



February 7, 2020

Senator Michael Dembrow, Chair
Senator Alan Olsen, Vice-Chair
Senate Committee on Environment and Natural Resources

Re: Trout Unlimited Comments on Senate Bill 1511

Dear Chair Dembrow and Members of the Committee,

Thank you for the opportunity to present testimony on Senate Bill (SB) 1511. My name is Chandra Ferrari and I represent Trout Unlimited (TU), a non-profit organization dedicated to the conservation of cold-water fishes, such as trout and salmon, and their habitats. Trout Unlimited has more than 300,000 members and supporters nationwide including over 3,000 in Oregon.

SB 1511 seeks a streamlined regulatory process for environmental restoration weirs, which are artificial structures aimed at slowing river flow to reconnect rivers with historic floodplains. If done right, environmental restoration weirs (and other beaver dam analogue structures) can help restore important geomorphic and hydrologic functions to a stream system which in turn can benefit fish, wildlife and water quality. TU appreciates what SB 1511 is trying to accomplish as well as important changes that have been made since last session (HB 3132) such as requiring fish passage where all “native migratory fish” are currently present. Addressing the concerns articulated below, however will help ensure that the program achieves its objectives and includes sufficient protections for fish.

- **Fish Passage:** Fish passage should be provided by the applicant if native migratory fish return to the qualifying stream after construction of the project. The language currently conditions this requirement on whether or not it is economically practicable for the person engaging in the project. More clarity should be provided regarding what factors will inform this determination as it seems appropriate that the responsibility for fish passage should remain with the applicant.
- **Monitoring/Liability:** TU is concerned that third-party monitoring costs (outside of photo monitoring) are to be borne by the Oregon Department of Fish and Wildlife (ODFW). This presents a significant barrier to ODFW being able to adequately assess whether or not these projects are producing the intended benefits. TU understands that there are liability concerns for landowners allowing third parties on their property but suggests that this issue can be addressed while at the same time allowing for some level of landowner contribution to the monitoring. Additionally, we recommend that the statutory language clarify that liability issues concerning the installation/operation of the structure reside with the landowner.

- Qualifying for the Program: TU is concerned that the definition of “environmental restoration weir” is sufficiently broad such that it may authorize artificial structures that are not as likely to produce the intended benefits. Many variations of beaver dam analogues have been attempted and some have been more successful than others. As more variations are tried in different locations, we suspect that more knowledge will be gained about which varieties should be encouraged. Accordingly, TU suggests that ODFW be charged with determining whether the design of a particular environmental weir is consistent with the best available science, likely to produce the intended benefits and therefore should qualify for the program. TU suggests the program should encourage structures that utilize natural fiber or other material that will break down over time and function in the system more naturally as opposed to the use of concrete-like substances. Additionally, TU suggests the prioritization of projects that provide the ingredients (food, shelter, deciduous woodies) for beavers re-entering the system naturally or by supplementation.
- Findings: The findings suggest that environmental restoration weirs can decrease the “chance of catastrophic wildfires.” TU believes that this statement would be more accurate if it read instead that environmental restoration weirs can mitigate the impact of wildfires on aquatic species and ecosystems.
- Sunset: TU appreciates that the legislation includes a series of reports to track the progress of the program and identify impacts and recommendations for improvement. TU recommends that a firm sunset also be included in the legislation to ensure that the final report’s recommendations are properly considered before further projects are authorized. A shorter timeframe (5 or 10 years instead of 15) for the program (and the reports) should also be considered given the rapidly evolving science on this topic.

Beaver analogue structures can provide important benefits to stream systems and TU is interested in ensuring that truly beneficial projects are encouraged. However, not all designs are created equal and we recommend being mindful of the ever-evolving state of science and information on this topic to ensure that the potential for detrimental projects is limited.

TU looks forward to continuing discussion on this legislation. Thank you for the opportunity to testify on SB 1511.



Chandra Ferrari
Senior Policy Advisor
Trout Unlimited

cferrari@tu.org
(916) 214-9731