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Before the
House Energy Environment and Water Committee
Representative Ben Cannon, Co-Chair
Representative Vic Gilliam, Co-Chair

**Testimony on HB 3165,
“Willamette Basin Federal Storage Project Water Right Transfers”**

Presented by:
Oregon Water Resources Department
March 31, 2011

Thank you for the opportunity to present testimony on House Bill 3165, a bill that establishes further parameters on water right transfers related to water stored in the Willamette Basin Federal Storage Projects. This afternoon, we will be referring to the proposed -2 amendments.

Background

The U.S. Army Corps of Engineers operates 13 dams located within the Willamette River Basin. The Corps and the U.S. Bureau of Reclamation, which is the contracting entity for stored water for irrigation from these reservoirs, have determined that there is approximately 1.6 million acre-feet of stored water available for contracts from the Willamette Basin Project.

Although Congress has authorized the construction of these reservoirs for multiple purposes, including flood control, navigation, generation of hydroelectric power, irrigation, potable water supply, “and reduction of stream pollution in the interests of public health, fish conservation and public recreation,” the U.S. Bureau of Reclamation filed water right applications (and later received water right certificates) for the entire 1.6 million acre-feet of storage, for irrigation uses only. The Corps has not allocated any of the storage in the Willamette Basin Project reservoirs to municipal, industrial, or instream purposes.

A 2008 Biological Opinion for the Willamette Basin Project, conducted by NOAA Fisheries (the National Oceanic and Atmospheric Administration), specified a number of restrictions that will be in place until 2023. One restriction noted in the Biological Opinion (Bi-Op) limits the total amount of stored water that can be provided under existing and new irrigation contracts to 95,000 acre-feet.

Proposed Bi-Op actions involve water right transfer applications filed to change the character of use for the water rights certificates for the project from irrigation to multi-purpose use. The Department and its partners are continuing discussions with both the Corps of Engineers and the Bureau of Reclamation to determine the volume of water that should now be allocated in the Willamette system for irrigation, municipal, environmental, and other purposes. The Corps of Engineers, in response to a request from municipal interests, is in the process of writing a white paper that will outline allocation of 499 acre feet of stored water to municipal use and describe how to access stored water for municipal and industrial purposes.

Current Water Right Transfer Processes

Under current law, the ability to comment on or protest a pending transfer application is much more limited than it is for a new water right application. When considering a water right transfer, the Water Resources Department is limited to whether already existing water rights would be injured by, in this case, a change in type of use.

The Proposed Bill

This Bill and its -2 amendments would mandate a broader look in the case of the Willamette Basin Federal Storage Projects.

This Bill hearkens back to work begun by the Department, together with Federal partners and stakeholders in the 1990s. This Bill proposes to continue a conversation that was placed on hold during the development of the Federal Biological Opinion. As such, the Bill will have a fiscal impact on the Department, as it requires staff to convene stakeholders in the manner described in Section 1(2) and (3) of the -2 amendment. However, as noted in Section 1(5), funding will come from an outside source, not the General Fund.