



June 3, 2025

Senate Committee on Rules
Oregon State Legislature
900 Court St. NE,
Salem, OR 97301

RE: Neutral Testimony for SB 1153

Chair Jama and members of the Senate Committee on Rules,

I am writing on behalf of the City of Beaverton to explain our change in position from opposed to neutral regarding Senate Bill 1153 with the -5 amendment. We appreciate the Governor's Office and members of the Natural Resources and Wildfire Committee for including local governments in drafting the proposed amendment. This amendment exempts municipal water right holders from the water transfer evaluation process, recognizing the equivalent, if not more restrictive, permitting process already in place. Additionally, Section 8 codifies the tribal consultation process on water right transfer applications.

Building a new water intake or moving an existing one 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, triggering:
 - 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 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.

With the municipal exemption, Beaverton can expand the city's Aquifer Storage and Recovery (ASR) program, 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, ensuring a reliable water supply and reducing the need for surface water withdrawals. Beaverton's goal is to have enough stored water to support our community for an entire summer in a scenario of extreme drought.

While the amendment exempts municipalities from a duplicative and time-intensive water transfer evaluation, it does not provide an exemption to Section 8 requiring tribal consultation on water right transfer applications. Beaverton supports the codification of tribal consultation in the transfer process in recognition of the rights, privileges, and interests of the sovereign Tribes of Oregon.

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 the -5 amendment, which allows 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 blue ink, appearing to read "Jenny Haruyama", with a long horizontal flourish extending to the right.

Jenny Haruyama

City Manager