

From the desk of:

REPRESENTATIVE KEN HELM  
DISTRICT 34



HOUSE OF REPRESENTATIVES

## VOTE NO ON HB 2099 - OCN Major Threat

**HB 2099 will roll back protections for Oregon rivers, salmon, steelhead and other native fish.**

The 40 organizations comprising the Oregon Conservation Network deem HB 2099 a Major Threat to Oregon's Environment, a designation reserved to express OCN's highest level of opposition.

**HB 2099 will reduce protections for rivers—and the imperiled fish runs they support—including but not limited to:**

- **West Fork of the Hood River and certain tributaries**
- **Alder Creek (tributary to the Sandy River)**
- **Marys River (tributary to the Willamette River)**
- **Vingie Creek (tributary to the Pacific Ocean)**
- **Panther Creek (tributary to the North Yamhill River)**
- **Kilchis River**
- **Clackamas River**

These rivers support federal and state listed (Threatened, Sensitive or Endangered) fish populations including steelhead, coho and Chinook salmon, and Pacific and Western Brook Lamprey.

HB 2099 could drain Alder Creek—which supports listed steelhead and Coho salmon—at times when it would otherwise have water flowing in it.

**HB 2099 would roll back existing protections for imperiled salmon, steelhead, lamprey and trout that are a critical part of compromise legislation passed in 2005.** The bill exempts certain municipal water diversions from the existing requirement that they be conditioned to maintain the persistence of listed fish in the affected waterway, as determined by the Oregon Water Resources Department and the Oregon Department of Fish and Wildlife. For certain diversions, the bill would replace this modest fish persistence requirement with an untested and unclear requirement that the permit holder develop strategies for voluntary action (Section 3). The existing modest fish protection requirements were part of a 2005 compromise package (HB 3038) that also allowed development of large, dormant municipal water permits that would otherwise harm Oregon's iconic fish runs.

**HB 2099 would reward certain cities' attempts to game the system with practices deemed unlawful by the Oregon Court of Appeals.** A 2013 Oregon Court of Appeals' decision upheld application of the fish persistence requirements to the diversions that HB 2099 seeks to exempt. The court rejected Cottage Grove's intentional delay in processing its extension application while the city doubled its diversion from the Row River in an effort to circumvent the law's fish persistence and Water Conservation and Management Plan requirements. The Oregon Supreme Court later dismissed the city's challenge to the decision. HB 2099 rewards Cottage Grove and other cities by exempting diversions made prior to 2013 from the fish persistence conditioning.



**HB 2099 goes beyond the cities' stated rationale for rolling back the fish protection requirements and creates a special carve out for City of Hood River.** HB 2099 does not stop at addressing the cities' stated concerns that fish persistence review applies to water diverted since the permits expired. Instead the bill exempts any water that fits into a pipe installed by City of Hood River from fish persistence review. In other words, Section 6 would exempt a large amount of City of Hood River diversions from fish persistence review that may not be diverted for decades to come. This exemption is likely to have significant impacts on the West Fork of the Hood River, certain tributaries, and listed Spring Chinook, coho and steelhead. This is a clear over-reach that should be rejected.

**HB 2099 would weaken the filing requirements for water conservation and water management planning.** HB 2099 weakens the Water Management and Conservation Plan filing requirement for some cities. The law requires a WMCP to be approved prior to diverting the undeveloped portion of the permit—the bill's definition of undeveloped portion weakens this requirement. 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 recurring drought and a changing climate, HB 2099 takes Oregon in the wrong direction.

The conservation community seeks to preserve the reasonable compromise of HB 3038 that allows cities to meet their water needs without threatening imperiled fish and promotes water conservation. Over 130 permits have successfully moved through the compromise process. Instead of rolling back these modest protections, it would be more appropriate to address the small number of remaining permits in a way that ensures that the needs of listed fish are addressed while minimizing any impacts to drinking water supplies. We can and must do better than risk our fish populations with HB 2099.

Please stand with the following organizations opposing HB 2099 and vote NO.

