



March 27, 2025

Senate Committee on Natural Resources and Wildfire
Oregon State Legislature
900 Court St. NE,
Salem, OR 97301

RE: Testimony in Opposition unless Amended to SB 1153

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

I am writing on behalf of the City of Beaverton to express our opposition to Senate Bill 1153 unless amended. We appreciate the Governor's Office for being willing to work with local governments on a forthcoming amendment that will highlight the need for specific accommodations for municipal water suppliers to continue operating potable water systems.

We support the concept of preventing the loss of in-stream habitat for sensitive, threatened, or endangered aquatic species. However, as currently written, this bill would prohibit municipal water providers from making any adjustments to existing intake facilities, including performing necessary upgrades. This is despite an existing process to provide mitigation for potential water or habitat loss.

Building new water intakes or moving an existing water intake requires extensive environmental permitting. When points of diversion change for municipal projects, the following permits or reviews are required:

- Removal Fill permits obtained by the Army Corps of Engineers and Oregon Department of State Lands that triggers:
 - Endangered Species Act review by National Marine Fisheries Service (NMFS) and United States Fish and Wildlife (USFW).
 - Threatened and Endangered Species review by Oregon Department of Fish and Wildlife (ODFW).
 - Water Quality Certification from Oregon Department of Environmental Quality (ODEQ).
 - Consultation and review with the tribes under Section 106 of the Historic Preservation Act.

- Migratory Bird Act Treaty clearance by the United States Department of Agriculture.

This process has a much higher standard than the National Environmental Policy Act (NEPA) as the Corps of Engineers implements a Least Damaging Practicable Alternative (LEDPA) approach. This means that an applicant must identify the alternative project option that would cause the least harm to the aquatic ecosystem while still being feasible to implement. Cost is not considered as a factor if the option is implementable.

The permitting process is in addition to the submission of a Land Use Information Form from the associated local government certifying that the change is consistent with local land use regulations and a review by the Oregon Department of Fish and Wildlife and the local Watermaster to confirm that the transfer will not impact an instream water right.

Beaverton is also concerned about the potential impacts to the city's Aquifer Storage and Recovery (ASR) program, which is a key initiative aimed at enhancing the city's water management and sustainability efforts. The program involves storing water in underground aquifers during times of surplus and retrieving it during periods of high demand. This approach not only ensures a reliable water supply but also reduces the need for surface water withdrawals.

It is our understanding that transferring a point of appropriation for a well closer to a surface water source would likely trigger the new criteria proposed under the bill and prevent future ASRs from being developed. This would hinder the city's climate action and natural hazard mitigation efforts, as ASRs are the most seismically resilient forms of water storage since they are located below the liquefaction level in a basalt layer that is unlikely to be impacted by an earthquake. ASRs also allow us innovation opportunities to collect energy from the movement of water and use it to offset the cost of pumping water to our residents.

The Beaverton Purple Pipe system, which is part of the ASR program, further enhances sustainability by using groundwater and treated stormwater for irrigation and streamflow enhancement. This system provides a cost-effective supply of water for irrigation that would otherwise come from the city's limited drinking water supplies and returns over 50% of treated water into Summer Creek during the summer months. It is unclear under the broad proposal of the bill whether this program would be impacted.

The City of Beaverton is committed to ensuring the sustainability and resilience of our water management systems. We appreciate the Governor's Office for their willingness to collaborate with local governments on a forthcoming amendment to Senate Bill 1153 with specific accommodations for municipal water suppliers to continue operating potable water systems while balancing environmental protection with the practical needs of our community.

Sincerely,

A handwritten signature in dark ink, appearing to read "Elizabeth Coffee". The signature is written in a cursive, flowing style.

Elizabeth Coffee

Assistant City Manager