

**DENNIS LINTHICUM**  
**STATE SENATOR**  
DISTRICT 28



**OREGON STATE SENATE**  
**900 COURT ST NE, S-305**  
**SALEM, OR 97301**

March 22, 2017

House Committee on Energy and Environment

**Re: HB 2705, HB 2706, HB 2707**

Dear Chair Helms and House Committee members:

I am writing today in opposition to HB 2705, HB 2706, and HB 2707. Oregon Water Resources Department (OWRD) already has the statutory power to require measurement and reporting. Plus, legitimate data collection points already exist and the use and validation of that data for ground water studies or investigations is one of the main charters of the Water Resources Department.

And.... the department is doing its job very well.

According to the OWRD, on a statewide basis from 21 Water Masters, water use compliance with associated regulations and water rights was at 98 percent in 2015.

OWRD already has some 200 in-stream flow monitoring units and the USGS has another 250, or so. There are 2385 significant diversions identified in the state via the Oregon Water Commission's Strategic Measurement Plan.

My question is why the push...? And why all the way down to the individual point of diversion for each water appropriator of right? How is the data which is currently being collected used and what efforts are being done to ensure current data integrity levels?

OWRD should strive to fully utilize use the data that they are already receiving from those who already have measurement and reporting conditions on their water rights.

Additionally, OWRD should ensure that those water users who have reporting conditions built-in to their water rights make that information available.

As I mentioned, the USGS data can provide intricate levels of coordination for mapping various watershed data throughout Oregon.

Specifically, HB 2705 requires that, for each diversion point, a water appropriator will

need to install, operate and maintain devices to measure the amount of water used by the water appropriator under the claim of right.

This is an extremely burdensome requirement because although the measurement bill attempts to exempt in-stream water rights, the daily and seasonal volumetric measurement of water flow both into and out of reservoirs is essentially requiring in-stream data on these storage reservoirs.

Also, applying the requirements of these bills to the Klamath Project raises interesting questions due to the nature of the watershed with its multiple inflow sources, like the Williamson and Wood Rivers, Cold Creek, Fort Creek, Annie Creek, Seven Mile Creek, Cherry, Odessa, and Rock Creek and plus others throughout the extend reaches of the watershed system.

In terms of the open-ended inflow measurement requirement, nearly all the owners of reclaimed land around the (Upper Klamath) Lake pump water off their land (at lower elevations) and pump it up and back into the lake.

Throughout the Klamath Watershed, there are multiple instances where water gets put back into the Klamath River system with no "credit" accounting as to in-flow volumes.

For instance, in the Pine Flats area outside of Dairy, OR, pumps are straining to drain excess rainwater back into the Lost River which eventually flows into the Klamath River.

The Pine Flat District Improvement Company pumps have been running 24/7 pumping 8,000 gals/min since Jan 14 and there is no volumetric measuring or accounting required.

In fact, the Upper Klamath Lake TMDL assumes that as much as 20 percent of the annual inflow into the Lake comes from underwater, or sub-lacustrine springs surrounding the area.

On another subject, the bill that accesses a tax (disguised as a fee) on water rights requires a payment for each diversion, or appropriation.

Looking at the US Bureau of Reclamation's Klamath Project, it has several large-scale diversion points (A Canal, North Canal, Diversion Canal, etc.).

All those diversions supply water to the BOR Klamath Project while at least three of these diversions supply water via the BOR Project to farms and wildlife refuges which happen to be located across the border in California.

I am assuming that OWRD has done the legal work to determine that Oregon can legally charge California irrigators and land owners a fee/tax for water diversions?

Better yet, can Oregon legally charge the US Bureau of Reclamation or the Tule Lake National Wildlife Refuge, any other federal entity, a fee or tax for water diversions?

Further, both bills apply to irrigation wells located in Oregon but not to wells located in California. Yet, California landowners and the Tule Lake Irrigation District have been using their wells, like straws, to suck water from Oregon's aquifer for years.

There are multiple wells, which are only yards across the border, receiving enormous taxpayer-funded payments from the federal government for groundwater coming out from under Oregon.

Plus, each of these out-flows are allegedly targeting flows designed to benefit endangered sucker fish and the downstream threatened Coho Salmon.

How is this volumetric data being accounted for? ... Other than as a method for accessing the required payments from the federal taxpayer.

Does Oregon have any understanding of how these volumetric measurements impact the basin?

Lastly, these bills cannot justify the cost and burdensome expenses that will be borne by individual framers, ranchers, water right-holders and appropriators. There is data, and it is available, the only thing required is for the ORWD to put it to good use.

Sincerely,



Senator Dennis Linthicum