



**E. WERNER RESCHKE**  
STATE REPRESENTATIVE  
DISTRICT 55

13 June 2024

To: Ivan Gall, Director  
Oregon Water Resources Department

CC: Governor Tina Kotek  
Oregon Water Resources Commission

Subject: Concerns about OWRD Groundwater Rule Making

I write to share **several concerns** with the direction and implementation of proposed ground water rules by the Oregon Department of Water Resources.

First, the rule-making begins with the premise that OWRD does not have the authority to do what is necessary to meet its responsibilities for the people of Oregon. This premise dismisses the fact that the Department already has several tools at its disposal to meet its obligations. **I highly recommend a review** of such authorities and identify problems associated with the administration of such statutes before continuing down the path to create new, and rather significant administrative, rules.

Examples of such existing authorities include:

- ◆ Critical Ground Water authority
- ◆ Groundwater Limited Areas
- ◆ The Commission's authority of Order of Withdraw
- ◆ Serious water management problem areas

My second concern is that previous conversations with OWRD have disclosed that the newly proposed ground water rules would be prospective, and not impact current water users. **I strongly urge a clarification** of then rules, so that this fact is not an ambiguous but clear for all to understand.

Third, I do not appreciate the state-wide nature of the rules. Each water basin throughout the state is very different in nature. A state-wide, one-size-fits-all approach is the wrong way to meet Oregon's water needs. What is good for the Harney basin may very well be detrimental to the Klamath basin. This singular view ignores the facts on the ground (and under the ground).

Fourth, place-based planning has involved local experts and water users to solve complicated regional problems. Moving forward with the proposed rules negates much of the work achieved by these groups. Why not continue to work with these regional experts, whose livelihoods depends on an adequate and sustainable supply of water?

Finally, by law OWRD is required to consider multiple factors in its evaluation process. For instance, ORS 537.525 requires that the Department prioritize water for human consumption — a significant factor to ensuring sufficient housing for our residents, and a key goal of our Governor.

ORS 537.525 requires that the Department's policies ensure, "Adequate and safe supplies of ground water for human consumption be assured..." State Land Use Goal 9 requires cities to plan for adequate land and public services for economic growth opportunities over 20 years. Goal 10 requires cities to provide adequate housing. Goal 11 requires cities to provide services, including water serves and planning for long range public services.

OAR 690-005-0010 **requires state rules to consider and incorporate these factors** — "This rule establishes policies and procedures for assuring agencies compliance with statewide planning goals, assuring compatibility with local comprehensive plans; coordinating with local state and federal governments and special districts in land use matters...."

Yet looking at the rule-making documents, they merely give a head nod to these statutory requirements. There are only 3 or so sentences in the rules even attempting to answer these statutory mandates.

**How, then, does these proposed rules comply with the law?** Furthermore, doesn't neglecting these specific susses leave OWRD and this rule-making process open to future legal challenges?

Given the significant feedback and resistance to the proposed rules **I recommend not moving forward** and instead pursuing a regional approach to rule making, if any new rules are truly necessary.

Sincerely,



**E. WERNER RESCHKE**  
State Representative, HD 55  
*The Crater Lake District*