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2021 February 01

Honorable Jeff Golden, Chair
Senate Committee on Natural Resources and Wildfire Recovery

RE: Testimony on Senate Bill 630

Dear Senator Golden:

Thank you for the opportunity to comment on SB630, a bill to authorize the use of landowner damage tags when offending elk move to an adjacent property. I urge you to pass SB630.

SB630 is not the first Oregon wildlife damage law to allow landowners or their agents to pursue offending wildlife onto other properties with the permission of the respective landowner(s). From 1967 to 1973, ORS 498.575 allowed the pursuit of certain damage causing predators onto the property of others, provided permission was granted. When ORS 498.575 was repealed and replaced by ORS 498.012 (the current, primary wildlife damage statute), the language authorizing such pursuit was extinguished--I suspect inadvertently.

Regardless, the pursuit of offending animals onto the property of others is a defensible management option. Quite simply, elk frequently become accustomed to being harassed by all methods (lethal or otherwise) on cropland and when trailing to bedding areas. The most important attribute for bedding habitat selection, however, is security. Often, the only viable mechanism to move elk is to harass them in those bedding locations, which frequently are not on the same property as what they are damaging.

Furthermore, SB630 is more consistent with the foundational and protected constitutional rights of private property owners to prevent damage to their property from the State's wildlife than the current statute that suggests landowners can only use force against animals after the offense (and therefore, the damage) has already occurred. I assert that is an untenable position for the State.

Lastly, SB630 is not inconsistent with ORS 498.012, as ODFW claims, since the Legislature used express and unambiguous language in House Bill 2027 (2013) when it created the Landowner Damage Program¹ wholly separate and distinct from the general damage authorities of ORS 498.012.

SB630 moves us in an important and more positive direction to begin addressing some of the core issues causing elk translocation to private lands rather than just the symptoms.

Sincerely,

/s/ Shaun W Robertson
Shaun W Robertson
John Day

¹ Section 3 of HB2027 begins "[n]otwithstanding any other provision of the wildlife laws...". The plain meaning of the text as well as the context and legislative history of HB2027 indicate that this language is unambiguous (see Wright v. Professional Services Industries, Inc., 956 P2nd 230 and State of Oregon v. Kolish, 60 P3d 576 discussing the interpretation of "notwithstanding" clauses in State legislation.