



March 28, 2019

Senator Michael Dembrow, Chair
Senate Committee on Environment and Natural Resources

Re: Trout Unlimited Comments on SB 791

Dear Chair Dembrow and Members of the Committee,

Thank you for the opportunity to present testimony on Senate Bill (SB) 791. My name is Chandra Ferrari and I represent Trout Unlimited, a non-profit organization dedicated to the conservation of cold-water fishes, such as trout and salmon, and their habitats. Trout Unlimited has more than 300,000 members and supporters nationwide including over 3,000 in Oregon. TU opposes SB 791.

SB 791 establishes a statutory standard for determining whether groundwater use interferes with or impairs a senior surface water right. TU is certainly interested in legislative efforts intended to produce more effective management and regulation of groundwater resources. Such legislation is particularly important as Oregon increases its reliance on groundwater to confront the challenges presented by population growth, climate change and drought conditions. TU is particularly interested in ensuring that groundwater and surface water resources are managed in a sustainable and integrated manner to avoid impacts to stream flow levels and the biological resources that depend upon the stream flows, such as cold-water fish. However, TU is concerned that SB 791 restricts the ability of the Oregon Water Resources Department (OWRD) to manage its water resources in an integrated fashion and therefore would cause more problems than it would solve.

The standard established by SB 791 focuses the “interference or impairment” analysis to whether or not an “individual” junior groundwater right interferes in a measurable way with the source supporting a senior surface water user. While the goal to provide clarity and certainty to groundwater rights holders regarding their water right is worthy of additional discussion, TU does not support the manner in which SB 791 attempts to achieve this goal. TU’s specific concerns are noted below.

- The SB 791 test appears to preclude consideration of cumulative groundwater right impacts to a surface water right. This fails to account for situations where an individual well has little effect on streamflow depletion but has significant effects on streamflow when combined with the other individual wells pumping within a basin. The impacts from groundwater pumping on a stream can be hard to fully capture as streamflow depletion can continue for a significant amount of time after pumping activities have ceased. Therefore, in systems with multiple groundwater withdrawals, it is likely that

the impacts from each withdrawal are over-lapping to some extent. It is extremely important that cumulative effects be acknowledge and accounted for as they can result in significant effects on streams and/or senior surface water right holders.

- SB 791 imposes time restrictions on when impacts should materialize to justify a determination of “impairment or interference.” TU is concerned that the time restrictions fails to account for the fact that significant time delays often occur between when groundwater pumping begins and when the effects of that pumping are realized in nearby streams.
- Per the Department of Water Resources (DWR), the new quantitative “impairment or interference” standard of .1 cubic foot per second (cfs) would result in less protection on smaller streams than the current evaluation system utilized by DWR.
- The data requirements for establishing interference or non-interference are confusing as written however it appears that SB 791 would allow site-specific data submitted by a landowner to override any other information including relevant information produced by the regulating agency.

For these reasons, TU opposes SB 791.

Thank you for the opportunity to testify.



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