STAFF REPORT

Subcommittee:	Riparian Rule Analysis
Work Plan:	Private Forests Work Plan
Topic:	Water Quality Protection
Presentation Title:	Subcommittee discussion on options for meeting the Protecting Cold Water criterion
Date of Presentation:	September 25, 2015
Contact Information:	Peter Daugherty, Private Forests Division Chief 503-945-7482, Peter.Daugherty@Oregon.gov W. Terry Frueh, Monitoring Specialist, Private Forests, 503-945-7392, Terry.Frueh@Oregon.gov Marganne Allen, Field Support Manager, Private Forests, 503-945-7240, Marganne.Allen@Oregon.gov

SUMMARY

This agenda item summarizes the work done to prepare for the Subcommittee discussion on options for meeting the Protecting Cold Water criterion. Tom Imeson, Doug Decker, Nancy Hirsch, and Peter Daugherty, met to discuss the Riparian Rule Analysis Subcommittee charge and to develop a methodology for the subcommittee work. The goal of the subcommittee is to develop one or possibly two working proposals that create a durable solution to bring to the full Board. Staff worked with subcommittee members to provide technical support, answer questions, and provide information as members prepared for the subcommittee meeting. The work with subcommittee members resulted in two prescription packages, with discussion guides and a discussion guide for alternate prescriptions. Subcommittee members will present and discuss the packages and alternative prescriptions.

CONTEXT

There are three primary decisions for the Board to make in the riparian rule analysis:

1. Which prescription(s), if any, to move into rule language,
2. The geographic extent to which these prescriptions apply, including:
    - Which Geographic Regions, and
    - Which small and medium streams [i.e., those with Salmon/Steelhead/Bull Trout, ODF fish-bearing (Type F), or some combination thereof], including the extent upstream to avoid warming from contributing waters; and
3. Whether the rules are regulatory, voluntary, or a combination thereof.

The Board's deliberation of these decisions occurs under the ORS 527.714 findings; the remaining ORS 527.714 findings are:

- Restrictions on practices directly relate to, and substantially advance the objective 527.714(5)(d)
- Must choose the least burdensome alternative 527.714(5)(e) and resource benefits achieved by the rule must be proportional to the harm caused by the forest practices 527.714(5)(f).

While the core decisions relate to the Board's responsibility to meet the Protecting Cold Water (PCW) water quality criterion, Board members have raised concerns about the effects of any rule

change on fish and other aspects of the stream protection rules. Key recurring themes that have arisen out of Board deliberations on the riparian rule analysis include the desired future condition (DFC) of fish-bearing streams and the potential for unintended consequences from their decisions.

BACKGROUND

At the July 2015 Board meeting, Chair Imeson created a subcommittee to further refine prescription options and bring one or two packages back to the Board at a future meeting. Chair Imeson named Board Members Sybil Ackerman-Munson, Gary Springer, Nils Christoffersen, and himself to the subcommittee. The principles guiding the subcommittee discussion will be:

- Temperature must be the lens used for evaluation due to Ballot Measure 49 concerns;
- Role of monitoring to evaluate implementation action;
- Must consider regulatory and voluntary approaches;
- Notion of equity and relief for non-industrial landowners;
- Goal of developing one or two proposals to bring to full Board for decision; and
- Developing a discussion guideline for the Board.

ANALYSIS

Board Chair Imeson, Doug Decker, Nancy Hirsch, and Peter Daugherty, met to discuss the Riparian Rule Analysis Subcommittee charge and to develop a methodology for the subcommittee work.

- The goals of the subcommittee are to develop one or possibly two working proposals that create a durable solution to bring to the full Board.
- The subcommittee will be a Board led discussion process.
- The subcommittee meeting will be a work session and the Board will not be taking public comment.

The Board Chair reiterated the Board's desire to move forward expeditiously in narrowing the decision space. The Board expects to consider the subcommittee proposal(s) in November.

The proposed methodology to help Board members prepare for the subcommittee meeting involved review of the July Board discussion to identify concerns and issues raised in the discussion. Staff then worked with subcommittee members to support them as they developed prescription packages to bring to the subcommittee, and a guide for walking through discussion of outcomes in the matrix and tables 6 and 7 presented at the July Board meeting.

Staff contacted subcommittee members to review the methodology and identify concerns and issues for which the Board members wanted support. Staff provided technical support in using the tools already provided to the Board, answered questions, and provided information as members prepared for the subcommittee meeting.

The work with subcommittee members resulted in two prescription packages, with discussion guides and a discussion guide for alternate prescriptions. Staff followed direction from Board members in developing this information. Prescription Package #1 (Attachment 1) builds on the minimize temperature concern package presented in the July Board materials. The support notes for Package #1 are in Attachment 2. Prescription Package #2 (Attachment 3) focuses on achieving desired future riparian conditions to protect cold water. The support notes for Package

#2 are in Attachment 4. The discussion guide on alternate prescriptions (Attachment 5) focuses on alternate approaches that can be included in any prescription package. Subcommittee members asked for information on acres in family forestland (Attachment 6).

SUBCOMMITTEE MEETING

Subcommittee members will present and discuss the packages and alternative prescriptions, ask clarifying questions of staff and develop a complete understanding of options as they prepare to bring the discussion and decision to the full Board at their November 5th meeting.

ATTACHMENTS

(1) Riparian Rule Subcommittee Package #1: Minimize Temperature Concern.

(2) Information for Package #1: Minimize Temperature Concern.

(3) Riparian Rule Subcommittee Package #2: Protecting Cold Water and Achieving Desired Future Riparian Conditions.

(4) Information for Package #2: Protecting Cold Water and Achieving Desired Future Riparian Conditions.

(5) Information for Alternate Prescriptions.

(6) Reference Materials for Family Forestland Acres.