



Testimony of WaterWatch of Oregon on Senate Bill 1529
Senate Committee on Environment and Natural Resources

February 3, 2016

Chair Edwards, Vice Chair Olsen and members of the Committee. My name is Brian Posewitz. I am a staff attorney for WaterWatch of Oregon. WaterWatch is a 30-year-old river conservation organization dedicated to protecting and restoring stream flows for the benefit of fish, wildlife, and people who depend on healthy rivers.

WaterWatch supports the idea of allowing owners in a planned development to refrain from watering lawns to conserve water.¹ WaterWatch also appreciates that SB 1529 would allow owners to do that at least in some circumstances. WaterWatch nevertheless has the following concerns about SB 1529:

First, SB 1529 would give water conservation precedence over homeowners association rules only in the extreme circumstances of a drought declaration or a municipal ordinance requiring conservation or curtailment of water use. The need to reduce or eliminate nonessential water use arises well short of these extremes. Even when conditions cannot be called a “severe or continuing drought,” streams and rivers subject to diversions for municipal water use may need more water to preserve water quality, or to support fish, wildlife or agriculture. An owner in a planned development should be allowed to defer to these important uses instead of watering a lawn, even if there is not an official drought declaration or implementation of a municipal curtailment ordinance.

Second, even if voiding homeowners association rules were justified only in times of “severe, continuing drought,” there is no assurance that those conditions would in fact result in the drought declarations that would be necessary under the bill for owners in a planned development to stop watering their lawns. The declarations have pros and cons, and parties facing the cons – such as cities that might be forced to curtail water use under a Water Management and Conservation Plan even if they have an adequate water supply; or farmers who might find it more difficult get loans when a drought declaration is in effect – may succeed at convincing the Governor or the Water Resources Commission to refrain from making a drought declaration even if the conditions justify such a declaration.

¹ According to the Oregon Water Resources Department, “[o]utdoor water use accounts for almost half the water used by the American home, and thus provides the greatest single opportunity for conserving.” (Oregon Water Resources Department Website, http://www.oregon.gov/owrd/pages/wr/drought_conservation.aspx.)

Third, SB 1529 would not apply to condominium complexes covered by ORS Chapter 100. While landscape watering in these complexes may be limited, it makes sense to include them in the bill since they may face similar situations (an owner prevented by association rules from not watering a landscape feature).

Fourth, the relating-to clause on SB 1529 (“relating to community water supply”) is too broad and arguably inapplicable. We worry that the bill, even if it might otherwise be a step in the right direction, could end up being used for another purpose, without accomplishing the purpose it set out to achieve.

A similar bill in the House, HB 4090 (“relating to residential irrigation”), has none of the above problems. WaterWatch believes it would be a better vehicle for addressing the issues of landscape irrigation in homeowners associations. If SB 1529 nevertheless moves forward, WaterWatch believes it should be amended to address the above concerns.

Thank you for the opportunity to submit this testimony.

Contact:

Jonathan Manton, jonathan@sawneeservices.com, 541-729-2123

Brian Posewitz, WaterWatch of Oregon, brian@waterwatch.org, 503-295-4039