



Eugene Water & Electric Board

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Eugene Water & Electric Board Opposes SB 1153

Chair Golden and members of the Senate Committee on Natural Resources and Wildfire:

I am writing to share concerns with Senate Bill 1153 and **urge the committee to oppose** the bill as currently written. The added review criteria are vague, and the anticipated review process will add to already unacceptable timelines for getting water rights transactions completed.

The Eugene Water & Electric Board (EWEB) supplies clean safe drinking water to around 200,000 people in Eugene and surrounding communities. EWEB currently relies solely on water supply from the McKenzie River and is the largest water provider in Oregon to be dependent on a single source of water supply. Reliance on a single supply source makes EWEB and its customers uniquely vulnerable to impacts to the McKenzie River. For example, a spill affecting water quality in the river could leave EWEB without a source of water supply.

To address this issue, EWEB has been working for years to obtain access to water from the Willamette River to provide water supply redundancy. This effort has included investments in planning and engineering work, as well as acquiring a water use permit authorizing water use from the Willamette River, and securing the land required for a new intake and water treatment plant.

The provisions of SB 1153 could, however, jeopardize EWEB's efforts to begin obtaining water from the Willamette River under its existing permit. EWEB's permit currently authorizes diversion of water from the Willamette River at a location downstream from the location that EWEB's engineers determined it should construct the new intake. Accordingly, EWEB will need the Oregon Water Resources Department (OWRD) to approve a permit amendment that moves the authorized point of diversion upstream to the planned intake location. Under the current permit amendment statutes and OWRD requirements, EWEB should be able to amend its permit to move the authorized point of diversion upstream because OWRD would be expected to find that the change would not cause injury to existing water rights.

SB 1153 could, however, preclude OWRD from approving EWEB's permit amendment application. SB 1153 would add two additional review criteria to OWRD's current review process for permit amendment applications and other processes allowing changes to existing rights. In addition to the existing criteria, the bill would allow OWRD to approve a permit amendment only after determining that the change would not result in a loss of in-stream habitat for sensitive, threatened or endangered aquatic species in stream reaches not protected by an existing water right; or contribute to water quality impairment in water quality limited streams. These criteria are vague and create significant uncertainty as to their impact on EWEB's needed permit amendment. As an example, SB 1153 is unclear as to what constitutes "protection by an existing water right." At a minimum, the bill should be amended to clarify that the existence of

an instream water right in the affected reach is sufficient to eliminate the need for OWRD to review this additional criterion.


In addition to having vague review criteria, the bill would likely exacerbate OWRD's already slow processing timelines. Although not specified, it appears likely that the determinations for the new criteria would be completed by the Oregon Department of Fish and Wildlife (ODFW) and the Department of Environmental Quality (DEQ). Currently, OWRD's processing time for transfer applications can exceed two years. Referring transfer applications to ODFW and DEQ for additional analysis will only create further delays. It is important to understand that ODFW is currently required to provide input on certain municipal permit extension applications by recommending "fish persistence" conditions. Many municipal water providers have been waiting well over a decade to receive these reviews from ODFW. EWEB cannot wait more than a decade for ODFW to provide feedback on its permit amendment application.

Further, it should be understood that the proposed review criteria are generally unnecessary for large-scale municipal water provider projects to construct new diversion facilities, such as EWEB's, because these types of evaluations will be completed through the U.S. Army Corps of Engineers and Department of State Lands joint removal/fill permit process. Accordingly, this bill would only result in redundant efforts and unnecessary delays and uncertainty. EWEB and other water providers should not be required to expend additional public funds for an unclear process that provides no additional benefit to our water resources.

Finally, SB 1153 adds a process by which federally recognized Indian tribes in the state can review transfer applications "in specific counties." However, the bill does not identify these counties. The bill should be amended to specify the affected counties.

As currently drafted, SB 1153 adds substantial uncertainty to water right modification processes, and could prevent EWEB from modifying its Willamette River water use permit leaving EWEB without the needed redundant water supply source. Governance of water rights and protecting Oregon's limited water supply for all beneficial uses is both critical and extremely complicated and requires careful consideration of impacts of proposed changes. As such, we urge you to vote against SB 1153 and would welcome a chance to participate in future conversations on this important topic.

Sincerely,



Karen Kelley
Chief Operations Officer
Eugene Water & Electric Board