

1 **FOREST PRACTICES BOARD**  
2 **MEETING MINUTES**  
3 August 10, 2005  
4 Natural Resource Building, Room 172  
5 Olympia, Washington  
6  
7

8 **Members Present:**

9 Pat McElroy, Designee for Doug Sutherland, Chair of the Board  
10 Alan Soicher, General Public Member  
11 David Hagiwara, General Public Member  
12 Doug Stinson, General Public Member/Small Forest Landowner  
13 Eric Johnson, Lewis County Commissioner  
14 John Mankowski, Designee for Director, Department of Fish and Wildlife  
15 Lee Faulconer, Designee for Director, Department of Agriculture  
16 Sherry Fox, General Public Member/Independent Logging Contractor  
17 Sue Mauermann, Designee for Director, Community, Trade and Economic Development  
18 Toby Murray, General Public Member  
19 Tom Laurie, Designee for Director, Department of Ecology  
20

21 **Absent:**

22 Bob Kelly, General Public Member  
23

24 **Staff:**

25 Lenny Young, Forest Practices Division Manager  
26 Jed Herman, Assistant Forest Practices Division Manager  
27 Paddy O'Brien, Assistant Attorney General  
28 Patricia Anderson, Rules Coordinator  
29

30 **CALL TO ORDER**

31 Pat McElroy called the meeting to order at 8:30 a.m. Introductions were made by Board members,  
32 staff, and attendees. Patricia Anderson provided an emergency safety briefing.  
33

34 **APPROVAL OF MAY 11, 2005 MEETING MINUTES**

35 **MOTION:** Sherry Fox moved to approve the May 11, 2005, meeting minutes.  
36

37 **SECONDED:** Doug Stinson  
38

39 **Board Discussion**

40 Alan Soicher proposed changing page 16, line 9 to read, "Alan Soicher asked what the mechanism  
41 was for assessing the effectiveness of voluntary approaches..."  
42

43 **ACTION:** Motion passed unanimously as amended.  
44

1 **PUBLIC COMMENT**

2 David Chamberlain, Skagit County Forestry Advisory Board, shared concerns about the potential  
3 plan to modify regulations involving the Perennial Initiation Point (PIP) that may impact the forest  
4 industry without any proof of environmental benefits. He stated the wrong approach is being  
5 pursued. The goal should determine if the existing protection is adequate and not whether the 52-  
6 acre default is accurate. Additionally, any proposed changes need to address potential adverse  
7 impacts to timber industry viability while also establishing what the benefit is to salmon recovery.  
8 The rule speaks to the highest point of flow. However, there are references to puddles and standing  
9 water. There should have been an agreement on the PIP before concluding the default must be  
10 altered or eliminated based on the studies. It was agreed during the 1999-2004 Forests and Fish  
11 accord that any future changes would be examined for balance before implementation, and that the  
12 changes would meet two criteria: have scientific proof that the change was necessary for salmon  
13 recovery, and would not impact timber industry viability. The studies did not provide the proof  
14 needed for a change and the negative impact on the timber industry was not addressed.

15  
16 Peter Heide, Washington Forest Protection Association (WFPA), stated the WFPA supports the  
17 Adaptive Management Board Manual to be presented by Dr. McNaughton later in the meeting.  
18 Many people contributed to the draft and review of the manual. The Board will also receive an  
19 alternate plan manual including some provisions for small landowner alternate plans, which WFPA  
20 supports. A placeholder is included in the manual to guide more general alternate plans. WFPA's  
21 members are unsure whether additional guidance for alternate plans are needed as WFPA members  
22 appear to be successfully proposing alternate plans as needed. Several recommendations have been  
23 developed by Forests and Fish Policy regarding the identification of perennial streams as well as the  
24 desired future condition (DFC). WFPA supports the consensus recommendations and agrees the  
25 information is sufficient to indicate the default basin and area sizes contained in the rules are  
26 unreliable. However, WFPA believes the pilot study used for the basis of the recommendation  
27 contains defects and does not adequately identify the appropriate default basin size or can formulate  
28 a field protocol to locate the PIPs. The value of the pilot study is limited because the functional  
29 resource protection aspects of the perennial water identification were not considered with the  
30 definition of Np Waters. In addition, the purpose of the study was shifted mid-stream. WFPA  
31 crafted a consensus recommendation responding to the limited findings of the draft report. Heide  
32 asked the Board to approve the consensus. WFPA also supports the recommendation for the DFC  
33 study completed by the Cooperative Monitoring, Evaluation and Research Committee (CMER).

1 WFPA supports the completion and necessary technical work and policy effort to sort out the  
2 complexities and the appropriate regulatory response to the DFC study.

3  
4 Dennis Creel, Hampton Resources, referred his comments to the Board's previous work session on  
5 the spotted owl. The Pierce report indicated an 8% decline in habitat within circles of the Spotted  
6 Owls Special Emphasis Areas (SOSEAs). As reported in Pierce's report, the decline likely  
7 represents private and state land and did not account for federal and Habitat Conservation Plans  
8 (HCPs), which totals more than 40%. If the federal government has over five million acres of  
9 habitat-capable land with over 3 million in reserve blocks, the statement attributed to Steven  
10 Courtney that there is more decline in the reserve blocks than in matrix lands, could mean there is  
11 plenty of land for the owls. Creel said he's unsure if additional set-asides within SOSEAs are really  
12 contributing to the effort. He suggested the Board reconsider whether it's even necessary. Private  
13 landowners have provided sufficient contribution. It appears the set-aside program does not work  
14 and perhaps lag habitat is actually a food lag and that there is not sufficient early successional  
15 habitat that supports the type of food owls need. One case in point is the Olympics where there has  
16 been no harvesting but there has been a precipitous decline in spotted owls. He suggested opening  
17 the stands to some harvesting to encourage early successional stands, which needs to occur  
18 periodically.

19  
20 Hampton Resources owns three mills in Washington State and has made a financial commitment to  
21 the state and anticipates sufficient raw materials to operate the mills. The company needs a steady  
22 supply of raw materials and Hampton Resources is counting on the Board to make that happen and  
23 help Hampton Resources fulfill its commitment to the communities and the state. Landowners have  
24 made their habitat contribution. The timber industry is on the edge of becoming uncompetitive in  
25 the world commodity market. Creel referred to the proposal for PIP and conveyed his company's  
26 concerns both for landowners and for DNR managers administering the rules.

27  
28 Eric Harlow, Washington Forests Law Center (WFLC), commented on the two considerations  
29 involved when making natural resource decisions – risks and uncertainty. For spotted owls, the risks  
30 are greater than ever and the experts acknowledged during the Board's work session the risks are  
31 greater than when listed 15 years ago. The five-year review indicated the major threats facing the  
32 owl are past and present habitat loss. Additionally, Robert Anthony's presentation on the decline of  
33 the spotted owl indicated that under the Northwest Forest Plan, a 1% decline per year was

1 anticipated until the habitat created under the Northwest Forest Plan comes on line to provide  
2 habitat to the owls. The plan assumed the population could survive a decline over the next 50 years.  
3 However, the rate of decline in the state is 7.3% annually, which cannot be sustained. The  
4 Northwest Forest Plan was not a consensus document by all scientists. There were several owl  
5 biologists at the time who argued that the owls would not survive the demographic transition for the  
6 next 50 years. It appears the predictions are accurate. Uncertainty is facing the owl as to the number  
7 of factors threatening the owls but there is great uncertainty as to what extent the factors are playing  
8 in impacting the spotted owl. The relevant importance of the threats has not been determined.  
9 Currently, the situation is an increased risk to the spotted owl along with great uncertainty. The first  
10 action when an endangered population is declining unexpectedly is to cease harming the species.  
11 Under the current forest practices rules, there have been indications of ongoing habitat loss on state  
12 lands and there is a consensus agreement that habitat is a key factor to the survival of any species  
13 especially to the spotted owl. Harlow referred to the transcript of the June 2005 meeting on the five-  
14 year review and cited the importance of Barred Owl intrusions from negating the need for  
15 structurally complex forest habitat to sustain the Northern Spotted Owl. Having a variety of  
16 situations on the landscapes used by owls is important because they have more options. He  
17 commented on the Board's responsibility for protection of spotted owls in SOSEAs outside of owl  
18 circles under the Endangered Species Act (ESA). Isolated spotted owl circles outside of SOSEAs  
19 may have an important contribution to the overall viability of the species. The Board's decision for  
20 the spotted owl is important and it calls for a conservative decision until a better spotted owl rule  
21 can be crafted.

22  
23 Peter Goldman, WFLC, requested the Board consider WFLC's request to allocate 30 minutes at the  
24 November meeting to provide a presentation on landscape planning and aesthetics. In 1999, there  
25 was a petition for rule making on aesthetics and several years later on cumulative impacts. The  
26 Board has discussed options about using aesthetics in a non-regulatory environment.

27  
28 Goldman reported there is compelling evidence that the lag effect of past and ongoing forest  
29 practices are removing habitat that are essential to the protection and recovery of spotted owls. The  
30 Board's duty is to ensure its rules are protecting species currently protected by federal law. It is  
31 important for the Board to indicate that recovery of populations relies on the protection and  
32 recovery of individual owls. A third of the owl's traditional habitat was on private lands, where  
33 much of the habitat has been removed during the last 10 to 20 years. The federal government

1 undertook its share of protection by developing the Northwest Forest Plan, and it is time for the state  
2 to consider what it can do today to protect the species. The 1996 rule strategy did not have the  
3 authority or the blessing under federal rule and there was no 4(d) rule or HCPs. There was the  
4 notion that many owls could be sacrificed to save the ones that were essential for recovery, such as  
5 those located in the SOSEAs. However, at this point, so many factors have changed that it is the  
6 Board's legal duty to question whether all actions are being undertaken to protect individual owls.  
7 He urged the Board not to delay rule making and move forward with the larger and possibly  
8 federally-assured process to protect the spotted owl in the long term.

9  
10 Court Stanley, Port Blakely, reported the forest industry agreed with the Board in passing a rule  
11 package that provided protection of public resources that was one of the most restrictive in the  
12 nation. Fifteen to 20% of the land base has been set aside for the protection of the endangered  
13 species consisting of approximately 765,000 acres of private forest land in the state representing  
14 \$3.5 billion. Any additional rules that take away private forest land will create disincentives for  
15 growing habitat and maintaining and creating longer rotations. Spotted Owls are declining in  
16 Washington with more restrictive rules than in Oregon, where they appear to be stable. Habitat is  
17 not the limiting factor. The Board needs to provide incentives and a streamlined process to enable  
18 landowners to undertake landscape planning for species that live in managed forests in the state.

19  
20 Kevin Godbout, Weyerhaeuser, commented on the Board's meeting the previous day and  
21 acknowledged the thoughtful analysis that all the stakeholders undertook. In terms of the  
22 assessment process, the work session was one of the activities the Board has undertaken and  
23 everyone should be recognized for the quality of the work and the level of effort. Based on the  
24 presentations, the work is not completed prior to the Board rendering action. He offered some  
25 suggestions on the Board's next steps. It appears there is work to complete on landscaping planning,  
26 there is an opportunity for the Board to reinvigorate the statewide wildlife assessment process to  
27 complete gap analysis to determine what is needed, and there is importance in continuing the use of  
28 data-driven systems and its use in establishing management objectives for landowners within  
29 SOSEAs or outside of SOSEAs. Weyerhaeuser's position on a moratorium on decertification is that  
30 it would remove a valuable tool and prior to supporting a voluntary measure it must be thoughtful  
31 and is predicated on cleaning up the existing site center database. The database is inaccurate and  
32 does not characterize the number of owls on the landscape. In some situations on Status I, II, and III  
33 sites, there have not been owls since 1992. However, the data is still collected and maintained on

1 the database. The only tool that landowners have to correct the record is to go through the federal  
2 protocol process for delisting the site. The goal is managing real owls and habitat not phantom owls  
3 and habitat of prior data collection systems that have not been updated. Before taking any action,  
4 the Board needs to initiate and complete the statewide wildlife assessment to enable a discussion on  
5 how best to manage landscapes. Lastly, the Board has an obligation to work with the federal  
6 recovery process. Working independent of the recovery process will appear disjointed.

7  
8 Mark Buckley, Seattle Audubon Society, urged the Board to exercise its authority by taking strong,  
9 immediate action to conserve the remaining habitat of the Northern Spotted Owl and other wildlife.  
10 Taking a leadership role will demonstrate to the citizens of Washington State that preserving and  
11 enhancing the remaining fragile threatened habitat is a legacy worthy of its members that will be  
12 valued and praised for generations. The owl has demonstrated by its rapid decline over the last 10  
13 years that something is terribly wrong in how timber resources are managed. The precipitous drop  
14 in the spotted owl population by approximately 50% in the last 10 years is indicative that immediate  
15 action is needed to stem the decline of habitat. There may be many reasons for the decline of the  
16 spotted owl, but it is known that habitat recovery and preservation are a crucial part to the solution.  
17 Because the state has jurisdiction over 33% of owl habitat in Washington, the direction the Board  
18 takes will have a profound impact on the future of the spotted owl and to the quality life for other  
19 wildlife. He urged the Board to exercise its authority by taking action to conserve the remaining  
20 habitat.

21  
22 Marina Skumanich, Seattle Audubon Society, spoke on behalf of both the Seattle Audubon Society  
23 and the Kittitas Audubon Society. She urged the Board to abide to its duty under the ESA, a law  
24 strongly supported by the public, to prevent harm to spotted owls on lands under the Board's  
25 jurisdiction. Studies are indicating the spotted owl population in the state is declining by 50% in the  
26 last 10 years, which is clearly a wakeup call to everyone. It requires reexamination of the strategies  
27 for protecting the owl and to look for ways to improve efforts. It is recognized that the situation  
28 faced by the owl is complicated, risks are serious, and some of the emerging threats are poorly  
29 understood. The outcome can also not be known with certainty. However, these reasons cannot be a  
30 justification for no action. All parties have a role to play. The state as well as scientists and  
31 stakeholders have some hard work ahead in evaluating the existing roles and to make decisions  
32 about rules and broader policy changes. The caucus acknowledges the need for a longer term  
33 process involving many stakeholders and interests. She urged the Board to take some interim

1 measures:

- 2 1. Establish an interim moratorium on decertification.
- 3 2. Require submission of owl sighting information to the Washington Department of Fish and  
4 Wildlife (WDFW).
- 5 3. Require the State Environmental Policy Act (SEPA) review for harvests proposed in circles
- 6 4. Make a formal commitment and take initial steps to initiate the longer term planning and  
7 evaluation process.

8 The recommendations are the best way to temporarily provide some added protection to the spotted  
9 owl on nonfederal lands while the longer term process unfolds. She urged the Board to adopt the  
10 recommendations or equivalent measures immediately.

11  
12 Heath Packard, Audubon Washington, State Office of National Audubon Society, commented on  
13 the great lengths the Society has taken to be reasonable, deliberate, and constructive as possible  
14 concerning the protection of the spotted owl. Despite the frustration of its constituency, the Society  
15 is optimistic that a majority of the Board believes doing nothing about the owl rule revision is not  
16 an option. The issue before the Board is whether there is recognition that there is a problem, that the  
17 Board is also part of the solution, and action is necessary.

18  
19 Packard commented that the timelines for the upland wildlife review are behind schedule. He urged  
20 the Board to pursue through the Governor's Office and the Office of Financial Management (OFM)  
21 increased resources and staffing to enable the review to move forward in a timely fashion.

22  
23 Josh Weiss, WFPA, provided a document clarifying information presented to the Board at its work  
24 session the previous day about the issue of suitable habitat representing 27% as the average of  
25 circles within the state. He cited how he believes the 27% was established and how the figure leads  
26 to a conclusion that WFPA is not comfortable with.

27  
28 WFPA agrees that the Board's wildlife strategy and approach should be improved. Almost two  
29 years has been spent on spotted owl issues and everyone is frustrated. The Board's efforts should be  
30 focused at the landscape level to understand what wildlife benefits are gained under existing rules  
31 including what has been implemented in Forests and Fish buffers. This adds an additional 756,000  
32 acres set-aside for habitat in the state. Before any more species by species reviews are undertaken, it  
33 is important for the Board to undertake a landscape-level review. Weiss said the industry is

1 confident in the studies presented by Dr. Quinn and would support funding efforts for the study.  
2 However, as part of the owl's approach and the wildlife assessment, the Board should be focusing  
3 on a landscape review as a next step.

4

5 Angela Stringer, The Campbell Group, said she supports any efforts to upgrade the spotted owl  
6 database. She clarified a previous speaker's comments about a federal take violation in Klickitat  
7 County. She noted there was no violation and no harvest. There was however, a Forest Practices  
8 Application (FPA) that was within the forest practices rules that involved a site outside of a  
9 SOSEA. The landowner negotiated with the U.S. Fish and Wildlife Service (USFWS) and the  
10 decision was not to harvest. No violation occurred.

11

12 McElroy reported that the Board will respond to WFLC's request later in the meeting.

13

#### 14 **ADAPTIVE MANAGEMENT**

15 Geoff McNaughton, DNR, provided an update on current projects. Projects included completion of  
16 the CMER FY 2006 Work Plan and Budget, developing CMER Protocols and Standards, and  
17 presenting at the Technology Transfer Conference on the recently adopted CMER/Policy  
18 Interaction framework.

19

#### 20 **WATER TYPING, EASTERN WASHINGTON MAPS**

21 Eric Johnson asked if it's likely the validation work may not be completed by the time the Board is  
22 asked to implement the model. Gary Graves, DNR, said while the validation work for the westside  
23 is not going to be conducted next year, there is an ongoing validation study for seasonality that is  
24 underway on the eastside. Staff will not have the information by next February and it is unknown  
25 when the Board will be asked to take action. McElroy said the Board is not scheduled to take any  
26 regulatory action next year.

27

#### 28 **BOARD MANUAL**

29 Jed Herman, DNR, presented two sections of the Board Manual for review. Board Manual Section  
30 21 Guidelines for Alternate Plans, was previously approved by the Board. The revised section  
31 includes some changes for better guidance for overstock stands in Western Washington adjacent to  
32 Type Np Waters, along with some general edits to improve readability.

33



1 The second manual is Section 22 Guidelines for Adaptive Management Program. Herman  
2 acknowledged the work of several individuals in developing the draft. The Board will be asked for  
3 approval at its September retreat.

4  
5 McElroy encouraged members with questions about the draft sections to relay the questions to staff  
6 before September to assist staff in preparing the final manual sections for review.

7  
8 John Mankowski acknowledged the importance of the Adaptive Management Program manual as  
9 the Forests and Fish Program hinges on adaptive management. He acknowledged the work of the  
10 Tribal caucus in facilitating and assisting in developing the draft.

11  
12 Soicher asked whether there would be value in adopting the Adaptive Management Program manual  
13 as a rule rather than as a guidance document. Mankowski indicated his practical experience with  
14 board manuals is that they are generally followed. McElroy added that rule making involves an  
15 environmental impact statement (EIS) and a preparation timeline of 18 months to two years. The  
16 Board Manual implements actions immediately. If the Board wants a rule it requires funding and  
17 two years to complete the work.

18  
19 Paddy O'Brien noted that there is a distinction as well as different processes between rules and a  
20 guidance document. An adaptive management rule currently exists and basic principles are already  
21 identified in the rule. The manual is a guidance document that helps refine what is in the rule. It also  
22 allows more flexibility in the adaptive management process to have the information in a guidance  
23 document. O'Brien confirmed she examined the information for the purpose of determining the  
24 placement of information either in the manual or in rule.

25  
26 Graves said the committee did not identify any recommendations for a rule change during the  
27 drafting process.

28  
29 **CMER 2006 Work Plan and Budget**

30 Geoff McNaughton asked for the Board's approval of the CMER 2006 Work Plan and Budget. This  
31 year, the document includes information on how the CMER studies were developed and why they  
32 are important. The budget proposal is \$4 million.

33  
34 **MOTION:** Toby Murray moved to approve the CMER 2006 Work Plan and Budget.

1  
2 **SECONDED:** Eric Johnson  
3

4 **Board Discussion**

5 Johnson said one of his concerns is the lack of progress on a number of the projects. McNaughton  
6 acknowledged there have been some improvements. For new startup projects, the chair of the  
7 CMER work group has visited science advisory groups and has outlined schedules of what it takes  
8 to initiate projects. Inception to contract takes 18 months. The work plan is much more realistic than  
9 in the past.

10  
11 Johnson inquired about funds for channel migration zones. McElroy commented that the  
12 reprioritization process lowered the priority of CMZs. While it is important to some people, the  
13 issue of risk and uncertainty did not rise as a high CMER priority.

14  
15 Johnson referred to the budget allocation of the upland wildlife program and asked if it  
16 complements the Board's wildlife work plan strategy and whether it will dovetail with the Board's  
17 work. McNaughton said there is only one wildlife project, the Riparian Management Zone  
18 Resample Project, which is a large project estimated to cost \$800,000. The Wildlife Science  
19 Advisory Group decided to pursue a large study instead of a variety of smaller studies. McElroy  
20 said the effort is focused on the riparian species and areas, and not upland wildlife.

21  
22 Soicher noted the title of the Type N Experimental Buffer Treatment Project has changed to Type N  
23 Experimental Buffer Treatment Project in Selected Lithologies in Western Washington, which has  
24 been narrowed to competent rock types. There was previous discussion about broadening it to other  
25 lithologies and determining Type N water quality downstream effects. He asked how they fit  
26 together and whether there is a way to pursue one project and work on the competent lithologies as  
27 a subset of the project. McNaughton said it was discussed. When approval was obtained from  
28 Forests and Fish Policy there was a request to CMER to scope out the softer rock types, costs, scope  
29 of work, and how to incorporate downstream effects. Soicher said there is a request to move  
30 forward with the competent lithologies while there is a delay for the project. McNaughton said staff  
31 recently received the assignment from Forests and Fish Policy to scope the project. The preliminary  
32 estimate is \$1.3 million. Soicher asked whether moving forward with the competent rock project  
33 will interfere with moving forward with another large scale project. McNaughton said it will be part  
34 of the annual prioritization process. Staff has been assigned to scope the project and present the

1 project scope and costs to review softer rocks types. McNaughton said the Type N buffer is the  
2 number one priority for CMER. Soicher suggested the Type N study in downstream effects should  
3 be a higher priority. McElroy said it appears Forest and Fish Policy and CMER are undertaking  
4 discussions about the issue. He suggested letting the two groups work out the issue. Soicher asked  
5 whether there is high risk and uncertainty associated with Type N stream buffers, generally.  
6 McNaughton acknowledged that is why the project is a high priority.

7  
8 McNaughton clarified two changes to the FY 2006 CMER Work Plan:

- 9 • Line 5, Type N Experimental Buffer Treatment Project's Priority Status should be corrected  
10 to read "Urgent."
- 11 • Line 130, Total New Starts, the budget for FY 2006 should be corrected to \$1,388,887.

12  
13 Soicher requested changing the priority ranking of line 6, Type N WQ/Downstream Effects  
14 Proposal. McElroy suggested changing the status to "Decision Pending." Staff concurred.

15  
16 Discussion ensued on seeking the Board's approval of this project after it has been scoped and the  
17 budget established. Staff advised that scoping of the project will likely not occur until January 2006.  
18 McElroy confirmed the project will be presented to the Board at its February 2006 meeting.

19  
20 **ACTION:** Motion carried unanimously.

## 21 22 **CMER Members**

23 McNaughton reported that WFPA has requested the Board consider Dr. Kenneth Risenhoover for  
24 appointment to CMER as an alternate.

25  
26 **MOTION:** Pat McElroy moved to appoint Dr. Kenneth Risenhoover to represent the large  
27 landowner caucus as an alternate to the three existing large landowner members on  
28 CMER.

29  
30 **SECONDED:** Sherry Fox

31  
32 **ACTION:** Motion passed unanimously.

## 33 34 **Forests and Fish Policy Recommendation on Channel Migration Zones**

35 Herman advised the Board that unfortunately the draft Forests and Fish Policy recommendation on  
36 CMZs has not been completed. The group is making progress and believes consensus on one of the

1 three policy questions can be achieved with contrasting views of the other two provided to the  
2 Board as its November meeting. He assured the Board there will be no future delays.

3  
4 Soicher noted the recommendations are critical because CMZs are under development without clear  
5 policy direction.

6  
7 Mankowski emphasized the need for a system to track implementation results.

## 8 9 **ADAPTIVE MANAGEMENT STUDIES**

10 Stephen Bernath, Department of Ecology (DOE), updated the Board on the status of the Perennial  
11 Initiation Point (PIP) Study.

12  
13 Bernath outlined the three types of monitoring envisioned with Forests and Fish:

- 14 • Compliance monitoring
- 15 • CMER monitoring – validation monitoring that determines whether the target that was  
16 selected was the correct target
- 17 • CMER monitoring - effectiveness monitoring to determine if the rule is actually effective in  
18 protecting public resources

19  
20 When Forests and Fish was negotiated, there was an agreement made based on very loose data at  
21 the time, to construct a default basin size to approximate where PIPs were. A PIP is the dividing  
22 line between Type Np and Ns Waters. The PIP study requested the validity of the basin size default.  
23 Upon completion of the pilot study there was the notion that a more complete study would be  
24 undertaken once the methods were tested. CMER indicated it was unlikely that any further study  
25 would render different results. Forests and Fish Policy requested CMER proceed through peer  
26 review and there was an associated tribal study that added to the data. CMER presented the PIP  
27 report to Forests and Fish Policy after the peer review. A subgroup was formed to review the results  
28 of the study and it was recommended that action should be taken based on the report. There was  
29 consensus that the default basin size is incorrect. There was no consensus on whether the pilot study  
30 was adequate to determine if another default could be determined. A decision was made to focus on  
31 the fact that the default was wrong. Some policy options were forwarded to Forests and Fish Policy  
32 as well as a consensus recommendation.

33

1 As part of the Adaptive Management process, a petition for rule making will be forwarded to the  
2 Board by the end of the month.

3  
4 The first recommendation is to eliminate the default. It was always the intent of Forests and Fish to  
5 first determine a PIP and only use defaults when it is difficult to find a PIP. The rule will refer  
6 landowners to a new, simple, non-technical Board Manual for identifying a PIP on the ground.

7  
8 The second recommendation is that the Board Manual is developed and approved when or before  
9 the rule is adopted. This is important from the standpoint of having the procedural guidance in the  
10 field before adoption of any rule change. The manual needs to address not only how to find a PIP  
11 but how to deal with issues such as landowners who have not been able to find the PIP during the  
12 appropriate season.

13  
14 The third recommendation is for DNR to encourage landowners to make a good faith effort to  
15 identify PIPs when preparing FPAs. The goal is to have landowners look for the PIPs first and use  
16 the defaults only if necessary in the interim.

17  
18 Johnson asked if it is clear what will be in rule and what will be in the Board Manual. Bernath  
19 replied the Board Manual will be a procedural guidance on the ground to locate a PIP and to deal  
20 with the three sub-issues. The rule proposal will eliminate any references to the basin size default in  
21 the rule and refer the landowners to the Board Manual for guidance on how to identify PIPs.

22  
23 Soicher said he likes having a default. He asked if there was discussion for using a minimum  
24 number from the PIP study as a default that would provide a simple solution. Bernath said the sub  
25 committee was not comfortable using the study to suggest a different default.

26  
27 Lenny Young reminded the Board they are not obligated to follow Policy's recommendation. The  
28 Board can consider other alternatives when it enters the public process of rule making.

29  
30 Joseph Pavel, Northwest Indian Fisheries Commission (NWIFC), identified several things that were  
31 learned from the study, i.e. the high variability on the landscape makes a default likely to be  
32 ineffective in terms of identifying where the PIPs are.

33

1 Pavel referred to the DFC report stating that it was an exhaustive body of research and that is one of  
2 the two highest priority areas of research coming out of the Forests and Fish negotiations. The study  
3 revealed that the basal area numbers reflected in the rules are significantly in error. There is an  
4 established management system that differentiates between the five site classes, and the studies  
5 revealed that there is no significant difference in the basal area between the site classes. The study  
6 did raise a number of other questions and answered some questions. Forests and Fish Policy  
7 attained consensus and will deliver a petition for rule making prior to the Board's September  
8 meeting.

9  
10 Mankowski asked in lieu of the Board receiving the petition, whether Forests and Fish Policy will  
11 continue working on the DFC scoping that could include some potential solutions. Pavel said  
12 Policy's recommendation is a petition for a rule change. It will open the door to the data and  
13 methodology for identifying site classes. Site classes have been established as a mechanism that  
14 provides flexibility that meets function as well as providing economic opportunity to the landowner.  
15 Site class maps are not very effective in identifying the sites. It will be too costly to redo the state's  
16 site soil class maps. Other ways must be considered to meet functional objectives and provide for  
17 landowner flexibility.

### 19 **Road Maintenance and Abandonment Planning Rule Making**

20 Jed Herman, DNR, presented a draft rule proposal and an economic analysis for the Board's rule  
21 making on implementing Second Substitute House Bill 1095 relating to small forest landowners  
22 road maintenance and abandonment planning. He asked for the Board's approval to file a Proposal  
23 for Rule making (CR-102) to begin the public review process.

24  
25 **MOTION:** David Hagiwara moved that the Forest Practices Board accept for public review  
26 the rule proposal as presented today to implement Second Substitute House Bill  
27 1095 modifying chapters 222-16, -020 and -024 WAC. I further move that staff file  
28 the CR-102 with the Office of the Code Reviser to begin the permanent rule-  
29 making process and schedule public hearings to coincide with the publication of  
30 the draft environmental impact statement.

31  
32 **SECONDED:** Sherry Fox

### 34 **Board Discussion**

35 Sherry Fox stated she appreciates the economic analysis. She said she's spent several years trying to  
36 explain the economic impact on small forest landowners with fish passage repair. It is worthy to

1 note that even with the cost share program the state has initiated, it amounts to \$21 million in costs  
2 to small forest landowners across the state.

3  
4 Herman reported the five public hearings are scheduled in November and December across the  
5 state. Parametrix has been hired to prepare the EIS. The EIS should be prepared by October so that  
6 the public can review the proposed rule, the economic analysis, and the EIS.

7  
8 **ACTION:**                    **Motion passed unanimously.**

9  
10 **OTHER BUSINESS**

11 Request for Presentation on Aesthetics

12 McElroy distributed a memo from Judy Turpin that included a chronology of the Board’s actions in  
13 addressing recreation and aesthetics. He indicated that Peter Goldman had requested time to present  
14 to the Board on aesthetics. McElroy recommended a discussion by the Board on how to handle the  
15 request during the Board’s September work planning session. The Board should consider receiving  
16 the information in context of the Board’s other work.

17  
18 Mankowski said the Board previously made a decision about how the Board handles requests for  
19 presentations to the Board. McElroy said the decision was that during the regularly scheduled  
20 meetings, speakers are given a specific amount of time to speak to different issues. However, if  
21 there is a desire for a longer presentation by the speaker, the request should be submitted to the  
22 Board for its consideration. He noted that the issue has come before the Board a number of times.  
23 At the September meeting, the Board can discuss whether to receive the presentation at the Board’s  
24 November meeting.

25  
26 Johnson said he is personally interested in the idea of meshing landscape planning with aesthetics.

27  
28 Mankowski echoed similar comments about the opportunity for the Board to consider how  
29 landscaping planning can assist the aesthetics issue. It makes sense for the Board to undertake some  
30 discussion about the issue early on.

31  
32  
33

1 **Board's September Retreat Planning**

2 Herman reviewed the Board's September draft agenda. The first day will be a field day visiting  
3 small forest landowners in north Clark County. The discussions will involve opportunities and  
4 challenges of implementing rules, conversion issues to non-forestry land use and urbanizing impacts  
5 to the forest, long term forest practices applications, fish passage and alternate plans.

6  
7 The September 15 meeting will be a work session with a recap of the field tour and follow up on  
8 any issues or observations. Action items include approval of two manual sections, presentation on  
9 two petitions for rule making, and a presentation on Upland Wildlife Planning.

10  
11 Fox expressed concerns about limiting discussion of small forest landowner issues. She suggested  
12 the possibility of scheduling another September meeting to address the Board Manual, petitions for  
13 rule making, and the work plan. She outlined some of the planned presentations.

14  
15 McElroy suggested scheduling the second day until 4 p.m. to allow time for all items on the draft  
16 agenda.

17

18 **Upland Wildlife Planning**

19 Mankowski addressed the previous day's presentations on the spotted owl. Overall, the Board is at  
20 an important juncture in decision making about the spotted owl rule. The Board has committed to  
21 reassess the rule and there was much information presented to help the Board in its assessment. The  
22 Board has heard from several caucuses about the need to move quickly on other aspects of the  
23 wildlife strategy, particularly the upland landscape analysis and its role in helping the Board  
24 understand the value of current rules and undertaking a thoughtful and efficient landscape planning  
25 approach.

26  
27 Sue Mauermann commented that it was a privilege to hear from state and national experts as well as  
28 from stakeholders about the latest information on spotted owls. Despite the stature of the spotted  
29 owl, no scientist was willing to answer the million dollar question – is ongoing harvest a significant  
30 contributor to population decline? There are many opinions, but no strong answers to the question.  
31 It is clear the decline of the spotted owl in Washington is alarming, especially in relationship to the  
32 current status of the owl in Oregon and California. It is known that there are several risk factors  
33 contributing to the decline: Harvest, particularly past practices, Barred Owl, fire, and perhaps edge



1 of range challenges, as well as survivability in certain regions that might be attributed to weather  
2 conditions. The relative risks of these factors in different regions based on Dr. Anthony's work are  
3 different in each sub region. The overall strategy for recovery is a long term plan. Regrowth in the  
4 forest will lead to significant new habitat in the 30 to 40-year timeframe. These are some of the  
5 conclusions that can be derived from the information provided to the Board. The state does need to  
6 improve its efforts to protect the spotted owl. The state should build off the momentum of Dan  
7 Silver's work. Adaptive management is a foundational element for timber, fish and wildlife.  
8 Everyone agrees that work remains on decertification in owl circles or the accuracy of the database.  
9 Landscape planning is an unrealized potential with the current forest practices rules. It is a good  
10 comprehensive approach that appears to have consensus as a way to move forward. There are  
11 different risks for owls in different regions. There may be different approaches through tailored  
12 landscape planning as well as streamlining the process, creating a better federal nexus, and working  
13 on programmatic SEPAs.

14  
15 Soicher agreed the information presented to the Board was valuable. There are existing risks and  
16 uncertainty in reducing the risk in the face of uncertainty. That is the context that the Board should  
17 operate within. The process of halting the decline while the Board engages in long term processes  
18 will be critical. In the short term, the moratorium or elimination of decertification would be  
19 appropriate for the Board to act on. The issue regarding the database does not account for new sites  
20 of spotted owls. The action of SEPA triggers within SOSEAs is another issue. The information in  
21 the Pierce report reveals that there is continuing decline of suitable habitat within the SOSEAs and  
22 even the 1996 rules did not incorporate all of the SOSEA areas that were recommended by the  
23 Scientific Advisory Group (SAG) and the value in expanding where SEPA was applied, not only in  
24 the owl circles within SOSEAs but throughout SOSEAs and other areas identified by the SAG.  
25 These are the immediate short term issues. As suggested, long term landscaping planning should  
26 address owls and is likely the right direction so that all wildlife species can be addressed as well.

27  
28 Lee Faulconer commented on the value of the spotted owl work session and thanked everyone who  
29 organized the meeting and provided presentations. Obviously, the spotted owl is in trouble. It will  
30 be a challenge to respond especially in determining what the Board's role is and what it can do in  
31 light of all the factors that together are partially responsible for the decline in owl population. If  
32 there is any hope of saving the owl, it will likely be in developing a landscape planning process that  
33 can be applied on the ground. Unfortunately, there is still confusion about the role that harvest plays

1 in the decline of the owl. The Barred Owl has been demonized to some degree but it appears the  
2 animal is fairly successful in terms of its ability to survive and expand its range. The Barred Owl  
3 will be a difficult issue to contend with and it will likely influence some of the decisions by the  
4 Board.

5  
6 Johnson echoed similar comments about the value of the work session. He suggested sending a  
7 thank you to all the presenters on behalf of the Board. He said he listened closely to the information  
8 between the nexus of the decline of the spotted owl and the review of the forest practice rules.

9 While there was much information, much of it was not linked or tied to understanding how it was  
10 applied to forest practices rules and whether the actions performed under forest practices rules is  
11 linked to the decline of the species. A number of scientists did not answer the question with any  
12 specificity. Some conclusions were that habitat on federal land has become stable during the last  
13 decade, yet there is spotted owl decline on federal and other land where harvest has occurred. The  
14 impact of a lag effect is more drastic than first believed. Dr. Courtney was adamant about the  
15 impact Barred Owls have on the Northern Spotted Owl. He was more willing as a scientist to lay  
16 out the impact. However, it is clear the reason for the decline is unknown but that there should be  
17 alarm about the decline. The Board's charge is a component of many of the issues and it will be the  
18 Board's work to determine its response regarding those components, particularly knowing the  
19 federal government is finally implementing a recovery plan.

20  
21 Tom Laurie thanked the presenters and staff for the information provided to the Board.  
22 Unfortunately, the information has not made it easier for the Board because of the confusing aspect  
23 of what is occurring to the owl. It is clear that the decline of the spotted owl is alarming and that  
24 something needs to be done. There are multiple factors in the decline as well as multiple factors  
25 necessary for recovery. It is clear that habitat is essential. The Board's challenge is to figure out  
26 how to preserve that habitat. It is not obvious but the Board did receive good information about  
27 what habitat is available and what is protected through the rules. The Barred Owl may soon obviate  
28 the need for recovery. He said he hopes landscape planning is an answer and that landscape  
29 planning on an individual species is not the answer. The discussion about the database and  
30 identifying the locations of spotted owls is essential. A federal process is just beginning that will  
31 consider, among other things, a survey protocol that will be key to the database. The state will need  
32 to link closely with the federal process to ensure the state's information is valid when addressing  
33 decertification and how state lands fits within federal lands.

1 Toby Murray said the presentations were very interesting. He noted he was aware that the Barred  
2 Owl was a problem but that Courtney's presentation was the most dramatic information that was  
3 presented. He said the state is losing seven ninths of one percent of habitat on private lands, and that  
4 it does not appear to be a problem that the Board can solve in terms of a habitat solution. However,  
5 there may well be some additional science on Barred Owls that the Board might not be familiar  
6 with. If the Board can develop an action that it believes will improve the situation for the spotted  
7 owl, Murray said he would be supportive of that. However, he indicated he did not hear anything  
8 from the presentations that suggested it was possible to take any kind of action.

9  
10 David Hagiwara said the presentations provided some new and compelling information. He  
11 complimented the efforts of McElroy, Mankowski, and staff for developing the agenda and  
12 scheduling the presentations. It was important for the Board to hear both sides of the issue. One of  
13 the key elements he said he surmised of the presentations is the concept of time. Time is both an  
14 ally and an enemy to the issue. The actions of the recovery plan, the Northwest Forest Plan, and  
15 even the actions of the Board were based on a long term scenario that the Board needs to be mindful  
16 of. Time is an ally to a certain degree, because more is known than in 1996. Time is also an enemy  
17 as there is obviously a crisis that needs some action. The struggle is the role of the Board and how  
18 the Board can affect the circumstances. The one missing piece of information is that none of the  
19 current Board members were on the Board when the rules were adopted. The decisions in the past  
20 were likely not wrong; they were based on the best information that was available at that time. The  
21 current Board is faced with the same type of decision making process. He said he looks forward to  
22 working with the new information that comes forward and is supportive of moving forward and  
23 acting quickly. He indicated he is encouraged by the concept of landscape planning and the Dan  
24 Silver process and if the Board can build on the two elements, it is likely the Board will have  
25 something to act on.

26  
27 Doug Stinson said the owl issue first arose in the late 1980s when he worked in the Olympic  
28 National Forest. It is amazing that the spotted owl has not recovered to the extent it should have,  
29 especially in the Olympic National Forest. There is virtually no logging occurring in the area and, as  
30 important as habitat is, habitat is not the issue that is preventing the recovery of the spotted owl.  
31 Another tough question is how to deal with the Barred Owl. He said he has some difficulty  
32 supporting the removal of one species in lieu of another species. He said he is encouraged by the  
33 landscape management concept. The ecosystem must be viewed wholly and not species by species.

1 One issue that is of concern is the fire issue, especially in eastern Washington. Locking up national  
2 forests can be detrimental in terms of fire, insects, or disease if not managed properly. Whatever the  
3 Board elects to do must relate to maintaining a viable forest products industry, which is critical to  
4 the state. As a small forest landowner, Stinson said landowners are fighting to keep small  
5 landowners on the landscape. Without small landowners, many of the things that everyone wants  
6 will not happen. The Board must consider this with any decision. It is important to maintain a viable  
7 timber industry as without a viable industry; there will be more fragmentation and more conversion.

8  
9 Fox said the statute requires the Board to consider the economic viability of any rule making as the  
10 Board moves forward. She said as a logger, she has witnessed the destruction of families because of  
11 the issue. She said she hopes the Board is cautious and deliberative in its approach and that there are  
12 ways to address the problem without rushing to the habitat solution. The information provided by  
13 the presenters was very useful.

14  
15 Mankowski said there are several aspects to the Board's job, which includes protecting public  
16 resources as well as protecting a viable timber industry. The question is whether the Board is  
17 protecting the resource, and whether more can be done to protect the resource. The decline is real  
18 and is likely a combination of both a lag effect of habitat loss and the Barred Owl. He said he does  
19 not believe the effect of the Barred Owl is an excuse for the Board to do less. The issue is in the  
20 beginning chapters of the Barred Owl and spotted owl interaction. There are several examples in  
21 wildlife management where one wildlife species competes with another and eventually actions are  
22 taken and conditions improve. He said the Barred Owl is not a reason for the Board to conclude that  
23 it's over. The decline is real and the Board needs to ensure that those charged with dealing with  
24 problems are doing their job. The state's role of contributing to the federal strategy for owl  
25 protection, as outlined in some of the presentations, is the right role. Recovery planning is a good  
26 opportunity to answer the broader questions that are raised about the state's strategy, such as, are  
27 the SOSEAs in the right places and are circles the correct size. He said he is encouraged that the  
28 federal recovery planning process will continue to pull together expert scientists to reassess the  
29 overall strategy for recovering owls. The state must stay closely involved to ensure that the Board's  
30 role within the federal strategy is pursued consistently. The state does have a role through the  
31 SOSEAs that the state is committed to managing. The question is how much of the decline is  
32 habitat-driven. Mankowski said everyone has their own views. He said he falls back to a question of  
33 whether the Board is doing what it said it will do. Is there accountability for the rule that was

1 adopted? Is the state protecting the owls within SOSEAs? Is the state managing those SOSEAs  
2 towards landscape functions? As the analysis is pursued, the question is whether there are barriers  
3 to meeting SOSEA goals. There are several conclusions. Harvest outside of SOSEAs is occurring.  
4 Conversely, habitat has also been left inside SOSEAs. He said he's unsure that the Board has  
5 completed its job because according to John Pierce's data there is habitat loss within owl circles  
6 inside of SOSEAs, which is of concern. The greater concern is within SOSEAs outside of circles  
7 where habitat is harvested. And in some SOSEAs within the 10-year study period, approximately  
8 15% of the habitat has been lost. He said he expected the trend to eventually level out due to Forests  
9 and Fish, HCPs, and landscape efforts. There is also too much focus on individual owls. Rather,  
10 there should be discussion about landscapes that are important to owls.

11  
12 For solutions, the Board should consider several near term and long term steps. The first steps  
13 include the Silver strategy, discussion and resolution involving decertification, making landscape  
14 planning real, establishing SOSEA objectives that promote landscape planning, using a Landowner  
15 Option Plan (LOP) process to achieve the goals, and developing some federal ESA connection to  
16 SOSEA plans to avoid duplicative efforts. He said he is also interested and concerned about agency  
17 capacity by creating enough incentives for landowners to undertake LOPs and suddenly 15 to 20  
18 arrive within the agency. There must be some thought about whether agencies can staff up to ensure  
19 the process is successful. Currently, small landowners, for the most part, do not have an owl  
20 problem. Whatever steps the Board takes in moving forward, it will be important to avoid  
21 unintended consequences to the small landowner that prevents them from performing. The third  
22 element of short term solutions is moving forward on an adaptive management program for owls.  
23 Monitoring is another element and the Board should consider monitoring the effectiveness of the  
24 owl rule and filling some of the data gaps and developing a method for systematically incorporating  
25 new owl information. For the longer term, the state must work on the recovery plan and ensure the  
26 state is doing its role in managing state and private lands in ways that contribute to recovery. The  
27 Board also needs to undertake the upland wildlife assessment through a science based process and  
28 address questions about wetlands and unstable slopes, forests and fish buffers, and if they contribute  
29 and by how much.

30  
31 McElroy echoed similar sentiment as Mankowski. He acknowledged the work by the presenters.  
32 McElroy said he too believes that the Barred Owl is an aggressive and successful competitor, but it  
33 is not the time to throw in the towel on the work to be done by the Board. He stressed the

1 importance of stepping back and reviewing the big picture. The notion of long term planning is  
2 logical and focusing on multi-species is both a curse and a blessing. In terms of rule assessment,  
3 McElroy said he is committed in ensuring the Board moves expeditiously to consider the larger  
4 picture of upland wildlife. However, the Board can not undertake that while addressing every  
5 question. He cautioned the Board to set priorities and abide by them. There have been several  
6 emergency situations where the Board dealt with issues that were not necessarily timely. The Board  
7 is currently in a major effort of working on Forests and Fish and dealing with the spotted owl issue-  
8 are key components along with dealing with the larger issue of upland wildlife planning.

9  
10 McElroy said the rate of decline is alarming but that the graphs that were presented at the work  
11 session tended to provide a higher level of alarm. It is likely faster than anticipated but perhaps it is  
12 not more than expected.

13  
14 McElroy addressed the landowner caucus and indicated there is a different perspective on how  
15 landscaping is being conducted. The data shows landowners are managing for owls individually  
16 rather than on a landscape basis. That is not what the rule intended to do. It will be a key component  
17 of what the Board will have to consider.

18  
19 In terms of the environmental caucus, there are two terms used by the caucus that impact the  
20 effectiveness of the caucus. The phrase, “stop the bleeding” is designed for headline writers and not  
21 for intelligent and thoughtful dialogue with the Board. The reality is that there is a decline and if  
22 there is true bleeding, the USFWS would have come to a different conclusion regarding the  
23 uplisting, downlisting, or the continuation of the listing of the Northern Spotted Owl. The USFWS  
24 made the correct decision based on the facts. To characterize it as “bleeding” is personally  
25 offensive. There may be debate on whether the decline is more than expected or alarming.

26  
27 The issue of the Board’s duty is another concern. Litigation counsel for the environmental  
28 community has reminded the Board several times of what its duty is. The duty has been tested in  
29 court and the Board has won. The Board’s duty under the ESA is not to protect the Northern  
30 Spotted Owl. The real duty of the Board is under the Forest Practices Act to develop a set of  
31 regulations that provides for a viable forest industry coincident with the protection of public  
32 resources. The duty of the Board is to protect public resources. The nexus between the ESA and the  
33 forest practices rules is the issuance of permits. In the absence of a permit system, there is no nexus.

1 The question is whether the issuance of a permit led to unlawful take of a species. Clearly, there is  
2 an obligation to ensure permits are not issued for an unlawful activity. It is important to clarify the  
3 distinction. The Board has a duty to the state of Washington to provide for a viable forest industry  
4 coincident with protecting public resources. The notion that there is an affirmative duty that the  
5 state must do something is right only to the extent that there is a permitting process.

6  
7 McElroy concluded by stating that approximately six weeks ago, the Governor, agency directors,  
8 and staff met to discuss what the state should be doing about the Northern Spotted Owl. It was clear  
9 from the leadership that it is the job of the state to step forward and take leadership on the issue.  
10 Conversations have been held on what that action might be.

11  
12 The state acknowledged that there is a responsibility to exhibit that leadership role and look for  
13 solutions that work across the landscape both literally and figuratively that accomplishes several  
14 things: 1) reaffirm that the cornerstone of owl recovery and protection is on federal lands; 2)  
15 reaffirm the basic premise and philosophy of the state rule by acknowledging the process needs a  
16 basic tune-up; and 3) reaffirm the state and Board's commitment to landscape planning.

17 Additionally, that there is the potential disconnect between SEPA and landowner planning that  
18 needs to be fixed so it recognizes the value of SEPA and honors the notion behind SEPA while at  
19 the same time recognizes reasonable and cost effective ways of approaching it. Lastly, one of the  
20 most complex issues is leaving a narrow space between takes and taking. The one time the state  
21 denied a permit the court ruled it was an unconstitutional taking of private property. The notion  
22 between take and takings is a difficult task.

23  
24 **MOTION:** Pat McElroy moved that the Forest Practices Board direct staff to file a Preproposal  
25 Statement of Inquiry, also known as a CR 101, with the Office of the Code Reviser,  
26 to inform the public that the Board is considering rule making to amend the forest  
27 practices rules protecting critical Northern Spotted Owl habitat.

28  
29 As part of this process, the Board requests that staff work with stakeholders to  
30 develop recommendations for the Board's consideration that--through permissible  
31 administrative actions, Board process, or other appropriate approaches--improve the  
32 current spotted owl rules and their implementation, leading to strengthened  
33 conservation of spotted owl habitat on lands under the Board's jurisdiction. These  
34 recommendations should distinguish actions that are appropriate to take within the  
35 next two years from actions that are better left to fit within the framework that will  
36 be provided by federal recovery planning. Special attention should be paid to  
37 recommendations and tentative agreements developed during the process facilitated  
38 by Dan Silver.

1  
2           The Board requests a progress report from staff at its September retreat, and expects  
3           staff to provide final recommendations at the Board's November meeting.  
4

5 **SECONDED: Toby Murray**  
6

7 **Board Discussion**

8     The Board discussed the motion and the expectations of what staff will deliver both at the Board's  
9     September and November meetings. McElroy said the idea is to work within the framework of Dan  
10    Silver's report. If there are caucuses that have issues that they want to raise, staff will take a look at  
11    them and present them to the other caucuses to see if an agreement can be reached. The focus is on  
12    the framework of the Dan Silver report. The concern is that there is a fragile situation where broad  
13    agreement in general has been reached, and to reach beyond that at this time will not achieve what  
14    the Board wants to accomplish in a timely fashion.  
15

16    Mankowski said the motion speaks to the Board's interest in receiving a broad array of actions in  
17    the long term.  
18

19    Laurie clarified that the group will be discussing the Silver report including the issue of the  
20    decertification process. He said his concern is hearing from staff about any possibility of receiving  
21    any requests for decertification between now and November. Herman said he does not believe so.

22    Mankowski said it is his understanding that landowners are conducting surveys but not actively  
23    requesting decertification based on the last set of discussions involving the Silver process. Staff  
24    replied that one survey has been completed and the landowner has agreed to hold it. There also  
25    might be several other surveys that have since been completed and that it's up to the landowner to  
26    ask staff to review the surveys. McElroy said he highly recommends that company representatives,  
27    if present, should consider their options.  
28

29    Johnson said there is a disconnect between the first two paragraphs of the motion where the Board  
30    is to consider rule making and then later it provides an indication that the Board needs to improve  
31    the current spotted owls rules. McElroy said the motion conveys two messages – the Board is  
32    prepared to act by directing staff to file a CR-101 and acknowledge that rule making may be  
33    necessary, but the motion provides for the option of delaying such action by three months.  
34



1 Mankowski said he agrees that if the Board is serious about attaining a resolution, the motion is an  
2 appropriate approach. The model is right and the time is right.

3  
4  
5  
6

**ACTION:** Motion passed unanimously.

7 **MOTION:** Tom Laurie moved that the Forest Practices Board request staff to convene a group  
8 of SEPA experts from the Departments of Ecology and Natural Resources, and the  
9 Office of the Attorney General, to recommend ways to alleviate SEPA process  
10 obstacles that are disincentives for landowners to undertake landscape planning. This  
11 group's charge is to identify regulatory options for landscape planning that respect  
12 the purposes and role of SEPA but which do not require complicated or expensive  
13 processes and procedures.

14  
15  
16  
17  
18

The Board requests a progress report from the SEPA expert group at its September  
retreat, and expects the SEPA expert group to provide final recommendations to the  
Board at the Board's November meeting.

19 **SECONDED:** John Mankowski

20  
21

**Board Discussion**

22 Laurie said the Board discussed some options at the work session and that the most experienced  
23 option is the programmatic EIS that is undertaken by the agency. The applicant can then utilize the  
24 process without having to undertake a separate and lengthy process. It's the same process that was  
25 used for the watershed analysis.

26

27 Johnson asked whether the analysis should be limited to only the SEPA process as the motion  
28 implies that the SEPA process is the only obstacle to landscape planning. McElroy said the idea is  
29 that the overall notion of landscape planning is addressed by the first motion. The second motion is  
30 focused to the SEPA issue because of the nature of what the Board is hearing about the role SEPA  
31 plays in landscaping planning.

32

33 Laurie said it is appropriate for the agencies to suggest options on how to address SEPA. Whether it  
34 meets all the needs of landowners, a state group may not be in the position to render a fix. There are  
35 a number of issues relating to landscape planning and one is how it relates to federal assurances.

36

37 Johnson encouraged the Board to look outside the agencies as there are a number of external legal  
38 counsels that understand law better than legal counsel within agencies. He said there likely are a  
39 number of individuals that can add to or influence the process. McElroy suggested having the group  
40 contact individuals who they think can best assist them.

1 Hagiwara cautioned against being careful what you ask for. For example, if there are some  
2 recommendations to change SEPA, he asked what that process will entail. Laurie said he does not  
3 foresee that occurring and if there is no viable alternative, the Board will likely report such to the  
4 Governor. He said he does not believe the Board would recommend changes to SEPA due to the  
5 enormity of the process. The Department of Ecology undertook a similar process for watershed  
6 planning. As the agency sponsor for watershed planning, DOE undertook a programmatic EIS,  
7 which simplified the process of individual watershed groups as they adopted their plans.

8

9 **ACTION:** Motion passed unanimously.

10

11 **MOTION:** Pat McElroy moved that the Board request staff to work with the U.S. Fish and  
12 Wildlife Service, and in consultation with the Department of Fish and Wildlife, to  
13 achieve--within current administrative process and well coordinated with state-  
14 federal interactions related to Forests and Fish federal assurances--the Board's  
15 original goal of creating regulatory harmony between the Board's spotted owl rules  
16 and the federal Endangered Species Act requirements.

17

18 **SECONDED:** John Mankowski

19

20 **ACTION:** Motion passed unanimously.

21

22 McElroy reported the state will monitor the federal progress in developing a spotted owl recovery  
23 plan and will engage in the process wherever and as soon as appropriate.

24

25 Forests and Fish and the U.S Forest Service's spotted owl critical area habitat designation are part  
26 of a negotiated agreement of a federal lawsuit in the southern district of Oregon. It is a time-driven  
27 process that will be monitored by the Board, the Department, and the state, as well as being actively  
28 engaged as appropriate.

29

30 The Board anticipates that the USFWS will complete a draft spotted owl recovery plan no later than  
31 December 2006.

32

33 McElroy reported the Board is concerned that its efforts to protect spotted owl habitat may not lead  
34 to a stable, viable population unless threats posed by Barred Owls are alleviated. The Board  
35 encourages USFWS, the Washington State Fish and Wildlife Commission, WDFW, and all other  
36 organizations with authority and influence to act quickly and decisively to address threats to spotted  
37 owl populations posed by Barred Owls.

38

1 Soicher suggested a broader statement to include other threats to the spotted owl without  
2 specifically mentioning the Barred Owl.

3  
4 **MOTION:** Pat McElroy moved that the Forest Practices Board is concerned that its efforts to  
5 protect spotted owl habitat may not lead to a stable, viable spotted owl populations  
6 unless threats posed by Barred Owls are alleviated. The Board encourages U.S. Fish  
7 and Wildlife Service, the Washington State Fish and Wildlife Commission, the  
8 Department of Fish and Wildlife, and all other organizations with authority and  
9 influence, to act quickly and decisively to address threats to spotted owl populations  
10 posed by Barred Owls.  
11

12 **SECONDED:** Toby Murray  
13

#### 14 **Board Discussion**

15 McElroy said he heard the word “alarmed” used many times. He said he is worried about what is  
16 occurring with the Barred Owl and that it is a different order of magnitude than any of the other  
17 threats and that the motion is asking those in authority to take specific action. He said if it is opened  
18 to all threats, then it becomes non-strategic and unfocused and not aimed at the specific issue of  
19 Barred Owls.  
20

21 Johnson spoke in favor of the motion. The motion is more of a continuum of agreement that the  
22 Barred Owl is impacting spotted owls. Mankowski agreed and said he has viewed drafts of the  
23 resolution by the scientists that were involved in the Barred Owl workshop. They differ along the  
24 cause and effect and enough study to prove a relationship, but they did not differ that something  
25 needs to be done. The motion is a message from the Board to those that are working on the Barred  
26 Owl to continue to pursue appropriate action against the Barred Owl. Including other threats will  
27 lose the motion’s focus.  
28

29 Murray added that he agrees it is appropriate to focus the motion only toward the Barred Owl.  
30

31 **ACTION:** Motion passed unanimously.  
32

33 Mankowski acknowledged two statements from the environmental and landowner caucuses. In  
34 addition to taking steps on owls, the Board needs to move forward on upland wildlife planning.  
35 There were some suggestions from the caucuses to assist in the efforts. Mankowski stated WDFW  
36 will commit to making upland wildlife landscape assessment a priority and will work with

1 interested caucuses between now and the upcoming legislative session to finalize the work plan and  
2 implement a funding strategy and brief the Board on its progress at its November meeting. It is  
3 recognized the importance of the project will have on assisting the Board on its continued  
4 assessment of wildlife rules as well as developing science-based landscape management plans for  
5 upland wildlife.

6

7 **MOTION:** Sue Mauermann moved to adjourn the meeting

8 **SECONDED:** Sherry Fox

9 **ACTION:** Motion carried. Meeting adjourned at 2:15 p.m.

10

11

12 Prepared by: Valerie Gow, Recording Secretary

13 Puget Sound Meeting Services