



Submitted via email to: BoardofForestry@oregon.gov

**RE: Comments on Petition for Rulemaking, Coho salmon**

Dear Members of the Board of Forestry,

Please accept the following comments from Cascadia Wildlands. The petitioner organizations are deeply invested in the recovery and protection of the coho salmon, and hope that this petition, and the Board of Forestry, can use this information to take the initial strides necessary for the conservation of these native Oregon fish.

The petition to the Board of Forestry (the Board) asks that the Board uphold its statutory obligations proscribed in the Oregon Forest Practices Act with respect to commencing resource site identification for coho salmon. The relationship between responsible forest practices and species level protection are plainly connected by statute. ORS 527.710 enumerates the duties and powers of the Board, and the rules it must adhere to with respect to resource protection. The language of the statute is perhaps clearest in subsection (3), which explicitly states that the Board “shall collect the best available information and establish inventories” of a number of sites. Again, this obligation is not optional, nor discretionary. It is corroborated not only by the Oregon Administrative Rules, but also by State policy. OAR 629-680-0100 establishes the uncomplicated process that the Board of Forestry must follow when identifying and protecting resource sites used by a species, and ORS 527.630 connects the statutory duties to the official policy position of the State.

Because the Department of Forestry has made no progress toward identifying the resource sites for coho salmon in the last two and a half decades, there have been no proposals for protection, to date. That is to say, despite the fact that three evolutionarily significant units of coho salmon in Oregon are federally threatened, the Department of Forestry has still not made progress toward fulfilling their statutory duty. This inaction contributes to the threat that the coho salmon face, and the identification of resource sites and protections are long overdue.

Rectifying this situation simply requires the Board of Forestry to follow the processes clearly set out by the relevant statutes and rules. Further inaction will not only be detrimental to the coho salmon, but also to the communities, stakeholders, and citizens that put their trust in government entities to make the right decisions.

The scope of this issue is important to me for a variety of reasons. As an environmentalist and a representative of Cascadia Wildlands, I appreciate being able to engage directly with the individuals who have before them a chance to end the streak of inaction. The Board can do so by proposing protections for the coho salmon. I see this as a meaningful opportunity for the Board to begin the rulemaking process, and I appreciate their time and efforts in reviewing this petition. In addition, I see this process through the lens of a rising second year law student. Part of being a

good law student is asking the right questions before dissecting the issue at hand. Sometimes, these issues are complicated, so much so that asking the right question feels impossible. But this is not such a situation. While I am not a legal expert, the only identifiable question seems to be, “Why is it that the Board of Forestry and Department of Forestry have not met the clearly proscribed statutory duties, as a matter of law?”

Petitioners here today are publicly interested individuals and non-profit organizations who advocate for environmental protections based upon the best available science and legal research. Similarly, the statutory requirements of the Board direct it to make its own decisions using the best information and science. As of today, it has not done so, but the consideration of this petition allows the Board to repair that disconnect. Finally, I find it important to note that the consequences of inaction are substantial. Accordingly, I hope that the Board takes these comments seriously in considering whether it wishes to adhere to its obligations.

Sincerely,

Noah Mikell  
Legal Intern, Cascadia Wildlands  
University of Oregon School of Law, Class of 2021