

Dear Sirs,

I oppose SB 977-1 because it would allow the default taking of a citizen's property right while stripping away the property holder's access to effectual redress by creating a lopsided legal process

SB 977-1 would eliminate an irrigator's ability to secure a "stay," or pause, in the action ordered by the regulating agency as prescribed in ORS 536.075 (5). The opportunity for a "stay" provides water user protection and due process while being a safety valve against frivolous, invalid, futile, or erroneous final orders. The rules, in place since the mid-80's, recognize that orders may have been secured with poorly-developed evidentiary findings, inconsistent applicability, or for nefarious purposes

Many times, curtailment orders across the state are inappropriately issued because of bad science, misinformation or stratagems approaching malfeasance. Last season, nearly 140 groundwater wells were curtailed due to OWRD's faulty modeling and unjustified regulation. In turn, nearly a dozen of these agricultural operations filed appeals and were granted the stay. OWRD eventually agreed to settle and pay irrigators' attorney fees and court costs and the irrigators were allowed to continue their operations.

In these due process cases, and many others, the automatic stay granted under ORS 536.075 (5) was justified because the agency took arbitrary positions that were contrary to either the facts, or the law, or both.

Destroying this part of procedural due process would be devastating to water right holders who are under a curtailment action during or mid-way through an irrigation season.

Therefore I strongly urge you to not pass this unjust law.

Sincerely,

*Rose Varnum*

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