

From: [COOK Nirvana * WRD](#)
To: [WRD Commissioners](#)
Cc: [BYLER Thomas M * WRD](#); [WOODCOCK Douglas E * WRD](#); [RANCIER Racquel R * WRD](#); [Boundless Farmstead](#); [COOK Nirvana * WRD](#)
Subject: FW: A farmer's plea to change rules and regulations on water use in Oregon
Date: Thursday, March 10, 2022 3:43:02 PM

Dear Commissioners,

Please see the message below along with COID map attached here, submitted by Megan Kellner-Rode as written public comment for the March 17-18 Water Resourced Commission Meeting.

Thank you,

Nirvana Cook

Executive Assistant to Director Tom Byler
and the Water Resources Commission
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From: Boundless Farmstead <info@boundlessfarmstead.com>
Sent: Thursday, March 10, 2022 9:19 AM
To: COOK Nirvana * WRD <Nirvana.COOK@water.oregon.gov>
Subject: A farmer's plea to change rules and regulations on water use in Oregon

Nirvana- Will you please pass on this letter to the Commission members? Thank you.

Dear Oregon Water Resource Commission,

I am writing to you today to ask that you please support and urge the House Committee on Water to review, redefine, and reconfigure irrigation and water laws, rules, and regulations in Oregon.

My name is Megan Kellner-Rode and I co-own and farm Boundless Farmstead with my husband David Kellner-Rode (along with David's mother Abby). We tend our 20 acre property in Alfalfa (just east of Bend); 10 acres in mixed vegetables and cover crops, 5 acres in pasture, 1 acre orchard, and about 4 acres mixed outbuildings. We have been with Central Oregon Irrigation District (COID) since 2017 and have about 17 acres of water rights.

At Boundless Farmstead, we seed, plant, tend, and grow enough produce:

- To feed a 90 family Community Supported Agriculture (CSA) program in Deschutes and Crook County. (CSAs are weekly food boxes equivalent of \$25 to \$40 every week for 20 weeks). Some of our members are low income and pay with SNAP/EBT and receive match grants to fund their food boxes.
- To attend two local farmers market selling \$2500-3000+ every week from mid May to mid October
- To sell 7000+ lbs of food at the autumn bulk buying event called Fill Your Pantry to feed Central Oregonians all winter long
- To sell to a dozen different restaurants in Bend
- To provide twice weekly deliveries to Central Oregon Locavore, The Stand in Sisters, and Tumalo Farm Stand

David and I are fully employed by the farm and have no outside farm income. We also employ three full time employees. We have invested heavily in infrastructure since starting the farm in 2017, including four 20' x 200' high tunnels, equipment, renovation, and most importantly to this conversation highly efficient irrigation systems. This year, we invested further into our irrigation by installing a buried PVC irrigation system and purchasing additional drip irrigation to use water more wisely in the spring months during low flow. We run the rest of our 10 acres of mixed vegetables and cover crops on high efficiency micro overhead sprinklers. We do this because we know water is a precious resource and needs to be used wisely. We also grow a large amount of cover crops in hopes of increasing organic matter, increasing water retention, and some day, being able to decrease our water use and lease some water back in stream/in district.

Water is critical to our lives; critical to growing food for our community, to employing ourselves and others, and to being good stewards of this land.

We would consider ourselves environmentalists as much as we would agriculturalists. We know that the drought conditions are dire and that there is a wide spectrum of opinions and viewpoints when it comes to what proper allocation of water looks like. I appreciate you taking the time to read this email and consider our perspective.

Last year was challenging for all agricultural growers in Central Oregon; some districts losing water as early as late July, some being on very low allotment, and everyone having to make strategic decisions about water use. I think that every year we should all be using water as wisely as possible, but this feels so important and prominent in our current (and building) drought crisis. I believe that water should be prioritized for environmental/wildlife purposes, clean drinking water, and food/farms above all else. These are our basic necessities as humans, and yet we forget. We are so willing to sell out our basic necessities for manufactured ones that we make our lands unliveable. We are greedy, we are ignorant, and we think we can buy our way to health and happiness.

Last year, our farm was given 50-60% of our typical allotment of water for almost the entire season. Last year, we worked in sweltering heat all of July. Last year, we had to make

decisions about what plants suffered and what plants were given the water they needed. We were lucky in getting 60% of our allotment compared to our farmer kin in other irrigation districts who dried up large parcels, paid large sums for hay and feed (that they typically grow), sold off livestock, and fallowed farmable land.

This year, we are already having to truck water in to fill our irrigation ponds to water our greenhouses and plant starts because we did not have enough water to fill our ponds this winter. This year, I received word that one of our farmer friends who typically grows 20+ acres of potatoes, winter squash, and onions, will not have enough water to grow any vegetables at all. This year, we are looking at water situations more dire than last.

To me, it seems there is enough water for wildlife, for clean drinking water, and for farms growing/raising/producing food and animal feed, we just need to redefine who gets water, what “beneficial use” is, and how much each patron is receiving.

I have attached a map that was sent to us by COID that states we need to prove we are using our water rights “beneficially” in the areas marked with red hash marks and the yellow “x” marks (in the greenhouses). When I called and explained we grow row crops, the COID employee understood, but the way the aerial photos are taken, they need us to prove it regardless. This is as simple as having the Ditch Rider come look or taking a photo and sending it in.

I am ok with having to take these extra steps to continue receiving water. I would actually be willing to do a lot more in order to continue receiving water and to prove we are using it wisely. What I find an issue in is the way beneficial use is monitored and defined. There is a property that neighbors us, owned by a person who lives out of state. They hired people to park an RV on the property for three months and water a field that mostly consisted of mullein and noxious weeds so that it looked “green.” These people watered every day, and to my knowledge, the owner has not been questioned about their beneficial use.

We have people in our area who flood irrigate 20+ acres for two horses, folks who irrigate 40 acre lawns (not cutting hay or growing any crops), folks who pay people to irrigate weeds and junipers. We also have neighbors who make their living off of the land raising cattle and hay, practicing good pasture management techniques, and cover cropping. And when you fly overhead and take an aerial shot, all of these properties are “green” and “compliant.”

I do not think all land is managed equally and I think it is time we start to redefine who gets to use water and who does not, and to redefine what is “beneficial use” and what is not. One of my ideas is to create a tiered system; in years where water is scarce, patrons who are growing food or feed are in the top tier and receive water first, those with hobby farms second (farms that are not feeding themselves or others), those with lawns or recreational properties like golf courses last. This way, we are ensuring that food security remains the top priority in our area.

Last year, our farm received emails weekly from Oregon government agencies offering drought relief assistance (see [Farm and Ranch Drought Resources Page](#) from the State of Oregon), USDA drought relief ([USDA Offers Disaster Assistance to Oregon Farmers and Livestock Producers Impacted by Wildfires and Drought](#)), tips and tricks on how to use water more wisely ([Saving water on the farm or ranch resource](#)), etc. The burden of the lack of water for agriculture was and is glaringly obvious.

Our local irrigation districts cut water from every single district; the most severe being a week on week off flow, followed by a complete shut off at the end of July (Arnold Irrigation District), and the least severe being a 60% flow for the entirety of the season to COID.

Oregon has seen severe droughts in the last couple of years, and before the 2020 drought declarations every five years for the last nearly 30 years (See [Governor's drought declaration](#).)

The Oregon Water Resource Board (OWRB) states in their [100 Year Water Vision 4 goals](#), including

1. Health: Clean water for all who live in OR,
2. Economy: Sustainable and clean water to support local economic vitality,
3. Environment: Adequate cool clean water to sustain OR's ecosystem, and
4. Safety: Resilient water supplies for Oregon's communities.

I think it is time to take the burden away from the farms and start implementing a smart plan for water use. I also think it is time for the state to redefine or create a nuanced approach to what is considered a “farm” and what is considered “agriculture.”

This [2017 Deschutes County Census](#) of Agriculture shows there being nearly 1,500 farms in the county. I know for a fact that our farm is among the top five largest vegetable producing farms in Deschutes County and maybe the highest or second highest producing in the COID at only five acres in vegetable production and five acres in cover crop production. The number 1,500 does not paint an accurate picture of actual food and animal feed producing farms. As you can see by the Section “Farms by Value of Sales,” only 6% are making over \$50,000 and 3% over \$100,000; 46% of farms are making under \$2,500 and I would assume the majority of those are receiving Farm Deferral taxes rates as well as irrigation water. This seems like a potential loss of revenue and loss of resources.

According to the Deschutes Basin Board of Control (DBBC) which comprises eight Central Oregon irrigation districts, they convey water to over 7,600 farms and ranches. According to the 2017 Agricultural Census (referenced above), Crook, Deschutes, and Jefferson counties have a total of 2,501 farms. What additional 5,000 “farms and ranches” does the DBBC serve? Why is the water being allocated to so many non-descript patrons/properties?

As a side note, the fact that [Exclusive Farm Use \(EFU\)](#) laws allow for Golf Courses is appalling and leads an elitist agenda in a time when EFU/Farmland is so difficult to purchase for farmers, and when water is such a scarce resource. In Deschutes County, there was recently a moratorium on Cannabis grow operations with one of the top concerns being irrigation and groundwater use, and negative affect on people’s lives. I believe a similar argument can be made for the heavy resource use and the heavy chemical (fertilizer, herbicide, etc) use of golf courses. I believe that creating a moratorium on golf course creation could save irrigation water immediately.

I also believe there is some poor/inconsistent/uncompromising management happening within the irrigation districts. As an example, I have asked multiple times since 2017 if the COID board could consider changing their board meeting times to a time that working people could attend or could consider running for a board position. Currently, the meetings are held on

Tuesdays from 9am to 11am. Most commercial growers in the COID district are harvesting for farmers markets and wholesale customers, running farm crews, etc during those hours. The current [COID board](#) consists of all white males in or nearing retirement age, and is not a good representation for everyone in the district. I finally received a response that essentially said (in brief) that the meetings have been at the same time for 100 years and they are not willing to change them. This statement, to me, feels like the perfect example of why we are in the water predicament we are in. The irrigation system is being run by 100 year old ideas, regulations, and rules with an unwillingness to change to modern issues or circumstances. In the 1920s, we were approaching 2 billion people. In the 2020s, we are approaching 8 billion.

Another example of mismanagement- every five years irrigation patrons are required to prove beneficial use. After five years, if the water is not being used properly, it is “taken away.” I have been told through the grapevine that water is not often actually taken away from properties that are not using water correctly, because all water that is taken from the property is also taken away from that irrigation district and becomes property of the state again.

Recently in Central Oregon, COID, Deschutes River Conservancy, and North Unit Irrigation District (NUID) entered into sort of a grassroots pilot program called the [Deschutes Water Bank](#). This program allows COID patrons to voluntarily lease water to patrons in NUID, and be paid to do so. This is a great program and incentive. The only problem is, the information was shared once with COID patrons, then was difficult to find after that. There is no information on the COID website (that I could find) and eventually I was able to scroll through weeks and weeks of posts on their Facebook social media page to find a brief mention. I wish these sorts of programs took a higher priority and were more accessible.

Irrigation laws, rules, and regulations can be so daunting and so confusing to its patrons that people who may be willing to lease water back in-stream or to other farmers are often discouraged or dissuaded to act. Example- A farmer friend in Central Oregon shares an irrigation lateral line and a complex irrigation schedule with a few neighboring properties. Essentially they get from 2am one day of the week until 10pm the next day of the week. They all rely on each other to uphold their schedule and not to interrupt another’s schedule. This farmer told me that one of the neighbors was considering leasing a few acres of water back to the river, but was dissuaded by the other neighbors because it would make their water schedule change and they would have to reconfigure the agreement.

The “use it or lose it” regulation also creates fear in the patrons, and often causes them to water land that is not productive and not beneficial. I believe many patrons would be more willing to give up water/lease partial allotment back during drought years if they knew the rules and regulations better, and felt better supported by the irrigation district.

Every year, I organize and execute an event called Central Oregon Fill Your Pantry. This is a bulk buying farmers market that happens in mid-November to encourage Central Oregonians to stock up on local meats, grains, vegetables, fruits, etc for the winter. This event is all about food security and food sovereignty. Last year, during the one day event, Central Oregon farmers and ranchers collectively made over \$120,000 and sold literal tons and tons of food to the community. Just our farm, Boundless Farmstead, sold over 7,000 pounds of food valuing over \$16,000. This year, I have already heard that one of our largest producers will not be growing vegetables this year due to water shortages, and a number of others are looking for lands to expand grazing, ways to collaborate and grow different crops, or switching to just value-added crops because their water will be turned off in August. It is frightening and so gut

wrenching to think that in its seventh year we may have to cancel.

Why does the responsibility of proper water use fall on the backs of agriculturalists/farmers/ranchers? Why do the repercussions of improper water use affect farmers, wildlife, and ecosystems predominantly (at this moment)? If water is truly [owned by the public in Oregon](#), then why when so many members of the public speak up and against the improper use of water, does it not hold merit?

I am writing to you today out of desperation, out of panic, and from the heaviest heart. But, I am also writing to you out of hope. Hope that if the State can make some changes to water laws and regulations, and fast, that we may only have to endure one more season of desperation and panic and pain.

I am available to share my experiences, share my potential solutions, brainstorm ideas, and listen to your feedback anytime.

Thank you for your time,

Megan Kellner-Rode

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