

Meeting Summary

North Fork Smith River Rulemaking Advisory Committee

Thursday, Dec. 1, 2016
Southwestern Oregon Community College
Room 138 A and B
96082 Lone Ranch Parkway
Brookings, OR 97415
1 p.m. – 5 p.m.

Meeting call-in number: 888-278-0296
Participant code: 8040259

List of Handouts

- ✓ Discussion Draft Issue Paper
- ✓ Discussion Draft Fiscal Impact Analysis
- ✓ Agenda
- ✓ Power Point Presentation

Meeting Objectives:

- ❖ To discuss implications of the proposed rule to designate the North Fork Smith River, tributaries, and associated wetlands as Outstanding Resource Waters.
- ❖ To summarize and obtain input on the draft Fiscal Impact Analysis for the rulemaking.



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Department of
Environmental
Quality

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restoring, maintaining
and enhancing the
quality of Oregon's air,
land and water.*

Advisory committee attendance	
Advisory committee members present	
Becky Crockett	(Davy Crockett Tree Farms)
Kevin Mealue	(Elk Valley Rancheria)
Todd Confer	(ODFW - agency advisor)
Chris Park	Rogue River-Siskiyou NF
Dave Lacey	South Coast Tours LLC
Gordon Lyford	Wild Rivers Water Rights, CWRE
Advisory committee members on phone	
Barbara Ullian	Friends of the Kalmiopsis
Mary Anne Nash	Oregon Farm Bureau
Dave Hunnicutt	Oregon Mining Association
Dean Finnerty	Trout Unlimited
Lisa Brown	Waterwatch
Advisory committee members absent	
David Moryc	American Rivers
Heath Curtiss	Oregon Forest and Industries Council
Lori Turbes	Sundance Tours
Others present	
Supervisor Gerry Hemmingsen	Chairperson, Del Norte County Board of Supervisors

Advisory committee attendance	
Scott Jones	Wild and Scenic Rivers
Eileen Cooper	Friends of Del Norte
DEQ staff	
Aron Borok	
Debra Sturdevant	
Pam Blake	

Debra Sturdevant (DEQ) discussed the objectives of the meeting and clarified that, because the rulemaking proposal was via petition, DEQ is required to propose the rule as stated in the petition, but could make changes to the rule in response to public comments.

Aron Borok (DEQ) discussed the schedule for the rulemaking. Becky Crockett (Davy Crockett Tree Farms) raised concerns about the purpose and need for the rulemaking, the lack of local representation on the advisory committee and that the rulemaking would take land away from citizens of Curry County. Other advisory committee members noted that there were at least three or four Curry County residents on the advisory committee and that the ORW designation would not change any land ownership, it is already public land for the use of all citizens.

Jerry Hemmingsen (Chair of the Del Norte County Board of Supervisors) commented that the County supported the mineral withdrawal proposed in the North Fork Smith River, but did not support the ORW designation or the proposed ONRW designation in California. When questioned by advisory committee members, he also noted that they did not oppose the designation, but didn't know much about the rulemaking in Oregon.

Implications of Rulemaking

Aron Borok began his presentation on the implications of the rulemaking on activities and sectors that do or could occur in the North Fork Smith River watershed in Oregon.

Suction Dredge Mining

Aron Borok summarized how many times DEQ has provided coverage for suction dredge mining in the watershed since 2011. Advisory committee members, including the representative from the U.S. Forest Service, noted that there were no permits for suction dredge mining on Forest Service Land, but there might be on BLM land outside of the NF Smith River watershed. Aron agreed to look further into this.

Surface Mining

Aron Borok summarized DEQ's analysis on the impact of the rulemaking on mining. DEQ concluded that, while the rule would restrict any mining that could degrade water quality, current restrictions on mining, such as the proposed 20-year mineral withdrawal and the Oregon Water Resources Department process, would likely prevent mining. Dave Hunnicutt (Oregon Mining Association) noted that the 20-year withdrawal hadn't been approved and the current segregation would expire on June 28, 2017, which could result in mining be allowed. Chris Park (Rogue River-Siskiyou NF) noted that, while there are existing claims, they would need to be validated, which is an intensive process. Becky Crockett asked DEQ to clarify or remove a statement from the Issue Paper suggesting that local citizens wouldn't be hired for mining jobs.

Pan mining

Aron Borok noted that the proposed rule would not impact pan mining.

Grazing

Aron Borok noted that the proposed rule would not impact grazing, because, even if grazing could occur in the area, the U.S. Forest service would likely require controls used to protect water quality irrespective of the ORW designation. Gordon Lyford noted that the NRCS soil survey of Curry County shows that more than 98% of the NF Smith River watershed is considered unsuitable for grazing. Chris Park verified this conclusion.

Forestry

Aron Borok noted that the proposed rule would not impact forest harvest on Forest Service land under current management plans and designations. He noted that the Department of State Lands did not have immediate plans to harvest the 555 acre Common School Trust Fund parcel and had it on a list to remove the parcel (i.e., sell it) from the Fund. He said that the rule, because it would potentially restrict any forest harvest that would degrade water quality, could decrease future sale value of the parcel if DSL decides to sell it. Several uncertainties and unknowns about the fate and value of this parcel were discussed. DEQ will ensure that these uncertainties are identified in the fiscal impact statement and will be clear about impacts to current and known activity versus possible future scenarios that are uncertain or unknown at this time.

Recreation

Aron Borok noted that the proposed rule would continue to protect the area for recreational activities. Scott Jones (Wild and Scenic Rivers) noted that the area is becoming popular for fishing, rafting, hunting, hiking, bird-watching, mountain biking and kayaking. Members noted the south coast markets itself as the “Wild Rivers Coast” for purposes of promoting their tourism and recreation industry.

Advisory committee discussion on implementation

Becky Crockett noted that the Issue Paper did not include water quality data from a 1979-1980 study on the Gasquet Mountain mine. She disagreed with DEQ’s conclusion that there wouldn’t be fiscal impacts from the rule and asked DEQ to include a discussion of how much land in Curry County is owned by the federal government.

Maryanne Nash (Oregon Farm Bureau) said that DEQ’s discussion on the need for the designation in the Issue Paper was insufficient because there were no risks to water quality. Gordon Lyford said that under federal law, DEQ is required to designate the area as an ORW if it qualifies. Lisa Brown (Oregon Waterwatch) noted that the requirement in Oregon’s rule was that, where existing water quality constituted as extraordinary resource waters, or as critical habitat areas, that water quality must be maintained and said that there wasn’t a specific requirement to do a needs analysis. Maryanne Nash said she was asking DEQ to follow the Commission’s direction. Gordon Lyford (Wild Rivers Water Watch) said that the designation would not take land away from the public, but keep it in public ownership and that there would be a significant positive impact from the rulemaking.

Scott Jones asked if there would be funding as part of the rulemaking to provide money to add management to the Outstanding Resource Water. Debra Sturdevant said that there was no funding associated with the rulemaking.

Break

Fiscal Impacts

Aron presented DEQ's analysis summarized in the statement of fiscal impact.

Dean Finnerty (Trout Unlimited) noted that not passing the rule would have a significant impact on fishing.

Aron Borok noted that the rule likely would not have a significant impact on state agencies. It may reduce costs associated with issuing permits or coverage under a general permit. Pam Blake (DEQ) suggested that the same would be true for Department of State Lands, because they also are involved in permitting of suction dredge mining. In addition, she said DEQ should examine impacts to DOGAMI, which oversees surface and underground mines. DOGAMI would no longer issue mining permits if the area is designated ORW. Conversely DOGAMI would not collect taxes on mineral extraction.

Aron presented information on fiscal impact due to potential restrictions on nonfederal timber harvest. Becky Crockett noted that the timber value of the DSL land noted in the fiscal analysis underestimated the actual value because timber prices have increased in the last ten years. Gordon Lyford noted that the fiscal statement should note the marginal impact of the rule, because logging could occur in the parcel without degrading water quality if adequate practices and protection were used, such as selective logging.

Debra Sturdevant noted that one option that people could suggest in public comments was to exclude the DSL parcel from the ORW designation if they felt the fiscal impacts to the Common School Trust Fund would be high. Dean Finnerty noted that he supported keeping the parcel in the designation in order to protect the water leaving the lands. Gordon Lyford noted that under the Clean Water Act, an upstream State cannot pollute a downstream State's waters.

Aron Borok discussed fiscal impacts associated with mining. He noted that DEQ would include in its analysis a scenario assuming mining could occur with discussion of the uncertainties. Dave Hunnicutt suggested DEQ examine DOGAMI's mineral inventory. Barbara Ullian noted that the U.S. Forest Service Mineral Potential Report said that the nickel in the region was low quality and that there is natural occurring asbestos in the area. She noted that mining has never been found to be economically viable to develop. The committee also noted that two other mining companies besides Red Flat Nickel Corporation had claims in the watershed but that there are no validated rights at this time.

Aron Borok discussed the fiscal impact analysis associated with recreation and noted potential positive impacts from maintaining water quality, as the area appears to be becoming more popular with recreation.

Dave Lacey (South Coast Tours LLC) noted that there is economic benefit from the research that occurs on fish in the region, such as that done by the Smith River Alliance and Humboldt University, which would not occur if it was not such a unique and high water quality area. Gordon Lyford noted that several businesses in O'Brien including a grocery store, deli, restaurant and gas station benefit from groups that enter the watershed from that side of the watershed.

DEQ agreed to include scenarios in the Fiscal Impact Statement analyzing marginal fiscal impacts with and without timber harvest and mining, as well as a scenario examining impact of current activities.

Kevin Mealue (Elk Valley Rancheria) noted that the proposed rule would benefit recreation not only in Oregon, but also northern California and that it protect water supply for downstream communities. He also noted that cultural resource values and the rights of the tribes to hunt, gather, and fish would be protected by the ORW designation. Dave Lacey said he would provide information on revenue from Redwood Rides rafting tours. Gordon Lyford noted that there are riparian water rights in California (domestic water use by riverside residents) that the rule would protect and that it also would protect water quality for irrigation downstream.

Public comment

Eileen Cooper (Friends of Del Norte) provided comment. She said she was encouraged that the process is moving forward, that DEQ is correct in assessing that there would be no impact due to loss of forest harvest and that there could be careful harvest that would not harm the river. She said that DEQ understates the great benefits of ORW designation. She noted that the quality and pristine nature of the area attracts tourists, providing an economic benefit to the community.