



North Coast Basin Coalition

Concerned Residents of Cannon Beach, Arch Cape, Cove Beach, Falcon Cove, Nehalem, Wheeler, Nedonna Beach, Rockaway Beach, Garibaldi, Bay City, Cape Meares, Oceanside & Netarts

Oregon Coast Riparian Buffer

March 19, 2014

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NOAA
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Silver Springs, Maryland 20910

Sent via E-mail
joelle.gore@noaa.gov

Re: EPA/NOAA Proposed Disapproval of Oregon's Coastal Nonpoint Pollution Control Program under CZARA

Dear Ms. Gore:

The North Coast Basin Coalition supports EPA and NOAA's proposed disapproval of Oregon's Coastal Nonpoint Pollution Control Program. Oregon does not have a program in place to control nonpoint source pollution in our coastal watersheds that carries out CZARA management measures, nor does Oregon have the additional management measures the law requires to achieve and maintain Oregon's water quality standards and protect Oregon's drinking water.

The Oregon Department of Environmental Quality ("DEQ") refers to the coastal watersheds stretching from the Lower Columbia River in Clatsop County Oregon to the Nestucca River in Tillamook County as the North Coast Basin. The North Coast Basin Coalition ("the Basin") is a coalition of concerned community members and leaders from the communities within this basin, namely Cannon Beach, Arch Cape, Falcon Cove, Cove Beach, Nehalem, Wheeler, Rockaway Beach, Garibaldi, Bay City, Cape Meares, Oceanside, and Netarts. While our communities may be socially and economically diverse, we all share the same problem: our drinking water is surface water that originates in the Coast Range and winds through industrial timberlands before reaching our taps. The northern Coast Range is an ancient volcanic island chain running north to south with mountain peaks as high as 3,706 feet. In some places the Coast Range's western slopes literally meet the sea. Our communities are tucked into this dramatic landscape, rich with biodiversity, and cherished by Oregonians and tourists from all around the world.

The Basin is disheartened that the State of Oregon has failed to bring logging practices into compliance with federally approved water quality standards. This failure puts contaminants in our drinking water, directly affecting our personal and community health. To make matters worse, Oregon's failure to adhere to the commitments it made to support a federal court settlement in 2010 means Oregon stands to lose approximately \$3 million in funding it receives from the Environmental Protection Agency to take actions to further the goals of the Clean Water Act.

The Basin agrees with and supports EPA & NOAA conclusions that Oregon needs to adopt additional management measures to control polluted runoff from logging to meet state water quality standards. Oregon must increase protection of riparian areas for small and medium fish and non-fish streams. Oregon must increase protection of high-risk landslide areas. Oregon must better address impacts of forest roads including specifically so-called "legacy" roads. Furthermore, Oregon must increase buffers for the application of pesticides to both fish and non-fish bearing streams and take other actions to prevent pesticides from entering water that affects people, fish, and wildlife.

Federal agencies informed Oregon of its Coastal Program deficiencies in 1998, and in the ensuing 16 years – despite the repeated urging of these federal agencies – Oregon has refused to adopt forest practices sufficient to protect water quality and ESA-listed Oregon coast coho salmon. DEQ made commitments in 2010 to fix these problems, but has refused to follow through on them. Alternatively, DEQ's sister agency, the Oregon Department of Forestry ("ODF"), is not filling the void made by DEQ's unconsummated commitments by properly regulating forest practices.

The Oregon Department of Fish and Wildlife ("ODFW") and National Marine Fisheries Service ("NMFS") agree many freshwater environmental impacts on Oregon coast coho are human related, including "rearing and spawning habitat loss[.]"¹ Even ODF has found its logging practices violate water quality standards.²

Human health impacts of current forest practices are unacceptable. Our community watersheds experience landslides from failed logging roads, winter blow-down of the already inadequate riparian buffers, and are routinely exposed to the timber industry's aerial spraying of toxic pesticides. In 2013 the drinking watershed of Arch Cape alone experienced four (4) landslides from private logging roads. These slides inevitably fill our streams with sediment. Oregon does not have a program to prevent such slides. Similarly, the 20 foot wide tree buffers ODF mandates on our drinking water streams are too narrow to withstand coastal winds. Strong coastal winds accelerate through the clear cuts and abruptly hit the buffers with great force. When these buffers fall, there is nothing

1. ODFW, Coho Salmon at <http://www.dfw.state.or.us/fish/species/coho.asp>

2. See e.g. , Groom, J.D., L. Dent, and L.J. Madsen. Stream temperature change detection for state and private forests in the Oregon Coast Range , WaterResources Research, 47.1 (2011),

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holding the soil in place, so our creeks suffer. Oregon does not have a program to minimize such blow-down. To make matters worse, Oregon does not even require tree buffers on the hundreds of non-fish bearing tributaries that feed into our drinking waters streams making sedimentation a constant impediment and risk.³

It is necessary for DEQ and/or ODF to correct these practices to meet federal clean water standards and provide Oregon citizens with a basic necessity of life, clean drinking water. Both of these agencies have the legal authority to do so; to date, neither of them has been willing to act.

The drinking water for our communities routinely have high levels of known carcinogens, trihalomethanes and haloacetic acids. These high levels are caused when excess sediment that enters public waters from logging roads and inadequate riparian buffers reacts with disinfectants required to treat the water. Some people who drink water containing trihalomethanes in excess of the Safe Drinking Water Act (“SDWA”) maximum contaminant level (“MCL”) over time experience problems with their liver, kidneys, or central nervous system, and have an increased risk of getting cancer. In fact, people drinking water contaminated with trihalomethanes and haloacetic acids may experience health problems under the MCLs because MCLs established under the SDWA often factor in the cost of treatment, not just the risks to human health.

Financial impacts of current forest practices continue to harm our communities.

Not only do these high trihalomethanes and haloacetic acids levels in our drinking water have health impacts, they also have economic impacts. In order to meet federal drinking standards, both Arch Cape Water District and the City of Rockaway Beach were more or less forced to build and install expensive membrane treatment plants with sand filtration. The cost of Rockaway Beach’s new plant and filters totaled \$1.5 million. In order to reduce the effects of trihalomethanes and haloacetic acids, Arch Cape capital expenditures totaled \$536,000.00. Subsequently, water bills for these two communities are much higher than the average water rate, with Arch Cape water costing residents \$57.00 each month.

CZARA requires a program, not just a plan. CZARA requires Oregon to demonstrate it has a program to meet all the basic management measures. Oregon has failed to do this. CZARA also requires Oregon to demonstrate that it has any such additional management measures as are needed to meet water quality standards and protect designated uses such as Oregon coast coho, amphibians, and drinking water. Oregon has failed to do this as well. While Oregon may use voluntary measures to achieve nonpoint source controls, these voluntary measures are worthless when not adhered to or enforced.

Oregon’s riparian buffers for pesticide use near drinking water streams are woefully inadequate. The Basin does not agree with EPA/NOAA that Oregon “may” have adequate stream buffers for pesticide use on streams with salmon, but is

³ DEQ’s June 2010 Turbidity Analysis for Oregon Public Water System
-Water Quality in Coast Range Drinking Water Source Area
<http://www.deq.state.or.us/wq/dwp/docs/TurbidityAnalysisOregonPWS201006.pdf>

encouraged by EPA/NOAA position that the state may not have sufficient protection for non-fish bearing streams sprayed by logging companies. These non-fish bearing streams make up a majority of stream miles in coastal watersheds.

The drinking water for all Basin communities flows through streams classified as “non-fish bearing.” The drinking water for the communities of Arch Cape, and Rockaway originates in stream segments classified as “non-fish bearing.” Ironically some of these streams become fish bearing just downstream of the water intakes and are better protected there. Even so, we dispute EPA and NOAA’s conclusion that the ODF rules provide sufficient protection of fish-bearing streams. For example, while it may be a point source and thus not an issue for CZARA purposes, Oregon’s pesticide discharge permit allows spraying forest canopy “by using aerial application of a pesticide over a forest environment or from the ground when in order to target pests effectively, *a portion of the pesticide unavoidably will be applied over and deposited in water.*”⁴ If pesticides can be sprayed in water under this permit, surely they can also be sprayed near water and end up in nonpoint source run-off that enters drinking water and affects fish and wildlife.

The Communities of Arch Cape, Wheeler, and Rockaway Beach have bombarded ODF and private timber owners with phone calls whenever notice of aerial spraying of pesticides within the drinking watersheds of the communities are released. The answer is always a resounding: “It is legal.” To our knowledge, no agency had ever tested the water after a spray until citizens of Rockaway Beach demanded that DEQ test the water. DEQ recently announced to concerned Rockaway Beach citizens that the preliminary test results of their drinking water source, Jetty Creek, came back positive for glyphosate. Clearly the required and currently legal buffers are not working to protect the designated use of providing us with clean and safe drinking water. The state’s failure to properly monitor water quality ensures that needed changes have no hope of even being identified.

While the federal agencies praise Oregon’s Water Quality Pesticide Management Plan, which purportedly uses water monitoring data to drive so-called adaptive management actions, they also note the limited pesticide data in the state, concluding “the State should develop and maintain more robust and targeted studies of the effectiveness of its pesticide monitoring and best management practices.” Regrettably, the federal agencies also laud the Oregon’s Pesticide Stewardship Partnership Program, despite its complete absence from coastal watersheds. EPA/NOAA also rely on pesticide labels to provide protection to salmon. However, despite NMFS having found that chlorpyrifos, diazinon, malathion, carbaryl, carbofuran, methomyl, naled, phosmet, and 2,4-D all jeopardize and /or adversely modify Oregon’s ESA-listed salmon, EPA has not revised its pesticide labels to reflect the restrictions NMFS said were necessary to protect them. Under these circumstances we fail to understand why EPA and NOAA have found that Oregon provides sufficient protection of fish-bearing streams from pesticides.

⁴ Pesticide General Permit (2300A) Pesticide Applications Covered Under the Permit (emphasis added)
<http://www.deq.state.or.us/wq/wqpermit/docs/general/npdes2300a/2300aPermitOverview.pdf>

It is time for Oregon Board of Forestry to revise Forest Practices and the Legislature to revise the Forest Practices Act. The Oregon Forest Practices Act (“FPA”) was adopted in 1971. We have learned a great deal about the correlation between clean water and timber practices since then. The time has come for Oregon to revise this antiquated law to better reflect the science and understanding of this new millennium. As coastal residents who drink creek water filled with sediment and tainted with pesticides from current and past logging activities, our health is threatened much like the local salmon that are born in these very same streams. Unlike the risk to our health, the salmon’s decline is well documented. This failure to study is unacceptable and does not warrant Oregon to postpone action until more data is gathered. In DEQ’s March 2011 Water Quality Status and Action Plan: North Coast Basin, DEQ explains and documents the effects of current practices. The risk is clear.

For the health of our streams and for the health of our human and wildlife communities that depend on these streams for nourishment, the North Coast Basin Coalition supports EPA and NOAA’s proposed disapproval of Oregon’s Coastal Nonpoint Pollution Control Program. The time has come for Oregon to develop a program that controls nonpoint source pollution in our coastal watersheds and carries out additional management measures to achieve and maintain Oregon’s water quality standards and protect Oregon’s drinking water.

[REDACTED]