

1 **FOREST PRACTICES BOARD**
2 **Special Board Meeting – June 27, 2022**
3 via ZoomWebinar

4 *Meeting materials and subject presentations are available on Forest Practices Board's website.*
5 *<https://www.dnr.wa.gov/about/boards-and-councils/forest-practices-board>*
6

7 **Members Present**

8 Alex Smith, Chair, Department of Natural Resources
9 Brent Davies, General Public Member
10 Cody Desautel, General Public Member
11 Dave Herrera, General Public Member
12 Frank Chandler, General Public Member/Independent Logging Contractor
13 Jeff Davis, Designee for Director, Department of Fish and Wildlife (9 a.m. – 1 p.m.)
14 Kelly McLain, Designee for Director, Department of Agriculture
15 Meghan Tuttle, General Public Member
16 Rich Doenges, Designee for Director, Department of Ecology
17 Steve Barnowe-Meyer, General Public Member/Small Forest Landowner
18 Vickie Raines, Elected County Commissioner (10 a.m. – 1:25 p.m.)
19 Wayne Thompson, Timber Product Union Member
20

21 **Absent Members**

22 Ben Serr, Designee for Director, Department of Commerce
23

24 **Staff**

25 Joe Shramek, Forest Regulation Division Manager
26 Karen Zirkle, Forest Regulation Assistant Division Manager
27 Marc Engel, Senior Policy Advisor
28 Patricia Anderson, Rules Coordinator
29 Phil Ferester, Senior Counsel
30

31 **WELCOME AND INTRODUCTIONS**

32 Chair A. Smith called the Forest Practices Board (Board) meeting to order at 9:05 a.m. Roll call of Board
33 members and introduction of staff was made.
34

35 **ZOOM MEETING INSTRUCTIONS**

36 Tracy Hawkins, Department of Natural Resources (DNR), provided instructions on how the Zoom
37 meeting would be conducted and how to provide public comment.
38

39 In order for the Board to continue meeting via ZoomWebinar, they must determine if this meeting can be
40 conducted in person with reasonable safety. If the Board chooses it can then the meeting will end and be
41 rescheduled.
42

43 **MOTION:** Cody Desautel moved the Forest Practices Board cannot conduct an in person meeting
44 with reasonable safety on June 27, 2022 at the Natural Resources Building in Olympia,
45 Washington.
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47 **SECONDED:** Brent Davies
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49 **ACTION:** Motion passed unanimously (Vicki Raines not available for vote.)

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CHAIR REPORT

Chair Smith acknowledged and welcomed three new Board members: Frank Chandler, Steve Barnowe-Meyer, and Meghan Tuttle. Formal recognition of former Board members Carmen Smith, Bob Guenther and Tom Nelson will occur at the August 2022 Board meeting.

Chair Smith said today’s workshop is for Board members to learn more about the outcome of the work the Board’s Water Typing Rule Committee (Committee) and anadromous fish floor work group have done over the past three years. She said that the Board would not take any action on the anadromous fish floor today. Potential Board action would be considered at the August 2022 meeting as the first opportunity.

BACKGROUND ON THE WATER TYPING SYSTEM RULE AND REVIEW OF BOARD ACTIONS REGARDING INCLUSION OF AN ANADROMOUS FISH FLOOR

Marc Engel, DNR, provided a [PowerPoint presentation](#) on the background of the Water Typing System rule making, including the Board-approved standards for the protection of fish and habitat, and actions taken by the Board to include an anadromous fish floor (AFF).

Board member Desautel asked if the same standards apply to eastern Washington and Engel responded yes.

ANADROMOUS FISH FLOOR WORKGROUP: OVERVIEW OF THE TECHNICAL REPORT AND ADDENDUM

Gus Seixas, Skagit River System Cooperatives, provided a [PowerPoint presentation](#) on the technical results for the AFF spatial analysis. The presentation included creation of Synthetic Stream Network and the methodology for analysis, comparison of Alternatives A4 (10%), A4 (7%) and D and an overview of additional maps created.

Seixas said the data used in the analysis comes from several sources including: Statewide Washington Integrated Fish Distribution (SWIFD); Skagit limiting factor fish data; anadromous species (mostly coho and chinook) from Squaxin Tribal fish data; and other anadromous fish information.

Board member Barnowe-Meyer asked who manages and updates the SWIFD data. Seixas responded it is maintained and updated by Washington Department of Fish and Wildlife and the Northwest Indian Fisheries Commission. SWIFD information is accessible online or as GIS files.

Seixas further stated how important it is to field verify anadromous fish location points, and that the AFF spatial analysis suggests how challenging it would be to create a rule with an AFF that was map based, a field protocol would be needed to apply the rule.

Brian Fransen said the purpose of the AFF is not to determine the upper extent of anadromy or fish use rather it is to establish a place from which to implement the regulatory break below which anadromous fish are presumed to occupy.

Board member Barnowe-Meyer asked if there is additional mapping to be done for the Board to use in their decision making and Seixas responded that no additional maps will be produced at this time.

1 **ANADROMOUS FISH FLOOR POLICY RECOMMENDATIONS BY CAUCUSES**

2 Marc Engel, DNR, introduced each caucus representative to present their preferred alternative. He stated
3 the AFF Policy Committee members were not able to reach consensus on an alternative to bring forward
4 to the Committee.

5
6 Elaine Oneil, WFFA, provided their support for Alternative D. She said small landowners have actively
7 participated from the beginning of the AFF process because the majority of their forest landowners are
8 located in the lower reaches of watersheds and most likely to be impacted by the presence of anadromous
9 fish in the streams. She said she sees the benefit of an AFF for minimizing the impacts from
10 electrofishing, however the application of the AFF in settings other than forested land is a concern for the
11 small forest landowners. She said that an AFF model needs to balance risk and provide the least
12 burdensome alternative to forest landowners. The AFF A4 alternative models over predicts anadromous
13 fish presence based on ID Teams concurrence reports. The small forest landowner caucus preferred
14 Alternative D has a 2.1% error rate, primarily by under-prediction, to know anadromous fish presence
15 points which is the lowest of the three proposals before the Board. WFFA supports incorporating SWIFD
16 into the AFF model and to revisit current processes to make them better.

17
18 Jim Peters, NWIFC, said the western Washington Tribes support an AFF, primarily to reduce
19 electrofishing and the desire to avoid damaging fish habitat. He said the AFF would be located in some of
20 the watersheds to protect recoverable fish habitat. He expressed the importance of protecting potential and
21 recoverable habitat and acknowledged seasonal and annual use, downstream and potential seasonal
22 barriers and lower anadromous fish populations currently are all variables that still need to be addressed.
23 He said there is data showing that since before European settlement up until the 1980's salmonid
24 populations have dropped 90%; and since the 1980's anadromous fish populations have dropped another
25 90%. The tribes are trying to rebuild stocks by protecting habitat not currently in use because of low fish
26 populations.

27
28 Ash Roorbach, NWIFC, said all the A4 alternatives are viable. He stated that an AFF to a sustained
29 stream gradient of 7% balances both sides of the AFF equation. He said at this point the decision of an
30 AFF alternative is a policy decision, not a technical data question. A lot of the modeled overshoots
31 establishing an AFF upstream of concurred end of fish habitat, Type F/N water break points, are more a
32 reflection of a model error, not as much a performance error. Roorbach acknowledged that the
33 performance of the alternatives indicates that alternative D is performing better, however if you consider
34 overshoots in the A4 AFF alternatives as modeling errors, it lowers the concern of the performance of the
35 AFF A4 alternatives. He said the Tribal caucus shifted their position to support AFF alternative A4 (7%)
36 based on new understanding and are working for the best proposal for the anadromous fish population.

37
38 Alec Brown, Conservation Caucus, provided their support for Alternative A4 (10%). He said this
39 alternative minimizes electrofishing, covers the majority of anadromous fish data, recalibrates the risk
40 balance and addresses some SWIFD shortcomings.

41
42 Doug Hooks, WFFA, said the goal of the water typing system is to reduce electrofishing and provide
43 repeatable and reliable implementation of the rule. He said there has been no effort to understand the
44 operational feasibility and implementation of any of the AFF options. None of the proposed alternatives
45 have been subject to the Adaptive Management Program criteria for study implementation and science.
46 He stated there has been no decision made to include any of the applicable elements that we currently use
47 for stream typing.

48
49 Hooks said that the Board received two expert science panel reports with recommendations, with the
50 second report containing contradictory recommendations. Hooks stated there lacks an AFF concept in any

1 of the seminal documentation. He further stated that Board staff recommended the creation of a Water
2 Typing System Board committee to oversee the deliberation over the water typing system process; and
3 that an AFF recommendation is not tethered to the base principals for the implementation of the water
4 typing system rule. He said occurrence of anadromous fish at a sustained 10% stream gradient is less than
5 anadromous fish presence at a sustained 5% stream gradient. He further stated Type Np buffers are
6 directly related to Type F buffers and will be impacted by the decision made on the AFF. He concluded
7 by suggesting the Board not move forward for approval any of the AFF alternatives presented to the
8 Board.

9 10 **PUBLIC COMMENT**

11 Adrian Miller, Rayonier, made three points--first, he said that contrary to some narratives there have been
12 a number of actions taken by the Board in the time since they asked TFW Policy to address a range of
13 concerns regarding water typing on Type F streams; second, he highlighted the importance of process
14 matters--to depart from the adaptive management process creates risk for all stakeholders and increases
15 the likelihood that any aggrieved party may resort to other avenues for resolution; and finally Miller
16 suggested the Board consider implementing both of the adaptive management proposal review tracks as
17 they move forward to resolve the remaining water typing system issues—first complete the adaptive
18 management science track and then dovetail a policy track based on the science track findings to make a
19 decision on Type F waters as the final resolution for Type F waters in the permanent water typing system
20 rule

21
22 Paula Swedeen, Conservation Caucus, said it is sad and frustrating to hear the large landowner caucus
23 saying how this process is not in compliance with the adaptive management process and the Board may
24 be breaking the law when the large landowner caucus has been involved in the discussions the entire time.
25 She asked the Board to think hard as to why these comments are coming up now after so much time has
26 been invested. She said the implementation of an AFF is a field exercise that will provide opportunities
27 on the ground to identify specific barriers to adjust the AFF accordingly. She urged the Board to keep the
28 rule making process moving.

29
30 Jim Peters, Western Washington Tribes, said it has always been their goal to protect all fish habitat and
31 rebuild stocks to provide harvestable fish for tribal members. The number of harvestable fish each year is
32 going down and continues to go down. He said tribes came into the process to develop an AFF not
33 agreeing one hundred percent but they compromised their original position primarily based on concerns
34 expressed by the large and small forest landowner caucuses. Unfortunately, he said hearing the large
35 landowners not provide a recommendation to the Board is frustrating. He concluded by saying the
36 Western Washington Tribes and NWIFC will support the Board and the TFW goals and ground rules.

37
38 Kevin Godbout, Weyerhaeuser, said it is difficult to balance risk concerns and address equitable
39 implementation of an AFF. He suggested the Board strongly consider the no action alternative. He also
40 suggested revisions to the board manual should address the nuances of implementation up and down a
41 stream.

42
43 Elaine Oneil shared that her property has a stream with fish and because of the nature of the hydrography
44 and the steepness of the bank on the property SWIFD may not properly calculate the stream gradient. She
45 said looking at lidar and the hydro-maps is not dependable. Conducting rule making on this incomplete
46 data will result in challenges to cost effective work.

47 48 **BOARD DISCUSSION**

49 Chair Smith acknowledged the comments about the difficulties in implementing an AFF and asked what
50 implementation would look like when verification occurs on the ground.

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2 Marc Engel, DNR, responded that the Board-approved AFF charter directed TFW Policy members to
3 include implementation considerations. The TFW Policy member AFF Addendum report to the
4 Committee includes development of guidance for AFF implementation as one item on the list of elements
5 that remain to be done. He said TFW Policy members brought forward the need to develop board manual
6 guidance to: establish the upstream point of the AFF in the field; field verify the AFF where high
7 resolution lidar does not exist; and, guidance to locate the AFF when a landowner does not have access to
8 adjacent properties.

9
10 Board member Doenges asked whether the effects of climate change had been considered for fish
11 presence and fish population dynamics. Engel responded that TFW Policy members did not address that.
12 Ash Roorbach said there was no climate change analysis done.

13
14 Board member Barnowe-Meyer stated there are implementation questions included in the [TFW Policy](#)
15 [memo](#) like high resolution lidar is not available in all locations that the Board will need to address.

16
17 Engel said overall goal of the rule is to establish the full extent of fish habitat and the AFF is within the
18 spectrum of this implementation. Engel said the AFF TFW Policy members did not discuss the presence
19 of resident fish that are in the system often above the anadromous fish reaches.

20
21 Board member Desautel provided the context that there were lengthy discussions in the Board's
22 Committee meetings and is unsure how much work the Board can do and how does the Board get the
23 answers to the questions they are deliberating about.

24
25 Board member Davies believes the Board has a lot of information, values the historical information and is
26 ready to make a decision.

27
28 Board member Herrera said he is ready to make a decision at the August 2022 meeting.

29
30 Board member Doenges said he is looking forward to further discussions. He suggested that all relevant
31 documents to be posted in a place where it can all be reviewed by Board members.

32
33 Board member Thompson said he appreciates the background information and the presentations.

34
35 Board member Tuttle said she appreciates the history and background on how the AFF fit into the overall
36 water typing decision making process. She also questioned the unfinished work of the Water Typing Rule
37 Committee and whether they will continue to meet to help resolve some of the bigger implementation
38 issues.

39
40 Board member Raines asked how the establishment of the upper extent of Type F water fit in with the
41 Type Np water buffer deliberations. Engel responded that they remain separate. The determination of the
42 location of the Type F/N water break point is the objective of the Water Typing System rule, a change of
43 the riparian zone buffer is the objective of the Type Np buffer rule. If the Board approves the rule
44 elements for inclusion for both rules, he opined that the Board might consider merging the rule-making
45 efforts

46
47 Board member Davies said she thought the AFF would cover the whole state. Engel confirmed it will be
48 a statewide rule, however the Board has not had a discussion on how the AFF would be established on
49 both sides of the state. He suggested that the Board take up this topic at the August 2022 meeting. Engel
50 shared that the AFF project technical team performed their analysis of the AFF alternatives in western

1 Washington and that their primary source of data was SWIFD. He shared that the majority of SWIFD data
2 is from Western Washington and there is another source of fish data for Eastern Washington. Board
3 member Barnowe-Meyer added the AFF group did not include sites in Eastern Washington.
4

5 **A LOOK AHEAD**

6 Marc Engel, DNR, said the August 2022 Board meeting agenda will include a Board decision topic for
7 the inclusion of an anadromous fish floor alternative as well as a review of the Board decisions of the
8 identified needed water typing system rule elements. He said there are several elements of the rule the
9 Board will need to resolve which staff will describe at the August meeting. Engel briefly described a rule
10 making timeline after the Board has agreed that all elements of the Water Typing System have been
11 included. Staff will need approximately nine months to complete the rule making packet which will
12 include a preliminary economic and SEPA analyses, after which the Board will have the information it
13 needs to consider filing a CR102 Proposed Rule Making.
14

15 **AUGUST MEETING**

16 The Board discussed whether the August meeting can be conducted in person with reasonable safety.
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18 **MOTION:** Vickie Raines moved the Forest Practices Board cannot conduct an in person meeting with
19 reasonable safety on August 10, 2022 at the Natural Resources Building in Olympia,
20 Washington. She further moved that if the situation changes prior to this meeting, staff
21 notify the Board and proceed to schedule a hybrid-style meeting.
22

23 **SECONDED:** Steve Barnowe-Meyer
24

25 **ACTION:** Motioned passed unanimously (Jeff Davis not available for vote).
26

27 **Executive Session**

28 None.
29

30 Meeting adjourned at 1:25 p.m.