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BEFORE THE OREGON BOARD OF FORESTRY **Statement of Mary Scurlock**

Re: Agenda Item Number 9 -- Water Quality Protection and Riparian Rule Analysis
3 September 2014
Salem, Oregon

State Forester Decker, Chair Imeson and members of the Board, thank you for considering my input today. My name is Mary Scurlock and I am here on behalf of the 22 organizations of the Oregon Stream Protection Coalition. We strongly urge you to accept Department staff's recommendation to accept the June 23, 2014 workshop summary and direct the Department to present the Board with a rule alternative or alternatives (though not specific rule language) in November that meets the Protecting Coldwater Criterion of Oregon's stream temperature standard. The rule alternatives would be presented with further recommendations about the geographic regions and stream segments to which they would apply and with preliminary economic analysis related to buffer prescriptions. You would also be presented in November with an evaluation of how the proposed prescriptions would bear on large wood recruitment and voluntary measures for large wood.

In supporting the staff's recommendation, we are urging you to reject other options that have been described by staff and promoted by some members of the Board and other stakeholders. Specifically:

- The Board should not formally include large wood recruitment as a rule objective. As much as my community wishes that this rulemaking could have been more holistic and designed to address the serious deficiencies of large wood in Oregon's streams as well as issues related to road sediment and management impacts on mass wasting regimes, we supported the narrow scope of this rule process because of the clear performance objective the Protecting Coldwater Criterion provides. We agree with the Department that expanding the scope of this effort now would delay policy change for months or years.
- The Board should not revisit prior determinations in this rule process, all of which had a rational basis, were made through a transparent public process with stakeholder input and none of which are undermined by significant new information or changed circumstances.
- The Board should not request the Environmental Quality Commission to change the Protecting Coldwater Criterion. The existing statutory structure creates an expectation

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♦Institute for Fisheries Resources ♦KS Wild♦ McKenzie Flyfishers ♦Native Fish Society ♦Northwest Environmental Advocates♦
♦Northwest Guides and Anglers♦Northwest Sportfishing Industry Association♦Oregon Wild♦
♦Pacific Coast Federation of Fishermen's Associations♦Pacific Rivers Council ♦Rogue Riverkeeper ♦
♦Sierra Club ♦The Wetlands Conservancy♦Washington Forest Law Center ♦Wild Salmon Center ♦

that the Board will defer to the EQC in matters related to the substance of water quality standards, particularly one for which there is such strong support at both the state and federal levels -- as the June 23 workshop made clear. In our view, a formal request by the Board to the EQC for a water quality standards rule change should be reserved for extraordinary circumstances where there is no rational policy, legal or ecological basis for such a rule. Such is not the case here.

- The Board should not focus now on issues that are not directly related to the achievement of its primary objective, which is to develop rules to meet the Protecting Coldwater Criterion on small and medium fishbearing streams. It is simply not the right time to take up whether and how the location of temperature-impaired streams (“303(d)” streams with or without TMDLs), or the location of stream segments determined by other processes to be of high or low ecological value, or the location of reaches that may have particular sensitivities or insensitivities to management might be relevant. The Board needs to focus on determining what practices meet the standard and where the standard applies.

We hope you will consider the following in your deliberations:

- *Oregon’s salmon, steelhead and bull trout have waited long enough:* there has been uncertainty around the adequacy of the forest practice rules to prevent harvest-related stream warming since the late 1990s, but rule change was deferred pending the completion of the RipStream study, approximately 2002-2010. Now almost three years of work by the Board and Department have been dedicated to this rule analysis since the “degradation finding” in January 2012 on the basis of RipStream -- including an extensive science review that validates RipStream as among the best available scientific studies on the subject.
- *There are more decisions ahead.* Continuing with the rule process laid out by the Department does not tie the Board’s hands to shape the final outcome. There are still several key decisions ahead that are within the Board’s discretion, most notably including the specific rule prescriptions that will be adopted, their geographic extent, and the appropriate role of voluntary measures.
- *Adaptive management without policy change is a broken promise.* As a matter of public process, this Board’s failure to pursue meaningful policy change after an evidence-based deliberative process that began over a decade ago would be perceived by my community as an extreme institutional failure that demands recourse through whatever political, legislative, and legal means available. We would prefer to work as stakeholders within a successful adaptive management program.