



BEFORE THE OREGON BOARD OF FORESTRY

3 June 2015

Testimony of Dr. John Talberth, President and Senior Economist
Center for Sustainable Economy
16869 SW 65th Avenue, Suite 493
Lake Oswego, OR 97035-7865
(503) 657-7336
jtalberth@sustainable-economy.org

Re: Agenda Item 7: Developing Riparian Rule Prescriptions

1. Members of the Board, good afternoon. My name is John Talberth, and I am here representing the Center for Sustainable Economy and our membership, which includes individual, organizational, and business members statewide. We have a longstanding interest in modernizing Oregon's Forest Practices Act to bring it into conformance with widely endorsed principles of sustainable forestry and believe this riparian rulemaking process represents an important step along the way as long as the rules adopted are science-based, efficient in addressing multiple watershed stressors, and enforceable. I have five major points I'd like to touch on in this brief testimony.

2. First, I think it is critical to recognize that climate change is already contributing to an ambient increase in water temperatures towards thresholds of concern for coldwater fisheries. According to the most recent climate assessment published by the Oregon Climate Change Research Institute "[i]ncreasing air temperatures have been shown to result in higher instream temperatures and subsequent decreases in dissolved oxygen levels; both of which are important factors in the health and survival of endangered aquatic species. Meanwhile, higher peak flows and increased wildfire activity resulting from climate change are likely to increase sediment and nutrient loads to rivers and stream and have important consequences for water supplies and aquatic habitats." According to another recent study by PSU, "increases in riparian vegetation cover (from stream restoration) could partly counteract these effects." The upshot of

these two findings is quite simple: riparian rules should be designed to counteract, not contribute to the ambient warming already taking place due to climate change. This means that the rules you put in place should strive not for a .3 degree Celsius increase standard, but a non-degradation standard.

3. Non-degradation is, of course, the overall goal of Clean Water Act protections. The importance of effective Clean Water Act protections for all streams with discernible channels affected by this regulatory process has recently been underscored by the EPA's new rules on navigable waters, which recognize that "upstream waters, including headwaters and wetlands significantly affect the chemical, physical, and biological integrity of downstream waters by playing a crucial role in controlling sediment, filtering pollutants, reducing flooding, providing habitat for fish and other aquatic wildlife, and many other vital chemical, physical, and biological processes." The State also has a non-degradation aspiration for these waters. According to the State's anti-degradation policy for surface waters, "[t]he purpose of the Antidegradation Policy is to guide decisions that affect water quality such that unnecessary degradation from point and non-point sources of pollution is prevented, and to protect, maintain, and enhance existing surface water quality to protect all existing beneficial uses." Compliance with OFPA is presumed to be adequate, but obviously that not the case with an average temperature increase of 2.6 degrees Fahrenheit associated with OFPA compliant harvest units.

4. You now have an opportunity to remedy that. Given the reality of climate change and given both federal and state aspirations for non-degradation, the Board should strive for this goal too when it adopts new riparian rules for all streams that have a discernible channel. None of the options now being considered fit this bill, however, the FMP and 100 foot no cut buffer options come the closest.

5. My second point is the issue of cumulative watershed effects arising from too many clearcuts too close together in both time and space and excessive road densities. Thermal pollution is among the many water quality impacts associated with these cumulative watershed effects, but they also include high peak flows, lower summer flows, susceptibility to flash flooding, landslides, and other mass wasting events. As you know, the Board has a longstanding duty to consider the "cumulative effects of forest practices on air and water quality, soil productivity, fish and wildlife resources and watersheds" and promulgate rules to address this issue. With vast areas of the Coast Range and Cascade foothills having been stripped in a few short years, this issue has

never been more urgent. While science-based riparian buffers are essential, the Board would be remiss to not address the timing and placement of clearcut units to ensure that thresholds for cumulative damage to water quality, flow, and susceptibility to mass wasting events are not exceeded. The lack of watershed scale limits on clearcutting and road density is a gaping hole in the regulatory framework. Both the EPA and NOAA have already flagged this issue and will be looking to see how the Board responds.

6. Third, whatever rules are put in place, they must be enforceable. In 2003, the legislature made a huge mistake by taking away the State Forester's authority to approve or disapprove of logging operations before they commence. This is like letting developers build whatever houses they want at will without having to get approval from planning departments to ensure code requirements are met. Operators and landowners cannot be presumed to have the expertise necessary to meet the new riparian requirements, so oversight and approval by expert agencies is essential. This authority is critical for ensuring that buffers and cumulative effects standards are met before damage is done. In the absence of State Forester authority, however, there is another option that may be better. This would be to empower the State's expert agency on water quality – the Department of Environmental Quality – to review buffer configurations and permit activities within them with a non-degradation standard as a basis for decision making. The timber industry has argued for flexibility in the new riparian rules. This flexibility can be built into this permitting process by empowering DEQ to refine buffer widths and configurations on a case-by-case basis within a scientifically defensible range of variation. The Board, in a process facilitated by the Governor's office, should seek a cooperative arrangement with DEQ to achieve this.

7. My fourth point addresses the projected costs of this regulatory action. I appreciate the analysis staff has provided with respect to the value of forgone wood products in expanded riparian buffers. But it is important to put these costs into perspective in relation to profits. What the numbers show is that the economic costs of these reforms pale in comparison to logging profits, which are near their all time peak due to high raw log export prices. The staff analysis suggests that riparian buffers sufficient to bring thermal pollution close to zero would cost up to \$177,000 for every stream mile protected. In western Oregon, a square mile of forest will typically host 1 – 4 miles of stream, so this means an average of \$350,000 in costs per square mile cut. But a typical logging operation with a square mile of cutting units will yield \$12,000,000

in profits at today's raw log prices. A 3% dip in profits is a small price to pay for clean water. At this little cost, the Board and Governor Brown should not hesitate to bring OFPA's stream rules into the modern era.

8. My last point is about economic benefits. I'm always mystified when I see economic analysis that considers the costs of an environmental regulation but entirely ignores its benefits. The economic benefits of effective riparian buffer protection for Oregon's streams and rivers are immense – more productive fisheries, lower water filtration costs downstream, higher property values, less flooding and flood damage, more abundant game and non-game species, higher carbon storage to name a few of the important ecosystem services that will be generated. We know how to quantify these. A study commissioned by the City of Portland found that ecosystem services generated by the Lent's Flood Abatement Project – which would restore a 240-foot wide riparian buffer along Johnson Creek – would amount to \$30 million in present value public benefits. The total project area is just 140 acres. I'm curious as to why no economic benefits at all have been considered by this Board for this riparian rulemaking process. CSE would be happy to work with you to design and implement such a study.

9. Thank you for your time and consideration of these issues.