



HB 4012-2

Testimony of WaterWatch of Oregon Submitted to the House Committee on Rural Communities, Land Use and Water

February 10, 2016

Founded in 1985, WaterWatch is a non-profit river conservation group dedicated to the protection and restoration of natural flows in Oregon's rivers. We work to ensure that enough water is protected in Oregon's rivers to sustain fish, wildlife, recreation and other public uses of Oregon's rivers, lakes and streams. We also work for balanced water laws and policies. WaterWatch has members across Oregon who care deeply about our rivers, their inhabitants and the effects of water laws and policies on these resources.

WaterWatch opposes HB 4012,-2 amendments.

What the -2 amendments do: The -2 amendments establish a "Water Quality Monitoring Fund" for the purpose of conducting or funding water quality monitoring or analysis related to removal of dams, and allows the reimbursement of local governments for expenses incurred through water quality monitoring or analysis related to the removal of dams. The bill also authorizes an unnamed amount of lottery funds to deposit in this fund.

WaterWatch urges the Committee to vote no on HB 4012,-2 for the following reasons:

HB 4012-2 would expend unknown amounts of taxpayer money without first establishing need: The -2 amendments presume a problem where none has been established by facts or data.

Extensive state and federal dam removal permitting processes already ensure the protection of the public, health, safety and welfare: Before a dam can be removed, a joint Section 404 permit from the US Army Corps of Engineers and removal-fill permit from the Oregon Department of State Lands is required. These permits require sediment testing in accordance with a Sediment Evaluation Framework put together by the Sediment Evaluation Team, which in the Pacific Northwest includes the Corps (lead), EPA – Region 10 (co-lead), National Marine Fisheries Service, U.S. Fish and Wildlife Service, Oregon Department of Environmental Quality, and Washington Department of Ecology. The analyses required to get these permits are expensive and rigorous and assure that sediment released will not cause a health hazard to people or wildlife. Additionally, in Oregon, dam removal requires 401 Water Quality Certification from the Oregon Department of Environmental Quality, which requires DEQ to ensure dam removal activities will meet water quality standards established by the state under the Clean Water Act. By ensuring a project does not degrade water quality, Oregon's waters

remain safe for a wide range of uses, such as drinking water, recreation, fish habitat, aquatic life, and irrigation.

HB 4012-2 risks politicizing decisions over beneficial restoration projects and increases costs and barriers to Oregon's widely-supported restoration goals: As noted, there are robust federal and state permitting processes that ensure that dam removal activities will not harm the water quality of Oregon's rivers. In addition, there is no credible data showing that these processes are not protecting water quality and the public as intended. Despite this, ideological dam removal opponents (including Oath Keepers militia) have spread boldly false claims regarding dam removal impacts in Southern Oregon. These contentions have been debunked time and time again (see attached Myth and Fact sheet), but often place local governments with limited technical expertise in a difficult position. Passage of HB 4012-2 would compound this problem by granting an unknown amount of taxpayer monies to water quality monitoring by local governments often lacking technical know-how, thereby significantly raising the overall cost of restoration activities without solving any factually-established problem. Ultimately, this could have a chilling effect on future beneficial restoration projects.

HB 4012-2 will lead to additional public fear and higher local government costs: HB 4012-2, while not directly changing policy, lends legislative approval to the idea that local governments need to undertake even more water quality monitoring to address any number of unsubstantiated threats, whether related to dam removals or not, even when there are rigorous safeguards already in place. Municipal water providers are already required to perform periodic water quality testing of their supplies, and this testing has shown no signs of increased contamination due to dam removals. Passage of this legislation would signal to all Oregon citizens that the legislature believes the current municipal testing regime is inadequate and unprotective, and would likely spur other unsubstantiated water monitoring panics unrelated to dam removal.

The legislature should get more facts before rushing into unnecessary and costly legislation: The genesis of this bill, as we understand it, is a desire to provide Josephine County funds to pay an outstanding bill for an unnecessary and unjustifiably expensive water quality monitoring contract that was approved by the County Commission relying on misinformation. This contract was rescinded soon after approval due to public outcry over the false nature of the water quality claims that had led to County Commission approval. It is poor public policy to put all Oregon taxpayers on the hook for unsound local government decisions made without adequate due diligence.

Conclusion: We urge the Committee to oppose HB 4012-2. WaterWatch hopes that the Committee will carefully review the facts of this matter and conclude that this measure is unnecessary.

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WaterWatch of Oregon Briefing Paper

Myths & Facts of the Rogue Basin Dam Removals

Dam removals, such as the pair of dam demolitions performed during the summer of 2015 on Evans Creek, have been shown to provide multiple public benefits, including restoration of economically and culturally valuable salmon and steelhead populations. Unfortunately, dam removals often attract misinformation campaigns by anti-dam removal ideologues. In the Rogue Basin, the baseless claims of anti-removal ideologues have previously forced cash-strapped local governments to expend scarce resources to quell the public's fears. WaterWatch has provided this Myths and Facts briefer to rebut some of the most common falsehoods circulating about the Rogue Rive Basin's dam removals, and urges elected leaders to carefully consult with the relevant government agencies regarding the basic facts concerning these projects to avoid unwittingly repeating false claims.

Myth: State and federal protocols were not followed for permitting the Fielder and Wimer dam removals.

Fact: The project partners spent over 18 months and over \$200,000 conducting required environmental review – including sediment evaluation, engineering, and design work – to assure the project met all state and federal guidelines and required permits. State and federal agencies were consulted throughout the planning process to ensure development of a safe plan. All county, state, and federal requirements were followed for each of these projects. Adjacent landowners were notified and public comments were solicited during the permitting process.

Myth: Fielder Dam was removed without properly testing the sediments behind the dam. Fielder Dam's sediments are mostly composed of contaminated mud, silt, or sludge, and pose a threat to public health.

Fact: Prior to dam removal, sediment was sampled at the Fielder Dam site, evaluated in compliance with state and federal protocols, and determined not to pose a risk to people, fish or wildlife. Most of the sediment behind Fielder Dam was cobble, gravel, and sand – not mud, silt, or sludge. Alphonso Dam, which was upstream of both Fielder and Wimer dams, was also removed several years ago without any sediment health concerns. Before previous Rogue Basin dam removals, sediments were also sampled, evaluated, and determined not to pose a health risk to people, fish, or wildlife. Since then, these dam removal sediments have not created any health problems, and claims of health risks related to dam removal sediments have been proven to be entirely without merit.

Myth: Sediment releases from the dams have contaminated the water, and threaten the water supplies of downstream communities.

Fact: The City of Grants Pass is the largest community downstream from all the dam removal sites in the Rogue Basin, and as a municipal provider of water, this city is required to perform periodic testing. Testing by the City of Grants Pass not shown any increases in the presence of toxic materials in their municipal water supply as a result of any of the Rogue Basin's dam removals. In

addition, separate testing after the Evans Creek removals by Neilson Research Corporation, a reputable firm certified to test both water and sediment samples, has shown no contamination.

Myth: Josephine County now has no choice but to undertake additional testing at public expense to address the public's fears regarding contamination of the water supply by arsenic post dam removal.

Fact: To help allay fears in the wake of the latest anti-dam removal misinformation campaign, Neilson Research Corporation has publicly offered to perform arsenic testing of the water at the Grants Pass Water Filtration Plant every week for a year – for free.

Myth: Fielder Dam's removal killed large numbers of salmon.

Fact: Oregon Department of Fish and Wildlife biologists directed fish salvage operations to rescue native fish from the site before and during dam removal. No salmon were present. This was to be expected, because reservoir water temperatures were too high to support salmon. Invasive fish species, mostly redbreasted sunfish, were not the focus of salvage efforts because they are harmful invasive species. Many died when the reservoir was drained. They did not die from any toxic substances. The elimination of a high abundance of harmful invasive species thriving in the standing water habitat created by these dams is another example of the benefits of these removals.

Myth: Sediment releases from the dams will harm salmon.

Fact: Most of the sediment behind the Evans Creek dams is gravel, cobble, and sand that is not only safe to release, but will benefit salmon downstream. One of problems with dams is that they block the natural movement of sediments such as gravel in river systems. This can starve stream reaches of important salmon spawning gravel and adversely impact salmon reproduction downstream of dams.