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## **HB 3217 – Artificial Beaver Dams**

### **Before the House Committee on Rural Communities, Land Use and Water**

#### **Testimony of Martha O. Pagel**

Thank you for the opportunity to provide this testimony in support of HB 3217, relating to a pilot program for voluntary stream restoration efforts in Eastern Oregon. I am here today as a representative of Silvies Valley Ranch (“SVR”), where voluntary efforts have been underway for several years – with excellent results. The purpose of HB 3217 is to provide a pathway for other landowners to benefit and learn from the experiences at SVR in restoring severely eroded streams and improving range productivity.

#### **What the bill does:**

- Recognizes problems with severe erosion in the beds of many small streams in Eastern Oregon.
- Promotes voluntary stream restoration efforts by private landowners.
- Creates a pilot program to simplify permitting under the state Removal-Fill Law for projects meeting specific requirements.
- Waives fish passage requirements for qualifying projects, but includes provisions to address fish passage after stream habitat is improved.

#### **Why is it needed:**

- Many small streams in Eastern Oregon have been significantly degraded and eroded over time – due in part to the near eradication of native beaver populations in the early 1800s.
- The affected streams tend to be very “flashy” – they are fed primarily by snow melt and many run for only short periods of time each year.

- Historically the beaver had a significant impact on stream systems and hydrology; beaver dams had the effect of slowing flows and allowing for natural overflow onto the surrounding flood plains.
- As a result of historic over-trapping, loss of habitat, and on-going erosion, many stream systems no longer support natural beaver populations.
- Without the benefits of natural beaver dams, flow velocity increases, exacerbating the erosion and down-cutting; as each season passes, the incision gets worse – many streams have been cut down 10 feet or more from the original/natural surface level.
- As the erosion gets deeper, stream channels are separated from the natural flood plain – resulting in a loss of natural riparian habitat along the adjacent uplands, which then typically become over-run with sage brush, juniper, or other upland vegetation.
- The loss of riparian vegetation, including aspens and cottonwood, inhibits the natural return of beaver – because of a lack of habitat and food supply.
- The use of “artificial beaver dams” – also known as “plug and pond” technique – is being explored throughout the West as a means of mimicking natural conditions with great success, but implementation of these techniques in Oregon typically triggers the need for a Removal-Fill permit issued by the DSL.
- The application process for obtaining individual permits from DSL is complicated, time-consuming, and expensive for landowners – creating a disincentive for voluntary efforts.
- Voluntary stream restoration work would also be subject to current laws requiring fish passage or waivers issued by the Oregon Department of Fish and Wildlife (ODFW); even though the waivers likely could be obtained, the process is complicated, time consuming and expensive.

**How the bill addresses the problem:**

- The bill directs DSL to set up a simplified permitting process to authorize voluntary stream restoration projects by private landowners to construct artificial beaver dams.
- The program would be established on a pilot basis in the Malheur Lake Basin of Eastern Oregon, and would be limited to small streams that do not currently provide spawning, rearing or food producing areas for game fish or native redband trout.
- The simplified process would be implemented through rulemaking by DSL that would include details as to how the artificial beaver dams are to be constructed, maintained, and monitored. Only projects meeting the rule specifications would be authorized under the program, but other voluntary work could be done by obtaining an individual permit, as needed, from DSL.
- The bill includes a waiver from separate ODFW fish passage requirements for qualifying streams (that do not have redband trout or game fish under current conditions), but



includes provisions for providing fish passage after the streams are recovered sufficiently for the fish to return.

**What the bill does not do:**

- The bill does not create an exemption from permitting requirements – instead, it directs DSL to establish rule provisions for either a general authorization or general permitting process that eliminates the need for landowners to obtain individual permits. Under these procedures, qualifying projects could proceed with a simplified notice process to confirm eligibility and compliance. The rules adopted by DSL would include specifications for how the artificial beaver dams are to be constructed and maintained.
- The bill does not authorize new storage or use of water that would otherwise require a water right. Artificial beaver dams are not designed or intended to completely block the flow of water. They are designed to slow down the flow of water. Although some pooling occurs behind the artificial beaver dams, this type of hydrologic change does not require a water right. The bill and related pilot program would not authorize landowners to divert water from the stream or make other beneficial use of the water.

**Conclusion:**

Stream restoration efforts at the Silvies Valley Ranch have demonstrated successful results from the use of “artificial beaver dams” to help reduce erosion and restore flood plain connectivity on deeply incised and severely degraded stream systems. The process is cost effective for landowners and produces not only improved streams, but also more productive uplands for traditional grazing operations. The work at SVR has been done in consultation with public and private interests including the Oregon Natural Desert Association, Burns Paiute Tribes, U. S. Forest Service, U.S. Department of Agriculture Agricultural Research Center, and academics such as Dr. Gordon Grant and Dr. Martin Doyle at Duke University.

This measure would create an incentive for other landowners to undertake similar voluntary stream restoration work by simplifying the DSL permitting process and clarifying related requirements for fish passage. The bill does not exempt projects from permitting requirements and does not authorize landowners to divert, store or make beneficial use of the water. Administrative rules adopted by DSL to implement the pilot program will describe construction specifications and conditions for qualifying projects. The program will also require monitoring by participating landowners, and a follow-up report by DSL to the Legislative Assembly.

As a former Director of both the Department of State Lands and Water Resources Department, and having worked for more than 30 years on water and natural resources issues in Oregon, I know that effective watershed restoration is dependent on the cooperation and active involvement of private landowners. Oregon has a long history of promoting innovative public-private partnerships to achieve common resource restoration goals. This is an opportunity to take another step forward in that direction. I urge your support for HB 3217.



Bridge Creek





Cottonwood Creek



Cottonwood Creek





Hay Creek

