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CORRECTED Testimony Concerning House Bill 3342A – Submitted to the record electronically

Chair Golden, Vice-Chair Nash, and Committee Members,

Thank you for the opportunity to submit testimony on behalf of Oregon Cattlemen's Association (OCA). OCA represents ranchers across the state of Oregon and works to promote environmentally and socially sound cattle industry practices by maintaining an active political presence in these related areas. Water is a critical and precious resource for sustaining animal life and producing food and valuable byproducts for the State and the world.

OCA supports the administrative efficiencies created by House Bill 3342A, however, OCA has concerns regarding the remainder of the bill. Below, we have outlined our primary concerns with the bill, and would encourage further changes to the bill before the bill is enacted.

Decision-Making Based on Classification Alone

The bill would allow the Oregon Water Resources Department ("OWRD") to return certain applications soon after submission rather than continuing to process the applications. We are concerned about the provisions of the bill that would allow OWRD to return applications based on classification under ORS 536.340 (Section 13(2) and portions of the bill citing to that subsection). Applicants can request variances from the Oregon Water Resources Commission regarding such classifications, and an unintended consequence of the bill would be cutting off an applicant's ability to utilize that variance process.

Increased Burdens on Applicants

The bill provides that 90 days after the date of the public notice for a new application, the applicant must notify OWRD that it wishes to proceed with its application. First, the applicant just submitted its application, so they clearly wish to proceed. Second, the additional notice only serves to create administrative inefficiencies in OWRD by requiring an additional step, and the likely submission and processing of additional applications when applicants inevitably miss this strange deadline. Third, the additional burden placed on applicants is too high if they are unsophisticated or not available to provide the additional notice. Applicants may miss this arbitrary and unnecessary deadline, only to have their application essentially denied without reason. We suggest only requiring notice to continue from the applicant if the initial review is negative.

Retroactive Applicability

The bill proposes that certain provisions should apply to current applications retroactively in contradiction to ORS 536.031. Applications must be processed based on the statutes and rules applicable at the time such applications are submitted to OWRD. To do otherwise would be patently unfair to persons to submit such applications based on the laws in effect at the time of submission. The State should not continue to move the bar for application approval.

Unnecessary Restrictions on Transfers

The bill proposes to limit the availability of transfers in certain restricted water use areas. While we do not disagree that many of such transfers may ultimately be denied, we are opposed to such a one-size-fits-all rule that would ignore special circumstances or mitigation that may be offered to offset impacts. Now, more than ever, the State needs to encourage flexibility in the exercise of existing water rights to encourage maximum efficient use and conservation of the State's finite and valuable water resources. The proposed limitations may restrict flexibility and ingenuity in use of water throughout the State.

Unnecessary Restrictions on Extensions

The bill proposes severe new restrictions to water right permit extensions. OWRD already has significant authority to deny additional transfers when the circumstances require. The bill's proposed one-size-fits-all rule will ignore the circumstances in favor of and against such extensions. Furthermore, the proposed restrictions will severely harm water users who have meaningfully invested in their water development, but who have not completed that development for various, justifiable reasons.

Thank you for your consideration of these important issues. OCA encourages that further modifications be made to the bill to address the above issues before the bill is approved.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "McElligott", is positioned above the printed name.

Matt McElligott, President
OREGON CATTLEMEN'S ASSOCIATION