



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, PORTLAND DISTRICT
PO BOX 2946
PORTLAND OR 97208-2946

APR 21 2011

Planning, Programs and Project Management Division

Honorable Ben Cannon
State Representative-House District 46
900 Court Street NE
Salem, OR 97301

Dear Mr. Cannon:

Thank you for your letter dated April 19, 2011, requesting that the U.S. Army Corps of Engineers (Corps) review the proposed amendments to House Bill (HB) 3165. Due to your need for this information quickly, we offer the following main points on how HB 3165 is viewed from our perspective. We would be happy to elaborate on these points if needed.

First, HB 3165 calls into question the State's ability to fulfill their sponsorship responsibilities with the Corps both presently and in the future. The Oregon Water Resources Department (OWRD) is currently the cost-share sponsor for the Willamette Basin General Investigations Study. This study is specifically looking at reallocation for stored water in the Willamette Basin. The passage of this Bill would be counter to the agreement that OWRD has already signed with the Corps.

Secondly, we are concerned about the impact the passage of HB 3165 would have on the implementation of the National Marine Fisheries Service's (NMFS) 2008 Willamette Biological Opinion. This Opinion includes a Reasonable and Prudent Alternative (RPA) that the Action Agencies (Corps, Bonneville Power Administration, and Bureau of Reclamation) must follow in order to avoid jeopardy to listed Upper Willamette River Chinook salmon and steelhead, and to avoid adverse modification of designated critical habitat for these species. RPA 2.9, "Protecting Stored Water Released for Fish," requires the Action Agencies to coordinate with OWRD and ODFW to facilitate conversion of stored water to an in-stream flow water right. The proposed amendment appears to put additional requirements on such a conversion that could delay or impede the implementation of this RPA.

Thank you again for the opportunity to provide the Corps' perspective, I hope this information is helpful in consideration of HB 3165. If you have any questions, please call me at 503.808.4700.

Sincerely,

Kevin J. Brice, P.E., PMP
Deputy District Engineer
for Project Management