

1 **FOREST PRACTICES BOARD**

2 Regular Board Meeting – August 28, 2024

3 Zoom Webinar and Room 172, Natural Resources Building, Olympia, WA

4  
5 **Members Present:**

6 Lenny Young, Chair, Department of Natural Resources

7 Ben Serr, Designee for Director, Department of Commerce

8 Chris Conklin, Designee for Director, Department of Fish and Wildlife

9 Frank Chandler, General Public Member/Independent Logging Contractor

10 Ignacio Marquez/Laura Butler (9-9:30 a.m.), Designee for Director, Department of Agriculture

11 Jim Peters, General Public Member

12 Meghan Tuttle, General Public Member

13 Pene Speaks, General Public Member

14 Steve Barnowe-Meyer, General Public Member/Small Forest Landowner

15 Tom Buroker, Designee for Director, Department of Ecology

16 Vickie Raines, Elected County Commissioner

17 Wayne Thompson, Timber Product Union Member

18  
19 **Members Absent:**

20 Cody Desautel, General Public Member

21  
22 **Staff:**

23 Karen Zirkle, Forest Regulation Assistant Division Manager

24 Marc Engel, Senior Policy Advisor

25 Patricia Anderson, Rules Coordinator

26 Saboor Jawad, Forest Regulation Division Manager

27 Terry Pruit, Senior Counsel

28  
29 **WELCOME AND INTRODUCTIONS**

30 Chair Lenny Young called the Forest Practices Board (Board) meeting to order at 8:00 a.m.

31 Introductions of Board members were made.

32  
33 **TFW POLICY COMMITTEE 2025 PRIORITIES**

34 Rico Vinh, Co-chair highlighted the priorities for calendar year 2025 which include:

- 35 • Small forest landowner alternative harvest prescriptions - two templates for conifer restoration
  - 36 or riparian thinning
  - 37 • State Auditor recommendation #5 – net gains. Develop recommendations for clarifying the
  - 38 process for outside science.
  - 39 • Updating the TFW Policy manual as needed and using structured decision making as a
  - 40 framework in how we make decisions.
  - 41 • Master Project schedule and budget
  - 42 • Continuation of budget work group in the maintenance of the MPS, including review and
  - 43 approval for work on ongoing projects and funding contingencies and Board priorities.
  - 44 • Set CMER work priorities
  - 45 • Continues to work with Compass Resource Management to explore and develop a potential
  - 46 process for using structured decision making and decision-making processes.
- 47

1 Vinh said as for new projects, TFW Policy’s workload is heavy, but must remain sensitive to  
2 changes in various timelines and new issues as they come up. The capacity for TFW Policy to  
3 accept any new work as assigned by the Forest Practices Board, or taken on for other reasons, could  
4 require delaying existing priorities and or scheduling additional meetings.

## 6 **WATER TYPING SYSTEM RULE REVIEW**

7 Marc Engel, DNR, described the Board approval decisions pertaining to the development of the  
8 water-typing system rule.

9  
10 The Board has received draft language for the water-typing system rule, which includes draft WAC  
11 222-16-030, the primary rule that describes Type S, Type F, Type Np, and Type Ns water  
12 classifications; and a new section in Title 222 WAC to address the Fish Habitat Assessment  
13 Methodology (FHAM), which landowners must use if they want to determine the end of fish habitat  
14 and the Type F/N break. The Board has approved for inclusion in rule:

- 15 • Combine language from WACs 222-16-030 and 222-16-031 to describe what constitutes Type  
16 S, Type F, Type Np and Type Ns waters.
- 17 • Address off-channel habitat, which is a component of Type F Water.
- 18 • Concurred Type F/N breaks will become the regulatory break.
- 19 • Potential use of ID Teams to address proposed water-type changes.
- 20 • The use of Default Physical Characteristics to determine the correct riparian buffer for a FPA’s  
21 proposed harvest.
- 22 • The Fish Habitat Assessment Methodology (FHAM), which describes the need to locate  
23 Potential Habitat Breaks (PHB).

24  
25 Engel reported that the Board has the elements necessary to approve draft language for WAC 222-  
26 16-030 without the need for more information.

27  
28 Stakeholder participation with DNR on the associated board manual guidance has produced several  
29 important key elements which are consistent with the rule making, and best practices for how to  
30 apply rule requirements on the ground. Draft board manual language has addressed:

- 31 • Season when survey will occur, it is optimal to conduct protocol surveys when fish will be  
32 present. Landowners and practitioners are informed to consult with WDFW.
- 33 • Preliminary office review to determine where fish are known to be present; draft Board Manual  
34 provides data sources so that landowners can determine where fish are already documented to  
35 occur.
- 36 • The Rules provide for all fish not just anadromous fish. WDFW provides useful information for  
37 protocol surveyors to inform where to begin a survey.

38  
39 Engel said the remaining decisions for the Board to consider relate to the Anadromous Fish Floor  
40 (AFF) and Potential Habitat Breaks (PHB). If the Board selects a certain option for the AFF, it will  
41 be added to the rule language. If the Board does not select an AFF option, the current field protocol  
42 for fish data could be used to apply FHAM, including delineating the end of fish habitat for the  
43 Type F/Type N break.

44  
45 If a proposed Potential Habitat Break (PHB) is not selected to include in draft rule, reference to  
46 PHBs or deference to expert judgement is required for the FHAM. If certain specific PHB language  
47 is not in rule, guidance will be added to Board Manual.

1  
2 Board member Jim Peters asked if the rule provides an opportunity to change the concurred points  
3 that have been accepted as regulatory Type F/N breaks if new information comes to light. Engel  
4 said that if there are differences on the ground from what the rule states, there are opportunities to  
5 bring forward request to DNR and DNR can implement an ID Team. If additional information  
6 comes forward after the regulatory point has been established, we can go out and by ID Team make  
7 a change.

#### 8 9 **WATER TYPING SYSTEM ANADROMOUS FISH FLOOR (AFF)**

10 Board member Chris Conklin asked how would the anadromous fish floor interact with default  
11 physicals if the Board adopts the rule? Engel responded that the streams within the anadromous fish  
12 floor would be considered Type F Water. Depending on how the Board approves the extent of the  
13 anadromous fish floor, there could be parts of tributary streams where default physicals would be  
14 applied outside the AFF.

15  
16 Board member Ben Serr asked if an ID Team is ever called to change an established F/N break that  
17 is not associated with an FPA. Engel said that yes, an ID Team can be called for many reasons,  
18 including for just determining the break.

19  
20 Board member Pene Speaks, asked how the gradient is measured and where the segment is with  
21 Option A of the AFF. She said that it should be clear that the point is to make it more objective so  
22 that it is understood. If language is not in rule, how is common practice going to be applied  
23 appropriately?

24  
25 Engel said in the development of the AFF, many alternatives were considered, and it was  
26 determined 20 times bankfull width would be the segment length used to determine gradient. The  
27 spatial analysis used 20 times bankfull width.

28  
29 Saboor Jawad, DNR, added that the spatial analysis matches with the plain reading of the rule  
30 language. Generally, the spatial analysis used 20 times bankfull width, there may be instances  
31 where the length of the stream segment is more than 20 times bankfull width.

32  
33 Board member Steve Barnowe-Meyer said that many of the metrics are not in rule, they are in the  
34 board manual guidance.

35  
36 Board member Vickie Raines said that there is a lot of information to pull together, there should be  
37 more background about how to tie it together. The information the Board needs is not always  
38 readily available.

#### 39 40 **PUBLIC COMMENT ON AFF ALTERNATIVES**

41 Court Stanley, Washington State Association of Counties (WSAC), expressed his concerns that the  
42 decisions on the AFF and PHB are taking place before any formal field science is completed. AFF  
43 was not discussed at TFW Policy and further stated that there is no awareness that any forest  
44 practices rules are failing to identify streams that are not fish habitat. Spatial analysis done by 4  
45 Peaks is incomplete and has not been field verified and appears to be over predicting AFF A4  
46 alternative, including fish above the F/N breaks, and underpredicting selection of alternative D.  
47 Additionally, the cost benefit analysis has many assumptions that cannot be corroborated. The  
48 financial impact on forest landowners is underestimated while the benefits of A4 7% are not

1 realistic and there is no analysis of impact for each alternative on affected timber reliant counties.  
2 He requested that the validation studies be completed before AFF and PHB are before the Board,  
3 complete a cost benefit analysis that includes impacts on timber dependent counties and small forest  
4 landowners, and adopt the validated Statewide Washington Integrated Fish Distribution map  
5 (SWIFD) anadromous points to serve as AFF before the validation studies are completed.  
6

7 Chris Mendoza, Conservation Caucus, said the AFF report and PHB report are based in science. He  
8 encouraged the Board to revisit this information. He further stated that the 2022 report is an  
9 addendum to the AFF technical report and there is science behind the AFF process. Mendoza  
10 described the use of the fish habitat assessment model (FHAM) with respect to the AFF and said  
11 there is information to help understand how the process works on the ground. The use of AFF and  
12 FHAM or PHB, called default physicals, are the two methodologies that can be used in the field to  
13 determine the availability of habitat for fish.  
14

15 Laura Wilkison, Director of Government Affairs, Hampton Lumber, said it is important to make  
16 sure the impacts of decisions made by the Board are fully analyzed and reported. Unfortunately,  
17 there seems to be some missing pieces from the analysis done to date. While there are various and  
18 questionable assumptions for how many board feet those acres would produce, the loss of family-  
19 wage jobs would be felt acutely in rural, natural resource-dependent communities. She said adding  
20 more restrictions to harvestable acres would exacerbate the challenges already occurring.  
21

22 Kendra Smith, Skagit County Commissioners Office, said Skagit County does not disagree with the  
23 AFF concept, but it needs to be accurate, and the alternatives presented today either overpredict or  
24 underpredict fish presence. The cost benefit analysis did not correctly or adequately predict the  
25 impacts to their area residents and there has been no field verification. The AFF will also have other  
26 impacts to counties and the public because of the changes being made.  
27

28 Paula Swedeen, Conservation Northwest, shared big picture considerations by summarizing a  
29 comment made in 2001 by John Mankowski about the adequacy of the interim rule and the use of  
30 default physical characteristics to reduce electroshocking. She also said the Board needs to comply  
31 with the Habitat Conservation Plan (HCP). Swedeen said the Four Peaks report is inadequate in its  
32 ability to predict fish habitat and encouraged the Board to listen to tribal biologists and biologists on  
33 the ground verifying fish habitat. Trust the expertise of the field biologists.  
34

35 Darin Cramer, Washington Forest Protection Association (WFPA), recapped the rule making  
36 purpose and process for the water typing rule. He described the use of FHAM in the identification  
37 of fish habitat and the assistance of default physical criteria. The lack of support of AFF by  
38 landowners is because there is no field verification for the use of the AFF. He encourages the Board  
39 to finish the work started by this process.  
40

41 Ash Roorbach, Northwest Indian Fisheries Commission, said the model created to determine AFF  
42 overestimates the end of fish. He described the typical use of this type of model to downgrade  
43 streams and limit the extent of Type F water on landowner property. Where the AFF truly applies is  
44 lower in the watershed and on low gradient streams to reduce electrofishing.  
45

46 Elaine Oneil, PhD., Washington Farm Forestry Association, said she is concerned that the science  
47 has not been done to support the policy decision being made. She described the problem with the  
48 model over estimating fish habitat and reminded the Board that there is an expectation for a map-

1 based system to assess fish habitat and that field verification is required. The anadromous fish floor  
2 choices are not ready to be implemented because the scientific studies are not complete.

3  
4 John Ehrenreich, WFPA, said he agrees that the AFF model is problematic because of  
5 inconsistencies and lack of information. The economic analysis has errors that have led to  
6 significant problems, and he is concerned that comments given by economists have not been given  
7 consideration. He requested the contractor engage with the comments and concerns to address  
8 problems and resolve issues.

9  
10 Debbie Kay, Suquamish Tribe, said the AFF is a necessity. She said the landscape modeled is not  
11 the typical landscape where AFF is found. She said the local streams that support fish are in  
12 lowland areas and support fish for only short periods of the season but are critical to the survival of  
13 the fish. The AFF protects uninhabited but recoverable fish habitat from being destroyed, a  
14 protected floor area can be used by salmon in the future for increasing population if protected by the  
15 designation of AFF. She asked the Board to make a decision that will protect habitat for fish in the  
16 future.

17  
18 Gus Seixas, Skagit River System Cooperative, said he is very experienced with spatial analysis  
19 models and explained that spatial analysis data has its limitations, but this should not preclude the  
20 decision to implement the AFF alternative. He believes that more analysis will not improve the  
21 implementation of the permanent water typing rule.

22  
23 Peter Goldman, Washington Forest Law Center, said the protection of salmon habitat is necessary  
24 to protect fish. The best and most legally safe path is adopting the A4 7% alternative. He said the  
25 use of PHBs, and electrofishing is to exclude habitat and is harmful and not amending the rule  
26 would damage the future recovery of salmon through the protection of available habitat which  
27 honors the Forests and Fish Report and the HCP commitment. Alternative D would be a detriment  
28 to the protection of fish habitat.

29  
30 Rico Vinh, Washington Conservation Action, said that because the rulemaking process has taken so  
31 long, electrofishing has been allowed for an extended period and the Board has an obligation to  
32 change this. Interim guidance has been used inconsistently across the landscape and the water  
33 typing rulemaking is meant to protect fish habitat. He said the current method is not objective,  
34 reliable or repeatable and the Board should decide on the AFF alternative.

35  
36 Amy Trainer, Swinomish Tribal Policy Director, said despite the imperfect analyses, Alternative A4  
37 7% is worthy of support to move forward in the process. It is the most protective alternative and  
38 will likely not overshoot the true F/N break when implemented in the field. Alternative A4 7%  
39 includes permanent natural barriers as ending criteria (along with the gradient threshold, whichever  
40 comes first). These barriers are a safeguard against the situation where the AFF extends upstream of  
41 fish habitat, yet the spatial analysis did a poor job of locating vertical barriers in lidar data. Fish  
42 biologists are experienced at detecting this type of barrier feature; therefore, the field  
43 implementation of Alternative A4 7% will end below the end of fish habitat, as intended. She  
44 encouraged the Board move Alternative A4 7% forward as it is the best outcome based on science  
45 and equity.

46  
47 **WATER TYPING SYSTEM RULE MAKING – AFF**

48 Board Member Speaks asked if board manual language is as legally binding as the rule.

1  
2 Terry Pruitt, Office of the Attorney General, said that no, the Board Manual guidance is guidance  
3 only, it has not been formally adopted through the rule-making process and could not be enforced as  
4 a rule. It's there to assist in the application of the rule but it does not have the binding effect of a  
5 rule.

6  
7 Board member Speaks asked if the AFF language is not in the rule and it is just in the guidance then  
8 it is not necessarily enforceable?

9  
10 Pruitt said it is not as enforceable as a rule would be enforceable. It could be used as a part of the  
11 basis to support a decision on why something was reasonable, why a decision was made was  
12 reasonable. It could support a determination but couldn't be enforced specifically as a rule.

13  
14 Board member Tom Buroker asked how electrofishing will be reduced. With the alternatives, do we  
15 know how much electrofishing we would be reducing? Considering the proposal, are we going to  
16 reduce electrofishing?

17  
18 Jawad said that the intent of the rule is to reduce electrofishing. That intent will be codified in the  
19 rule. FHAM is the mechanism that is used to reduce electrofishing.

20  
21 Chair Young asked to clarify what regulations would the landowner be subject to if they could not  
22 or did not choose to do field work.

23  
24 Marc Engel, DNR, replied that the landowner can submit an application to harvest under an FPA,  
25 applying the default physical characteristics (DPC) to determine the water type for the RMZ to be  
26 applied. If they want to voluntarily delineate the location of the Type F/N break for purposes of  
27 establishing the permanent regulatory Type F/N break point for the DNR hydro map, they are  
28 required to apply FHAM. If a landowner chooses not to apply the FHAM, they may rely on the  
29 DPCs for purposes of FPAs.

30  
31 **MOTION:** Vickie Raines moved the Forest Practices Board direct staff to remove specific AFF  
32 criteria and directly associated language from the draft proposed water typing rule  
33 and proceed with developing a CR-102 rule making package based on the remaining  
34 rule elements as recommended by TFW Policy. She further moved the FPB direct  
35 staff to describe the AFF concept in the draft Board manual 23.

36  
37 **SECONDED:** Steve Barnowe-Meyer

38  
39 Board Discussion:

40 Board member Barnowe-Meyer said that FHAM is a TFW Policy consensus decision. The intent of  
41 the motion is that the purpose of the AFF would remain in rule, but the specific metrics would not.

42  
43 Board member Speaks said this essentially ignoring the intent of the AFF.

44  
45 Board Member Conklin said that it is not clear if the intent of the motion is to keep some definition  
46 of AFF in rule.

1 Board member Raines said that she is in support of FHAM, but with AFF there is not enough  
2 information about how many acres would be taken out of harvest.  
3  
4 Board member Serr said his read of the motion is that it would remove mention of AFF in rule, it is  
5 not clear if this would remove it entirely from rule. There is potential that the motion intends to  
6 define AFF in rule, but that is not clear.  
7  
8 Chair Young asked to clarify what if anything about AFF would remain in rule.  
9  
10 Board Member Barnowe-Meyer said that the intent is not to remove the AFF from the rule  
11 language, the intent is to remove AFF Options A & B from the rule language and have how to  
12 implement an AFF in the field be covered in Board Manual guidance.  
13  
14 Jawad said that there are references to AFF in rule the Board may want to discuss.  
15  
16 Board member Barnowe-Meyer said that the AFF is an important consideration when determining if  
17 a stream is Type F, and it should be applied.  
18  
19 Board member Meghan Tuttle asked what the status is of the AFF validation study. Jawad  
20 responded that the AFF CMER study is in the early stages.  
21  
22 Board member Peters said that in most cases if an AFF is not spelled out in rule, the forest practices  
23 forester will go with the rule.  
24  
25 Board member Pene Speaks said the assertion that the AFF did not go through enough science – she  
26 does not agree is right. There is a great deal of science that went into the development of the AFF  
27 alternatives for Board consideration.  
28  
29 Board member Serr said that the motion may need a friendly amendment to reflect more clearly  
30 what has been discussed.  
31  
32 Chair Young said that the purpose of the Board Manual is a non-regulatory technical assistance  
33 document to help people comply with the rules. If there is nothing about AFF in the rules, there is  
34 no need for any of it to be in the Board Manual. The missing piece for moving content into  
35 guidance is what is going to be in the rules around AFF that anybody must comply with?  
36  
37 Board member Barnowe-Meyer said the language in the rule for AFF denotes where anadromous  
38 fish are presumed to occur, and that shocking is not allowed below that point. The board manual is  
39 how to find the point to start the survey.  
40  
41 Chair Young said that the draft rule language explains what the AFF is but does not have language  
42 to say it must be established. It would be a relatively straight forward thing to correct.  
43  
44 Marc Engel, DNR, confirmed that what the Chair has identified is not in the rule.  
45  
46 Board member Tuttle offered a friendly amendment to replace the word “concept” with  
47 “implementation procedures”. Board members Raines and Barnowe-Meyer accepted the  
48 amendment.

1  
2 Board Member Speaks said that if a requirement to locate the AFF is in not in rule, it is not as  
3 legally defensible.

4  
5 Chair Young asked if Katie Allen, DNR, had thoughts to offer as Deputy Supervisor.

6  
7 Katie Allen, DNR, said that what she is hearing the Board contemplate currently is where there is  
8 clear reference to the requirement to apply an AFF on the landscape but defining how that AFF  
9 would be determined in Board Manual guidance does provide a measure of enforceability because  
10 the AFF is stated in the rule as a requirement for applying FHAM.

11  
12 Pruitt said that anything in the board manual would be guidance to the professionals in the field  
13 applying the AFF. If procedures are in the board manual and the professional in the field uses those  
14 to establish an AFF then the basis for establishing the AFF is very defensible.

15  
16 Allen said defining the utility of an AFF in rule and moving the definition of implementation  
17 procedures to board manual guidance would provide the opportunity for the stakeholder working  
18 group to continue work on the implementation element through the board manual development  
19 process to get to a resolution that all caucuses and Board members could ultimately support. This  
20 approach would allow the rule-making process to continue. It does delay resolution of the question  
21 of where the AFF should be set.

22  
23 Jawad mentioned that board manual guidance without an AFF option in the rule will take long.  
24 DNR can start the stakeholder process, but it will be challenging to fully outline an AFF option or  
25 form consensus for it in board manual group.

26  
27 Board member Frank Chandler said that once draft rule becomes the rule that becomes the default.  
28 The concern is the metrics of the rule are inconsistent and may not match what is found in the field.

29  
30 Board member Buroker said that it seems important to add additional language making sure the  
31 AFF is firmly in the rule.

32  
33 Chair Young said that as it appears now there would be nothing in the rules directing the  
34 consideration of an AFF.

35  
36 **ACTION:** Motion passed. (7 Support (Barnowe-Meyer, Chandler, Conklin, Marquez, Raines,  
37 Thompson and Tuttle) / 5 Oppose (Buroker, Peters, Serr, Speaks, Young))

38  
39 **MOTION**  
40 **PASSED:** Vickie Raines moved the Forest Practices Board direct staff to remove specific AFF  
41 criteria and directly associated language from the draft proposed water typing rule  
42 and proceed with developing a CR-102 rule making package based on the remaining  
43 rule elements as recommended by TFW Policy. She further moved the FPB direct  
44 staff to describe the AFF ~~concept~~ implementation procedures in the draft Board  
45 manual 23.

46  
47 **PUBLIC COMMENT ON PHB ALTERNATIVES**



1 Chris Mendoza, Conservation Caucus, said the PHB alternatives have been vetted and validated. He  
2 emphasized the importance of reviewing the report that summarized the science behind the PHB  
3 alternatives. In developing Board Manual Section 23, the FHAM process is very well described and  
4 there is a place holder for AFF and PHBs, to be determined by the Board, not the board manual  
5 committee. He stated that a policy decision made about a rule is one that should be made by the  
6 Board and not the board manual committee because often the committee will not agree.

7  
8 Kendra Smith, Skagit County Commissioners, said many decisions and reports have been produced  
9 with the goal of reducing electrofishing. She said there needs to be field verification on the PHB  
10 alternatives and that the PHBs should be put into the Board manual section, not in rule until field  
11 verification can occur.

12  
13 Darin Cramer, WFPA, said the information available is variable and inconsistent. The data has  
14 limitations and have unreliable information in performing these analyses in looking for the PHB  
15 features. The categories of PHBs could be enumerated in the rule, but the criteria live in the board  
16 manual. He said if the Board insists on putting the criteria in rule, he suggests a blending of criteria  
17 and adding a sunset date.

18  
19 Ash Roorbach, NWIFC, urges Board to include the PHB option A in the rule making process.

20  
21 Elaine Oneil, PhD., WFFA, said limiting the criteria to specific PHB alternatives causes inflexibility  
22 in the application in the field. She recommended that the Board get out in the field and see how  
23 these criteria are applied on the ground and to promote better discussion. She said the PHBs would  
24 better serve the rule in the board manual.

25  
26 Victor Musselman, WFFA, said as an experienced forest economist the cost benefit analysis  
27 performed by Iec, is very problematic.

28  
29 John Ehrenreich, WFPA, echoes the comment of Victor Musselman and that's due to demonstrable  
30 errors in the analysis. He said there needs to be a mechanism to engage and resolve demonstrable  
31 errors in economic analysis using experts in the field and incorporates comments and  
32 recommendations.

33  
34 Rico Vinh, Washington Conservation Action, urged the Board to consider the implication of  
35 severing the AFF from the PHB options. He described the history of the development of AFF and  
36 PHB that led to today's decision. The rule should establish accurate stream typing and resource  
37 protections, which is now problematic because of the use of PHB to determine the F/N break and  
38 not in concert with the AFF. Significant gaps will arise in water typing and resource protection  
39 should the board not reconsider the PHB alternatives.

#### 40 41 **WATER TYPING SYSTEM RULE MAKING – PHB**

42 Chair Young said the action the Board is considering is selection of a PHB alternative to move  
43 forward in the rule-making process.

44  
45 Board member Barnowe-Meyer said a point made in the July 30, 2024, staff memo was if there is  
46 not agreement with moving forward with a set of PHB options the Board could consider moving  
47 forward with FHAM and wait until the validation studies for PHBs is completed. This motion is in  
48 relation to that.

1  
2 **MOTION:** Steve Barnowe-Meyer moved the Forest Practices Board direct staff to remove  
3 specific PHB criteria and directly associated language from the draft proposed water  
4 typing rule and proceed with developing a CR-102 rule making package based on the  
5 remaining rule elements as recommended by TFW Policy. He further moved the  
6 Board direct staff to describe all potential habitat breaks in the draft Board Manual  
7 Section 23.  
8

9 **SECONDED:** Meghan Tuttle

10  
11 Board Discussion:

12 Board member Peters said that the analysis did not include the non-vertical obstacles in the tribal  
13 proposal for PHBs. We need to make sure we are not doing surveys too soon particularly where  
14 data is not available.  
15

16 Board member Barnowe-Meyer said that the non-vertical obstacles of the proposal which were left  
17 out of the spatial analysis would still be included.  
18

19 Board member Conklin said that he has concerns there is not enough clarity in the spatial analysis  
20 about where PHBs would fall on the land.  
21

22 Board member Speaks said it is unclear about how application of the PHB options will work, and  
23 the analysis did not include non-vertical barriers. If the PHB options are in the board manual what  
24 gets analyzed in the CBA for the rule?  
25

26 Jawad said that with prior Board decisions, if this motion passes, the CBA would be analyzed  
27 against the current rule with the five elements for inclusion in the rule already approved by the  
28 Board, including FHAM.  
29

30 Board member Speaks said that the HCP indicates that electrofishing is not a covered activity,  
31 continuing to allow electrofishing continues to be out of compliance with the HCP and that is a  
32 concern.  
33

34 Board member Tuttle said the report provided by IEC was requested by DNR staff to provide  
35 additional information to help narrow the Board's decision. She stated that we are reducing the use  
36 of electrofishing by implementing this rule.  
37

38 Chair Young suggested a friendly amendment to the motion to remove "remaining" and replace "as  
39 recommended by TFW Policy" with "previously approved by the Board. Board members Barnowe-  
40 Meyer and Tuttle accepted the amendment.  
41

42 **ACTION:** Motion passed. (11 Support / 1 Oppose (Speaks))  
43

44 **MOTION**

45 **PASSED:** Steve Barnowe-Meyer moved the Forest Practices Board direct staff to remove  
46 specific PHB criteria and directly associated language from the draft proposed water  
47 typing rule and proceed with developing a CR-102 rule making package based on the  
48 ~~remaining rule elements as recommended by TFW Policy~~ previously approved by

1                    the Board. He further moved the Board direct staff to describe all potential habitat  
2                    breaks in the draft Board Manual Section 23.

3

4    **EXECUTIVE SESSION**

5    None.

6

7    Meeting adjourned at 3:35 p.m.

8