



February 25, 2021
House Committee on Water
Representative Ken Helm, Chair

Testimony on House Bill 2615 and House Bill 3166
Racquel Rancier, Policy Manager

House Bill 2615 and House Bill 3166 relate to water use measurement and reporting. The purpose of this testimony is to provide information to the committee regarding current water use measurement and reporting in the state and how water use information is used. The Department is not taking a position on the bill.

Water Use Measurement and Reporting Requirements

Below, the Department has outlined its most common authorities related to water use measurement and reporting. Other authorities exist, but are limited in scope and not outlined here.

Measuring and Reporting Water Use

Currently, there are about 15,400 water rights that are required to measure and report water use. For reports due in the 2019 calendar year, 81 percent of the water users required to report submitted a report to the Department. Water right holders may be required to both measure and report water use as specified below:

- Pursuant to ORS 537.099, Oregon requires governmental entities such as irrigation districts, state or federal agencies, and municipal water providers to measure and report water use.
- Starting in the early 1990's, the Department began adding water measurement and/or reporting conditions to new permits, based on the size of the water right. Smaller water rights may have a condition stating that "water measurement may be required," while larger permits may have a condition that "water measurement and reporting is required."
- Water users in a Serious Water Management Problem Area (SWMPA) or in a Critical Groundwater Area may be required to measure and report water use. Currently, there is one established SWMPA in the Walla Walla sub-basin, and there are seven Critical Groundwater Areas.

Measuring Water Use – Water Distribution

In instances where water use measurement and reporting are not required as discussed above, the watermaster generally can require water measurement under ORS 540.310 for the purposes of water distribution and management. Under this provision, there is no authorization to require reporting of water use.

Measuring Water Use – 2000 Strategic Measurement Plan

In 2000, the Water Resources Commission developed a strategic plan for improving surface water measurement in areas with the greatest impact on streamflows with the greatest needs for fish. The Department developed a statewide inventory of 2,385 "significant surface water diversions" within 300 high priority watersheds across the state. Significant surface water diversions included: (1) water rights that

are required by the Department to measure or report through a water right condition; and (2) significant diversions in high priority watersheds. As of January 2020, 1,099 of the significant diversions had measuring devices installed and 699 were inactive, leaving 587 diversions still needing measuring devices installed. In recent years, the Department has identified a need to revisit its 2000 Strategic Measurement Plan to better address high-priority water management and policy needs for both surface and groundwater.

Use of Data

Water use measurement data can help the Department to protect existing water right holders, facilitate planning for future water supplies, maximize the beneficial uses for both instream and out-of-stream users, and prevent time-consuming and costly conflicts over water use. Accurate water use data is beneficial to water managers as well as water users; however, properly collecting water use data can be challenging. The Department frequently works with water users to address these challenges and improve data accuracy.

Water measurement data are used in the following areas:

- **Science:** Water use data is utilized in basin groundwater studies to assist with characterizing the aquifers and in long-term management of aquifers, including critical groundwater areas. Additionally, this data is used to help refine the Department's surface water availability model, which is used to evaluate whether new water rights can be issued.
- **Water Management and Distribution:** Water use information aids watermasters in efficiently distributing and regulating water use for the protection of senior water rights, resolving disputes among water users, and ensuring use is within the limits of the water rights.
- **Review of Water Right Transactions:** Water use data provide evidence of use for water right permit holders to prove up and obtain a water right certificate. Historical water use data assists in injury determinations for water right transfers, permit amendments, exchanges, and voluntary instream leases. Water use information supports water use efficiency projects and conservation projects.
- **Management by Water Users:** For water users, measuring water use increases awareness of the amount of water they use and provides a basis for self-regulation. Water use measurement data also helps water users identify system inefficiencies, track stored water, reduce power costs, measure conservation benefits, develop improvements in their business operations, and plan for future needs. In addition, water use data provides evidence for a water right holder to prove up on a water right, rebut allegations of forfeiture for non-use, or demonstrate the validity of water rights to potential buyers. Governmental entities also use this information in developing agricultural and municipal water management and conservation plans.
- **Planning:** Water use data plays a critical role in place-based integrated water resource planning and other water planning to understand current water resources, water needs and demands, and to help evaluate solutions to meet water needs.
- **Studies and Projects:** Water use data are used to evaluate the feasibility, impacts and benefits of a water project and to make the case for investing in the proposed solution. For example, water use data are needed to evaluate the conservation potential for piping projects.

More specific examples of how the Department uses this data is included in Attachment 1.

Measurement Cost Share Program

Measuring devices can cost several hundred to thousands of dollars. As funding is available, the cost-share measurement program allows the Department to provide funding to assist water users with installing or replacing water measurement devices on surface water diversions, reducing users' concerns about the cost of installing these devices.

Targeted Water Use Measurement Efforts

Oregon's Integrated Water Resources Strategy provides a blueprint for meeting Oregon's instream and out-of-stream water needs. The need to improve water use measurement and reporting is highlighted in the Strategy. Since the State has limited resources, the Department seeks to strategically prioritize its data collection efforts in areas of highest need where the data will benefit water management, planning, and decision-making.