



BEFORE THE OREGON BOARD OF FORESTRY

*General Public Comment by Mary Scurlock, Oregon Stream Protection Coalition on
1) Debris Torrent Stream Implementation and Effectiveness, and;
2) Alternate Practice Approvals Allowing Tethered Equipment on Steep and Erosion Prone Slopes
and High Landslide Hazard Locations*

March 6, 2019

On behalf of the Oregon Stream Protection Coalition, I would like to flag two current issues of serious concern raised recently with Department staff and which we expect will be subject of ongoing dialogue. We believe both subjects deserve dedication of monitoring resources.

I. OSPC Analysis of Debris Torrent Streams

Background: The importance of wood delivery to fish streams from debris torrents was highlighted by the Independent Multidisciplinary Science Team's 1999 report on salmon and forest practices (IMST 1999) and in the 2000 recommendations of the Forest Practices Advisory Committee (FPAC 2000). A 2001 amendment to the Forest Practices Act added ORS 527.676 which authorized the State Forester to direct the wildlife leave-trees required for clearcuts (2 per acre) be left within 50 feet of up to 500 feet of certain Type N stream reaches that deliver to F streams. "Debris torrent-prone streams" (DTS) were generally defined to "include channels and confining slopes that drain watersheds containing high landslide hazard locations that are of sufficient confinement and channel gradient to allow shallow, rapid landslide movement." ODF finalized an implementing rule in 2007 and developed more specific screening criteria in 2008 which were applied using 10 meter Digital Elevation Model data to develop maps. So far as we know there has been no scrutiny of these criteria in the interim, nor have the maps been revised using higher resolution LiDAR data.

OSPC Siletz Analysis: Last fall OSPC retained Dr. Dan Miller to compare the Miller & Burnett 2007 model outputs with ODF's "debris torrent streams" (DTS) in the Siletz Basin. A summary of this analysis is attached. *Our analysis found that the ODF-designated reaches comprise only 1.1% of all potential debris torrent stream reaches on private forestlands in the Siletz, and 0% of those that deliver to high-intrinsic potential Coho reaches.* The results indicate to us that the ODF criteria do not identify either enough reaches or the right reaches to make an ecologically significant contribution to wood loading in fish-bearing reaches, the ostensible purpose of clumping trees along these reaches.

Need for Validation of Debris Torrent Stream Criteria: We would like to work with the Department to develop a monitoring work plan related to Debris Torrent Streams. This would involve consideration of the information we have already provided, as well as available literature and expertise to establish a clearer ecological objective for debris-torrent prone nonfish streams, e.g. what proportion of the channels likely to deliver to fish streams should be recognized?

These questions relate directly to at least two “high priority effectiveness questions” in the ODF Monitoring Strategy regarding protection of headwater (Type N) streams and the effectiveness of leave tree requirements at achieving overall maintenance of resources under the Forest Practices Act. Protection of Type N streams has been flagged as a deficiency in the forest practice rules under the coastal zone management statutes and in salmon recovery plans. It is time to dedicate monitoring resources to developing recommendations to improve identification and protection of debris torrent streams.

II. Approval of Plans for Alternate Practice to Waive Rule Prohibitions on Skid Trails Within 100 feet of Stream Channels on Steep and Erosion-Prone Slopes and Operation of Ground-based Equipment on High Landslide Hazard Locations

The Coalition has raised concerns with Department staff, State Forester Daugherty and Chair Imeson as to whether the Department is acting within its authority in routinely approving exceptions to two important rule prescriptions through plans for alternate practice to allow the location of skid trails created by tethered ground-based equipment within 100 feet of stream channels and to operate tethered ground-based equipment on steep and erosion-prone areas and on high landslide hazard locations. Applications for alternate practice approval are not subject to public notice and comment requirements like other written plans, but we are informed that over 70 plans to operate tethered equipment under rule waivers have been approved already, and more are expected under “template” and approval guidance recently adopted by the Department.

The reasons for our concerns are both legal and technical, and there isn’t time to detail them here. Our goal today is simply to alert the Board that we are in dialogue with Department about what the approval standard is for these alternate plans (we have provided a legal opinion letter on this subject), and whether there is a technical basis to demonstrate that standard is met. We have questioned whether waters of the state are being adequately protected by plans that locate skid trails closer than the default 100 feet from stream channels on steep and erosion-prone slopes and that allow heavy equipment on high landslide hazard locations. In our view, approval to operate outside the rule prescriptions prohibiting these practices requires the State Forester to find that less environmental damage will result, but it remains unclear whether there is, or could ever be, an adequate technical basis to make such a finding.

We urge the Board to exercise oversight of this issue, and to request a demonstration of how these routinely approved alternate plans are protecting waters of the state better than the rule prescriptions. Given NOAA and EPA findings that current forest practices rules are inadequate to protect waters of the state from forest operations on headwater streams and landslide-prone areas, it is hard for OSPC to understand how the Department can justify relaxing any existing rule prescription in these sensitive and under-protected areas – but that is exactly what the Department appears to us to be doing. In this context, we recommend intensive monitoring of the numerous already-approved operations.