

WATER LEAGUE

*Water League engages the public
in water stewardship.*

P.O. Box 1033
Cave Junction, OR
97523

chris@waterleague.org
(541) 415-8010

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In Memoriam
John L. Gardiner

February 19, 2025

To: House Committee On Agriculture, Land Use, Natural Resources, and
Water

Representative Ken Helm, Co-Chair

Representative Mark Owens, Co-Chair

Representative Sarah Finger McDonald, Vice-Chair

Representatives Court Boice, Annessa Hartman, Bobby Levy, Pam Marsh,
Susan McLain, Anna Scharf

RE: Water League supports HB 3419 -3 Amendment to establish Water Use
Measurement and Reporting and Water Data Priority Areas.

Dear Co-Chairs Helm and Owens, Vice-Chair Finger McDonald, and
committee members,

In Oregon, all water within the state from all sources of water supply belongs to the public (ORS 537.110 *Public ownership of waters*). Oregon recognizes two broad types of water use, some that require water rights and others that are exempt from that requirement. Almost all of the water diverted in the state requires a water right; the tiny fraction that does not amount to less than 2% by volume. For decades, the largest water users have sought to cast blame onto the exempt uses when they have been held accountable for over-pumping streams and aquifers. The era of such subterfuge is over.

Every basin in Oregon is over-appropriated; surface water ran out of capacity by the mid-20th century, and groundwater ran out of capacity around the turn of the 21st century. The state did not stop issuing water rights for groundwater until 2024. Lest there is confusion regarding surface water and groundwater, irrigation accounts for 78% of all diversions; municipalities account for 9%

(includes every imaginable use in cities, such as domestic, commercial, industrial, etc.), and domestic wells account for 1%. The rest is aquaculture and a couple of miscellaneous uses.

Of 90,000 water rights in Oregon, the state only requires water right holders to meter and report usage on 17% of those water rights. The state never has and never will require metering the 225,000 exempt use domestic wells because their water use is only 1% by volume of all water diversions annually. A great misfortune brought upon the Oregon citizenry is the mendacity perpetrated that they are responsible for draining Oregon. We incorporate our July 17, 2024, letter to state officials by reference: [*No, We're Not There Yet: Modernizing the Conventional Wisdom.*](#)

The legislature and its members are not monolithic. As with life, the quality of their legislative concepts and bills runs the gamut from superb to awful. In essence, HB 3419 nears the far end of excellence. The bill establishes a system and protocol to increase the number of water rights on which their holders must meter and report usage.

The purpose of understanding water use in fine-grain detail is to know the actual volumes pumped from specific locations to assist in documenting how water use needs are met and the impact of those needs on water sources. The state uses the terms *out-of-stream* and *in-stream* uses, which are consumptive and non-consumptive needs. It uses *water supply*, when it refers to water sources, even though supply can also refer to water that has been exported out of the natural environment and is impounded behind a dam or stored in an artificial tank, well, or an above and below ground reservoir.

Water scarcity is, in part, the result of political choices doling out who gets water and who does not. Scarcity is widely understood as the condition of having limited resources in the face of unlimited desires. For example, money is scarce. Water is scarce because Oregon passed a law, ORS 536.310 *Purposes and policies to be considered in formulating state water resources program*, which states, in part: "It is in the public interest that integration and coordination of uses of water and augmentation of existing supplies for all beneficial purposes be achieved for the maximum economic development thereof for the benefit of the state as a whole." Oregon has other laws, common law, legal doctrines, and a dominant culture that reinforce the notion that water is equivalent to money.

Natural Variability is seasonal change; it is patterns of droughts and floods on 100-year, 500-year, and 1,000-year intervals; it is change over millennia that includes ice ages and

interglacial periods, and recently, Natural Variability has been impacted by human activity we call Climate Change. Natural Variability is distinct from water scarcity; however, since the two forces operate in the same theatre, many do not distinguish between them.

Oregon must not make the conflation error that Natural Variability and water scarcity mean the same thing. The state made a political choice to allocate 78% of all annual water diversions to large-scale irrigators. This political choice has caused scarcity for others. As Natural Variability has been impacted by human activity, summers are longer, hotter, and dryer; winters are shorter, warmer, and dryer. Climate Change, or as some prefer to call it, *prolonged drought*, is driving large-scale water users to pump harder to keep up with increased evapotranspiration rates during summers. It is also forcing them to cope with dwindling supplies of surface water and groundwater as they pump more water each summer than is recharged each winter. For example, irrigators pump so much water in the Harney Basin that there is an annual 110,000 acre-foot deficit between recharge and discharge (roughly equivalent to Portland's annual use). This problem occurs in various places across the state to varying degrees.

Virtual Water Export refers to the water use that results in exports. Coupled with statewide annual deficits between recharge and discharge, these exports become permanent. Oregon exports 80% of all agricultural products. Large-scale pumpers are driven to divert as much water as possible because water is equivalent to money. The political decision to allocate 78% of all water diversion to irrigators means that water mining is the most significant resource depletion activity. Too much of this water is leaving Oregon forever. Oregon officials, throughout decades of bipartisanship, have legislated the desiccation of Oregon and administratively created a *Tragedy of the Commons* statewide.

HB 3419 is the first step in correcting the problem of over-pumping basins. Knowing how much water that water right holders pump will better inform management and allocation decisions to serve the public interest in the present and future.

Sincerely,



Christopher Hall
Executive Director