



April 3, 2023

Representative Ken Helm, Chair
Representative Annessa Hartman, Vice-Chair
Representative Mark Owens, Vice-Chair
House Committee on Agriculture, Land Use, Natural Resources, and Water

Re: Conservation Organizations Oppose HB 2206

Chair Helm, Vice-Chair Hartman, Vice-Chair Owens and Members of the Committee,

Our organizations have long been involved in efforts to restore fish habitat in Oregon and advocacy for related environmental policies. However, we do not support HB 2206. This proposed new program would not substantially contribute to the conservation and recovery of Oregon's native fish, and instead, presents appreciable risks to the state's rivers, streams, wetlands and aquatic species. The proposed -4 amendments to the bill do not address or resolve these concerns, which include, but are not limited to:

HB 2206 is premised upon degradation of existing beneficial and functional salmonid habitats and does not create a framework that contributes to the conservation or recovery of native salmonids. Simply put, the core of this bill is land development mitigation and offsets, not additive habitat restoration work. This bill purports to create a system to (hopefully) mitigate for destruction of existing fish habitats, with no sideboards on the type or quality of habitat lost due to development. River ecosystems are complex, and replacing existing fish habitats with degraded habitats that undergo restoration is difficult, expensive, and requires extensive time for hydraulic and geomorphic processes to achieve comparable habitat functionality.

HB 2206 enables habitat destruction and mitigation projects in two different watersheds. When this concept was originally proposed during the 2022 legislative session, our groups were particularly concerned that the program would allow commercial or industrial development to harm functioning salmonid habitat in Watershed A if offset through credits tied to mitigation projects in Watershed B. While we appreciate that the -4 amendments have sought to address this major concern by requiring

both development and mitigation credit projects to be in the Coos or Coquille watersheds, that critical disconnect still exists.

In the -4 amendment, Section 3(1)(b) limits salmon credit generating (mitigation) projects to the Coos and Coquille watersheds, and Section 3(9) limits credit purchasing developments to the Coos and Coquille watersheds. These watersheds are geographically close to one another, but the salmonids that inhabit them are often functionally independent of one another. A salmon credit generating project in the Coquille paired with a development project in the Coos (or vice versa) will result in inappropriately dividing impacts between populations.

Existing law already allows for mitigation/banking credits. Existing law (ORS 196.600-655) already allows for mitigation/banking to offset removal-fill impacts, including the state's stream credit program. DSL has crafted rules for this program. That existing program is operational, provides streamlining efficiencies to developers, and has important checks and balances not found in this bill. It is unclear why the salmon habitat improvement objectives of this bill couldn't be achieved through the current program.

Endangered Species Act (ESA) requirements may significantly constrain implementation of HB 2206. Due to the presence of ESA-listed species like Coho salmon in both the Coos and Coquille watersheds, any destruction or modification of designated critical habitats will require appropriate consultation with federal fisheries management agencies and exemption from potential "take" provisions of the ESA. Success of achieving such approval is quite uncertain and will take extensive time and consultation resources. To our knowledge, the federal services have not opined on this legislation or its acceptability to federal fishery managers. Further, an outstanding ESA-listing petition for Oregon Coast Chinook Salmon represents an additional barrier to timely implementation and execution of HB 2206's proposed framework.

Proven legal tools already exist for landowners that want to restore habitat, protect those areas in perpetuity, and receive compensation for those efforts. HB 2206 is presented as a vehicle to fund conservation efforts on private land and compensate landowners for the environmental benefits provided by their land. However, numerous grant programs are already available to fund salmon restoration efforts on private land. Likewise, there are already land trusts, non-profits, and government agencies working to (1) purchase conservation easements on private lands across the state for the purpose of fish and wildlife conservation, and (2) pay landowners for those property interests. Landowners that grant a conservation easement in those contexts often receive financial compensation, and are free to use the relevant payment as they wish – including investments that would pay annual dividends like the Salmon Credit Trust Fund described in HB 2206.

There is a lack of market demand by developers for a salmon credit framework. We have not seen developers argue that the state of Oregon needs this new program. Make no mistake, there is a need within fish conservation and recovery efforts for more high quality salmonid habitat in Oregon. But the real need is in restoring habitat that is additive to what already exists, and not merely attempting to replace existing, functional habitat that is degraded or destroyed by development. State agency resources

(whether staff capacity or budgets), can and should be expended in the ways that will conserve and recover the state's native fish populations, not focus on offsets to land development activities.

Conclusion: We oppose HB 2206. The -4 amendment does not resolve our fundamental concerns that this bill creates an unnecessary and potentially harmful new program; one that will require extensive agency resources, may not be achievable due to uncertainties around federal approval, and fails to be additive to the amount of fish habitat in Oregon. Instead of this bill, we urge the Committee and Legislature to remain focused on supporting existing, high priority programs and conservation efforts that will substantively uplift our ecosystems and native fish.

Sincerely,

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