

# HB 2929: Injunctive Authority to Stop Illegal Water Use



*A narrow fix will help Oregon Water Resources Department steward our waters.*

**BACKGROUND** The Oregon Water Resources Department currently lacks authority to apply to the courts for a temporary or permanent injunction when there are known violations of water law occurring, including using water without a permit, or resuming water use after regulation to protect senior water users has already occurred. Even in egregious cases of illegal water use, OWRD's Watermasters must navigate an administrative enforcement process that can drag on for months—even years. With climate change upon us and increasing incidence of drought, the state needs this fundamental tool to protect lawful users and public resources in times of water scarcity.

## How HB 2929 Solves This Problem

HB 2929 amends ORS 537.781 to give the Oregon Water Resources Department authority to seek injunctive relief when the Department has information that a person has engaged in water use violations.

### Water use violations include:

- ▶ Diversion, use or storage of water without a water right (this does not include exempt uses);
- ▶ Continued water use or interference with a locked headgate that was turned off by a watermaster;
- ▶ Use of another person's water right without authorization; or
- ▶ Willful waste of water.

Under this bill, the Department can seek a court injunction to immediately stop illegal water use and remedy any effects of the violation. Injunctive relief against water use violations will provide the Department a tool to quickly address unlawful water use and minimize impacts to lawful users and public water supplies. House Bill 2929 simply gives the Department the ability to petition for injunctive relief in a circuit court; the court will then decide whether the harm asserted outweighs any harm to the opposing party or to the public.

## What is Injunctive Relief?

Injunctive relief is a civil remedy which results in a court order directing a person to do something or to stop doing something. A court will order injunctive relief if it appears that irreparable injury is taking place or will take place absent the injunction.

## Combating Illegal Water Use

The Oregon Water Resources Department would seek injunctive relief only in cases of clear illegal water use that is causing or will result in irreparable injury if the use is allowed to continue. *Examples include:*

- ▶ Illegally withdrawing water from a stream
- ▶ Illegally digging and filling a reservoir

Injunctive relief in both these situations would allow the court to require the person to cease the illegal activity and to take any actions necessary to remedy the violation. This authority already exists for violations related to dam safety and well construction.



## CONTACT

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