



OREGON
ASSOCIATION OF
NURSERIES™



March 24, 2025

Dear Co-Chairs Helm and Owens:

We are writing to express our concerns about several provisions within House Bill 3342. If enacted, the bill would have far-reaching consequences for agricultural water users across Oregon.

During the March 12 hearing, Representative Helm acknowledged that there is still time to work on this bill. We appreciate this opportunity and recognize the importance of improving the Oregon Water Resources Department's (OWRD) water right transaction processes. We are committed to engaging constructively to ensure that Oregon water law preserves necessary legal protections while enabling the efficient and sustainable use of water by agriculture.

Support for Targeted Improvements

Our members depend on OWRD's water right transaction processes to manage their rights effectively. As you are aware, these processes are plagued by persistent backlogs that render them inefficient and, in many cases, unworkable. House Bill 3342 includes some common-sense reforms, particularly those found in Sections 2, 3, 4, 6, 7, 8, 9, and 29, that lay groundwork for much-needed modernization, including the adoption of electronic application systems. We support these provisions and their goal of bringing OWRD into the 21st century for the benefit of both the agency and water right holders.

Significant Concerns with Other Provisions

While we support efforts to improve OWRD's internal processes, we are concerned by other provisions in HB 3342 that would fundamentally and detrimentally alter the water rights landscape.

Oregon's water users are already navigating significant challenges. The new groundwater allocation rules took effect on September 17, 2024, which will likely prevent issuance of any new groundwater rights. Further, many of our members have been contending with legacy issues, including groundwater declines and water quality concerns that have led to Critical Groundwater Area ("CGA") or Groundwater Management Area designations. Meanwhile, nearly all of Oregon's surface water sources are either fully appropriated or over-appropriated, making new surface water rights extremely difficult to obtain.

In this context, existing tools such as the transfer process and the permit amendment process are essential for water users to flexibly and efficiently manage existing water right interests.

Section 5 – Initial Review Process

Section 5 proposes adding an “initial review” process to the already lengthy transfer process. While such reviews are already used in new water right applications, those applications still frequently remain pending for years. Introducing this process into the transfer system is unlikely to improve efficiency and could further delay decisions.

Additionally, we are concerned that the bill would penalize applicants who have voluntarily placed applications on hold—often in collaboration with OWRD to address complex issues. The bill could enable the Department to summarily return these applications if they have not received a Proposed Final Order (PFO), effectively negating those cooperative efforts.

Section 24 – New Standards in Transfer Review

Section 24 introduces the vague and speculative standard of “future injury” to transfers in areas designated under ORS 537.730, 536.340, or 536.410, and Section 10 paves the way for the Water Resources Commission to more easily withdraw waters from new appropriation under ORS 536.410. Section 24 also provides OWRD with additional leeway to deny an application if OWRD asserts that it is assessing whether an area should be declared a CGA. This raises serious concerns.

Such language was not presented to water user organizations in advance and appeared in the bill the day before its public hearing. This lack of transparency is deeply troubling. We believe this standard is too ambiguous and could serve as a de facto veto mechanism, circumventing established due process protections.

Sections 17 and 19 expand these speculative standards to the permit amendment and groundwater registration modification processes, respectively, both of which are essential tools for water users, even if used less frequently than transfers.

Sections 25–27 – Permit Extensions

Permit extensions are critical for applicants facing unforeseen economic, environmental, or personal setbacks. OWRD already has discretion to deny an extension if good cause isn’t demonstrated. Sections 25 and 26 would limit this existing flexibility and eliminate a vital pathway that helps permit holders fully develop their rights.

Sections 15, 21, 27, and 30 – Retroactive Standards

We are concerned that these sections appear to retroactively apply new standards to applications already submitted under current law. While we support improving OWRD’s

performance, applying new rules retroactively could lead to legal challenges and undermine confidence in the system.

Sections 17, 19, 24, 32, and 33 – Overlap of Quantity and Quality Jurisdiction

These sections blur the lines between water quantity (regulated by OWRD) and quality (regulated by the Department of Environmental Quality (“DEQ”). ORS 468B.180, which empowers DEQ to designate groundwater management areas, does not provide a process to lift such a designation once water quality issues are resolved. Yet HB 3342 would allow OWRD to restrict transfers or other actions based on such a designation—even if evidence shows that conditions have improved or boundaries were inaccurately drawn.

This sets a dangerous precedent, potentially creating permanent barriers to water use based on obsolete or contested designations.

Conclusion

We support Sections 2, 3, 4, 6, 7, 8, 9, and 29 of House Bill 3342, and we appreciate the Legislature’s attention to modernizing OWRD’s internal operations. However, the additional provisions outlined above present serious and far-reaching concerns for Oregon’s water user community.

We respectfully request that the Legislature remove these sections before moving the bill forward. We stand ready to work with policymakers and stakeholders to craft solutions that improve agency efficiency while preserving core water right protections.

Sincerely,
Oregon Water Resources Congress
Northeast Oregon Water Association
Oregon Association of Nurseries
Oregon Farm Bureau