed the peregrine falcon from
33 “threatened” to “state sensitive” in 2002, and the falcon has had very little conflict with forest
34 management activities.
- 35 • In 2008, the Commission changed the bald eagle status from “threatened” to “state sensitive.” In
36 April 2011 the Commission amended WDFW’s bald eagle protection rules to eliminate the
37 requirement for Bald Eagle Protection and Management Plans unless the species is re-listed as
38 threatened or endangered in Washington. The USFWS now manages the species under the Bald
39 and Golden Eagle Protection Act.

40
41 He said WDFW convened the multi-caucus Wildlife Work Group in June to discuss a rule
42 recommendation to the Board. He explained several concerns expressed by some of the
43 stakeholders, including: landowners need eagle location information; stakeholders need to review
44 forest practices applications (FPAs) proposing activities close eagle nests or roost sites; and the
45 rules should require SEPA review of FPAs proposing activities within distances prescribed in the
46 federal guidelines implementing the Bald and Golden Eagle Protection Act.

47
48 He summarized the rule options listed in his July 21, 2011 memorandum to the Board, and said

1 WDFW is not making a firm recommendation to the Board at this time. He said WDFW is
2 continuing to: maintain the bald eagle database; screen FPAs for eagles; notify landowners and the
3 USFWS when proposed forest practices are near an eagle nest or roost site; make bald eagle data
4 available to landowners for their ownership and tribes for the entire state; continue to make Priority
5 Habitats and Species data available; and developing a fact sheet for disseminating information. He
6 added that WDFW is also working with the USFWS who has added to its website a one-page
7 commitment for landowners to implement their federal protection guidelines.
8

9 Marc Engel, DNR, said DNR has put an interim process in place to address forest practices
10 proposed near bald eagle nests or communal roosting sites. Sue Casey explained how DNR is
11 classifying applications: FPAs proposing forest practices within a half mile of an active nest site or
12 quarter of a mile of a communal roosting site are classified Class IV-special regardless of whether
13 there is a Bald Eagle Management Plan attached. If the applicant indicates that no operation will
14 take place during the active nest season and the proposal is not within a quarter mile of the active
15 nest site, the application is classified Class III.
16

17 Casey added that landowners who have numerous Bald Eagle Management Plans could group them
18 and run them through SEPA, and subsequently use that plan for possible Class III classifications in
19 future proposals. She explained there is a joint WDFW and DNR memorandum informing
20 landowners and stakeholders about the changes and direction to go to the USFWS website.
21

22 **BALD EAGLE RULE MAKING**

23 Marc Engel, DNR, requested that the Board direct staff to file a CR-101, *Preproposal Statement of*
24 *Inquiry*, followed by a 30-day review of rule language amending WAC 222-16-080. The language
25 deletes the peregrine falcon and bald eagle from the critical habitats list and changes the name of the
26 species formerly known as the Western pond turtle to Pacific pond turtle (*Actinemys marmorata*).
27

28 **MOTION:** Norm Schaaf moved that the Forest Practices Board direct staff to file the
29 CR-101 Pre-Proposal Statement of Inquiry with the Office of the Code
30 Reviser. The CR-101 will inform the public that the Board is considering
31 amending WAC 222-16-080 critical habitat (state) of threatened and
32 endangered species, to reflect the down-listing and delisting of the bald eagle
33 and the peregrine falcon by the Washington Fish and Wildlife Commission
34 and name change of the Western Pond Turtle by the Washington Department
35 of Fish and Wildlife. He further moved that the Board accept the draft rule
36 proposal for a 30-day review with the counties, Department of Fish and
37 Wildlife and tribes to follow the publication of the CR-101.
38

39 **SECONDED:** Anna Jackson
40

41 Board Discussion:

42 Discussion consisted of how to inform landowners of their continued obligations under the federal
43 Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. Paula Swedeen and Anna
44 Jackson asked questions about how landowners can be directed to the USFWS, and asked if
45 information could be added to the FPA form.
46

47 Norm Schaaf asked Whipple for verification that WDFW receives applications via FPARS, and can
48 comment as appropriate. Whipple said that is correct, but WDFW has only one person reviewing

1 FPA's so there is a chance an application could get missed.
2

3 Darin Cramer said information on the FPA should be confined only to what is needed for
4 compliance with forest practices rules. He said there are other ways to provide information, and he
5 was not inclined to include it on the application itself.
6

7 Bridget Moran said DNR is taking its lead from the entity of jurisdiction, the Washington Fish and
8 Wildlife Commission. She said the Commission's delisting of the species and removal of the Bald
9 Eagle Management Plan feels like direction that the highest level of protection is not needed. She
10 said DNR has every intention of including information on the FPA instructions and posting the
11 guidelines on the DNR website, but not incorporating the information on the FPA itself. Doing so
12 would put DNR in the position of enforcing eagle protection rules where the agency of jurisdiction
13 does not have that same level of protection or concern. She said the Board could engage in future
14 dialogue about rule amendments as suggested by certain stakeholders in the Wildlife Work Group,
15 but the current focus should be making the forest practices rules consistent with the Fish and
16 Wildlife Commission's decision.
17

18 Tom Laurie commented that the agencies should keep thinking about ways to connect landowners
19 to the federal guidelines, but the current rule proposal is appropriate at this time. Swedeen and
20 Jackson indicated their continued discomfort with not informing applicants about the change in
21 regulatory obligations. Swedeen said she would like to amend the motion to direct landowners to
22 the USFWS when they have an eagle.
23

24 Engel said staff could work with the Wildlife Work Group and come back in November with a
25 proposal to amend rules for this purpose. However, there is a sense of urgency to proceed with the
26 current proposal because after the Fish and Wildlife Commission's rule change, landowners' Bald
27 Eagle Management Plans no longer serve to exempt applications from being classified Class IV-
28 special and landowners are required do a SEPA analysis until the rule is amended.
29

30 Moran said she would have preferred that the Wildlife Work Group be ready with a
31 recommendation at this meeting. She said a rule recommendation at the November meeting could
32 possibly sync up with the current proposal.
33

34 Cramer said he was reluctant to create any delay in the current rule making timeline. DNR's process
35 of reviewing, processing, classifying, and complying forest practices applications is intended to
36 ensure that forest practices activities meet the forest practices rules. He said in the current lean
37 economic climate, he was very reluctant to have staff doing things that are unrelated to forest
38 practices rule implementation.
39

40 Jackson said she was willing to commit WDFW to convening the Wildlife Work Group again prior
41 to the November meeting for discussing notification options. Swedeen said, in light of Cramer's
42 comments she wanted to request that WDFW and DNR staff figure out a way to link bald eagle
43 protection under the federal act to the forest practices rules. She said she would have supported
44 accomplishing the same thing without rule making, but if a rule is needed, so be it.
45

46 Moran suggested that the Board task the Wildlife Work Group with addressing whether additional
47 rule making is necessary for consistency with the federal eagle act and to make a recommendation
48 to the Board in November.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

ACTION: Motion passed unanimously.

PUBLIC COMMENT ON FORESTRY RIPARIAN EASEMENT PROGRAM RULE MAKING

Ken Miller, Washington Farm Forestry Association (WFFA), said WFFA fully supports the improvements to the Forestry Riparian Easement Program (FREP), particularly with directing the chair of the Board to form a group of stakeholders to investigate and recommend potential new long-term funding sources for the program. Not fully funding FREP creates a real and measurable disproportionate impact that highlights the state’s failure to fulfill the promises of Forests and Fish.

FORESTRY RIPARIAN EASEMENT PROGRAM RULE MAKING

Dan Pomerenk, DNR, requested the Board’s approval to begin the rule making process for the FREP rule. He explained that among other things, the 2011 legislation excluded non-profit organizations from eligibility and placed a monetary cap on compensation for unstable slopes areas. The legislature set aside \$1 million for the program for the current biennium. He said currently there are 86 applications waiting for funding, and his goal is to determine a value on as many as possible. He said possibly 10 easements can be acquired in the current biennium.

MOTION: Sherry Fox moved that the Forest Practices Board direct staff to file a CR-101 Pre-Proposal Statement of Inquiry to notify the public that the Board is considering rule making to implement Engrossed Substitute House Bill 1509 that modifies the Forestry Riparian Easement Program.

SECONDED: Paula Swedeen

Board Discussion:

Sherry Fox requested that the rule language stay as close to the legislation as possible.

ACTION: Motion passed unanimously.

EXECUTIVE SESSION

No executive session.

Meeting adjourned at 4:50 p.m.