



February 27, 2025

Senator Jeff Golden, Chair
Senator Todd Nash, Vice-Chair
Senate Committee on Natural Resources and Wildfire

Re: Trout Unlimited Supports SB 427 (Protecting Streamflows and Fish in Water Right Transfers)

Dear Chair Golden, Vice Chair Nash, and Members of the Committee,

Trout Unlimited (TU) is a non-profit dedicated to conserving cold-water fish (such as trout, salmon, and steelhead) and their habitats. Our organization has more than 350,000 members and supporters nationwide, including many members in Oregon. TU and its members are committed to caring for Oregon rivers and streams so future generations can experience the joy of wild and native trout and salmon.

Trout Unlimited is a member of the Oregon Water Partnership, which submitted a separate to the record in support of SB 427.¹ We're providing this separate letter as additional, individual testimony to accompany our in-person comments delivered during the bill's public hearing on February 25th:

Trout Unlimited supports SB 427 because it guards against *changes* to existing water rights (i.e., “transfers”) that might harm fish populations or degrade fish habitat.

As background, a water right “transfer” is simply the process of *changing* something about an existing water right. Transfers generally fall into three categories: (1) a change in point of diversion or appropriation, such as moving a canal headgate's location on a river system, (2) a change in place of use, such as moving the area irrigated by a water right, and (3) a change in type of use, such as changing the authorized use of a water right from irrigation to industry.²

Existing law requires Oregon Water Resources Department (WRD) to evaluate “injury” and “enlargement” when a water right holder initiates the process to change something about their water right. “Injury” means a change would prevent another water right holder from receiving water that was previously available to them, and to which they're legally entitled. “Enlargement” means the change would enable the water right holder to extract more water than was previously available to them.

However, the water statutes do *not* require WRD to consider the effects of transfers upon fish, water quality, or other environmental factors. Under existing law, transfers that partially or fully dewater a stream can be approved. It's time, in 2025, for WRD to *start* taking a look at the effects of all proposed transfers *upon environmental conditions*.

¹ Oregon Water Partnership written testimony on SB 427 is available at:

<https://olis.oregonlegislature.gov/liz/2025R1/Downloads/PublicTestimonyDocument/134755>

² See Attachment A, which provides some visual examples of the 3 categories of water right “transfers.”

1. Senate Bill 427 would require WRD to assess whether a proposed transfer “would result in the diminishment of streamflow.” If it would, then WRD would deny the application.

Upon first reading of the bill, one might wonder why its advocates are so interested in streamflow. In short, the term “streamflow” is a matter of water *quantity*, and *diminishment* of streamflow tends to have a harmful effect on fish, and water *quality*.

Accordingly, streamflow is a vital issue for native fish and other aquatic species. Simply put, water *is* “*fish habitat*”—just like the pools and spawning areas and cover more often associated with that term. If streamflows get too low (or entirely depleted and dried out, as happens on many Oregon streams in summer), fish cannot survive—let alone thrive.

2. Native fish are present in Oregon streams year-round, and insufficient streamflow is already a limiting factor for them.

Oregon’s native coldwater fish survive on a thin margin of low streamflows, elevated stream temperatures, and related environmental stressors. Historically, streamflows diminished in summer and early fall, but not to the extent that we’ve seen in recent years. With climate change and seasonal drying, biologists are finding that low streamflows are an increasingly frequent bottleneck for native fish populations statewide.

Streamflows in July, August, and September can be especially low (and warm). In many streams, existing conditions alone can create inhospitable conditions for species including spring Chinook salmon, summer steelhead, coho salmon, and trout. Accordingly, diminishment of existing streamflow— even just by changing existing water rights, and not considering allocation of additional new ones—can eat up the thin margins referenced above.

3. Many Oregonians are surprised that the transfer statutes do not require WRD to consider or account for important values such as water quality or fish needs.

SB 427 makes a *reasonable* adjustment to outdated water management statutes by requiring WRD to ensure streamflows (which support fish, wildlife, and so much more) aren’t affected by proposed water right changes. The adjusted transfer application review process described in this bill would *not curtail* existing uses, *and would not apply* to existing water rights that aren’t proposing a transfer. SB 427 simply makes sure that proposed changes to existing water rights and moving water rights around *does not make conditions worse* for native fish.

The lack of any environmental screen or check against harm to fish populations has long been a blind spot in Oregon’s transfer statutes. It’s time to fix that. Please support SB 427.

Thank you for this opportunity to provide comments, and please let me know if you have questions.

Sincerely,

James Fraser
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Trout Unlimited
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Attachment A

Examples of the 3 Kinds of Water Right “Transfers” under Oregon Law

Three Types of “Transfers”

1. Changing the Point of Diversion or Appropriation

(E.g., moving canal headgate from downstream to upstream)

Image source: WRD, Aquabook

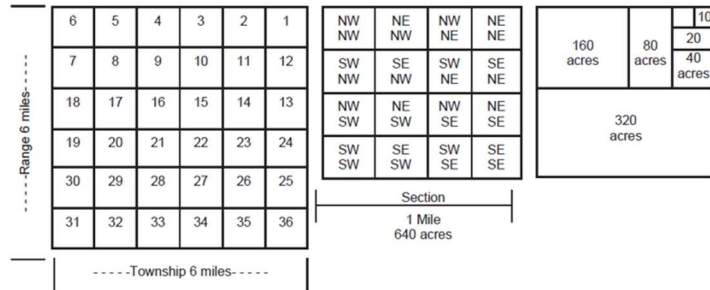


Three Types of “Transfers”

2. Changing the Place of Use

(E.g., from Area A to Area B)

Image source: WRD, Aquabook



Three Types of “Transfers”

3. Changing the Type of Use

(E.g., Irrigation to Mining)

Image source: WRD, Aquabook

