



March 23, 2023

House Committee on Agriculture, Land Use, Natural Resources, and Water  
Oregon State Legislature  
900 Court St. NE  
Salem, Oregon

**Re: HB 3368 – Vice-Chair Owens’ Amendments**

Chair Helm, Vice-Chair Owens, Vice-Chair Hartman, and Members of the Committee:

We are writing to convey our concerns regarding HB 3368’s scope and development process and to encourage this Committee to adopt the amendments proposed by Vice-Chair Owens, but which as of the writing of this letter have not been posted on the Legislature’s website as a -1 amendment. We appreciate Vice-Chair Owens’ pledge that the draft amendment language submitted on March 21 as testimony will be posted as a -1 amendment to HB 3368. We are supportive of the more focused scope of Vice-Chair Owens’ proposed amendments, and we encourage this Committee to adopt them. His focused amendments will serve as an improved starting point for discussions about Oregon’s water management needs and will address some of our specific concerns with HB 3368 as introduced.

**Concerns About HB 3368 as Introduced**

As introduced, HB 3368 is a broad-reaching bill that would impact multiple aspects of water management in Oregon without the necessary background work. We identified a range of potential impacts of this bill to our members, including: overbroad legislative findings regarding hydraulic connection between surface and ground water; additional restrictions on water right transfers that are a critical management tool for agricultural water users in Oregon; and a temporary moratorium on new groundwater applications across the State when the Oregon Water Resources Department (“OWRD”) already has the authority to pause applications in regions where declining groundwater resources are of concern. We noted that HB 3368 introduces various provisions to address problems that are already being addressed under the OWRD’s existing authority or could be addressed under the Department’s existing authority. Finally, we are concerned about the cost and time required to undertake the processes set forth in HB 3368, particularly the cost and time of conducting basin assessments for every basin in the state. OWRD currently struggles to fulfill its core functions that water users rely upon, and this new assignment of a massive and not well-defined project will necessitate significant

resources from OWRD that will undoubtedly impact the quality and timing of other programs and projects.

HB 3368 was developed without adequate input from stakeholders and without a complete analysis of the bill's impacts to Oregon's current water management approach. The short timeframe for discussing and providing input on bill language also means there are a host of potential unintended consequences, including making things worse in the process of trying to provide solutions to Oregon's water challenges. The concerns presented here demonstrate the need for additional discussion and development. A bill of this magnitude and scope should be developed well in advance of legislative session through a transparent, collaborative, and focused process.

### **Vice-Chair Owens' Proposed HB 3368 Amendments**

The proposed amendments to HB 3368 reflect the importance of data and information in the State's management of water resources while addressing many of our concerns related to the extensive scope and potential impacts to water right transfers and other issues in HB 3368 as introduced. Although we encourage the Committee to adopt these amendments, we would like to continue the dialogue about the amended version of this bill to address some of our remaining concerns.

### **Further Discussion Regarding the Proposed HB 3368 Amendments**

We have identified various provisions in the proposed amendments to HB 3368 that should be tightened or clarified to ensure (1) the intent of the legislature is clear, (2) basin assessments will consist of legitimate peer-reviewed science, and (3) the relationship between this bill and existing statutes, particularly those listed in Section 3 of the amendments, is clear.

We appreciate that the proposed bill includes a provision related to storage, and we encourage this Committee to consider other ways to recognize the importance of identifying opportunities for above and below-ground storage through HB 3368.

We request further clarification as to the specific problem the water availability and allocation tool described in Section 7 in Vice-Chair Owens' proposed amendments is trying to solve. This provision tasks a chronically understaffed and underfunded agency with developing an extensive new database and platform. We believe the concerns underlying this provision could be adequately addressed using a more efficient approach.

Finally, we are concerned that HB 3368 as amended will detract from and divert resources from other water policy and funding bills, particularly a drought package that is of critical importance at the current time. While further discussions about the HB 3368 amendments proceed, completing a drought funding package should be the top priority.

### **Proposed Next Steps**

If the Committee is determined to pass HB 3368 in some form this Session, we encourage the Committee to adopt a pared-down version, as contained in Vice-Chair Owens' proposed amendments on the Legislature's website. However, we believe that the complex issues this bill seeks to address are too great to be effectively addressed at this late point in the legislative session. We would like to continue to work with Chair Helm and Vice-Chair Owens to address our concerns as they develop solutions that address critical water needs for Oregon.

We are committed to advancing opportunities for conservation, leveraging federal dollars, and protecting Oregon's agricultural economy. This Committee is considering a range of bills that

would advance some of these goals, including HB 3124, the Bipartisan Drought Water Security Package. We encourage the Committee to ensure its focus remains on this bill.

Sincerely,

**Oregon Agriculture Water Alliance**



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