Submitters: Philip H. Carver, Ph.D. and Linda Perrine
On Behalf of the Oregon Coalition for an Environmental Rights Amendment
To the Senate Committee On Rules
Hearing of March 26, 2025

Topic: SJR 28-1

Greeting Chair Jama, Vice-Chair Bonham and members of the Senate Rules Committee:

There were four statements in oral and written testimony before this hearing that merit a response.

"The amendment would be redundant"

Oregonians for Food and Shelter testified the following:

> *There are several issues with this concept, including the redundancy it has with existing laws and regulations. Oregon has an extensive system of regulations, spanning multiple state agencies and programs, designed to ensure a clean, safe, and healthy environment – this system is among the most stringent of any U.S. state. Oregon also has a clear system of enforcement when these stringent regulations are not followed.* [emphasis added]

As Dr. Andy Harris noted in his testimony for Oregon Physicians for Social Responsibility

> *In the 50 years that I have lived in Oregon, the air and water quality have deteriorated significantly. The Oregon Constitution needs an update to reflect the threats posed by toxic pollutants in our air, water and soil and by climate change, - problems that were unknown when the Oregon constitution was written.*
>
> *National data indicate that Oregon's asthma mortality rate is twice as high as the national average. A chief cause of asthma is nitrous oxides from diesel trucks and cars.*
>
> *Nitrates from fertilizers and confined animal feed operations have polluted streams, rivers and aquifers, causing blue baby syndrome, birth defects, cancer and thyroid disorders.*
>
> *CO2 and other greenhouse gases are heating the planet and causing severe storms, flooding, droughts and wildfires.*
>
> *Oregon currently depends heavily on federal environmental laws including the Clean Air Act, the Clean Water Act, and the National Environmental Policy Act (NEPA). These*

environmental laws and the EPA are threatened by the new administration as it pushes back against effective environmental protections.

=> Oregon's air and water quality permits under these federal statutes are no longer on firm footing. They were never the "most stringent of any U.S. state." Groundwater protection has been inadequate or non-existent. The amendment proposed under SJR 28-1 is hardly redundant.

"This bill immediately exposes manufacturers to lawsuits from any Oregonian who wants to shut them down." Duke Shepard, Oregon Business & Industry

=> First, this implies that manufacturers could be sued under the provisions of SJR 28-1. This is incorrect, only the government can be sued. This is clear from the provision of the amendment that states:

Any person may obtain declaratory or equitable relief against state action or inaction …

While the agency issuing an emissions permit could be sued, the plaintiff would have to provide clear evidence of a substantial threat to health or safety at the level of emissions allowed by the permit. If a judge found this to be the case, it would indicate that the level of emissions allowed in the permit was inappropriate.

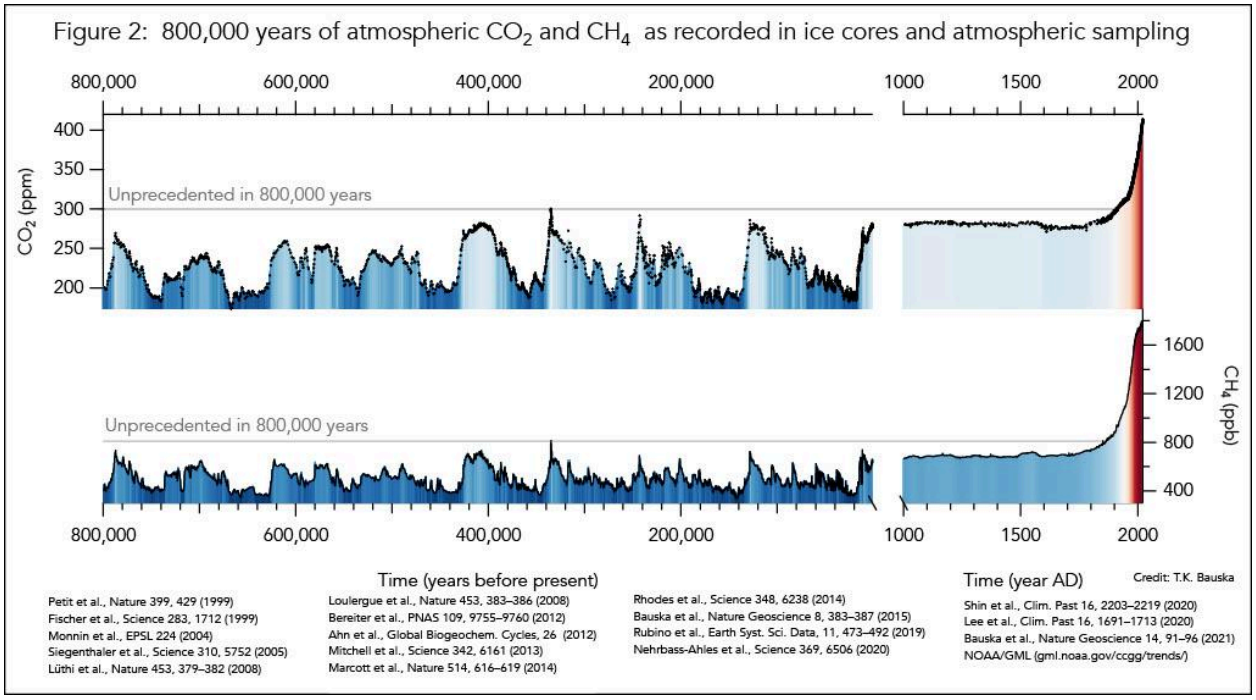
Other states (Montana, Pennsylvania, New York and others) have similar language, and we do not know of a case where a water or air permit has been challenged under a right to a healthy environment

"No one knows what a stable climate is." - comment made in 3/26/25 public hearing

=> This is incorrect. We have ice core samples dating back 800,000 years that tell us the Earth has remained below 300 ppm of CO_2 up until the widespread use of fossil fuels starting in the 1940s.

Countless scientists, climate experts, and government officials agree that 350 ppm is the safe level of carbon dioxide we need to return to. NASA's James Hansen was one of the first to declare 350 ppm safe. We have facts, data, and research to back up measuring and knowing at what point in history we had a stable climate. We have a continuous record of world average CO_2 since the 1950s at Mauna Loa Observatory in Hawai'i Trends in CO2 - NOAA Global Monitoring Laboratory. Carbon dioxide levels have not been this high since 3 million years ago when "sea levels were 15 metres higher and Arctic summer temperatures were 14 degrees higher than the present day" https://www.rmets.org/event/pliocene-last-time-earth-had-400-ppm-atmospheric-co2.

The following graph shows the 800,000 year history of CO_2 in the Earth's atmosphere taken from ice core samples, including citations of papers that are the sources of this research:



"No one knows what "clean water"or "clean air" mean or how to determine what these terms mean?" - comment made in 3/26/25 public hearing

=> This is incorrect. We have definitions from the Clean Water Act, Clean Air Act, and over 50 years of EPA federal enforcement, research and science behind these acts. As these are science-based regulations, they evolve as science evolves to determine better measurements and indicators as needed in the future.

Clean Water Act provisions:

- The **U.S. Environmental Protection Agency (EPA)** primarily enforces the CWA, working with states to implement regulations.
- **Water Quality Standards:** The EPA, in coordination with states, sets water quality standards for pollutants in surface waters.
- **Point Source Discharge Regulation:** The CWA prohibits the discharge of pollutants from point sources (like industrial facilities or sewage treatment plants) into navigable waters without a permit.
- **National Pollutant Discharge Elimination System (NPDES):** The CWA established the NPDES permitting program to control discharges from various facilities.
- **Wetland Protection:** The CWA also regulates activities that could impact wetlands, which are considered part of "waters of the United States".

- **Oil Spill Prevention:** The CWA includes provisions for preventing and responding to oil spills.

Clean Air Act: The Clean Air Act (CAA) is a comprehensive federal law that regulates air emissions from both stationary and mobile sources, authorizing the EPA to establish National Ambient Air Quality Standards (NAAQS) to protect public health and the environment.

Key Provisions:

- **National Ambient Air Quality Standards (NAAQS):** The EPA sets NAAQS for six criteria pollutants (ozone, particulate matter, carbon monoxide, sulfur dioxide, nitrogen oxides, and lead).
- **State Implementation Plans (SIPs):** States must develop SIPs to demonstrate how they will meet the NAAQS.
- **Emission Standards:** The CAA sets emission standards for various sources, including power plants, industrial facilities, and vehicles.
- **Regulation of Hazardous Air Pollutants (HAPs):** The CAA also regulates emissions of HAPs, which are known or suspected to cause cancer or other serious health problems.