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Testimony supporting Senate Bill SJR28

Chair Jama and members of the Senate Committee on Rules:

Southern Oregon Climate Action Now (SOCAN) is a grassroots climate organization of some 2,000 Southern Oregonians. We are concerned about the climate crisis and seek federal, state and local action to address it. We are rural and coastal Southern Oregonians who live on the frontlines of the warming, reducing snowpack, heatwaves, drought, rising sea level and the increasing wildfire risk that these trends conspire to impose on us. Because of our concern, we pay close attention to efforts nationally, statewide, and locally that impact our collective efforts to address the climate crisis. As our logo above indicates, the focus of SOCAN is to promote action through science.

In addition to writing on behalf of SOCAN, I write on behalf of myself. For three decades I taught ecology, conservation biology and environmental science at Southeast Missouri State University. Through most of those years I was also very active in the local Sierra Club group as we tried to preserve and protect our regional environment. Throughout my career, my professional interests (ecology and conservation biology) and personal concerns about environmental protection have coincided.

Not surprisingly, then, I view SOCAN's effort to promote climate action as one aspect of a more general public effort to protect our environment and manage our natural resources sustainably, particularly our land, air, water, and natural resources in order that future generations and, indeed, all life in the state and on the planet as we know it, might continue to thrive. Regrettably, a plethora of threats conspires to compromise the likelihood of our being successful in this effort, chief among these is climate change driven by global warming which, in turn working backwards, is caused by our activities that release of greenhouse gases.

Webb (2021) reported that "The constitutions of more than three-quarters of the countries on earth have explicit reference to environmental rights or responsibilities." Curiously, while the Declaration of independence guarantees us the unalienable rights to Life, Liberty and the Pursuit of Happiness, these unalienable rights are not constitutionally guaranteed. As a result, not surprisingly a national campaign seeks to establish the right to a clean environment in every

U.S. State (Green 2021). In addition, while several states already have such a provision, three states are currently seeking to establish the constitutional right and several others are considering such an effort (Bolstad 2023).

The Public Trust Doctrine (PTD), founded in Roman Law, holds that governments have a responsibility to protect certain natural resources (Scanlan 2000). Ryan (2022) also noted that: “Today, the [Public Trust] doctrine is frequently invoked in natural resource conflicts, some involving constitutional takings claims, and some of which push the boundaries of previously recognised trust values, such as appeals to public trust principles in support of meaningful climate governance.”

In reporting on the success of Our Children’s Trust in their Montana lawsuit on behalf of the right of youth to a clean environment, Drugmand (2024) pointed out that the Montana Supreme Court ruled that a law passed by the Republican-controlled state legislature: “violated the Montana constitution’s guarantee of the right to a “clean and healthful environment.” Meanwhile, in Hawai’i, Zeigler & Digrazia-Roberts (2025) reported that climate change: “motivated thirteen youth from across the Hawaiian Islands to act and hold their government accountable for actively contributing to the climate crisis. The youth filed a lawsuit against the State and the Hawai’i Department of Transportation (“HDOT”).” They further report that the state came to the table just before the case was heard and reached an “unprecedented settlement agreement.” It is undoubtedly no coincidence that “the Hawai’i constitution “declares that the state holds all of its natural resources in trust for the public, including land, water, air, minerals, and energy sources (Art. XI, § 1)” (Ryan 2022). The same author also reported the Pennsylvania constitution states: “The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment...” (Art. I, § 27).

Clearly, the notion of enshrining in the constitution the right to a clean and healthy environment is not novel. In addition, the states that have enshrined this principle have neither fallen apart economically, nor seen masses of businesses leave the state for fear of legal action. As Jamin & Glick (2020) pointed out, the Oregon Supreme Court ruled against a youth lawsuit based on the Public Trust Doctrine in part because “the Court held that the PTD covers all submerged and submersible lands as well as navigable waters but declined to extend it further to cover all waters of the state, to wildlife, or to the atmosphere.” Evidently, the absence of constitutional protection for our environment means Oregonians and our environment are not well-served and remain at the mercy of polluters who are not reined in by state agencies.

No doubt an array of the usual suspects will submit testimony and/or appear before you to argue either that Oregon’s environment is clean and unsullied so no amendment is necessary, or that amending the constitution to guarantee Oregonians a healthy environment constitutes a threat either to their freedom or their profit margin. To such claims I offer the following response:

If the Right to a Healthy Environment is enshrined in the Oregon constitution, only individuals and businesses that behave in a socially irresponsible manner would be at risk. In fact, this proposal seeks simply to level the playing field between those who behave responsibly and those who profit by behaving irresponsibly. Currently the irresponsible entities are able to generate profit, for example, by using our commons (our air, land and water) as a dumping ground for their waste. This is a consequence of what Garrett Hardin (Hardin 1968) aptly described as 'the tragedy of the commons.' The essence of the argument is that when everyone has free unfettered access to a common resource it will inevitably be overused and compromised. The only solution to this is mutual agreement to manage the resource in a just manner and penalize those who abuse it. We live on a finite planet with finite resources and a finite capacity to process our waste. It is incumbent upon all of us to acknowledge these limitations and behave accordingly. If, indeed, we were all to acknowledge these limitations and behave accordingly, there would be no need for a federal Environmental Protection Agency or a state Department of Environmental Quality. Regrettably, that is not the case. Thus, we need regulations that can deter or penalize irresponsible anti-social behavior. We also need a constitution that guarantees Oregonians a healthy environment in order that we can urge, via lawsuit, if necessary, that state agencies with authority to protect our environment meet their charge.

Despite the fact that no such result occurred in other state establishing this principle, opponents may argue that incorporating this right into the state constitution would result in a mass of lawsuits as state agencies are pushed to protecting the environment as they are charged. I suggest, however, that the greater likelihood is that the agencies will recognize that failing to perform their duty by allowing our environment to be sullied, they are liable to be sued. In turn, the scofflaws who currently pollute without pause will realize that they are now liable for their behavior and would adjust that behavior. As IISD (undated) indicates, environmental externalities are "Higher/lower water and air pollution, more/less greenhouse gas emissions, degradation or rehabilitation of land and habitats, deforestation or reforestation, biodiversity loss/ gains." SJR28 focuses on the negative externalities that state agencies fail to curtail as irresponsible behavior of individuals continues unrestricted. These negative externalities impose costs on either or both our environment and we Oregonians but redound to the benefit (usually economic benefit) of the unrestricted perpetrator. SJR28 would provide the people of Oregon the opportunity to vote on a ballot measure that would confer upon us the Right to a Healthy Environment.

For the above reasons Southern Oregon Climate Action Now urges support for SJR28.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Alan P. Gouret". The signature is written in a cursive, flowing style.

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Sources Cited

Bolstad E. 2023. Some States Want to Give You a Constitutional Right to a Clean Environment. Stateline. <https://stateline.org/2023/04/06/some-states-want-to-give-you-a-constitutional-right-to-a-clean-environment/>

Drugmand D. 2024 Montana Supreme Court Upholds Historic Youth Climate Lawsuit Win. Climate in the Courts. <https://www.climateinthecourts.com/montana-supreme-court-upholds-historic-youth-climate-lawsuit-win/#:~:text=The%20Montana%20Supreme%20Court%20on,US%20climate%20litigation%20th at%20is>

Green 2021. Green Amendments for The Generations: Securing a Constitutional Right to Pure Water, Clean Air, a Stable Climate & Healthy Environments, For All People, Including Future Generations, Regardless of Race, Ethnicity, or Socioeconomics. Green Amendments for the Generations. <https://orgreenamendment.org/> and <https://forthe generations.org/wp-content/uploads/OR-Green-Amendment-Printable-Petition.pdf>

Hardin, Gt 1968 The Tragedy of the Commons. Science 162 (3859), 1243-1248. <https://math.uchicago.edu/~shmuel/Modeling/Hardin,%20Tragedy%20of%20the%20Commons.pdf>

IISD undated What is an externality? International Institute for Sustainability. <https://www.iisd.org/savi/faq/what-is-an-externality/#:~:text=An%20externality%20is%20a%20positive,example%20of%20a%20negative%20externality.>

Jamin O and Glick R. 2020 Oregon Supreme Court Rejects Expansion of Public Trust Doctrine in Climate Change Lawsuit. David Wright Tremaine LLP <https://www.dwt.com/blogs/energy--environmental-law-blog/2020/12/climate-change-public-trust-doctrine-oregon>

Ryan E, 2022. The Public Trust Doctrine, Property, and Society Handbook of Property, Law, and Society (Graham, Davies & Godden, eds.). <https://ir.law.fsu.edu/articles/724>

Scanlan M. 2000. The Evolution of the Public Trust Doctrine and the Degradation of Trust Resources: Courts, Trustees and Political Power in Wisconsin, 27 Ecology L. Q. 135 (2000). <https://www.law.gwu.edu/sites/g/files/zaxdzs5421/files/downloads/TheEvolutionofthePublicTrustDoctrineandtheDegradationofResources.pdf>.

Webb R. 2021. Environmental Rights in State Constitutions. Climate Law. Columbia Law School. <https://blogs.law.columbia.edu/climatechange/2021/08/31/environmental-rights-in-state-constitutions/>.

Zeigler J & Digrazia-Roberts M, 2025 Hawai'i Youth Achieve Climate Justice Victory. Impact Fund <https://www.impactfund.org/social-justice-blog/hawaii-youth-climate-justice>