



Oregon

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To: The Honorable Ken Helm Chair
House Committee on Water



House Bill 2244

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Thank you for the opportunity to provide testimony; the department has no position on House Bill 2244 and would like to give you background on its relation to instream water rights.

Oregon's 1987 Instream Water Right Act was passed to provide a legal means for converting minimum perennial stream flows to instream rights, and protecting instream flows specifically for the public beneficial uses of recreation, pollution abatement, navigation, and maintenance and enhancement of fish and wildlife populations and their habitats. The Oregon Parks and Recreation Department, Oregon Department of Environmental Quality, and Oregon Department of Fish and Wildlife, can each apply for instream water rights associated with their respective beneficial use (ORS 537.336). The instream water rights are then held in trust for the citizens of Oregon. By law, instream or out-of-stream water rights cannot take away or impair any legally established water use having an earlier priority date (ORS 537.334). In most cases, instream water rights are relatively junior in the water allocation process, with the majority having priority dates established in the 1990's.

Instream water rights are important because they provide an understanding of how much water is necessary to support healthy ecosystems, healthy river-based economies, and provide restoration goals for fish and wildlife populations and climate change resiliency. Maintenance of instream flow is consistent with Oregon's Integrated Water Resources Strategy and the department's Instream Water Rights and Climate Change Policies. There are approximately 1,500 instream water rights in the state (~15% of Oregon stream miles). The ability to legally retain water instream is critical to the health of Oregon's fish and wildlife, and therefore, to the social, cultural, and economic benefits they provide. Many stream reaches in Oregon already experience low or no flows during the summer, as a result of natural and human factors. This condition is expected to intensify in the future as a result of climate change. The ability to sustain flows instream during the summer and early fall will likely be one of the primary drivers of species viability in the future.

HB 2244 reinforces the Prior Appropriation Doctrine in favor of senior water rights or determined claims, including instream water rights. The enrollment of HB 2244 would result in higher likelihood that water will remain protected instream and support the instream water rights and critical life history needs of fish and wildlife, especially during the summer months when instream flows are insufficient. The department encourages protection of surface flows that support healthy ecosystems, healthy economies, and the cultural values of our Tribal partners.

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