

**SB 206-2**

Senate Environment and Natural Resources Committee

Written Testimony of Greg Addington  
On behalf of the  
Klamath Water Users Association

March 23, 2015

Chair Edwards, Vice Chair Olsen and members of the Committee, my name is Greg Addington and I am the Executive Director of the Klamath Water Users Association (KWUA), located in Klamath Falls, Oregon. **I am here today seeking support for SB 206 with the dash 2 amendments.** SB 206-2 would provide useful tools for the management of water rights that have been recognized in the ongoing Klamath Basin water rights adjudication. We have long advocated that all irrigators, particularly in dry years, should have as many options and as much flexibility as possible in the exercise of their water rights. We would also like to offer one amendment for consideration that we believe will improve the bill.

I provide this testimony on SB 206-2, but also note that there is a related bill (SB 264-1) which will provide many of the same water management tools as this bill for a separate geographic area in the Klamath Basin. For the record, we do not understand why there must be two bills to create authority to do essentially the same thing. We don't favor this approach and do not believe it represents the best public policy: a single bill with one all-encompassing geographic description can easily do the job that is now divided into two bills. We are also concerned that for whatever reason, one bill might move and the other may not, thus granting needed rights and privileges to one segment of the Basin's agricultural community while denying those same rights and privileges to farmers and ranchers whose rights to divert water for beneficial use was confirmed by the same Order of Determination. Such a result would not be legally justifiable and would be highly inequitable. That said, we have been unsuccessful convincing others of this and we have resigned ourselves to this two-bill approach.

KWUA Background

KWUA is a non-profit corporation that has represented Klamath Reclamation Project farmers and ranchers since 1953. Our members are irrigators and irrigation districts who contract with the federal Bureau of Reclamation to supply water for their family farming operations. KWUA members include rural and suburban irrigation districts and other public agencies (drainage districts, improvement districts, etc.) as well as private individuals who operate on both sides of the Oregon/California border. Our membership represents over 1200 family farms and ranches and encompasses nearly 170,000 acres of productive farmland.

The individuals and lands represented by KWUA have been at the very heart of some of the most difficult water conflicts the modern west has seen. That said, our organization has been a leader in the agricultural community in searching for a better way to do things. We have worked the better part of the last decade to forge relationships and develop water sharing agreements with former adversaries. In 2010, we were one of over 40 parties who signed the Klamath Basin Restoration Agreement and Klamath Hydroelectric

Settlement Agreement and committed to a different way of doing business in the Klamath Basin. We have worked and are working closely with the current and past Governor's offices to accommodate needed changes and support necessary state and federal legislation required to make these important water settlements a reality.

### Need for the Legislation

As you know, the Klamath Basin is in the midst of a long running surface water adjudication process to determine previously un-adjudicated rights of the Klamath River system. Elsewhere in the state, a water user with a decreed water right has the flexibility to temporarily transfer or lease all or a portion of their water right to manage the ever increasing limitations on the supply caused by ongoing drought and regulatory requirements. Current law requires a decreed, certificated, or permitted water right to access the temporary water transfer and lease tools. In the Klamath basin, the Department of Water Resources has filed its Findings of Fact and Order of Determination in the Circuit Court, but we are years from completion of the court review and entry of a Decree and issuance of water right certificates. In the meantime, we need the water management tools available to other water users in this State to efficiently and effectively manage the available water supply. SB 206 seeks to temporarily change existing law to allow Klamath Project farmers and districts to use these important tools. The tools would become available with respect to water rights that have been recognized in the Water Resource's Department's Order of Determination in the Klamath Basin Adjudication.

### Proposed Amendment

We request that the committee consider a relatively simple amendment to SB 206-2 which we believe is good policy and makes sense.

#### KWUA Proposed Amendment to SB 206-2:

**Section 2.** (1) Section 1 of this 2015 Act is repealed ~~January 2, 2020~~ **on the earlier of January 2030, or the date of entry of judgment under ORS 539.150. (4) affirming or modifying the determined claim.**

“(2) Notwithstanding the repeal of section 1 of this 2015 Act by subsection (1) of this section, and except as provided in this subsection, a water right lease or transfer entered into under section 1 of this 2015 Act for a term beginning prior to ~~January 2, 2020~~ **the date of its repeal**, may continue in effect. . . [retain the remainder off the section as currently written].”

Absent these proposed amendments, the authority provided in the bill would expire in less than five years. This early termination is unnecessary and undercuts the benefits that the legislation can provide. The tools provided by this legislation will be useful to water right holders until a decree (judgment) has been entered in the Klamath Basin Adjudication. It is currently uncertain when the judgment may be issued, but it is very unlikely to be within the next five years. Thus, a later date of expiration/repeal is appropriate.

I am available at your convenience to discuss further any concerns or questions the committee may have related to our testimony or position on this bill. **Please support SB 206-2 with consideration for the requested amendment provided above.**

Please don't hesitate to contact me if I can be of any assistance.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Greg Addington".

Greg Addington  
Executive Director

