

June 11, 2024

Laura Hartt  
Oregon Water Resources Department  
725 Summer Street N.E., Suite A  
Salem, Oregon 97301

<[Laura.a.hartt@water.oregon.gov](mailto:Laura.a.hartt@water.oregon.gov)>

RE: Proposed Administrative Rules – Groundwater Allocation

The purpose of my letter is to reiterate several issues which I discussed at the public hearing on the proposed groundwater allocation rules held in Central Point on May 16, 2024.

I represent half of the Klamath basin and am acutely aware of controversies surrounding the use and management of our state's water resources. The sound, appropriate management of such resources is without question critical to the vitality of our state.

I am extremely concerned about what the new rulemaking will do in our basin. Considering the ongoing controversies surrounding water management within the Klamath basin, I fail to see how a new set of administrative rules governing groundwater regulation, applied on a statewide basis, is the most prudent course we may undertake. Conditions within our basin are unique in many regards from other basins throughout the state. The comprehensive application of the proposed rules fails to take into consideration the unique issues facing those who reside in the Klamath basin. Similarly, suggesting an application of these rules on a statewide basis does not take into consideration the very real differences between every geographical area of the state.

Opposing the statewide application of the proposed rules, I previously suggested the Department, in conjunction with the Commission, establish a pilot program within one or two basins of the state to allow for an evaluation of the efficacy of such rules.

In light of continuing questions surrounding the rules, I made an inquiry with the Department as to intent, specifically whether the proposed rules would impact existing groundwater wells or whether such rules would be designed to regulate future or prospective groundwater wells. I was informed by the Department that the intent of the rules would be to regulate future uses and would not extend to existing uses on a retroactive basis.

With this in mind, I strongly encourage the Department to thoroughly review the proposed rules and modify all provisions that may lack clarity as to the application of the rules.

Enhanced regulation of groundwater resources must take into consideration the unique conditions and circumstances surrounding a proposed individual withdrawal. A blanket approach to groundwater regulation woefully fails to recognize the various conditions associated with individual groundwater uses.

With respect to the construction of the administrative rules, I once again recommend separating the provisions of the proposed rules from existing administrative rules. This may be accomplished by establishing a new division within the rules and specifically stating such rules would extend to groundwater allocations on or after an effective date of the rules. I believe this would serve to eliminate future confusion over the ultimate intent of the rules. It may also serve to avoid unnecessary challenges and perhaps litigation over the intent of the rules.

While I recognize a considerable amount of time and effort has been expended during the current rulemaking process, I strongly encourage the Department, as well as the Commission, to not pursue the proposed administrative rules as currently drafted. Making a few changes, especially the specific division of the new to old, would put many people's minds at ease.

Thank you for your time and consideration in this process.

Blessings,

A handwritten signature in black ink, consisting of several overlapping loops and curves, enclosed within a roughly drawn oval shape.

Emily McIntire