



MEMORANDUM

TO: Water Resources Commission

FROM: Justin Iverson, Groundwater Section Manager

SUBJECT: Agenda Item H, November 18, 2022
Water Resources Commission Meeting

Groundwater Allocation Project Update

I. Introduction

This report follows up on direction from the Water Resources Commission that staff prioritize development of an action plan for a modernized groundwater allocation policy that is more sustainable and protective of existing water right holders, both surface and groundwater. This report is an informational update.

II. Background

Groundwater development results in impacts, either in the short-term or long-term, to groundwater and surface water resources. The current groundwater allocation process is designed to prevent those groundwater uses that have a relatively immediate impact (a year or less), and yet allow those uses whose impacts build over time (years). Over the long-term, this has resulted in declining groundwater levels and reduced surface water flows.

At the March 2022 Commission meeting, Department staff shared a proposed groundwater allocation strategy that would expand the factors in determining if “water is available” to guide decision-making on new permits. As proposed, revised decision-making criteria could be informed by the Water Availability Reporting System (WARS), surface water regulation to distribute water among water right holders, groundwater level data, and other available data and information identifying areas of groundwater concern. Revised criteria could also expand the geographic and temporal scope of the analysis.

At the same March meeting, the Commission provided feedback to staff that the Department should be cautious and conservative in the new approach to groundwater permitting. At its June meeting, the Department and Commission discussed the need to conduct public outreach meetings. At the September meeting, the Department updated the Commission to inform them of the schedule and agenda for the public outreach meetings to be convened in September and October 2022.

III. Public Outreach Meetings

In September and October 2022, the Department convened five facilitated public outreach meetings to seek input on reimagining the groundwater allocation decision-making process to better protect existing water right holders and sustainably manage the resource. These meetings, facilitated by Kearns & West, were held in a hybrid Zoom format to ensure that everyone could easily participate. Specifically, the hybrid format through Zoom was selected to ensure that individuals who needed interpretation or captions could still access and engage meaningfully in the meetings in real-time. The meetings also were recorded and posted with closed captioning on the [OWRD YouTube](#) page. The announcements for the workshops were shared broadly, and more than 400 people around the state attended the meetings either virtually or in person.

At each meeting, staff provided an overview of groundwater hydrology science, Oregon's current groundwater allocation process, and some ideas for modernizing the allocation process, all of which have been provided at Commission meetings over the last year.

Feedback was sought from the attendees during the meeting and through a follow-up survey. The survey included questions concerning criteria the Department should consider in a more conservative allocation process, the timeline the Department should apply when evaluating impacts to surface water from groundwater development, and how the Department should treat applications where the data are insufficient to make a determination.

Kearns & West drafted a report summarizing the meetings and survey results, with an appendix that includes survey responses and comments received through October 25, 2022. The Department will share it with the Commission once it is finalized. Department staff also have documented the question-and-answer portion of each of the outreach meetings in order to compile a frequently asked questions document to support future outreach efforts.

IV. Rulemaking Status Update

The Department is reviewing the comments received during the public outreach events to inform development of draft rules. The Department anticipates convening multiple rules advisory committee meetings in early Spring 2023 and plans to bring the final draft rules to the Commission by September 2023 for adoption. The reason for the delay in the previously presented timeline is the Department also has obligations to conduct rulemakings for House Bill 2145 from the 2021 session (Well Construction), Division 10 (Critical Groundwater Areas), and Division 512 (Harney Basin Program).

V. Summary

This informational report provides a progress update on efforts to develop rules to make groundwater allocation more sustainable and more protective of senior surface and groundwater users. The Department held five public outreach meetings to solicit input on potential approaches going forward. Department staff are reviewing the input received ahead of rule development. The Department has updated its rulemaking schedule to account for other necessary rulemaking efforts.