

May 30, 2024

Comments Submitted for Groundwater Rulemaking

To: Ms. Laura Hartt
Water Policy Analyst/Rules Coordinator, Policy Section
Oregon Water Resources Department

From: Mr. and Mrs. Tim Gilmer
Small farm owners, Oregon City-Canby area

Dear Ms. Hartt,

I am a 79-year-old small farm owner who purchased 27 acres of EFU property in Clackamas County in 1980. The property has a long agricultural history dating back to at least 1881, when a pioneer family bought this parcel from the original 1866 land-grant owners. An old barn built in the 1880s is still usable and in relatively good shape. The existing two-story farmhouse was built in 1913 after the original house burned down. It had been farmed as a dairy, flax farm, corn, strawberries, and small cattle operation prior to my purchasing the property. It has a surface water right to a creek that borders the property with a priority date in 1957.

In 1981 my wife and I bought heifers, cow-calf pairs and a bull in building a small herd. In 1982 we started a U-Pick operation on about $\frac{3}{4}$ acre near the barn. Not knowing that a permit was needed to use the existing well, I irrigated with drip irrigation, mostly on tomatoes. We expanded to deliver produce to restaurants in the Portland metro area starting in 1983. We were among a small number of pioneers in the farm-to-table movement in the Portland metro area. We raised fresh vegetables on about 6 acres and delivered them to, at one time, as many as 30 different accounts. Besides drip-irrigating from the well, we also pumped from the creek, using sprinklers for watering lettuce and pastures. We sold a prize bull at the Cow Palace. We were young and active and busy, enjoying the lifestyle of an efficient small farm operation, using a combination of pumping water from Parrott Creek and the existing well.

In 1990 we made the change to organic farming, since this was especially important to our customer base. We were certified organic by OTCO from 1996 to 2020. As you no doubt know, organic farming is best irrigated with groundwater, since surface creeks and ponds, etc., are subject to pesticide contamination from neighboring farm runoff and animal feces. So I cut back on irrigating from the creek in favor of using clean and safe water. I used the creek water for seasonal pasture, and the well for food crops. Organic farming was especially important since our produce was delivered directly to restaurants and markets and U-Pick customers, and we also had a toddler, workers, and ourselves to consider. At some point we sold our herd and concentrated entirely on raising organic produce. In 2010 our farm was featured on a PBS award-winning educational program, "Chefs A'Field."

In 2017 I became ill and gave up farming actively in favor of leasing the farm acreage to others. In 2018, 2019 and 2020 we leased to a hemp farmer who grew organically on 9 acres, all drip-irrigated. He was registered with OTCO and the ODA as a hemp grower and followed all the rules. In 2021 we leased to a different hemp grower who placed 40 California-style greenhouses on a 6-acre pasture. Once again the entire operation was irrigated with drip irrigation. I encouraged the growers to pump from the creek into holding tanks in addition to the well.

In 2022, that hemp operator left, and we leased to a a trio of new growers who wanted to grow hops. They established a small hopyard of 3 acres with plans to build out to 9 acres. Once again, drip irrigation was the sole source of irrigation.

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In April of this year the hops-grower renters read an article about Oregon Water Resources' plans to enforce strict permitting on water wells used for commercial purposes. Up to this point, neither they nor I had been aware that a separate permit was needed for groundwater. When I purchased the farm, I was told it had water rights. The owner at that time had an underground water line that begins with the well and covers between 5-10 acres of the property. To me, since I had purchased a property that was strictly EFU, I assumed that I had a right to use whatever water sources existed on the property for agricultural purposes.

Now I am being told that the only way I can go forward with small-scale commercial farming (suitable for drip irrigating organic crops) is to get a permit for the well, which an employee at OWRD has informed me will take 2 years, maybe more, cost thousands of dollars, and may not even be approved. I looked into transferring a percentage of the surface right to the existing well but was discouraged by a hydrogeologist who thought it would not qualify according to current rules.

As a consequence of this, the hops farmers have decided to call it quits. They will lose more than \$100,000 of their investment, and my wife and I will lose several years of annual rent that is important to us, our daughter and four grandsons. Plus, the value of the farm will diminish. The farm rent is second only to our combined social security pensions. The loss of the hops lease — a 5-10-year agreement — could mean we have to sell the property and move.

As I stated earlier, I am 79. My wife is 75. In 2016 we had to move our daughter and her family to the farm and provide a manufactured home, water, septic and electricity from our life savings. This was done under Clackamas County's Temporary Dwelling for Care program, since I am wheelchair-bound, sleep in a hospital bed, and need more help than my wife can provide. Our daughter's oldest child, our grandson, 15, now lives with us. His three younger brothers live on the farm with our daughter and her husband in the manufactured home. When I die, or if my wife and I have to sell and move, the temporary dwelling must be removed from the property. All eight of us will be displaced.

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If there are no exemptions or waivers that recognize the right to farm a property with a 150-year history of farming, and which has been farmed for more than 40 years with water-conserving measures, then what does that say about the future of small family farms? I have been aware of the importance of water conservation for most of my life, since I was born and raised in California's southern San Joaquin Valley, near Bakersfield, which had annual rainfall of 2-3 inches/yr and declining groundwater. I agree that Oregon needs better water conservation rules and enforcement. But a one-size-fits-all approach to achieve this is not only unfair; it is also unwise. Small farms are critical to the survival of rural towns and metropolitan areas. Organic growing is good for the land, and using groundwater for drip-irrigated organic crops, or any crops, is sound water policy.

At one time we had beavers living on our property in the creek area. Their activity slowed the creek down and created pools in the hot summer season when water levels were low. We all know how beneficial beavers are when we protect our important trees with circular fencing. However, neighbors upstream started trapping, and now the beavers are no more. But they could be re-introduced to conserve riparian habitat, and I am willing to do that, with help. In some parts of the state, recharging aquifers could help substantially. Near arid Bakersfield, I have seen positive results from the use of settling ponds.

The most wasteful use of our water resources happens within city limits, not on farms. Businesses and homeowners routinely use automated sprinkler systems that are tied to brainless timers rather than a person with common sense. We do a great job of routinely watering sidewalks, parking lots and pavement, sometimes even during periods of rain. Homeowners compete with each other to have the greenest pesticide-fed, weed-free lawns, while farmers are forced to cut back on water use that produces critical food and fiber.

I propose that waivers be granted to longtime owners and small farmers who willingly take action to support riparian conservation and use sound water-conserving methods such as drip and low-flow irrigation. An expansion of dedicated grant funding would go a long way to support this approach. Not only will this save water, but it will also preserve an important lifestyle and a system of local food production that enhances quality of life and has minimal impact on global warming. Please take into consideration all kinds of farming and water use, especially with regard to small farms, which already operate at an economic disadvantage. Make rules that are fair to all, sensible, and that work with natural ways of mitigation, not solely strict policy.

I trust you will not throw the baby out with the bath water.

Sincerely,

Tim and Sam (wife) Gilmer
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