



OREGON WATER UTILITY COUNCIL
Pacific Northwest Section, American Water Works Association



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RE: Division 77 Rulemaking Timeline – Agenda Item H

As key stakeholders that advocated for the passage of HB 3103-Enrolled (2021), we're writing today to urge the Commission to move forward immediately with rulemaking to implement the legislation.

HB 3103 was necessary due to a determination by the Oregon Department of Justice that the Oregon Water Resources Department (OWRD) lacked statutory authority to accept and process character (type) of use transfer applications after decades of established practice. OWRD's determination removed a crucial administrative process needed for efficient and cost-effective transfers of water from one use to another, leaving municipal water providers in the Willamette Basin without a viable path to access stored water for future needs. HB 3103 was introduced to provide clarity and allow OWRD to resume accepting and processing application to change the use of stored water.

While policy discussion around HB 3103 included whether new clarifying authority should encompass point of diversion or location for storage water rights, the focus was providing necessary clarification on type of use transfers to OWRD now. Ultimately, the legislature decided that transfers of points of diversion or location of storage water rights would be discussed in a facilitated process with the hopes of developing policy and possible further legislation to address these other issues at a later date.

As a result, HB 3103 clearly and narrowly authorizes the transfers of character of use for storage water rights, but not other sorts of transfers. The legislative intent was unequivocally to allow transfers of type of use to move forward now. During the discussions around HB 3103, there was no conversation around delaying implementation of the bill while the facilitated conversation on a separate issue took place. HB 3103A will allow municipal water providers to access critical stored water to meet future demands without purchasing a new water right and delaying rulemaking will unnecessarily delay critical transfers of character of use.

For these reasons, we ask that the Commission direct the Department to proceed immediately with rulemaking to implement transfers of character of use for storage water rights. Thank you for the opportunity to provide comments.