

**Written Testimony Before the House Committee on  
Agriculture & Natural Resources  
Opposing HB 4044 & 4064  
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Founded in 1968, the Oregon Environmental Council (OEC) is a nonprofit, nonpartisan, membership-based organization. We advance innovative, collaborative solutions to Oregon's environmental challenges for today and future generations.

Chair Witt, Vice Chair Esquivel, Vice Chair Frederick, and members of the Committee:

Oregon Environmental Council opposes HB 4044 and 4064, which would create barriers to conjunctive management of surface water and groundwater at a time when managing these resources together is more important than ever before.

Surface water and groundwater are connected, and this bill was designed with the Klamath Basin in mind, where water rights are currently in the adjudication process. Many Klamath Basin streams get most of their water from groundwater in summer months. When this water is pumped away, it can have a direct impact on stream flows and the water users who have permitted surface water rights.

In 2001, in response to drought conditions and limited surface water availability in the Klamath Basin, there was a dramatic increase in groundwater withdrawals. As a result, groundwater levels in the Klamath Basin dropped by 12 feet from 2001 - 2004<sup>1</sup>. The current drought in the Klamath Basin is again leading more water users to turn to groundwater to replace or supplement surface water rights. It is critical that the Oregon Water Resources Department (OWRD) recognize the interactions between surface water and groundwater to ensure that increased use of groundwater does not interfere with surface water rights, causing harm to senior water users and stream flows. HB 4044 & 4046 would make it more difficult for OWRD to permit and regulate groundwater rights. The bills create a much higher standard of proof than current law when OWRD finds that water is not available or that a proposed groundwater right must be conditioned to protect existing water rights or the public interest.

The USGS has conducted groundwater studies in collaboration with OWRD scientists in the Klamath Basin, resulting in good data about how groundwater and streams are connected<sup>1</sup>. Conducting studies for every individual well would cause unreasonable delays and costs in permitting new wells and regulating existing wells. These bills

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<sup>1</sup> Ground-water Hydrology of the Upper Klamath Basin, Oregon and California.  
<http://pubs.usgs.gov/sir/2007/5050/>

require that the studies be conducted by private hydrologists, paid for by the Department, rather than OWRD's staff scientists. If the legislature does not provide additional funding for these studies and OWRD is therefore unable to pay to have them done, these bills would cause OWRD to cease meaningful regulation of wells that impact surface water. This would have harmful consequences both on fish and wildlife that depend on adequate streamflows and also on surface water right holders, since wells could essentially steal their surface water.

In addition, Section 4 requires OWRD to pay double any actual damages to a water right applicant if a legal proceeding finds in the applicant's favor. This is a wasteful use of taxpayer dollars. The bills also restrict OWRD's ability to provide pertinent information to a court for a hearing on a proposed final order, which would not benefit the public interest.

For these reasons, OEC opposes HB 4044 and HB 4064 and asks that they not move to a work session.