



March 11, 2025

Representative Ken Helm, Co-Chair  
Representative Mark Owens, Co-Chair  
Representative Sarah Finger McDonald, Vice-Chair  
House Committee on Agriculture, Land Use, Natural Resources, and Water

**Re: Trout Unlimited Opposes HB 3501 (Denying and Preventing Public Interest in Water)**

Dear Co-Chairs Helm and Owens, Vice-Chair Finger McDonald, and Members of the Committee,

Trout Unlimited (TU) is a non-profit dedicated to conserving coldwater fish such as trout, salmon, and steelhead, and their habitats. We have thousands of members in Oregon, and our national staff includes more than a dozen folks that spend their days restoring fish passage, instream flows, and habitat in this state—often in close collaboration with private landowners.

**TU opposes House Bill 3501.**

This bill is one of three this session related to the process – called a “transfer” – under which a water right holder changes their existing water right. Those changes 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.

All three bills related to water right transfers this session raise the same question:

What exactly should the State consider and account for when a water right holder initiates the process to change their water right, and requests related permission from the State?

This bill is the one that would dig in and shore up Oregon’s already outdated water code. Specifically, it would prohibit the State from considering any impairment or detriment to the “public interest” in deciding upon a proposed water right change. TU has several key concerns about the “public interest” language in this bill:

1. Oregon law *doesn’t* currently apply a public interest test on transfers – or any other environmental screen on proposed water right changes.<sup>1</sup> This bill doubles down on that imbalance.

---

<sup>1</sup> 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

2. Oregon law *should* consider the effects of changing a water right, in some way, upon fish and water quality. And to be clear, that is a much narrower inquiry than a full “public interest” inquiry. (“Public interest” is a term of art under the water right allocation statutes;<sup>2</sup> neither of the bills currently in the Senate call for adding that term to the water right transfer laws.)
3. Given all the criticisms of Oregon’s archaic water laws that the Legislature has heard in the run-up to this session, and likely elsewhere, this Committee and Legislature should not pass an expressly anti-public interest bill that shores up our unbalanced and antiquated system.

Lastly, TU shares the concerns that many commenters have raised about the process and administrative changes in Sections 1 and 2 of the bill, related to WRD’s timeline for processing applications and protest fees. Section 2 proposes a *fee increase of nearly 1,000%* for members of the public to challenge certain WRD decisions – unless the protestant is a landowner in the same hydrologic basin or WRD itself. The Legislature should not pursue this unfair and lopsided concept.

Trout Unlimited recommends that you not move this bill. Instead, we would draw your attention to the two forward-looking bills on the topic of water right changes—currently in the Senate—which would add reasonable environmental screens or checks against harm to fish populations in Oregon’s water right transfer statutes. Namely, SB 427 (generally requiring that transfers not result in diminishment of streamflow) and SB 1153 (generally requiring that transfers not result in loss of in-stream habitat for listed aquatic species or further impairments of water quality).

Thank you for considering this input, and please let me know if you have any questions.

Sincerely,

James Fraser  
Oregon Policy Director  
Trout Unlimited  
[james.fraser@tu.org](mailto:james.fraser@tu.org)

---

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.

<sup>2</sup> See, e.g., ORS 537.153 (describing the process for applying for a new surface water right, under which WRD presumes a proposed use will not impair or be detrimental to the public interest if certain criteria are met; also specifying process by which that presumption may be overcome); see also ORS 537.170(8) (specifying “public interest” factors).