

*Diane Rosenbaum*

## VOTE NO ON SB 1584

**SB 1584 would make complex changes to Oregon water law that would harm imperiled salmon and steelhead, overturn prior compromise legislation, an Oregon Court of Appeals decision and reduce badly needed water conservation and management planning.** The 41 organizations comprising the Oregon Conservation Network deem SB 1584 a Major Threat to Oregon's Environment, a designation reserved to express OCN's highest level of opposition.

**SB 1584 rolls back existing protections for imperiled salmon, steelhead, lamprey and trout.** The bill exempts certain municipal water diversions from analysis and, if necessary, certain development conditions needed to ensure the persistence of imperiled fish in the affected waterways. Though the Oregon Water Resources Department lacks data necessary to identify the complete list of impacted rivers, SB 1584 exemptions are known to apply to at least Panther Creek, the West Fork of Hood River and the Kilchis, Marys and Clackamas rivers. These rivers variously contain federal and state listed (Threatened, Sensitive or Endangered) fish populations including winter steelhead, coho and Chinook salmon, Pacific and Western Brook Lamprey.

**SB 1584 reduces municipal water conservation and water management planning.** SB 1584 exempts many cities from the requirement to prepare a Water Management and Conservation Plan when developing dormant water rights. These plans lead to proven, sensible steps such as implementing programs to assess the amount of water leaking from the system; reducing leak rates; installing water use meters and educating the public about water conservation measures they can take. In this time of drought and a changing climate, SB 1584 takes Oregon in the wrong direction.

**SB 1584 overturns prior compromise legislation to make significant and complex changes to Oregon water law.** In 2005, HB 3038 recognized the challenges to rivers and cities involved in the development of dormant municipal water rights. This compromise legislation, supported by cities and conservation groups, charted a new path forward. When a city applies for an extension of time to develop old water rights, HB 3038 requires an agency review to determine how the new use would impact imperiled fish populations. Under the review, agencies determine the flow levels of affected rivers that are necessary for fish persistence. If the new use of water would drop river levels below those necessary for fish persistence, agencies can then impose reasonable conditions on the permit, typically specifying certain actions when flow levels drop below what fish need to survive. SB 1584 would exempt an unknown but substantial amount of water diversions from these protections and upset the former compromise legislation.

**SB 1584 would reward certain cities' attempts to game the system with practices deemed unlawful by a trial court and by the Oregon Court of Appeals.** Despite municipal support for HB 3038, some cities attempted to circumvent its requirements. In the decision at issue, the Oregon Court of Appeals rejected Cottage Grove's intentional delay of the processing its extension application while the city doubled the amount of water it diverted from the Row River in an effort to circumvent the HB 3038's fish persistence and Water Conservation and Management Plan requirements. The Oregon Court of Appeals rejected this gamesmanship. And, the Oregon Supreme Court heard oral argument and then allowed the Court of Appeals decision to stand. By changing the date of applicability for these standards to an otherwise seemingly arbitrary date of 2010, SB 1584 rewards Cottage Grove for its gamesmanship and exempts Cottage Grove and many other cities from the fish persistence and Water Conservation and Management Plan requirements.

The conservation community seeks to preserve the reasonable compromise of HB 3038 that allows cities to meet their water needs without threatening the persistence of imperiled fish while also promoting water conservation and management planning in Oregon. SB 1584 would roll back modest protections for fish and eliminate this reasonable, workable balance. Over 50 permits have already moved through the system successfully. Instead of eliminating these modest protections needed to sustain Oregon's prized fish runs, it would be more appropriate to work together to address, for example, upgrades to aging infrastructure to stop massive leakage from pipes. The City of Carlton, held up as an example of the need for SB 1584, has a documented leak rate in excess of 35% of the water diverted from Panther Creek. Carlton should address this problem that undermines its water supply rather than seek to roll back fish protections and water conservation and management planning statewide through the exemptions in SB 1584.

Please stand with the following organizations opposing SB 1584 and vote NO.

