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April 19, 2023

Senate Committee on Natural Resources
Chair Jeff Golden
Oregon State Legislature
900 Court St. NE
Salem, OR 97301

RE: Testimony in Support of HB 3187A

Dear Chair Golden, Vice-Chair Girod, and Members of the Committee:

The Oregon Water Resources Congress (OWRC) is testifying in support of HB 3187A, which changes the eligibility for individuals seeking to take the Certified Water Rights Examiner (CWRE) license exam to allow district staff with equivalent experience to sit for the exam. The bill does not change any exam components or other CWRE license requirements. HB 3187A simply expands the pool of candidates who can take the exam to include district staff who have commiserate experience as individuals currently eligible to take the exam. **The current lack of available CWREs to process district related transactions disproportionately impacts rural Oregon and has become a barrier to efficient water management.**

OWRC is a nonprofit trade association representing irrigation districts, water control districts, drainage districts, water improvement districts, and other local government entities delivering agricultural water supplies throughout Oregon. These water stewards operate complex water management systems, including water supply reservoirs, canals, pipelines, and hydropower facilities. OWRC members deliver water to approximately 600,000 acres of farmland in Oregon, which is over one-third of all the irrigated land in our state. HB 3187A adds district staff of these types of entities as eligible to apply for the CWRE exam if they have seven years or more of applicable experience. Based on this high threshold, only a handful of district staff would currently qualify to take the exam, but with the severe lack of CWREs, this small adjustment would provide a large benefit to districts, particularly those in rural Oregon.

There are several types of water right transactions and transfers, which are processed and approved by the Oregon Water Resources Department (OWRD). These transactions are critical tools for districts to efficiently manage available water for the farmers and ranchers they serve. District staff are currently able to submit certain types of water right transactions (such as district transfers, temporary transfers, permanent place of use transfers, permit amendments, instream leases, allocations of conserved water) without using a CWRE and submit certified maps to OWRD similar to CWREs. However, districts must use a CWRE to sign off on other types of water right transactions, (such as claims of beneficial use for transfer final orders, permanent transfers, permanent point of diversion, character of use transfers, instream transfers, permit splits) even though the submittal requirements are generally the same.

The mission of the Oregon Water Resources Congress is to promote the protection and use of water rights and the wise stewardship of water resources

Districts are reporting difficulties securing CWREs for key water transactions, receiving limited responses to public requests for proposals, and facing long delays before work can be performed. According to the list of CWREs on OWRD's website:

- There are 444 CWREs licensed in Oregon
- Of those, only 373 are actually located in Oregon
- Of those located in Oregon only 89 are domiciled East of the Cascades

These delays are compounded by a severe backlog at OWRD for processing transfers and other water right transactions, which can result in years before the transaction is approved. According to the Department's Key Performance Measure for Transfer Application Processing (KPM #11), measuring the time OWRD completes transfer applications within 120 days, only 26% of transfer applications met that goal. The lack of available CWREs, and the Department's backlog on transfer applications and other water transactions, can result in delays that are years long. These delays have become burdensome to districts and their patrons who are reliant upon these transfers to move water from one place to another. The majority of CWREs in Oregon are based in urban areas West of the Cascades, not in Eastern Oregon where the need from irrigated agriculture is greatest. This shortage clearly affects rural Oregon disproportionately. Importantly, it is rural Eastern and Southern Oregon which are experiencing ongoing drought conditions and are most in need of efficient and timely water transfers.

The districts seeking this relief are local special government districts, governed by the same laws as other special districts, including public records laws. The work of these districts, including transfers currently performed by district staff or by CWREs, are subject to review and approval by OWRD. HB 3187A does not change state oversight in any way. Further, there is precedent for CWREs working exclusively at several levels of government operating in Oregon, including:

- 8 at federal agencies
- 2 at state agencies
- 6 at municipalities

Currently, the CWRE exam in Oregon is limited to registered geologists, professional engineers, and land surveyors. Not everyone has equal access to higher education, which can be expensive and time consuming, and no skill, requirement, or other pertinent qualification relevant to CWRE licensing is obtainable solely by the requirements of these other licenses. Allowing experience as an alternative is a small adjustment that helps mitigate educational inequalities and support enhanced technical expertise while easing the shortage of CWREs in disadvantaged rural communities. This also is an option that other states have allowed, including Washington State.

The CWRE exam is developed and administered by OWRD and those that successfully pass the CWRE exam are eligible to receive a CWRE license from OSBEELS. OSBEELS itself includes in its qualifications for engineering and surveying exams an exception for hands-on professional experience to fulfill education requirements (OAR 820-010-2020) but there is no similar option for the CWRE. However, district staff are not seeking to become land surveyors, engineers or geologists; they simply want to access the CWRE exam, increase their technical skills and help their district by filling a void in available CWREs.

HB 3187A does not change any exam components or continuing education requirements and simply provides a pathway for district staff with commiserate water rights experience to qualify for the CWRE exam. OSBEELS will continue to hold the authority to revoke or suspend licenses. Licensed CWREs are required to follow rules of professional conduct (OAR Chapter 820, Division 20) and minimum "Continuing Professional Development," hours to renew their license biennially.

For those that successfully pass the CWRE exam, they will then be bound by all applicable requirements to keep and renew their license, as all are all CWRE license holders. To repeat, HB 3187A also does not change any requirements for water right related transactions and OWRD will continue to review and approve water right related transactions under their existing authorities.

Finally, some comments were recently made by opponents of HB 3187A that we'd like to rebut. HB 3187A was introduced early in session and after it's public hearing in the House Agriculture, Land Use, Natural Resources, and Water Committee on February 14, 2023, an amendment was proposed to respond to concerns raised (including by other CWREs). As a result, the bill was amended to clarify the narrow experience-based eligibility in HB 3187 would apply to full-time district employees, employed by the district for seven or more years, and has seven or more years of relevant technical experience conducting similar work. The bill and amendment passed out of the House Committee on March 13, 2023, a full month after its initial public hearing. HB 3187A passed out of the House with strong support with 46 yes votes and eight no votes on March 27, 2023 and it was only after that time did the representatives from the Professional Land Surveyors and The American Council of Engineering Companies-Oregon organizations raise objections. The concerns seem to be without merit and based on unfounded fears that the bill would lead to undue competition to their clients. This is not true.

HB 3187A is needed to fill a void in available and affordable CWREs. Without a CWRE, districts and their patrons are unable to access available legal mechanisms to transfer their water right in timely fashion, hampering efficient water management. Providing districts with access to the CWRE exam will help address this need while increasing the professional skillset of staff who already perform map certification and similar CWRE activities. District staff who prepare and submit water right transactions are well versed with the unique characteristics of irrigation district water rights and if afforded the opportunity, can use CWRE certification to become more technically proficient. This small change will help save time and money for these special districts, local government entities and the farmers and ranchers they serve.

In conclusion, please pass HB 3187A and help districts more efficiently manage available water by allowing district staff with equivalent experience to qualify for the CWRE exam.

Thank you for your consideration of our testimony.

Sincerely,

A handwritten signature in blue ink, appearing to read 'April Snell', written in a cursive style.

April Snell