

Requested by Representative SMITH DB

**PROPOSED AMENDMENTS TO
HOUSE BILL 2379**

1 Delete lines 4 through 11 of the printed bill and insert:

2 **“SECTION 1. The Legislative Assembly finds and declares that:**

3 **“(1) The United States Army Corps of Engineers has failed to oper-**
4 **ate the Cole M. Rivers Hatchery located on the Rogue River in con-**
5 **formance with the fish return goals under the mitigation requirements**
6 **agreed to in the hatchery Final Environmental Impact Statement**
7 **dated May 8, 1972.**

8 **“(2) The environmental impact statement referred to in subsection**
9 **(1) of this section requires that 13,020 hatchery spring Chinook adults**
10 **be returned to the Cole M. Rivers Hatchery annually while the re-**
11 **turning spring Chinook population also supports a robust in-river**
12 **fishing season and harvest.**

13 **“(3) In 1972, the angling limit for spring Chinook was three fish, but**
14 **the limit is now two fish.**

15 **“(4) The number of spring Chinook returning to the Cole M. Rivers**
16 **Hatchery has declined during the past 14 years to a level that is 60**
17 **percent below the average hatchery spring Chinook adult return goal**
18 **set in the environmental impact statement referred to in subsection**
19 **(1) of this section.**

20 **“(5) Despite the environmental impact statement requirement that**
21 **13,020 hatchery spring Chinook adults be returned to the Cole M. Riv-**

1 ers Hatchery annually, the number that actually returned was 1,846 in
2 2016, 2,963 in 2017 and 4,074 in 2018.

3 “(6) The shortfall in returning hatchery spring Chinook adults
4 causes economic loss to the area counties at the rate of \$576 per fish.

5 **“SECTION 2. Notwithstanding any statute of limitation or statute
6 of ultimate repose under ORS chapter 12:**

7 “(1) The period available to Curry, Josephine and Jackson Counties
8 for commencement of any action against the United States Army
9 Corps of Engineers seeking damages resulting from failure of the corps
10 to operate the Cole M. Rivers Hatchery in conformance with the fish
11 return goals under the mitigation requirements agreed to in the
12 hatchery Final Environmental Impact Statement dated May 8, 1972,
13 shall continue until January 1, 2030.

14 “(2) An action described in subsection (1) of this section may seek,
15 and a court may award, damages for all economic loss incurred by a
16 county due to the number of hatchery adult spring Chinook actually
17 returning to the hatchery being less than the fish return goals under
18 the mitigation requirements agreed to in the hatchery Final Environ-
19 mental Impact Statement dated May 8, 1972.

20 “(3) Except as provided in this subsection, subsections (1) and (2)
21 of this section operate retroactively to revive any extinguished cause
22 of action against the United States Army Corps of Engineers for
23 damages resulting from failure of the corps to operate the Cole M.
24 Rivers Hatchery in conformance with the fish return goals under the
25 mitigation requirements agreed to in the hatchery Final Environ-
26 mental Impact Statement dated May 8, 1972. This section does not
27 apply to any cause of action for which a judgment was entered before
28 the effective date of this 2019 Act.”.

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