

## **Appendix 2**

### **Key Committee Correspondence**



Appendix 2 only includes key correspondence about the committee's purpose and process.

The committee received many comments during the course of its work. These were from a range of interests including state and federal agencies, scientists, and interested public. Due to the amount of materials, such correspondence is not included but is available upon request to the Department of Forestry.



**+ Pacific Rivers Council + Audubon Society of Portland +  
+ Oregon Trout + Northwest Sportfishing Industry Association +**

30 April 1999

Governor John Kitzhaber  
State Capitol  
Salem, Oregon 97310-0370

**Re: Solidifying Goals for Forest Practices Under the Oregon Plan**

Dear Governor:

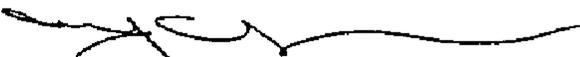
As members of the Board of Forestry's Citizen's Forest Practices Advisory Committee, we seek clarification regarding how the work products we are developing will be formally connected to federal policies and programs under the federal Endangered Species Act and the Clean Water Act.

It is our understanding, based on statements from both Department of Forestry staff and landowner members of our Advisory Committee that our work does not contemplate the establishment of federal assurances under the Endangered Species Act nor Clean Water Act. While it is clear that the National Marine Fisheries Service (NMFS) has indicated its intention to use the "Forestry Module" in Washington as the basis for a 4(d) Rule, and NMFS intends to develop a 4(d) rule in Oregon for listed salmonids, our Advisory Committee's goals do not contemplate development of rules which would procure such assurances.

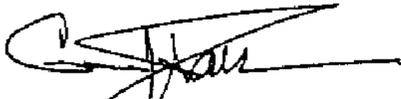
It strikes us that our committee's charge should reach sufficiently far enough to serve as the basis for the development of a 4(d) rule under the Endangered Species Act and meet the standards of the Clean Water Act as appropriate for forest lands.

We ask you for your clarification on this important matter.

Sincerely,

  
Mary Scunlock  
Pacific Rivers Council

  
Paul Ketcham  
Audubon Society of Portland

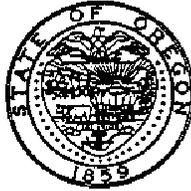
  
Geoff Pampush  
Oregon Trout

  
Liz Hamilton  
Northwest Sportfishing Industry Association

cc: Members of the Citizen's Forest Practices Advisory Committee



JOHN A. KITZHABER, M.D.  
GOVERNOR



May 18, 1999

Mary Scurlock  
Pacific Rivers Council  
921 SW Morrison STE 531  
Portland OR 97205

Dear Mary:

The Oregon Plan for Salmon and Watersheds has as its goal the restoration of salmonid species across Oregon. As part of the state's integrated effort to achieve this end, I issued Executive Order 99-01, which contained a request that the Board of Forestry, with the assistance of the advisory committee on which you sit, identify changes that may be needed to the forest practices act to meet water quality standards and protect and restore salmonids.

I believe that the Forest Practices Advisory Committee should focus its efforts on understanding and evaluating the best science available on the topic. Once the committee has reached agreement on what changes in the condition of the state's watersheds are needed, the committee should consider the various tools at its disposal to effect these changes. Among these tools are incentives, voluntary measures, regulatory measures, legislation, Habitat Conservation Plans, a 4(d) rule, or any combination of these.

I believe the best use of the committee's time is to focus on what needs to occur on forest lands to restore salmonids, rather than how it will be done. In this way, the committee can provide the most useful contribution to our recovery efforts.

I do want to thank each of you for your dedication to this process. I realize that it has already taken longer than was anticipated originally, but I want to assure you that the work of the Forest Practices Advisory Committee is a critical component of Oregon's efforts to restore salmonids.

Best regards,

John A. Kitzhaber, M.D.

JAK/NR/sw

c: Ron Cease, Chair  
Members of the Advisory Committee



JOHN A. KITZHABER, M.D.  
GOVERNOR



September 22, 1999

Ron Cease  
Oregon Forest Practices Advisory Committee  
c/o Oregon Department of Forestry  
2600 State Street  
Salem OR 97310

Dear Ron:

I have received and reviewed the report of the Independent Multidisciplinary Science Team (IMST). I am pleased that this group of respected scientists has provided us with such a thorough discussion of the relationship of forest management and fish habitat.

As part of the state's integrated efforts to restore watersheds across the state, I issued an Executive Order requesting that the Board of Forestry, with assistance of your advisory committee, identify changes that are needed to protect and restore salmonids. I would like your committee to carefully consider the findings of the IMST as you seek to meet those objectives.

The IMST report has done an admirable job of describing what salmon species need. As you move from what fish need to what management practices would provide for those needs, your committee has a wide menu of options it may consider, including regulatory and incentive-based approaches. I ask you to favor approaches that work well for Oregonians while assuring the recovery of salmonid habitat.

Thank you for the time you and your committee continue to devote to this important effort.

Best regards,

John A. Kitzhaber, M.D.

JAK/NR/sm





# Associated Oregon Loggers, Inc.

P.O. Box 12339 • Salem, Oregon 97309-0339 • (503) 364-1330 • Fax: (503) 364-0836

June 26, 2000

Ron Cease, Chair, Forest Practices Advisory Committee  
Oregon Department of Forestry  
2600 State St.  
Salem, OR 97310      ATTN: Ann Hanus

Re: Riparian Option, Forest Practices Advisory Committee Recommendations

Dear Ron:

On behalf of the logging operators in the state of Oregon, I voted against adopting the compromise proposal on riparian management put forth by the sub-committee of FPAC at its final meeting June 9. Clarity of our position demands some explanation.

The fifth paragraph on the first page of the Charter of the Forest Practices Advisory Committee on Salmon and Watersheds says that FPAC recommendations may include incentives and or voluntary measures. Item number 6 on the second page of the charter call's for an evaluation of the costs and benefits of additional practices.

Loggers had hoped for a riparian package that they could support including the above mentioned items. Because current rules regulating riparian management are already confusing for landowners and operators we see the additional new regulations embodied in the compromise proposal as being even more confusing, thus being a disincentive rather than an incentive to engage in active management of riparian areas. In the future there will be more of a tendency to rope off riparian areas and stay out entirely. No stewardship is not good stewardship!

From the information presented during committee meetings, there is insufficient scientific basis for many of the actions taken in the compromise riparian proposal. The committee has failed in its charge to determine the costs to landowners and loggers, or the benefits to the public. Neither has the committee addressed the private and state costs to administer, nor the unintended consequences of excessively complex regulations. Because some on both sides of the political spectrum bad-mouth the proposal does not make it right, even though it might be politically expedient.

Operators are the ones who will have to make new rules work on the ground. They work at the direction of landowners and will be the ones who are in violation if these new rules are misunderstood. Despite all of these reservations, Associated Oregon Loggers in cooperation with the State Forester will make every effort to make sure that our members are fully acquainted with all recommended changes to the Oregon Forest Practices Act. Through the "Oregon Professional Logger" program, which requires continuing education in OFPA, we will strive to make sure that loggers and FPFs continue to be on the same page. AOL is convinced that only a cooperative effort will insure good stewardship of Oregon's forests. We look forward to working with ODF staff during the rulemaking process.

Sincerely,

Tom Hiron  
Mad Creek Logging Co. / FPAC Committee Member

Appendix 2  
Page 2-9

Appendix 2  
Page 2-9





Pacific Rivers Council

Audubon Society of Portland



26 July 2000

Ron Cease, Chair  
Ad Hoc Forest Practices Advisory Committee on Salmon and Watersheds  
Mark O. Hatfield School of Government  
Box 751  
Portland, OR 97212

**Re: Rationale for Declination to Support FPAC Riparian Subcommittee Package**

Dear Ron:

At the final meeting of the Forest Practices Advisory Committee on June 9, Pacific Rivers Council and the Audubon Society of Portland did not support the Riparian Subcommittee's "Points of Agreement" package. Our decision to take this position bears some explanation, provided below. Based on the committee's discussion at the last meeting, we understand this text will be included in the body of the Committee report. That is, it will either be incorporated fully in the text describing the subcommittee option, or incorporated by reference in this location and attached in full.

Our decision is based on our understanding of the applicable science, policy and law. In sum, we believe that the proposed measures are not compatible with the biological needs of salmon, the Committee's Charter, the stated goals of Executive Order 99-01, the Oregon Plan, the Endangered Species Act's prohibitions on "take" or the state's obligations under the Clean Water Act. Our goal from the inception of this process was to represent the needs of salmon and the aquatic ecosystem upon which they depend. It is our opinion that we most effectively represent this interest by abstaining from support of reforms that better reflect landowners' preferences than the needs of salmon survival and, ultimately, recovery. We concur with the admonishment of Oregon's Independent Multidisciplinary Science Team (IMST) that effective conservation measures cannot be "defined by management needs," but rather "in accordance with natural processes and the maintenance of riparian and biological physical functions." (IMST Report 99-1 at 19).

We find that the Subcommittee's 14-point proposal offers advances in some key areas, including:

- The level of riparian protection for some non-fishbearing streams (large and medium streams) is proposed to be commensurate with that now provided for fish-bearing streams. This partially recognizes the body of science that supports tying protection levels to perenniality, rather than fish use, in order fully recognize the important role of these streams in contributing organic materials and regulating sediment movement to

downstream reaches. (See e.g. IMST 99-1; NMFS Oregon Proposal 1998; Forests and Fish Report EIS 2000; Spence et. al. 1996).

- Some small non-fishbearing perennial streams would receive new riparian protection for 500 feet from the junction with a fish-bearing stream. This measure combines with revised stream-typing criteria which would provide "fish-bearing" levels of protection to some streams now in the non-fishbearing category. (As it has not been determined how much stream would be protected through either change, we strongly encourage the Department to conduct GIS analysis of these changes as soon as possible).
- The extent of the protected riparian area would include the full extent of the Channel Migration Zone in areas where one exists, a step which would appropriately increase the size of the protected riparian area in unconstrained reaches – generally floodplain areas of high habitat value for salmonids.
- A new harvest limitation could better protect higher quality riparian conditions by restricting riparian harvest to 40% of existing conifer basal area, an approach that reduces allowable degradation of currently robust riparian forests and could, over time, reduce the importance of minimum "conifer basal area" measures. Under the current rules, uniform harvest down to a minimum floor is allowed on all sites. (It is not known how many riparian sites currently are well-stocked enough that the 40% cap would be reached before the basal area limitation).
- Vegetation retention requirements, as measured by "conifer basal area," would increase on some streams. They would be the same for all medium and large streams—equal to that currently required on large non-fish streams. A 25% lower retention requirement is applied on small fishbearing streams. A "tree basal area" measure applies within the partial buffer on the undetermined number of small non-fish streams (Type NT) now proposed to receive a riparian protection area.
- Half of the overall riparian management area is now designated a "no harvest" zone. This would increase the current zones by 5, 15, and 25 feet on small fishbearing streams, all medium, and all large streams, respectively.
- A large tree provision is added to the conifer basal area measure for all medium and large streams and small fish-bearing stream, such that ten of the largest twenty trees must be retained outside the no-cut area.

- The addition of a riparian specialist to ODF staff promises to provide needed technical support for rules compliance, particularly for smaller, landowners.
- The current requirement not to locate skid trails within 35 feet of Type F or D streams will be extended to all streams.

Even recognizing these increased restrictions on streamside logging, Pacific Rivers Council and the Audubon Society of Portland are unable to support the subcommittee's proposal for the same reasons we were unable to support earlier proposals: we do not find it consistent with the goals of maintaining and restoring salmon and water quality—the Committee's charge. Our support would perpetuate the scientifically unjustified assumption that the proposed riparian management limitations are capable of mitigating for logging-related watershed degradation. Our specific key concerns are:

- Streamside protection areas still are too narrow. The proposal does not re-define protected riparian areas on all stream sizes to correspond to an area which, if maintained in mature forest conditions, would be capable of providing near-fully functional inputs of large wood, thermal regulation (e.g. shade, microclimate), chronic and episodic sediment regulation and other functions. We note that the need for riparian protection areas approximating at least one "site potential tree height" to reach this objective is supported by extensive analysis associated with the Forests and Fish Report recently adopted in Washington state, the NMFS Oregon Proposal and with other work.
- The stated measurable objectives for maintaining desired riparian forest conditions permit too much vegetation removal in riparian areas because they do not approximate the conditions within ecologically mature forests of 200 or more years. The targets are instead based on arbitrarily chosen basal areas only loosely correlated with that of 120 year-old forests.
- Only an unknown fraction of all small, nonfish-bearing perennial streams will receive any riparian protection, and even this is inadequate to protect the function of these streams. We see at least five problems with the proposal.
  - > First, the recommended protection does not extend the full length of qualified stream reaches. Rather, it extends an arbitrary distance of only 500 feet from the confluence with a "fishbearing" stream, even if more than half the stream remains unprotected, or the stream's sensitive initiation point is not encompassed by this distance;
  - > Second, the 50 foot-wide search zone (each side of the stream) may not constitute an area of sufficient size to reflect the

ecologically defined riparian area – i.e. the area which most directly influences and is influenced by the stream itself;

- > Third, the protection offered in these areas is nominal. Logging is not sufficiently restricted within the small riparian areas to ensure the development of functional mature forest conditions. The low vegetation retention standard applicable to the small riparian areas offered for "temperature" streams (4 square feet per 100 feet of stream) and the lesser standard for "debris torrent" streams (location of 2 in-unit leave trees per acre) bear no relationship to the density and composition of a mature forest. Furthermore, no evidence has been provided that the buffers are adequate to meet shade, sediment filtration, or large wood recruitment functions at levels that will lead to salmon recovery. In particular, the provision applicable to the "debris torrent" streams – location of the already mandatory 2 wildlife leave trees per acre – will have negligible benefits toward meeting the ecologically appropriate objective of maintaining the natural rate, timing and characteristics of shallow-rapid landslides. Additionally, no area is off limits to harvest, there is no "harvest cap," and there is no requirement that the largest trees be retained.
- > Fourth, only a small subset of small non-fishbearing streams will receive the nominal protection, although these may constitute the majority of stream miles in a given basin. Only streams contributing 30% of streamflow to a fishbearing stream and meeting a minimum basin size qualify for the partial riparian protection afforded "temperature" streams. "Debris torrent" streams are defined as streams with drainage basins greater than 30 acres, in which more than 75% of the basin has been mapped by the State Forester as "high" or 50% as "extreme" debris flow hazard, and which have a high probability of delivering large wood in debris torrents. It appears that these arbitrary qualifications will reduce the protected class of streams to a small fraction of all Type N streams in most basins, under-recognizing the role of these areas in maintenance of the sediment regime and a desirable range of geomorphological characteristics of streams watershed-wide.
- > Fifth, the debris flow channel identification methodology and maps that will be used to locate "debris torrent" streams have not been peer reviewed. (We also note that it is not clear how many such streams will be disqualified as deserving of vegetation retention due to the 30-acre basin size limitation. Such analysis should be part of any rules package that ultimately goes to the Board).

- > In sum, the proposed protection for the smallest perennial streams undervalues the ecological significance of smaller streams to overall watershed health and the creation of functional salmon habitat. In the North Coast of Oregon, ODF analysis indicates that these small "Type N" streams comprise as much as 50% of all stream miles. (See e.g. Economic Analysis of Northwest State Lands Conservation Plan in Board of Forestry meeting packet, April 2000). We believe that the proposed level of protection will allow continued resource degradation which cannot be adequately mitigated by making these streams a monitoring priority;
- No part of the ephemeral network would receive either riparian protection (as recommended by the IMST) or certain protection via the prohibition of logging in portions of the network identified as being at a high risk of slope failure and which is likely to connect directly with an ephemeral channel.
- Although riparian areas would include at least the extent of the Channel Migration Zone (CMZ) where one exists, there is no assurance that this area itself will be buffered. Full recognition of this area as the functional equivalent of the edge of the stream channel requires that the riparian area be measured from the edge of the CMZ. Furthermore, the CMZ is incorrectly defined as an area where the stream could move in one rotation—in the judgement of the forest practices forester. We suggest that 100 years should be used as the relevant time period (perhaps where the channel has been in the last 100 years), and also that FPFs may not have the appropriate expertise to locate the CMZ under either definition.
- Overall, stream size and fish-bearing potential still is over-emphasized as a determinant of the riparian protection area, a model which focuses on specific habitat characteristics associated with in-stream wood to the exclusion of other important functions which depend on ecological processes associated with the existence of mature forest condition in the upper watershed, where seasonal and small perennial streams predominate.
- Especially given the relatively small size of the overall riparian protection areas, the proposed "half the RMA" formula to define the no-harvest area provides insufficient assurances of stream protection. While the no-cut area will more than double on large streams under this proposal, it will increase by only 5 and 15 feet, respectively on small and medium streams. There is no prohibition on harvest in any area of the partial buffer afforded some small nonfish streams. We note that in some areas it is possible to meet even the proposed minimum conifer retention requirements within the no-harvest area alone, so that the only protection provided in the

balance of the riparian area could derive from the minimal 10 of the 20 largest tree provision.

- The large tree provision actually should require that the largest trees be left—without qualification—and that more trees be retained. Even though the intent seems to be that trees nearest the stream be preferred over those farther away, we find that the greatest value would derive from the larger trees being retained, even at the outer portion of the riparian area. Given that these areas are within the height of a site-potential tree in virtually all instances, they are necessarily still within the area of immediate influence on the stream.

We remind the Committee and the Board that the current condition of aquatic and riparian habitats is dire. Recently published research by the Oregon Department of Fish and Wildlife (ODFW) found that a typical western Oregon stream was characterized by elevated fine sediment, low woody debris levels, a low frequency of deep pools and a low density of large riparian conifers – bad news for critical indicators of healthy fish habitat. (Thom, Jones and Flitcroft, "Stream Habitat Conditions in Western Oregon," Monitoring Program Report 1999-1 (1999).

Our views on the riparian package were further colored by the balance of the Committee's deliberations, which were unable to produce agreement regarding the need for vegetation retention and a presumption against roadbuilding on even the highest risk landslide-prone sites and their runout paths. Rather, a "menu" of possible management options for areas subject to debris-torrents is being advanced, an open-ended approach with an uncertain relationship to the goal of minimizing management-related increases over background landslide risks.

Furthermore, even with increased harvest limitations and extension of small partial buffers to some smaller streams, it seems unrealistic to expect these areas to mitigate for all the watershed-scale impacts that accompany intensive commercial forestry. Relatively small riparian protection areas (from one-half to one-quarter or less of a site-potential tree for most stream miles) are coupled with the dispersal of short-rotation clearcut logging activity over large areas of the landscape in patches of up to 120 acres per ownership, regardless of overall watershed condition and past logging history.

The continuous, dispersed, management disturbance created by logging does not emulate natural disturbance patterns—nor (as the IMST noted) do arbitrarily and sharply demarcated riparian buffers. Yet, the proposed riparian buffers – comprising only slightly more than the 2-9% of the landscape currently in buffer—are being expected to substitute for the conditions under which salmon evolved. In western Oregon, these conditions included at least 50-70% of the entire landscape (not just the riparian area) in old-growth forest. Today, as much as three-quarters of the private forested landscape may be in early seral stages. (See e.g. Analysis of Western Washington forests contained in DEIS for the Forests and Fish Report, March, 2000).

In light of the IMST's well-founded declaration that a riparian-protection approach cannot alone provide the basis for a successful recovery strategy, it seems that a more conservative set of riparian prescriptions is justified until such time as a true landscape approach can be designed. Nor is shoring up existing buffers enough to serve in lieu of key landscape-scale recovery actions, including: 1) greater certainty of protection for biological refugia, and 2) cumulative effects assessment to validate the effectiveness of generally-applied prescriptions in specific watersheds. As the IMST observed, a landscape approach to management actions could permit greater flexibility in riparian management, but would also likely include greater concentration of activity in certain areas with longer recovery periods. The timing and scope of management-related disturbance would then be designed to emulate historic disturbance patterns.

Until such a management program is designed, however, much more robust riparian protection than that proposed by the Riparian Subcommittee is needed to hold the line against further degradation of aquatic habitat and turn the trajectory toward recovery.

Sincerely yours,

Mary Scurlock  
Pacific Rivers Council

Paul Ketcham  
Audubon Society of Portland

Cc: Governor John Kitzhaber  
David Gilbert, Chair, Oregon Board of Forestry  
Will Stelle, NW Regional Administrator, National Marine Fisheries Service  
Anne Badgely, NW Regional Director, U.S. Fish and Wildlife Service  
Chuck Findley, Acting Regional Administrator, Environmental Protection Agency

