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Submitted via email: WRD_DL_rule-coordinator@water.oregon.gov

Re: Comments on Draft Groundwater Allocation Process Rules

The Oregon Water Resources Congress (OWRC) is providing comments on the Oregon Water Resources Department's (OWRD) draft revised Groundwater Allocation Process, under Oregon Administrative Rules (OAR) 690-008-0001, 690-009-0010, 690-009-0020, 690-009-0030, 690-009-0040, 690-009-0050, 690-009-0060, 690-300-0010, 690-410-0070.

OWRC was a member of the Rules Advisory Committee (RAC) and has repeatedly expressed concerns about the overly broad scope and potential unintended consequences resulting from the proposed changes to OWRD's process for allocating groundwater. We are supportive of a modernized set of rules related to groundwater allocation but remain concerned there will be negative impacts to existing water right holders if the proposed rules are adopted as they are currently drafted. We urge the Department to further revise the draft rules to allow for a less extreme, more basin specific approach, based on the best available science and data.

OWRC is a nonprofit trade association representing irrigation districts, water control districts, drainage districts, water improvement districts, and other local government entities delivering agricultural water supplies throughout Oregon. These water stewards operate complex water management systems, including water supply reservoirs, canals, pipelines, and hydropower facilities. OWRC members deliver water to approximately 600,000 acres of farmland in Oregon, which is over one-third of all the irrigated land in the state. While the majority of our members manage surface water rights, groundwater rights are utilized by some members, and all water users are potentially impacted the proposed rules.

Ensure existing water right holders are protected

Our primary concern for our members and the farmers and ranchers they serve is that the proposed rules will have unintended consequences for existing water users. We have heard the Department say multiple times that this will not impact existing water right holders and while we are dubious, we will be watching closely as the final rules are implemented.

The mission of the Oregon Water Resources Congress is to promote the protection and use of water rights and the wise stewardship of water resources

Revise the rules to remove de facto moratorium on new groundwater rights and develop an approach in-between the existing process and the new proposed process.

The proposed rules are a massive change from current practice. We agree the rules need to be updated but such a severe change will be jarring to those seeking a groundwater permit for their farm, their community, or their business. This de facto moratorium on new groundwater permits will likely result in increased legal costs to OWRD as well as to individuals, municipalities, and businesses who need groundwater as part of their water supply portfolio. As drafted, only those that can afford to pay for a hydrogeologist and enhanced groundwater data will be able to secure a permit. This will create greater inequities between water users and likely cause more friction between entities who need water and those that have it.

Revise the rules to allow for more basin specific approaches and adaptive management as more data and research becomes available

Each watershed basin has unique characteristics that impact surface and groundwater supplies. The draft rules lack acknowledgement of these differences or provide an avenue to change the groundwater allocation process as we learn more about the status of the resource. OWRD is now moving forward with implementing HB 2018 (2021 Session) and developing enhanced data about water supplies, including groundwater. The data gleaned from the collaborative USGS studies and development of groundwater budgets will be very useful in determining which basins are facing groundwater declines. It is crucial OWRD moves forward with these essential studies as soon as possible and not put the entire burden of proof on the applicant. We also recommend OWRD use more of their existing tools and statutory authorities (such as designating serious water management areas or critical groundwater areas) in basins where there are significant long-term declines rather than use a one-size-fits-all approach.

In summary, we urge the Department to revise the proposed rules to provide a balanced and equitable approach that is more likely to protect existing water right holders and with basin specific approaches that cause less conflict than a de facto moratorium. And if the rules are adopted as currently drafted, we will be watching closely to ensure OWRD fulfills its commitment that the new rules will not adversely impact existing water right holders.

Your time and consideration of our comments is appreciated.

Sincerely,



April Snell
Executive Director