

February 09, 2022



*By electronic submission to: <https://olis.oregonlegislature.gov/liz/2022R1/Testimony/HENVNR>

Testimony on HB 4148

Good afternoon Chair Marsh and members of the House Agriculture and Natural Resources Committee. For the record, my name is Brett Brownscombe, and on behalf of the Wild Salmon Center, I offer this testimony on HB 4148.

The Wild Salmon Center does not reject agricultural or mitigation offset systems, and we appreciate outside-the-box thinking to promote salmon health. And, while Oregon is poised to make real progress on salmon habitat with private forest landowners (i.e., Private Forest Accords), meaningful advancement of aquatic habitat restoration on agricultural lands remains **one of if not the** biggest challenge to recovering Oregon's salmon populations.

So, why do we oppose HB 4148?

Whether for sage-grouse, salmon, or other species, the premise of mitigation programs like HB 4148 proposes is that negative impacts to habitat from permitted development projects can be at least offset by habitat restoration projects elsewhere. Easier said than done.

Mitigation projects are far less certain to result in the habitat benefits they promise than the certainty tied to the impacts they try to offset. Careful attention is needed in setting up the mitigation rules of the game such that fish and wildlife resources actually benefit. These programs are complex and also demand significant agency resources. This is not to say they lack value.

But in the case of HB 4148, we see more concerns and questions than clarity as to benefits. This is partly a product of having only learned of this legislation in mid-January and not having been involved in its crafting. A group letter submitted for the record by the Oregon Conservation Network lays out bill concerns. I'll flag a couple of ours here:

1. Bill proponents have said they do not need legal end-arounds in order to advance this concept, but the bill reflects otherwise. HB 4148 exempts mitigation credit projects from protections in state removal-fill permitting laws.

We are not categorically opposed to permit exemptions for restoration. In fact, as part of previous streamlining efforts, Oregon already has programmatic federal coverage and state removal-fill

exemptions for many restoration project types. If some feel this existing expedited path is inadequate, we would like to know what additional project types they want exempted or streamlined. And, instead of a blanket exemption in statute, a conversation with relevant agencies should happen on how to do that.

2. Federal and state agencies with fish management jurisdiction, permitting authority and expertise in both mitigation programs and habitat restoration do not appear to have been engaged in crafting this legislation. And, the legislation's structure leaves them out of key oversight and decision-making roles. Instead, bill amendments would vest authority in the Department of Agriculture and an oversight committee that does not reflect agency or other needed expertise.

Some may say that doing these things is necessary to getting private agricultural landowners on board with meaningful habitat work. That seems telling of the power dynamics around the status quo.

Some say a grassroots effort is what's needed ... free up the landowners to do work and keep government process out of it. This tension is partly the reason the regulatory system came to exist in the first place. Distancing regulatory agencies from a new program is likely to only deepen the divide.

Others will say we shouldn't even be having a conversation about mitigation credits when so many concerns already exist about the health of Oregon's streams, compliance and the adequacy of the state's SB 1010 agricultural program.

Our hope is that whatever comes next with this bill can help bridge not deepen divides, and lead to less talking past one another. The stated motivation for HB 4148 is the need to do something bold and different to help wild salmon populations. We respect and support that motivation, **especially** on the part of a S.Coast Republican. And, for the record, much of our interest in learning more about this bill **is because not in spite of** it coming from a Republican talking about addressing wild salmon conservation. But like medicine, the first rule should be to ensure no harm. Another rule should be to craft bold moves with hands as close to one another as possible.

Ongoing right now are other bold and innovative efforts relevant to HB 4148's stated motivations, especially in light of proposed amendments to restrict the bill to the South Coast. These include:

- The State Fish & Wildlife Commission's recent adoption of the Rogue South-Coast Plan.
- Local advancement of Strategic Action Plans (SAPs) that leverage habitat funding from multiple sources.
- The Oregon Agricultural Heritage Program.
- Carbon markets and potential funding tied to carbon sequestration.
- The Coquille Tribe seeking co-management authority with ODFW in the Coquille basin.

These efforts and entities should be integrated into a coordinated conversation. This could and should include outside the box thinking on:

- (a) how to best bring more agricultural landowners and money into habitat restoration;

(b) barriers, or what could be better than current system (e.g., permitting changes, project types in need of attention, compliance, etc.); and
(c) baseline expectations for protecting Oregon's streams versus what gets paid for or credited above and beyond baseline levels.

This would be a valuable conversation worthy of both Republican and Democratic party leadership. But trying to do it in the state's short legislative session in the narrow context of this bill is not feasible.

Thank you for your consideration of this testimony. I would be happy to answer any questions.

Sincerely,

Brett Brownscombe

bbrownscombe@wildsalmoncenter.org