

House Bill 4044/4064 Testimony

My name is

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Thank you for serving as representatives in the State of Oregon.

My two daughters and I operate a 2000-acre ranch here in Klamath County that depends upon our groundwater development.

Our ranching operations are designated as private wildlife habitat. We provide for migrating waterfowl including duck, geese and Sandhill Cranes. We also provide important habitat for local raptors including the Bald Eagle. Wildlife depends upon our groundwater development.

We are members and patrons of Klamath Irrigation District (KID) and Klamath Water User's Association (KWUA).

The letter that some of you have received from KID and KWUA does not represent us. These organizations do not represent many irrigators of their membership.

I am here today to support HB 4044/4064.

This legislation is specific to groundwater and it is important to every county in the state of Oregon.

HB 4044/4064 underlines and codifies the current statutory responsibility of the Water Resource Department (OR WRD) when regulating groundwater use. Without this legislation we find the WRD manipulating the interpretation of their authority to a point that causes economic and environmental injury. In essence, HB 4044/4064 is written to save the WRD and the economies of our Oregon communities from economic damage.

This is the problem. The WRD is not responsible to itself. Many times their actions have been based on questionable interpretation of statute. The WRD needs a directive to be clear on their methodology of evaluations before regulatory actions.

This legislation will require OR WRD to use sound and verifiable science to determine hydraulic connection between groundwater and surface water or other groundwater before they regulate.

The WRD may argue that their computer modeling process is sound verifiable science. I disagree. While computer modeling is a useful tool for groundwater research, it is far from sound and it is often unverified. Instead this computer modeling is often generalized

and influenced by science, POLITICAL SCIENCE. This modeling is often referred to and explained by use of cartoons. This is appropriate as the model is not real life, real world. It is a mass generalization.

In the presentation by our United State Geological Service and Oregon Sate University cartoons display a very general groundwater model. Besides excluding the famous “Roadrunner” and “Coyote”, the cartoons do not display the over-occupied forests in the Klamath basin. The cartoons also fail to account for ever-present fault lines and compartmentalization evident throughout the Klamath Basin.

I give you two examples in my county where this legislation is important in directing the WRD.

This year there is a list of over 100 groundwater sources that the WRD plans on regulating off because of “ potential to interfere” with senior surface water rights. Without this legislative directive, this WRD action threatens the surface water flows of the Sprague River that may depend upon groundwater use for irrigation. This is a threat to some of the very best wildlife habitat in the Klamath Basin.

Let me make this clear, there is groundwater use that benefits surface water flows. We have seen similar circumstances in the Lost River Basin where the use of groundwater, especially in dry, drought conditions, has

resulted in improved surface water flow and water quality.

Once again, the use of groundwater that would be curtailed by the current use of generalized modeling represented by cartoons, may very well benefit wildlife.

If not this year, than certainly next year, the WRD plans to regulate groundwater use based on the “potential to interfere” with river flows in the wild and scenic portion of the Klamath River. The director of the WRD, Phil Ward, has stated this in several settings. He will not admit this when pressed or when his desire to blanket regulations is in question. Without HB 4044/4064 the City of Klamath Falls will see its groundwater use shut down. Besides providing important potable water to citizens in the city of Klamath Falls, this groundwater is also contracted to provide water to a 550-megawatt cogeneration facility owned by Iberdrola Energy.

In the case of the groundwater regulation that threatens the wildlife in the Sprague River and in Upper Klamath Lake, there may not be economic resources to challenge the actions of our state. Iberdrola Energy and the City of Klamath Falls do have the financial ability to challenge the actions of our WRD that overreach their statutory authority.

The WRD will testify that this legislation threatens them with expenses in excess of 10 million dollars.

They have estimated that it may cost 80 thousand dollars per well study. The potential legal liability of the WRD regulating groundwater without accurate and specific data will surpass 10 million dollars.

I sum up my testimony with a quote from a famous philosopher, someone who often reminds us to take a broad view of the world.

I quote Pogo:

“We have found the enemy and he is us.” Pogo

HB 4044/4064 gives you an opportunity to look at complex groundwater management and require the WRD to act responsibility and in a holistic way. HB 4044/4064 protects the WRD from inevitable legal action and is considerate to the rights and property of our citizens.

Please support HB 4044/4064 through the actions of our governor’s signature.

Sincerely

William D. Kennedy

ADDENDUM TO TESTIMONY

This is a time sensitive issue. The WRD schedule to regulate requires that this legislation be fast tracked. The lives of those in the cross hairs of regulation by association and broad computer modeling (cartoons) are at stake. Your actions in the next five to seven days may determine the lives and directions of young and old generations in the Klamath Basin for many years to come.

It is imperative that you help carry this legislation past a possible veto by our governor.

WDK