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03/25/2025

## Rockwood Water People's Utility District Opposes SB 1153

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

I am writing to share Rockwood Water People's Utility District's (District) concerns with Senate Bill 1153 (SB 1153) and to urge the committee to oppose the bill as currently written. The bill would add unclear review criteria and a new review process that would add to already extremely lengthy timelines for modifying water rights. As currently drafted, SB 1153 creates unacceptable uncertainty for water suppliers needing to modify their water rights, and it raises the potential for virtually all proposed changes to be denied or litigated based on reviewers' interpretations of vague and broad criteria. This puts our drinking water rights at risk. We urge you to vote against SB 1153 as drafted and would welcome the opportunity to discuss this important topic with you further.

The District provides drinking water to over 66,000 people in a 10 square mile service area within the Cities of Portland, Gresham, and Fairview. While the District has historically used a combination of its own groundwater sources and wholesale water purchased from Portland Water Bureau, in the near future, the District and the City of Gresham intend to rely on water produced from the groundwater system as the primary source of supply to meet all customer demands. Additional wells and other infrastructure will be constructed as part of the expansion of the groundwater system. This makes it critical for the District to be able to manage its water rights to ensure it can continue to provide clean, safe, and reliable water to its existing customers and have the water supply needed to accommodate housing production goals.

The groundwater source for the District's water rights is the Sand and Gravel Aquifer (SGA), a deep and extensive aquifer in the Portland Basin. An evaluation of the aquifer based on reported static water level measurements shows that groundwater levels in the SGA are relatively stable, and hydrogeologists have confirmed that the use of groundwater as proposed by the District and the City of Gresham is sustainable. The Oregon Water Resources Department watermaster has also indicated that there is not a history of needing to regulate groundwater rights in the area. As sites for new production wells are selected, the District is undertaking analyses to ensure that new wells will not cause interference that would affect senior water rights.

The District is diligently taking a variety of steps to support careful and sustainable use of groundwater. Current statutes protect against enlargement and injury to other water rights during the transfer process, and the District is already evaluating sites selected for new wells to ensure that they will not cause interference with other water right holders. The City of Gresham has developed a nationally recognized Groundwater Protection Program covering parts of the District's service area and Gresham to protect the groundwater

resource from contamination and build positive relationships with the community. The District's approved Water Management and Conservation Plan includes a variety of water conservation and efficiency programs.

Under the current statutes related to water right transfers and permit amendments, the District expects to be able to modify its water rights if needed as sites for wells are selected. SB 1153 creates significant uncertainty and risk around any necessary future modifications of the District's water rights. SB 1153 would add two additional review criteria to OWRD's existing review process for transfers and permit amendments, prohibiting OWRD from approving any change unless it determines that the change would not result in a loss of instream 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. The bill does not describe what constitutes "protection by an existing water right," and at a minimum, the bill should be amended to clarify that the existence of an instream water right in the affected reach would eliminate the need for OWRD to review this additional criterion. Furthermore, changing the location of a well means that the time and place of groundwater pumping effects on instream habitat and water quality will never be identical to the effects before the change. Even if the change is undetectable instream and/or would be offset by improved conditions elsewhere, mathematical models could show de minimis impacts in one area that would preclude approval of any transfer. The lack of specific guidelines for evaluating these criteria will likely lead to inconsistent interpretations and decisions, increasing the potential for costly and time-consuming litigation.

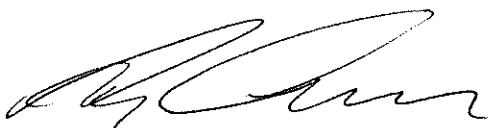
In addition to the vague review criteria, it is unclear how these reviews will be conducted and how much time will be added to OWRD's lengthy processing times for water right transactions, which can already exceed two years. Although the bill does not specify who would conduct the reviews for the new criteria, it appears likely that these reviews would require outside expertise from the Oregon Department of Fish and Wildlife (ODFW) and the Department of Environmental Quality (DEQ). Requiring OWRD to refer transfer and permit amendment applications to ODFW and DEQ for additional analysis will create further delays. As an example, many municipal water providers have been waiting more than a decade for ODFW to complete reviews required by OWRD for their municipal permit extension applications. These delays and uncertainty severely hinder water providers' ability to plan for and invest in the future water needs of their communities.

SB 1153 would also add a process by which federally recognized Indian tribes could review transfer applications "in specific counties," but the bill does not identify these counties. The bill should be amended to specify the counties to be included so that municipal water providers can understand if they may be affected and better prepare for consultations.

We urge you to vote against SB 1153 as drafted and would be happy to discuss these issues with you further.

Sincerely,

Andy Crocker, District Superintendent

A handwritten signature in black ink, appearing to read 'Andy Crocker', is written over a horizontal line.