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# Priorities for Proactive Water Management: Updating Water Transfers

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# Oregon's Water Story

## *A Call For Action*



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*Oregon's water laws and the administrative structure implementing those laws are simply not suited to meet the present and future needs of our state.*

*"Appeal for Gubernatorial Leadership to Modernize Oregon's Water Laws"*  
January 2024 | Adell Amos, David Filippi, Janet Neuman, Josh Newton

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# Oregon's Water Story

## Foundational Water Laws

Oregon's lands have been stewarded by  
Indigenous people since time  
immemorial.



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Oregon adopts the ***Prior  
Appropriation Doctrine***  
and declares that all water in  
Oregon **belongs to the public.**

**1909**

Oregon Groundwater Act establishes a  
**statewide groundwater  
permitting system**

**1955**

**In-Stream Water Rights Act**  
Established

**1987**

# Oregon's Water Story

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*The Tribes have expressed their desire and right to be more directly involved in water decisions that impact their communities.*

*...The Tribes have historically been left out of water planning and water rights decisions in Oregon.*

*"State Leadership Must Take Action to Protect Water Security for All Oregonians"*  
January 2023 | Oregon Secretary of State

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# Oregon's Water Reality

*What's changed?*

*Is the system working?*



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## Water Scarcity

In today's Oregon, virtually all the surface water has been appropriated, and groundwater supplies are increasingly strained

## Climate Change

Impacts the timing, magnitude and frequency of flows and the prevalence of high temperature events

## Endangered Species

Culturally and economically important fish species have been listed and most remain so today

## Public Interest

Recognition that many people rely on water and have interest in water but don't **hold** water rights, and the growing need to ensure their interests are accounted for in decision-making.

## Sovereign Tribal Nations

Address and correct the reality that sovereign tribes have historically been left out of water management and water rights decisions

# Oregon's Reality: A Water Scarce Future



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*Oregon's streams are over-appropriated, aquifers are declining, and water demands continue to exceed supply.*

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*The demands that are putting pressure on Oregon's water supply are likely to continue to grow, which raises the need for action to ensure the ongoing sustainability of our water.*

*"Oregon Water Resources Department: Enhancing Sustainability Efforts and Agency Planning Needed to Better Address Oregon's Water Supply Needs"*  
January 2016 | Oregon Secretary of State

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100,000  
miles of rivers  
and streams

360  
miles of  
coastline

1,400+  
named lakes



# Updating Water Rights Transfers



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## *Present Day*

**Water Transfers Today:** To permanently change the point of diversion or appropriation, the place of use, or the beneficial use of the right from that for which the right was originally issued, OWRD must determine that the proposed change will not enlarge the water right and will not injure other existing water rights.

The existing water transfer process does not consider the impact and consequences on the public or on sovereign tribal nations.

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**Why Now?** Current statutes do not allow a targeted look at impacts to at-risk species or water quality and the frequency of transfer requests is increasing.

Our challenges will only intensify;  
a hard look at our water laws is long overdue.

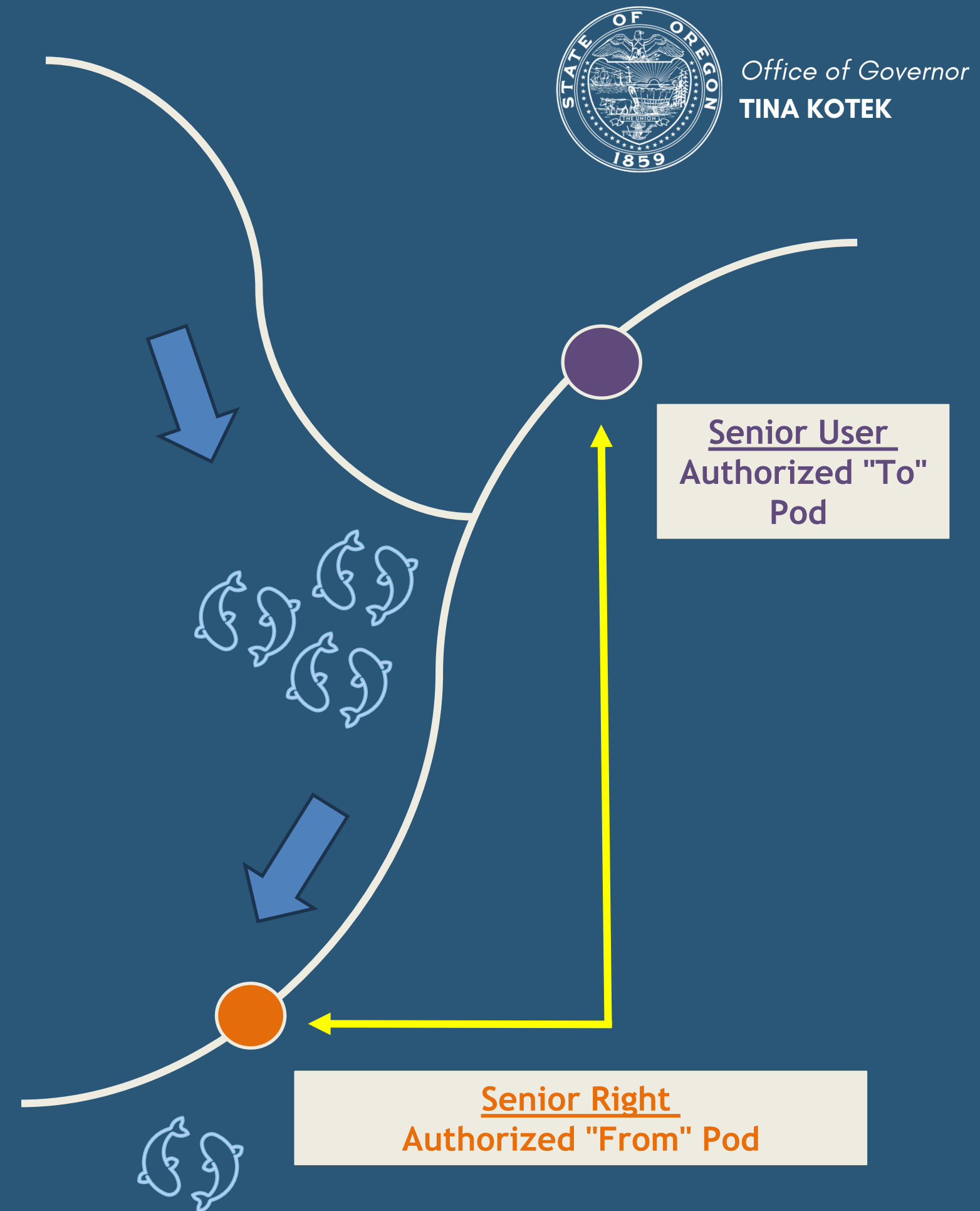
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# Updating Water Rights Transfers

## *The Problem*

Approval of transfer application that moves diversion point from downstream to upstream results in a diminished streamflow between the two points, potentially harming:

- Fish Habitats
- Water Quality







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# Updating Water Rights Transfers

## *Targeted Review of Transfer Requests*

When an amendment to a permitted right is being sought by the water right holder, the public's interest in the impacts of that change to the resource can and should be meaningfully considered as part of the decision.

### SB1153:

- **Targeted review** of transfer application to determine whether the proposed changes will result in additional loss of instream habitat for sensitive, threatened or endangered aquatic species or will further impair a designated water quality limited stream.
- **Creates a process for Oregon tribes** to review transfers in selected areas
- **Clear conditioning authority for water right transfer approvals** for water-level or water-use measurement and reporting, or screening a new point of diversion

# Updating Water Rights Transfers

## Targeted Review



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### What the Bill Does

- ✓ **Targeted**  
*to STE/WQ impairment as compared to baseline condition*
- ✓ **Strategic**  
*does not apply to reaches with instream water right*
- ✓ **Efficient**  
*most of the analysis to undertake this review is already accommodated by OWRD's review*

### What the Bill Doesn't Do

- ✗ **This is not a restoration bill.** It is a status quo bill. Leave things as you found them.
- ✗ **Does not implicate all transfers.**
- ✗ **Does not apply to existing water rights that are not requesting a change**

# Updating Water Rights Transfers

## *Tribal Engagement*

The State is falling short in appropriately recognizing and incorporating Indigenous knowledge into natural resource decision-making and policy development. Sovereign tribal nations have historically been left out of water rights decision in Oregon.

### **SB1153:**

- Moves toward more direct engagement of sovereign tribes in water management processes.
- Establishes a time-limited process for sovereign tribes to opt-in to transfer application review in select areas and directly engage with OWRD and the applicant on concerns.
- Promotes a "Do No Harm" Philosophy.



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*Our understanding of these truths is based upon a legacy of survival and reliance on our Oregon rivers and lakes. This is the reason for our perseverance and the heartbeat of our culture.*

"Tribal Water Task Force Summary Report"  
August 2023 | Tribal Water Task Force

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*We also recognize that change is hard. People have adapted to the status quo, and many will likely resist the desperately needed modernization of state water laws because of uncertainty and risk associated with changing a familiar system, no matter how flawed.*

*That resistance should not, however, thwart state action; rather, the necessary changes will require broad civic leadership and reasonable compromise from all Oregonians.*

*"Appeal for Gubernatorial Leadership to Modernize Oregon's Water Laws"*  
January 2024 | Adell Amos, David Filippi, Janet Neuman, Josh Newton

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# Oregon's Water Story

## *Looking Ahead*



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- *Shifting from Allocation to Management*
- **Balancing** the needs of many Oregonians that rely on Oregon's waters
- **Managing** our most invaluable public resource sustainably for generations to come.



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# Questions?