



## **WaterWatch of Oregon**

### **Protecting Natural Flows In Oregon Rivers**

#### **HB 3228**

#### **Testimony of WaterWatch of Oregon**

**By Kimberley Priestley**

**Submitted to the House Water Committee**

**March 16, 2021**

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 and aquifers to sustain fish, wildlife, recreation and other public uses of Oregon's rivers, lakes, wetlands, groundwater dependent ecosystems 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 3228**

Water in Oregon belongs to the public. While the state can issue water rights for the use of this water subject to certain conditions, the water used under these rights still belongs to the public. The Oregon Water Resources Department is charged with managing this public resource for the benefit of all Oregonians. Oregon's Water Code includes environmental sideboards meant to protect the public's interest in Oregon's ground and surface water resources, as well as robust public processes to encourage the public's involvement in decisions about this important state resource.

HB 3228 would strip foundational permitting, management and regulatory functions from the Oregon Water Resources Department under the guise of "cooperative water management plans". Under HB 3228, any and all water right allocation and reallocation activities proposed under cooperative water management plans would be exempted from existing laws that govern water right permitting, water right transfers, permit amendments allocation of conserved water, storage and recovery projects, water exchanges, leases or rotations. Not only would the plans divest control over the approval of these individual water allocation and reallocation decisions from the state agency charged with managing the public's water, but they would allow all these activities to move forward without having to adhere to any of the environmental sideboards that would otherwise apply. All of this would occur without any onboard for public involvement.

Under Section 1(5), the Department has no discretion to deny these plans. The Department must approve them if they meet two standards: (1) the plan won't cause injury to water rights which are not part of the plan, and (2) the plan is "likely" to result in a measurable net increase in instream flow, groundwater levels, aquifer sustainability or water quality. Having in statute a sideboard that requires something be "likely" is essentially a non-standard, which leaves the only route for denial of a plan to be "no injury". This standard is not adequate to protect the public interest in water. This standard does not consider surface or groundwater availability, endangered species needs, water quality standards, and a whole host of other public interest factors. There is nothing in this bill that requires that the plans do no harm to the public's surface and groundwater resources.

The need for better water management has been a topic in front of this Committee both in current and past sessions. HB 3228 would move the state backwards from this goal. It would lift agency oversight, restrict agency management and regulatory authority, skirt environmental sideboards, cut public participation and a remove a myriad of other checks and balances from the state's management of the public's water. We urge the Committee to oppose this bill.

Thank you for consideration of our testimony.

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