

Submitted By: Dave Henslee
On Behalf Of: Klamath Water Users Association

Testimony in opposition to Senate Bill 427: Relating to prohibiting certain proposed changes related to the appropriation or use of water that will result in the diminishment of streamflow.

Submitted to: Senate Committee on Natural Resources and Wildfire

Chair Golden, Vice-Chair Nash and members of the committee,

My name is Dave Henslee, and I represent the Klamath Water Users Association. Thank you for the opportunity to provide testimony today in opposition to Senate Bill 427.

The Klamath Water Users Association is a non-profit corporation representing the interests of Klamath Project farmers and ranchers. KWUA members include irrigation districts and similar water delivery agencies who are parties to contracts with the U.S. Bureau of Reclamation regarding storage, diversion, and delivery of water for irrigation. The Project is home to over 1,200 family farms and ranches and the KWUA's member districts deliver irrigation water to over 170,000 acres of highly productive farmland located on both sides of the Oregon – California border.

We strongly oppose SB 427, which would prohibit certain proposed changes related to water appropriation or use that would result in diminished streamflow. This bill would have severe negative impacts on the ability to manage water resources with flexibility and efficiency.

We endorse and join the February 21, 2025 letter in opposition jointly sent to the committee by Columbia Gorge Fruit Growers, League of Oregon Cities, Oregon Association of Nurseries, Oregon Business & Industry, Oregon Cattlemen's Association, Oregon Farm Bureau Federation, Oregon Water Resources Congress, Oregonians for Food & Shelter, and Special Districts Association. Like those organizations, we believe it is inappropriate to take tools out of the water management toolbox. In addition, please consider these additional comments.

Since nearly the beginning of western water law, water right holders have been able to transfer elements of their water rights such as the point of diversion, purpose, or place of use. That ability is a central element of a water right. Also, it is a core principle of water law that a transfer cannot result in injury to other water right holders, and injury has a very specific meaning in the water rights system.

SB 427 would represent a dramatic change in water law. It would create a blanket rule that prohibits any transfer that would result in the diminishment of streamflow no matter the size of the diminishment, at any location, and at any time. This bill appears overbroad and unnecessary.

To the extent that the bill reflects beneficial environmental concerns is misguided. It is by no means the case that a reduction in the volume of streamflow, at any location, will have negative consequences. In fact, it is entirely possible that a relocation of a point of diversion to an upstream location would be environmentally beneficial. But SB 427 would prohibit that action because there would be a diminishment of streamflow between the new point of diversion and the old point of diversion.

The Klamath Basin faces chronic water shortages and regulatory constraints that have drastically reduced water deliveries to our farms and ranches in recent years. Looking forward, our basin needs flexibility in water management policies to be beneficial to our economy. Additional restrictions on water transfers and changes in use, as proposed in SB 427, would further hamper the ability to adapt to drought conditions and maximize the beneficial use of limited water supplies.

Existing state water law offers procedures for creation of instream water rights and transfers of rights to instream use. It is neither appropriate nor necessary to create a new, blunt instrument that constrains the ability to manage existing water rights in an efficient and effective manner.

We urge this committee to reject SB 427 and instead work with water users to evaluate the needs for refinement of the process to consider and approve water transfers that are consistent with the established water law. The Klamath Basin needs policies that provide more flexibility in water management, not less.

Thank you for your time. The Klamath Water Users Association strongly encourages you to support agriculture, support our rural economies, and oppose SB 427. Thank you for your time.