



February 9, 2022

Representative Pam Marsh, Chair
Representative Zach Hudson, Vice-Chair
Representative David Brock Smith, Vice-Chair
House Committee on Environment and Natural Resources

Re: Trout Unlimited Opposes House Bill 4148

Dear Chair Marsh, Vice Chairs Hudson and Brock Smith, and Members of the Committee,

Trout Unlimited (“TU”) is a non-profit organization dedicated to the conservation of cold-water fish (such as trout, salmon, and steelhead) and their habitats. The organization has more than 350,000 members and supporters nationwide, including many members in Oregon. TU and its members are committed to caring for Oregon rivers and streams so future generations can experience the joy of wild and native trout and salmon.

TU opposes HB 4148.

I would like to refer the Committee to our written comments submitted to the record in the form of a group letter dated February 7, 2022, but elaborate on a few specific concerns TU has about this bill, focusing on three big picture and conceptual issues:

The Framework

First, I want to take a step back from the granular details of the legislation, and highlight for the Committee that – although much of the discussion about the bill thus far focused on the potential to create new habitat on non-prime agricultural land – the salmon credit program would be a mitigation and offset program in large part.

That means for many credit projects, functioning habitat would be destroyed or impaired elsewhere. In other words, it seems that there may only be as much new habitat created by the program as is negatively affected somewhere else. So, even if the mitigation and offset program functioned as intended – absent a funder with no mitigation obligations – the program would only create no net loss, rather than a cumulative increase in habitat across the state. As stated in the group letter, we are concerned that the bill would even accomplish that “no net loss” goal.

To give an example, Trout Unlimited chapters in Oregon – and many other groups – often engage in restoration projects such as installing woody debris in salmon rearing habitat, or removing fish passage barriers. That typically creates a net increase in available habitat for the fish. The salmon credit program would be akin to those efforts, but pair a restoration project with development elsewhere that impairs habitat. That concept is critically important to understanding the mechanics of this proposal.

Conservation Easements

Secondly, from the perspective of a landowner that wants to participate in a salmon credit project, there are already programs in place that provide funding for restoration work and compensation to landowners for protecting that resource on their land. I want to stress that a program like the one proposed in this bill would necessarily require conservation easements, which are essentially the legal tool by which landowners promise to conserve a portion of their property forever in return for a payment.

Conservation easements are a permanent restriction on a property's title and bind all future owners to their terms. Conservation easements are a key, enforceable tool to ensuring that subsequent owners of a property do not change their mind and develop a restored area. And these easements tend to pay pretty well. Without that mechanism in a program like this, a credit-purchaser's project could impair habitat in Place A indefinitely, but the supposed mitigation site at the credit-generator's location in Place B could later be destroyed.

Conservation easements are not mentioned anywhere in the bill. But, once one acknowledges the necessary importance of conservation easements to any program like this, the salmon credit program looks very similar to opportunities already available to landowners that want to restore their land using third party funds and then receive a payment for conserving that restored area. It is not clear why conservation easements are not mentioned in the bill, nor why existing proven frameworks for land restoration and protection are insufficient and require this legislation.

Projects in Different Basins

TU is also concerned about the proposal to allow credit-generating projects in different basins than the related credit purchaser's project. To be clear, this bill would seem to allow heavy development of one watershed with wild fish (such as an area used by wild winter steelhead in the Clackamas or Sandy Rivers in the Portland area), but then cluster all purported offsets of that harm in southern Oregon. That would not help the fish population affected by the development project.

The dash - 3 amendments that would limit all credit-generating projects to the Coquille River basin furthers TU's concern about this. As mentioned in other testimony before this Committee, that river's wild salmon populations are plummeting – likely in part due to the presence of invasive bass that eat juvenile salmon. Salmon in the Coquille basin need help in the short term, but we are not confident that this salmon credit program is the way to bring those fish back.

Thank you for this opportunity to provide comments on this legislation, and please let me know if you have any questions.

Sincerely,

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