

Attachment #2  
2/15/21

## Private Property Takings

Senate Bill 1074 would substantially expand the rights that irrigation ditch owners have when their ditches run cross another's property. The proposed legislation would allow ditch owners to do whatever they wish to "maintain" a ditch "embankment" without input or permission from the landowner. There is no distinction between small ditches like the ones in rural areas that may transport, say, 3 cfs, versus very large ditches near the cities that may transport 300 cfs. There is no definition, nor quantification of the ditch "embankment". In fact, many ditches in our rural area run along the contours of a hillside, and have no discernable embankment. Would the bill allow the ditch owner to "take over" private property from the ridge top of the hill down to where the hill bottoms out? In addition, the proposed bill gives the ditch owner explicit rights to enter the landowner's property during any season, regardless of ground conditions (snow, mud, etc.,) even if there is no water in the ditch. Furthermore, under the proposed bill, the ditch owner would have the right to remove materials from the landowner's property without prior permission. This could render the ditch embankment a source of firewood, fill dirt, or landscaping rock for the ditch owner to remove, while the landowner would have no recourse. Additionally, Bill 1074 removes a section of Title 42 that ensures landowners may use water from streams on their own property. This bill constitutes a "takings" of private land and needs amendments to better protect landowner's rights.

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