



HB 2873
Testimony of Kimberley Priestley
WaterWatch of Oregon
Submitted to the House Committee on Energy, Environment and Water
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Co-Chair Cannon, Co-Chair Gilliam, members of the Committee, I am testifying on behalf of WaterWatch of Oregon. Founded in 1985, WaterWatch is a non-profit river conservation group dedicated to the protection and restoration of natural flows in Oregon's rivers. We work to ensure that enough water is protected in Oregon's rivers to sustain fish, wildlife, recreation and other public uses of Oregon's rivers, lakes and streams. We also work for balanced water laws and policies. WaterWatch has members across Oregon who care deeply about our rivers, their inhabitants and the effects of water laws and policies on these resources.

WaterWatch opposes HB 2873—a bill that would gut existing fish protection measures that currently apply to in-conduit hydro projects

Oregon has understood the importance of fish passage since before statehood, and set laws and policies accordingly. Oregon law requires fish passage on all artificial obstructions in streams that are home to native migratory fish. ORS 509.585 (2). The existing statutes do allow alternatives to fish passage, but only if they provide a net benefit to fish. ORS 509.585(7)(a). Oregon law also sets legal requirements and policy objectives for fish screening. ORS 498.306. The Oregon Plan, additionally, includes a path forward for fish screening and passage.

Consistent with existing law and policy, the in-conduit hydro statutes that were adopted in 2007 (HB 2785) require fish passage, screening and bypass conditions as required by the Oregon Department of Fish and Wildlife (ODFW). ORS 543.765(5)(a).

What HB 2873 does: HB 2873 seeks to prohibit ODFW from requiring fish passage, screening or bypass devices when an in-conduit hydro project is developed on an existing structure.

HB 2873 is inconsistent with Oregon's long-standing commitment to achieving fish passage and screening across the state. HB 2873 undermines existing laws and policies. HB 2873 sets state efforts to restore fish habitat backwards, and sends the wrong message about energy development. Energy development is neither "green" nor "renewable" if it involves shortcuts that compromise existing protections for imperiled fish across the state.

The in-conduit hydro statute (HB 2785, 2007) was adopted to allow an expedited process for the development of in-conduit hydro. In conduit hydro development was already allowed under existing law (ORS Chapter 543). HB 2785 allowed for a quicker approval process---an incentive to develop this type of power---but only if key resource protections were in place. Fish passage and screening were contemplated from the outset as a minimum condition.

The changes proposed by HB 2873 are in direct conflict with agreements made in 2007 that allowed the in-conduit hydro statute (HB 2785) to move forward. WaterWatch, the Hydropower Reform Coalition and others initially opposed the bill because, among other things, there was concern that the “expedited” process would result in an end run of the existing environmental protections of ORS 543. A legislative workgroup was convened to try to come up with an agreeable path forward. Agreement was ultimately reached. Importantly, to ensure that that bill did not run afoul of existing protections, a number of sideboards were included in the bill. These sideboards were agreed upon by all members of the workgroup---including the Oregon Farm Bureau and the Oregon Water Resources Congress. The provision allowing the state to require fish passage, screening and bypass requirements was key to the bill’s passage. HB 2873 undermines agreements made in good faith in 2007.

WaterWatch urges the Committee to reject HB 2873. HB 2873 undermines Oregon’s laws and policies directing fish passage and screening. HB 2873 undermines key tenets of the Oregon Plan. HB 2873 undermines Oregon’s resource protective laws governing hydropower development. In a nutshell, HB 2873 should be rejected as inconsistent with numerous Oregon laws and policies aimed at protecting Oregon’s natural resources.

Rejection of HB 2873 will not halt in-conduit hydro development; it will simply ensure that Oregonians develop power in a manner consistent with state priorities regarding its economically important fish resources.

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