



284 E Water St, Stayton, OR 97383

3/18/2021

To: Chair Helm, Vice-Chairs Owens and Reardon, and Members of the House Committee on Water

RE: House Bill 3103,

Dear Chair Helm, Vice chairs and Members of the Committee:

The Santiam Water Control District (“SWCD”) is an Oregon water control district operating under the power and authority granted to water control districts by Oregon Revised Statutes, Chapter 553. SWCD is controlled by a board of directors comprised of local farmers. SWCD provides irrigation water diverted from the North Santiam River to farmers in the Willamette Basin. The SWCD agricultural irrigation water rights identify over 17,000 acres as the place of use- including lands owned by the state of Oregon. Our live flow priority dates range from 1866 to 1978 and the district began using stored water from Detroit Reservoir in 1987. Our most junior right has a priority of 1996. Today, additional agricultural irrigation water rights cannot be secured because of US Bureau of Reclamation is subject to certain ecological flow restrictions.

There are two issues before the committee today: 1. The authorization to transfer stored water rights (Reallocation); and 2. The implementation of the Willamette Reallocation. My comments focus on the second issue: implementation.

SWCD understands basin demand for water. I appreciate the need to provide water for agricultural irrigation, ecological flows, and future growth. Reallocation has been a long and arduous road and I understand the interests pursuing the matter. But the truth is that the state is not prepared to implement the Willamette Reallocation. Reallocation is complex, and missteps involving complex issues invite a legal entanglement. The interests in new stored water rights make it sound imperative that we act now. But during testimony before this committee on Thursday, March 18th, the municipal interests cited only a single example of development delayed by the failure to reallocate water stored for agricultural irrigation use for industrial use. The fact of the matter is that most municipalities are required by their master plans to have a reserve of water rights sufficient for the next 20 years. There is no emergency. Meanwhile, a special priority for new municipal water rights by Reallocation will subject hundreds of agricultural and municipal water rights to uncertainty. Because there is no emergency, and because of the widespread chaos caused by ill-conceived reallocation plans, we must pause to collect the data necessary to competently administer the Willamette Reallocation. The Oregon Water Resources Department (OWRD) identified the budgetary requirements for the successful implementation and administration of Reallocation. Unfortunately, the current proposed budget does not include the OWRD funding identified as

necessary by OWRD. This is a critical budgetary oversight because no analysis has been completed to identify the regulatory and operational impacts OWRD will face in administering Reallocation. Without essential administrative resources, the Willamette basin will devolve into a legal quagmire while we litigate out way through every water appropriation.

To restate a critical point: The legislature is contemplating Reallocation without sufficient understanding for how existing water rights will be impacted by Reallocation in general and by new senior municipal permits in particular. Not only do we lack understanding of the demand side (water users), the supply side is increasingly uncertain. For example, when a transfer of storage occurs, the US Bureau of Reclamation must file a transfer request to convert the Fisheries stored water right component of the Reallocation into an instream water right - as required in the 2008 Biological Opinion (Bi-Op). As of this date, no one knows how Bi-Op obligations will impact available supply. Further, recent seismic driven changes in reservoir levels impact supply while climate change is driving changes in agricultural irrigation water demand curves. Making decisions about Reallocation in the midst of uncertainty on both the supply side and the demand side of the equation, without the necessary data, is reckless.

The District agrees with others who know we are rushing Reallocation without the data necessary to administer without legal conflict. All responsible interests agree that large challenging issues lay ahead; differentiating actual live-flow from “live-flow” supplemented with stored water releases, conversion of minimum perennial streamflow’s, a new bi-op with a jeopardy opinion containing complicated RPA’s, a new contracting authority, determining instream right holders, and the determination of release times and place of use. All of these issues are heavy-lift matters that require adequate funding and serious administrative effort. If we fail, the administration of Willamette basin water rights will devolve into a legal quagmire replicating the Klamath basin.

We have an opportunity to get it right in this basin because there is no emergency demand for special municipal water rights. Reallocation should not be a race to litigate, and the responsible stewards of Oregon’s natural resources need your help in ensuring that professional administrators have the necessary time and resources. Rushing implementation such as HB 3103 is the wrong path because it would commit the questions above to complex and protracted litigation.

Thank you for your consideration and support

Brent Stevenson

Brent Stevenson,

District Manager Santiam Water Control District