

To: Senate Committee on Natural Resources

Chair Golden Senator Brock Smith Vice-Chair Girod Senator Taylor

Senator Prozanski

From: Caylin Barter, Oregon Water Policy Program

Date: April 26, 2023

RE: Support for HB 2929A – Injunctive Authority to Stop the Worst Cases of Illegal Water Use

Chair Golden, Vice-Chair Girod, and Members of the Committee:

Thank you for the opportunity to provide testimony in support of HB 2929A, which would authorize the Oregon Water Resources Department to apply to a circuit court for injunctive relief against egregious cases of illegal water use.

Wild Salmon Center supports policy approaches that will improve the understanding and stewardship of our state's publicly-owned water resources, especially as climate change increases volatility in supply and demand. The Oregon Water Resources Department (OWRD) needs authority to swiftly curtail illegal water uses that pose imminent and irreparable harm to lawful water users and public interests—authority that it lacks under current law. Wild Salmon Center strongly supports HB 2929A as a commonsense tool that will help put a stop to the most harmful and intractable water use violations.

Wild Salmon Center is an international nonprofit headquartered in Oregon that has worked with local partners since 1992 to protect and restore the strongest remaining runs of Wild Pacific Salmon. We use science to drive policy, lead planning processes, and support implementation, and we know that the health of our water resources is directly linked to the recovery of our iconic wild fish and the vitality of our communities and economy.

House Bill 2929A would authorize OWRD to seek a court injunction against the worst cases of illegal water uses: those that risk irreparable harm to water supplies or public health and safety. This fundamental legal tool already exists for violations related to dam safety and well construction. But injunctions are unavailable to swiftly remedy egregious water use violations like constructing and filling an unauthorized reservoir, drying up a salmon stream to irrigate with no water right, or interfering with a diversion structure that has been regulated off to meet demand from senior water rights. In these cases, OWRD staff must follow a lengthy administrative enforcement process that can drag on for months and even span multiple years. In the meantime, the fish, farms, and families that rely on that water can be left high and dry.

The House Committee on Agriculture, Land Use, Natural Resources, and Water received testimony about the devastation that illegal water use can wreak on rivers, fish, crops, livestock, and the communities that depend on them. While Wild Salmon Center preferred the base bill (which would simply have given OWRD the

same injunctive authority it already has for dam safety and well construction), we understand that the 2030 sunset and the 2028 Legislative report in the engrossed version are a good-faith effort by the bill's sponsor to assuage concerns about where, when, and how OWRD intends to use this authority. Continued opposition to even a temporary expansion of injunctive authority keeps the deck stacked in favor of illegal water users, disregards the plight of family farmers and aquatic species suffering the downstream impacts of ongoing water theft, and impugns the competency of circuit court judges to evaluate requests for injunctive relief.

It is long past time for OWRD to have access to this basic legal tool to stop egregious illegal water use. Wild Salmon Center appreciates the opportunity to provide testimony on this important issue and urges your support to ensure timely protection of our life-sustaining water supplies.

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