



WaterWatch of Oregon

Protecting Natural Flows In Oregon Rivers

HB 3021

Testimony of WaterWatch of Oregon

by Kimberley Priestley

House Committee on Agriculture, Land Use, Natural Resources and Water

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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 waters. 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 3021 as drafted. However, the -2 amendments will largely address our concerns.

What HB 3021 as drafted does: HB 3021 as drafted would exempt from forfeiture water right holders who claim to have used less, or even no, water because of conservation. Conservation is not defined, the result being this bill would basically exempt all water right holders from forfeiture because any non-use would qualify as conservation.

Concerns with the base bill: The base bill is far too broad and would basically gut the forfeiture statutes. The base bill raises a number of concerns, the biggest being how the it interplays with Oregon's transfer laws. Because anything would count as conservation under the base bill, this would allow a water right holder who has not used their water for 20 years to be able to transfer the full water right off the land. This could lead to widespread abuse.

Oregon forfeiture statutes, which are some of the most lenient in the West, already contain an exemption for users who do not use their full amount of water as long as they can show that they are ready, willing and able to use their full water right and they use some portion to meet their full beneficial use. New exemptions for simply using less water to meet a beneficial use are not needed.

That said, our understanding of the intent behind this bill is that in some instances users want to alter their irrigation equipment to use less water to meet their full beneficial use, however they do not want to risk forfeiture in case they need to later change the irrigation works back to allow them to use the full amount. The nut of the problem is that if they change their irrigation equipment so it cannot deliver the full rate and duty, they presumably would no longer be able to meet the existing statutory standard of being "ready, willing and able" to use the full right to protect themselves against forfeiture. It is this issue, as we understand it, that users are seeking to address. While we understand the intent, this very limited circumstance is not what the base bill is narrowed to.

WaterWatch is amendable to amendments that limit the proposed forfeiture exception to cases where modifications to irrigation equipment allows users to meet their full beneficial use with less water, but only if there are protections against misuse of this in relation to transfers. In other words, we want to encourage conservation but protect against speculation.

In sum, we urge opposition to the base bill, but are amenable to the -2 amendments.

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