

WATER LEAGUE

*The mission of Water League is to engage
the public in the stewardship of water.*

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April 3, 2023

To: House Committee On Agriculture, Land Use, Natural Resources, and Water
Representative Ken Helm, Chair
Representatives Annessa Hartman and Mark Owens Vice-Chairs

RE: Water League supports HB 3021-2 because the bill incentivizes pairing
conservation with efficiency.

Chair Helm, Vice-Chairs Hartman and Owens, and Committee Members,

Water League supports HB 3021-2 because the bill moves toward disincentivizing
wasteful over-use of Oregon water. The time has come to end the 19th-century
made-up concept that water must be used to its maximum ability for water to be in
the public interest. Water is in the public interest just for existing and flowing freely,
unmolested by antiquated threats of water right cancellations.

The public interest is not found in having water utilized to its maximum so that creeks
are dried up and aquifers drained; indeed, it is in having water conserved for the health
of the watersheds that the public relies upon in the present and future to survive.

Generally, the public disagrees with the idea that water is wasted if it has gone unused
by humans. The very basis for in-stream water rights is founded on the idea that the
non-use of water by humans is in the public interest. Indeed, HB 3021-2 suggests
that some of the largest water users are willing to leave water in the streams and in
the ground so long as they are not penalized for doing so by having their water rights
canceled on them.

The public interest, in all its diversity, is an empirical set of facts that the state and
various organizations can study through market research, sociological studies, peer-
reviewed science, and qualitative assessments. Claims that the public interest is
unknowable regarding water use are made by those who fear the results. Indeed, we can
see the public interest in every law across the nation. The test Oregon legislators must
take in this 2023 session among some 2,000 bills is deciding which ones are in the
public interest and passing those.

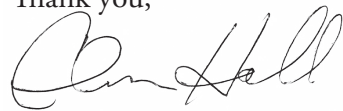
To varying degrees, the 2023 water bills seek to serve the public interest; the idea they do so blindly or *a priori* (before experience) is false. But claims throughout the decades by big-water lobbyists and their patrons have assaulted the hundreds of references to the public interest in Oregon's water code by pressing the case that *if a water user is a member of the public, then their use is necessarily in the public interest*. This logic is the rationale the state uses to defend the water use by organized crime syndicates who lease or buy up properties with water rights and then grow hundreds of acres of illegal cannabis plants. To the scofflaws, the water use is beneficial; however, to the public, it is not in their interest. The same can be said about water use on a variety of plant species that some farmers irrigate despite permanent lasting damage to watersheds and aquifers.

The conventional wisdom that the public cannot substantially change their water laws due to inertia is patently false. Whether the changes occur incrementally or there is a paradigm shift in short order, the time has come to act on behalf of posterity. HB 3021-2 incentivizes using less water to farm: by removing the threat of cancellation, the bill stops penalizing farmers for pairing their efficient water use with conservation. It is an incremental step in the right direction. The state must reward farmers for their conservation efforts. Doing more with less increases the beneficence of the water that farmers use.

We understand HB 3021-2 runs up against the Allocation of Conserved Water statutes (ORS 537.455 - 537.500) that incentivize irrigating more land with the conserved water. As written, HB 3021-2 simply allows farmers to use less water without expanding to new places of use as the conserved water statutes permit. As such, HB 3021-2 pairs conservation with efficiency; the bill leaves water in the streams and aquifers. It would be better to formalize the process by allocating 100% of that conserved water in-stream or in-aquifer, using the Allocation of Conserved Water statutes with reduced or no fees.

Lastly, because Oregon surface waters and aquifers are so over-appropriated, the idea that the water rights protected under HB 3021-2 could be transferred after years of non-use is likely not a problem: transfers from one over-appropriated basin to another over-appropriated basin are politically and ecologically non-starters, and the chances of market forces encouraging an intra-basin transfer within an over-appropriated basin are likewise a folly if the purpose of the transfer is to sell an unuseful asset for some amount of profit.

Thank you,



Christopher Hall
Executive Director