

WATER LEAGUE

*Water League engages the public
in water stewardship.*

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In Memoriam
John L. Gardiner

February 26, 2025

To: House Committee On Agriculture, Land Use, Natural Resources, and
Water

Representative Ken Helm, Co-Chair

Representative Mark Owens, Co-Chair

Representative Sarah Finger McDonald, Vice-Chair

Representatives Court Boice, Annessa Hartman, Bobby Levy, Pam Marsh,

Susan McLain, Anna Scharf

RE: Water League supports HB 2965-5, which regulates aquaculture by
prohibiting “nets, cages or other similar containers,” collectively *marine net pens*.

Dear Co-Chairs Helm and Owens, Vice-Chair Finger McDonald, and
committee members,

Water League engages the public in water stewardship because the waters of
Oregon belong to all citizens, and they wish to hold water in trust. We recognize
that land and water are one system that flora, fauna, and humans depend on.

The Public Trust Doctrine (PTD) protects navigable public waterways and
adjacent coastal lands for many uses, most notably fishing. The PTD protects
these waterways for many public use types; it does not protect the uses in and
of themselves, which is a common conflation error caused by the water users
who benefit from the protection offered by the PTD. For example, the PTD
does not protect fishing; rather, it protects 1) the access to water, 2) the water
quality, and 3) the ecosystem in order to support fishing and other activities.
The PTD prevents any activity from precluding other activities from equal
access to navigable public waterways and adjacent coastal lands. There is no

irony, however, that the PTD would restrict fishing activities to protect and preserve access to water, water quality, and ecosystems for the shared use and enjoyment by others, defined as humans, flora, and fauna.

Courts address these issues as a matter of common law, and legislators address these issues statutorily. All officials have a fiduciary duty to hold water in trust on behalf of the public to secure the integrity of the substance, prevent clashes among users, and limit harm to ecosystems. HB 2965 follows a long tradition to hold water in trust; the bill maintains water quality in marine and estuary waters and limits harm to ecosystems.

Opponents of HB 2965-5 uniformly declare that the bill is a preemptive ban on finfish aquaculture along Oregon's coast. They argue that the bill ignores the science of marine net pen safety, which they say is well-established. Proponents of HB 2965-5 say science demonstrates that marine net pens are unsafe because the pens allow the spread of waste and disease in marine and estuary waters and do not prevent the escape of farmed fish into the wild. Notably, proponents point out that Washington and British Columbia have imposed restrictions on open net pens and that Oregon's lack of regulations makes the state's coastal region a target for industry development.

Water League urges officials to discharge their fiduciary duty to hold Oregon's coastal waters in trust for the public of the present and the future by passing HB 2965-5, or a version of it, that aligns with the best practices articulated by our neighbors to the north.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Hall", written in a cursive style.

Christopher Hall
Executive Director