



SB 210

Testimony of WaterWatch of Oregon Submitted to Senate Committee on Environment and Natural Resources February 16, 2015

Founded in 1985, WaterWatch is a non-profit river conservation group dedicated to the protection and restoration of natural flows in Oregon's rivers. We work to ensure that enough water is protected in Oregon's rivers to sustain fish, wildlife, recreation and other public uses of Oregon's rivers, lakes and streams. We also work for balanced water laws and policies. WaterWatch has members across Oregon who care deeply about our rivers, their inhabitants and the effects of water laws and policies on these resources.

WaterWatch of Oregon opposes SB 210

SB 210 allows expedited review of certain applications, and sets deadlines for performing that review. With regards to water, it allows expedited review for "water right permits" and "limited licenses for water storage."

Oregon water law already allows for expedited review of water right permit applications, permit extensions, permit amendments, final proof surveys, water right exchanges, transfers and water management and conservation plans. ORS 536.055. Importantly, however, existing law does not set arbitrary timelines that would compromise adequate review or undercut existing public notice/comment opportunities.

SB 210, on the other hand, sets forth specific "expedited" timelines for review of an application. This directive is problematic for a number of reasons. First and foremost, it imposes artificial timelines that would apply regardless of project complexity. A project proponent could invoke the "expedited" application process to force agencies to make decisions in advance of having obtained proper scientific review, associated state and federal regulatory permits, and/or financing. This could be used to force the Water Resources Department's hand, so to speak, before the applicant and/or the agency has the information in front of it to make an informed decision. This is not in anyone's best interest.

Second, it grants private parties undue influence over agency staff time and priorities. By simply paying a fee, an application under this provision would be able to usurp limited public staff resources for the furtherance of their select project within a time certain. As noted, there already exists in Oregon law a provision to allow expedited review. Those with deep pockets can already jump to the front of the line. SB 210, however, takes this to a different level. It allows private interests to dictate agency workload priorities in a manner that could harm the public overall.

Third, the bill states that if there already exists a statutory minimum time for completion of review, the new timeline for completing shall be no more than 14 days after the statutory minimum. It is unclear how these will affect public comment periods. Some statutory minimums for approval are timed a certain number of days out if there are no public comments or appeals. With a directive to complete review within 14 days it could undercut public comment periods.

In addition to these timeline/fairness issues, it is unclear to us why the bill offers a special carve out for “limited licenses for storage”. Limited licenses are temporary authorizations to use water for a wide variety of temporary or short term uses, that can be issued after a very short 14 day review period. If there is an “emergency” they can be issued immediately. ORS 537.143. There is no need to expedite this already fast track process. Moreover, this special legislative carve out for “limited license for water storage”, as opposed to all uses, seems oddly targeted. The intent of this special carve out is not clear in the bill.

We urge the Senate Committee on Environment and Natural Resources to reject this bill.

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