Chair Jama, Vice Chair Bonham, Members of the Senate Rules Committee,

My name is Melissa Martin, retired Judge Advocate from the US Marine Corps and an attorney barred in the State of Florida. I have led coalitions in Florida on issues of good governance and clean water and served on multiple government and nonprofit boards and committees concerning natural resources. I taught Water Pollution Law and Environmental Ethics at Barry University School of Law in Orlando before moving to Eugene in the (orange-sky) summer of 2020 with my family. I currently help coordinate the citizens' initiative campaign in Florida for the Right to Clean Water and the campaign here in Oregon for the Right to a Healthy Environment, all gratis – like all my colleagues in each effort. As a member of the Strategy Team for the Oregon Coalition for an Environmental Rights Amendment (OCERA), I hope you will approve SJR 28-1 (with its amendment, designed to improve its enforceability and survivability).

All opposition points have been well rebutted at this time (ref: testimonies submitted by Maya van Rossum, Emily Goetz, Phil Carver, and many, many others), so I will speak to points less articulated as of yet. Here are the highlights of my testimony in support of SJR 28-1.

- ☑ With an ironic twist against fears of vague terms and instability, **SJR 28-1 doesn't just improve but ENSURES clarity of standard in policies and regulations with respect to natural resources** – what the best available science can show as environmental actions (or policies of inaction) harming or threatening to harm public safety or health. This level of clarity breeds market stability and permitting predictability so there will be less political guessing, less civic protesting, more future planning, and more secure business opportunities.
    - To note: This isn't centered on "environmentalism" or the rights of nature, to the disappointment of many. It is centered on the public's best interest in safety and health, now and into the far future, and what that means for the government's public trust duties.
- ☑ Though it's been mentioned elsewhere, I thought it was an important point here if it is of value to Senator Thatcher and her concern about Oregon's actions measurably affecting global climate systems. As Our Children's Trust noted in their testimony (submitted by Emily Goetz), "**The amendment does not require Oregon to single-handedly solve the climate crisis**, but Oregon must do its part to ensure that its policies do not endanger our youth." There are also court opinions that speak to this point in many respects, that – in short – the fact that others don't properly fulfill their duties does not excuse us from doing ours. And finally, regarding the standard of a "stable climate system," the "valid, independent (no conflict of interest) peer-reviewed scientific data" points to both what "stable climate system" means and what it will take to get there. (The red highlighted portion of this paragraph comes from the OR Republican Platform, paragraph 6.12.)
- ☑ Other fears of potential adverse effects are, again, ironic when contrasted against the current backdrop of the status quo. **With a clear, brightline standard in the Oregon Constitution, it will inform ALL else – rulemaking, permitting decisions, etc. – and help streamline legislation and administration** (as it updates Oregon's natural resources management from a structure established in the 1800s / early 1900s) the way things SHOULD work, vs. hundreds and hundreds of legislative measures to review, research, support / oppose, in a whack-a-mole fashion. Even paid lobbyists can't keep up, much less the people of Oregon whose interests such legislation affects.

This really is a bipartisan issue. Both Republicans and Democrats should support SJR 28-1 because it cuts to the heart of the issue, the sacred relationship between the people and its government through the public trust. It's a tool for effective government accountability. No one, to include the State of Oregon, has the right to pollute / poison / hurt people. Taxpayers shouldn't be burdened in cleaning up the mess (or restoring natural resources) due to the private acts of others or poor / short-sighted government decisions. A sustainable future **inspires responsible residents and attracts responsible business**, and the constitutional clarity sets the course forward in a clear and confident way.

This is bold leadership on a critical cause, which is **likely scary to those who currently profit (or wish to profit in the future) by harming or threatening to harm public safety or health,** because they are the ONLY ones who should be worried under this amendment by second-ordered effects. All others will not be touched and will ONLY benefit from what this amendment will help bring.

If the issue doesn't reach ***public*** safety and health, it doesn't fall under this amendment. If it does, then private actors should consider updating their business models to ensure they no longer socialize costs or toxic messes onto the taxpayers and other people of the State of Oregon.

An example to illustrate this line: One of the primary concerns expressed by the OR Columbia Chapter of Associated General Contractors was that "*airborne dust could be interpreted as a 'threat of harm'...exposing contractors to lawsuits despite their compliance with existing environmental lawsuits. Similarly, noise from heavy machinery, temporary runoff during site preparation, or even the mere presence of construction equipment could be construed as actionable threats, regardless of whether actual harm occurs*."

- First and foremost, no private party can be sued under this amendment, as it is very clearly a fundamental right that can only be violated (and therefore enforced against) the government. This rebuttal point has been covered many times by many people. Only the permit is at issue.

- Theoretically, if it were the government causing such issues of dust, noise, temporary runoff, etc. the question would be whether public safety or health is at issue. If not, then the current regulatory standards would be deemed sufficient and the government would not be violating the right. If such nuisances DID, however, rise to the level of threatening harm to the safety of nearby communities or homes, then those Oregonians – no matter how rich or poor – have a tool to defend themselves and to keep their families safe against such government harm.

Once the government conducts its internal reviews and implements any course corrections necessary to achieve constitutional compliance, **there should theoretically be no need for litigation**. Before that point, the people and government of Oregon will maintain a "conversation" regarding what is needed and what is practicable, working in good faith toward constitutional compliance. The need to litigate will only arise when the government (agency / entity) refuses to base its actions or policies of inaction on the best available science, or otherwise, if the best available science needs to be officially reviewed through rules of admissible / best evidence. **Again, it behooves all parties to do their research and maintain an open, transparent conversation about what's best for Oregonians – the way things should be.**

For any legislator or Oregonian with questions or concerns, please don't hesitate to contact me / OCERA.

Respectfully,

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