

To the Joint Interim Committee On The Second Special Session of 2021,*

The Illinois Valley Soil & Water Conservation District enthusiastically supports actions to implement and enforce the laws in a manner that encourages water conservation while striving to make sure that all beneficial uses have access to sufficient supplies. We believe increasing funding and staffing to enforce water law to protect water quality and the beneficial use of water is paramount. This funding and staffing level before the legislature today is a good start; however, we hope that appropriations will further increase in 2022 if water theft is widespread in Josephine County. The state needs the enforcement capacity to shut off water to hundreds of illegal large-scale grows in the Illinois Valley.

We have mapped one thousand cannabis grows in the Illinois Valley with great precision and have calculated that more than four out of five of them are unlicensed. Every drop of water used on illegal crops is a non-beneficial use, and as such, is a waste of water. We are producing a report on the findings of water quality and water use regarding the cannabis industry and we are estimating the volume of water used non-beneficially. We are working with a leading expert on consumptive crop water use and actual measurements from grows. Our early estimates point to water theft exceeding the state limit set in ORS 390.835 for Scenic Waterways by four to six times.

The Illinois River is a state-designated Scenic Waterway and was the subject of the OWRD finding on August 5, 2019, that the cumulative extraction of groundwater from legal Ag wells that have water rights had already breached the limit. While the state tries to ensure that groundwater extraction from legally permitted wells does not measurably reduce stream flows in Scenic Waterways, water theft extractions exceed the limit by several times in the Illinois Valley.

This circumstance is a literal example of the old saying that water thieves hold the most senior water rights; however, the injustice of this irony can be resolved with sufficient levels of law enforcement.

The unlicensed cannabis growers in the Illinois Valley are aware they are illegally growing cannabis; therefore, they do not deserve the benefit of the doubt that they are unaware of Oregon water law. They should not be using a single drop of water on those unlicensed grows whether or not they are aware of the law. Furthermore, there has been some confusion that if an illegal cannabis grower has a water right, then they can use the water to grow their illegal crop. This is false; they are outside the "character" of the water right and are wasting the water.

We are grateful to state officials who are beginning to prioritize the unprecedented water theft by appropriating funds to expand enforcement capacity. Watermasters are not trained in arrest and do not possess actual law enforcement capabilities; nor do they typically obtain search warrants and seize property. Therefore, partnerships with the Josephine County Sheriff and Oregon State Police will need to deepen. Water thieves will return to irrigating their illegal crops the moment they get a chance to do so, and all means to prevent that from happening should be taken.

Lastly, there is an elegant simplicity to resolving the many attendant evils that go along with water theft: dry out the plants and soon thereafter the pollution leading to poor water quality decreases; the sewage, trash, and chemicals dumped onto the Ag lands, riparian areas, and waterways diminish; the incentives to breach public health codes and environmental quality standards go away; the Scenic Waterways recover stream flow necessary to meet state law, and the public finds peace and serenity in knowing the environmental health of their watershed and community well-being are intact.

Most Sincerely,

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[*Note: This testimony represents the will and position of the board of the Illinois Valley Soil & Water Conservation District who has reviewed and approved this action.]