

FOREST PRACTICES BOARD
Regular Board Meeting – February 9, 2022
via Zoom Webinar

Meeting materials and subject presentations are available on Forest Practices Board’s website.
<https://www.dnr.wa.gov/about/boards-and-councils/forest-practices-board>

Members Present

Alex Smith, Chair, Department of Natural Resources
Ben Serr, Designee for Director, Department of Commerce
Bob Guenther, General Public Member/Small Forest Landowner
Brent Davies, General Public Member
Carmen Smith, General Public Member/Independent Logging Contractor
Cody Desautel, General Public Member
Dave Herrera, General Public Member
Jeff Davis, Designee for Director, Department of Fish and Wildlife
Kelly McLain, Designee for Director, Department of Agriculture
Rich Doenges, Designee for Director, Department of Ecology
Tom Nelson, General Public Member
Vickie Raines, Elected County Commissioner
Wayne Thompson, Timber Product Union Member

Staff

Joe Shramek, Forest Regulation Division Manager
Mary McDonald, Forest Regulation Assistant Division Manager
Marc Engel, Forest Practices Senior Policy Advisor
Patricia Anderson, Forest Practices Rules Coordinator
Phil Ferester, Senior Counsel

WELCOME AND INTRODUCTIONS

Chair A. Smith called the Forest Practices Board (Board) meeting to order at 9:03 a.m. Roll call of Board members and introduction of staff was made.

ZOOM MEETING INSTRUCTIONS

Tracy Hawkins, Department of Natural Resources (DNR), provided instructions on how the Zoom meeting would be conducted and how to provide public comment.

REPORT FROM CHAIR

Chair Smith shared the decision to delay the planned Water Typing Workshop until late March-early April 2022. She said the two-day meeting was a consideration based on the possibility of a recommendation from the Policy committee to the Board about the anadromous fish floor and subsequent action by the Board. She said allowing an extra 4-6 weeks will give the Board’s Water Typing Rule Committee and the committee’s Anadromous Fish Floor work group adequate time to develop thoughtful proposals that will help with making well-informed decisions.

Chair Smith provided an update on the following:

- Employee transitions included Laurie Cox, Family Forest Fish Passage Program Manager, retiring at the end of March after 38 years of service, and Marc Ratcliff, Forest Practices policy team leader who accepted a new job as the DNR Pacific Cascade Region Forest Practices District Manager. In the Small Forest Landowner Office, Todd Olson is the new Supervisor for the regulatory assistance team and new hires included Holly Haley, Outreach Specialist and three regulatory assistance foresters:

1 Noel Nequette, Roslyn Henricks, and Tom Chandler. New hires in the Adaptive Management
2 Program (AMP) included Natalie Church, TFW Policy and CMER Committees Administrative
3 Support, and three Project Managers: Anna Toledo, Alexander Prescott, and Jenny Schofield.

- 4 • Commissioner Franz' TFW principal's meeting was held in December 2021 to begin working on the
5 Board's plan to address recommendations from the State Auditor's Office to make improvements in
6 the AMP.
- 7 • Legislative updates included the fact that the Lorraine Loomis Act and the Keep Washington
8 Evergreen Act bills that were not successful in moving through the legislative process. Chair Smith
9 said DNR is working with the Governor's office and others on how to best use the money that was
10 associated with the Loomis Act to support salmon programs, like the Family Forest Fish Passage
11 Program, the Rivers and Habitat Open Space Program, and the Forest Riparian Easement Program.
12 Also, the Northern Spotted Owl Safe Harbor Agreement authority bill is moving through the
13 legislative process, and DNR is hopeful to get authorization from the Legislature to allow it to
14 negotiate with the federal government and enter into an "opt-in" programmatic safe harbor agreement
15 for private forest landowners. A Senate bill that would increase fees for forest practices applications to
16 pay for some of the costs for the new online application system (fpOnline) was also moving through
17 the 2022 legislative process.

19 APPROVAL OF MINUTES

20 MOTION: Rich Doenges moved the Forest Practices Board approve the November 10, 2021 meeting
21 minutes as amended.

22
23 SECONDED: Ben Serr

24
25 Board Discussion:

26 Board Member Rich Doenges suggested a change to page 7, line 26 to read as follows.

27 . . . ~~She said she hopes to announce her decision soon, but needs more time to digest the comments~~
28 ~~received at Ecology as well as some of the comments heard today.~~ Director Watson said she had hoped to
29 announce today that she would be extending the CWA assurances based on their confidence that the AMP
30 is continuing to move towards compliance with water quality standards on Type N streams.

31
32 ~~Watson said that Ecology has confidence that the adaptive management process is working and it is~~
33 ~~getting us toward making continuous improvement to water quality. . . .~~

34
35 ACTION: Motion passed unanimously. (Guenther and Raines not available for vote.)

37 WATER TYPING SYSTEM RULE COMMITTEE UPDATE

38 Board member Bob Guenther said that the when the Committee meets next, they will be better prepared to
39 discuss anadromous fish floor alternative recommendations. He said to keep the task moving forward, the
40 Committee supports having a special meeting of the Board in late March or early April. He said staff
41 propose having a two-day meeting for the Board to receive presentations on the first day and for the
42 Board to take any necessary action on the second day.

44 REQUEST FOR REALLOCATION OF MASTER PROJECT BUDGET FUNDS FOR THE 45 DISPUTE RESOLUTION

46 Saboor Jawad, Adaptive Management Program Administrator (AMPA), requested Board approval to
47 reallocate \$179,000 from the current projected positive balance in the AMP Master Project Schedule
48 (MPS) budget to pay for higher-than-anticipated mediation of disputes. If approved, these funds will be
49 added to the \$45,000 previously approved by the Board for a total of \$224,000 available for dispute
50 resolutions. He said if this request is accepted, the Type Np GIS proposal initiation dispute resolution

1 stage 2 mediation would start immediately. Currently, five dispute resolution processes have been
2 invoked in the TFW Policy Committee (TFW Policy) and several more have been initiated in CMER. He
3 said the Board included funding for a facilitator/mediator when it approved the Master Project Schedule
4 for the current biennium, but at the time it was anticipated that there would only be one dispute resolution
5 per year.

6
7 Board member Doenges asked if the reallocation affects the MPS contingency fund. Jawad replied that it
8 would not.

9
10 **PUBLIC COMMENT ON REQUEST FOR REALLOCATED FUNDING FOR DISPUTE**
11 **RESOLUTION**

12 Ken Miller, Washington Farm Forestry Association (WFFA), requested support of the funding
13 reallocation. He said he commends the TFW Policy co-chairs for their work to expedite the dispute
14 resolution process and said that this funding will help to move more smoothly and efficiently through
15 dispute resolution.

16
17 Ray Entz, Kalispell Tribe, said they are supportive of the budget change and that it will be helpful for the
18 process. He is concerned there is more work to do than there are time and resources.

19
20 Jim Peters, Northwest Indian Fisheries Commission (NWIFC), said the western Washington tribes are in
21 support of the additional funding for the dispute resolution process and agrees with Entz’ concerns. He
22 said there is a concern that not all watersheds are universally protected and the dispute resolution process
23 is part of what is needed to address the concerns of western Washington tribes.

24
25 **REALLOCATION OF MASTER PROJECT BUDGET FUNDS FOR THE DISPUTE**
26 **RESOLUTION**

27 **MOTION:** Wayne Thompson moved the Forest Practices Board approve the reallocation of the Master
28 Project budget funds for the dispute resolution process.

29
30 **SECONDED:** Rich Doenges

31
32 Board Discussion:
33 None.

34
35 **ACTION:** Motion passed unanimously.

36
37 **DNR’S REPRESENTATIVE ON THE NORTHERN SPOTTED OWL CONSERVATION**
38 **ADVISORY GROUP**

39 Marc Engel, DNR, requested the Board approve Mary McDonald, Assistant Division Manager for Forest
40 Regulation, as DNR’s representative on the advisory group. He said it was noted at the November 2021
41 Board meeting that representation by DNR is lacking due to Stephen Bernath’s retirement. He stated that
42 Mary has the required credentials which is to have a working knowledge of the spotted owl habitat
43 relationships and factors affecting owl conservation.

44
45 **PUBLIC COMMENT ON THE NORTHERN SPOTTED OWL CONSERVATION ADVISORY**
46 **GROUP**

47 None.

48
49 **DNR’S REPRESENTATIVE ON THE NORTHERN SPOTTED OWL CONSERVATION**
50 **ADVISORY GROUP**

1 MOTION: Cody Desautel moved the Forest Practices Board accept Mary McDonald as DNR's
2 representative on the Northern Spotted Owl Conservation Advisory Group.

3
4 SECONDED: Vickie Raines

5
6 Discussion:
7 None.

8
9 ACTION: Motion passed unanimously.

10
11 **PROPOSED MODIFICATIONS TO BOARD MANUAL SECTION 22 ADAPTIVE**
12 **MANAGEMENT PROGRAM**

13 Chair Smith said the [proposed modifications](#) to Board Manual Section 22 are part of the Board-approved
14 plan to implement SAO's recommendations for improvement to the AMP.

15
16 Colleen Granberg, DNR, provided an overview of the proposed board manual changes. She said the
17 changes are in response to SAO recommendation #3, to make the board manual consistent with [WAC](#)
18 [222-12-045 Adaptive Management Program](#) as it relates to the dispute resolution process.

19
20 Granberg said the changes had been shared with TFW Policy Committee, and she requested the Board's
21 approval.

22
23 **PUBLIC COMMENT ON BOARD MANUAL SECTION 22**

24 Ken Miller, WFFA, said they support the recommended changes. He also emphasized for the Adaptive
25 Management Program to work as envisioned in the board manual, everyone needs to walk the talk
26 regardless of how painful or time consuming. Miller said that if TFW Policy does not resolve ongoing
27 disputes within the dispute resolution process, updating the board manual would be a pointless endeavor.

28
29 **MODIFICATIONS TO BOARD MANUAL SECTION 22 ADAPTIVE MANAGEMENT**
30 **PROGRAM**

31 MOTION: Wayne Thompson moved the Forest Practices Board approve Board Manual Section 22,
32 Guidelines for the Adaptive Management Program. He further moved the Board allow staff
33 to make minor editorial changes if necessary prior to distribution.

34
35 SECONDED: Vickie Raines

36
37 Board Discussion:
38 None.

39
40 ACTION: Motion passed unanimously. (B. Davies and J. Davis not available for the vote.)

41
42 **GENERAL PUBLIC COMMENT**

43 Ken Miller, WFFA, said seven years ago today the Board accepted WFFA's proposal initiation for a
44 science-based low impact template prescriptions for review by the AMP. At that time, DNR said that it
45 was the best, most complete proposal initiation ever submitted to the AMP. He said the Board instructed
46 the AMP to provide recommendations back to the Board that same year. He said clearly the Board at that
47 time were as naïve as they continue to be about the AMP processes. He said he is very frustrated with the
48 slow pace of progress, but remains optimistic as it appears the dispute resolution process will finally
49 address some legislative and rule intentions regarding small forest landowner alternate harvest
50 restrictions. He said it is obvious their 2015 proposal initiation has been a tough issue for the AMP.

1 However, it is critical to small forest landowners' perceptions to feel respected and appreciated
2 individually and as full members of AMP.

3
4 Elaine Oneil, WFFA, said there are several disputes within AMP relating to small forest landowners
5 issues. She provided her perspective on why WFFA's low impact template proposal has taken so long to
6 go through the process. She stated that these disputes over process are in a project program that is
7 process-based rather than results-based. The fault is not of AMP nor the people in the program, rather it's
8 embedded in the forest practices regulatory framework that is process-based and not results-based. She
9 believes the entire system will need an overhaul to create a results-based regulatory framework which
10 would be big undertaking. She said their relatively low impact effort was actually aimed at improving
11 outcomes and they were not happy to see how quickly it got shot down. From their perspective, others
12 don't really want outcomes unless it means taking more timber offline, which is not acceptable to small
13 forest landowners because it fails to take a systems approach to finding solutions to really complex
14 biological issues.

15
16 Chris Mendoza, Conservation Caucus, clarified several comments made earlier regarding the small forest
17 landowner low impact template as he has been part of the process as CMER co-chair. First, he said that no
18 one walked away from the process. The position papers were drafted under the guidance of the AMPA
19 and the CMER co-chairs. Second, the mis-portrayal that only one caucus provided answers to the six
20 questions is false. He said CMER crafted answers to the six questions in December 2020 and brought
21 them to a vote, and it was a small forest landowner representative that voted them down. Third, after
22 being voted down, CMER agreed to create a memo drafting the agreements and disagreements which lead
23 to the small forest landowner representative calling for dispute resolution after agreeing to the memo.

24
25 Jim Peters, NWIFC, representing western Washington Tribes, said in most cases processes are followed
26 but at the end of the day, it is all about the resources that we all are trying to protect that are dwindling.
27 He highlighted the successful process done on RMAPs. He said even at the point where there was some
28 disagreement there was true respect in that forum. He said he believes there is one outstanding issue with
29 RMAPs which is completing the small forest landowner roads inventory.

30
31 **UPDATE ON TYPE NP BUFFER ALTERNATIVES**

32 Megan Tuttle, TFW Policy Committee Co-Chair, said that in November 2021, the Board received an
33 update from the co-chairs on the steps TFW Policy is taking to develop Type Np Water buffer
34 recommendations. These recommendations are based on guidance outlined in part 3.4 of Board Manual
35 Section 22.

36
37 Tuttle said in December 2021, TFW Policy clarified and initiated the dispute resolution process for the
38 Hard Rock Phase 1 timeline. Tuttle said that dispute resolution meetings commenced in January 2022,
39 and the next meeting to discuss Type Np buffer alternatives is scheduled for February 15, 2022.

40
41 Marc Engel, TFW Policy Committee Co-Chair, said the work to develop alternatives for Type Np buffers
42 is now in Stage One of the dispute resolution process, the informal part of the process that can take up to
43 two months to complete. If consensus is achieved, the dispute will be terminated and TFW Policy will
44 develop the Type Np buffer alternatives and a report to bring forward to the Board.

45
46 Engel cautioned that in addition to the development of Type Np buffer alternatives, TFW Policy continues
47 to work on other priorities assigned by the Board including the development of recommendations based
48 on results of the State Auditor's Report for the Adaptive Management Program, and amending the Master
49 Project Schedule and associated budget for Board approval for FY23.

50

1 Board member Doenges asked if there is an optimum or maximum number of alternatives being
2 considered. Engel said that TFW Policy has the Type Np workgroup report, which is based on relevant
3 CMER studies, and provided several alternatives for TFW Policy to consider. Marc Engel said that in
4 addition, TFW Policy invited caucus participants to provide additional alternatives for TFW Policy to
5 consider; this added four more alternatives, and currently, all alternatives are being considered.

6
7 Board member Doenges asked if TFW Policy will bring all the potential alternatives to the Board or just a
8 preferred alternative. Engel said TFW Policy is working toward a consensus on a preferred alternative
9 which may include options to be applied on the ground.

10
11 Board member Tom Nelson asked if any of the alternatives being considered are similar to proposals
12 being developed in Oregon. Tuttle responded TFW Policy is looking at what has occurred in Oregon and
13 is looking at ways to include a discussion of those efforts in future meetings.

14
15 **POTENTIAL TYPE NP BUFFER RULEMAKING TIMELINE**

16 Marc Engel, DNR, presented a [rule making timeline](#) and said that the uncertainty of the timing for TFW
17 Policy to bring forward Type Np buffer alternatives makes the projection a real challenge. He summarized
18 the initial steps and what the process will entail and when rule development may begin.

19
20 Board member Ben Serr asks when they might expect to see the related outstanding studies. Engel said
21 the final two studies have been received by TFW Policy, however a report has not been prepared for the
22 Board yet. He said the earliest the studies will come to the Board is August 2022.

23
24 Board member Doenges said he appreciates the efforts to put everything together in the presentation and
25 suggested a Gantt chart format to see the progression of the time line. He also said there may be some
26 benefit to the Board to do a preliminary presentation on the alternatives earlier than August or November.
27 Engel stated that there are still a lot of unknowns in the development of the alternatives and the time
28 frame remains fairly unpredictable.

29
30 Board member Cody Desautel asked whether this applies to Eastern Washington. Engel responded that it
31 is only a Western Washington rule under consideration.

32
33 **STATUS OF COMPLETION OF LARGE LANDOWNER ROAD MAINTENANCE AND**
34 **ABANDONMENT PLANS**

35 Donelle Mahan, DNR, said the large forest landowners were expected beginning in July 2001 to conduct a
36 roads inventory of at least twenty percent of their land base each year and have the completed inventory
37 included in an approved RMAP by July 1, 2006. This included all roads constructed or used for forest
38 practices after 1974. Roads were expected to be in compliance with current forest practices rules by
39 October 31, 2016. In 2011, the Board adopted a new rule allowing large forest landowners to apply for an
40 extension to complete work by October 31, 2021.

41
42 The Forest Practices rules outlined a strategy for how landowners prioritized the workload, beginning
43 with the “worst first.” In addition, the work was expected to be evenly metered each year to get done on
44 time.

45
46 She said DNR Region staff have been working closely with the large forest landowners to verify the
47 RMAP work completed by October 31, 2021 from landowner annual reports. The work required
48 collaboration from TFW partners, large forest landowners, Tribal biologists, Department of Ecology,
49 Washington Department of Fish and Wildlife (WDFW) and DNR.

50

1 [Mahan reported that over the last 21 years:](#)

- 2 • 30,782 miles of forest road have been improved; and
3 • 8,468 fish passage barriers have been corrected, opening 5,184 miles of streams to fish habitat.

4
5 RMAP work expected to be done by October 31, 2021 included 33 RMAP plans to be completed; 1,446
6 miles of forest road to be improved; and 147 fish passage barriers to be corrected. She said landowners
7 reported 595 fish passage barriers identified for 2021 operating season, and the barrier total includes 362
8 “life of pipe” decisions and 86 “new discoveries.”

9
10 Mahan reported there were 147 fish passage barriers remaining to be corrected by October 31, 2021, and
11 that reflects 1.6 percent of total barriers identified, which is a remarkable accomplishment.

12
13 Board member Nelson said this is one of the most successful outcomes of Forests and Fish and he wants
14 to better understand the underlying data because it will be helpful information for future Board decisions;
15 particularly for cost assessments and alternatives for water typing.

16
17 Board member Brent Davies congratulated staff and the many stakeholders and partners involved; the
18 reported results are great to see.

19
20 Board member David Herrera remembers working to develop an extension process for landowners to
21 conduct work under RMAP after landowners had problems resulting from the housing bubble burst when
22 they approached the Board for solutions. Board member Herrera said they worked together and reached
23 agreement that was reasonable and RMAP is a success story for fish.

24
25 **PROPOSED MODIFICATIONS TO BOARD MANUAL SECTION 12 APPLICATION OF**
26 **FOREST CHEMICALS**

27 Marc Ratcliff, DNR, provided an overview for why the legislature requested DNR to update the guidance
28 for forest chemical applications.

29
30 He said the [Aerial Application of Herbicides in Forestlands Workgroup](#) (2019) made several
31 recommendations about the Forest Practices Program to the legislature, which included asking the Board
32 to update Board Manual Section 12, *Guidelines for Application of Forest Chemicals*. Section 12 is the
33 technical guidance to the forest chemical rule chapter.

34
35 Through a funding proviso, the legislature required this be accomplished through a stakeholder process.
36 Those assisting DNR with the recommended board manual updates included a wide variety of expertise
37 and knowledge, including small and large forest landowners, field practitioners, Ecology, WDFW and
38 WSDA staff, academia staff and a representative from a pesticides awareness group.

39
40 Ratcliff said the legislature did not request DNR to amend the forest chemical rules. He said the [proposed](#)
41 [changes](#) are consistent with the existing rule, but provide options and best management practices (BMP)
42 to conduct aerial spray activities safely that includes a new focus on communicating with neighboring
43 landowners.

44
45 The proposed changes to Section 12 include:

- 46 • An introduction to describe the purpose of the section and the regulatory structure within Washington
47 State.
48 • Revised language on the maintenance of aerial application spray records.
49 • New language encouraging landowners and applicators to communicate activities with adjacent
50 property owners.

- 1 • New language and BMPs for posting signs near spray units.
- 2 • New language for managing activities when residences and agricultural land is adjacent to a spray
- 3 unit.
- 4 • New BMPs to identify surface waters prior to conducting an aerial spray activities.
- 5 • Updated BMPs to describe how spray equipment affects drift.
- 6 • Updated BMPs that include consideration of current and expected weather patterns' impact on spray
- 7 drift.
- 8 • New language about how to conduct site preparation and for controlling vegetation without the use of
- 9 chemicals. This new part provides options to landowners who elect not to use chemicals. Additional
- 10 options could be considered when DNR state lands finishes an on-going study on alternatives to using
- 11 pesticides for site preparation.
- 12 • Appendixes that provide landowners with more information on alternatives to using chemicals and
- 13 agency information.

14
15 Ratcliff noted two minor typographical errors that staff will correct prior to finalizing. He said if the
16 Board elects to approve the board manual section, staff will finalize and post the new section to the
17 Board's website within approximately two weeks.

18 19 **PUBLIC COMMENT ON BOARD MANUAL SECTION 12**

20 Heather Hansen, Washington Friends of Farms and Forests, said the development process was very
21 collaborative with good participation. She said the old version of the board manual was very outdated and
22 include requirements for equipment that is no longer in use and that the Environmental Protection Agency
23 had made significant changes to pesticide regulations and requirements for pesticide labels. There has also
24 been significant improvement in aerial application equipment, particularly in nozzles, so the new version
25 is much more detailed with more complete explanations. She complimented the group on an excellent job.

26
27 Ray Entz, Kalispell Tribe, said they are supportive of these overdue and substantive changes to Board
28 Manual Section 12. He said they appreciate all the work the diverse committee put into the changes,
29 specifically Marc Ratcliff for all the work he has done in the Forest Practices Division policy section.

30
31 Steve Barnowe-Meyer, WFFA, clarified the application buffer for agricultural lands is 100 feet not 200
32 feet. He also said this was the most collaborative board manual work group that he has personally
33 experienced and that the proposed board manual section is a vast improvement.

34 35 **MODIFICATIONS TO BOARD MANUAL SECTION 12 APPLICATION OF FOREST** 36 **CHEMICALS**

37 **MOTION:** Kelly McLain moved the Forest Practices Board approve Board Manual Section 12,
38 Guidelines for Application of Forest Chemicals. She further moved the Board allow staff
39 to make minor editorial changes if necessary prior to distribution.

40
41 **SECONDED:** Bob Guenther

42
43 Discussion:
44 None.

45
46 **ACTION:** Motion passed unanimously.

47 48 **STAFF REPORTS**

49 There were no questions on the following reports.

- 50 • Adaptive Management Program Update

- 1 • Small Forest Landowner Office Update
- 2 • TFW Policy Committee Update
- 3 • Upland Wildlife Update

4

5 **2022 WORK PLAN**

6 Marc Engel, DNR, reviewed the 2022 Work Plan and highlighted the changes since the November 2021
7 meeting. The Board confirmed a special meeting to be held on April 14 and 15, 2022 to conduct a water
8 typing workshop and consider next steps and any action to be taken.

9

10 **MOTION:** Bob Guenther moved the Forest Practices Board approve the 2022 Work Plan as amended.

11

12 **SECONDED:** Vickie Raines

13

14 Board Discussion:

15 None.

16

17 **ACTION:** Motion passed unanimously.

18

19 **EXECUTIVE SESSION**

20 None.

21

22 Meeting adjourned at 1:16 p.m.