



**Testimony of WaterWatch of Oregon on HB 4090
House Committee on Consumer Protection and Government Effectiveness**

February 4, 2016

Chair Fagan, Vice Chairs Buehler and Rayfield, 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 HB 4090. The bill would allow an owner of property in a planned community or condominium complex to conserve water by not watering a lawn, garden or landscape, even if declarations or bylaws of the homeowners association would otherwise require it.

Oregon has received a lot of rain lately, but less than six months ago the water in Oregon's rivers and streams was in short supply. Junior irrigators were being cut off from water supplies to grow food; cities were encouraging residents to curtail domestic water use; and fish (primarily salmon, steelhead and trout) were literally dying in our rivers and streams. Nearly 70 percent of Oregon was under an official drought declaration from the Governor, but all of Oregon experienced at least a "severe drought" according to the U.S. Drought Monitor published by the United States Department of Agriculture.

It would be nice to call last summer an anomaly for the history books, but that is not the prediction. In the words of the Governor's July 2015 executive order directing state agencies to plan for drought: "if climate predictions are correct, these conditions will become the new normal."

Against this backdrop, Oregonians should be doing more to reduce or eliminate non-essential water use, including the watering of lawns and aesthetic landscapes. 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.)

Many good citizens, aware of our water predicaments, will want to do the right thing. However, some of these citizens may be deterred by homeowners association rules that require residents to maintain their landscaping to a certain standard, which may mean watering, even if the water is coming from a river or stream that does not have enough water to irrigate crops or keep its fish alive.

HB 4090 would solve this problem. It would not force anyone to do anything. It would simply allow conscientious citizens in planned developments and condominiums, like conscientious citizens elsewhere, to do the right thing.

WaterWatch supports HB 4090 over a Senate bill on the same subject (SB 1529) for several reasons:

First, SB 1529 would apply 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, continuing drought,” streams and rivers subject to diversions for watering lawns may need more water to preserve water quality or to support fish, wildlife and agriculture.

Second, even if voiding homeowners association rules were justified only in times of “severe, continuing drought,” these conditions do not always result in an official drought declaration. 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 or farmers who might find it more difficult get loans – may succeed in convincing the Governor not to declare a drought even if the conditions justify it.

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.

Thank you for the opportunity to testify today.

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