



## **TESTIMONY ON HB 4069**

### **House Committee on Water**

**February 6, 2020**

Chair Helm and Members of the Committee:

Thank you for the opportunity to testify on HB 4069, which would authorize the Oregon Water Resources Department (OWRD) to require reporting of water use where it already requires measurement. Oregon Farm Bureau (OFB) was part of a workgroup that worked on measurement and reporting concepts in 2017 and appreciates the updates to this version of the bill since the conversation in 2017. However, OFB believes that further changes are necessary to protect water users prior to moving forward with a reporting concept.

By way of background, the Oregon Farm Bureau (OFB) is the state's largest agricultural trade association, representing nearly 7,000 farm and ranch families across the state, many of whom rely on irrigation water for the viability of their operations.

While our members still fundamentally oppose reporting of water use, there are a number of specific issues that remain with HB 4069 for water users:

- 1) As drafted, it doesn't place any limitations on how OWRD or third parties can use the data. Given that we know that most farmers actually use less than they are legally authorized to use under their water right, we need to ensure that water users are protected from third parties using this data to bring a forfeiture proceeding.
- 2) Presently, only municipalities and irrigation districts report their water use, so a requester cannot tell what any single individual user is using. We would want to see this data aggregated at a basin or system scale before the department can release it to third parties so that basin scale data is available without spotlighting any particular users.
- 3) Irrigation districts and municipalities only have to report annually, but we have seen the department indicate in some instances that they would like to have full and continuous remote access to measuring devices, which are often linked to the computers that control the whole irrigation system. We would like to ensure that reporting will be end of season, and annual only, so that a user doesn't have to deal with reporting in the middle of their busy irrigation season or give the department access to their critical infrastructure.
- 4) The bill is unclear what happens when a measurement device breaks in the middle of the irrigation season or when a device stops working and is a significant expense for a

user to replace. We appreciate that there has been cost-sharing of measurement devices through the cost-share measurement program and want to ensure that this cost-share mechanism remains available in the future. The bill needs to provide allowances for users who are prevented from reporting due to device failure or lack of resources through the cost-share measurement program to replace a failed device.

Fundamentally, our members also do not feel that they should be required to bear the expense of reporting when the department lacks the infrastructure and resources to do anything with the reported data.

Right now, our understanding is that the data submitted by municipalities and irrigation districts does not get entered into any database or used by the department in any way. To allow the department to require more reporting without being able to use the reported data would create a time and resource burden for water users with no benefit to the state. We believe the department should first address its infrastructure and resource issues prior to requiring users to undertake the time and expense of reporting.

We appreciate the Committee's attempts to resolve these concerns through the amendments proposed to the bill. While we are still reviewing the impacts of the amendments in more depth, they are absolutely a step in the right direction in addressing our concerns.

Specifically, we appreciate the clarification in the -1 amendments that HB 4069 is only intended to apply to water rights that do not presently have a reporting condition. We also appreciate the efforts of the -2 amendments to address forfeiture, but believe the amendments do not adequately protect against third parties or OWRD using this data in a forfeiture proceeding. Finally, the -3 amendments contain important direction to the Department in developing a reporting program. While we haven't had time to run this amendment pass our membership given the speed of the short session, we believe this amendment forms an excellent jumping off point for a conversation about how OWRD should prioritize collection of data around the state.

We believe in the need for data to drive sound water policy decisions in the State of Oregon. However, we also need to ensure that water users are protected from misuse of this data and not subject to additional administrative burden for data that is not presently used by the state in making decisions. We welcome the opportunity to continue these important conversations around OWRD's data needs and appreciate the work the Committee has done to provide a solid jumping off point for future discussions.

Please contact Mary Anne Cooper at [maryanne@oregonfb.org](mailto:maryanne@oregonfb.org) if you have any questions.