

Written testimony Oregon State Legislature in support of HB 2594, Directing the Department of Forestry to Better Protect Community Drinking Water Supplies

Thank you, Representatives Williams and Wilde for working to address this critical issue, and for taking my testimony. My name is Elizabeth (Betsy) Herbert. I live in Corvallis, Oregon. I have a Ph.D. in Environmental Studies from the University of California, Santa Cruz. My area of expertise is forest management for protection of drinking water. My 2004 Ph.D. dissertation analyzed forest practices on the west coast of California, Oregon & Washington. My peer-reviewed research results were published in the J. of the American Waterworks Association in 2007 (<https://awwa.onlinelibrary.wiley.com/doi/abs/10.1002/j.1551-8833.2007.tb07872.x>)

I am testifying in support of HB2594, though I highly recommend taking bigger and stronger steps to address the ongoing, cumulative, and significant impacts of industrial logging on public drinking watersheds and water systems. For far too long, the Oregon Department of Forestry has delayed updating the Forest Practice Rules so that they comply with the federal Clean Water Act (CWA).

For details, see the timeline presented in a March 2, 2021 from Richard Whitman, DEQ Director; Jim Rue, DLCD Director; and Peter Daugherty, ODF State Forester/Director to the Members of the Natural Resources Subcommittee of the Joint Committee on Ways and Means (CZARA DEQ.DLCD.ODF_FINAL_2021.03.02(2).pdf).

On page 6, the letter lists four specific areas of the Forest Practice Rules that have still not been certified as Best Management Practices by EPA and NOAA in the coastal zone:

“Additional work remains to address certain specific forest management issues. The primary remaining issues identified by EPA and NOAA are:

(1) protection of riparian areas along non-fish-bearing streams, adequate to achieve water quality standards and protect beneficial uses,

(2) the adequacy of protections for riparian areas along medium-sized and small fish bearing streams, particularly for streams that are not currently meeting water quality standards,

(3) programmatic approaches to identify high-priority legacy roads on forest lands, and means to mitigate water quality impacts from those roads (sedimentation),

(4) programmatic approaches to identify and manage high-risk landslide areas.”

While the Oregon Department of Forestry has had more than a decade to address these shortcomings, they have failed to do so, all the while allowing timber companies to continue using these outdated and demonstrably harmful practices, to the detriment of communities that rely on forested watersheds for their source water.

The Forest Practice Act states that as long as timber operators follow the Forest Practice Rules, they cannot be held responsible for violations of the Clean Water Act (ORS 527.770). That is because ODF claims that the rules are certified as Best Management Practices under the Clean Water Act (ORS 527.765) , which, as acknowledged by DEQ, NOAA and the EPA, they most certainly are not.

This disgraceful situation has left the state of Oregon ineligible for grant funding under Section 319 of the Clean Water Act, and has left public water systems and their communities to pay for impaired water quality, lost water sources, and increased treatment costs. ODF’s answer to the complaints of these communities has been, “If you don’t like it, buy your watershed.”

It’s time for the state legislature to act to force immediate improvements to the Forest Practice Rules. Both Washington and California have had

their rules certified by EPA and NOAA, so there is no excuse to allow the current, damaging practices to continue.