

## Senate Bill 264

### Putting the Upper Klamath Basin – Off-Project Area on an Equal Footing with the Rest of the State, and Authorizing Oregon Water Resources to Participate in Implementation of the Upper Basin Comprehensive Agreement

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#### Background

- Oregon law allows temporary transfers and instream leasing of most water rights. Temporary transfers are used primarily to change the place of use of a water right, for a period of up to five years. Water right holders also may lease their water rights instream for a period of up to five years when their rights are not needed for irrigation. This allows water right holders to avoid the potential for forfeiture that would otherwise occur when rights are not used.
- In the Klamath basin, older (pre-1909) water rights are based on water right claims, as determined in the Klamath water rights adjudication. The final order for the administrative phase of the adjudication was issued in 2013. Although these older water rights are otherwise treated the same as other water rights, under current law, the authorizations for temporary transfers and in-stream leases do not apply until there is a final court decree in the adjudication.
- The Upper Klamath Basin Comprehensive Agreement provides for the "Off-Project" Area (over 200,000 acres of irrigated land, mainly ranches) above Upper Klamath Lake to reduce water demand by 30,000 acre-feet. The total acreage of irrigated land that can be converted to dry-land is limited to no more than 18,000 acres.
- In 2014, irrigators in the upper basin reduced their water use by over 5,000 acre-feet, hitting the first milestone of the agreement, which phases in water use reductions over time. As a result, the Klamath Tribes limited their water calls and senior water users were able to continue irrigating. The main water call resulting in regulation was, instead, made by the Klamath Irrigation Project, not the Tribes.

#### Reasons for SB 264

- Fundamentally, SB 206 simply puts the Upper Klamath Basin ranchers on the same footing as the rest of the state in terms of water management tools.
- SB 264 will allow irrigators in the Upper Klamath Basin who elect to participate in water use reduction programs to put pre-1909 water rights into the program. With water curtailments coming, this will help cushion the impact of drought on ranchers in the Upper Basin.

#### SB 264, as amended, will:

- Authorize the holders of pre-1909 water rights to participate in temporary transfer and in-stream leasing programs – allowing ranchers more tools to manage water, and allowing for ranchers who are willing to commit to instream leasing to be paid for doing so.
- Protect existing water right holders by requiring the Water Resources Department to determine, affirmatively, that the transfer or lease will not injure another claim or another water right.
- Protect existing water right holders by requiring that the lands the water right is being transferred from (or leased from) not be irrigated.
- SB 264 mirrors SB 206, which provides the same tools for the Klamath Reclamation Project, below Upper Klamath Lake. SB 264 also authorizes the Oregon Water Resources Department to participate in the Joint Management Entity along with the ranching community and the Klamath Tribes. The JME is responsible for implementing the Upper Basin Agreement