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Committee on Natural Resources and Wildfire

Oregon Senate

900 Court St. NE

Salem, OR 97301

Dear Chair Golden, Vice-chair Nash, and Members of the Committee on Agriculture, Land Use, Natural Resources and Water,

RE: Testimony in Opposition of HB 3372

I am writing to express my opposition to HB 3372, currently under consideration by the Committee on Natural Resources and Wildfire.

HB 3372 seeks to permit further usage of our limited groundwater by small-scale producers who do not hold the proper water rights. As someone who grows organic vegetables on irrigated acreage in a drought-affected region, who has invested tens of thousands of dollars in conservative and efficient irrigation equipment, and as a private community member whose personal domestic well has been affected by overallocation of groundwater, I believe that this bill will have detrimental effects on our communities, our limited public resources, and our systems of agriculture. I strongly oppose its passage as a misguided approach to multiple serious problems.

To support my opposition, I would like to highlight the following key points:

1. Groundwater is already over-allocated in our state.

- Hydrologists and engineers can confirm what any private landowner has already observed: domestic wells routinely require deepening and their water quality suffers, because our aquifers are being used faster than they are being recharged.
- Existing OWRD departments lack the resources and tools to enforce regulations on those users who over-consume both groundwater and surfacewater.
- Further draining of our groundwater for small businesses will impact their neighbors' domestic wells, as is already happening.
- This bill nominally supports a "daily gallon limit" to restrict groundwater usage for commercial production, but the reality is that current limits on irrigation water are already nearly impossible to enforce, and these would also remain unenforced. The actual result of this would be further overconsumption in excess of stated "gallon limits."

2. This bill creates private benefit from a limited and declining public resource

- I want to be clear that this bill creates a provision for the private benefit of certain landowners from their consumption of a scarce public resource. It is not about food being saved from waste, it is about food being sold for the enrichment of certain businessowners.
 - This bill has winners and losers. The winners would be private landowners who are trying to gain a personal exemption from a reasonable restriction on use of public resources. The losers would be the rest of the community who depends on these scarce resources for their own everyday use as they watch their own wells drop and must absorb the cost of deepening the well and treating the water as it declines in quality. Further privatization of public resources should not be taken lightly.
 - Proponents of this bill say that food being grown should not go to waste– this is of course an agreeable idea. But this bill is not about conserving food: it is about creating an exemption so that this product can be sold and create private income for certain people. If the issue is simply about garden vegetables making their way to food banks, it can be addressed without creating further private benefit from a public resource.
3. **The existing regulations are not so arcane that private landowners are oblivious about them.**
- I have been farming for 10 years in our area and have never been unaware that the use of public water for private benefit of a farm business is regulated by the “water rights” system of property rights and governed by the OWRD. Even my neighbors that do not irrigate their acreage commercially are aware that commercial irrigation is regulated by water rights inhering in their property (or not).
 - I am aware of, and have attended, numerous free public workshops offered by entities like the Soil and Water Conservation Districts which are aimed at helping landowners understand and interpret these systems. I myself have taught numerous growers how to use the water rights mapping tool and database to confirm exactly how much they may irrigate in volume or rate and which acreage it applies to.
 - Private landowners that act as though they are ignorant of this system are unserious businesspeople. It is comparable to a private builder claiming they were unaware that private buildings require a public permitting process and requesting an exemption from the permitting process because they find it “arcane and technical,” or someone running a food business and claiming they were unaware of the “arcane” regulations around public health and foodservice.

Conclusion

In conclusion, I urge the Committee to oppose HB 337. I do not believe that the state’s role in this problem is to create further private benefit from this limited public resource. Instead I believe the state should be seeking ways to defend and conserve the groundwater that remains in our public aquifers, and empowering further research to understand what sustainable rate of usage

is, and granting the OWRD the resources it needs to reduce current over-consumption by existing water rights holders. Opening up further usage is not only side-stepping the actual problem before us, namely the conservation of groundwater, but in fact it worsens it. I ask that you consider these impacts carefully before making a decision on this matter.

Water access and usage for small farmers producing food is a genuine problem, but this is not the appropriate response. Already there are numerous organizations at the county, state, and federal level that are empowering small farmers to produce food within the existing regulations, with success, and their efforts should be reinforced, not bypassed.

Thank you for your time and consideration. I am happy to provide further information or answer any questions you may have. I look forward to seeing how you will address this important issue for our community.

Sincerely,

David Wills-Ehlers

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