



WaterWatch of Oregon Protecting Natural Flows In Oregon Rivers

SB 791

Testimony of WaterWatch of Oregon By Kimberley Priestley

Senate Committee on Environment and Natural Resources
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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 SB 791

This is one of a series of bills we have seen over the years attempting to weaken the Oregon Water Resources Department's (OWRD) authority to conjunctively manage Oregon's surface and ground waters.

Specifically, this bill will restrict existing OWRD authority to regulate junior groundwater right holders off in favor of senior surface water rights and will also affect agency determinations in permitting decisions (ability to deny and/or condition water right permit applications). Of note, Section 1 and Section 2 appear to be at odds as far as data requirements so it is difficult to assess this bill as a whole. That said, concerns by section (read independently) include but are not limited to:

- Section 1: This section limits the information that the OWRD can utilize to determine interference in order to protect senior surface water right holders.
- Section 1: This section does not allow for consideration of cumulative effects, which could result in significant effects on streams and/or senior surface water right holders.
- Section 1: The requirement that the use be measurable within one season of use ignores attenuated effects that are present in many basins.
- Section 1: This section appears to prohibit the ability of the state to regulate in favor of instream water rights (state or tribal) as instream rights are not "appropriated" rights.
- Section 1: This section would limit the state's ability to condition and/or deny groundwater applications based on surface water restrictions in permitting decisions.
- Section 1: The measurability standard will leave many surface water right holders without protection against junior groundwater right holders whose pumping is diminishing their rights.
- Section 2: Allows any site-specific data submitted by a private consultant to trump OWRD and/or USGS evidence that has been produced over decades.

- Section 2: Appears to void most of the data requirements of Section 1, making the bill unclear as to actual effect (measurability requirements of Section 1 vs. modeling/graphing/mathematic data allowed in Section 2)

Conclusion: At a time when Oregon is facing increasing complexities and conflicts over groundwater and surface water interference and management, the state should focus on advancing conjunctive management of these resources to achieve a sustainable water future. We would urge the Committee to reject SB 791, which would do just the opposite.

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