



February 13, 2020

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

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

RE: Oregon Natural Desert Association testimony in opposition to SB 1511 - regarding permitting of environmental restoration weirs and exempting certain voluntary projects from removal-fill permit and fish passage requirements

Dear Chair Dembrow and Honorable Members of the Committee:

Thank you for the opportunity to provide written testimony on SB 1511. 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 SB 1511 is overly vague in its definition of what qualifies as an environmental restoration weir and excessively permissive in exempting such installations from fish passage requirements and removal or fill permitting. 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.

The definition of a restoration weir under SB 1511 fails to incorporate an adequate description

of what constitutes an effective weir that will accomplish the purpose of the bill. For example, a rock structure (i.e., a small earthen or rock dam) or a live-cutting beaver dam analog would both be permitted under this bill even though the beaver dam analog would bring ecological benefits while the rock dam would likely result in detrimental ecological impacts. We understand that some of these details will need to be addressed in rule making but it is imperative that adequate side boards be established in this bill. Without clearly defined requirements specifying the form, function and composition of an environmental restoration weir per established, scientifically-based principles, ONDA strongly opposes this legislation that would allow their use in the name of stream restoration.

Further, SB 1511 would exempt certain projects from fish passage requirements based on factors such as the absence of native fish from a stream under consideration. 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 at the time of construction rather than retroactively and in an unrequired fashion. ONDA questions the purpose of restoration weirs if they are not intended to provide native migratory fish habitat.

Lastly, ONDA is concerned that without required permits for removal and fill material to build restoration weirs, especially given the lack of specificity about the types of material that can and cannot be used to build them with, unknown risks to streambank structure and stability as well as overbuilt, water-impounding structures, will do more harm than good for degraded desert streams.

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 SB 1511 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 and removal and fill permit requirements.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Gordon". The signature is stylized and cursive.

Ben Gordon  
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