



Testimony in Opposition to HB 3382 and Amendment

Oregon's time-tested land-use laws have protected the characteristics that make Oregon, Oregon

These land laws provide vital communities, wildlife and the habitats that support them, relatively clean and abundant water, and appropriate and scaled economies across the state.

The Port Exemption bill (HB 3382 with the -3 and -4 amendments) demands exceptions that will override all protections, including our land-use laws, in and around three ports: Astoria, Coos Bay, and Newport.

If passed, three major Oregon estuaries would be subject to extensive dredging and other environmentally harmful activities without input from the nearby and affected communities – nearby and interested communities of interest statewide.

HB 3382 as written and under the proposed -3 and -4 amendments undermine existing laws and regulatory regimes and provide an unnecessary fast-track and bypass of our land-use laws. This bill would render the efforts of local elected leaders, the voices of community members, and relevant protections such as Estuary Management Plans adopted by the local government nearly meaningless.

HB 3382 Is Unnecessary

All development proposals can undergo the Exceptions process for a project. HB 3382 is unnecessary. If a developer hoped to rezone or redesignate an Estuary Natural Zone, they could ask for an Exception which may be granted by the local government. Current land use law has enough criteria to address Exceptions.

HB 3382 as amended would water down the Exception process and the amendment's language – despite being more explicit - is still dangerously vague and could allow any number of special interests to apply for the exception. The current Exceptions process should be left intact.

Impacts to Essential Habitat

The Ports and other development interests will ignore the voices in the fishing community - both recreational and commercial.

Oregon's estuaries are nurseries for a wide variety of fish and wildlife species, including Oregon's iconic and troubled salmon. Eel grass that would be destroyed is essential habitat for many species and functions to improve water quality to support ocean health.

HB 3382 is also at odds with Oregon's Climate Goals by removing critical protections for estuaries, which sequester carbon 10x more efficiently than forests and serve as key species nurseries. These types of development will be damaging economically to fisheries and destructive of essential fish habitat.

Mitigation – A Time-honored Excuse to Lose and Never Regain Habitat

While the concept of "mitigation" seems to protect us from habitat loss, the track record of mitigation schemes is very poor – not because the work is poor, but because projects are rarely monitored, rarely maintained, and rarely do anything other than allow developers to escape the true scope and scale of their responsibilities to match the loss of habitat area and function with each and every cumulative and incrementally approved development.

The Fact is that "mitigation" has no track record - and there is no definition of it in HB 3382.

Salmon Recovery organizations in Oregon and Washington are experts at restoration – but while one acre of habitat is restored, the largest concern is lack of attention to protection of the habitat baseline through existing land use programs and approvals. Each completed restoration project is essentially cancelled because there is too little attention to actually holding local, state, and federal agencies accountable to

achieve and monitor for “no net loss.” There is ongoing degradation in day-to-day decisions with little accountability.

Programs such as this estuary development effort need to be coupled with far better habitat protection or all we are doing is using public restoration funds to slow the rate of loss. Unless Oregon protects habitat, our habitat restoration investments will be undermined.

Mitigation should not just be a “no net loss” program but a “net gain” program – we should know better by experience the damage we do – and we should do better by deciding to not damage existing functioning habitat.

Estuary dredging will impact the environment – a dredged channel allows the saltwater wedge further into the estuary – and the salinity changes - even minute - affect all fish, shellfish, wildlife, and plants.

Oregon Coastal Coho

As a result of extensive investments and management actions implemented under the Kitzhaber Plan for coastal coho, state conservation plans, and federal recovery plans, there is potential for Oregon Coast Coho to be “delisted” from the federal Endangered Species Act’s (ESA) list of threatened and endangered species as early as 2027 – keeping Oregon at the forefront of conservation in the nation.

One of the key factors NOAA Fisheries considers for delisting decisions is the adequacy of existing regulatory mechanisms to prevent future destruction of habitat. Oregon’s land Use Laws are part of the regulatory adequacy of the statewide planning program, local land use plans and implementation of the Oregon Coastal Management Program to provide reasonable protections for salmonid habitat.

Oregon Coast Coho rely on functional estuarine habitat which will be adversely affected by development anticipated by passage of HB 3382, risking the potential for delisting and possibly undermining decades of restoration work funded by state, federal, and private interests.

Emergency clause unnecessary

There does not appear to be any evidence of an emergency requiring this clause.

In Conclusion

As Oregon increasingly faces the impacts of climate change, all communities must uphold state and local environmental and land-use laws, laws that already balance conservation with quality of life and economic growth. **HB 3382 fast-tracks port development for the sake of profit and the often-failed promise of jobs without protections for the essential cultural and ecological resources that are essential to Oregon’s coastal ecosystems and economies.**

If developers want to expand Oregon ports, they need to comply with Oregon’s land-use laws.

Please do not approve HB 3382.

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