



February 1, 2023

Senator Floyd Prozanski, Chair
Senator Kim Thatcher, Vice-Chair
Senate Committee on Judiciary

Re: Trout Unlimited Suggestions for Senate Bill 326

Dear Chair Prozanski, Vice-Chair Thatcher, 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. TU has more than 350,000 members and supporters nationwide, including many members in Oregon.

SB 326 is intended, in part, to require owners of real property where marijuana is unlawfully manufactured or produced to clean up “waste” from the site upon notification from the state.

TU recommends adding a requirement in SB 326 that landowners restore natural resource damage caused by illegal cannabis operations, and that this committee seek input from the Oregon Department of Fish & Wildlife on opportunities to address those resource needs with this bill.

Illegal cannabis operations in Oregon are leaving a tremendous amount of garbage on the landscape. Section 2 of this bill admirably seeks to require “cleanup” of that tangible “waste” from illegal cultivation “sites.”

However, there is very often a parallel problem at these properties regarding natural resource damage, and this bill does not address those substantial issues. For example, illegal cannabis growers often illegally dam streams, modify stream channels, and divert water into illegally constructed reservoirs for use in their operations.

After a raid by law enforcement, these resource damages – many of which occur on stream systems that provide important habitat for trout, salmon, and steelhead – often go unaddressed. In the period following a law enforcement bust, illegal water diversion structures can continue hindering or blocking fish passage, and unpermitted reservoirs and other water storage facilities can continue entraining juvenile salmon. I have attached a series of slides that provide examples of such illegal water use, storage, and natural resource damage in [Attachment 1](#). As written, SB 326 would *not* address many of the circumstances shown in those photos.

If the state is going to craft a legal mechanism that places an affirmative obligation on owners to cleanup waste at these sites, then this is an efficient time to also require remediation of related natural resources damage. Without that slight modification in the bill text – which could be addressed with only a few additional definitions and phrases in Section 2 – these illegal

manufacture and production sites might be cleaned of hoopouses, plant material, and chemicals, but still leave a lasting scar of resource damage that harms fish, wildlife, and legal water users for years to come.

TU Recommendation: TU respectfully recommends that (1) the legislature broaden the cleanup mechanism in Section 2 to include natural resource damage restoration, and (2) this committee seek ODFW's input on this bill because that agency has the expertise to advise on the restoration needs at these illegal cannabis sites.

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

Sincerely,

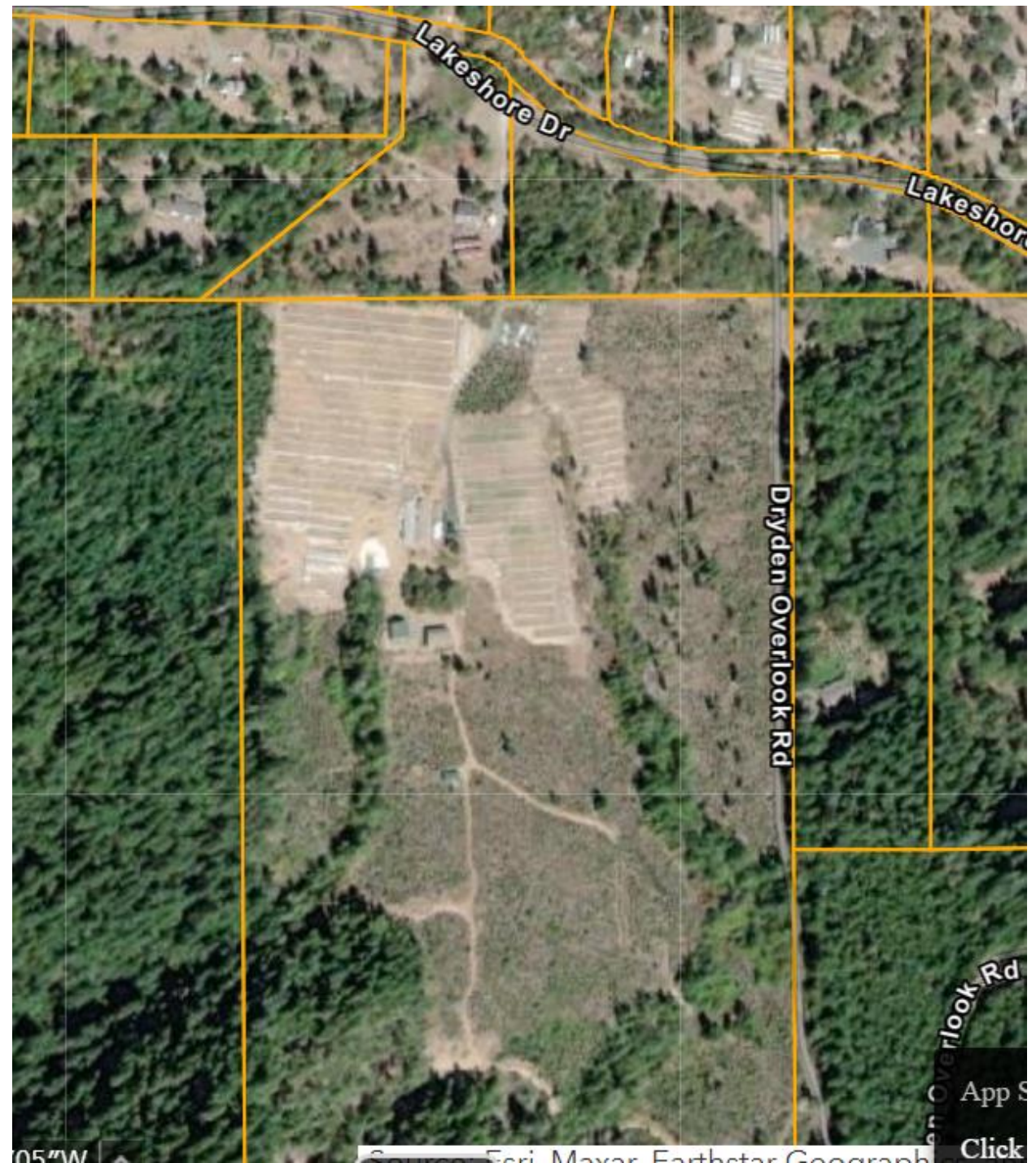
James Fraser
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Trout Unlimited
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Attachment 1

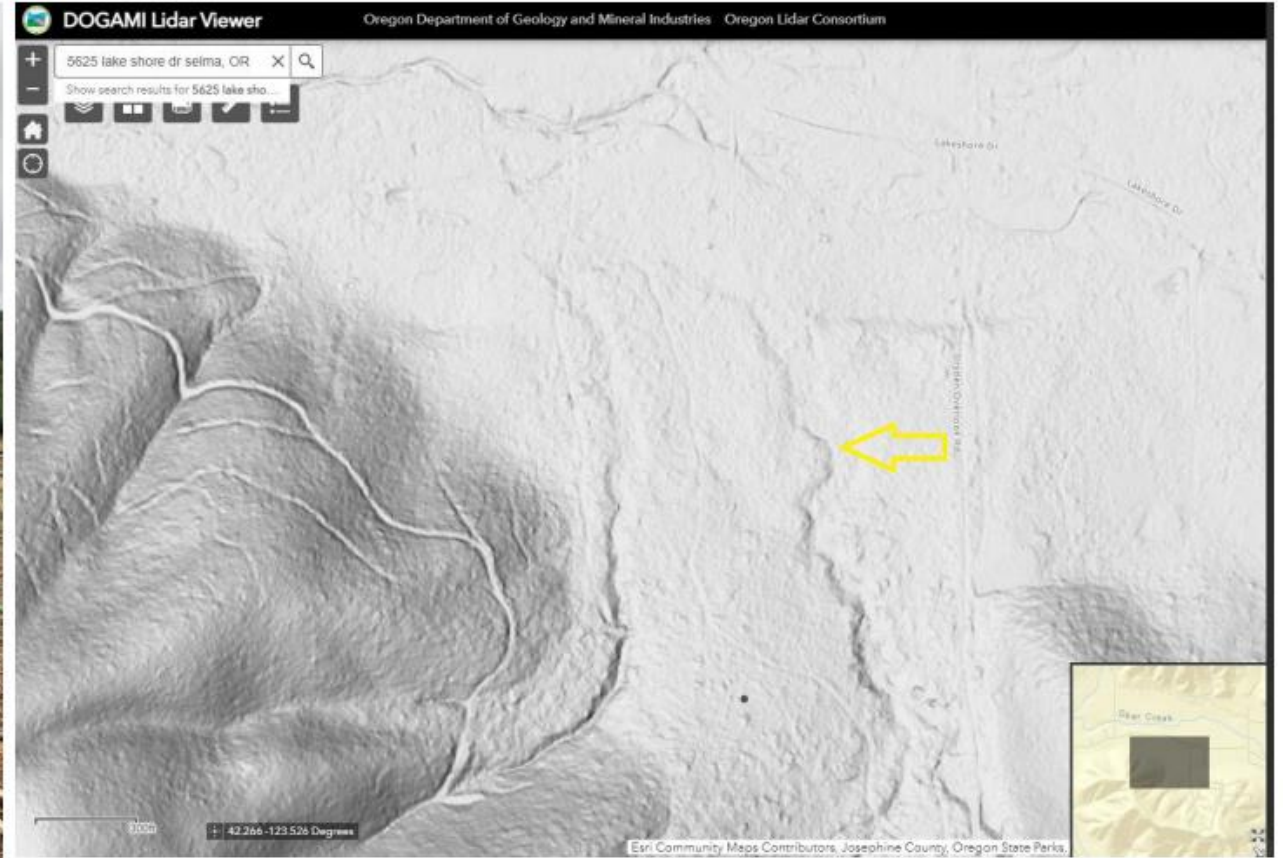
Examples of natural resource damage related to illegal cannabis sites

[Note: Trout Unlimited requested and received the following slides from the Oregon Department of Fish & Wildlife last year, in relation to conversations we were having with agency staff about habitat conditions and challenges in areas subject to ODFW's new Rogue-South Coast Multi-Species Conservation and Management Plan. Many of the slides are relevant in this legislative context too, because the images demonstrate the resource restoration needs referenced in TU's testimony on SB 326.]

- Riparian removal
- Pond created in channel
- Illegal PODs
- Channel filled—see next slide



Grading/fill of channel.



Scarification, blading without permits
disturbance of granitic soils
No BMPs in place



Lathrop Creek.

Site prep for cannabis grow.

- Investigated by ODF Jan 2016 (ODF photos).
- Indiscriminate scarification. Granitic geology = maximum erosion and deposition into creek.
- Creek sediment inches deep.
- Flooding on Upper River Road winter of 2016-17.



Bear Creek.

Large industrial pump installed without water right.

- First reported to ODFW May 2019.
- Property prepped for a hemp grow; substantial excavation.
- Owners reportedly dug a 100-acre pond in addition to the land clearing.



Thompson Creek.

Resumption of abandoned diversion dam.

- May 2019.
- Dam rebuilt at old diversion site.
- ODFW records indicate the screen was marked “turned out” since 2011, basically means not taking water.



Ninemile Creek.

Large dam on small stream.

Summer 2019

- Coho likely stranded in ditch.
- Only second time BLM biologist has seen creek dry.
- Dry year but not declared drought.

Winter 2022

- Push up dam, diversion remains in place.
- Overtopping fish screen.



Butcherknife Creek. Riparian clearing.

- Hillside cleared to increase sun for cannabis.
- Structures built/placed within riparian setback.
- Small water right for household use.
- Development permits require water delivery for cannabis.



Deer Creek 1. Illegal water diversion.

- Pond capturing water from intermittent stream on BLM land.



Deer Creek 2. Illegal water use.

- Illegal cannabis site with illegal water use.
- Dug pond until hit groundwater.
- Pond near creek; fish can enter during floods and get stranded.



Tributary of Waters Creek. Wetland damaged for grow site.

Before:



After: grow site terraced into hillside with no erosion control, no water rights.



Tributary of Althouse Slough. Illegal water storage.

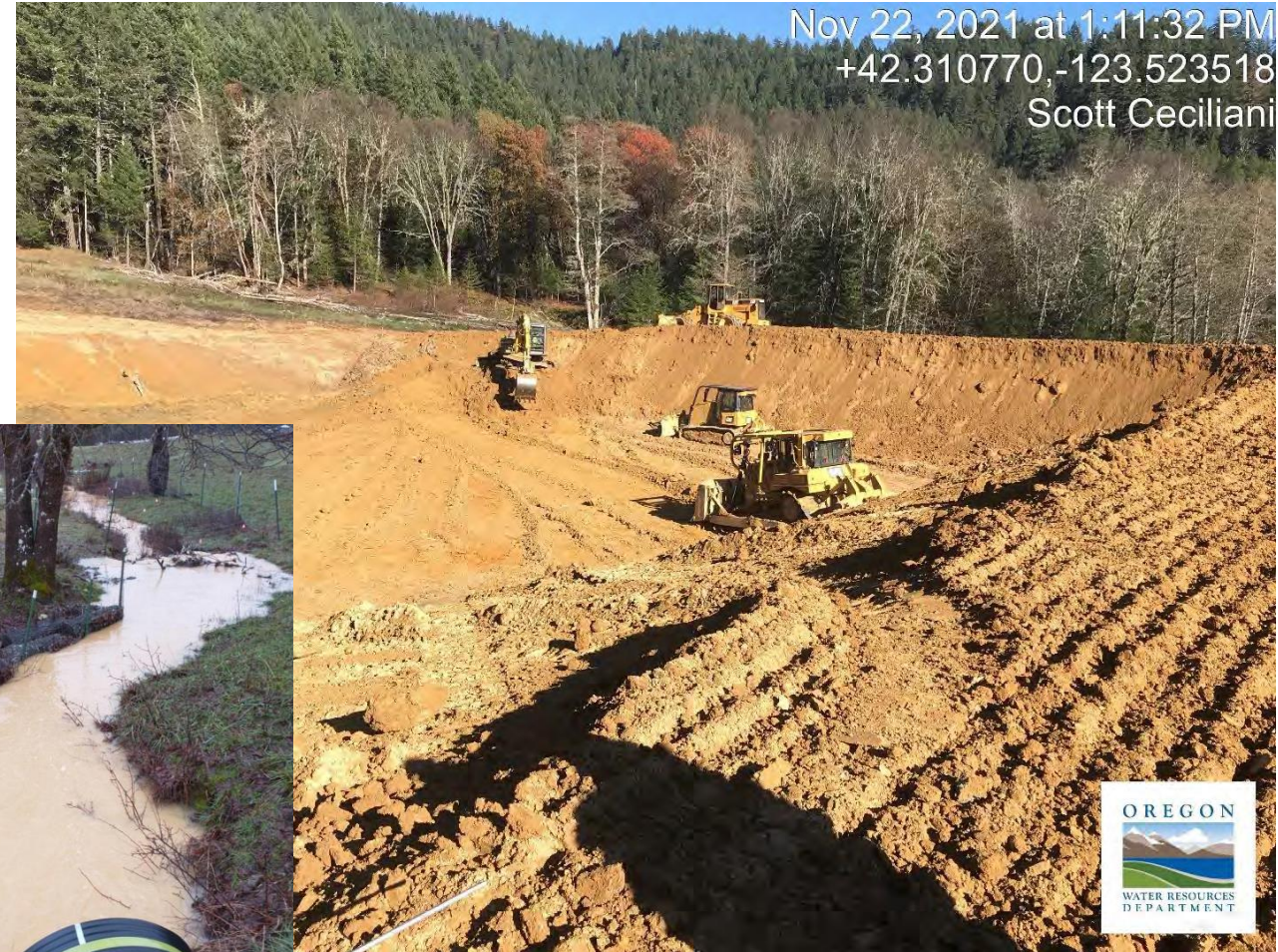
- Enlarged reservoir and illegal water use.
- Natural seasonal streams captured by the Houck & George Ditch. (previously unscreened)

Coho found
here



Tributary of Crooks Creek.

Illegal water storage (OWRD photos).



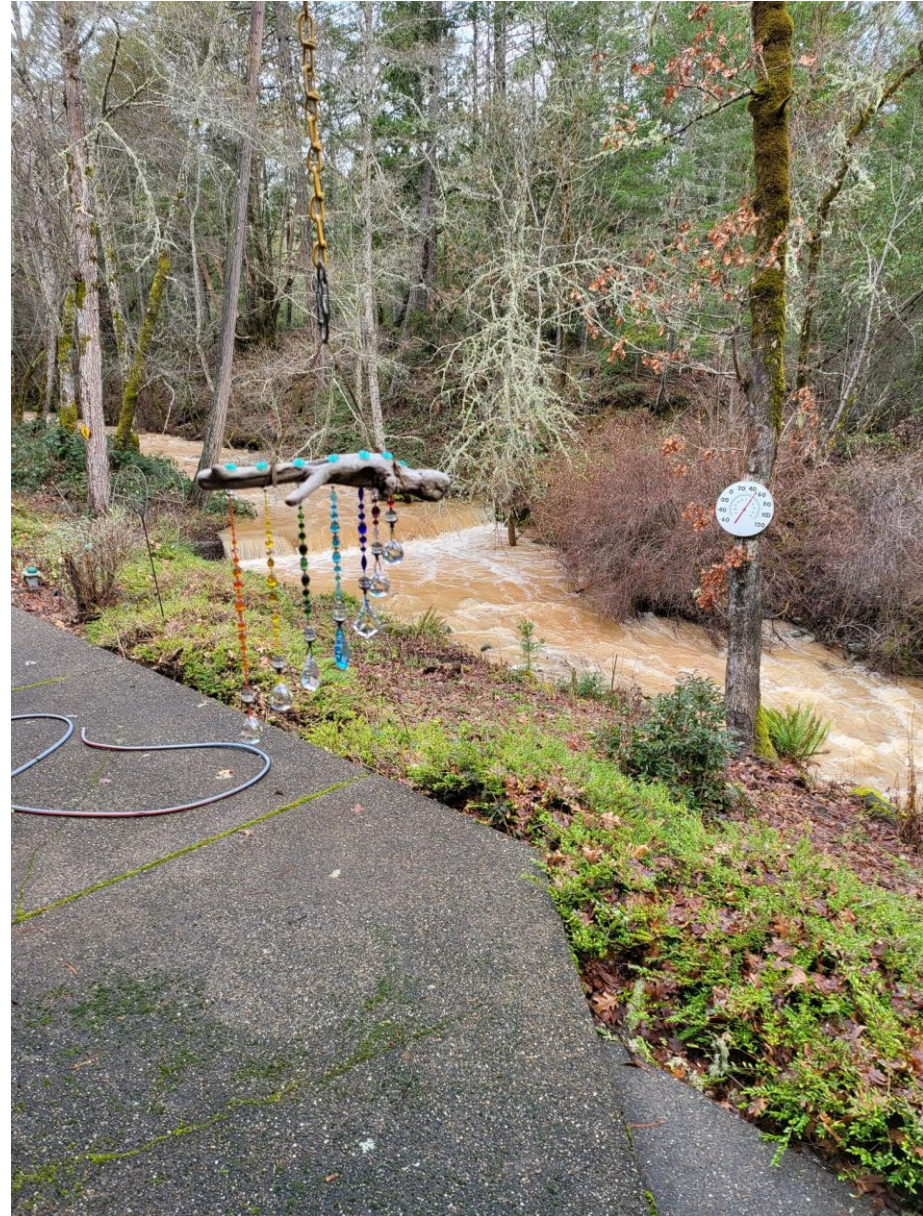
Anderson Creek. Illegal grow with unscreened diversion.

- Illegal grow.
- Complainant reported juvenile steelhead dead around plants; no screens on pump.



Jackson Cr.

Downstream of known cartel grow. Same day photos, no rain/weather events.



Josephine County Code Enforcement Photos: Solid waste in stream channels and upland habitats.



Josephine County Code Enforcement Photos: Industrial scale chemical use.



Josephine County Code Enforcement Photos: some presence of unknown chemicals



Josephine County Code Enforcement Photos: Unpermitted pumping from streams.

