WaterWatch of Oregon
Protecting Natural Flows In Oregon Rivers

Laura Hartt
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Sent by email to: WRD_DL_rule-coordinator@water.oregon.gov

June 14, 2024

RE: Groundwater Allocation Rulemaking Comments

Dear Ms. Hartt:

Thank you for the opportunity to comment on the Proposed Groundwater Allocation Rules (Proposed Rules). WaterWatch of Oregon (WaterWatch) is very supportive of the Proposed Rules. We thank the Oregon Water Resource Department (WRD) for its extensive work to draft rules that much better align with the protections in Oregon's 1955 Groundwater Act and ensure that groundwater is allocated more sustainably and in a manner that does not further injure senior water rights. The existing rules have injured senior surface water rights and allowed over-allocation of groundwater, contrary to statutory standards, resulting in extremely difficult problems across the state that require enormous expenditures of public funds to address. Adoption of the Proposed Rules is a critical step that will help prevent the creation of additional areas of over-allocation of groundwater across Oregon and better protect hydraulically connected surface water.

WaterWatch submitted a comment letter on June 11, 2024 to the Water Resources Commission that addresses several high level points and outlines the reasons for our support of the rules; that letter (Attachment A) together with this letter constitute our comments. This letter details suggestions for modest amendments to rule language to achieve the intended result, or where we urge additional safeguards to be added. These changes would create a more efficient process going forward as well as create more durable rules. The Proposed Rules are a major step forward, but making the corrections and additions below are critical to helping the state achieve success with the rule revision.

1. Amend *Proposed* OAR 690-300-0010(57)(e) to define "water is available" by including the relevant factors instead of the citations to definitions of substantial interference.

A critically important use of the standards now appearing in the definitions of "substantial interference," "potential for substantial interference," and interference with surface water, as those apply to new groundwater allocations, is their use in determining whether "Water is Available." We suggest the following amendment to simplify the definition of water availability for groundwater:

(57) "Water is Available," when used in OAR 690-310-0080, 690-310-0110 and 690-310-0130, means:
***
(e) The requested groundwater use will not deplete a surface water source with which the groundwater use has the Potential for Substantial Interference (OAR 690-009-0020(6)) and that:
(A) is already over-appropriated during any period of the year and is the source for a surface water right having a priority date senior to the priority date(s) of the groundwater appropriation(s); or
(B) is administratively or statutorily withdrawn with an effective date senior to the priority date(s) of the groundwater appropriation(s); or
(C) is restrictively classified with an effective date senior to the priority date(s) of the groundwater appropriation(s); or
(D) is the source for one or more existing surface water rights that have been regulated off due to insufficient supply to satisfy senior surface water rights and that have priority dates senior to the priority date(s) of the contributive groundwater appropriation(s) or is subject to a rotation agreement to address limited surface water supplies among surface water rights that have priority dates senior to the priority date(s) of the groundwater appropriation(s); or
(E) has a minimum perennial streamflow or instream water right that is unmet during any period of the year and has an effective date or priority date that is senior to the priority date(s) of the groundwater appropriation(s).; and

~~will not substantially interfere with existing rights to appropriate surface water, as per the definition of "substantial interference" in OAR 690-008-0001 and the rules governing groundwater interference with surface water in OAR 690-009-0010 through 0040; and ¶~~

Proposed OAR 690-300-0010(57)(e) with proposed additions shown in underline and proposed deletions shown in strikethrough. (Note: it does not seem necessary to cite OAR 690-009-0010 through 0040 here, but if so that citation could be added back.)

This amendment would retain the meaning already in the Proposed Rules, while simplifying the water availability analysis and avoiding unnecessary confusion and any problems arising from the cited definitions or the term "substantial interference," which seems extraneous and unnecessarily complicating in this definition. Simply putting the standards for when water will be found to be available into the definition also makes this comparable to how surface water availability is approached – if the surface water source is over-appropriated, a new proposed surface water application is not deemed "substantial interference" – it just results (no matter the size of the proposed use) in a finding of no water available.

2. *Proposed* OAR 690-009-0040(5) should be modified to clearly state (consistent with intent) that when certain conditions are met, there *will* be a finding that water is not available for the proposed use.

The Proposed Rules state:

> "For the purposes of issuing a permit or limited license for a proposed groundwater use, a finding of potential for substantial interference with a surface water source ***may*** mean that water is not available for the proposed groundwater use if the use will substantially interfere with a surface water source as per the definition in OAR 690-008-0001 and OAR 690-300-0010."

Proposed OAR 690-009-0040(5) (emphasis added).[1] The intent of this provision is to replace, for new groundwater allocations, the existing Division 9 language that failed to account for the full impacts of groundwater pumping on surface waters, in contravention of the prior appropriation doctrine, and to require denial where proposed groundwater pumping would substantially interfere with surface water. However, the use of the word "may" is inconsistent with WRD's intent and with the prior appropriation doctrine, because it makes it appear that a

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[1] For reference, *Proposed* OAR 690-008-0001 contains the following definition for substantial interference regarding connection to surface water:

> (10) "Substantial interference", "substantially interfere", "undue interference", or "unduly interfere" means the spreading of the cone of depression of a well to intersect a surface water source or another well, or the reduction of the groundwater levels as a result of pumping or otherwise extracting groundwater from an aquifer, which contributes to:
> (a) Depletion of a surface water source with which the groundwater use has the Potential for Substantial Interference (OAR 690-009-0020(6)) and that:
> (A) is already over-appropriated during any period of the year and is the source for a surface water right having a priority date senior to the priority date(s) of the groundwater appropriation(s); or
> (B) administratively or statutorily withdrawn with an effective date senior to the priority date(s) of the groundwater appropriation(s); or
> (C) is restrictively classified with an effective date senior to the priority date(s) of the groundwater appropriation(s); or
> (D) is the source for one or more existing surface water rights that have been regulated off due to insufficient supply to satisfy senior surface water rights and that have priority dates senior to the priority date(s) of the contributive groundwater appropriation(s) or is subject to a rotation agreement to address limited surface water supplies among surface water rights that have priority dates senior to the priority date(s) of the groundwater appropriation(s); or
> (E) has a minimum perennial streamflow or instream water right that is unmet during any period of the year and has an effective date or priority date that is senior to the priority date(s) of the ground water appropriation(s).

Proposed OAR 690-008-0001(10)(a).

In relevant part, *Proposed* OAR 690-300-0010 defines when water is available for groundwater as:

> (57) "Water is Available," when used in OAR 690-310-0080, 690-310-0110 and 690-310-0130, means:
> * * *
> (d) The requested groundwater source exhibits reasonably stable groundwater levels, as defined in OAR 690-008-0001; and
> (e) The requested groundwater use will not substantially interfere with existing rights to appropriate surface water, as per the definition of "substantial interference" in OAR 690-008-0001 and the rules governing groundwater interference with surface water in OAR 690-009-0010 through 0040; and
> (f) The total requested rate of groundwater allocation is obtainable by the expected yield of the well(s) proposed in the application given best available information.

permit could be issued despite substantial interference and no water available. If there is a finding of substantial interference or of no water available for a proposed groundwater use, then the application must be denied and that needs to be clearly stated in the rules. This clarity will make processing application much more efficient. We propose that this problem be fixed, and the language made more clear, as follows:

> "For the purposes of issuing a permit or limited license for a proposed groundwater use, a finding of potential for substantial interference with a surface water source per the definition in OAR 690-008-0001 or a determination that water is not available per the definition in OAR 690-300-0010 ~~may~~ will mean that water is not available for the proposed groundwater use and the application will be denied. ~~if the use will substantially interfere with a surface water source as per the definition in OAR 690-008-0001 and OAR 690-300-0010.~~"

Proposed OAR 690-009-0040(5)) with proposed additions shown in underline and deletions shown in strikethrough.

3. The Proposed Rules should be amended to add an appropriation size limit when a permit is issued in an area lacking data and lacking other groundwater appropriations.

Proposed OAR 690-008-0001(9) defines "Reasonably Stable Groundwater Levels" and specifies the amount and type of data needed to make the determination. The Proposed rules further allow that if adequate data do not exist, but there has been no groundwater extracted or authorized for extraction in the groundwater reservoir, the Department may presume that groundwater levels are reasonably stable:

> "If water level data are insufficient to perform either test in (a) for a given year, then the Department will presume that groundwater levels are not reasonable stable unless:
> (A) the most recent evaluation of reasonably stable applies to a year within 5 years of the given year, in which case the Department may presume that the recent evaluation still applies; or
> (B) *groundwater has not yet been extracted or authorized for extraction from the groundwater reservoir, in which case the Department may presume that groundwater levels are reasonably stable*."

Proposed OAR 690-008-0001(9)(A)(b) (emphasis added). While we understand WRD's rationale for including (B), it's clear that a size limit to the exemption needs to be added in the rules. For example, a recent groundwater permit application in an arid area in SE Oregon approached 18 cfs. It would not be reasonable, nor responsible, to allow such a large groundwater permit to be issued under an assumption—based on no data—that the groundwater levles are reasonable stable. We request the following addition shown in underline:

> "If water level data are insufficient to perform either test in (a) for a given year, then the Department will presume that groundwater levels are not reasonable stable unless:

(A) the most recent evaluation of reasonably stable applies to a year within 5 years of the given year, in which case the Department may presume that the recent evaluation still applies; or

(B) groundwater has not yet been extracted or authorized for extraction from the groundwater reservoir, and the application is for an annual volume not to exceed 150 acre-feet, in which case the Department may presume that groundwater levels are reasonably stable."

Proposed OAR 690-008-0001(9)(A)(b) with proposed addition shown in underline. This would provide for a first groundwater application to be issued and facilitate groundwater level data collection, while also protecting the resource against catastrophically large new groundwater development in areas where data is lacking.

4. The Proposed Rules should be amended to add limits for new groundwater permits that can be approved as groundwater levels approach the 25' decline limit.

The Proposed Rules define Reasonably Stable Groundwater Levels to mean, in part, "have not declined by more than 25 feet" from a described reference level. *Proposed* OAR 690-008-0001(9)(B).[2] In turn, *Proposed* OAR 690-300-0010(57)(d) states that water is available for a new groundwater use if, in part, the groundwater source exhibits reasonably groundwater levels per that definition.

We request that an annual limit be added to the volume of pumping authorized under new permits issued as the groundwater level nears the 25' decline level. This is because a glut of permits, or even a few large permits, issued as 25' is approached would run a high risk of causing declines to dip well below 25', which would result in groundwater levels being not be reasonably stable. Limiting the amount of new pumping authorized each year could also help ensure we know what the incremental impact is on groundwater level before over-issuing additional permits. It would be prudent, as a 25' decline is approached, to limit issuance of new permits to 150 acre-feet annually.

This could be done in a few different places; we suggest the following amendment or similar:

"(57) "Water is Available," when used in OAR 690-310-0080, 690-310-0110 and 690-310-0130, means:

(d) The requested groundwater source exhibits reasonably stable groundwater levels, as defined in OAR 690-008-0001, and if there has been a total groundwater level decline of 22 feet or more, as determined consistent with OAR 690-008-0001, then the proposed use will not result in the cumulative annual authorization of new groundwater allocations exceeding 150 acre-feet; and ¶"

Proposed OAR 690-300-0010(57)(d) with proposed addition shown in underline. The numbers could be amended, or the limits described in another way. Again, this concept is important to

[2] There appears to be an issue with the lettering of subsections in OAR 690-008-0001.

incorporate to avoid a "run on the bank" situation as a groundwater level decline approaches 25' and we request this or similar language be added.

5. The important "considerations" in the basin program rule option must be retained and strengthened.

As highlighted in our June 11, 2024 letter (attached), the sideboard considerations in *Proposed* OAR 690-008-0001(9)(d) for a basin specific approach to defining reasonably stable are important to retain and should be strengthened. As a matter of administrative law, any basin specific rules must be consistent with the 1955 Groundwater Act and thus the sideboard considerations should be written to ensure that consistency. We fully support requiring consideration of the three listed factors, but suggest they could be strengthened by making clear that adequately addressing impacts on each of these factors is a requirement of any basin specific approach.

6. Evaluate and consider adding language regarding new and amended definitions.

We suggest reviewing each of the Proposed Rules' new or amended definitions for potential unintended effects on the implementation of statutes and rules pertaining to other than the new groundwater allocation. For instance, review for use of those terms in regulation of existing groundwater uses, Critical Groundwater Area statutes, Division 10 rules, *Proposed* Division 8 definition of Declined Excessively, etc. If unintended effects are identified, consider language clarifying that the new or amended definition only applies to allocations of new groundwater (e.g. new permit applications, limited license applications). Consider determining whether existing definitions could be retained for application outside of new groundwater allocation and/or addressed in separate, narrow rulemaking.

7. Conduct a review of protections for groundwater dependent ecosystems in the groundwater allocation rules to determine needs and opportunities to improve protection of groundwater dependent ecosystems.

The Proposed Rules offer important improvements for protecting groundwater dependent ecosystems (GDEs) through addressing impacts to streams under certain circumstances and better controlling reductions in groundwater levels, which work together with other relevant reviews in rules not included in this rulemaking. In light of the importance of GDEs across Oregon, we believe further work to improve protections for GDEs is warranted. We suggest that, in the coming year or two, WRD, with the assistance of experts in this field, conduct a review of the groundwater allocations rules to determine needs and opportunities to better protect GDEs. GDEs, utilizing a RAC with appropriate expertise. To be clear, we *do not* advocate delaying adoption of the Proposed Rules to undertake this endeavor, but do want to flag this as an item likely needing additional attention.

In conclusion, we commend WRD for undertaking this long-overdue rulemaking to correct course, using science and data, to more sustainably allocate the critically important resource of groundwater. We appreciate the thought, analysis, and exhaustive public process that went into developing the Proposed Rules. While the Proposed Rules could be more protective in some

areas, as described above, WaterWatch is very supportive of the Proposed Rules because of the significant benefit they will provide for Oregon's water future.

Sincerely,

/S/Lisa A. Brown

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Attachment: WaterWatch 6-11-2024 letter RE: WRC Agenda Item K - Groundwater Allocation Rulemaking (6-14-2024)

WaterWatch of Oregon
Protecting Natural Flows In Oregon Rivers

Oregon Water Resources Commission
725 Summer St. NE, STE A
Salem, OR 97301
Sent via email to: Mindy Lane, Mindy.J.LANE@water.oregon.gov

June 11, 2024

RE: WRC Agenda Item K - Groundwater Allocation Rulemaking (6-14-2024)

Dear Chair Quaempts and members of the Commission:

Thank you for the opportunity to comment on the critically important proposed Groundwater Allocation Rules (Proposed Rules). WaterWatch was a member of the Groundwater Allocation RAC. We have provided comment to the Commission a few times previously in support of the rulemaking. WaterWatch is very supportive of the Proposed Rules and appreciative of the OWRD's thoughtful, in-depth work and robust public engagement that went into developing the Proposed Rules.

WaterWatch will be submitting a detailed comment letter to the rules coordinator, including proposed language to add clarity to certain provisions and to advocate for strengthening certain resource protections, but writes here to express our support for the Proposed Rules, address a few specific issues, and urge your support.

Testimony from the public rulemaking process needs to be utilized and considered

As you are likely aware, there were four public rulemaking hearings held around the state in April and May, and a written comment period that closes June 14th. A great many people offered thoughtful and compelling oral testimony at the hearings in support of the Proposed Rules. This was the official public rulemaking process and we urge the Commission to watch the testimony, which is available on OWRD's Groundwater Allocation webpage. This includes testimony from an April 4th hearing in Bend, which included local people and organizations testifying in support of the rules and the central Oregon municipal interests sharing their perspectives. Comments in support of the rules outnumbered comments of concern at the April 4th Bend hearing. Many additional thoughtful comments in support were voiced at the May 21st hearing in Salem, which included an option to testify virtually and support for the rules was voiced at each of the four hearings. We flag this because it would be an unfair and unbalanced process if the added opportunity to comment directly to the Commission on June 14th erased, or undermined, all of the effort that went into testifying during the original, official rulemaking hearings. We similarly urge full consideration of the comments that will be submitted by the June 14th deadline.

Key reasons WaterWatch supports the Proposed Rules

- **Alignment with Oregon's 1955 Groundwater Act (ORS 537.505 *et seq.*)**

The Proposed Rules would align with statute. The existing rules, in contrast, do not align with statute as demonstrated, for example, by the plummeting groundwater levels in places like the Harney Basin caused

by over-issuance of groundwater permits, and the fact that the existing permitting process fails to protect senior water rights from injury caused by pumping. Importantly, the Proposed Rules define and maintain (with regard to new allocations) reasonably stable groundwater levels, better protect groundwater use for human consumption, better protect senior water rights (including instream water rights), and would limit issuance of new permits to when water is available for the use.

- **Science-based and data-driven.**

The proposed Division 9 rules related to pumping affecting streamflow are consistent with the best available science in Oregon and beyond. Within Oregon, groundwater studies by the U.S. Geological Survey (USGS), in cooperation with OWRD, in major basins like the Klamath, Deschutes, Willamette, and Harney demonstrate the influence of groundwater pumping on streams. Recent nationwide studies across the United States also provide evidence for pervasive impacts to streamflow due to groundwater pumping. Further, the proposed Division 8 rules defining "reasonably stable" are based on an OWRD analysis of thousands of groundwater levels across the state that was peer reviewed by USGS. The 'dynamically stable' concept applied in the rules uses groundwater level trends to determine sustainability, which is a modern and up-to-date approach also supported by recent studies.

- **Implements a "Default to No" approach to avoid over-allocation where data is lacking.**

The Proposed Rules reverse OWRD's decades-long damaging "Default to Yes" approach, whereby when reviewing a groundwater permit application, if data was lacking to determine whether groundwater was already over-allocated, the permit would be issued. This "Default to Yes" approach led directly, most recently, to the extremely challenging (and expensive) groundwater over-allocation problem in the Harney Basin. In contrast, the Proposed Rules establish the type and amount of data needed to determine whether groundwater levels are reasonably stable, and then change the default so that a lack of data will result in denial, or "Default to No." This is a major and critically important change.

- **Implements a significantly more robust protection for senior rights on hydraulically connected surface water.**

For decades, the existing rules have resulted in issuance of groundwater permits that have reduced streamflows and injured senior surface water rights, in contravention of the Groundwater Act and the foundation of prior appropriation. This is because the existing Division 9 rules only require consideration of a fraction of the pumping impacts. The Proposed Rules remedy this by requiring full accounting of the impacts of proposed pumping on hydraulically connected surface water, combined with consideration of whether the surface water is over-appropriated, or withdrawn, in determining whether to issue a new groundwater right.

- **Important security for existing domestic well users.**

Many people in rural areas of Oregon rely on exempt domestic wells to provide drinking and household water. While exempt wells can pose their own problems in certain contexts, jeopardizing access to drinking water for existing domestic well owners by over-allocating groundwater to other junior uses is clearly problematic. It should be noted that simply drilling domestic wells deeper is not always workable due to water quality problems that can be encountered at increasing depths. Further, there is a significant expense associated with deepening domestic wells. The Proposed Rules' implementation of the 1955

Groundwater Act's requirement to determine and maintain, with regard to new allocations, "reasonably stable" groundwater levels will provide important security for this drinking water source.

Specific Comments (again, WaterWatch will be submitting detailed comments on the rules but we wanted to highlight a few important things to the Commission in advance of the Bend Commission meeting):

1. The 'considerations' in the basin specific rule option should be retained and strengthened.

The Proposed Rules allows for a basin specific approach to defining and applying the statutory term "reasonably stable" groundwater levels. Specifically, the rules state:

> "The limits in part (a) of this definition may be superseded by limits defined in a basin program rule adopted pursuant to the Commission's authority in ORS 536.300 and 536.310. Any proposed superseding basin program definition *must consider*, at a minimum, the anticipated impacts of the new definition on:
> (A) the number of wells that may go dry; and
> (B) the character and function of springs and groundwater dependent ecosystems; and
> (C) the long term, efficient, and sustainable use of ground water for multiple beneficial purposes."

Proposed OAR 690-008-0001(9)(d) (emphasis added). These are common-sense considerations that are important to Oregonians *and* that are consistent with the 1955 Groundwater Act. Further, there is certainly nothing unworkable or burdensome about 'considering' the impacts of a basin rule definition on these factors. OWRD included the basin specific rules option to address concerns raised by certain water user groups in the RAC about basin specific hydrology, resulting in flexible Proposed Rules.

While the Proposed Rules rightly require that basin rules consider the impact of any new definition on these factors, we note that these factors closely link to requirements of the 1955 Groundwater Act that must be met. We therefore suggest that, not only is it critically important to retain these considerations, but that including stronger sideboard requirements for the basin specific option would help ensure transparency and alignment with the statute. This would also help support stronger basin rules that better meet the needs of all interests.

We also note that while the basin rule option offers local flexibility, the Proposed Rules already account for variations in hydrogeology and hydrology across the state, because those are part of what drives the groundwater levels, groundwater level trends, and hydraulic connection to surface water that are required to be considered in the permitting process contained in the Proposed Rules.

2. The Proposed Rules implement important pieces of the Integrated Water Resources Strategy.

The 2017 Integrated Water Resources Strategy (IWRS) calls on the state to "Develop Additional Groundwater Protections" (Recommended Action 11.D). This recommendation expands upon a number of needed actions identified in the 2012 IWRS, including a call for the protection of groundwater in the regulatory and permitting processes (2012 IWRS actions 10F,10G). The Proposed Rules bring agency practices into alignment not only with statutory directives, but also with the recommendations in the IWRS.

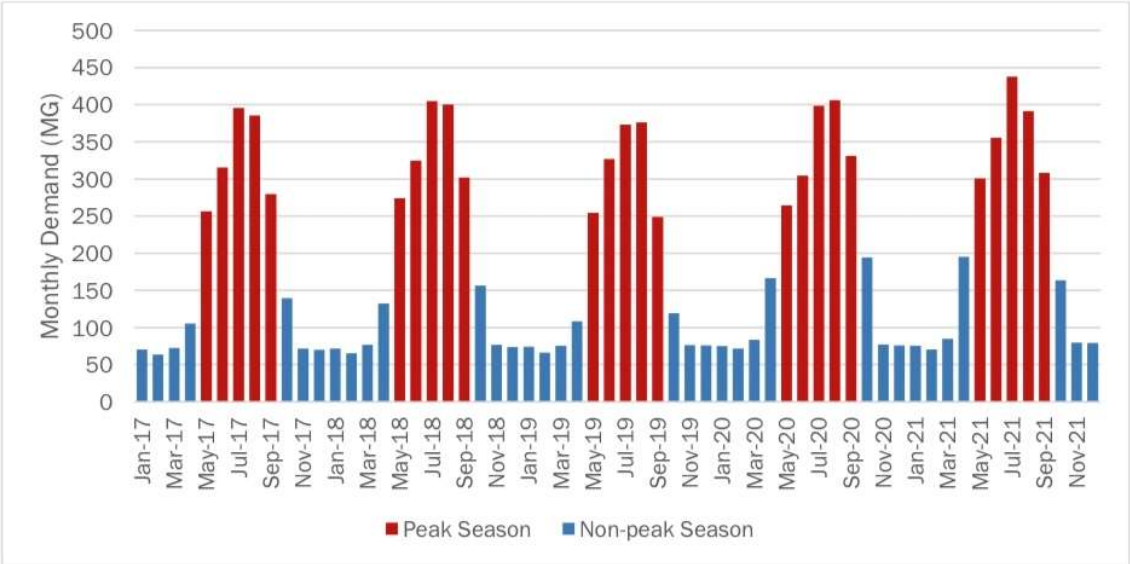
3. Cities have the water rights and tools to work within the Proposed Rules to meet reasonable water needs including providing additional housing.

A full discussion of cities' water data is beyond the scope here, but claims that the Proposed Rules' science-based, sustainable groundwater permitting approach would conflict with developing additional housing or meeting cities' water needs do not appear supported by data.

As an example, below is information from the 2022 City of Redmond Water Management and Conservation Plan (WMCP). It is important to note that **currently, the city's average daily demand is only about 25% of its already permitted water rights, and by 2043 the city projects that average daily demand will still be well under 50% of its permitted water rights.** (City of Redmond WMCP, p. 5-5).

"Exhibit 2-6 shows total monthly demand, with the peak season of May through September in red and the non-peak season in blue. The average monthly demand was 337 MG during the peak season and 95 MG during the non-peak season. The MMD averaged 404 MG and these peaks occurred in July (2017, 2018, and 2021) and August (2019 and 2020)."

Exhibit 2-6. Monthly and Seasonal Demand, 2017 through 2021

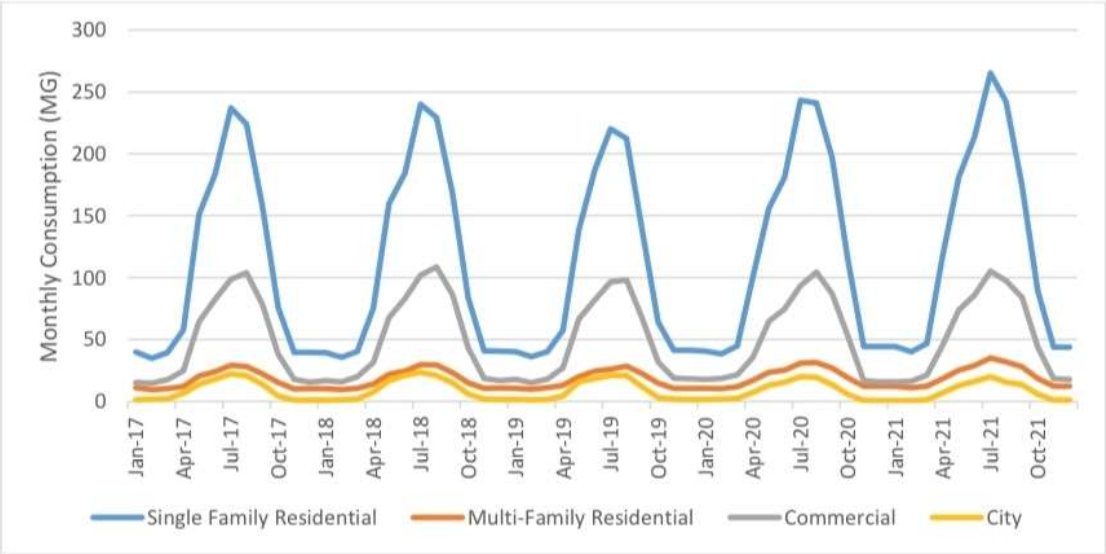


Source: City of Redmond WMCP, Prepared by GSI Water Solutions, Inc., September, 2022 (p. 2-9).

On Figure 2-6, the red bars show the dramatic increase in water use due to outdoor summer water use (e.g. lawn watering and landscape watering). The graph shows that it is *not* household use driving water demand – it is strictly peak summer use driven by outdoor watering. The current water use could support water for far more households by addressing the high peak summer use, for example though better conservation practices including but not limited to landscaping that is more adapted for the amount of water naturally available during the summer months.

To examine this further, Exhibit 2-11 (also from the City of Redmond WMCP), shows how water use for multi-family residential use (shown in orange) is much more flat year round and does not contain the large outdoor water use peak currently associated with single family homes (shown in blue). There appears ample room for conservation practices to free up water needed for additional multi-family housing, or any housing not entailing extensive outdoor watering.

Exhibit 2-11. Monthly Consumption by Customer Category, 2017 through 2021



Source: City of Redmond Water Management and Conservation Plan, Prepared by GSI Water Solutions, Inc., September, 2022 (p. 2-12).

The City of Redmond WMCP also provided this analysis:

> "Average monthly peak season water use in 2021 was 3.5 times higher than non-peak season water use for single-family residential connections (due to outdoor landscape watering associated primarily with large residential lots), down from 4.1 times higher in 2017. In addition to the City's water conservation outreach activities, this reduction is likely attributable to a reduction in average lot sizes for single family homes driven by changes in zoning and real estate market dynamics. Average monthly peak season water use for multi-family water service connections is consistently 2.2 times higher than nonpeak season water use. The 2021 multipliers for commercial and City water use were 3.5 and 6.3, respectively.
>
> These ratios suggest that conservation efforts focused on reducing outdoor use by single-family homes and certain commercial customers with large landscape water use, may help to address peak-season demand (see Exhibit 2-10)."

(P. 2-11). This analysis highlights opportunities to provide additional water that could be directed to additional housing through bringing down "outdoor landscape watering associated primarily with large residential lots."

The City of Redmond WMCP also provides other data that highlight water saving opportunities, including a "Maximum Operational Demand," which adds a significant peak to the maximum day demand caused by people turning on their outdoor watering during the same hours each day. (P. 5-3 to 5-5). Addressing that peak, for example with scheduling or reducing outdoor use, or in-city water tanks, could instead provide water for housing.

Finally, the population of City of Redmond was 37,342 in 2022, which the city projects will increase to 56,810 by 2043. (City of Redmond WMCP, p. 5-1). The Mayor of Redmond recently stated: "We have

enough water rights that we acquired over the last 20 years to meet a population of 75,000 people." (Redmond Spokesman, *State signals it's likely to deny Redmond's application for future groundwater*, October 16, 2023.) This means City of Redmond is many decades away from needing additional water, if ever, providing ample time to apply modern techniques, programs and transactions, such as implementing lawn watering schedules or restrictions and prioritizing xeriscaping – in order to sustainably meet the city's needs without causing added groundwater declines.

Further, there are many additional tools, such as water right transfers, water reuse, infrastructure improvements to bring down peak use (*e.g.* in-city water tanks), and the Conserved Water Act, that can all contribute to ensuring robust water supplies for the cities in a sustainable manner.

In sum, any statements that cities must be allowed to acquire additional new groundwater permits need to be objectively evaluated with available data, including data provided in the cities' WMCPs. Reviewing City of Redmond's WMCP, for instance, shows that there is ample opportunity to provide water for a great deal of additional housing, including by addressing the pattern of water use; that it is not household use driving peak water demand; and that the city's existing water rights provide for a long horizon to develop sustainable strategies.

Conclusion

Thank you for the opportunity to comment and for your continued work on this critically important issue. As noted above, we will be filing additional detailed comments to the rule coordinator. While the Proposed Rules could be more protective in some areas, WaterWatch is very supportive of the Proposed Rules because of the significant benefit they will provide for Oregon's water future and we therefore urge your support. We commend Oregon for taking this long-overdue action to correct course, using science and data, to more sustainably allocate the critically important resource of groundwater. We look forward to seeing rules adopted at your September meeting.

Sincerely,

/S/Lisa A. Brown

Lisa A. Brown
Staff Attorney
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