

This Groundwater Technical Review and the included analysis help inform the Water Rights Section's review of whether the proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525 and ORS 537.621. The Water Rights Section also considers other information sources when making its public interest determination, including watermaster input, any comments received, input from other agencies, other Commission rules not evaluated as part of the Groundwater Review, and other information.

PUBLIC INTEREST TECHNICAL REVIEW FOR GROUNDWATER APPLICATIONS

TO: Water Rights Section Date: 8/25/2025
FROM: Groundwater Section Steve Ahlquist
Reviewer's Name
SUBJECT: Application LL - 2004 Supersedes review of N/A

Date Reviewed by GW Mgr. and Returned to WRSD: JTI 10/21/25

PUBLIC INTEREST PRESUMPTION: GROUNDWATER

OAR 690-310-0130 (1): The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525 if

(a) The proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12);

(b) Water is available;

(c) The proposed use will not injure other water rights; and

(d) The proposed use complies with the rules of the Commission.

Department staff review groundwater applications under OAR 690-310-0140 to determine whether the presumption is established and may modify or condition the proposed use to meet the presumption criteria.

This review is based upon available information and agency policies in place at the time of evaluation.

A. GENERAL INFORMATION:

A1. Application

Applicant's Name: John Kilkenny County: Morrow
Applicant(s) seek(s) 0.401 cfs from well(s) in the Umatilla Basin,
Willow Creek subbasin
Proposed use Road Construction Seasonality: year-round

A2. Well and aquifer data:

A2 a: Well identifiers, aquifer, rate, and location

POA Well	Well Log ID	Applicant's Well #	Proposed Aquifer	Proposed Rate (cfs)	Location (T/R-S QQ-Q)	Latitude	Longitude
1	MORR 206	MORR 206	Columbia River Basalt	0.401	2S/28E-29 NW-SW	45.36323956	-119.3698219
2							
3							
4							

A2 b: Well construction information by depth below land surface. All units in feet.

POA Well	Seal		Casing		Filter Pack		Open / Perforation / Screen		Well Bottom
	Min	Max	Min	Max	Min	Max	Min	Max	
1	0	22	0	23	N/A	N/A	23	197	197
2									
3									
4									

A2 c: Well construction information by elevation above mean sea level. All units in feet.

POA Well	Land Surface Elevation	Seal		Casing		Filter Pack		Open / Perforation / Screen		Well Bottom
		Min	Max	Min	Max	Min	Max	Min	Max	
1	2719	2719	2697	2719	2696	N/A	N/A	2696	2522	2522
2										
3										
4										

A2 d: Information relevant to water levels, including land surface elevation, depth of first water, recent annual high level, and reference levels for permit conditions

POA Well	Depth of First Water from Well Log (ft bls)	Shallowest Static Water Level (ft bls)	Most Recent Annual High WL		Reference Levels for:				Well Tests			
					RSGL	Permit Conditions			(max yield on well log)			
			Depth (ft bls)	WL Date	Depth (ft bls)	Depth (ft bls)	Date	Pro-visional?	Yield (gpm)	Draw-down (ft)	Test Type	Duration (hours)
1	69	8.86	11.2	2/19/2025	8.86	N/A	N/A	N/A	400	12	A	1
2												
3												
4												

Use data from application for proposed wells.

“SWL” = static water level (most recent or representative SWL). “amsl” = above mean sea level. “bls” = below land surface

Comments: Existing water level data is insufficient to set a permit condition reference level for the proposed POA at this time.

A3. Description of hydrogeologic setting / conceptual model: The proposed POA (MORR 206) obtains water from confined water-bearing zones of the Grande Ronde Basalt Formation of the Columbia River Basalt Group (CRBG) between 82 and 160 feet below land surface (feet bls).

Within the CRBG, most water occurs in confined aquifers that occupy thin rubble zones (interflow zones) at the contacts between lava flows. The interiors of the basalt flows generally have low porosity and permeability and act as confining beds. This geometry generally produces a stack of thin aquifers (interflow zones) separated by thick confining beds (flow interiors). The low permeability of the basalt flow interiors limits the natural vertical connection between overlying aquifers.

Groundwater level data in the area is sparse, however, water levels in city of Heppner wells (wells with long-term data records) appear relatively stable (see attached hydrograph).

To the south and east of the proposed POA, Hinton Creek and Willow Creek, have incised into the basalt member(s) of the Grande Ronde Formation and receive discharge from the basalt aquifers.

The applicant's well is located within 5 miles of the City of Heppner municipal wells (Well #2 [MORR 312] and Well #4 [MORR 304]) and is therefore subject to OAR 690-507-0090(3)(b)(C) which precludes new appropriation from the basalt aquifer utilized by the city of Heppner's wells unless a hydrogeologic barrier separates the proposed well from the City's wells. The water level elevation in MORR 206 is approximately 150 feet higher than MORR 304 (see attached hydrograph). Although not separated by geologic structures, the significant water level differences between MORR 206 and MORR 304 suggests they do not produce from the same aquifer. Similar water level elevations in MORR 206 and city of Heppner Well #2 (MORR 312) suggest they produce from the same aquifer. As a result, MORR 206 is subject to OAR 690-507-0090(3)(b)(C).

B. BASIN PROGRAM:

OAR 690-310-0130 (1)(a)

- B1. ☒ **Provisions of the** Umatilla Basin rules relative to the development, classification and/or management of groundwater hydraulically connected to surface water ☒ **are**, or ☐ **are not**, activated by this application. (Not all basin rules contain such provisions.)
 Comments: The proposed POA is located within the Willow Creek subbasin and therefore subject to OAR 690-507-0090 (3c). Permits issued to appropriate groundwaters that may be hydraulically connected with surface water shall be specially conditioned. The condition shall specify that when exercise of the permit unduly interferes with surface water, the permit will be regulated in favor of the surface water source.
- B2. ☒ **Well(s) #** 1 , _____ , _____ , _____ , _____ , are limited by an administrative restriction under the applicable basin program.
 Comments: The proposed POA is located within a 5-mile radius of the City of Heppner municipal wells. From OAR 690-507-0090 (3)(b)(C): Groundwater from the basalt reservoir in a five-mile radius around any municipal well of the cities of Heppner, Ione and Lexington is classified for municipal, group domestic and statutorily exempt groundwater uses (see definition) only. Other uses may be permitted if it is documented that a barrier to groundwater movement separates a proposed well from municipal wells and there will be no interference with municipal wells. Applications for other uses of groundwater within a five-mile radius of a municipal well shall automatically be referred to the Commission for review and consideration of public interest unless the affected city affirms that it is in favor of the proposed appropriation. This classification applies only when the affected city(ies) have a full-time conservation program in effect.

C. WATER AVAILABILITY:

OAR 690-310-0130 (1)(b)

OAR 690-300-0010(57): "Water is Available" [...] means: [...]

- (d) The proposed groundwater source exhibits Reasonably Stable Groundwater Levels, as defined in OAR 690-008-0001; and
- (e) 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; and
- (f) The proposed groundwater use does not have the Potential for Substantial Interference (OAR 690-009-0020(5)) with a surface water source [that does not have water available]

C1. Reasonably Stable Groundwater Levels

OAR 690-008-0001 (9): "Reasonably Stable Groundwater Levels" means that Annual High Water Levels, based on observed trends over time, remain within a range consistent with sustaining the function and character of a groundwater reservoir indefinitely, and:

- (a) The Annual High Water Levels as measured at one or more representative wells in a groundwater reservoir or part thereof:
- (A) indicate no decline or an average rate of decline of less than 0.6 feet per year over any immediately preceding averaging period with duration between 5 and 20 years. Four Annual High Water Levels are required to calculate the rate of change; one must have been measured in the year to which the evaluation of reasonably stable applies, and at least one must have been measured between 5 and 20 years prior; and
 - (B) have not declined by more than 25 feet from a reference level to the level in the year to which the evaluation of reasonably stable applies. The reference level shall be the highest known water level unless Annual High Water Levels have been measurably increased by human activity, in which case the Department may set a different reference level using best available information.
- (b) 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 reasonably 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.
- (c) The Department may evaluate Reasonably Stable Groundwater Levels for the year of the priority date of a groundwater right application or for a later year if more recent data are available.

- C1a. If part (a) of 690-008-0001(9) has been superseded by a basin program rule as per 690-008-0001(9)(B)(d) proceed to C1c. List one or more representative wells in the proposed groundwater reservoir or part thereof that have sufficient data to evaluate part (a) of 690-008-0001(9). Both the Rate (OAR 690-008-0001(9)(a)(A)) and Magnitude (OAR 690-008-0001(9)(a)(B)) tests for a given well must be passed in order to find that the water levels are Reasonably Stable. It is not necessary to include all POAs proposed on this application into this table, as long as they all access the same part of the groundwater reservoir and have the same reasonable stability status indicated in C1b below. If some POAs are found to be reasonably stable while others are not, then all the POAs on the application should be included in the table below, with their POA number indicated in the second column. In that situation, the reviewer does not need to indicate in this table which wells are considered representative for determining reasonable stability status for different POAs, but they should describe those relationships in the comments below.

Well Log ID	POA Well #	Reference Level for Evaluation of Reasonable Stability (ft bls)	Rate Test	Magnitude Test	Water Levels Reasonably Stable
MORR 312	N/A	21.9	Pass	Pass	Reasonably Stable

Comments: MORR 312 is a representative well accessing water-bearing zones of the Grande Ronde Basalt Formation at similar elevations as the proposed POA. Water level elevations in MORR 312 and MORR 206 are similar, indicating they access the same aquifer (see attached hydrograph).

- C1b. Summary finding for this application. Check only one primary finding. It is possible that different proposed POAs could access different parts of the GW reservoir, and for some of those parts to be Reasonably Stable while others are not. In that case, summary finding for the application should be “Not Reasonably Stable,” and the reviewer should indicate which POAs access part(s) of the groundwater reservoir that are Reasonably Stable. OAR 690-008-0001(9)(a): *Annual High Water Levels as measured at one or more representative wells in a groundwater reservoir or part thereof*:

☒ **Are Reasonably Stable**

☐ Groundwater has not yet been extracted or authorized for extraction from the groundwater reservoir

☐ **Are Not Reasonably Stable**

☐ If some Proposed POAs are Reasonably Stable, list the Reasonably Stable POAs here: _____

☐ **Sufficient data are not available to evaluate reasonable stability**

List representative wells identified during review that could be measured in order to overcome a finding of Insufficient Data: _____

Comments: Water levels in representative well MORR 312 have declined at an approximate rate of 0.20 ft/yr over the last 14 years and have declined 21.9 feet from the highest known water level of 3.6 feet bls, indicating water levels are reasonably stable (see attached hydrograph).

- C1c. OAR 690-008-0001(d): Evaluation for reasonably stable water levels per superseding basin program rules OAR 690-_____ for the _____ administrative basin.

Comments: N/A

C2. Well Yield

- C2a. OAR 690-300-0010(57)(e): Is the total requested rate of groundwater allocation obtainable by the expected yield of the well(s) proposed in the application given best available information?

☒ **Yes** ☐ **No**

Comments: The proposed POA (MORR 206) is an authorized POA on Certificate 53474 (0.560 cfs) and limited license LL-1967 (0.334 cfs). The combined maximum rate for the previously authorized and proposed use at MORR 206 would be approximately 1.295 cfs (581 gpm). Well statistics for the area indicate a maximum well yield of 600 gpm with a median of 68 gpm (see attached Well Statistics). During the drilling process, a bailer test resulted in a yield of 400 gpm at MORR 206. Therefore, it is possible that the total requested of groundwater allocation will be obtainable.

C3. Groundwater Interference with Surface Water

OAR 690-300-0010(57): “Water is Available”, when used in OAR 690-310-0080, 690-310-0010 and 690-310-0130, means [...]:
(f) The proposed groundwater use does not have the Potential for Substantial Interference (OAR 690-009-0020(5)) with a surface water source [that is not available for further appropriation]

OAR 690-009-0040: (1) When evaluating a Proposed Groundwater Use, Hydraulic Connection and the Potential for Substantial Interference with a surface water source shall be determined by the Department according to these rules. These determinations shall be based upon the application of generally accepted hydrogeologic principles using best available information concerning the hydrologic system of interest and the well(s) under consideration.

(a) Appropriate information that is provided in the application or in the public comment period for the application shall be considered in the process of making these determinations.

(b) Best available information may include, but is not limited to, pertinent water well reports, aquifer test analyses, hydrologic and geologic studies and reports, groundwater and surface water elevation data, available numerical and analytical groundwater flow models, and any other information that is used in applying generally accepted hydrogeologic principals and methodologies.

(2) A determination of Hydraulic Connection is a prerequisite for a determination of the Potential for Substantial Interference.

(3) A determination of the Potential for Substantial Interference with a surface water source shall at a minimum include application of the generally accepted hydrogeological principles described in “Streamflow Depletion by Wells – Understanding and Managing the Effects of Groundwater Pumping on Streamflow” by P. M. Barlow and S. A. Leake, 2012.

(4) The Potential for Substantial Interference with a surface water source exists if the well(s) under consideration will, over the full term of the proposed or authorized groundwater use, obtain water from Streamflow Depletion.

OAR 690-009-0020(4): “Hydraulic Connection” means saturated conditions exist allowing water to move between two or more sources of water, either between groundwater and surface water or between groundwater sources.

OAR 690-009-0020 (7) “Streamflow Depletion” means a reduction in the flow of a surface water source due to pumping a hydraulically connected groundwater source. Streamflow Depletion encompasses:

- (a) captured groundwater that would otherwise discharge to a surface water source; or
 (b) induced infiltration from a surface water source to the hydraulically connected groundwater source.

C3a. OAR 690-009-0020(5): *Potential for Substantial Interference*”, or “PSI”, means that a groundwater use will cause streamflow depletion based on the assessments described in OAR 690-009-0040, and therefore may cause or has caused substantial interference with or undue interference with a surface water source, based on the definitions in OAR 690-008-0001.

Summary of surface water sources evaluated for hydraulic connection and Potential for Substantial Interference. For hydraulic connection and potential for substantial interference, a value of 1 means yes, and blank means no.

POA Well	WRD Streamcode	Streamcode Surface Water Name	Water Availability Basin (WAB)	WAB Watershed ID	Hydraulically Connected	Potential for Substantial Interference
1	07001024200530	HINTON CR	HINTON CR	30710413	Yes	Yes
1	0700102420	WILLOW CR	WILLOW CR	30710417	Yes	Yes

Comments: Hinton Creek and Willow Creek have incised into the basalt aquifer at elevations below the top of the water-bearing zone accessed by the proposed POA. Groundwater elevations measured in MORR 206 are above surface water elevations of Hinton Creek and Willow Creek, indicating groundwater within the water-bearing zone accessed by this well likely discharges to nearby surface water sources.

List all surface water sources identified to have PSI and their associated Water Availability Basin:

WRD Streamcode	Streamcode Surface Water Name	Water Availability Basin (WAB)	WAB Watershed ID
07001024200530	HINTON CR	HINTON CR	30710413
0700102420	WILLOW CR	WILLOW CR	30710417

Comments: The proposed use will result in depletion to Hinton Creek and Willow Creek and leads to a finding of potential for substantial interference with the identified surface water sources.

D. INJURY:

OAR 690-310-0130 (1): *The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525 if...(c) The proposed use will not injure other water rights.*

To make a finding of injury to an existing water right, the Department must make a finding of “Substantial Interference” as defined in OAR 690-008-0001(10). The finding of “Substantial Interference” with a surface water right is made by the Water Rights Services Division based on the evaluation in section C3. Sections D1 and D2, below, address the finding of “Substantial Interference” with a groundwater right.

OAR 690-008-0001(10): *“Substantial or Undue interference”, 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:*

- (b) The groundwater level being drawn down to the Economic Pumping Level of the senior appropriator(s); or*
- (c) One or more of the senior groundwater appropriators being unable to obtain either the permitted or customary quantity of groundwater, whichever is less, from a reasonably efficient well that fully penetrates the aquifer where the aquifer is relatively uniformly permeable. However, in aquifers where flow is predominantly through fractures, full penetration may not be required as a condition of substantial or undue interference.*

D1a. OAR 690-008-0001(10): Will the proposed groundwater use result in substantial or undue interference with an existing groundwater user?

☐ Yes ☒ No ☐ No, as long as the permit is conditioned as indicated in item F below.

Comments: Well density in the area is low and the closest permitted groundwater right is over two miles away. The proposed groundwater use is unlikely to result in substantial or undue interference with an existing groundwater use.

E. OTHER RULES OF THE COMMISSION:

ORAR 690-310-0130 (1): The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525 if...(d) The proposed use complies with the rules of the Commission.

E1. OAR 690-200, 690-210 and 690-215: Well Construction

Identify any notable well construction deficiencies or hydrogeologic considerations to support review by Well Construction & Compliance.

E1a. Well #: _____ Logid: _____

E1b. Well construction deficiency or other comment is described as follows: _____

E2. OAR 690-310-0260: Water Rights Within or Above State Scenic Waterways

E2a. Are any of the proposed sources of appropriation hydraulically connected to a State Scenic Waterway or its tributaries?

☐ Yes ☒ No

Hydraulically connected State Scenic Waterway: N/A

Comments: N/A

E2b. Per ORS 390.835, is the Groundwater Section able to calculate ground water interference with surface water that contributes to a Scenic Waterway?

☐ Yes. The calculated interference is distributed below:

Calculate the percentage of consumptive use by month and fill in the table below. If interference cannot be calculated, per criteria in 390.835, do not fill in the table but check the "No" option below, thus informing Water Rights that the Department is unable to make a Preponderance of Evidence finding.

Exercise of this permit is calculated to reduce monthly flows in [Enter] Scenic Waterway by the following amounts expressed as a proportion of the consumptive use by which surface water flow is reduced.

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec

☐ No. Therefore, the Department is unable to find that there is a preponderance of evidence that the proposed use will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway.

Comments: N/A

E3. Other Relevant Rules of the Commission:

Comments: _____

F. RECOMMENDED MODIFICATIONS OR CONDITIONS:

OAR 690-310-0140(2): If the Department determines that the presumption is not established, the Department shall determine whether the proposed use will impair or adversely affect the public welfare, safety and health under ORS 537.525 and may either:

- (a) Propose denial of the application upon a finding that the use will impair or adversely affect the public welfare, safety and health;*
- or*
- (b) Make specific findings to demonstrate that even though the presumption is not established, the proposed use will not impair or adversely affect the public welfare, safety and health and propose approval of the application with appropriate modifications or conditions.*

Based on the findings in sections A-D above, the following conditions are recommended if the permit is approved:

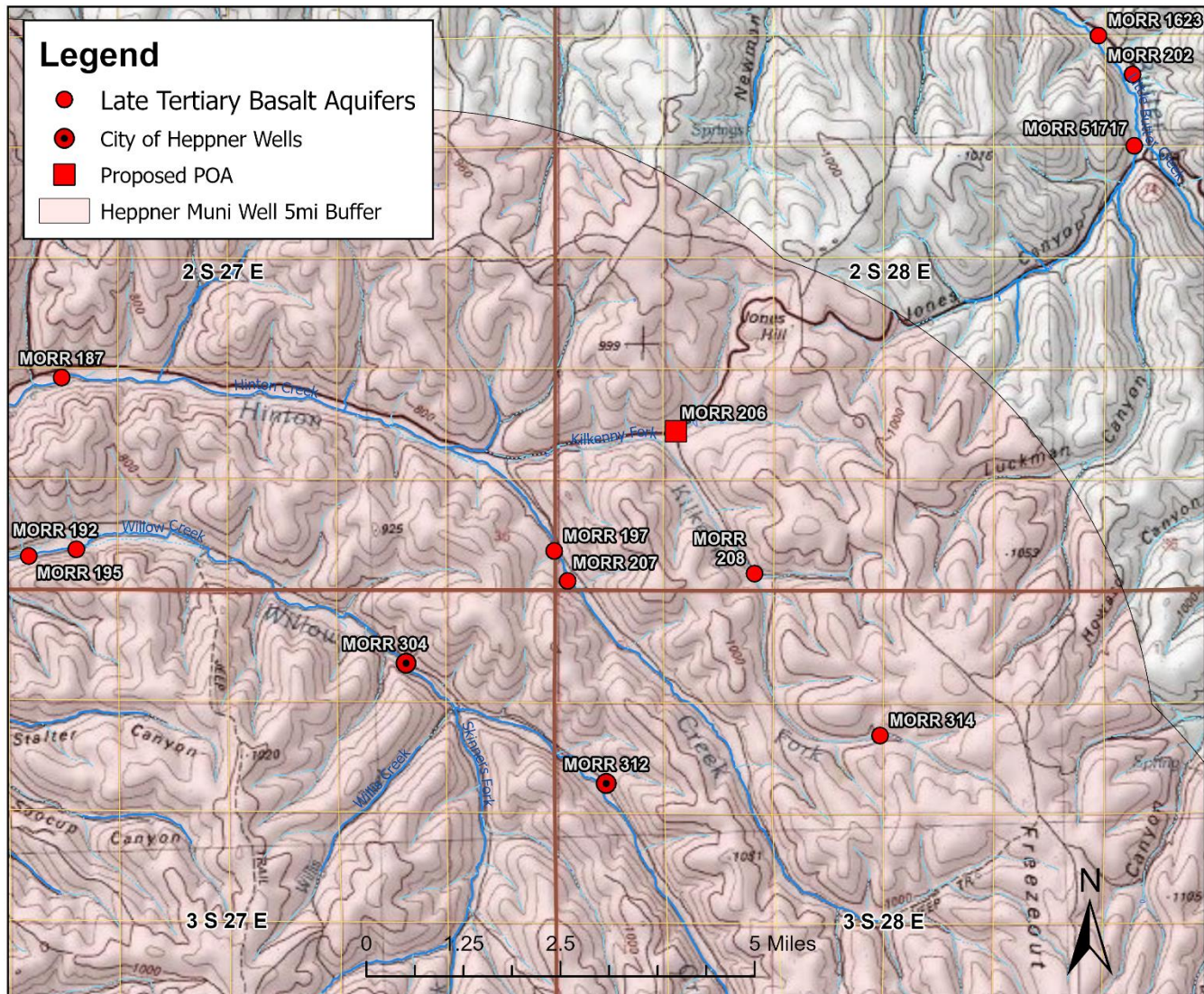
7RLN, Large water use reporting conditions

REFERENCES:

Madin, I.P., and Geitgy, R.P., 2007, Preliminary geologic map of the Umatilla basin, morrow and Umatilla counties, Oregon, Oregon Department of Geology and Mineral Industries, Open-File Report O-07-15, 23p.

ATTACHMENTS:**Well Location Map**

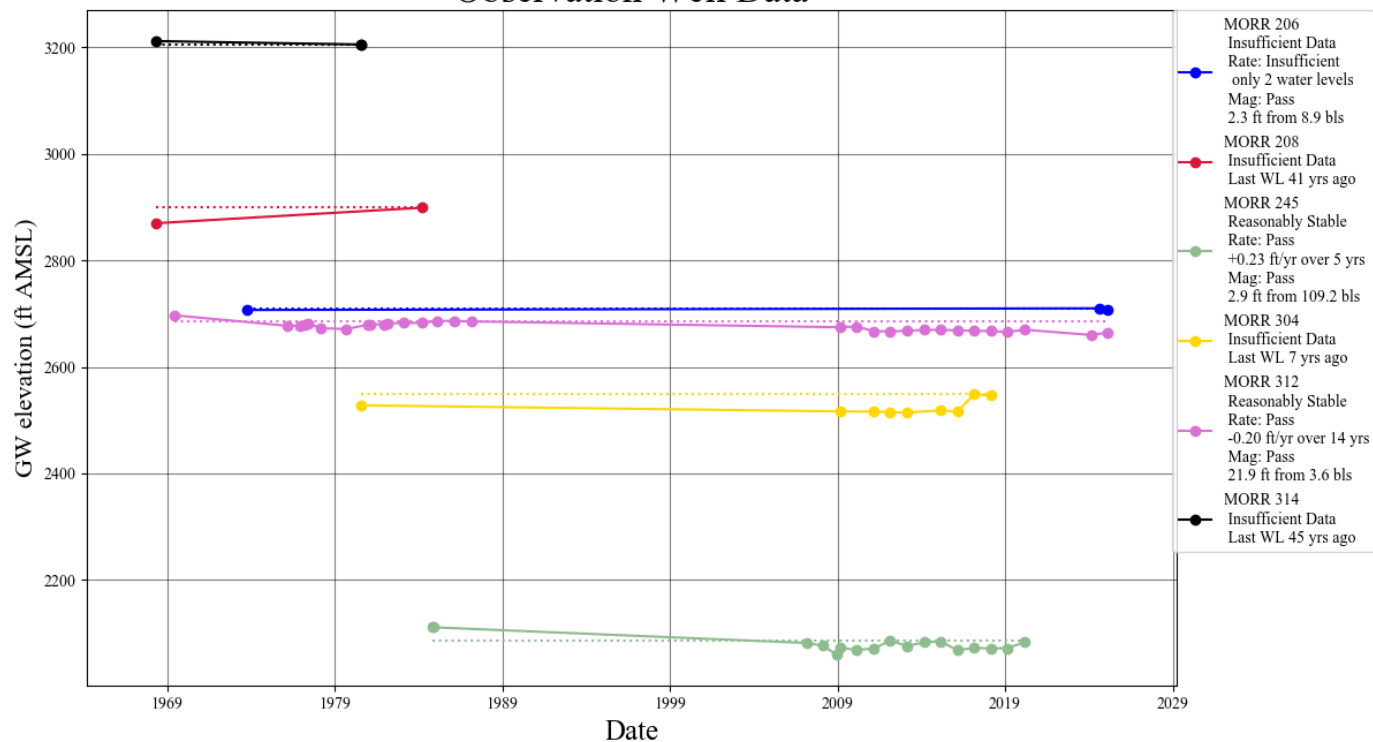
LL-2004 Kilkenny



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Water-Level Measurements in Nearby Wells

Observation Well Data



Well Statistics

