

1 **FOREST PRACTICES BOARD SPECIAL MEETING**

2 June 19, 2002

3 John L. O'Brien Building

4 Olympia, Washington

5  
6 **Members Present**

7 Pat McElroy, Designee for Commissioner Sutherland, Chair of the Board

8 Fran Abel, General Public Member

9 Lloyd Anderson, General Public Member/Independent Logging Contractor

10 Tom Laurie, Designee for Director, Department of Ecology

11 Lee Faulconer, Designee for Director, Department of Agriculture

12 Judy Turpin, General Public Member

13 Robin Pollard, Designee for Director, Office of Trade and Economic Development

14 John Mankowski, Designee for Director, Department of Fish and Wildlife

15 Bob Kelly, General Public Member

16 Eric Johnson, Lewis County Commissioner

17 **Members Absent**

18 Toby Murray, General Public Member

19 Keith Johnson, General Public Member/Small Forest Landowner

20  
21 **Small Forest Landowner Road Maintenance and Abandonment Plans (RMAPs) – Introductory**  
22 **Comments by the Board**

23  
24 Pat McElroy called the meeting to order at 9 a.m. The purpose of the special meeting was for the  
25 Board to focus on RMAP issues and to hear the concerns of the public. He said that Commissioner of  
26 Public Lands Doug Sutherland and Governor Gary Locke had asked Forests & Fish Policy to look at  
27 potential solutions to lessen the impact of the 1999 legislatively directed RMAP rules on small forest  
28 landowners, but at the same time, not compromise the protection of water quality and fish habitat  
29

30 **RMAP Report from Forests & Fish Policy**

31  
32 Lenny Young reported on the public input that DNR and Forests & Fish Policy have received  
33 concerning RMAPs for family forests, and referred to a listing of those issues and Policy's draft  
34 recommendations (see Attachment A). Tom Laurie asked whether the recommendations have a  
35 timeline. Young stressed that the draft recommendations have not yet been discussed in detail with the  
36 agencies that would be required to implement them, and that Policy intends to finalize the  
37 recommendations as soon as possible, but wanted to get input from the Board first.  
38

39 Eric Johnson asked if Policy was mindful of federal protection while reviewing the new landowner  
40 definitions. Young replied that NOAA Fisheries and the U.S. Fish and Wildlife Service have been at  
41 the meetings and involved in the discussions.  
42

43 Tom Laurie asked how the watershed assessment and repairs would occur. Young responded that field  
44 teams would do a physical inventory of all fish blockages, and these inventories would be used to  
45 prioritize repairs as cost share funding becomes available.  
46

47 Young stated that Policy felt it was important to address the fish blockages quickly and was  
48 comfortable with having small forest landowners submit their RMAPs when the forest practices

1 application is submitted. Policy is still working through details of how fish blockage repairs will  
2 occur.

3  
4 Young explained that an RMAP brochure is proposed which would describe goals for maintaining  
5 roads and addressing blockages and provide a set of best management practices tailored to family  
6 forest owners. Each of the best management practices would correspond to a checklist item for  
7 landowners to affirm accomplishment at the time the RMAP and the Forest Practices Application  
8 (FPA) would be submitted.

9  
10 Robin Pollard asked if any concerns had been forwarded from large landowners. Young replied that  
11 Policy was tasked to address RMAP concerns specifically for family forest owners, but that some of  
12 the recommendations may apply to large landowners' RMAP issues.

13  
14 John Mankowski said that Policy is proposing doing an inventory of blockages (some information  
15 already exists in databases), have local representatives and biologists help assess which blockages need  
16 to be fixed first, and then look for funding to fix the blockages.

17  
18 McElroy commented that the public presence today indicates that the RMAP issue is important and  
19 significant. Two goals must ultimately be met: protecting fish and clean water, and keeping family  
20 forests viable.

## 21 22 **Public Comment**

23  
24 Allen Klaydall, small tree farmer, asked how it was determined that 80 acres is a very small  
25 landowner. Lenny Young replied that this was defined in the Forests and Fish legislation.

26  
27 Jim Murphy, a small forest landowner and member of Small Forest Landowner Advisory Committee  
28 (SFLAC) commented on that committee's role in the RMAP issue. Refer to Attachment B for  
29 comments.

30  
31 Joseph Pavel, Northwest Indian Fisheries Commission, expressed support for the RMAP rules and for  
32 financial assistance for landowners. He said he is concerned, however, about the landowners not  
33 required to do an RMAP until an FPA is completed. This deserves further evaluation. He said the  
34 tribes are willing and able to work with landowners within watersheds – the tribes have a property  
35 right interest in protecting aquatic resources. Sediment issues need to be dealt with in a timely manner.

36  
37 Steve Appel, Washington State Farm Bureau, commented it is important to understand that people,  
38 who make their living by farming, ranching, and timber harvesting, have coordinated the Farm Bureau  
39 meetings on RMAPs. They care about stewardship of their lands, private property rights,  
40 constitutional guarantees, fairness, equality and the ability to provide for their families. Commissioner  
41 Sutherland and the Department of Natural Resources should be commended for the quick response to  
42 the Farm Bureau's concerns and a willingness to work with landowners to find reasonable remedies.  
43 These regulations could affect rural private property owners in ways that the legislators did not intend.  
44 The legislators very clearly expressed concern for the financial viability of family forestry when they  
45 passed the Forests and Fish Act. These regulations impose significant financial burden on private  
46 property owners and could isolate private property owners if other landowners abandon their roads  
47 and/or force other property owners to cut trees even if they did not want to. The concerns about  
48 RMAPs need to be addressed by the legislature to ensure the viability of family forestry. The Farm  
49 Bureau has formed a technical advisory committee made up of landowners, land use specialists and

1 legal advisers to look at RMAPs issues and hopes that DNR and the Board will continue to use the  
2 expertise of the Farm Bureau. He thanked the Board for quickly turning its attention on this issue and  
3 allowing the Farm Bureau to be heard.  
4

5 Bill Wilkerson, Washington Forest Protection Association, and co-chair of the Forests and Fish Policy  
6 Committee explained that Forests and Fish Policy Committee was given a clear assignment to bring  
7 potential fixes to RMAPs before the Board. He complimented DNR and Lenny Young on the quality  
8 of work that has been done so far. The Committee has done a good job of identifying the different  
9 levels of land ownership that can be affected by forest practices in this state. The Legislature, in the  
10 Forests and Fish law, identified what a very small landowner is. The large landowner definition is a  
11 good definition, and our association agrees with that definition. The fear in the state about RMAPs is  
12 mostly about fish passage and how we go about dealing with it. Forests and Fish Policy Committee  
13 has discussed in great detail doing watershed analysis, then ranking and fixing the worst first. It  
14 recognizes that this is a public resource that we are all trying to protect, and the public should have  
15 major involvement in paying for it - not just individual parcel owners within the state. The large  
16 industrial landowners agree with the schedule and fixing problems on their lands. Forests and Fish  
17 Policy Committee is proposing to completely change the approach to RMAPs for everyone that  
18 harvests less than 2 million board feet a year in the state. Forests and Fish Policy Committee is not  
19 recommending the same RMAP for large and small landowners; it is recommending an expansion in  
20 the definition for small landowners. The recommendation is that the RMAP checklist be tied to an  
21 actual harvest other than to a 15-year schedule for small landowners. Forests and Fish Policy  
22 Committee has a commitment to fix problems when they occur and there is a system in place that can  
23 fix problems as they arise.  
24

25 Nels Hanson, Washington Farm Forestry Association, talked about the high cost of replacing culverts,  
26 and that the definition of roads and the complexity of RMAP documents is baffling to many small  
27 landowners. Hanson and other WFFA members worked with their legislators to include forestry in the  
28 EQIP program within the Farm Bill that was passed by Congress and signed by the President.  
29 Hopefully this does not restrict funding/cost sharing for anything that the landowners are required to  
30 do. The most costly encumbrance that RMAPs can impose on a landowner is dealing with stream  
31 typing. Stream typing is moving in a direction that ignores the type of water in lower elevations and in  
32 flatlands where it is harder to distinguish between a wetland and stream or between a marine runoff  
33 and stream. He urged that greater attention be given to water typing in the lowland and flatlands than  
34 has been given so far.  
35

36 Dick Easter, Clark County Farm Forestry Association (CCFFA) and family forester, presented a  
37 resolution from CCFFA (see Attachment C). He said that Clark County is working on a watershed  
38 analysis to identify fish blockages and to set priorities to fix blockages. Due to rule changes, starting  
39 in 1992, many of his friends have given up and, as a result, much forestland has been lost. He hopes  
40 the Board recognizes family foresters as stewards of the land and will provide rules that family  
41 foresters can live with and still protect the land.  
42

43 Joel Kretz, Okanogan County Farm Bureau, complemented the Board on moving quickly on the  
44 RMAP issue. He said he spent three years dealing with DNR about putting a culvert on a creek with  
45 no water in it. This is a seasonal creek that runs up high in the canyon. As it gets down the canyon the  
46 soils change and the creek goes underground and has not made it to the next creek for the past three  
47 years. For a harvest netting \$5,000, a \$12,000 arch style bottomless culvert was required in a creek  
48 with no water in it. To save a salmon on this creek, first it must jump the Grand Coulee Dam, then get  
49 up an 80-foot fall, and finally traverse a quarter mile of dry rocky ground. Washington Farm Forestry

1 has done a good job in supporting the small tree farmers but there are people that are not represented,  
2 mostly ranchers. With 14 inches of rainfall a year, he said, his land is not really a timber growing area  
3 but there is enough to harvest occasionally. This land falls under the parameters of RMAPs except  
4 these landowners do not have the value to do any costly fixes. He encouraged the Board to keep in  
5 mind this is private property - that multiple agencies, tribes and any interested entities monitoring  
6 private property is an intrusion on privacy and the enjoyment of the land. He asked the Board to keep  
7 that in mind as rules are developed. He commended DNR staff that attended the meetings throughout  
8 the state.  
9

10 Peter Revesz, Clark County tree farmer, presented his views on RMAPs requirements: small forest  
11 landowners are effective, flexible problem solvers; RMAPs require more than is necessary, can be  
12 counterproductive for small family tree farming, and are expensive. He also submitted a written  
13 statement with photographic illustrations – see Attachment D.  
14

15 Sally Anderson, landowner in Lewis County, said she could not afford to comply with the rules for her  
16 road. People are losing rights to be stewards of their own land. People that are doing wrong should be  
17 fined and those that are not should not have to bear the cost of regulation.  
18

19 Alicia Deleon, landowner in Thurston County, said the rules were brought to her attention through her  
20 membership in the Farm Bureau. The rules invade her privacy and create a loss of her property rights.  
21 It would be a shame to sell her land instead of keeping it to grow trees for her family and future  
22 generations to enjoy.  
23

24 Bob Playfair, Washington Farm Forestry Association, complemented the Board and DNR staff on  
25 addressing the small forest landowner problems - specifically RMAPs - in a timely manner. The  
26 required replacement of structures is a high priority fix to protect public resources. Therefore, the  
27 landowners that constructed or replaced these structures in the past under old forest practice rules  
28 should expect a 90% cost share in that replacement procedure because they did it under old rules and  
29 now the rules have changed. The WFFA supports the proposed regulatory changes as proposed today  
30 as a result of intense negotiations.  
31

32 Dale Arola, small forest landowner in Clark County, submitted written comments to the Board (see  
33 Attachment E).  
34

### 35 **Board Discussion on Road Maintenance and Abandonment Plans (RMAP)** 36

37 Pat McElroy provided information on funding sources for RMAP. In the Farm Bill, the Environmental  
38 Quality Improvement Program (EQIP) - managed by the Natural Resource Conservation Service - has  
39 a program that is designed to help pay for environmental improvements (originally focused on dairy  
40 and feedlot waste). In the Farm Bill, forestry is specifically identified as an acceptable practice for  
41 EQIP funding. EQIP funding will be increased as a national program from \$75 million to \$200 million  
42 nationally and will go up to \$600 million nationally next year. By the end of the life of the Farm Bill,  
43 which is six years from now, it will be \$1.3 billion nationally. The other source of funding in the Farm  
44 Bill is under the forestry title. This is more problematic, because under the current interpretations of  
45 the regulations by the U.S. Forest Service, it cannot be used by landowners to meet regulatory  
46 obligations. He said he's been asked to have one of his staff go to Washington, D.C. to work with the  
47 Forest Service on developing new rules. He said he is committed to do that – and this is one of the  
48 areas he wants changes to be made. There is hope, he said, but it will be hard work to gain access to  
49 that money.

1  
2 Robin Pollard asked if there was any idea of the magnitude of need. Lenny Young said there is an  
3 estimate of \$10 million per year for 15 years needed.  
4

5 Judy Turpin said a number of individuals have written letters to the Salmon Recovery Funding Board  
6 with regard to their funding. Lenny Young stated that the Salmon Recovery Funding (SRF) Board  
7 deferred RMAP funding until their next grant funding cycle. There is some reluctance to fund  
8 sivilcultural activities so we need to broaden our support and have a good proposal for the next grant  
9 funding cycle in order to receive any money. He said the more grass roots support for this issue to the  
10 SRF Board, the better chance of getting funding in the future. John Mankowski added that we need to  
11 show these entities a system is in place to rank the worst first and show we have an efficient  
12 contracting system. This has not been figured out yet but the Department of Fish and Wildlife staff  
13 and the DNR Small Forest Landowner Office will get together to determine how best to create such a  
14 process.  
15

16 McElroy said any science-based questions or rule change should be referred to the Adaptive  
17 Management process. Paddy O'Brien stated that the Board has adopted a rule that defines what the  
18 adaptive management process is. She suggested that the Board review the rules to see how the  
19 adaptive management process works and how to use the process.  
20

21 Tom Laurie asked what landowners are supposed to do while DNR and the Board figure out what to  
22 do. Young replied that DNR is using appropriate discretion in applying the RMAP rules. For small  
23 landowners that are submitting forest practices applications, they have the requirement to complete  
24 their RMAP within that region in one year. The large landowner requirements are moving along as  
25 planned.  
26

27 McElroy expressed appreciation to the small landowners for attending and sharing their concerns.  
28 McElroy asked Young if he heard any new concerns today; Young replied that he had not, but  
29 appreciated all the comments presented.  
30

31 Eric Johnson asked to what degree the Board looks at cost sharing to assist the landowners that met the  
32 conditions of previous laws. Young replied that these landowners could receive higher priorities,  
33 higher cost share or even outright grants with no match at all. McElroy and Young agreed that if the  
34 landowner has done the work in good faith, the culvert should remain and be allowed to live out its life  
35 span before the landowner replaces it.  
36

37 Lee Faulconer said he was impressed with the amount of work that had been done in such a short time.  
38 Work must continue to obtain funding not only with federal agencies but also with the Congressional  
39 delegation to be able to use the federal Farm Bill in a regulatory setting. It could be complex process  
40 for funding if we find more than one funding source. There needs to be a way for an individual to  
41 contact one entity for assistance and guidance. He offered to assist in developing a process. McElroy  
42 said he would like agency staff that deal with funding issues from Community Trade and Economic  
43 Development, Department of Agriculture and DNR to get together on this.  
44

45 Judy Turpin asked whether the family forest owner is obligated by an FPA entirely or will there still be  
46 a time limit on complying with the RMAP rules. Young said all the other forest practices rules that  
47 govern road construction and maintenance will be enforced; this gave Policy the confidence to  
48 recommend that small forest landowners be allowed to link their RMAPs to their FPAs without a time

1 limit. If we have ongoing damage to public resources, DNR is not going to ignore the damage until an  
2 FPA is submitted.

3  
4 John Mankowski said he'd had concerns with not requiring any plans until the harvest is done, but is  
5 confident in the brochure system and the baseline rules, and that DNR can still react to road and  
6 sediment problems with compliance monitoring.

7  
8 Pat McElroy explained that the recommendations were presented from Forests and Fish Policy  
9 Committee – not the Board's Small Landowner Subcommittee. He proposed that this continue  
10 because the issue is very large and time consuming, and policy and technical people have been  
11 working together. The Board should discuss whether to disband that subcommittee at the next  
12 meeting. About the Small Forest Landowner Advisory Committee, McElroy acknowledged the  
13 frustration those committee members are experiencing. They have an advisory role to the Small Forest  
14 Landowner Office, and in a limited way to the Board, but he said he was committed to better integrate  
15 them into this process.

16  
17 **Executive Session**

18  
19 Board began executive session at 12:19 p.m. and adjourned at 12:30 p.m.

20  
21 **MOTION:** McElroy moved to adjourn the meeting.

22 **SECONDED:** Judy Turpin

23 **ACTION:** Motion approved unanimously.

24  
25 Meeting adjourned at 12:31 p.m.