

HB 4061 passed in 2022 in response to the excesses of illegal cannabis growers, especially in Southern Oregon. However, it focused on water hauling and actually weakened existing laws regarding illegal surface and groundwater violations by allowing a the Commission more time to to respond to a violation.

By ORS 536.900 (2) *A civil penalty may be imposed under this section for each day of violation of ORS 537.130 [surface], 537.535 [groundwater],* However, by (4) *A civil penalty may not be imposed until the commission prescribes a reasonable time to eliminate the violation. The commission shall notify the violator of the time allowed to correct a violation within 10 business days [from 5] after the commission first becomes aware of the violation.*

Thus, a violator can escape civil penalty for an ongoing violation simply because the Commission has to be notified and then respond within 10 days and then the violator may be allowed *a reasonable time to eliminate the violation*. Moreover, there is no provision for denying the violator the fruit of his water theft! Furthermore, there is no penalty if the violation is discovered after the cannabis is harvested.

Similarly, criminal prosecution and conviction of surface and groundwater unlawful use are also not likely, although by 537.990. (1) *Violation of ORS 537.130 (2) is a Class B misdemeanor*, and, (3) *Violation of ORS 537.535 (1)... is a Class B misdemeanor*.

Thus under the current laws, cannabis growers are enabled to cheat on water because the penalties, if they are caught, are inconsequential compared to the profits to be realized, just a minor cost of doing business.

As a consequence, despite the progress of HB 4061, Oregon is still open for business to cannabis scofflaws in situations where circumstances allow surface or groundwater theft.

HB 2929 would make it more difficult for cannabis water thieves to take advantage of Oregon's weak water enforcement laws.

Specifically, *If the Water Resources Department has information that a person has engaged, ...in any activity that is...a violation of ORS 537.130, 537.535,...the department may apply to the circuit court...for a...permanent injunction....*

Thus a violator cannot get off with merely an inconsequential fine or a suspended sentence, but will hopefully be denied the future opportunity to pull off the same scam in the same location by a court injunction, the violation of which may be more punitive than the enabling, permissive Oregon water laws.

I am a farmer in Jackson County with a groundwater right that has been impacted by a nearby hemp operation's groundwater theft since 2019. Requests to my local Watermaster for investigation and enforcement have been unsuccessful. In 2022, for example, that grower had a water right for 9.4 acres, but reported to ODA in December that 25 acres were harvested. I made a complaint to OWRD on August 24, but a site visit investigation was not performed until October 12, after the hemp harvest was well underway. And in spite of the evidence of water theft for the obvious 15.6 acres with no water right, the Watermaster refuses to acknowledge a violation. Under the current weak enforcement laws these violators could have continued irrigating until the end of the growing season even if my complaint had been timely investigated.

HB 2929 would (hopefully) take into account such past violations (even if not cited) and hopefully reduce the side effects of our poorly controlled cannabis growing industry with the tool of injunctive relief.

A big thanks to Representative Marsh. The rest of you, please pass HB 2929!

Richard Harrington