



To: House Committee on Revenue
Chair Nathanson
Vice-Chair Reschke
Vice-Chair Walters
Representative Levy

Representative Marsh
Representative Nguyen
Representative Smith

From: Caylin Barter, Oregon Water Policy Program

Date: May 9, 2023

RE: **Support for HB 2971 A – Removing Barriers to Voluntary Streamflow Restoration**

Chair Nathanson, Vice-Chairs Reschke and Walters, and Members of the Committee:

Thank you for the opportunity to provide testimony on HB 2971 A, which Wild Salmon Center supports as one of several bills that remove barriers to participation in voluntary streamflow restoration efforts.

Wild Salmon Center is an international nonprofit headquartered in Oregon that has worked with local partners since 1992 to protect and restore the strongest remaining runs of Wild Pacific Salmon. We use science to drive policy, lead planning processes, and support implementation, and we know that the health of our water resources is directly linked to the recovery of our iconic wild fish and the vitality of our communities and economy. Low streamflows and high water temperatures are stressing even our strongest salmon runs, and these problems are worsening due to climate change and increased human demand for water. But instream leasing is a proven tool for improving conditions in rivers where water withdrawals for out-of-stream uses are harming fish that rely on those same flows.

Much like the residential, commercial, and vehicle leases that we encounter in other areas of our lives, instream leases are a voluntary agreement between parties to temporarily change the use and control of an asset. In an instream lease, the owner of a water right applies to the Oregon Water Resources Department to temporarily change the use of the water right from the original out-of-stream use (e.g., irrigation, municipal, or industrial), to instream use. Once approved, the streamflow is legally protected against diversion by other water users based on the priority date of the leased water right. In addition to its value in restoring depleted river levels, instream leasing also enables water users to demonstrate beneficial use and thus avoid forfeiture under the “use-it-or-lose-it” pillar of the Prior Appropriation doctrine.

Instream leasing has been a tool for streamflow restoration since passage of the Instream Water Rights Act in 1987. Hundreds of instream leases have been completed without impact to the farm use tax status of underlying acreage. Yet the lack of an explicit carveout for agricultural lands involved in instream leasing has led to concerns that temporarily leasing an irrigation right for instream use could lead to that acreage being disqualified from farm use special assessment, potentially exposing the participating landowner to significant tax liability. This uncertainty is driving interested farmers and ranchers away from instream leasing, to the detriment of streams and fish, and also to the detriment of landowners who would otherwise benefit from the forfeiture protection that instream leasing affords.

INTERNATIONAL HEADQUARTERS

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House Bill 2971 A resolves ambiguity by clarifying that instream leasing of water rights associated with irrigated farmland will not disqualify that farmland from farm use special assessment. This bill is a well-vetted and narrowly crafted fix, and it complements the recent passage of HB 3164, which permanently authorizes split-season instream leases. Oregon's Integrated Water Resources Strategy calls on the state to expand the use of voluntary programs to protect and restore streamflows, and HB 2971 A would do just that. **Wild Salmon Center urges your support of HB 2971 A.**

Sincerely,

A handwritten signature in black ink, appearing to read 'Caylin Barter', with a stylized flourish at the end.

Caylin Barter
Senior Program Manager
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