

From the Desk of Representative Helm:

CONSERVATION AND FISHERIES ORGANIZATIONS
ASK YOU TO VOTE "NO" ON HB 3217

Date: April 22, 2015

From: Association of Northwest Steelheaders, Oregon Council of Trout Unlimited, Native Fish Society; and WaterWatch of Oregon

Dear State Representatives:

The above conservation and fisheries organizations all ask you to vote "no" on HB 3217. The bill purports to be about restoring watersheds with "artificial beaver dams." However, the bill is a wolf in sheep's clothing. As recognized by two members of the committee (representatives Gomberg and Helm), the bill would allow an experiment on Oregon's streams without adequate safeguards to protect the public interest. In particular:

The bill would provide an exemption from fish passage laws. Oregon law requires fish passage at dams on streams presently or "historically" used by "native migratory fish" (including resident fish that move within a stream). HB 3217 would exempt "artificial beaver dams" from these laws, even though the dams could be placed on streams historically used by native migratory fish, and even though such fish can be expected to return if restoration is successful. Although the bill has language about providing fish passage, a close reading shows it would only be optional unless ODFW pays for it, which it does not have the resources to do. (Section 2(3).)

The bill would allow dams that are nothing like real beaver dams. Real beaver dams are made from mud, rocks and wood. They shift with currents and get washed out by high flows. Fish can get past them. In contrast, HB 3217 has no limits on the materials that can be used. Indeed, the dams that inspired the bill (see below) tend to be made mostly out of rock. The dams could not rise more than two feet above the floodplain. However, the floodplain can be well above the stream bed (10-20 feet we have been told), and there are no other limits on how big the dams can be. Moreover, the dams are not required to be temporary and, as noted, they are not required to provide fish passage.

The bill could be exploited for non-restorative purposes. The bill purports to be about restoration. To ensure the dams would be built for that purpose, we proposed language to keep livestock out of the streams and to not allow the dams immediately downstream from irrigation diversions (which would suggest they are there to pool water for diversion and not for restoration). However, promoters of the bill rejected both of these proposals.

The bill is premature. The bill is being promoted by the owner of the Silvies Valley Ranch near Burns, which installed numerous "artificial beaver dams" without required permits. Those dams are now authorized under an enforcement "consent agreement," and monitoring and testing is taking place to determine their impacts. This bill should wait at least until that monitoring and testing has produced enough information to draw conclusions. For example, preliminary results show increased stream temperatures, which are bad for fish such as trout. Promoters think the impact will be mitigated by other effects, but they don't know that yet.

Conclusion. For the reasons above, please vote "no" on HB 3217.

