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February 1, 2023

Senate Committee on Natural Resources
Chair Jeff Golden
Vice-Chair Fred Girod
Oregon State Legislature
900 Court St. NE,
Salem, OR 97301

RE: Testimony on SB 718

Dear Chair Golden, Vice-Chair Girod, and Members of the Committee:

The Oregon Water Resources Congress (OWRC) is testifying in support of SB 718, which would provide water right holders with additional tools during times of drought. We appreciate the opportunity to provide public comment on this proposed legislation.

OWRC is a nonprofit trade association representing irrigation districts, water control districts, drainage districts, water improvement districts, and other local government entities delivering agricultural water supplies throughout Oregon. These water stewards operate complex water management systems, including water supply reservoirs, canals, pipelines, and hydropower facilities. OWRC members deliver water to approximately 600,000 acres of farmland in Oregon, which is over one-third of all the irrigated land in Oregon.

Oregon is facing more frequent and severe drought conditions, leading to reduced or no water availability for farmers, communities, and the environment. Recent and recurring drought conditions have devastated irrigation districts, other agricultural water suppliers, and the farmers and ranchers they serve. These conditions have caused economic hardship, loss of food security, increased catastrophic wildfires, and many other detrimental impacts throughout the state. When you're worrying about how to pay your bills or whether your community will survive yet another drought year, you shouldn't have to worry about losing your water right if you chose not to use it during a declared drought.

SB 718 would help reduce the impacts of drought by providing greater flexibility to water right holders and alleviate the concern from water users that they risk forfeiture if they do not fully exercise their water right. This tool would only be available in areas with declared droughts and will help stretch available water supplies to meet existing water right demands as efficiently as possible, benefitting agriculture, communities, and the environment.

The mission of the Oregon Water Resources Congress is to promote the protection and use of water rights and the wise stewardship of water resources

Under Oregon's doctrine of prior appropriation, when water is not available, junior water right users are regulated off in favor of more senior water right users, in accordance with the water right's priority date. Water rights not used for five successive years can be subject to forfeiture. Applying for a new water right is expensive, difficult and often impossible to get in most areas of the state. When successful, the new water right carries the priority date on which it was issued, making it extremely junior and first to be shut off. This makes the protection of existing water rights paramount.

While Oregon water law protects water right holders from forfeiture when water is not available, there is not clear protection from forfeiture if a water user voluntarily chooses not to use their water right. When drought conditions occur, water right holders should not have the additional fear that they are going to lose their right to use water in the future if they choose to not irrigate a parcel of land during a declared drought. SB 718 does not change existing forfeiture provisions requiring water right holders to be ready, willing, and able to use their full water right, if water were to be available.

Water right holders do have options to transfer water rights, such temporarily transferring water to another place of use or leasing instream. However, both types of transactions are not quickly processed, require fees, and often take more than an irrigation season before the Oregon Water Resources Department has issued a decision. Other mechanisms, such as split-season leasing, are limited and pilot in nature. Drought conditions can also occur quickly, which does not provide water users with enough time to plan a transfer.

In conclusion, SB 718 would protect existing rights from forfeiture without changing other processes or protections under Oregon water law, including transfers or other related transactions. This small adjustment will help water users around the state maximize and efficiently use available water supplies during times of drought without fear of forfeiture.

Thank you for your consideration of our testimony.

Sincerely,
April Snell