

**TESTIMONY OF  
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ENVIRONMENTAL PROTECTION AGENCY, REGION 10**

**BEFORE THE OREGON BOARD OF FORESTRY, JUNE 3, 2015**

Good morning, Chair Imeson and Board Members. My name is Alan Henning. I'm one of the Forest Team representatives for the Watershed Unit for the US Environmental Protection Agency's Region 10 Office. Thank you for the opportunity to share my thoughts with the Board Members.

Today, I'm going to talk about EPA's role as it relates to water quality and fish in Oregon, our support for the Riparian Rule and why it's important, what we believe the rule should address, and how this relates to the approvability of the Oregon's Coastal Nonpoint Program.

**EPA's Role.** EPA implements the Clean Water Act in partnership with states and tribes. This includes acting on the state's water quality standards, 303(d) Integrated Report, total maximum daily loads (TMDLs), the state's nonpoint source control programs and overseeing NPDES permits issued by the state. We work closely with the Oregon Department of Environmental Quality (DEQ) and other state agencies on these efforts. EPA is also responsible for overall implementation of the Safe Drinking Water Act in partnership with the Oregon Health Authority and DEQ.

EPA gives technical and financial support to states and tribes to help them implement programs that protect and restore surface and drinking water. Where states and tribes fail to carry out Clean Water Act responsibilities, or when directed by the Courts, EPA is required to take the actions needed to meet national water quality goals.

**Why the Riparian Rule is Important.** There are 12 million acres of non-federal forest land in Oregon. The management of these lands affects drinking water sources, water quality, and aquatic habitat for several species of threatened and endangered fish, including salmon, steelhead and trout. . Because forest practices have direct and important effects on water quality and fish habitat, the riparian rule analysis has significant implications for EPA's work to protect human health and the environment, and we have closely tracked and reviewed this rule development process.

EPA recognizes that Oregon was one of the first states in the country to develop forest practice rules and regulations. . The current riparian rule analysis is the culmination of a process that started in the

late 1990s and includes the 1997 Oregon Coastal Salmon Restoration Initiative<sup>1</sup>, Oregon's 1999 IMST report<sup>2</sup>, the 2002 Sufficiency Analysis<sup>3</sup>, and the recent Ripstream studies<sup>4</sup>. Collectively, these efforts have found that existing forestry practices do not ensure that streams in managed forests will consistently meet water quality standards, or fully provide for riparian functions important to water quality and fish. With stream temperature directly affecting fish health and behavior, a revised riparian rule with adequately larger buffers on small and medium fish-bearing streams will ensure stream temperature provide the cold stream temperatures critical to fish health. The revised riparian rules will also improve drinking water and surface water quality by reducing runoff from other pollutants such as fine sediment, toxics, and nutrients.

**What the Rule Should Address.** EPA supports a Rule that includes all small and medium fish-bearing streams to *protect existing* cold water and *restore* cold water in streams that currently exceed temperature standards. EPA also believes greater protection for non-fish bearing streams is warranted, especially where non-fish bearing streams contribute pollutants to fish bearing streams.

7732 miles of Western Oregon streams and rivers have been or are currently impaired for temperature which impacts fish and other organisms that rely on cold water to live and grow. EPA strongly supports a Riparian Rule that includes all small and medium fish-bearing streams, regardless of their status under section 303 of the Clean Water Act. A Riparian Rule with a scope limited to streams that are listed as unimpaired, or to streams without a TMDL in place would exclude a large universe of streams with high temperatures that need to be restored. It would be counterproductive to continue to implement existing forest practices on streams with temperature impairments when it has been demonstrated that those practices are not adequately protective of cold water.

**Type "N" Streams.** There are over 73,000 miles of fish and non-fish bearing streams in Western Oregon of which, only 8,351 miles or approximately 11% are Salmon, Steelhead and Bull Trout streams (SSBT). While EPA supports riparian rule revisions that will provide greater buffer protections for all

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<sup>1</sup> [http://www.oregon.gov/OPSW/docs/ocsri\\_mar1997ex.pdf](http://www.oregon.gov/OPSW/docs/ocsri_mar1997ex.pdf)

<sup>2</sup> Independent Multidisciplinary Science Team. 1999. Recovery of Wild Salmonids in Western Oregon Forests: Oregon Forest Practices Act Rules and the Measures in the Oregon Plan for Salmon and Watersheds. Technical Report 1999-1 to the Oregon Plan for Salmon and Watersheds, Governor's Natural Resources Office, Salem, Oregon. <http://www.fsl.orst.edu/imst/reports/1999-1.pdf>

<sup>3</sup> The Oregon Department of Forestry and Department of Environmental Quality. 2002. Sufficiency Analysis: A Statewide Evaluation of FPA Effectiveness in Protecting Water Quality. Available at: [http://www.odf.state.or.us/DIVISIONS/protection/forest\\_practices](http://www.odf.state.or.us/DIVISIONS/protection/forest_practices)

<sup>4</sup> Groom, J.D., L. Dent, and L.J. Madsen. 2011. Response of western Oregon stream temperatures to contemporary forest management. *Forest Ecology and Management*, doi:10.1016/j.foreco.2011.07.012

small and medium fish bearing streams, EPA also believes greater protection must be provided for non-fish bearing streams (Type N streams), especially perennial “N” streams. Type N streams are often head water streams that provide critical cold water and large wood for meeting water quality standards, supporting beneficial uses and enhancing downstream fish habitat. Where Type N streams are not protected by adequate buffers and are impacted by increased temperature loading, that pollutant load can be delivered to the downstream type F streams, e.g., SSBT streams.

**Streams in Eastern Oregon.** EPA recognizes that the focus of the State’s riparian rule analysis has been on streams in Western Oregon and appreciates the level of ODF’s effort in its work. However, 303(d) temperature listings exist throughout the Oregon and where these listings occur, greater riparian protection may be needed as well.

**How Does This Relate to the Coastal Nonpoint Program/CZARA?** The Riparian Rule also overlaps with EPA and NOAA’s recent disapproval action in January 2015 of Oregon’s coastal nonpoint program. While EPA and NOAA acknowledged significant progress in Oregon’s nonpoint coastal program, we also identified gaps in Oregon’s forestry program as a basis for the disapproval. One of these was the inadequacy of current forest riparian buffers on small and medium fish bearing and non-fish bearing streams. While the current riparian rule revision process is not considering greater protection for non-fish bearing streams, a Riparian Rule with an appropriate buffer width applied to all small and medium fish bearing streams would be significant progress toward moving the State’s program to approvability. Although other areas in forestry would need to be addressed for full approval of Oregon’s forestry measures, the rule would fill a significant gap identified in EPA and NOAA’s evaluation of Oregon’s forestry program in our agencies’ disapproval action. If the Board of Forestry would like to hear more information on our CZARA findings on forestry at another meeting, we would be very happy to have a dialogue with more detail on the other areas that EPA and NOAA identified.

**Closing Words.** Riparian management areas on small and medium fish bearing streams and non-fish streams that are important cold water sources for fish bearing streams provide protection and restoration of riparian functions important for fish and water quality. We applaud the Board of Forestry for considering amending the Forest Practices Act regulations to provide greater protections on Oregon streams and urge you to move forward on adoption of such rules.

I want to thank you again for the opportunity to provide this testimony and would be happy to answer questions you may have at this time.