



Before the House Committee on Water

### TESTIMONY ON HOUSE BILL 2616

Presented by Bob Strosser, Vice Chair, Board of Medford Water Commissioners and Brad Taylor, General Manager, Medford Water Commission

HB 2616 would grant one property owner the ability to obtain a water right for a reservoir despite the fact that the water to be stored has already been legally granted to the City of Medford. Accordingly, the Medford Water Commission (MWC), which by charter manages the water supply for the City of Medford, must oppose HB 2616.

It is unfortunate that the landowner who requested this bill did not know that the reservoir did not have a water right when they purchased the property. We understand that it is fairly common that due diligence evaluations conducted before a land sale transaction often reveal that property does not have a water right, sometimes even when a seller has indicated that a right exists. This type of situation is especially difficult when a water rights due diligence evaluation is not conducted, and the error is not revealed until after the land sale is completed. Despite our sympathy for the landowner in this particular case, the MWC is compelled to express its concerns about HB 2616.

In 1925, the Oregon Legislature granted the City of Medford “the exclusive right to use for municipal purposes all of the waters of Big Butte Creek...and of its tributaries” subject only to existing water rights at that time. ORS 538.430 states “No person shall appropriate or be granted a permit to use any of the waters except as provided in this section and for the use and benefit of the city.” To overturn this exclusive right granted to Medford by passing HB 2616 creates a dangerous precedent that threatens municipal water supplies across the entire state.

Moreover, resolving a single landowner’s problem at the expense of Oregon’s system of water rights management is bad public policy. There are numerous other examples across the state of good people learning that they have an unpermitted water use and that they cannot obtain a new water right. These people have either terminated water use or found another way to comply with Oregon water law. This could include acquiring an existing water right, harvesting rain water, having water trucked to them, etc. It is simply unjust that many other individuals have been compelled to comply with Oregon water law and implement one of these solutions, while this single landowner receives the benefit of HB 2616. There are multiple other solutions, aside from infringing on MWC’s water right that would allow the landowner’s pond to be filled.

Finally, MWC recognizes that previous “ponds bills” have essentially given amnesty to existing unpermitted ponds. These bills are different from HB 2616 for two important reasons. First, they addressed a statewide issue, rather than giving a special preference to a single landowner. Second, they occurred before the state began experiencing the impacts of climate change. The MWC is now experiencing reductions in its source of supply and is deeply concerned about any measures that would reduce its ability to meet its duty to serve water to the citizens of Medford and the region.