

23 August 2007

Stephen D. Hobbs, Chair
Oregon Board of Forestry
State Forester's Office
2600 State Street
Salem, OR 97310

Chair Hobbs and Members of the Board:

Nearly one year ago, you adopted concept four into rule: Leaving Green Trees and Snags along Small Type N Streams Subject to Rapidly Moving Landslides. Because maps and guidance language were not complete at the time of adoption, the Department was directed to work with landowners on the development of the rule prior to implementation on October 1, 2007. You will hear a report from the Department staff on the status of that work at your September board meeting. As the principle landowners involved in this process, we would like to report to you our findings as well.

We certainly recognize the sincere efforts of ODF staff, specifically Jason Hinkle, Mike Caferrata, Brad Knotts, and Tod Haren, for their work developing the maps and guidance language for such a complex concept. This rule represents a significant paradigm shift because it is the first to regulate landowners to do the right thing rather than preventing landowners from doing the wrong thing. While the communication and honest discussions between us and the ODF staff have been productive, we have serious concerns regarding the implementation of this rule.

As the October 1, 2007, implementation date approaches, the maps and guidance available to landowners remains incomplete and unverified. Since September of last year, the Department has provided two draft sets of maps identifying locations on the landscape where this rule would apply. Recently, we met with ODF staff to field-verify the accuracy of these maps. While greatly improved from previous versions, the maps still generated several false-positives (streams that qualify for the rule on the map but not on the ground). Also, to date, we have only field-verified maps in the Tyee sandstone country between Drain and Elkton which is on the edge of the topography relevant to this rule. Since the rule will apply to all of western Oregon and will likely impact coastal and Coast Range landowners significantly, additional field trips with landowners and ODF staff are needed throughout the impacted range to verify the accuracy of the most recent maps.

The guidance language has been improved from its original form. Our concern is that it remains overly conservative in how the rule will be implemented. Originally, the intent of this rule was to include only the most likely locations for debris torrents and would not include type-N streams that intersected a road, regardless of fill depth. The guidance now states that a 5-foot fill (or greater) depth is required to disqualify the stream. Roads with less than 5-foot of fill will not remove the stream from Rule 4 consideration. This is a significant change from the original information presented to the Board and Advisory

Committees and results in a much larger impact to landowners than previously understood. The intent of this rule is to provide woody material that improves fish habitat. Not considering the risk and expense to landowners from damage to roads, much less the biological and economic impact from failed road crossings, is not acceptable.

During the most recent field trip, some unintentional consequences were identified. The hazards potentially posed to operators during logging operations have been recognized by the Department as real under certain situations. If the hazard is identified prior to beginning operations, alternate plans can be made. However, if the hazards are identified as the operation progresses, guidance allows for the falling of hazard trees but requires them to remain as downed wildlife trees with the landowner still responsible for meeting the "two-up, two-down" wildlife tree requirement. This will result in a landowner leaving wildlife trees in the type-N streams identified by the ODF maps as well as leaving a "bank" of wildlife trees elsewhere on the unit in case some of the type-N wildlife trees are felled during the operation. Regardless of the landowners' ability to harvest the "bank" of wildlife trees later in the operation, this is an additional cost contrary to what was initially expected by the Department, the Board, and landowners.

Throughout our conversations, there has been a strong reliance on the ability of landowners and the Department to use plans for an alternate practice. These plans meet the objectives of the rules when more effective methods are available. Considering the low usage of plans for an alternate practice with current rules, we think it is unlikely that there will be a significant change in this pattern. Many landowners' flag off the RMA's and manage to that line. It is highly likely that these same landowners will simply flag off the 50'x 500' required to meet the requirements of the rule. Rather than increasing the likelihood of management near fish bearing streams, this rule could result in pushing management further up the hill away from the stream. This appears to be counter productive to your stated objectives of active management.

Again, we would like to reiterate our appreciation of ODF staff for the professional work and communication on this project. ODF staff has been charged with a difficult task and have worked to the best of their abilities to accomplish that task. We have supported the concept behind this rule from the beginning. We remain committed to actions that result in efficient and effective benefits to fish and wildlife. The process we have gone through over the last year highlights the challenge the department has when directed by the Board to regulate landowners and operators to do the right thing rather than prevent the wrong thing from happening.

From the very beginning, we argued this concept would be an excellent voluntary measure. The Department will have the tools to assist landowners in locating wildlife trees where they may serve multiple wildlife purposes. Rather than a rule, willing and interested landowners could voluntarily choose to locate wildlife trees in these locations. However, due to the stringent language of the adopted rule, landowners feel forced into actions that may compromise their objectives **AND** fail to meet wildlife objectives. In this case, landowner acceptance and willingness might be compromised and gains to the

resource not realized. It is essential that the Board retain credibility with landowners by only creating rules that efficiently meet the stated objectives.

It is our hope that the Board consider the challenges imposed on the Department and landowners in implementing rules designed to regulate positive actions as you deliberate future rule concepts. The complexities and commitment of resources are real as has been demonstrated by the work on rule concept four. We urge the Board to consider the voluntary measure option in the future.

Thank you for allowing us to participate in this process. It has been educational, insightful, and frustrating. If we can be of any further assistance, please feel free to contact us.

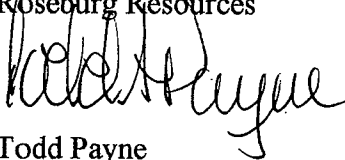
Sincerely,



Jake Gibbs
Lone Rock Timber Management Co.



Eric Geyer
Roseburg Resources



Todd Payne
Seneca Jones Timber Co.

cc: Marvin Brown
State Forester