

April 29, 2020

Via Email: nirvana.cook@oregon.gov
Oregon Water Resources Commission
c/o Oregon Water Resources Department
775 Summer Street NE, Suite A
Salem, Oregon 97301
Attention: Nirvana Cook

Re: May 1, 2020 Water Resources Commission Meeting/Agenda Item C

Dear Members of the Commission:

I represent Thomas and Dorbina Bishop, who live at 63382 Fawn Lane Bend, OR 97703. I am writing on the Bishops' behalf concerning Agenda Item C for the May 1, 2020 Commission meeting. Please include this letter in the record of public comment for the meeting.

Item C ("Legislative and Budget Update") includes a summary of a proposed legislative concept titled "Changes to Rights to Store Water—'Transfers of Stored Water.'" The Bishops have actively followed and participated in discussion of this issue for several years, including participating in work groups formed during previous legislative sessions to consider various related proposals. They are intensely and personally interested because this issue directly implicates an extensive development on property next to their residence. In fact, it was that very development that primarily gave rise to the legislative efforts on "storage transfers"—efforts that continue with this legislative concept being discussed today.

In 2014, the Tumalo Irrigation District moved stored water belonging to the District from the District's Upper Tumalo Reservoir to a newly-constructed, privately-owned artificial water ski lake and a second recreational lake in a planned private luxury housing development located next to the Bishops' property. When the District applied to OWRD for a "change in place of use" of the stored water to the private reservoirs, the question of authority for "transfers of stored water" arose. The Department eventually denied the transfer applications, based in significant part on the lack of statutory authorization—later confirmed by the Department of Justice as described in the staff report for Item C. For the past few years, OWRD and a number of stakeholders and interested parties have continued to discuss whether legislative changes are warranted and if so, to what extent.

The purpose of this letter is not to provide detailed comments on this proposal, as no legislative concept has been drafted at this point. Instead, the purpose is to make sure that the Commission is aware that the issue remains controversial and complicated. As

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the staff report notes, "[c]urrently there is no consensus on a solution." In fact, there is no consensus on the extent of a problem requiring a solution either, except in one area. Most of the stakeholders who were involved in earlier discussions seemed to agree that allowing changes in the character of use of stored water could be a useful water management tool. But changes in the "place of use" of storage or in other aspects of the storage water right are controversial for a number of reasons, including the lack of public interest reviews for transfer applications as opposed to new water permit applications.

Thank you for your consideration of these comments in your discussion of the proposed legislative concepts.

Sincerely,

/s/ Janet E. Neuman

Janet E. Neuman
Senior Counsel
Attorney for Thomas and Dorbina Bishop

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