

Submitter: Matthew Erickson
On Behalf Of:
Committee: Senate Committee On Natural Resources
Measure: HB2929

Chair Golden, Vice-Chair Girod, and Members of the Senate Committee on Natural Resources,

My name is Matt Erickson and I support HB 2929. I am an avid angler and outdoor enthusiast. I particularly enjoy fishing for salmon and steelhead in western Oregon. Through fishing and outdoor pursuits I have developed an understanding of how important our water resources are to a variety of wildlife. Illegal water use can deplete streamflows and harm those species, and I think OWRD should have the authority to go to court and request an injunction to quickly address those illegal water uses when they occur.

I believe constitutional due process is important, and want to highlight for the Committee that courts would afford due process to regulated parties in the course of an injunction proceeding. This bill would not allow OWRD to end illegal activity on its own by issuing an injunction itself. Rather, it just allows OWRD to go to court and file a case (which it does already) that requests an injunction as a legal remedy to quickly end an illegal water use or storage activity. A court would then allow the relevant water-using party a full right to be heard and make its arguments in response. The court would then make its own findings and determine whether an injunction was warranted, based on the facts and the parties' arguments. If the court determined that an injunction was appropriate (which would probably be in the most extreme and damaging circumstances), the court could order it and OWRD could enforce the injunction against the person illegally using or storing water.

Allowing OWRD the statutory authority to request an injunction like this is reasonable. OWRD is charged with managing water resources for the state of Oregon. However, somewhat amazingly, that agency doesn't have the authority to quickly force someone to stop illegally using or storing water in the rare cases that a bad actor isn't following state employee directions. Unfortunately, there are some parties that do not heed watermaster directives, warning letters, or threats of fines. That's when an injunction would be useful.

In the rare events that someone dams a fish-bearing stream without a water right, or fills an illegal pond without a permit, and then disregards OWRD requests to stop doing so, OWRD should have the authority to request an injunction that can end those illegal activities in a timely manner to save fish.

Thank you for considering my comments