



~ Protecting clean water and fish in the Rogue basin

Thomas Imeson, Chair
Oregon Board of Forestry
2600 State Street
Salem, OR 97310

November 2, 2016

Re: Public Comment on the Siskiyou Exemption and Request to Prioritize Stream Buffers in the Siskiyou Region in the Board of Forestry Annual Work Plan for 2017

Dear Chair Imeson and Members of the Board:

Thank you for the opportunity to provide public comment on the need for changes to the water protection rules for the Siskiyou Region under the Oregon Forest Practices Act. The Board of Forestry's November 2015 decision to exclude the Siskiyou region from the proposed new stream buffer rule will leave our region's salmon and steelhead streams with significantly less protection than those in the rest of western Oregon. This is a serious concern given the compelling evidence that current rules are inadequate to prevent logging that warms water temperatures in violation of the Protecting Coldwater Criterion ("PCW"), a fundamental component of the state's water quality standard for stream temperature.¹

On behalf of our more than 3,500 members and supporters, Rogue Riverkeeper asks that the Board prioritize improvement of stream buffers in the Siskiyou region to prevent violations of the PCW and to mitigate impacts to salmonid species protected under the Endangered Species Act.

Specifically, the Board of Forestry should move forward to address stream buffers in the Siskiyou region by:

- Prioritizing strategies to address stream buffer regulation in the Siskiyou region in the 2017 annual work plan;
- Deploying monitoring program resources to develop a defined scope of work and timeline to implement a policy change on stream buffers in the Siskiyou region; and
- Considering interim temporary rule changes to protect small and medium streams that support salmon, steelhead, and bull trout ("SSBT streams").

The Rogue River watershed stretches across more than 3 million acres, from its headwaters near Crater Lake to the mouth of the river along Oregon's southern coast at Gold Beach. The Rogue Basin includes approximately 1 million acres of private forest land managed under the Oregon Forest Practices Act. Current standards for small and medium fish-bearing streams that apply on these forestlands require 50 and 70-foot Riparian Management Areas (RMAs), respectively, that often result in harvesting down to the 20-foot no-cut buffer minimum.² The RipStream study concluded that these standards were not adequate to meet the PCW water quality standard.³ Excluding the Siskiyou region will leave in place this less protective standard in likely violation of the PCW and putting threatened salmonids at further risk.

Meeting the PCW Water Quality Standard in the Siskiyou

In a 2002 statewide analysis of the sufficiency of the Oregon Forest Practices Act in meeting water quality standards, Oregon Department of Forestry (ODF) and Oregon Department of Environmental Quality (DEQ) found that current RMA prescriptions may result in short-term temperature increases and recommended revising the standards.⁴ The results of the RipStream study in 2011 further demonstrate that current stream buffer rules under the Forest Practices Act are not protective of stream temperature and violate the PCW water quality standard.⁵ More specifically, data-based ODF analysis of logging down to the minimum allowed buffer has been shown to cause stream temperatures to increase by an average of 1.45 degrees C. This is well above the 0.3 degrees C allowed under the PCW standard.⁶

Under ORS 527.765(1), the Board is required to establish regulations and best management practices to “insure that to the maximum extent practicable” water quality standards are achieved and maintained. Although the Board must consider factors where applicable, such as “natural variations in geomorphology or hydrology,” (ORS 527.765(1)(a-e)), this does not mitigate the requirement to meet and maintain water quality standards. The PCW water quality standard applies statewide, including the Siskiyou region, to streams that support salmon, steelhead, and bull trout (“SSBT”) and to upstream stream reaches necessary to meet the criterion downstream. If this exclusion remains, many small and medium fish-bearing streams in the Siskiyou that would qualify for the proposed revised buffer standard are now left with the current inadequate prescriptions. We urge the Board to develop a plan with a defined timeline to address how it will ensure that stream buffer standards in the Siskiyou will meet the PCW water quality standard.

Impacts to Threatened Southern Oregon/Northern California Coast (SONCC) Coho Salmon

In addition to compliance with the PCW water quality standard, there is evidence that current buffer standards are not protective of threatened salmonids in the Siskiyou region. In 1999, the Independent Multidisciplinary Science Team (IMST) conducted an analysis of the impacts of forest practices on wild salmonids on forestlands west of the Cascade Range and in the Siskiyou Mountains. The report synthesized findings in the scientific

literature, concluding that the removal of trees near streams results in warming stream temperatures.⁷ A 2004 IMST report emphasized the impact of stream buffers, concluding that “the vast majority of published studies document that riparian shade has a significant effect on stream temperature.”⁸ Further, the IMST clearly links the health of salmonids to stream temperature. In reviewing forest practices, including existing riparian buffer standards, the IMST states that “current rules for riparian protection, large wood management, sedimentation, and fish passage are not adequate to reserve depressed stocks of wild salmonids.”⁹

All three federal natural resource oversight agencies have also indicted Oregon’s rules. In 2001, NOAA-Fisheries, EPA and USFWS found that Oregon’s forests practices “adversely affect temperature-related factors such as shade levels, surface erosion, landslide rates, stream morphology and substrate, and landscape-scale conditions,” resulting in “water quality impairments due to forest management activities even with FPA rules and BMPs.”¹⁰ Concerns were raised for all stream sizes.

Likewise, for almost 20 years Oregon has been out of compliance with federal coastal zone water pollution requirements, resulting in NOAA and EPA disapproval of our coastal zone program and loss of federal funding specifically because Oregon has not implemented or revised existing management measures for forestry. Among the chief reasons for disapproval is this Board’s failure to “protect riparian areas for medium-sized and small fish-bearing (type “F”) streams and non-fish-bearing (type “N”) streams,” including streams in the Siskiyou region.¹¹

Within the Siskiyou region, the Rogue watershed provides habitat for the Southern Oregon/Northern California Coast (SONCC) Evolutionarily Significant Unit (ESU) of coho salmon, listed as a threatened species under the Endangered Species Act first in 1997 and reaffirmed in 2005.¹² In the Rogue Basin, independent populations of SONCC coho in the Middle Rogue, Applegate River, and Illinois River are identified as at high risk for extinction.¹³ The 2014 Final SONCC Coho Recovery Plan from NOAA Fisheries states that the Oregon Forest Practices Act and related regulations are the least protective within the SONCC coho ESU. NOAA Fisheries identifies improving timber harvest practices under the Oregon Forest Practices Act as one of the highest priority recovery actions for the Illinois River, Middle Rogue/Applegate, and Upper Rogue coho populations.¹⁴

As one example, NOAA Fisheries found that for the Illinois River population, private forestlands had both the most potential to support coho salmon and at the same time had the least watershed protection. Specifically, the report states that “although much of the habitat in the Illinois River is federally owned, the future threat of timber harvest in the next ten years is high because much of the habitat with the best potential to support coho salmon will be harvested using less protective management actions than those used on Federal lands.”¹⁵ In other words, the inadequate protections under the Oregon Forest Practices Act, including stream buffer standards as identified by the IMST, remains a significant threat to the recovery of native salmonids in the Rogue watershed.

All of the above findings are aligned with the results of the RipStream study and point to the inadequacy of current stream buffer rules statewide, including the Siskiyou.

Develop a Plan to Address Stream Buffer Standards in the Siskiyou Region

In conclusion, we urge the Board to keep working to comply with its legal duty to meet water quality standards designed to protect threatened salmon, steelhead, and bull trout on forestlands regulated under the Forest Practices Act. The statewide PCW water quality standard applies equally in the Siskiyou region as it does in the rest of the state. As evidenced by the 2008 Rogue River Basin Total Maximum Daily Load (TMDL) for temperature, streams across the Rogue watershed are already impaired by high temperatures.¹⁶ The 2014 recovery plan for threatened SONCC coho salmon in the Rogue Basin specifically identifies revising current forest practices as a high priority action.¹⁷ We ask that, if – as seems likely -- the Board does not include the Siskiyou in its final riparian rule, that it prioritize this issue in its 2017 work plan and commit to developing a plan with a defined timeline to address stream buffer standards in the Siskiyou region.

Sincerely,

Stacey Detwiler
Conservation Director
Rogue Riverkeeper

¹ Groom et al. 2011. *Response of Western Oregon (USA) stream temperature to contemporary forest management*, Forest Ecology and Management, 262: 1618-1629.

² Oregon's Forest Protection Laws. 2002. Oregon Forest Resources Institute: Portland, Oregon, p. 136-155.

³ Groom et al., 2011. *Response of Western Oregon (USA) stream temperature to contemporary forest management*, Forest Ecology and Management, 262: 1618-1629.

⁴ 2002 ODF DEQ sufficiency analysis p. 6-8

⁵ Groom et al. 2011. *Response of Western Oregon (USA) stream temperature to contemporary forest management*, Forest Ecology and Management, 262: 1618-1629.

⁶ Groom et al. 2011. *Response of Western Oregon (USA) stream temperature to contemporary forest management*, Forest Ecology and Management, 262: 1618-1629.

⁷ Independent Multidisciplinary Science Team. 1999. Recovery of Wild Salmonids in Western Oregon Forests: Oregon Forest Practices Act Rules and the Measures in the Oregon Plan for Salmon and Watersheds. Technical Report 1999-1 to the Oregon Plan for Salmon and Watersheds, Governor's Natural Resources Office, Salem, Oregon, p. 66.

⁸ Independent Multidisciplinary Science Team. 2004. Oregon's Water Temperature Standard and its Application: Causes, Consequences, and Controversies Associated with Stream Temperature. Technical Report 2004-1 to the Oregon Plan for Salmon and Watersheds, Oregon Watershed Enhancement Board, Salem, Oregon, p. 8.

⁹ Independent Multidisciplinary Science Team. 1999. Recovery of Wild Salmonids in Western Oregon Forests: Oregon Forest Practices Act Rules and the Measures in the Oregon Plan for Salmon and Watersheds. Technical Report 1999-1 to the Oregon Plan for Salmon and Watersheds, Governor's Natural Resources Office, Salem, Oregon, p. 2.

¹⁰ EPA-FWS-NMFS, 2/28/01 Stream Temperature Sufficiency Analysis Letter to ODF and ODEQ.

-
- ¹¹ NOAA/EPA Finding that Oregon Has Not Submitted a Fully Approvable Coastal Nonpoint Program. 2015. National Oceanic and Atmospheric Administration and the Environmental Protection Agency, p. 4.
- ¹² National Marine Fisheries Service. 2014. Final Recovery Plan for the Southern Oregon/Northern California Coast Evolutionarily Significant Unit of Coho Salmon (*Oncorhynchus kisutch*). National Marine Fisheries Service. Arcata, CA, p. ES-3-ES-4.
- ¹³ *Ibid.*, p. ES 5
- ¹⁴ *Ibid.*, p. ES 5
- ¹⁵ *Ibid.*, p. 30-22
- ¹⁶ Rogue River Basin TMDL Chapter 2: Temperature. 2008. Oregon Department of Environmental Quality.
- ¹⁷ National Marine Fisheries Service. 2014. Final Recovery Plan for the Southern Oregon/Northern California Coast Evolutionarily Significant Unit of Coho Salmon (*Oncorhynchus kisutch*). National Marine Fisheries Service. Arcata, CA, p. ES-5.