Providing Opportunity to Family Forestland Owners

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VIA EMAIL: jokranch@hotmail.com

Jane O'Keeffe
Environmental Quality Commission, Chair
Department of Environmental Quality
811 SW 6th
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Dear Chair O'Keeffe,

Thank you for the Environmental Quality Commission's interest in the subject of the state's Protecting Cold Water criterion discussed at the March 20th EQC meeting. Your interest in this subject was obvious from your questions and discussions during public testimony in the morning and again in the afternoon when Peter Daugherty and Gene Foster outlined the roles and responsibilities of Oregon Department of Forestry and Department of Environmental Quality in protecting water quality. As you know, the Board of Forestry is in a rulemaking process to evaluate the effectiveness of Forest Practice Act protections on small and medium fish bearing streams and the Protecting Cold Water criterion is at the center of the debate on what if any actions should be taken. Your questions of those who testified, and of Peter Daugherty, Gene Foster, and other DEQ staff, demonstrated a real interest in this subject, as did your request of Dick Pedersen to see that you are briefed on the implications from the Watershed Research Cooperative paired watershed studies.

OSWA believes the EQC has a role to play if the Board of Forestry rulemaking process is to be resolved in a manner that truly benefits fish and riparian functions and has the least burdensome impact on Oregon's forest landowner community. For this reason, you are urged to follow through with the EQC request to invite professionals with knowledge of the Watershed Research Cooperative work to your next EQC meeting to hear firsthand the most recent research results on forest streams. This will allow the same question and answer opportunity you had on March 20th with those who know and understand the research. This is critical because this research provides much better data than was available when Oregon's Protecting Cold Water criterion was originally developed. The paired watershed studies are in different levels of completion, but preliminary data shows conclusively no harm to fish, with minor and temporary increases in temperature, usually well below the relevant numeric criteria. The Trask River study also sheds doubt on the long-standing hypothesis of cumulative impacts. There is a general hypothesis that temperature impacts are transported downstream, and this new research challenges this basic assumption.

OSWA was impressed with the caliber of questions posed by the EQC during the question and answers on March 20th. A DEQ staff person answered some of the questions related to development of the Protecting Cold Water criterion. OSWA believes some of the DEQ staff responses were not complete and somewhat misleading. For example, when asked "What is the Cold Water Criteria in Washington State?", the answer given was "I am not sure but I think it is 0.25 degree Celsius". The relevant Washington standard reads as follows:

WAC 173-201A-200

Table 200 (1)(c) Aquatic Life Temperature Criteria in Fresh Water

Category	***Highest 7-DADMax***
Char Spawning	9°C (48.2°F)
Char Spawning and Rearing	12°C (53.6°F)
Salmon and Trout Spawning	*13°C (55.4°F)*
Core Summer Salmonid Habitat	*16°C (60.8°F)*
Salmonid Spawning, Rearing, and Migration	*17.5°C (63.5°F)*
Salmonid Rearing and Migration ***Only***	*17.5°C (63.5°F)*
Non-anadromous Interior Redband Trout	*18°C (64.4°F)*
Indigenous Warm Water Species	20°C (68°F)

i. When a water body's temperature is warmer than the criteria in Table 200 (1)(c) (or within 0.3°C (0.54°F) of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the 7-DADMax temperature of that water body to increase more than 0.3°C (0.54°F).

ii. When the background condition of the water is cooler than the criteria in Table 200 (1)(c), the allowable rate of warming up to, but not exceeding, the numeric criteria from human actions is restricted as follows:

B. Incremental temperature increases resulting from the combined effect of all nonpoint source activities in the water body must not, at any time, exceed 2.8°C (5.04°F).

C. Temperatures are not to exceed the criteria at a probability frequency of more than once every ten years on average.

One should take into consideration all of the differences in Oregon and Washington before drawing any conclusions from the correct answer. However, as a point of reference, the highest average temperature in the RipStream study was 2.5 degrees Celsius which is below the threshold in WAC 173-201A-200(ii)(B) for streams below the numeric criteria. All streams in the RipStream study were below the numeric criteria.

We hope the EQC realizes the magnitude of the need for the correct cold water protections for Oregon. More than just the credibility of the EQC and DEQ are at stake. We implore you to learn what you need to know about this issue so you can make an informed decision. The best place to start is to learn about the most recent science on forest stream temperatures in Oregon and about the true impact of Oregon's Forest Practice Act on fish.

OSWA would be happy to work with DEQ and help assemble the right people for your next EQC meeting. Please let us know what we can do to assist you. Thanks for your interest in this dilemma. We appreciate your interest. Please stay engaged on this issue.

Sincerely,

Jim James
Executive Director

Scott Hayes
President

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