

# FISHERMEN'S NEWS

*The Advocate for the Commercial Fisherman*



## Pacific Coast Federation of Fishermen's Associations

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### Forests and Fisheries: Why Logging Reforms Matter to Fishermen

*By Glen Spain and Vivian Helliwell*

THE OCEANS START NOT AT THE COASTLINE, BUT rather far inland in conifer forests watered by mountain springs, streams and rivers, in turn fed by inland snows and rainfall. Some commercially harvested ocean species, such as salmon, depend heavily on these inland forests for spawning and rearing. Other commercially harvested species such as Dungeness crab and shrimp, and many major forage fish species, are also highly dependent on nearshore or estuary wetlands, which in turn are fed by streams coming off our West Coast forests.

Yet most of these salmon-producing forested watersheds are perpetually at risk of extensive clear-cut commercial logging, a practice that denudes whole hillsides, creating highly negative environmental impacts that hit salmon the hardest.

#### Negative Impacts of Logging on Salmon

Coastal industrial-scale logging has played an important role in the last several decades in causing widespread salmon declines resulting from massive loss of salmon habitat throughout the Pacific Northwest. Among other adverse impacts, intensive logging of forests can: (1) reduce or eliminate streamside shade, raising water temperatures beyond the 20° C. (about 70° F.) lethal threshold for salmon adults, and exceed cooler thresholds for juveniles and egg survival; (2) trigger more landslides and soil erosion which increases turbidity, jeopardizes water quality and suffocates juvenile salmon; (3) create vast networks of old logging roads, most of which remain as legacy sediment sources for decades; (4) include application of herbicides, pesticides and other toxic chemicals harmful to fish; and, (5) result in combinations of stressful water conditions and poor water quality, making native fish more susceptible to disease and predators.

Most of the last, best remaining salmon spawning and rearing habitat is in northern California and Pacific Northwest forests that are also subject to intensive logging. PCFFA strongly believes that a healthy forest with abundant salmon runs can coexist with

industrial timber extraction – provided the logging is done right and is truly sustainable. Unfortunately, lax logging rules make this is rarely the case.

This is why commercial fishing industry groups such as PCFFA have been fighting in the Courts and in the halls of Congress for decades to secure better regulatory controls over commercial logging, in order to protect our remaining salmon nurseries – and our industry.

#### Decades of Poor Federal Forest Management

Logs from the Pacific Northwest built much of this nation. However, for many decades, the timber industry practiced “liquidation logging,” in effect just using up all the marketable timber in one local and simply passing on to the next forest somewhere else. When nearly all the private timberlands were repeatedly logged and the stock of old-growth trees on private lands long gone, they turned to lucrative and federally subsidized contracts for logging on federal lands. Much of that timber (and the jobs it would have created) was then exported to foreign countries.

Concepts of “ecosystems” and “sustainability” were virtually non-existent, and there were no environmental laws to speak of until the early 1970's. As a result, 95 percent of the Pacific Northwest's most valuable old-growth forests, and many second-growth forests, had been liquidated by the 1970's.

Unfortunately, the region's once abundant salmon runs, and the fishing and coastal communities and Tribes that depended on those runs, also became collateral damage from the widespread liquidation of forest salmon habitat in first privately owned, then federally owned, forest ecosystems. Today nearly all the best remaining salmon habitat lies on federal lands.

In the meantime, in 1973 the Nixon Administration passed the Endangered Species Act (ESA), and in 1987 a series of environmentalist-led lawsuits led to the ESA-listing of the old-



growth dependent Northern Spotted Owl, which in turn triggered increasing federal timberland restrictions ostensibly to protect the last remaining ESA-listed owls. Controversy raged on and on for years. But the missing element in that owl-centered debate was the parallel fate of a far more commercially valuable and forest-dependent species that was also being pushed toward extinction (i.e., Northwest salmon) for the same reasons – excessive logging on forested lands with too little protection for salmon.

Then, in an effort to resolve a nearly decade of controversy, litigation and deadlock over federal forestry policy, in 1993 the incoming Clinton/Gore Administration convened the famous Northwest Forest Summit at which scientists and representatives of many non-timber industry, but still forest-dependent stakeholder groups, including PCFFA's then-President Nat Bingham, were also included. The Clinton Administration then ordered the federal agencies to come up with a new and comprehensive Northwest federal forestry operations plan based on ecological sustainability and the science, rather than (as in the past) purely upon timber industry economics and politics. The result was the 1994 landmark Northwest Forest Plan in which salmon restoration and protections were also a major factor for new standards for federal lands logging.

Under the Northwest Forest Plan's "PACFISH" aquatic protect standards, no-cut stream buffer zones were deemed necessary by the scientists of at least 2 "site-potential trees" in width (i.e., the same distance wide as two mature trees from that area would measure end to end). This turns out to be up to about 300 feet wide from each side of the stream. Additionally there were to be permanent protections for the remaining old-growth in ecologically key watershed areas, in return for which other less ecologically sensitive areas would be primarily set aside for timber production.

The timber industry has fought politically and in the courts to turn back the clock to the minimal protection standards of the past ever since. They found political allies in many timber-dependent counties because under the old rules these counties got a 75 percent cut of the money generated by federal timber sale revenues within their boundaries.

Currently the federal Bureau of Land Management (BLM) is once again proposing to cut the current PACFISH stream buffer zones in half on a whole class of lands known as "O & C Lands" in Oregon, totaling about 2.6 million acres. These lands, originally gifted beginning in the 1870's by the federal government to the O & C Railroad Company in return for building a railway system to settle the western frontier, reverted back to federal ownership with the bankruptcy of the O & C Railroad Company in the early part of the 20th Century.

A 2008 BLM management plan that severely reduced salmon stream buffer zones on O & C lands from PACFISH standards, called the Western Oregon Plan Review (WOPR) ("Whopper" for short), was ruled illegal in 2012 in a case in which PCFFA was a co-Plaintiff (Pacific Rivers Council, et al. vs. Shepard, et al. (US Dist. Ct. OR, 03-11-CV-00442-HU), upheld in Pacific Rivers Council, et al. vs. Shepard, et al. (9th Cir. No. 12-35570 (Mar. 1, 2013))).

The BLM's current Proposed Resource Management Plan (PRMP) (also nick-named "Wopper, Jr.") (see 81 Fed. Reg. 22305

(April 15, 2016)) would also cut salmon-based stream buffers to less than half of the PACFISH minimums. PCFFA, IFR and other groups interested in salmon protections filed a formal Protest with BLM on May 12, 2016, and it is sure to be litigated. In addition to seriously jeopardizing some of the last, best salmon spawning and rearing habitat still left in the Pacific Northwest, the new BLM plan suffers from many of the same legal and scientific flaws that sunk the WOPR.

### Multiple Private Land Forestry Failures

Stream buffer protections under State Forest Practice Acts for privately owned forestlands are notoriously poor. This is one reason so much reliance is now placed on federal lands to preserve and protect what salmon runs are still left in California, Oregon and Washington. Some of the problems with these state regulations, state by state, are:

**California:** A comprehensive independent scientific review of California's Forest Practices Act commissioned by the State Resources Agency in 1999 found serious deficiencies in California's forestry laws, concluding that current practices are inadequate to protect salmon from extinction. ("Report of the Scientific Review Panel on California Forest Practice Rules and Salmonid Habitat," June, 1999). These stream protections don't meet modern standards to protect salmon in all their life stages from high temperatures and sediment.

Unfortunately, the Z'ber-Nejedly Forest Practice Act (Pub. Res. Code 4511 - 4629.13)) in California calls for "maintaining a supply of quality forest products," which, now that the large trees have been liquidated, means chips for chip-board and small diameter poles. Current economic incentives thus encourage short-term forestry options based on frequent rotations, which does not result in healthy forests.

**Oregon:** The Oregon Forest Practices Act (OFPA) [ORS Chapter 527] is the weakest among the three states, with minimal stream buffer zones insufficient to protect fish or prevent erosion. Oregon's private lands logging activities are also categorically exempt from Oregon's already weak water quality laws.

Oregon has a pure "notice type" statute, meaning all a logging company has to do is simply post notice of intent to harvest, but generally does not have to secure review or permits from any agency. The "citizen appeals" process is next to impossible. Even Oregon's own legislatively created Independent Multidisciplinary Science Team (IMST), part of the Oregon Plan for Salmon and Watersheds, concluded in a Report in 1999 that the OFPA "is not sufficient for the recovery of critical habitat for wild salmonids." The IMST has since been abolished by the Legislature.

Nevertheless, there are efforts to push the Oregon Board of Forestry to expand salmon-protective streamside buffer zones, primarily through the Oregon Stream Protection Coalition of which PCFFA is a member.

**Washington:** Washington State's Forest Practices Act (RCW 76.09 and also RCW 76.13) also provides only minimal streamside buffer zones. Since 2005, nearly all Washington's private timberlands have been covered under a 9.3 million acre, 50-year, state-wide Forest Practices Habitat Conservation Plan (HCP) which categorically exempts most private logging operations



from federal Endangered Species Act (ESA) "take" restrictions, in return for stream protections supposed to be improved over time through "adaptive management."

Under the HCP, Washington's (Type F) fish-bearing streams have aquatic buffer zones of only between 110-130 feet on either side of streams (too thin to protect from "edge effects" and blowdown), but upper watershed, (Type N) non-fish-bearing streams only require 50 foot buffers and only on 50 percent of the stream, as compared to full-stream buffer zones for fish-bearing streams. This makes Type N streams major sediment sources washing sediments far downstream into fish-bearing areas. Steep slope and landslide protection rules also appear inadequate.

Many Washington forestry experts, including the Washington Forest Law Center, believe that Washington's Forestry HCP "adaptive management" program is so cumbersome and manipulated by the timber industry that it is nearly impossible for it to actually adopt newer or better regulations, even when the science demands it.

### Necessary Forestry Reforms

PCFFA has been fighting for more than 30 years to improve state and federal logging protections for salmon-bearing streams to: (1) minimize erosion from vast networks of logging roads, including rules for deconstructing and replanting roads no longer used; (2) improve streamside protective buffer zones to at least PACFISH minimum standards on both federal and privately owned timberlands; (3) ban logging entirely on steep slopes and high-risk slide areas; (4) minimize or eliminate the use of aerial spraying of herbicides and other toxic chemicals that can enter streams and affect aquatic organisms; (5) replace culverts with open-access bridges wherever culverts block salmon migrations;

(6) halt logging operations during high rain or potential flooding events, and; (7) provide special protections for ESA-listed salmonids, to protect their spawning and rearing habitat, wherever it occurs.

Fish do not arise from nowhere. They require nursery beds, spawning and rearing habitat, and a narrow range of environmental conditions to support their growth to maturity. For healthy salmon runs, that requires healthy forests and healthy river ecosystems.

In other words, forestry is a fish issue. Salmon fishing is the number two most valuable forest-dependent industry on the west coast, right after logging, and in many coastal communities is number one. This is why generous stream buffer zones make excellent economic sense. In most salmon-producing streams, the trees in their buffer zones are far more valuable to society because of their ability to sustainably produce harvestable salmon each year than they are as saw-logs cut once every 50 years.

Both forests and fisheries provided multiple public benefits that are public property. The Common Law Public Trust Doctrine makes it clear that private property rights end at the point they begin to seriously impinge on public property rights and damage public resources. Where salmon runs thrive, our jobs and communities thrive also. **FN**

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