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Before the
House Agriculture and Natural Resources Committee
Representative Brad Witt, Chair

Testimony on Senate Bill 199A “Split-Season Leasing”

Presented by: the Oregon Water Resources Department
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Thank you for the opportunity to present testimony on Senate Bill 199A. This is a Department bill with the goal of continuing the Department’s Split Season Leasing Program, a program that agricultural water users, municipal water users, and the conservation community have all used with success since 2001.

Background

Split season leasing allows water right holders to use water beneficially for a portion of the year, and lease water instream for the remainder of the year, provided that the uses do not occur at the same time.

This program, authorized under ORS 536.348, Section 3, is part of the Water Resources Department’s broader portfolio of instream leasing programs. The split season leasing program has been in place since 2001, passing with strong support from the Oregon Legislature. In 2007, its sunset was extended to January 2, 2014, again with strong Legislative support. It has enjoyed participation from about a dozen water right holders from across the state; the largest concentration of leasing projects are located in the Deschutes, Rogue, and Willamette Basins.

Proposal

This bill, with its amendments, would move the program sunset date to January 2, 2024. Responding to concerns voiced during the 2012 legislative session, this bill also clarifies that the Department does, and will continue to, guard against injury and enlargement of water rights during the course of program implementation. The Oregon Senate approved this bill with a vote of 28-0-2 (excused).

Stakeholder Feedback

The Department conducted a stakeholder review of this program during 2012 in accordance with Oregon Administrative Rules 690-077-0079. Workgroup participants included: the Deschutes River Conservancy, The Freshwater Trust, Klamath Basin Rangeland Trust, League of Oregon Cities, Network of Oregon Watershed Councils, Oregon Water Resources Congress, and Water for Life.

Participants asked to see protections against injury and enlargement spelled out in statute in addition to administrative rules, where they currently reside. They asked that language about public notice, approval by order, revocation or modification of an order, and five-year length of lease also be brought from rule into statute. Finally, they also asked the Department to clarify language that applies to the overall instream leasing program.

The Department incorporated all of these requests into the bill and its amendments.