

Proposed protection rules for Salmon, Steelhead and Bull Trout
Streams in the Siskiyou Geographical Region

Public Hearing

Held September 23, 2020 via ZOOM meeting format

Attendees:

Robyn Janssen, Seth Barnes, Meghan Tuttle, Mary Scurlock, Dan Brown, Tere O'Rourke, Kelly Droege, Josh Barnard, Jay Walters, Greg Wagenblast

Actual Time Hearing Started: 06:06 p.m.

Actual Time Hearing Closed: 06:24 p.m.

Greg Wagenblast:

This public hearing is now in session and it is being digitally recorded to maintain a permanent record. My name is Greg Wagenblast, and I will be the hearings officer for tonight. Today is September 23, 2020, and the time is 6:06p.m., we are holding, we are in holding this Virtual hearing thru Zoom and phone lines for the Oregon Department of Forestry based out of Salem Oregon. This hearing is being conducted in accordance with the Oregon Attorney General's rules under the Administrative Procedures Act. The purpose of this hearing is to provide an opportunity for public comment on the proposed rules by the Oregon Board of Oregon, Board of Forestry for Expanding water rules on small and medium salmon, steelhead, and bull trout streams in the Siskiyou Geo-region.

In 2017 the Board of Forestry adopted rules for Salmon, Steelhead and Bull Trout Streams for Western Oregon with the exception of the Siskiyou Geo-region. The purpose of this proposed rule amendment adds the Siskiyou Geo-region to the existing OAR 629-642-0105(2) that provides for streamside shade buffers with Salmon, Steelhead and Bull Trout streams. The proposed rule amendment will add Siskiyou to the list of Geographic region areas on table 5 of OAR 629-642-0110 and to table 6 of OAR 629-642-0110. The agency invites comments about whether other options should be considered for achieving the rule's goals while reducing the negative economic impact on business.

Tonight each person who indicated on the registration list that they would like to testify will be called upon individually. At that time unmute your microphone or phone and for the record, state your name (please spell your last name) and your address. If you represent an organization, please state the name of the organization and indicate whether you are in favor of or opposed to the proposed rule as well. You may then

present your comments. We will start your 5 minute timer as you start your testimony. If you have written material to enter into the record, please try to summarize it and then fax or email a copy of that material to ODF as listed on the comment submission slide (which will be show at the end of the hearing. Again, please remember these written comments must be received no later than 5pm on September 28, 2020). This hearing is being electronically recorded for the record and will be used to prepare a hearings report.

With this process tonight, each person will have no more than 5 minutes to comment. Please respect the time of other people testifying tonight and remain within this time limit. The screen will show you green when you start your testimony and will move to yellow indicating you have 30seconds to wrap up, when the screen turns red your time is complete. For the audience, please be polite and respectful of individual comments, and please keep your microphones or phone muted to avoid disruptive sounds.

In addition to presenting oral comments at this hearing on the proposed rules, anyone may submit written comments until 5 p.m. on Monday September 28, 2020, which is the close of the public comment period. Send comments to Private Forest – Attention Greg Wagenblast, Building D, Oregon Department of Forestry, 2600 State Street, Salem Oregon 97310; or send as an email to privateforests.publiccomment@oregon.gov or by FAX (503) 945-7490. These methods are listed on the screen and... listed on the screen now. At this late date, I would encourage you to utilize other electronic delivery methods for your comments rather than US Mail as it most likely will not be received by the deadline. Comments received after 5 p.m. on September 28, 2020 will not be reviewed or considered by the agency unless the agency decides to extend the public comment period for everyone.

The Oregon Department of Forestry will not respond to questions during this hearing. After the close of the public comment period, a hearings report will be prepared for the Department of Forestry and the Board of Forestry. This report will be available from the agency online at <http://egov.oregon.gov/ODF>, or by contacting Jim Gersbach at 503-945-7425 or Jim.GERSBACH@oregon.gov.

And with that, I will begin taking comments. I think the first person we had on the list was.... Oh we will back up on slide here, so on the screen in front of you guys there is the timeline we have been talking about for the rules. We are taking public comment until September 28th, 2020 at 5:00p.m.. We will summarize all the responses and put together the report for the Board of Forestry November 4th, 2020 Board of Forestry meeting for their consideration and adoption. And if they are adopted at the November board meeting, they will become effective January 1, 2021.

So with that, it appears the first person on our list is Robyn Janssen, I apologize if I butcher some of your names. So, Robyn if you are ready to go.

Robyn Janssen:

Ya, Robyn Janssen, I am in Ashland Oregon. I am with Rogue RiverKeeper and we are for the proposed rule. I just want to start by thanking you Greg and the ODF staff for the opportunity to provide public comment today. I also want to begin by expressing gratitude to those fire fighters, first responders and everyone on the front lines protecting our local community recently from the Almeda, South Obenchain and Slater Fires that were recently impacted the Rogue Valley and its watersheds, so thank you to all of those folks, there are many of them.

Again my name is Robyn Janssen and I am the director of Rogue RiverKeeper based in Jackson County in the Siskiyou Geo-region. And Rogue Riverkeeper is a non-profit organization based in Jackson County within the Siskiyou Region that works to protect and restore clean water, native fish, and healthy communities in the Rogue River Basin. And On behalf of our members and supports we support the proposed rulemaking to apply Salmon, Steelhead and Bull Trout or SSBT stream buffer standards adopted in 2017 Western Oregon to the Siskiyou region.

First, we want to be clear that, although this rule change is an improvement to current protections that apply in the Siskiyou, neither the Board nor the legislature has made any associated findings that the current stream buffer standards for the Siskiyou are sufficient to meet water quality standards for temperature. Further, no findings were made regarding the sufficiency of current standards to meet any other water quality standards, for any TMDL, or as the basis for an approvable Habitat Conservation Plan under the Endangered Species Act. The proposed rulemaking to apply the SSBT standards to the Siskiyou is a direct result of Senate Bill 1602, and does not reflect any decision or finding regarding whether or not the current standards are sufficient to protect water quality under the Clean Water Act.

Second, we want to reiterate that the science is clear that only 120-foot buffers will achieve compliance with the Protecting Cold Water (PCW) criterion to the maximum extent, or nearly 100% of the time. Even the final "Siskiyou Streamside Protections Review" released in the September 9th Board packet reiterates this point. A 100-foot buffer is expected to meet the PCW 80-85% of the time. A 90-foot buffer is expected to meet the PCW 50% of the time. The SSBT buffer standards require 60-foot and 80-foot buffers respectively on small and medium streams. As a result, the SSBT standard creates a high degree of risk that the PCW will not be met.

Further, we would emphasize that there are six temperature TMDLs within the Siskiyou region and five of those have a Human Use Allowance of 0 degrees Celsius. The Rogue Basin TMDL has an HUA of 0.04 degrees Celsius.

As a result, we expect that riparian protections on small and medium SSBT streams will be on the table for future policy development as part of the statewide Habitat Conservation Plan discussions. Thank you for the opportunity to provide to comment in support of the proposed rulemaking to apply the SSBT Standards to the Siskiyou Geo-region

Greg Wagenblast:

Did I lose you Robyn or am I off line ?

Jay Walters:

Greg, you were breaking up again there

Greg Wagenblast:

Okay, I think the weather is playing a little bit of havoc.

Jay Walters:

You are all clear now though

Greg Wagenblast:

So, there are a couple comments or questions in the thing saying the screen saying the record closed at 5:00p.m. Today, but also... Yes, the record does not close until the 28th, next Monday.

So, I think... Robyn are still there?

Robyn Janssen:

Yes I am

Greg Wagenblast:

Did you get everything on the record you wanted?

Robyn Janssen:

I did, Ya and we are sending written comments as well ya, thank you

Greg Wagenblast:

I apologize folks if I am breaking up, with this wind storm going on, it is making connections a little wonky with things here. As far as I know, Robyn was the only one that signed up and said she wanted to testify. There were several others that said maybe, so Seth Barnes were you interested in testifying?

Seth Barnes:

Breaking up a lot there Greg, but think I heard my name. No, not at this time.

Greg Wagenblast:

Okay, Megan Tuttle?

Meghan Tuttle:

I am fine thank you

Greg Wagenblast

Mary Scurlock?

Mary Scurlock:

I am in accord with the Rogue Riverkeeper and Wild Salmon Center comments and will not testify tonight, thanks

Greg Wagenblast:

How about Kelly Droege?

Jay Walters:

We just lost you again there Greg

Greg Wagenblast:

How about Kelly, does Kelly want to testify?

Jay Walters:

We heard you fine there Greg, I am not hearing Kelly

Greg Wagenblast

Okay, Dan Brown?

I don't hear anything from Dan, Is there anybody else out there that is on the line that wants to testify?

Is there anybody else on the line that wants to testify tonight?

Okay with that, the contact information stuff is up on the screen and... seeing's how we have gone through everyone and offered up opportunities, at this point unless there any questions or anything more that someone wants to add, we will go ahead and end the public hearing at this time. I appreciate everybody attending and taking the time to participate in our hearing with us tonight. Thank you

Jay Walters:

Greg, you might want to put the contact information back up on the screen.

Greg Wagenblast:

Is it not there

Jay Walters:

I am not seeing it

There we go

Greg Wagenblast:

Its there now?

Jay Walters:

Yes

Greg Wagenblast:

Okay

I think we need to pick a better day when it is not so stormy

Meghan Tuttle:

Thank you Greg and ODF for going through this process. We appreciate this opportunity and all of the information you shared.

Greg Wagenblast:

Thank you

I will official end the hearing now at 6:24p.m.