



April 19, 2021

Senator Jeff Golden, Chair
Senator Dallas Heard, Vice-Chair
Senate Committee on Natural Resources and Wildfire Recovery

Re: Trout Unlimited Comments on House Bill 2298

Dear Chair Golden and Members of the Committee,

HB 2298 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 HB 2298 is trying to accomplish as well as important changes that have been made over the last few sessions such as requiring fish passage where all “native migratory fish” are currently present and establishing more frequent reports to assess the effectiveness of the program. Addressing the concerns articulated below, however, will help guarantee that the program achieves its objectives while ensuring sufficient protections for fish.

- Qualifying for the Program: TU remains concerned that the definition of “environmental restoration weir” is overly broad such that it may include artificial structures that are not as likely to produce the intended benefits of the program. 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, more knowledge will likely be gained about which varieties should be encouraged. Accordingly, TU suggests that the Oregon Department of Fish and Wildlife (ODFW) be charged with determining whether the design of a particular environmental restoration 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 woods) for beavers re-entering the system naturally or by supplementation.
- Fish Passage: Fish passage should be provided 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.
- Monitoring/Liability: TU is concerned that third-party monitoring costs (outside of photo monitoring) are to be borne by 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.

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 HB 2298.



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