

June 11, 2024

To: Oregon Water Resources Commission

Submitted by: Zach Freed, Sustainable Water Program Director

Comments on Agenda Item K: **Groundwater Allocation Rulemaking Update**

Chair Quaempts and Members of the Commission,

Thank you for the opportunity to comment on the proposed rule changes to Division 8, 9, 300, and 410. **The Nature Conservancy urges you to adopt the proposed Groundwater Allocation Rules to prevent further over-allocation of Oregon's aquifers.**

The Nature Conservancy (TNC) is a science-based, non-partisan organization committed to conserving the lands and waters on which all life depends. In Oregon, TNC has over 80,000 supporters and members in every county. Based in communities around the state, we manage lands and waters in varied ecosystems and partner with ranchers, farmers, fishers, forest and environmental interests on some of the most challenging conservation issues facing people and nature.

We support the proposed rules. We believe they meet the Oregon Water Resources Department's rulemaking objective to **"be more sustainable and protective of existing water right holders."** There is abundant evidence that the existing allocation rules lead to aquifer depletion, streamflow reduction in over-appropriated rivers, and reduced access to drinking water for rural communities that rely on domestic wells. Oregon is already experiencing the impacts of over-allocation on declining groundwater levels, demonstrated by multiple statewide analyses^[1,2,3] and place-based studies in the Willamette⁴, Deschutes⁵, Klamath⁶, and Harney⁷ basins. A recent report by the Oregon Secretary of State⁸ noted the impact of dry wells and water scarcity on families, farmers, industry, and recreation.

¹ Saito, L., Freed, Z., Byer, S., & Schindel, M. 2022. The vulnerability of springs and phreatophyte communities to groundwater level declines in Oregon and Nevada, 2002-2021. *Frontiers in Environmental Science* 10:1007114.

² Scandella, B., & Iverson, J. 2021. Oregon groundwater resource concerns assessment. Oregon Water Resources Department, Salem, OR.

³ New York Times. 2023. Uncharted Waters: America is Using Up Its Groundwater Like There is No Tomorrow. Available at: <https://www.nytimes.com/interactive/2023/08/28/climate/groundwater-drying-climate-change.html>

⁴ Conlon, T.D., et al. 2005. Ground-Water Hydrology of the Willamette Basin, Oregon. USGS SIR 2005-5168.

⁵ Gannett, M.W., et al. 2001. Ground-Water Hydrology of the Upper Deschutes Basin, Oregon. USGS SIR 2000-4162.

⁶ Gannett, M.W., et al. 2007. Ground-Water Hydrology of the Upper Klamath Basin, Oregon and California. USGS SIR 2007-5050.

⁷ Gingerich, S.B., et al. 2022. Groundwater resources of the Harney Basin, southeastern Oregon. USGS SIR 2021-5103.

⁸ Oregon Secretary of State. 2023. Advisory Report: State leadership must take action to protect water security for all Oregonians. Report 2023-04.

The proposed approach to defining “reasonably stable” water levels is consistent with the most modern science on groundwater sustainability^{9,10}. Unlike outdated methods—such as “water budget” approaches with inaccurate volumetric estimates of recharge and discharge—the proposed rules use groundwater level trends as the key indicator of sustainability. While groundwater levels may fluctuate for other reasons (e.g., reducing recharge due to canal lining), the proposed rules allow for discretion by the Department to account for those fluctuations using the best available data¹¹.

The proposed rules are well-aligned with Oregon’s Integrated Water Resources Strategy, which identifies sustainable groundwater management a statewide priority and suggests Recommended Action 11.E: Develop Additional Groundwater Protections¹². Although the existing and proposed rules governing groundwater allocations are statewide in scope, there are processes already in place to help address regionally-specific groundwater concerns. To address concerns from stakeholders, the proposed rules allow for basin-specific definitions to be developed, as long as the basin-specific definitions consider impacts to wells, ecosystems, and long-sustainability of the resources¹¹. These common-sense considerations will ensure that basin-specific definitions are consistent with priorities in Oregon’s Integrated Water Resources Strategy and aligned with the mission of Oregon Water Resources Department “**to ensure the long-term sustainability of Oregon’s ecosystems, economy, and quality of life.**” The proposed rules are also compatible with current and future Place-Based Integrated Water Planning processes. That includes the pilot Place-Based Integrated Water Planning collaborative in the Harney Basin intended to address the consequences of groundwater over-allocation.

The Nature Conservancy supports the proposed rules because they meet the stated objective of the rulemaking: protecting existing water rights and sustainably managing Oregon’s finite water resources. We urge the Commission to adopt the proposed rules to avoid further over-allocation of Oregon’s aquifers.

Thank you for considering The Nature Conservancy’s comments.

⁹ Gleeson, T., et al. 2020. Global groundwater sustainability, resources, and systems in the Anthropocene. *Ann. Rev. Earth Sci.* 48: 431-463.

¹⁰ Cuthbert, M.O., et al. 2023. Defining renewable groundwater use and its relevance to sustainable groundwater management. *Water Resources Research* 59(9).

¹¹ Proposed rule: 690-008-0010(9)(d)

¹² Mucken, A., and Bateman, B. 2017. Oregon’s 2017 Integrated Water Resources Strategy. Oregon Water Resources Department. Salem, OR.