



February 7, 2024

Senator Jeff Golden, Chair
Senator Fred Girod, Vice-Chair
Senate Committee on Natural Resources and Wildfire

Re: Trout Unlimited Supports Senate Bill 1561 (Monsanto settlement funds) *with revision*

Dear Chair Golden, Vice-Chair Girod, and Members of the Committee,

Trout Unlimited (“TU”) is a non-profit organization dedicated to conserving coldwater fish (such as trout, salmon, and steelhead) and their habitats. We have 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 supports SB 1561, but we urge this Committee to first amend the bill to be consistent with the applicable settlement agreement.

SB 1561 would establish a framework for disbursing funds that the State of Oregon received from [a legal settlement with certain Monsanto companies](#) related to alleged environmental impairments, polychlorinated biphenyls (PCBs), natural resource damages, and impairments to water resources (the “Settlement”). Under the Settlement, the Monsanto companies agreed to pay \$698 million dollars to the State of Oregon (“Settlement Funds”), with Settlement Funds to be used for certain environmental projects and purposes.

The scope of projects and purposes described in SB 1561 is significantly narrower than the scope described in the Settlement, and therefore this Committee should broaden the scope of fund purposes in the bill language, as explained below:

1. Narrow Scope of SB 1561 Language

SB 1561 would direct the Settlement Funds to an “Oregon Environmental Restoration Fund” appropriated to the Oregon Watershed Enhancement Board (OWEB), overseen by an “Environmental Restoration Council.” Interest from the Fund would be divvied 50% to a State Agency Program Fund, 25% to a Disproportionately Impacted Community Fund, and 25% to a Tribal Nation Natural Resource Program Fund.

Unfortunately, the scope of projects and allocations eligible for funding under the bill (as introduced) are much narrower than what's provided in the Settlement. For example, Section 6 of SB 1561 states that allocations to state agencies from the State Agency Program Fund:

“must be for environmental characterization, remediation or restitution projects or purposes that are consistent with the terms of the Monsanto Settlement Agreement and the strategic priorities established under section 9 of this 2024 Act.” (*Emphasis added.*)

In turn, Section 9 of the bill provides:

“(2) Strategic priorities shall include the prioritization of projects for:
(a) Characterizing the presence of PCB or other environmental contaminants in air, land, water, fish, wildlife and wildlife habitats; and
(b) Addressing harms to the environment or public health as a result of contamination from PCB or other environmental contaminants.” (*Emphasis added.*)

Overall, SB 1561 is focused on a relatively narrow scope of characterization and remediation of contaminants including PCBs. Though Section 6 references “the Monsanto Settlement Agreement,” that imprecise reference to another document will be unnecessarily difficult to use and interpret in the future. Moreover, this vague reference to the Settlement without specific direction on which portion or language in it, creates ambiguity that could create confusion, uncertainty, and conflict in administering the Fund.

2. Broad Scope of Settlement Language

Section 18 of the Settlement sets forth the agreed use of Settlement funds, which is broader than the current language of SB 1561, providing:

“The State agrees that, except for the portion thereof used to pay costs and expenses associated with the Action, including attorney’s fees, expert fees and other litigation expenses (collectively “Costs and Expenses”), the Settlement Funds will be used for environmental remediation or restitutionary projects or environmental remediation or restitutionary purposes having a nexus or connection with the types of environmental harm alleged by the State (i.e., harm to air, water, soil, or natural resources) as determined by the State in its sole discretion. Such environmental remediation or restitutionary projects or purposes include restoring, maintaining and enhancing the quality of Oregon’s air, land, water and other natural resources and will consist of projects having a nexus or connection with brownfields remediation or redevelopment, environmental or natural resource damage assessment or restoration, improvements to air and water quality, cleanup of contaminated sites, remediation of impaired waterbodies, sediments, or soil, or restoration or protection of wildlife or wildlife habitats, including fish, aquatic life, marine mammal, or bird habitats, but may also include at the State’s sole discretion other similar air, water, soil, or natural resource environmental remediation or restitutionary projects or purposes within the scope of the projects and purposes described above.” (*Emphasis added.*)

Clearly, the Settlement *does* call for allocating Settlement funds to characterization and remediation of contaminants. But it also expressly includes a broad scope of environmental restoration, natural resource maintenance, and habitat protection efforts.

3. Options for Amendment

There are several ways of addressing this inconsistency in describing the Fund's purpose, but all involve amending the bill. Some options include:

- Option 1: Adding a defined term to the bill (e.g., "Fund Purposes" in Section 2), copy and pasting the language from Section 18 of the Settlement into that statutory definition, and using "Fund Purposes" in the bill thereafter
- Option 2: Adding more language and keywords from Section 18 of the Settlement into the bill, such as "restoration" and "protection" terminology
- Option 3: Cut and pasting the entire portion of Section 18 of the Settlement into the various bill provisions
- Option 4: Cross-referencing Section 18 of the Settlement expressly throughout the bill

The Fund created by this bill is intended to last for at least half a century. For ease of use and reference in the future, these statutes should not require cross-referencing old legal settlement documents. In TU's view, the most efficient paths forward are Option 1 or Option 2 above, with Option 1 likely being the most transparent.

Conclusion

Trout Unlimited generally supports SB 1561, but this Committee should first amend it for consistency with the settlement language. Thank you for this opportunity to provide comment, and please let me know if you have any questions.

Sincerely,

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