

## Support for SB 791

Thank you Chair Denbrow and Committee members for this opportunity to speak in favor of SB 791

My name is Tom Mallams I am an irrigator in the Klamath Basin and also a past Klamath County Commissioner.

I am sure each of you are aware of the ongoing Klamath water issues

We are here not just fighting for this legislation but we are literally fighting for our very existence, as productive citizens of the State of Oregon.

Our family now has a 5 generation footprint in the Klamath Basin, and that will end without a solution.

Over 40 yrs ago, my wife & I with our young family moved to the small community of Beatty, to work with the natural resources here.

We cleared the land, planted dryland crops while developing irrigations systems, with the blessings of OWRD. The local irrigators worked hand in hand with OWRD while developing Surface Water & Ground Water systems.

In 1990 all irrigators received a 2 page letter from OWRD concerning the Klamath **Surface Water Adjudication**. Bottom of the first page reads, **“If you only use water from a**

**groundwater source or from a municipal water supply then you need not do anything further, you will not be a party to this proceeding.”**

With the current Ground Water regulation under a Surface Water call brings forth the question, what happened to due process??

This 1990 letter brought on the planning to drill a well and change all our irrigation to Ground Water, so we would be safe,(so we were told) Little did we know of the future actions of OWRD.

In 2001, with the Project water shut off, OWRD again encouraged us to drill irrigation wells. That way “we would be safe”.

When well’s were regulated off in 2013, we asked what do we need to do to show we are innocent. OWRD asked for additional site specific irrigation practices. We supplied that information and it was ignored.

Again we asked same question. We were told to have individual wells tested by competent, licensed geo hydrologist. Again, this information was ignored.

In January of 2018, I, my wife and our legal council met with OWRD staff in Salem. OWRD actually told us in no uncertain terms that in order to regulate our well off, their computer

model only has to show that pumping our well would **potentially** prevent one drop of water from reaching a waterway. Timely and effective is completely not considered. Historically this would be defined as a “futile call.”

In 2018, OWRD began using the USGS Model. Their own expert, Karl Wozniak testified in a recent court case that the USGS Model was not appropriate to use in the Klamath Basin.

There were comments made that maybe a legislative fix is needed. So here we are asking for relief and a permanent solution to this seemingly never ending crisis.

SB 791 gives credit for appropriate site specific testing in decision making by OWRD. It also quantifies the amount of proven interference required before regulation occurs. This amount is a common sense and livable amount. Passage of SB 791 is absolutely critical.

OWRD has already spent their current litigation fund of \$835,628, from the General Fund. They were then given an additional \$1,352,526, for legal defense. This will run out in June of 2019. This is mainly due to litigation from Klamath Basin irrigators.

OWRD is now asking for another \$1million for the upcoming budget cycle. It is no wonder Governor Brown is asking for \$2.6 billion in additional taxes for this coming biennium.

While litigating, irrigators have the ability to have a “stay” in place so they can continue to irrigate. The availability to irrigate while seeking a judicial solution is not only critical but would be a Constitutional Right. Without a stay in place, irrigators would be denied any “due process **again!**”

Irrigators have and continue to desire to work with OWRD, to have a fact based solution for the Klamath water issues.

Keep in mind that this is not just a Klamath issue; this will have an impact on the entire state of Oregon.

A policy suggestion would be for OWRD put regulating wells on hold. At the same time hire a full time Geo Hydrologist that would focus on actually testing the wells in question. Spending taxpayer money on site specific science is more productive than litigation.

Bottom line is no water is a death sentence to our family operation and 100’s of other family farms and ranches.

I would be glad to answer any questions you may have.

Thanks again for considering this life saving legislation.

Tom & Bev Mallams

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