



April 3, 2019

*Via e-mail: [hnr.exhibits@oregonlegislature.gov](mailto:hnr.exhibits@oregonlegislature.gov)*

House Committee on Natural Resources  
900 Court Street NE  
Salem, OR 97301

RE: Oregon Natural Desert Association testimony in opposition to HB 3132 - regarding permitting of environmental restoration weirs and exempting certain voluntary projects from removal-fill permit and fish passage requirements

Dear Chair Witt and Honorable Members of the Committee:

Thank you for the opportunity to provide written testimony on HB 3132. Oregon Natural Desert Association (ONDA) is a not-for-profit conservation organization based in Bend that exists to protect, defend and restore Oregon's high desert on behalf of our more than 10,000 members and supporters from across Oregon and beyond.

Over the past decade, ONDA has been actively working with diverse stakeholders throughout Oregon's high desert to restore streams and recover native beaver populations, focused primarily in the John Day River and Malheur Lake basins. ONDA has employed the use of Beaver Dam Analogues and other permeable/temporary instream structures in its restoration projects to improve stream function and reestablish conditions required by beaver; channel complexity, ample woody vegetation for food and building material, deep pools and cold water.

Based on ONDA's firsthand experience using instream structures to restore stream function, it is our view that HB 3132 is too broad and overly vague in its definition of what qualifies as an environmental restoration weir and excessively permissive in exempting such installations from fish passage requirements. This view is reinforced by our experience serving as a member of the Department of State Lands' 2016-17 Rules Advisory Committee, which worked with DSL in an attempt to define appropriate Oregon Administrative Rules for Stream Restoration Actions.

HB 3132 defines an environmental restoration weir as "one or more structures constructed for

the purpose of delaying or slowing, but not preventing, water flow, in order to raise the water table and water surface elevations within incised or eroded streams up to or near the level of the ancient floodplain, and to promote restoration of stream and habitat conditions.” This broad definition fails to incorporate design specifications that are fundamental to the effectiveness of this restoration approach. Specifically, a rock structure or a live-cutting beaver dam analog would both be permitted under this definition even though the ecological benefits of the beaver dam analog are far greater than those of a rock structure. Similarly, the definition does not specify the appropriate scale relative to the size of the stream or requirements for the amount of flow required to pass through the structure, and it risks allowing construction of innumerable structures that would do more harm than good to Oregon’s streams. Without clearly defined requirements specifying the form, function and composition of an environmental restoration weir per established, scientifically-based principles, ONDA strongly discourages the approval of legislation that would allow their use in the name of stream restoration.

Further, HB 3132 would exempt certain projects from fish passage requirements based on factors such as stream conditions, flows and lack of historic presence of native fish. ONDA takes a different view and urges the committee to consider artificial restoration structures as a means of expanding suitable habitat for native fish and thus any artificial restoration structure should be required to incorporate fish passage.

While ONDA supports the use of carefully designed artificial restoration structures that are appropriately installed to reestablish beaver habitat and improve native fish habitat, ONDA opposes HB 3132 as written. We urge you to oppose the bill unless it more narrowly defines what qualifies as an environmental restoration weir based on best available science and takes a more conservative approach to exemptions from fish passage requirements.

Sincerely,

A handwritten signature in black ink that reads "Dan Morse". The signature is written in a cursive, slightly slanted style.

Dan Morse  
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