

DENNIS LINTHICUM
STATE SENATOR
District - 28



OREGON STATE SENATE
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SALEM, OR 97301

Ms. Laura Hartt
Water Policy Analyst/Rules Coordinator, Policy Section
Oregon Water Resources Department
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June 12, 2024

RE: Groundwater Rulemaking Proposal

Dear Ms. Hartt,

Groundwater represents the single most important water source for Southern and Central Oregon, including Senate District 28, the district that I represent. Clearly, everyone in this district and in the neighboring districts, comprised of nearly a million Oregonians, has a strong interest in protecting their current and future water resources. These constituents understand their needs, water law and recognize the fallacious nature of the proposed unscientific statewide resource allocation models.

The claim that the new rules for issuing new groundwater permits will stop the over-issuance of groundwater permits might be true, but is not justified as a single statewide policy mandate.

The flow and storage of water in groundwater systems depends too strongly on the hydraulic properties of the various aquifers themselves. The detailed layers of aquifer confinement which make up any specific local groundwater system do not receive proper consideration in the proposed rules for new groundwater allocation permits. Aquifer properties such as, confinement thickness, porosity, hydraulic conductivity and transmissivity, specific storage coefficients and yield will all impact the timing, locations, and streamflow depletion rates through any specific aquifer.

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Meaning, the claim that OWRD's over-issuances of well-permits is the cause of major state-wide groundwater declines is unjustified. Water right holders and domestic well owners, who rely on groundwater for drinking and household use, may be experiencing declining groundwater levels, as in the Lower Klamath Basin, but this a local aquifer experience which should be validated using approved measurement techniques.

OWRD's technical and legal teams have extensive experience establishing specific hydrogeologic framework dependence on location, location, and location. Senate District 28 priorities demand reframing the proposed rules based upon local evidence and verifiable, site-specific groundwater data and assessments. Therefore, a thorough reconsideration of the proposed groundwater rules would be the most appropriate pathway for moving forward.

Water-shed stakeholders need to have the flexibility to develop place-based solutions in the context of water planning efforts which are already being pursued. Specifically, the new rules carelessly ignore the myriads of human activities that impact groundwater in both positive and negative ways. There are numerous public agencies and qualified institutions which have been chartered with planning, designing, constructing and implementing wastewater treatment facilities, nonpoint source pollution management systems, estuary management plans, fresh-water reservoirs and aquifer recharging operations. None of these have been given sufficient consideration within the proposed rules.

Yet, the proposed rules do impose unnecessary and unclear requirements on local watermasters with districtwide enforcement mechanisms based on ill-defined requirements for the consideration of the "*anticipated impacts*." Specifically, there is a new requirement including, "*the number of wells that may go dry*" combined with the flow characteristics and functionality of springs and groundwater dependent ecosystems.

This proposed language is but a small sample of last-minute, noble-sounding, assertions that come without any measurable metrics. These rules amount to feel-good bureaucratic insertions that are proposed in rule without sufficient process, vetting, understanding or methodology. The insertion of this language will needlessly hamper placed-based planning efforts and put future OWRD actions under litigious scrutiny.

These stipulations must be removed from any rules adopted by the Commission.

In closing, the proposed rules are a one-size-fits-all approach that doesn't consider the significant differences between the various basins or watersheds within the State. The vague and incomprehensible language regarding the consideration of any "*potential for substantial interference*" with surface water sources appears cureless within the context of the rule proposal.

In my view, this means that the Commission would authorize OWRD to impose a moratorium on new groundwater permits throughout the State. This is unacceptable.

Unfortunately, the proposed rules seem to abandon science in favor of political decision-making efforts. This means that an unelected, and unaccountable body of individuals could leverage the regulatory power of the OWRD to deny new groundwater rights for irrigation of crops or other uses. This would effectively curtail further irrigable acreage in rural areas, as well as considerations for data centers, micro-electronic circuit or semi-conductor manufacturing concerns or new housing projects outside of established municipal boundaries.

These constraints will be deleterious to Oregon's future well-being by denying the full character, function and sustainability of well-managed groundwater for a wide-array of beneficial purposes.

To resolve these problems, my District constituents request that the Department pause the rulemaking process to allow for additional time to develop more scientifically based methodologies. A proper evaluation of potential groundwater interactions with surface water will enable Oregon to meet our needs and the needs of future generations.

The National Environmental Protection Act of 1969 (NEPA) has long been categorized as a tool to protect endangered species and the environment. However, it is more than that and is more relevant now than ever before because it is our safeguard against government over-reach. Section 4331.B.2 requires that states "assure for all Americans safe, healthful, **productive**, and esthetically and culturally pleasing surroundings."

Therefore, I respectfully repeat my call to pause the current rule-making process for further scientific review and deeper analysis.

Sincerely,



Dennis Linthicum
OR State Senate – District 28