

Good morning, I am Curtis Martin recent president of the OR Cattlemen Association and current chair of water resources committee. I have traveled over 340 miles to testify in favor of HB 4044 and HB 4064. Even though the extreme weather conditions in North Powder (N.P.) are at single digits, and our ranch has over 2000 head of adult cattle, I felt it very necessary to sacrifice my travel and time for this extremely important measure.

The Oregon Supreme Court determined in it's for Vannoy decision that irrigation water rights are property rights.

Actions proposed by the Oregon Water Resources Department will almost certainly cause many of my member cattlemen irrigators, who live and work in the Sprague, Wood, and Williamson River Valleys, to face the imminent taking of our groundwater irrigation rights.

Current statute and rule provides that irrigation wells constructed within a mile of a surface water body are assumed to have the potential to interfere with the surface water, and by no means is this bill intended to interfere with the "Prior Appropriations Doctrine" which clearly state 1st in time 1st in rights.

They also clearly state that the Oregon Water Resource Department bears the burden of proof that the use of each individual well is actually causing interference.

It is our understanding that the department has completed a modelled groundwater study that the Department alleges provides sufficient proof that more than 100 irrigation wells constructed in the Wood, Sprague, and Williamson River Valleys in Northern Klamath County are interfering with adjudicated surface water rights with superior priority dates.

The Department has shifted the burden of proof of interference, from the Department, to the well owner, to prove that their well does not interfere, by applying the findings of this modeled groundwater study.

The Department has essentially created an extensive pseudo-critical groundwater area by applying the findings of the modelled study.

Further, the Department has stated their intention to regulate, condition or shut down all of these wells by their priority dates pursuant to the next "call" on the adjudicated surface water.

It appears that the affected well owners will have little recourse because they would apparently have to disprove the relevance of the entire study in order to disprove the allegation that each of their individual wells is causing interference.

Our further concern is that if the Department will use the same methodology to regulate groundwater use in other watersheds throughout Oregon if it is allowed to deprive our Klamath County members of the use of their certificated irrigation wells in this manner.

We strongly believe in the Doctrine of Prior Appropriations, first in use first in right.

When a well is shown to interfere with the use of a senior water right it should be regulated.

However, we believe that current statute and rule requires that the Department to establish proof of interference based upon case by case, well by well empirical evidence.

HB 4044 clarifies that the Department must develop the proof that the use of each, individual irrigation well will cause quantifiable and substantial interference within 180 days before the Department can force the well owner to discontinue its use.

We strongly support the bill because it helps to protect our members' groundwater irrigation property rights from being taken by the Oregon Water Resources Department.