

**FOREST PRACTICES BOARD**  
**Regular Board Meeting**  
February 10, 2016  
Natural Resources Building, Room 172  
Olympia, Washington

**Members Present**

Stephen Bernath, Chair, Department of Natural Resources  
Bill Little, Timber Products Union Representative  
Bob Guenther, General Public Member/Small Forest Landowner  
Brent Davies, General Public Member  
Carmen Smith, General Public Member/Independent Logging Contractor  
Court Stanley, General Public Member  
Dave Herrera, General Public Member  
Heather Ballash, Designee for Director, Department of Commerce  
Joe Stohr, Designee for Director, Department of Fish and Wildlife  
Patrick Capper, Designee for Director, Department of Agriculture  
Paula Swedeen, General Public Member,  
Tom Laurie, Designee for Director, Department of Ecology

**Members Absent**

Vacant, Elected County Official

**Staff**

Joe Shramek, Forest Practices Division Manager  
Marc Engel, Forest Practices Assistant Division Manager  
Patricia Anderson, Rules Coordinator  
Phil Ferester, Senior Counsel

**WELCOME AND INTRODUCTIONS**

Stephen Bernath called the Forest Practices Board (FPB or Board) meeting to order at 9:00 a.m. Introductions of Board and staff were made.

**APPROVAL OF MINUTES**

**MOTION:** Bill Little moved the Forest Practices Board approve the November 10, 2015 meeting minutes.

**SECONDED:** Bob Guenther

**ACTION:** Motion passed unanimously.

**REPORT FROM CHAIR**

Stephen Bernath acknowledged Dave Somers' service as a Board Member and introduced Joe Shramek as the new Forest Practices Division Manager.

He provided an update on the following:

- DNR's Proposed Budget

- Legislation including 29 bills on wildfire and several on public safety, cultural resources and pesticides
- Unstable slopes training conducted through regional TFW groups

### **PUBLIC COMMENT (AM)**

Bruce Barnes, Elk Hunters, shared his concerns regarding the application of herbicides and the effects on fish and wildlife and their habitat. He asked the Board to revisit the spraying process used in forest practices.

Mark Smith, Eco Park Resort, shared his concerns on the lack of oversight and administration of aerial herbicide spraying and the permitting process. He asked the Board to conduct an audit on the current aerial herbicide application process and conduct a study on the effects to native wildlife habitat.

Ken Miller, Washington Farm Forestry Association, invited the Board to conduct a field tour on his property to better visualize the prescriptions identified in the alternate plan template being reviewed through the adaptive management process. He also shared concerns that because the process is already overburdened, the small landowner community may not see any recommendations on the alternate plan template coming soon. He asked the Board to request a partial recommendation from Timber, Fish and Wildlife (TFW) Policy Committee (Policy) by the end of the year to show the Board's intent of a review which will demonstrate a good faith effort to small landowners.

Chris Mendoza, Conservation Caucus, commented on the Board's operations and procedures rule making. He said that he takes responsibility for submitting late comments to the Board last November and prefers not to do that; however, he said that timely release of documents from staff will result in a more timely response from the public. He recommended rule language be developed that ensures timely release of documents that is standardized, transparent and consistent.

Peter Goldman, Conservation Caucus, provided an explanation of the Board Manual Section 16 process that resulted in the timing of their submitted comments in November 2015. He also said that it is time for a Type F permanent rule, and encouraged the Board to be ready to move forward in November with rule making regardless of Policy's recommendations.

Karen Terwilleger, Washington Forest Protection Association (WFPA), provided a brief history of the water typing rules stating that it has been ten years since the Board decided to not move forward with the model and even longer since the first emergency rule was adopted by the Board in 1996. She said while it has taken a long time, there needs to be scientific justification for a change and she believes that Policy is getting close. She also said they support the approval of Dr. Jenny Knoth as a Cooperative Monitoring, Evaluation and Research Committee (CMER) member.

### **BOARD MANUAL SECTION 16 UPDATE AND PROPOSAL INITIATION FOR UNSTABLE SLOPES**

Marc Ratcliff, DNR, provided a status update on the revisions to the board manual. He reminded the Board that their November motion directed DNR to convene a qualified expert group to address the items near resolution contained in the Conservation Caucus memo.

He said the qualified expert group has incorporated additional information regarding 'complex and composite' landslides, and how LiDAR can be used for identifying potentially unstable features on

complex landslides. He mentioned that most of the material pertaining to the deep-seated landslide runout coarse screen document is being considered for inclusion in the runout and delivery section of the manual.

He concluded by sharing that the group will reconvene after the Board meeting to continue the review of these two documents.

Marc Engel, DNR, presented the Unstable Slopes Proposal Initiation for Board approval. He described the proposal initiation process outlined in WAC 222-12-045 and Board Manual Section 22. He said once the Unstable Slopes Proposal Initiation is approved it will be sent to the Adaptive Management Program Administrator (AMPA) who will make recommendations to the Policy Committee on whether it is a policy or science track. Policy will then prepare a work plan that includes timelines for completion for Board approval.

He then reviewed the Unstable Slopes Proposal Initiation contents which includes four items identified in the Conservation Caucus' letter dated November 9, 2015, needing additional review by the adaptive management program. The four items are: non-glacial deep-seated landslides; deep-seated landslides reactivation; shallow rapid landslide coarse screen; and landslide risk decision pathway.

He concluded by recommending the Board:

- Accept the Unstable Slopes Proposal Initiation;
- Direct staff to send the packet to the AMPA to prepare recommendations for either a policy or science track; and
- Direct Policy to develop a work plan and timeline by the Board's May 2016 meeting.

#### **PUBLIC COMMENT ON PROPOSAL INITIATION**

Chris Mendoza, Conservation Caucus, expressed concern that the Conservation Caucus did not have input on the Unstable Slope Proposal Initiation regarding the emphasis language that has not been resolved with the current work of the stakeholder group. He also cautioned the Board on conducting additional science as proposed in the Unstable Slopes Proposal Initiation as it may not be useful or necessary because it may not be possible to conduct such studies.

Kara Whittaker, Washington Forest Law Center (WFLC), said she met with DNR to discuss the Conservation Caucus' seven items of concern and agreed to the Unstable Slopes Proposal Initiation approach under the condition that the Conservation Caucus would have an opportunity to help draft the proposal with DNR staff. Unfortunately, she said, that did not occur and for these reasons she asked the Board to direct the AMPA to consider their input when reviewing the proposal. Under this condition, the Conservation Caucus finds it acceptable for the Board to approve the Unstable Slopes Proposal Initiation process moving forward and to complete the proposal review recommendations at the May meeting.

Karen Terwilleger, WFLC, said they support the Unstable Slopes Proposal Initiation moving forward. She also said they feel strongly that the board manual should be guidance and not rule.

Peter Goldman, Washington Forest Law Center, said they support the Unstable Slopes Proposal Initiation moving forward in order to inform whether new rules or additional guidance is needed. He also asked the Board to request an update at their May meeting and keep it moving forward.

## **PROPOSAL INITIATION FOR UNSTABLE SLOPES**

Marc Engel, DNR, asked the Board to approve the Unstable Slopes Proposal Initiation for the Adaptive Management process.

Joe Stohr asked how the evaluation of the emphasis language occurred. Bernath responded the Board directed staff in August 2015 to work on this along with other amendments that were brought forward to the Board in November and subsequently approved.

Swedeen acknowledged the issue of the emphasis language and asked if feedback can be solicited from practitioners which could then inform any necessary changes to the board manual. Bernath concurred with Swedeen and said as the Department trains staff on the board manual, feedback should be available within a year or so. Engel also responded that it was part of the Board's motion in November 2015 to review how the board manual is doing in November 2016.

Tom Laurie asked whether the AMPA could include input from the Conservation Caucus when reviewing the Proposal Initiation. Berge replied yes.

**MOTION:** Carmen Smith moved the Forest Practices Board forward the Proposal Initiation for Unstable Slopes to the Adaptive Management Program Administrator to initiate Adaptive Management Program review. She further moved the Board direct TFW Policy Committee to provide to the Board at their May 2016 meeting an Adaptive Management Program work plan and timeline for review of the items in the Proposal Initiation and completion of recommendations for further actions to the Board.

**SECONDED:** Heather Ballash

Board Discussion:

Court Stanley asked Policy to be mindful of the Proposal Initiation for the Small Forest Landowner Alternate Plan Template that is currently within Policy.

**ACTION:** Motion passed unanimously.

## **ADAPTIVE MANAGEMENT PROGRAM BUDGET**

Hans Berge, DNR, provided an update on the budget and highlighted savings within the Administrative Support staff fund due to vacancies. He also provided a progress report on some of the projects. He indicated that there is a larger surplus of funds than previously identified and since the funding source is from the General Fund instead of Forests and Fish Support Account, any unspent funds within a fiscal year cannot be carried over into the next fiscal year. He asked the Board to allow CMER to spend up to 10 percent of the annual budget during the 2015-2017 biennium towards priorities within the Adaptive Management Program.

Carmen Smith asked what the money he referred to will be used for. Berge responded that he has some ideas, however it will need to be vetted through the program.

## **PUBLIC COMMENT ON MASTER PROJECT SCHEDULE**

Mark Smith, Eco Park Resort, advocated for monies to be spent on auditing the application of herbicide spray within forest practices.

Ken Miller, WFPA, said they are working on proposing an eastside template at the May 2016 Board meeting. He asked that the Board members and stakeholders be receptive to meet with them prior to the May meeting to review their proposal.

Bruce Barnes, Elk Hunters, encouraged the Board to provide additional monies to Department of Fish and Wildlife to research the cause of the hoof rot disease within the elk population.

Doug Hooks, WFPA, said he supports the proposed spending flexibility within the Adaptive Management Program.

## **2015-2017 BIENNIAL MASTER PROJECT SCHEDULE CHECK-IN**

Hans Berge, DNR, requested the Board approve the authorization for CMER to spend General Fund-State money on priority projects.

**MOTION:** Carmen Smith moved the Forest Practices Board authorize the Adaptive Management Program Administrator the flexibility within the Master Project Schedule to spend up to 10% of each fiscal year's budget to fund priorities within the Adaptive Management Program as approved by the TFW Policy Committee. Any additional spending must be recommended by the TFW Policy Committee and approved by the Board.

**SECONDED:** Bob Guenther

Board Discussion:

Bob Guenther asked if monies could be spent to address wildlife concerns brought up by the public and whether there are any projects in the que to address wildlife. Berge responded that the program is focused on the riparian and aquatic habitat conservation not wildlife.

Guenther then asked how the public would go about getting these wildlife concerns addressed. Bernath responded that he would send out DNR's testimony presented to the Senate Natural Resources and Parks Committee on how the Department deals with aerial application of pesticide. He said perhaps at the next meeting the Board could have more discussions on wildlife issues.

Bob Guenther concurs with the wildlife issues brought forward today and would like the Board to address it somehow.

Brent Davies asked if there are any CMER projects that focus on the pesticide spraying. Berge responded that there are some proposals related to researching herbicide spraying.

**ACTION:** Motion passed unanimously (Laurie not available for vote.)

## **TFW POLICY COMMITTEE'S TYPE F UPDATE**

Adrian Miller, Co-chair, provided an update on Policy's progress with Type F. He indicated that electrofishing and off-channel habitat are both moving along and recommendations should be ready

to be presented to the Board at the November 2016 meeting. He also said that Policy is working on other components, such as the Type F physicals, however this is not moving along as quickly.

### **COMPLIANCE MONITORING 2014 INTERIM REPORT**

Garren Andrews, DNR, provided a brief review of the 2014 interim results and highlighted the program design updates. The new program study design objectives included:

- Increase statistical precision
- More quantitative estimate of compliance
- Better determine specific rule noncompliance
- Flexibility to add, remove, or combine prescription types

The 2014 interim results included:

- Desired future condition
- Water typing
- No inner zone harvest
- Non-fish bearing perennial and seasonal streams
- Type A and B and forested wetland management zones
- Roads
- Haul routes

The final report will be presented to the Board in August 2016.

### **PUBLIC COMMENT (PM)**

Steve Barnowe-Meyer, Washington Farm Forestry Association, said he recommends the Compliance Monitoring Program be directed to include root cause analysis as a critically important step in the future methodology and work of the program. He then explained root cause analysis.

Kara Whitaker, WFLC, said she likes having the presentation before the public comment on the agenda as it helps solicit comments from the public. She also said they support Department of Fish and Wildlife's recommendation to maintain the status of threatened and endangered for the Northern spotted owl.

Chris Mendoza, Conservation Caucus, shared some of his concerns with the Compliance Monitoring Program design and the average compliance rating. He said the current way the rating is rolled up does not provide an accurate reflection of compliance.

### **SELECTION PROCESS FOR COMMITTEE CO-CHAIRS**

#### TFW Policy Committee

Policy has a process and description for selection of co-chairs.

Bernath suggested Policy develop a permanent rotation schedule for the other caucuses to fill in as co-chair to see what the workload is like until a permanent co-chair is selected.

#### CMER

CMER has a process in place for co-chair nominations and selection.

#### TFW Cultural Resources Roundtable

TFW Cultural Resources Roundtable has strategies in place for co-chair selection.

Tom Laurie asked whether the strategies list is part of a broader description of duties or is it guidance.

Karen Terwilleger, Co-chair, said they developed the list of strategies over a period of two meetings since they did not have a process in place.

Stephen Bernath asked if the assignment is complete as it appears the duties are not defined and the strategies seem to be characteristics of a co-chair.

Jeffrey Thomas, Co-chair, said they have fulfilled the direction stated in the Board's motion by providing the information they have on selecting co-chairs.

### **NORTHERN SPOTTED OWL STATUS REVIEW UPDATE**

Joe Buchanan, Washington Department of Fish and Wildlife, provided a status update on the Northern spotted owl (NSO) which included historical listing status, general distribution in Washington, limiting factors and population status.

He concluded by stating the NSO population continues to decline in Washington and recovery requires a continued focus from all conservation partners on minimizing threats and implementing conservation actions including incentive-based programs.

Joe Stohr said next steps include moving forward on:

- barred owl pilot projects;
- safe harbor agreements;
- incentives;
- modeling; and
- looking at minor rule changes

### **SAFE HARBOR AGREEMENT UPDATE**

Lauren Burnes, DNR, updated the Board on the project plan for the NSO programmatic safe harbor agreement process. She said the goal is to deliver to USFWS a draft Safe Harbor Agreement with a draft NEPA environmental assessment.

Paula Swedeen acknowledged the substantial gains that have been made, but mentioned that the modeling identified potential habitat outside the SOSEAs and would like to see the pace of action increase in order to identify additional habitat. Bernath committed to reenergizing the Northern Spotted Owl Implementation Team (NSOIT) but not the analysis at this time. An update will be provided at the May meeting on the NSOIT's progress.

### **STAFF REPORTS**

#### **Small Forest Landowner Advisory Committee and Small Forest Landowner Office**

Tami Miketa, DNR, said on January 21, Commissioner Goldmark, the Washington Tree Farm Program, and the Washington Farm Forestry Association celebrated 75 years of sustainable forestry in Washington State at a special ceremony in the Capitol rotunda. The ceremony honored the key role of the American Tree Farm System in nurturing sustainable forestry since the establishment of Clemons Tree Farm near Montesano in 1941.

### **TFW Cultural Resources Roundtable**

Karen Terwilleger, Co-chair, asked if they could provide the Board with a cultural resources 101 at their May 2016 meeting. The Board welcomed the idea and requested that enough time be allotted for this topic.

No questions on the following reports.

- Adaptive Management
- Board Manual Development
- Compliance Monitoring
- Upland Wildlife

### **LEGISLATIVE UPDATE**

Joe Shramek, DNR, provided an update on three bills that could impact the Board and the Forest Practices Program.

- SB 6396 changing rule making requirements to require preadoption review by the attorney general and a yearly expiration.
- SB 6287 concerning the definition of hydraulic project in relation to the Forest Practices Hydraulic Project approval permits.
- HB 2856 establishing the office of Chehalis River Basin flood risk reduction.

### **PUBLIC COMMENT ON CMER MEMBERSHIP**

None.

### **CMER MEMBERSHIP**

Hans Berge, DNR, requested the Board approve Dr. Jenny Knoth as a CMER member.

**MOTION:** Patrick Capper moved the Forest Practices Board approve the CMER roster dated February 2016 that reflects Dr. Jenny Knoth as a member of CMER.

**SECONDED:** Heather Ballash

**ACTION:** Motion passed unanimously.

### **OVERVIEW OF BOARD'S OPERATIONS AND PROCEDURES RULES MAKING**

Marc Engel, DNR, requested the Board consider rule making to develop a process to receive information from the public on action before the Board. He said the intent is not to restrict any information given to the Board. It is to ensure that the Board has enough time to process the information received and prepare for the decision making at the meeting.

### **PUBLIC COMMENT ON THE BOARD'S OPERATIONS AND PROCEDURES RULE MAKING**

None.

### **BOARD'S OPERATIONS AND PROCEDURES RULE MAKING**

**MOTION:** Heather Ballash moved the Forest Practices Board approve the filing of a CR101 Preproposal of Inquiry to begin rule development relating to the Board's administrative process for submittal of documents to the Board for consideration on action items.



**SECONDED:** Bob Guenther

Board Discussion:

Paula Swedeen said she is not opposed to a rule but questioned whether a rule is actually necessary or if guidelines could be developed.

Court Stanley asked whether there is a mechanism in place in the event a large document was received just prior to Board action and whether the Board had to consider it before taking action. Engel responded that the rule making process does have a method.

Tom Laurie said he is not opposed to the motion; however he acknowledged that in order for the public to provide comments, the Department needs to make the information available in a timely manner.

Stanley said he would prefer a commitment of all parties versus a rule.

**ACTION:** Motion passed. 2 opposed (Stanley and Stohr)

#### **BOARD'S 2016 WORK PLAN**

Marc Engel, DNR, reviewed the changes to the work plan as a result of today's meeting.

The following was added or adjusted to the Work Plan:

- Proposal Initiation to review Unstable Slopes-Recommendations and Timeline - May
- Board's administrative process rule making - November

**MOTION:** Tom Laurie moved to approve the work plan presented today with the additional items.

**SECONDED:** Brent Davies

**ACTION:** Motion passed unanimously.

#### **EXECUTIVE SESSION**

None.

Meeting adjourned at 3:30 p.m.