Oregon
Kate Brown., Governor

Department of Fish and Wildlife
Office of the Director
4034 Fairview Industrial Drive SE
Salem, OR 97302
(503) 947-6044
FAX (503) 947-6042
odfw.com

May 18, 2015

To: Senator Chris Edwards, Chair
Senate Committee on Environment and Natural Resources

House Bill 3217
Brett Brownscombe, Acting Deputy Director for Fish and Wildlife Programs

ODFW appreciates the opportunity to comment on House Bill 3217, which requires the Department of State Lands (DSL) to establish a pilot program allowing the installation of artificial beaver dams in the Malheur Lake basin through a general authorization (or other general permit approach) and creates an exemption from fish passage requirements in existing state law for these dams.

ODFW supports and engages in habitat restoration throughout Oregon as well as efforts to incent positive habitat work by private landowners and other partners. ODFW also values the positive role beaver's play in shaping aquatic resources as well as the existence of current concerns such as incised stream channels and the loss of wet meadow and floodplain habitat. HB 3217 expressly raises and aims to address these issues. As written, however, and despite the stated desire to mimic and restore natural beaver activity, HB 3217 would authorize impacts inconsistent with those expected from beaver dams. ODFW is concerned the size and composition of these structures, as proposed, would not create the positive impacts associated with beaver dams and would result in negative impacts.

ODFW has evaluated a series of rock check dams installed in the Malheur Lake basin that, had HB 3217 existed as law at the time of installation, would fit HB 3217's proposed approach. These structures have been referred to as artificial beaver dams (ABD's). Unlike beaver dams, these structures were constructed out of large rock or a mix of that and smaller rock, with many approaching 8 feet high, spanning the entire stream channel, and extending several feet above it into the historic floodplain. These structures can create permanent barriers to fish passage and additional impacts.

ODFW suggests amending HB 3217 to ensure any new state pilot program advances construction of ABD's that more closely mimic true beaver dams, including in their elevation, materials, and function. These types of structures have been implemented in Oregon, and they have proven effective in attaining the objectives HB 3217 seeks relative to slowing water flow, raising the water table, promoting floodplain reconnection and addressing channel incision. Further, as is implicit in any pilot program, the results of a given pilot approach are not yet fully known in advance, which argues in favor minimizing risk while still promoting active management and monitoring. There are many streams in the target area where this experimental project could be implemented and thoroughly evaluated outside of current or historic fish habitat. Restricting HB 3217 to streams without historic fish presence reduces the risk to fish habitat and eliminates the need for an exemption from the fish passage requirements described in ORS 509.585.

Alternatively, if the legislature believes a pilot ABD approach is warranted in historic fish habitat, ODFW suggests amendments to HB 3217 that ensure their construction integrates approaches to addressing future fish passage into the design. Pragmatic approaches exist to doing this without the imposition of excessive costs to landowners or undermining effectiveness. As currently written, future fish passage modifications

may only be required if ODFW provides the implementation funds. ODFW does not have the resources to address new fish passage needs at these sites, nor is it an efficient use of resources to remobilize equipment to construct fish passage separately from the original construction.

We look forward to working with bill proponents and members of the legislature on HB 3217 have proposed pilot approach to stream habitat restoration. Thank you for your consideration.

CONTACTS:
Brett Brownscombe, Acting Deputy Director, 503 947-6044