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Dear Chair Golden and members of the Committee

Thank you for letting me share a few thoughts with you on the Private Forest Accord. I come to you today representing only myself as a family forestland owner with 630 acres in Douglas County. In my prior life, I represented the Oregon Small Woodlands Association in 1993 in the development of our current rules, and was appointed to the Forest Practices Advisory Committee representing OFIC in 1999. In 2000, I helped to establish the Hinkle Creek Watershed Research project as well as the Watershed Research Cooperative.

My purpose is to share some concerns about the Private Forest Accord:

1. The proposal does not reflect current science and is based on the flawed paradigm that more shade is always better and that colder water is always better. It does not reflect peer-reviewed science showing the benefit to salmonids with canopy opening.
2. The financial impact to private forest land owners is very significant
3. The process
 - a. Too little information allowed out of the PFA negotiating committee until the last minute = too little time to assess and comment. Assumes that this answer is best with little time for due process.
 - b. The negotiating committee circumvented the use of ORS 527.714 which would have provided critical review of the proposals. This important law requires that before proposals become law they are vetted to ensure the rule making will not be arbitrary and capricious.

Types of Rules, Procedure, Necessary Findings, and Rule Analysis

- ORS 527.714 creates a rational approach to rulemaking to ensure that rulemaking will not be arbitrary or capricious:
 - identifies the types of rule for which the Board has authority
 - defines a set of findings that must be met if the rule directly affects forest practice standards
 - specifies the content of a comprehensive analysis of the economic impact of a proposed rule

Necessary Findings – ORS 527.714 (5)

- Certain rules must meet evidentiary criteria:
 - monitoring evidence of resource degradation
 - rule reflects available scientific information
 - objectives clearly defined and restrictions on practices substantially advance the objective
 - consider alternatives, including non-regulatory approaches, and chose “least burdensome”
 - resource benefits achieved are proportional to the harm cause by forest practices



The rule making standards (ORS 527.714) are inherently reasonable and help to prevent unscientifically justified over-reach.

- They have been part of due process
- The standards do not ask for compensation – they just ask that prior to the government taking assets away from landowners that it isn't unnecessarily costly and is a process that can identify unintended consequences.

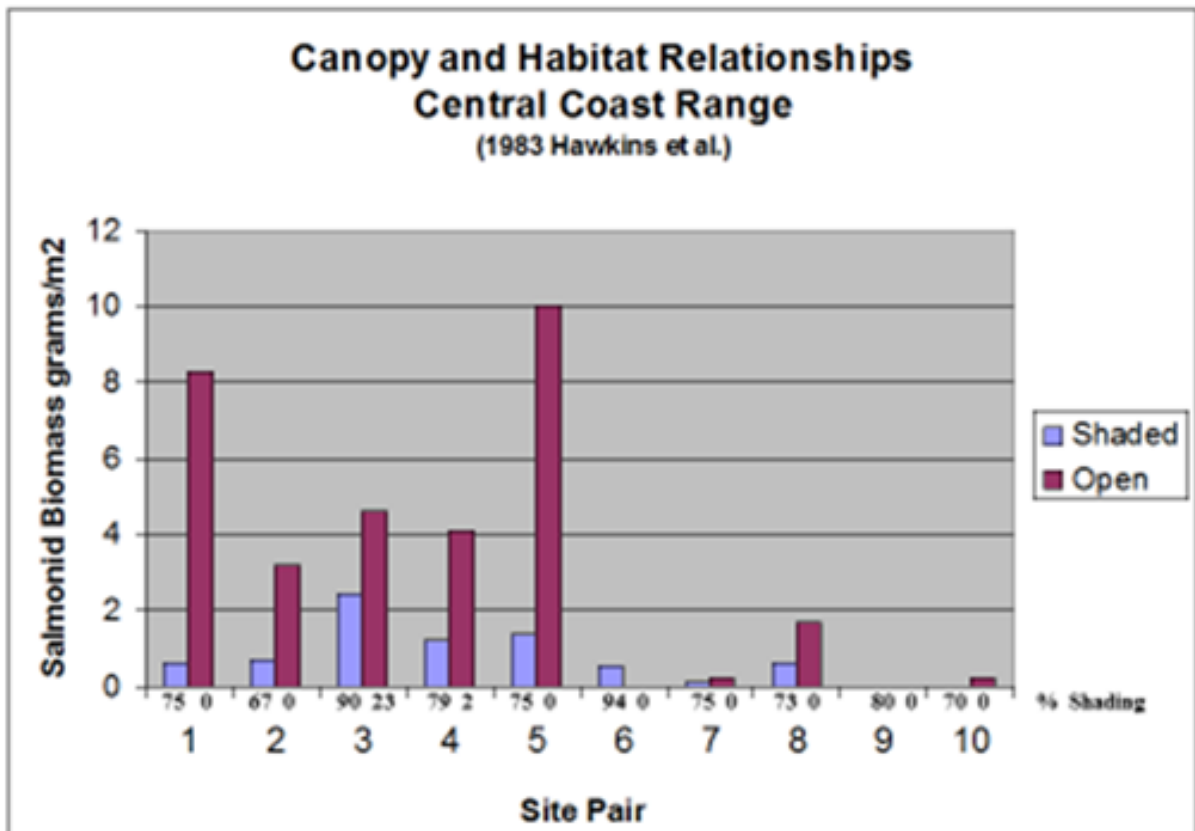
Why would the negotiating committee toss away this important part of due process? **If the rule package is supported by good science then why they would have felt the need to eliminate this from the process?**

As I mentioned, I was very involved with the establishment of the Hinkle Creek Watershed Study and the Watershed Research Cooperative at OSU. Here is my opinion of where we are with the science:

- I am not aware of a single study that shows harm to fish under current practices
- More shade comes at the expense of fish productivity in many studies
- Can harvest increase water temperature? Yes, but:
 - a. Most headwater streams are pretty cool under current practices even after harvest
 - b. Warming does not appear to be cumulative – it tends to return to an equilibrium temperature within a relatively short distance downstream.

Consider the question: Is there resource degradation? Fish response to harvest

Note that in the graph below (compiled from Hawkins et al. 1983) the fish responded favorably to canopy opening (timber harvest).



Fish, like all organisms have an optimal range of temperatures. Colder is not always better, especially in headwater streams that are generally quite cold. While sunlight can warm water, it can also increase primary productivity and food for fish. In this older study, the scientists were able to find stream reaches that had been harvested down to zero shade. Note the shade levels for each pair of stream reaches. Look at how the fish responded to a level of canopy opening currently prohibited by law under the FPA. Is this study an isolated case? No! I have included a quote from Beschta et al. 1987 in an addendum in the back that gives more detail on this important aspect of stream ecology.

Is it possible that increasing shade with the Private Forest Accord could actually reduce the productivity of fish, while at the same time costing landowners dearly? I absolutely believe that is possible! This is one of the key reasons why I am opposed to the Private Forest Accord.

I appreciate the opportunity to comment.

Dan Newton

Addendum

The following excerpt from Beschta et al. 1987, is thought provoking, when we consider the amount of shade our policies are creating:

“The influence of elevated temperatures on salmonid production of natural systems is difficult to delineate because of the variety of other factors concurrently affected. However, more abundant invertebrates have been observed in streams draining clearcuts (e.g., Murphy et al. 1981) Increased algal productivity leading to higher invertebrate production, and consequently to elevated food availability for fish, has been hypothesized as a cause of the frequent observation of increased salmonid production in streams exposed to sunlight (Murphy and Hall 1981, Weber 1981, Hawkins et al. 1983, Bisson and Sedell 1984). The consistency of these observations has led to general acceptance of the hypotheses that salmonid abundance is greater in streams draining clearcuts because there is more available food. Consequently, it is also generally accepted that an understanding of the effects of logging on the entire stream ecosystem is essential if we are to make progress in understanding the narrower problem of logging impacts on fish production.”