

Trant Lindsay

From: Claude Laviano <cwlaviano@comcast.net>
Sent: Wednesday, May 20, 2015 12:55 PM
To: Reiley Beth; Sen Dembrow; Sen Edwards C; Sen Prozanski; Sen Olsen; Sen Thomsen
Subject: Request To Oppose Oregon HB 2059
Attachments: Oregon Revised Statute Chapter 36.270 Mediation and Arbitration.pdf; Oregon House Bill 2509 A-Engrossed.pdf

Dear Senator Dembrow, Senator Edwards, Senator Prozanski, Senator Olsen, Senator Thomsen, and Administrator Reiley,

I am writing to request that you please oppose Oregon HB 2059.

Having read and reviewed both HB 2059, and the Mediation & Arbitration rules of ORS 36.270, which is specifically included and required in HB 2059, it appears that there is a conflict of interest in HB 2059 relative to ORS 36.270.

ORS 36.270, Section 2, states "**Participation in mediation referred to in subsection (1) of this section by parties to a dispute is voluntary, and a party may withdraw from the proceedings at any time.**"

HB 2059, within Section 2, states "*If a court action arises out of an alleged interference with the use of land...and the parties to the action have not previously allowed the department to attempt mediation of the dispute, **the parties must participate in the department mediation process beginning no later than 270 days after the action is filed.***"

This forces parties to participate in mediation, which goes against the spirit and requirements of ORS 36.270, and is in direct conflict with ORS 36.270.

HB 2059, Section 3, states "*This section does not create any new cause of action or supersede any requirement, condition or prohibition otherwise established by law regarding the bringing of an action.*"

While HB 2059 may not "supersede any requirement, condition or prohibition...", it does specifically **create a new cause of action by forcing parties into mediation**, which is in direct conflict with ORS 36.270's requirement of voluntary participation, and therefore supersedes ORS 36.270 by effectively removing or nullifying this voluntary participation requirement.

In summary, HB 2059 effectively forces farmers into mediation, in direct conflict with ORS 36.270's voluntary mediation requirement.

Both HB 2059 and ORS 36.270 are attached for your review.

If you believe my interpretation is incorrect, then please feel free to reply with your reasons as to why, as I welcome your thoughts and comments.

Sincerely,

Claude Laviano
Oregon State Resident
Portland, OR