

**Appendix 3-A:  
Remaining Issues (Those Issues Yet to be Resolved)**

*In 3.6.6, Forest Lands Management (pg. 3.6-12), recommendations H and I were requested to be replaced with alternative language during the final comment period prior to Plan approval. Neither the original language nor the proposed alternative language achieved consensus during debate, and it was agreed that both versions would be placed into the Appendix along with an explanation of the objection written by the parties objecting.*

**ORIGINAL RECOMMENDATION FROM DRAFT PLAN**

*(As indicated by the footnotes, the source of this language is the 1994 Dungeness-Quilcene Water Resources Management Plan)*

H. Forest Practices: The future impacts of forest practices to long and short term regional hydrology should be evaluated<sup>1</sup>.

1. Maintain riparian corridors of at least the minimum width standards applied or recommended by Federal, State and local agencies whose responsibilities are focused on fish and ecosystem health<sup>2</sup>.
2. Develop a corridor plan to maintain the wild and scenic functions of the river corridor, including the section from the USFS boundary to the Dungeness Fish Hatchery<sup>3</sup>.

I. Cumulative Impacts on Hydrology: Evaluate the cumulative impacts of forest practices to short and long term regional hydrology, especially related to at-risk native and wild fish stocks including anadromous species<sup>4</sup>.

1. Coordinate watershed analyses processes with all agencies so that there is not duplication or segregation of efforts but rather integration of staff and programs. A complete analysis of the entire watershed should be the goal.<sup>5</sup>
2. Include in the watershed analyses, at a minimum, an analysis of the historical conditions of the watershed (riparian channel conditions, stream flows, species presence, population sites, etc.) in order to set meaningful target conditions for restoration and recovery.<sup>6</sup>

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<sup>1</sup> DQ Recommendation C.7.2

<sup>2</sup> DQ Recommendation C.7.2.2.

<sup>3</sup> DQ Recommendation C.7.2.3

<sup>4</sup> DQ Recommendation R.10

<sup>5</sup> DQ Recommendation R.10.1.

<sup>6</sup> DQ Recommendation R.10.3

## **OBJECTIONS TO THE ORIGINAL RECOMMENDATION**

1. *Written by Glenn Wiggins, 1/15/04, for the City of Port Angeles*

I reviewed the materials you gave me this evening and, not surprisingly, support Harry in his analysis of existing rules in place to deal with the issue of riparian management. When Forest & Fish was finally accepted, I'm sure that certainty was a key consideration for forest landowners. If every WRIA had its own interpretation of what the requirements would be, surely that goal would be subverted. Even so, a mechanism for site specific concerns is available through the CMER process.

2. *Submitted by Harry Bell, 1/30/04, for Green Crow (participating via Commercial/Economic Development caucus for EMMT)*

1. These sections were written by one local group for one river—the Dungeness. They should not apply to the entire WIRA.

2. As demonstrated by the following legislation and rule excerpts, sections H and I preempt the state forest practices rules and the Department of Natural Resources' regulatory authority.

3. RCW 90.82.120 states *“Notwithstanding any other provision of this chapter, watershed planning shall take into account forest practices rules under the forest practices act, chapter 76.09 RCW, and shall not create any obligations or restrictions on forest practices additional to or inconsistent with the forest practices act and its implementing rules, whether watershed planning is approved by the counties or the department.”*

4. Regarding the need for changes to forest practices rules WAC 222-12-045 states *“(1) Purpose: The purpose of the program is to provide science-based recommendations and technical information to assist the board in determining if and when it is necessary or advisable to adjust rules and guidance for aquatic resources to achieve resource goals and objectives. The board may also use this program to adjust other rules and guidance. The goal of the program is to affect change when it is necessary or advisable to adjust rules and guidance to achieve the goals of the forests and fish report or other goals identified by the board. There are three desired outcomes: Certainty of change as needed to protect targeted resources; predictability and stability of the process of change so that landowners, regulators and interested members of the public can anticipate and prepare for change; and application of quality controls to study design and execution and to the interpreted results.”*

5. Regarding the collection of data and developing a valid scientific basis for forest practices rule changes WAC 222-12-045 states *“(c) Independent scientific peer review process. By this rule, the board establishes an independent scientific peer review process to determine if the scientific studies that address program issues are scientifically sound and technically reliable; and provide advice on the scientific basis or reliability of CMER's reports.”*

*Products that must be reviewed include final reports of CMER funded studies, certain CMER recommendations, and pertinent studies not published in a CMER-approved, peer-reviewed journal. Other products that may require review include, but are not limited to, external information, work plans, requests for proposal, subsequent study proposals, the final study plan, and progress reports.”*

*and additionally “(iv) Independent scientific peer review: An independent scientific peer review process will be used at identified points within this stage of implementation depending upon the study and will be used on specified final studies or at the direction of the board.”*

### **PROPOSED ALTERNATIVE RECOMMENDATION**

*(Submitted by Harry Bell, Green Crow, via EMMT Commercial/EDC Caucus)*

H. Cumulative Effects of Forest Practices: The Cooperative Monitoring, Evaluation, and Research (CMER) group has a currently funded mandate to monitor both the implementation and effectiveness of current forest practices on non-federal lands. This group was formed and funded to develop the science necessary to drive the adaptive management change process for state forest practices regulations. It has a strong focus on wild fish stocks and riparian dependent amphibians. The health of the latter is considered a measure of water quality.

1. Encourage county participation in the CMER project prioritization process to address at-risk native and wild fish stock issues.
2. Use CMER results for county participation in forest conversion permit approvals and watershed analyses.

### **OBJECTIONS TO THE ALTERNATIVE RECOMMENDATION**

1. See letter submitted by the Jamestown S’Klallam Tribe, 2/6/04, and associated memo dated 2/3/04
2. Submitted by Virginia Clark, 2/12/04, representing the Dungeness-Quilcene Plan on DRMT

Re: Appendix 3.6.6 H. and I.

The language in these recommendations was taken from the Dungeness-Quilcene Water Resources Management Plan and I see no overwhelming reason to remove part H. I would agree to the removal of section I since the coordination between the east and west WRIA 18 and all agencies may not be

reasonable. In addition, appreciable thought and effort has gone into formal planning requirements since the Dungeness-Quilcene plan was written that accomplish the intent of I.2.

H.1. and 2. are stated as recommendations and I do not see how they preempt any regulations or provisions of any RCWs that are based on sound research.

The Cooperative Monitoring Evaluation and Research (CMER) proposal was presented at the very last meeting. No written information was available to the participants at the meeting concerning CMER and it was difficult to determine from the brief presentation what the CMER group was, who sponsored them, what they did, how expert they were, and what authority they had. In general, I have concerns about being limited in scientific exploration of forest practices to following the criteria laid down by any one group.

3. *See letter submitted by Clallam County Dept. of Community Development, 2/13/04*
  
4. *See letter submitted by Washington State Dept. of Ecology, 3/8/04*



## JAMESTOWN S'KLALLAM TRIBE

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360/683-1109

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February 6, 2004

Clallam County Board of Commissioners  
223 East 4th Street  
Port Angeles, WA 98362

**Re: Comments to the Proposed Alternative Language to Recommendations H (Forest Practices) and I (Cumulative Impacts on Hydrology) within Section 3.6.6 (Forest Lands Management) of the WRIA 18 Elwha-Dungeness Watershed Plan.**

Dear Clallam County Board of Commissioners:

On behalf of the Jamestown S'Klallam Tribe, I submit this letter and the following points as rationale for why the Tribe opposes replacing the original recommendations H and I with the alternative language suggested by Mr. Harry Bell:

- Recommendations H and I (as originally proposed) are a subset of recommendations from the Dungeness-Quilcene Water Resources Management Plan (1994) (DQ Plan). They were developed by a Regional Planning Group composed of eight distinct caucuses (not one), and represented diverse regional interests covering east Jefferson and Clallam Counties. As such, these recommendations covered key aspects of watersheds within WRIAs 17 and 18. The Jamestown S'Klallam Tribe has consistently indicated that our intent in participating in the WRIA 18 watershed planning process was to update the DQ Plan, and not to overturn the consensus recommendations that came (after considerable effort) from the Regional Planning Group. With that in mind, the DQ recommendations should be included in the WRIA 18 Plan. These recommendations are broad and relate to general goals to insure that forest practices do not adversely affect watershed hydrology. They do not overturn or further constrain existing regulatory regimes promulgated by state and federal authorities.
- The Tribe does not object to including some combination of recommendations to obtain a workable solution, e.g. language outlining a mechanism to address the effects cumulative impacts of forest practices might have on in-stream flow and basin water quality, along with the proposal to cite the Cooperative Monitoring, Evaluation and Research group (CMER).
- The proposed alternative language from Mr. Bell is inadequate as a stand-alone recommendation. CMER is a research arm of the Forest Practices Board. WRIA 18 is comprised of a number of independent rivers and streams that flow through a mix of federal, state and private lands, each with their own combination of applicable regulations

and standards. The Tribe agrees that the results of CMER research on the effectiveness of the Forest and Fish Rules is appropriate to include in future plan implementation; however, cumulative effects are unique to each watershed, and only watershed analyses can begin to address basin-wide issues like mass-wasting and road related impacts that occur from forest practices. This sort of input analysis should originate with more site-specific research outlined in the modules of the Watershed Manual than what CMER currently provides.

We hope that a focus group can convene in the near future to resolve this issue so that consensus can be reached and the Watershed Plan can include clear, well-thought out recommendations on Forest Practices and their Cumulative Impacts on Hydrology.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Chitwood". The signature is fluid and cursive, with a large loop at the end.

Scott Chitwood  
Natural Resources Director  
Jamestown S'Klallam Tribe



## MEMO

February 3, 2004

**To:** Scott Chitwood  
Natural Resources Director  
Jamestown S'Klallam Tribe

Shawn Hines  
Watershed Planner  
Jamestown S'Klallam Tribe

**From:** Hilton Turnbull  
Forest and Fish Biologist  
Jamestown S'Klallam Tribe

Comments on the proposed alternative language for recommendations H and I in the Forest Lands Management section of the WRIA 18 Elwha-Dungeness Watershed Plan.

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This memo provides additional information on the proposed changes to recommendations in the Forest Lands Management section (3.6.6) of the draft WRIA 18 Elwha-Dungeness Watershed Plan. There was a proposal to drop original recommendation language and replace with an alternative recommendation that relegates cumulative effects analysis of forest practices on water quality in WRIA 18 to the Cooperative Monitoring, Evaluation and Research Program (CMER).

There are several problems with using CMER results as a stand-alone method to address cumulative effects of forest practices within the WRIA 18 Watershed Plan. I can see the potential for some CMER studies to be applicable within the WRIA, but relying on state/regionally focused research to drive watershed specific recommendations is completely impractical.

From reading the proposed revisions by Harry Bell, and the supporting documentation from Glenn Wiggins, there appear to be distinct misconceptions about what CMER is, how it functions, and the applicability of the results to a watershed plan. There is nothing in the original Plan recommendation language that would create any further obligations by an initiating government with respect to existing State Forest Practice Rules (FFR), nor would the original recommendations supersede the legislative process for rule changes under FFR. FFR is the minimum standard applied to all non-federal forestlands within WRIA 18. The recommendations outlined in the Dungeness-Quilcene Water Resources Management Plan were drafted with an understanding that any watershed specific monitoring results would be years away from rule implementation and, therefore, tried to provide a mechanism for addressing site-specific concerns through watershed analysis (a separate and voluntary process).

## Problems with defaulting to CMER approach

CMER is the research arm of the Forest Practice Board (Board) and was designed to drive the adaptive management process for the State Forest Practice Rules (FFR). It is non-regulatory and has a state-wide focus designed to assess habitat conditions across all FFR lands and steer management decisions by the Board. CMER research projects are designed to test the implementation, validation, and effectiveness of current forest practice rules with respect to resource objectives in the FFR. All CMER does is apply current forest practice rules to research questions. Watershed Analysis (WSA) was designed to address watershed specific conditions with the realization that under FFR, the state forest practice rules only cover a portion of landownership within a particular watershed. The idea was to streamline permitting, the approach would be voluntary and prescriptions would defer to FFR as the **minimum** standard.

Starting from their headwaters, WRIA 18 rivers, their tributaries and independent streams sometimes flow through a mosaic of at least four distinct land ownerships, each with their own unique regulatory structure (e.g., NPS, USFS, DNR HCP lands, and private ownerships under FFR). Any forthcoming rule changes influenced by CMER research would still only apply to FFR lands and would not be applicable to other ownerships covered by different rules. FFR is a generic set of rules and provides no resolution at the watershed scale.

CMER has been in place since 1988. Although the CMER process has resulted in new state forest practice rules and, I think, originally wrote the WSA protocols, the connections between WSA and CMER have effectively been severed.

CMER is NOT analyzing cumulative effects (CE) of forest practices at any level. Provisions for CMER cumulative effects research are conceptual and not watershed specific. There are provisions in writing, but CE analysis of forest practices has been delegated to DNR for implementation.

CMER does not have any Intensive Watershed-Scale Monitoring Programs scoped, budgeted or scheduled in the coming fiscal year. Validation and effectiveness monitoring for FFR in general is currently a rule gap under Schedule L1 (a list of major scientific uncertainties), and FFR has yet to receive federal assurances for implementation of these tasks.

CE analysis is not even in the long-term prioritization list, and it does not look like any money has been budgeted until FY2010 for intensive watershed scale monitoring. Any applicable results from this conceptual process are a long way down the road, and there are no guarantees that any WRIA 18 watersheds would even be chosen as a study or implementation site.

CMER depends on the legislature for its budget, which adds a layer of uncertainty to implementation.

Clearly, if WRIA 18 landowners and managers want to track WRIA specific cumulative effects, a long term monitoring plan will have to be developed specifically for WRIA 18. Even the watershed scale projects theorized at CMER are resource-specific applied to state-wide scale (e.g. a LWD/Aquatic Habitat Linkage Program, a Downstream Water Quality/ Fish Response program). Even when these programs get scoped out, and even if there is money to do them, and even if WRIA is the scale that is chosen (could be WAUs, subbasins, etc), all of WRIA 18 might not be chosen. This could result in gaps for WRIA 18, and certainly would not cover all the areas of interest to WRIA 18 (e.g. if WRIA 18 was to be selected for the LWD/ aquatic habitat study, this does not mean that the downstream water quality study would also be done in WRIA 18).

Finally, under the proposed alternative recommendations, H1 and H2, Mr. Bell encourages County participation in the CMER prioritization process and proposes to use CMER results for county review (?) and approval of Class IV G forest practice conversions. Anybody with experience in the CMER study prioritization arena knows how highly competitive this process is, and CMER has nothing to do with forest conversions. (This is a function of the GMA and County critical areas planning. The only intersection is between DNR and the County over Lead Agency status to satisfy SEPA requirements).

It does not make any sense to me to drop the original recommendations in favor of adopting the CMER process as a stand-alone. I think it would fit into the plan well with some revision/clarification to incorporate CMER study results if they are applicable to WRIA 18 systems, but not as the default.

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# MEMORANDUM

Clallam County Department  
of Community Development

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February 13, 2004

To: Board of County Commissioners  
From: Cathy Lear, Salmon Recovery Planner  
Re: Comments on proposed alternative language to Recommendations H (Forest Practices) and I (Cumulative Impacts on Hydrology) in Section 3.6.6 (Forest Lands Management) of the WRIA 18 Elwha-Dungeness Watershed Plan

Recommendations H and I are compatible with the recently proposed recommendation to include results of the Washington State Forest Practice Board's Cooperative Monitoring, Evaluation, and Research (CMER) program. Recommendations H and I address issues that are quite different from the recently proposed recommendation. Recommendations H and I are focused on monitoring the hydrologic effects of land use at the watershed scale; the newly proposed recommendations suggest using CMER's broader, more general information to guide forest practices on forest lands.

While potentially valuable, the CMER information is neither watershed specific nor timely. CMER studies are designed to test the effects of forest practices on forest lands, rather than looking at cumulative effects throughout a watershed; CMER, funded through the Legislature with a state-wide rather than watershed-specific focus, does not address watershed-specific issues. At this time, no CMER cumulative effects analysis has been scheduled. The questions that are posed to CMER and the time horizon required to research the answers may be of limited use in a locally-driven watershed plan. Additionally, forest practices conducted under County guidance - Class IV forest practices - *would not qualify* as CMER projects.

RCW 90.82.120 clearly states that "watershed planning shall take into account forest practice rules under the forest practice act," and that watershed planning "shall not create any obligations or restrictions on forest practices additional to or inconsistent with the forest practices act and its implementing rules..." In the case of Class IV forest practice applications, however, state regulations require the County to adopt ordinances or promulgate regulations. In this setting the legislature has clearly stated a concern about the impacts of forest

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practices beyond the confines of a project area. Class IV forest practice applications typically are "conversions," where forest land will be converted to a residential or commercial property. RCW 76.09.240 (4) (c) specifically calls out a county's ability to exercise "Regulatory authority with respect to public health," which can mean (among other things) water quantity and certainly water quality - two areas of concern to both the County and the WRIA 18 planning process.

An option that the planning unit might consider is to provide a forum for voluntary, cooperative activities that include monitoring. Cooperative, pilot projects to conduct effectiveness monitoring may offer useful information for WRIA 18. In this way the recommendations in H and I can be addressed. When and if the CMER information becomes available, it can be applied to relevant areas.

Thank you.

Lear pg 2



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300



March 8, 2004

Steve Tharinger, Clallam County Board of Commissioners  
Ann Soule, Watershed Planning Coordinator, Long Range Planning  
Clallam County  
223 E. 4<sup>th</sup> Street  
Port Angeles, WA 98262

Re: Comments on the Forest Lands Management Section of the Elwha Dungeness Watershed Plan,  
Section 3.6.6

Dear Commissioner Tharinger and Ms. Soule:

Please include this letter in the Appendix to the watershed plan containing "unresolved issues". We hope this topic can be successfully addressed at a later time and forward our comments to you for consideration at that time.

Language proposed in the watershed plan came from the earlier Dungeness Quilcene Water Resources Management Plan and we believe these recommendations are appropriate in the plan. From our perspective, replacing that language with the Cooperative Monitoring Evaluation and Research Program (CMER) statement proposed by Mr. Bell does not sufficiently cover the Elwha Dungeness watershed management issues and resource needs. To rely on CMER as the sole method to address effects of forest practices may not be in the best interests of the planning area.

It is unfortunate the proposal to combine the original language with the CMER statement failed. Although CMER is a valuable tool to address the research process and eventual adaptive management, it does not analyze cumulative effects of forest practices on hydrology nor does it provide watershed-specific detail. A combined recommendation might still be the best way to address concerns expressed by the planning unit.

CMER was established to monitor effects of forest practices under Chapter 222 WAC. It is the research arm of the State Forest Practices Board, designed to drive adaptive management under the Forest Practices rules through testing the implementation, validity, and effectiveness of the current rules.

These regulations were designed for state and private land. In a number of cases landowners within the Elwha Dungeness planning area are not regulated under these rules, since there is frequently mixed federal, state and private ownership within the boundaries of any given drainage.

Timing restrictions and requirements to submit and qualify for CMER projects are lengthy and complex; funding from the legislature is uncertain. Project proposals within the Elwha Dungeness WRIA might not qualify for CMER funding.

In addition, if the intent under general forest practices is to convert land use to something other than commercial forest land, regulation is handed over to the counties. Forest practices conducted under County guidance do not qualify as CMER projects.

The Department of Ecology Timber Fish and Wildlife (T/F/W) program has reviewed this section of the plan and the proposed language. Based on this we recommend the Elwha Dungeness planning unit develop a long-term monitoring and evaluation program to establish a baseline of watershed health. This information would be crucial in locally evaluating results and effectiveness of management techniques.

The Dungeness watershed already has a good basis for developing such a monitoring program, given the long-standing partnership between the U.S. Forest Service and other members of the Dungeness River Management Team (DRMT). The DRMT has committed to participating in salmon recovery efforts, including the Shared Strategy for the Puget Sound chinook and recovery of the Eastern Straits/Hood Canal summer chum population. These salmon recovery efforts will require monitoring efforts and adaptive management as well. The Dungeness could potentially provide an opportunity to apply CMER research results to watershed-level information.

Thank you for the opportunity to comment on this topic.

Sincerely,



Cynthia Nelson, Watershed Lead

CN:dn

cc: Charles Toal, Ecology TFW Program