

1 **FOREST PRACTICES BOARD**
2 May 14, 2003
3 Natural Resources 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 Bob Kelly, General Public Member
10 David Hagiwara, General Public Member
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 Toby Murray, General Public Member
16 Tom Laurie, Designee for Director, Department of Ecology

17 **Members Absent:**

18 Keith Johnson, General Public Member/Small Forest Landowner
19 Wendy Holden, Designee for Director, Office of Trade and Economic
20 Development

21 **Staff:**

22 Lenny Young, Forest Practices Division Manager
23 Ashley DeMoss, Assistant Division Manager
24 Paddy O'Brien, Assistant Attorney General
25 Patricia Anderson, Rules Coordinator
26 Dani Jones, Board Coordinator
27

28 **CALL TO ORDER**

29 Chairman McElroy called the meeting to order at 9:00 a.m. Dani Jones gave an emergency briefing,
30 and McElroy facilitated introductions of the Board, staff, and attendees.
31

32 **APPROVAL OF MEETING MINUTES**

33 **MOTION:** Tom Laurie moved to approve the February 19, 2003 meeting minutes.

34 **SECONDED:** John Mankowski

35 McElroy noted a correction on page 4, line 16 to change "Senate" to "House".

36 **ACTION:** Motion passed unanimously.
37

38 **MOTION:** John Mankowski moved to approve the March 19, 2003, meeting minutes.

39 **SECONDED:** Toby Murray

40 Toby Murray made the following change to page 10, lines 28 through 32 to read: "Murray restated
41 that Murray Pacific's amended HCP was largely based on watershed analysis lessons learned from

1 over 70 watershed analyses throughout the state. Murray Pacific formed the basis for many of the
2 prescriptions adopted by the Forests and Fish, and have been extremely effective in preventing a
3 variety of cumulative effects. In fact there have been numerous rain-on-snow events over the last
4 several years, and the tree farm has come through with flying colors illustrating the effectiveness of
5 the prescriptions in preventing damages from cumulative effects. Forests and Fish forest practices
6 regulations are in place and they are taking care of the problem.”

7
8 McElroy also noted the corrections on page 4, line 11, to replace the word “except” with “accept”
9 and on page 10, line 28, change “The Collins Pest Report” to “The Collins Pess Report.”

10
11 John Mankowski noted a change on page 9, line 27 to read “Cumulative effects was a big issue in
12 the early 1990’s, but now we have the owl, marbled murrelet, and other habitat rules that help
13 address cumulative effects.” Mankowski also changed page 13, line 8 to include “and the wildlife
14 work plan” at the end of the sentence.

15 **ACTION:** Motion passed unanimously.

16
17 **LEGISLATIVE UPDATE**

18 Young summarized five bills delivered to the Governor that directly affect forest practices:

19
20 Second Substitute House Bill (2SHB) 1095 implements recommendations to alleviate economic
21 hardship on small forest landowners caused by the road maintenance and abandonment planning
22 requirements of the Forests & Fish Report and the Forest Practices Rules. This bill defines a small
23 forest landowner as an owner of forest land who has harvested from his or her own lands an average
24 timber volume of no more than 2 million board feet per year during the three prior years and who
25 certifies that he or she does not expect to harvest more than an average timber volume of 2 million
26 board feet during the ten years following. An educational brochure, workshops, a simplified
27 checklist-RMAP, and a cost share program to help small landowners replace fish passage barriers
28 according to the principle of "worst first" must be developed by the DNR in consultation with the
29 Department of Fish and Wildlife. The legislation requires emergency rules to be in effect by
30 October 31, 2003 and until permanent rules are adopted. Young reported that this bill was
31 scheduled to be signed by the Governor that afternoon.

1 HB 1531 was vetoed by the Governor. It would have required the Governor's signature on all
2 significant legislative rules--including permanent Forest Practices Rules--as part of the rule
3 adoption process.

4
5 Substitute Senate Bill (SSB) 5144 provides that a forest practices permit is not required for
6 activities to control or eradicate exotic insects under certain specific emergency circumstances. This
7 bill had not yet been acted upon by the Governor.

8
9 Second Substitute Senate Bill (2SSB) 5694 creates a pilot project to evaluate development of an
10 integrated environmental review and permitting system. Forest practices applications and
11 notifications could be incorporated into such a system. This bill was signed by the Governor.

12
13 Engrossed Substitute Senate Bill (ESSB) 5776 creates a coordinated permit appeal process for
14 certain economic development projects which is the exclusive process for review of final permit.

15 16 **WATERSHED ADMINISTRATIVE UNIT BOUNDARY UPDATE**

17 Eric Schroff gave a brief update on revised watershed administrative unit (WAU) boundaries. He
18 said the units are a part of the watershed analysis process and are nested within the water resource
19 inventory areas that have been established by Department of Ecology (DOE). He stated that DNR is
20 to provide a workable unit where watershed analysis could occur that respected the hydrologic
21 regimes within those specific areas and were established as a result of WAC-222-22-020. He
22 explained that boundaries of units where watershed analyses have been completed are
23 fundamentally not changed, but others are combined or split, and some WAU names are changed to
24 better conform to established naming conventions.

25 **MOTION:** McElroy moved that the Forest Practices Board approve the revised watershed
26 administrative unit boundary as presented.

27 **SECONDED:** Sherry Fox

28 **ACTION:** Motion passed unanimously.

29 30 **CMZ WORK GROUP UPDATE**

31 Geoff McNaughton reported that as requested by the Board, a technical working group with
32 substantial field experience in implementing the channel migration zone rules had been established.
33 The group will meet on May 23, 2003.

1
2 Alan Soicher asked if there was an established methodology that the group agreed to use.
3 McNaughton responded that the Board identified the direction for the group by the motion passed at
4 the last meeting.

5 **MOTION:** Alan Soicher moved that the role of the CMZ technical committee is to review the
6 existing Board Manual Section 2 and to make such recommendations for
7 modifications as may be appropriate to ensure that a) it is consistent with the best
8 available science b) repeatable and c) ready to be readily implemented by
9 appropriately trained practitioners.

10 **SECONDED:** John Mankowski

11 McElroy explained that it was the Board’s intent to focus on experienced field practitioners that
12 have a sense of where the Board has been on this issue, rather than on someone with an esoteric,
13 theoretical view. McElroy also stated that Board Manual development is not rule making and
14 therefore is not part of the adaptive management process.

15
16 Eric Johnson spoke against the motionstating that the Board needs to rely on the committee to
17 engage best available science as appropriate and not direct the group to do so. Toby Murray
18 concurred. He said that the term “best available science” is not definable and that McNaughton is
19 qualified to oversee the effort.

20
21 John Mankowski proposed that DNR, from the Board’s motion passed in March, develop a charter
22 to state the expectations of the participants and the scope of the project.

23 **ACTION:** Soicher withdrew his motion.

24
25 **BOARD PROCEDURES AND ETHICS RULES**

26 Patricia Anderson gave an update on the progress of the Board’s procedural and ethics rule making.
27 The effort has been delayed due to other rule making priorities. The rules are intended to inform the
28 public how to obtain information and to set the Board’s ethical and procedural standards.
29 The CR-101 was re-filed April 22, 2003 to announce potential rule making.

30
31 Eric Johnson asked whether language was needed to address “legal conflict of interest and private
32 gain”. He believes the draft is not specifically clear.

1 Paddy O'Brien responded that one difference this Board has from other Boards is that it primarily
2 focuses on rulemaking. Rulemaking by the ethics opinion is not a transaction involving the state.
3 The conflict arises when the Board is involved with contracting documents that relate to rulemaking
4 such as the small business economic impact statement, environmental documents or some studies
5 that the Board may request.

6
7 Johnson is still unsure whether the draft language addresses the scenario if a general public member
8 was a contractor on one of those projects would there be a legal conflict of interest, a private gain,
9 and should the Board Member participate in that discussion.

10
11 Tom Laurie suggested language that references the rules that are approved by DOE. He also noted a
12 correction on page 8, line 29 to change "if" to unless.

13
14 McElroy asked staff to review the language on page 2, line 33 that addresses majority vote and
15 ensure that it is clear in addressing a majority vote of those present at the meeting.

16
17 Mankowski suggested staff consider increasing the amount of copies required to include enough for
18 the public attending the meetings. Anderson responded that we did not want to create a hardship on
19 the public, therefore a compromise of enough copies for the Board and staff was decided. For
20 consistency sake, 15 copies will be the standard.

21
22 Mankowski said that language clearly stating that the Chair will set the agenda and has the authority
23 to decide what is or is not included on the agenda needs to be included. He also asked how this
24 rulemaking is being incorporated with other rule makings expected or underway.

25
26 McElroy responded that the Board did identify the procedural and ethic rules on their work plan for
27 this year. Anderson added that these rules are exempt from SEPA and a cost benefit analysis and
28 small economic business impact statement will not be necessary. This rulemaking should go
29 smoothly with one public hearing that will need to be scheduled.

30

31 **ALTERNATE PLANS UPDATE**

32 Jed Herman stated that work continues on creating alternate plan templates in support of small
33 forest landowners. Staff is preparing a report from the Board to the legislature pursuant to RCW
Approved August 13, 2003 - May 14, 2003 Forest Practices Board Minutes

1 76.09.368 that will be sent to the Board for consideration. The report will describe the Board's
2 progress in developing alternate plans.

3
4 **CMER WORK PLAN UPDATE**

5 Geoff McNaughton requested approval for five new CMER projects: Habitat relationships of
6 Dunn's and Van Dyke's Salamanders; Eastside Stream Typing Data Collection; Westside Fish
7 Model Validation Study; Type N Buffer Effectiveness Experimental Treatment Study; and Red
8 Alder Growth and Yield Model Development. These projects are all federally funded. He said that
9 he anticipates seeking the Board's approval on the CMER work plan in August.

10 **MOTION:** Tom Laurie moved to approve the current CMER projects

11 **SECONDED:** Bob Kelly

12 **ACTION:** Motion passed unanimously.

13
14 **SMALL FOREST LANDOWNER ROAD MAINTENANCE AND ABANDONMENT**
15 **PLANNING**

16 Gretchen Robinson requested approval to implement SSHB 1095. Upon the approval of the Board,
17 staff would file a Pre-Proposal Statement of Inquiry (CR-101) and begin to facilitate rule drafting
18 with the Small Forest Landowner Advisory Committee. The pre-proposal inquiry informs the public
19 that interested parties may participate in formulation of the rules. The draft rule language developed
20 between now and August will possibly serve as both the emergency rule language and a permanent
21 rule draft. It is necessary that the emergency rule language be ready to meet the legislature's
22 October 31 deadline. Permanent rule making will require a cost benefit and SEPA analysis.

23 **MOTION:** I move that the Forest Practices Board direct staff to file the Pre-Proposal Statement
24 of Inquiry (CR 101) with the Office of the Code Reviser to inform the public of rule
25 making for small forest landowner road maintenance and abandonment planning
26 rules and to include the Small Forest Landowner Advisory Committee in developing
27 a rule proposal.

28 **SECONDED:** John Mankowski

29 **ACTION:** Motion passed unanimously.

30
31 **TFW CULTURAL RESOURCES COMMITTEE REPORT**

32 Lenny Young stated that the committee has completed the Cultural Resources Protection and
33 Management Plan and a watershed analysis module and has drafted rule changes that would

1 implement the watershed analysis module. The goal is to present the recommendations to Forests
2 and Fish Policy and then present the documents to the Board at the August meeting.

3

4 **MARBLED MURRELET UPDATE**

5 Dave Whipple gave an update of the marbled murrelet survey rules. WDFW has held stakeholder
6 meetings for the purpose of understanding the 2003 Pacific Seabird Group (PSG) revised survey
7 protocol and how it relates to existing forest practices rules, marbled murrelet administrative issues,
8 and circling behavior issues. The protocol defines circling behavior to include full, half, or quarter
9 circle turns, angular turns, and flight paths that deviate from straight-line flight. WDFW will request
10 at the August meeting that the Board initiate the rule making to adopt the revised murrelet survey
11 protocol and hopefully to report the findings and the outcome of the analysis regarding circling
12 behavior issues.

13

14 Sherry Fox requested that small landowners get involved in the stakeholder process, as there could
15 be an economic impact on the small forest landowners.

16

17 **WILDLIFE PLANNING**

18 John Mankowski stated that a core team of WDFW scientists and policy managers are organizing to
19 determine the effectiveness of the forest practices rules on upland wildlife. In addition, the strategy
20 contains direction for the department to develop an extensive stakeholder involvement process.

21 WDFW has made some substantial progress and has established a core team to direct strategy and
22 oversee the project. Mankowski also stated that quarterly updates would be provided in advance of
23 the Board meetings.

24

25 **EXECUTIVE SESSION**

26 Executive session commenced at 11:05 a.m.

27

28 Meeting adjourned at 11:25 a.m.