



**BEFORE THE OREGON BOARD OF FORESTRY**  
**Mary Scurlock, Oregon Stream Protection Coalition**  
**Re: Eastern Oregon, Blue Mountain and Siskiyou Geographic Region Streamside**  
**Protections Review (Agenda Item 7)**  
*July 25, 2017*

This agenda item reports on work in progress, and staff is not requesting a specific Board decision. The focus today is on whether the information staff currently intends to generate for the Board will be adequate for the Board to make a decision about how it will focus monitoring resources to address the adequacy of stream protections.

On behalf of Oregon Stream Protection Coalition's 25 national, regional and local organizations, I would like to take this opportunity to comment on project focus, the decision timeline, and landowner advisory committee input.

A word on process. Because the staff work is extremely preliminary, it seems to us that the Board should request at least one more report from staff before the Board actually selects its path forward, at which interim point the Board could consider the adequacy of a more developed conceptual decision framework.

**Project Focus and Timeline**

We fully appreciate that there are other riparian functions than those related to shade and stream temperature that are relevant to Forest Practices Act objectives and Board duties. But given that the Charter Work Plan states a broad objective for this project: to develop "a list of monitoring questions related to the effectiveness of FPA riparian protection standards in Eastern Oregon and the Siskiyou geographic region," we'd urge the Board do what it can to focus monitoring resources on specific questions as quickly as resources allow.

It is clear that this Board's decisions to exclude these regions from the westside Protecting Coldwater Criterion/SSBT rulemaking precipitated initiation of this geographically-focused monitoring project. Therefore, it would be logical for the Board to prioritize adequacy of the stream protection rules to protect stream temperature in these regions. As we did when the PCW/SSBT rulemaking was initiated, we urge attention to the specific parameters of state water quality standards for temperature as expressed by the PCW, ambient standards and TMDL load allocations for nonpoint sources.

Whether or not other questions also are addressed, initial priority should be placed on addressing: 1) whether best available information supports a finding/presumption that the current stream protection rules are adequate to maintain and restore stream temperatures as required by water quality standards in eastern Oregon and the Siskiyou. This would address whether there is a strong basis NOT to extend the scope of inference



from Ripstream to these regions; 2) whether there is additional information the Department gather or generate with existing resources and within some reasonable timeframe to inform the question of what rules would be adequate? We concur with staff's idea of presenting options for the Board that address study rigor; we would add that this consideration should be explicitly linked to an assessment of the level of scientific uncertainty around an issue.

Regarding timeline, we urge the Board to set clear expectations on a timeline for staff to generate the information it will need to make a decision about the critical questions it wants answered and how. We have concerns about any timeline any longer than *four to six months* for selecting questions for the monitoring unit to focus on.

### **Advisory Committee Input**

We won't respond in detail here to the input from the three landowner advisory committees. In general, we have concerns about why the opinions of these landowner representatives are being shared on behalf of the committees when no other stakeholder input is being shared with the Board or the public. The appearance is that input from landowner stakeholders is given more weight and Board airtime than that from other stakeholders, despite the fact that staff has characterized the purpose of stakeholder input in this context to elicit the full range of stakeholder views. Further, the development of committee opinions and positions about how and whether to conduct scientific research seems outside the scope of these committees, i.e. the operational implications of actual policy change proposals.

We will also make a couple of initial responses to the committees' input.

- The landowner perspective seems to be that each region should be assumed to have "unique riparian functions" that can only be understood by launching new region-by-region research projects to determine whether a problem with current rules exists. In our view, recommending this approach makes unsupported assumptions that valid inferences adequate to the purposes of this monitoring program cannot be made from existing research. We look forward to seeing the monitoring team's own analysis in this regard.
- The landowners also call for biological monitoring, such as "fish abundance and size." Respectfully, we disagree that these are likely to be informative metrics for a host of reasons. While this kind of research is important and has a place, at the present time it is not in the ODF's underfunded monitoring program. We urge the Board to focus on monitoring for parameters that relate directly to attainment of the objectives of the Forest Practices Act – the water quality standards designed by DEQ to protect fish and other beneficial uses. It is DEQ's job to determine what parameters are necessary to protect beneficial uses, and it is ODF's job to meet those



parameters.<sup>1</sup>

- The Committee for Family Forestlands provided opinions about the “general approach to collecting appropriate data to inform” the streamside protections review. We believe that that adding a fish population study would be costly, time consuming, highly unlikely to be scientifically informative as proposed, and irrelevant to the already extant policy and legal context, which has already been considered at length and integrates known effects on fish.
- Regarding the EOAC’s endorsement of the 2003 “ERFAC” report, the Board should recognize that this report reflected only landowner views: the sole conservation-oriented member of that committee actually wrote a letter attached to the report that expressed the view that conservation interests were not adequately represented. With respect to the EOAC’s opinion on the extreme complexity of Eastern Oregon ecosystems, we must respectfully disagree. *Eastern Oregon streams are no more complex than any other streams. In terms of temperature and shade relations specifically, they are the same.*
- The EOAC does make some astute observations on Idaho rules and how they lay down on the ground, and we urge ODF to explore this further, in addition to both CA and WA rules. In Idaho, it is our understanding that the common outcome of no-cut 50-foot buffers being required to achieve shade and stocking objectives simply reflects the biophysical reality of the riparian forest situation in the interior west.
- We are further concerned about the EOAC’s implication that that fish use streams that are dry or have intermittent dry reaches in the summer should not be equally considered as other fish streams purposes of riparian protection. This implication bears further scrutiny for its ecological basis. *In Oregon, a stream or lake has fish use if it is occupied—at any time of year—by fish that are anadromous, game species, or listed as threatened or endangered under the state or federal endangered species acts, unless fish are present due only to introduction.* There is currently no regulatory or other reason of which we are aware to treat periodically dry reaches of perennial fish use streams differently than other fish use reaches.

---

<sup>1</sup>The protection goal for water quality, per ORS 527.765 is to ensure through the described forest practices that, to the maximum extent practicable, non-point source discharges of pollutants resulting from forest operations do not impair the achievement and maintenance of the water quality standards.