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Tuesday, May 18, 2021

Chair Golden, Vice Chair Heard, Senator Kennemer, Senator Patterson, and Senator Prozanski,

Rogue Climate is an environmental justice organization that works with communities in Jackson, Coos, Klamath, and Douglas county to move forward solutions to climate change that benefit low-income, rural, Black, Indigenous, and people of color communities. Today, we are writing to urge the Senate Committee on Natural Resources & Wildfire Recovery to support HB2244.

The Klamath, Modoc, and Yahooskin Tribes have resided in Southern Oregon for time immemorial and are a vital part of the community here. As a sovereign nation with senior water rights, the Tribes have asked the Oregon Legislature to end the rare automatic stay provision in Oregon statute that allows junior water users to continue taking water that belongs to the Tribes. This framework has resulted in repeated abuse of the judicial process, where junior users file petitions for judicial review, get automatic stays for the season, then dismiss their cases.

The Klamath Tribes' Treaty-reserved water rights were affirmed in 1983 in *United States v. Adair*, but the courts left quantification of the water rights to Oregon's Klamath Basin Adjudication (KBA). After finishing the KBA's 38-year administrative process, the Tribes were able to enforce their water rights for the first time in 2013. While the Tribes have had the tools to protect their water rights, opponents have used the automatic stay provision, which is unique to Oregon, to deny the Tribes' the legal rights they have to their resources. Now, the Oregon Legislature is taxed with fixing this unjust loophole.



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Rogue Climate stands with the Klamath Tribes in supporting HB2244 as an initial step toward fixing this violation of the Tribes' right to due process. While the automatic stay provision has a devastating impact on the Tribes' water rights resulting in catastrophic impacts to the Koptu and C'waam fish and other cultural resources while also violating due process principles, the modest revision contained in HB2244 at least requires that such petitioners actually serve Oregon Water Resources Department, and it provides the Tribes with notice that a stay has gone into effect and that their rights are being violated.

We urge you to move HB2244 to the Senate Floor with a do-pass recommendation and work with the Klamath Tribes in future sessions to fully address this issue.

Sincerely,

Allie Rosenbluth

Campaigns Director

Rogue Climate