



February 6, 2020
House Committee on Water
Representative Ken Helm, Chair

Testimony on House Bill 4069
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House Bill 4069 would allow the Water Resources Department to require water use reporting where water use measurement is required. The purpose of this testimony is to provide information to the committee regarding current water use measurement and reporting in the state and how water use information is used. The Department is not taking a position on the bill at this time.

Water Use Measurement and Reporting Requirements

Below, the Department has outlined its most common authorities related to water use measurement and reporting.

Measuring and Reporting Water Use

Currently, there are about 15,400 water rights that are required to measure and report water use. In 2018, the Department received water use data for approximately 12,300 water rights. Water right holders may be required to both measure and report water use as specified below:

- Pursuant to ORS 537.099, Oregon requires governmental entities such as irrigation districts, state or federal agencies, and municipal water providers to measure and report water use.
- Starting in the early 1990's, the Department began adding water measurement and/or reporting conditions to new permits, based on the size of the water right. Smaller water rights may have a condition stating that "water measurement may be required," while larger permits may have a condition that "water measurement and reporting is required."
- Water users in a Serious Water Management Problem Area (SWMPA) or in a Critical Groundwater Area may be required to measure and report water use. Currently, there is one established SWMPA in the Walla Walla sub-basin, and there are seven Critical Groundwater Areas.

Measuring Water Use – Water Distribution

In instances where water use measurement and reporting are not required as discussed above, the watermaster generally can require water measurement under ORS 540.310 for the purposes of water distribution and management. Under this provision, there is no authorization to require reporting of water use.

Measuring Water Use – 2000 Strategic Measurement Plan

In 2000, the Water Resources Commission developed a strategic plan for improving surface water measurement in areas with the greatest impact on streamflows with the greatest needs for fish. The Department developed a statewide inventory of 2,385 "significant surface water diversions" within 300 high priority watersheds across the state. Significant surface water diversions included: (1) water rights that are required by the Department to measure or report through a water right condition; and (2) significant

diversions in high priority watersheds. As of December 2018, 1,084 of the significant diversions had measuring devices installed and 696 were inactive, leaving 611 diversions still needing measuring devices installed. In recent years, the Department has identified a need to revisit its 2000 Strategic Measurement Plan to better address high-priority water management and policy needs for both surface and groundwater.

Use of Data

Water measurement can help the Department to protect existing water right holders, facilitate planning for future water supplies, maximize the beneficial uses for both instream and out-of-stream users, and prevent time-consuming and costly conflicts over water use. Accurate water use data is beneficial to water managers as well as water users; however, properly collecting water use data can be challenging. The Department frequently works with water users to address these challenges and improve data accuracy.

Water measurement data are used in the following areas:

- **Science:** Water use data is utilized in basin groundwater studies to assist with characterizing the aquifers and in long-term management of aquifers, including critical groundwater areas. Additionally, this data is used to help refine the Department's surface water availability model, which is used to evaluate whether new water rights can be issued.
- **Water Management and Distribution:** Water measurement information aids watermasters in efficiently distributing and regulating water use for the protection of senior water rights, resolving disputes among water users, and ensuring use is within the limits of the water rights.
- **Review of Water Right Transactions:** Water use measurement data provide evidence of use for water right permit holders to prove up and obtain a water right certificate. Historical water use data assists in injury determinations for water right transfers, permit amendments, exchanges, and voluntary instream leases. Water use information supports water use efficiency projects and conservation projects.
- **Management by Water Users:** For water users, measurement information increases awareness of the amount of water they use and provides a basis for self-regulation. Measurement data also helps water users identify system inefficiencies, track stored water, reduce power costs, measure conservation benefits, develop improvements in their business operations, and plan for future needs. In addition, water use data provides evidence for a water right holder to prove up on a water right, rebut allegations of forfeiture for non-use, or demonstrate the validity of water rights to potential buyers. Governmental entities also use this information in developing agricultural and municipal water management and conservation plans.

Measurement Cost Share Program

Measuring devices can cost several hundred to several thousand dollars. The Legislature's continued capitalization of the cost-share measurement program has allowed the Department to provide funding to assist water users with installing or replacing water measurement devices on surface water diversions, reducing users' concerns about the cost of installing these devices.

Targeted Water Use Measurement Efforts

Oregon's Integrated Water Resources Strategy provides a blueprint for meeting Oregon's instream and out-of-stream water needs. The need to improve water use measurement and reporting is highlighted in the Strategy. Since the State has limited resources, the Department seeks to strategically prioritize its data collection efforts in areas of highest need where the data will benefit water management, planning, and decision-making.