

WATER LEAGUE

*Water League engages the public
in water stewardship.*

P.O. Box 1033
Cave Junction, OR
97523

chris@waterleague.org
(541) 415-8010

Board of Directors

President
Gerald Allen

Vice President
Gordon Lyford

Secretary
Tracey Reed

Treasurer
Linda Pace

Christine Perala Gardiner

William Joerger

Dan Wahpepah

Executive Director
Christopher Hall

In Memoriam
John L. Gardiner

March 9, 2025

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

Representative Ken Helm, Co-Chair
Representative Mark Owens, Co-Chair
Representative Sarah Finger McDonald, Vice-Chair
Representatives Court Boice, Annessa Hartman, Bobby Levy, Pam Marsh,
Susan McLain, Anna Scharf

RE: Water League opposes HB 3501, which prevents the state agency from considering whether water right transfers will impair or be detrimental to the public interest.

Dear Co-Chairs Helm and Owens, Vice-Chair Finger McDonald, and committee members,

Water League opposes HB 3501 because the bill prevents the Oregon Water Resources Department (OWRD) and the Water Resources Commission (WRC) from considering whether water right transfers will impair or be detrimental to the public interest. Excluding public interest considerations in water right transfers is regressive and harkens back to the chaotic era of water use before the establishment of the 1909 Water Code, which brought a measure of order to the Wild West. This attempt to remove the public interest in water right transfers speaks to a fear of the public's interest in the management of Oregon's over-supply of water rights in the 21st century.

The WRC adopted revisions to administrative rules in 2024, which imposed substantial restrictions on permitting new groundwater rights applications because groundwater reservoirs have been over-appropriated to varying degrees in every basin across Oregon. For context, note that the state over-allocated

surface water by the mid-20th century; since then, OWRD has restricted new surface water rights.

For the most part, the only types of water right transactions left are water right transfers. Water right transfer permits can move water rights around basins by changing the Point of Diversion to surface water sources and the Point of Appropriation to groundwater sources. Transfers can also change the location where the water right holder uses the water, called the Place of Use, and transfers can change the type of use, called the Character of Use.

Since water rights are grossly over-supplied compared to the available water sources that those water rights authorize the use of, water right transfers will mostly be about seeking water wherever and whenever possible. As climate change, soil salinization, dewatered streams, and declining groundwater levels worsen, water right holders will attempt to chase water across the state with a fervency the public would never tolerate. Public outrage on this matter is generally accepted as fact by those who wish to prohibit the state from applying the public interest standard when considering whether to approve water right transfers.

Concerns leading to HB 3501 suggest that the legal comment and protest opportunities for the public during water right transfers are abused. Certainly, that is a critique by those who hold interests in water right transfers one way or the other. Those who file protests hold a different point of view that alleges the impropriety of the transfers they protest.

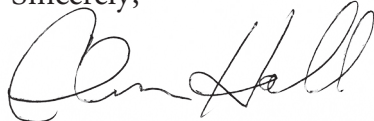
Water belongs to the public. Water right holders enjoy a significant subsidy by using that resource for free. We liken water right certificates to gift certificates from the public to water right holders, who will never consist of more than 1.5% of all Oregonians. If the normal transfer process is too slow, water right holders can participate in the Reimbursement Authority Program, which allows applicants to receive expedited processing of their water right transfer applications by submitting a Reimbursement Authority Estimate Application with a non-refundable fee. While this program does not impact the legal rights of others to file protests against transfers, it speeds up transfers that do not experience protests.

The public interest standard is among the most important criteria all laws must follow, especially when the laws are of, by, and for the people. ORS 537.110 *Public ownership of waters*, states: “All water within the state from all sources of water supply belongs to the public.” Therefore, the public interest is paramount regarding Oregon’s water laws. The irony of public officials cutting out the public interest standard breaches the public trust. No one

is above the law. Yet HB 3501 attempts to shut out the public interest determinations related to the only remaining types of water right transactions, putting large water users (mostly irrigators) above the law that, by definition, must account for the public health, safety, and welfare.

We incorporate two letters by reference here: “[The Beneficial Use of Water for Posterity](#)” and “[No, We’re Not There Yet: Modernizing the Conventional Wisdom](#).”

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Hall", written in a cursive style.

Christopher Hall
Executive Director