

Timber, Fish, & Wildlife (TFW) Policy Committee  
 December 1 and 2, 2016 Meeting Summary

Decisions and Action Items

| Decision                                                                                                                                                                                            | Notes                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| 1. Agreed on a process for developing a study design for the redevelopment of the Water Typing Fish Habitat Model and evaluation of the physical criteria (p. 4)                                    | Consensus from all caucuses |
| 2. Agreed on a process for third-party review of proposals for Fish Habitat Assessment Methodology (p. 6)                                                                                           | Consensus from all caucuses |
| 4. Entered dispute resolution for how to use existing water typing modification form (WTMF) points (p. 5), off-channel habitat (OCH) (p. 5), and a new fish habitat assessment method (FHAM) (p. 6) |                             |
| 5. Agreed on the framing of dispute resolution for WTMF Points, OCH, and FHAM (p. 9)                                                                                                                | Consensus from all caucuses |

| Action                                                                                                                                                                                           | Assignment                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| 1. Prepare problem statement, objectives, and critical questions for the study design on the model development and physicals study design.                                                       | AMPA                                          |
| 2. Send the AMPA an FHAM proposal no later than January 1 <sup>st</sup> , 2017, at least six business days earlier if review and response is desired.                                            | Any caucus who wants to submit FHAM proposals |
| 3. Contact Howard Haemmerle, <a href="mailto:howard.haemmerle@dnr.wa.gov">howard.haemmerle@dnr.wa.gov</a> , with questions on Forested Wetlands TWIG's BAS & Alternatives Analysis by COB 12/20. | Caucuses                                      |
| 4. Prepare TWIG process recommendations for Policy for January 5 meeting.                                                                                                                        | Howard Haemmerle                              |

December 1, 2016, meeting

**Opening** – Ray Entz and Adrian Miller, Co-Chair of the Timber, Fish, & Wildlife Policy Committee (“Policy”), welcomed participants and led introductions (*please see Attachment 1 for a list of participants*). The goals of this meeting was to hear from the Forested Wetlands Effectiveness Project and to make decisions on next steps for the permanent water typing system following the November 9 Forest Practices Board meeting.

**Announcements** –

- The conservation caucus noted the outcome of Wild Fish Conservancy v. Irving, a recent court ruling regarding the validity of National Marine Fisheries Service’s Biological Opinions that do not consider climate change.
- Policy discussed what measures could be taken so that caucuses know that they have the freedom to negotiate and compromise within the TFW Policy arena. The Co-Chairs and AMPA will explore mechanisms for protecting the conversation.
- Adrian Miller will step down as co-chair due to a changing workload within his own organization. He will remain Co-Chair through the January Policy meeting. Adrian strongly encouraged Policy to make January a transitional meeting for bringing in a new Co-Chair.

**Meeting Summaries** – Meeting summaries from August 4<sup>th</sup>, October 6<sup>th</sup>, October 19<sup>th</sup> and November 3<sup>rd</sup> were revised per Policy comments and accepted by vote as final.

**Forested Wetlands Effectiveness Project** – Leah Beckett, the CMER wetlands scientist, presented to Policy on the Forested Wetlands Effectiveness Project (FWEP) Technical Writing & Implementation Group (TWIG). Per the TWIG process, this TWIG had previously presented to Policy their problem statement, objectives and critical questions, which Policy approved. The TWIG has now collected the best available science and developed five study design alternatives. At the January 2017 meeting, Policy will decide on the preferred alternative from which the TWIG will develop a study design. Howard Haemmerle is the point of contact for questions from Policy between now and the January decision.

*Presentation Highlights and Discussion*

- Forest practices Forested Wetlands are wetlands on forest lands that have more than 30% canopy cover of merchantable trees.
- Very little information is available on how timber harvest activities in forested wetlands in the Pacific Northwest affect function or ecology.
- The purpose of FWEP is to determine whether forest practices rules support the target of no net loss of wetland function by half a timber rotation cycle and to look at how functions change after timber harvest.
- The TWIG conducted a Best Available Science (BAS) literature review to guide selection of response variables, and selected primary and secondary response variables.

- Study design alternatives were developed based on power to detect change in the primary response variables, feasibility and cost, and designs most commonly used and reviewed in the literature.
- The TWIG presented Policy with five alternatives. Alternative 2 is preferred by the TWIG because it is a Before-After Control-Impact (BACI) design and is feasible.
- The TWIG anticipates that it will be difficult to find study sites. Alternative 3 will need at least three more sites than Alternative 2 because it has an additional treatment. The cost estimates are similar, but actual costs could be more expensive. For the budget that is currently allocated, Alternative 2 is likely more feasible.
- The TWIG estimated a rough cost and timing for the five alternatives. The BACI options take 7 years (three years before harvest, a year of harvest, and three years after harvest).
- The TWIG has not yet identified the site selection process or seasonality.
- All alternatives are within budget.

**Permanent Water Typing System, Model Development and Physical Criteria Evaluation –**

The Forest Practices Board moved on November 9, 2016, to approve funding for continued development of the Water Typing Fish Habitat Model and evaluation of default physical criteria using existing fund balance in the Forests and Fish Support Account. The Board authorized funding up to \$500,000 before June 30<sup>th</sup>, 2017, to:

- Refine and redevelop the water typing model and prepare a study design for field validation; and
- Create a study design to evaluate the existing default physical habitat criteria.

This funding is contingent on consensus from Policy.

*Discussion Highlights*

- The AMPA noted that the funding will result in a study design that shows whether or not to move forward in developing models that are geographically defined and default physical criteria that are developed and tested in an applied area.
- This study may be done through a TWIG or other technical group within the CMER process. A TWIG or technical group could develop the project design, and ISAG could oversee the project.
- Phil Roni and Pete Bissen are already under contract and may be available for this work.
- In addition to the \$500,000, \$328,000 of other funding is available for use on this effort. The AMPA will provide a budget update at the January meeting.

- The study design may involve acquiring existing LiDAR data sets from a vendor.
- The model will show fish habitat, measure fish habitat, and use logistic regression and variables like fish use to show points.
- Policy discussed that the study design did not commit Policy to supporting funding for the entire effort of redeveloping the water typing model, only the funding for the study design.
- Policy discussed needing a specific proposal to define and address accuracy.
- Policy reviewed the TWIG process, which Howard Haemmerle will review in greater detail at the January meeting. Policy makes TWIG recommendations to the AMPA and CMER but does not directly assign the TWIG's work. The steps in the TWIG process are 1) Problem Statement, Critical Questions and Objectives document, 2) BAS & Alternatives Analysis document, and 3) Study Design. However, the Board direction assigned this project outside the TWIG process, so Policy noted that the Board is asking Policy to supersede the usual process.

**Decision:**

Because this work started as a Board assignment, Policy decided to follow a modified process for study design development.

1. To develop a study design for the model redevelopment and evaluating the physical criteria:
  - a. AMPA will develop draft problem statement, objectives, and critical questions, using the Physicals PI and AMPA recommendation as reference documents. Policy will review and approve at their January 2017 meeting.
  - b. AMPA will use the problem statement, objectives, and critical questions to develop contract(s) for a technical group.
  - c. The contracted technical group will review BAS and develop a study design for their preferred alternative, to present to Policy at the June 2017 meeting.
2. AMPA will also contract with UW Precision Forestry Cooperative to update the stream flow and other necessary components to the hydrology model for use with LiDAR-derived digital elevation models (DEMs). The AMPA is encouraged to consult with interested caucuses' technical staff.
3. AMPA will bring this Policy decision to the next CMER meeting.
4. Combined, both steps (#s: 1 and 2) will not exceed \$500,000 as authorized by the Board on 11/9/16.

All caucuses voted thumbs-up to approve this process.

**Water Typing: Off-Channel Habitat**

The Forest Practices Board moved on November 9<sup>th</sup> to direct Policy to determine at or before their December 2016 meeting if consensus recommendations related to off-channel habitat can be presented to the Board at their February 2017 meeting or if Policy will initiate and complete Dispute Resolution by May 1, 2017. Policy will deliver consensus recommendations after dispute resolution, or the AMPA will deliver the majority/minority report at the May 2017 Board Meeting.

**Decision:** Policy revisited draft language related to off-channel habitat. After informally assessing the state of consensus, dispute resolution was invoked by the eastside tribal caucus. Policy agreed to frame the dispute at the December 2 meeting.

**Water Typing: WTMF-Based Map Points**

Roughly 20% of streams have been mapped under Board Manual 13, which includes the Board's recommended protocol to establish the F/N break. The rule and protocol have not changed. The information on the form has changed to add more information for reviewers. DNR recently made the commitment to develop a process for people to easily find out if a WTMF was turned in, view it, and understand how the water type was established.

**Decision:** Policy voted on the following language: "Accept all WTMF-based map points as regulatory Type F/N breaks under the new water typing rule. If fish presence is found above those points in the future, those points can be changed." The conservation caucus voted thumbs down, the eastside tribes voted thumbs sideways, and all other caucuses voted thumbs up.

The conservation caucus invoked dispute resolution on this point. Policy agreed to frame the dispute at the December 2 meeting.

*December 2, 2016, Morning Meeting*

**Dispute Resolution Process** - Howard Haemmerle presented on dispute resolution. Dispute resolution is based on WAC 222-12-045(2) (h). The final product if consensus is not reached is a majority-minority report. The Board is then empowered to take action on the issue however they choose.

Any Policy caucus can initiate dispute resolution. If there is disagreement on the framing of the dispute, the disputants, the Co-Chairs and AMPA have one month to frame the dispute.

**Stage 1 of dispute resolution:** The initiation of dispute resolution must be recorded in meeting minutes. The AMPA reports the Policy dispute resolution initiation to the Board. Policy can try to resolve issues by consensus within two months. Policy must spend at least two months in Stage 1. The time frame can be changed if it is agreed by consensus that substantive progress is being made. If consensus is reached, dispute resolution ends. If consensus is not reached, any party may elevate to Stage 2 after the minimum time frame has elapsed.

**Stage 2:** Mediation or arbitration must be implemented within 1 month following initiation of Stage 2; the default process is mediation unless agreed otherwise. Stage 2 is to be completed within three months, including one month to select the process, unless otherwise agreed based on substantive progress.

**Stage 3:** If no resolution is found after three months of Stage 2 and consensus isn't reached to continue Stage 2, Policy must submit the dispute to Board for action. A majority/minority report is created and sent to the Board. Caucuses can work together on the majority/minority report. AMPA does not write the majority/minority report, yet conveys it to the Board.

Although the Board has requested a finished dispute resolution process by their May meeting, the timeline may be close to that deadline based on the required length of time for Stages 1, 2, and 3.

**Water Typing: Fish Habitat Assessment Method (FHAM)**

The Forest Practices Board moved on November 9<sup>th</sup> to direct Policy to work with the AMPA to evaluate and develop consensus recommendation(s) on the Fish Habitat Assessment methodology and present the completed methodology for Board consideration at their May 2017 meeting.

Dispute resolution was invoked by the conservation caucus based on TFW Policy Committee's inability to develop a methodology for determining the F/N break as part of a new permanent rule.

**Decision:**

Policy agreed to the following language (All caucuses except the Federal caucus voted thumbs up; the Federal caucus voted sideways).

1. AMPA will use the proposals from the F/N Technical Group report (including their default physicals and 18-step FHAM proposal) and include additional proposals from caucuses on a new fish habitat assessment method.
  - a. Additional proposals from caucuses are due to the AMPA by January 1, 2017.
  - b. If proposals are unclear, the AMPA will contact the proposal submitter for clarifications; will reach out to the submitter within three days of receipt and the submitter will have no

more than three days to respond with clarifications. If no response, the first draft will be submitted.

2. AMPA will send the proposals to a contractor group to be evaluated with the criteria\* developed by Policy on 12/2/16 (below).
3. The contractor group will evaluate the proposals with criteria\* from Policy and provide an evaluation (in matrix and memo format) of the proposals and a recommended best method (which could be one proposal, a combination of several, or an entirely new proposal). This will be delivered to Policy on February 23, 2017 for discussion at the March meeting.
4. Policy may make a decision based on this evaluation and recommendation at the March meeting.
5. Use of the physical defaults will be evaluated through this process.

\*Input to the AMPA for criteria to ask contractor group to use in evaluating the FHAM proposals includes that the proposal(s) should:

- Be implementable, reproducible, enforceable (enforceable = the pieces people have to answer reflecting what they see in the field);
- Use existing information (BAS);
- Be accurate,
- Minimize error and bias, “though not required, a proposal can have qualitative elements and/or quantitative elements to be evaluated”;
- Minimize electrofishing;
- Develop a method to locate stream break points on the ground;
- Be cost-effective (including labor);
- Address fish habitat as defined in WAC 222-16-010;
- Address the HCP water typing write-up (will be provided to Policy); and
- Address information from FFR and BiOp (will also be provided to Policy).
- Other notes include:
  - The submitters should cite science/information used in the proposals.
  - Evaluators are reviewing the framework for FHAM, not the exact stepwise method.

The AMPA clarified that he will not participate in the decision and will maintain an impartial approach. The contractors will report back to Policy with: evaluated proposals according to the criteria above and a memo with explanations and recommendations. Policy will then make a decision based on the proposal evaluations, and the contractor’s recommended proposal. The AMPA noted that the technical group will consist of experts in the technical components, but that Policy is expert in policy matters, and will ultimately be better suited at choosing a FHAM that is best suited to policy goals. Policy representatives will not be allowed to participate in technical meetings; however the AMPA will provide updates to the Policy Committee. It was also agreed to that the contractor group would provide a draft proposal late in

February and be available at the March Policy meeting in person or by phone to present their work and answer questions from caucuses. This suggestion was agreed to by Policy without a formal vote.

*December 2, 2016, Afternoon Meeting*

**Use of Physical Defaults in the Water Type Modification Process**

**Decision:** Policy recommended that Board Manual guidance be developed for application of the physical defaults. All caucuses voted thumbs up.

**F/N Break Dispute Resolution**

Policy reviewed the timeline of dispute resolution, as invoked at the December 1 meeting:

|                 | <b>Status of dispute</b>                                                                                                                                                                                         | <b>DNR</b>                                                                                                                                                       |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>December</b> | Dispute resolution invoked; Stage 1 begins                                                                                                                                                                       | DNR working on interim protocol/habitat assessment methodology for use in the next 2017 protocol survey season. They will have this interim protocol by March 1. |
| <b>January</b>  | Stage 1 continues                                                                                                                                                                                                |                                                                                                                                                                  |
| <b>February</b> | If no resolution yet, Policy can vote to continue Stage 1 or any caucus can trigger Stage 2; Policy will find a mediator. AMPA will deliver draft FHAM report from contractors to Policy by the end of February. |                                                                                                                                                                  |
| <b>March</b>    | Stage 2; FHAM contractors will be at the March Policy meeting to answer questions pertaining to the proposed FHAM; Policy will go through mediation with the work product.                                       |                                                                                                                                                                  |
| <b>April</b>    | Stage 2 continues                                                                                                                                                                                                |                                                                                                                                                                  |
| <b>May</b>      | If no resolution yet, Policy can vote to continue Stage 2; without that consensus, a majority/minority report will be delivered to Board.                                                                        | DNR begins work on rulemaking and Board Manual.                                                                                                                  |

**Dispute Characterization**

Policy took the following votes on if the proposed language accurately characterized the dispute.

| Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Policy vote                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| <p>WTMF Points: The Conservation Caucus hereby invokes dispute resolution over proposed acceptance of all WTMF points as “regulatory points” under the new permanent water typing rule and implementing methodologies.</p> <p>Specifically, we dispute that all Type F/N break points approved through the water type modification process under the interim rule at WAC 222-16-031 should be deemed regulatory F/N breaks for purposes of Forest Practices Applications and reflected as such on the hydro layer. We further dispute that such points should override future breaks that may be established by a sufficiently accurate LiDAR-derived model-map.</p> | <p>All caucuses voted thumbs up.</p>                                                             |
| <p>OCH: The eastside tribes invoke dispute resolution based on the failure of TFW Policy participants to reach consensus on recommendations for a specified schedule regarding an FPB motion. Specifically, TFW Policy cannot come to agreement on the highlighted portion of the following definition:</p> <p>“Off-channel habitat” consists of aquatic habitat features that are connected via surface flow to Type S/F waters by inundation at bank full flow of the Type S or F water.”</p>                                                                                                                                                                      | <p>The Federal and Conservation caucuses voted sideways; all other caucuses voted thumbs up.</p> |
| <p>FHAM: Dispute resolution was invoked based on TFW Policy Committee’s inability to develop a methodology for determining the F/N break as part of a new permanent rule.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>All caucuses voted thumbs up.</p>                                                             |

**January Meeting Topics** — Policy reviewed potential topics for the January meeting, which will be a full day continuing the water typing discussion but also keeping up with other workload items. The 2017 dates have been scheduled and noted at the bottom of the agenda.

Attachment 1 – Attendance by Caucus at 12/1/16 and 12/2/16 Meetings

**Conservation Caucus**

\*Mary Scurlock, M. Scurlock & Associates  
Chris Mendoza

**County Caucus**

\*Scott Swanson, Washington State Association  
of Counties  
Kendra Smith, Skagit County

**Federal Caucus**

\*Marty Acker, USFWS  
Bill Zachmann, EPA

**Industrial Timber Landowners Caucus**

\*Karen Terwilleger, Washington Forest  
Protection Association  
Brian Fransen, Weyerhaeuser  
Adrian Miller, Olympic Resource Management,  
Co-Chair

**Non-Industrial Timber Landowners Caucus**

\*Steve Barnowe-Meyer, WFFA  
Ken Miller, Washington Farm Forestry  
Association

**State Caucus – DNR**

\*Marc Engel, DNR  
Howard Haemmerle, DNR  
Heather Gibbs, DNR  
Joe Shramek, DNR  
Marc Ratcliff, DNR

**State Caucus – WDFW/Ecology**

\*Rich Doenges, Ecology  
Mark Hicks, Ecology  
\*Terry Jackson, WDFW

**Tribal Caucus – Eastside**

\*Ray Entz, Kalispel/UCUT, Co-Chair  
Marc Gauthier, UCUT (phone)

**Tribal Caucus – Westside**

\*Jim Peters, NWIFC  
Ash Roorbach, NWIFC  
Curt Veldhuisen, SRSC (phone)

\*Caucus representative

**Others**

Paul Adamus, Oregon State University and Adamus Resource Assessment, Inc.  
Leah Beckett, CMER Wetland Scientist  
Hans Berge, AMPA  
Claire Chase, Triangle Associates  
Rachel Aronson, Triangle Associates

Attachment 2 – Ongoing Priorities Checklist

| <b>Priority</b>                                  | <b>Assignment</b>                         | <b>Status &amp;Notes</b>                                                                                                                                                                                                                                         |
|--------------------------------------------------|-------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Type N</b>                                    | Type N policy subgroup                    | Caucuses are encouraged to talk offline about the wet season default methodology.                                                                                                                                                                                |
| <b>Type F</b>                                    | Policy                                    | At regular meetings, Policy is working towards responding to the February 2014 Board motions (specific to off-channel habitat and electrofishing) in addition to other related water typing issues (such as default physical criteria, recovery, habitat, etc.). |
| <b>Small Forest Landowners Westside Template</b> | SFLOs Template Subgroup                   | Subgroup is meeting separately; co-chaired by Marc Engel and Ken Miller.                                                                                                                                                                                         |
| <b>Unstable Slopes</b>                           | Policy                                    | UPSAG hired a contractor to do a glacial deep-seated literature synthesis. Policy is also considering how to respond to the AMPA’s recommendations on the unstable slopes proposal initiation, presented to the Board in February 2016.                          |
| <b>Ongoing CMER reports reviewed by Policy</b>   | Doug Hooks & Todd Baldwin, CMER Co-Chairs | CMER Co-Chairs to give update(s) as needed at Policy meetings; AMPA to give quarterly reports for when CMER studies to come to Policy.                                                                                                                           |

\*This table notes the Policy Committee priorities that were sent to the Forest Practices Board and any other major topics or issues that arise during the year.

Attachment 3 – Entities, Groups, or Subgroups: Schedule and Notes

| <b>Entity/Group/Subgroup</b>                     | <b>Next Meeting Date</b> | <b>Notes</b>                                |
|--------------------------------------------------|--------------------------|---------------------------------------------|
| <b>TFW Policy Committee</b>                      | January 5                |                                             |
| <b>CMER</b>                                      | December 13              |                                             |
| <b>Type N Policy Subgroup</b>                    | TBD                      |                                             |
| <b>Type F</b>                                    |                          | To be addressed at regular Policy meetings. |
| <b>Forest Practices Board</b>                    | February 8               |                                             |
| <b>Small Forest Landowners Template Subgroup</b> | TBD                      | As workload allows.                         |