

Timber/Fish/Wildlife (TFW) Cultural Resources Roundtable Meeting Meeting Minutes

Date: November 17, 2015

Location: DNR Black Hills Conference Room, 801 88th Ave SE, Tumwater WA

Attendees: Karen Terwilleger, Washington Forest Protection Association (WFPA)
Jeffrey Thomas, Puyallup Tribe of Indians
Marc Engel, Washington Department of Natural Resources (DNR)
Joenne McGerr, DNR
Eric Beach, Green Diamond Resource Company
James Harrison, Spokane Tribe
Justine James, Quinault Indian Nation
Gretchen Kaehler, Washington Department of Archeology and Historical Preservation (DAHP)
Morgan McLemore, DAHP
Steve Barnowe-Meyer, Washington Farm Forestry Association (WFFA)
Dawn Vyvyan, Government Relations, Yakama Nation & Sauk-Suiattle Nation
Note-taker: Shannon Marsh, Terracon Consultants
Facilitator: Rob Ziegler, Terracon Consultants

Via Telephone:

Robert Bass, Hancock Forest Management (HFM)
David Morrill, HFM
Marc Gauthier, Upper Columbia United Tribes (UCUT)
John Sirois, UCUT

Next Meeting: December 15, 2015

NOTE: Starting with the December 15 meeting, future meetings of the Roundtable will take place at the Northwest Indian Fisheries Commission offices in Olympia, WA

1. Co-Chair Remarks
 - Jeffrey and Karen opened the meeting by welcoming all members and inviting introductions.
 - Jeffrey encouraged the group to continue working together for the shared purpose of protecting cultural resources.
 - Karen echoed Jeffrey's sentiments. Forest Practices Board (Board) worked on manual for 5 hours and did not get to co-chair rotation discussion
2. Agenda Review
No comments
3. Review October 2015 notes
 - Jeffrey asked where July and August notes were in the process, Karen noted the plan was to send out those notes for review by today's meeting but it didn't happen.
 - Rob noted that September notes had been finalized, and asked how to best distribute and get them on the CRR website- Karen responded that Sherri would know best, but she was sick.

Karen also noted it would be best to send out draft notes with the draft agenda- one email instead of multiple emails.

- Steve Barnowe-Meyer requested that his name replace Stephen's name on page 2.
- (*Clarifying inadvertent discovery language*) Dawn asked for clarification on if the roundtable had a chance to review inadvertent discovery language. Neither the board nor the roundtable had a chance to discuss the inadvertent discovery language. A discussion followed about the language of inadvertent discovery; it was noted that it is needed and important, that it was suggested to go to DNR to get their language, and it was noted that state lands has similar language that could be used. It was also noted that sometimes this language is on the signature page so signees need to be careful. Gretchen noted she had sent similar language/formats to others since she had some on hand. The general advice for inadvertent discovery is to "stop and call" if resources are found during work. Jeffrey noted that PNW conditions can make inadvertent finds difficult. Rob asked where the impetus/responsibility lies for developing language rests, Karen responded that it was DNR's responsibility.
 - *Note- in the December roundtable meeting, clarifying discussion revealed that a change in language made during the November meeting was inaccurate, and is removed in this version.*
- Minutes approved.

4. Report out from WAC 222-20-120 Workgroup (Terwilliger/Powell/Felix/Barnowe-Meyer) and Roundtable Discussion

- Rob shared that the 20-120 Workgroup met on Monday; Karen, Steve, and David attended and Sherri was out sick. The group worked from two documents- one which Sherri put together and another David had put together. Sherri's matrix for FPA conditioning issues filled in information that Rob's previous chart prompted and broke out whether the issue could best be addressed by the Roundtable, Education, Rule changes, Legislation or other. Discussion followed about the document and how it could be used to help move the conditioning issue forward.
- (*Root issues with WAC 222-20-120*) Looking at root issues; it often comes down to clarifying how plans get enforced. There is a need to put out a survey to understand what is happening in the world, the survey that is supposed to be annual has not been done since 2013. We need to use this to understand what's going on and to reassure land owners. What would a 2016 positive outlook be?
- (*Engaging with land owners*) A discussion emerged about engaging with land owners. Steve noted there is a forum for small land owners, that there have been education opportunities in the past that have been poorly attended. Small landowners are interested in protecting cultural resources – when they talk to people on the ground, generally there are agreements. What are the unique routes that small landowners use to get their information? It was noted that there is a lot of material to work with, and it is important to work with DAHP. Joenne noted that some of the timber tribes are doing education for small forest landowners. There is a lot of material out there - the nexus is consistency.
- (*Meeting triggers*) A question was raised about what triggers a meeting- can a predictive model trigger a meeting? Large landowners are concerned about a state-wide application of the DAHP predictive model. WAC 222-20-120 requires that known cultural resources trigger a meeting, predictive information is fuzzier. A tribal request or known resource can trigger a meeting.. It was noted that tribes don't know who to contact, and Sherri can check on how many hits the DNR website is getting. Joenne noted that tribes drive the process and inform

DNR, the system is automatic when requested- the other pieces is getting video/education/training out in the world. Justine noted that he just attended a DOE SEPA meeting – the biggest question at this meeting was “is there a list of tribes and how do I contact regarding cultural resources?” and how tribes’ contact information is updated.

- (*CRR website and education*) Marc E. noted that there is a new DNR website, but will be updating and moving all cultural resources pieces to the new website. We find bugs as they are reported by users. Reaching out to tribes annually to check on area of interest. Jeffrey reaffirmed that the concern about tribes not knowing who to contact is shared- that the system for getting in touch is broken. There was additional conversation about the access and use of educational videos and information, and how effective outreach to tribes has been.
- As the CRR has expressed concern that landowners, especially small forest landowners, need additional education, would it be beneficial to:
 1. See if DNR Communications Staff are available to participate in a discussion concerning improving access to educational materials that are available on the DNR website?
 2. Consider links to/from other sites (such as WFPA or tribal sites) to increase exposure to educational materials.
- Rob asked if there was anything else in this vein we needed to discuss. Steve noted the roundtable needs to focus on what it can accomplish in the next year. For instance, can we change “may” to “shall?” Probably not.
- (*Need for survey*) Karen noted that Rob’s suggestion about getting survey data is important. We need to know how meetings are being triggered, how they’re going, how communication is. There’s been an attempt at communication and guidance to land owners and tribes, data collection may be the next best step. Perhaps focus groups would be helpful in addition to a survey. If there isn’t a mechanism to trigger meetings and education is not successful, there’s no way to avoid missing sites. It’s hard to know what is working- agreements are made and then we move on without hearing what happens after the fact.

5. DNR Compliance Monitoring and Cultural Resource Protection

- Marc G. pointed out that one way to ensure we don’t miss sites is compliance monitoring. Gretchen noted that there is no data to show if the management plan is working. Marc E. indicated that DNR uses emphasis sampling on a two-year basis for compliance monitoring. One of the future emphases could be forest practices applications (FPAs) that involve cultural resources.
- Marc E. shared with the group that the Forests & Fish Report established an adaptive management program Compliance monitoring is not to change protection, but to add clarity to help land owners. Compliance monitoring is used to assess whether there is a need for clarification in the rules; if so, the Board will use this data for additional rulemaking. Compliance monitoring might not be the right fit for this discussion- it is designed to see how rules fit and there’s only one rule here (WAC 222-20-120). There was a comment that we don’t want to take something off the table just because it’s not a perfect tool all the time.
- The Roundtable is interested in learning more about compliance monitoring and the possibility of identifying cultural resource management plans as a special emphasis study.

6. Caucus Input on Prioritizing the “List of 20” issues associated with 20-120

- Robert noted that the Roundtable has a workplan and this is getting a bit off topic and unruly. Karen responded that the workplan only has the issue of resolving the conditioning issue at

the moment, and it hasn't had as much progress as hoped. Rob suggested a break, and that the group prioritize which of the 20 items to work on. Robert noted that it was important for him (and all members) to have a chance to talk about what is important to them, and there hasn't been opportunity for that yet.

- Rob suggested two ways to enter into the discussion of the conditioning issues, either to sort the "list of 20" by whether it's the purview of the Roundtable or to hear from each caucus on what is important to them. The groups wished to report out.
 - James Harrison, Spokane Tribe - working with the tribe on tribal history sites, historical sites, traditional places, sustenance sites. There are a lot of fuzzy areas.
 - Steve Barnowe-Meyer, Washington Farm Forestry Association (WFFA)- Roundtable is working on these issues but we need to keep coming back to the basic questions of "what is the problem?" "what is it we are trying to solve?" and what is it that is not working?" Suggest that we work on #9 and get some specific data from a survey. Let's get to the facts and data so we know what we are trying to solve.
 - Dawn Vyvyan, Yakama Nation & Sauk-Suiattle Nation- would agree with small land owner caucus. Along the lines of issue #9, what is happening and what isn't? How many FPAs are actually occurring in high probability areas according to the DAHP model? Let's conduct the survey and compare using the DAHP model, what are the number of meetings that would be triggered by high probability areas? Once we have data, then prioritize what else on the list of 20 gets prioritized.
 - Robert Bass, Hancock Forest Management- Took one-year hiatus from Roundtable. At the time of his departure, Roundtable was working on the website. This conditioning issue has overpowered the entire process and it stems from a communication issue between Yakama and DNR. We've lost our cooperative spirit, volunteer approach to protecting cultural resources. This has derailed the whole process and the work of the Roundtable.
 - John Sirois (UCUT) - as a newcomer, this is important and needs to be done by the group. It was a lessening of cultural resources protection. It's important to keep working together and stay focused on the common goal. Not afraid of the hard work ahead.
 - Justine James - from Quinault perspective, salmon is the primary thing to be protected. In working with Northern Region DNR, they said they did not need to consider Quinault biological opinions.
 - Joenne McGerr (DNR) – once an issue (e.g., conditioning) comes to the Roundtable, it becomes a matter for Roundtable discussion. We still haven't gotten to resolution with Yakama. A lot of issues have surfaced from the conditioning discussion. How do we write consistent practice? How do we effectively protect cultural resources? What does right practice look like? How do you all know we are enforcing this?
 - Marc Engel (DNR) – what is the real issue? Is there really a problem out there or is it that people don't have assurances that things are getting done right? Can we get data that closes this gap?
 - David Morrill, Hancock Forest Management- this all boils down to communication. Consider #13 and #14 – develop additional training programs, develop tribal education programs, harness the creative knowledge of field practitioners in this process. Get people talking to people.
 - Mark Gauthier (UCUT) - the big issue is getting small forest landowners engaged; at the same time, still need to have clear and effective rules. From UCUT perspective, we support the top six issues on the list; other tribes are in lock step with this.

- Marc E. (DNR) – as an FYI, DNR has made funding requests for two positions: training position that would support cultural resource training and a small forest landowner liaison.
- Gretchen Kaehler, DAHP – we have to be careful about separating voluntary versus regulatory. We always thought that plans were being conditioned; we've changed our process to help DNR. We would like information to validate if what we're doing is working.
- Karen Terwilliger, Washington Forest Protection Association (WFPA)– Our focus is to protect cultural resources. What is the extent of perceived versus real non protection? Key questions we should answer are: how are agreements enforced? How well does the system work? What triggers the meetings? And are cultural resources being protected?
- Jeffrey Thomas, Puyallup Tribe of Indians– the Puyallup TFW program always goes back to the FPA and our review of the FPA. We need to identify and accommodate cultural resource concerns. We need to exert ourselves as responsible co-managers. We are highly dependent on DNR data for what's being enforced. Tribes do not always have resources – if we are depending on education to substitute for new rules, tribes have no money for education.

7. Roles and Relationships of the Roundtable and the Board

A general discussion occurred around the roles and relationships between the Roundtable and the Board, as follows:

- We are an advisory group to the Board – a committee of experts
- Board would welcome recommendations from the Roundtable for rules adoption
- Marc - Important to recognize there is very limited understanding on part of the Board with regard to cultural resources. The Board would appreciate the Roundtable condensing all of these conditioning issues.
- Karen – is this all about the Board just needing more information?
- (December meeting questioned the source of this statement, unattributed) Key question – what is DNR's authority to change rulemaking? (December note- possibly "change rules")
- Dawn – can we get to closure on the three requested items from the May 12 Board memo?
 - Understanding extent of DNR's conditioning authority (using AG's opinion)
 - The role of DAHP in the FPA process
 - Expanding the role of the annual survey
- Jeffrey – should we develop a white paper on all three of these items with our conclusions?
- (December note- also unattributed) The top 6 – does the Board want to know what we're recommending?
- Karen – should we also highlight the issue of incidental discovery language as well as identify pathways for the 20?
- Marc G. – is this group always expected to reach consensus? I would like to join the workgroup to assist in developing a response to DNR conditioning authority.

8. Cultural Resources Annual Survey

Input from participants on the 2016 survey included the following:

- Can we do more intensive survey efforts – coordinate with Tribal Summit and DAHP?
- We need to improve tribal response rate
- Can we share questions from the last survey? Gretchen will attempt to locate previous survey questions.

- Consider other types of data collection
 - Not everyone has access to an electronic survey
 - Can the working group put together a draft survey for us to consider?
 - Cultural resources protection and management plan (CRPMP) survey should reflect the CRPMP – go to CRPMP to develop the survey questions.
 - ASSIGNMENT: Gretchen will attempt to locate previous survey questions.
9. Agenda items for December meeting
- Discussion about AG's opinion on DNR conditioning authority
 - Review of revised DAHP flow chart
 - Expand scope of annual survey
 - DNR flow chart of FPA process
10. Meeting adjourned at 2:00