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March 4, 2013

Senator Jackie Dingfelder, Chair
Senator Alan Olsen, Vice Chair
Members of the Senate Committee on Environment and Natural Resources
Oregon State Legislature
Salem, Oregon 97301

Dear Chair and Member of the Committee,

The Joint Water Commission is writing to express our opposition for SB 425. As the managing agency for a water system that provides drinking water to over 400,000 Oregonians and some of Oregon's largest businesses and industries, it is imperative that we have and maintain the ability to complete water rights transactions at the Oregon Water Resources Department (OWRD) in an efficient and timely manner.

SB 425 would create an additional review criteria for various water right change processes, including permit amendments, substitutions, and water rights transfers (including temporary, out-of-basin, surface water to groundwater, etc.). Potential changes to water rights include changes in the point of diversion, the character of use, and place of use. The new criteria would require OWRD to determine that the proposed change "does not result in a loss of in-stream habitat for native fish or native wildlife in a stream reach that is not protected by an existing instream water right."

The bill is problematic for a number of reasons, including but not limited to:

- The criteria are vague and create uncertainty for water right holders seeking to modify a water right.
- The vague criteria (loss, protected, net benefit, etc.) would require a drawn-out and uncertain rule making process, which would be a significant fiscal impact for OWRD.
- OWRD does not have the expertise to make the required determination; therefore, would need to rely on ODFW. This will result in a significant fiscal impact for both agencies.
- Inclusion of these criteria would result in delays in processing. For example, a simple change in place of use may now be subject to an extensive return-flow analysis. Or, a change in point of diversion could result in the need for an extensive analysis on impacts to native wildlife.
- Inclusion of these criteria will likely result in numerous protests to proposed determinations. Resolving protests and administrative hearings would result in significant fiscal impacts for OWRD.
- Municipalities already go through an extensive fish persistence review in our permit extension applications that have to be approved prior to any transactions. This creates a duplicative process.



Thank you for the opportunity to comment and thank you for your consideration.

Sincerely,

Niki Iverson
Water Resources Manager
Hillsboro Water Department