



June 21, 2017
Senate Committee on Rules
Senator Ginny Burdick, Chair

Testimony on House Bill 2873 –A5 and –A6 Amendments
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The testimony provided below provides background information on the Irrigation District Pilot Project and how it is implemented.

The Department has no position on HB 2873A or the proposed –A5 and –A6 amendments. The Department’s understanding is that the proposed amendments would allow the Klamath Project districts to be eligible to participate in the Irrigation District Pilot Project and that all of the same standards and eligibility requirements of the existing program would apply.

Background

In 2003, the Legislative Assembly authorized a pilot project allowing Talent, Tualatin Valley, and Owyhee Irrigation Districts to make annual temporary place of use changes to water rights within their legal boundaries without making application to the Water Resources Department for a temporary transfer.

Between passage of the legislation in 2003 and the 2007 legislative session, only a small number of transfers were completed under the pilot and there was insufficient data available to assess how well the program functioned. The program was extended in 2007, providing an additional two years for the three pilot districts to continue testing the approach. In 2009, the Department reported to the legislature that the program seemed to be working and no injury or enlargement had been found. The Department recommended, and the Legislature agreed, that the program should be continued and expanded to allow further assessment of its implementation. The program was expanded to include 15 districts and set to sunset June 30, 2016.

In 2014, the Department conducted an evaluation of the program, which led to passage of Senate Bill 267A (2015), extending the sunset on the program to January 2, 2022.

The Department continues to annually evaluate the pilot project program, working with the districts and the Oregon Water Resources Congress to make improvements and conduct trainings as necessary to ensure the program works as intended.

Implementation

The intent of the pilot project is to provide increased flexibility for irrigation districts to temporarily change the place of use of water rights without reducing protections for existing water users. To temporarily change the place of use of water rights under the Irrigation District Pilot Project Program, districts are required to satisfy standard water right transfer criteria and maintain records. The program was set up to allow efficient processing and review of simple

and straightforward temporary transfers, with more complex or permanent changes needing to go through the regular transfer process. As such, the program is only intended for irrigation place of use transfers within a district's boundaries; it cannot be used to transfer acres between districts or for transfers involving water that the district does not manage. In addition, districts must make sure that there are not layered or conflicting water rights associated with the proposed transferred acres. Finally, the district must have accurate measurement of water use, accurate maps, and a management structure to ensure that only authorized lands will receive water.

The program is set up for the district to provide notice to the watermaster regarding the proposed temporary transfer prior to making the change. The notice is typically a map of the acres that water is being transferred from and transferred to. The "to" lands receive water during the irrigation season while the "from" lands must be dried up within the same irrigation season of the proposed transfer.

Watermasters review the "from" and "to" lands to ensure that there is no injury to other water rights or an expansion of the authorized irrigated acres. Included in the watermaster's review is a check to ensure that lands are within the district's boundaries and that the "from" lands have been irrigated within the past five years. For example, as with any transfer, lands covered in parking lots or buildings for more than five years are not allowed to be transferred under the Pilot Project. Districts currently participating in the program address concerns raised by the Department swiftly, which sometimes includes voluntarily withdrawing the transfer of any lands that may be problematic. Such coordination and cooperation between the watermaster and the district is essential to the success of this program and protecting water right holders. After water use begins, the watermaster may then conduct field checks throughout the season to ensure that water is properly applied on the "to" lands, and that irrigation (including from supplemental water rights) is not occurring on the "from" lands.