



BEFORE THE OREGON BOARD OF FORESTRY
Mary Scurlock, Oregon Stream Protection Coalition

Re: Update on scoping riparian protection monitoring questions, methods and timelines in eastern Oregon and Siskiyou geographic regions

(Agenda Item 9)

January 3, 2018 (transmitted to the Board on January 5, 2018)

Thank you for the opportunity to testify on behalf of Oregon Stream Protection Coalition's 25 national, regional and local organizations.

We continue to urge the Board to focus on its clearest, most unequivocal, mandatory duty: to meet water quality standards through the stream protection rules. Your duty here is to serve the interests of the public at large, not only those of the regulated community. And while the Forest Practices Act urges you to seek the least burdensome regulatory solutions, these solutions must nonetheless actually meet water quality criteria, including the Protecting Coldwater Criterion.

This Board has long had before it, via the RipStream study, strong evidence that current stream protection rules are inadequate to meet the Protecting Coldwater Criterion applicable to Salmon, Steelhead and Bull trout streams and upstream reaches that feed them. You have decided on at least two separate occasions since these study findings first came to you in 2009 that not to act on this evidence to make a rule change in either Eastern Oregon or in the Siskiyou. Yet neither of these decisions was supported by evidence that valid inferences could not be made to either region, nor has this Board acted to date to collect additional evidence. (This Board specifically chose in 2012 not to include studies from interior forests in its scientific evidence review for the SSBT rule, guaranteeing that Eastern Oregon would remain "out of scope" on the question of rule adequacy for stream temperature).

There is no question that the Board has a duty to monitor its rules to determine whether they actually meet water quality standards. It is important to remember that the OFPA explicitly provides assurances to landowners that they will not be prosecuted for water quality violations if they follow these rules. The Board's priority should be to validate that the rules merit what amounts to a blanket statutory finding of legal sufficiency. Otherwise this whole arrangement is just a shell game.

From where I sit the current situation in the Siskiyou and Eastern Oregon rises to a dereliction of duty.

I repeat my admonishment to you made at prior meetings: the best available evidence supports a working presumption that the current rules are inadequate in eastern Oregon and in the Siskiyou and that sensitive resources are being degraded. There are strong



inferences that can be made from existing research that likely can be validated or calibrated short of launching an entirely new long-term research study.

Eastern and Southern Oregon streams are not more complex than other streams in terms of temperature and shade relations, and there is no credible reason to believe that current rules are working any better there than they are in western Oregon.

The need to act in the Siskiyou is illustrated by widespread elevated water temperatures, the findings of EPA and NOAA Fisheries with regard to their CZARA disapproval of Oregon's nonpoint plan and with NOAA Fisheries findings in its recovery plan for southern Oregon Coastal Coho and other sources.

The need to act in Eastern Oregon is illustrated by widespread elevated water temperatures and the recognition that forest practices on private lands are a problem for imperiled coldwater fishes in science-based federal recovery planning documents (*see e.g.* USFWS Columbia River/Klamath Bull Trout ESU Recovery Plan, 2002 and others), and other sources. There is a significant amount of private forest land in the Eastern Cascades and Blue Mountains regions, as illustrated by the attached maps from Trout Unlimited. Many acres overlap with salmon, steelhead and bull trout streams and connected upstream reaches.

We note that Washington state's rules protect all available shade within 75 feet of Bull Trout streams east of the Cascade crest in Washington and requires significant retention of overstory trees outside that area on most streams -- a region comparable to eastern Oregon. Oregon's buffers provide only a 20 foot no cut buffer and relatively low basal area requirements that often result in 20 feet being the total size of the buffer on small and medium streams.

I commend to you the testimony of Rogue Riverkeeper dated January 3, 2018 encouraging you to approve a monitoring project focused on the Protecting Coldwater Criterion in Eastern Oregon and the Siskiyou at your next meeting in March.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Mary Scurlock", written in a cursive style.

Mary Scurlock, Coordinator
Oregon Stream Protection Coalition

Enclosures: 2 Maps