

## OAR 690 Division 512 Oral Public Comments Transcript Index

This document is a tabulation of the transcripts of the oral public comments received during the Division 512 public hearings. Recordings of the public hearings can be found on the [Division 512 webpage](#).

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### **Public Hearing Transcript for June 23, 2025 - Burns**

00:00:03.900 --> 00:00:27.159

**Kelly Meinz:** My name is Kelly Meinz, and I will be serving as the Oregon Water Resources Department's hearing officer for this rule. The purpose of this hearing is to take public comments on the proposed rule changes to Oregon administrators' rules 690, division 512 army Basin groundwater rules. I'm unable to respond to questions. As my role here is to take public comment on those rules.

00:00:27.340 --> 00:00:49.029

**Kelly Meinz:** The Department will review all comments made during the public comment period, a subsequent staff report will be drafted to the Water Resources Division that will address the issues raised by comments, in addition to the opportunity to present oral comments at this hearing, anyone may submit written comments by 5 PM On August 7th, 2025, which is the close of the public comment period.

00:00:49.370 --> 00:01:15.549

**Kelly Meinz:** Comments received after that time will not be reviewed or considered by the agency, unless the agency decides to extend the public comment period for everyone. Each person attending in person who wishes to comment orally at this hearing, please sign up and sign in on the sign-up sheet located on the information table in the back room, the corner right over there. I will prepare all the names of the persons who wish to comment orally, and I will be calling those names in the order in which the attendees register to comment.

00:01:15.590 --> 00:01:43.940

**Kelly Meinz:** When I call your name, please come forward. You can just stand up, say your name, say your name, and where you're from, and if you represent an organization. Please identify the organization as well. You may then present your comments. If you have written material to enter into the record. Please say so, and try to summarize the materials rather than reading it. You may also mail or email the materials to the department. If you have already submitted it. The mailing and email address will be saved for the record during the hearing.

00:01:44.060 --> 00:02:00.289

**Kelly Meinz:** Please hand me a copy of material if you've not already submitted it to the agency. Please turn off all cell phones during the hearing. I will begin the hearing in 10 minutes, giving the opportunity to sign up in person, whether you wish to comment? Are there any questions about how the hearing will be conducted?

00:02:00.990 --> 00:02:27.880

**Rob Frank:** So to be clear Kelly, whether or not someone gives verbal public comment tonight they can still submit verbal public or written public comment prior to August 7<sup>th</sup> they want to take some time to collect their thoughts to put a comment together. If they speak tonight or not, they can still submit written comments

**Kelly Meinz:** Correct. And then we also have multiple other public hearings, and this week we have public hearings on every subarea. And then



00:02:27.960 --> 00:02:47.559

**Kelly Meinz:** for August 5th we have 2 public hearings at the Harney County Community Center, one in the morning and one in the evening. So this is now your only time to submit an oral public comment. So if you don't feel ready. We have plenty of opportunities to submit oral public comments, and you may submit written comment as well by August 7th.

00:02:47.860 --> 00:02:49.549

**Kelly Meinz:** Thank you. Rob, appreciate it.

00:02:51.300 --> 00:02:59.850

**Kelly Meinz:** Okay, so I'm going to give you guys 10 minutes So it's 7:03 If you wish to make a public comment, please go sign up on the sheet and we'll start the official public hearing

00:03:20.380 --> 00:03:31.930

**Kelly Meinz:** alright. This hearing is now in session, and it's being recorded. My name is Kelly Meinz, and I am the hearing officer, today is June 23<sup>rd</sup> and the time is 7:14 PM.

00:03:31.970 --> 00:03:59.029

**Kelly Meinz:** I did not receive any requests for an accommodationist to participate in this hearing by June 21<sup>st</sup>. The purpose of this hearing is to provide an opportunity for the public to comment on proposed rules, and or our chapter 600, division 512. In addition to presenting oral comments at this hearing, anyone may submit written comments until 5 PM On August 7<sup>th</sup>, 2025, which is to close the public comment period. You may send comments to

00:03:59.400 --> 00:04:02.690

**Kelly Meinz:** Kelly Meinz, KELLY MEINZ

00:04:02.840 --> 00:04:08.469

**Kelly Meinz:** Kelly Meinz at Oregon Water Resource Department

00:04:08.590 --> 00:04:15.569

**Kelly Meinz:** 725 Summer Street NE, Suite A Salem,

00:04:15.710 --> 00:04:20.690

**Kelly Meinz:** Oregon 97301 or email.

00:04:20.920 --> 00:04:25.939

**Kelly Meinz:** [WRD\\_DL\\_rule-coordinator@water.oregon.gov](mailto:WRD_DL_rule-coordinator@water.oregon.gov)



00:04:26.380 --> 00:04:43.080

**Kelly Meinz:** Comments received after 5 PM On August 7<sup>th</sup>, 2025 will be reviewed or considered by the agency, unless the agency decides to extend the public comment periods for everyone.

00:04:43.310 --> 00:04:54.629

**Kelly Meinz:** The department will not respond to questions during this hearing. After the close of Public Comment Period Department's Personnel will prepare a staff report to the Water Resource Commission, which will be available from the department.

00:04:55.120 --> 00:05:04.839

**Kelly Meinz:** So I'm now going to start calling people who signed up. And I'm going to do it by order, and we just have one individual, Mike Allison.

00:05:05.420 --> 00:05:12.229

**Kelly Meinz:** Will you stand up and say your name for the record and go ahead.

00:05:12.810 --> 00:05:20.829

**Mike Allison:** As I watched a Picture of where your red dots were in the reservoir underground reservoir.

00:05:23.226 --> 00:05:24.193

**Mike Allison:** I, I, know a lake or the edge of the lake. That's where you can see the water level.

00:05:26.587 --> 00:05:34.902

**Mike Allison:** That's what it looks like to me.

00:05:36.440 --> 00:05:37.430

**Mike Allison:** The average

00:05:39.050 --> 00:05:48.790

**Mike Allison:** well, so reports in the middle of the reservoir out here. And if you're saying that this is a reservoir

00:05:49.140 --> 00:05:55.200

**Mike Allison:** City City wells are right up. Next, you know, underground.

00:05:55.860 --> 00:06:01.110

**Mike Allison:** If the mountain rain it's at the edge of the lake, everybody driving with me.

00:06:01.770 --> 00:06:08.719



**Mike Allison:** That's where you see the most of them. If you're pulling from the whole reservoir Lakeshore down.

00:06:09.450 --> 00:06:25.069

**Mike Allison:** so I know there's a well here. It's not very far from town. It hasn't changed much more than 18 inches in 55 years.

00:06:26.600 --> 00:06:32.270

**Mike Allison:** so I don't know, I believe what what I see here.

00:06:33.745 --> 00:06:40.270

**Mike Allison:** and then we- we do have drought years and non-drought years

00:06:40.370 --> 00:06:44.290

**Mike Allison:** so no, we're we're 10 years down happy.

00:06:44.540 --> 00:06:51.800

**Mike Allison:** Last- last winter it was the first big one we have substantially to the public substantial.

00:06:52.280 --> 00:07:01.150

**Mike Allison:** It's almost around Mount, where the original it is huge.

00:07:01.750 --> 00:07:11.369

**Mike Allison:** If you have another couple of big snow years. Now, all your numbers are gonna be gone because we're not gonna get out.

00:07:13.560 --> 00:07:15.142

**Mike Allison:** So I mean.

00:07:16.233 --> 00:07:22.749

**Mike Allison:** don't know. This is, I don't see it data wise. I don't have a tough time understanding.

00:07:23.070 --> 00:07:28.839

**Mike Allison:** And are we doing it all by just the waters coming down because there's underground rivers too.

00:07:29.370 --> 00:07:35.669

**Mike Allison:** Right? How many government know it's an element right now.



00:07:35.810 --> 00:07:38.040

**Mike Allison:** Oh, it's not bullshit.

00:07:39.770 --> 00:07:41.830

**Mike Allison:** Well, I mean, I'm I'm confused about..

00:07:56.970 --> 00:07:58.690

**Mike Allison:** with all your measurements.

00:08:02.320 --> 00:08:06.260

**Mike Allison:** That's that's I like to send somebody out here come about

00:08:06.530 --> 00:08:08.370

**Mike Allison:** that we are staying into that.

00:08:08.950 --> 00:08:10.319

**Mike Allison:** If there was awesome.

00:08:16.310 --> 00:08:36.270

**Mike Allison:** hopefully, it's surprising, are we 10,000 feet. So if they're interested in pricing

00:08:40.470 --> 00:08:46.740

**Mike Allison:** confused on awesome.

00:08:47.430 --> 00:09:00.680

**Mike Allison:** And anybody can be drop ship message to anybody else, you know, getting back, of course.

**Mike Allison:** that's my concern, and I don't. I don't see something that I feel comfortable with.

00:09:11.070 --> 00:09:12.200

**Kelly Meinz:** Thank you, Mike.

00:09:12.840 --> 00:09:16.039

**Kelly Meinz:** is there anyone else who is going to want to make a public comment?

00:09:19.970 --> 00:09:34.900



**Kelly Mainz:** Okay, so what I'm gonna do is, we're going to pause the hearing. And then the part of that. Soon after another 10 or 15 minutes, open the hearing again. If there are public comments, we will receive it. And then we're adjourn after that.

00:09:42.050 --> 00:09:49.739

**Kelly Mainz:** Okay, it's now June 23, at 7:35 PM, is there any additional commenters at this time?

00:09:52.980 --> 00:09:58.699

**Kelly Mainz:** I have called the names of everyone who has committed or commented orally. Is there anyone else who wishes to comment?

00:09:58.900 --> 00:10:04.650

**Kelly Mainz:** All right, Austin, thank you for coming and providing us with your comment. This hearing is now adjourned.

00:10:06.443 --> 00:10:07.330

**Kelly Mainz:** Bye. Everybody.



## **Public Hearing Transcripts for June 24, 2025 -Crane**

**00:00:02.720 --> 00:00:13.549**

**Kelly Mainz:** Okay, this hearing is now in session and is being recorded. My name is Kelly Mines, and I'm the hearing officer. Today is June 24th and the time is 11:23. I did not receive any request for accommodation to participate in this hearing by 6:22. The purpose of this hearing is to provide an opportunity for public comment on proposed rules in ORS Chapter 690, Division 512, in addition to sending oral comments. At this hearing, anyone may submit written comments until 5PM. On August 7th 2025, which is the close of public comment period. You may send comments to my name, Kelly Mainz at Oregon, Water Resources Department 725 Summer Street, northeast suite, A Salem Oregon, 97301, or email [wrd\\_dl\\_rule-coordinator@water.oregon.gov](mailto:wrd_dl_rule-coordinator@water.oregon.gov). Comments received after 5 PM on August 7th 2025 will not be reviewed or considered by the agency unless the agency decides to extend the public comment period for everyone. The Department will not respond to questions during this hearing. After the close of the public comment period, the department personnel will prepare a staff report to the Water Research Commission, which will be available by the department.

So, I'm now going to call individuals who have signed up for public comment and we're going to start with Mario. Please state your name for the record.

**00:01:48.490 --> 00:01:51.269**

**Mario Petrelli:** Mario Petrelli, Burns. The Crane Hot Springs deserves a waiver. It's a consumptive use, therefore it is subject to the second most dramatic decreases of groundwater usage in Harney Basin. Crane Hot Springs has so much value to the area. Millions of people, I should say that thousands of people from around the world go there. This Memorial Day weekend, it was only standing room only. They should have a waiver, just not only for its economic benefits, but also historic. Thank you.

**00:02:29.930 --> 00:02:35.480**

**Kelly Mainz-OWRD:** Thank you. Is there anyone in the room, or else anyone who else in the room wishes to make a public comment at this time? Okay, so I am going to pause the hearing for 5 minutes, pick back up and ask if there is any more public comment, and if there is not, I will adjourn the public hearing.

**00:02:58.820 --> 00:03:06.690**

**Kelly Mainz-OWRD:** Okay, it is June 24th at 11:32. Are there any other commenters who wish to speak?

**00:03:09.310 --> 00:03:18.489**

**Kelly Mainz-OWRD:** Okay, I have called the names of everyone who has commented early. Thank you for coming, providing us with your comments. The hearing is adjourned.



**Public Hearing Transcript for June 24, 2025 - Diamond**

00:00:08.960 --> 00:00:09.820

**Kelly Meinz:** Okay.

00:00:11.770 --> 00:00:24.510

**Kelly Meinz:** this hearing is now in session and is being recorded. My name is Kelly Meinz, and I'm the hearing officer. Today is June 24, 2025, and the time is 7:12 PM.

00:00:25.000 --> 00:00:38.889

**Kelly Meinz:** I did not receive any requests for accommodation to participate in this hearing by June 22, 2025. The purpose of this hearing is to provide an opportunity for the public on the proposed rules OAR Chapter 690, Division 512.

00:00:39.620 --> 00:00:50.509

**Kelly Meinz:** In addition to presenting oral comments at this hearing, anyone may submit written comments until 5PM on August 7, 2025, which is the close of the public comment period.

00:00:50.520 --> 00:01:19.720

**Kelly Meinz:** You may send comments to Kelly Meinz. At Oregon Water Resource Department, 725 Summer Street Northeast, Suite A, Salem, Oregon, 97301, or email wrd\_dl\_rule-coordinator@water.oregon.gov

00:01:20.050 --> 00:01:30.809

**Kelly Meinz:** Comments received after 5PM On August 7th will not be reviewed or considered by the agency unless the agency decides to extend the public comment period for everyone.

00:01:30.920 --> 00:01:43.319

**Kelly Meinz:** The Department will not respond to questions during this hearing. After the closed Public Comment Period Department Personnel will prepare a staff report to the Water Resource Commission which will be available from the department.

00:01:43.490 --> 00:01:46.039

**Kelly Meinz:** So now I'm going to start calling people

00:01:46.230 --> 00:01:54.800

**Kelly Meinz:** starting with John Short. Please stand up and then say your name for the record.

00:01:55.270 --> 00:01:58.647

**John Short:** John Short, and I would state that the



00:02:00.510 --> 00:02:09.514

**John Short:** rules should absolutely take the RAC alternate for the reductions.

00:02:10.520 --> 00:02:33.260

**John Short:** And I'm sorry that there's winners and losers, but the that moves some of the burden to one of the worst over pumped areas, with the alternative essentially having almost no difference in groundwater discharge to springs or streams, almost no difference in ET

00:02:33.951 --> 00:02:41.920

**John Short:** groundwater et natural groundwater, ET, and it saves us 7 domestic wells going dry.

00:02:46.280 --> 00:02:51.490

**Kelly Meinz:** Erik Steen

00:02:51.550 --> 00:03:03.379

**Eric Steen:** I'm like to address and see what the rules going into effect area, essentially render property values and everything borrowed against and being borrowed against currently

00:03:03.814 --> 00:03:21.979

**Eric Steen:** by 1/3 on irrigated property. And we need to know how we're compensated for that or, and or where the right is to take 1/3 of our financial evaluation of the property we already currently purchased. So that needs to be addressed or

00:03:22.732 --> 00:03:26.720

**Eric Steen:** if we're if we're going to be resulted in 1/3 deduction.

00:03:30.090 --> 00:03:37.979

**Dan Otley:** Dan Otley, I'm Dan Otley. Rittle Ranch. Our

00:03:38.550 --> 00:03:43.540

**Dan Otley:** my area on the or wells are is.

00:03:43.750 --> 00:03:46.879

**Dan Otley:** I guess it would be on the far southern

00:03:48.021 --> 00:03:58.420

**Dan Otley:** boundary of the area of the sub area, for the train became area and



00:04:00.440 --> 00:04:13.010

**Dan Otley:** well, I've been following the critical ground area water Area rule making for the past 2 years, until last month I understood that my well would probably be included in the Windy Point sub area.

00:04:13.580 --> 00:04:30.100

**Dan Otley:** Although I am generally concerned about the critical water groundwater area. Like others in Harney County, the prior subarea proposal made more sense to me as groundwater in the Windy Point area is different from groundwater to the north. In the former, proposed

00:04:30.300 --> 00:04:45.029

**Dan Otley:** Crane Buchcannon subarea. My wells and my neighbors' wells do not have the same recharge issues as wells to the north. Our groundwater issues are more similar to our neighbors to the south and west than Lower Blitz and Voltage area.

00:04:45.210 --> 00:04:57.200

**Dan Otley:** and then in May 2025 OWRD published new maps proposing to consolidate subareas and move my wells into the larger northeast grain subarea

00:04:58.785 --> 00:05:06.440

**Dan Otley:** at a minimum. I think the OWRD needs to explain the scientific rationale for this approach, and

00:05:07.410 --> 00:05:14.370

**Dan Otley:** given that, my wells were located in the far southern boundary of the Windy Point subarea

00:05:14.720 --> 00:05:25.100

**Dan Otley:** in the agency's original proposed subarea map. It is not clear why my wells are now being located in the Northeast Crane sub area, moving main wells into the

00:05:25.220 --> 00:05:37.670

**Dan Otley:** northeast Crane sub area will significantly impact my business. My wells do not affect, nor are affected by the northeast Crane sub area, but they are affected and do affect the lower Blitz and Voltage area.

00:05:38.416 --> 00:05:55.939

**Dan Otley:** I'm requesting that the OWRD reconsider the Northeast Crane, lower Blitzen Voltage boundary line location. I'm requesting that the OWRD move the lower Blitzen Voltage sub area North Crane sub area boundary north to Windy Point, which is

00:05:57.880 --> 00:06:04.420



**Dan Otley:** by the green line, so that's the that line showing there.

00:06:09.390 --> 00:06:12.109

**Dan Otley:** This makes sense based on

00:06:12.350 --> 00:06:21.940

**Dan Otley:** hydrogeology and Geo geography. It also will better support long-term groundwater management efforts like voluntary agreements.

00:06:23.210 --> 00:06:37.769

**Dan Otley:** Under State law, OWRD is required to set sub areas based on the presence of physical natural boundaries, hydrological conditions, or recharge or discharge areas when possible. OWRD

00:06:37.880 --> 00:06:58.570

**Dan Otley:** previously explained that RAC meetings that sub areas are intended to group well together, that behave similarly, my wells do not behave similarly to the wells in Northeast Crane sub area. Namely, they do not have the same shortages and drawdown issues as the wells in Northeast rain sub area. Said my wells and my neighbors.

00:06:58.830 --> 00:07:12.730

**Dan Otley:** wells are more similar to wells in the Lower Blitzon Voltage area. Importantly, my wells and my neighbor's wells are also physically separated from the Northeast Crane sub area by Windy Point, which I showed on the map.

00:07:13.230 --> 00:07:17.610

**Dan Otley:** And there's another one that shows that

00:07:17.770 --> 00:07:22.150

**Dan Otley:** the irrigation wells and pivots, and then

00:07:22.380 --> 00:07:30.320

**Dan Otley:** the line is the the green line, I think on that one shows where it should be versus it, and you can compare the pivots

00:07:30.450 --> 00:07:32.229

**Dan Otley:** and the 2 sub areas



00:07:39.200 --> 00:07:52.009

**Dan Otley:** And then OWRD has explained in its FAQ document that sub areas sub area boundaries are intended to support long term groundwater management efforts like volunteer or voluntary agreements.

00:07:52.250 --> 00:08:11.880

**Dan Otley:** If this is the goal, it does not make sense to group my wells and my neighbors' wells with wells in Northeast Crane at sub area, 20 miles or more to the north. Relocating a boundary line to Windy Point, is consistent with sound science, and is a better policy decision, as it would allow for more

00:08:11.980 --> 00:08:20.659

**Dan Otley:** cooperative agreements between similarly situated landlords in the Windy Point and Lower Blitz- Voltage. Thanks for your consideration.

00:08:24.280 --> 00:08:31.049

**Kelly Meinz:** Okay, I have called all the names of everyone who has comment orally. Is there anyone else who wish to comment at this time?

00:08:34.460 --> 00:08:37.279

**Kelly Meinz:** Oh, it's got triple phone and stuff.

00:08:37.470 --> 00:08:41.059

**Kelly Meinz:** You wish to make a comment. Yeah, so please state your name for the record.

00:08:41.460 --> 00:08:54.909

**Martin Thompson:** My name is Martin Thompson, neighbor to Dan Otley from Riddle Ranch. I'd like to reiterate his comments. We also were located

00:08:55.010 --> 00:09:06.280

**Martin Thompson:** in the Windy Point sub basin, which has now been combined with the Northeast crane sub basin.

00:09:06.730 --> 00:09:11.589

**Martin Thompson:** and the physical separation is pretty profound.

00:09:12.380 --> 00:09:18.560

**Martin Thompson:** From the rest of that basin points quite a large, quite a large mountain, and

00:09:19.430 --> 00:09:23.390



**Martin Thompson:** logically looks like some sort of a fault zone.

00:09:23.890 --> 00:09:27.660

**Martin Thompson:** And thank you for considering my comments.

00:09:28.380 --> 00:09:30.989

**Kelly Meinz:** Does anyone else wish to make a public comment?

00:09:32.000 --> 00:09:43.792

**Kelly Meinz:** Start with this gentleman, please state your name. My name is Dominic Bachman. I'm also a neighbor of Dan Otley's properties previously referred to, and I would agree that the Windy Point

00:09:44.410 --> 00:09:56.890

**Dominic Bachman:** subarea made more sense, and it would make sense to agree with the Thompsons, and that, we also feel that we were. We're not put in the right place right now. So

00:09:57.290 --> 00:09:58.420

**Dominic Bachman:** thank you. Bye-bye.

00:10:01.830 --> 00:10:10.229

**Fred Otley:** You know I'm Fred Otley, and I'm in the lower Blitz and foliage area also, probably 30 miles

00:10:10.640 --> 00:10:18.150

**Fred Otley:** to the southwest from these folks' wells that they just spoke about.

00:10:18.640 --> 00:10:28.459

**Fred Otley:** But the when when we looked at the well logs.

00:10:29.750 --> 00:10:35.790

**Fred Otley:** especially the ones that were done accurately by using modern techniques.

00:10:35.910 --> 00:10:43.450

**Fred Otley:** There is, there is idle geological formations that separate that whole area

00:10:43.930 --> 00:10:50.240

**Fred Otley:** from Windy Point, South away from Crane Buchanan. And when you look at the



00:10:50.960 --> 00:10:57.779

**Fred Otley:** elevation to the groundwater static levels there, there, it shows

00:10:57.970 --> 00:11:06.009

**Fred Otley:** that separation. So in addition to many other comments I have focusing on that area,

00:11:06.530 --> 00:11:13.970

**Fred Otley:** it makes more sense. It is defensible, geologically and technically

00:11:14.860 --> 00:11:28.410

**Fred Otley:** and practically to separate that whole area by itself actually. Because originally, the department used that as the bathtub drain. Now they're actually saying the water is going north.

00:11:28.710 --> 00:11:36.490

**Fred Otley:** There is no physical evidence documented other than certain assumptions

00:11:37.300 --> 00:11:45.640

**Fred Otley:** and models that that show that connection Going north. There's there's some distinct

00:11:45.870 --> 00:11:58.309

**Fred Otley:** flow patterns when you talk to Well drillers that separate those flows out. So I think that's good input and definitely needs to be considered by the department.

00:11:59.640 --> 00:12:02.460

**Kelly Meinz:** Lets see? Anyone else wish to make a public comment?

00:12:05.410 --> 00:12:09.340

**Kelly Meinz:** Okay, at this time I'm gonna take a 10 min break

00:12:09.869 --> 00:12:18.819

**Kelly Meinz:** come back to see if anyone wants to make comment, and then we'll adjourn the public hearing. So at this time we're going to pause the hearing for 10 min. Thank you.

00:12:29.470 --> 00:12:36.480

**Kelly Meinz:** Okay. It is. June 24,2025, and 7:30PM. Is there anyone else who wishes to make a public comment at this time?

00:12:41.890 --> 00:12:46.900

**Kelly Meinz:** Thank you for coming, providing us with your comments. This hearing is adjourned.



00:12:47.860 --> 00:12:49.370

**Kelly Mainz:** Thank you all.



### **Public Hearing Transcript June 25, 2025 - Riley**

**00:00:06.540 --> 00:00:12.350**

**Kelly Meinz:** Alright. This hearing is now in session is being recorded. My name is Kelly Meinz, and I am the hearing officer. Make sure I'm not muted. Okay. Today is June 25th and the time is 11:25. I did not receive any requests for accommodation to participate in this hearing by June 23rd. The purpose of this hearing is to provide an opportunity for public comment on proposed rules in OAR Chapter 690, Division 5. In addition to presenting oral comments at this hearing, anyone may submit written comments until 5 Pm. On August 7<sup>th</sup> 2025, which is the close of the public comment period. You may send comments to Kelly, mines KELL. YMEI, NZ. At Oregon Water Research Department 725 Summer Street NE, Suite A, Salem, Oregon, 97301, or email Wrd\_DL-coordinator@water.oregon.gov. Comments received after 5 Pm. On August 7<sup>th</sup> 2025 will not be reviewed or considered by the agency unless the agency decides to extend the public comment period for everyone.

The Department will not respond to questions during this hearing. After the close of public comment, department personnel will prepare a staff report to the Water Resource Commission, which will be available from the department. I'm now going to call those people in order who signed up the public hearing. Starting with John Short. Please stand up and say your name for the record.

**00:01:50.650 --> 00:01:57.340**

**John Short:** Guess I disagree with regulating back the most of the areas that have the least problems. Where Silver Creek and Lower Blinson have inches of drop haven't hit 50-foot trigger point, haven't hit the 3-foot per 10-year. The 3 foot per year for consecutively for 10 years. But it only looks like they might cross the pumping more than recharge. It seems like the areas that are hurt most by dropping hundreds of feet should have the most restrictions or cutbacks.

**00:02:40.990 --> 00:02:45.450**

**Kelly Meinz:** Wayne Evans.

**00:02:45.790 --> 00:02:51.164**

**Wayne Evans:** Yeah, that's fine. I agree with him. And that's kind of the way I feel. Like, I said. I've kept a complete roster of what all of my wells have done, including the ones that Philip has down there. And everything has gone up in the last 20 years. And then the last few years we have gone stable. Nobody's going down with all the lowest waters being pumped through. So that's the way I feel. I feel just like he did, and I don't feel like you should cut Philip off, or me either at all. Because we're not gonna affect what's happening down there. I don't care. Years ago, when I 1st came here in 1995. We hired my partner and I hired a higher geologist out of Iowa and he spent 2 weeks here. 2 of them did. They drove holes all over this flat up and checked the water. They started on Dry Mountain. They came down, and they came up with their idea of what the actual root of the water was as far, and anyway, the water does not go south from up here. The water goes dead, east or dead west, southwest. It's right down. That's where the aquifer that they said that they came up with – with that one. So, you know, I don't think any of us really know where the offer for really is, you know. So yep.

**00:04:16.990 --> 00:04:20.320**

**Kelly Meinz:** Okay. Lorrissa Singhose.

**Lorrissa Singhose:** So, the rules and how much they're regulating back the non-critical areas and how that the rules have designated critical areas that don't meet critical groundwater designation



standards as defined in OAR 690 008-001 overdrawn. We do not fit that definition by the definition stated in rule, and therefore, once Weaver has been reduced back, we are with, and you include the natural discharge and the natural spring and all that discharge. We will be in equilibrium. But the law doesn't allow you to put that into - in the calculations for the definition of overdrawn. But even if you want to calculate that to preserve springs, then we've allotted enough water to keep those springs going as they are.

So we do not fit the definition. I feel that the rules have overstepped their bounds, and putting in Donner, Lower Donner, and Blitzen, parts of Sylvie's and the Silver Creek area into the critical designation area that does not meet the requirements.

Also, along with not meeting the requirements, the rules and statutes and policies in Oregon say that you do not have to designate a whole aquifer system as critical. You can break that up by pieces. But the Department has taken it upon themselves and chose to put areas that are not in the critical groundwater, don't meet the criteria they have chose to put us in there by using whatever parameters that they've sought thought to use without substantial evidence to back up what really is causing a decline if they want to use springs against us. They have not considered factors like the geology and the fault lines and other factors that could be contributing other than pumping.

I also think that the Department has not considered the public welfare, safety, and health in these rules. And the reason I say that is because they never once talked about the environmental impacts of farmland that is being fallowed, which causes soil degradation, which causes your soil, quality and nutrients to go down causes erosion, excess runoff, and the loss of carbon sequestering, which is very important to the environmental world.

You're losing that. We are losing wildlife habitat by every acre that we are drying up. That is also a loss to public welfare, health, and safety that has never been considered. The only thing that has ever been talked about in that is the cause of a spring. Which we do not even know the exact impacts, because we do not have enough sufficient data, as also said in some of the meetings, Water Resource department had admitted that their spring information was lacking, and they could not use it in the models to accurately model the conditions of the springs.

So therefore, they need to consider the economic impact and what we are losing in the 61 million basin wide loss, and that they need to reduce the reductions into these less critical areas to help this community. The Harney basin have less losses.

Their reductions are over regulated, and their reductions, when they go into an area that drops and does not meet critical groundwater standards, and they go and they take away 40 to 50%. And they go to areas that are less and they only drop them by 10%.

We want to share the impacts, but we don't have to put it on everybody that doesn't qualify for that. If that's the reason why we're reducing everybody. Also, I don't think that the rules have taken in consideration other losses like the loss of our electric company, because the rates are going to go so high up because farmland is not going to be able to subsidize. People in town are not going to be able to afford. So, when Harney loses their power that definitely affects the public welfare, health, and safety.

So, I would, my comments were would be that they need to take out the less critical areas. I would say lower Blitzen and voltage the Silver Creek area and parts of Sylvies that don't qualify under their rules



and statutes for a critical groundwater area and be taken out, taken back. And we need to consider that if you will not do that, then we need to consider realistic reductions, not 40%.

You cannot go into an area and devastate them and bankrupt people over inches of water. In the State of Oregon a year ago they adopted the Water Commission adopted rules that said that new permits. These are new people, that their water is acceptable, reasonable, and sustainable use at a point 6 feet a year dropage. They're allowed to do that anywhere else in the State and have a 25-foot decline before they could be regulated. It doesn't say they have to be regulated. It's before the State would actually come in and start regulating them. We do not even we do not come, we do not qualify or even come to these standards that they put out for the rest of the State. But because they've chosen to designate as critical. We now have higher standards, and we are now considered not sustainable at same rates that every other place in the State would be sustainable.

So, I think that the policies and the regulations need to be re-looked at because they are definitely overregulated. Thank you.

**00:10:26.010 --> 00:10:28.260**

**Kelly Meinz:** Hey? Does anyone else wish to make a public comment?  
Please stand up and state your name again, please,

**John Short:** John Short again. I guess, I offer maybe a solution, or whatever is. I wonder if a solution would be to put off regulating these areas that don't meet the critical groundwater. Let's say, until next the 2034. So, we'd be able to see the impacts of like shutting off Weaver Springs. See what that has on both Silver Creek and Lower Blitz, and it sure looks like from the contour lines that Weaver Springs is affecting them.

**00:11:14.720 --> 00:11:20.899**

**Kelly Meinz:** Anybody else anybody else wish to make a public comment at this time.

**00:11:25.170 --> 00:11:29.209**

**Kelly Meinz:** Please state your name for the record.

**Mario Petrilli:** Mario Petrilli, Burns.

The Warm Springs area has been studied to death since 1909. USGS report by Fred Larry. The problem for the department is that they haven't had a way of measuring the output of those springs. There are 4 clusters down there. Each one is almost individualistic. You have some that are from surface growth, some that are thermal, that are coming out of brothers fault and actually, when you take a look overall, though we are wetter the past 2 and a half years. Those springs are vital. There's only one spring that's still depressed.

The issue is, before we decide that the springs are the ultimate goal for this particular sub area. Can the department take more time or develop a way to measure in the past actual flows from the spring area?

They can be done with space observatories space satellites, Landsat, sentinel. That would be more valuable and more information when we get into further process and the adjustments when it comes to the actual final rule. Thank you.



**00:12:43.950 --> 00:12:45.979**

**Kelly Mainz:** Anyone else wish to make public comment?

Okay? So what I'm gonna do is, I'm going to pause the hearing. Give 5-10 minutes come back and check to see if there's anyone else wishing to comment, and then I will adjourn the meeting. So we will meet back at 11:47.

**00:13:09.070 --> 00:13:14.659**

**Kelly Mainz:** It is 11:47. On June 25<sup>th</sup> 2025. Is there anyone else who wish to make the public comment at this time?

Alright! I have read all the names I have called names of everyone who has commented early. Thank you for coming, providing us with your comments. This hearing is now adjourned.



### **Public Hearing Transcript June 25, 2025 - Hines**

00:00:03.330 --> 00:00:29.500

**Kelly Mainz:** This hearing is now in session and is being recorded. My name is Kelly Mainz, and I am the hearing officer. Today is June 25, and the time is 6, 7:06PM. I did not receive any request for accommodations to participate in this hearing by June 23. The purpose of this hearing is provide an opportunity for public comment on the proposed rules in OAR Chapter 690, Division 512.

00:00:29.730 --> 00:00:40.220

**Kelly Mainz:** In addition to presenting oral comments at this hearing. Anyone may submit written comments until 5PM on August 7, 2025, which is the close of the public comment period.

00:00:40.230 --> 00:01:06.689

**Kelly Mainz:** You may send comments to me, Kelly Mainz, so Kelly Mainz at Oregon Water Research Department, 725 Summer Street Northeast, Suite A, Salem, Oregon, 97301, or email WRD\_DL\_rule-coordinator@water.oregon.gov

00:01:06.910 --> 00:01:10.780

**Kelly Mainz:** coordinator@water.oregon.gov.

00:01:11.600 --> 00:01:22.339

**Kelly Mainz:** Comments received after 5PM on August 7, 2025, will not be reviewed or considered by the agency unless the agency decides to extend the public comment period for everyone.

00:01:22.630 --> 00:01:34.050

**Kelly Mainz:** Department will not respond to questions during this hearing. After the close of public comment period, personnel will prepare a staff report to the Water Resource Commission, which will be available from the department.

00:01:34.210 --> 00:01:41.349

**Kelly Mainz:** So I'm going to start calling the people who signed up for public comment, and we'll start with John Short. Please stand up and state your name for the record.

00:01:42.598 --> 00:01:44.791

**John Short:** Don't mind going last.

00:01:46.409 --> 00:01:59.720

**John Short:** I simply want to say as a RAC member, and such that I I would encourage that we, instead of going with water resources proposal for the memorandum

00:01:59.920 --> 00:02:05.030



**John Short:** that we go with the RAC alternate for

00:02:07.360 --> 00:02:17.659

**John Short:** not as high a restrictions on Silver Creek and Lower Blitzen and higher restrictions on the northeast, or the Trinity Cannon

00:02:18.000 --> 00:02:23.169

**John Short:** that does save according to that Memorandum 7, Domestic 12.

00:02:23.992 --> 00:02:27.129

**John Short:** Another option would be to delay silver creek and lower blitzen.

00:02:27.330 --> 00:02:31.659

**John Short:** So we're reducing the Lower Blitzen to see the impact of

00:02:32.797 --> 00:02:37.420

**John Short:** the cuts to Weaver springs that one will

00:02:37.530 --> 00:02:41.099

**John Short:** contour lines appears to impact both of those.

00:02:44.710 --> 00:02:51.069

**Kelly Meinz:** Okay, I've called the names of everyone who has comment or who wanted to comment orally. Is there anyone else who wishes to comment?

00:02:52.880 --> 00:03:00.103

**Kelly Meinz:** Billing number open there, you still say, yes, I was gonna see if you can respond to questions.

00:03:01.401 --> 00:03:11.330

**Kelly Meinz:** All right. Well, thank you all for providing us with your comments. This hearing is now an adjourned.



## **Public Hearing Transcript June 26, 2025 - Seneca**

00:00:02.590 --> 00:00:20.040

**Kelly Mainz** This hearing is now in session and is being recorded. My name is Kelly Mainz, and I am the hearing officer. Today is June 26th and the time is 6:55 Pm. I did not receive any requests for accommodations to participate in this hearing. By June 24<sup>th</sup>.

The purpose of this hearing is to provide an opportunity for public comment on proposed rules in OAR, Chapter 690, Division 512. In addition to presenting oral comments at this hearing, anyone may submit written comments until 5 pm on August 7<sup>th</sup>, 2025, which is the close the public comment period. You may send comments to Kelly Mainz at Oregon Water Resource Department 725 Summer Street, NE, Suite A, Salem, Oregon 97301, or email WRD\_DL\_rule-coordinator@water.oregon.gov.

Comments received after 5pm August 7th 2025 will not be reviewed or considered by the agency. Unless the agency decides to extend the public comment period for everyone. The Department will not respond to questions during this hearing. After the close of public comment period, department personnel will prepare a staff report to the Water Resource Commission, which will be available from the department.

I will now call those who signed up, starting with the 1st person, Nick Green.

00:01:33.100 --> 00:01:33.780

**Nick Green:** "Great, thank you for the opportunity to present. For the record, my name is Nick Green. I'm the president of Catalyst of Public Policy Advisors, based out of John Day, Oregon.

I am here representing city administration for the city of Burns, which is one of my clients. I do not speak for the city council, but I can speak on behalf of the city manager and city staff who asked me to attend tonight.

I want to start out for the record thanking OWRD, their staff and consultants for the wonderful work they've done over many years to create what I feel and the city feels is a good policy overall. The city is supportive of the objective to reduce water consumption and to restore balance from these proposed water conservation measures.

That said, good data is good policy and so I want to provide a couple of comments in addition to, or prefacing written comments and plan to provide ahead of the August 5th hearings. We'll try to get those to OWRD within the next couple of weeks.

Our main concern for the city of Burns is with the section of the proposed rule 690-512-070 scheduling water use reductions to meet permissible total water withdrawal, subparagraph 4 which restricts municipal and quasi municipal water rights to 110% of the greatest single year quantity reported in the preceding 6 years.

In most cases that rule will not impact growth within the city. We recognize that it was designed to allow for modest growth. Our concerns, and not in any priority order, the 1st one is the double whammy effect. So, the city of Burns has been implementing water conservation measures voluntarily independent of this rule. Next year they're going into construction on a 2 million dollar water rehabilitation effort to fix leaking pipes and a water distribution system that was actually supposed to go into effect this year, but due to permitting with State Historic Preservation Office, it was delayed



As written, this subparagraph 4 would create a rolling average that reduces in each subsequent year the total available water rights because the city is already voluntarily reducing. In other words. If the city reduces by 40%, then 110% is going to measure off of that reduction. We want to acknowledge that in most instances that could be a good thing, because it frees up additional water for agriculture. Our concern is that there's no flexibility in the rule to allow for unanticipated growth that would be beneficial for the city and for the county at large.

So, one specific use case is data centers of Harney County along Highway 20 has the largest fiber optic pipe in the State. It has a significant amount of capacity. The State, through the State legislature and Business Oregon have invested 8 million dollars in new industrial and residential land in the city of Burns.

The residential side that's 160 dwelling units within phase one of Miller Springs that's currently in construction. As well as 30 acres of business park and 30 acres of industrial land that's owned by Harney County. That shovel ready land combined with fiber optic access, actually positions the city of Burns to be a primary target for data centers.

As proposed in this rule, if this rule were in effect a data center came to apply - even data centers that are water efficient would not be permissible because of that 110% cap.

So, what we would like to suggest is creating some flexibility within the rulemaking to accommodate growth within the municipality that other State agencies and the State legislature are intending to attract.

We also want to acknowledge that most State land use policy is designed to encourage growth within cities and to prohibit growth outside of cities. Specifically numerous regulations that are administered by the department of land conservation and development restrict housing and industrial development outside of urban growth boundaries.

For that reason the State has allocated and deliberately allocated significant water rights to municipalities in excess of what most cities use to allow for and not prohibit growth within the urban growth boundaries. So, this rule has the potential in certain instances and use cases to contravene or contradict other state policies intending to encourage growth. I also want to point out that present for municipal subdivision or industrial Development cities currently required or not to consult and permit with Oregon Health Authority, Department of Environmental Quality, Department of State Land, State Historic Preservation Office, the city's own regulations, the county's regulations in the case of Harney County, the Burns Bayou tribe, because it's historically Tribal Trust Lands, Dogami, Fema, Army Corps of Engineers, Department of Land Conservation Development, and the Housing Accountability and Production Office, which was recently established.

So, OWRD in this role will become Agency Number 14 that we have to integrate across to ensure that we're meeting all of the various regulations. We're not against that. We just want to know for the record that there's a significant amount of policy making that's already occurring. We want to work with OWRD to see if we can create some flexibility that still allows city to contribute voluntarily to water conservation and do its part to restore the water budget.

With that I'll just say we're looking forward to submitting our written comments and participating in the August 5th hearing and thank you again for the excellent work that you've done.”

00:07:23.210 -- > 00:07:34.040



**Kelly Mainz:** Okay, is there anyone else who wishes to make a public comment? I have called the names of everyone who is commenting orally. Thank you for coming and providing us with your comments.

00:07:36.660

**Kelly Mainz:** The hearing is adjourned.



**Public Hearing Transcript August 4, 2025 – Seneca**

Kelly Mainz, OWRD:

Today is August 4th and the time is 5:06 PM.

This hearing is now in session and is being recorded.

My name is Kelly Mainz and I am the hearing officer. I did not receive any requests for accommodation to participate in this hearing by August 30, 2025.

The purpose of this hearing is providing an opportunity for public comment and Oregon Resource Department post rules in OAR Chapter 690 Division 512 Harney Basin groundwater rules.

In addition to presenting oral comments here at this hearing, anyone may submit written comments until 5:00 PM on August 13th, 2025, which is the close of public comment period. You may send comments to Kelly Mainz at Oregon Water Resources Department 725 Summer St. NE, Suite A, Salem, OR 97301, or e-mail [WRD\\_DL\\_rule-coordinator@water.oregon.gov](mailto:WRD_DL_rule-coordinator@water.oregon.gov). Comments received after 5pm on August 13, 2025, will not be reviewed or considered by the department unless the Department decides to extend the public comment further. The department will not respond to questions during this hearing. After the close of the public comment period, the Department personnel will prepare the staff report for the Water Resources Commission, which will publicly be available.

So, I'm now going to call those who signed up orderly to start with Marv Javil. Please stand up, state your name and where you're from for the record.

Mario Petrilli, Burns OR:

"A communication systems engineer and a surface water guy. It doesn't seem fair for groundwater users who are reduced to 2.5 acre feet while surface water users are not. Everyone needs to take a haircut. You do know, NOAA says 'snowfalls have declined 20% during the past 40 years. 'SOTEL says snows have declined 33% on Snow Mountain the past 42'. But the snowpack gets stuck.

You do know in 1967 the comprehensive OWRD flood control report estimates the ratio between the Silvis River and Emigrant Creek was 65/45. The past 10 years, USGS and OWRD meaner average ratio is now 45/55 and approaching 40/60.

The Sylvie's River is now a tributary to Emigrant. This is historic and impacts the lower Basin groundwater recovery recharge rates. Did you know the barren Sylvie's, base and ranches and farms consume 50% and retain 75% of stream flow, far above the 1924-26 Sylvie's River water decree.



There are times most years when no flow from the Sylvies Valley reaches the lower basin for weeks, while the Little Emigrant Creek keeps flowing on. Half the water entering the Sylvie's Valley never leaves. It's not far from the truth.

The department has no water cop up there.

Did you know, that a mean of 20 to 25% decrease in Sylvies river flow reaching Harney Valley makes cattle ranching very difficult towards the end of the flows north of the lake. Most properties with acreage are on the market.

The water decree is an old pair of shoes, one with the laces too tight and the other with the laces too loose. The county has sustained injury and has standing in a court of law for the department's breach, not enforcing the 1926 contract. If the county doesn't do it, I'm sure the Harney County Cattlemen's Association will.

Harney basin's critical groundwater problem is comprehensive. So must be the solutions. They must include the entire basin SWMPA.

The best solution is a new court decree, or actually several, because there's the Silver Creek decree. Everyone there must take at least a 20% reduction from current water use practices. Adherence and enforcement of the current Silvies water decree would go a long way in accomplishing the same.

However, District 10 Watermasters have been reticent to enforce the decree's allocations due to the lack of proper tools and the department's support. The Sylvie's water decree is no longer efficient and equitable for today's Harney Basin. Everyone needs to reduce surface water irrigation use, but not reservoir storage.

On its own initiative, OWRD, along with local stakeholders would recommend POD and POU day flow rates where and when, why and how based on various agreed upon matrices.

A new surface Water Planning Board would submit its findings to both Harney and Grant County District courts for judicial review and adjudication.

The Division 512 team can't do this, and most local folks don't trust the department to do it. I hate to say this., another long delay while water levels continue to decline. But this must be done for state mandates to preserve the Harney Basin aquifer system to be fair.



Everything down there starts here: Strawberry Mountain in a Carson Spring and the refuge wants its 20% back.

I've seen this movie before. I know how it ends. It was about 35 years ago. Maybe you saw it too. The movie was called the spotted owl. There was some bad science then, there's some bad science now.

I thank you for the opportunity to speak.”

Kelly Mainz, OWRD:

Thank you, Mario. OK so I have called all the names of everyone who wishes to comment orally. Is there anyone else here who wishes to comment at this hearing? OK, I will now pause the recording and ask again in 10 minutes if there is anyone else who wishes to comment at this hearing. Thank you.

□



## **Public Hearing Transcript August 5, 2025 – Burns Morning Hearing**

00:00:00.423 --> 00:00:01.250

**Joe Mall** - OWRD: Yeah, thanks. Okay. If I can get everybody's attention, appreciate it. Today is Tuesday, August 5th time is 1014 Am. This hearing is now in session and is being recorded. My name is Joe Mall, and I'm the hearing officer again. I represent the Water Resources Commission from the West Central position in Eugene. Everything right from your screen. Okay, I did not receive any requests for accommodation to participate in this hearing. By the 3rd August 3rd, 2025. The purpose of this hearing is to provide an opportunity for public comment on Oregon Water Resources Department proposed rule in OAR, Chapter 690 Division, 512, Harney Basin groundwater rules.

In addition to presenting oral comments here. At this hearing, anyone may submit written comments until 5PM. On August 13th, 2025, which is the close of the public comment period. You may send comments to Kelly Meinz. Here, next to me at Oregon, Water Resources Department 725 Summer Street, northeast suite, A Salem, Oregon, 97301, or email [wrd\\_dl\\_rule-coordinator@water.oregon.gov](mailto:wrd_dl_rule-coordinator@water.oregon.gov). Comments received after 5 PM. On August 13th, 2025, will not be reviewed or considered by the Department unless the agency decides to extend the public comment period for everyone.

The Department will not respond to questions during this hearing. After the close of the Comment Period Department Personnel will prepare a staff report for the Water Resources Commission, which will be publicly available.

So, we will again start. We don't have anybody on the phone wishing to comment. So, we'll start. Looks like we have 2 commenters. On Zoom and we'll start with those 2, and then we'll go to commenters in the room. 1st up will be Patty Dorroh, who, I understand, is a county commissioner here, and they will be followed by Christopher Hall. So, Patty, are you available and ready.

**Patty Dorroh:** I am. Can you hear me?

**Joe Mall- OWRD:** Yes, we can. Yes, we can.

00:02:40.930 --> 00:02:42.489

**Patty Dorroh:** Thank you. Hello! My name is Patty Darroh, and I am from Harney County. I appreciate the opportunity to comment. I know the people and the economy of Harney County, and I have been part of and witness to the collaborative groundwater work for many years. I serve as Harney County Commissioner, but I am here as a member of the public, and these comments reflect my views.

This is such important and new rulemaking work that will, in addition to curtailing the rate of groundwater level decline affect an entire Oregon County, appropriate groundwater curtailment is needed. Excessive groundwater curtailment, however, is not needed. It's not scientifically justified, and it poses a very real and unnecessary threat that will devastate the rural economy here. if my comments and many of the comments from other Harney county people have similar or even the same recommendations, it's because we have so many good, intelligent, well-informed, caring community members who have been involved in all the processes that the legislature and OWRD have established and facilitated for the past 10 years. It's because there is widespread local understanding and consensus on these issues and these recommendations.

My comments are evidence-based, achieve the goal of successfully addressing long-term groundwater declines in the Harney Basin, yet abide by Oregon law. I urge you to hear and consider my comments and those of the residents of Harney County with extra attention. They are sound, fair-minded success, oriented and follow the law. My comments will cover 4 topics, mischaracterization of the Harney Basin



addressing areas of decline, fiscal and economic impacts of the rulemaking and lack of collaboration and meaningful public engagement during the process.

Here are my comments. Mischaracterization of the Harney Basin. The Harney Basin is not one groundwater reservoir. The proposed Division 512 rulemaking was built on the flawed and erroneous designation of the Harney Basin as one groundwater reservoir. That fundamental mischaracterization by OWRD was not supported by the most Harney County members of the Division 512 Rules Advisory Committee, or RAC nor by science. OWRD claimed that the groundwater study called this all one groundwater reservoir. That statement was made in error. The term groundwater reservoir is a policy term, not a scientific one, and the delineation of a groundwater reservoir was at the discretion of OWRD.

The definition in ORS 537.515 is as follows; groundwater reservoir means a designated body of standing or moving groundwater having exterior boundaries which may be ascertained or reasonably inferred. There are many different ways for the Department to ascertain or reasonably infer different boundaries.

OWRD's decision to invoke a discretionary choice and designate the Harney Basin as one groundwater reservoir is fundamentally wrong, since it does not take into account much of the more site-specific information from the groundwater study. Nor does it take into account local knowledge and expertise or management implications.

This definition, which members of our community have objected to from the beginning, formed a technical basis for rulemaking that oversteps the State's legal obligations and roles. It unnecessarily harms the socioeconomic health of the county when there is no reason to do so.

Once the flawed designation of the Harney Basin as one groundwater reservoir is withdrawn, appropriate groundwater curtailment rules can be adopted for the various parts of the basin that will achieve reasonably stable and sustainable groundwater levels without devastating Harney County's economy.

OWRD mischaracterized and subsequently delineated the Harney Basin as a single groundwater reservoir at its discretion rather than differentiate the distinct units or sub areas. It did this rather than recognize these different groundwater reservoirs and account for their variable groundwater conditions in the rules. Despite repeated local requests and feedback.

OWRD's unilateral policy decision claiming the Harney Basin is a single groundwater reservoir enables OWRD to subject the entire Harney Basin to a purely regulatory approach. Even if significant portions of the basin are reasonably stable, not overdrawn, and do not have data showing that they meet the criteria for a critical groundwater area.

This approach to the rulemaking does great harm to the people of Harney County. The agriculture and beneficial use of the groundwater and the socioeconomic health and survivability of Oregon's largest landmass county.

The term groundwater reservoir is ultimately a policy term that was defined at the discretion of OWRD, and this discretionary and optional designation will harm Harney County, and is not needed to achieve success. To opt for the subjective and unwarranted designation against strong local objection implies a lack of collaboration, and integrity, suggests an ulterior motive, and should be corrected immediately.



**Joe Mall - OWRD:** Commissioner Dora, you're starting to break up a little bit. You may want to turn your video off if there's a bandwidth issue.

**Patty Dorroh:** Yes, let me try that.

**Jay Weiner:** She's coming through just fine online for what it's worth. The issue may be on your end.

**Joe Mall - OWRD:** Thank you.

**Patty Dorroh:** Would you like me to turn the video off just in case.

**Joe Mall - OWRD:** Keep trying.

**Patty Dorroh:** Alright! Alright! I'll just keep trying.

**Joe Mall - OWRD:** May I just may I just let you know your comments are at 5 min.

**Patty Dorroh:** How long do? How long do I have.

**Joe Mall - OWRD:** Well, we did the math, and we were hoping that people could stay plus or minus 5 min. But.

**Patty Dorroh:** I'll jump.

**Joe Mall - OWRD:** 4 points, but.

**Patty Dorroh:** Let me go quickly and and cut the meat, and just get to the basics, and I will send in. This written as well. So, you have it all.

**Joe Mall - OWRD:** Apologize for not for not putting that expectation out in the beginning of the hearing.

**Patty Dorroh:** Okay. I'm sorry.

**Joe Mall - OWRD:** My bad.

**Patty Dorroh:** All right.

**Patty Dorroh:** ORS 537.735 clearly allows OWRD to define the boundaries of the critical groundwater area by indicating which of the groundwater reservoirs located either in whole or in part within the area in question, are included within the critical groundwater area. If OWRD persists in its definition, despite continued local objection then they should use their authority to designate part of the groundwater reservoir, not the whole. Addressing areas of decline-2 things. I'll just say that I won't go into the discussion. One conditions across the Harney Basin are relatively stable and areas of reasonably stable groundwater levels should be excluded from a critical groundwater area designation, and 2. only areas that meet the definition of a critical groundwater area should be designated as such and regulated.

Fiscal and economic impacts: we appreciate that OWRD listened to requests from the RAC to produce a comprehensive economic impact analysis of the proposed rules. And this report showed significant



adverse impacts to Harney County's economy. With this rulemaking it basically results in a 17% reduction in economic outfit, that is huge.

When a professional economic impact analysis and local input is summarily ignored or discounted despite OWRD and the Commission's responsibilities to reduce economic impact. And when, in fact, there are alternatives to the rulemaking that is beyond disappointing. And it's bad government inaction. And one might argue against the law.

In summary. There were a lot of areas comments that I have, and I hope you'll read my written comments on the lack of collaboration and meaningful public engagement during the process. I won't take your time here, but it's very important. So please read it, Commissioners.

But in summary and moving forward the only parts of the Harney Basin with substantial evidence to meet the criteria for the designation of a critical groundwater area are Weaver Springs, Dog Mountain, and northeast crane sub areas. The rest of the Harney Basin is only included in the critical groundwater area because of their purported hydrologic connection to the areas of decline and OWRD's oversimplified definition of the groundwater reservoir and hydrologic connectivity.

A much more sensible approach would be to only designate a critical groundwater area in the areas where substantial evidence supports the conclusion that the criteria are met while excluding those areas which are not meaningfully contributing to or being affected by groundwater declines, nor are overdrawn.

OWRD had taken an approach to decide, announce, defend, and repeatedly demonstrate toward the end of the process that it was not open to feedback from the RAC or Harney County public. As a result, the people of Harney County will suffer greatly. Let's change this starting today with cooperative, transparent, collaborative work going forward. If the anticipated timeframe for adoption of 512 rules needs to be delayed, postponed, extended, and the work continue in order to incorporate in public important public comment and get this rulemaking right. I urge that to happen. Thank you very much, respectfully submitted.

Joe Mall - OWRD: Thank you, Commissioner Dorroh, thank you for your public service. That is an important piece of work that you're doing as a commission.

**Patty Dorroh:** Thank you.

**Joe Wall - OWRD:** Oh, next we'll hear from Christopher Hall, representing Water League.

00:12:49.610 --> 00:13:02.830

**Christopher Hall, Water League:** Good morning, Commissioner Mole and everyone in the room. Can you hear me? Okay. My name is Christopher Hall, and I'm with Water league from Cave Junction, in the Illinois Valley, located in Josephine County.

**Joe Mall- OWRD:** We can hear you. Thank you.

**Christopher Hall, Water League:** Great. Thank you very much.

I appreciate this opportunity to share some initial thoughts on the division. 12 rulemaking Process League will be submitting extensive written comments on the rules in the coming days. I beg your indulgence, as I am recovering from a head cold, and so you might pick up on that



1st Water League wishes to express its sincere gratitude to OWRD Staff. We appreciate the time and effort invested in this extensive and complex rulemaking process. We are particularly grateful for the staff's patience, active listening, and considerate responsiveness throughout the many meetings, discussions, and follow-up communications. The thoroughness of the documentation, and the careful administration of meetings were noted, and are a testament to your commitment to this process.

I don't think I could overstate our appreciation on this matter. The Oregon Water Resources Department's Chapter 690, Division 512 rules mark a long overdue shift in groundwater management, outlining how officials shall discharge their fiduciary duty to protect groundwater for present and future generations and ecosystems.

The rule aligns with Oregon's constitutional and statutory obligations to manage water as a public trust. In the Harney Basin, unsustainable over pumping depletes, groundwater reserves, some of which are not being renewed at human timescales. Over pumping also impairs, domestic wells, springs, and groundwater, dependent ecosystems. These harms threaten the public health, safety, and welfare, and flora and fauna in the present, and will impair them in the future.

The Division 512 rules proposed a 35% reduction in water use over 30 years to curb groundwater mining. In so doing, the State recognizes that continued over extraction is contrary to the public interest by designating the Harney basin as a critical groundwater area. The rules establish a legal framework for equitable and sustainable groundwater management. Rebalancing intergenerational equity, and ecological integrity with short-term extractive interests.

Water league assiduously avoids recommending to OWRD hydrologists how to run their models, conduct their studies and research and determine solutions to complex scientific and engineering problems related to resolving the problem of excessively declining groundwater levels. Throughout the RAC process, some RAC members and members of the public stated that they did not understand much of the complex details presented. Which resulted in tripling the number of RAC meetings, adding more than a year to the process and prompting a dozen informal discussion groups run by Oregon consensus and the High Desert partnership.

These accommodations were to explain the scientific research groundwater models and complexities of the Division 512 rulemaking policies so that RAC members and the public could provide input and advice to help OWRD consider various perspectives.

We strongly recommend anyone who wants to understand the geology and hydrology of the Harney Basin to read the USGS and Oregon Water Resources Department study, titled "Groundwater Resources of the Harney Basin, Southeastern Oregon". This study was shared with the public as part of the Division 512 rulemaking process.

Many people have an interest in the well-being of the public's water sources, whether they live in any particular basin today, lived there in the past, or may live there in the future. Whether they visit the region, have friends and family that have ties to the region or care about the water sources for ecological, spiritual, ancestral, social, cultural, and economic interests. During the present and long-term future.

We contend that people who have not been born yet hold the same type of interests. And our actions today should focus should not foreclose upon their forthcoming rights. To enjoy the same. Water use, and water quality are broadly held concerns by the public, across and



through all basins. The law declares that “all water within the State, from all sources of water supply, belongs to the public”.

No one person can own the water because it belongs to everyone. We note how the notice of proposed rulemaking, similar to the tone of a dozen plus RAC meetings, frames, regulatory actions with a dour tone. The language is devoid of optimism, reflecting the water management proposals from a present-day water, user outlook. This bias contrasts sharply with how the same actions might be viewed from a future perspective.

Those living in the future when water sources have been stabilized, would likely be delighted. Seeing these rules, not as a cause for harm, but as a forward-thinking decision that prevented the collapse of the Basin's resources and ensured their availability for generations to come.

While Water League prefers a more robust outcome. We strongly support the designation of a critical groundwater area, and OWRD's implementation proposal.

The Department has a fiduciary duty to uphold the public trust, prioritize future generations and restore hydrologic balance to the basin. Thank you for this opportunity to provide these comments. We are very grateful.

00:19:29.980 --> 00:19:30.870

**Joe Mall - OWRD:** Thanks, Chris. Okay, okay, so we'll move to the commenters in in the room we signed up. We'll just go by order here again. It's not hard and fast, but about 5 min would give us all a chance to hear the the 10 additional commenters in the spaces in between, and still respect the 10 to noon timeframe. I just want to say I appreciate so many people coming out, and what I know is a particularly busy time for the agricultural community especially. So, thanks for your time this morning. I assume people are aware that we'll also have another hearing this evening between 5 and 7 in the same space. And so, if you want to come again or encourage some of your partners, friends, and neighbors to come. Please please do that.

So, 1st we'll hear from Rob Frank, who says Harney County Rob, are you representing Harney County with these comments, and then on deck is Lori O'Connor, also a citizen of Harney.

00:20:36.030 --> 00:20:53.269

**My name is Rob Frank.** I'm Harney County Commissioner. Thanks for the opportunity to comment. Today the county will be submitting extensive written comments to the Department, but I wanted to give just a brief overview of some of our main talking points in this forum to the citizens.

And so, there's sufficient information to close the Harney Basin in new appropriations, limit groundwater pumping to historic beneficial use and curtail groundwater in areas that have met the criteria for a critical groundwater area designation.

However, 2 of the 3 regions in the USGS study were not in a deficit. For that reason, we feel that the lower Blitzen, Upper Blitzen, Silver Creek, portions of the Sylvie sub area should be excluded from critical groundwater area.

We think that they should proceed with regulatory action in Weaver Springs sub area, given that it clearly meets criteria for critical groundwater. The remaining areas Northeast Crane, and Dog Mountain, we should set thresholds at which regulatory action will occur and encourage voluntary



agreements until thresholds are met or exceeded. And we should pursue voluntary joint action with groundwater users as required by law and minimize economic impacts to the greatest extent possible.

OWRD should review existing policies to ensure equitable application across the State. We should also consult cities to determine the appropriate amount of water allocated for each 6-year period, check-in and exempt, recreational and commercial geothermal use. Something that I think is worth noting is never in the RAC 512 process was an advisory committee structure established, and never in that process did the Advisory Committee make a formal recommendation?

Rather the Department would present and defend its stance. And at the next meeting they present how that RAC input was incorporated. And more often than not I feel like a lot of RAC members are scratching their heads trying to figure out how that had been construed from what was said at the last meeting. I found that especially troubling when I viewed the Groundwater Advisory Committee meeting virtually last week and witnessed the 3hr open discussion that resulted in a recommendation which will be given to the Water Resource Commission an opportunity that I feel wasn't afforded to the RAC or to the local governments.

So, with that, said, thank you again for the opportunity to comment. See you again tonight.

00:23:08.290 --> 00:23:11.870

**Joe Mall - OWRD:** Thank you, Commissioner Frank, and thank you for your service on your commission. Next we have Lori O'Connor, citizen of Harney. Followed by Lisa Brown of Waterloo.

**Kelly Mainz-OWRD:** So, if you guys can step closer to the microphone. People online are having a hard time.

Lori O'Connor: There's no electricity in that.

**Kelly Mainz-OWRD:** No, you don't even have to sit down. You can just stand up. But if you want to come closer to the room when you make public comments, that'd be great.

00:23:33.230 --> 00:23:37.000

**Lori O'Connor, Harney County Citizen:** Good morning. I'm Lori O'Connor. I've been a resident (sound cuts out) My husband and I and our 4 sons moved here from Southwestern Montana. Attracted to this (sound cuts out). It had a very logical approach toward agriculture. It seemed like that had gone on pretty much within reason and with sustainability for over a hundred years. And just about that time the irrigation became more and more evident.

Most of the old time locals would stand around, scratch their heads and go "I don't know how long this can go on. I don't know that a desert can provide this level of water agriculture". But, like most citizens in a rural area, the majority is often silent. The majority is tolerates what their neighbors are doing. They don't want interference on the part of the State or any regulation. And yet over the decades it became apparent that it could not be sustained. Any fool could see, we were over extracting water in this basin.

An 8th grader could have told their science class the recharge is nowhere near what the discharge is in this area. How long does that last?

So, when the critical study was formed, I entered into a few of the initial meetings. There were not subgroups at that time. And I thought, where is the average citizen going to be heard? There's no representation for stock wells. There's no representation for residential wells. Are the cities



concerned? Where are these people? It was all about the agricultural footprint, which is an important issue in Harney County. But it is not the only issue. It is, unfortunately, usually the issue that most of our governance locally hears.

It is also, I think, bearing undue pressure on a process such as this. Because if you lose 1,100 residential and stock wells in this community, that is also a huge economic issue on top of quality of life and just morality.

So many people have invested their life savings into living in this rural area. They are not impacting the groundwater levels, but they need to have access to water in order to sustain a small herd, or you know, maybe some other growth in agriculture, or just living there. I don't think they should be denied that when you know, when they started their process, it was obvious it could go on.

I think we have erred in this community, and this happens really, in all stressed rural communities. We have erred in favor of economic development and over allocation for over 30 years now.

I think, to proceed with egregious caution at this point is an insult to those of us who have been seeking relief for at least the last 10 years. And now we're looking at another 30 years before. There's a guarantee of some kind of stable aquifer. That to me is just crazy.

But that's where the rulemaking has gotten us. I'm not going to try to turn over this cart and call for a whole new review. I understand. And, Mr. Frank, you're saying that there was never an advisory committee form of the community opinion. I think 6 years of the water meetings in this community gave ample time for this community to work things out and we were not overlorded by OWRD. I didn't feel that at all.

So, I think there was a process for community. Input it was valid. It was aggressively and just - it was a huge burden for everyone that took part with it. Really, it was a great commitment.

So, we went through that, and I am so impressed with where you have arrived today. Even I can understand your timeline. I had no idea what you were going to arrive at. After the community input process of 6 years. I couldn't figure out how OWRD was going to come up with any kind of a plan that would be scientific, reasonable, and compassionate within the boundaries of the resource issue.

I think that if we extend this the way the timeline is now, I would like to counter. It is too generous. It is too lax. I think that not addressing transfers with a more critical review is a serious issue, and the domestic well group has challenged that from 2016 and 17.

I think to not be addressing deepening of wells causes serious harm to many neighbors around those wells and I think that it's going to impact more and more residential and stock well.

I think the delays - I understand that you know a 3-year delay to -implementation and then a graduated process of executing reasonable allocation levels. I understand that. But I think it's way too slow.

I'm very concerned that myself and many of my neighbors will lose their wells within the next 5 to 10 years, and our lifestyle cannot be sustained by a cistern. You know we have livestock; we can't do that.

So, I think that the other flaw, and what I've seen in the paperwork there has not been enough attention addressed to how injured parties are going to be aided. And I'm not talking about prep. I'm not talking about buying out agricultural water. I'm talking about what about the people who already are having to



haul their own water. What about the people who have suffered quality of water issues? Nothing is being done really. The Domestic Well fund that was established due to the pressures from the Domestic Municipal Group got so watered down. It's a fraction of what we need.

I understand they feel it can service something like 20 more wells, or whatever - that isn't the issue. It only partially pays for the damage. So, I think the domestic and stock well people continue to be ignored in this plan. I think that the future generation is being marginalized in this plan. I wish it was more aggressive. I understand the people that have to make a living or have been making a living at the expense of our shared water resource must have a way to resume or redefine their lifestyle.

So, thank you for everything you've done. I'm just really impressed with the outline. I can understand it. I can now go to my neighbors and explain it to them. I do want to address one thing. I've heard 2 rumors in the community, and everybody assures me - they're not any part of this current plan. A lot of people assumed when they read that all wells, all permitted wells must have meters. A lot of people in this community think that means they're residential wells and their stock wells. And that idea has actually been promoted through various meetings and things in this community, ad hoc things. So that's shameful because it's not a fact. And it's not in this plan. The other thing is a lot of the small operators fear that they're going to have to start paying for their water by volume in the immediate future.

I don't see that in this plan, personally, logically, I think throughout the world we're all going to see that we have to pay for the volume of water we each use, especially if it's for commercial enterprises. So I just want that to get cleared so that some people aren't being scared into submission.

Thank you for everything you've done. I wish more of the public would speak up and would be here, because I think 30% of the people are being the loudest in this process.

**00:32:07.760 --> 00:32:21.439**

**Joe Mall - OWRD:** Thank you very much. Can I ask just one very quick, clarifying question? You referred to the 6 Year Period group. Were you talking about the place-based water plant?

Lori O'Connor: Yes.

Joe Mall-OWRD: Just wanted to make that make sure I understood that correctly. Appreciate that. Thank you.

Lori O'Connor: Thank you.

Joe Mall - OWRD: Next up we have Lisa Brown representing Water Watch, Oregon, followed by Melody Maltz, who is listed as a farmer.

**00:32:30.980 --> 00:32:34.869**

**Lisa Brown, with Water Watch of Oregon:**

All right for the record. Lisa Brown, with Water Watch of Oregon. I was a RAC member and have been working on groundwater issues in the Hardy Basin since 2014. I want to 1st thank the Department for running an in-depth exhaustive RAC process for all the analysis and for taking the time to discuss the model and take feedback and do iterative runs on the model. I think that was very helpful. I won't repeat all the process details, because I think Chris Hall covered a lot of them. I would add that as somebody that's participated in a lot of RACs, this RAC was the most data rich information rich and well documented process. And you can see that on the 512 RAC webpage.



Audience member: Can you speak up louder, so we can hear you back here.

Lisa Brown, with Water Watch of Oregon: I can try. You might have to move up, Fred Ottly always ask me to do that as well.

**Joe Mall- OWRD:** You want to move your seat just to the side. So, your voice is,

Lisa Brown: I will be submitting extensive written comments. But I do want to touch on a few points. First, you know, because of the groundwater declines that have already happened in the basin there have been significant impacts to groundwater discharge to lowland streams, springs, and native vegetation. And of course, native vegetation supports wildlife, but also supports domestic animals and you know, according to the USGS, between 1980 and 2018, they modeled a 44% decrease in discharge to lowland springs and streams with a similar decrease in natural Et. Which is a signal of native vegetation. And so, when we consider timelines to stabilizing the groundwater levels, I just think it's critical to consider the trajectory that we're already on, and the impacts that have already occurred.

I also want to touch on domestic wells. I think that, I think the current proposed rules would ultimately result in 98 domestic wells being dried up. With I think, a quarter of those sort of still to come under the under the pumping that would be allowed prior to stabilizing the groundwater levels.

And you know, I don't think that's appropriate under the water code. But I think it's just made all the much worse because the State doesn't have really viable programs in place right now to address that or help folks whose wells are going dry. And I'll detail that more in my written comments. But I think, you know, the important point is just these rules will result in people losing their drinking water, and we don't really have a system in place to help them effectively.

You know the rules do and can contain an adaptive management program, which I think is a great addition. I am concerned that you know it does not include an evaluation of how the rules affect streams, springs, domestic wells, and native education. It only looks at groundwater levels. And so, you know, we could be having unexpected impacts on those conditions and the domestic wells. And it would not be addressed in the adaptive management program. I think that potentially sets the basin up for major problems, and it's worth looking at whether the adaptive management program could be broadened to include consideration of those impacts.

I think that to address these and other issues, the Department should consider tightening the timelines to stabilization. So, 30 years is getting pretty far out there into the future. I guess I'll just close by saying that while implementing the pumping limits won't be easy and, you know, obviously create a lot of challenges for the basin. I think it is just critical for the long-term sustainability of the basin to take these actions and put the basin on a more positive path into the future, and I'll close it there and thank you for the opportunity to comment.

00:37:34.400 --> 00:37:41.400

**Joe Moll - OWRD:** Thank you, Lisa. Next we have Melody Bolt, farmer, followed by Ty Richardson, Richardson with the City of Burns.  
Nobody?

00:37:44.930 --> 00:37:46.994

**Melodi Molt - Irrigator:** Hello! I'm Melody Molt. We have pivots pumping water, and when we purchase this land we pay a lot of money for the water rights, our historic over 100-year-old water rights we have. I don't know that that's being addressed strong enough. Because my right to



pump water supersedes somebody else's. And I understand the people who have recently purchased ground put some money into it. Drill wells want to pump, want to make pay whatever they're farming in this area. But somewhere along the way my right should supersede theirs and to treat everybody the same is against everything that's happened in water rights over hundreds of years.

00:38:50.060 --> 00:38:51.868

**Joe Mall - OWRD:** Thank you. Appreciate that, Melody. Next up we have Ty Richardson from the city of Burns, followed by Mario Petrilli

00:39:03.000 --> 00:39:05.640

**Ty Richardson from the City of Burns:** Hello! My name is Ty Richardson. I'm the Public Works Director for the City of Burns and a resident of Burns. I am the direct, responsible contact for the city's water distribution system and supply. The city's water system provides safe drinking water and adequate fire protection for the city. Our system consists of 5 wells and a 2-million-gallon storage reservoir. I'm here today to oppose the rulemaking for Division 512 rules and ask for exemption for municipalities. And here are the reasons; disproportionate burden and municipal water users. The proposed D 512 rules call for an 82% reduction in Burns authorized groundwater withdrawals. While agriculture users, the largest water user face, only 17% on average out. Municipal use accounts for just point 68% of all water rights and 2% of groundwater rights in the Harney Basin. Even though most county residents depend on municipal supply.

No net gain for basin stability. Scientific studies and USGS models show that Burns is not an area of critical groundwater decline. Most severe declines are linked to high volume, junior agriculture uses. Not municipal systems like ours.

Cutting municipal supply won't solve the Basin's overdraft problem, but it would seriously restrict our city's ability to serve residents and plan for future growth. Regulatory complexity and unfairness Burns already complies with rigorous multi-agency, infrastructure, planning requirements. The additional cap and reporting requirements add unnecessary administrative burden without improving water stewardship.

The city's water rights are senior to a large share of others in the basin, both by date and by volume. Yet we are being asked to sacrifice the most.

Municipal water is for community well-being. Municipal water rights are protected under Oregon law to ensure they serve present and future community needs. Not for speculative, for-profit or short-term use. These rights should not be compromised by rules that primarily target other more problematic users.

Request for proportionate curtailment and exemption. We urge OWRD to exempt municipal rights from these rules and target direct curtailments at the sectors and locations responsible for basin-wide declines. Particularl high volume for-profit junior irrigation users. Burns is fully committed to conservation and collaboration but needs policy that is fair, effective, and recognizes the essential limited role of municipal users.

Commitment to partnership. Burns stands ready to work with OWRD on workable solutions that safeguard both the Basin's future and our community needs. We request a regulatory framework that aligns with Oregon law and State planning goals. Supporting both water conservation and sustainable community-driven growth. Thank you.



00:42:17.730 --> 00:42:28.250

**Joe Mall - OWRD:** Can ask you one question. The 5 wells, is that the sole source? Or is there any surface water?

**Ty:** Yes.

Joe Mall-OWRd: It's all as well?

**Ty:** yes

**Joe Mall-OWRD:** Thank you very much.

You might need to stretch for some reason. There's a there's a block here, so we'll take a 10 second stretch Mario

00:42:42.950 --> 00:42:49.570

**Joe Mall-OWRD:** Mario Petrilli? Mario will be followed by Stacey Davies from the Roaring Springs Ranch.

00:42:50.690 --> 00:42:56.709

**Mario Patrilli (speaking towards the audience):** Good morning, everyone. As a point of clarification, Rule 512 proposes an immediate drop in acre feet from 3.0 to 2.5. That's a 16.66% increase. Rule 512 also wants to initiate what I would call reductions for beneficial use. For a pivot farmer that's doing 160 acres square, and that's his right, reducing it to beneficial use, for the pivot would reduce his acreage allotment at 21.66%.

There are permits here that already have beneficial use requirement. So, when I take a look at all the granted water rights, the average is more like 15.55% across the entire SWMPA. The initial hit in 2028 will be approximately about 31%, then the PTW will go into action.

Mario Petrilli (addressing OWRD staff): Good morning, sir.

**Joe Mall-OWRD:** Good morning

Mario Petrilli: To the paralegal reading this letter in the future as now proposed, Rule 512 has 2 fundamental flaws. Estimated groundwater discharge rates are too high, and recharge rates are historically too low. We will know where we want to go and we will have a way to get there. But we don't know for sure when to stop, or what will happen to the people and economies here, when we do. This may prove fatal to the rule in its present form.

The second fundamental flaw. The rule proposes to measure aquifer recharge rates, using long term test wells not well placed in all sub areas. The better way is to measure recharge, using actual static levels other than the water master, making a regular inspection on private wells. Good luck with that!

Piezometers. They are relatively inexpensive, work great and being passive, having no moving parts - last a long time. I used one on my well in Washington 20 years ago. Just seal one end of the tape, roll it into the borehole -you're done.

I did not purchase the display module. I used an Ohm meter instead. That well was not regulated. My understanding is many corporate growers use this simple technology to monitor their wells.



If the Division's noble attempt is to monitor all wells, then recording monthly flows and static levels make more sense than measuring total discharges alone while guessing at recharge rates.

I'm a communication systems engineer. So, this was simple for me to identify the fundamental problem of knowing function outputs without knowing the main inputs.

Calculations using these derivatives can be made. But if I am missing crucial input data and make a wrong guess, error margins can be excessive and costly. Simple calculus mandating. Continuous, well discharge and static level records by using flowmeters and piezometers solves this problem.

Dear Paralegal, if the Division does not incorporate an in situ, full kit measurement solution to determine groundwater discharge and recharge rates, especially when subsurface flows and percolation rates are not consistent in and among the proposed 7 sub areas, then consider this another arrow in your legal quiver.

Thank you for your time and consideration.

00:46:55.480 --> 00:47:07.719

**Joe Mall - OWRD:** We have Stacy Davies from the Roaring Spring Ranch, incorporated. Followed by Craig Nehar, with Ed Staub and Sons Petroleum on deck.

**00:47:09.360 --> 00:47:16.919**

**Stacy Davies from the Roaring Spring Ranch:** My name is Stacey Davies, general manager of Roaring Springs ranches representing the ranch ranches. We will be submitting detailed written comments by the deadline of the 13<sup>th</sup>. So I'll spare the detail today. We do appreciate the ongoing community process, both with the 512 rulemaking and the collaborative process and really support the decisions they've made and the effort they've made.

We have just a few points we want to add to the record. We dispute some of the boundaries of the sub basins. We realize that they're delineated based on groundwater gradient groundwater level trends, hydro strategic materials. But there's some areas that just don't make sense. And so, our comments will be detailed with maps on those areas.

Secondly, regulation should occur by priority date, as already statutory outlined. Priority of dates of water rights should dictate how water use is controlled. The increased, confusing, and likely to be contested rules will only cause delays in implementing the program. Priority date is considered in the schedule for reductions on a sub area basis. But with the dispute of the boundaries of the sub basin areas, we question whether prior priority date should be administered across the entire CGA.

The proposed rulemaking brings to light 670 groundwater rights in the area that will be affected by the proposed rule. This means that 670 contested cases may be added the already extreme backlog of contested cases on the Water Resource Department's docket.

We feel those should not be considered as they're being considered at this point, and that's a summary of our comments.

00:49:43.470 --> 00:49:51.250

**Joe Mall - OWRD:** Thanks. May I ask one question? I'm just not familiar enough with the geography here. Can you tell me where the Roaring Springs Ranch sits, and which sub basin that's in.



Stacy Davies from the Roaring Spring Ranch: Majority of the ranch is out of the sub basin, but we have property that would be in the Upper Blitzen and the Lower Blitzen and voltage area?

**Joe Mall-OWRD:** Thank you very much.

00:50:04.460 --> 00:50:22.759

**Joe Mall - OWRD:** Okay, next is Craig Neher and Jody Richards is on deck. Craig is with Ed Staub and Sons Petroleum and Jody Richards represents the Burns Paiute Tribal Council.

00:50:23.460 --> 00:50:40.029

**Craig Neher with Ed Staub and Sons Petroleum:** Thank you. My name is Craig, near, and I am here with Ed Staub and Sons Petroleum. And you May 1st ask why a petroleum company is so invested in groundwater rights, and it would mostly be due to the impact to the community and specifically our business and other businesses.

So, 90% of our revenue is derived from people in agriculture. So, when we look at taking 30% cuts, Ed Staub and son's employees 24 full-time living wage careers. And so, we'll be looking at reducing those by 7 or 8 employees. And the trickle-down effect that will fall under the community is greater than I think anyone is acknowledging. So, we look at schools, hospitals, other businesses, restaurants. The trickle-down effect will be astronomical. And I don't think that a full impact plan has really been put forth.

Some specifics that I find problems as I have been engaged in this process, is that there's a real lack of holistic management approach. So, most of the proposed rules are narrowly focused on regulating private groundwater use without accounting for major contributions to the aquifer recharge. Mainly Federal and State public lands.

So, we look at nearly 75% of the land in Harney County being publicly owned, and these lands specifically influence the hydrology and recharge of the aquifer. Yet, no mechanisms are in place within the rulemaking to manage any of the water on any of these lands.

As we talk more about the farmers and ranchers being asked to shoulder the full burden of the water conservation and other stakeholders are not taking place in the conversations.

There's also no mention of investment in recharge, enhancement projects such as manage aquifer recharge, improve forest and rangeland management, or the restoration of wetland ecosystems on public lands. All which would affect the recharge rate. We're very focused on discharge rates, and we're doing little to address recharge rates.

These strategies could supplement water levels without cutting off vital access to water to local producers. Local import appears to have a limited influence in shaping a lot of these rules, even though agriculture producers are the most affected.

As a business manager, I can say these rules threaten the viability of longstanding, responsible agriculture operations that have already made efforts to conserve water voluntarily.

Many of the people that are on the Commission are unelected officials, and many of the community members feel jaded as they don't feel like they're being represented with elected officials. Many of the people who have voiced concerns over the water use are people who do not live here, do not make a



living here. And so I feel as if you do not live here, you're going to have a hard time understanding the unique intricacies of our community. Before any rules are implemented, I think that federal and public land agencies should be included in the groundwater recharge, planning and accountability. And without that we're not going to have a feasible economic livelihood. That's all I have for today.

00:53:59.350 --> 00:54:08.390

**Joe Mall - OWRD:** Great thanks, Craig appreciate that.

Jody Richards with the Burns Paiute Tribal council, followed by Susan Ramsey, who's an irrigator.

00:54:14.600 --> 00:54:33.889

**Jody Richards with the Burns Paiute Tribal Council:** Good morning. My name is Jodi Richards, Tribal Council, member of the Burns Pauite tribe.

I appear before you today on behalf of the tribal Council and the Wadatika people of the Burns Paiute Tribe. We appreciate the opportunity to provide public comment on the proposed Division 512 rulemaking, and a designation of a critical groundwater area in the Harney Basin.

Standing in sovereignty. The Burns Bay tribe holds federally reserved water rides under the Winters doctrine. These rights were not granted by the State of Oregon. They were reserved by the United States for our benefit and our survival when our reservation was established. These rights are superior to State, issued water rights, and cannot be altered, reduced, or extinguished by State regulation.

But even deeper than that, our people hold aboriginal water rights. These are rights rooted in original occupation in the springs, rivers and aquifers our ancestors have depended on since time immemorial. These rights are not granted by the government. There they are retained, protected, and still living. Courts have upheld these rights in the United States versus Winans 1905. The U.S. Supreme Court confirmed that tribes retain off reservation rights of access and use, even if those rights are not explicitly stated in treaties. In United States versus Adair, 1983, the 9th Circuit reaffirmed that tribal water rights for traditional uses, like fishing and gathering, survive modern legal regimes and remain valid against State interference. That is a legal ground on which we stand on.

2. Violations of consultation and process. The trial has not been properly consulted. Procedural outreach to former staff and participation in the Rules Advisory Committee does not meet the standards of government to government consultation.

Oregon Administrative Rule 690-010-050 0150 executive order, 96-30, and principles of Federal Indian law require formal engagement with tribal government, not peripheral staff dialogue.

A tribe formally requested consultation by July 30<sup>th</sup>-31<sup>st</sup>. That deadline passed without an adequate response. The State's attempt to schedule consultation after the public comment period is a violation of both the letter and spirit of the law.

3. Cultural and economic harm. Groundwater is not just a technical issue for the Burns Payee tribe. It is a matter of cultural survival and economic feature. Our lands, long underdeveloped, due to late Federal recognition, and finally beginning to see opportunity. Yet this proposed rule threatens to lock us into disadvantage, restricting the very water we need to house our people, build our economy and feed our future.

This is a systematic and inequity. The State has prioritized non-tribal



water users for over a century. Now that scarcity looms, tribes are asked to bear an equal burden, or, worse, a disproportionate one, for a crisis we did not create. We are stewards of this land, but stewardship without sovereignty is just lip service for a path forward. Co-stewardship, not control.

The State of Oregon cannot regulate or impair tribal water rights. The State can, however, partner with us. We invite co-stewardship, grounded in mutual respect, equitable data, sharing and tribal-led car routes that respect our self-regulation and jurisdiction. We urge OWRD to adopt an approach that honors its trust responsibility and avoids further litigation.

That includes halting implementation of rules that would apply to tribal lands. Recognizing that the Burns Paiute tribes, pre-existing rights in any rule, framework supporting a feature adjudication process that acknowledges our claims.

If OWRD proceeds with this rulemaking the tribe specifically requests that a provision be added, clarifying that the rules do not apply to any existing or unadjudicated water rights of the Burns Paiute tribe. We also ask that the State connect with Umatilla Water Commission to study regional co-management frameworks at center tribal sovereignty.

In closing this proposed rule does not just regulate groundwater, it threatens to erase rights, impair features, and set precedent that undermines sovereignty of every tribe in Oregon. The State cannot claim to honor equity while it ignores original rights. These waters have carried our stories for generations, and no rule, no metric, no reduction formula, can override that truth. To act without consent is to repeat the mistakes of history. To act together is to build a future.

We ask you to choose the latter. Thank you for your time. We are prepared to work with you, but we will also stand firm. Respectfully, the Burns Payee Tribal Council.

00:59:22.850 --> 00:59:23.997

**Joe Mall - OWRD:** Thank you, Jody.

Finally, we have Susan Ramser Ramsey. I'm sorry. That's the Scottish side of the family, and you're represented as an irrigator.

**Susan Ramsey:** I am representing as an irrigator and a citizen of Harney County. I had some organized notes when I came and I've been writing the whole time everybody's been speaking. So, this is going to be a little disjointed. But your patience, please.

1st of all, I live in Princeton. I have 4 pivots, 3-wheel lines and I use the water rights. I'm outside of your boundary at this moment, but I don't trust you to try to suck us in -in the Virginia Valley.

I'm disappointed that NRAC was referenced as giving approval to this plan. If that was a misstatement, I was basically fed that information initially, and I appreciate Rob's clarifying that this was taken out of context.

I truly believe that the violators of the users of their water rights should individually be punished by water right reductions if they're the ones that are basically the key contributors to our water loss.

It is not everybody in this county. It is not every water right.

But we have a handful of people who have basically tapped into our aquifer and abused it. Possibly, I won't accuse them of it, but I'd like to have some documentation of how much water they have used if it is over or below what we were allocated.



I know I'm way below, because I'm very efficient with our watering. But I do not want the State saying that my 3-acre feet are going to be reduced to 2.5. You let me make that decision based on what I'm ruling.

Both Harney Electric and OTEC send us a bill every month for our water usage. I only have one well that supplies my pivots and my wheel lines. I have a good well, and it's small, it's only 12 inches, but I have great water access. I filed my water usage report at the end of the year with the State as to how much I've used, and I've been under my usage allocated.

But OTEC and Harney Electric can also take that same kilowatt usage and apply a formula which is what I do for my water use and my report to calculate the acre feet that we've been using or have been using.

I think everybody's meter could be converted using that formula, and you, too, would find out just how - what your water usage is. Are you pushing the limit? Do you need to be aware of it, or you have plenty left, save it for a rainy day. Or if you're born violator, then I think you should go on the list.

One of the things that was never brought to our attention at any of these meetings, and I haven't attended a lot. I've been a business owner and a ranch owner. I recently lost my husband. So, my life is kind of been upside down. But there is a program, and I'm not sure if I saw it under the Oregon Department of Ag, Biz Oregon, or the Oregon Water Resource Department. But there are programs for aquifer recharging stations that take water out of live streams or whatever I'll just say live streams, rivers - it puts it through a cleansing program, a sanitation program, and then it infuses it into the aquifer.

Prineville is using one right now, because Google needs more water than they can pump. And so, they're basically recharging it. I'm not sure exactly how they're doing it. But I do know there's a program. I do know the State has grants for these programs and we've never been introduced to them.

The department of Ag - I just printed off a list because I lost it already. No, right here. Where there are upcoming meetings that they're holding that have several resolutions, number 107, 295, and 301, that have to do with priority for agriculture use of water, protection of Oregon agriculture and minimizing conflicts of coexistence in agriculture. There's several others, but they're not directly related to water other than suitable housing top quantities which this whole program is going to have an impact on.

I do not believe that any water right should be waived as a broad brush on everybody. I don't think they need to basically beat us all up to get a few people to conform or get back in line.

Our municipalities are going to be heavily and negatively impacted by the same broad-brush approach that they are suggesting. I was given an example, and I'm hanging my hat on this example. If Hines and Burns are allocated a thousand-acre feet. This is just an example. It's not precise. And in the last 4 years or 5 years they only use 220 acre feet the rest is going to be removed. They will up it. Excuse me, they will up it by 10%. They'll give it from 200 to 220, but the rest of it is not guaranteed to be there for them to use for future expansion, or whatever happens in this county that is within the municipalities oversight.

I think, because of some major errors in Oregon Water Resource Department data, that this whole proposal is flawed and must not be used as a determining factor in this Insanity Act that you're calling rulemaking.



Annual Water use reports are due by the end of every year. I'm usually a little bit late, but it gets filed. And one thing that a lot of individuals are not thinking about, and I brought up at another meeting that this program jeopardizes every individual's estate planning.

If you thought you were going to give your kids, your grandkids, your great grandkids, your ranch, your farm. You may find out that if this goes through, I'm not gonna get it and if you decide that you don't, you're just gonna wait and see what happens, you could be very rudely awakened at the end. So, think of it that way. Every one of you have an estate no matter how big, how small, you do not need Water Resource Department telling you which how you can basically use your water right if you're using it prudently now. That might be all I have to say. Thank you very much.

01:07:03.440 --> 01:07:08.580

**Joe Mall - OWRD:** Thank you very much. Thank you very much, Susan and condolences on the loss of your husband.

Okay, bear with me. This is process we need for the record. I'm going to read the names of everyone who has spoken by Zoom and in the room today. And then I'm going to ask for if there's anyone else who would like to comment. So today, by zoom, we heard from Patty Dorroh. We heard from Christopher Hall, and within the room we heard from Rob Frank, Lori O'Connor, Lisa Brown, Melody Molt, Ty richardson, Mario Patrelli, Stacey Davies, Craig Near, Jody Richards, and Susan Ramsey. I've called the names of everyone who wishes to comment orally. Is there anyone else who wishes to comment at this hearing that hasn't yet signed up?

I was talking with somebody over breakfast this morning who was just trying to give us a similar grounding, and she said that 2 years ago she couldn't have done what she will do, I think, this afternoon, which is, speak at a public hearing. This is awkward, this is hard. This brings us all back to when we were in middle school and had to give a report. But we are going to pause, for I don't know maybe 5 min, and for those of you that have attended and haven't spoken. But maybe you have some thoughts thinking, churning, and you would like a little bit of time to put those together and comment. We're going to take a little break.

01:08:36.410 --> 01:09:05.559

**Joe Mall:** open the floor again to see if anybody additionally would like to comment before we close that. So why don't we take a 5 min break in the hearing. We'll reconvene. We'll reconvene at 11:29, and we'll ask that question.

Okay, could I get everybody's attention again, please.

So, it's August 5th 2025 and the time is 1132. Is there anyone else who wishes to comment at this hearing?

01:09:25.079 --> 01:09:30.770

Kelly Meinz - OWRD: Would you write your name down here for me, please.

01:09:33.630 --> 01:09:37.249

**Calla Hagel - Landowner:** So, for the record, my name is Calla Hagel and I'm here as a local landowner.

Thank you.

Joe Mall-OWRD: Okay, Cala Hagel, representing as a local landowner.



Cala Hagel: Yeah, so thank you for holding this public hearing this morning. I'm here to provide public comment on the proposed Harney Basin groundwater policies.

My family and I live in the Dog Mountain area of Harney County, where we own land and rely on groundwater for both our home and livestock. I was an active participant in the community-based water planning effort for many years, and I speak from a place of deep investment in both the land and the collaborative process that has brought our basin to this pivotal moment.

First off, I'll just state as much as I appreciate all the work that OWRD does, the groundwater crisis in Harney County is primarily due to the over allocation of groundwater rights by OWRD, not just local mismanagement. Groundwater permits have been issued beyond sustainable limits without accurate data leading to a significant imbalance where usage exceeds recharge.

Current groundwater management policy neglects ecological needs, threatening springs, wetlands, groundwater dependent vegetation. Without action, natural discharges, will decline impacting both ecological integrity and cultural values in the region. The past policies have also led to social and economic hardships, for residents relying on groundwater resulting in dry wells, failed crops and land evaluation as well.

But the community-based water plan, developed through years of local effort, presents actionable strategies for addressing the crisis. And I would encourage considering some of the key components of that plan, including domestic well assistance - so, funding programs for well repair and water hauling. Voluntary water use reduction incentives for altering crops and reducing irrigated acreage, irrigation, efficiency, investment in water saving irrigation technologies and a potential water bank, groundwater right retirement compensation for voluntary reductions in groundwater rights, local capacity building, I feel like this is a really key one to make all of these things come together is hiring full-time staff to support implementation.

One of the other things I think I hear a lot amongst different members of different groups that are interested in water in the Basin is trying to maintain that community trust. So OWRD, I would appreciate some clarification on how all the work that we do here today, the public comments, the written comments, how those will be reviewed and incorporated.

You know, everyone took time out of their busy lives to be here today. They'll be here again, maybe this afternoon or in this evening. The groundwater management sub area boundaries, I think, as you've heard a couple of times, need to be reassessed to align with scientifically derived boundaries. I think some of those differ in this policy from those that were in the USGS Harney County Groundwater study. But I think it's important to ensure technical accuracy in that policy.

Monitoring enforcement and adaptive management. Effective monitoring and enforcement are essential. I think there should be adequate support for metering and compliance to avoid unfair burdens to landowners. Additionally, the adaptive management framework requires consistent funding more staff and ongoing public engagement to succeed and maintain that trust.

Lastly, I'll just say OWRD and the Water Resource Commission must acknowledge their role in the overallocation crisis and invest in local implementation efforts. This includes funding, monitoring and building resilience to ensure that the community driven strategies outlined in the Community-based water plan are honored and supported.

Thank you.



01:14:06.830 --> 01:14:07.872

**Joe Mall - OWRD:** Thank you, Cala. Anyone else who hasn't commented this morning, who would like to?

Again, I want to thank you all for coming out on a busy, busy time of year. Let your friends and neighbors know about this evening. 5 pm. Back here. Same approach. I'll again be the hearing officers. But thank you, and the current comment period is open through August 13<sup>th</sup>.

Oh, I'm sorry. Yeah, before we adjourn, is there anyone online who has not yet commented, but would now like to.

01:14:56.907 --> 01:15:01.300

Audience member: Does this testimony get entered into the record?

**Joe Mall & Kelly Meinze - OWRD:** Yes ma'am.

**Kelly Meinz- OWRD:** I'm not seeing anyone online.

**Joe Mall-OWRD:** Okay, this hearing is adjourned.



## **Public Hearing Transcript August 5, 2025 – Burns Evening Hearing**

00:00:03.102 --> 00:00:09.140

**Joe Maul - OWRC:** So it is 4:59 pm.

00:00:09.460 --> 00:00:15.319

**Joe Maul - OWRC:** On what is today? Tuesday, August 5<sup>th</sup>.

00:00:15.810 --> 00:00:32.400

**Joe Maul - OWRC:** And I'm Joe Wall, I am a member of the Water Resources Commission. I represent the State, but I'm from the West Central district based out of Eugene, Oregon, so I'll be your hearings officer, for this public hearing, and somebody got flowers.

00:00:33.250 --> 00:00:42.858

**Joe Maul - OWRC:** It looks like it's back. I was not scripted. It's not only the Script Harmony.

00:00:45.040 --> 00:00:53.849

**Joe Maul - OWRC:** Everyone's fully aware this is for Administrative rules. Chapter 690, Division 512. The Harney Basin Groundwater rules,

00:00:55.080 --> 00:01:04.760

**Joe Maul - OWRC:** Final rules, you know, will be adopted by the Commission as Commissioner I'm unable to respond to questions this evening. We're just here to take public comment on the proposed rules.

00:01:04.810 --> 00:01:32.899

**Joe Maul - OWRC:** I think everyone's aware that the current comment period closes at 5pm on August 13th So make sure you submit your written comments by that time. The department can decide to extend the public comment period for everyone. If we do that. But right now, August 13th, 5 PM. If you're attending virtually and would like to comment, we ask that you notify us via the chat. Currently, I don't think we see anybody that is hoping to do that.

00:01:32.900 --> 00:01:43.240

**Joe Maul - OWRC:** I will try to go in order of the people that have signed up, and we'll start with virtual and on the phone first, and then we'll move to people in room.

00:01:45.015 --> 00:01:51.420

**Joe Maul - OWRC:** I will call up who's speaking, and then the person who's on deck, so you can ready yourself.

00:01:51.550 --> 00:02:01.150

**Joe Maul - OWRC:** It looks like we'll have on the order of 10 to 12 comments, so we've got 2 hours set aside, I would ask that you



00:02:01.620 --> 00:02:26.310

**Joe Maul - OWRC:** somewhat limit yourself. This morning people were in that 5 to 7 min. range, and it worked out pretty well because we had about an hour or so of comments, a little break, and some other people wanted to make some more comment, and then there was conversation afterwards, so I don't have a gavel that I'm gonna stop anybody. But if you do really start to go on and on, I may ask you to save some of those comments for written, but it's it's pretty flexible.

00:02:27.780 --> 00:02:30.120

**Joe Maul - OWRC:** Let's see here.

00:02:31.960 --> 00:02:34.218

**Joe Maul - OWRC:** So we'll officially call the

00:02:35.340 --> 00:02:39.760

**Joe Maul - OWRC:** the hearing now in session. And again, Joe Maul. I'm the hearing officer.

00:02:40.340 --> 00:02:57.609

**Joe Maul - OWRC:** I did not receive any requests for accommodation to participate in this hearing by yesterday, August 3rd which I think was out there in the in the instructions, and the purpose of this hearing is to provide an opportunity for public comment on the 690 Division 512 Arney Basin groundwater rules

00:02:58.140 --> 00:03:15.880

**Joe Maul - OWRC:** we've got. If if you have not yet submitted comments, and you would like to do so. Send your comments to Kelly, Kelly Meinz at the Oregon Water Resources Department. Address 725, Summer Street, Northeast, Suite A, Salem.

00:03:16.000 --> 00:03:43.239

**Joe Maul - OWRC:** Oregon, 97301, or email [WRD\\_DL\\_rule-coordinator@water.oregon.gov](mailto:WRD_DL_rule-coordinator@water.oregon.gov) and come see me afterwards if you really want to know those things. Again. Comments received after 5 PM on August 13th won't be considered as unless the agency decides to extend the comment period for everyone.

00:03:43.970 --> 00:03:59.710

**Joe Maul - OWRC:** Again, we won't be responding to comments during this hearing. After the close of the comment period department staff will compile all those, develop a report, and over time submit those to us on the Commission. We'll go from there.

00:04:00.560 --> 00:04:12.614

**Joe Maul - OWRC:** Okay, before we go. Couple of people came in. Is there anybody who knows they wanna comment tonight who is not yet signed up on this sheet? Yup.



00:04:51.110 --> 00:05:12.630

**Joe Maul - OWRC:** So, Kelly, do we have anybody online that would like to comment?

**Kelly Meinz – OWRD:** - I have not seen any indication of anyone online.

**Joe Maul - OWRC:** Okay, all right. So we will start with Barbara Kennedy and Barbara will be followed by, is this Kim Valentine and Kim represents the city of Hunts. So Barbara Kennedy, to start, please.

00:05:12.770 --> 00:05:15.750

**Barbara Cannady:** Okay, thank you for being here tonight.

00:05:16.080 --> 00:05:40.219

**Barbara Cannady:** I will be submitting a written statement before the deadline. But I was going to present some issues tonight that I didn't hear in this morning's meeting. So the first thing I'd like to start at the very beginning way back at the number one meeting for the plan.

00:05:40.250 --> 00:05:54.529

**Barbara Cannady:** and I wish we'd started off on a different foot in that I wish landowners had water permit ease had the opportunity to meet first

00:05:54.810 --> 00:06:08.330

**Barbara Cannady:** and understand what the process was intended for, and how they were to participate. I think we got well, I was at the 1st meeting. And

00:06:08.340 --> 00:06:32.070

**Barbara Cannady:** I think immediately we got involved with agency folk who, I consider, should be advisory and not really have an equal foothold with permittees and also environmental groups, especially when they're not from here, have should be advisory and not

00:06:32.090 --> 00:06:54.660

**Barbara Cannady:** in a controlling mode. And the problem with all that is that agencies and environmental groups are paid to go to meetings and agency folk in particular are climbing ladders in their careers, and sometimes that is in opposition to what is good for the community and the landowners and the Permittees.

00:06:54.870 --> 00:07:02.555

**Barbara Cannady:** The landowners lose money by going to meetings because they have a separate business, and they have their time restraints.

00:07:04.250 --> 00:07:31.456

**Barbara Cannady:** you know, to call upon so just for future reference. When we get into these processes, whether they take 7 or 10 years whatever. If we'd start with the people that are going to be



impacted the most, I think that you would get more people to stay on. I think landowners were put off with the one pool discussion continually, especially when to most of them that was BS But

00:07:32.160 --> 00:07:48.899

**Barbara Cannady:** It took me a year, and I'm slow. I understand that, but it took me probably a year to understand that in order to qualify for the critical water area in your ORS. You had to say it was one pool, or affiliated as such, but

00:07:49.320 --> 00:08:08.020

**Barbara Cannady:** it took me a while. And so I know those people that have less patience go to less meetings, that it was a real put off, and and the attendance we wound up with the same people at all the meetings all the time. But there were people that came initially

00:08:08.290 --> 00:08:14.749

**Barbara Cannady:** that that dropped out and went back to the statement of they're going to do what they're going to do.

00:08:15.975 --> 00:08:20.419

**Barbara Cannady:** Okay, we have the issue of trespass.

00:08:22.340 --> 00:08:24.782

**Barbara Cannady:** I'll start out by saying that

00:08:25.700 --> 00:08:39.299

**Barbara Cannady:** while I appreciate the Well Inspector, that we have currently on the eastern side. I found him in my backyard when I wasn't expecting him. I had a new well drilled, and

00:08:40.534 --> 00:08:55.529

**Barbara Cannady:** like I said I was a little surprised, and so I met with him, and I said that you didn't call me cause I was expecting a phone call, and he says, Well, we can go any place, you know we don't We don't need to call ahead or make arrangements.

00:08:55.670 --> 00:08:56.595

**Barbara Cannady:** Okay,

00:08:57.710 --> 00:09:02.670

**Barbara Cannady:** And then it was brought up in the stock growers meeting.

00:09:02.720 --> 00:09:30.231

**Barbara Cannady:** You know that. Well, let's go back to the Crane meeting we had where OWRD Staff were said that they were going to give themselves permission to come on landowners, property to do static water level tests, and then they changed it out to say the Commission would give them that permission. Okay, so I did ask the sheriff if



00:09:30.720 --> 00:09:50.599

**Barbara Cannady:** because a comment was made in one of the meetings of Well, if you don't allow them on your property, then they'll just call the sheriff, and so I do have a statement from the sheriff that the landowner or their designate designee is the only one who can give consent to someone who could to come on their private property.

00:09:50.600 --> 00:10:12.839

**Barbara Cannady:** The only exception of that I am aware of is if a search warrant was applied for and granted by a judge, circuit court, or Federal magistrate to allow OWRD personnel on the property. I do not know the usual practices of OWRD personnel. But I would venture to say they do not utilize such warrants.

00:10:12.840 --> 00:10:31.060

**Barbara Cannady:** Okay, so this goes on, and I'd be happy to give this to you. The thing is, I'm not opposed to having OWRD people on my property, but I am very concerned right now of what's going on in this county in terms of the weed department.

00:10:31.120 --> 00:10:48.630

**Barbara Cannady:** I recently had. A couple of years ago I had a fire on my place. I was introduced to Medusa head I didn't have before. Medusa head is next to impossible to eradicate, and very expensive to deal with.

00:10:49.070 --> 00:11:18.349

**Barbara Cannady:** We also have weed and that kind of thing. So I not only would like to know who's on my property, but where they came from, and what steps? If, for instance, if they just came to from an area that was heavily covered with Medusa head. Maybe we should have a wash down before they go to the center of my field, you know, or something.

00:11:21.900 --> 00:11:44.270

**Barbara Cannady:** okay. My other issue had to do with the priority dates in the stock Growers meeting. I had asked about what was the cutoff for the Junior and Senior water right split dates. Where would that if there was a situation where people had to be shut down or limited in some way.

00:11:44.270 --> 00:12:01.570

**Barbara Cannady:** What was our division? And the answer was that it was different in every sub area, that you could have a difference of that date across the road from each other of a sub area. I call foul on that. I think if you're going to talk and set your whole premise on one pool.

00:12:01.810 --> 00:12:02.619

**Barbara Cannady:** then

00:12:03.840 --> 00:12:13.207

**Barbara Cannady:** and the water rights priority dates were all set at the same time. I mean, the laws were consistent.



00:12:15.220 --> 00:12:26.489

**Barbara Cannady:** I don't think that we should have different splits and sub dates at or split dates based on

00:12:26.610 --> 00:12:28.720

**Barbara Cannady:** what sub area you're in.

00:12:29.680 --> 00:12:35.589

**Barbara Cannady:** So, anyway, thank you.

00:12:39.398 --> 00:12:54.190

**Joe Maul - OWRC:** Next we have Kim Valentine right? And following Kim Kim's with the city of Heinz after Kim we'll have Rob Frank representing Harney County.

**Kim Valentine:** So this com. These comments are

00:12:54.430 --> 00:13:11.170

**Kim Valentine:** bullets from the formal comment that the City of Hines will be sending in.

**Joe Maul – OWRC:** Thank you.

**Kim Valentine:** Excuse me. So I'm Kim Valentine City Council member for the City of Hines. Please accept these comments on behalf of the City of Hines on proposed division 512 rules.

00:13:11.740 --> 00:13:27.959

**Kim Valentine:** At the beginning of the rulemaking process we were under the impression that there were no problems within our area and municipalities that would not be affected. We were not made aware that our operations would be affected by the proposed rules until the formal public comment period.

00:13:28.720 --> 00:13:34.049

**Kim Valentine:** We respectfully request that the Department provide a formal presentation to our elected officials

00:13:34.190 --> 00:13:40.089

**Kim Valentine:** and work closely with our staff, city engineers and legal counsel to to address our concerns.

00:13:40.550 --> 00:13:44.350

**Kim Valentine:** bullet one exempt municipalities from the rules

00:13:44.680 --> 00:14:10.290

**Kim Valentine:** given that municipal water use is a relatively small portion of the overall groundwater use in the basin and in the silvies sub area. We believe that the municipalities should be exempted from the rules, as it will not make an appreciable difference on the groundwater situation, and only



serves to pit neighbor against neighbor and municipal. Excuse me, municipalities against other groundwater users.

00:14:11.420 --> 00:14:19.720

**Kim Valentine:** Bullet 2. Allow continued municipal development and work proactively on conservation and efficiency measures

00:14:20.230 --> 00:14:38.300

**Kim Valentine:** as small under resourced cities, we need more flexibility and support, not more regulation and cumbersome restrictions. We would like to see the department work with groundwater users on a cooperative approach which we believe will yield greater benefits for groundwater and the community.

00:14:38.940 --> 00:14:45.240

**Kim Valentine:** Number 3. Clarity regarding emergency uses of water and extenuating circumstances.

00:14:45.680 --> 00:15:07.059

**Kim Valentine:** Last summer it was all hands-on deck response to the forest fires in our county. During that time frame firefighters from the local rangeland fire protection associations, local municipalities and Federal fire resources were accessing significant amounts of water from all local resources state in the firefighting efforts.

00:15:07.660 --> 00:15:14.590

**Kim Valentine:** We would like to request written confirmation from the Department that the city of Hines and other appropriators in the Basin.

00:15:14.720 --> 00:15:20.089

**Kim Valentine:** we'll continue to access the water necessary to respond to emergency events.

00:15:20.770 --> 00:15:36.949

**Kim Valentine:** We would also like to request written confirmation from the Department that in the event of a waterline break, or other similar unavoidable actions, there will be no punitive measures if water use exceeds an allocation due to extenuating circumstances.

00:15:37.560 --> 00:15:45.370

**Kim Valentine:** Bullet point, reduce economic impacts through more targeted action in problem areas and provide a pathway for economic

00:15:45.490 --> 00:15:56.420

**Kim Valentine:** development and public services. All issues we work on are interconnected. We cannot focus on a single aspect of city operations to the exclusion of other aspects.



00:15:57.080 --> 00:16:07.140

**Kim Valentine:** Consequently we also need to be mindful of the economic opportunities we are fostering as well as, as well as the overall quality of life for our residents.

00:16:07.660 --> 00:16:14.420

**Kim Valentine:** Every job lost, every dollar of economic output lost, sends a ripple effect through our community.

00:16:15.010 --> 00:16:20.810

**Kim Valentine:** As jobs are lost, the population will go down as population goes down, tax base goes down

00:16:21.140 --> 00:16:28.580

**Kim Valentine:** which affects both public and health services which already are facing significant funding shortfalls.

00:16:29.350 --> 00:16:43.729

**Kim Valentine:** Excuse me, bullet 5 involve the community in a meaningful way, transparent, messaging to include all this to include the impacts to all the residents in Harney County, not just the agricultural community.

00:16:44.150 --> 00:16:53.989

**Kim Valentine:** In conclusion, in Harney County, if someone in our community needs help, we band together to help them. This was true in the floods, fires, and in our everyday lives.

00:16:54.200 --> 00:17:04.760

**Kim Valentine:** Rather than relying exclusively on regulation as a sole tool. We work hard to build a culture of neighbors, helping neighbors in Harney County, in which the State can learn from Harney County on this.

00:17:04.960 --> 00:17:12.099

**Kim Valentine:** As elected government officials. We take seriously our roles in representing the people and working with our community partners.

00:17:12.630 --> 00:17:26.330

**Kim Valentine:** It is our expectation now and into the future that the State engages in formal consultation and coordination with our elected officials and staff when contemplating policies that have the potential to affect essential services.

00:17:26.839 --> 00:17:27.780

**Kim Valentine:** Thank you.



00:17:28.369 --> 00:17:32.604

**Joe Maul - OWRC:** Okay, thank you, Kim. Thanks for your public service.

00:17:33.890 --> 00:17:45.559

**Joe Maul - OWRC:** And now we have Rob Frank representing Harney County, and then follow following Rob, we'll have Mark Woodbury representing self Country Preferred Realtors.

00:17:46.980 --> 00:18:02.880

**Rob Frank:** My name is Rob Frank Harney County Commissioner. Thanks for the opportunity to comment. The county will be submitting extensive comments, but I did just want to give a brief overview in this forum to the community and so I apologize if you already heard this this morning.

00:18:03.750 --> 00:18:16.060

**Rob Frank:** There's sufficient information to close the Harney Basin. The new appropriations limit groundwater pumpage to historic beneficial use and curtail in areas that have met the criteria for critical groundwater designation.

00:18:16.420 --> 00:18:33.429

**Rob Frank:** However, several of the sub areas that are posed and are in the western and southern regions do not meet this criteria, namely, a Silver Creek sub area, portions of facility sub area, lower blitzen and voltage and upper blitzen, and we should be excluded.

00:18:34.220 --> 00:18:50.879

**Rob Frank:** We should proceed with regulatory action in the Weaver Springs sub area given it has clearly met the criteria for a critical groundwater area. For the remaining areas northeast, crane and Dog Mountain, we should set thresholds of which regulatory action will occur, and encourage voluntary agreements until thresholds are met or exceeded.

00:18:51.010 --> 00:18:53.710

**Rob Frank:** We should also pursue joint action

00:18:53.840 --> 00:19:02.179

**Rob Frank:** with groundwater, joint voluntary action with groundwater users as required by law and minimize economic impacts to the greatest extent possible.

00:19:02.890 --> 00:19:17.069

**Rob Frank:** The Department should review existing policies to ensure equitable application across the State. They should also consult with cities to determine the appropriate amount of water allocated for each 6 year period, check-in and exempt, recreational and geothermal use.

00:19:17.730 --> 00:19:29.340



**Rob Frank:** I did kind of already rate the department over the polls this morning about the lack of coordination with local governments. But I would just say that we would look forward to coordination and open discussions moving into the future.

00:19:29.913 --> 00:19:30.660

**Rob Frank:** Thank you.

00:19:32.240 --> 00:19:35.440

**Joe Maul - OWRC:** No problem. Thanks again for your public service.

00:19:36.020 --> 00:19:43.689

**Joe Maul - OWRC:** Mark Woodbury, self and Country Preferred Realtors. And following Mark, we'll have Lorissa Singhose representing herself.

00:19:44.270 --> 00:20:07.510

**Mark Woodbury:** Hello my name is Mark!

**Joel Maul:** Can I interrupt Mark, for people online and for the recording, if standing is fine. But if you could stand up front a little closer to the owl that will help everybody. I appreciate that, thank you.

**Mark Woodbury:** This is what I did. I thought I was planning a roll call. But I would like to make some comments. I really came here to clean some information.

00:20:07.510 --> 00:20:14.739

**Mark Woodbury:** And I've been to a lot of meetings like this. And I appreciate you guys time but my concern would be that every

00:20:14.740 --> 00:20:27.459

**Mark Woodbury:** fish and game commission meeting I went to it seems like our voice isn't heard, and so my concern would be as somebody self employed and worked in the Ag business forever that you know this is our livelihoods.

00:20:27.760 --> 00:20:45.709

**Mark Woodbury:** We're not talking millions of dollars, maybe even billions, if we lose our water situation. So just my concern that on on things like this, public forums and commissions that I really feel like our voices are being heard, and so that'd be my only complaint, and that's all I have to say. Thank you.

00:20:46.440 --> 00:20:55.680

**Joe Maul - OWRC:** Thanks, Mark. Thanks for adapting, adapting on the fly. It's not easy to speak in public. Next we have Larissa Cincos.



00:20:55.870 --> 00:20:59.269

**Joe Maul – OWRC:** and Lorissa will be followed by Mark Owens.

00:21:04.050 --> 00:21:19.750

**Lorissa Singhose:** Hi! Thank you for having me. My name is Larissa Cincos, and I'm a farmer and rancher in Riley, Oregon, and I've been a part of this for 10 years, so I'm just going to hit on some points and try to keep it short if I can.

00:21:19.920 --> 00:21:43.440

**Lorissa Singhose:** The Harney Basin is not one groundwater water reservoir in the USGS report the term groundwater reservoir was never used. They said it was hydraulically connected, but never implied. It was one reservoir. There can be several groundwater reservoirs within a basin and still be hydraulically connected. Oregon Water Resource Department has delineated the entire Harney Basin as a single groundwater reservoir.

00:21:43.510 --> 00:22:02.909

**Lorissa Singhose:** This simplified definition of a groundwater reservoir does not consider different aquifer characteristics, geology recharge discharge areas, groundwater levels and site-specific data. The implications of this oversimplified use of the definition could have devastating consequences for the basin and the rest of the State.

00:22:03.070 --> 00:22:26.640

**Lorissa Singhose:** This will allow the Department to take a few critical wells in a water basin and use them to regulate water use in the entire basin, which is irresponsible water management. I propose that the Department recognize different aquifer characteristics of each sub area to define groundwater reservoirs while still recognizing that they are hydraulically connected, and I would recommend that we use sites

00:22:26.760 --> 00:22:47.410

**Lorissa Singhose:** specific language should be retained as used in the current Division 512 rules. The Harney Basin is over allocated, but not overdrawn, and as defined in OAR 690-8-01. It defines it as that pumpage is greater than recharge, the numbers do not support this.

00:22:47.500 --> 00:22:57.409

**Lorissa Singhose:** The pumpage in the basin is less than recharge, and therefore the criteria of overdrawn should be removed from the basin 512 rules.

00:22:59.840 --> 00:23:08.469

**Lorissa Singhose:** The Silver Creek sub area, and many other sub areas could be defined and delineated out as their own groundwater

00:23:08.480 --> 00:23:30.310



**Lorissa Singhose:** reservoir, as defined in OAR 690-010-0130(4)(c) the boundaries shall indicate which groundwater reservoir, either in whole or in part. Groundwater areas may be reasonably inferred or ascertained by physical, natural boundaries. hydraulically, conditions recharge, discharge areas or administratively.

00:23:31.760 --> 00:23:40.030

**Lorissa Singhose:** So, I propose that the the water resource department use those criteria to delineate out.

00:23:41.020 --> 00:23:44.270

**Lorissa Singhose:** And I'd also like to propose that.

00:23:45.130 --> 00:23:48.790

**Lorissa Singhose:** Sorry. I'm trying to correct some that

00:23:49.790 --> 00:24:13.459

**Lorissa Singhose:** that the Silver Creek sub area has not met the criteria for critical groundwater designation. The groundwater levels in Silver Creek sub area are reasonably stable as per the definition in OAR 690-08-01. The Department's own data show that declines in this area have been minimal. These trends are well within the range of what is considered reasonably stable by the department.

00:24:14.750 --> 00:24:26.060

**Lorissa Singhose:** This also holds true for the subbasins of the Silvies, lower Blitzen Voltage and Upper Blitzen, who also do not meet the critical criteria for groundwater, critical groundwater designation.

00:24:26.730 --> 00:24:27.450

**Lorissa Singhose:** no problem.

00:24:29.773 --> 00:24:36.729

**Lorissa Singhose:** The conditions in the in the Silver Creek sub area are reasonably stable. The Department.

00:24:37.010 --> 00:25:05.439

**Lorissa Singhose:** These trends are well within the range, considerably stable. The department model results showed that without reductions in this area would achieve near stable groundwater levels defined as 0.1 foot a yard decline. At this rate, it would take 300 years to reach a permit condition of a 25-foot decline. To hit a critical condition of over 50-feet of decline it would take 600 years at this rate to reach that condition.

00:25:06.460 --> 00:25:15.210

**Lorissa Singhose:** I propose that the Silver Creek sub area be removed from the critical groundwater area designation and retain the language of reasonable stable.

00:25:15.760 --> 00:25:23.210

**Lorissa Singhose:** There is enough information to delineate 4 of the 7 sub areas that do not meet the criteria for a critical groundwater area.

00:25:23.540 --> 00:25:29.910



**Lorissa Singhose:** They do not. The 4 areas are the upper Blitzen, the lower Blitzen, the Silver Creek and the Sylvies.

00:25:30.140 --> 00:25:35.209

**Lorissa Singhose:** They do, they have no conditions that decline excessively or excessively declined.

00:25:36.080 --> 00:25:47.830

**Lorissa Singhose:** not meet, and they do not meet this criteria under the Oregon law, ORS 537.730 and should be removed from the proposed division 512 rules.

00:25:48.010 --> 00:26:10.989

**Lorissa Singhose:** Water law says that part of the groundwater reservoir can be designated as critical, but Oregon Water resource department has chosen to include sub areas of the basin did not fit the criteria that's putting unjustified regulations on areas of the basin. This is not dictated by law, but chosen by the Department. Why would the Department want to put undue hardship on a community that is not necessary?

00:26:13.370 --> 00:26:21.909

**Lorissa Singhose:** The department lacks a legal and technical basis for regulations in the Silver Creek, Lower Blitzen Voltage, Upper Blitzen and Sylvie sub area.

00:26:22.730 --> 00:26:39.969

**Lorissa Singhose:** As defined in Oregon statute ORS 537.730 they lack the legal authority to designate an area critical without substantial evidence that justifies the designation. According to OAR 690-10-120. The Department does not have substantial evidence to back

00:26:40.380 --> 00:26:42.179

**Lorissa Singhose:** up their designation.

00:26:45.740 --> 00:27:09.659

**Lorissa Singhose:** The Department has led the RAC to believe that springs are declining, but do not have the data to support this claim. They have not responded to comments or provided a written basis for this claim. When I asked for historical data, I would to determine spring declines. I was not provided any, but referred to the USGS Hydrological report and study report. What I found in the report as stated in the groundwater resources of Harney Basin, page 76,

00:27:09.660 --> 00:27:26.950

**Lorissa Singhose:** Quote "No measurable decrease in flow from springs in the Warm Springs Valley was observed between the early 20th century Piper and others, 1939 in the period of this study. However, long-term records of flow on which to robustly calculate trends are also lacking." End quote.

00:27:27.720 --> 00:27:53.729

**Lorissa Singhose:** Also stated in a hydraulic report, the Harney Basin it was noted that the differences between the 2017 and the early 19 hundreds, spring flow in the Warm Springs Valley likely reflect variability and or management of irrigation diversions rather than nearby groundwater development. That is a direct quote.

00:27:56.730 --> 00:27:57.186

**Lorissa Singhose:** The



00:27:58.360 --> 00:27:59.890

**Lorissa Singhose:** As we move on.

00:28:01.040 --> 00:28:17.260

**Lorissa Singhose:** The Department has drastically changed their approach to regulations in the Silver Creek area and the Harney Basin. Most of the rulemaking process the department was proposing no reductions in Silver Creek and modeling results that without reductions this area would achieve near stable groundwater levels.

00:28:17.870 --> 00:28:20.659

**Lorissa Singhose:** But still they propose reductions.

00:28:20.930 --> 00:28:27.409

**Lorissa Singhose:** The Department's initial approach, approach to not regulate all sub areas is noted in a memo

00:28:27.620 --> 00:28:39.520

**Lorissa Singhose:** quote, please note that while there are 15 proposed sub areas, the Department does not intend to propose curtailment in all of them.

00:28:39.830 --> 00:29:08.670

**Lorissa Singhose:** Also, in that memo it goes on to say, quote goal of reducing groundwater level declines within portion of the groundwater reservoir where declines are most severe end quote. This shows that the that the Department's intention to not regulate all sub areas. Just the critical ones was commonly understood by understood at the RAC meetings until recently. The sudden change started about Rack number 12,

00:29:09.040 --> 00:29:12.870

**Lorissa Singhose:** and with and with this shift of re-regulating

00:29:13.330 --> 00:29:23.879

**Lorissa Singhose:** more the whole basin, we were not giving any new data. We were not given a discussion, an explanation or a reason for the sudden change.

00:29:24.890 --> 00:29:53.970

**Lorissa Singhose:** The Department has a responsibility as required by ORS 537.525 The department is required to protect existing water rights. When the department issues a permit, they are ensuring the public that is in the best interest, and that the water is available. By then taking these these back and regulating these permits that they issued under that tense, it is admitting that the Department is negligent, and should be held accountable.

00:29:53.970 --> 00:30:04.360

**Lorissa Singhose:** This negligence has done unrepairable harm to the Harney Basin. Now their unlawful proposed regulations of non-critical areas will do even more harm.

00:30:06.870 --> 00:30:33.629

**Lorissa Singhose:** Oregon the Department has only used public welfare, safety, and health to address springs and natural ET They have failed to discuss or consider other aspects. They have not considered the negative environmental impacts of drying up farmland, soil degradation, loss of soil, quality and



nutrients, erosion, runoff, loss of ecosystems, wildlife habitat and the major loss of carbon sequestering.

00:30:34.300 --> 00:30:52.480

**Lorissa Singhose:** The Harney economy is also the biggest factor of the public welfare and safety. The economy will be devastated by the impacts that the proposed Division 12 rules will have affecting schools, healthcare, and general well-being of citizens who could lose everything or struggle to get by.

00:30:53.700 --> 00:31:00.606

**Joel Maul - OWRC:** I see you're approaching 10 min.

**Lorissa Singhose:** Yep, I would recommend to the Department to

00:31:01.780 --> 00:31:21.049

**Lorissa Singhose:** to engage in voluntary joint action with the people of Harney County to work on this, and I would also request that the reasonable, stable language be retained in law, and that durably stable is not an accepted term that is recognized in law and should not be used.

00:31:26.600 --> 00:31:29.542

**Lorissa Singhose:** So, I will follow up by saying that

00:31:33.500 --> 00:31:46.410

**Lorissa Singhose:** I urge the Department and the Commission to adhere to existing statutes and rules rather than pursuing unprecedented groundwater reductions through regulations that lack defensible and technical basis.

00:31:47.940 --> 00:31:54.449

**Lorissa Singhose:** I would just like to say that I think the people of Harney County deserve better than what we were given in the proposed rules.

00:31:54.680 --> 00:31:58.450

**Lorissa Singhose:** Thank you so much for your time.

00:31:59.890 --> 00:32:26.130

**Joe Maul - OWRC:** Thank you. Ok next we have Mark Owens and Mark is followed by Kirk Blackburn, and you did not, you didn't signify you're speaking on behalf of.

**Mark Owens:** I will. I will state that.

**Mark Owens:** Okay, thank you Commissioner Maul. Thank you, Kelly, for the opportunity to give comments on the public hearing Division 512 rules. Today, I am giving public comment as a community member,

00:32:26.290 --> 00:32:35.590

**Mark Owens:** a farmer, and a recovering RAC member.

**Audience:** Please talk louder.

**Mark Owens:** Okay will do.



00:32:44.250 --> 00:32:48.054

**Mark Owens:** If I turn my hearing aids down, it might feel better

00:32:49.480 --> 00:32:55.019

**Mark Owens:** Today, I give the public comment as a community member, farmer, and recovering RAC member.

00:32:55.460 --> 00:33:00.229

**Mark Owens:** This conversation started May 26, 2015 in this room.

00:33:00.600 --> 00:33:06.639

**Fred Otley:** There's been community members, state. Many people have given thousands of hours into this conversation,

00:33:07.180 --> 00:33:14.290

**Mark Owens:** and as we work towards the Water Resource Commission adopting rules in December, it is just closing out one other chapter in this book.

00:33:14.790 --> 00:33:26.200

**Mark Owens:** There's going to be many more chapters to come hopefully for the next 30 to 50 years, where we can keep an agricultural vibrant economy while minimizing effects to domestic wells and ecological systems.

00:33:26.490 --> 00:33:28.480

**Mark Owens:** I'll start out with some positives.

00:33:28.640 --> 00:33:32.730

**Mark Owens:** Through this last RAC. Through this last RAC process

00:33:33.090 --> 00:33:34.710

**Mark Owens:** we have made some improvements.

00:33:35.180 --> 00:33:38.370

**Mark Owens:** When we first proposed a 15-sub area approach,

00:33:38.540 --> 00:33:42.610

**Mark Owens:** all of the reductions were going to occur in the year 2030,

00:33:42.740 --> 00:34:02.129

**Mark Owens:** which would have made this community weed out the Eco Northwest Economic study says that if we do a 36% reduction in this community, it'll be over a 60 million dollars per year economic hit. It will be over 300 jobs for this community. If you take 300 jobs out of this community, the unemployment rate will go to 14%.

00:34:02.540 --> 00:34:05.060

**Mark Owens:** That would have occurred in the year 2030.

00:34:05.470 --> 00:34:11.310



**Mark Owens:** The Department has decided that they will work with us on phasing in any reductions over a 30-year period of time.

00:34:11.650 --> 00:34:16.200

**Mark Owens:** With 6-year intervals, with adaptive management, to see how much more curtailment has to come.

00:34:16.580 --> 00:34:21.309

**Mark Owens:** That is a positive, and that is something I encourage the Department to keep into these rules.

00:34:21.870 --> 00:34:28.359

**Mark Owens:** Also throughout the RAC process we recommended, we taking the duty down to 2.5 acre feet.

00:34:28.920 --> 00:34:38.769

**Mark Owens:** As a farmer myself, I do not need to use more than 2.5 acre feet to grow any economically viable crop of alfalfa at 2.5 acre feet. The limiting

00:34:39.389 --> 00:34:42.749

**Mark Owens:** condition is not water. It's management.

00:34:42.929 --> 00:34:46.610

**Fred Otley:** You can grow 6 to 7 ton alfalfa on 2.5 acre feet.

00:34:47.040 --> 00:34:53.859

**Mark Owens:** And the reason we encourage this, and the reason we support this is at 2.5 acre feet. We keep 17% more farmers in business.

00:34:54.360 --> 00:34:55.520

**Mark Owens:** That's a good thing.

00:34:55.860 --> 00:35:07.660

**Mark Owens:** The other thing that I support in these rules is that only applying water to what acres any acre that was irrigated between 2000-2024 should receive an allocation of water in these rules.

00:35:07.810 --> 00:35:13.590

**Mark Owens:** If it had not been irrigated in the last 5 years my opinion is, it should not be given water.

00:35:13.940 --> 00:35:19.050

**Mark Owens:** Is our goal once again, or my goal is to make sure that we keep as many farmers in business

00:35:19.170 --> 00:35:22.599

**Mark Owens:** that have been irrigating in the last 5 years in business.

00:35:22.730 --> 00:35:29.269



**Mark Owens:** If we allocate water to those acres that has not been irrigated, or we allocate water to those permits that still have not been developed.

00:35:29.870 --> 00:35:30.970

**Mark Owens:** Somebody

00:35:31.190 --> 00:35:37.609

**Mark Owens:** in this room or in this community that has been irrigating will get shut off, and we'll be rewarding speculation.

00:35:38.270 --> 00:35:40.449

**Mark Owens:** So I do believe we've come a long ways.

00:35:40.800 --> 00:35:47.900

**Mark Owens:** There are some things that I still think we need to work on and continue to develop as we close into the December Water Resource Commission.

00:35:48.270 --> 00:36:02.510

**Mark Owens:** 1. I do support the 7th approach. I do believe that it follows more of the areas that the USGS talked about recharge coming into the basin. I do also believe that it supports more where the declines occur.

00:36:02.870 --> 00:36:24.669

**Mark Owens:** I do feel that there should be one adjustment to the 7-sub area approach. When you look at the Northeast sub area, the Northeast sub area goes down below Windy Point, which was the cutoff for the northern recharge area in the US Geological study, and does some funky things for a few further, the Northeast sub area should be cut off at Windy Point. Anything south of that should be in the lower Donner Blitzen.

00:36:27.920 --> 00:36:32.320

**Mark Owens:** A lot of the conversations that we had during the RAC was Stability.

00:36:32.740 --> 00:36:41.140

**Mark Owens:** Director Ivan Gall and approximately rack 3 or 4 said that the aspirational goal would be stability.

00:36:41.780 --> 00:36:49.959

**Mark Owens:** We had a lot of discussions with that, because during the groundwater study, it was clearly articulated to those of us that spent many years with them

00:36:50.390 --> 00:36:52.379

**Mark Owens:** that the goal was not going to be stability

00:36:52.720 --> 00:36:57.700

**Mark Owens:** is give you some sort of form of reasonably stable, as Lorissa talked about here shortly.

00:36:58.070 --> 00:37:00.529

**Mark Owens:** But the aspirational goal then became the goal



00:37:01.130 --> 00:37:03.280

**Mark Owens:** without supporting the majority of the RAC.

00:37:03.600 --> 00:37:08.249

**Mark Owens:** So now we know that the goal the Department is trying to impose is stability.

00:37:08.680 --> 00:37:17.680

**Mark Owens:** We should look at a dynamic equilibrium between 25 and 50 foot and work from that instead of a 0 rate of decline on an average of 5 years.

00:37:18.230 --> 00:37:22.379

**Mark Owens:** But even with a goal of stability, and once they started to model

00:37:22.570 --> 00:37:29.720

**Mark Owens:** different outcomes, in this basin. On October 2, 2024, they presented us with multiple scenarios.

00:37:30.020 --> 00:37:34.049

**Mark Owens:** scenarios, A, B, C, D and E that had model results.

00:37:34.960 --> 00:37:39.549

**Mark Owens:** Alternative A was the Oregon Water Resource Department, 15 subarea Scenario

00:37:39.710 --> 00:37:45.539

**Mark Owens:** that indicated positive effect on water levels, but did not achieve the target? Water level of trend of 0 decline

00:37:46.020 --> 00:37:50.919

**Mark Owens:** reductions in high priority sub areas affected decline rates and lower priority sub areas?

00:37:51.120 --> 00:38:01.009

**Mark Owens:** Weaver Springs, North Harney and others shall recover in a short time, indicating reductions may be more severe than necessary in those areas. Portions of the basin never achieve near stable.

00:38:01.470 --> 00:38:06.130

**Mark Owens:** So once they modeled the 15 sub areas approach. They determined it did not meet their goal.

00:38:06.560 --> 00:38:17.880

**Mark Owens:** And so they didn't. They actually did model B,C,D alternatives. I'm just going to focus on the B alternative, the balance reductions phased in over 30 years.

00:38:18.300 --> 00:38:22.119

**Mark Owens:** property reductions focused in 3 sub areas and 3 sub areas only.

00:38:22.280 --> 00:38:39.759

**Mark Owens:** Most areas that would come under any type of regulation were - put my glasses on - Weaver Springs and dog mountain a 40, 54% reduction northeast Crane area 30% reduction, silver Creek a 9% reduction, no reduction in Sylvie's



00:38:40.050 --> 00:38:41.650

**Mark Owens:** lower Blitz and voltage

00:38:41.810 --> 00:38:54.709

**Mark Owens:** or upper Blitzen with a total combined reduction of 22%. And in that Powerpoint presentation themselves, they said, scenario A and B stabilized discharge of surface water.

00:38:55.610 --> 00:39:02.440

**Mark Owens:** Scenario A and B resulting in loss of storage, but B resulting in no further loss after 30 years.

00:39:02.970 --> 00:39:04.770

**Mark Owens:** So they modeled an alternative

00:39:04.950 --> 00:39:13.339

**Mark Owens:** with 22% total reduction in the basin, only affecting the 3 main areas that have declined that show their goal of aspirational success.

00:39:14.460 --> 00:39:16.579

**Mark Owens:** At that time we thought we were close.

00:39:17.680 --> 00:39:22.489

**Mark Owens:** We did. They had a couple of other models, one of them being a full recovery model

00:39:22.610 --> 00:39:25.220

**Mark Owens:** That showed even more reductions needed.

00:39:25.850 --> 00:39:29.91

**Mark Owens:** But after that things started going sideways.

00:39:30.090 --> 00:39:35.270

**Mark Owens:** We started getting whiplash because they said they could optimize the model,

00:39:35.460 --> 00:39:38.239

**Mark Owens:** and then they take those results, and they come back with

00:39:38.410 --> 00:39:45.640

**Mark Owens:** figuring out how to reach their goal with the least amount of reductions possible. And once they optimized it,

00:39:46.060 --> 00:39:58.519



**Mark Owens:** they came up with Crane Buchanan at a 34% reduction instead of 30%, Dog Mountain Weaver Springs at a 38% reduction instead of a 54% lower blizz and boltage at a 31% reduction,

00:39:58.710 --> 00:40:07.249

**Mark Owens:** Silver Creek at a 31% reduction, Sylvie's at a 5% reduction upper bullets and at a 0% reduction for total of 29%.

00:40:07.810 --> 00:40:09.890

**Mark Owens:** Then they continue to optimize more

00:40:10.060 --> 00:40:26.600

**Mark Owens:** when they came back and further back. So instead of Crane Buchanan, I think, ended up at 36 Dog Mountain was separated from Weaver Springs and ended up at 9%. Weaver Springs ended up at 75%. Lower blizz and voltage ended up at 39%. Silver Creek ended up at what Lorissa?

**Lorissa Singhose:** Right now, 28%.

00:40:27.140 --> 00:40:29.660

**Mark Owens:** Alright, what did Silver Creek end up at

00:40:30.350 --> 00:40:35.769

**Mark Owens:** 28%, 28%? Tilby's? I think it's at 12%.

00:40:36.250 --> 00:40:40.590

**Mark Owens:** So once they continue to optimize things changed dramatically.

00:40:40.970 --> 00:40:45.989

**Mark Owens:** If we go back to the model runs which hit their aspirational goal of stability.

00:40:46.200 --> 00:40:48.300

**Mark Owens:** We can do this at a 22%.

00:40:48.450 --> 00:40:54.749

**Mark Owens:** And we could do this with the 3 main sub areas where most of us don't think there's issues with very little or 0 decline at all.

00:40:55.420 --> 00:40:58.210

**Mark Owens:** My recommendation is that the Commission

00:40:58.400 --> 00:41:00.589

**Mark Owens:** look at plugging those numbers in

00:41:00.860 --> 00:41:05.289

**Mark Owens:** to the draft rules and adopting something in December, so we can move forward.

00:41:05.580 --> 00:41:14.339

**Mark Owens:** The optimization, as was discussed by USGS, Steve Greenwich, who gave us a presentation on, said that the model is not designed to predict.

00:41:14.960 --> 00:41:20.279



**Mark Owens:** The model is designed to put in numbers, and it will show you what the results would be.

00:41:20.880 --> 00:41:24.169

**Mark Owens:** Once we try to use the model to try to predict and optimize

00:41:25.380 --> 00:41:26.660

**Mark Owens:** things went wrong

00:41:27.480 --> 00:41:37.089

**Mark Owens:** and I strongly believe that. In the last 6 months I was kind of overwhelmed with a lot of things going on and didn't pay much attention to that.

00:41:37.690 --> 00:41:39.290

**Mark Owens:** There will be trade-offs.

00:41:39.780 --> 00:41:45.240

**Mark Owens:** If we go to 22%, I'm sure the department can come in and model and say the groundwater levels will probably go down further.

00:41:45.390 --> 00:42:01.869

**Mark Owens:** so that could have an effect on domestic wells. This community and myself will continue to support the domestic Well program that's set up in Harney Basin, the Well Banner repair program that's set up in the statewide that has a million dollars. So if your well is going dry, we can help you deepen it.

00:42:02.080 --> 00:42:18.399

**Mark Owens:** We could also model what the groundwater levels would be after full implementation of any regulation that would occur. So we'd understand where you need to drill to to be safe. There could be potentially some ecological effects by allowing the groundwater levels maybe to drop a little bit more.

00:42:18.850 --> 00:42:21.569

**Mark Owens:** There's been a lot of conversation inside Sodhouse Springs.

00:42:21.760 --> 00:42:31.069

**Joe Maul – OWRC:** Mark, you're approaching 10 min.

**Mark Owens:** I only need 10 more. There's been a lot of conversations on the ecological effects, so

00:42:31.230 --> 00:42:33.290

**Mark Owens:** the farmer and me will come out here

00:42:34.070 --> 00:42:38.490

**Mark Owens:** Sodhouse Spring is probably an important spring in the refuge.

00:42:38.960 --> 00:42:43.830

**Mark Owens:** Somehow the head pressure has gone down and the spring is not putting water out.

00:42:44.410 --> 00:42:46.279

**Mark Owens:** That could be because of drought.



00:42:46.540 --> 00:42:48.729

**Mark Owens:** it could be because a lot of the causal factors

00:42:49.690 --> 00:42:52.130

**Mark Owens:** Why don't we go drill a 15 foot Well there?

00:42:52.530 --> 00:42:55.870

**Mark Owens:** Put a 5-horsepower pump there, and pump it

00:42:56.430 --> 00:43:00.780

**Mark Owens:** and replace the water where the spring would be typically artesian

00:43:01.200 --> 00:43:03.859

**Mark Owens:** until such a time that it comes back.

00:43:04.660 --> 00:43:08.969

**Mark Owens:** OWEB has 5 million dollars in order to retire water rights.

00:43:09.270 --> 00:43:12.630

**Mark Owens:** So we have groundwater dependent ecosystems in areas that we need to do.

00:43:12.790 --> 00:43:20.919

**Mark Owens:** Let's figure out with OWEB let's figure out with farmers. Let's figure out how we could retire some of those water rights in those areas that have affected groundwater dependent ecosystems.

00:43:21.290 --> 00:43:24.400

**Mark Owens:** Today, we saw 8 applications of the Crep program supported.

00:43:25.180 --> 00:43:50.249

**Mark Owens:** And so we're already starting to dry up money, we could do more targeted. So one, I want to thank the Department for working with us for the next 10 years. Let's figure out how we can get to a positive result in 10 years and have the Commission support this community and support the economic ecological environment. Thanks Joe.

**Joe Maul – OWRC:** Thank you, Mark. And I just wanted to acknowledge your leadership in the legislature once again this year for the entire state. That's a tremendous thing.

00:43:52.330 --> 00:43:58.989

**Joe Maul – OWRC:** Okay. Next we've got Curt Blackburn, and after Kurt, Mario Petri

00:43:59.090 --> 00:44:12.440

**Curt Blackburn:** I'll go pretty quick stuff on there, but I agree with Lorissa Singhose on the critical water areas, a lot of those areas, I mean, the Weaver Springs and the

00:44:13.047 --> 00:44:30.420

**Curt Blackburn:** Crane area in the north crane and stuff do meet the critical designation. But a lot of those areas don't meet the ORS 3, whatever ORS 537.730, you know, with the drawdowns and stuff like that, it's really hard for me to see.



00:44:31.062 --> 00:44:59.537

**Curt Blackburn:** You guys put those in the critical water zone, and then were labeled that in this in in this county. And then next time you make a change in critical water zone, we don't have a say in anything. I think it should come back to the table and, like you said, with those other areas in there out of the critical water zone. Some of the stuff also that was in our meetings and things, and talk about when you're tying to. Weaver Spring or tying to springs and springs.

00:44:59.930 --> 00:45:13.560

**Curt Blackburn:** it saddens me when the water resource department doesn't have the data to do this stuff on the springs, and when we question them about Weaver Springs they tell us there's no spring there. There's been a spring there forever. They had no knowledge and that

00:45:13.840 --> 00:45:30.349

**Curt Blackburn:** hurts my confidence in the in the department. It also hurts my confidence in the Roberts Study of 1970, Robertson Study in 1972, that showed what our recharge was in the basin and the department

00:45:30.500 --> 00:45:54.679

**Curt Blackburn:** mismanage our water and put us in this predicament in the first place. We've had conditions in there that 25-foot drawdowns. We've had conditions in Wells all this time for all these years, and the Department, through mismanagement, has not done their job and causes things. Here I do agree some of the zones. I agree with the seven zones, but I do agree with what

00:45:55.235 --> 00:46:06.999

**Curt Blackburn:** Mark said about the crane zone and the windy point. That is a big point there. I do also have an issue with where Weaver Springs is

00:46:07.210 --> 00:46:25.679

**Curt Blackburn:** and Dog Mountain. There's 1 or 2 wells just north of there that I've complained numerous times that it has volcanic soils in the well log, and I don't remember what it is, but it's just over the line of Weaver Springs. It needs to be out of Dog Mountain, and that zoning to be shifted down because

00:46:25.890 --> 00:46:51.969

**Curt Blackburn:** the the well offs and stuff in Dog Mountain are a different complexity. It looks like a well offs to me than the volcanic and the cinders that are in Weaver Springs which that well, it does, and I think that is hydraulic connected. If you pull that one well out of there, it's the worst well, in the whole valley that looks like they'll never be recharged. But the thing is, it's on a mountain hillside. It's probably 200 or 300 feet higher than the area

00:46:51.970 --> 00:47:12.759

**Curt Blackburn:** up there. I disagree with Mark on some points on the 2020 to 2024 rule. If it's dry, I think there needs to be something, I think, in the rules. There's like a hardship case in some of the rules before you guys take it away for financial or desk, or something outside the normal

00:47:13.180 --> 00:47:30.920

**Curt Blackburn:** recourse of that person because it say, if the guys well caved in because it had construction and he just didn't have the finances to bring it back and get it, I don't think you need to



pound on that poor person and take his water rights just because it's a financial, or there's a death in the family, and they just can't

00:47:30.920 --> 00:47:53.960

**Curt Blackburn:** do the resources and stuff. And I think there needs to be consideration in that 2020 and 2024 things. In kind of hindsight. I've been going to these meetings at the beginning, and then about 5 years. I do think I agree with some of the people that there is a disconnect with the water resource department. Sometimes we would ask numerous questions

00:47:54.010 --> 00:48:02.120

**Curt Blackburn:** and I would say, we've got back 20% if even that of answers through all the whole times we're asking.

00:48:02.220 --> 00:48:13.370

**Curt Blackburn:** And it was just very frustrating sometimes on how the process went and caused a lot of hard feelings and stuff. So thank you.

00:48:13.580 --> 00:48:20.856

**Joe Maul - OWRC:** Curt, may I ask, are you a grower, an operator?

**Curt Blackburn:** I'm a irrigator facilities unit and

00:48:21.400 --> 00:48:46.919

**Curt Blackburn:** business owner, real estate broker.

**Joe Maul – OWRC:** Thank you very much. Okay. Next up we have Mario Petrelli and following Mario, we have Sabrina Mario is presenting on behalf of himself, and Sabrina is listed as a landowner and irrigator.

**Mario Petrelli:** Howdy, everyone! I'm Mario Petrilli. I'm a Newbie in the county. I've been here for 5 and a half years. Wow, that.

00:48:48.831 --> 00:48:51.958

**Mario Petrelli:** Thank you again for hearing me.

00:48:53.070 --> 00:49:01.500

**Mario Petrelli:** Okay, there comes a point when flow meters and regulation compliance is beyond small users.

00:49:01.760 --> 00:49:12.829

**Mario Petrelli:** After running the numbers. The economic and demographic sweet spot is to exempt small users allocated 20 acre feet or less.

00:49:13.440 --> 00:49:15.739

**Mario Petrelli:** There are 17 users.

00:49:16.180 --> 00:49:26.449

**Mario Petrelli:** Most are family farm operations with older owners. Many of these allocated irrigation rights are used for exempt, domestic and livestock uses as well.



00:49:26.910 --> 00:49:29.869

**Mario Petrelli:** Some use wagon wheel, and pipe irrigation.

00:49:30.080 --> 00:49:37.579

**Mario Petrelli:** You know the kind of folks with 20-foot wells who write letters to the department when their wells go sour or dry.

00:49:38.290 --> 00:49:46.070

**Mario Petrelli:** Arguments can be made to accept users allocated 30-acre feet and less. There is just 35 users.

00:49:46.580 --> 00:49:56.029

**Mario Petrelli:** I recall RAC exemptions for small users. But don't find any in the division rules. Am I missing something? There should be.

00:49:56.190 --> 00:50:03.790

**Mario Petrelli:** There is enough room in the budget to consider 50-acre feet as well for an approximate 1,500 acres.

00:50:04.510 --> 00:50:16.020

**Mario Petrelli:** The current division rules do not exempt Native American groundwater rights, both within the colony and on the land they own and lease in the North Central Basin

00:50:17.130 --> 00:50:30.409

**Mario Petrelli:** there are nine 1993, BLM Livestock wildlife and 2 USFS. Wildlife and Pond maintenance wells that are already exempt within the GWAC.

00:50:31.130 --> 00:50:49.600

**Mario Petrelli:** I argued two recreational users, Crane Crystal Hot Springs Valley Golf Club, with a total of 770 acres or 0.285% of the total appropriation should be exempt.

00:50:49.760 --> 00:50:51.469

**Mario Petrelli:** It's point .3%.

00:50:52.490 --> 00:51:00.549

**Mario Petrelli:** The hot springs is well developed and attracts thousands of visitors each year. The 4th of July weekend was standing room only.

00:51:00.710 --> 00:51:06.580

**Mario Petrelli:** It is vital to the lower basin's economy, and must remain as it is.

00:51:07.230 --> 00:51:12.279

**Mario Petrelli:** With half of the water gun the only golf course will simply no longer exist.

00:51:12.660 --> 00:51:20.970

**Mario Petrelli:** The division makes no special distinction for recreational uses. However, department Rule 10 does.



00:51:21.200 --> 00:51:28.139

**Mario Petrelli:** What about Crane school? Its ancient irrigation right also serves domestic and livestock needs.

00:51:28.450 --> 00:51:32.970

**Mario Petrelli:** Exemptions must be made for frontier school districts.

00:51:33.940 --> 00:51:42.000

**Mario Petrelli:** Oregon has a progressive history of economic and social justice. These exemptions would continue the legacy.

00:51:42.300 --> 00:51:46.190

**Mario Petrelli:** Thank you for your time and consideration.

**Joe Maul - OWRC:** Thank you, Mario.

00:51:48.795 --> 00:51:57.369

**Joe Maul - OWRC:** Okay, okay. Now we have Sabrina Maki, followed by Dominic Bachman.

00:52:01.720 --> 00:52:04.490

**Sabrina Maki:** Okay, oops.

00:52:06.550 --> 00:52:07.300

**Sabrina Maki:** Okay.

00:52:08.910 --> 00:52:28.520

**Sabrina Maki:** My name is my family, is landowners, irrigators in the Basin. I've been in attendance at many of the RAC meetings the previous 2 years, and while there has been some progress made during those RAC meetings, such as phase reductions, and the proposed use of the adaptive management over 30 years, there are also aspects of the proposed rules that we do not support,

00:52:28.760 --> 00:52:57.220

**Sabrina Maki:** the groundwater depletion challenges in Harney county have developed over decades exacerbated by many years of severe drought. Expecting this complex issue to be resolved in a short period without considering incremental and equitable solutions is impractical and counterproductive. Other Western States are implementing gradual collaborative reductions to water usage, ensuring that communities can adapt without catastrophic economic consequences rather than imposing abrupt and unfair restrictions. We urge the Department and Commission to

00:52:57.220 --> 00:53:09.410

**Sabrina Maki:** explore alternative management strategies. We are setting a precedent in the State of Oregon. We don't need to rush into rules that could have cascading and catastrophic effects across the State of Oregon, and especially in Harney County.

00:53:09.520 --> 00:53:28.420

**Sabrina Maki:** There were previous proposals submitted by the Department during the RAC process that Mark and Lorissa both touched on and thank you to both of them for their comments and all they've done through this process. But they modeled as they talked about the specifics, but they were modeled and data-driven



00:53:28.690 --> 00:53:38.539

**Sabrina Maki:** solutions that achieve stability with much less reductions. And instead, that has been replaced by a much more aggressive proposal; the current draft rules.

00:53:38.580 --> 00:54:00.140

**Sabrina Maki:** Those rules will hit water right holders the hardest. I think that one thing that has maybe failed to be recognized is that water rights are an investment. These rights were purchased on the premise that they could be developed and utilized. They were issued permits by the Department to legally develop and further their investments.

00:54:00.250 --> 00:54:04.610

**Sabrina Maki:** These unreasonable regulations will destroy the value of their investments.

00:54:06.170 --> 00:54:09.079

**Sabrina Maki:** You know, a lot of people have 401Ks, farmers

00:54:09.330 --> 00:54:16.639

**Sabrina Maki:** buy pivots like that's and there's a lot of people that go into debt too

00:54:16.760 --> 00:54:37.669

**Sabrina Maki:** you know, meet all the requirements that are required to develop that water right? And I just don't know if that has been touched on enough that this is people's livelihoods. These are their investments. And many don't have another investment. They don't have a 401K to fall back on.

00:54:39.830 --> 00:55:04.549

**Sabrina Maki:** The current proposed cuts are based on data and modeling that include years of drought, and, in my opinion, do not accurately reflect what is needed for a reasonably stable aquifer, and any risk of the current proposal being wrong is being borne by the farmers, the ranchers, and ultimately the community. Meaning, if the agency is wrong, they won't be able to correct those mistakes until family businesses go bankrupt

00:55:04.550 --> 00:55:13.199

**Sabrina Maki:** and our community goes beyond repair. If we want to err on the side of precaution, that precaution needs to be granted to those who've invested everything they have into their farms.

00:55:14.130 --> 00:55:20.990

**Sabrina Maki:** That being said, we understand and agree that reductions will likely be needed to stabilize groundwater levels.

00:55:21.260 --> 00:55:41.330

**Sabrina Maki:** But we do not believe that the conditions exist for this level of regulatory action. If the department sticks to its own policies for groundwater allocation, we appreciate the proposed timeline to reach stability and the adaptive management approach, but disagree with the level at which we will be regulated. Mark gave very specifics on that

00:55:42.130 --> 00:55:52.460



**Sabrina Maki:** Plan B, or model B. But why is Harney County being held to a different standard of stabilization from the rest of the State? This has felt very personal,

00:55:52.460 --> 00:56:14.770

**Sabrina Maki:** and we will be submitting written comments with very specific suggestions for alternatives, and ask that those alternatives please be considered by the Commission. We feel strongly that Oregon has an opportunity to adopt a more balanced and logical long-term approach to water resource management, one that acknowledges past mistakes, protects livelihoods, and ensures stability.

00:56:23.770 --> 00:56:27.740

**Joe Maul - OWRC:** Please take a moment, please take a moment.

00:56:30.720 --> 00:56:33.900

**Sabrina Maki:** My kids are 5th generation, Harney county farmers.

00:56:34.090 --> 00:56:35.849

**Sabrina Maki:** This is our way of life.

00:56:36.270 --> 00:56:39.730

**Sabrina Maki:** We want sustainable water management.

00:56:40.290 --> 00:56:54.799

**Sabrina Maki:** We've seen the State's senseless forest management policies eradicate our beautiful high desert forests, and decimate the economy in our community. Like anyone that lived here in the eighties and early nineties got to watch it.

00:56:55.080 --> 00:56:59.159

**Sabrina Maki:** We plead with the Commission and the Department to listen to the stakeholders

00:57:00.200 --> 00:57:07.920

**Sabrina Maki:** and collaboratively develop solutions that reflect the realities of our agricultural community while protecting our natural resource endowment.

00:57:08.160 --> 00:57:11.069

**Sabrina Maki:** Thank you for your time and your consideration.

00:57:11.723 --> 00:57:13.856

**Joe maul - OWRC:** Thank you very much.

00:57:21.730 --> 00:57:32.120

**Joe Maul - OWRC:** Okay. We've got Dominic Bachman, followed by Fred Otley, both representing themselves as irrigators.

00:57:33.914 --> 00:57:38.055

**Dominic Bachman:** I think I'll choose to stand, if that's all right.



00:57:39.606 --> 00:57:40.789

**Dominic Bachman:** I'm glad someone else

00:57:40.920 --> 00:57:54.680

**Dominic Bachman:** shared a tear, so I'm not the first one. Thank you for that. My name is Dominic Bachman, my wife and I have a small small hay farm in Princeton, Oregon. We've invested everything we have in it.

00:57:54.800 --> 00:58:19.220

**Dominic Bachman:** There's my tear right there that if we, I specifically, chose this location based off of studies and wells, that this location was not in the heart of some of the water issues. And now, in recent times, they've moved around the boundaries back and forth. And now we're officially in the Northeast crane zone

00:58:19.890 --> 00:58:36.080

**Dominic Bachman:** which sub area which I don't believe is correct. The State has been over allocating water and allowing water transfers that didn't make sense for decades, and now wants to come down on this basin much harder than it has ever done anywhere in state.

00:58:37.140 --> 00:58:39.779

**Dominic Bachman:** I couldn't say enough

00:58:39.950 --> 00:59:01.960

**Dominic Bachman:** great things about being a new first-time farmer in my forties in Princeton, and how great the community has been to me helping us. Something catches on fire, someone is there. I love this community. I love what we're made of, and this has the potential to tare my community that I love apart.

00:59:04.020 --> 00:59:28.909

**Dominic Bachman:** It does not go unnoticed to me right now that I'm in the heart of second cutting. I have hay on the ground, all of my neighbors right now, there are many that should be in this room that can't be, because they literally, if they leave their hay right now they they'll lose. They'll lose their economic viability. So the timing of this meeting it it's not ideal.

00:59:30.160 --> 00:59:30.910

**Joe Maul – OWRC:** Oh.

00:59:32.400 --> 00:59:47.299

**Dominic Bachman:** As has been stated by a few others, we don't feel that we're in the correct sub area. My farm, the eastern border of it is what the department is considering the end of the basin.

00:59:47.920 --> 01:00:00.340

**Dominic Bachman:** One mile south of me is a farm with basically no restrictions outside of the critical area. Across the road for me is in the

01:00:01.282 --> 01:00:06.279

**Dominic Bachman:** blitz and voltage area, and and we don't feel that we're we're in the right location.

01:00:08.910 --> 01:00:25.949



**Dominic Bachman:** There's not a cone of depression in our area. The 2022 USGS hydrological budget clearly delineated the southern region of the basin as everything south of Windy Point, the geologic structure, not the sub area.

01:00:26.580 --> 01:00:31.870

**Dominic Bachman:** We question the department's belief of hydro hydrologic connection

01:00:32.180 --> 01:00:41.220

**Dominic Bachman:** and everything being one groundwater reservoir, the one groundwater reservoir USGS and the department, in our opinion, did not approve this.

01:00:41.748 --> 01:00:46.050

**Dominic Bachman:** We believe the Department's job is actually to protect our water rights

01:00:46.360 --> 01:00:53.970

**Dominic Bachman:** and the Department should be using the existing definition of reasonably stable consistent with current law.

01:00:54.560 --> 01:00:55.300

**Dominic Bachman:** Oh.

01:00:56.440 --> 01:01:08.990

**Dominic Bachman:** We believe cuts in some sub areas are much higher than they should be, and much more aggressive, than any other base in the State. We would like to see lower reductions implemented in the short term.

01:01:09.130 --> 01:01:13.310

**Dominic Bachman:** Give the agricultural community a chance

01:01:13.840 --> 01:01:29.058

**Dominic Bachman:** to work on this situation, and I think you'll be surprised at our ability. We saw this across the West with the sage grouse. I think the Ag. Community can come together on this. I believe

01:01:30.710 --> 01:01:50.600

**Dominic Bachman:** voluntary agreements are a reasonable option available to irrigators, and the Department should do everything in its power to support and take seriously any local voluntary agreements that are created by the water users. My wife and I very much value the natural resources, including our soil, fish, and wildlife.

01:01:50.650 --> 01:02:02.019

**Dominic Bachman:** As soon as we purchased our farm, the first thing we did, was meeting with the NRCS to see what we could do to improve our soil and habitat.

01:02:02.710 --> 01:02:18.879

**Dominic Bachman:** We have been very frustrated with our lack of options. We've tried to work with the NRCS to find programs that would help us become a more efficient water users. There's currently no program that's available to help us convert our wheel lines which are not very efficient,

01:02:18.880 --> 01:02:42.869



**Dominic Bachman:** into more efficient systems, such as pivot. We would be willing to give up all of our corners and using less water. This seems like a win win for us and the department. However, there's no assistance for that type of thing available to us. We have investigated the CREP program, which is great for some people, but it is extremely unflexible, depending on how your water rights lay out.

01:02:43.080 --> 01:03:05.510

**Dominic Bachman:** Basically, it means it's all or nothing. We would ask that the Department and the FSA look into some options of how we could be more creative with that program. And maybe part of the water right could be cut out, or part of a field could be cut out, and still there could be some payment available.

01:03:06.090 --> 01:03:32.099

**Dominic Bachman:** The current CREP does not pay enough to get what we had to pay for our investment in irrigated lands. If the program had more competitive rates and was more flexible, perhaps more people could enroll. Or could enroll if they see curtailment is eminent. In that case, if you knew you were going to get cut, maybe you could enroll in this program and still survive financially part of your farm.

01:03:32.480 --> 01:03:37.029

**Dominic Bachman:** This could be a real safety net for junior water unit users.

01:03:38.810 --> 01:03:55.000

**Dominic Bachman:** We strongly suggest the department work harder to ensure everything possible is done with NRCS and FSA to prioritize, improve, and improve programs that could help irrigators upgrade to the most efficient systems and create flexible system where an irrigator can enroll part of their farm.

01:03:55.270 --> 01:04:06.210

**Dominic Bachman:** The department should be doing all it can to create programs to reduce water conservation.

01:04:06.260 --> 01:04:35.680

**Dominic Bachman:** The Department should also assess the viability of utilizing and funding the high desert partnership to fund creative ways to assist farming and ranching community as we transition to reduced water use. The Department has, in my opinion, treated the agricultural community unfairly, and we deserve better. Thank you for the opportunity to provide these comments on these proposed policies. I hope that the Department will seriously consider our comments. Thank you.

01:04:39.510 --> 01:04:41.234

**Joe Maul - OWRC:** OK, Fred Otley?

01:04:51.990 --> 01:04:53.941

**Fred Otley:** I'm interested in People hearing.

01:04:55.250 --> 01:04:58.980

**Fred Otley:** Okay, thank you very much for coming.

01:04:59.420 --> 01:05:05.460

**Fred Otley:** Commissioner. We really, really appreciate being able to talk to you



01:05:05.850 --> 01:05:08.600

**Fred Otley:** and take our many messages back.

01:05:09.336 --> 01:05:14.320

**Fred Otley:** I agree with almost all the testimony so far and specifically, I want to

01:05:14.690 --> 01:05:20.479

**Fred Otley:** give my full support to Lorissa Singhose and all the work she's put in

01:05:20.750 --> 01:05:32.290

**Fred Otley:** to analyzing her area and the broader areas. And so many people in this room have, we've all been working hard to better understand what we're dealing with.

01:05:32.620 --> 01:05:34.690

**Fred Otley:** when you drive into the space

01:05:35.370 --> 01:05:43.390

**Fred Otley:** from outside, you pull over the ridge it looks really flat and beautiful, because it sort of is

01:05:43.860 --> 01:05:48.552

**Fred Otley:** it's a broad lake dried up lake bed

01:05:49.370 --> 01:05:53.640

**Fred Otley:** with massive amounts of very sticky clay in it.

01:05:55.330 --> 01:06:03.810

**Fred Otley:** That's the bottom of Malheur Lake, Mud Lake, and Harney Lake and that by itself governs

01:06:04.210 --> 01:06:09.240

**Fred Otley:** a lot of what happens to the groundwater system here.

01:06:09.610 --> 01:06:19.119

**Fred Otley:** First thing I would have done doing the study, and whatever I would have tried to map out the bottom of that lake because it has a lot of geological structures.

01:06:19.460 --> 01:06:24.759

**Fred Otley:** Some are really functional in terms of groundwater

01:06:25.230 --> 01:06:39.079

**Fred Otley:** transfer, Some aren't. But I would try to understand that I would also mapped out where there's not hardly any water, and what's left would give a guy a first start towards understanding

01:06:39.510 --> 01:06:42.330

**Fred Otley:** the many different aquifers that exist here.

01:06:42.570 --> 01:06:47.069

**Fred Otley:** That's one of my main messages, and one of my main complaints was.



01:06:47.980 --> 01:06:54.730

**Fred Otley:** you start by looking the current the drawdowns.

01:06:55.250 --> 01:06:59.149

**Fred Otley:** I would start by identifying the aquifers that are here

01:06:59.430 --> 01:07:09.080

**Fred Otley:** and trying to measure them, quantify them. In some cases the the aquifers are different layers, some deep.

01:07:09.450 --> 01:07:21.550

**Fred Otley:** Fully understanding the shallow aquifer is totally different than understanding the functional characteristics of some of our groundwater that's used for pivots. It's different. I'm sorry.

01:07:24.910 --> 01:07:35.980

**Fred Otley:** I support the 15-sub area approach because it was the most closely matched to the aquifers that we know exist here.

01:07:36.870 --> 01:07:42.429

**Fred Otley:** And for whatever reason it went to 7, went to 6, and

01:07:42.620 --> 01:07:47.010

**Fred Otley:** I probably would have had it if probably

01:07:47.920 --> 01:07:53.960

**Fred Otley:** 20. But at least it's directed more closely to

01:07:54.160 --> 01:07:58.779

**Fred Otley:** water that's there, and then you can work on

01:07:58.970 --> 01:08:02.530

**Fred Otley:** following where that water comes from. In some cases

01:08:02.680 --> 01:08:16.030

**Fred Otley:** where it comes from might take 20 years, 30 years to get to that location. So case by the department's own numbers. It's 4 years, 3 years I've asked for a pause

01:08:16.510 --> 01:08:20.909

**Fred Otley:** won't happen, but the best thing right now would be a 12-year pause.

01:08:22.770 --> 01:08:24.939

**Fred Otley:** These last 3 years have been wet.

01:08:25.520 --> 01:08:31.239

**Fred Otley:** The previous 22 years, all but one year has been serious stress.

01:08:32.430 --> 01:08:35.309

**Fred Otley:** This 3-year wet period will



01:08:35.720 --> 01:08:42.630

**Fred Otley:** show up as fresh ants, as increased groundwater levels in some areas, some areas not.

01:08:43.220 --> 01:08:51.229

**Fred Otley:** That's the point that we would better understand what we're dealing with by taking a pause and following

01:08:51.450 --> 01:09:06.089

**Fred Otley:** these 3 years hopefully, we'll get another 4 or 5 years of straight, increased precipitation. We'll follow, and some of the fresh hits might occur 9, 10 years down the road. That's why I say 3 years of wet period.

01:09:06.229 --> 01:09:14.710

**Fred Otley:** Twelve years, where we do not implement these curtailments as they're projected, and I think

01:09:15.310 --> 01:09:21.480

**Fred Otley:** that's somehow, and that we go forward with voluntary agreements. We could do a lot of good things.

01:09:21.920 --> 01:09:26.810

**Fred Otley:** But, as the Department knows, I advocate more information, not less.

01:09:27.090 --> 01:09:33.530

**Fred Otley:** That's why I advocate for every irrigation well, to

01:09:34.319 --> 01:09:41.889

**Fred Otley:** formally have a pump installer, or some other qualified person to take static water levels in March.

01:09:42.300 --> 01:09:57.729

**Fred Otley:** That's good business information for all of us individual irrigators. But it's also good information to understand what we're actually dealing with. I know I'm probably running out of time here, but when we talk about

01:09:59.000 --> 01:10:07.099

**Fred Otley:** Silver Creek or Lower Blitzen Voltage helping Crane by sending water

01:10:07.370 --> 01:10:13.929

**Fred Otley:** to Crane and helping their decline. I'm sorry that doesn't...that doesn't pass a practical,

01:10:14.760 --> 01:10:18.810

**Fred Otley:** fair, reasonable, consistent, realistic, or logical,

01:10:18.940 --> 01:10:43.239

**Fred Otley:** sense. It doesn't. I had to write it down because there's about 4 others. Further, it's not technically defensible, and it's not legally defensible. And it's not measurable or statistically valid. If you want to all those terms together. It really isn't.

01:10:43.790 --> 01:10:48.495



**Fred Otley:** And therefore there's a lot of good information here

01:10:49.260 --> 01:10:53.030

**Fred Otley:** that can be used to go forward in a better manner and

01:10:53.250 --> 01:10:58.949

**Fred Otley:** figure out some of the problems, identify where they're at and start following them.

01:10:59.080 --> 01:11:03.139

**Fred Otley:** But the last point back to the

01:11:03.890 --> 01:11:14.990

**Fred Otley:** the vision of What the base looks like, and the big block of clay right in the middle of it. I'd really like to know what that looked like when you take that clay out because it's not flat, and

01:11:15.830 --> 01:11:22.860

**Fred Otley:** those geological structures go all different directions.

01:11:22.980 --> 01:11:27.029

**Fred Otley:** And some cases it doesn't conform to the contour

01:11:27.300 --> 01:11:32.539

**Fred Otley:** above the land surface. So I don't think we have too much information

01:11:32.650 --> 01:11:36.120

**Fred Otley:** understanding where they are. When when we talk about

01:11:36.770 --> 01:11:39.890

**Fred Otley:** areas where that are gonna move water.

01:11:40.410 --> 01:11:47.500

**Fred Otley:** I think we need to measure that. We need to document that, we can't assume it. If we assume it

01:11:47.920 --> 01:11:57.699

**Fred Otley:** there's family, small families, you know, that are gonna pay a million, 2 million or a lot, lot, more price for an assumption that could be wrong.

01:11:58.620 --> 01:12:00.799

**Fred Otley:** that- that- that

01:12:01.040 --> 01:12:09.289

**Fred Otley:** that that is unconscionable. It's just We can't go there right now. We have to have

01:12:09.480 --> 01:12:14.640

**Fred Otley:** a higher level of confidence. We have to have much more certainty

01:12:14.780 --> 01:12:18.119



**Fred Otley:** on the decision making we're making right now.

01:12:18.250 --> 01:12:28.239

**Fred Otley:** We could stop the new development. We could curtail outstanding permits, and some of that. But we have to have a higher degree of confidence

01:12:28.430 --> 01:12:35.559

**Fred Otley:** in the decision-making information that we're using the model.

01:12:36.300 --> 01:12:55.229

**Fred Otley:** It only tells you where you might look to figure stuff out. The model doesn't predict outcomes in my view, the model is based on assumptions. Those assumptions have to be tested better. They tested the alternatives generated by the model.

01:12:55.730 --> 01:13:01.799

**Fred Otley:** But really the model is only as good as the assumptions are making, and some of those assumptions are wrong.

01:13:02.530 --> 01:13:07.962

**Fred Otley:** Thank you very much.

01:13:11.000 --> 01:13:29.660

**Joe Maul - OWRC:** Okay, that's the last of people who have signed up so far. So why don't we take - we'll stop the recording - but take about a 3 to 5 min. break. It's 6:13 now, so let's start again at

01:13:29.830 --> 01:13:52.399

**Joe Maul - OWRC:** 6:18. And if there are people who have entered and weren't able to put their name on this list that would still like to speak tonight, or if you've been sitting there, and, as I said, earlier, thoughts would have come to you that you'd like to share as part of this, we'll ask you to come and put your name on this list, so we have a record of it. But let's take a 5-minute break and stretch and give thought to who might want to speak again.

01:13:59.130 --> 01:14:13.869

**Joe Maul - OWRC:** Sit down again, or stand, and just stop your conversations again. If there's anyone that has not yet given comment this evening that would like to, and you haven't put your name on the list. I would ask you to please come and do that now.

01:14:24.928 --> 01:14:42.371

**Joe Maul - OWRC:** Is there anyone online who would now like to make a comment as well? If so, please put a note in the chat, or raise your hand or raise your hand with zoom.

01:14:48.232 --> 01:14:50.917

**Fred Otley:** No, okay.

01:14:53.730 --> 01:15:08.299

**Joe Maul - OWRC:** Thanks. So that's great. We have 1, 2, 3, 4, 5 additional commentators. So we will start with Breanna O'Connor, Citizens of Heinz, followed by Susan M. Ramsey, an irrigator.

01:15:09.183 --> 01:15:18.720

**Briana O'Connor:** sometimes, but my livelihood also depends on agriculture and water, so



01:15:18.850 --> 01:15:26.544

**Breanna O'Connor:** and I have been. I am a recovering RAC Member also. But I guess I would just like

01:15:27.050 --> 01:15:30.170

**Breanna O'Connor:** OWRD and the Commission to

01:15:30.440 --> 01:15:37.529

**Breanna O'Connor:** take more consideration into the domestic wells and what's happening with that? I'd also like them

01:15:38.240 --> 01:15:45.320

**Breanna O'Connor:** to possibly explore more voluntary agreements that will actually help the producer

01:15:46.180 --> 01:15:55.553

**Breanna O'Connor:** live, you know, because currently we do have the CREP program, but it's just, it's not enough. It's just not enough. And

01:15:57.920 --> 01:16:16.910

**Breanna O'Connor:** you know, if we don't get the voluntary agreements, maybe more options for the CREP. Like, I agree with Dominic, it's very limiting, and it's just not enough money. One other point would be to reconsider the municipalities, possibly exempt or up the percent.

01:16:17.870 --> 01:16:19.032

**Joe Maul - OWRC:** Thank you, Breanna.

01:16:25.370 --> 01:16:38.050

**Joe Maul - OWRC:** Okay. Next we have Susan M. Ramsey, followed by Dan Otley, Susan M. Because I have a counterpart in England who gets my emails when I forget to put, or people forget to put the M in.

01:16:38.090 --> 01:16:57.799

**Susan M. Ramsey:** So it's natural to write it. That must be enjoyable, Susan, would you mind standing a little closer to the mic right there? Okay, thank you. My name is Susan Ramsey. I am an irrigator out of Princeton. I am just a couple of miles further east

01:16:57.910 --> 01:17:05.410

**Susan M. Ramsey:** of Dominic Bachman, who bought the old Jim Kelly Place, and he's included in your zone. Now

01:17:06.310 --> 01:17:13.509

**Susan M. Ramsey:** I gave a presentation this morning, and I wrote a bunch of notes, and then I made more notes on top of those. So it's gonna take me a moment to get through this.

01:17:13.630 --> 01:17:17.620

**Susan M. Ramsey:** But I think this whole situation is a result of poor decisions

01:17:17.740 --> 01:17:25.239

**Susan M. Ramsey:** by Oregon Water Resource Department, that has come full circle and has landed in our laps to come up with a solution.



01:17:25.890 --> 01:17:29.780

**Susan M. Ramsey:** I am disappointed that NRCS has been fingered as being a

01:17:30.080 --> 01:17:37.570

**Susan M. Ramsey:** maybe a major contributor to this plan, because this morning Commissioner Frank clarified

01:17:37.680 --> 01:17:43.809

**Susan M. Ramsey:** that items taken out of their conversations and those meetings were not accurately interpreted.

01:17:45.940 --> 01:17:54.159

**Susan M. Ramsey:** I think personally that the violators of the water rights that are potentially pumping more than they are allocated

01:17:54.310 --> 01:17:57.580

**Susan M. Ramsey:** are the ones that should be having should be penalized

01:17:58.170 --> 01:18:06.619

**Susan M. Ramsey:** by the degree of abuse that they have used, and taking too much water if they haven't taken too much water, all more power to them.

01:18:06.730 --> 01:18:11.079

**Susan M. Ramsey:** But it's my feeling that in areas that have high concentrations of pivots

01:18:11.600 --> 01:18:19.650

**Susan M. Ramsey:** that we are basically pumping more water out of the aquifer than potentially they were allowed to do. It can be verified through Harney, Electric and OWRD.

01:18:19.970 --> 01:18:22.749

**Susan M. Ramsey:** They had the records on all their irrigation pumps.

01:18:22.850 --> 01:18:25.500

**Susan M. Ramsey:** There's a formula that can be applied to those

01:18:25.720 --> 01:18:33.989

**Susan M. Ramsey:** kilowatts to basically convert it into gallons of water that you've used, and that's what I use on my ranch

01:18:34.150 --> 01:18:39.329

**Susan M. Ramsey:** to turn in my annual report to the Oregon Water Resource Department on usage,

01:18:40.180 --> 01:18:45.260

**Susan M. Ramsey:** and it could be used to basically verify any and all irrigation wells.

01:18:45.410 --> 01:18:49.809

**Susan M. Ramsey:** Some of you may be using a whole lot less than you're allocated.



01:18:50.200 --> 01:18:53.380

**Susan M. Ramsey:** But I think that we need to make sure that nobody is using more

01:18:54.310 --> 01:18:57.610

**Susan M. Ramsey:** doesn't have a have a name attached to it. They will know who it is.

01:18:59.020 --> 01:19:02.170

**Susan M. Ramsey:** I also basically did some research on my own.

01:19:02.640 --> 01:19:09.249

**Susan M. Ramsey:** I'm not sure I'll name the 3 websites that I looked at and it's on one of those department of Ed.

01:19:09.600 --> 01:19:15.700

**Susan M. Ramsey:** this is Oregon or the Oregon Water Resource department websites. And I found

01:19:15.860 --> 01:19:21.970

**Susan M. Ramsey:** grant programs for installing aquifer rechargers recharging stations.

01:19:22.340 --> 01:19:30.449

**Susan M. Ramsey:** Prineville is supposedly using one right now, because Google, this tech. needs more water to run through their coolers for their

01:19:31.300 --> 01:19:40.190

**Susan M. Ramsey:** big site. We don't have a Google here, but still we could be using those aquifers to take excessive water out of stream

01:19:40.540 --> 01:19:45.470

**Susan M. Ramsey:** certain times of year. We're not pulling water out of the river or out of the ground.

01:19:46.070 --> 01:19:53.570

**Susan M. Ramsey:** That aquifer would basically sanitize the water, because water running in a stream is going to be probably have some contamination in it.

01:19:54.230 --> 01:20:04.820

**Susan M. Ramsey:** Giardia, for one thing, you don't want to probably be putting that down there, but anyway, it would then purify it, and then shove it down into the ground so we can get it at various levels.

01:20:05.010 --> 01:20:11.209

**Susan M. Ramsey:** Now, I haven't researched it completely, but I do know that there are is Grant money for doing this.

01:20:11.430 --> 01:20:16.719

**Susan M. Ramsey:** And if Prineville got it, why can't we? In fact, why can't we get more than one?

01:20:20.320 --> 01:20:29.109

**Susan M. Ramsey:** I did also mention that there is our Oregon Department of Agriculture has a meeting coming up where they're considering several resolutions, 2 pages worth,



01:20:29.640 --> 01:20:33.180

**Susan M. Ramsey:** and 423 of them are primarily concerning water.

01:20:33.360 --> 01:20:40.729

**Susan M. Ramsey:** Number 107 is priority for agricultural use of water they're going to be passing resolutions on. We don't know what that is.

01:20:41.110 --> 01:20:59.560

**Susan M. Ramsey:** Protection of Oregon agriculture is number 295, and number 301 is minimizing conflicts of coexistence in agriculture. And I think that's coexistence is when small operators think that if we shut off our wells their water level is going to come right back up. It won't. It's going to take time.

01:20:59.690 --> 01:21:10.790

**Susan M. Ramsey:** So basically, people getting really excited about shutting down agriculture so they can go back and use their house wells or their livestock wells probably have a bill coming from a

01:21:11.130 --> 01:21:14.680

**Susan M. Ramsey:** well driller to basically really get really solve their problem.

01:21:17.190 --> 01:21:24.339

**Susan M. Ramsey:** I do not believe that the State, who has granted us 3 acre feet of water per acre,

01:21:24.570 --> 01:21:26.779

**Susan M. Ramsey:** should take it down to 2.5.

01:21:27.390 --> 01:21:32.620

**Susan M. Ramsey:** Why, if we're not abusing it, don't take it away. You don't know what the future brings.

01:21:33.470 --> 01:21:36.520

**Susan M. Ramsey:** And we need that option out there, and we were guaranteed that option.

01:21:37.440 --> 01:21:38.970

**Susan M. Ramsey:** So don't mess with it.

01:21:42.230 --> 01:21:46.600

**Susan M. Ramsey:** I think Oregon Water Resources, their data is flawed

01:21:47.780 --> 01:21:50.179

**Susan M. Ramsey:** and cannot be used to determine

01:21:50.970 --> 01:21:58.989

**Susan M. Ramsey:** the basis for any of the rulemaking that they have planned thus far. I think it needs to go back to committee, and I think committee needs to include

01:21:59.400 --> 01:22:04.180

**Susan M. Ramsey:** more people from each area, whether it's 7 or 20.

01:22:05.010 --> 01:22:08.310



**Susan M. Ramsey:** There needs to be representation from each one of those areas

01:22:08.500 --> 01:22:14.439

**Susan M. Ramsey:** to give you accurate feedback from a user, not from a textbook specialist.

01:22:16.860 --> 01:22:19.840

**Susan M. Ramsey:** I want people to know that irrigation people

01:22:21.160 --> 01:22:26.270

**Susan M. Ramsey:** have to file an annual report to Water Resources Department on our usage.

01:22:26.700 --> 01:22:35.990

**Susan M. Ramsey:** Some people say we should all have meters. Some of the people have mentioned that every pivot should have its own well, so they can basically meter each one individually.

01:22:36.210 --> 01:22:38.680

**Susan M. Ramsey:** I have 4 pivots and 3 wheel lines.

01:22:39.620 --> 01:22:41.320

**Susan M. Ramsey:** And it comes out of one well,

01:22:41.720 --> 01:22:44.689

**Susan M. Ramsey:** so I have to use my billing from Harney Electric

01:22:45.060 --> 01:22:49.359

**Susan M. Ramsey:** to figure the the usage of Gallon Gallonage, and so far I've been

01:22:49.580 --> 01:22:56.389

**Susan M. Ramsey:** within the lines. I'm not over. In fact, I'm under on some years when we get a lot of moisture, I don't have to have the pivots on as much.

01:22:59.830 --> 01:23:05.020

**Susan M. Ramsey:** The last thing that I will mention. Well, that's the last. I think this kind of a meeting

01:23:05.230 --> 01:23:11.639

**Susan M. Ramsey:** and this kind of approach will be seen as a precedent for other counties to follow.

01:23:12.070 --> 01:23:16.699

**Susan M. Ramsey:** I don't think we can fail ourselves, individually or collectively

01:23:17.140 --> 01:23:20.019

**Susan M. Ramsey:** by not getting fully immersed in the program.

01:23:20.170 --> 01:23:23.989

**Susan M. Ramsey:** Most of us, as was mentioned, we work for a living.

01:23:24.130 --> 01:23:34.529

**Susan M. Ramsey:** I can't be here for every meeting. I count on people who attend these meetings to be responsible for all of us, not just for their own pockets. And sometimes I have to wonder



01:23:35.800 --> 01:23:38.650

**Susan M. Ramsey:** all of the money, like in so many things.

01:23:39.700 --> 01:23:45.480

**Susan M. Ramsey:** My final thing is, you all have ranches and farms. They are your estate.

01:23:46.250 --> 01:23:51.249

**Susan M. Ramsey:** Not participating in this is giving, your... is basically overlooking the fact that

01:23:51.680 --> 01:23:56.439

**Susan M. Ramsey:** if you don't take care of your State with some estate planning, which this is in my book.

01:23:56.550 --> 01:24:02.809

**Susan M. Ramsey:** You're guaranteeing your children, grandchildren, great grandchildren, or whoever buys your property

01:24:03.360 --> 01:24:06.869

**Susan M. Ramsey:** the right to know the rights that are attached to that property.

01:24:07.250 --> 01:24:16.080

**Susan M. Ramsey:** And so I would say, if you think this is a something you can just turn your back on, and it'll all work out. Please. Thank you.

01:24:16.440 --> 01:24:17.865

**Joe Maul - OWRC:** Thank you, Susan.

01:24:21.450 --> 01:24:29.920

**Joe Maul - OWRC:** Okay. Next we have Dan Otley and Dan will be followed by Mike Page, both representatives, irrigators.

01:24:30.050 --> 01:24:35.781

**Dan Otley:** I'm gonna sit down and read because I'm not as good a speaker as some people.

01:24:36.520 --> 01:24:47.600

**Dan Otley:** Thanks for coming, too. I appreciate it. Pleasure. Okay. My name is Dan Otley, my family and I have a cow calf operation.

01:24:48.290 --> 01:25:03.980

**Dan Otley:** We own wells and pivots that are in the proposed boundary of the division 512 critical groundwater area. We are following the division 512 rulemaking, and are very concerned of the possible financial impact it could cause our business.

01:25:04.160 --> 01:25:15.699

**Dan Otley:** If we lost the use of our irrigation water, we would have to purchase the hay still, to feed our livestock for the winter months, plus, we'd start to pay our yearly land payments on drastically reduced value land.

01:25:16.380 --> 01:25:27.730



**Dan Otley:** And then, in May of 2025, OWRD published new maps, proposing to consolidate some areas and move my wells into the northeast Crane sub area,

01:25:27.950 --> 01:25:34.739

**Dan Otley:** and my wells are located in the far southmost portion of the new proposed sub area.

01:25:38.100 --> 01:25:47.540

**Dan Otley:** First, I think this CGWA boundary should be moved to exclude our wells and all wells in the USGA southern region.

01:25:47.810 --> 01:26:01.470

**Dan Otley:** Under State law, the exterior boundaries of a critical groundwater area should be based on the presence of physical natural boundaries, hydrological conditions, or recharge or discharge areas when possible.

01:26:01.900 --> 01:26:08.480

**Dan Otley:** Based on these criteria, our wells should not be within the CGWA boundary.

01:26:08.860 --> 01:26:16.910

**Dan Otley:** First, our wells are located, there are, like, I previously said, they're located in the USGA water

01:26:17.020 --> 01:26:22.850

**Dan Otley:** budget, southern region, and the southern region does not have the overdraw issues.

01:26:24.120 --> 01:26:34.509

**Dan Otley:** Importantly, it does not make sense to impose a regulatory burden on well owners like us, whose wells do not have recharge issues. Second, consistent with the

01:26:34.820 --> 01:27:02.510

**Dan Otley:** OAR 690-010-01303A the physical proximity of our wells to wells outside the CGWA illustrates that our wells do not belong within the CGWA. The proposed rules exclude wells approximately 2 ½ miles southeast of our wells from the CGWA boundary that are remarkably close to our wells, and are also within the USGA southern region.

01:27:02.710 --> 01:27:15.280

**Dan Otley:** The physical characteristics and locations of our wells are similar to those excluded wells. Therefore, pursuant State law the boundary that CGWA should be drawn to exclude all USGAs

01:27:15.590 --> 01:27:17.229

**Dan Otley:** southern region wells.

01:27:17.670 --> 01:27:30.169

**Dan Otley:** Finally, the inclusion of our wells in in the CGWA is counterintuitive, because our wells are not contributing to the drawdown concerns that rulemaking aims to address.

01:27:31.530 --> 01:27:33.900

**Dan Otley:** If our wells are not excluded



01:27:34.140 --> 01:27:49.760

**Dan Otley:** from the CDWA OWRD should move the boundary between the Lower Blitz and Voltage sub area and northeast Crane sub area north, consistent with the USGA's northern region and USGA southern region boundary.

01:27:50.010 --> 01:28:11.179

**Dan Otley:** The Department's proposed boundary between the lower Blitz and Voltage and northeast Crane summary is unreasonable because it is arbitrary and inconsistent with sound science. Accordingly, OWRD must adjust the boundary consistent with the USGA's northern and southern region boundary to prevent this unreasonable outcome.

01:28:12.330 --> 01:28:20.989

**Dan Otley:** USGS materials indicate that our wells are more similar to the wells in the Lower Blitz Voltage area sub area than the wells in the northeast Crane sub area.

01:28:21.390 --> 01:28:43.749

**Dan Otley:** The proposal to include our wells within northeast Crane sub area is inconsistent with USGA's data and departments treatment of similarly situated wells. There are relatively few wells, including ours, that are south of the Windy Point line within OWRD's proposed northeast Crane sub area. All of these wells are in the USGA southern region.

01:28:46.096 --> 01:28:47.629

**Dan Otley:** And then

01:28:48.190 --> 01:29:13.660

**Dan Otley:** the next point I'd like to bring up is the OWRD Should revisit its modeling and related proposal to account for its site- specific details. OWRD's modeling proposals related to its modeling were made at extremely high level that provided a coarse and zoomed out scale that does not account for the nuance and site-specific details of groundwater activity within this region.

01:29:13.830 --> 01:29:27.930

**Dan Otley:** The proposal to include our wells in the northeast Crane sub area, despite their location within USGA's southern region, is just one example of this shortcoming. Accordingly, OWRD's course approach to its modeling and proposal should be corrected.

01:29:28.190 --> 01:29:50.889

**Dan Otley:** OWRD can take more nuanced approach by employing the use of more wells and being transparent about which wells are used to make determinations regarding groundwater activity. Utilizing more wells in each sub area will help paint a more holistic picture of what is going on in various portions of this CGWA. For example, when OWRD makes

01:29:50.890 --> 01:30:07.350

**Dan Otley:** adaptive management decisions under 690-512-0080 of the proposed rules that should use as many wells as possible to determine water levels throughout the CGWA. This approach is not only more transparent

01:30:07.420 --> 01:30:20.690

**Dan Otley:** but it will allow for more targeted reduction. There is a concern, while limiting unnecessary reductions in areas of little to no concern. And then, lastly, my last point I want to make is



01:30:20.960 --> 01:30:32.959

**Dan Otley:** OWRD should undertake a program that provides compensation to well owners that are curtailed or voluntarily give up their water rights, and that's something that's been brought up quite a bit. But I'm going to bring it up my comments also.

01:30:33.480 --> 01:30:45.519

**Dan Otley:** OWRD is ignoring the economic realities of its proposal and the impacts on small businesses and individuals in the basin by failing to provide meaningful compensation to well owners

01:30:46.360 --> 01:31:04.789

**Dan Otley:** that have had their water rights curtailed or voluntarily reduce their water use, OWRD could encourage voluntary reduction by creating programs that provide meaningful compensation to landowners who have their water rights curtailed as part of the rulemaking.

01:31:04.920 --> 01:31:11.410

**Dan Otley:** Curtailment of water rights in the region will create widespread negative economic impacts

01:31:11.530 --> 01:31:19.379

**Dan Otley:** and implementing a compensation program will help prevent the risk of catastrophic economic fallout from the curtailment.

01:31:19.640 --> 01:31:39.419

**Dan Otley:** This looming economic fallout is a direct consequence of OWRD's over allocating water in what is now the CGWA. Accordingly, to mitigate the consequences of its flawed approach for issuing water rights over the last several decades OWRD should undertake a program to compensate the landowners that have their water rights curtailed.

01:31:39.860 --> 01:32:05.749

**Dan Otley:** OWRD should also create a program that allows for water right holders to voluntarily forbid their water rights in return for meaningful, again, meaningful, compensation. This would help encourage voluntary reductions in use which would benefit groundwater levels and the voluntary reduction of some owned landlords would allow landowners that wish to continue their operations to be at a lower risk of curtailment.

01:32:06.170 --> 01:32:09.779

**Dan Otley:** That's all I have now, thank you very much.

01:32:12.250 --> 01:32:17.047

**Joe Maul - OWRC:** Hey? We have Mike Peila, followed by Kristen Shellman

01:32:21.540 --> 01:32:31.920

**Mike Pala:** for coming guys. I'm Mike Taylor, hey? Irrigate cattle, lots of grandkids and kind of hope it stays that way.

01:32:32.170 --> 01:32:42.572

**Mike Peila:** There's several points. I agree with a lot of things that were said tonight. But the one thing that I've heard about every time almost of everyone is the boundaries of the sub areas. How, uhhh, I'm



01:32:44.098 --> 01:32:52.332

**Mike Peila:** not sure how you know. I mean, I've seen the process. I threw them up, but there's a lot of concerns I mean,

01:32:53.712 --> 01:33:04.979

**Mike Peila:** just even a lot of them were irregular lines, and some of them go by section lines, and you know I'm not, I'm sure that's not the way the water floats. But anyway and I personally,

01:33:04.980 --> 01:33:23.669

**Mike Peila:** I'm in 2 sub areas. I'm in Dog Mountain, and also Silvies, and the boundary line comes over the top north of Wright's Point, which really doesn't make any sense to me. I know the Water Department says there's no barriers, but if you look at the wells on one side and look at the wells on the other side, there's certainly difference in them.

01:33:23.670 --> 01:33:35.429

**Mike Peila:** And two, what really makes it bad, the line goes right through the middle of my water rights. I've got wells on one side and water rights on the other side both ways, and some with both of them.

01:33:35.470 --> 01:33:48.630

**Mike Peila:** So I guess that's one thing that I would like to emphasize is, I think, the sub areas, the boundaries. I mean, I've heard it several times tonight, question about them that those should really be looked at.

01:33:49.720 --> 01:34:03.629

**Mike Peila:** You know, I guess the theory is that it's all one area. But there's certainly some differences. So that's basically what I want to comment on tonight. Thank you.

01:34:05.310 --> 01:34:09.238

**Joe Maul - OWRC:** Okay, my name is Kristen Shellman, a resident.

01:34:15.810 --> 01:34:22.990

**Kristen Shellman:** So, as many of you know, as a former Commissioner, I spent a lot of time in the division 512 rulemaking process.

01:34:23.522 --> 01:34:33.109

**Kristen Shellman:** You know, and I just want to thank the OWRD folks as well as the Water Resources Commission for the effort that they have put into this basin.

01:34:33.330 --> 01:35:01.210

**Kristen Shellman:** Nothing that people have said tonight I would disagree with. There's been a lot of very, very, very good points brought up, and I hope that the Commission strongly considers them as they move forward. We've worked with outstanding staff from the department. Our local staff are great individuals, and so this isn't a personal thing about the people involved, you know. And I just want to acknowledge that in the room that you know, we work with great people, but we've got to figure out a better solution.

01:35:01.340 --> 01:35:10.030

**Kristen Shellman:** We've been proposing things in the division 512 rulemaking that only get us part way to the solution.



01:35:10.220 --> 01:35:34.819

**Kristen Shellman:** Active adaptive management is definitely an element that the State's never engaged in before. There's going to be a high learning curve with that. And we appreciate the Water Resources Commission for taking this path that's unknown in the State of Oregon, because it truly is; you're treading new water. But the thing that has been of greatest concern in the community as we look at this is that's one agency.

01:35:35.660 --> 01:35:39.349

**Kristen Shellman:** This is a multiple agency statewide

01:35:39.610 --> 01:35:51.300

**Kristen Shellman:** problem that needs to be solved at a much higher level. There has to be a better holistic approach than just curtailment. Curtailment's the easy tool. It's, it's, it's the scalpel.

01:35:51.620 --> 01:35:57.030

**Kristen Shellman:** But the economic devastation that will follow in this community is unthinkable.

01:35:58.340 --> 01:36:09.939

**Kristen Shellman:** When your only co-op that services most of the irrigation as well as domestic, and Stockwells in this county looks at no longer becoming economically viable after this process takes place,

01:36:10.980 --> 01:36:14.649

**Kristen Shellman:** what do we do then, as a community, how do you turn your lights on?

01:36:14.780 --> 01:36:27.579

**Kristen Shellman:** How do the low income families in this community, as well as others that have money that don't have power, turn their lights on? How do you have water in your home, if you don't have power in your home?

01:36:28.890 --> 01:36:57.500

**Kristen Shellman:** The co-ops really need to be engaged at a much higher level of the true concern that is for the community. Fred Flippence came and spoke at division 512, but it's taken every bit of him to be in the room, because as a child he endured the state coming in and regulating his own family off that devastated his past. This has been a very traumatic thing, just for him to be in the room to try to explain to you what the co-ops going through.

01:36:57.730 --> 01:37:12.069

**Kristen Shellman:** And that story can be repeated generationally. You know, this community's endured timber management. It's endured sage grass management. It's endured lots of agency management that has left it wanting every time.

01:37:12.440 --> 01:37:22.900

**Kristen Shellman:** The economic resources that are left in this community are few, and if the State does not do something in a more holistic way, there will be nothing left here for generations to follow.

01:37:23.830 --> 01:37:27.720

**Kristen Shellman:** The points that I really want to make that are specific to the process, though,



01:37:28.460 --> 01:37:37.690

**Kristen Shellman:** and I shared some of these in the State Groundwater Advisory Committee that was held the other day, and they said that they would take some of these points up in their September meeting.

01:37:37.830 --> 01:37:40.810

**Kristen Shellman:** Obviously the Commission will be

01:37:40.920 --> 01:37:52.749

**Kristen Shellman:** who is the major deciding factor in this, and so I truly do appreciate you being present tonight. Understood. Commissioner Wolf was present earlier, and you know that is greatly appreciated.

01:37:53.120 --> 01:37:55.600

**Kristen Shellman:** So my first point would be

01:37:56.110 --> 01:38:05.490

**Kristen Shellman:** if CREP is being considered as part of a resolution for reducing groundwater, how will those that fall outside the CREP program rules be compensated for the taking of water rights?

01:38:05.840 --> 01:38:09.359

**Kristen Shellman:** If the State is willing to recognize that the economic impact

01:38:09.950 --> 01:38:13.259

**Kristen Shellman:** is there and set up a CREP program

01:38:13.610 --> 01:38:17.969

**Kristen Shellman:** for equity purposes which the State holds dear the word equity,

01:38:18.870 --> 01:38:25.899

**Kristen Shellman:** how are those other water users going to be regulated off without compensation from the State?

01:38:26.950 --> 01:38:32.499

**Kristen Shellman:** How will the Commission be engaged in advocating for this type of equity for compensation?

01:38:33.470 --> 01:38:48.549

**Kristen Shellman:** We, Commissioner Frank, and I sat in on a meeting the other day with the OWEB Director, who you're very familiar with. Yes, and Sarah actually listened very well to some of the concerns we had about the 512 process.

01:38:48.740 --> 01:38:54.620

**Kristen Shellman:** And you know, within OWEB, there's an opportunity for grants,

01:38:54.950 --> 01:39:02.630

**Kristen Shellman:** for buying water rights that's never like until we spoke to her the other day, we've never heard of this being a tool that could be engaged in.

01:39:02.850 --> 01:39:10.459



**Kristen Shellman:** She is willing to work with the department with the legislative body, because what we're considering

01:39:10.590 --> 01:39:14.929

**Kristen Shellman:** sadly will be a one time ask for most of these people that will be ready to wind it off.

01:39:15.530 --> 01:39:23.799

**Kristen Shellman:** It's not an ongoing financial contribution to the State. The CREP program is a 15 year contribution that the State and Federal Government are engaging in.

01:39:24.070 --> 01:39:37.850

**Kristen Shellman:** But the State at least needs to come to the table with something for those that are being regulated off outside of the CREP program. And she did have some solutions and ideas and willingness to pursue that path. But she needs

01:39:38.130 --> 01:39:42.075

**Kristen Shellman:** to have other agencies join with her in doing so

01:39:44.770 --> 01:39:48.873

**Kristen Shellman:** when regulation occurs, and and this, this even goes back to

01:39:49.750 --> 01:39:56.930

**Kristen Shellman:** empty, empty wells that are out in this this county that are all over, and you look at dry holes.

01:39:57.150 --> 01:40:00.160

**Kristen Shellman:** And you look at the weed patch that has ensued.

01:40:01.260 --> 01:40:18.560

**Kristen Shellman:** How will vegetation be established to prevent invasive weeds from taking over throughout the county where the regulation occurs? Programs for establishing Dryland crops should have to be established before reduction should be implemented which once again falls outside of OWRD's purview.

01:40:18.630 --> 01:40:36.230

**Kristen Shellman:** But there's other agencies that do deal with that. There's NRCS. There's other tools that need to be engaged prior to us, just pulling these levers and shutting things off if we don't have things in place to not turn this into the biggest weed patch in the State. This is this county is the State of Rhode Island

01:40:36.720 --> 01:40:45.970

**Kristen Shellman:** you know. Think about that. What if we just turned Rhode Island into an invasive weed species state. Nobody had dreamed of that righ? But yeah, we're dreaming of it here.

01:40:46.220 --> 01:40:50.669

**Kristen Shellman:** Let's just go shut it all off, and let's see what what ensues, it'll be chaos.

01:40:51.320 --> 01:41:12.930



**Kristen Shellman:** Another thing that I brought up in the groundwater Advisory Committee meeting was the lack of clarity around how transfers that have happened into the seven proposed sub areas are going to be handled within the 512 meetings. There was some discussion around it, but it sounded more like an internal memo versus what would be established

01:41:13.370 --> 01:41:17.550

**Kristen Shellman:** in a very transparent way in rural, and so

01:41:18.230 --> 01:41:27.759

**Kristen Shellman:** I want to make sure the public has very much a transparent path of of how those water rights will be treated, because I do believe that

01:41:27.970 --> 01:41:30.580

**Kristen Shellman:** a lot of those transfers that have occurred

01:41:30.900 --> 01:41:37.570

**Kristen Shellman:** where they were originally issued, it should have to be evaluated whether they're still viable water right,

01:41:38.330 --> 01:41:46.640

**Kristen Shellman:** and that was discussed, but I don't know the clarity of that in the final rules. If it's true, because in in the division 512, meeting

01:41:48.390 --> 01:41:50.760

**Kristen Shellman:** a lot of the discussion that assumed

01:41:50.900 --> 01:42:02.680

**Kristen Shellman:** I felt this due to lack of clarity on that. And Justin Iverson was in the meeting, but he hasn't necessarily been part of the 512 meeting, and so, when he gave his answer, he didn't really understand the question, and he works for the department.

01:42:03.070 --> 01:42:07.399

**Kristen Shellman:** So can you imagine the lack of clarity from the public on that issue?

01:42:10.340 --> 01:42:16.700

**Kristen Shellman:** That's those are my main points that I wanted to make sure to bring to you tonight. But you know

01:42:16.840 --> 01:42:23.159

**Kristen Shellman:** one of the more concerning moments in the 512 process was when we were told that

01:42:23.800 --> 01:42:26.930

**Kristen Shellman:** we were getting regulated off,

01:42:27.350 --> 01:42:35.819

**Kristen Shellman:** but yet we weren't getting enough funding to even measure our economy, provided the funding didn't sue after that conversation.

01:42:37.610 --> 01:42:43.760



**Kristen Shellman:** But this economy was a quick and dirty study on the economic impact.

01:42:45.110 --> 01:42:47.920

**Kristen Shellman:** It only painted a part of the picture that will ensue

01:42:48.610 --> 01:42:51.009

**Kristen Shellman:** and, and that has to be

01:42:51.570 --> 01:42:54.559

**Kristen Shellman:** a bigger part of this picture when it comes to regulation.

01:42:54.760 --> 01:43:02.849

**Kristen Shellman:** High desert partnership has offered to become an entity that helps navigate the adaptive management. I totally support that.

01:43:03.020 --> 01:43:04.859

**Kristen Shellman:** I think they're very poised

01:43:05.210 --> 01:43:18.169

**Kristen Shellman:** and they're trusted in this community to help navigate that path forward. But we have to have something you know, we've had all these community meetings. We've had all this process, and if all that process just leaves the room

01:43:19.680 --> 01:43:44.910

**Kristen Shellman:** and we have nothing to stand it up, and to have those six year check-ins and do that in some sort of formal way that's meaningful to this community, that will have been time wasted for all of us involved. If we just pull up stakes and say the rule making process is over by, so that that is a very big concern of how that will be handled, but the amount of agencies that need to be brought to the table to really look at the holistic picture.

01:43:45.270 --> 01:43:49.399

**Kristen Shellman:** The State's never done that before, and so I

01:43:50.030 --> 01:44:03.549

**Kristen Shellman:** strongly encourage the Commission to engage with the Governor's office. They're concerned about this issue as well as you know. But figure out how we navigate this at a much larger scale than being proposed in just a rulemaking.

01:44:04.480 --> 01:44:06.389

**Kristen Shellman:** Thank you for your time. Thank you.

01:44:06.790 --> 01:44:07.940

**Joe Maul - OWRC:** Thank you, Kristen.

01:44:08.920 --> 01:44:15.080

**Joe Maul - OWRC:** Alright. Is there anyone else here who has not yet spoken that would like to before we close the

01:44:15.300 --> 01:44:16.240



**Joe Maul - OWRC:** hearing?

01:44:18.230 --> 01:44:25.859

**Joe Maul - OWRC:** I think I need to read. Everybody's name is anyone online who wishes to make a comment. Yeah, no, thank you.

01:44:31.120 --> 01:44:47.849

**Joe Maul - OWRC:** I think we're good. So I'll just do this as thanks. I want to thank all these people. Barbara Cannady, Kim Valentine, Rob, Frank, Mark Woodbury, Larissa Singhose, Mark Owens, Kurt Blackburn, Mario Petrilli, Sabrina Maki.

01:44:48.040 --> 01:45:00.649

**Joe Maul - OWRC:** Dominic Bachman, Fred Otley, Brianna O'connor, Susan Ramsey, Dan Otley, Mike Peila, and Kristin Shellman want to thank you. And for the record those are all the folks we heard from tonight.

01:45:01.080 --> 01:45:16.900

**Joe Maul - OWRC:** you know it's probably emblazoned in your brains. August 13, at 5PM is the current deadline for written comments. If you do want to do that, I would encourage you to bring some of those specifics that may be harder to articulate in person

01:45:17.310 --> 01:45:20.729

**Joe Maul - OWRC:** into those written comments. I want to thank you all for

01:45:22.010 --> 01:45:27.460

**Joe Maul - OWRC:** both taking the time during what I know is a very busy time within the agricultural community.

01:45:27.630 --> 01:45:46.090

**Joe Maul - OWRC:** Taking a busy time even in the evening. I want to thank the folks who welcomed Woody and I, Commissioner Woody Wolf and I, beginning yesterday through this morning and this afternoon for me, to your tables, to your to your homes to talk about these things. I know that that takes a lot of time. I know that

01:45:46.150 --> 01:46:08.860

**Joe Maul - OWRC:** having somebody come over from the West side probably raises a lot of alarm bells for anybody just on principle. But I can't tell you how welcome I've felt here, and I will go back and certainly encourage the rest of the Commissioners to take advantage of the opportunities to do this, because I think it really does. It certainly will help us give feedback to staff at a September meeting when we'll have a 90 min. session

01:46:10.280 --> 01:46:34.779

**Joe Maul - OWRC:** currently not planned for any public comment, but it will be a chance for the commissioners and staff to talk about comments, summarized comments at that point, and then looking forward to what currently is planned as a vote by the Commission at the December meeting. So all of this just puts a lot more meat on those bones, and I can't thank you enough for for welcoming in this looks like we have a question.

01:46:35.010 --> 01:46:39.129

**Joe Maul - OWRC:** If nobody has, everybody hasn't picked up the questionnaire.



01:46:39.470 --> 01:47:01.469

**Joe Maul - OWRC:** They need to talk to her so she can. Maybe Harmony, would you like to put your phone number up here on the board? Yeah, for those that I don't know, my name is Harmony. I'm working with High Desert Partnership. My job right now is to help anyone and everyone figure out how to make effective public comments.

01:47:01.610 --> 01:47:11.840

**Harmony Burright:** And so I will put my number up on the board. You're welcome to come say "Hi" to me. I've got free address envelopes, or a comment form that you can use to kind of step through comments.

01:47:12.220 --> 01:47:17.689

**Harmony Burright:** Really, everyone should have a voice in this, and my job is to help- help you have a voice. So please

01:47:18.030 --> 01:47:19.960

**Harmony Burright:** yeah, please be in touch.

01:47:20.550 --> 01:47:48.680

**Joe Maul - OWRC:** And before we close I just wanted to acknowledge what former Commissioner Shellman recognized as well that Jason Kelly, other OWSD staff in the room whose name I cannot remember. Sometimes I apologize for that, but I just appreciate the grace that you, as State employees, and that the community has demonstrated in this long running, very complicated situation. So, thanks to you, all, this hearing is now closed.



**Special Water Resources Commission Meeting October 3, 2025**

1

00:00:30.350 --> 00:00:36.449

Vice-Chair Smitherman: Good morning, everyone. We are just making sure that we have all commissioners online before we get started.

2

00:01:07.950 --> 00:01:11.050

Mindy Lane: I'm going to be resending all the Zoom invites.

3

00:01:14.160 --> 00:01:15.970

Mindy Lane: To the Commissioner's question.

4

00:01:16.570 --> 00:01:17.830

Vice-Chair Smitherman: Thank you, Mindy.

5

00:01:24.790 --> 00:01:29.480

Racquel Rancier: Mindy, I see Commissioner Kehar is on. She's just listed as an attendee.

6

00:02:02.600 --> 00:02:08.440

Vice-Chair Smitherman: Thanks, everyone, for joining us today. Just bear with us for a moment while we get all the commissioners online.

7

00:02:13.010 --> 00:02:14.690

Commissioner Kihara: Okay, here I am.

8

00:02:15.790 --> 00:02:19.059

Vice-Chair Smitherman: Hello, Commissioner Guyara. Welcome.

9

00:02:19.060 --> 00:02:21.170

Commissioner Kihara: Yeah, it took a bit.

10

00:02:22.280 --> 00:02:23.360

Commissioner Kihara: There we go.

11

00:02:30.580 --> 00:02:35.249

Commissioner Kihara: Yeah, I'm only on for about 45 minutes, and then I've gotta head off for a doctor's appointment, so...

12

00:02:35.250 --> 00:02:38.559

Vice-Chair Smitherman: Okay, thank you. Thank you for being here.

13

00:02:41.390 --> 00:02:42.590

Mindy Lane: Commissioner Newman?



14

00:02:47.100 --> 00:02:47.680

Vice-Chair Smitherman: Okay.

15

00:03:07.100 --> 00:03:08.859

Vice-Chair Smitherman: Good morning, Commissioner Newman.

16

00:03:08.860 --> 00:03:09.680

Commissioner Neuman: Good morning.

17

00:03:12.040 --> 00:03:13.130

Commissioner Kihara: Good mornin'!

18

00:03:35.560 --> 00:03:38.149

City of Hines: Good morning. Can you guys hear us okay?

19

00:03:39.620 --> 00:03:41.419

Vice-Chair Smitherman: We can, thank you.

20

00:03:44.700 --> 00:03:47.910

City of Hines: Mix on, too. Nick, you want to check your audio real quick? Cool.

21

00:03:47.910 --> 00:03:49.659

Nicholas Green: Yes, can you hear me alright?

22

00:03:49.870 --> 00:03:51.930

Vice-Chair Smitherman: Yes, we can. Thank you.

23

00:03:53.190 --> 00:03:59.870

Vice-Chair Smitherman: We're just waiting to get started. We've got a couple more commissioners getting online, so we'll get started very soon.

24

00:04:07.770 --> 00:04:09.740

Vice-Chair Smitherman: Good morning, Commissioner Mao.

25

00:04:10.670 --> 00:04:14.650

Mindy Lane: Commissioner Walsh says he is having computer issues, but he is still trying.

26

00:04:14.970 --> 00:04:15.740

Vice-Chair Smitherman: Okay.

27

00:04:23.710 --> 00:04:25.490

Vice-Chair Smitherman: I'll give him one... one more...

28



00:04:25.650 --> 00:04:29.389

Vice-Chair Smitherman: Minute, and then we can get started, and he can join us when he can.

29

00:04:37.370 --> 00:04:39.090

Cassidy Fredlund: I think he just joined.

30

00:04:39.320 --> 00:04:39.830

Cassidy Fredlund: Let's see.

31

00:04:39.830 --> 00:04:42.080

Ivan Gall: Commissioner Maul's on, can you hear us, Joe?

32

00:04:42.720 --> 00:04:43.620

Commissioner Moll: Yes, I can.

33

00:04:46.650 --> 00:04:47.820

Commissioner Moll: Can you hear me?

34

00:04:47.940 --> 00:04:49.930

Vice-Chair Smitherman: Yes, we can.

35

00:04:52.340 --> 00:04:56.160

Commissioner Moll: Sorry, I was using the wrong link as a participant, not a panelist.

36

00:04:56.900 --> 00:04:59.680

Vice-Chair Smitherman: That's okay, I think we all did the same thing.

37

00:05:05.750 --> 00:05:08.029

Ivan Gall: Commissioner Wolf, are you able to hear us?

38

00:05:10.840 --> 00:05:12.610

Commissioner Wolfe: Yep, I can hear you now.

39

00:05:12.610 --> 00:05:13.720

Vice-Chair Smitherman: All right!

40

00:05:13.720 --> 00:05:15.080

Commissioner Kihara: Yay!

41

00:05:15.080 --> 00:05:28.450

Vice-Chair Smitherman: All right, I think we're... we are all here, so let's go ahead and get started. Welcome, everyone, to the Oregon Water Resources Commission meeting, a special meeting. Today's October 3rd.



42

00:05:28.500 --> 00:05:41.780

Vice-Chair Smitherman: We're gonna open today's meeting to take public comment on the petition for rulemaking to amend the Oregon Administrative Rules Chapter 690, Division 512 in the Mallier Lake Administrative Basin.

43

00:05:42.300 --> 00:05:49.489

Vice-Chair Smitherman: Just to be clear, this is not a hearing on the Water Resources Department's Division 512 rulemaking.

44

00:05:49.590 --> 00:06:05.649

Vice-Chair Smitherman: However, the public comment period for the 512 rulemaking has been extended until 5 p.m. on October 7th, and any public comment made on the petition before us today will be included in the Division 512 rulemaking record.

45

00:06:06.030 --> 00:06:17.019

Vice-Chair Smitherman: So, we extended this meeting for another hour. We do have quite a few people signed up for public comment today, so we wanted to make sure we had enough time, to allow everyone to

46

00:06:17.020 --> 00:06:30.149

Vice-Chair Smitherman: submit their comments to us today. I'm just going to briefly go over the agenda. We're going to start out with a presentation from the petitioners. That will be about 40 minutes.

47

00:06:30.350 --> 00:06:34.450

Vice-Chair Smitherman: Following that, we'll have a presentation by OWRD staff.

48

00:06:34.850 --> 00:06:44.610

Vice-Chair Smitherman: Then following that, we're gonna start with a, a section of public comment for our water partner groups. That'll be about 35 minutes.

49

00:06:44.650 --> 00:06:55.009

Vice-Chair Smitherman: Then we will have a break, and after that, we'll come back, commissioners will have a chance to discuss a little bit after that first round of public comment.

50

00:06:55.260 --> 00:07:01.839

Vice-Chair Smitherman: After that, from about 1210 to about 1 o'clock, we'll open it up again for public comment.

51

00:07:02.180 --> 00:07:13.810



Vice-Chair Smitherman: And like I said, there are many people signed up for public comment today. We have about 30 people signed up, so we may need to have some time limitations to meet that 1 o'clock mark.

52

00:07:13.810 --> 00:07:26.889

Vice-Chair Smitherman: However, we still want to hear, your comments, and so if you need more time, we are still accepting, and will still accept, written public comment until that deadline on Tuesday, October 7th.

53

00:07:27.220 --> 00:07:37.800

Vice-Chair Smitherman: So that's the agenda for today. We should probably just dive right in, get started. We have a lot to discuss today, so first item up is,

54

00:07:37.930 --> 00:07:46.570

Vice-Chair Smitherman: We have Agenda Item A, that is the petition for rulemaking to amend Oregon Administrative Rules, Chapter 690, Division 512,

55

00:07:46.790 --> 00:07:51.340

Vice-Chair Smitherman: And do we have our, petitioner panel ready to go?

56

00:07:53.790 --> 00:08:07.130

City of Hines: Good morning, Vice Chair Smithlin. I believe we do. It'll be loads of us here in Heinz City Hall and, Nicholas Green, as in John Day. Could we try a screen share before we get going and see if we can, work through that real quick?

57

00:08:08.900 --> 00:08:11.830

Vice-Chair Smitherman: Yes, Mindy or Cassidy, can you help us with that?

58

00:08:15.030 --> 00:08:20.550

Mindy Lane: Are you asking us, me, or Cassidy, to share your PowerPoint presentation, Rep. Owens?

59

00:08:20.710 --> 00:08:35.130

City of Hines: I was just checking, Mindy, if we have the ability to share our screen. We're trying right now. If not, we'll have to have you, do our PowerPoint for us, so... Apologize for the delay, a little clunky as we, try to figure all this out virtually.

60

00:08:36.020 --> 00:08:42.699

Mindy Lane: I'll go ahead and share. I do have it open, the second one that you sent, so if you don't mind, I'll just go ahead and share it.

61

00:08:44.310 --> 00:08:52.780

City of Hines: Yeah, go ahead and share, hopefully it's the one we, we sent to Director Gall a few minutes ago. If not, it's all good. We'll, we'll work through this. So,



62

00:08:52.890 --> 00:09:11.929

City of Hines: As we pull the slide up, one, commissioners, and the department, thank you. Thank you for giving us the ability to present to you. We come to you from Heinz City Hall, and as I said, Nick was green, representing the City of Burns, and the City of Heinz is in John Day.

63

00:09:11.930 --> 00:09:19.700

City of Hines: We do appreciate your time, and we do appreciate you extending the, comment or the Commission meeting by one hour.

64

00:09:19.700 --> 00:09:26.519

City of Hines: It's one of the reasons this petition has come forward, is there's a lot of members in our community that feel they've been, excluded from the process.

65

00:09:26.680 --> 00:09:38.069

City of Hines: Even with a lot of outreach from the department and outreach from people in this community. So we're hopeful that they'll have the time to express some views and some voices with you today. Next slide, please.

66

00:09:39.500 --> 00:09:41.860

City of Hines: Did we address the message that just popped up?

67

00:09:41.860 --> 00:09:42.359

Mindy Lane: And he says.

68

00:09:42.360 --> 00:10:01.969

City of Hines: that there was a problem with some of the public commenters getting in. Did anyone else see that? I didn't see. So I imagine Mindy and the department will work through if there's a comment in chat about the public commenters. So if you were to take a minute to go around the room here and, say who we are. Do you guys all know me, Mark?

69

00:10:01.970 --> 00:10:06.390

City of Hines: I am coming to you as a community member, groundwater user, and state representative.

70

00:10:07.610 --> 00:10:10.529

City of Hines: I'm Roxanne Worley, and I'm with the City of Heinz.

71

00:10:11.170 --> 00:10:16.089

City of Hines: I'm Sabrina Mackey, a Pernicago resident irrigator Business Owner.

72

00:10:16.480 --> 00:10:25.699



City of Hines: Hello, my name is Christopher Higgs. I'm here on behalf of the Burns Paiute Tribe. I'm a community member and a stakeholder here of this community. Thank you.

73

00:10:26.310 --> 00:10:28.739

City of Hines: Rob Craig, Marty County Commissioner.

74

00:10:30.490 --> 00:10:31.640

City of Hines: Nick.

75

00:10:31.770 --> 00:10:43.120

Nicholas Green: Good morning, it's Nick Green, I'm the President of Catalyst Public Policy Advisors, and I am working for the City of Burns and the other municipalities on this issue. Thank you.

76

00:10:44.330 --> 00:10:45.979

City of Hines: Next slide, please.

77

00:10:48.370 --> 00:10:57.299

City of Hines: I do appreciate Director Gall texting me and telling me the amount of the commenters that we have signed up, so we will try to go through this expeditiously.

78

00:10:57.440 --> 00:11:01.750

City of Hines: But also understanding that this is probably the only time

79

00:11:02.040 --> 00:11:12.020

City of Hines: They will have to present the petition to you, but once again, our community and listening to their voice is probably the most important thing that we can get done today.

80

00:11:12.330 --> 00:11:17.640

City of Hines: We present you just a map. A map of the Harney Basin, you guys have seen this a lot.

81

00:11:17.820 --> 00:11:21.889

City of Hines: The only thing here is when we go through parts of the petition.

82

00:11:22.500 --> 00:11:25.389

City of Hines: We will talk about the location of where they're at.

83

00:11:25.520 --> 00:11:34.849

City of Hines: So most of you know that the Lower Donner Blitzen is in the southern area, and it is in the southern area of the USPS Groundwater Study, and it's a distinct recharge zone.

84



00:11:35.140 --> 00:11:43.290

City of Hines: And then up on the northern area, we split that into the northern and the western, and the northern would be the Sylvies, and be northeast Crane.

85

00:11:43.390 --> 00:11:47.670

City of Hines: And the western, and going down to the Western Central would be the Silver Creek area.

86

00:11:48.000 --> 00:11:51.910

City of Hines: But it is a very, very large basin. Next slide, please.

87

00:11:52.740 --> 00:12:01.159

City of Hines: And as we look at this basin, and we look at the areas that we put into the petition, the five distinct groundwater reservoirs.

88

00:12:01.250 --> 00:12:15.879

City of Hines: They are particularly aligned with the USGS study. So the only changes we made in the five groundwater reservoirs was to align them with the USGS study. We combined the Blitzen and the upper Blitzen and Blitzen's voltage.

89

00:12:16.000 --> 00:12:23.139

City of Hines: The reason we combine them, I think there's only 60 acre-feet in the Upper Blitzen, and they're in one distinct recharge area in the USGS study.

90

00:12:23.400 --> 00:12:38.620

City of Hines: We also changed the northern boundary of the Blitzen and adjusted it with the southern boundary of the northeast crane. And the reason we did that, we believe they are a distinct recharge area, and also to align them with the USGS groundwater study.

91

00:12:38.860 --> 00:12:43.730

City of Hines: We did leave the separation between the Sylvie's and the Northeast Plain, as the department had.

92

00:12:43.780 --> 00:12:59.040

City of Hines: The only other change we made was in the Weaver Dog Mountain area. We took the part in Dog Mountain that was in the Weaver Springs in the USGS study, and we included in Weaver Springs. And we took the part in Dog Mountain that was in the Sylvie's, and we put it in the Sylves.

93

00:12:59.380 --> 00:13:03.310

City of Hines: So what we're just trying to say here is we did not try to make any arbitrary lines.

94

00:13:03.520 --> 00:13:07.590



City of Hines: and the five distinct groundwater areas. We aligned them with recharge.

95

00:13:07.830 --> 00:13:10.229

City of Hines: And we aligned them with the USGS study.

96

00:13:10.650 --> 00:13:15.409

City of Hines: One of the key points on this is 90% of her basin.

97

00:13:16.580 --> 00:13:20.810

City of Hines: Only show a total medium decline of 3 feet.

98

00:13:22.220 --> 00:13:27.240

City of Hines: 90% of this basin, Only shows a medium decline at 3 feet.

99

00:13:28.100 --> 00:13:32.620

City of Hines: Only 10% of this basin, as evidenced declines.

100

00:13:32.870 --> 00:13:39.780

City of Hines: And in those areas, we aligned with the department, and one of the department's alternatives that they've modeled before us.

101

00:13:39.970 --> 00:13:42.619

City of Hines: And we asked for a regulatory approach there.

102

00:13:43.020 --> 00:13:47.039

City of Hines: In those other areas, we ask for you to support us and volunteer dreams.

103

00:13:47.820 --> 00:13:49.290

City of Hines: Next slide, please.

104

00:13:50.830 --> 00:13:58.990

City of Hines: Summary of petition proposal. Are you wanting to do some depth on how we determine their applying distinct groundwater reservoirs?

105

00:13:59.150 --> 00:14:02.440

City of Hines: And we believe they should be distinct groundwater reservoirs.

106

00:14:02.710 --> 00:14:11.769

City of Hines: The department talks about their proposed alternative and uses one line from a UHPS study that says it's hydraulically connected.

107

00:14:12.060 --> 00:14:13.400

City of Hines: And you know what?

108



00:14:13.660 --> 00:14:17.249

City of Hines: It is hydraulically connected in some point.

109

00:14:17.430 --> 00:14:21.220

City of Hines: But also in the USGS study, it talks about one molecule of water.

110

00:14:21.320 --> 00:14:26.479

City of Hines: And how long it would take to travel from Silver Creek Down at the Dublo Springs.

111

00:14:26.600 --> 00:14:28.570

City of Hines: That's around 8,000 years.

112

00:14:29.310 --> 00:14:31.940

City of Hines: When we talk about hydraulically connected.

113

00:14:32.090 --> 00:14:34.020

City of Hines: We do not believe it is...

114

00:14:35.060 --> 00:14:40.299

City of Hines: Needed in order to justify one groundwater reservoir.

115

00:14:40.700 --> 00:14:46.280

City of Hines: We ask you to support the five groundwater reservoirs, because I think it's important, and how we work through these.

116

00:14:46.500 --> 00:14:51.079

City of Hines: But we do understand that reductions in one can help in a reduction in the other.

117

00:14:51.270 --> 00:14:58.150

City of Hines: In the areas that show excessive decline, we also propose that you guys do regularly.

118

00:14:58.600 --> 00:15:00.779

City of Hines: And do set PPWs.

119

00:15:01.090 --> 00:15:09.169

City of Hines: We want to set a PTW in Weaver Springs. That is a 54% reduction, a PTW in Northeast Crane at a 30% reduction.

120

00:15:09.430 --> 00:15:11.460

City of Hines: What are the other 3 areas?

121



00:15:11.670 --> 00:15:13.680

City of Hines: That are reasonably stable?

122

00:15:14.120 --> 00:15:22.329

City of Hines: have only dropped some, at times, 3 to 4 feet, only dropping a couple inches a year. We ask you to work with this community.

123

00:15:22.890 --> 00:15:24.980

City of Hines: Work with voluntary agreements.

124

00:15:25.330 --> 00:15:37.430

City of Hines: You will see voluntary agreements come forward to you in December, and the voluntary agreements in these sub-areas will be large, maybe only one or two, and they will propose that 10% reduction.

125

00:15:37.510 --> 00:15:46.189

City of Hines: And we want to continue to work with the department and continue to work with you guys in order to make sure those reductions come online far, far sooner than 2040.

126

00:15:46.900 --> 00:15:49.769

City of Hines: We also, as you know, have exempted the tribal.

127

00:15:50.170 --> 00:15:57.770

City of Hines: And Chris will talk on that more. We've exempted the municipalities and Crystal Crane Hot Springs.

128

00:15:58.280 --> 00:16:03.290

City of Hines: When you look at the total amount of water to use, ladies and gentlemen, it's 1-2%.

129

00:16:03.800 --> 00:16:10.450

City of Hines: It's caused a lot of, emotion, a lot of concern, a lot of negative impacts, potentially, that we don't need to deal with.

130

00:16:10.810 --> 00:16:17.359

City of Hines: We also want to acknowledge that we want a co-stewardship agreement with the Burns Bayou Tribe

131

00:16:17.510 --> 00:16:22.719

City of Hines: They are here to support us, we are here to support them, and we hope you will allow us

132

00:16:23.060 --> 00:16:25.759



City of Hines: And the state will support us in supporting each other.

133

00:16:28.150 --> 00:16:29.860

City of Hines: Next slide, please.

134

00:16:32.100 --> 00:16:33.350

City of Hines: Sabrina.

135

00:16:35.110 --> 00:16:43.300

City of Hines: Hey, so this slide shows some comparison of the scenarios, and I just wanted to interject that if you guys have any comments for us as we're going through this.

136

00:16:43.300 --> 00:17:01.610

City of Hines: like, please feel free to interrupt us and ask your questions. We want you guys to understand this. This is our opportunity to explain it, and so if there's things that we're... that don't make sense, or that you want clarification on, please let us know, and we'd be happy to try to answer those questions.

137

00:17:02.200 --> 00:17:02.669

Vice-Chair Smitherman: Thank you.

138

00:17:02.670 --> 00:17:22.460

City of Hines: Thanks. So this slide is showing the comparison of some of the scenarios. The initial scenario that came out in January of 2024, the final scenario that we were given in April of 2025, and then the petition scenario, and

139

00:17:22.829 --> 00:17:38.089

City of Hines: We just wanted to point out that the petition scenario draws from elements of OWRD's... one of their initial scenarios, which was... we've referred to as Scenario B, and where these reductions are focused in the known problem areas, and

140

00:17:38.980 --> 00:17:40.710

City of Hines: the...

141

00:17:40.710 --> 00:18:02.249

City of Hines: I mean, I'm kind of reiterating Mark's point here, but the, you know, the initial scenario had the 15 sub-areas, and it just felt very arbitrary, and that's... these 5 sub-areas, are more in line with the USGS study, and are... we feel like would be a better focus of the recharge areas, and...

142

00:18:02.250 --> 00:18:12.579

City of Hines: We do also want to point out that altogether, the water that the petition will reduce is actually greater than the 22% that was modeled in the Scenario B, and

143



00:18:12.700 --> 00:18:16.980

City of Hines: We feel like we'll meet the goals and protect the community.

144

00:18:17.720 --> 00:18:18.950

City of Hines: Next slide.

145

00:18:19.870 --> 00:18:21.180

City of Hines: Thanks, Sabrina.

146

00:18:21.490 --> 00:18:30.099

City of Hines: So, as we look to the department's proposed rules, we believe they're unprecedented. And you guys heard me talk about this before.

147

00:18:30.290 --> 00:18:33.220

City of Hines: We are proposing regulatory reductions

148

00:18:33.410 --> 00:18:42.059

City of Hines: And parts of our basin that have not tripped what reasonably stable would be, and the definition of a groundwater allocation rulemaking that you guys passed.

149

00:18:42.210 --> 00:18:43.590

City of Hines: About a year ago

150

00:18:44.000 --> 00:18:49.440

City of Hines: Some of these areas have only dropped 3 to 4 feet. Some of these areas only dropping a couple feet a year.

151

00:18:50.200 --> 00:18:51.929

City of Hines: That is unprecedented.

152

00:18:52.070 --> 00:18:55.709

City of Hines: What also is unprecedented is if you look at what Durately Stable is.

153

00:18:56.120 --> 00:19:15.300

City of Hines: Durably stable, in our opinion, is not stability. You have 50% of your wells that are in zero decline or improving. Recovery. Recovery's a great goal, but in order to balance the economics, the community, and the social structure of this community, while trying to use this resource in perpetuity.

154

00:19:16.090 --> 00:19:18.590

City of Hines: We need to agree on what the goal would be.

155

00:19:19.270 --> 00:19:28.079



City of Hines: Director Gall told us, I think, in Rack 4 or RAC 5, after they had proposed the 15 al... the 15 sub-area approach.

156

00:19:28.270 --> 00:19:32.070

City of Hines: as Sabrina said, that had the triggers in it that we have in this petition.

157

00:19:32.270 --> 00:19:36.359

City of Hines: That the goal would be aspirational.

158

00:19:36.780 --> 00:19:38.380

City of Hines: of stability.

159

00:19:39.610 --> 00:19:44.870

City of Hines: The goal would be aspirational of stability, and that's what this community heard.

160

00:19:45.380 --> 00:19:51.150

City of Hines: We went from aspirational, Too durably stable, to recovery.

161

00:19:52.130 --> 00:19:58.549

City of Hines: That's tough. That does not balance the economics, the social, and this... what this community needs.

162

00:19:58.710 --> 00:20:06.010

City of Hines: Water Resource Department has not previously proposed a designated area that... that... area is critical, that is not overdrawn.

163

00:20:06.320 --> 00:20:08.410

City of Hines: We have areas that are not overdrawn.

164

00:20:08.710 --> 00:20:16.160

City of Hines: It does not have evidence of excessive declines. They're proposing a critical groundwater area in areas that do not have excessive declines.

165

00:20:17.040 --> 00:20:22.550

City of Hines: They are proposing a critical groundwater area that is not over-appropriated nor overdrawn.

166

00:20:24.030 --> 00:20:25.430

City of Hines: That's tough.

167

00:20:26.140 --> 00:20:30.269

City of Hines: This is the first time a critical ground order designation will come from Division 10.



168

00:20:30.790 --> 00:20:35.290

City of Hines: If this is a standard that is going to be held to our community.

169

00:20:36.440 --> 00:20:40.829

City of Hines: I would assume that this is a standard that's going to be held to the rest of the state.

170

00:20:42.080 --> 00:20:47.900

City of Hines: If we want to go past what we think the law provides, Let's change the law.

171

00:20:49.060 --> 00:20:51.089

City of Hines: Let's not hold this community.

172

00:20:51.400 --> 00:20:54.089

City of Hines: To a different standard that's never been held before.

173

00:20:54.640 --> 00:20:57.119

City of Hines: Next slide, please. Commissioner Frank.

174

00:20:59.730 --> 00:21:14.450

City of Hines: Well, Ken, I'd like to reiterate that we really appreciate you guys taking the time to talk with us today, and as Sabrina said, if you have questions, don't even raise your hand or anything, just come on off-mute and ask them, and make sure we reach a level of understanding on this.

175

00:21:14.690 --> 00:21:30.450

City of Hines: But this... this proposed action of declaring the entire Harney Basin as a critical groundwater area would be untested. It's an enormous fair to it. It would be 10 times larger than any other area in the state, and 100 times larger than the smallest critical groundwater area that exists right now.

176

00:21:30.450 --> 00:21:35.340

City of Hines: The vast majority of this area has a median total decline of 3 feet.

177

00:21:35.370 --> 00:21:37.000

City of Hines: And this would be...

178

00:21:37.090 --> 00:21:44.440

City of Hines: These regulations would be more restrictive than any groundwater level trends that have been enforced to date.

179

00:21:46.380 --> 00:21:50.000

City of Hines: This would be the first designation since the 1980s.



180

00:21:50.160 --> 00:21:54.340

City of Hines: And one thing that I think is important to point out is.

181

00:21:54.670 --> 00:22:09.409

City of Hines: The Harney County Board does not feel like I've really had an opportunity for meaningful coordination as it's statutorily required with the department. We had one meeting to kind of set forth some expectations, and then never heard any more. And so...

182

00:22:09.940 --> 00:22:12.880

City of Hines: I think that is important to note. Next slide, please.

183

00:22:15.970 --> 00:22:33.939

City of Hines: As unprecedented as the enormity of clearing our entire basin as a groundwater area, also unprecedented is this petition itself. To have this amount of community and local support for a proposed petition, never before has there been a petition to a rule like this

184

00:22:34.200 --> 00:22:35.530

City of Hines: To my knowledge.

185

00:22:35.990 --> 00:22:52.060

City of Hines: This petition has support from all of the local governments, county government and the city governments, the tribal government, and even our national wildlife refuge. So I feel like that covers all the bases of economics, community, ecological.

186

00:22:52.300 --> 00:22:54.269

City of Hines: And it should not be taken lightly.

187

00:22:54.460 --> 00:23:10.100

City of Hines: The fact that there's irrigator support and water user support for regulation shows that our community realizes that we do need some kind of regulation, but that what we are proposing in our amendment is more amenable to our community.

188

00:23:10.610 --> 00:23:24.339

City of Hines: We've already been working on voluntary agreements, which would come before the Water Resource Commission in December. They'd be the first ever in Oregon, and that's a huge opportunity for Oregon and the Water Resource Commission to set a precedence.

189

00:23:24.920 --> 00:23:35.100

City of Hines: This entire amendment is community-driven, which I think speaks to Oregon's ability In order to defend it.



190

00:23:35.240 --> 00:23:37.780

City of Hines: To support community-driven solutions.

191

00:23:39.060 --> 00:23:41.170

City of Hines: During the RAT process.

192

00:23:41.460 --> 00:23:51.170

City of Hines: It was felt that much of that time was spent with the department presenting and defending their position rather than really engaging with the public.

193

00:23:51.240 --> 00:24:07.819

City of Hines: The public was the resident for much of that, and they did give input. Oftentimes, it was hard to see how that input was incorporated. And with this petition for amendment, our communities come together to share our vision with the Commission, and we're inviting the department and the Commission to work with us.

194

00:24:10.050 --> 00:24:21.370

City of Hines: Many of the irrigators are in support of it, many of the community members are in support of it, and they're trying to implement reductions in a way that doesn't cause personal or community economic ruin.

195

00:24:21.750 --> 00:24:23.140

City of Hines: Next slide.

196

00:24:28.970 --> 00:24:34.240

City of Hines: Speaking of economic rumor, It is really hard

197

00:24:34.580 --> 00:24:39.750

City of Hines: To get an accurate answer on what kind of an economic impact this would have on our community.

198

00:24:40.730 --> 00:24:57.560

City of Hines: But in looking at it in general terms, it would be a devastating blow to our economy in terms of the dollar output, the number of jobs lost, and I think it's interesting if we compare the

199

00:24:59.150 --> 00:25:01.969

City of Hines: The department's proposed rule

200

00:25:02.200 --> 00:25:13.429

City of Hines: Has the potential to upset our economy by, let's say, diminishing it a minimum of 10% by the end of the 30 years where we would be phasing in those curtailments.



201

00:25:13.740 --> 00:25:18.259

City of Hines: With the proposed amendment, with our petition to amend.

202

00:25:18.380 --> 00:25:36.590

City of Hines: it would be more... it would be about 10% less than that, and that may not sound like a lot, but it could be as much as \$14 million a year, which in a community as small as this is huge, but I think what is really important to understand about that difference is that if we focus more on voluntary agreements

203

00:25:36.590 --> 00:25:45.590

City of Hines: than curtailments. It allows our community and our producers to pivot and still remain economically viable.

204

00:25:45.830 --> 00:25:51.729

City of Hines: with less water. And an example that I would give a constituent that

205

00:25:51.750 --> 00:25:59.900

City of Hines: Was irrigating their fields this year, just got their last 4 meter readings, because they're done irrigating for the season, and their priority was great.

206

00:25:59.900 --> 00:26:09.870

City of Hines: They only used half an acre foot per acre because their priority was grazing. They still got a cutting of hay, they were still ate the grapes, but that is a junior water rate.

207

00:26:09.870 --> 00:26:24.229

City of Hines: And with the department's proposed rules, they would likely be curtailed and shut off, which means that those fields would lay fallow and have no economic productivity, no ecological benefit, where there's mule deer coming out of them every evening now.

208

00:26:24.600 --> 00:26:37.939

City of Hines: But with only a half acre foot a year, they're still able to graze and be economically viable. And I think that speaks to the importance of the voluntary agreements in allowing producers to decide amongst themselves how to make the best use of their water.

209

00:26:40.020 --> 00:26:42.549

City of Hines: The petition presents a better option.

210

00:26:43.270 --> 00:26:52.960

City of Hines: Oh, gosh, the other thing, I almost forgot, but this is really important as well. It was brought to my attention at a National Resource Advisory Committee meeting the other day. Something I haven't thought of.



211

00:26:52.960 --&gt; 00:27:17.579

City of Hines: Obviously, we looked at the results to property taxes, because if we have farms go out of business, they're not going to be on the tax rules. If they are, they're not going to be paying the same amount of property taxes. That affects our local government's ability to provide services, but it also affects all of our special service districts, like our education districts, our hospital districts, which can't afford to lose any money in this frontier community

212

00:27:17.580 --&gt; 00:27:18.290

City of Hines: living.

213

00:27:18.320 --&gt; 00:27:24.120

City of Hines: The other thing that's important is that if these farms are curtailed back, as proposed.

214

00:27:24.280 --&gt; 00:27:37.619

City of Hines: and they can no longer be a viable farming operation. Many of them have mortgages or liens, which local credit unions or banks are holding, which is gonna bankrupt some of our local financial institutions.

215

00:27:37.620 --&gt; 00:27:44.020

City of Hines: Because, without warning, they'll be left holding the deed to a piece of property which has no value.

216

00:27:44.020 --&gt; 00:27:57.889

City of Hines: So I think that needs to be taken into consideration as well. We need to minimize the fiscal impact as is required by statute, and I believe that our amended is much more effective at doing that than the proposed rules.

217

00:27:58.320 --&gt; 00:27:59.370

City of Hines: Looks like...

218

00:28:05.920 --&gt; 00:28:08.990

Nicholas Green: So this is Nick. I'm gonna speak to some of the...

219

00:28:09.110 --&gt; 00:28:26.690

Nicholas Green: impacts on the municipalities, and my main objective here is to provide some context that we think was missing from the RAC meetings that likely would have resulted in a different set of proposed rules had the committee been aware of it, so...

220

00:28:27.090 --&gt; 00:28:33.210

Nicholas Green: Just for context, the municipal users within the basin

221



00:28:33.920 --> 00:28:38.130

Nicholas Green: Account for less than 1% of the paper water rights.

222

00:28:38.770 --> 00:28:51.419

Nicholas Green: and significantly less than 1% of total water usage in the water budget. So when you look at the chart on the left, and this was provided as part of our public comment for the proposed 512 rules.

223

00:28:51.880 --> 00:28:55.240

Nicholas Green: It's 0.68% on paper.

224

00:28:55.350 --> 00:29:02.649

Nicholas Green: In practice, it varies from year to year, but we're talking about a fraction of 1% of the total water budget.

225

00:29:03.290 --> 00:29:12.289

Nicholas Green: That said, that small slice provides water to 60% of Harney County's residents.

226

00:29:12.970 --> 00:29:21.060

Nicholas Green: and nearly all of its businesses and industry. So it's a very significant water...

227

00:29:21.320 --> 00:29:25.840

Nicholas Green: Use, that's, even though it's a very small amount of the total budget.

228

00:29:26.670 --> 00:29:36.930

Nicholas Green: We have about 50 years of state statute and jurisprudence that doesn't suggest that housing be built in cities and urban growth boundaries. It mandates it.

229

00:29:37.270 --> 00:29:44.910

Nicholas Green: And it specifically prohibits housing outside of urban growth boundaries, except in very limited circumstances.

230

00:29:45.300 --> 00:29:49.870

Nicholas Green: And so what we're seeing here is a potential policy clash between

231

00:29:50.000 --> 00:30:05.129

Nicholas Green: regulations by the Housing Accountability and Production Office, Department of Land Conservation and Development, state legislation, the governor's directives that are pushing, housing growth into urban growth boundaries.

232

00:30:05.390 --> 00:30:17.350



Nicholas Green: And now a rule that's going to create an artificial cap on the ability of the cities to provide water to the residents as required by those other statutes and regulations.

233

00:30:17.850 --> 00:30:22.279

Nicholas Green: So, we'd like to avoid those potential policy conflicts.

234

00:30:22.690 --> 00:30:28.729

Nicholas Green: To ensure that the cities can continue to plan for growth within urban growth boundaries, as they're required to do.

235

00:30:28.990 --> 00:30:39.000

Nicholas Green: Through both their housing needs analyses and their economic opportunity analyses that project 20 years of economic and housing growth.

236

00:30:39.360 --> 00:30:43.699

Nicholas Green: Based in part on the water availability that they have.

237

00:30:44.000 --> 00:30:49.600

Nicholas Green: Those plans today do not take into account an 82% haircut.

238

00:30:49.810 --> 00:30:54.109

Nicholas Green: on their available water, which is what's proposed under the current 512 rules.

239

00:30:54.280 --> 00:31:01.000

Nicholas Green: That is far and above higher than the cap proposed for any other water user in the basin.

240

00:31:01.480 --> 00:31:04.069

Nicholas Green: So it's a massive reduction

241

00:31:04.470 --> 00:31:09.760

Nicholas Green: To the available water that's not based on anything

242

00:31:10.160 --> 00:31:20.509

Nicholas Green: In the studies. When we talked to the staff, how that 110% of the highest year's usage was determined, where that 10% increase came from.

243

00:31:20.720 --> 00:31:26.469

Nicholas Green: The answer we received was it was, in their opinion, a reasonable number to plug into the model.

244

00:31:26.710 --> 00:31:30.220



Nicholas Green: It's not based on science, it's not based on data.

245

00:31:30.490 --> 00:31:34.649

Nicholas Green: It's arbitrary, and so our concern is that it will be challenged.

246

00:31:34.900 --> 00:31:50.109

Nicholas Green: by developers who've spent millions of dollars on housing that's already permitted in Burns. So we have 3 master plan developments that have been fully approved by the Planning Commission. The plats have either been recorded or will be recorded in the next couple of months.

247

00:31:50.320 --> 00:31:57.850

Nicholas Green: And at that point, the city does not have a legal basis to deny home permits or connections to its water system.

248

00:31:58.060 --> 00:32:01.860

Nicholas Green: Unless they're imposed through this rulemaking process.

249

00:32:02.400 --> 00:32:11.649

Commissioner Moll: Sorry, Nick. Sorry, I haven't... I don't remember tracking this 82% haircut before. Can you tell me where this is coming from?

250

00:32:11.650 --> 00:32:12.940

Nicholas Green: Yeah, the...

251

00:32:12.940 --> 00:32:16.690

Commissioner Moll: Match with my understanding of the 110% proposal?

252

00:32:17.000 --> 00:32:20.819

Nicholas Green: So, based on the available water rights to the cities today.

253

00:32:21.210 --> 00:32:29.649

Nicholas Green: Versus that available water with the 10% increase over their highest peak year in the prior 5 years.

254

00:32:29.880 --> 00:32:32.010

Nicholas Green: That's a reduction in...

255

00:32:32.310 --> 00:32:45.400

Nicholas Green: available water the city could use of 82% from what they could potentially use if they used all of their current water rights. Of their paper water rights, okay. Is there any limited develop... is there any development currently going in that is limited by...

256



00:32:45.430 --> 00:32:48.919

Commissioner Moll: That has shown any limitation by available water?

257

00:32:49.250 --> 00:32:50.889

Nicholas Green: Not by available water, no.

258

00:32:51.000 --> 00:33:07.210

Nicholas Green: Thank you. And those are great questions. So you're... you're coming in at an historic low for the cities. They... they have struggled to adapt post-timber. They're just now beginning an economic recovery, but we're... we're measuring the cities.

259

00:33:07.420 --> 00:33:10.060

Nicholas Green: At a historic population low.

260

00:33:10.290 --> 00:33:18.650

Nicholas Green: If we're very intentional and successful in our housing efforts across all of the cities.

261

00:33:18.950 --> 00:33:24.669

Nicholas Green: Over the next 15 years, we might be able to get Burns and Heinz back to the population they had in the 1990s.

262

00:33:25.410 --> 00:33:34.870

Nicholas Green: So that's... that's the goal. That's what we're trying to achieve. The state legislature has appropriated about \$8 million in funding for housing and industrial improvements.

263

00:33:35.210 --> 00:33:37.759

Nicholas Green: Those improvements are already in the ground.

264

00:33:38.100 --> 00:33:40.770

Nicholas Green: And are permitted in these master plan developments.

265

00:33:40.910 --> 00:33:46.340

Nicholas Green: The other factor that I think the Commission needs to be aware of that was not taken into account by the model

266

00:33:46.720 --> 00:33:49.369

Nicholas Green: Is that separate from the new development.

267

00:33:49.550 --> 00:33:53.549

Nicholas Green: The City of Burns, through federal and state grants and loans.

268

00:33:53.820 --> 00:33:59.340



Nicholas Green: Has a \$7.8 million public improvement project going into construction next year.

269

00:33:59.670 --> 00:34:05.349

Nicholas Green: To replace 30,000 linear feet of aging water lines.

270

00:34:05.590 --> 00:34:10.479

Nicholas Green: These are the oldest water lines in the city. It's 6.25 miles.

271

00:34:11.020 --> 00:34:21.039

Nicholas Green: That, voluntary and intentional replacement of their infrastructure, which is extraordinarily expensive, because you've got to go through sidewalks and city streets to get to it.

272

00:34:21.650 --> 00:34:27.399

Nicholas Green: Is estimated to create about a 30% savings in water across the city.

273

00:34:27.520 --> 00:34:29.830

Nicholas Green: Just by plugging those leaky pipes.

274

00:34:30.270 --> 00:34:36.519

Nicholas Green: So, we're going to achieve the goals without the regulation, within that 1%,

275

00:34:36.969 --> 00:34:45.930

Nicholas Green: But the other concern with the way the 512 rules are proposed currently is that when the next 5-year average comes into effect.

276

00:34:46.100 --> 00:34:52.349

Nicholas Green: You are now measuring from that new lower baseline That the city created.

277

00:34:52.469 --> 00:35:01.959

Nicholas Green: And so we called this, in our prior testimony, the double whammy effect, because today, that 110% is based on a peak year that included a lot of leaky pipes.

278

00:35:02.220 --> 00:35:09.089

Nicholas Green: The next 5-year average will be with these pipes replaced, and so they're going to be capped at an even lower number.

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00:35:09.480 --> 00:35:17.760

Nicholas Green: So we think there's a safe harbor here in the proposed alternative that Representative Owens and the community is putting forward, which is just to exempt the cities.



280

00:35:18.030 --> 00:35:28.759

Nicholas Green: You gain almost nothing by regulating them. You're buying a lot of potential problems, including litigation. I don't know that that 110% number is going to be defensible.

281

00:35:29.090 --> 00:35:34.530

Nicholas Green: And because the cities are already achieving the goals without the regulation.

282

00:35:34.860 --> 00:35:40.360

Nicholas Green: I think that the wisest course of action here would be to grant the municipal exemption

283

00:35:40.660 --> 00:35:48.310

Nicholas Green: Let's leave these thorny policy problems for another day. We do not want to have the Burns decision of the Supreme Court.

284

00:35:48.710 --> 00:35:54.109

Nicholas Green: Where we have to decide whose roles matter more, DLCs or OWRDs.

285

00:35:54.250 --> 00:36:00.439

Nicholas Green: I think that's a fight that would be best avoided. So, happy to take any questions, but thank you for the time.

286

00:36:00.440 --> 00:36:08.010

Mindy Lane: Vice Chair Smitherman, Mindy Lane here. I'll just jump in with a time check. We have approximately 8 more minutes alive for this presentation. Thank you.

287

00:36:09.240 --> 00:36:15.300

Vice-Chair Smitherman: Thank you, Mindy. And thank you, Nick, for going over the information on the municipalities. Appreciate it.

288

00:36:19.020 --> 00:36:20.300

City of Hines: Next slide, please.

289

00:36:23.310 --> 00:36:36.829

City of Hines: Hello, everybody. My name is Christopher Hicks. I'm the General Manager of the Burns Pike Tribe. I'm here, on behalf of the tribe to state our stance. And, we want, as we've said, we've had meetings with the Commission,

290

00:36:36.950 --> 00:36:47.849



City of Hines: in both formal, informal, from government-to-government consultation. We have another government-to-government consultation set up, I believe on the 15th, but I wanted to state that,

291

00:36:48.460 --> 00:36:53.749

City of Hines: The proposed rules made explicit that no provision of Division 512 nor any related

292

00:36:53.980 --> 00:37:04.719

City of Hines: Cgwa designation shall repair, curtail, meter, require reporting for, or otherwise limit any water right of the Burns Pine tribe.

293

00:37:04.870 --> 00:37:22.030

City of Hines: This protection must include, but not be limited to, federally reserved water rights, Aboriginal and unquantified water rights, state-recognized water rights, the tribes' rights are inherently federally protected, and they exist independently of your state permitting systems. Any omission of this language

294

00:37:22.030 --> 00:37:34.860

City of Hines: Risk creating a dignity that could be interpreted as waiver, diminution, or subordination of those rights, an outcome that would be legally indefensible for the tribe, and that's not what we can agree to.

295

00:37:35.300 --> 00:37:53.550

City of Hines: jurisdiction and consent. You know, the Burns Pike Tribe does not consent, and has never consented to this application on the state water law or tribal waters, lands, or systems. As such, Division 512 rules in any CGWA process may not apply to the tribal rights for water.

296

00:37:53.550 --> 00:37:57.080

City of Hines: within the harm will try to express written consent.

297

00:37:57.190 --> 00:38:09.289

City of Hines: Consent must be condition precedent, not of a procedural formality. The absence of such language would permit future state overreach, undermine tribal sovereignty, and expose the state to legal challenge.

298

00:38:10.040 --> 00:38:12.479

City of Hines: I'm sovereign immunity and non-waver.

299

00:38:12.560 --> 00:38:22.139

City of Hines: The current rules that you guys sent back to us, they don't list this. The rule must further make clear that nothing in Division 512, nor any tribal partnership.

300



00:38:22.140 --> 00:38:36.200

City of Hines: Then programs, working groups, or volunteer conservation projects shall be construed as a waiver of sovereign immunity, a consent to state or agency jurisdiction, a concession regarding the existence, scope of seniority, or

301

00:38:36.260 --> 00:38:51.389

City of Hines: Quantification of tribal water rights. Evidence of abandonment or forfeiture or subordination. This non-waver language is essential to avoid misinterpretation of the tribal faith, participation, and collaboration of processes.

302

00:38:52.390 --> 00:39:09.280

City of Hines: Co-stewardship as a governance requirement. As stated and as requested by the whole community, this Burns Pike tribe has lived in and stewarded the Harney Basin since time of mourning. Long time sustainability of this watershed depends on governance that reflects the reality that rule

303

00:39:09.320 --> 00:39:15.809

City of Hines: should therefore commit OWRD to initiate a formal code stewardship framework within 12 months of the adoption.

304

00:39:15.810 --> 00:39:34.499

City of Hines: We're not asking for it today or tomorrow, but we're giving you 12 months to just start the process that's reasonable, to develop jointly with the tribe and invasive stakeholders. This framework must include shared decision-making authority, mutual consent for major regulatory actions, and joint participation in monitoring science and planning.

305

00:39:34.770 --> 00:39:45.950

City of Hines: Co-stewardship is not a policy preference. It is a legal, ethical obligation grounded in federal trust responsibilities, treaty principles, and the government-to-government relationship.

306

00:39:46.420 --> 00:39:48.929

City of Hines: And for the next slide, please.

307

00:39:49.440 --> 00:40:05.880

City of Hines: I have the proposed rule language. We're running tight on time. You guys have the proposed rule language as well. This is the rule language that we support, 1 through 7. If you can't support that rule language, we can't support the rule. The alternative rules do support that rule.

308

00:40:06.090 --> 00:40:10.210

City of Hines: So we support the alternative rule language. Birds of Fire Tribe is committed

309



00:40:10.280 --> 00:40:29.180

City of Hines: Through collaboration, partnership, and shared stewardship of the Harney Basin. However, collaboration must be built on a foundation of legal recognition, sovereign respect, and enforceable protections. Exemption of language alone is insufficient. The rule must include consent provisions, non-waiver clauses, and a clear co-management commitment.

310

00:40:29.180 --> 00:40:32.650

City of Hines: If it is to stand the test of time.

311

00:40:32.650 --> 00:40:48.220

City of Hines: We respectfully request the Water Resources Commission incorporate the proposed language into the final rule. Doing so will not only align state action and federal law and trust obligations, but also lay the groundwork for a durable, cooperative governance model.

312

00:40:48.220 --> 00:40:55.050

City of Hines: that serves the basin for generations to come. And I just want to state a few, really, points that you guys have to understand.

313

00:40:55.440 --> 00:41:03.109

City of Hines: This is a historic tribe, it's not a treaty tribe. This is an Aboriginal... we have Aboriginal territory. The line was never drawn.

314

00:41:03.300 --> 00:41:13.639

City of Hines: It was never drawn. The only thing that ever happened was that in 1972, the tribe was recognized. Somebody acknowledged that the tribe is inherent.

315

00:41:14.090 --> 00:41:33.670

City of Hines: Federal recognition, the tribes inherent, or inherents the Aboriginal Territory. If you're in Wasco, Jefferson, Wheeler, Grant, Crook, Deschutes, Lake, Harney, Malheur, Jen, Baker, or Humboldt County in Nevada, you're in Burns Highland Territory, and we need to be a part of the co-stewardship of anything that happens in those lands. Thank you.

316

00:41:33.730 --> 00:41:34.879

City of Hines: Thank you, Chris.

317

00:41:35.320 --> 00:41:37.390

City of Hines: Next slide, please.

318

00:41:38.120 --> 00:41:43.870

City of Hines: So, Vice Chair Smith, I'm gonna have to ask, are we gonna be shut down in 3 to 4 minutes?



319

00:41:45.170 --> 00:41:53.650

Vice-Chair Smitherman: I think we could probably extend it just a couple minutes longer. I would like you to have your time, but we do need to move through as best you can.

320

00:41:54.350 --> 00:41:56.730

City of Hines: I understand that, and we are trying,

321

00:41:58.090 --> 00:41:58.979

Vice-Chair Smitherman: Appreciate it.

322

00:41:59.210 --> 00:42:06.570

City of Hines: Okay, I will turn this over to, alignment between rules. Skip it, next slide.

323

00:42:10.920 --> 00:42:12.060

City of Hines: Proximity.

324

00:42:12.220 --> 00:42:13.080

City of Hines: Okay.

325

00:42:13.540 --> 00:42:19.870

City of Hines: The petition is a better option. The petitioner's proposed rule reflects a community-driven solution.

326

00:42:19.870 --> 00:42:34.959

City of Hines: And reflects what is known and unique about each of the five areas. It promotes voluntary agreements and conservation plans, achieving statutory goals while minimizing long-term economic impact for which this community could not recover.

327

00:42:35.120 --> 00:42:45.510

City of Hines: With all of that said, we think that the petitioners... the petition presents better options for management of the resources for the community and all Oregonians.

328

00:42:46.370 --> 00:42:48.360

City of Hines: Thank you. Next slide. Next slide.

329

00:42:50.260 --> 00:43:00.420

City of Hines: So, now we're going to move into the condition of the follow-up results, and you guys will be hearing for 15 or 20 minutes after us on the 25-page memo that the department put out.

330

00:43:01.090 --> 00:43:04.350

City of Hines: Well, let's talk about the model itself a little bit.

331



00:43:04.740 --> 00:43:06.510

City of Hines: The model should guide us.

332

00:43:07.190 --> 00:43:12.100

City of Hines: And we ask you to have discussion groups and work with this community to allow the model to come out.

333

00:43:12.620 --> 00:43:16.090

City of Hines: The model should not be the policy decision here.

334

00:43:16.650 --> 00:43:20.150

City of Hines: We know the model has errors in a lot of areas.

335

00:43:20.610 --> 00:43:24.320

City of Hines: If you look at the USGS reports, and they actually...

336

00:43:24.550 --> 00:43:31.390

City of Hines: work through some of their scenarios. There's upwards of 20-30% error in some of the model results.

337

00:43:31.640 --> 00:43:36.749

City of Hines: And we look at the recharge estimates that are in the basin, we know they can be 20-30% off.

338

00:43:36.960 --> 00:43:42.490

City of Hines: If we look at the CBOP method that was used for the abrotranspiration to understand the 2018 pumpage.

339

00:43:42.870 --> 00:43:45.070

City of Hines: We know that could be up to 20% off.

340

00:43:45.670 --> 00:43:47.370

City of Hines: So the model should guide us.

341

00:43:47.500 --> 00:43:49.669

City of Hines: But you guys are the policy decisions.

342

00:43:50.070 --> 00:43:53.159

City of Hines: And we need to figure out how to work through this together. Next slide.

343

00:43:57.460 --> 00:43:59.679

City of Hines: So I'm going to summarize this a little bit.

344

00:43:59.780 --> 00:44:01.960



City of Hines: What you're gonna hear in the next memo?

345

00:44:02.650 --> 00:44:05.579

City of Hines: Is that... have not reached stability.

346

00:44:05.770 --> 00:44:07.509

City of Hines: Will continue to decline.

347

00:44:08.980 --> 00:44:10.660

City of Hines: Pretty forceful language.

348

00:44:11.680 --> 00:44:13.320

City of Hines: Fairly dogmatic.

349

00:44:14.180 --> 00:44:17.679

City of Hines: But if you actually look at the numbers that the department presents.

350

00:44:18.560 --> 00:44:21.469

City of Hines: The three areas that we're asking for voluntary agreements.

351

00:44:22.220 --> 00:44:24.020

City of Hines: By the turn of the century.

352

00:44:24.470 --> 00:44:29.230

City of Hines: Never declined more than 25 feet from the knownest high level on the main.

353

00:44:30.010 --> 00:44:32.849

City of Hines: The three areas that we're asking for volunteer agreements.

354

00:44:33.020 --> 00:44:35.319

City of Hines: Never get out of reasonably stable.

355

00:44:35.700 --> 00:44:38.630

City of Hines: The petition allows them to be used in perpetuity.

356

00:44:39.180 --> 00:44:40.630

City of Hines: Weaver Springs.

357

00:44:41.270 --> 00:44:42.940

City of Hines: Starts to stabilize.

358

00:44:43.540 --> 00:44:48.809

City of Hines: Gets to less than a 1-inch decline by 2058.

359



00:44:49.480 --> 00:44:51.250

City of Hines: Northeast Crane.

360

00:44:51.720 --> 00:44:59.110

City of Hines: Gets to less than a 1 inch decline, or 1.2 inch decline, By 2058.

361

00:45:00.540 --> 00:45:03.600

City of Hines: If we would have brought this forward a year ago to the Commission.

362

00:45:04.120 --> 00:45:06.019

City of Hines: We would agree that was success.

363

00:45:07.140 --> 00:45:09.049

City of Hines: With the variance that's in the model?

364

00:45:10.470 --> 00:45:13.639

City of Hines: Our petition does hit the goal. Next slide.

365

00:45:15.420 --> 00:45:21.250

Mindy Lane: Vice Chair Smith, I'm just checking in on the time, and at this time, I'll quit, doing time checks unless you want me to.

366

00:45:22.740 --> 00:45:32.090

Vice-Chair Smitherman: Thank you, Mindy. I know we did get started a couple minutes late, so I'd like to go ahead and keep moving forward, give another 5 minutes or so.

367

00:45:32.810 --> 00:45:35.469

City of Hines: You just want to go to Managing for Impact and Summer?

368

00:45:36.070 --> 00:45:51.729

City of Hines: One thing I would say on this slide, just real quickly, one thing that I think is important to note about our petition for amendment is one of the concerns that was brought up repeatedly during the BRAC process was that if we pull the regulatory lever too hard.

369

00:45:51.920 --> 00:46:01.169

City of Hines: By the time we realize it, that can't be undone. Those producers can't go back into production, the economy can't be re-established, it can't be undone.

370

00:46:01.350 --> 00:46:21.680

City of Hines: By protecting our resource in a more conservative way, as we're suggesting, it gives us more time to fill in those data gaps that were identified during the RAC process. What the interaction between groundwater and springs is, for example. Nothing was taken



into consideration during the RAC process about all of our watersheds to the north of us, which originate on

371

00:46:21.900 --> 00:46:41.729

City of Hines: federal public land, and what those impacts were. What the impacts were of the 30 years of overgrown forests, which were exponentially increasing the evapotranspiration, and now we're in a position where those forests have all burned, and we have all the snow that lands in those mountains ending up in our valley. What implications is that going to have on a groundwater recharge?

372

00:46:41.730 --> 00:46:47.470

City of Hines: Our petition amendment gives us more time to fill in those data gaps and adjust as we go.

373

00:46:47.470 --> 00:46:52.210

City of Hines: Next slide. So, I'm gonna just finish here.

374

00:46:55.950 --> 00:46:57.380

City of Hines: I'm a little frustrated.

375

00:46:58.690 --> 00:47:04.569

City of Hines: The reason we bought this petition forward is we don't feel that our community had a voice.

376

00:47:06.140 --> 00:47:11.649

City of Hines: And now we're being held to 2-3 minutes here, being interrupted, but it's time to move on.

377

00:47:12.090 --> 00:47:16.870

City of Hines: The last commission meeting, the department took hours to work through their... Rules.

378

00:47:18.060 --> 00:47:24.550

City of Hines: This is the most impactful decision that you guys are going to make in any rule process that has come forward.

379

00:47:25.090 --> 00:47:29.819

City of Hines: This is the most impactful decision that has been made to this community since the spotted owl.

380

00:47:33.040 --> 00:47:35.979

City of Hines: We need time to reinvent ourselves.

381

00:47:36.950 --> 00:47:39.540



City of Hines: We need you to work with us in a policy.

382

00:47:39.840 --> 00:47:42.429

City of Hines: Yes, this petition has some trade-offs.

383

00:47:42.660 --> 00:47:45.389

City of Hines: Yes, maybe we're still declining 1 inch.

384

00:47:46.070 --> 00:47:49.540

City of Hines: Potentially 25 more domestic wells go dry.

385

00:47:49.700 --> 00:47:53.900

City of Hines: Some of those irrigators, some of those not. Those mean something to this community.

386

00:47:54.560 --> 00:48:05.699

City of Hines: Without this community, the domestic well fund would have never been created. Without this community, the well-abandoned repair fund at the state level that Rep. Helm and I championed would have never got funding.

387

00:48:05.830 --> 00:48:11.940

City of Hines: When it never got more money in 2023, that was because of this community wanting to identify that there is impacts.

388

00:48:12.680 --> 00:48:20.309

City of Hines: This petition addresses the springs. This petition was brought forward with the refuge to understand how the springs interact.

389

00:48:22.120 --> 00:48:24.029

City of Hines: This petition is balanced.

390

00:48:25.370 --> 00:48:27.120

City of Hines: from this community.

391

00:48:29.000 --> 00:48:31.619

City of Hines: What we ask of you guys now?

392

00:48:33.250 --> 00:48:40.410

City of Hines: is... Continue to ask the department to work with us in the next week or two.

393

00:48:40.650 --> 00:48:42.740

City of Hines: Maybe we don't have everything right.

394

00:48:43.030 --> 00:48:50.170



City of Hines: We didn't expect to get everything right the first time. We were not consulted, we did not work with the model results, we were not...

395

00:48:50.240 --> 00:49:05.840

City of Hines: actually given a meeting with the department until last Friday, where they didn't show the model results, but we could have... we could have worked through that volunteer agreements could be implemented by 2032. Maybe we need a front-end Northeast crane. Maybe we'd still need to do something to take it from that 1.2 inches to zero.

396

00:49:06.910 --> 00:49:08.420

City of Hines: Give us that time.

397

00:49:09.510 --> 00:49:15.249

City of Hines: And please, as we work through the rest of this commission meeting, Hear our community voices.

398

00:49:16.670 --> 00:49:22.370

City of Hines: Because... This is the most impactful decision you'll ever make in Iraq.

399

00:49:22.650 --> 00:49:24.860

City of Hines: This doesn't keep future dependent.

400

00:49:25.470 --> 00:49:27.469

City of Hines: This bankrupts communities.

401

00:49:28.070 --> 00:49:29.900

City of Hines: This bankrupts farms.

402

00:49:30.770 --> 00:49:34.520

City of Hines: This causes the suicide rate in the agriculture community to go up.

403

00:49:35.350 --> 00:49:40.940

City of Hines: We have people that are so worried about what they're going to do and what their kids are going to do, they won't even come online.

404

00:49:41.630 --> 00:49:43.360

City of Hines: And it all comes down.

405

00:49:43.970 --> 00:49:46.970

City of Hines: To 1.2 inches of further decline.

406

00:49:47.130 --> 00:49:49.330

City of Hines: On a model that can have variance.



407

00:49:50.500 --> 00:49:52.430

City of Hines: Please instruct the department.

408

00:49:52.590 --> 00:49:55.209

City of Hines: To continue to work with our community department.

409

00:50:01.020 --> 00:50:18.119

Vice-Chair Smitherman: Thank you. Thank you, all the panelists, for being here, for your presentations, and I do apologize for the time limitations. We do want to hear from your community, and so we do want to have enough time to hear those comments from members of your community as well.

410

00:50:18.570 --> 00:50:30.430

Vice-Chair Smitherman: First, before we do that, though, we do need to move on to the next presentation, and that is, OWRD staff presentation. .

411

00:50:30.970 --> 00:50:31.340

City of Hines: occasionally.

412

00:50:31.340 --> 00:50:31.710

Vice-Chair Smitherman: Jesus.

413

00:50:32.180 --> 00:50:39.610

Vice-Chair Smitherman: analysis of petition using the flow model. So I will turn that over to OWRD staff to take it away.

414

00:50:40.710 --> 00:50:42.150

Ivan Gall: Vice Chair Smitherman, I noted.

415

00:50:42.150 --> 00:50:45.660

City of Hines: That's actually a good question. Before you start that presentation.

416

00:50:46.720 --> 00:50:53.879

City of Hines: Yes, go ahead. You referenced water partner comments. What are water partner comments? I just... I was unfamiliar with that term.

417

00:50:55.050 --> 00:50:58.450

Vice-Chair Smitherman: Ivan, could I get a little, clarification on that, please?

418

00:50:58.450 --> 00:51:09.949

Ivan Gall: Vice Chair Smitherman, members of the Commission, Commissioner Frank, these are, groups of, water partners that, many of which served on the Rural Advisory Committee.



419

00:51:10.320 --> 00:51:15.750

Ivan Gall: And from an equity perspective, we want to make sure that they have a few minutes to be heard as well.

420

00:51:19.110 --> 00:51:21.290

Vice-Chair Smitherman: Thank you for that clarification.

421

00:51:22.040 --> 00:51:27.270

Vice-Chair Smitherman: Okay, I think we can go ahead and go forward with the presentation. Thank you.

422

00:51:29.660 --> 00:51:39.230

Darrick Boschmann (OWRD): Good morning, Vice Chair Smitherman and members of the Commission. For the record, I'm Darg Boshman. I'm a hydrogeologist here in the groundwater section in Salem.

423

00:51:39.550 --> 00:51:53.009

Darrick Boschmann (OWRD): I'll be presenting an overview of the department's evaluation of the petition, and I'm attempting to share screen, but it seems I'm unable, so we may need to work through that before I begin.

424

00:52:00.010 --> 00:52:08.620

Ivan Gall: Dark, as a backup, go ahead and email Mindy your presentation, if we can't get you figured out. Derek, could you please try to share again?

425

00:52:08.620 --> 00:52:11.519

Darrick Boschmann (OWRD): Yes One second...

426

00:52:15.480 --> 00:52:18.520

Darrick Boschmann (OWRD): There we go, how is that? Are we seeing that?

427

00:52:23.150 --> 00:52:23.750

Laura Hartt (OWRD): Yes.

428

00:52:23.750 --> 00:52:24.220

Ivan Gall: Yes.

429

00:52:24.220 --> 00:52:29.410

Darrick Boschmann (OWRD): Okay, okay, great. One second...

430

00:52:31.770 --> 00:52:43.619



Darrick Boschmann (OWRD): So I'll be presenting the memo that was released earlier this week. This is just going to be an overview. We don't have time to go into all of the results there, but I hope you've all had a chance to take a look at that.

431

00:52:43.680 --> 00:52:53.000

Darrick Boschmann (OWRD): Before I begin, I do want to acknowledge Ben Scandella, who's our Senior Groundwater Data Developer, who played a key role in the modeling work that I'll be presenting.

432

00:52:53.060 --> 00:53:00.819

Darrick Boschmann (OWRD): And he is also with us here online, and we may have him jump in at some point to help answer the technical questions about the modeling if needed.

433

00:53:02.000 --> 00:53:14.729

Darrick Boschmann (OWRD): So, let me start with just a quick outline of what I'll be covering today. By now, we've all heard quite a bit about the Harney Basin groundwater Model, and how the model was used in the 512 rulemaking.

434

00:53:14.930 --> 00:53:23.759

Darrick Boschmann (OWRD): So, I won't be presenting any general overview of the model, and we'll just jump right in to how the model was used to evaluate the petition.

435

00:53:24.590 --> 00:53:37.410

Darrick Boschmann (OWRD): I'll first spend some time describing how we translated the petition into inputs for the model, and that includes some of the important assumptions that are necessary to implement the petition management framework within the model.

436

00:53:37.640 --> 00:53:41.080

Darrick Boschmann (OWRD): And then we'll step through an overview of the model results.

437

00:53:44.190 --> 00:53:53.119

Darrick Boschmann (OWRD): So, the petition proposes to divide the Greater Harney Valley Groundwater Area of Concern, the GIVGAC, into five separate critical groundwater areas.

438

00:53:53.290 --> 00:54:03.690

Darrick Boschmann (OWRD): And, the map here shows the OWRD sub-areas in the heavy black lines, and the petition critical groundwater areas with the red lines.

439

00:54:05.310 --> 00:54:15.110

Darrick Boschmann (OWRD): These changes have already been discussed today, so I won't describe that again, but you can see, for the most part, the boundaries do follow those in the OWRD proposal.



440

00:54:15.260 --> 00:54:20.209

Darrick Boschmann (OWRD): But some areas are combined, and some of the boundaries are shifted.

441

00:54:20.400 --> 00:54:29.310

Darrick Boschmann (OWRD): And what we'll see on the next slide is that these boundary changes do have implications for the overall pumpage reductions in the different areas.

442

00:54:33.330 --> 00:54:42.340

Darrick Boschmann (OWRD): So, now that we've looked at the geography, we'll talk about the pumpage reductions and timelines, and how those were implemented in the model.

443

00:54:42.760 --> 00:54:48.249

Darrick Boschmann (OWRD): The plot here is a time series of pumpage from 2018 to 2098.

444

00:54:48.700 --> 00:54:58.919

Darrick Boschmann (OWRD): The left axis here is pumpage in 1,000 acre-feet per year, and the right axis shows pumpage as a percent reduction from 2018 values.

445

00:54:59.500 --> 00:55:13.540

Darrick Boschmann (OWRD): Pumpage for the petition is the orange line, blue represents the OWRD proposal, and the green line here represents the full pumpage, or the status quo scenario, which implements no reductions from 2018 values.

446

00:55:15.030 --> 00:55:22.480

Darrick Boschmann (OWRD): You'll see under both proposals that the pumpage steps down in the 6-year increments as those reductions are implemented.

447

00:55:23.040 --> 00:55:42.299

Darrick Boschmann (OWRD): And under the petition, these reductions are implemented in different ways, in different timelines in the five different areas. So, in the Weaver Springs area, pumpage is fully reduced to a permissible total withdrawal, a PTW of 9,200 acre-feet per year, immediately implemented in 2028,

448

00:55:42.810 --> 00:55:55.259

Darrick Boschmann (OWRD): In Northeast Crane, pumpage is reduced in 6-year increments over a 24-year period, starting in 2028, and ultimately down to a final PTW of 37,000 acre-feet per year.

449

00:55:55.630 --> 00:56:05.530

Darrick Boschmann (OWRD): These reductions in Northeast Crane are implemented at 30% in the first year, and an additional 20% in years 6, 12, and 18.



450

00:56:05.640 --> 00:56:09.689

Darrick Boschmann (OWRD): With the final 10% reduced in that 24th year.

451

00:56:10.800 --> 00:56:21.880

Darrick Boschmann (OWRD): In the three areas, Blitz and Voltage, Sylves, and Silver Creek, the petition implements a 10% voluntary reduction from the average 2017-2018 pumpage by 2040.

452

00:56:22.000 --> 00:56:33.910

Darrick Boschmann (OWRD): And for the purposes of implementing that in the model, that 10% reduction comes into play in 2040, and the 2018 pumpage continues up until 2039.

453

00:56:35.060 --> 00:56:49.300

Darrick Boschmann (OWRD): A couple of additional notes I want to mention on the model inputs. First, as in all of the forward-looking simulations that we've presented in the past, again, here, the model uses the long-term average recharge values.

454

00:56:49.840 --> 00:56:59.290

Darrick Boschmann (OWRD): Also, the 2.5 acre-foot duty reduction that's included in the petition is not implemented in these pumpage totals.

455

00:56:59.690 --> 00:57:12.499

Darrick Boschmann (OWRD): And just a reminder that this duty reduction, doesn't actually serve to change the total amount of pumping in a subarea, and what it does is it redistributes that pumping to the more junior users in the subarea.

456

00:57:12.820 --> 00:57:22.680

Darrick Boschmann (OWRD): So, that does change the spatial distribution of pumping to a certain extent, but what we've seen through sensitivity analyses on previous model runs

457

00:57:22.880 --> 00:57:29.250

Darrick Boschmann (OWRD): Is that that redistribution does not result in substantially different outcomes on the flow system.

458

00:57:29.770 --> 00:57:39.259

Darrick Boschmann (OWRD): So, in the end, this 2.5 acre-foot duty reduction was not implemented either here for the petition or in any of the scenarios run for the OWRD proposal.

459

00:57:41.330 --> 00:57:58.810

Darrick Boschmann (OWRD): The last point I want to make here is to go back to those boundary changes and what the impacts of that are on the pumpage across these



different subareas. So, due to the boundary changes at the... there at the south end of the northeast Crane critical groundwater area.

460

00:57:59.150 --> 00:58:07.200

Darrick Boschmann (OWRD): Portions of this area that had been subject to curtailment under previous scenarios are now moved into the blitz and voltage area.

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00:58:07.370 --> 00:58:13.320

Darrick Boschmann (OWRD): Which is an area that's now only subject to those 10% voluntary reductions. So...

462

00:58:13.910 --> 00:58:26.519

Darrick Boschmann (OWRD): The result of this is an overall 26% reduction from 2018 pumpage in Northeast Crane, and this is as opposed to the intended 30% reduction in that area, as stated in the petition.

463

00:58:26.980 --> 00:58:34.399

Darrick Boschmann (OWRD): And I'll point out that a similar boundary effect occurs there, where portions of Dog Mountain are moved into the Sylves area.

464

00:58:35.610 --> 00:58:45.870

Darrick Boschmann (OWRD): The combined effect of these boundary changes is an overall reduction across the area of 20% under the petition as compared to 2018.

465

00:58:46.100 --> 00:59:05.100

Darrick Boschmann (OWRD): Which is less than the 22% reductions that were implemented in the scenario B, which is the scenario that formed the basis for the reductions under the petition. So I just wanted to be sure to highlight why the values here on this chart are somewhat higher than what the petition describes.

466

00:59:07.710 --> 00:59:23.759

Darrick Boschmann (OWRD): So, that's model inputs. Let's move into the results, but first, just to set the stage, the model results here will be presented in terms of a few aspects of the groundwater flow system, including the groundwater level change rates.

467

00:59:23.980 --> 00:59:32.799

Darrick Boschmann (OWRD): Groundwater level change magnitudes, and then we'll also look at those impacts to domestic wells, springs and streams, and the natural evapotranspiration.

468

00:59:33.190 --> 00:59:50.970

Darrick Boschmann (OWRD): Importantly, for comparison purposes, because of those boundary changes, some of the figures and tables here, the results of the petition will be



aggregated over the OWRD sub-areas, and that's just so we can compare those outcomes from the two different scenarios.

469

00:59:50.980 --> 00:59:53.689

Darrick Boschmann (OWRD): Across equivalent spatial extents.

470

00:59:53.830 --> 01:00:04.920

Darrick Boschmann (OWRD): And I'll also say that for comparison purposes, the results of the OWRD proposal and that full pumpage scenario are also included in some cases.

471

01:00:05.220 --> 01:00:14.749

Darrick Boschmann (OWRD): Again, in the interest of time, I won't go through all of the results from the memo, but of course, those are available, and we can be available to discuss those at any time.

472

01:00:16.190 --> 01:00:25.000

Darrick Boschmann (OWRD): So, with that in mind, let's look at what the model shows, starting here with groundwater level change rates.

473

01:00:25.490 --> 01:00:34.009

Darrick Boschmann (OWRD): So the figure here is a violin plot that shows the distribution of the minimum interannual rate of change after 2058.

474

01:00:34.410 --> 01:00:45.709

Darrick Boschmann (OWRD): So what this shows is the distribution of the most declining year-to-year rate of change measured in model well cells in 2058, or any year after 2058.

475

01:00:46.050 --> 01:00:55.310

Darrick Boschmann (OWRD): So a simple way to think about this is any well that is left of zero here is declining, either in 2058 or some year after that.

476

01:00:55.970 --> 01:01:10.000

Darrick Boschmann (OWRD): What we see is that, except for Weaver Springs, the median rate of change, here, those are the red dashed lines, that median is declining at less than 0.1 feet per year in 2058, and every year after.

477

01:01:10.950 --> 01:01:23.480

Darrick Boschmann (OWRD): The green dashed lines here represent the 90th percentile, which indicates that in 2058, and every year after that, 90% of wells are still declining in most areas.

478

01:01:23.820 --> 01:01:33.690

Darrick Boschmann (OWRD): Another way to say that is that, except for the Blitzen voltage and Weaver Springs areas, less than 10% of wells are stable in 2058.



479

01:01:33.910 --> 01:01:35.559

Darrick Boschmann (OWRD): And every year after that.

480

01:01:38.700 --> 01:01:48.080

Darrick Boschmann (OWRD): So, another way to look at these rates is spatially. So, where in the basin are those declines or recoveries happening?

481

01:01:49.460 --> 01:01:55.840

Darrick Boschmann (OWRD): This map shows the spatial distribution of water level change rates in 2058.

482

01:01:56.060 --> 01:02:07.179

Darrick Boschmann (OWRD): Shades of blue indicate rising groundwater levels, shades of red represent declining groundwater levels, and white here on the map represents areas where water levels are stable.

483

01:02:07.900 --> 01:02:13.660

Darrick Boschmann (OWRD): You'll notice a prominent area of rising groundwater levels there in the Weaver Springs area.

484

01:02:13.760 --> 01:02:19.610

Darrick Boschmann (OWRD): And that's as a result of the pumpage reductions there, and the filling in of that cone of depression.

485

01:02:20.740 --> 01:02:31.169

Darrick Boschmann (OWRD): I'll also point out that the rising groundwater levels, those blue areas around the margin, are simply a representation of the recharge effects in those upland areas.

486

01:02:31.370 --> 01:02:48.400

Darrick Boschmann (OWRD): But what we see is that across much of the area, declining groundwater levels persist in 2058, so we've got broad swaths of red shades across this area. And, of course, that's consistent with what we showed in the violin plot on the previous slide.

487

01:02:51.320 --> 01:02:58.460

Darrick Boschmann (OWRD): So next, let's look at how large those water level changes become over time.

488

01:02:59.310 --> 01:03:08.220

Darrick Boschmann (OWRD): The two plots here show median water level change from 2018 to 2098 in the Silver Creek and Northeast Crane areas.

489



01:03:08.370 --> 01:03:23.689

Darrick Boschmann (OWRD): Importantly, the values here are all relative to a 2018 baseline, and so they do not account for those declines that occurred prior to 2018, which of course, as we know, those declines have been substantial in some areas.

490

01:03:24.360 --> 01:03:35.929

Darrick Boschmann (OWRD): The muddled results for the petition are the orange line here, and they can be compared against the OWRD proposal in blue, and the full pumpage scenario shown in green.

491

01:03:36.440 --> 01:03:45.190

Darrick Boschmann (OWRD): It's clear that in both areas, the petition results in less groundwater level decline than the full pumpage scenario, as we'd expect.

492

01:03:45.310 --> 01:03:49.989

Darrick Boschmann (OWRD): But groundwater levels do remain in a state of decline throughout the model period.

493

01:03:51.100 --> 01:04:01.940

Darrick Boschmann (OWRD): At the end of the model period, median groundwater level changes are about 5 feet lower than the OWRD proposal in Silver Creek, and about 9 feet lower in Northeast Crane.

494

01:04:02.410 --> 01:04:17.219

Darrick Boschmann (OWRD): So I'll say that these two example plots are consistent with the findings for most of the areas that we look at, and again, you can find all those figures in the evaluation memo in the interest of time today. I won't step through each of those individually here this morning.

495

01:04:18.930 --> 01:04:29.880

Darrick Boschmann (OWRD): So, that covers the water levels, the rates, and the magnitudes, and let's take a look at the related impacts on wells and natural discharge.

496

01:04:31.220 --> 01:04:41.959

Darrick Boschmann (OWRD): The table here summarizes the impacts to domestic wells, springs and streams, and natural evapotranspiration, as modeled in the year 2058.

497

01:04:42.480 --> 01:04:52.760

Darrick Boschmann (OWRD): Values from the historic model in that second column, and the 2058 values from the OWRD proposal are also included for comparison.

498

01:04:52.960 --> 01:04:59.989

Darrick Boschmann (OWRD): And the far right column there is the difference between the petition proposal and the OWRD proposal.



499

01:05:01.200 --> 01:05:08.970

Darrick Boschmann (OWRD): It's important to recognize that under both scenarios, there are impacts to all these aspects of the groundwater flow system.

500

01:05:09.580 --> 01:05:14.799

Darrick Boschmann (OWRD): But as compared to the OWRD proposal, this is, again, the far right column here.

501

01:05:14.930 --> 01:05:25.460

Darrick Boschmann (OWRD): The model results show that the petition proposal results in 25 additional dry wells, 2.4 thousand acre-feet less discharge to springs and streams.

502

01:05:25.570 --> 01:05:30.669

Darrick Boschmann (OWRD): and 6.2 thousand acre-feet less natural ET by 2058.

503

01:05:32.760 --> 01:05:38.300

Darrick Boschmann (OWRD): So, finally, let me just wrap up with a quick summary of the results here.

504

01:05:38.950 --> 01:05:45.450

Darrick Boschmann (OWRD): The petition proposal, as modeled, does represent a 20% reduction from 2018 pumpage.

505

01:05:45.980 --> 01:06:02.130

Darrick Boschmann (OWRD): It results in higher water levels, slower rates of decline, and improved related impacts compared to that full pumpage scenario, as we'd expect. And it does limit median rates of decline to less than 0.1 feet per year in 2058 in all of the areas.

506

01:06:03.060 --> 01:06:13.060

Darrick Boschmann (OWRD): However, it does result in more than 90% of wells continuing to decline across the area, and the petition results in additional modeled impacts to

507

01:06:13.320 --> 01:06:20.330

Darrick Boschmann (OWRD): compared to the OWD proposal in 2058, including deeper groundwater levels, more dry wells.

508

01:06:20.530 --> 01:06:25.410

Darrick Boschmann (OWRD): Less discharge to springs and streams, and less natural ET.

509

01:06:27.590 --> 01:06:43.150

Darrick Boschmann (OWRD): So, that wraps up the key points from the evaluation I wanted to share. I, again, I chose, in the interest of time to just hit the highlights here. I



really appreciate the opportunity to present this work, and at this time, we'd be glad to take any questions.

510

01:06:45.460 --> 01:06:48.370

Vice-Chair Smitherman: Do we have any questions from commissioners right now?

511

01:06:53.550 --> 01:06:57.109

Vice-Chair Smitherman: Since I can't see you all, go ahead and just speak up.

512

01:06:57.310 --> 01:06:58.820

Commissioner Moll: I've got one chair, swimming.

513

01:06:58.820 --> 01:07:01.199

Vice-Chair Smitherman: Okay, yes, go ahead, Commissioner Maul.

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01:07:01.200 --> 01:07:09.849

Commissioner Moll: Yeah, Derek, thanks for this quick presentation, appreciate it. It was a question I asked in the last meeting as well, and I'm just curious about the sensitivity of the four.

515

01:07:10.250 --> 01:07:14.739

Commissioner Moll: Primary variables that you all set upon, and...

516

01:07:15.100 --> 01:07:30.949

Commissioner Moll: whether one worries you more than another, in terms of, you know, if we got this one wrong, the impacts to the overall conclusions are going to be much more impactful, or if... or was the sensitivity across the four, or however many, I think it was four that they set upon, was kind of similar.

517

01:07:32.490 --> 01:07:49.240

Darrick Boschmann (OWRD): Yeah, Vice Chair Smitherman, Commissioner Maul, thank you for the question. I think the four, sensitivity knobs that you're referring to are, kind of the number and size of the sub-areas, the success metrics, so do we look at the median value in a subarea?

518

01:07:49.300 --> 01:07:59.619

Darrick Boschmann (OWRD): or something more like the 80th percentile. The timelines, for success, so what is that full window of time, and then the timeline for phasing in.

519

01:07:59.980 --> 01:08:06.930

Darrick Boschmann (OWRD): And they all have impacts as we... as we turn those knobs. I think probably the most...

520

01:08:07.130 --> 01:08:17.880



Darrick Boschmann (OWRD): important one, the one that changes what the ultimate PTW is the most is that... is that success metric. So, do we look at 50% of the wealth? Do we require 50% of the wealth?

521

01:08:18.020 --> 01:08:30.679

Darrick Boschmann (OWRD): to achieve stability, or do we look at 80% of the wells and require that? And that really makes a substantial difference on what the overall allowable pumpage is to, to, to still maintain stability.

522

01:08:34.040 --> 01:08:35.109

Commissioner Moll: Great, thank you.

523

01:08:38.140 --> 01:08:41.460

Vice-Chair Smitherman: Any other commissioners have a question at this time?

524

01:08:44.560 --> 01:08:53.430

Commissioner Moll: Julie, I had a couple questions, actually, to the previous presenters, if it's appropriate to do them now, or if you would prefer that we wait until after public comment.

525

01:08:53.439 --> 01:09:09.839

Vice-Chair Smitherman: Well, actually, if you wouldn't mind, I was going to, talk with the petitioners, in the interest of being equitable here with time. I understand that you have more to your presentation. I would like to change up the agenda.

526

01:09:09.839 --> 01:09:23.409

Vice-Chair Smitherman: Ever so slightly to allow you to have more time to finish your presentation if you would like. Otherwise, you can have your, more comments during the comment, public comment period. It's up to you how you'd like to proceed.

527

01:09:24.510 --> 01:09:35.099

City of Hines: Well, thank you, Vice Chair Smitherman. One, we do not want to limit the ability for our communities that it's assembled in two different rooms to provide public comment, so I wonder... I would be...

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01:09:35.100 --> 01:09:49.509

Vice-Chair Smitherman: I would... I would be, taking time away from this first public comment period, and then, shortening our break to 5 minutes, so not to eliminate time from your community to speak. So, if you would like to continue, you're more than welcome to.

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01:09:49.760 --> 01:09:56.709

City of Hines: What I'd do at the limited time we have, Vice Chair Smithlin, is allow the Commissioners to please ask us questions, and we can have a conversation.



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01:09:57.110 --> 01:10:04.060

Vice-Chair Smitherman: Okay, we can do that too. So, go ahead, Commissioner Maul, with your question for our panel of petitioners.

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01:10:04.570 --> 01:10:13.550

Commissioner Moll: Thank you, Chair. Just to... one, back to Nick, just some clarification. Is Nick still on? I know Nick's remote.

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01:10:13.550 --> 01:10:14.020

Nicholas Green: Yeah.

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01:10:14.020 --> 01:10:19.729

Commissioner Moll: Okay, yeah, thanks, Nick. I think I heard you say that the goal for,

534  
01:10:20.190 --> 01:10:33.610

Commissioner Moll: the city there, the cities combined, is... did I hear you say 10 years? You felt like there was a 10-year window where the population could return to what it was in the 90s, or did I miss a decade or three?

535

01:10:33.610 --> 01:10:44.499

Nicholas Green: No. Over the next 10 to 15 years, our aim with these master-planned housing developments is to get the city's population back to where it departed.

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01:10:44.910 --> 01:10:47.099

Nicholas Green: Due to the loss of timber.

537

01:10:47.370 --> 01:11:00.870

Nicholas Green: And it will probably take another 10 to 15 years beyond that, to reach what would have otherwise been the population of Burns and Heinz had we not lost their economic base.

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01:11:01.200 --> 01:11:12.619

Commissioner Moll: That's exciting. I'm assuming that you're not relying on some sort of massive change in greater productivity in the agricultural sector, that you're looking at some other sources of growth. Is that a fair assumption?

539

01:11:12.620 --> 01:11:20.399

Nicholas Green: That's an absolutely fair assumption. Active retirees and digital commuters will make up the majority of that growth.

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01:11:20.780 --> 01:11:27.920

Nicholas Green: We see this region as a pressure relief valve for Boise Metro and

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01:11:28.210 --> 01:11:36.580

Nicholas Green: Bend Metro. Our target housing is mid-\$300 thousands for 1,200 to 1,500 square foot homes.

542

01:11:37.140 --> 01:11:41.970

Nicholas Green: Those are almost unobtainium in the major metro areas. You can't find them.

543

01:11:41.970 --> 01:11:54.969

Commissioner Moll: Yeah, I know, and I'm not sure if I wish... I'm not sure if I wish all of that kind of change on those communities, but I do think that that's a reasonable and progressive approach to things. Thank you, that's very helpful.

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01:11:55.150 --> 01:12:10.459

Commissioner Moll: And then my second question, back to Christopher Hicks, Mr. Hicks, thank you for taking the time. I really am very glad to hear the Burns Paiute, voice in this communication, just in this whole setting.

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01:12:10.570 --> 01:12:29.800

Commissioner Moll: I got a little behind the curve. You mentioned 7, points or tenants, and I can't... I couldn't understand if that was something that was buried within the petition, or there's additional, comment that we're going to be receiving that... that, lines those out.

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01:12:31.190 --> 01:12:42.989

City of Hines: Yeah, they've, the state had received those, I sent those to Jetson, the attorney, Ivins had those, we had the conversation, but just to give you the background, the proposed rule languages.

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01:12:43.120 --> 01:12:57.820

City of Hines: Points 1 through 7 for 695-12 birds to Bird Supply Tribe, Army Bays, and coral stewardship. Number 1, protection of tribal lands. Nothing in these rules nor their implementation shall be...

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01:12:58.160 --> 01:13:11.649

City of Hines: interpreted to impair curtail condition meter, require reporting, or otherwise limit any water right of the Burns Pine Tribe. This protection applies to all Federal Reserve, Aboriginal.

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01:13:11.650 --> 01:13:18.900

City of Hines: keyword, Aboriginal, and state-recognized rights, including but not limited to, certificate

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01:13:18.990 --> 01:13:34.900



City of Hines: 20245, 1940, quasi-municipal, 112.2 acres, T10, 100, Certificate 20, 244, 1947, our irrigation right. Permit G16405, another irrigation right.

551

01:13:34.920 --> 01:13:48.110

City of Hines: And the thing about those rights is that the state could not have given those rights. We're glad that you acknowledged them, though, because the state cannot give another government, rights. You couldn't give tribe rights.

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01:13:48.110 --> 01:13:55.660

City of Hines: did acknowledge that, and we do appreciate that. Non-application of Division 512 CGWA

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01:13:55.830 --> 01:14:14.109

City of Hines: Is the number 2 point. Division by 12 rules in any critical groundwater area. CGWA process shall not apply to birds prior to tribe rights or to waters on tribal lands in any Harney Basin sub-area, including Weaver Springs, Northeast Crane, Silkins.

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01:14:14.240 --> 01:14:21.270

City of Hines: In Sylvie's Creek and the blitzing voltage, without the expressed written consent of the Burns Paiute Tribe.

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01:14:21.520 --> 01:14:31.399

City of Hines: Monitoring, metering, and access. No monitoring, metering, installation, reporting, inspection, or access obligations shall be imposed on chartered lands.

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01:14:31.880 --> 01:14:43.230

City of Hines: tribal systems or tribal rights without express written consent of the Burns-Playing tribe. Consent may be conditioned and may be revoked by the tribe at any time.

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01:14:43.230 --> 01:14:52.629

City of Hines: So right now, the language you guys sent back excludes that language, for some reason. When we asked about that in our meeting, it was a personal thing.

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01:14:52.650 --> 01:14:58.230

City of Hines: There's no reason that you guys excluded that language, and it was said in the recorded meeting that

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01:14:58.910 --> 01:15:17.629

City of Hines: there's no real reason that you excluded the non-waiver language, that you excluded the monitoring, you excluded these things. Number four, non-waver, sovereign immunity, preserve, nothing in these rules, nor any tribal participation in programs, agreements, or forums shall be

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01:15:17.630 --> 01:15:31.790



City of Hines: Construed as a waiver of the Burns-Bay tribe's sovereign immunity. B, consent to state or agency jurisdiction, C, a concession regarding to existence, scope, seniority, quantification, or exercise of tribal water rights.

561

01:15:31.790 --> 01:15:48.510

City of Hines: Evident abandonment, or forfeiture, or subordination, state law priority. Number 5, co-stewardship. This is a big one. Co-stewardship commitment. Within 12 months of rule adoption, we're not asking for it today or tomorrow, we're saying within 12 months, we start the process.

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01:15:48.560 --> 01:16:04.610

City of Hines: As it's been said around the room, sat around all the stakeholders, time is what we need. This gives us the time we need. OWRD shall initiate a co-stewardship process that burdens by the tribe and Bays of stakeholders to support collaborative management of Harney Bay's new water resources.

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01:16:04.610 --> 01:16:17.749

City of Hines: The structure and authority of this framework shall be developed jointly with noble presumption of tribal waiver or subordination. And number 6, no adverse interfere... no adverse interference

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01:16:18.140 --> 01:16:30.360

City of Hines: Volunteering conservation actions, data sharing, or pilot projects, or participation by the tribal... by the tribe shall not be used to argue waiver diminution, or quantification

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01:16:30.360 --> 01:16:50.630

City of Hines: or subordination of tribal rights. And number seven, severability in construction. If any provision of this section is held valid, the remainder shall remain in effect. In the event of conflict between a section of the rule text, the section controls the language reflects the minimum protections required to align division byfall with federal law.

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01:16:50.630 --> 01:16:57.289

City of Hines: Avoid jurisdictional conflicts, and ensure a sustainable collaborative approach to basin water management.

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01:16:57.670 --> 01:16:59.460

City of Hines: Does that answer your question?

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01:17:01.490 --> 01:17:06.410

Commissioner Moll: More than that, I appreciate it, but I'm sure we'll get a chance to look at those directly. Again, greatly appreciate it.

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01:17:06.850 --> 01:17:07.539

Commissioner Moll: Especially the...

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01:17:07.540 --> 01:17:08.460

City of Hines: It's just the sun push.

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01:17:08.460 --> 01:17:09.460

Commissioner Moll: Stewardship.

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01:17:10.340 --> 01:17:23.240

City of Hines: Yeah, I have a comment. So, you guys, I'm looking at all this modeling, and this... and all these... and all of this stuff going on that, you know, you guys just gave your presentation, and it was an equitable presentation, but I kind of feel like we're back in,

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01:17:23.360 --> 01:17:31.349

City of Hines: You know, we're back in 1933, when, you know, the tribe would get 5 minutes of room and whatever, it would get made, and it was just a checkbox.

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01:17:31.350 --> 01:17:43.119

City of Hines: You know, and that's kind of a putback, the same scenario, but this time we're with people who care within the basin, and with the community, and we're all trying to give you that time, so you can really make a good decision.

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01:17:43.120 --> 01:17:58.529

City of Hines: Because that's what should be being heard, is like, everybody's getting their equitable time, is what's needed. And then, to make a good, informed decision, it should be, we're so set on this or that, you guys should be non-biased, you should be neutral, we should be looking at the best interests of the communities.

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01:17:58.710 --> 01:18:05.429

City of Hines: So, I just want to make it clear that, models, pumps, and all the stuff they're putting out there does not change jurisdiction.

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01:18:05.460 --> 01:18:24.610

City of Hines: You know, the stuff that you put out still cannot apply to these pumpage restrictions on tribal lands or rights without consent. Model inputs are policy choices, they're not facts. You know, every model depends on assumptions, and this one's based on state policy priorities. So...

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01:18:24.950 --> 01:18:41.269

City of Hines: The petition's approach is still legally superior. The alternate rulemaking proposes targeted reductions where they're scientifically necessary, weaver springs and the crane, while respecting the property rights and sovereignty. So the targeted approach induces litigation risk and builds lasting partnership.



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01:18:41.270 --> 01:18:44.990

City of Hines: And that's something OWRD's blatant model cannot achieve.

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01:18:45.050 --> 01:19:02.239

City of Hines: And the code of stewardship strengthens and not weakens the outcome. So a state-run modeling assumes a unilateral control. What Bayesian-wide recovery depends on collaboration. And that means private leadership, local governments, and the stakeholders must be part of the planning, implementation, and the monitoring.

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01:19:02.440 --> 01:19:13.300

City of Hines: So I'm going to close it off here for myself. You know, we appreciate the modeling work, but models are tools, and they're not law. They do not override sovereignty or consent. A model base

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01:19:13.450 --> 01:19:18.240

City of Hines: On state-only jurisdiction, we'll always show state-only solutions.

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01:19:18.240 --> 01:19:33.709

City of Hines: by the water management in the Hardy Basin, it requires code stewardship, not unilateral regulation. So we support targeted science-based reductions, but we will not support any model or rule that assumes authority over tribal water without our consent.

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01:19:33.710 --> 01:19:35.460

City of Hines: And the petition approached.

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01:19:35.700 --> 01:19:43.289

City of Hines: still achieves reductions, but it does so collaboratively, legally, and sustainably. So the bottom line is.

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01:19:43.370 --> 01:20:02.150

City of Hines: OWRD is trying to reclaim ground by arguing that their model is more effective, but that's the technical framing of the legal and political problem. It doesn't diminish our sovereignty, and it doesn't validate the alternative proposal, which remains the more legitimate, more defensible, more collaborative outcome. Thank you.

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01:20:02.700 --> 01:20:11.500

Vice-Chair Smitherman: Thank you. We do appreciate you being here, and we appreciate your comments. We do have another question from Commissioner Newman. Go ahead.

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01:20:14.700 --> 01:20:18.860

Commissioner Neuman: Thank you, Vice Chair, Commissioner Smitherman.

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01:20:18.970 --> 01:20:33.680

Commissioner Neuman: First of all, I just wanted to thank the panelists and the department for really focusing in on the issues, making the comments very pertinent to the model

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01:20:33.720 --> 01:20:57.930

Commissioner Neuman: the science, the impacts, and so forth. It feels like, you know, it's not just, we don't like this. It's like, this is why we don't like this, and I really appreciate the depth and the clarity, the panelists' comments, and I appreciate the response of staff as well. There's... I may be just not tracking the staff memo completely, but...

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01:20:58.210 --> 01:21:04.349

Commissioner Neuman: I wanted to just check, I believe that, Derek said.

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01:21:04.700 --> 01:21:14.060

Commissioner Neuman: That he agreed, or that the model agreed that there is less than 1 foot decline...

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01:21:14.340 --> 01:21:26.620

Commissioner Neuman: Over time, and yet that doesn't seem to be what is reflected in the bar charts, or the line charts, and I just wanted clarification on...

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01:21:27.820 --> 01:21:29.160

Commissioner Neuman: How that works.

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01:21:33.020 --> 01:21:39.599

Darrick Boschmann (OWRD): Yes, Commissioner Newman, thank you for the question. Again, Dark Boschman, hydrogeologist, in the groundwater section.

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01:21:39.860 --> 01:21:51.090

Darrick Boschmann (OWRD): I'm not sure if you're referring to the... to the rates of the decline that I discussed, or to the... to the magnitudes. Can you clarify, which one to... you're referring to?

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01:21:51.090 --> 01:22:04.850

Commissioner Neuman: I think that's my question. Is there agreement between your review and the petitioner's on the rate, but disagreement on the volume?

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01:22:04.890 --> 01:22:11.200

Commissioner Neuman: I mean, that's what it looks like if I'm, you know, quickly reading the charts, but I could be reading them completely wrong.

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01:22:11.490 --> 01:22:29.100



Darrick Boschmann (OWRD): I don't think there's disagreement. I think what our data shows, what the modeling shows, is that there's less than 0.1 feet per year decline in most areas. That's in the median rates of decline in these sub-areas in the year 2058.

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01:22:29.290 --> 01:22:35.379

Darrick Boschmann (OWRD): And I believe that's what the petition states as well. So I don't think there's disagreement there.

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01:22:35.900 --> 01:22:36.840

City of Hines: I would... Okay.

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01:22:37.290 --> 01:22:38.310

Commissioner Neuman: Thank you.

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01:22:42.890 --> 01:22:54.980

Vice-Chair Smitherman: Okay, thank you for those questions and comments. I think we can move on to our first public comment period. Commissioner Newman, if... yes, thank you. She got her hand.

604

01:22:54.980 --> 01:22:55.700

City of Hines: Nope.

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01:22:56.180 --> 01:23:00.859

Vice-Chair Smitherman: Okay, so let's... let's go ahead and move forward. For the sake.

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01:23:00.860 --> 01:23:01.220

City of Hines: Come on.

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01:23:01.220 --> 01:23:01.670

Vice-Chair Smitherman: time limit.

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01:23:01.670 --> 01:23:09.630

City of Hines: Can you do this, Vice Chair? Sorry, we were muted when we were trying to finish the conversation with Commissioner Newman.

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01:23:09.640 --> 01:23:10.760

Vice-Chair Smitherman: Oh, yeah.

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01:23:10.760 --> 01:23:12.289

City of Hines: I'm sorry, the time's over.

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01:23:12.290 --> 01:23:16.329

Vice-Chair Smitherman: Not a problem. I'll let you go ahead and finish those comments. Go ahead.



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01:23:16.330 --> 01:23:24.220

City of Hines: Okay, so we have one from Commissioner Frank, and then one from former Commissioner Shellman, and then we will wrap up, so... Okay.

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01:23:24.330 --> 01:23:43.770

City of Hines: One slide that I think is really important to highlight, and you guys should have access to, but I think we need to speak to it anyway. The petition meets the substantive goals of the Department and the Commission. It protects existing water rights, it maintains adequate and safe supplies of groundwater assured while conserving maximum supplies of groundwater for other beneficial uses.

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01:23:44.080 --> 01:23:54.059

City of Hines: It recognizes the different location, extent, capacity, and quality, and other characteristics of groundwater resources. It maintains reasonably stable groundwater levels.

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01:23:54.470 --> 01:24:14.109

City of Hines: It halts excessive declines, there are actions to prevent depletion of groundwater supplies below economic levels and wasteful practices, and voluntary joint action between groundwater users and the Commission to prevent or address impairments. And I think those points are very important, that we accomplish all those goals. And one more time, real quick.

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01:24:14.110 --> 01:24:28.750

City of Hines: Just because I don't know if we'll get a chance to speak again, I wanted to recognize that I appreciate the commitment and the work that the Commission does, that they are an appointed body to represent all of the state of Oregon, and that they direct the state agency, the Water Resource Department.

617

01:24:28.980 --> 01:24:32.000

City of Hines: This panel of petitioners

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01:24:32.000 --> 01:24:41.930

City of Hines: does not represent the special interest, but rather represents the entire community, and when I find that there is a certain chunk of public comment set aside for special interest groups.

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01:24:41.930 --> 01:24:57.789

City of Hines: I find it unacceptable, and I just wanted to air my grievance about that. I feel like, as a group of petitioners, we definitely have a vested stake in this, and any other public comment should be entered as general public comment. Thank you so much for your time.

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01:24:58.280 --> 01:25:05.250

City of Hines: And then, if you wouldn't mind, I'll have former Commissioner Shellman wrap us up, and I will be quiet. Vice Chairman.

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01:25:05.250 --> 01:25:08.959

Vice-Chair Smitherman: yes, go ahead. Thank you.

622

01:25:09.120 --> 01:25:28.809

Kristen Shelman: Commissioners, I sure appreciate the time you've taken today to be able to listen to us as petitioners. I was a commissioner that was heavily involved during this time, and you know, it was a very strenuous process on this community. It was a very strenuous process.

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01:25:29.470 --> 01:25:32.379

Kristen Shelman: On this economy into the future.

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01:25:33.030 --> 01:25:41.969

Kristen Shelman: This is something of the magnitude that Rep Owens talked about that you will never see again. The decisions that are made

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01:25:42.270 --> 01:25:46.240

Kristen Shelman: Because we are bringing forth this petition at this time.

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01:25:46.350 --> 01:25:50.170

Kristen Shelman: Can have a positive impact down the road.

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01:25:50.600 --> 01:25:59.329

Kristen Shelman: If the Division 512 rules are left as standing, there's so much that is left out that the petition does try to address.

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01:25:59.950 --> 01:26:13.639

Kristen Shelman: there are a few points that I just have to reiterate, that I have reiterated for years now in this process, that I would really appreciate the commissioners listening to one more time.

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01:26:13.990 --> 01:26:19.210

Kristen Shelman: the domestic well issue. It has been a very ongoing issue.

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01:26:19.380 --> 01:26:23.560

Kristen Shelman: When you run the numbers that were presented today by the staff.

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01:26:23.670 --> 01:26:27.820

Kristen Shelman: There's 25 domestic wells that are potentially harmed.

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01:26:28.390 --> 01:26:38.050

Kristen Shelman: There, in the meetings, are other partners that are willing to come alongside this community and help address those issues.

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01:26:38.150 --> 01:26:50.270

Kristen Shelman: The department doesn't have the capacity, nor the role, to do so, but there are other partners to help us address domestic well issues, and creatively.

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01:26:50.410 --> 01:26:58.689

Kristen Shelman: there are other communities that have faced domestic well issues. I feel like this commission... this community

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01:26:58.840 --> 01:27:06.480

Kristen Shelman: Has exasperated that and made it a point of contention instead of a point of solution.

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01:27:06.660 --> 01:27:24.480

Kristen Shelman: I believe that through this petition, we could be allowed time to work with other partners to address the domestic well issues and have a positive outcome. There are water quality issues with domestic wells in this community that can also be solved

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01:27:24.660 --> 01:27:35.479

Kristen Shelman: Have we... if we are allowed time to work with other partners to come alongside domestic well issues? Stockwells are no different. Stockwells have issues

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01:27:35.480 --> 01:27:48.649

Kristen Shelman: that need help, that need ODA and other agencies to come alongside us to make sure that the cattle industry in this process is able to continue to be a viable player in this region.

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01:27:48.700 --> 01:28:00.230

Kristen Shelman: It is an economic driver of significance to this nation, as well as this... this world, that this county alone plays a very large role in.

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01:28:01.360 --> 01:28:07.050

Kristen Shelman: The, the electric grid Harm that will come.

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01:28:07.500 --> 01:28:13.549

Kristen Shelman: If we are not allowed time to work through wells being shut down.

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01:28:13.810 --> 01:28:17.239

Kristen Shelman: I know many of you as commissioners do not realize

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01:28:17.640 --> 01:28:21.789

Kristen Shelman: That we have a very small co-op.

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01:28:22.200 --> 01:28:26.879

Kristen Shelman: That provides most of the power to the irrigation wells.

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01:28:26.990 --> 01:28:32.810

Kristen Shelman: Those irrigation wells subsidize our domestic wells in this community.

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01:28:32.890 --> 01:28:50.099

Kristen Shelman: The cost of power will go through the roof, and it won't matter if you have a domestic well or not, you won't be able to afford the power to that domestic well if the electric grid issues are not solved alongside of regulation and voluntary agreements.

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01:28:50.100 --> 01:28:53.540

Kristen Shelman: There are so many more factors that...

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01:28:53.710 --> 01:29:03.879

Kristen Shelman: are outside of the role of... as you as commissioners, will need to make sure that you're taking into consideration as you make these decisions.

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01:29:04.090 --> 01:29:08.669

Kristen Shelman: We have to have time to have a collaborative effort, as we've asked.

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01:29:08.980 --> 01:29:13.319

Kristen Shelman: To be able to come alongside this commission.

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01:29:13.320 --> 01:29:31.300

Kristen Shelman: and make the correct decisions so that we have solutions for our problems that will be created as we address this. But the things that aren't talked about are the fact that there is positive recharge that will occur as upland management occurs.

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01:29:31.720 --> 01:29:42.850

Kristen Shelman: There is still ongoing geological studies in this area about... about what is going on under the ground geology... in the geology of this basin.

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01:29:42.850 --> 01:29:58.860

Kristen Shelman: You have local universities that are coming out doing mapping efforts currently that we can learn from the data that they're providing that will dictate where water flows and where water recharge comes into the space, and that aren't currently known factors today.

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01:29:59.080 --> 01:30:05.530



Kristen Shelman: So I just... I asked this commission to make sure that we are holistically looking at Harney County.

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01:30:06.980 --> 01:30:15.189

Kristen Shelman: We have to have time to have other partners come alongside, other agencies that are beyond OWRD come alongside us.

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01:30:15.440 --> 01:30:27.549

Kristen Shelman: and really have a opportunity to have a sustainable future for this community. I really appreciate your time today, and I appreciate the work of all the petitioners that have spoke today.

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01:30:27.770 --> 01:30:33.809

Vice-Chair Smitherman: Thank you, Kristen. Appreciate your comments. Thank you for being here to share with us today.

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01:30:33.810 --> 01:30:50.469

Vice-Chair Smitherman: We do need to get moving on. I'm gonna start with our public comment period. I know someone, the first person up is going to be Millen Bowen. I believe they have something to get to, so we will start with them. Go ahead, Millen, if you are online, you can feel free to speak.

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01:30:51.550 --> 01:31:02.010

Vice-Chair Smitherman: Additionally, in this section of public comment, if we can try to keep comments to around 3 minutes, that would help us move this along in a timely manner. Thank you.

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01:31:03.700 --> 01:31:06.210

Milen Bowen: Are you ready?

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01:31:06.720 --> 01:31:08.330

Vice-Chair Smitherman: We're ready. Go ahead, Millen.

662

01:31:08.330 --> 01:31:13.430

Milen Bowen: Alright, my name is Mylan Bowen, I'm 16 years old, and I live on my family's farm.

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01:31:13.620 --> 01:31:21.040

Milen Bowen: Between Crane and Princeton, right near Windy Point. I have a twin sister, an older sister about to graduate from Crane, and two younger siblings.

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01:31:21.420 --> 01:31:28.679

Milen Bowen: that we adopted out of foster care a couple years ago. I've lived on our farm my whole life, and I've spent most of my childhood



665

01:31:28.820 --> 01:31:34.319

Milen Bowen: And any free time I have working to improve our land, I've spent many days walking in front of a loader.

666

01:31:34.780 --> 01:31:41.670

Milen Bowen: Picking up rocks and chucking them into the bucket. I've worked on up every acre we own, I've changed hand lines, wheel lines.

667

01:31:41.880 --> 01:31:46.239

Milen Bowen: Check pivots, trap gophers, maintain equipment, and put countless tons of

668

01:31:46.920 --> 01:31:49.080

Milen Bowen: And put up countless tons of hay.

669

01:31:49.540 --> 01:31:55.539

Milen Bowen: It's not uncommon for my siblings and I to bail all night, and then go straight to football or volleyball practice, get home.

670

01:31:55.650 --> 01:31:59.049

Milen Bowen: And do some more work, and try to catch a bit of sleep.

671

01:32:00.890 --> 01:32:09.660

Milen Bowen: I've spent many hours debating with my dad and grandpa the best way we should go about doing something. My opinion is always noted, but not usually the route we go.

672

01:32:10.370 --> 01:32:23.970

Milen Bowen: All I ever wanted was to be a farmer on this land. It was my parents... or it was what my parents were preparing me for by encouraging me to love John Deere's and letting me be a part of all the dinner table conversations about the future.

673

01:32:24.850 --> 01:32:31.210

Milen Bowen: My parents came here the same year I was born, and used legally obtained water rights to make a life for our family and for me.

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01:32:31.470 --> 01:32:39.680

Milen Bowen: They were very careful to find a place that had stable groundwater, as issues in our other... or in other areas of the county, like Weaver Springs, were well known.

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01:32:40.110 --> 01:32:47.929

Milen Bowen: They were not willing to take water-related risks. They legally obtained their water rights and made investments in our property and in the community.

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01:32:48.500 --> 01:32:58.570

Milen Bowen: Now, at the dinner table, all we talk about is water, and how the loans we have taken out to buy our land and equipment depend upon being able to produce every single acre that we have water-ided.

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01:32:59.000 --> 01:33:06.960

Milen Bowen: My parents didn't come for money, and now the reliance on the management of the state has crippled them from continuing to invest in the land they love.

678

01:33:07.250 --> 01:33:12.129

Milen Bowen: At desperate times, my parents have talked about maybe giving up and trying to find a different way forward.

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01:33:12.240 --> 01:33:15.910

Milen Bowen: But me and my siblings have begged them to trust God and prayerfully remain.

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01:33:16.400 --> 01:33:17.470

Milen Bowen: Faithful.

681

01:33:17.590 --> 01:33:26.520

Milen Bowen: That here's where we're supposed to be. Our community is so important to us, and the people we have grown up with. We provide a practical product, and our lifestyle is simple and good.

682

01:33:26.990 --> 01:33:33.819

Milen Bowen: The proposed regulation of our area's reasonable, stable groundwater means that we may lose our junior water rights, which are legally obtained.

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01:33:33.930 --> 01:33:39.929

Milen Bowen: The past 16 years have been spent growing the farm just big enough to sustain a family of 7 and my grandma.

684

01:33:40.550 --> 01:33:51.220

Milen Bowen: The reason I'm speaking to you today is I want to stick around and make a living doing this work because it is good and it is what I love to do. I want to be a part of a thriving rural community

685

01:33:51.470 --> 01:33:58.710

Milen Bowen: And I want to take after my dad, who is a good man, and has no intention of sucking every last drop of water out of the ground so he can buy a new car.

686

01:33:59.290 --> 01:34:05.389



Milen Bowen: We drive a 13-year-old vehicle with over 200,000 miles and pour every extra dollar back into the land.

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01:34:05.910 --> 01:34:07.730

Milen Bowen: And just a simple life that I want.

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01:34:07.910 --> 01:34:14.610

Mindy Lane: Mylan, I must, interrupt you here. I'm so sorry, you've reached 3 minutes. I asked to spend the next 10 to 15 seconds wrapping up. Thank you.

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01:34:16.100 --> 01:34:17.710

Mindy Lane: You'll need to unmute yourself.

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01:34:21.210 --> 01:34:23.379

Milen Bowen: Yeah. So,

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01:34:23.770 --> 01:34:37.619

Milen Bowen: I just want to ask the commissioners to seriously consider their duty to consider voluntary agreements to better understand the groundwater reservoirs associated with the subareas before lumping. The Windy Point users in with Northeast Crane, because I think that

692

01:34:37.740 --> 01:34:41.390

Milen Bowen: The decline in our area is less than in other areas.

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01:34:42.440 --> 01:34:53.560

Vice-Chair Smitherman: Thank you, Milan. We so appreciate you coming and speaking in front of us today. I know that it can be a lot to do that, but we appreciate you being here and taking the time to speak with us.

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01:34:55.090 --> 01:35:00.030

Vice-Chair Smitherman: Director Gall, did you want to say, a clarifying word?

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01:35:01.290 --> 01:35:10.160

Ivan Gall: Vice Chair, Smetherman, members of the Commission, thanks. I may have misspoken earlier, with regard to Commissioner Frank's comment.

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01:35:10.310 --> 01:35:16.190

Ivan Gall: We no longer use the word stakeholder. We're trying to avoid that.

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01:35:16.310 --> 01:35:28.619

Ivan Gall: That has been our traditional word when we have stakeholder groups out there, so we've transitioned to using the term water partner. This is somewhat confusing. There's a group of



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01:35:29.050 --> 01:35:34.500

Ivan Gall: conservation groups here in Oregon, the Oregon Water Partnership.

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01:35:34.690 --> 01:35:46.839

Ivan Gall: So I just wanted to distinguish that we've set aside a specific public comment period of time for our water partners, generic, most of whom served out here on the rack.

01:35:47.410 --> 01:35:48.740

Ivan Gall: That's it. Thanks, Commissioner.

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01:35:48.740 --> 01:36:03.739

Vice-Chair Smitherman: Thank you, Director Gall, that was good, clarification. So we'll keep moving forward. First up on, the next, commenting period is, Lisa Brown. Lisa, with Water Watch of Oregon. Go ahead, Lisa.

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01:36:03.890 --> 01:36:07.910

Lisa Brown: Hi, actually, actually, Zach Freed will be going first.

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01:36:07.910 --> 01:36:10.369

Vice-Chair Smitherman: Okay, alright, Zach, take it away.

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01:36:13.270 --> 01:36:30.609

Zach Freed: Thank you, appreciate that. Good morning, Vice Chair Smitherman, members of the Commission. I'm Zach Freed, and I'm a hydrologist with the Nature Conservancy, where I lead the Nature Conservancy's Sustainable Water Program. I also serve as the co-chair of Oregon's Groundwater Advisory Committee.

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01:36:30.660 --> 01:36:41.679

Zach Freed: I wanted to mention that the Nature Conservancy has also submitted written comments on the petition for rulemaking. I hope you get the chance to review those as well. Thank you for the opportunity to talk this morning.

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01:36:42.130 --> 01:36:55.849

Zach Freed: I wanted to say that my organization has a history of working collaboratively with members of the Harney Basin community. We helped secure more than \$60 million through a voluntary groundwater Conservation Reserve Enhancement Program, or CREP.

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01:36:55.900 --> 01:37:06.469

Zach Freed: We've advocated strongly in multiple legislative sessions for domestic well remediation funds, including the Well Abandonment Repair and Replacement Fund mentioned earlier.

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01:37:06.470 --> 01:37:17.939



Zach Freed: The Nature Conservancy also helped develop the groundwater portion of the community-based water plan that the Commission just unanimously approved during their last meeting, so thank you again for that approval.

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01:37:18.110 --> 01:37:28.359

Zach Freed: All that to say, myself and my organization, we support voluntary, collaborative approaches when they contribute to the long-term sustainability of the basin.

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01:37:28.910 --> 01:37:45.660

Zach Freed: I really urge the Commission to consider the best available evidence related to this petition. You heard a little snippet of the technical evaluation from DARIC earlier. I encourage you to read the entire technical evaluation memo. As you heard from DARIC, the technical evaluation

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01:37:45.740 --> 01:37:51.040

Zach Freed: Under optimistic, assumptions about the proposed scenario.

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01:37:51.210 --> 01:38:00.800

Zach Freed: Suggests that more than 90% of all wells in the basin will continue to have chronic declines by 2058 under the proposed petition scenario.

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01:38:01.290 --> 01:38:08.759

Zach Freed: Flipping that around, that means that fewer than 10% of wells in the basin would achieve durable stability by 2058.

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01:38:09.510 --> 01:38:26.189

Zach Freed: That model scenario was optimistic for two reasons. First off, it assumes that all voluntary actions are fully successful in the three sub-areas that, suggest voluntary actions. It also, this scenario, assumes that future recharge

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01:38:26.190 --> 01:38:31.009

Zach Freed: Future climate conditions, that they stay the same through the end of the century.

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01:38:31.040 --> 01:38:36.250

Zach Freed: So the model scenario assumes that climate conditions stay the same as they were in 2018.

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01:38:36.480 --> 01:38:47.470

Zach Freed: Darik talked a little bit about magnitude of declines. I wanted to mention that that is a median rate of change that you see in the technical evaluation. That's a permissive metric.

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01:38:47.680 --> 01:38:54.540

Zach Freed: If you see a median decline rate, keep in mind that half of all wells in that large subarea are declining faster.

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01:38:54.540 --> 01:39:09.670

Zach Freed: than whatever that median rate is. And the petition evaluation is in contrast to the agency-proposed rules that emerged after more than two years of meetings. The agency-proposed rules suggest that they will achieve durable stability

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01:39:09.670 --> 01:39:12.649

Zach Freed: And more than half of all wells by 2058.

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01:39:13.130 --> 01:39:23.259

Zach Freed: The petition proposes voluntary action in three sub-areas. I was pleased to hear that. I agree with County Commissioner Rob Frank when he said that community-driven solutions are important.

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01:39:23.900 --> 01:39:30.880

Zach Freed: But evidence suggests that those community... those voluntary actions, by themselves, are not enough to stabilize the aquifer.

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01:39:31.380 --> 01:39:46.079

Zach Freed: But the good news is that the agency-proposed Division 512 rules accommodate voluntary actions through an adaptive management framework. If the community is able to come together and successfully develop a voluntary agreement that stabilizes the aquifer.

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01:39:46.310 --> 01:39:57.130

Zach Freed: Within the agency-proposed Division 512 rules, the Adaptive Management Framework would prevent further curtailment. It would say, great, you've done it, no additional regulation is needed.

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01:39:58.000 --> 01:40:11.320

Zach Freed: That gives the Commission the ability to both encourage community-driven solutions, while also implementing a regulatory backdrop that will lead to long-term stability of the aquifer in the Harney Basin.

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01:40:11.630 --> 01:40:18.410

Zach Freed: The agency proposed rules further offer a 30-year glide path until those permissible total withdrawals are fully achieved.

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01:40:18.770 --> 01:40:33.989



Zach Freed: That's a long time for collaborative actions. That's a long time for a responsible economic transition for the community. And it's a long time for continued declines to happen, because those proposed rules only stabilize the aquifer in 2058.

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01:40:34.220 --> 01:40:47.680

Zach Freed: The Nature Conservancy does support some elements of this petition. The Nature Conservancy agrees with the need to partner effectively with the Burns-Paiute Tribe, recognize their sovereignty, and exempt their current water rights from the proposed rules.

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01:40:47.980 --> 01:41:03.410

Zach Freed: We agree with the need to ensure that municipalities have sufficient water for the residents. And we agree with the petitioner's statement that ecologically meaningful springs in the basin should be monitored, and voluntary actions should be taken to address any impacts from pumping.

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01:41:03.750 --> 01:41:15.199

Zach Freed: So, we recommend that the Commission considers incorporating those elements into the... from the petition into the Division 512 agency proposed rules. However, by itself.

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01:41:15.500 --> 01:41:29.179

Zach Freed: The petition appears to be insufficient to achieve long-term stability in the Harney Basin. And further, using that adaptive management framework, the agency-proposed rules can allow voluntary solutions to stabilize the aquifer.

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01:41:29.420 --> 01:41:40.379

Zach Freed: Therefore, the Nature Conservancy is going to continue to support the agency proposed rules, but we look forward to working with members of the community in the Harney Basin towards collaborative solutions.

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01:41:40.530 --> 01:41:44.610

Zach Freed: Thank you for the opportunity to comment. Very happy to answer any questions.

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01:41:46.010 --> 01:41:52.139

Vice-Chair Smitherman: Thank you, Zach. Appreciate your comments. Do we have any... any, questions for Zach?

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01:41:52.950 --> 01:41:59.610

Vice-Chair Smitherman: Commissioners, otherwise we can keep moving forward. Okay, Lisa Brown, would you like to go next?

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01:42:00.120 --> 01:42:19.540



Lisa Brown: Thank you, yes, Vice Chair Smitherman, members of the Commission, Lisa Brown with Water Watch of Oregon, thank you for the opportunity to speak this morning. Due to time limits, I would direct you to my October 1st written comments, and those that I'll file next week, in which I will address some of the representations made by petitioners this morning.

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01:42:20.160 --> 01:42:31.410

Lisa Brown: First, you know, I just... I just want to flag that I find a lot of the process complaints that we're hearing to be confusing and generally inaccurate. You know, the RAC met for 78 hours.

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01:42:31.510 --> 01:42:35.030

Lisa Brown: With 30.5 hours of additional discussion groups.

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01:42:35.210 --> 01:42:48.810

Lisa Brown: And the agency and outside facilitators ran a thorough process where in-depth information was distributed and discussed, everybody could be heard, and WRD made a lot of changes based on RAC discussion.

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01:42:50.070 --> 01:42:58.320

Lisa Brown: And so, I guess for the RAC process, I would recommend reviewing the 512 Rulemaking webpage, where you can

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01:42:58.560 --> 01:43:06.729

Lisa Brown: see the participation of all the RAC members, including the petitioners, and watch 78 hours of RAC meetings if you want.

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01:43:07.010 --> 01:43:17.480

Lisa Brown: And regarding the petition, I think it's important to understand, like, first, it does not require voluntary agreements or any pumping reduction from such agreements.

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01:43:17.570 --> 01:43:28.029

Lisa Brown: For the Sylvie's, Silver, and Donner, or Blitz and Voltage subareas, it only states that the department shall promote and support voluntary agreements.

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01:43:29.320 --> 01:43:36.850

Lisa Brown: And WRD's proposed rules already fully accommodate voluntary agreements, which I think is important.

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01:43:39.130 --> 01:43:49.560

Lisa Brown: And I think that, actually, given the lack of substantive standards in the petition, it would likely result in less use of voluntary agreements than would the proposed rules.

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01:43:50.140 --> 01:44:06.850

Lisa Brown: Secondly, we thank the department for the tech memo. We do want to highlight, relatedly, though, that it underestimates the petition's allowed pumping for silver, silvies, and woods in voltage, because it assumes that 10% pumping reduction that is not required.

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01:44:06.870 --> 01:44:16.890

Lisa Brown: And yet, even so, the memo shows that across most of the basin, the petition would not ever stabilize groundwater levels, and does a poor job of protecting groundwater.

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01:44:17.160 --> 01:44:25.190

Lisa Brown: It would also dry up significantly more domestic wells and cause more harm to groundwater-dependent ecosystems and native vegetation.

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01:44:25.450 --> 01:44:29.330

Lisa Brown: And these... All suffer significant impacts.

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01:44:29.590 --> 01:44:31.299

Lisa Brown: Under the proposed rules.

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01:44:31.570 --> 01:44:34.330

Lisa Brown: But the petition would only make it worse.

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01:44:34.810 --> 01:44:43.079

Lisa Brown: And in closing, I would just note that the memo's full pumpage scenario better illustrates the petition's impact for these three sub-areas.

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01:44:43.700 --> 01:45:02.370

Lisa Brown: Third, regarding the Burns-Payu tribe, while not endorsing the petition's language, I do think exempting those existing water rights could make sense here. Hope you'll work with the tribe. And finally, I want to highlight that OWRD's proposed rules include a number of significant concessions to irrigators.

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01:45:02.690 --> 01:45:13.239

Lisa Brown: Using median well-level trends to determine success instead of more protective metrics, providing the 30-year glide path, adding a one-way adaptive management valve prior to curtailment.

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01:45:14.160 --> 01:45:19.950

Lisa Brown: And to be clear, the concessions led to rules that fall short in important ways.

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01:45:20.080 --> 01:45:31.380



Lisa Brown: We hope that this added process will give the department and commission the opportunity to re-evaluate whether these concessions are appropriate or should be adjusted to better protect the resource.

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01:45:31.670 --> 01:45:35.900

Lisa Brown: And I'll, leave it there. Thank you for considering these comments.

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01:45:36.510 --> 01:45:51.359

Vice-Chair Smitherman: Thank you, Lisa. Thank you for your comments. I think, as far as Commissioner questions, we'll hold off until we get to the Commissioner discussion point, so we can keep moving forward. Next up is Lori O'Connor. Lori, are you with us right now?

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01:45:51.640 --> 01:45:53.210

Vice-Chair Smitherman: Go ahead and...

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01:45:53.210 --> 01:45:53.763

Laurie O'Connor: It is...

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01:45:54.920 --> 01:45:55.980

Vice-Chair Smitherman: Yes.

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01:45:57.940 --> 01:45:58.660

Vice-Chair Smitherman: Welcome, Laura.

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01:45:58.660 --> 01:46:00.549

Laurie O'Connor: I'm having trouble with delegating.

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01:46:01.080 --> 01:46:06.079

Laurie O'Connor: I have trouble with quality of my internet, I'll have to take off the video.

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01:46:06.180 --> 01:46:08.030

Laurie O'Connor: But for now, we'll try this.

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01:46:08.030 --> 01:46:11.180

Vice-Chair Smitherman: That's fine, yes. Thank you. If you need to, take the video off.

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01:46:12.900 --> 01:46:17.020

Laurie O'Connor: Yeah. Thank you, Vice Chair Smitherman and Commissioners.

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01:46:17.380 --> 01:46:21.890

Laurie O'Connor: Thank you to the petitioners that have presented.

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01:46:22.460 --> 01:46:28.759



Laurie O'Connor: Thank you to everyone taking more time to weigh this real critical decision.

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01:46:29.110 --> 01:46:32.360

Laurie O'Connor: I do find it disconcerting.

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01:46:32.640 --> 01:46:40.210

Laurie O'Connor: That many of the petitioners are saying that there has not been ample airwave for them to...

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01:46:41.120 --> 01:46:47.789

Laurie O'Connor: impact this, this, decision. We met as a collaborative. I sat on the collaborative for 6 years.

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01:46:48.120 --> 01:46:51.620

Laurie O'Connor: I did not sit on the rack. That was 2 more years.

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01:46:51.720 --> 01:46:56.490

Laurie O'Connor: I feel that community had a very active role.

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01:46:56.830 --> 01:47:08.090

Laurie O'Connor: in trying to shape the future of our water, and to try to reduce the imminent decline and loss of our water. I am a residential well and a stock well.

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01:47:08.590 --> 01:47:23.389

Laurie O'Connor: owner. We live out here not to make big money. It's a quality of life. Most of the residential well and, you know, the domestic well people don't live out in this area in order to be aggressively

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01:47:23.540 --> 01:47:28.100

Laurie O'Connor: economically oriented. They just want a quality of life.

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01:47:28.630 --> 01:47:46.469

Laurie O'Connor: And this reduction in the water in this community, I find it unfortunate that we're basing our baseline on 2018, because much harm had already been done to most of the domestic and rural wells, especially in our region. I'm in Silver Creek and in Weaver Springs.

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01:47:46.800 --> 01:47:55.190

Laurie O'Connor: But other areas of the county as well, much loss of wells. And that goes all the way back to 30 years before the study started, 25 for sure.

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01:47:56.320 --> 01:48:02.919



Laurie O'Connor: If anything, you know, I found that the RAC determinations were way too conservative.

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01:48:03.420 --> 01:48:10.999

Laurie O'Connor: And most of the other domestic well people that I talk to are just shocked that they're being allowed this long to implement

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01:48:11.250 --> 01:48:14.900

Laurie O'Connor: True savings on our water around us.

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01:48:15.100 --> 01:48:20.159

Laurie O'Connor: My well is certainly one of the suspect wells that will probably dry up.

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01:48:20.450 --> 01:48:32.559

Laurie O'Connor: As far as locals helping domestic well issues, that's ridiculous, unless they get federal or state money to help us. They won't be able to offer anything. I've never had a...

785

01:48:32.980 --> 01:48:33.720

Laurie O'Connor: Welcome.

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01:48:34.040 --> 01:48:37.390

Laurie O'Connor: Nor have any of my neighbors, to my knowledge.

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01:48:37.640 --> 01:48:42.199

Laurie O'Connor: And I've been expressing concern for 11, 12 years.

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01:48:42.450 --> 01:48:47.300

Laurie O'Connor: So, I don't think that's something that will be managed locally. It's a nice...

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01:48:47.720 --> 01:48:56.069

Laurie O'Connor: thought, but I don't see that happening. Local regulation tends not to be conservative when it comes to economic development.

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01:48:56.650 --> 01:49:03.249

Laurie O'Connor: And for some reason, nobody is talking about the economy Of the residential well people.

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01:49:03.720 --> 01:49:06.639

Laurie O'Connor: It's a huge loss if all these people.

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01:49:08.630 --> 01:49:17.660



Laurie O'Connor: If enough rural wells lose their water, I would be... Susan Hines, that could... I didn't know that.

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01:49:18.100 --> 01:49:24.730

Laurie O'Connor: So, if any more change in the regulations, if this petition is seriously considered.

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01:49:24.940 --> 01:49:34.430

Laurie O'Connor: I think that it's unfair that you don't open it up for those of us that felt too much was compromised to inject more restriction.

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01:49:34.710 --> 01:49:36.500

Laurie O'Connor: Timeline should be shortened.

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01:49:36.920 --> 01:49:42.050

Laurie O'Connor: The goal should be improved, I think that

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01:49:42.260 --> 01:49:46.320

Laurie O'Connor: There should be an earlier date used for our baseline.

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01:49:49.170 --> 01:49:52.230

Laurie O'Connor: The auction... rural wells.

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01:49:52.410 --> 01:49:54.149

Laurie O'Connor: So, thank you, Commissioners.

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01:49:55.160 --> 01:49:55.850

Laurie O'Connor: Bye.

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01:49:57.520 --> 01:50:06.150

Laurie O'Connor: A lot of time and effort is gone in coming up with these rules and regulations. I see a lot of flexibility.

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01:50:06.640 --> 01:50:11.669

Laurie O'Connor: Already in those regulations, and an ability to review and adjust.

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01:50:12.140 --> 01:50:17.800

Laurie O'Connor: I think that... It's as good as we're going to get, and if you have to compromise

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01:50:18.190 --> 01:50:30.099

Laurie O'Connor: in favor of agricultural economic needs, then I think we have to open the whole thing up again, because there are other things that people that are not using the water for economic gain



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01:50:30.260 --> 01:50:31.940

Laurie O'Connor: Need to see improved.

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01:50:32.300 --> 01:50:35.079

Laurie O'Connor: Thank you very much for giving me this time.

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01:50:35.600 --> 01:50:42.359

Vice-Chair Smitherman: Thank you. Thank you, Lori. Appreciate your comments and attending today. Next up, we have Christopher Hall.

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01:50:49.800 --> 01:50:53.279

Christopher Hall, Water League: Good morning! While it's still morning.

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01:50:54.180 --> 01:51:06.280

Christopher Hall, Water League: Vice Chair Smitherman and members of the Commission, thank you for this opportunity to provide comments on the petition for rulemaking submitted under ORS 183.390. I am Christopher Hall with Water League.

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01:51:07.330 --> 01:51:19.429

Christopher Hall, Water League: The petition is not a legitimate revision of the existing Division 512 rules, but a reaction against OWRD's current rulemaking to designate a critical groundwater area.

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01:51:19.960 --> 01:51:32.120

Christopher Hall, Water League: The petition arises from irrigators dissatisfied with likely curtailments, who claim that OWRD once promised collaboration, but failed to deliver on that promise.

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01:51:32.710 --> 01:51:42.529

Christopher Hall, Water League: This mischaracterization is important because Division 512 rules have always required a Rules Advisory Committee, not a collaborative body.

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01:51:43.960 --> 01:51:47.410

Christopher Hall, Water League: The petitioners conflate two very different processes.

814

01:51:47.750 --> 01:51:56.669

Christopher Hall, Water League: Place-based water planning is voluntary, locally-led, and consensus-seeking. It builds relationships, but it does not preempt the state's authority.

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01:51:56.950 --> 01:52:11.789

Christopher Hall, Water League: By contrast, Rules Advisory Committees, as defined under ORS 183.333, are advisory only. Their purpose is to ensure public involvement, not co-decision making.



816

01:52:11.970 --&gt; 01:52:16.530

Christopher Hall, Water League: The agency retains final authority to write and adopt rules.

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01:52:16.690 --&gt; 01:52:24.460

Christopher Hall, Water League: While OWRD staff sometimes used the word collaborate informally, this never created a legal standard.

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01:52:25.740 --&gt; 01:52:33.289

Christopher Hall, Water League: The petition grows out of an expectation of those who wanted more power over state rulemaking and didn't get it.

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01:52:34.330 --&gt; 01:52:38.809

Christopher Hall, Water League: The Harney Basin is severely declining single groundwater system.

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01:52:38.930 --&gt; 01:52:47.600

Christopher Hall, Water League: The Administrative Procedures Act is designed to balance meaningful public input with the state's duty to act for greater public interest.

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01:52:47.970 --&gt; 01:53:01.069

Christopher Hall, Water League: The basin is a textbook tragedy of the commons. Each irrigator benefits from continued pumping, but together they imperil the very resource that sustains them, their neighbors, and future residents.

822

01:53:01.400 --&gt; 01:53:11.329

Christopher Hall, Water League: Division 512 rules are a necessary preemptive intervention to halt practices that externalize harm onto ecosystems and communities.

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01:53:12.040 --&gt; 01:53:20.939

Christopher Hall, Water League: The petition emphasizes economic harm to irrigators and local businesses, but the purpose of curtailment is to reduce unsustainable pumping.

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01:53:21.070 --&gt; 01:53:27.759

Christopher Hall, Water League: Stopping harmful irrigation practices is not an incidental side effect. It is the remedy itself.

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01:53:27.920 --&gt; 01:53:41.299

Christopher Hall, Water League: And ORS183.540 requires agencies to consider incidental compliance costs for small businesses, but it does not require agencies to preserve harmful business practices.

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01:53:41.710 --&gt; 01:53:54.369



Christopher Hall, Water League: For 3 years, OWRD has run an open, transparent, and equitable rulemaking process, with a generous 30-year glide path towards stabilization of groundwater level trends of zero decline.

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01:53:54.600 --> 01:54:03.099

Christopher Hall, Water League: The petition seeks to upend that work not because the department failed its obligations, but because some users dislike the outcome.

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01:54:03.590 --> 01:54:16.630

Christopher Hall, Water League: Division 512 rulemaking is not a negotiation with current users. It is the state's obligation to consider input while ultimately deciding in favor of the long-term public and ecological health.

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01:54:17.130 --> 01:54:35.570

Christopher Hall, Water League: In conclusion, we note that Oregon does not revise the Division 512 rules solely to serve industrial-scale water users today. Rather, the state adopts rules for more inclusive and widespread benefits, but seeks advice from those to whom the rules will apply, per the APA.

830

01:54:35.760 --> 01:54:51.110

Christopher Hall, Water League: Notably, there is a difference between seeking the advice of those whom the rules will negatively impact, which the APA governs, and adopting rules that will benefit others who are being harmed, including forthcoming generations and ecosystems.

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01:54:51.370 --> 01:55:10.110

Christopher Hall, Water League: Oregon's Division 512 rulemaking process is not a negotiation with current water users, but a legal and moral obligation to consider their input while ultimately making a decision that serves the broader and long-term public interest. Thank you so much for this opportunity to share the thoughts today.

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01:55:10.190 --> 01:55:12.349

Christopher Hall, Water League: Again, thank you.

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01:55:12.350 --> 01:55:20.180

Vice-Chair Smitherman: Thank you so much, Christopher. Appreciate you being here and taking the time to give us your comments. Next up, we have Caylin Barter.

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01:55:25.640 --> 01:55:27.800

Caylin Barter: Hello, Commissioners, can you hear me, see me?

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01:55:27.800 --> 01:55:29.899

Vice-Chair Smitherman: Yes, we can hear you and see you.

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01:55:29.900 --> 01:55:53.779

Caylin Barter: Excellent. Good morning, Vice Chair Smitherman and members of the Commission. My name is Kaylin Barter, and I'm an attorney with the law firm of Culp & Kelly. I'm here today on behalf of my client, Environmental Defense Fund. EDF also submitted written comments on the petition for rulemaking, which we hope you have received. EDF supports the science-based proposed rules developed by the agency with the assistance of the Rules Advisory Committee.

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01:55:54.050 --> 01:56:12.510

Caylin Barter: EDF also supports minor adjustments to clarify their applicability to the Burns-Paiute Tribe's water rights. EDF works across the western U.S. to address water scarcity, working with communities to develop and implement science-based approaches that lead to sustainable groundwater management.

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01:56:12.580 --> 01:56:25.089

Caylin Barter: To that end, EDF helped build and launch OpenET, a public web platform that provides free evapotranspiration data, and is being considered to support implementation of the Harney CREP.

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01:56:25.290 --> 01:56:35.369

Caylin Barter: EDF also published an analysis of Oregon's Voluntary Agreement Statute to support the work of the Harney Basin Community-Based Water Planning Collaborative.

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01:56:35.450 --> 01:56:52.360

Caylin Barter: EDF supports the agency's proposed rules because they establish a clear and measurable objective for sustainable groundwater management. By 2058, median groundwater levels across all sub-areas must achieve durable stability.

841

01:56:52.600 --> 01:57:03.290

Caylin Barter: Permissible total withdrawals were optimized in each subarea to allow the maximum amount of pumping possible, provided they don't undermine durable stability.

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01:57:03.410 --> 01:57:12.699

Caylin Barter: And the proposed rule's innovative adaptive management framework enables voluntary approaches to reducing pumping wherever durable stability will result.

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01:57:12.980 --> 01:57:30.210

Caylin Barter: Compared to the petition, the proposed rules, as you've heard, are modeled to cause 25 fewer domestic wells to go dry by 2058, avoiding significant hardship and costs. Delaying action or weakening the rules will only make the problem more difficult and costly to solve.

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01:57:30.660 --> 01:57:47.090



Caylin Barter: EDF supports the proposed rules as a science-based, 30-year glide path to groundwater sustainability in the Harney Basin that maximizes economic continuity while securing groundwater for future generations. Thank you to the Commission for considering EDF's comments.

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01:57:48.410 --> 01:57:49.839

Vice-Chair Smitherman: Thank you, Kaylin.

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01:57:50.030 --> 01:58:00.469

Vice-Chair Smitherman: That ends this, portion of the agenda, public comments. We are going to take a quick 5-minute break, so if everyone could be back at 12.05.

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01:58:01.440 --> 01:58:02.380

Vice-Chair Smitherman: Thank you.

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01:58:55.130 --> 01:59:00.069

Vice-Chair Smitherman: Okay, it's 12.05, welcome back to the Commission meeting.

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01:59:00.170 --> 01:59:18.540

Vice-Chair Smitherman: We now have a short time period for any Commission questions and discussion. I'd like to keep this as short as possible, but do any of our commissioners have any further questions, or would like to comment on anything that we've heard so far today?

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01:59:19.360 --> 01:59:20.600

Vice-Chair Smitherman: Commissioner Lee?

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01:59:25.090 --> 01:59:28.250

Commissioner Lee: Yes, I'm unmuting here.

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01:59:28.300 --> 01:59:36.939

Commissioner Lee: I think there's a solution that lies between the WRD proposal and the petition, and I really look forward to

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01:59:36.940 --> 01:59:48.580

Commissioner Lee: Of the voluntary agreements and other solutions being addressed to reach that outcome, because we need that to sustain the community while sustaining groundwater levels.

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01:59:48.680 --> 01:59:58.340

Commissioner Lee: So the rules are not there yet, but I have expectations to see some changes that will bring us closer to that mutual outcome.

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02:00:00.640 --> 02:00:02.360



Vice-Chair Smitherman: Thank you, Commissioner Lee.

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02:00:03.580 --> 02:00:05.129

Vice-Chair Smitherman: Other commissioners?

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02:00:08.870 --> 02:00:11.730

Vice-Chair Smitherman: I would, I would also echo, that.

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02:00:11.850 --> 02:00:14.329

Vice-Chair Smitherman: did I hear...

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02:00:14.330 --> 02:00:14.680

Commissioner Wolfe: Yo.

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02:00:14.680 --> 02:00:16.310

Vice-Chair Smitherman: Commissioner, Commissioner Wolf, hello.

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02:00:16.310 --> 02:00:22.000

Commissioner Wolfe: I'm having trouble finding where to raise my hand on my screen, so I apologize.

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02:00:22.000 --> 02:00:24.159

Vice-Chair Smitherman: No worries, you're okay. Go ahead.

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02:00:26.600 --> 02:00:31.340

Commissioner Wolfe: Yeah, I guess in listening to all this, and what I feel are

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02:00:31.480 --> 02:00:35.490

Commissioner Wolfe: are valid points from many sides. One... one thing that I've...

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02:00:35.890 --> 02:00:42.030

Commissioner Wolfe: Either missed or found absent is, at what...

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02:00:42.690 --> 02:00:48.380

Commissioner Wolfe: in... in the... maybe I'm asking a question to whomever might be able to answer it.

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02:00:48.580 --> 02:00:59.889

Commissioner Wolfe: at what level... At continued current levels of pumping, or 2018 levels of pumping, on what timeline

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02:01:00.110 --> 02:01:12.300

Commissioner Wolfe: Is there any anticipated Timeline that creates an economic infeasibility to pumping water to produce local commodities.



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02:01:14.670 --> 02:01:21.540

Commissioner Wolfe: We're looking at declines, over time, and durably stable, and reasonably stable.

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02:01:21.800 --> 02:01:33.320

Commissioner Wolfe: Is there anything that suggests if we do nothing, then on approximately this date, it becomes economically

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02:01:33.550 --> 02:01:37.459

Commissioner Wolfe: Not viable to continue to pump water to grow commodities.

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02:01:41.890 --> 02:01:45.879

Vice-Chair Smitherman: Do we have anyone from staff that can take that question?

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02:01:46.310 --> 02:01:55.669

Ivan Gall: Vice Chair Smitherman, members of the Commission, for the record, Ivan Gall, Director of the Water Resources Department. I'll probably lean on Darik Boschman here, but...

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02:01:55.790 --> 02:02:03.809

Ivan Gall: I don't think any part of the basin at this point in time is close to an economic threshold.

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02:02:04.080 --> 02:02:10.310

Ivan Gall: I will note, though, that we do have hydraulic connection between portions of the

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02:02:10.610 --> 02:02:18.950

Ivan Gall: Aquifer system there, that groundwater reservoir, and spring complexes that have senior water rights on them.

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02:02:19.100 --> 02:02:31.810

Ivan Gall: And chasing water down in the aquifer system to an economic threshold risks drying up those surface water discharges and diminishing their discharges.

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02:02:31.810 --> 02:02:40.869

Ivan Gall: To the point that those senior water ride holders wouldn't have access to the water, and there's nothing bringing that back, so once that damage is done.

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02:02:40.970 --> 02:02:52.489

Ivan Gall: you know, that individual is out of water and would need to pursue, other means of which there are none in the basin. So, Dark, any insights on,

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02:02:52.870 --> 02:02:56.910

Ivan Gall: Water levels and, where the bottom of the system would be.

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02:02:58.750 --> 02:03:11.549

Darrick Boschmann (OWRD): Well, I think one useful reference when thinking about these economic considerations is the Harney economic model that was published by researchers from Oregon State and others here in the last couple of years.

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02:03:11.660 --> 02:03:28.710

Darrick Boschmann (OWRD): And they looked at a 30-year time horizon, and under their constraints, their assumptions in the model, they did not find a point in time over that 30-year window where pumping was no longer economical for the irrigators out there.

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02:03:28.920 --> 02:03:31.510

Darrick Boschmann (OWRD): So that's probably our best frame of reference for that.

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02:03:34.170 --> 02:03:41.290

Commissioner Wolfe: Okay, thank you. I wasn't... suggesting that... that that be an option, I'm just...

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02:03:41.410 --> 02:03:46.650

Commissioner Wolfe: As some of the information that was presented as economic loss to the area.

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02:03:46.920 --> 02:03:53.720

Commissioner Wolfe: I was just wondering if... if there was any numbers that suggest when that would occur without regulation as a...

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02:03:54.170 --> 02:03:57.490

Commissioner Wolfe: as a comparative, was all I was after. Thank you.

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02:04:00.330 --> 02:04:01.940

Vice-Chair Smitherman: Thank you, Commissioner Wolf.

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02:04:02.870 --> 02:04:04.699

Vice-Chair Smitherman: Any other commissioners?

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02:04:06.480 --> 02:04:11.250

Vice-Chair Smitherman: No. Okay, thank you, and I just want to say that I... I appreciate all the...

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02:04:11.520 --> 02:04:16.589

Vice-Chair Smitherman: All the comments, today from the petitioners, from the panel,

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02:04:16.920 --> 02:04:22.410

Vice-Chair Smitherman: I, I know that, there's a lot of people here, also from the community.

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02:04:22.450 --> 02:04:41.829

Vice-Chair Smitherman: Who are... are signed up here for public comment, and so I think it's time for us to go ahead and move into that period if we don't have any other questions from commissioners, because we do... it is important for us to hear, from everyone from the community who has signed up for public comment. So we'll go ahead and get started.

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02:04:42.230 --> 02:04:51.420

Vice-Chair Smitherman: The, the first on the list here, I have, Nalani Harvey, From the Burns Paiute Tribe?

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02:04:56.210 --> 02:04:59.050

Vice-Chair Smitherman: Nalani, are you here with us today?

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02:05:02.670 --> 02:05:05.100

Vice-Chair Smitherman: I can also come back around if...

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02:05:05.590 --> 02:05:11.439

Vice-Chair Smitherman: and ask this in a couple minutes. Okay, so we'll move on. Is Christopher Hicks still here?

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02:05:14.240 --> 02:05:20.650

Vice-Chair Smitherman: Let's see, from City of Heinz, can you unmute Heinz, it says. I believe they are ready.

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02:05:20.650 --> 02:05:24.590

Laura Hartt (OWRD): I see Chris Hicks online, too, so... Okay. Yeah.

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02:05:24.870 --> 02:05:40.379

City of Hines: Hello, hi, I'm here, yeah, I'm speaking on behalf of the Burnts Paiute Tribe, and, Nalani is, she was ill today, so she did not make it in to speak, so I'll be speaking on behalf of the tribe today.

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02:05:40.570 --> 02:05:56.080

Vice-Chair Smitherman: Okay, Christopher, I hate to interrupt you. We... I... since we are limited on time today, we are keeping all the comments to about 3 minutes. I'll give you a couple more seconds since we already started the clock, but everyone, know that you have 3 minutes to speak today. Thank you.

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02:05:56.660 --> 02:05:58.259

Vice-Chair Smitherman: Go ahead, Chris. Defer.



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02:05:58.260 --&gt; 02:06:13.329

City of Hines: Sure, no problem. So, good morning to everyone and members of the Commission. My name is Christopher Hicks, and I'm here today on behalf of the Burns-Mayan Tribe. First, I want to acknowledge and express our appreciation that the current version of the rulemaking

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02:06:13.590 --&gt; 02:06:18.989

City of Hines: recognizes fundamental legal truth. The state of Oregon could not regulate tribal water rights.

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02:06:19.100 --&gt; 02:06:34.720

City of Hines: That recognition is meaningful, and it reflects years of hard work, advocacy, and dialogue. However, it represents only the bare minimum of what is required. The language we submitted, the language necessary to fully protect our sovereignty, our rights, our future.

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02:06:35.010 --&gt; 02:06:48.290

City of Hines: has not been included. Without provisions requiring travel consent, explicit non-labor protections, and a binding commitment to code stewardship, these rules fall far short of what is necessary and just.

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02:06:48.490 --&gt; 02:07:06.539

City of Hines: For that reason, the Burns-Payute Tribe cannot support the current division by default rulemaking as written. It does not embrace co-stewardship. It does not reflect a true government-to-government relationship, and it does not guarantee the protections that our people and this basin deserve.

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02:07:06.540 --&gt; 02:07:10.779

City of Hines: We do support the alternative rulemaking proposal, and that...

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02:07:11.090 --&gt; 02:07:16.759

City of Hines: We do support the alternative rulemaking proposal that has been developed collaboratively by Bayes and partners.

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02:07:16.980 --&gt; 02:07:26.970

City of Hines: That proposal reflects a different path, one grounded in science, mutual respect, and shared responsibility. It recognizes the tribe not as a stakeholder.

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02:07:27.240 --&gt; 02:07:46.069

City of Hines: Or, as Ivan Gall would say, a water partner. But as a sovereign government with the inherent water rights and obligations that existed long before the state of Oregon and will endure long after. The Burns Pine Tribe has lived here since before our time was kept.



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02:07:46.070 --> 02:08:00.229

City of Hines: We have co-insured this land and water with every living thing since time immemorial, sharing it, protecting it, and ensuring that it sustains life for generations to come. That is what stewardship means to us, and yet today we face a new battle.

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02:08:00.680 --> 02:08:09.929

City of Hines: One not against nature or scarcity, but against ourselves. And I ask, why? Why must we fight one another when we have the opportunity to build each other up?

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02:08:10.040 --> 02:08:22.830

City of Hines: The Alternative Division 512 rulemaking shows what is possible when tribes, city, county, state, and federal partners come together for a common cause. Water is life, and should connect us, not divide us.

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02:08:23.230 --> 02:08:35.099

City of Hines: True stewardship requires shared authority, mutual respect, and legal recognition. Anything less is not stewardship. It is unilateral control, and we cannot accept that.

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02:08:35.190 --> 02:08:53.550

City of Hines: So we urge the Commission to reject the current Division 512 proposal, and to adopt a rule that truly reflects partnership, sovereignty, and the future we all want. One bill together in co-stewardship for the next seven generations. Peace to A. Thank you.

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02:08:54.270 --> 02:08:57.409

Vice-Chair Smitherman: Thank you, Christopher. Appreciate your comments today.

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02:08:57.890 --> 02:09:00.450

Vice-Chair Smitherman: Next up, we have, Nicholas Green.

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02:09:03.980 --> 02:09:08.760

Nicholas Green: Thank you. I'll... I'll try to keep my comments brief, since I've already spoken as a panelist.

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02:09:08.910 --> 02:09:23.420

Nicholas Green: I just wanted to clarify in the... my response to Commissioner Maul's question, between 1980 and 1990, the population of Burns peaked at about 3,500 residents. They're down to about 2,700 today.

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02:09:23.830 --> 02:09:27.860

Nicholas Green: So we have a net change of about 800, residents lost.

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02:09:28.220 --> 02:09:34.989



Nicholas Green: As you know, that puts enormous strain on businesses and on public agencies like hospitals and schools.

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02:09:35.090 --> 02:09:39.650

Nicholas Green: To continue to provide public services when they have declining revenue and declining customers.

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02:09:39.910 --> 02:09:56.770

Nicholas Green: So, if we are successful in recovering those 800 residents that were lost, assuming an average population per household of 3.1, which is what we're seeing across the valley right now, that means we need to build just over 200 homes.

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02:09:57.260 --> 02:10:10.629

Nicholas Green: If we average 20 homes a year, it's gonna take us about a decade. So that's the math behind those statements. It's a modest and achievable growth rate with the number of subdivisions that have been permitted.

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02:10:10.920 --> 02:10:24.639

Nicholas Green: What we can't anticipate is when those products will hit the market. So, if they were to hit within a 5-year period, and we cross the threshold, and then we have to deny permits to connect to the water system.

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02:10:24.850 --> 02:10:27.309

Nicholas Green: On the basis of this proposed rule.

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02:10:27.430 --> 02:10:34.729

Nicholas Green: That could be hugely problematic in arresting growth that the community desperately needs that benefits all of the public agencies.

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02:10:34.860 --> 02:10:37.889

Nicholas Green: From what I saw in the model that was presented.

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02:10:38.190 --> 02:10:56.950

Nicholas Green: both under the revised petition, which exempts the municipalities, and under the original rule, we're at stable levels within the zone that the cities are drawing from. So, a lot to consider there, but thank you again for the time to speak, and for your consideration of these comments.

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02:10:57.940 --> 02:11:06.269

Vice-Chair Smitherman: Thank you, Nicholas, and I do... I do appreciate that you brought forward, more of the municipality perspective for us to hear today, so thank you.

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02:11:06.790 --> 02:11:10.269

Vice-Chair Smitherman: Alright, next up, we have Dominic Bachman.



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02:11:22.670 --> 02:11:23.439

Vice-Chair Smitherman: There we go.

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02:11:24.510 --> 02:11:25.340

Dominic Bachman: Thank you.

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02:11:26.460 --> 02:11:34.579

Dominic Bachman: Hi, my name is Dominic Bachman. My wife and I are first-generation alfalfa farmers in Princeton, Oregon.

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02:11:35.120 --> 02:11:40.939

Dominic Bachman: We both have several Full-time jobs just to be able to afford to live on this farm.

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02:11:41.260 --> 02:11:49.440

Dominic Bachman: The 512 rules, as proposed by the state, do not make sense for us. Those rules would put our farm in an arbitrary sub-area with crane.

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02:11:49.510 --> 02:12:08.890

Dominic Bachman: and Buchanan, well, our neighbors on two sides of us are not even in the critical groundwater area, and the third side is in the blitz and voltage area. The partition, as proposed, is much more logical. It puts our farm in the blitz and voltage groundwater reservoir, which follows the USGS groundwater study.

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02:12:09.670 --> 02:12:27.930

Dominic Bachman: The petition makes much more sense for our community, our economy, and the state. The petition has been endorsed by the cities, the county, the tribes, the refuge, and the majority of irrigators. The petition addresses many areas that the state 512 rules neglected to address.

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02:12:28.510 --> 02:12:36.829

Dominic Bachman: Including a focus on conservation and assisting water users financially for reducing water use.

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02:12:36.830 --> 02:12:39.199

Mindy Lane: Let me pull you up the camera for that album screen.

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02:12:40.070 --> 02:12:41.900

Dominic Bachman: If the petition passes.

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02:12:41.900 --> 02:12:44.640

Mindy Lane: Oh, that would... okay, so we were wondering where Kurt was.

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02:12:44.640 --> 02:12:45.879

Vice-Chair Smitherman: Megan, sorry about that.

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02:12:46.230 --> 02:12:47.509

Vice-Chair Smitherman: Mindy, are you a...

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02:12:47.720 --> 02:12:49.639

Racquel Rancier: Mindy, you're not on mute. There you go.

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02:12:49.640 --> 02:12:52.530

Vice-Chair Smitherman: There we go. Go ahead, Dominic. Sorry about that.

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02:12:52.530 --> 02:12:55.069

Dominic Bachman: Yep, yeah, no worries,

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02:12:55.210 --> 02:13:07.589

Dominic Bachman: I'm gonna start back a little bit. The petition addresses many areas that the State 512 rules neglected to address, including a focus on conservation and assisting water users financially for reducing water use.

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02:13:07.870 --> 02:13:26.279

Dominic Bachman: If the petition passes as proposed and is combined with voluntary agreements, we feel that the community will stand behind it and focus on future conservation efforts, as opposed to the decades of litigation and bankruptcy if the 512 rule goes on as state proposed it.

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02:13:26.380 --> 02:13:32.769

Dominic Bachman: Thank you so much for giving me the opportunity, and thank you for all the work that, you guys have done.

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02:13:34.050 --> 02:13:37.960

Vice-Chair Smitherman: Thank you, Dominic. Thank you for taking the time to be here to share your perspective.

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02:13:38.280 --> 02:13:39.340

Vice-Chair Smitherman: Appreciate it.

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02:13:39.840 --> 02:13:42.579

Vice-Chair Smitherman: Okay, next up, we have Kurt Blackburn.

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02:13:48.960 --> 02:13:51.910

City of Hines: Can I have video, please?

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02:13:56.260 --> 02:13:57.010



Vice-Chair Smitherman: Oops.

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02:14:21.120 --> 02:14:22.150

City of Hines: Yeah.

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02:14:22.360 --> 02:14:24.470

City of Hines: On the pictures, okay.

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02:14:24.980 --> 02:14:38.580

City of Hines: Thank you. My name is Kurt Blackburn. I've been an active farmer and a licensed real estate broker in this community since 1990. I am not part of the RAC Committee, but have been very involved in almost all the meetings over the last 5 years.

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02:14:38.780 --> 02:14:50.649

City of Hines: I and the RAC Committee have asked hundreds of questions over the years and given public comments, just to be told most of the time, we'll get back to you, which they never do. I feel the process with the RAC committee

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02:14:50.650 --> 02:15:15.550

City of Hines: from the view of the public audience was more of a dictatorship than a water resource department, from the water resource department, and not a collaborative partnership with the community to come up with a reasonable solution of the issues and to work out for the both of us. Our community has seen this before in effects in 1990. By the effects of the east side screen that came out of the Northern Spotted Owl decision.

962

02:15:15.550 --> 02:15:27.309

City of Hines: The government and environmental said they had all the data needed to save the northern spotted owl. They, too, at the time, didn't listen to the communities and the reasonable solutions.

963

02:15:27.310 --> 02:15:33.640

City of Hines: Just like the Water Resource Department is not doing with us and the RAC Committee today.

964

02:15:34.280 --> 02:15:52.740

City of Hines: Their main goal in the 1990s was to get rid of the logging industry. They did a great job. They wiped out our community. We have lost our largest employer, hundreds of jobs, split up families, and caused us to be one of the poorest communities in the state, and we are still there.

965

02:15:55.620 --> 02:15:57.960

City of Hines: Through the port,

966

02:15:58.190 --> 02:16:08.790



City of Hines: Through the fourth plan and the implementation, we are not managing the forest, which has caused catastrophic forest fires through our state.

967

02:16:09.300 --> 02:16:19.629

City of Hines: Last year, our community lost over... around 250,000 acres due to forest fires killing wildlife and calves. You can see from the pictures down here.

968

02:16:19.720 --> 02:16:38.770

City of Hines: It also caused a historic flood in our... in the spring and damaged over 100 homes, displacing families, as you can see on the other picture. This is an example of what happens when the government acts too fast without good, reliable data, and won't listen to the local people for... who lives in the communities.

969

02:16:38.770 --> 02:16:48.650

City of Hines: I feel this is happening with the state proposal. Today, the spotted owls are still declining, mainly because of the barn... barred owl, and...

970

02:16:48.930 --> 02:16:56.510

City of Hines: a predator, not the logging industry. The government environmentalists got the data wrong, and didn't listen to the locals.

971

02:16:56.510 --> 02:17:18.989

City of Hines: We have come up with an alternative plan that will work on stabilizing water and soften the fiscal impact to our community. I do recognize that we have an issue in two small parts of the community, and the balance of the community doesn't make the critical water staying issues, and it's 80% that is not in that thing.

972

02:17:19.530 --> 02:17:26.500

City of Hines: I'm concerned about the proposal plan by the Water Resource Department using fallless data.

973

02:17:26.500 --> 02:17:29.239

Mindy Lane: I'm gonna have to give you, 15 seconds to wrap up, please.

974

02:17:29.240 --> 02:17:33.449

City of Hines: damage in the community. The, the... okay.

975

02:17:33.690 --> 02:17:37.949

City of Hines: And ending, remember the water resource part and the cause.

976

02:17:38.100 --> 02:17:57.360

City of Hines: all this mismanagement plan, or problems, and then in March 5th, 2025, they even amended it. Don't let this same attitude and same thing of not listening to the



community be a repeat of what happened to the spotted owl on our thing. Our community can't handle this. We have...

977

02:17:59.820 --> 02:18:03.670

Mindy Lane: Vice Chair Smitherman, I've gone ahead and muted them. Do you want to move on, or do you want to let them.

978

02:18:03.670 --> 02:18:20.110

Vice-Chair Smitherman: Yeah, and sorry, thank you, thank you, Kurt. We do appreciate you being here and sharing your feedback with us. We do need to move on. Looks like, next up we had Jacob Davis, but it looks like Tom Davis is going to be speaking in his place. So, Tom, whenever you're ready, go ahead.

979

02:18:20.440 --> 02:18:27.659

Harney Public Comments: Okay, so, to start off with, I've changed a little bit of the stuff that I was going to say, but if you want to know Ian.

980

02:18:27.660 --> 02:18:43.499

Harney Public Comments: The economic impact of burns, burns will dwindle to nothing. They've ruined our... in 1975, Burns had 3,500 people, and Heinz had 1,600 people living in the town. When the... when they shut the mill down, it's what it is now.

981

02:18:43.500 --> 02:18:50.390

Harney Public Comments: The only thing that's really benefiting birds and vines right now is agriculture and government.

982

02:18:50.600 --> 02:18:58.299

Harney Public Comments: And... and so, if you take the agriculture out of here, you're gonna devastate. This... there won't even be a safe way here.

983

02:18:58.950 --> 02:18:59.830

Harney Public Comments: So...

984

02:19:00.110 --> 02:19:08.089

Harney Public Comments: what I wanted to really say was not only is it messing up my life, I have grandkids that want to follow in my footsteps.

985

02:19:08.520 --> 02:19:12.830

Harney Public Comments: So let's talk a little bit about the state of Oregon.

986

02:19:13.160 --> 02:19:15.860

Harney Public Comments: We pay, currently, every month.

987

02:19:16.090 --> 02:19:27.129



Harney Public Comments: Over the process of the months, through a year, we pay the state of Oregon \$60,000 for what we pay our help that helps us here on the farm.

988

02:19:27.879 --> 02:19:30.639

Harney Public Comments: And the state gets \$60,000 out of that.

989

02:19:30.830 --> 02:19:42.629

Harney Public Comments: And... and then we've been paying into the system. So, not only would the state lose that money, they'll also be paying out unemployment for 3 families.

990

02:19:43.110 --> 02:20:02.849

Harney Public Comments: In Harney County, when I bought this place, the property tax was \$800 on it. Now I'm paying \$9,000 a year on it, because of the improvements that I've stretched my neck out and made by drilling the wells. And furthermore, I am in an area that my water hasn't declined a bit.

991

02:20:02.850 --> 02:20:09.409

Harney Public Comments: Okay? So, keep that in mind. We are not pumping more than what we already have.

992

02:20:10.810 --> 02:20:11.860

Harney Public Comments: Ugh.

993

02:20:12.670 --> 02:20:19.330

Harney Public Comments: My permits and my pivots that I put in, I went \$700,000 in debt to value the land.

994

02:20:19.630 --> 02:20:25.930

Harney Public Comments: So, the, there, so there... there's also...

995

02:20:26.170 --> 02:20:39.170

Harney Public Comments: a deal where I generate a little over \$500,000 besides the taxes, and that money stays right here in Harney County. It is... it is between pivot parts.

996

02:20:39.250 --> 02:20:48.930

Harney Public Comments: irrigation parts, to, tractor parts, to Safeway store, to, getting things fixed up.

997

02:20:48.930 --> 02:21:02.880

Harney Public Comments: And... and just... and so I'm... that money's staying here. With that... I'm just a small-time farmer here, and you took... take 30 or 40 of us out of there. What is that going to impact with Kerns and Hines? Thank you.

998

02:21:03.130 --> 02:21:03.970



Harney Public Comments: Stop.

999

02:21:04.910 --> 02:21:11.699

Vice-Chair Smitherman: Thank you, Tom. Appreciate you sharing, your situation and your perspective on the rules.

1000

02:21:11.860 --> 02:21:13.989

Vice-Chair Smitherman: I appreciate you being here.

1001

02:21:14.410 --> 02:21:17.320

Vice-Chair Smitherman: Next, we have Dan Otley.

1002

02:21:20.140 --> 02:21:39.319

Harney Public Comments: My name is Dan Otley. My family and I raise alfalfa on approximately 360 acres. We use the hay to feed our livestock during the winter months. Our wells are located in the Princeton area, south of Windy Point. First off, I want to say I support the petition rules.

1003

02:21:39.640 --> 02:21:46.499

Harney Public Comments: In August, I submitted more in-depth comments on the 512 rules. I hope that you will take time to read them.

1004

02:21:46.830 --> 02:21:56.810

Harney Public Comments: The petition addresses most of my concerns and the flaws of the 512 rules. I still believe my wells should not be even in the CGWA at all.

1005

02:21:57.380 --> 02:22:13.379

Harney Public Comments: The petition adjusted the sub-area boundary to conform with the state law, the OWRD's FAQ document, and the USGS water budget regions. The petition recognizes that groundwater conditions are very different.

1006

02:22:13.380 --> 02:22:28.550

Harney Public Comments: depending on the area of the basin you are in. The petition takes into consideration that the USGA Southern Region or Lower Blitzen voltage subarea does not have drawdown issues. My wells are in this area and have averaged

1007

02:22:28.550 --> 02:22:34.320

Harney Public Comments: A plus 9.87 feet higher static water level just over the last 3 years.

1008

02:22:34.650 --> 02:22:45.340

Harney Public Comments: For 7 generations and 138 years, my family has lived in the Harney Basin. We use sustainable management practices, both with the land and the water.



1009

02:22:48.140 --> 02:22:58.910

Harney Public Comments: The proposed 512 rules would have a large financial impact on our family ranch. We would have to buy hay for our cattle while still making payments on our farm ground.

1010

02:22:59.290 --> 02:23:09.520

Harney Public Comments: The petition would allow us to work elaborately with the... with our neighbors, the U.S. Wildlife Refuge, and the Oregon Water Resource Department.

1011

02:23:09.750 --> 02:23:17.870

Harney Public Comments: With the petition and voluntary agreements, we can conserve our water and preserve our community. Thank you.

1012

02:23:19.590 --> 02:23:24.069

Vice-Chair Smitherman: Thank you, Dan. Again, appreciate your perspective and sharing your story.

1013

02:23:24.710 --> 02:23:27.040

Vice-Chair Smitherman: Next up, we have Bryce Otley.

1014

02:23:29.930 --> 02:23:42.159

Harney Public Comments: My name is Bryce Otley, I'm the sixth generation in Harney County. For all six generations, we have been involved in agriculture. This alone should be enough to prove that we are... that we use sustainable agriculture practices.

1015

02:23:42.160 --> 02:23:52.689

Harney Public Comments: I graduated 4 years ago from Oregon State University with a degree in Ag Science, minors in Animal Science, Rangeland Resources, and a minor from Eastern Oregon Business Management.

1016

02:23:52.790 --> 02:24:06.899

Harney Public Comments: My wife and children and I moved back to the family homestead 3 years ago. We moved back to hopefully raise the next generation in agriculture. The family invested in a farm in Princeton that has

1017

02:24:06.900 --> 02:24:14.789

Harney Public Comments: a stable, static water level. We purchased it to become more diverse and have a home for another generation.

1018

02:24:14.790 --> 02:24:25.009

Harney Public Comments: Now, with the new Division 512 rules, which I have commented on, we have discovered that the new farm, which we have a loan on, is in danger

1019



02:24:25.330 --> 02:24:29.270

Harney Public Comments: due to the blanket rules in 512 to be lost.

1020

02:24:29.490 --> 02:24:38.329

Harney Public Comments: Due to 512 being so radical and disconnected from the reality on the ground, I have today, in support of the reality

1021

02:24:38.540 --> 02:24:55.069

Harney Public Comments: of the proposed petition rules. The petition has a wide variety of support for the community because it was created on the ground, in the county, and not across the state. The petition is correct with all the questions and concerns that I had on 512.

1022

02:24:55.100 --> 02:25:03.550

Harney Public Comments: I have little faith in my comments being implemented into 512 because of how radical it was to start with.

1023

02:25:03.690 --> 02:25:10.740

Harney Public Comments: With original 512 rules, the local economy will take such a high financial blow that it will never recover.

1024

02:25:10.950 --> 02:25:16.240

Harney Public Comments: Through this petition, we could minimize financial impact on the local community.

1025

02:25:16.350 --> 02:25:36.179

Harney Public Comments: How the Great Depression impacted the United States, the 512 rule will impact the families in Honey County in similar proportions. This proposed petition is the only option to preserve our local culture, livelihood, and a sustainable groundwater for another six generations of Ollie's.

1026

02:25:40.190 --> 02:25:45.850

Vice-Chair Smitherman: Thank you, Bryce. Thank you again for sharing your story as well. Appreciate your comments today.

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02:25:46.370 --> 02:25:53.149

Vice-Chair Smitherman: Next up, we have Lewis, Flippence. I hope I'm saying that correctly. Lewis Flippence?

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02:25:55.040 --> 02:26:00.239

Lewis Flippence: Yes, it's... I actually go by Fred, they asked for my real name when I signed up, so I...

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02:26:00.240 --> 02:26:01.649



Vice-Chair Smitherman: Well, go ahead.

1030

02:26:01.770 --> 02:26:03.540

Vice-Chair Smitherman: Thank you for being here, Fred. Go ahead.

1031

02:26:03.540 --> 02:26:16.100

Lewis Flippence: Yeah. This is Fred Flippence. I'm General Manager of Harney Electric Co-op. We are the electric co-op that serves most of the irrigation users in Harney County.

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02:26:16.490 --> 02:26:26.970

Lewis Flippence: Harney Electric supports the petition, mostly because the petition has used community input

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02:26:27.190 --> 02:26:29.910

Lewis Flippence: And has more community support.

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02:26:30.620 --> 02:26:37.199

Lewis Flippence: We always try to back our communities, and I really feel that community support is there.

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02:26:37.310 --> 02:26:47.039

Lewis Flippence: Harney County has a history of collaboration with agencies, and I've been involved for many years, actually from the start of High Desert Partnership.

1036

02:26:47.170 --> 02:26:59.429

Lewis Flippence: We use many collaborations to work with the Refuge, the BLM, and the Forest Service, and have come out with some great outcomes. So I really have faith in this community to be able to do that.

1037

02:27:00.490 --> 02:27:12.369

Lewis Flippence: Also, in that collaboration, what has happened, we've had less litigation with agencies due to decisions that they make, and we've been able to move forward with projects.

1038

02:27:12.870 --> 02:27:23.779

Lewis Flippence: I believe if we follow with the OWRD 512 rules, that that proposal will assure that we will have litigation going forward.

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02:27:24.670 --> 02:27:35.509

Lewis Flippence: Also, my look at the economic impact that has been shown in the OWRD studies, I believe, drastically underestimate

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02:27:35.680 --> 02:27:40.720

Lewis Flippence: The amount of physical, fiscal impact to our community.



1041

02:27:41.200 --> 02:27:49.780

Lewis Flippence: But even at that, if you even look at the graphs that OWRD shows and what they want to reduce water.

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02:27:50.050 --> 02:27:58.710

Lewis Flippence: You could use that same graph and say, this is the amount of money and jobs and livelihoods that are going to be lost in Harney County.

1043

02:28:00.280 --> 02:28:09.559

Lewis Flippence: We also talked about the fact that if we compare the two programs, that we're going to lose possibly 25 more domestic wells.

1044

02:28:10.070 --> 02:28:14.979

Lewis Flippence: Well, I'm a domestic well user and also a stock well user.

1045

02:28:15.140 --> 02:28:21.690

Lewis Flippence: I, years ago, a few years ago, had to redo my stock well. It cost me about \$20,000.

1046

02:28:22.480 --> 02:28:31.670

Lewis Flippence: So, \$20,000 times 25 is \$500,000. That's how much it would cost us to solve the domestic water issue.

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02:28:32.280 --> 02:28:35.480

Lewis Flippence: But yet, we're willing to risk losing

1048

02:28:35.600 --> 02:28:41.920

Lewis Flippence: Up to \$100 million out of this community if we go the other solution.

1049

02:28:42.020 --> 02:28:47.979

Lewis Flippence: I think we can solve the domestic water, and I'm also a little disappointed that we...

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02:28:48.180 --> 02:28:58.879

Lewis Flippence: politically correctly recognize the tribe from outside people, but yet we dismissed a young gentleman of 16 years old that made great comments. Thank you.

1051

02:29:00.580 --> 02:29:14.300

Vice-Chair Smitherman: Thank you. Thank you. Appreciate your comments and your feedback to us today. It looks like we do have Jacob Davis online, so I'd like to go back and see if Jacob is here to speak with us today and give us his comments.

1052

02:29:25.380 --> 02:29:30.950



Mindy Lane: If Jacob Davis is one of the phone numbers in the attendees list, we did send a message in the chat asking those.

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02:29:30.950 --> 02:29:31.360

Ivan Gall: And they...

1054

02:29:31.360 --> 02:29:32.020

Mindy Lane: do I...

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02:29:32.020 --> 02:29:35.949

Ivan Gall: Mindy, keep the city of Heinz unmuted, please.

1056

02:29:38.170 --> 02:29:39.120

Mindy Lane: Understood.

1057

02:29:39.460 --> 02:29:43.319

Ivan Gall: And the Harney public comments, I'm not sure where he's at, but he's out there.

1058

02:29:43.610 --> 02:29:55.100

Mindy Lane: possible he's one of the callers that are in attendees. We've asked them to identify themselves in case one of those is Jacob. No one has come forward, so we don't know, who Jacob Davis is, or where he's named.

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02:29:55.510 --> 02:29:58.630

Harney Public Comments: We understand Jacob is 0306.

1060

02:29:58.990 --> 02:30:00.000

Harney Public Comments: called...

1061

02:30:01.920 --> 02:30:03.750

Mindy Lane: Thank you, that's very helpful.

1062

02:30:05.850 --> 02:30:06.455

Harney Public Comments: Whoa.

1063

02:30:08.780 --> 02:30:10.170

Vice-Chair Smitherman: We have him.

1064

02:30:11.970 --> 02:30:15.050

Mindy Lane: We have allowed him access, and we've asked him to unmute.

1065

02:30:15.420 --> 02:30:16.060

Vice-Chair Smitherman: Okay.

1066



02:30:21.190 --> 02:30:24.290

Vice-Chair Smitherman: Give another minute, I see him online, okay.

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02:30:26.250 --> 02:30:30.169

Vice-Chair Smitherman: We are all still navigating this virtual world that we're in, so...

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02:30:30.450 --> 02:30:34.599

Vice-Chair Smitherman: Give each other a little grace to get... Get set up and unmuted.

1069

02:30:39.380 --> 02:30:50.829

Vice-Chair Smitherman: And I'm happy to come back as well. So, while he's getting, settled, let's move on, and we will come back to Jacob shortly. Next up, we have Sabrina.

1070

02:30:51.000 --> 02:30:52.010

Vice-Chair Smitherman: Mackie?

1071

02:30:57.780 --> 02:31:00.040

Vice-Chair Smitherman: Is Sabrina on the line with us?

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02:31:02.020 --> 02:31:04.199

Mindy Lane: I believe Sabrina is in the City of Hines

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02:31:04.810 --> 02:31:06.250

Vice-Chair Smitherman: Okay, great.

1074

02:31:06.250 --> 02:31:06.800

City of Hines: Okay.

1075

02:31:06.800 --> 02:31:11.209

Vice-Chair Smitherman: You are unmuted, City of Hines, and Sabrina, go ahead when you're ready.

1076

02:31:12.670 --> 02:31:25.469

City of Hines: Hey, my name is Serena Mackey. I'm speaking today representing Out of State Creek Land and Cattle. My family's lived in Hardin County for 5 generations. I'm a second-generation landowner and irrigator.

1077

02:31:26.010 --> 02:31:35.400

City of Hines: Over the past two years, I've participated in many RAC meetings as a community member, and while I entered the process hopeful, the experience was deeply frustrating and emotionally taxing.

1078

02:31:35.500 --> 02:31:55.929



City of Hines: What was initially presented as a collaborative effort often felt one-sided. While we listened to the department and tried to understand their reasoning, we were repeatedly met with condescension or disregard. We found ourselves on the defensive, scrambling to respond to proposals that would negatively impact our community, while our concerns and ideas received little genuine consideration.

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02:31:56.050 --> 02:32:02.390

City of Hines: At times, it felt like many local voices were ignored in favor of well-funded outside interest groups.

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02:32:03.390 --> 02:32:08.720

City of Hines: Sorry, I forgot that I...

1081

02:32:10.270 --> 02:32:25.249

City of Hines: Just like today, as they were given the first opportunity to comment with no timer, besides an awesome 16-year-old kid who was trying to catch a bus, and he was interrupted and held to a time limit. Even now, many locals' questions remained unanswered.

1082

02:32:25.910 --> 02:32:45.130

City of Hines: It's still unclear how the modeling landed on the current proposed rules and where the Oregon Water Resource Department's accountability lies in the face of passed over allocation decisions. Yet local stakeholders, like us, are being held responsible for those decisions and their... with their proposal of unprecedented regulatory actions.

1083

02:32:45.360 --> 02:32:52.829

City of Hines: Because our voices were not adequately heard in the RAC process, we, as a community, took the steps of drafting the current petition.

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02:32:53.000 --> 02:32:56.370

City of Hines: Our petition offers a balanced, community-driven approach.

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02:32:56.570 --> 02:33:04.789

City of Hines: to managing groundwater in the Harney Basin. It recognizes the distinct aquifer systems in the basin and only regulates in areas where necessary.

1086

02:33:04.790 --> 02:33:19.400

City of Hines: It encourages voluntary conservation in more stable areas. The petition does a better job of protecting groundwater rights that were legally granted. It also aims to minimize the economic harm to small businesses, landowners, and residents, which is required by law.

1087

02:33:19.670 --> 02:33:26.020



City of Hines: The petition is rooted in public input, while also meeting the state's policy goals for reasonably stable groundwater.

1088

02:33:26.170 --> 02:33:39.090

City of Hines: It offers balanced, science-based solutions to groundwater management and ensures the community's voice is heard in shaping our future. We are not asking to avoid regulation. We are asking for a fair and community-centered approach

1089

02:33:39.150 --> 02:33:53.660

City of Hines: that truly listens and respects those who live and work in the basin, not the outside interest groups. We urge the Commission to adopt a long-term solution that protects not only the groundwater, but also the future of Harney County and its people.

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02:33:54.120 --> 02:33:57.080

City of Hines: I appreciate your time, and thank you for your consideration.

1091

02:33:58.290 --> 02:34:11.599

Vice-Chair Smitherman: Thank you, Sabrina, and thank you again for coming, to the Commission to give us your feedback, and your thoughts and your, your perspective on the situation and, the 512 rules. We appreciate you being here.

1092

02:34:12.100 --> 02:34:20.319

Vice-Chair Smitherman: Let's see, I believe that Jacob Davis is unmuted, so let's, have Jacob go ahead and speak whenever you're ready.

1093

02:34:21.370 --> 02:34:23.150

15415890306: Can you guys hear me alright?

1094

02:34:23.150 --> 02:34:25.390

Vice-Chair Smitherman: We can, yes. Thank you for being here.

1095

02:34:25.390 --> 02:34:26.110

15415890306: Alright.

1096

02:34:26.300 --> 02:34:34.700

15415890306: Yeah, sorry, I was going to do this on the computer, but my girls had a volleyball game in North Lake, but I'm Jacob Davis, I'm 40...

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02:34:34.960 --> 02:34:54.419

15415890306: I'm 47 years old. I'm a third generation. You heard my dad talk a little while ago. My grandpa pretty much was one of the first ones to start growing alfalfa in the basin. He moved here in the 50s. He started drilling wells, which one of those wells my wife and I were lucky to buy here in the last couple years.

1098



02:34:54.560 --> 02:35:00.230

15415890306: We went out on our own in 2012 with bare ground, and went  
1099

02:35:00.380 --> 02:35:12.740

15415890306: in debt by a lot, we don't need to disclose that. But anyway, we have 4 kids.  
We got twin girls and 2 boys, and everything my parents have done  
1100

02:35:12.870 --> 02:35:30.360

15415890306: will be for nothing to pass on the legacy. Everything my wife and I have  
done, we don't get to go camping in the summertime or anything. We're married to the  
place to pay our debt. Everything that we have done since 2012 on our own will be for  
nothing, because if...

1101

02:35:30.500 --> 02:35:34.269

15415890306: The rulemaking happens with the 512 state.  
1102

02:35:34.340 --> 02:35:52.900

15415890306: We will be the first on the chopping block. I forgot to mention, I'm in the  
Donner Blitz, and we're... we have been, labeled as, critical water, even though we have...  
we're not dropping. We're the only... we're setting the best on recharge. But we will be first  
on the chopping block.

1103

02:35:52.900 --> 02:35:56.739

15415890306: The state let all these extensions go by.  
1104

02:35:57.000 --> 02:36:01.650

15415890306: And they let people buy water rights in different sub-areas.  
1105

02:36:01.810 --> 02:36:04.159

15415890306: from Weaver Springs, to be exact.  
1106

02:36:04.180 --> 02:36:23.000

15415890306: transfers them, put 11 pivots in our very backyard right now. And when I  
asked Jason Spriet about it a year ago, he told me... I go, why didn't you let any of us know?  
He told me on the phone, the reason we didn't was it's not going to affect any of you  
current users.

1107

02:36:23.000 --> 02:36:35.549

15415890306: A year later, not even a year later, they're saying we're going to get a 39%  
cutback in the Donner Blitzen that wasn't deemed a water right, and then those people  
that got 20-year extensions.

1108

02:36:35.560 --> 02:36:41.280



15415890306: Have an older water right than even my dad that's been pumping for 30 years where they're currently at.

1109

02:36:41.420 --> 02:36:50.049

15415890306: If the rulemaking goes through, it will bankrupt me and my family. We will be out of business. I've lived here my whole life.

1110

02:36:50.280 --> 02:37:05.479

15415890306: I support the petition. The petition, we're all getting together. That would take us out of the critical water. We would do a 10% volunteer, which we can all do that by rotating crops, sprinkler packages.

1111

02:37:05.670 --> 02:37:12.670

15415890306: We agree that in some parts of Harney County, there is a problem that needed addressed.

1112

02:37:12.810 --> 02:37:23.150

15415890306: Years and years ago, back in the 80s, some of this needed addressed. Now they're throwing us all in the same pot, and that is... that's just not fair in my book.

1113

02:37:23.370 --> 02:37:27.719

15415890306: We... we know what needs done, and we can get there, and what this...

1114

02:37:27.720 --> 02:37:28.569

Mindy Lane: Jacob, I'll give you a few.

1115

02:37:28.570 --> 02:37:29.350

15415890306: We're on board.

1116

02:37:29.350 --> 02:37:30.640

Mindy Lane: to wrap up. Thank you.

1117

02:37:31.190 --> 02:37:47.150

15415890306: Okay, we're on board, the tribe's on board, the city's on board. If you guys would just give us a chance, like Sabrina said, I coached Sabrina's kid in football. We, as a community, know what needs done, not an outsider. Thank you for listening to me.

1118

02:37:48.550 --> 02:37:53.160

Vice-Chair Smitherman: Thank you, Jacob. Thank you for sharing with us your perspective and your story.

1119

02:37:53.530 --> 02:37:56.150

Vice-Chair Smitherman: Next up, we have Andy Root.

1120



02:38:03.390 --> 02:38:06.880

Vice-Chair Smitherman: Is Andy in with the Harney public?

1121

02:38:07.250 --> 02:38:09.360

Vice-Chair Smitherman: group, or the City of Heinz?

1122

02:38:09.360 --> 02:38:15.860

City of Hines: His... he's on a phone, and his number ends in 0107, if you can unmute him.

1123

02:38:15.860 --> 02:38:20.360

Mindy Lane: 0107. That's very helpful, I've done that, thank you so much, I'll ask him to unmute.

1124

02:38:27.000 --> 02:38:28.110

15415890107: Can you hear me?

1125

02:38:28.370 --> 02:38:29.609

Vice-Chair Smitherman: Yes, Andy, we can.

1126

02:38:29.610 --> 02:38:30.529

15415890107: Can you hear me?

1127

02:38:30.810 --> 02:38:32.290

Vice-Chair Smitherman: We can hear you, yes.

1128

02:38:33.710 --> 02:38:38.049

15415890107: I would like... I would like to thank the Commission for listening to what I have to say.

1129

02:38:38.460 --> 02:38:40.239

Andy Root: My name is Andy Root.

1130

02:38:40.460 --> 02:38:43.960

Andy Root: I'm a landowner, I'm an irrigator, I'm a business owner.

1131

02:38:44.120 --> 02:38:49.169

Andy Root: A father... a father of 7 children. I got a grandfather of 14.

1132

02:38:49.720 --> 02:38:52.100

Andy Root: A lifelong resident of Harney County.

1133

02:38:52.770 --> 02:38:56.619

Andy Root: I also served as a Division 512 RAC member.

1134



02:38:57.380 --> 02:38:59.459

Andy Root: In Harney County, we do have

1135

02:38:59.900 --> 02:39:04.380

Andy Root: A couple of suburays that have some problems that... that do need to be addressed.

1136

02:39:05.900 --> 02:39:09.420

Andy Root: Unlike Jacob Davis, they should have been addressed in 1980.

1137

02:39:10.360 --> 02:39:14.830

Andy Root: Water's been over-allocated?

1138

02:39:15.210 --> 02:39:17.159

Andy Root: This doesn't happen overnight.

1139

02:39:17.850 --> 02:39:23.739

Andy Root: It's... It's developed over the last 30 years, and the department has ignored it.

1140

02:39:24.400 --> 02:39:34.220

Andy Root: And it cannot be solved quickly without devastating our community. The rulemaking process grew to be so complicated

1141

02:39:34.440 --> 02:39:43.630

Andy Root: that many people no longer felt they could participate. Community members felt unseen, unheard, and uneducated in the process, so they

1142

02:39:43.630 --> 02:40:03.920

Andy Root: stopped showing up. Unless you held a higher education degree in hydrology, or you were an OWRD staff member, it seemed designed to go right over your head. For someone like me, with only a high school education, the process was very overwhelming, very frustrating, and very discouraging.

1143

02:40:04.290 --> 02:40:20.679

Andy Root: We need a gradual, common sense approach, common sense. Everyone lose track of the common sense approach that reduces the water use without tearing apart a way of life. Agriculture isn't just what we do, it's how we feed our families.

1144

02:40:20.840 --> 02:40:34.299

Andy Root: keep our communities alive, and build something to leave for our kids and our grandkids. I want my grandchildren to inherit more than a pile of legal bills, fighting an agency that has chosen not to work collaboratively.

1145

02:40:35.040 --> 02:40:42.509



Andy Root: Through the RAC process, it felt like our voices didn't matter. That's why we came together and submitted a petition.

1146

02:40:42.700 --> 02:40:44.950

15415890107: Because we weren't being heard.

1147

02:40:45.130 --> 02:40:55.549

15415890107: And our questions weren't unanswered. They were always put in the parking lot. That's what we were told in the rack meetings. We'll put them in the parking lot, and we're going to come back to them.

1148

02:40:56.130 --> 02:40:58.609

15415890107: There must be a common sense approach.

1149

02:40:58.730 --> 02:41:11.789

15415890107: and a more equitable way to protect our natural resource while still allowing us to make a living. As commissioners, you now have the opportunity to support our community and our petition.

1150

02:41:12.090 --> 02:41:13.629

15415890107: Thank you for your time.

1151

02:41:15.250 --> 02:41:22.730

Vice-Chair Smitherman: Thank you very much for your... for your comments, Andy, and we appreciate your time, and appreciate you being here to speak with us today.

1152

02:41:24.010 --> 02:41:26.630

Vice-Chair Smitherman: Next up, we have Ken Bentz.

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02:41:35.700 --> 02:41:38.409

Vice-Chair Smitherman: Give everyone just a minute.

1154

02:41:39.590 --> 02:41:44.279

Vice-Chair Smitherman: Is Ken in any of the groups in Heinz or in Harney?

1155

02:41:45.040 --> 02:41:47.150

Harney Public Comments: Not in Harney.

1156

02:41:47.150 --> 02:41:50.980

City of Hines: Not in hernia, okay, thank you. We can always...

1157

02:41:50.980 --> 02:41:52.020

Vice-Chair Smitherman: Okay.

1158



02:41:52.380 --> 02:41:57.719

Vice-Chair Smitherman: We can always come back. I'll circle back. Do we have a Donald Dover spike?

1159

02:41:59.030 --> 02:42:01.120

Harney Public Comments: We do.

1160

02:42:01.120 --> 02:42:03.370

Vice-Chair Smitherman: Alright, go ahead, Donald, when you're ready.

1161

02:42:06.830 --> 02:42:18.139

Harney Public Comments: Thank you, Vice Chair Smithman and the Commissioners. My name is Donald Doversky. I'm a fifth-generation rancher in Harney County, now raising the sixth generation on the same land.

1162

02:42:18.300 --> 02:42:21.090

Harney Public Comments: My family's been here for 137 years.

1163

02:42:21.860 --> 02:42:29.350

Harney Public Comments: My family's livelihood and future of our children and grandchildren depends on stable and fair groundwater policy.

1164

02:42:29.740 --> 02:42:39.680

Harney Public Comments: Amongst all the forage... almost all the forage we raise goes directly to sustaining our operation, feeding our livestock for the winter, and keeping our ranch viable.

1165

02:42:41.160 --> 02:42:42.180

Harney Public Comments: Our ranch?

1166

02:42:42.810 --> 02:42:54.300

Harney Public Comments: spans multiple sub-basins, including Sylvie's and Silver Creek. That is why the petition's reservoir-by-reservoir approach makes sense. Conditions are not the same everywhere in the Harney Basin.

1167

02:42:54.400 --> 02:43:00.649

Harney Public Comments: demanded... The management rule should affect... should reflect the reality.

1168

02:43:01.130 --> 02:43:05.620

Harney Public Comments: The petition does exactly that. While the departments

1169

02:43:06.170 --> 02:43:15.460



Harney Public Comments: Approach of a one-size-fits-all would threaten diverse areas as if they would treat diverse areas if they were all the same.

1170

02:43:16.990 --> 02:43:30.220

Harney Public Comments: I also have serious concerns with the baseline numbers used in the Silver Creek subarea. From my perspective on the ground, those numbers appear to be incorrect and result in a reduction far greater than the public is being led to believe.

1171

02:43:30.560 --> 02:43:41.700

Harney Public Comments: It appears the model has applied a duty of 2.16 acre-feet, the basin-wide average, rather than reflects the actual conditions of the Silver Creek subarea.

1172

02:43:41.890 --> 02:43:46.270

Harney Public Comments: ET maps would validate a higher and more realistic duty.

1173

02:43:46.410 --> 02:43:57.510

Harney Public Comments: By applying a generalized basin average, the department understates the actual conditions in our subarea and inflates the reduction imposed on water users.

1174

02:43:58.400 --> 02:44:02.760

Harney Public Comments: We also believe that Silver Creek, Silvies, and Blitzen subareas

1175

02:44:03.090 --> 02:44:20.889

Harney Public Comments: Do not meet statutory requirements for critical groundwater area designation. Declines here are very minor or do not exist. Conditions remain reasonably stable. To classify them as critical groundwater area is both unnecessary and unjustified.

1176

02:44:23.040 --> 02:44:32.540

Harney Public Comments: additional... ORW... ORWD proposals is extremely unprecedented... is extreme and un...

1177

02:44:33.920 --> 02:44:41.480

Harney Public Comments: precedented. The size of the critical groundwater areas in Oregon range from 21 to 274 square miles.

1178

02:44:41.790 --> 02:44:45.830

Harney Public Comments: By contrast, designating the entire Harney Basin as a single

1179

02:44:45.930 --> 02:44:50.680

Harney Public Comments: Critical groundwater area would encompass 2,410 square miles.

1180



02:44:50.860 --> 02:44:54.450

Harney Public Comments: 10 to 100 times larger than any other designation.

1181

02:44:54.820 --> 02:45:08.160

Harney Public Comments: No critical groundwater area has ever been created where the only criteria met is about to be overdrawn. Historic regulation... historically, regulatory reductions have only been applied...

1182

02:45:08.160 --> 02:45:10.279

Mindy Lane: 15 seconds left, please. Thank you.

1183

02:45:10.570 --> 02:45:19.700

Harney Public Comments: where ground levels are actually declining, or have declined excessively. We have the support of everybody in the community, the tribe, the cities.

1184

02:45:20.410 --> 02:45:26.819

Harney Public Comments: Agriculture is the background of Harney County, and we would... we are actively working on

1185

02:45:28.130 --> 02:45:36.170

Harney Public Comments: Voluntary agreements in each sub-area, so please let us use those, and thank you for your time.

1186

02:45:36.380 --> 02:45:43.020

Vice-Chair Smitherman: Thank you. Thank you, Donald. Appreciate you taking the time, speak with us and share your feedback and your perspective.

1187

02:45:43.480 --> 02:45:49.610

Vice-Chair Smitherman: Next up, we have Kristen Shellman. I'm not quite sure if she's still here. She did speak earlier.

1188

02:45:52.050 --> 02:45:57.189

Vice-Chair Smitherman: I'm just gonna go through, I'm not... I don't see her online.

1189

02:45:58.960 --> 02:46:03.229

Vice-Chair Smitherman: So, let's go back... let's go to Don Cody.

1190

02:46:03.510 --> 02:46:05.179

Kristen Shelman: I... I am online.

1191

02:46:05.180 --> 02:46:12.200

Vice-Chair Smitherman: Oh, you are online! Hi, Kristen, sorry about that. Thank you. If you'd like to, give more feedback, please go ahead.

1192



02:46:12.750 --> 02:46:17.400

Kristen Shelman: I appreciate that. Do we have a visual, also?

1193

02:46:20.310 --> 02:46:22.349

Mindy Lane: Give me one second here.

1194

02:46:22.450 --> 02:46:25.969

Mindy Lane: Thank you. Appreciate your patience. I'll restart the timer.

1195

02:46:30.040 --> 02:46:30.760

Kristen Shelman: I mean, we're...

1196

02:46:34.280 --> 02:46:34.810

Vice-Chair Smitherman: Okay.

1197

02:46:35.200 --> 02:46:36.449

Vice-Chair Smitherman: Go ahead, Kristen.

1198

02:46:36.600 --> 02:46:46.060

Kristen Shelman: Okay, thank you very much. You know, I do, like I say, really appreciate the time given today. This is a, you know, very weighty conversation, as you all know.

1199

02:46:46.060 --> 02:47:01.230

Kristen Shelman: I want to address a few of the comments that were made by, Zach and Lisa, as well as, Lori, today that the Commission heard. Yes, we did have in-depth discussions, we did have hours and hours of RAC meetings.

1200

02:47:01.280 --> 02:47:14.110

Kristen Shelman: Those hours and hours of RAC meetings produce more questions than answers. The lists that Oregon Consensus in separate meetings outside of the RAC developed are lists and lists of

1201

02:47:14.270 --> 02:47:29.550

Kristen Shelman: things that this community needs to work through. That, with the Commission's help, we will be able to do so, but without the Commission's help in looking at this petition and what it can potentially do versus the regulation proposed through the 512 rules.

1202

02:47:29.640 --> 02:47:38.249

Kristen Shelman: Is we will never get to the bottom of those questions that were developed, and the possible solutions that need to come to this community.

1203

02:47:38.420 --> 02:47:50.909



Kristen Shelman: This petition really does allow us the opportunity to address so many of those questions, find so many of those solutions. We need different crops here, we need different opportunities

1204

02:47:50.980 --> 02:48:05.870

Kristen Shelman: to look at how we use the ground, there is better ground than others, which voluntary agreements are going to be able to allow water production to remain on the better type of soil that's even in this county. And so I think that

1205

02:48:05.870 --> 02:48:19.629

Kristen Shelman: you can never underscore your role as commissioners in trying to help find solutions. I would love for you to see the lists that were developed by Oregon Consensus, and really look at some of those additional questions that developed in the 512 meetings.

1206

02:48:19.730 --> 02:48:31.099

Kristen Shelman: But do not have the time and space, given a rules-making process, to be answered, and to find those opportunities where there is a positive outcome.

1207

02:48:31.220 --> 02:48:47.360

Kristen Shelman: Because there can be. This community needs that, and needs it for the viability into the future. And I just ask you to really take the time to look at some of the additional things that came from the 512 rulemaking that still remain unanswered.

1208

02:48:47.360 --> 02:48:52.920

Kristen Shelman: that with this petition, we could have time and space to work through. Thank you very much.

1209

02:48:55.020 --> 02:49:00.290

Vice-Chair Smitherman: Thank you. Thank you, Kristen. Thank you for sharing more of your... your perspective, comments.

1210

02:49:01.060 --> 02:49:04.429

Vice-Chair Smitherman: We do... let's go on to, Don Cody.

1211

02:49:12.140 --> 02:49:17.529

Vice-Chair Smitherman: See, is... is Dawn... In any of the larger rooms?

1212

02:49:21.180 --> 02:49:25.520

Vice-Chair Smitherman: Okay, then we will move on to Alan Daniel.

1213

02:49:25.920 --> 02:49:31.620

City of Hines: John Cody's is... 2682.

1214



02:49:31.870 --> 02:49:35.599

Vice-Chair Smitherman: Okay, thank you. 2682, Mindy.

1215

02:49:37.360 --> 02:49:40.000

Mindy Lane: I'm not seeing that phone number in.

1216

02:49:40.000 --> 02:49:40.400

Vice-Chair Smitherman: Okay.

1217

02:49:40.400 --> 02:49:41.770

Mindy Lane: of the attendance lists.

1218

02:49:41.960 --> 02:49:47.360

Vice-Chair Smitherman: We'll go ahead and, keep working on that while we have someone else go. Alan.

1219

02:49:47.600 --> 02:49:50.170

Vice-Chair Smitherman: Otley, are you with us as well?

1220

02:49:52.300 --> 02:49:59.140

Laura Hartt (OWRD): Mindy, there is an iPhone in there, I don't know if maybe that's the person. There's no phone number associated with it, though.

1221

02:50:04.250 --> 02:50:07.909

Mindy Lane: Vice Chair Smatherman, if we could move on while I chat with this iPhone and figure out.

1222

02:50:07.910 --> 02:50:09.210

Vice-Chair Smitherman: Yes, yeah.

1223

02:50:09.210 --> 02:50:09.700

Mindy Lane: Thank you.

1224

02:50:09.700 --> 02:50:13.389

Vice-Chair Smitherman: Do we have an Alan Daniel Otley, or was that the same as the Daniel?

1225

02:50:13.390 --> 02:50:17.290

Harney Public Comments: That same one, same one. That one's already gone. Okay. Thank you.

1226

02:50:17.290 --> 02:50:21.189

Vice-Chair Smitherman: Thank you. How about we go to Jerry Grandin?

1227



02:50:22.590 --> 02:50:28.299

Harney Public Comments: I got your birth certificate out.

1228

02:50:28.660 --> 02:50:29.189

Jerry Grondin: Thank you, buddy.

1229

02:50:29.190 --> 02:50:29.540

Harney Public Comments: moisture.

1230

02:50:29.730 --> 02:50:30.240

Vice-Chair Smitherman: Okay.

1231

02:50:30.580 --> 02:50:35.720

Vice-Chair Smitherman: Carney, would you be able to mute for us, please? Thank you. Go ahead, Jerry, when you're ready.

1232

02:50:36.150 --> 02:50:49.609

Jerry Grondin: Thank you, Vice Chair Spytherman and Commissioners. My name is Jerry Grandin. I'm a retired hydrogeologist from the Oregon Department of Water Resources. I was a participant in the groundwater investigation.

1233

02:50:49.880 --> 02:50:53.279

Jerry Grondin: My name is on 6 of the reports that were published.

1234

02:50:53.710 --> 02:51:02.650

Jerry Grondin: I'm staying involved during my retirement with the Harney Basin because I am interested in seeing the community

1235

02:51:02.900 --> 02:51:06.260

Jerry Grondin: And families succeed and thrive in the basin.

1236

02:51:06.640 --> 02:51:11.530

Jerry Grondin: And, I fully appreciate the community's concern about their well-being.

1237

02:51:11.870 --> 02:51:21.430

Jerry Grondin: I too come from a family that was devastated when my dad lost his business, and we're still dealing with the aftermath of that event 50 years later.

1238

02:51:22.030 --> 02:51:36.149

Jerry Grondin: But my main reason for talking today is... the second reason I'm involved... staying involved in the process is I'm interested in maintaining the integrity of this science, and that's what I want to address in my comments.

1239

02:51:37.000 --> 02:51:54.300



Jerry Grondin: This petition is a de facto end run that essentially attempts to supersede the results of a very public and a transparent technical Harney Basin groundwater investigation, and the results of a subsequent very public and transparent administrative public process.

1240

02:51:54.800 --> 02:52:12.709

Jerry Grondin: In particular, the petition reinterprets, and I want to re-emphasize, reinterprets the USGS WRD Arnie Basin Groundwater Investigation published results in a manner that is consistent with the locally favored interpretations

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02:52:12.970 --> 02:52:28.399

Jerry Grondin: That would state that the basin's groundwater occurs within separate, independent, isolated groundwater reservoirs. That has been repeatedly advocated to the investigative team since the beginning of the groundwater investigation.

1242

02:52:29.120 --> 02:52:45.110

Jerry Grondin: This apparent reinterpretation goal is to technically justify creating, establishing separate, independent, isolated administrative groundwater reservoirs for managing and regulating the basin's groundwater.

1243

02:52:45.750 --> 02:53:04.780

Jerry Grondin: The USGS WRD Harney Basin Groundwater Investigations analyses of the totality of the historic and current data does not technically support the local interpretation of multiple groundwater reservoirs, but rather a single groundwater system.

1244

02:53:05.550 --> 02:53:08.040

Jerry Grondin: So that leads me to my first recommendation.

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02:53:08.440 --> 02:53:22.350

Jerry Grondin: The Commission should consult with the Board of Geologist Examiners to determine whether the petition as written violates the Oregon statutes and rules for the practice of public geology.

1246

02:53:23.010 --> 02:53:23.930

Jerry Grondin: Second.

1247

02:53:23.970 --> 02:53:43.030

Jerry Grondin: The Commission should consult with the Board of Examiners for Engineers and Land Surveying to determine whether the engineer, Mario Petrelli, has violated Oregon statutes and rules for the public practice of engineering, given the comments he's made at various meetings.

1248

02:53:46.960 --> 02:54:04.880



Jerry Grondin: The Commission should recognize that the petition is solely... is a... is as a solely public interest finding request to decide whether the proposed 512, Division 512 rules revisions are best... which ones are in the best public interest.

1249

02:54:05.130 --> 02:54:14.670

Jerry Grondin: The petition, proposed revisions, that revises the current proposed, proposals from the, from the department.

1250

02:54:15.360 --> 02:54:19.029

Jerry Grondin: The superseding target... Gary, 15 seconds, please, sorry.

1251

02:54:19.030 --> 02:54:19.480

Mindy Lane: Thank you.

1252

02:54:19.480 --> 02:54:22.280

Jerry Grondin: I was looking at the timer and it hadn't moved.

1253

02:54:22.680 --> 02:54:30.469

Jerry Grondin: So, really, what the petition's about is a public interest request. Also.

1254

02:54:31.440 --> 02:54:40.470

Jerry Grondin: The memo from Scandella and Boschman is the most appropriate tool for the technical side of that interpretation.

1255

02:54:40.910 --> 02:54:49.440

Jerry Grondin: Also, the Commission should reject declaring or recognizing the separate groundwater reservoirs, and it should not dismiss

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02:54:49.740 --> 02:54:57.699

Jerry Grondin: the, you know, the smaller declines happening in the Upper Silver Creek, or in the lower blitz and voltage sub-areas.

1257

02:54:57.860 --> 02:55:02.599

Vice-Chair Smitherman: Thank you, Jerry. We do... we do very much appreciate your comments today.

1258

02:55:02.970 --> 02:55:22.150

Vice-Chair Smitherman: It is 1 o'clock, however, I would like to allow for the rest of the commenters to go ahead and speak, so we're going to continue. We have, commissioners might need to leave, but most of us are going to stay as long as we can, so we have a handful of commenters left.

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02:55:22.150 --> 02:55:24.210

Vice-Chair Smitherman: So let's keep moving toward forward.



1260

02:55:24.210 --> 02:55:29.120

Mindy Lane: Vice Chair Smitherman, if I could just note that Ivan Gall did have to leave for another engagement.

1261

02:55:29.120 --> 02:55:33.690

Vice-Chair Smitherman: Thank you, yes, and Director Gall is gone as well, so thank you, Mindy, for that.

1262

02:55:34.030 --> 02:55:40.559

Vice-Chair Smitherman: Do we... I'm gonna... I'm gonna circle back, do we have... I'm gonna try this one more time, do we have Ken Benz on the phone?

1263

02:55:46.970 --> 02:55:49.049

Vice-Chair Smitherman: Or, Don Cody.

1264

02:55:53.330 --> 02:56:07.820

Mindy Lane: If I can just make an announcement, Vice Chair, for any of the three phone callers, please raise your hand or send me in the chat with your names if you've signed up for oral comment. I do not know your names. It would be helpful if you could identify yourselves. Thank you.

1265

02:56:08.660 --> 02:56:13.020

Vice-Chair Smitherman: Thank you, Mindy. We can skip to, Kenneth Beerley.

1266

02:56:17.770 --> 02:56:29.199

Ken Bierly: Thank you for the opportunity to comment. I am not a member of the community, but I have been involved in the place-based planning effort, in the Harney Basin

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02:56:29.350 --> 02:56:33.340

Ken Bierly: For the past 9 years,

1268

02:56:33.560 --> 02:56:41.709

Ken Bierly: I recognize that you have an incredibly difficult decision in front of you. You're presented with a petition from the community.

1269

02:56:41.880 --> 02:56:46.210

Ken Bierly: Contrary to what,

1270

02:56:46.510 --> 02:56:56.949

Ken Bierly: you just heard, is based in the information that was available from the groundwater study. It suggests a different policy approach.

1271



02:56:57.140 --> 02:57:02.279

Ken Bierly: But I think it's... it's a necessary,  
1272

02:57:03.450 --> 02:57:20.239

Ken Bierly: for the Commission to recognize that there is a different view coming from the community than from the department and the RAC, and I think that those differences are important. The RAC depended upon a model, the community is  
1273

02:57:20.360 --> 02:57:31.300

Ken Bierly: unavailable... that model is unavailable to the community. They couldn't test their approach using the model, since it's only handled by the department.  
1274

02:57:31.650 --> 02:57:34.980

Ken Bierly: So the community... Based approach.  
1275

02:57:35.480 --> 02:57:50.880

Ken Bierly: Came out of the... Community-based planning. Voluntary agreements, as was testified by the, Previous speakers,  
1276

02:57:50.980 --> 02:58:02.090

Ken Bierly: had helped us understand what a voluntary agreement could be in Oregon, and that's... was one of the elements that was very important for the  
1277

02:58:02.140 --> 02:58:12.129

Ken Bierly: community-based plan. We also developed, tools recognizing that there were significant declines. The Conservation Reserve Enhancement Program was established.  
1278

02:58:12.260 --> 02:58:18.889

Ken Bierly: That tried to protect Or incentivize protection of groundwater-dependent ecosystems.  
1279

02:58:18.900 --> 02:58:34.250

Ken Bierly: The Harney Basin Domestic Wealth Fund was established before any rules were applied, so there's been significant efforts in the community to try to address these issues. I suggest that, one, the department worked with the  
1280

02:58:34.250 --> 02:58:40.420

Ken Bierly: With the petitioners to modify the proposal to better meet the needs for everyone.  
1281

02:58:40.420 --> 02:58:55.170

Ken Bierly: And second, I think it's critically important that you separately address tribal issues, take it out of the 512 rules, or 512 rules, or even the petition is a good way to go. And then to



1282

02:58:55.300 --> 02:58:59.469

Ken Bierly: Also, remove the municipal water rights from it.

1283

02:58:59.560 --> 02:59:15.539

Ken Bierly: If you're talking about less than 1% of the effect, it's within the margin of error of any of the model runs. I think it's irrelevant to try to address them just because they're there. I appreciate the opportunity to comment.

1284

02:59:15.930 --> 02:59:21.060

Ken Bierly: There was a lot of effort put together by the community in the community-based plan,

1285

02:59:21.420 --> 02:59:23.870

Ken Bierly: The petition reflects a lot of that.

1286

02:59:23.870 --> 02:59:24.230

Mindy Lane: 15.

1287

02:59:24.550 --> 02:59:25.829

Mindy Lane: Please, and thank you.

1288

02:59:26.860 --> 02:59:34.459

Ken Bierly: We'd like to see that There's an opportunity for the community to work with the department to

1289

02:59:34.760 --> 02:59:38.830

Ken Bierly: put together something that both can... both can live with. Thank you.

1290

02:59:40.240 --> 02:59:45.390

Vice-Chair Smitherman: Thank you, Ken. Again, appreciate your time that you took to speak with us today.

1291

02:59:45.940 --> 02:59:55.979

Vice-Chair Smitherman: Next we have, let's see, I have a message here. Let's try this again. I see Don Cody's number. Don Cody, are you with us?

1292

03:00:02.270 --> 03:00:03.969

Vice-Chair Smitherman: Go ahead and unmute.

1293

03:00:11.210 --> 03:00:13.609

Vice-Chair Smitherman: Okay, we might still be working through that.

1294

03:00:13.740 --> 03:00:16.450



Vice-Chair Smitherman: Let's go ahead with Eric Steen.

1295

03:00:18.690 --> 03:00:19.750

Don Cody: Hello?

1296

03:00:21.180 --> 03:00:22.340

Vice-Chair Smitherman: Oh, hello, is this...

1297

03:00:22.340 --> 03:00:22.940

Don Cody: Excited.

1298

03:00:24.050 --> 03:00:26.269

Don Cody: Yeah, this is Don, Cody.

1299

03:00:26.270 --> 03:00:30.939

Vice-Chair Smitherman: Okay, let... everyone, let's go ahead and let Dawn go first, and then we'll come back. Go ahead, Dawn.

1300

03:00:32.440 --> 03:00:37.019

Don Cody: I won't, be very long. Anyway, my name's Don Cody, I live,

1301

03:00:37.670 --> 03:00:42.849

Don Cody: East of Crane, me and my son have a ranch out there, and

1302

03:00:43.290 --> 03:00:49.700

Don Cody: I don't know, I'm... I'm just totally confused on how they drew these maps.

1303

03:00:50.020 --> 03:00:55.050

Don Cody: We've never had a water problem on our place, and

1304

03:00:55.830 --> 03:01:04.560

Don Cody: We are lumped in with, with, The... the crane situation.

1305

03:01:05.500 --> 03:01:11.040

Don Cody: And, I don't think that's right. I don't...

1306

03:01:11.240 --> 03:01:13.159

Don Cody: I believe that we're pumping from

1307

03:01:13.940 --> 03:01:17.079

Don Cody: You know, the same cool water,

1308

03:01:17.890 --> 03:01:21.710

Don Cody: You know, there's... I know there is places that have water issues, and...



1309

03:01:22.060 --> 03:01:33.960

Don Cody: My place isn't one of them, but anyway, it's... It... this is gonna devastate Or communities.

1310

03:01:34.720 --> 03:01:40.700

Don Cody: It'll devastate Crane, it'll devastate... Burns...

1311

03:01:40.990 --> 03:01:45.900

Don Cody: like some of the previous callers have said, I mean, we'll be lucky if we have a

1312

03:01:46.150 --> 03:01:47.720

Don Cody: Place to buy groceries.

1313

03:01:49.260 --> 03:01:51.789

Don Cody: Anyway, that's about all I have to say.

1314

03:01:52.490 --> 03:01:53.160

TELEPHONE\_USER: Thank you.

1315

03:01:53.970 --> 03:01:57.740

Vice-Chair Smitherman: Thank you, Don. Appreciate you taking the time to speak with us today.

1316

03:01:59.120 --> 03:02:02.139

Vice-Chair Smitherman: Okay, let's go back to Eric Steen.

1317

03:02:02.870 --> 03:02:04.599

Vice-Chair Smitherman: I believe, from Harney.

1318

03:02:06.320 --> 03:02:07.370

Harney Public Comments: When you're ready.

1319

03:02:08.010 --> 03:02:23.280

Harney Public Comments: Okay, thank you for, taking my comment. My name's Eric Steen. My wife and I run and operate on a fifth-generation century farm and ranch in the Diamond area. We're in our mid-30s and have a 7-year-old son in the Diamond Elementary School.

1320

03:02:23.430 --> 03:02:34.610

Harney Public Comments: The school consists of 13 students, it's a very small school, relying solely on agriculture. We raise cattle and hay, cooperating with many government agencies in our operation.

1321



03:02:35.070 --> 03:02:41.400

Harney Public Comments: Last year, my wife and I were named Young Farmer and Rancher of the Year by the Harney County Chamber of Commerce.

1322

03:02:41.840 --> 03:02:49.360

Harney Public Comments: Over the past few years, we've bought a few pivots in the lower blitz and sub area. These hay pivots are crucial to our cattle operation.

1323

03:02:49.670 --> 03:02:55.470

Harney Public Comments: Without them, the generational handoff that you see in this region will undoubtedly end with this one.

1324

03:02:55.950 --> 03:03:08.180

Harney Public Comments: In response to the current 512 rules put out by the department, it is shown our subareas operated and produced in a surplus of water failing to meet the state's critical groundwater designation by their own deterrence.

1325

03:03:10.330 --> 03:03:23.359

Harney Public Comments: As a result of our inaccurate labeling as such, we as a sub-area have responded with voluntary agreement in hopes to cooperate with the department in their pursuit of water conservation in the Harney Basin.

1326

03:03:24.100 --> 03:03:37.879

Harney Public Comments: The local temperature for the voluntary agreement and petition, as wrote, seems to be very favorable, and seems to be very favorable, and all are wanting to cooperate in the collective reduction of water use.

1327

03:03:38.840 --> 03:03:47.910

Harney Public Comments: And by doing so, you'd keep a lot of junior water users, such as myself and Jake Davis, who you've heard from prior, in business and out of bankruptcy.

1328

03:03:48.740 --> 03:04:02.300

Harney Public Comments: We've developed water monitoring measures that we'd want to implicate into our voluntary agreement to get an accurate and solid data point to provide to the department in future data collections, so they can actually see what is going on in our subarea.

1329

03:04:02.550 --> 03:04:13.190

Harney Public Comments: We also have forms of potential funding to upgrade irrigation... more efficient irrigation equipment for our targeted 10% total reduction via the petition.

1330

03:04:14.470 --> 03:04:33.010

Harney Public Comments: I'll conclude with the sentiment that... and that the consideration and acceptance of this petition and our voluntary agreements will save the



future of our small rural schools, businesses, and most of all, our families. These water rights have faces to them. I am in one. This room I'm in is filled with others.

1331

03:04:33.210 --> 03:04:42.799

Harney Public Comments: They mean more than just production agriculture on a large scale, as some of the previous commenters have said. They are our community's future and our community's prosperity. Thank you.

1332

03:04:45.900 --> 03:04:48.310

Vice-Chair Smitherman: Thank you, appreciate your time, Eric.

1333

03:04:49.050 --> 03:04:51.360

Vice-Chair Smitherman: Next up, we have Tony Hackett.

1334

03:04:52.830 --> 03:04:53.770

Harney Public Comments: Yes.

1335

03:04:54.350 --> 03:05:05.400

Harney Public Comments: Thanks, Vice Chairman Smitherman and Congressman. I've been here since the early 70s. We've been fighting the same problem since then.

1336

03:05:05.500 --> 03:05:21.180

Harney Public Comments: We grew hay, we had the same... same water problems in the 70s that we still have today. In the meantime, Water Resources has issued water rights out all the way up to 2015 to 18.

1337

03:05:21.640 --> 03:05:22.740

Harney Public Comments: We...

1338

03:05:23.490 --> 03:05:34.470

Harney Public Comments: been on the REC, I was on the REC committee. We worked side by side for the people that think we had our input. We did have input, we worked with them, got patted on the back.

1339

03:05:35.290 --> 03:05:40.020

Harney Public Comments: Then when they left and came back, they did what they wanted to do. We didn't...

1340

03:05:40.430 --> 03:05:45.090

Harney Public Comments: Most of the time, never came back with the same thing we talked about when they left.

1341

03:05:45.870 --> 03:05:53.660



Harney Public Comments: I turned around and I brought customers in because I didn't want to drill their wells unless they knew they were going to get to use them.

1342

03:05:53.820 --> 03:05:59.159

Harney Public Comments: And watch Water Resources staring right in the face and tell them, use it or lose it.

1343

03:05:59.210 --> 03:06:16.800

Harney Public Comments: Then we went ahead and drilled the wells, they put the pivots in, they did their job, they paid to expedite their water rights. Some of them got the letter of decline before they ever got their water right. Then the letter of water rights showed up after the letter of decline.

1344

03:06:17.120 --> 03:06:26.539

Harney Public Comments: You're asked... I'm in total favor of the petition for the fact that that gives this community to finally stand up for themselves.

1345

03:06:26.740 --> 03:06:31.040

Harney Public Comments: This community is a very close-knit, very...

1346

03:06:31.350 --> 03:06:44.059

Harney Public Comments: honest group of people that live here that will work together and do something, not be regulated by the same people that did nothing for 4 years, or 40 years.

1347

03:06:44.410 --> 03:06:47.039

Harney Public Comments: I... I just can't trust.

1348

03:06:48.160 --> 03:07:02.799

Harney Public Comments: the regulations of this county being ran on the other side of the state. They haven't done their job for the last 40. What would make anybody think they can do it the next 30? I just don't see it.

1349

03:07:03.050 --> 03:07:18.860

Harney Public Comments: They don't stand behind the word they give us to our face. I don't know how we can trust them to work with petitioning and volunteer agreements from Salem to here. I think that we really

1350

03:07:19.150 --> 03:07:31.139

Harney Public Comments: really need this petition, and let the community save itself. As far as the people that are complaining on these stock wells and domestic wells drying up.

1351

03:07:31.540 --> 03:07:40.020



Harney Public Comments: It isn't always the local farmer's fault. It might have been some of the new developers coming in that got water rights in the last  
1352

03:07:40.080 --> 03:07:52.420

Harney Public Comments: 10 years that are just buying land and trying to turn it over and sell it, and the water resources kept giving out water rights. It has nothing to do with the 4th, 5th generation farms.  
1353

03:07:52.970 --> 03:07:56.430

Harney Public Comments: So, I'm... I'm begging you to take seconds...  
1354

03:07:56.430 --> 03:07:57.640

Mindy Lane: Please and thank you.  
1355

03:07:59.500 --> 03:08:01.059

Harney Public Comments: Huh? Okay.  
1356

03:08:01.900 --> 03:08:03.050

Harney Public Comments: Thank you.  
1357

03:08:05.080 --> 03:08:06.200

Vice-Chair Smitherman: Thank you.  
1358

03:08:06.640 --> 03:08:09.999

Vice-Chair Smitherman: I appreciate your comments again, Tony.  
1359

03:08:10.320 --> 03:08:15.579

Vice-Chair Smitherman: Let's go ahead and go with, is Mario online? Mario, Petrilli?  
1360

03:08:16.130 --> 03:08:17.489

Harney Public Comments: Yes, I am.  
1361

03:08:17.490 --> 03:08:19.459

Vice-Chair Smitherman: Great. Go ahead when you're ready.  
1362

03:08:20.620 --> 03:08:33.950

Harney Public Comments: Howdy, everyone, it's me again. Hey, Jerry, love your work, but I think I understand how the USGS Garcia et al. Research and your work, came up with most of those large DW  
1363

03:08:34.400 --> 03:08:40.659

Harney Public Comments: Discharge rates and actual for all three areas under their analysis, which guided the model.  
1364



03:08:40.870 --> 03:08:52.099

Harney Public Comments: It's the WRIS numbers. Oregon uses unique catalog methodologies over time than its neighbor states, which makes this problem weird.

1365

03:08:52.210 --> 03:09:00.760

Harney Public Comments: A 2022 USDA survey of groundwater resource record management by states ranks Oregon 49th.

1366

03:09:01.220 --> 03:09:06.080

Harney Public Comments: Due to the unknown number of debunked and abandoned wells.

1367

03:09:06.410 --> 03:09:14.450

Harney Public Comments: Indiana's 50th. I call the Harn Well Log Byzantine, and the USGS uses these numbers.

1368

03:09:14.710 --> 03:09:16.549

Harney Public Comments: the POD totals.

1369

03:09:16.770 --> 03:09:21.260

Harney Public Comments: POU acres and rates include some duplication.

1370

03:09:21.440 --> 03:09:32.919

Harney Public Comments: A groundwater right may have two or more wells attached, and a well may have two or more groundwater rights attached. A few as 9 as 5 according to the GWIS law.

1371

03:09:33.150 --> 03:09:47.380

Harney Public Comments: Parsing the PODs and POUs, or more correctly assigning actual wells to actual acres, will take time, large computers, and subjective imagination. There are assignment errors.

1372

03:09:47.380 --> 03:09:53.560

Harney Public Comments: Some permit and certificate transfers logged into the haunt well log event log.

1373

03:09:53.560 --> 03:10:00.229

Harney Public Comments: whose paper... transfer paperwork can be a bit messy, differ from the primary WRIS law.

1374

03:10:00.400 --> 03:10:14.700

Harney Public Comments: The WRIS tends to accumulate groundwater rights to a well. There are 5 known farm operators which use a relatively small number of wells interconnected to irrigate a large number of acres for operational efficiency.



1375

03:10:14.850 --> 03:10:24.079

Harney Public Comments: These farms are in the three Rule 512 identified critical ground problem areas. Rattlesnake Buchanan, Crane, and Weaver Springs.

1376

03:10:24.230 --> 03:10:34.519

Harney Public Comments: The amounts of overconsumption are amplified by the over-assignment of PODs. Gee, I don't know, let's assign this groundwater right to the nearest well.

1377

03:10:34.660 --> 03:10:44.969

Harney Public Comments: Yes, there are POD well owners with POU farms owned by another within the WRIS log when compared to the HARN log.

1378

03:10:46.020 --> 03:10:51.930

Harney Public Comments: The harm log, the mother of all department databases, is somewhat chronological, beginning in 1883.

1379

03:10:51.960 --> 03:11:08.960

Harney Public Comments: Currently, I'm accumulating about around the year 2002. Thus far, I'm finding an 8% error rate, or difference between the log and the GWRIS and the WRIS databases, and a 2.5 to 3% entry error rate.

1380

03:11:08.960 --> 03:11:23.429

Harney Public Comments: I cannot say if these error rates will be finals. There are more transfers between 2002 and 2025, which may muddy up the waters more. The use of paper acres and acre feed is convenient. They are from the GWIS database.

1381

03:11:23.430 --> 03:11:25.559

Mindy Lane: 15 seconds, please, and thank you.

1382

03:11:26.360 --> 03:11:32.390

Harney Public Comments: I'm almost done. I'm double-checking and grading the division's homework. So far, it's a D.

1383

03:11:32.680 --> 03:11:49.629

Harney Public Comments: The Plan B petition suffers from the same issues. It also relies on the GWIS consumption numbers and the WRIS assignment errors. However, its proposed reduction rates are more real when compared to the Rule 512 estimated consumption rates.

1384

03:11:51.050 --> 03:11:53.229

Mindy Lane: Vice Chair, I've gone ahead and muted them.

1385



03:11:53.230 --> 03:11:59.949

Vice-Chair Smitherman: So sorry about that, Mario. Thank you. We do really appreciate you being here, taking the time to talk with us today.

1386

03:12:00.760 --> 03:12:03.840

Vice-Chair Smitherman: Next up, we have Eric Kierings.

1387

03:12:05.500 --> 03:12:09.630

Harney Public Comments: So... Good morning, Vice Chair Smitherman.

1388

03:12:09.860 --> 03:12:11.320

Harney Public Comments: Any commission?

1389

03:12:11.610 --> 03:12:13.770

Harney Public Comments: Thank you for listening to my comments.

1390

03:12:13.900 --> 03:12:18.740

Harney Public Comments: Today you've heard a lot about technical data and everything, but I want to tell a story today.

1391

03:12:18.940 --> 03:12:19.999

Harney Public Comments: Think of it.

1392

03:12:20.170 --> 03:12:25.730

Harney Public Comments: In 20, 35, 10 years from now, It's February.

1393

03:12:26.030 --> 03:12:30.160

Harney Public Comments: Blizzard outside, snow's coming 20 inches high.

1394

03:12:31.160 --> 03:12:36.580

Harney Public Comments: The Driftster Everywhere, the Sothouse Lane, Come blown in.

1395

03:12:36.980 --> 03:12:42.850

Harney Public Comments: There's a senior white... water right user, His wife asked quietly.

1396

03:12:43.190 --> 03:12:46.450

Harney Public Comments: You think I'll make it to my doctor's appointment? Tomorrow?

1397

03:12:47.150 --> 03:12:48.900

Harney Public Comments: He looks out the window.

1398

03:12:49.220 --> 03:12:56.179

Harney Public Comments: What does he see all white? He knows the loader's broken down, parts are in order, but nobody's coming at it.



1399

03:12:57.160 --> 03:13:02.480

Harney Public Comments: So he grabs his phone, He looks at, who am I gonna call?

1400

03:13:03.370 --> 03:13:05.620

Harney Public Comments: The neighbor's right across the way.

1401

03:13:06.460 --> 03:13:08.919

Harney Public Comments: They've been curtailed and moved away!

1402

03:13:10.040 --> 03:13:12.569

Harney Public Comments: Well, who's to the right?

1403

03:13:12.810 --> 03:13:17.049

Harney Public Comments: Quarter... mile and a quarter away. They're old, but all they've got is a little

1404

03:13:17.240 --> 03:13:20.969

Harney Public Comments: yard tractor, that's not gonna do. They'll never get my Ford out.

1405

03:13:21.470 --> 03:13:28.219

Harney Public Comments: The neighbors behind the hill, they're two and a half miles away, they've been curtailed, they're back in Diamond Suite.

1406

03:13:28.990 --> 03:13:32.430

Harney Public Comments: We move to the left, they're Senior Water White users.

1407

03:13:33.140 --> 03:13:37.530

Harney Public Comments: They moved out. They had to find a truck driving job just to make the bills.

1408

03:13:38.260 --> 03:13:43.469

Harney Public Comments: The neighbors right next door, they're senior waters as well. Bank owns that place.

1409

03:13:43.630 --> 03:13:45.050

Harney Public Comments: No one's home.

1410

03:13:45.180 --> 03:13:53.629

Harney Public Comments: The green barn down the road, on lava bed lanes full of equipment. Wow, but they winter where they're somewhere warm.

1411

03:13:54.070 --> 03:13:57.140

Harney Public Comments: Well, there at least only one person across the way.



1412

03:13:57.350 --> 03:13:59.259

Harney Public Comments: I'll give them a call anyway.

1413

03:14:00.070 --> 03:14:04.480

Harney Public Comments: Ring, ring... They answered, What can I do for you, neighbor?

1414

03:14:05.040 --> 03:14:09.370

Harney Public Comments: Could you get me out? Could you plow me out? I need to get to the doctor tomorrow.

1415

03:14:09.690 --> 03:14:11.740

Harney Public Comments: wife's... appointment.

1416

03:14:12.280 --> 03:14:13.810

Harney Public Comments: no can-do.

1417

03:14:14.150 --> 03:14:17.750

Harney Public Comments: Sorry, neighbor. My brick's stuck in the driveway.

1418

03:14:20.200 --> 03:14:23.920

Harney Public Comments: Four-wheel drive tractors laid up in the stack yard.

1419

03:14:24.200 --> 03:14:28.190

Harney Public Comments: under all this disaster, I don't know if I'll even make it out.

1420

03:14:29.230 --> 03:14:33.139

Harney Public Comments: That is... He hangs up the phone.

1421

03:14:34.350 --> 03:14:36.430

Harney Public Comments: With despair and defeat.

1422

03:14:36.650 --> 03:14:38.990

Harney Public Comments: He turns around very quietly.

1423

03:14:39.480 --> 03:14:47.059

Harney Public Comments: My dear, I think you're gonna have to postpone doctor's appointment. We're stuck here till the snow melts.

1424

03:14:47.770 --> 03:14:50.879

Harney Public Comments: Or somebody, by the grace of God, plows this out.

1425

03:14:52.150 --> 03:14:57.649



Harney Public Comments: And he... she sees his tears as he turns to stare out the window at the light.

1426

03:14:59.470 --> 03:15:03.839

Harney Public Comments: Now let's take that back. We're back to 2035.

1427

03:15:04.500 --> 03:15:08.349

Harney Public Comments: The petition has been approved and implemented.

1428

03:15:08.350 --> 03:15:10.650

Mindy Lane: 15 seconds, please, and thank you.

1429

03:15:10.950 --> 03:15:15.680

Harney Public Comments: storm comes, and I support his neighbors will help him out.

1430

03:15:15.900 --> 03:15:22.419

Harney Public Comments: I support the petition, my family supports the voluntary agreements in the Whitson and the Harney County area.

1431

03:15:23.910 --> 03:15:24.920

Harney Public Comments: Thank you.

1432

03:15:26.590 --> 03:15:30.580

Vice-Chair Smitherman: Thank you, Eric. Thank you for your story. Appreciate you sharing with us.

1433

03:15:31.520 --> 03:15:34.750

Vice-Chair Smitherman: Next up, we have Larissa Singhaus.

1434

03:15:36.550 --> 03:15:50.389

Harney Public Comments: Thank you. Commissioners, thank you for this opportunity. My name is Larsa Singhos. I am a farmer and rancher in Riley, Oregon. We are third-generation farmers with adult fourth-generation farmers counting on this farm staying together.

1435

03:15:50.390 --> 03:16:11.809

Harney Public Comments: I support the petition and feel the petition better represents the steps needed to manage the water reservoir of Harney Basin. The petition recognizes the different water conditions in different parts of the basin and manages them according to their specific conditions. The petition encourages voluntary agreements in areas that are reasonably stable and do not meet the critical designation.

1436

03:16:11.850 --> 03:16:17.610



Harney Public Comments: The petition protects water rights as required by law, better than the department's proposed rules.

1437

03:16:17.990 --> 03:16:30.159

Harney Public Comments: The petition minimizes economic impacts to the community with minimized losses to jobs and public services, while the department's proposal increases economic impacts by overreaching regulations.

1438

03:16:30.290 --> 03:16:42.679

Harney Public Comments: The Water Resource Department's model does show that the petition does meet statutory criteria for perpetual use. Three of the sub-areas never even get close to 25-foot decline.

1439

03:16:44.230 --> 03:17:08.859

Harney Public Comments: I have sent a chart, into the Commission, which they have in front of them, and this shows that I do not... that I do not agree that Donner Bloodson, Sylves, and Silver Creek meet the criteria for a critical designation. And this chart is specific to the western region, and shows that by the numbers, clearly show that if the water allotment of water rights was used, if the full... sorry, excuse me, if the full

1440

03:17:08.860 --> 03:17:18.730

Harney Public Comments: full allotment of water rights was used in the Silver Creek sub-area. With the regulated use in Beaver Springs, the water could never be overdrawn.

1441

03:17:18.740 --> 03:17:27.850

Harney Public Comments: Therefore, the Silver Creek subary is not about to be overdrawn, and does not meet the criteria of a critical groundwater designation.

1442

03:17:28.700 --> 03:17:37.689

Harney Public Comments: I would also like to point out the... I see the problem with the, the models that, was just presented to us about petition.

1443

03:17:37.690 --> 03:17:50.640

Harney Public Comments: In the model of the springs particular, it does not consi... does not run consistent with the USGS report. And the reason this is, is that how does a model

1444

03:17:50.640 --> 03:18:09.989

Harney Public Comments: How does this model show less discharge in the Silver Creek sub-area in 1980 than the discharge reported in the 2017 USGS report? The 2017 USGS measurement discharge for the Warm Springs Valley area was 23,500 acre-feet.

1445

03:18:10.070 --> 03:18:14.000

Harney Public Comments: But the model projects, in 1980,

1446



03:18:14.370 --> 03:18:29.499

Harney Public Comments: that there will only be 17,800 acre-feet being discharged. How are those numbers supported? What assumptions did they make to get those numbers? Because they were not used... not use the data correctly?

1447

03:18:29.770 --> 03:18:40.689

Harney Public Comments: The numbers that are being used is being used to mislead the real impacts of the spring and the ecosystem to further their position, and those of their...

1448

03:18:40.690 --> 03:18:41.720

Mindy Lane: Please and thank you.

1449

03:18:42.250 --> 03:18:51.019

Harney Public Comments: I now understand why some of us are not being... felt that we are being listened to, because we have not been considered to be a water partner.

1450

03:18:51.510 --> 03:19:00.569

Harney Public Comments: The petition supports and promotes the use of voluntary agreements, kind of the basin forward. And in Upper Valley, we are working towards...

1451

03:19:01.650 --> 03:19:03.139

Mindy Lane: I've gone ahead and muted them.

1452

03:19:03.140 --> 03:19:03.810

Vice-Chair Smitherman: Okay.

1453

03:19:03.920 --> 03:19:13.449

Vice-Chair Smitherman: Very sorry about that, Larissa. Thank you for being here. I know you've been at a couple meetings and have presented, so we appreciate your time, and thanks for the feedback on the model.

1454

03:19:13.820 --> 03:19:18.380

Vice-Chair Smitherman: We have two more commenters, I believe. Next up is Fred Otley.

1455

03:19:20.150 --> 03:19:24.080

Harney Public Comments: Yes, thank you for... Considering my comments.

1456

03:19:24.570 --> 03:19:27.560

Harney Public Comments: I'd like to back up a little bit and talk about

1457

03:19:28.450 --> 03:19:42.179

Harney Public Comments: the process whereby a lot of information was provided to the department, and in many cases, they never followed up on it. I personally submitted a lot of aquifer



1458

03:19:43.350 --> 03:19:44.590

Harney Public Comments: language.

1459

03:19:44.690 --> 03:19:49.679

Harney Public Comments: Asking the department to follow up on specific aquifers in the basin.

1460

03:19:50.100 --> 03:19:57.940

Harney Public Comments: And they never came back with how they would do that or why they would do that, they just did not do it.

1461

03:19:58.350 --> 03:20:09.270

Harney Public Comments: Aquifer mapping, following the water to recharge areas is the basis of understanding and properly regulating water.

1462

03:20:09.390 --> 03:20:12.940

Harney Public Comments: And I think that's where we are now.

1463

03:20:14.100 --> 03:20:24.490

Harney Public Comments: If... if the department would have looked at increase or decrease your functions of streams, if they would have tried to follow, differences in water quantity.

1464

03:20:24.980 --> 03:20:41.509

Harney Public Comments: I think we would be in a different place right now. The recharge areas that I submitted information on was never followed up on, and I think that leaves us in a pretty poor place in terms of the existing 512 rules.

1465

03:20:41.730 --> 03:20:43.430

Harney Public Comments: That they're proposing.

1466

03:20:43.920 --> 03:20:46.829

Harney Public Comments: we... We have,

1467

03:20:47.580 --> 03:21:02.490

Harney Public Comments: Big discrepancies in the determinations of water availability, and most of the area of the basin is not overdrawn, and and isn't... doesn't face

1468

03:21:02.700 --> 03:21:05.040

Harney Public Comments: Being overdrawn.

1469

03:21:05.190 --> 03:21:10.169



Harney Public Comments: If the individual aquifers were properly analyzed and followed up on.

1470

03:21:10.840 --> 03:21:18.389

Harney Public Comments: We would be more specifically addressing water management needs in each area.

1471

03:21:18.610 --> 03:21:19.500

Harney Public Comments: Oh?

1472

03:21:19.730 --> 03:21:26.120

Harney Public Comments: I appreciate and support the petition, because it worked closely allows...

1473

03:21:26.390 --> 03:21:43.449

Harney Public Comments: individual areas to look at all the different issues involved in static groundwater levels, and the area that recharges those. So, it's vital to go forward with the petition and voluntary agreements.

1474

03:21:44.000 --> 03:21:49.500

Harney Public Comments: I, I know that, when,

1475

03:21:49.890 --> 03:21:53.980

Harney Public Comments: When the department flip-flopped 3 or 4 times in terms of

1476

03:21:54.860 --> 03:22:03.410

Harney Public Comments: of how they were handling static water levels and moving towards the model that they used. The model...

1477

03:22:04.270 --> 03:22:11.980

Harney Public Comments: In that process, they flip-flop 3 or 4 times, moving two criteria that there's no data.

1478

03:22:12.430 --> 03:22:18.399

Harney Public Comments: involved, to follow up on that, like springs and whatnot. So...

1479

03:22:19.860 --> 03:22:23.970

Harney Public Comments: We, we're in a, in a... in a small... 15 seconds.

1480

03:22:23.970 --> 03:22:25.150

Mindy Lane: Please and thank you.

1481

03:22:25.610 --> 03:22:44.260



Harney Public Comments: The basic problem in the existing rule is that the, the assumption was used that wasn't characterized by the department earlier, and that assumption was it's all one flow. We know that's not true. The petition is the best way forward.

1482

03:22:45.020 --> 03:22:47.559

Mindy Lane: I've gone ahead and muted them, Vice Chair.

1483

03:22:49.150 --> 03:22:55.349

Vice-Chair Smitherman: Okay, thank you. Sorry about that, Fred. Thank you for your comments and taking the time to be here today.

1484

03:22:55.480 --> 03:23:02.650

Vice-Chair Smitherman: We've had... it's difficult to get everybody in in an allotted period of time, so we appreciate your understanding.

1485

03:23:03.030 --> 03:23:07.619

Vice-Chair Smitherman: I think the last one we have on the list is Carl Newman.

1486

03:23:11.150 --> 03:23:13.109

Harney Public Comments: Keep going. We're open.

1487

03:23:13.360 --> 03:23:21.710

Harney Public Comments: Welcome to Carl. Carl Newman, 5th generation in the county, all agriculture,

1488

03:23:22.550 --> 03:23:28.500

Harney Public Comments: I own and operate in the Blitz and Voltage area, and

1489

03:23:28.760 --> 03:23:42.070

Harney Public Comments: Just 2 years ago, made my first 7-figure purchase. Went into debt big time, but believed in the process. Business owner, I have 3 full-time employees with a company.

1490

03:23:42.360 --> 03:23:49.320

Harney Public Comments: That is not in cattle and hay, and it completely supplements my program.

1491

03:23:49.660 --> 03:24:07.709

Harney Public Comments: And I'm hearing a lot of misrepresentation today. I'm hearing lots of different voices who don't get cut off, mind you. They get to say their piece, and then we'll cut off 16-year-old high school kids trying to get on the bus to go to a game.

1492

03:24:07.980 --> 03:24:17.619



Harney Public Comments: But then we'll keep on playing to people who don't even know what they're talking about. You can literally go onto my property.

1493

03:24:18.230 --> 03:24:24.130

Harney Public Comments: And... I run 3... 250 acres are irrigated off 1 well.

1494

03:24:24.510 --> 03:24:32.910

Harney Public Comments: I report my static level to the state. It is measured every March. It has gone up every single year.

1495

03:24:33.310 --> 03:24:35.050

Harney Public Comments: Since that well was drilled.

1496

03:24:35.300 --> 03:24:44.600

Harney Public Comments: And then, I go to my leased property of 42 acres, and it has maintained its static level every year.

1497

03:24:44.910 --> 03:24:53.489

Harney Public Comments: But if I, on my lease property, which is about 3 miles as the crow flies, approximately from my, purchased ground.

1498

03:24:53.680 --> 03:25:04.870

Harney Public Comments: Over the hill, There were water rights transferred from Dog Mountain they drilled... 900 feet depth wells.

1499

03:25:05.780 --> 03:25:13.439

Harney Public Comments: pumping water from 900 feet, and I will name drop, it was Puckett's who were allowed to go do that.

1500

03:25:13.620 --> 03:25:23.520

Harney Public Comments: And now us generational people who have kids in the schools, who support the community, who live, breathe, sweat, and die here every day.

1501

03:25:23.730 --> 03:25:28.590

Harney Public Comments: We had all this done, transferred in from

1502

03:25:29.610 --> 03:25:40.940

Harney Public Comments: the worst water region in the county historically, look it up, and they're not even in the districts that are being looked at. They're over the hill from us.

1503

03:25:41.170 --> 03:25:51.520

Harney Public Comments: This is... water resources has not done their job. If they would do their job, we wouldn't be here. We're gonna fight you tooth and nail on this. Thank you for your time.



1504

03:25:51.740 --> 03:25:53.089

Harney Public Comments: He's the hook time.

1505

03:25:54.130 --> 03:25:55.240

Harney Public Comments: Come on, you listen.

1506

03:25:55.240 --> 03:26:11.389

Vice-Chair Smitherman: Thank you, Carl. And just, you know, for what it's worth, I think we were all very impressed with Millen, Bowen, being 16 and coming to speak to us today. That was... took a lot of courage, and we were glad that he was here with us.

1507

03:26:12.400 --> 03:26:15.879

Vice-Chair Smitherman: I think that concludes our public comment period.

1508

03:26:16.120 --> 03:26:19.920

Vice-Chair Smitherman: I'd like to open it up, real quickly to commissioners.

1509

03:26:20.040 --> 03:26:24.829

Vice-Chair Smitherman: If there's anything that commissioners would like to say in closing today.

1510

03:26:28.960 --> 03:26:39.440

Vice-Chair Smitherman: I think we've all heard a lot, a lot to think about. I would just encourage staff to take all the comments that we've heard today into consideration.

1511

03:26:39.820 --> 03:26:45.890

Vice-Chair Smitherman: Into, the final 512 rules that we will be, looking at in December.

1512

03:26:46.140 --> 03:27:02.229

Vice-Chair Smitherman: We still do have some open comment period, so if you have more to say, or if someone else you know would like to submit public comment, you can do that until Tuesday, October 7th at 5 o'clock.

1513

03:27:03.500 --> 03:27:06.820

Vice-Chair Smitherman: And so, if there are no other comments.

1514

03:27:07.080 --> 03:27:12.430

Vice-Chair Smitherman: or questions today, I will go ahead and adjourn this meeting.

1515

03:27:14.450 --> 03:27:20.729

Vice-Chair Smitherman: Thank you. Thank you all for being here and taking the time and going a little extra so that we could hear the community. Appreciate you.

1516



03:27:22.640 --> 03:27:24.220

Vice-Chair Smitherman: Have a good rest of your day.



## **Department Response to Comments**

During the public comment period and the two extensions the Department Received 260 written public comments and 68 oral public comments. Within the 260 written public comments, there was 1,157 individual comments on different aspects of the rules. This document provides a summary of all both written and oral comments; summary of comments may not capture of the nuance of the comment. All comments received are posted on the Division 512 webpage.



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## Definition

Comment	Commentor
Consider adding a new definition: “Regulated Off” and “Reduce” mean limiting the use of groundwater pursuant to ORS 537.742.”	Water League
<b>OWRD Response</b>	
<b>Rule language changed: Yes</b>	
A Definition for ‘Regulate Off” and “Reduce” has been added to the proposed draft rules.	

## Classification

Comment	Commentor
Classifying the Harney Basin for exempt uses only will limit the Department of State Lands' ability to fulfill its obligation to lease state lands for the highest and best uses. Several parcels in the HBCGWA have received interest in installing renewable energy.	Department of State Lands
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
Current groundwater exempt uses include up to 5,000 gallons per day of non-irrigated commercial or industrial uses. Additionally, the rules do not preclude renewable energy siting nor acquisition of a water right via transfer. On January 1, 2026, HB 3372 (2025) comes into effect and allows use up to 3,000 gallons per day for a commercial garden, lawn or personal garden, with some restrictions.	
Comment	Commentor
Supports classification for exempt uses only.	Erick Keerins Ross Ketscher Will Bentz
The current classification in the rules should not be changed.	WaterWatch The Nature Conservancy Garrit A. Jager



Water should be classified for use in city expansion, recreation, data centers, and commercial geothermal applications. Spring Valley Golf Club and Crystal Crane Hot Springs should be exempt, as well as Frontier Schools.	Curt Blackburn Harney County Mario Petrilli
<b>OWRD Response</b>	
<b>Rule language changed: Yes</b> Why, in 2016, the Department classified the Greater Harney Valley Area of concern for exempt uses only to prevent any future development of new groundwater rights. The proposed rules expand that classification to protect future recharge of the Harney Basin and existing users and allow for nonconsumptive low temperature geothermal uses.	
Comment	Commentor
Farmers who use 20 acre-feet or less should be exempted. There should be consideration for exempting users of 30 and 50-acre-feet.	Mario Petrilli
<b>OWRD Response</b>	
<b>Rule language changed: No</b> Current groundwater exemptions include irrigation of up to ½ acre of lawn and non-commercial garden. HB 3372 (2025) becomes effective January 1, 2026, and allows use up to 3,000 gallons per day for a commercial garden, lawn or personal garden, beginning Jan. 1, 2026, with some restrictions and up to 5,000 gallons per day for a combination of irrigation and other commercial/industrial use. By statute, uses not identified as exempt, require a water right. OWRD does not have the authority to add exemptions or increase the amount of use exempt from requiring a water right. Allowing new water rights for irrigation up to 20-, 30-, or 50-acre feet would increase the strain on the resource and injure senior users.	
Comment	Commentor
New uses should be evaluated on a case-by-case basis, but they shouldn't increase overall water use. It's important that our community can continue to grow and adapt.	Scott Houck Steve Rickman
<b>OWRD Response</b>	
<b>Rule language changed: No</b> Transfers are an existing tool in statute that allows for changes in the type of use without increasing overall water use.	



Comment	Commentor
Currently, the rules classify for exempt uses only and non-consumptive geothermal uses. Crane Hot Springs would not meet this criterion. Geothermal use has economic benefits. The Department should consider classifying non-consumptive geothermal use and small water usage (recreational) as separate categories.	Simmone Landau
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
Current groundwater exemptions include up to 5,000 gallons per day of non-irrigated commercial or industrial uses. HB 3372 (2025) becomes effective January 1, 2026, and allows use up to 3,000 gallons per day for a commercial garden, lawn or personal garden, beginning Jan. 1, 2026, with some restrictions and up to 5,000 gallons per day for a combination of irrigation and other commercial/industrial use. OWRD does not have the authority to add exemptions. By statute, uses not identified as exempt, require a water right. Allowing new water rights would increase the strain on the resource and injure senior users.	

## Target Water Level Trend

Comment	Commentor	
The timeline should be shorter than 30 years or longer than 30 years to achieve the goal.	Cheryl Smith Curt Blackburn Denise Tschann	Donna Harris Garry Marshall Larry Callister
The goal should be to achieve pre-2000 groundwater level recovery; however, compromises have been made with the irrigation community to weaken the rules.	Laurie O'Connor	
OWRD Response		
Rule language changed: No		
The 30-year timeline resulted from many conversations with the Rules Advisory Committee and provides time for groundwater users to adapt to changing water availability and economic adjustment while balancing the concerns of additional impacts from further groundwater level declines.		



Comment	Commentor	
Supports the 30-year timeline	Mark Owens	
Supports the target water level trend of no decline, providing the basin with a more sustainable future. Stabilizing groundwater levels will benefit springs and streams, and GDEs.	Carolyn Latierra Denise Tschann Dennise Gretsche Donna Harris	Larry Callister Larry Otley Scott Houck Sue Arbuthnot
Wary that this issue will drag on without pressure, the community sticks with the status quo, which is unsustainable. Sustainability without harm to people, including domestic wells, should be the goal.	Ben McCanna	
OWRD Response		
Rule language changed: No		
These comments are in line with or generally supportive of the proposed rules. Thank you for your comment.		
Comment	Commentor	
Supports the goal of a target water level trend of no decline, but the median allows for outliers. There should be a median plus approach to account for outliers.	The Nature Conservancy WaterWatch	
OWRD Response		
Rule language changed: No		
The proposed rules are designed to reduce the likelihood and effect of outliers in the management scenario by dividing the CGWA into subareas is to group wells together that have similar local impacts on the groundwater reservoir. By dividing the CGWA into subareas, the Department has grouped portions of the groundwater reservoir that share similar hydrogeologic properties and groundwater conditions.		
Comment	Commentor	
Disagrees with giving Weaver Springs 30 years to achieve a target water level trend of zero decline. It took Weaver Springs five years to get this way.	Ben McCanna	
The goal of a target water level trend of zero decline should be different in Weaver Springs. Weaver Springs should be required to recover water levels.		
OWRD Response		
Rule language changed: No		
The proposed rules implement strict curtailment which will be fully implemented in 6 years within the Weaver Springs subarea. This timeline is much shorter than other subareas and the reductions are fixed at a much higher level than other subareas. The Weaver Springs area is exempt from the		



adaptive management process outlined in the rules. Modeling indicates that the proposed reductions will result in water level recovery within the Weaver Springs subarea during the 30-year management period.

Comment	Commentor
The goal of a target water level trend of zero decline is too strict; groundwater should be allowed to fluctuate. Minor declines should be allowed.	Cheryl Smith Erick Keerins Garret A. Jager Lola Tyler Roger Sheley Steve Rickman

#### OWRD Response

##### Rule language changed: No

The proposed rules allow for fluctuation of groundwater levels, but require that after 30 years, over a 6-year period there be no decline. This goal recognizes the variable nature of groundwater levels year-to-year, while requiring that over a longer period, water levels remain stable. ORS 537.525 does not allow minor declines to be allowed over a long period of time.

Comment	Commentor
The goal of a target water level trend of zero decline is unrealistic, impractical, and inconsistent with other areas of the state.	Fred Otley

#### OWRD Response

##### Rule language changed: No

Modeling shows that the target water level trend goal is achievable on a 30-year timeframe when implementing the reductions proposed on the timeline proposed. Other CGWAs within the state where curtailment has been implemented also have a stated goal of achieving stable water levels.

Comment	Commentor
Can OWRD incorporate two distinct outcomes in the rules: one for unconfined aquifers where the water-table level is the key indicator of recovery, and another for confined aquifers where the piezometric level (or potentiometric surface), as identified in the USGS and OWRD study, is the relevant measurement?	Water League

#### OWRD Response

##### Rule language changed: (No)

A central finding of the six-year collaborative groundwater study with the USGS is that groundwater in the Harney Basin occurs within a single, basin-wide groundwater-flow system. This system includes several distinct but hydraulically connected areas that differ in local geology, position within the broader flow system, and the rates and magnitudes of recharge and discharge (Gingerich and others, 2022). The groundwater study focused largely on identifying and understanding these differences, but based on the best available data, there are no known physical barriers to groundwater flow within the Harney Basin that would prevent groundwater movement or hydraulic interactions within the basin. Although these differences influence the rate and direction of groundwater flow, the potential yield of wells, and the system's response to pumping, the study findings do not support an interpretation that groundwater occurs in separate, isolated, or compartmentalized zones.



While vertical groundwater gradients are present in some parts of the basin, groundwater in the shallow part of the groundwater flow system is hydraulically connected to groundwater in the deeper part of the groundwater flow system. There are no separate, isolated, or compartmentalized zones with depth.

Comment	Commentor
OWRD must clarify the groundwater elevation thresholds at which it will intervene to prevent further harm, both in shallow zones less than 100 feet deep and in deeper regions. If the state considers the groundwater loss below 100 feet since 1980 to be permanent, then the proposed rule in OAR 690-512-0080(2) appears to treat that loss as acceptable and no longer actionable.	Water League

#### OWRD Response

##### Rule language changed: No

The proposed rules focus on long-term stability, attempting to strike a balance between economic impacts, competing community needs, and the need to stabilize water levels. The rules provide a pathway to achieve that stability, albeit with additional water level declines during the 30-year phase-in period.

Comment	Commentor
Durably Stable is not an acceptable term for regulation. The department must use the legal terms as provided in the statute. Include the definition of "reasonably stable" and "overdrawn" from OAR 690-008-0001 in the Division 512 rules and apply it in a management context. A majority of the basin meets the definition of reasonably stable. Harney County is being held to a standard that the rest of the state does not need to follow.	Bachman Bay Farms Lorrissa Singhose Lower Blitzen Christina Keerins Voltage Subarea – Lower Blitzen Patty Dorroh Subarea Richman et al Dominic Root Maki Bachman Sabrina Maki Harney County Steve Rickman James E Cambell Windy Point – Silvies Subarea
The department should use a reasonably stable definition to manage the basin; zero feet of decline is neither reasonable nor fair.	Bachman Bay Farms Burns Piute Fred Otley



OWRD is curtailing areas that are meeting the definition of reasonably stable. Regulatory thresholds should be set at a 25-foot decline or a decline rate exceeding 0.6 feet per year (per OAR 690-008); regulatory reductions should only occur when these thresholds are met.	Harney County Richman Et Al
The Department's statutory standard is “reasonably stable,” not “durably stable.”	Mark Owens Lorissa Singhose
Allow groundwater levels to stabilize at or around reasonably stable & adjust the PTW as necessary to reflect these thresholds.	James E Cambell – Silvies Subareas
OWRD should use “Reasonably Stable Levels” as the standard for groundwater management. In areas where declines have not exceeded 25 feet, Permissible Total Withdrawals (PTWs) should be adjusted accordingly. In regions where declines have exceeded 25 feet, the Department should allow water levels to reach a state of dynamic equilibrium—balancing between reasonably stable and excessively declining levels—rather than enforcing rigid curtailments.	Sabrina Maki
OWRD is defining the Harney Basin groundwater reservoir as not reasonably stable, despite an overall median decline of approximately 3 feet and a median rate of 0.3 feet per year over a 20-year drought period.	Harney County
The Department changed its regulatory approach at the last minute. Initially, the Department planned to regulate just the critical areas; now, they plan to regulate the entire basin, even if their model shows that Silver Creek will reach reasonably stable water levels.	Lorissa Singhose
<b>OWRD Response</b>	
<p><b>Rule language changed: No</b></p> <p>Using the reasonably stable groundwater level standard as defined in OAR 690-008-0001 would require recovery of water levels in wells to within 25 feet of highest known levels. This much more stringent goal would result in substantially more curtailment being required across the basin. In contrast, the goal with this proposed rulemaking is a target water level trend of zero decline (stable water levels) after 30 years, which is a less stringent standard than groundwater level recovery.</p> <p>Durable stability was the metric by which model results were evaluated to ensure that each subarea’s PTW is set to a quantity of pumping that resulted in stability in 30 years when following the schedule of reductions outlined in the rules.</p> <p>Overdrawn is defined in rule as a condition where annual pumpage within an area exceeds recharge. This condition exists in the proposed CGWA, is one of the criteria met that authorizes the designation of a CGWA and is being addressed by the reductions in use proposed.</p>	



Additionally, the OAR 690-008-0001 definition of reasonably stable exempts CGWAs from the definition. Reasonably stable is defined as a criteria for consideration in allocating new groundwater.

Modeling indicates that at current pumping rates, groundwater levels will continue to decline through the year 2100 and beyond. Thus, allowing groundwater levels to stabilize on their own, will result in another 70 plus years of decline and significant additional impacts to agricultural and domestic wells, groundwater dependent ecosystems, and natural discharge to streams, springs, and evapotranspiration.

Comment	Commentor
Identify in the rule that regulatory reductions will not be made until wells are determined to no longer be "reasonably stable" or until decline conditions in permits are met or exceeded.	Christina Keerins et al James E Cambell et al Lower Blitzen Subarea Richman et al
Only areas with data showing they meet the thresholds for a critical area should be included in the critical area.	Roger Sheley

#### OWRD Response

##### Rule language changed: No

To stabilize groundwater levels across all parts of the groundwater reservoir with the least quantity of reductions possible, reductions in use need to be made across the proposed CGWA. The proposed rules provide a framework for implementing the least quantity of reductions necessary to achieve the goal of stabilizing water levels in the 30-year timeline defined. It is also rooted in the best available science, which indicates groundwater in the Harney Basin occurs within a single, basin-wide groundwater-flow system.

Comment	Commentor
The Department should return to its original aspirational approach. At the start of the RAC process, the goal was described as aspirational not a strict mandate. Imposing a zero-decline standard now is a significant shift. A more reasonable and sustainable target would be to maintain a dynamic equilibrium, with groundwater levels fluctuating between 25 and 50 feet.	Representative Owens
The Department modeled different scenarios, and Model B showed that the aspirational goal was met by just regulating three of the subareas. The RAC thought we were close, but then we began optimizing the model, and it felt like a sudden shift with all the new information.	Representative Owens

#### OWRD Response

##### Rule language changed: No

The Department's shared goal has always been to stabilize groundwater levels in the Harney Basin. The Departments original 15 subarea approach and reductions were based on the best available science as a starting point. The RAC requested the Department use the Harney Basin Groundwater Model that was under development. Using the published model, the Department found that to stabilize groundwater levels across the groundwater reservoir,



reductions in use needed to be made across the proposed CGWA in order to minimize the reductions required. The information was discussed with the RAC and input was received on the approach, which was indicated in the proposed final rules having seven subareas instead of the initial 15.

The Department modeled 5 different scenarios initially to begin to test how different pumping regimes would affect water levels in the basin. Only one of these scenarios (Scenario E) resulted in water level stability or recovery; the Model B scenario did not meet the goal of water level stability. The Department then developed the tools to be able to define outcomes and have software automatically run the model and identify the amount of pumping that could occur and achieve the goal based on the parameters defined. This systematic approach to identifying the necessary reductions in use identified the least basin-wide reductions necessary to achieve stability in a 30-year timeframe. The proposed rules also contain a plan for adaptive management to adjust reductions in use based on actual, measured changes to water levels. This approach to management uses the best available science while building in the ability to mitigate uncertainty by allowing water managers to be responsive to actual changes in conditions.

Comment	Commentor
The OWRD rule proposal does not stabilize groundwater in the basin. Our analysis shows that stabilizing groundwater will require reducing irrigation pumping from 129,000 acre-feet/year to about 74,000 AF/year. The OWRD proposal reduces pumping to 89,000 AF/year, which is 20% higher than what would be necessary to achieve stability according to our analysis and allows for impacts to domestic/stock wells, declining discharge to springs and will continue exacerbate costs and impacts to public interest.	Bill Jaeger

#### OWRD Response

##### Rule language changed: No

OWRD's analysis using the basin study reports and model indicate that the permissible total withdrawal amounts, and reduction schedule proposed are what is necessary to stabilize groundwater levels on a 30-year time scale and maintain a target water level trend of zero decline. The analysis described in this comment (Jaeger and others, 2024) required more reductions in pumping because that management scenario achieved stability on a different timeline than the proposed rules. The scenario described in this comment-imposed reductions in pumping beginning in 2019 and achieved negligible net changes in spring discharge and dry wells over a 30-year period. That is roughly equivalent to stabilizing groundwater levels immediately (on a 0-year time scale) and with higher initial natural discharge than the proposed rules, and both of those factors require additional reductions in pumping.

Comment	Commentor
Groundwater must be monitored, regulated, and managed at sustainable levels.	Katy Mcfadden Loren Fennell Normandy Helmer Tim Devine



**OWRD Response****Rule language changed: No**

Thank you for your comment.

## Subareas

Comment	Commentor
Include Weaver Springs, Dog Mountain, and Silver Creek in the proposed CGWA.	Ben McCanna Et Al
The basin is overdrawn or in excessive decline and is a single large flow system. The Critical Groundwater Area designation is warranted. Division 10 does not require that all administrative Subareas within a CGWA meet all criteria.	The Nature Conservancy
The seven subareas approach is well-aligned with local recharge and discharge dynamics within the Harney Basin groundwater flow system. Breaking the Harney Basin into seven subareas provides appropriately tailored curtailment schedules and PTWs that account for differences among subareas and more closely follow recharge areas.	Curt Blackburn Cheryl Smith WaterWatch Representative Owens The Nature Conservancy

**OWRD Response****Rule language changed: No**

These comments are in line with or generally supportive of the proposed rules. Thank you for your comment.

Comment	Commentor
The proposed Subareas differ from the USGS Groundwater Study and are generalized areas that do not address problem wells. Subareas should be based on scientific delineation, rather than administrative boundaries, and should account for variations in how wells respond to groundwater pumping. The Department should consider local knowledge when drawing Subareas.	Calla Hagle Lola Tyler Mike Peila Stacey Davies

**OWRD Response****Rule language changed: No**

A critical groundwater area subarea is a portion of a groundwater reservoir that shares similar hydrogeologic properties and similar groundwater conditions including groundwater level elevations, seasonal and annual water level trends, and response to natural and human stresses. The subarea boundaries do not represent barriers to groundwater flow – groundwater is hydraulically connected across these boundaries. Subareas



group wells together that similarly impact groundwater supplies in the area, and where reductions will have a timely, measurable, efficient and similar groundwater response within that area. Subareas were delineated based on three primary criteria: subsurface materials, groundwater level trends, and hydraulic gradient. Administrative criteria for subarea boundary delineation were also considered, including the use of the Public Land Survey System section boundaries to facilitate communication and understanding of well and property locations within subareas, and the recognition that more boundaries may lead to more conflict and increase the complexity of groundwater management.

The USGS water budget regions are based on the 2018 groundwater flow directions as the sole criteria, for the purpose of analyzing and presenting the basin-wide water budget. These water budget regions were not intended to serve as groundwater management area boundaries. The delineation of proposed subarea boundaries considers groundwater flow directions, subsurface materials, groundwater level trends, and administrative criteria. The goal is to group wells that behave similarly to support effective groundwater management actions.

The Harney Basin groundwater study and related reports represent the best available science and information on the groundwater flow system in the Harney Basin.

Comment	Commentor
The Department needs to explain how its proposal went from 15 subareas to 7 subareas.	Mindy Sheley
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
The change from 15 to 7 subareas was based on RAC feedback that larger subareas provide more opportunity for voluntary actions and more boundaries may lead to more conflict which may increase the complexity of groundwater management.	
Comment	Commentor
Dog Mountain and Weaver Springs should be combined.	Ben McCanna Ben McCanna ET AL Calla Hagle
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
The best available science demonstrates that groundwater level trends, subsurface materials, and hydraulic gradient within the Weaver Springs and Dog Mountain subareas are substantially different and the best way to achieve a target water level trend of zero feet of decline while minimizing economic impacts is to delineate them as two different subareas.	
Comment	Commentor
Combine Upper Blitzen with Lower Blitzen.	Christina Keerins - Lower Blitzen Lower Blitzen-Voltage Subarea



**OWRD Response****Rule language changed: No**

The best available science demonstrates that groundwater level trends, subsurface materials, and hydraulic gradient within the Upper Blitzen and Lower Blitzen-Voltage subareas are substantially different and the best way to achieve a target water level trend of zero feet of decline while minimizing economic impacts is to delineate them as two different subareas.

Comment	Commentor
Silver Creek is not overdrawn and is reasonably stable, with a median overall decline of -2.5 to -3.5 feet and a median rate of -0.4 feet per year, both of which fall within the definition of reasonably stable. The Department's model shows near-stable levels (0.1 feet per year), and there is no evidence that Silver Creek meets the criteria for Critical Groundwater Area designation under OAR 690-010-0130. Hydrological data do not show an excessive decline, and there is no evidence linking Silver Creek to impacts on the Double O Spring complex. Most wells are stable or improving, and regulating Silver Creek will not address issues elsewhere. Therefore, Silver Creek should be removed from the CGWA.	Dan Nichols Donald Doverspike Fred Otley Lorissa Singhose Ross Ketscher Richman Et Al Wayne Evans

**OWRD Response****Rule language changed: No**

The proposed rules are rooted in the best available science, which indicates groundwater in the Harney Basin occurs within a single, basin-wide groundwater-flow system. To stabilize groundwater levels across all parts of the groundwater reservoir with the least quantity of reductions possible, reductions in use need to be made across the proposed CGWA. The proposed rules provide a framework for implementing the least quantity of reductions necessary to achieve the goal of stabilizing water levels in the 30-year timeline defined.

The relationship between groundwater pumping in the Silver Creek area and discharge to springs in Warm Springs Valley is described in Gingerich and others, 2022 (pg. 75-76): "Continued groundwater withdrawal and development in the upper Silver Creek floodplain ultimately will reduce groundwater discharge to the lower floodplain, including springs of the Warm Springs Valley."

Comment	Commentor
Two different subareas split my property; my right should be moved to one of the two subareas.	Mike Peila Rob Sharp

**OWRD Response****Rule language changed: Yes**

The proposed rules were modified to include the following language in 690-512-0041(7): For water rights that include authorized points of appropriation in multiple subareas, the Department will determine which subarea contains the majority of those points of appropriation. The water right will be subject to the rules applicable to that subarea.



Comment	Commentor
OAR 690-512-0020(6) should specify that the subareas are for implementing corrective control measures. Add language: "6) The Harney Basin Critical Groundwater area defined in OAR 690-512-0020(7) shall be divided into seven Subareas for the <b>implementation of corrective control provisions</b> as shown in Exhibit 6."	Water League
<b>OWRD Response</b>	
<b>Rule language changed: Yes</b>	
The proposed rules were modified to include this language in 690-512-0020(6).	
Comment	Commentor
Include local knowledge, expertise, and input into the boundary between the Northeast Crane Subarea and the Silvies Subarea.	Roger Sheley
How did the Department determine the seven different subareas.	Roger Sheley
Support for the 15-subarea approach. The 15-subarea approach offers precision-based management actions. They followed the different characteristics of each area.	Fred Otley Susan Ramsay Windy Point
The subareas are causing divisions between family, friends, and neighbors.	Bachman Bay Farms
The boundaries of the Lower Blitzen-Voltage Subarea should be revised to reflect geological and hydrological realities. The current boundary does not align with the area's geology, as a significant fault runs through the middle of the subarea. The Lower Riddle Creek HUC-12 Sub-Watershed should be removed entirely from the Critical Groundwater Area (CGA), and the Lower and Upper Blitzen Subbasins should be redrawn accordingly. Additionally, the western boundary of the Lower Blitzen Subarea should not extend beyond Highway 205. The area west of Highway 205 and the Blitzen River has distinct hydraulic characteristics and should be designated as its own subarea. Local knowledge should be incorporated into the development of these boundaries.	Subarea Jacob Davis Julie Davis Lower Blitzen-Voltage Subarea Steve Rickman Tom Davis
The northern part of the Northeast-Crane subarea should be split off and designated as its own subarea.	Kirby Issac
The two wells just north of Weaver Springs need to be moved into the Dog Mountain subarea.	Curt Blackburn
The entire basin, particularly the Northeast-Crane area, is highly variable, and further research is needed to develop a management strategy that accounts for this variability.	Steve Rickman
Reducing the total number of OAR 690-512 subareas from the proposed initially fifteen to the currently proposed seven subareas loosens the subarea delineation considerations, particularly the concept of timely and effective reductions.	Jerry Grondin
Live east of Crane and have not experienced any declines in personal well; confused how OWRD developed the subarea boundaries.	Don Cody



Remove the Upper Blitzen subarea from the CGA boundary and amend the southern boundary of the Lower Blitzen-Voltage subarea by moving it northward by approximately 10 miles to provide greater flexibility to OWRD in managing groundwater resources. Resulting groundwater use reductions can then be more equitable and more effective in addressing declines (like proposed petition boundaries). There is no clear correlation between the proposed Upper Blitzen subbasin boundary here and the mapped geology.	Rachel Shahidzadeh Robert Long
Two wells in Dog Mountain, just north, need to be moved from Dog Mountain into Weaver Springs.	Curt Blackburn
<b>OWRD Response</b>	
<p><b>Rule language changed: No</b></p> <p>A critical groundwater area subarea is a portion of a groundwater reservoir that shares similar hydrogeologic properties and similar groundwater conditions including groundwater level elevations, seasonal and annual water level trends, and response to natural and human stresses. The subarea boundaries do not represent barriers to groundwater flow – groundwater is hydraulically connected across these boundaries. Subareas group wells together that similarly impact groundwater supplies in the area, and where reductions will have a timely, measurable, efficient and similar groundwater response within that area. Subareas were delineated based on three primary criteria: subsurface materials, groundwater level trends, and hydraulic gradient. Administrative criteria for subarea boundary delineation were also considered, including the use of the Public Land Survey System section boundaries to facilitate communication and understanding of well and property locations within subareas, and the recognition that more boundaries may lead to more conflict and increase the complexity of groundwater management.</p> <p>The Harney Basin groundwater study and related reports represent the best available science and information on the groundwater flow system in the Harney Basin and was used to support delineation of subarea boundaries.</p>	
Comment	Commentor
Windy Point should be reassigned from the Northeast Crane Subarea to the Lower Blitzen-Voltage Subarea. The area shares similar geology, topography, and groundwater behavior with Lower Blitzen, not Northeast Crane. There is no cone of depression in Windy Point, and wells behave differently from those in the surrounding Crane-Buchanan area. Jack Mountain drains into the Upper Blitzen, further supporting a boundary adjustment. Historically, Windy Point was its own subarea under the 15-subarea approach, which the Department acknowledged was based on similarly behaving wells. Including Windy Point in Northeast Crane is not hydrologically or administratively defensible. If the southern region remains in the Critical Groundwater Area, Windy Point should be included in Lower Blitzen or excluded entirely.	Bachman Bay Farms Curt Blackburn Dan Otley Dan Nichols Dominic Bachman Harney County Larry Otley
The Department should revert to the 15-subarea approach, which more accurately reflects hydrogeologic distinctions. Windy Point was initially recognized as its own subarea due to its unique groundwater behavior. Including it in the Northeast Crane Subarea is neither hydrologically nor administratively defensible.	Representative Owen Mark Thompson Riddle Ranch Sabrina Maki Susan Otley Windy Point Will Bentz



Windy Point wells are located in the southern region of the USGS study area, and that region is experiencing no drawdowns. Should not be part of CGWA.	Dan Otley
Preference for the boundaries that had been previously proposed (Windy Point) or adjusting the current boundaries so that the area south of Windy Point is in the Blitzen Voltage Subarea.	Lower Blitzen Voltage
RULE 512: Seven sub-management areas do not work well with the actual areas of dramatic deep-water drawdowns. An alternate approach is to divide the critical groundwater management areas into 13 underground water provinces: SILVIES, SAGE HEN, RATTLESNAKE, BUCHANAN, LAWEN, CRANE, PRINCETON, DIAMOND, FRENCHGLEN. WARM SPRINGS, SILVER CREEK, WEAVER SPRINGS, AND DOG MOUNTAIN. These provinces are where well clusters are. Virginia Valley should not be included in the critical groundwater area because the hydrological boundary does not match the hydrostatic boundary. Happy Valley should not be included; move Windy Point - New Princeton and Virginia Valley from the Northeast – Crane sub-Area into the Lower Blitzen – Voltage sub; Upper Blitzen should be recharged via injection wells; Without some flexibility separating into two or three subs in the future, NE-Crane sub-Area adaptive management efforts will be unsuccessful overall; Silver Creek Province in the Silver Creek sub-Area does not qualify as a critical groundwater area.	Mario Patrelie
Disagree with subarea boundaries and believe they and several other farms should be in the Lower Blitzen-Voltage subarea b/c they have not experienced groundwater declines.	Bachman Bay Farms
<b>OWRD Response</b>	
<p><b>Rule language changed: No</b></p> <p>A critical groundwater area subarea is a portion of a groundwater reservoir that shares similar hydrogeologic properties and similar groundwater conditions including groundwater level elevations, seasonal and annual water level trends, and response to natural and human stresses. The subarea boundaries do not represent barriers to groundwater flow – groundwater is hydraulically connected across these boundaries. Subareas group wells together that similarly impact groundwater supplies in the area, and where reductions will have a timely, measurable, efficient and similar groundwater response within that area. Subareas were delineated based on three primary criteria: subsurface materials, groundwater level trends, and hydraulic gradient. Administrative criteria for subarea boundary delineation were also considered, including the use of the Public Land Survey System section boundaries to facilitate communication and understanding of well and property locations within subareas, and the recognition that more boundaries may lead to more conflict and increase the complexity of groundwater management.</p> <p>The USGS water budget regions are based on the 2018 groundwater flow directions as the sole criteria, for the purpose of analyzing and presenting the basin-wide water budget. These water budget regions were not intended to serve as groundwater management area boundaries. The delineation of proposed subarea boundaries considers groundwater flow directions, subsurface materials, groundwater level trends, and administrative criteria. The goal is to group wells that behave similarly to support effective groundwater management actions.</p>	



The groundwater level trends in the Windy Point area are declining at faster rates and greater magnitude than the Lower Blitzen-Voltage subarea and fall within the range of water level trends in the other areas grouped together into the Northeast-Crane subarea. The subsurface materials in the Windy Point area are more similar to those in the Northeast-Crane subarea than they are to the Lower Blitzen-Voltage subarea. The Windy Point area includes two distinct cones of depression, similar to those in the Northeast-Crane subarea. Cones of depression are not present in the Lower Blitzen-Voltage subarea.

Comment	Commentor
We would like to see WRD set a target reduction of 10-15% for the Silvies Subareas and work with users on a cooperative approach.	City of Hines

#### OWRD Response

The Permissible Total Withdrawal (PTW) values were developed using the Harney Basin Groundwater Model through an optimization process that minimizes pumpage reductions across the critical groundwater area while still achieving stable groundwater levels in all subareas on the specified timeline. The suggested target of 10-15% reduction will not achieve this goal.

## Municipal Use

Comment	Commentor
Municipal use is a relatively small portion of overall groundwater use—about 2% in areas like the Silvies subarea—while irrigation accounts for 98%. The City of Burns holds senior rights to 38% of all rights and 66% of groundwater rights. Additionally, the municipalities provide water to 60% of the county. Limiting municipalities that are not causing the problem will not make a significant difference in addressing overdraft, which is primarily due to high-volume, for-profit junior irrigation users. Municipalities like Hines and Burns should be exempt from Division 512, and curtailment should be allocated equitably. The focus should be on the main cause of overdraft, not on small rural cities.	Breanna O'Connor City of Burns City of Hines League of Oregon Cities Todd Gahley Ty Richardson Water League
The proposed plan imposes disproportionately severe restrictions on the cities of Burns and Hines, which account for more than half the county population. Under the proposed rules, the City of Burns would be reduced by approximately 82%, compared to the 17% average reduction for agricultural users.	City of Hines
Municipal and Quasi-Municipal should be treated differently and should be exempted.	Mario Petrilli
The cities of Burns and Hines are situated in areas that are stable and not experiencing significant declines in groundwater levels. Technical studies indicate modest drawdowns near Burns, with most declines attributed to junior water rights in geographically distant areas. Hines and Burns are in a part of the Silvies	City of Burns City of Hines Ty Richardson



Subarea that has a reliable and steady supply of quality groundwater recharged by the Silvies River. These cities should not be held accountable for problems occurring elsewhere in the basin.	
Limiting the City of Burns to 110% contradicts Goal 14 of Oregon's Statewide Land Use Planning goals, which requires enough land and resources for 20 years of growth. Municipal rights have a unique status in statute and Western water law and should not be infringed upon.	City of Burns City of Hines Curt Blackburn Ty Richardson
Curtailment should be proportionally allocated by sector based on each group's groundwater use and contribution to overdraft. The Division 512 rules disproportionately affect cities, which have the smallest use compared to irrigators. The city is being asked to sacrifice its water rights, despite having senior rights and a far less significant impact on groundwater availability. Reductions should prioritize users most responsible for ongoing declines.	City of Burns City of Hines Ty Richardson
No other municipality in Oregon has been regulated in the manner proposed.	City of Hines
Allowing adjustment down based on past use penalizes cities for investment in conservation measures. The 110% allocation every five years would punish cities because future numbers would reflect conservation efforts, potentially impacting investment opportunities.	City of Burns
The proposed allotment for the Municipal and Quasi-Municipal will essentially paralyze city growth. The 110% is not enough.	Barbara Howard Lola Tyler Susan Ramsey
Municipal supply is essential for public health and safety and deserves tailored treatment under ORS 537.525(2). As written, the proposed rules are detrimental to public health and safety, as they increase electric and water rates, which in turn lead to population decline, a smaller tax base, and reduced public and healthcare services.	City of Hines
The city of Burns already coordinates with multiple agencies; OWRD's cap-based curtailment increases regulatory complexity without any clear benefit.	City of Burns
Adopt a more nuanced, equitable framework that supports conservation, economic development, and the unique legal and policy context of municipal water law. Write into the rules a pathway that allows for new development for municipal and quasi-municipal purposes.	City of Hines Harney County Sabrina Maki
Municipalities have a huge water right. I would hope OWRD does not allow for a company like Facebook to come in here and hold to that 110% allotment.	Dan Nichols
OWRD should consult with the cities to determine the appropriate amount of water to be allocated over a 6-year period.	Harney County



There should be some certainty in the rules that the cities will have water.	Erick Keerins
Allow cities to develop their water rights while promoting conservation.	James E Cambel – Silvies Subareas
We plan to add 800 new residents over the next 20 years. We are unsure when new water will be needed during those years, but if we reach a cap of 110%, we will have to deny any new expansion. According to the model of the petition and the rules, it appears that our area is stable, and these regulations are not necessary.	City of Burns Craig Nehar
Future allotment processes should not reduce a municipality's initial allotment, providing certainty about the minimum water supply. Setting a low-level limit could encourage conservation, expanding supply for future development without risking water loss. Integrate municipalities' planning documents into the water allocation process, either during the initial or subsequent allotments. Municipalities could submit economic development plans to justify additional water allocations, linked to water efficiency requirements, to ensure extra water is used for beneficial purposes.	Steven Pattern
<b>OWRD Response</b>	
<b>Rule language changed: Yes</b> After the public comment period, the Department modified the proposed rules to remove the corrective control provisions on municipal and quasi-municipal groundwater rights. The proposed rules allow for continued growth in water use in municipal and quasi-municipal entities as defined in OAR 690-300-0010(29) and (40) intended for economic, housing, and development purposes.	
<b>Comment</b>	<b>Commentor</b>
Supports curtailing municipal and quasi-municipal use.	Lou Davis
<b>OWRD Response</b>	
<b>Rule language changed: No</b> These comments are in line with or generally supportive of the proposed rules. Thank you for your comment.	
<b>Comment</b>	<b>Commentor</b>
Provide clarity on the rules allowing water use during fire emergencies. Additionally, provide clarity on how extenuating circumstances will be handled, such as a waterline break.	City of Hines
<b>OWRD Response</b>	



<b>Rule language changed: No</b>	
Emergency fire-fighting uses do not require a water right (ORS 537.141). Municipal and quasi-municipal groundwater rights are no longer subject to corrective controls resulting in reduced groundwater use in the department’s updated Division 512 proposed rules.	
Comment	Commentor
The rules should provide a pathway for offset water to be used to secure a new quasi-municipal water right for Silvies Subareas if it becomes a preferred method for delivering water to households.	James E Cambell – Silvies Subarea Sabrina Maki
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
OWRD has explored various pathways for the Silvies to secure a quasi-municipal water system. The identified pathway to secure a quasi-municipal water system in the Silvies subarea is to apply for a permanent transfer.	
Comment	Commentor
The reporting and measurement requirements place an undue administrative burden on cities.	Ty Richerdson
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
ORS 537.099 requires government entities, including municipalities to measure their use monthly and report annually. Language was added to the proposed Division 512 rules to exempt the cities from measurement and reporting to prevent double reporting and reduce the administrative burden on cities.	
Comment	Commentor
The City of Burns believes the groundwater policy is good overall and grounded in sound science.	City of Burns
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
These comments are in line with or generally supportive of the proposed rules. Thank you for your comment.	
Comment	Commentor
At the beginning of this process, the City of Hines was under the impression that its area did not have a problem, and only learned about OWRD's plan at the beginning of the formal public comment period.	Kim Valentine - City of Hines
It is our expectation, now and into the future, that the State will engage in formal consultation and coordination with our elected officials and staff when contemplating policies that have the potential to affect essential services.	
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	



Before forming the Rules Advisory Committee (RAC), the Department held a week of public engagement in March 2023. During that time, we made initial contact with representatives from the cities of Hines and Burns to invite them to participate in the RAC process. We also offered to give an update or a presentation on the process to the cities upon request.

OAR 690-010-0140 requires the Department to initiate coordination with the Affected Local Government and provide a Division 10 groundwater report to facilitate coordination. Division 10 includes a carveout for Division 512 rulemaking, requiring the draft critical groundwater report be posted and coordination occur at least 60 days before public comment begins. The Groundwater Report for the Harney Basin Critical Groundwater Area rulemaking was sent to senior staff and other employees of the cities of Burns and Hines, in June 2024, who were again invited to reach out to the Department to schedule a meeting.

Comment	Commentor
The City of Burns strongly recommends the Commission adopt the language in the alternative/Harney Basin petition proposed as OAR 690-512-0060 (applying to all critical groundwater areas), which states: “The following water rights shall not be subject to corrective controls that result in groundwater use reductions in the critical groundwater areas: a) Exempt groundwater uses as defined in ORS 537.545, b) Municipal and quasi-municipal groundwater rights, c) Geothermal uses, d) Recreational groundwater rights, e) Groundwater rights held by a federally recognized Indian tribe.”	City of Burns

#### OWRD Response

##### Rule language changed: Yes

After the public comment period, the Department modified the proposed rules to remove the corrective control provisions on municipal and quasi-municipal groundwater rights, as well as Federally recognized Indian tribes. The Department did not exempt geothermal and recreational use because that would prioritize those consumptive uses over other types of use in the Basin.

Comment	Commentor
The current rules do not provide a clear pathway for securing groundwater for future economic development. This will limit the city's ability to attract new businesses.	City of Hines
Economic growth in our cities has been hampered for many years due to a housing shortage, not an “affordable” housing shortage, but a true lack of physical homes for people to live in (whether renting or owning), which we are currently on the verge of resolving. Among other smaller plans, ground has just been broken on the Miller Springs subdivision, which is planned to add as many as 600 homes to the city of Burns, representing a huge potential for growth in a town of approximately 3,000 homes. Limiting our water usage could potentially kill that project and our hopes for economic growth.	Todd Gahley



**OWRD Response****Rule language changed: Yes**

After the public comment period, the Department modified the proposed rules to remove the corrective control provisions on municipal and quasi-municipal groundwater rights. As such under the updated proposed rules municipalities and quasi-municipal entities will be able to develop their full rights.

## Permissible Total Withdrawal (PTW)

Comment	Commentor
The PTWs are set too low and are too restrictive.	Lorrisa Singhose
Set PTW to reflect actual safe yield and localized conditions. In reasonably stable areas, such as Silver Creek, Lower Blitzen-Voltage, Upper Blitzen, and portions of the Silvies Basin, PTW should be set at the current authorized use. In areas that do not meet reasonably stable conditions, the Department should implement a 10% full curtailment. If Silver Creek, Silvies, or Lower Blitzen-Voltage remain in the CGWA, set PTW to updated pumpage or estimated recharge levels to protect existing users.	City of Hines Fred Otley Harney County James E Cambell – Silvies Subareas Lower Blitzen-Voltage Subarea Richman Et Al
The conditions in the basin do not necessitate the aggressive curtailment and more balanced approach should be consider by the department.	Sabrina Maki
OWRD is proposing declines in areas where groundwater levels are reasonably stable and where groundwater is not over-appropriated or overdrawn and shows no evidence of excessive declines; no substantial site-specific evidence to include the Blitzen Voltage Subarea in a critical groundwater area designation. We want to understand better how the permissible total withdrawal was set and believe that it was set much too low. With 10% reductions, previous model runs indicate that our area stabilizes and begins to recover, never reaching a decline of 25 feet. The proposed reductions by the Department would only yield a hypothetical increase of 1cubic feet per second (cfs) (600 acre-feet per year) with no plan to monitor impacts; relook at Scenario C presented in November and December 2024	Lower Blitzen Voltage
The Northeast Crane Reductions are too little.	Dan Nichols Scott Houck
Lower Blitzen-Voltage only has a median decline of -2.9 feet and a median decline rate of -0.3 feet per year. The 39% reduction is too much.	Erick Keerins Curt Blackburn



	Dan Nichols Garrit A. Jager Bachman Bay Farms Erick and Christy Keerins Erik and Laura Steen Fred Otley Glenn Harris
A 15% cut in Silvies is too high, and it won't fix the problem in Buchanan and Sage Hen.	Steve Rickman
The Dog Mountain PTW should be more restrictive. Receiving lower reductions than Weaver Springs does not make sense for Dog Mountain.	Ben McCanna Steve Rickman Will Bentz
The Silvies subarea should remain in the Critical Groundwater, but the PTW should be set to the current use.	Steve Rickman Sabrina Maki
The Lower-Blitzen reductions are excessive and do not accurately reflect current conditions. Most of the issue stems from the Department allowing transfers from Weaver Springs.	Jacob Davis
I do not understand why the model, described as "optimized," proposes the least amount of reductions for Dog Mountain this is not optimal.	Ben McCanna
Focus on near-term resources and action on Weaver Springs, as it has the most significant unaddressed impacts in the basin. Immediately reduce groundwater withdrawals for irrigation as much as possible in Weaver Springs and Dog Mountain.	Ben McCanna Et Al
The Harney Basin Critical Groundwater subareas should be split into two categories. One category is for subareas that have met "excessively declining," and the other categories are areas that have not met "excessively declining". In the second category, set the PTW to current use. Regulatory focus should be on areas that are experiencing excessive decline. Focus static water level monitoring on areas that do not meet the criteria for excessive decline.	Ken Bierly Lorissa Singhose



<p>The Lower Blitzen-Voltage Subarea should be removed from the Critical Groundwater Area designation. The proposed 39% curtailment is not scientifically justified, especially given that this subarea has some of the most stable groundwater levels in the region. In fact, it meets the definition of "reasonably stable." The Department previously allowed expanded development here, stating the area could support it without issue. Compared to other subareas with more severe conditions, Lower Blitzen-Voltage does not warrant the second-highest reduction. If the designation is maintained, the total permissible withdrawal should align with estimated recharge levels.</p>	<p>Andre Farm LLC Bachman Bay Farms Christina Keerins - Lower Blitzen Subarea</p>	<p>Dan Nichols Glenn Harris Julie Davis Lower Blitzen- Voltage Subarea Comments Riddle Ranch Tom Davis</p>
<p>The PTW should be flexible after observing the results for the first 10 years of action.</p>	<p>Scott Houck</p>	
<p>Concerns with the proposed reductions in Silver Creek. The model used an average of 2.16 duty across the basin and does not accurately reflect the Silver Creek Condition.</p>	<p>Donald Doverspike</p>	
<p>Unless you stop 100% of pumping from Crane-Buchanan and WS will not achieve stability everywhere.</p>	<p>Dan Nichols</p>	
<p><b>OWRD Response</b></p>		
<p><b>Rule language changed: No</b></p> <p>The Permissible Total Withdrawal (PTW) values were developed using the Harney Basin Groundwater Model through an optimization process that minimizes pumpage reductions across the critical groundwater area while still achieving stable groundwater levels in all subareas on the specified timeline.</p> <p>The adaptive management framework in the proposed rules is designed to prevent excessive curtailment when observed groundwater levels are higher than the modeled trajectories, and to address insufficient curtailment when observed levels are lower than modeled at designated checkpoints.</p>		
<p><b>Comment</b></p>		<p><b>Commentor</b></p>
<p>The Department should not set a PTW; instead, curtailment should be based on juniors with the most significant static water-level drop.</p>	<p>Lola Tyler</p>	
<p><b>OWRD Response</b></p>		
<p><b>Rule language changed: No</b></p> <p>To stabilize groundwater levels across all parts of the groundwater reservoir with the least quantity of reductions possible, reductions in use need to be made across the proposed CGWA. The proposed rules provide a framework for implementing the least quantity of reductions necessary to</p>		



achieve the goal of stabilizing water levels in the 30-year timeline defined. It is also rooted in the best available science, which indicates groundwater in the Harney Basin occurs within a single, basin-wide groundwater-flow system.

Comment	Commentor
The Northeast Crane reductions are appropriate.	Curt Blackburn Garrit A. Jager

#### OWRD Response

##### Rule language changed: No

These comments are in line with or generally supportive of the proposed rules. Thank you for your comment.

Comment	Commentor
The PTW is based on a model, and the model's accuracy is only as good as the input data. It relies on “optimized” model runs with parameters that were neither agreed upon by the RAC nor peer reviewed.	Lola Tyler Representative Owen

#### OWRD Response

##### Rule language changed: (No)

The Permissible Total Withdrawal (PTW) values were developed using the Harney Basin Groundwater Model (HBGM) through an optimization process that minimizes pumpage reductions across the critical groundwater area while still achieving stable groundwater levels in all subareas on the specified timeline.

The modeling results provide a sound basis for evaluating groundwater system response under different groundwater management scenarios. However, all groundwater flow models are a mathematical simplification of complex natural systems. Despite potential limitations, the HBGM is the most realistic, accurate, and reliable means, at present, for understanding many aspects of the hydrogeologic system of the Harney Basin. For a full discussion of model development, calibration, uncertainty and limitations, see Gingerich and others, 2024. The HBGM and associated report are publicly available through the USGS website.

Comment	Commentor
The Nature Conservancy supports using the Harney Basin Groundwater model to determine PTW. OWRD is using the most modern, up-to-date approaches available	The Nature Conservancy

#### OWRD Response

##### Rule language changed: No

These comments are in line with or generally supportive of the proposed rules. Thank you for your comment.

Comment	Commentor
Supports the proposed alternative PTW memo. It shifts the burden to an area that already has a problem, with no measurable difference in spring and stream flows or ET and saves seven dry domestic wells.	Cheryl Smith John Short Robert Long



Does not support the proposed curtailment in Lower Blitzen outlined in the “Memorandum regarding Evaluation of Division 512 RAC Alternate PTW Scenario,” as it would increase impacts to internationally critical bird habitat. OWRD should not implement the plan laid out in the RAC alternative proposal memo. The proposal would disproportionately impact Northeast Crane.	WaterWatch Windy Point
Reductions should not exceed 35,000 acre-feet per year in the Northeast Crane subarea. The Department should not implement the proposed memo.	Sabrina Maki
<b>OWRD Response</b>	
<b>Rule language changed: No</b> <p>The alternate PTW scenario presented in the July 30, 2025 memo titled “Corrected: Evaluation of Division 512 RAC Alternate PTW Scenario” decreased pumpage reductions in the Lower Blitzen-Voltage Subarea to 18% of 2018 modeled pumpage and increased pumpage reductions in the Northeast-Crane subarea to 45% of 2018 modeled pumpage. These alternate reductions did achieve the goal of stability on the specified timeline but resulted in an overall basin-wide reduction of ~37% of 2018 pumpage as compared to the ~35% reduction under the proposed Division 512 rules (A ~2% overall increase in pumpage reductions). The intent of the proposed Division 512 rules is to minimize pumpage reductions across the critical groundwater area while still achieving stable groundwater levels in all subareas on the specified timeline and therefore the Department chose to recommend rules based on the original PTW.</p>	
Comment	Commentor
It is important to articulate in these rules how the Department will determine whether PTW is being met and how adjustments will be made if the PTW is being exceeded. Adjust language: "(8) Each holder of a water right that is not regulated off shall report to the Department monthly the volume of water pumped in that month. The Department shall compile reports by sub-area and determine whether pumping is within the permissible total withdrawal as scheduled in this section. For each sub-area, if pumping exceeds the allowable permissible total withdrawal as scheduled in this section, the Department shall reduce the allowable permissible total withdrawal in such sub-area for the remainder of the irrigation season and for the following years as necessary to correct for the over pumpage. The Department shall also regulate any water rights that exceeded the allotted permissible total withdrawal but may establish a process for allowing the water right to be pumped again upon a showing that the overage was the result of an innocent error.	WaterWatch
<b>OWRD Response</b>	
<b>Rule language changed: No</b> <p>The proposed rules will require each water right to be limited to a total diversion rate of 2.5-acre feet per acre. The Department will issue an order for each groundwater right in the proposed critical area limiting total duty as well as a scheduled date of curtailment for each right that will be curtailed off by priority date. The proposed SWMPA rules require annual reporting of monthly flow meter readings which will be used to determine whether compliance is being achieved. Current enforcement authority allows the Department to conduct field investigations to check compliance</p>	



and address non-compliance through Notices of Violation and Assessment as appropriate. Any over pumpage can lead to expedited curtailment through the adaptive management process proposed in 690-512-0080

Comment	Commentor
The Department should follow the example of the critical groundwater area in the Umatilla Basin and set the PTW to equal or greater than the recharge rate.	Harney County Farm Bureau
Silver Creek area applied duty is far too low. The proposed PTW for Weaver Springs—when combined with the total amount of “paper water” rights in the Upper Silvies and Double O areas—is still less than OWRD’s own modeled recharge numbers for our sub-basin. In other words, the Department’s proposal is more restrictive than the actual hydrology justifies.	Donald Doverspike
The state has historically set a clear precedent that baseline PTW should be equal to modeled recharge. The current proposal sets baseline PTWs far below recharge and at widely inconsistent levels.	Donald Doverspike

#### OWRD Response

##### Rule language changed: No

If OWRD sets the Permissible Total Withdrawal (PTW) to the modeled recharge levels, then the basin would be by definition be overdrawn and subject to the designation of a critical groundwater area under ORS 537.730(1)(a)-(g). PTW values were developed using the Harney Basin Groundwater Model. The model, through an optimization process, minimized pumpage reductions necessary across the basin to achieve durable stability of groundwater levels within 30 years.

The sustainable annual yield for critical groundwater areas in the Umatilla Basin were determined by comparing annual groundwater pumpage to the average of the annual change in groundwater levels.

Comment	Commentor
The Department should consider "Scenario B" that was modeled earlier in the RAC process as an alternative that achieved stability.	Andy Root Sabrina Maki Representative Owen
The Department modeled a scenario (scenario B) that should achieve stability with much less reduction needed. The Department is now proposing significantly more aggressive curtailment, which impacts people's livelihoods and retirement plans.	Sabrina Maki

#### OWRD Response

##### Rule language changed: No

At RAC #11 on November 13, 2024, the Department presented results of model scenarios A-E that were developed in collaboration with the RAC to explore the sensitivity of various model inputs on modeled outcomes. Scenario B implemented a 22% basin-wide reduction from 2018 modeled



pumpage with phased reductions starting in 2030. Under scenario B the median groundwater level rate of change was not stable or rising in all subareas at 30 years. Because it did not meet the goal it was not selected as the approach for the rules.

## Initial Allotment

Comment		Commentor
Supports the 2.5 acre-feet duty.	Curt Blackburn Dan Nichols Fred Otley Gary Marshal	Larry Otley Representative Owen Scott Houck Roger Sheley
A rate increase must not be allowed.		Water League
Duty should be greater than 2.5 acre-feet.		Cheryl Smith Garrit A. Jager
Duty should be determined by the water rights' actual reported duty.		Erick Keerins
Senior water rights holders should receive 3 AF duty. The state should not reduce the duty to 2.5 acre-feet—let the user decide what duty to use.		Erick Keerins Lola Tyler Susan Ramsey
2.5 acre-feet may be enough to grow a viable crop, and users should be encouraged to conserve; this represents a significant cut to groundwater rights. I do not agree with limiting water use to 2.5 acre-feet by regulatory order.		Mike Peila
The reduction of all duties to 2.5 acre-feet is using an administrative rule to reduce a final order issued on a water right and could be argued to be a taking. The 2.5-acre-feet duty should be removed from the rule language.		Robert Long
The initial allocation seems arbitrary. We have questions about how this initial allocation would affect underlying rights. Generally, farmers can grow a crop with 2.5 acre-foot per year, but they need flexibility.		Lower Blitzen Voltage
Rules should be amended so that water is allotted based on the full POU, rather than historic use. Water rights should not be permanently changed, and the restrictions should be lifted once the conditions are fixed.		Philip Klimbal Steve Rickman
<b>OWRD Response</b>		
<b>Rule language changed: No and Yes</b>		
The proposed rules contain a provision that uses a 2.5-acre-foot duty limit for the initial allotment. The intent of this provision is to incentivize conservation and to reduce economic impacts by providing water from the permissible total withdrawal to more water rights. The rules also state that the initial allotment may not exceed the total rate or duty authorized on the water right.		



The 2.5-acre-foot duty will only be used in the initial allotment to establish an annual volume of water that can be pumped by each groundwater irrigation right. Once the volume of water is established, there is no language in the rules that limits how that volume of water can be used. If irrigators wish to grow alternative crops, they can do so if they remain within the volume of water allotted.

The proposed rules do not permanently change the water right. The water use restrictions will come through an order in contested case that restricts how the right may be used without modifying the underlying right. The rules were changed in response to comments to include a provision that specifies when the orders restricting use of a right may be rescinded.

Comment	Commentor
The years 2000 – 2010 should be used to determine historic beneficial use.	Gary Marshal
The beneficial use period should be 10 years.	Lola Tyler
Initial allotments should be prohibited for acres not irrigated at least once between 2020 and 2024 or for undeveloped permits with expired construction and COBU deadlines; OWRD should cancel these acres before starting the contested case process.	Susan Otley Sabrina Maki
Allocating based on actual use will keep farmers turned on and reward those who have not used their full rights. Supports allocating based on actual use.	Representative Owen Dan Nichols
The Department has not provided critical information to allow groundwater users to judge their likely future. The "beneficial use area" needs to be provided by the Department by the priority date.	Ken Bierly Rob Sharp

#### OWRD Response

##### Rule language changed: No

The process for initial allotment in the proposed rules allots water based on beneficial use between 2020 and 2024 for all groundwater rights. For irrigation rights this will be calculated as the maximum total acres irrigated in a single year multiplied by 2.5 or the per acre volume of water used in that year, whichever is less. If a water right was not used during that time, it will receive no allotment of water and be regulated off or cancelled if the right is subject to forfeiture.

The rules propose using the 5-year period between 2020-2024 as it coincides with the 5-year use requirement for beneficial use to avoid potential forfeiture. It also captures a period in which no new water rights were being issued and provides a timeframe that incorporates weather variations from year to year.

If a water right holder disagrees with the initial allotment, they may contest initial allotments during the contested case process.

Comment	Commentor
690-512-0060(2)(a) should allow for rights with a 1/80th rate to pump up to 1/60th if the max duty is not exceeded	Sabrina Maki



**OWRD Response****Rule language changed: No**

The Department agrees that in some cases allowing a higher pumping rate can lead to improved efficiencies in irrigation systems and that the total volume pumped by a right each year is the most important thing to enforce to achieve stable groundwater levels. This flexibility may be available to water users through a voluntary agreement.

Comment	Commentor
There should be a provision in the rule to consider hardships during the years 2020 -2024.	Curt Blackburn

**OWRD Response****Rule language changed: No**

ORS 540.610(d) provides protections from forfeiture in the case of economic hardship. If a user is not allotted water under these rules as a result of nonuse, they may participate in the contested case process to contest the allotment.

Comment	Commentor
The initial allotment process, as written, is stopping any future growth, paralyzing the community.	Lola Tyler

**OWRD Response****Rule language changed: No**

The department has revised the proposed rules to exempt municipalities and quasi-municipalities from the rules, providing more flexibility to pursue population and economic growth opportunities. Current groundwater use levels within the proposed CGWA are unsustainable as evidenced by rapidly declining water levels. Unless action is taken to bring use back into sustainable levels, future generations will face lower water levels, additional impacts to agricultural and domestic wells, reduced natural discharge to springs, streams, and evapotranspiration, and increased harm to ecological systems. The proposed rules provide a framework by which groundwater use is reduced to sustainable levels which will result in no new groundwater rights being issued. Voluntary agreements and water right transfers are other tools that may be used to obtain water for economic growth.

Comment	Commentor
Rules should allow for season rights to be converted to year-round uses for maximum flexibility.	Sabrina Maki

**OWRD Response****Rule language changed: No**

The Department agrees that flexibility in transfers is important for future water management in the basin. However, under current law, basin program rules cannot be considered during a transfer review and thus language related to transfers added in these rules would have no effect on the outcome of the transfer.



Comment	Commentor
I am concerned about the increase in Crane Hot Spring consumption and its impact on my domestic wells. More development of their right will likely affect my well.	Cheyrl Smith
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
The proposed rules 690-512-0060 (3) propose allotments for non-irrigation use types that consider beneficial use between 2020 and 2024 and existing groundwater right limits	

## Schedule for Reductions

Comment	Commentor	
Please consider strengthening the Proposed Rules by adopting a tighter schedule for imposing the lower pumping amounts ("Permissible Total Withdrawals"). I encourage a shorter timeline than the proposed 30 years to achieve stable groundwater levels, considering the major declines that have already occurred, and the significant impacts to groundwater-dependent ecosystems and domestic wells that this has already caused.	Chris Skeens Christine Brautigam Craig Lacy Denise Tschann Donna Harris Garry Marshal Keneth Homolka	Larry Callister Sue Arbuthnot Lori O'Connor Water Watch Peter Paquet Robert Bumstead Sara Pritt
The timeline is much too lax. Domestic wells are already feeling the impacts and are having to deepen their wells.	Robert Wolfskill	
The proposed timeline is excessively long and will result in lower overall groundwater levels. Water Watch suggest this language: (2) Water use within all remaining subareas of the Critical Groundwater Area will be scheduled for reduction to the permissible total withdrawal with 40% of the total reduction scheduled in 2028, 30% of the total reduction scheduled for 2031 2034, 15% of the total reduction scheduled for 2034 2040, 10% of the total reduction scheduled for 2037 2046, and 5% of the total reduction scheduled for 2040 2052;	WaterWatch	
Supports eliminating most existing pivots, reverting to the number in use 35 years ago, and returning to flood irrigation, rather than using a graduated-over-time limit. Believes allowing any pivots to continue operating through 2058 is unnecessary.	Terry Keim	
Waiting until 2058 is too long; OWRD should know within 5 years whether groundwater levels have risen.	Lou Davies	
Weaver Springs is being reduced by 75% the first year, and Dog Mountains' reductions are spread over 24 years. Dog Mountain has 140 feet of decline and should be reduced on the same schedule as Weaver Spring.	Calla Hagle	



**OWRD Response****Rule language changed: No**

The proposed schedule for implementing reductions is intended to balance the economic hardship that will be caused by curtailing water rights with the impacts to groundwater levels, domestic wells, and discharge to springs, streams, and evapotranspiration. By frontloading water use reductions, the proposed rules achieve higher final water levels than would occur under an equal reductions schedule. Requiring faster groundwater use reductions in any part of the proposed critical groundwater area would result in additional economic impacts to water users in the basin.

The schedule also allows time for adaptive management based on measured changes in groundwater levels as curtailment is implemented. Adaptive management checkpoints are scheduled every 6 years to compare groundwater level changes in relation to the proposed path to success and to allow for changes in the curtailment schedule to be made as needed.

The state provides funding to assist domestic well owners with repairing, replacing and abandoning wells through the Harney Domestic Well Fund. Low-to-moderate income homeowners may also be eligible for assistance through the Well Abandonment, Repair and Replacement Fund.

<b>Comment</b>	<b>Commentor</b>
The timeline should be much slower, deliberate, and purposeful.	Fred Otley Steve Rickman
The initial 40% cut is too steep. The schedule for reductions should be a 20% cut at each adaptive management checkpoint.	Curt Blackburn Lola Tyler
OWRD should implement a slower phase in reductions to offset the impacts on the economy.	Oregon Farm Bureau

**OWRD Response****Rule language changed: No**

The proposed schedule for implementing reductions is intended to balance the economic hardship that will be caused by curtailing water rights with the impacts to groundwater levels, domestic wells, and discharge to springs, streams, and evapotranspiration. By frontloading water use reductions, the proposed rules achieve higher final water levels than would occur under an equal reductions schedule. Extending the timeline or changing the distribution of water use reductions may result in lower final water levels which would result in additional impacts to natural discharge to springs and streams, natural evapotranspiration, and domestic wells.

<b>Comment</b>	<b>Commentor</b>
Supports delaying water-use reductions for the first 6 years in Subareas where groundwater levels are not significantly declining or are not declining.	Erick Keerins Garrit A. Jager John Short



The Department should consider delaying reductions in Silver Creek and Lower Blitzen to see how reductions in Weaver Springs impact them.	John Short
<b>OWRD Response</b>	
<p><b>Rule language changed: Yes</b></p> <p>To stabilize groundwater levels across all parts of the groundwater reservoir with the least possible basin-wide reductions, reductions in use need to be made across the proposed CGWA. The proposed rules provide a framework for implementing the least quantity of reductions necessary to achieve the goal of stabilizing water levels in the 30-year timeline defined. It is also rooted in the best available science, which indicates groundwater in the Harney Basin occurs within a single, basin-wide groundwater-flow system.</p> <p>In response to public comment, the Department has adjusted the proposed rules to allow for delay of curtailment in three subareas (Silvies, Silver Creek, and Lower Blitzen-Voltage) if voluntary actions are being taken to reduce use. This change to the rules may incentivize voluntary action and provides the opportunity for groundwater users to take control of the process they follow to reduce use and stabilize water levels.</p>	
<b>Comment</b>	<b>Commentor</b>
The 27-28% reduction in Silver Creek is excessive; we do not have a problem that warrants this level of reduction. Recommend reducing 5% over 10 years.	Ross Ketscher
Proposed reductions in NE Crane are excessive and too heavily favor discharge to streams, springs and native vegetation	Sabrina Maki
<b>OWRD Response</b>	
<p><b>Rule language changed: No</b></p> <p>To stabilize groundwater levels across all parts of the groundwater reservoir with the least possible basin-wide reductions, reductions in use need to be made across the proposed CGWA. The proposed rules provide a framework for implementing the least quantity of reductions necessary to achieve the goal of stabilizing water levels in the 30-year timeline defined. It is also rooted in the best available science, which indicates groundwater in the Harney Basin occurs within a single, basin-wide groundwater-flow system.</p>	
<b>Comment</b>	<b>Commentor</b>
The Department has drastically changed its approach to regulating Silver Creek Subareas and the Harney Basin. The initial plan with the 15 subareas, the Silver Creek subareas were not being regulated, but now Silver Creek has a 28% reduction.	Lorissa Singhose



OWRD Response	
<b>Rule language changed: No</b> RAC member input guided shifts in the department's approach. Publication of the Harney Basin Groundwater Model was a substantial addition to the body of science informing discussions and ultimately the department's proposal.	
Comment	Commentor
The reduction timeline should be delayed by 3 to 6 years to allow the department to enforce permit decline conditions, observe how the basin responds to the three wet years/fires, and monitor the basin's response to Weaver Springs drastically decreasing pumping without regulation. Additionally, the data used in the model included 10 years that had droughts	Windy Point
Supports a 6-year grace period in Subareas where groundwater levels have not been declining during the first adaptive management checkpoint (2028).	Dan Nichols Scott Hauck
OWRD Response	
<b>Rule language changed: Yes</b> In response to public comment, the Department has adjusted the proposed rules to allow for delay of curtailment in three subareas (Silvies, Silver Creek, and Lower Blitzen-Voltage if voluntary actions are being taken to reduce use. This change to the rules may incentivize voluntary action and provides the opportunity for groundwater users to take control of the process they follow to reduce use and stabilize water levels. The Department recognizes that water use and groundwater levels may change due to , the precipitation in recent years, fires, or other factors. Based on currently available data and modeling, reductions need to begin on the proposed timeline in order to avoid greater reductions in the future. The adaptive management framework in the proposed rules establishes a process and timeline for evaluating groundwater levels and adjusting water use reductions based on the outcome. The adaptive management framework is designed to prevent excessive curtailment when observed groundwater levels are higher than the modeled trajectories, and to address insufficient curtailment when observed levels are lower than modeled at designated checkpoints.	
Comment	Commentor
OAR 690-512-0070(3); should state that OWRD will not regulate based on static WL permit conditions in a manner that is contrary to prior appropriation.	Sabrina Maki
OWRD Response	
<b>Rule language changed: No</b> Static water level conditions on permits were added when the permit application was being evaluated in order for the Department to make a positive finding of no injury and grant the permit. The proposed permit was reviewed by the applicant and accepted prior to issuance. We do not have authority to modify those conditions once the permit is issued. The schedule of reductions in the proposed rules, section OAR 690-512-0070, will follow prior appropriation as stated in OAR 690-512-0070(2)(d).	



Comment		Commentor
Should not be terminating water usage to irrigators with stable groundwater levels.		Susan Otley
<b>OWRD Response</b>		
<b>Rule language changed: No</b>		
To stabilize groundwater levels across all parts of the groundwater reservoir with the least possible basin-wide reductions, reductions in use need to be made across the proposed CGWA. The proposed rules provide a framework for implementing the least quantity of reductions necessary to achieve the goal of stabilizing water levels in the 30-year timeline defined. It is also rooted in the best available science, which indicates groundwater in the Harney Basin occurs within a single, basin-wide groundwater-flow system.		
Comment		Commentor
The Nature Conservancy supports curtailment over 24 years to reduce the economic impacts.		The Nature Conservancy Cheryl Smith
Support for the proposed 512 rules because the curtailment schedule over 30 years gives business certainty so that landowners can plan for the future. Using PTWs to set goal allows OWRD to minimize curtailment to achieve stability.		Karen Lewotsky
Fully supports restricting groundwater use to protect the resource for human and wildlife use.		Paul Jacobsen
Supports the proposed rules developed by the Rules Advisory Committee because they provide a data-driven, science-based pathway to groundwater stability while balancing community and economic needs. Model results show that groundwater levels will be stable by the end of the 30-year period.		Environmental Defense Fund
<b>OWRD Response</b>		
<b>Rule language changed: No</b>		
These comments are in line with or generally supportive of the proposed rules. Thank you for your comment.		
Comment		Commentor
Water use reductions and regulations should follow the principle of prior appropriation and be applied across the entire critical groundwater area, not by subarea, especially when subarea boundaries are disputed. Priority date should be consistent basin-wide, treating the basin as a single reservoir rather than basing it on subarea location.		Debbie Gouveia Barbara Cannady Kirby Issac Stacey Davies
<b>OWRD Response</b>		
<b>Rule language changed: No</b>		



By dividing the CGWA into subareas, the Department has grouped portions of the groundwater reservoir that share similar hydrogeologic properties and groundwater conditions. Modeling shows that applying water use reductions within a subarea context allows for less basin-wide curtailment overall than if reductions were to be applied broadly across the entire CGWA. The schedule of reductions in the proposed rules, section OAR 690-512-0070, will follow prior appropriation as stated in OAR 690-512-0070(2)(d).

## Adaptive Management

Comment	Commentor	
There should be some mechanism to turn water rights back on if ahead of schedule	Lola Tyler	
Adaptive management should include a mechanism to restore water use if groundwater levels recover.	Riddle Ranch Steve Rickman Oregon Farm Bureau	
There should be a mechanism in the rules that turns water back on if a subarea is ahead of schedule during an adaptive management checkpoint.	Bachman Bay Farms Lola Tyler	
OWRD Response		
Rule language changed: Yes		
In response to public comment, changes were made to the proposed rules to provide a pathway for rescinding a portion of the scheduled reductions when groundwater level recovery is ahead of schedule at an adaptive management checkpoint and meets certain criteria specified in rule.		
Comment	Commentor	
Supports the Adaptive Management Plan which allows for flexibility.	Cheryl Smith Dan Nichols Eriek Keerins Scott Houck	Sabrina Maki US Fish and Wildlife Representative Owen Andy Root
Support for OWRD proposed rules that include adaptive management	Bill Mosser Doug Heiken Gloria and Bob Ziller	Lydia Garvey Marjorie Stuart Rob Kuntz Stephen



	Harry L. Foster Jim Coverdell Joan Suther Jocelyn Hough Linda Greenman	Parsons Theo Dreher Thomas Berridge Walter Petty The Nature Conservancy
Adaptive management is necessary in the Harney Basin because of its size and complexity. Collecting data over time will provide transparency and accountability during the transition to final PTW. TNC supports the adaptive management plan.	The Nature Conservancy	
Support for OWRD proposed rules because it sets a good precedent it is the first basin rule that include adaptive management and the first basin rules that use a hydrogeologic model to inform sustainable pumping limits. This allows for an iterative process to learn if the management is working and empowers communities to take voluntary actions to change outcomes.	Karen Lewotsky	
The Adaptive Management Framework in the agency-proposed rules was developed with substantial community input. The Framework specifically accommodates voluntary actions: if voluntary agreements, incentives, or other collaborative actions are sufficient to slow or halt aquifer declines in a given subarea, the Framework reduces regulatory curtailment partially or prevents it entirely.	The Nature Conservancy Water Watch	
OWRD Response		
Rule language changed: No		
These comments are in line with or generally supportive of the proposed rules. Thank you for your comment.		
Comment	Commentor	
Emphasizes the need for a clear process for how the Department will consider local knowledge when determining "representative" wells for analysis. Recommends partnering with groundwater users to monitor groundwater levels, usage, aquifer characteristics, and changes in spring discharge. Advocates for greater public involvement in adaptive management, including data collection, defining representativeness, reviewing information, and maintaining ongoing dialogue.	Christina Keerins – Lower Blitzen Dan Otley James E Cambell – Silvies Subarea Lower Blitzen Voltage Subarea	Margaret Wallis Richman Et Al Sabrina Maki Steve Rickman Windy Point Roger Sheley



OAR 690-512-0080 should say that OWRD will consult with local experts and consider local knowledge in determining which wells are "representative wells with sufficient data."	Sabrina Maki
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
Local groundwater users will continue to report groundwater level data to the Department following the standards of the permit condition static water level program, and Department Hydrogeologists will review that data for inclusion in groundwater level analysis. If a groundwater user whose well does not require measurement and reporting wishes to follow the same process as permit holders to submit data to the Department, that is allowed and encouraged. The adaptive management checkpoints will also provide an opportunity for local knowledge to be collected and considered throughout the 30-year management period.	
Comment	Commentor
Groundwater level measurements need to be taken and observed to see how levels are affected in the first 10 years, then adjust usage accordingly.	Scott Houck
OWRD should use more wells and be transparent about which ones are used in adaptive management checkpoint analyses. Adaptive management should rely on field-verified local data, not just model projections. Emphasizes the importance of staying adaptable, continuing to review data, and making cuts only when necessary, in partnership with water users.	Riddle Ranch Steve Rickman Oregon Farm Bureau
Please include the following language in the final Division 512 rules: The Department shall support the creation and ongoing convenings of a local Groundwater Management Collaborative by attending meetings and providing planning and technical assistance as authorities and capacity allows. The Department will work with the Collaborative to encourage the collection and use of hydrogeologic data, the implementation of water conservation measures, and the implementation of actions contained in the state-recognized place-based integrated water resources plan. To support the work of the Collaborative, the Department shall provide annual reports describing groundwater use and trends and shall work with the Collaborative to ensure ongoing trust in data that supports adaptive management decisions. The Collaborative can assist with monitoring, tracking, and supporting the effectiveness of both voluntary and regulatory actions.	High Desert Partnership
Use the best available data to inform decisions. Employ real-time measurements for reports and decisions.	Margaret Wallis
Expresses continued support for meaningful public involvement in an adaptive management/implementation approach	Brenda Smith
High Desert Partnership should be partnered with to help implement the adaptive management plan. There is no plan to stand up the adaptive management, and how the community will be meaningfully brought in.	Kristen Shelman



**OWRD Response****Rule language changed: Yes**

The proposed rules contain a plan for adaptive management to adjust reductions in use based on actual, measured changes to water levels. The adaptive management framework is designed to prevent excessive curtailment when observed groundwater levels are higher than the modeled trajectories, and to address insufficient curtailment when observed levels are lower than modeled at designated checkpoints.

The Department is committed to providing the community with the data and analysis used to inform the adaptive management process.

Groundwater levels collected by Department staff and static water level measurements reported to the Department through the permit condition reporting program are all publicly available through the Department's Groundwater Information System.

The Department has committed to continuing to engage with the High Desert Partnership to support collaborative efforts to voluntarily reduce groundwater use.

Comment	Commentor
OWRD should designate committees in Harney County that work with the state to collect and understand data, which should meet monthly.	Roger Sheley Susan Ramsey

**OWRD Response****Rule language changed: No**

Department staff will collect groundwater level data from the observation well network and permit condition reporting program and make it publicly available through the Department's Groundwater Information System. If a groundwater user whose well does not require measurement and reporting wishes to follow the same process as permit holders to submit data to the Department, that is allowed and encouraged.

Comment	Commentor
There needs to be a process to evaluate and reevaluate the PTW; I would like to see it determined on a 6-year basis rather than relying on a single number in the rule.	Roger Sheley

**OWRD Response****Rule language changed: No**

Permissible Total Withdrawal (PTW) must be adopted by the Water Resources Commission in rule and it must be based on substantial evidence in the rulemaking record of the Department. This statutory requirement precludes an adaptive management plan that adjusts the PTW, in order to change the PTW the Department must initiate a rulemaking to do so.

Comment	Commentor
Dog Mountain should not be included in the adaptive management plan like Weaver Springs	Calla Hagle



**OWRD Response****Rule language changed: No**

The adaptive management framework in the proposed rules is designed to prevent excessive curtailment when observed groundwater levels are higher than the modeled trajectories, and to address insufficient curtailment when observed levels are lower than modeled at designated checkpoints. The Dog Mountain subarea is not experiencing as severe of declines as Weaver Springs, and because of that is included in adaptive management.

Comment	Commentor
Without incorporating consideration of domestic wells and groundwater-dependent ecosystems into the Adaptive Management system, allowed pumping could cause unanticipated impacts with no remedies to address these impacts other than reopening the 512 rules or using vehicles outside the rule framework. We suggest adding a new Proposed OAR 690-512-0080(6) stating this or similar: (6) At each adaptive management checkpoint, the Department will evaluate, for each subarea, the impacts to: domestic wells; groundwater discharge to lowland springs and streams; and natural evapotranspiration. If impacts to any one of these is beyond anticipated impacts in one or more sub-areas, the Department shall increase the scheduled curtailment quantity in such sub-areas.	Brandon Haslick WaterWatch

**OWRD Response****Rule language changed: No**

Spring discharge, natural evapotranspiration, and dry domestic wells are all challenging to measure for different reasons, whereas groundwater levels are straightforward to measure and monitor over time. Since groundwater level declines are an indicator of impacts, the proposed rules focus on stabilizing groundwater levels and adaptively managing the system based on actual, measured groundwater level data. The rules also do not preclude the Department from continuing to improve measurement of spring discharge, evapotranspiration, or dry domestic wells.

Comment	Commentor
The initial 2028 check-in and the pause in 690-512-0080(2)(c) ignore over 30 years of groundwater decline. The pause delays curtailment for six years without requiring stronger action if conditions worsen, making it both morally and hydrologically indefensible.	Water League WaterWatch

**OWRD Response****Rule language changed: Yes**

In response to public comment, the proposed rules were changed to remove the 2027/2028 check-in which could pause curtailment if specific conditions were met.



Comment	Commentor
OAR 690-512-0080(7) -OWRD should not adjust the PTW to remove the remaining headroom if the groundwater level trend of zero decline is met in 2058; instead, maintain that as an option for future reductions if conditions worsen after 2058	Water League
<b>OWRD Response</b>	
<b>Rule language changed: Yes</b> In response to public comment, the proposed rules were changed to remove the provision requiring rulemaking to adjust the PTW to match the implemented reductions if the goal is achieved without fully implementing the permissible total withdrawal.	
Comment	Commentor
Adaptive management should be supported by additional funding and staffing to ensure its success.	Calla Hagle
<b>OWRD Response</b>	
<b>Rule language changed: No</b> Basin program rules cannot allocate funding or staffing resources. The proposed rules were written to ensure existing staff will be able to implement.	
Comment	Commentor
I appreciate the ability to adaptively manage based on new data but would like to see this occur more in a voluntary context rather than a regulatory one.	Roger Sheley
<b>OWRD Response</b>	
<b>Rule language changed: (No)</b> The adaptive management framework in the proposed rules is designed to prevent excessive curtailment when observed groundwater levels are higher than the modeled trajectories, and to address insufficient curtailment when observed levels are lower than modeled at designated checkpoints. Voluntary water use reductions are not prevented by the proposed rules.  In response to public comment, the Department adjusted the proposed rules to allow for a delay of curtailment in three subareas (Silvies, Silver Creek, and Lower Blitzen-Voltage) if voluntary actions are being taken to reduce use. This change to the rules may incentivize voluntary action and provide the opportunity for groundwater users to take control of the process they follow to reduce use and stabilize water levels. The Voluntary reductions will be compared to the expected groundwater levels during the first adaptive management checkpoint in 2034. If the groundwater is at or above the expect levels no regulation will happen. If it below expected level the Department will implement regulations.	



## Water Use Measurement and Reporting

Comments	Commentor
Supports measuring and reporting water use.	Bachman Bay Farms Ben MacCanna Caorlyn Latierra Chris Skeens Christine Brautigam Craig Lacey Curt Blackburn Dan Nichols Denise Tschann Donna Harris Kenneth Homolka Julie Davis Larry Callister Larry Otley Paul Schlegelmann Peter Paquet Robert Bumstead Richard Stoltze Sara Pritt Steve Rickman Tom Davis The Nature Conservancy
Supports mandatory metering and reporting for pivots, land lines, and all irrigation wells on non-residential lots over 15 acres. Also supports requiring water meters for all commercial and industrial water use.	Longfellow Ragoczy Lou Davies
There should be no need to plan for failure to implement the SWMPA rules; consider a one-time extension of up to six months for individual irrigators to account for supply chain disruptions or plumbing installations that get backed up.	Water League
Supports the provision in section 2 that wells disconnected from infrastructure do not require a meter.	Jerry Grondin
Measurement and reporting should have been required sooner	Garrit A. Jager
<b>OWRD Response</b>	
<b>Rule language changed: No</b> These comments are in line with or generally supportive of the proposed rules. Thank you for your comment.	
Comments	Commentor



Opposes mandatory monitoring requirements, arguing that metering, reporting, and inspections of privately owned wells infringe on long-established water rights and set a dangerous precedent for property rights. Notes that installing and maintaining flowmeters, telemetry, and reporting systems can cost thousands, disproportionately affecting those with limited resources. Criticizes the rule for treating all users as equally responsible for groundwater declines, penalizing responsible users alongside high-volume ones.	Debbie Webb
<b>OWRD Response</b>	
<b>Rule language changed: No</b> OAR 690-250-0090 allows OWRD to enter onto private property in performance of official duties. The proposed rules specify a reasonable notice prior to entry for inspection of the measurement device. OWRD currently has a water measurement cost share program that will reimburse users for up to 75% of the costs of a measuring device if funding is available. Data from well measurements are vital for understanding water level trends in the Harney Basin and elsewhere across the state.	
<b>Comments</b>	<b>Commentor</b>
SWMPA is critically important, and water use should be reported at least monthly and should include the rate.	WaterWatch
<b>OWRD Response</b>	
<b>Rule language changed: No</b> The proposed SWMPA requires annual reporting of data on the amount of water used each month. Rate can be calculated from the reported data.	
<b>Comments</b>	<b>Commentor</b>
Does not support metering requirement; suggests power meter readings as an alternative.	Erick Keerins
Requiring flowmeters is expensive and provides little benefit. ET should be used.	Fred Otley Roger Sheley
<b>OWRD Response</b>	
<b>Rule language changed: No</b> Flow meters are the most accurate method of water measurement. Power meter readings need significant calibration but can be acceptable if a flowmeter is inoperable for a short period. ET can have error margins of 15-20% in many cases.	
<b>Comments</b>	<b>Commentor</b>
In addition to requiring flowmeters to report use, piezometers should be required to report static water use.	Mario Petrilli Fred Otley
<b>OWRD Response</b>	



**Rule language changed: No**

Static groundwater level monitoring continues in the Harney Basin and will continue. This includes OWRD measurements and static water level measurements reported to the Department through the permit condition reporting program.

Requiring static water level measurements from every authorized well using piezometers, is neither necessary nor practical, given the limited number of qualified personnel available to perform these tasks. The data currently collected by OWRD and reported through the permit condition program provides sufficient information to support the evaluations outlined in the proposed rules.

Comments	Commentor
Residential domestic water wells for households should always be exempt from meter installation	Longfellow Ragoczy

**OWRD Response****Rule language changed: No**

The proposed rules do not require meter installation for domestic wells.

Comments	Commentor
SWMPA flowmeter installation should be staggered to lessen the shock to the local community. Irrigators should be given 3 years to implement the provision.	Fred Otley

**OWRD Response****Rule language changed: No**

The proposed SWMPA rules require metering to be installed in 2028. OWRD currently has a water measurement cost share program to assist with installation of flow meters when funds are available. Most groundwater permits in the basin already have a requirement to install flow meters.

Comments	Commentor
Metering and reporting requirements must be supported with adequate technical assistance and funding.	Calla Hagle
If water users face a high risk of being cut off, they should not be required to install a flowmeter that costs thousands of dollars.	Lola Tyler

**OWRD Response****Rule language changed: No**

Groundwater use data will be important to collect for any well while use is occurring. OWRD has a water measurement cost share program to assist with the expense of flow meter installation when funds are available.

Comments	Commentor
Section 5a - suggests that wells regulated off should still be required to report zero use	Jerry Grondin



**OWRD Response****Rule language changed: No**

Under the proposed rules, wells that are regulated off and disconnected from all water use infrastructure are exempt from the reporting requirement. Requiring continued reporting after the well has been disconnected would create an undue burden on users and risk is low for continued pumping once the system has been disconnected.

## Rulemaking Process

Comment		Commentor
Community members raised repeated questions during the RAC process, but the Department failed to respond, follow up, or engage openly. It framed the process as collaborative while defending its position, ignored local concerns, prioritized outside interests, and advanced rulemaking too quickly without addressing potential impacts on crops, infrastructure, the community, and the economy. The Department excluded key local stakeholders, imposed top-down regulation from Salem, and must pause rulemaking to ensure meaningful local involvement.		Angie Ketscher   Roger Sheley Barbara   Richman Et Al Cannady   Sabrina Maki Christina   Steve Rickman Keerins – Lower   Tony Hackett Blitzen-Voltage   Tony Svejcar Craig Neher   Harney County Curt Blackburn   Kristen Shelman Harmony   Lower Blitzen Burright   Voltage Mark Woodbury
The process has lacked true collaboration with the people who are directly affected. The landowners, Tribal members, and agricultural producers have not been sufficiently included in shaping these rules.	Craig Nehar	Gregory E. Kupilis

**OWRD Response****Rule language changed: No**



We greatly appreciate the time, expertise, and variety of perspectives RAC members and community participants brought to the table. The role of the RAC is to advise the Department on the Fiscal Impact Statement and the rule language. The Department carefully considers input from the RAC and adjusts when necessary. An initial presentation to the RAC was unclear on their role in the process, and further conversation clarified the RAC's advisory role.

Before the start of the Rules Advisory process, the Department sent a postcard to every groundwater right holder in the CGWA, inviting them to volunteer as a member of the Rules Advisory Committee (RAC). The RAC included 32 individuals, of which 30 live in the Harney and Grant Counties. This diverse and mostly local group helped shape rules that balance competing needs within the community and fulfill the statutory obligation to effectively manage the waters of the state.

In addition to the RAC, the Department invited broader community input throughout the rulemaking process, including:

- Public comment opportunities at each of 15 RAC meetings
- 14 discussion groups designed specifically for non-RAC members and RAC members to participate
- Multiple community presentations with open Q&A sessions
- 10 public hearings to gather formal public input

This was preceded by community meetings that began in 2016 to address long-term water availability pressures in the Harney Basin.

Comment	Commentor
The RAC was too science-heavy and went over most of the RAC members' heads. It was frustrating trying to understand. Our questions were never answered.	Andy Root
The complexity of the rules and the interaction between the model the applying the tools in the real world has caused confusion, frustration and skepticism in the real world.	Ken Bierly

#### OWRD Response

##### Rule language changed: No

We understand the RAC process involved detailed technical information. We appreciate feedback on how we can make this information more accessible to ensure transparency, in the science used to recommend policy decisions. Ensuring that interested community members had every opportunity to learn, ask questions and provide input was the Department's objective in holding nine public hearings and six information sessions in



the Basin after the rule language was proposed, as well as a special Commission meeting regarding the petition. We work to continually improve our public outreach and thank all the RAC members for their time and contributions.

Comment	Commentor
OWRD's unwillingness to incorporate RAC and local feedback throughout the process has eroded trust and risks serious harm to Harney County's communities and economy. Moving forward, a more collaborative, transparent, and flexible process is needed—even if it means delaying rule adoption to ensure the outcome is fair and evidence-based.	Patty Dorroh
Meeting attendees rejected the idea of a single groundwater reservoir, believing it to be inaccurate. Many stopped participating because they felt the Department had already made its decision. While agencies received compensation to attend, farmers lost income by participating, which further discouraged their involvement.	Barbara Cannady

#### OWRD Response

##### Rule language changed: No

RAC input substantially helped shape the proposed rules. Changes include:

- Aiming for stability, rather than recovery. Stability requires lesser reductions in groundwater use.
- Reductions not beginning until 2028 and spread over 24 years.
- Reducing the number of proposed subareas from 15 to 7, to allow more flexibility for voluntary agreements and to distribute groundwater reductions across more users.
- Inclusion of an adaptive management framework that provides for checkpoints when groundwater level changes will be evaluated and adjustments may be made to future reductions based on the updated conditions relative to specified criteria.
- Revised success metrics to require stable water levels in only half of the wells monitored.
- Curtailment based on actual use, not paper water.
- Reduction pauses for the Silvies, Silver Creek, and Lower Blitzen-Voltage subareas if there are voluntary reductions of 10% by 2028 from the 2018 estimated levels.



The Harney Basin groundwater study and related reports represent the best available science and information on the groundwater flow system in the Harney Basin. These studies indicate a single groundwater reservoir.

We greatly appreciate the time and expertise of everyone who participated in the process and understand volunteers have competing demands for their time and costs to participate.

Comment	Commentor
The Division 512 RAC process was an advisory committee, and the advisory committee never made a formal recommendation.	Harney County
There was no process in place for RAC members to deliberate and provide cohesive and consistent advice. We were often put in a position to react to very short timelines to technically dense information. The Department also switched approaches away from collaboration and brought up the regulation of certain areas at the very end.	James E. Cambell Lower Blizten-Voltage – Silvies Subarea Representative Owen Jacob Davies Julie Davis

#### OWRD Response

##### Rule language changed: No

The Department sought input from the RAC on the fiscal impacts on all aspects of the rules, and numerous changes to the proposed rules were made directly as a result of RAC feedback. We acknowledge that some of the information provided to the RAC was technically dense and that it can be challenging to digest and evaluate complex technical information.

RAC member input guided shifts in the department's approach including:

1. Setting the basin goal of durable stability rather than a recovery of groundwater levels
2. Optimizing the groundwater model to identify the smallest reductions in pumping necessary to achieve durable stability
3. Creating subareas to allow for targeted water use reductions
4. Requiring stability in half of the wells (median) rather than a higher percentage
5. Setting the timeline to achieve the goal at 30 years rather than immediately
6. Phasing reductions over 24 years in 6 yr increments, rather than all at once



7. Implementing adaptive management to prevent over-curtailement
8. Setting the initial allotment based on historic water use, not paper water rights
9. Changing the municipal, quasi-municipal provisions to allow for continued economic and housing growth
10. Reiterating tribal sovereignty over tribal lands

Continued unsustainable water pumpage also has negative economic implications. For example, continued groundwater declines would lead to increased costs for both agricultural and residential well owners for deepening, replacing or abandoning wells with reduced production. Any delays in the proposed phased reductions contained in the proposed rules would create more widespread declines and require more severe curtailments in the future than the department's proposed rules that focus on durable stability within 30 years.

Comment	Commentor
OWRD partnered with groups aligned with an agenda focused on a predetermined outcome. This process should not put all the blame on the farmers.	Oregon Groundwater Association

#### OWRD Response

##### Rule language changed: No

The Department has publicly acknowledged that it overallocated water rights in the Harney Basin. To begin addressing these declines, OWRD stopped issuing new water right permits in 2016 when signs of groundwater declines became more clear. The state has worked diligently to address impacts from groundwater declines since that time.

The Department has worked to include a wide range of voices throughout the process, including landowners, Tribal members, and agricultural producers. Before the start of the Rules Advisory Committee process, the Department sent a postcard to every groundwater right holder in the Basin, inviting them to volunteer as a member of the Rules Advisory Committee (RAC).

The Rules Advisory Committee (RAC) included 32 individuals, which included representation from the Burns Paiute Tribe, county governments, irrigators, ranchers, domestic well owners, well drillers, consultants, water rights experts, local small business owners, environmental organizations, and the Malheur National Wildlife Refuge. Representatives from the cities of Burns and Hines were also invited to participate in the RAC. Thirty of 32 RAC members live in Harney and Grant Counties.

The department's proposal was shaped significantly by this diverse group, seeking to balance competing needs within the community and fulfill the statutory obligation to effectively manage the waters of the state. Ultimately, data made public by the department makes clear that existing



hydrological conditions in the Basin require intervention to slow and eventually halt long-term groundwater declines and its negative effects on local communities.

Comment	Commentor
The rulemaking process should start over, include representation from every area, and not rely on outside paid specialists.	Susan M. Ramsey

### OWRD Response

#### Rule language changed: No

Before the start of the Rules Advisory Committee process, the Department sent a postcard to every groundwater right holder, inviting them to volunteer as a member of the RAC. Ultimately, 30 of the 32 RAC participants are residents of Harney and Grant counties. The committee itself was composed nearly entirely of community members.

Department staff diligently listened to community feedback, applied the best available science, and proposed rules that were informed by local residents that address groundwater conditions in the Basin.

Comment	Commentor
Commission and OWRD should re-evaluate rules to ensure the final rules do not undercut needed protections for groundwater.	Bill Mosser      Harry L. Foster Bob Bumstead    Joan Suther Bob Hunter       Jocelyn Hough Chuck Gehling    Laurie O'Connor Cliff Mitchell    Linda Greenman David Hohler     Lydia Garvey Corinne C.       Marjorie Stuart Sherton           Rob Kuntz Doug Heiken      Theo Dreher Gloria and Bob    Thomas Berridge Ziller              Walter Petty Jim Coverdell



Concessions have been made throughout the entire rulemaking process. Many of those concessions need to be re-evaluated, including median well level trends vs 80% standard or median plus; the lengthy 30-year glide path; the adaptive management framework only allows curtailment to slow down, but not ramp up.	Water Watch
The current rules are written as a reasonable compromise, but if they are weakened further, the entire rulemaking process should be reopened.	Laurie O'Connor
The dialogue during the process consistently favored irrigators, shifting the conversation toward their concerns. Certain RAC members used stalling tactics to delay progress and disrupt the process.	Brandon Haslick
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
The proposed rules strike a balance between the sometimes-competing needs of all groundwater users fulfill the statutory obligation to effectively manage the waters of the state in the Harney Basin and are designed to achieve stability in groundwater levels within 30 years to meet future needs. During the Rules Advisory Committee (RAC) process, all comments and suggestions made by RAC members were considered and the proposed rules were adjusted when appropriate.	
<b>Comment</b>	<b>Commentor</b>
Harney County appreciates being part of the RAC but expected a more formal consultation process. OWRD initially assured commissioners of meaningful involvement, but that commitment was never fulfilled. At RAC 7, OWRD even acknowledged it was a mistake to call the process collaborative. The discussion groups felt largely performative and failed to address concerns raised during meetings. Harney County has been requesting a voluntary joint action for a decade. OWRD did not do this with the 512 rulemaking.	Harney County
It does not appear that the Department considered any comments from the Harney County Court on the Division 10 required groundwater report. I would also like to note that no formal presentations or formal consultation and coordination have occurred as is required by the Department's own rules and despite a written request from the County Court.	Harney County



690-010-0140 and 0150 require coordination with Affected Local Governments and engagement with Federally Recognized tribes. OWRD did not comply with the Division 10 rules for both Harney County and the Burns Paiute Tribe.	City of Hines Harney County
<b>OWRD Response</b>	
<p><b>Rule language changed: No</b></p> <p>The County's comments were reviewed and considered when drafting the Division 512 rules. OAR 690-010-0140 requires the Department to initiate coordination with the Affected Local Government and provide a Division 10 groundwater report to facilitate coordination. The Groundwater Report for the Harney Basin Critical Groundwater Area rulemaking was sent to members of the Harney County government and the cities of Hines and Burns, and all were invited to discuss the report further. We appreciate that county commissioners took the time to meet with the agency and discuss potential impacts from the staff's proposal.</p> <p>OAR 690-010-0150 requires the Department to engage with the federally recognized Indian Tribes and provide a Division 10 groundwater report to facilitate engagement.</p> <p>The Department has conducted several government-to-government consultations with the Burns Paiute Tribe. The Groundwater Report for the Harney Basin Critical Groundwater Area rulemaking was provided to each Federally recognized Tribe in Oregon. Additionally, Harney County and the Burns Paiute Tribe were invited to participate and took part in the Rules Advisory Committee. The cities of Burns and Hines were also invited to provide representation on the RAC.</p> <p>The discussion groups provided a venue for self-led conversations about current topics in the RAC and opportunity for participants to bring recommendations or ideas back to the RAC.</p>	
Comment	Commentor
Discussion groups allowed irrigators to consolidate their position outside the normal RAC process, and the groups became de facto RAC meetings. This resulted in changes made to the Division 512 rule, notably from 15 subareas to 7 subareas, that would benefit those irrigators.	Water League
<b>OWRD Response</b>	



**Rule language changed: No**

The discussion groups were formed at the request of RAC members to provide an additional opportunity for RAC members to continue conversation that occurred during the RAC process and for the public to participate in helping craft the Division 512 rules. The Discussion group were open to public and were notice through WRD regular notification process. These discussion groups provided more time for the community members to discuss topics and bring recommendations or ideas back to the RAC.

Comment	Commentor
There is frustration with the October 3, 2025, virtual commission meeting and public comment limitations for community members and unlimited time for water partners.	Glenn Harris      Lorissa Singhose Rob Frank      Carl Neumann

**OWRD Response****Rule language changed: No**

The Department scheduled this special Commission meeting at the petitioners' request and provided them time to present their case to the Commissioners during the meeting prior to an expected December Commission meeting. When a petition for rulemaking is filed, the Commission has only 90 days to evaluate and decide the outcome of the petition. The Department also received a request in advance of the meeting from groups who have participated in the process to present their views, and provided this space to ensure an equitable environment for information-sharing.

We recognize the sequencing of presentations may have created confusion about why some speakers had more time than others. We will set clearer expectations in advance to ensure equity and process transparency.

Comment	Commentor
The August 2nd and 3rd public hearings were during cutting seasons, making it hard for irrigators to attend.	Bachman Bay Farms

**OWRD Response**

The Department held multiple opportunities for Harney County residents to provide oral comments from June to August, scheduling meetings throughout the basin to accommodate busy schedules. Comments were also accepted in writing, and the comment period was extended once in August and re-opened in September 2025.

Comment	Commentor
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Concerned that the Economic Impact Statement estimates are off. The statement is missing irrigated acres in the Silver Creek Subarea by +3,000 acres, which would increase the income amount by +\$3,840,000, resulting in an increased loss of income with proposed regulations.	Lorissa Singhose
The economic analysis in the Fiscal Impact statement assumes evenly spread reductions over 24 years. The proposed reductions are front-loaded, with 40% in 2028 and 30% in 2032, resulting in the most significant impacts. The community needs to have accurate information on the actual impact to plan for the effects on the community.	Ken Bierly
EcoNorthwest report contains errors and should not be relied upon	WaterWatch
The Department conducted an economic study at the RAC's recommendation, but it is flawed in its representation of agricultural impacts on the community. OWRD failed to provide a robust, transparent, and localized economic impact study.	Barbara Howard Craig Nehar
The Department's fiscal impact analysis is inaccurate and combining the reduction to beneficial use with the 2.5 AF cap results in a 51.5% total reduction, not the 35% the Department stated. ECONorthwest's economic analysis was too general and not good. The analysis needs a more local perspective.	Mario Petrelli
The Fiscal Impact Statement prepared by EcoNorthwest contains misleading economic assumptions regarding impacts on livestock in the county. There is a conflict between the EcoNorthwest's finding that there would be substantial livestock revenue decreases because of lost irrigation and the fact that continued groundwater level declines would result in decreased livestock grazing. The two should offset each other	Water League
Reducing use in all of the Subareas will result in significant economic impacts. The economic study that OWRD conducted is very deficient in many areas, and the true harm to the county is drastically under-reported	Debbie Gouveia
Obstruction from the petitioners towards rulemaking first emerged in 2023, marked by: misdirecting discussions, raising non-sequiturs, deflecting both questions and answers, causing confusion in a	Water League



coordinated manner, denying peer-reviewed science without the professional qualifications, and threatening to sue the Department, who have a legal mandate to serve the greater public interest and ensure due process. There were dozens of discussion groups and 2025 legislation aimed at superseding the rulemaking process. The RAC process is to gather feedback on impacts and how to mitigate those impacts, not to gain consensus or for the executive branch to ask for permission. The Economic impact report overestimates revenues and inflates alfalfa values and is not credible as it only considers the welfare of those who profit from pumping. For decades, irrigators have pressured the state to approve their subprime water rights; this is a continuation of that.

#### OWRD Response

##### Rule language changed: No

ECONorthwest's analysis using the IMPLAN model provides a projected snapshot 30 years into the future, assuming full implementation of the proposed reductions and no adaptation from the community. Irrigation acres were based on 2018 pumpage data. The groundwater pumping estimates input into IMPLAN were based on the best available data at the time of the analysis. The purpose of ECONorthwest's analysis was to illustrate potential impacts, not to predict exact outcomes, and the results presented represent informed estimates rather than definitive forecasts. Adjusting the irrigation rights duty down to 2.5 AF would allow more water to be disturbed to junior users, resulting in fewer juniors being shut off. Eco's analysis was amended to assess impacts on livestock upon request of the RAC.

Comment	Commentor
The Oregon Water Resources Department (OWRD) failed to consult small business owners or ensure their representation on the Rules Advisory Committee (RAC). The Department did not sufficiently evaluate or mitigate the economic impacts of the proposed rules, as required under ORS 183.333, 183.336, and 183.540. These rules will significantly affect Harney County's economy, including small businesses, hospitals, and local government services. OWRD should convene a fiscal impact advisory committee, as outlined in statute, and incorporate its recommendations to reduce harm to affected communities.	Angie Ketschere Cheyrl D. Smith Chris Skeen of Hines Hilda Allison Lorissa Singhose



<p>The Department has not taken steps to minimize the fiscal impact on small businesses as required by ORS 183.330 and ORS 183.540. OWRD did not assess the fiscal and administrative impacts of other state agencies as required under Oregon Administrative Law.</p>	<p>Christina Keerins – Lower Blitzen Chris Skeens Richman Et Al Lower Blitzen-Voltage Patty Pratt</p>
<p><b>OWRD Response</b></p>	
<p><b>Rule language changed: No</b></p> <p>The Rules Advisory Committee (RAC) included 32 individuals, which included local business owners as well as representation from the Burns Paiute Tribe, county governments, domestic well owners, well drillers, consultants, water rights experts, environmental organizations, and the Malheur National Wildlife Refuge. Representatives from the cities of Burns and Hines were also invited to participate in the RAC. The proposed rules seek to mitigate the economic impacts by:</p> <ol style="list-style-type: none"> <li>1. Setting the goal of stability rather than recovery of groundwater levels</li> <li>2. Optimizing the model to identify the smallest reductions in pumping required to achieve durable stability</li> <li>3. Created subareas allowing for targeted water use reductions</li> <li>4. Required stability in half of the wells (median) rather than a higher percentage</li> <li>5. Setting the timeline to achieve the goal at 30 years rather than ASAP</li> <li>6. Phasing reductions over 24 years in 6 year increments, rather than ASAP</li> <li>7. Implementing adaptive management to prevent over-curtailment</li> <li>8. Initial allotment based on historic use, not paper water rights</li> </ol>	
<p><b>Comment</b></p>	<p><b>Commentor</b></p>
<p>Rules will undermine State housing policy priorities. The Fiscal Impact Statement is missing analysis on housing impacts.</p>	<p>David Glenni</p>
<p>OWRD did not assess the fiscal and administrative impacts of other state agencies as required under Oregon Administrative Law.</p>	<p>Department of State Lands</p>



**OWRD Response****Rule language changed: Yes**

The proposed rules have been changed so that municipal and quasi-municipal groundwater rights are no longer subject to corrective controls. The fiscal impact was amended to assess impacts to other agencies.

Comment	Commentor
The statement of need overstates the impacts of declining groundwater levels. No evidence suggests declining groundwater levels impact migratory birds or Malheur Lake. Other factors also affect stream flows beyond groundwater decline. While the curtailment scheme may reduce spring discharge, this likely overstates the impact given limited flow data and monitoring. Groundwater decline affects evapotranspiration (ET), but the exact loss to the ecosystem is unclear. Modeling domestic well failures can be used more effectively to support the Harney and Statewide Domestic Well Funds	Ken Bierly

**OWRD Response****Rule language changed: No**

The statement of need aims to provide a high-level justification for why the rules are necessary; it is intended to be informative and informal. The intent of highlighting migratory bird issues was to demonstrate the potential far-reaching impacts of reduced spring and stream flows due to declining groundwater levels.

Supporting the Harney Domestic Well Fund by using the model is outside of the scope of this rulemaking, but OWRD will consider this as we move forward in that program.

Comment	Commentor
The Notice of Proposed Rulemaking, like previous RAC meetings, presents regulatory actions in a pessimistic tone that focuses only on present-day challenges. This framing overlooks how future generations might view these actions positively as necessary steps that preserved water resources and ensured long-term sustainability. Water League suggests reframing the conversation around public sentiment.	Water League

**OWRD Response**



**Rule language changed: No**

With the Notice of Proposed Rulemaking, the Department tried to capture all potential impacts to help the readers understand all aspects of the rules. We agree that there should have been a discussion on the positive effects of stabilizing groundwater levels although the two economic analyses completed did have information about the economic cost of other alternative outcomes.

Comment	Commentor
Concerned with how the data is being interpreted by the Department, how it is being presented to the Commission, and the fact that it is being used to defend the state's position rather than to truly engage the affected public.	Lower Blitzen Voltage

**OWRD Response****Rule language changed: No**

The Department published the Groundwater Report for the Harney Basin Critical Groundwater Area (CGWA) Rulemaking which outlines the data and information used to identify that a CGWA designation is authorized. Other information including groundwater level trends calculations and modeling results are all published on the Department's rulemaking website and available to the public. Groundwater levels collected by Department staff and static water level measurements reported to the Department through the permit condition reporting program are all publicly available through the Department's Groundwater Information System.

The Department provided multiple opportunities for the public to engage with the science and data during public meetings and informational sessions that included Q&A style format.

Comment	Commentor
The first time that we really heard that the Department believed we had a problem in the Lower Blitzen Voltage area was relatively late in the rulemaking process.	Lower Blitzen Voltage

**OWRD Response****Rule language changed: No**

The Department first proposed the CGWA boundary which included the Lower Blitzen-Voltage area at RAC meeting #2 on August 29, 2023. The



Department then published a water level trends analysis identifying declining water levels in the Lower Blitzen-Voltage area at RAC meeting #13 on November 29, 2023. The department hosted a total of 15 RAC meetings on the Division 512 rules.

Comment	Commentor
The Oregon Water Resources Department (OWRD) mismanaged groundwater in the Harney Basin for decades and failed to enforce existing rules. The Department continued issuing new permits for 32 years, despite clear signs of over-allocation. Its policies contributed directly to the groundwater crisis, drying up wells and fields, reducing land values, and harming springs and streams. Instead of taking responsibility, the Department now shifts the burden back to the community. The state must enforce current rules, acknowledge its role in the crisis, and be held accountable for its negligence.	Andy Root Barbara Cannady Barbara Howard Calla Hagle Craig Nehar Curt Blackburn
Debbie Gouveia Jessica Svejcar Lorissa Singhose Susan Ramsey Margarita White Mindy Sheley	
Need to stop any new wells and keep the current rights for use.	Tom Davis

#### OWRD Response

##### Rule language changed: No

The Department acknowledges that it overallocated water rights in the Harney Basin and starting in 2016 the department stopped issuing new water right permits when signs of groundwater declining were becoming clearer. Moving forward, the department's since-adopted Groundwater Allocation rules require establishing water availability prior to issuing new water rights. The Integrated Water Resources Strategy outlines a focus on data gathering and analysis, which will enable the state to better understand groundwater trends throughout the state.

The state has worked to address impacts from groundwater declines, including establishing the Harney Domestic Well Fund to help domestic well users deepen wells and supporting enrollment in the Conservation Reserve Enhancement Program, compensating irrigating landowners to reduce irrigated acres in production. The department understands agricultural producers need time to adapt practices and meet the proposed curtailments, which is why initial curtailments would begin in 2028 and phase in over a 24-year period.

Comment	Commentor
Involve the community in a meaningful way by investing in a collaborative conversation to work through this issue, accounting for all the complexities of managing groundwater. The state must invest in building trust and investing in local capacity building. OWRD needs to continue including all Harney County residents of all	Calla Hagle City of Burns



stripes to work towards a practical solution. Engage the community in a meaningful, transparent way, and communicate the impacts not just to the agricultural community.	City of Hines Sue Arbuthnot
OAR 690-512-0041- 0080 provides limited opportunities for public input. The rules should be bolstered to allow for a collaborative approach with the community.	Windy Point
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
OWRD currently has an outreach coordinator that serves in the Harney Basin. Continued efforts will be made to meaningfully engage community members as much as capacity allows.	
In the proposed rules, there are structured opportunities for public input on Harney Basin groundwater management include public meetings held every three years to evaluate rule effectiveness and every 10 years to review basin conditions, all of which will accept both oral and written comments. This provision in the proposed rule is not expected to be the only opportunity to engage on water in Harney.	
Additionally, at the end of each adaptive management checkpoint every 6 years, at least one public meeting will be held in the critical groundwater area to present findings on groundwater levels and any adjustments to scheduled reductions.	
The Place Based Water Planning Grant fund offers Post-Plan Coordination Grants to support the implementation and coordination of state-recognized place-based integrated water resources plans.	
Comment	Commentor
Concerned about the failure of other CGWAs to stabilize water levels and wants Harney to be different. The quality of the rule is irrelevant if it is not enforced. Concerned that the Department will not enforce these rules.	Brandon Haslick Robert Wolfskill
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
The Department plans to implement the proposed rules with existing resources and after the contested case process will enforce them using standard department practices.	



Comment	Commentor
The rules are complex and challenging to understand and are likely to be contested. The contested case of 670 water rights will add to the backlog, and the Department should not proceed with it at this time.	Stacey Davies
<b>OWRD Response</b>	
<b>Rule language changed: No</b> While the technical nature of groundwater management necessarily is complex, we recognize there is a learning curve and resources will be available for water users to understand how the rules will be implemented and how to apply them in practice. The contested case process is required under the critical groundwater statute (ORS 537.742) before curtailment can occur. While this will add to the agency's backlog, allowing continued unsustainable water pumpage in the Basin would be the alternative, resulting in further decline in water levels and a need for increased curtailment to stabilize groundwater levels.	
Comment	Commentor
The Department, in the past, met with Harney Electric Cooperative and told them they do not have to worry about regulation in the areas they are expanding. Since then, more and more groundwater development has happened, approved by the Department, which has led to the need for regulation. The Department is turning back on their promises. The Department for years has told the community that they will work collaboratively with the community. The community has worked over the past 10 years to develop the water plan, and now instead of helping to implement that plan, they are pursuing regulatory measures.	Harney Electric Cooperative
<b>OWRD Response</b>	
<b>Rule language changed: No</b> The Department has supported the Harney Community Based Water Planning Collaborative over the past 10 years as they developed the Harney Basin Integrated Water Resources Plan. The Department Place Base Water Planning Grant fund offers Post-Plan Coordination Grants to support the coordination of state-recognized plan implementation.	
Comment	Commentor
If the Commission wishes to have a fully informed regulated community of irrigators, you MUST have the Department provide the crucial information and provide the opportunity to explain how it will be used. The	Ken Bierly



lack of information on what the starting point for curtailment is a critical flaw in going forward with any hope of understanding by the regulated community. Proceeding without that information or providing it late in the process without the ability of irrigators to incorporate that in their evaluation of future options makes the RAC process and Rules process an Agency driven train and undermines confidence in the decision proposed by the Department.

#### OWRD Response

##### Rule language changed: No

The proposed rules outline the process the Department will follow to determine the starting point for curtailment. Until the Water Resource Commission approves the rules, we cannot proceed with the process. The Department understands the need from the community to have some certainty, and we will work diligently to provide that certainty if the rules are adopted.

Comment	Commentor
The Department should specify how comments will be reviewed, considered, and incorporated.	Calla Hagle

#### OWRD Response

##### Rule language changed: No

The Department reads and considers every comment received, both written and oral, and responds to all comments. Comments have informed development and refinement of the proposed rules.

Comment	Commentor
The Department does not need to implement these rules; it only needs to follow prior appropriation.	Margarita White
The department should follow the rules it already has to address the groundwater declines.	Garrit A. Jager

#### OWRD Response

##### Rule language changed: No

A critical groundwater area is the only management tool that allows the Department to curtail current use by prior appropriation. Other management tools available cannot fully address the problem of declining groundwater and will ultimately fail to achieve stable groundwater levels.

Comment	Commentor
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The Department just needs to cancel unused water rights, limit pumping to what is already being used, address the massive declines in Weaver Springs	Roger Sheley
Support for OWRD Division 512 rules is warranted because Groundwater pumping for profit in the short term, without regulation, will spread an onerous cost throughout the basin and long into the future.	Neal Hadley
The Oregon Water Resources Department (OWRD) grounded the rulemaking in peer-reviewed science and conducted a transparent, multi-year public engagement process. The Department led a thorough, data-rich effort involving the Rules Advisory Committee (RAC), Oregon Consensus, and the High Desert Partnership. This well-documented process positions the agency to act swiftly and effectively.	City of Burns WaterWatch
The rulemaking process has been fraught and high-functioning.	Water League
Oregon Water Resources Department (OWRD) staff demonstrated dedication, patience, and responsiveness throughout the Division 512 rulemaking process. They documented the process thoroughly, maintained transparency, and engaged the public to navigate a complex and often contentious effort. By organizing numerous RAC meetings and discussion groups, they made technical aspects of groundwater management accessible to non-experts. Their professionalism reflected a genuine effort to include diverse perspectives and uphold public service integrity. The USGS/OWRD study on Harney Basin groundwater offers a valuable resource for understanding the issue, and public education remains essential for building support for sustainable water policy.	Water League
The proposed rules have been developed over the course of a lengthy and exhaustive public process.	Cliff Mitchell      Laurie O'Connor Corinne C.        Susan Mates Sherton            Theo Dreher Karen Lewotsky



Frustrated that staff morale appears to be low when in the community, and last-minute changes to community meetings in Harney, while there were hard deadlines for public comment or Commission meetings.	Jolene Gouveia
The rulemaking process was exhaustive. The intent of RACs is not to reach consensus or incorporate every comment, but rather to gather feedback. OWRD spent a lot of time responding to, adjusting, and being transparent about the process, and petitioners have been granted extraordinary access to the commission	WaterWatch
Through that process, we have seen the agency-proposed rules evolve and respond to RAC feedback in substantive ways, including the inclusion of a multidecadal timeframe for implementing rules, the addition of an Adaptive Management Framework, and the utilization of a groundwater flow model to achieve stability with the minimum amount of curtailment.	The Nature Conservancy
The RAC process involved 78 hours of meetings and 30.5 hours of discussion groups. The process was thorough, inclusive, and responsive, with many changes made based on RAC input.	WaterWatch
This has been an extensive process with 6 years of the groundwater collaborative, and another 2 years of a Rules Advisory Process.	Laurie O'Connor
OWRD, irrigators, businesses, and community leadership share responsibility for the groundwater problems. Additionally, unauthorized use exacerbated the groundwater problem.	Jerry Grondin
I am pleased to have been on the RAC, and I appreciate that the Department increased the number of meetings from 5 to 15. OWRD followed our recommendations to go from 15 subareas to 7 subareas.	Barbara Howard
Looking ahead, we hope we'll see a well-considered and thorough process committed to conserving our precious and diminishing water resource via a balanced and equitable process that considers the economic, social, and ecological values in the Harney Basin. We believe the combination of scientific rigor and historic local empirical knowledge will offer the most effective tools toward lasting solutions.	Sue Arbuthnot



Oregon statutes make it clear that to restrict groundwater use, there must be substantial evidence that groundwater use is no longer beneficial to the public. OWRD has provided clear, substantial evidence—excessively declining, declining excessively, and overdrawn—to designate a CGWA and restrict use. The Division 512 rule is written to prevent irreversible harm to the public and preserve public trust in resources. The Division 512 rules are meant to protect the broader long-term public interest.	Water League
Water League strongly supports the designation of the Harney Basin as a Critical Groundwater Area and the implementation of the Division 512 rules. These rules represent a long-overdue shift toward sustainable groundwater management in Oregon. They align with the state’s constitutional and statutory duty to manage water as a public trust. By prioritizing long-term ecological health and intergenerational equity, the rules provide a legal framework for balancing current use with future needs.	Water League
The Department should have acted 30 years ago; better late than never.	Scott Houck
Water League contends that there is a difference between possessing a sufficient understanding of the material to participate in the rulemaking process and possessing the expertise to (re)direct hydrologists in the execution of their professional duties.	Water League
Support the Dept having the authority it needs to fix the problem	Ben McCanna
The rules align with Oregon’s constitutional and statutory obligations to manage water in the public trust. By designating the Harney Basin as a Critical Groundwater Area, they create a legal framework for equitable and sustainable groundwater management that balances intergenerational equity and ecological integrity with short-term extractive interests. To uphold the public trust, the Water Resources Commission and state officials must treat the greater public interest as a distinct and guiding factor.	WaterLeague
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
These comments are in line or are generally supportive of the proposed rules. Thank you for your comment.	



## Science Concerns

Comment	Commentor
Concerns about hydraulic connections and one reservoir finding, given that wells across the area are experiencing different rates of decline, or no decline at all. Local knowledge shows that there are different reservoirs. The Harney Basin is not one groundwater reservoir.	Bachman Bay Farms Erick and Christy Keerins Barbara Cannady Fred Otley Barbara Howard Greg and Malia Kupillas Denise Kryger Harney County Farm Bureau Dominic Bachman Jacob Davis Erich Young Mindy Sheley
The U.S. Geological Survey report characterizes the groundwater reservoir but does not define it. OWRD oversimplifies the study by treating the entire Harney Basin as a single reservoir based solely on hydraulic connectivity. Although the Division 10 report notes variability within the basin, this distinction is ignored in the designation. OWRD should incorporate local knowledge when delineating the groundwater reservoir. The term "groundwater reservoir" is a policy concept that should incorporate local knowledge and multiple criteria, not just hydraulic connectivity. Despite community concerns and study findings, the Department continues to treat the entire basin as one reservoir to justify designating it as a Critical Groundwater Area without sufficient evidence across all regions.	Harney County Lorissa Singhose Representative Owen Patty Dorroh Simmone Landau
The Department should recognize different reservoirs while acknowledging that they are all hydraulically connected.	Lorissa Singhose Dan Nichols
We question whether the Lower Blitzen-Voltage Subareas provide significant recharge to the Northeast-Crane area due to the existing hydraulic gradient. Groundwater from Lower Blitzen-Voltage does not recharge Crane or Weaver Springs. Barriers to flow between Northeast-Crane and Lower Blitzen-Voltage Subareas have not been adequately investigated.	Christina Keerins – Lower Blitzen Voltage Fred Otley
Groundwater in the Lower Blitzen-Voltage area is distinct from that in the Silvies, Silver Creek, Weaver Springs, and Northeast-Crane areas.	Christina Keerins – Lower Blitzen- Voltage



Silver Creek provided minimal recharge to Weaver Springs prior to the overpumping in Weaver. Groundwater does not flow from Silver Creek to Weaver Springs.	Richman Et Al Steve Rickman
The Department should better understand how Silver Creek, Weaver Springs, and Dog Mountain are connected.	Ben McCanna
The groundwater study should have started with Malheur Lake and traced where the water from the lake flows to better understand these different aquifers. Harney Basin is not one groundwater reservoir.	Fred Otley
My wells indicate that groundwater is recovering or remaining stable.	Curt Blackburn Dan Nichols Garrit A. Jager Hoot Raney Lorissa Singhose
The two cities' wells use a water table that is clearly different from that of the basin and testing them (which was apparently never done) would show that water levels have not declined at all, unlike the wells in the basin, which have been the root cause of your concern.	Todd Ghaley
Groundwater users question the underlying data, assumptions upon which the Department is basing its decisions, and the lack of account for local knowledge. How has the Department determined the hydraulic connection with the Lower Blitzen Voltage area? Groundwater users do not agree with the determination that their use has an effect on groundwater level declines north of Malheur Lake in the Northeast-Crane area. The "Southern" region is not over appropriated, not overdrawn, not about to be overdrawn, and there is no evidence of excessive declines. Our water comes from the Steens Mountain and from the Donner and Blitzen rivers. Our water does not come from Silver Creek or the Silvies River.	Lower Blitzen Voltage Fred Otley
I would like to request that the Department provide a clear, written, scientific basis/rationale for: 1) how they determined that the Harney Basin is a single groundwater reservoir, including the scientific definition of a "groundwater reservoir" and the scientific criteria they used.	Roger Sheley
Designate separate Critical Groundwater Areas for the hot spots and focus regulation on them if the geology and water levels differ significantly. Develop different management scenarios for each CGGWA.	Steve Rickman



Designate the area primarily recharged from the Steens Mountain uplands and the Donner Und Blitzen River as a distinct groundwater reservoir and establish distinct groundwater management goals based on current groundwater conditions and the state's existing policies.	Christina Keerins - Lower Blitzen Lower Blitzen-Voltage Subarea
Our wells are in the southern region, which does not experience recharge problems like the western and northern regions, and therefore does not meet the designation criteria. Furthermore, our wells were originally located in the Windy Point subarea, which was classified as a "low Priority" subarea. There are wells 2.5 miles from our ranch that are not included in the CGWA and are physically similar to ours. The inclusion of our wells in the CGWA is counterintuitive because there is no problem in our area. Remove Windy Point from the CGWA.	Riddle Ranch
There is enough hydrogeological information to designate the Silvies subarea a groundwater reservoir. Designate the Silver Creek subarea as its own groundwater reservoir to develop targeted management objectives and actions, allow for effective voluntary agreements, and stop transfers from other subareas that could be considered "same source" unless different groundwater reservoirs are delineated.	Lorissa Singhose
OWRD should conduct a hydrologically based Subareas analysis in accordance with ORS 537.730(1)(a), (b), and (e), ensuring conditions in the Silvies Subareas are independently evaluated	City of Hines
The groundwater levels in the Silvies Subarea are reasonably stable and not declining, so a designation is not necessary.	Lola Tyler Steve Rickman
Designate Upper Silver Creek and Lower Silver Creek/Warm Springs Valley/Harney Lake as a distinct groundwater reservoir with distinct management goals	Richman Et Al
The Silvies River area is relatively stable and not experiencing excessive decline. The northern water budget region is overdrawn by only ~2,700 AF, a small fraction of total basin withdrawals. The Silvies River area should be excluded from the CGWA	City of Hines
Regulatory actions should be taken in Weaver Springs, and regulatory thresholds should be set for the Northeast Crane and Dog Mountain subareas.	Harney County
Do not believe groundwater levels in the Northeast Crane or Silvies areas have declined enough for OWRD to initiate regulatory action, and that that action is out of alignment with GW allocation policies.	Sabrina Maki



Silver Creek, Silvies, and Blitzen-Voltage sub-areas do not meet the statutory requirements for Critical Groundwater Area designation. No Critical Groundwater Area has ever been created where the only criterion met is “about to be overdrawn.”	Donald Doverspike
There is confusion in the community regarding subarea boundaries and whether certain areas meet or do not meet decline thresholds (Dog Mountain, Silvies, Northeast Crain, and Lower Blitzen-Volt). Additionally, there are concerns about treating the area as a single reservoir versus multiple ones.	Harmony Burrigh
Silver Creek Valley groundwater conditions are vastly different from those of many other areas of the basin. Maintaining that the groundwater reservoirs are separate for separate areas makes much more logical sense and allows for easier management than deeming the entire Harney basin as one groundwater reservoir.	Wayne Evans
Only three of the seven subareas—Weaver Springs, Dog Mountain, and Northeast Crane—have sufficient evidence to justify designation as Critical Groundwater Areas (CGWAs). The remaining subareas, including Upper Blitzen, Lower Blitzen-Voltage, Silvies, and Silver Creek, do not meet the statutory thresholds for “excessive decline”, “declining excessively,” or “overdrawn” and should not be subject to curtailment. Applying the CGWA designation basin-wide based on broad assumptions about hydrologic connectivity disregards site-specific data and results in unnecessary regulation of stable areas.	<div> <div>Angie Ketscher</div> <div>Lola Tyler</div> <div>Curt Blackburn</div> <div>Lorissa Singhose</div> <div>City of Hines</div> <div>Patty Dorroh</div> <div>Debbie Gouveia</div> <div>Donald Doverspike</div> <div>Erik Keerins</div> <div>Eric Steen</div> <div>Fred Otley</div> <div>Windy Point</div> <div>Harney County</div> <div>Harney County Farm</div> <div>Bureau</div> <div>John Short</div> </div>
2 out of 3 regions in the USGS study did not show a deficit. The subareas of Lower Blitzen, Upper Blitzen, Silver Creek, and portions of the Silvies subareas should be removed. Having the southern region in the critical groundwater area is counterproductive because it is not experiencing a problem.	Harney County Dan Otley
The Department has the opportunity to continue working toward an approach that better aligns with community understanding, adding subareas to the CGWA over time as they meet the criteria of the CGWA. The USGS study was even unclear about basin delineation.	Ken Bierly



**OWRD Response****Rule language changed: No**

A central finding of the six-year collaborative groundwater study with the USGS is that groundwater in the Harney Basin occurs within a single, basin-wide groundwater-flow system. This system includes several distinct but hydraulically connected areas that differ in local geology, position within the broader flow system, and the rates and magnitudes of recharge and discharge (Gingerich and others, 2022). The groundwater study focused largely on identifying and understanding these differences, but based on the best available data, there are no known physical barriers to groundwater flow within the Harney Basin that would prevent groundwater movement or hydraulic interactions within the basin. Although these differences influence the rate and direction of groundwater flow, the potential yield of wells, and the system's response to pumping, the study findings do not support an interpretation that groundwater occurs in separate, isolated, or compartmentalized zones.

As per ORS 537.515 (6) "Ground water reservoir" means a designated body of standing or moving ground water having exterior boundaries which may be ascertained or reasonably inferred. The statutory definition includes no provisions for delineating groundwater reservoirs by any other criteria. In the Harney Basin, there are no known internal boundaries to groundwater flow; the only ascertainable boundaries are those that define the basin itself. In the Harney Basin, the exterior boundaries of the groundwater reservoir coincide with the boundaries of the Harney Basin, encompassing the entire groundwater-flow system from the recharge areas, through groundwater flow along various flow paths, to the discharge areas.

OAR 690-008-0001 (8): "Overdraw" means to artificially produce water, in any one-year period, from a groundwater reservoir, or part thereof, at an annual rate that: (a) Exceeds the average annual recharge to that groundwater supply over the period of record;

OAR 690-008-0001 (5) "Declined Excessively" means any cumulative lowering of the water levels in a groundwater reservoir or a part thereof which: ... (d) Constitutes a lowering of the annual high-water level within a groundwater reservoir, or part thereof, greater than 50 feet below the highest known water level...

OAR 690-008-001(7) "Excessively Declining Water Levels" (Note: "Excessively" as used in ORS 537.730(1)(a) is taken to modify both "are declining" and "have declined") means any ongoing lowering of the water level in a groundwater reservoir or part thereof which:

... (b) Represents an average downward trend of three or more feet per year for at least 10 years;

Through years of monitoring groundwater levels and an intensive collaborative scientific study with the United States Geological Survey (USGS), the Department has substantial evidence that parts of the Harney Basin groundwater reservoir have declined excessively (greater than 50 ft of decline) or are excessively declining (3 or more feet of decline per year for 10 or more years). Furthermore, portions of the groundwater reservoir are



overdrawn, which means that pumping exceeds recharge. These findings are summarized and documented in Groundwater Report for the Harney Basin Critical Groundwater Area (CGWA) rulemaking.

The statutory thresholds from ORS 537.730(1)(a)-(g) of “declined excessively”, “excessively declining”, and “overdrawn” that authorize designation of a critical groundwater area have been met for the Harney Basin Groundwater Reservoir or parts thereof.

Comments	Commentor
The irrigated areas in the basin are hydrologically connected, which limits the efficacy of remedies focused on regulations only in some areas. The total permitted groundwater irrigation pumping exceeded sustainable rates beginning in about 1993; between 1993 and 2015, the total permitted groundwater irrigation pumping rights doubled. The time lag between permitted pumping and when sufficient evidence of a problem is identified is unavoidable.	Bill Jaeger
The study team conducted work based on sound, unbiased science. The study team received, considered/assessed local hydrogeologic observations/interpretations. The data do not support groundwater compartmentalization; Harney Basin is a single complex groundwater flow system composed of multiple hydraulically connected hydrogeologic units. Geologic structures do influence groundwater flow as presented in study reports.	Jerry Grondin
OWRD/USGS science is data-driven, based on all available data; data collection/analysis exceeded the original proposal; interpretations/conclusions are consistent with historic and current data.	Jerry Grondin
There is sufficient information to close the Harney Basin to new appropriations and to limit groundwater pumping to historic levels.	Harney County

### OWRD Response

#### Rule language changed: No

These comments are generally in line with or generally supportive of the data used to support the rulemaking. Thank you for your comment.

Comment	Commentor
OWRD overly relies on the outdated 2018 USDA Geological study, unfairly disadvantages irrigators by using a drought year as the baseline and fails to account for post-2024 fire runoff. OWRD did not use current data, did not present the model’s building blocks or assumptions, and therefore should not use the model as the only tool for projections.	<div>Andy Root</div> <div>Debbie Gouveia</div> <div>Erick and Christy</div> <div>Keerins</div> <div>Jolene Gouveia</div> <div>Kirby Isaac</div> <div>Mike Alison</div> <div>Sabrina Maki</div>



	Fred Otley Jessica Svejcar	Susan M. Ramsey Tony Svejcar
<b>OWRD Response</b>		
<b>Rule language changed: No</b>		
<p>The Harney Basin groundwater study included evaluation of available climate records back to 1900 (Garcia and others, 2022). The total simulation period used for calibration of the Harney Basin groundwater model (Gingerich and others, 2024) spans 89 years, from January 1930 through December 2018.</p> <p>The modeling results provide a sound basis for evaluating groundwater system response under different groundwater management scenarios. However, all groundwater flow models are a mathematical simplification of complex natural systems. Despite potential limitations, the HBGM is the most realistic, accurate, and reliable means, at present, for understanding many aspects of the hydrogeologic system of the Harney Basin. For a full discussion of model development, calibration, uncertainty and limitations, see Gingerich and others, 2024.</p>		
<b>Comment</b>		<b>Commentor</b>
<p>The Harney Basin is not overdrawn. The Department stated during information sessions that actual use does not exceed recharge. The northern and western regions are overallocated, not overdrawn. If the Department considers the Harney Basin one groundwater reservoir, total pumping of 144,800 acre-feet remains below the total recharge of 173,000 acre-feet. The Department should set the PTW to current use and focus on areas with excessively declining levels.</p>		<p>Harney County Farm Bureau Lorissa Singhose</p>
<b>OWRD Response</b>		
<b>Rule language changed: No</b>		
<p>See “Groundwater Report for the Harney Basin Critical Groundwater Area Rulemaking”, draft June 17, 2024 and OAR 690-008-0001 (8): “Overdraw” means to artificially produce water, in any one-year period, from a groundwater reservoir, or part thereof, at an annual rate that: (a) Exceeds the average annual recharge to that groundwater supply over the period of record;</p> <p>In the northern water budget region the 2017-2018 mean groundwater pumpage exceeds average annual recharge for the northern water budget region lowlands by 2,700 acre-feet which meets the definition for Overdrawn as per OAR 690-008-0001(7)(a).</p> <p>In the western water budget region the 2017-2018 mean groundwater pumpage is just 4,500 acre-feet less than average annual recharge for the western water budget region lowlands. The 2017-2018 mean groundwater pumpage in the western water budget region represents about 90% of the</p>		



average annual recharge for the western water budget region lowlands. Additionally, the 2017-2018 mean groundwater pumpage in the western water budget region represents approximately 65% of the total authorized groundwater rights in that area.

In two out of the three water budget regions, the available groundwater supply is being or is about to be overdrawn (537.730(1)(e)).

Comment	Commentor
Recharge in the lowlands is older and slower than in the uplands, and this should be considered as a factor for decline.	Oregon Groundwater Association
Groundwater levels remained stable in the area until additional irrigation systems were introduced nearby. Since then, a noticeable decline in groundwater levels has occurred.	Dennis Gretsches

#### OWRD Response

##### Rule language changed: No

Since the early 1990s groundwater development, primarily for irrigated agriculture, has increased substantially in the Harney Basin. Some areas of the basin have experienced groundwater level declines of more than 100 feet and some shallow wells have gone dry. The groundwater study identified that the groundwater budget in the Harney Basin lowlands is substantially out of balance – total discharge of groundwater including natural discharge (groundwater discharging to streams, springs, and native vegetation) in the lowlands exceeds recharge to the lowlands by 110,000 acre-feet per year. This imbalance results from groundwater pumping, primarily for irrigated agriculture, accounting for 95 percent of all groundwater use in the basin. The imbalance in the groundwater budget has led to widespread groundwater level declines.

Comment	Commentor
There are wells 2.5 miles from my wells that are not included in the CGWA boundary. These wells behave similarly to ours and are not experiencing problems.	Dan Otley

#### OWRD Response

##### Rule language changed: No

The proposed critical groundwater area boundary coincides with the existing boundary of the Greater Harney Valley Groundwater Area of Concern. This is an established administrative boundary, includes the vast majority of groundwater use within the basin, and includes all areas with significant groundwater level declines.

The Division 512 rulemaking process can only apply to lands within the Malheur Lake Administrative Basin, and cannot apply changes to water management in adjacent administrative basins.



Comment	Commentor
<p>OWRD has shown that not all the recharge to Weaver Springs is coming from the Western Region, but also from the Northern region. We have not seen updated recharge numbers to support this statement. This would give more recharge to the Western Region. I would like to see updated numbers to better inform our voluntary agreements. Modeled spring discharge numbers are overexaggerated to mislead the real impacts on springs to further the department's position and the position of their “water partners”. There needs to be a neutral source to validate the model.</p>	Lorissa Singhose
<b>OWRD Response</b>	
<p><b>Rule language changed: No</b></p> <p>The groundwater level contours from Gingerich and others, 2022 depict a hydraulic gradient converging from all directions into the Weaver Springs cone of depression, indicating that groundwater is flowing into this area from all directions.</p> <p>The modeling results provide a sound basis for evaluating groundwater system response under different groundwater management scenarios. However, all groundwater flow models are a mathematical simplification of complex natural systems. Despite potential limitations, the HBGM is the most realistic, accurate, and reliable means, at present, for understanding many aspects of the hydrogeologic system of the Harney Basin. For a full discussion of model development, calibration, uncertainty and limitations, see Gingerich and others, 2024.</p> <p>The relationship between groundwater pumping in the Silver Creek area and discharge to springs in Warm Springs Valley is described in Gingerich and others, 2022 (pg. 75-76): “Continued groundwater withdrawal and development in the upper Silver Creek floodplain ultimately will reduce groundwater discharge to the lower floodplain, including springs of the Warm Springs Valley.”</p>	
Comment	Commentor
<p>The Department has overestimated water use and underestimated aquifer capacity, leading to exaggerated reduction targets</p>	Mario Petrilli
<p>The Department should pause for 12 years to critically assess how the last three wet years will affect groundwater in the basin. More information should be gathered to better understand the Harney Basin groundwater basin and ensure that the proposed regulations will correct the problem.</p>	Fred Otley
<p>The decision-making process lacks input from the USDA Ag Research Center and BLM, raising concerns about the data being used.</p>	Mindy Sheley Tony Svejcar
<b>OWRD Response</b>	



**Rule language changed: No**

The Harney Basin groundwater study and related reports represent the best available science and information on the groundwater flow system in the Harney Basin. The proposed adaptive management plan give the Department the flexibility to adjust the groundwater reductions if the groundwater levels are above the expected trend. The last three years of wets year may affect the groundwater levels and thus the Department may adjust back the groundwater reductions.

Comment	Commentor
OWRD should revisit the modeling done during the rulemaking and consider site-specific details. The modeling was done at a high level that provided a coarse and zoomed-out scale. The modeling should take a more nuanced approach, employing more wells, which will help paint a more holistic picture.	Dan Otley Riddle Ranch
The groundwater model contains uncertainties and untested assumptions that many have questioned. The model is unvalidated, unproven, and not calibrated; it was not designed to predict outcomes. The USGS presentation confirmed that it only displays results based on inputs and using it to predict or optimize leads to trouble. The model's assumptions were not discussed with the community and need better testing. Wells should be managed individually, and the model must be independently verified before being used to develop the PTW.	Debbie Webb Mindy Sheley Representative Owen Sabrina Maki

**OWRD Response****Rule language changed: No**

The modeling results provide a sound basis for evaluating groundwater system response under different groundwater management scenarios. However, all groundwater flow models are a mathematical simplification of complex natural systems. Despite potential limitations, the Harney Basin Groundwater Model is the most realistic, accurate, and reliable means, at present, for understanding many aspects of the hydrogeologic system of the Harney Basin. For a full discussion of model development, calibration, uncertainty and limitations, [see Gingerich and others, 2024.](#)

Comment	Commentor
The current proposed reductions are based on a model that includes drought years and do not reflect what it will take to reach a reasonably stable state. If the agency is wrong, they will not be able to correct their mistakes, and families will lose their homes.	Sabrina Maki

**OWRD Response****Rule language changed: No**



The Harney Basin groundwater study included evaluation of available climate records back to 1900 (Garcia and others, 2022). The total simulation period used for calibration of the Harney Basin groundwater model (Gingerich and others, 2024) spans 89 years, from January 1930 through December 2018.

Comment	Commentor
Several independent studies commissioned by qualified geologists and hydrogeologists should be included in the record.	Craig Nehar Steve Rickman

#### OWRD Response

##### Rule language changed: No

Numerous publications and reports provide the basis for the Division 512 rulemaking. See “Groundwater Report for the Harney Basin Critical Groundwater Area Rulemaking”, final report dated September 4, 2025 and references therein.

Comment	Commentor
Monitoring spring discharge and groundwater levels is critical to ensuring the Division 512 rules protect Refuge water rights and resources.	US Fish and Wildlife Service

#### OWRD Response

##### Rule language changed: No

At this time the Department does not have an ongoing spring discharge monitoring program in the Harney Basin. However, data collection to improve understanding of groundwater resources is a core function of the Department, and we remain open to supporting future efforts in this area.

Whereas spring discharge, natural evapotranspiration, and dry domestic wells are all challenging to measure for different reasons, groundwater levels are straightforward to measure and monitor over time. Since groundwater level declines are an indicator of impacts, the proposed rules focus on stabilizing groundwater levels and adaptively managing the system based on actual, measured groundwater level data. The rules also do not preclude the Department from continuing to improve measurement of spring discharge, evapotranspiration, or dry domestic wells.

Comment	Commentor
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The Department used springs and streams as a criterion to designate the Critical Groundwater Area, but has no data showing impacts. The Department didn't know there was a spring in Weaver Springs and claimed springs and streams are declining, yet their own data shows no evidence of decline. If the Department uses springs and streams as the goal, it should take more time or develop ways to measure them.	Curt Blackburn Lorissa Singhose Mario Petrelli
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#### OWRD Response

##### Rule language changed: No

Springs and streams are not used as criteria for designation of the critical groundwater area.

Through years of monitoring groundwater levels and an intensive collaborative scientific study with the United States Geological Survey (USGS), the Department has substantial evidence that parts of the Harney Basin groundwater reservoir have declined excessively (greater than 50 ft of decline) or are excessively declining (3 or more feet of decline per year for 10 or more years). Furthermore, portions of the groundwater reservoir are overdrawn, which means that pumping exceeds recharge. These findings are summarized and documented in Groundwater Report for the Harney Basin Critical Groundwater Area (CGWA) rulemaking.

The statutory thresholds from ORS 537.730(1)(a)-(g) of “declined excessively”, “excessively declining”, and “overdrawn” that authorize designation of a critical groundwater area have been met for the Harney Basin Groundwater Reservoir or parts thereof.

Comment	Commentor
The Department overestimated groundwater discharge rates and used historically low recharge rates. The rules propose measuring recharge using long-term wells that are poorly placed. Instead of recharge rates, the Department should measure static water levels using a piezometer. While the rule provides direction and a method for managing groundwater, it lacks clarity on when to stop and how implementation will affect local people and economies.	Mario Petrelli

#### OWRD Response

##### Rule language changed: No

The Harney Basin groundwater study and related reports represent the best available science and information on groundwater recharge and discharge in the Harney Basin.

Static groundwater level monitoring continues in the Harney Basin and will continue into the future. This includes OWRD measurements and static water level measurements reported to the Department through the permit condition reporting program. These data will inform the adaptive management process defined in the proposed Division 512 rules.



Comment	Commentor
There are deep cracks, faults that affect flow, that WRD isn't curious about because it's inconvenient in the Lower Blitzen.	Steve Rickman
<b>OWRD Response</b>	
<p><b>Rule language changed: No</b></p> <p>The Harney Basin groundwater study and related reports represent the best available science and information on how faulting and other geologic structures affect groundwater flow in the Harney Basin.</p> <p>Mapped faults across the basin, including in the Lower Blitzen-Voltage area are presented in: Boschmann, D.E., 2021, Generalized geologic compilation map of the Harney Basin, Oregon: Oregon Water Resources Department Open File Report 2021-01, 57 p.</p> <p>There is evidence that fault-controlled groundwater flow occurs in the Warm Springs Valley, where the line of springs corresponds to a set of mapped faults along the southern edge of the valley.</p> <p>The groundwater study also identifies that groundwater flow across the Silver Creek floodplain and surrounding areas is likely enhanced by faults of the Brothers fault zone.</p> <p>No evidence of fault-controlled groundwater flow in the Lower Blitzen-Voltage area has been identified.</p>	
Comment	Commentor
Confusion regarding the trajectory for NE-Crane, the RAC alternate PTWs memo, and the RAC 14 presentations. Please clarify the actual declines.	Water League
<b>OWRD Response</b>	
<p><b>Rule language changed: No</b></p> <p>The groundwater level change envelopes presented in exhibit 14 depict the modeled groundwater level change relative to a baseline year of 2028 under the proposed management scenario. The 2028 baseline year represents the year in which water use reductions begin under the proposed rules. These envelopes are intended exclusively to support adaptive management in accordance with OAR 690-512-0080(5), and should not be interpreted as projections of long-term groundwater level decline relative to highest known groundwater levels or used to interpret the severity of cumulative groundwater level declines.</p> <p>For a full analysis of groundwater level decline rate and magnitude in the proposed critical groundwater area see: “Groundwater Level Trends in the Proposed Harney Basin Critical Groundwater Area – Summary Statistics by Subarea” (July 23, 2024).</p>	
Comment	Commentor



The USGS fact sheet on groundwater contours shows evidence of commingled wells. OWRD and USGS disregarded two confining units (Rattlesnake Tuff; Devine Canyon Tuff).	Gregory E. Kupillis
<b>OWRD Response</b>	
<p><b>Rule language changed: No</b></p> <p>The Harney Basin groundwater study did not identify regional confining layers within the basin. There is no evidence to suggest that the three regional ash-flow tuff units serve as confining units in the basin, and indeed these units serve as important water bearing strata in some areas. The high permeability of the proximal vent deposits in the Weaver Springs area does not provide sufficient barrier to vertical groundwater flow to establish significant vertical hydraulic gradients in that area. A shallow/deep observation well pair drilled in this area by OWRD in 2016 (HARN 52630/HARN 52631) indicates the vertical gradient fluctuates seasonally, with the maximum vertical separation of water levels in these wells of about 5 feet occurring during the spring annual high-water level.</p> <p>While vertical groundwater gradients are present in some parts of the basin, groundwater in the shallow part of the groundwater flow system is hydraulically connected to groundwater in the deeper part of the groundwater flow system. There are no separate, isolated, or compartmentalized zones with depth.</p>	
Comment	Commentor
The Rulemaking Process has not considered key evidence. There are additional factors for groundwater level declines that have not been considered: long-term climate fluctuations, 3 -4 confining layers, and commingling wells, particularly in Weaver Springs and Dog Mountain.	Oregon Groundwater Association (OGWA) Steve Rickman
<b>OWRD Response</b>	
<p><b>Rule language changed: No</b></p> <p>The Harney Basin groundwater study included evaluation of available climate records back to 1900 (Garcia and others, 2022). The total simulation period used for calibration of the Harney Basin groundwater model (Gingerich and others, 2024) spans 89 years, from January 1930 through December 2018.</p> <p>The Harney Basin groundwater study did not identify regional confining layers within the basin. There is no evidence to suggest that the three regional ash-flow tuff units serve as confining units in the basin, and these units serve as important water bearing strata in some areas.</p>	



The high permeability of the proximal vent deposits in the Weaver Springs area does not provide sufficient barrier to vertical groundwater flow to establish significant vertical hydraulic gradients in that area. A shallow/deep observation well pair drilled in this area by OWRD in 2016 (HARN 52630/HARN 52631) indicates the vertical gradient fluctuates seasonally, with the maximum vertical separation of water levels in these wells of about 5 feet occurring during the spring annual high water level.

## Impact of the Rules (Domestic, Environmental, Economic)

Comment	Commentor
<p>Loss of water will result in huge economic impacts. Rules could lead to cultural changes as agricultural land is converted into residential sites. Harney County will be decimated. Many groundwater users do not own land and will go bankrupt. Reducing irrigation will impact every sector of the economy. Groundwater reductions will have a significant impact on local ranchers and families. Harney County already struggles financially. The collapse of the agricultural economy will impact hospitals, mental health, emergency services, and schools. Thirteen percent of the workforce—340 jobs—will be impacted. These are generational, family-owned businesses. Less water means less farm profit. ECO Northwest’s fiscal analysis shows severe, unacceptable impacts. The Department should consider alternatives to reduce economic impacts. The Harney County economy will be devastated. The Department should consider the economic impact of losing 61 million dollars basin wide over 20 years.</p>	<p>Bachmann Bay Farms Barbara Howard Bryce Otley Caitlin Ketscher Carl Nuemann Cheryl Smith Christy Keerins Curt Blackburn Dan Nichols Don Cody Hilda Allison Jolene Gouveia Erick Keerins Fred Otley Garrit A. Jager Kacie Otley Kate Nuemann Kristopher Robbins Larry Otley Lorissa Singhose Lower Blitzen Voltage Nick Schott Patty Pratt Patricia Jager Ryan Krabil Roger Sheley Ross Ketscher Sabina Maki Sandy Potter Susan Otley Thompson Ranch Wayne Evans</p>



We collectively request that the Department follow its existing policies and make a greater effort to limit the economic impacts of proposed groundwater reductions in this area.	Richman Et Al
This looming economic fallout is a direct consequence of OWRD's overallocation.	Dan Otley
My small business relies on the farming and ranching community and will be impacted by the reductions. The cuts will result in 30–50% reductions for our customers, directly causing a loss of living-wage careers in our community. The ripple-down effect will cause loss of revenue to schools, restaurants, hospitals, and clinics. The economic impacts are potentially catastrophic. Ninety percent of our business comes from agriculture, and the 30% groundwater cut will force me to let go of 7 to 8 people. These reductions will ultimately be felt in the community.	Cheryl D. Smith Craig Nehar
The economy is also a public health and safety issue. The economic impacts will be felt throughout every sector of the economy.	Lorissa Singhose
Harney Electric generates most of its kilowatt-hour sales by selling to irrigation and irrigation-related businesses, which helps keep the company afloat. HEC purchases power from Bonneville, which has become increasingly more expensive. Curtailment will mean that the HEC would need to raise the rate affecting low-income houses.	Harney Electric Collaborative
Landowners have purchased property and water rights with the intention of developing them, but these rules create uncertainty about their future. Many have invested thousands of dollars to develop their rights fully, and losing them would cause severe economic impacts. Reductions in water use will also affect related industries, including local power providers. If irrigation rights are lost, property values will drop significantly, and agricultural operations will face increased costs—such as needing to purchase hay for livestock. Jobs connected to crop production, like alfalfa, will be diminished. Curtailment could also drive up hay prices, further straining operations that rely on purchased feed. The state issued these rights, and now those who invested in good faith are at risk of losing both their water and the value of their land, all while still being responsible for land payments.	Dan Otley Jacob Davis Lola Tlyer Sabrina Maki Susan Otley Will Bentz
We appreciate that OWRD responded to RAC requests by producing a professional economic impact analysis, which revealed a projected 17% reduction in Harney County's economic output under the proposed rules. Despite this significant finding and consistent local input, the analysis appears to	Patty Dorroh



have been largely ignored in the rulemaking process. This disregard for both expert and community feedback, especially when viable alternatives exist, reflects poor governance and a failure to minimize harm. Such inaction not only undermines public trust but may also conflict with OWRD's legal responsibilities.	
The assumption of hydraulic connection in the Lower Blitzen-Voltage will result in millions of dollars in equity lost in the basin.	Fred Otley
Other agencies that can help mitigate the financial impacts of curtailment need time to implement support programs. The State must make meaningful commitments to address the economic reality of curtailment.	Scott Houck Riddle Ranch
The cost of 25 domestic wells going dry compared to the 512 rules curtailment is minimal. There are options to help offset costs and hardship already for dry wells. The community cannot sustain economic loss from curtailment.	Christy Keerins Erik Keerins Fred Flippence
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
<p>The proposed rules were updated after the public comment period to exempt municipal and quasi-municipal groundwater rights from corrective controls resulting in reduced groundwater use in the department's updated Division 512 proposed rules. While the proposed rules allow municipal and quasi-municipal to grow and further develop, county property tax revenues may be impacted through decreased property values as indicated in two economic analyses conducted by Amp Insights/OneWater Econ and EcoNorthwest and summarized in the proposed rulemaking Economic Impact Statement and Cost of Compliance Statement.</p> <p>The final proposed rules seek to balance the state's statutory obligation to protect waters of the state while working to reduce the negative economic impacts within the basin. Input over the last few years from local residents was essential to identify and crafting the rules toward a phased transition. The proposed rules reflect the multi-year discussions through the Rules Advisory Committee (RAC), during public comment periods and during other community-based meetings the Department participated in. Two economic evaluation reports were completed which further informed the rule drafting.</p> <p>Specifically, to reduce economic impacts, OWRD made modifications to the proposal which include:</p> <ol style="list-style-type: none"> <li>1. Setting the basin goal of stability rather than a recovery of groundwater levels</li> <li>2. Optimizing the groundwater model to identify the smallest reductions in pumping necessary to achieve durable stability</li> </ol>	



3. Creating subareas to allow for targeted water use reductions
4. Requiring stability in half of the wells (median) rather than a higher percentage
5. Setting the timeline to achieve the goal at 30 years rather than immediately
6. Phasing reductions over 24 years in 6 yr increments, rather than all at once
7. Implementing adaptive management to prevent over-curtailment
8. Setting the initial allotment based on historic water use, not paper water rights
9. Changing the municipal, quasi-municipal provisions to allow for continued economic and housing growth
10. Reiterating tribal sovereignty over tribal lands

Continued unsustainable water pumpage also has negative economic implications. For example, continued groundwater declines would lead to increased costs for both agricultural and residential well owners for deepening, replacing or abandoning wells with reduced production. Any delays in the proposed phased reductions contained in the proposed rules would create more widespread declines and require more severe curtailments in the future than the department's proposed rules that focus on durable stability within 30 years.

Comment	Commentor
To reduce the economic impacts, the Department should focus on the areas that meet the designation criteria (Dog Mountain, Weaver Springs, Northeast Crane)	Harney County Farm Bureau Lorissa Singhose

#### OWRD Response

##### Rule language changed: No

In order for the Harney Basin to achieve durable stability within 30 years, all subareas in the basin need to reduce pumpage based on the scientific model simulations performed. Please see the OWRD website to review the Rule Advisory Committee meetings materials at [Oregon.gov/owrd](http://Oregon.gov/owrd)

The proposed rules seek to mitigate the economic impacts by:

1. Setting the basin goal of stability rather than recovery of groundwater levels
2. Optimizing the model to identify the smallest reductions in pumping necessary to achieve durable stability
3. Created subareas allowed for targeted water use reductions
4. Required stability in half of the wells (median) rather than a higher percentage
5. Setting the timeline to achieve the stability goal at 30 years rather than immediately
6. Phasing reductions over 24 years in 6 yr increments, rather than immediately



<p>7. Implementing adaptive management to prevent over-curtailment</p> <p>8. Initial allotment based on historic use, not paper water rights</p>	
Comment	Commentor
To properly evaluate the economic impacts of curtailment, it is necessary to consider both present-day costs and the long-term benefits to future generations. Curtailment can also create positive outcomes by incentivizing new economic development opportunities that use significantly less water.	Water League
The proposed rules provide a strong, evidence-based proposal for a long-term economic glidepath to achieving sustainable water use	The Nature Conservancy
Doesn't support using public water for private gain. Going to take an economic hit eventually...either now or sometime in the future when people lose access to water. I know that there will be agriculture in this basin. I want to ensure it's a sustainable amount and that we don't allow overuse.	Ben McCanna
Property values may decrease by as much as a third under these rules.	Eric Steen Susan Ramsay
We hope to see the development of and support for innovative solutions, help with establishing dryland crop alternatives, if possible, to offset losses, especially to the smaller farms and ranches in the basin.	Sue Arbuthnot
What a diabolical way for water rights and property to be confiscated. What a diabolical way to crush Harney County. What a diabolical way to kill the American Dream	Mindy Sheley
There are limitations with the economic model used by ECONorthwest for the fiscal impact statement because it is static and does not account for sector-specific variability, such as labor and the hay market. The model also does not measure impacts on welfare or social benefits.	Bill Jaeger
The declining groundwater levels have raised costs and reduced well yields, but for most irrigators in the basin, current practices will remain profitable even as lower water levels make pumping somewhat more costly. The Harney Basin epitomizes what can result from a combination of market failures, policy failures, and regulatory capture.	Bill Jaeger



Declining groundwater levels have impacted hundreds of domestic wells and stock water wells, with more than 70 wells going dry as of 2018. Many of these wells likely have priority dates senior to many of the irrigation wells that have caused them to go dry.	Bill Jaeger
I support stabilizing groundwater levels in the Harney Basin, which would reduce the number of existing domestic wells that would be dried up due to irrigation pumping.	Denise Tschann Donna Harris Larry Callister Scott Houck
Adjust the domestic well fund so it can be proactive and available before wells are impacted.	Ken Bierly
There is a lack of meaningful assistance for residents already experiencing well failure or water quality issues. The Domestic Well Assistance Fund is underfunded and insufficient to meet the scale of the problem. Many residents are forced to haul water or live with degraded supplies, and current programs only partially address their needs. There should be a robust targeted approach to help those vulnerable water users.	Laurie O'Connor
The folks in the Weaver Springs area have already been affected. We should not tolerate any more domestic wells losing water so that they can suck this area dry.	Ben McCanna
No domestic wells in the Lower Blitzen-Voltage Subareas have lost access to groundwater or been forced to deepen due to declining groundwater levels. Domestic well users and stockwater users in these subareas have not publicly raised concerns. No domestic well impacts have been observed in the LB-V.	Christina Keerins – Lower Blitzen-Voltage Lower Blitzen-Voltage Scott Houck
No domestic wells in the Riley area have lost access to groundwater or had to be deepened due to declining groundwater levels. Domestic well users or stock water users have publicly raised no concerns in this Subarea.	Lorissa Singhose
Support continuation of domestic relief funding and want to continue working to minimize impacts on the shallow aquifers	Roger Sheley Sabrina Maki
Rules should allow for permit applications for expanded group domestic in accordance with Section 20 of SB 1154 (2025)	Sabrina Maki



Declining groundwater levels in the basin as of 2018 caused springs and lowland flows to decline since the 1990s by about 25 percent. Continued current pumping rates have exacerbated and will continue to exacerbate these costs and impacts on groundwater users and the public interest.	Bill Jaeger
I support stabilizing groundwater levels in the Harney Basin, which will provide the basin with a more sustainable future and prevent additional impacts to the environment.	Chris Skeens Denise Tschann Donna Harris Larry Callister
I place a high value on the springs, streams, and other groundwater dependent ecosystems in the Harney Basin, and all the fish, wildlife, and plants that rely on these ecosystems	Chris Skeens      Donna Harris Christine Brautigam      Kenneth Homolka Craig Lacy      Larry Callister Denise Tschann      Richard Stoltze Sara Pritt
The Department has alleged impacts, but not demonstrated impacts, on springs and streams. The Commission should require evidence of ecological harm from the Department.	Ken Bierly
Environmental impacts have not been as rigorously evaluated as groundwater levels.	Ken Bierly
The Department has not considered the negative environmental impacts of drying up farmland. Soil degradation, loss of soil quality and nutrition, erosion, run off, loss of ecosystems, wildlife habitat, and the major loss of carbon sequestering.	Lorrisa Singhose
Unsustainable over-pumping depletes deep, ancient groundwater reserves that are not being replenished at human timescales, and it harms shallow recharge zones where domestic wells, springs, and groundwater-dependent ecosystems are located.	Water League
In the Lower Blitzen-Voltage Area, Sodhouse Springs has stopped flowing in recent years, and we have observed changes in both the quantity and quality of groundwater from headquarters wells. Impacts	US Fish and Wildlife Service Representative Owen



to Sodhouse Springs should be explored more, and efforts to restore those springs should be undertaken.	
Allow land that is shut off to be irrigated periodically to establish and maintain grazable crops.	Rob Sharp
Our domestic wells and stock wells have been impacted and were deepened	Jaris Shelman Sue Arbuthnot
The OWRD proposal would only reduce impacts on four domestic wells in the Lower Blitzen Voltage area.	Lower Blitzen Voltage
ORS 183.50 mandates the Department to consider the compliance costs for small businesses, but does not require the Department to preserve harmful business practices.	Water League
With the proposed curtailment in Lower Blitzen, I will be the first cut.	Jacob Davis
The reductions in agriculture will dwindle to nothing. If I am regulated out of the state, it will lose the tax revenue that I generate and would have to pay unemployment. A lot of the money I generate stays in the county, and that will go away.	Tom Davies
The proposed rules result in the state subsidizing domestic well remediation while continuing policies that knowingly allow aquifer depletion, calling this a political concession to irrigators.	Water League
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
These comments are in line with or generally supportive of the proposed rules. Thank you for your comment.	
<b>Comment</b>	<b>Commentor</b>
Senior water users who have trusted the existing prior appropriation system to protect them are being asked to share pain with junior users who have hired a lobbyist and law firm to represent them in this process	Barbara Cannady
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
The proposed rules implement prior appropriation within individual subareas. By dividing the CGWA into subareas, the Department has grouped portions of the groundwater reservoir that share similar hydrogeologic properties and groundwater conditions. Modeling shows that applying	



targeted water use reductions within a subarea context allows for less basin-wide curtailment overall than if reductions were to be applied broadly across the entire CGWA.

Comment	Commentor
The economic impacts will be felt acutely by the cities; the reduction in groundwater use means less income from land value taxes.	City of Hines

### OWRD Response

#### Rule language changed: Yes, in part

The proposed rules were updated after the public comment period to exempt municipal and quasi-municipal groundwater rights from corrective controls resulting in reduced groundwater use in the department's updated Division 512 proposed rules. While the proposed rules allow municipal and quasi-municipal to grow and further develop, county property tax revenues may be impacted through decreased property values as indicated in two economic analyses conducted by [Amp Insights/OneWater Econ and EcoNorthwest](#) and summarized in the proposed rulemaking Economic Impact Statement and Cost of Compliance Statement.

The final proposed rules seek to balance the state's statutory obligation to protect waters of the state while working to reduce economic impacts within the basin. Input over the last few years from local residents was essential to identify and crafting the rules toward a phased transition. The proposed rules reflect the multi-year discussions through the Rules Advisory Committee (RAC), during public comment periods and during other community-based meetings the Department participated in. Two economic evaluation reports were completed which further informed the rule drafting.

Specifically, to reduce economic impacts, OWRD made modifications to the proposal which include:

1. Setting the basin goal of durable stability rather than a recovery of groundwater levels
2. Optimizing the groundwater model to identify the smallest reductions in pumping necessary to achieve durable stability
3. Creating subareas to allow for targeted water use reductions
4. Requiring stability in half of the wells (median) rather than a higher percentage
5. Setting the timeline to achieve the goal at 30 years rather than immediately
6. Phasing reductions over 24 years in 6 year increments, rather than all at once
7. Implementing adaptive management to prevent over-curtailment
8. Setting the initial allotment based on historic water use, not paper water rights
9. Changing the municipal, quasi-municipal provisions to allow for continued economic and housing growth
10. Reiterating tribal sovereignty over tribal lands



Comment	Commentor
The Department should establish a buy-back program. If the Department takes away or regulates water rights, it should provide financial compensation. Additionally, OWRD should create compensation programs for landowners who either voluntarily retire their water rights or have them curtailed.	<div> <div>Dan Otley</div> <div>Eric Steen</div> <div>Kristen Shelman</div> <div>Lorissa Singhose</div> </div> <div> <div>Matt Stashin</div> <div>Mindy Sheley</div> <div>Oregon Farm Bureau</div> <div>Roger Sheley</div> </div>
<b>OWRD Response</b>	
<b>Rule language changed: No</b> <p>Under Oregon law, all water belongs to the public. As a shared public resource, OWRD has the statutory responsibility to maintain a sufficient and sustainable water supply for current and future uses. OWRD has worked to address impacts from groundwater declines, including the implementation of the Harney Domestic Well Fund to help domestic well users deepen wells and the Conservation Reserve Enhancement Program, a federal cost-sharing program which compensates irrigating landowners to permanently removes irrigated acres from production. Information on our grant programs may be found on OWRD's website at <a href="http://oregon.gov/owrd">oregon.gov/owrd</a>.</p>	
Comment	Commentor
Implementation of the Division 512 rules will result in \$1,000,000 in revenue reduction for the Department of State Lands. The funds generated by DSL's irrigated lands go to schools. Between 2022 and 2025, \$479,529 of those funds went to Harney County. Additionally, requiring the Department of State Lands to install a flow meter will have significant financial and administrative implications.	Department of State Lands
<b>OWRD Response</b>	
<b>Rule language changed: No</b> <p>Most groundwater permits in the basin already have a requirement to install flow meters as a condition of the permit. OWRD currently has the authority to require measurement and reporting as it is an important tool to accurately identify water use. OWRD has identified permits where measurement and reporting are required are not occurring regularly. OWRD has both a paper-based and online reporting form to assist with compliance with the condition on water right permits.</p> <p>Contributions to the Common School Fund may be impacted by the proposed rules and through the reduction of state-owned irrigated lands available to provide grazing. The Common School fund is a shared fund with an equitable state distribution formula that received contributions from around the state. The economic impacts to local schools would be highly determined by the overall health of the Common School Fund state-wide rather than specific Common School Funds contributions from the proposed rulemaking impacted state-owned water rights.</p>	
Comment	Commentor



The Department has a responsibility under ORS 537.525 to assure "adequate and safe supplies of groundwater for human consumption." In Harney County, some domestic well owners no longer have access to water. Access to safe, clean, and reliable drinking water is a fundamental human right, and the rules must prioritize protecting and restoring that access. ORS 537.525 clearly elevates human consumption over irrigation uses, yet the proposed rules allow continued groundwater declines that further impact domestic wells. Domestic well users are not adequately protected in the proposed rules.	Ben McCanna Et AL Calla Hagle WaterWatch
The two existing domestic well funds are not sufficient to address the scale of the problem. The Department should establish a program to support households with dry domestic wells. Allowing 98 domestic wells to go dry contradicts the water code, and currently, the state lacks viable programs to support domestic well users.	Calla Hagle WaterWatch
The Department must consider domestic wells more carefully and balance the rules to protect domestic well users.	Breanna O'Connor Lori O'Connor
The Oregon Water Resources Department will allow domestic wells to dry out and will have to spend money on a problem that doesn't need to exist. OWRD's goal of stabilizing groundwater levels does not restore them to pre-injury conditions and does not sufficiently protect domestic and stock well users. The proposed rules allow significant pumping to continue, which will result in an additional 100 wells going dry, without any plan to address potential water poverty. Allowing this many domestic wells to go dry is inhumane and impractical. Please bolster the rules to reduce impacts on domestic wells.	Brandon Haslick Laurie O'Connor Penelope Kaczmarek
OWRD should not adopt rules that would dry up additional existing domestic wells, especially when it has no viable program in place to help these residents who will lose their drinking water.	Carolyn Latierra      Kenneth Homolka Chris Skeens        Larry Callister Christine Brautigam Peter Paquet Craig Lacy            Richard Stolze Denise Tschann      Robert Bumstead Donna Harris        Sara Pritt
The Division 512 rules should provide for restitution for impacts on domestic wells.	Laurie O'Connor



<p>Current rules need to be strengthened to protect groundwater-dependent ecosystems better; stabilization should occur sooner than 30 years to protect those ecosystems.</p>	<div> <div> Bill Mosser Bob Bumstead Bob Hunter Chuck Gehling Cliff Mitchell David Hohler Corinne C. Sherton Donna Harris Doug Heiken Fran Recht Gloria and Bob Ziller Harry L. Foster Jane McCleery Jim Coverdell Joan Suther Jocelyn Hough Joe Moore Julie Weikel </div> <div> Laura Webb Laurie O'Connor Linda Greenman Lydia Garvey Marjorie Stuart Melissa Brown Neal Hadley Patrick McCleery Paul Engelmeyer Richard Stoltze Rob Kuntz Ron Garst Sara Pritt Susan Mates Theo Dreher Thomas Berridge Tom Cooney Walter Petty </div> </div>
<p>Groundwater-dependent ecosystems have already been significantly degraded by excessive groundwater pumping. Please ensure that these systems are protected in the Division 512 rules for the Harney Basin.</p>	<div> <div> Chris Skeens Christine Brautigam Craig Lacy Denise Tschann </div> <div> Donna Harris Larry Callister Richard Stoltze Robert Bumstead Sara Pritt Peter Paquet </div> </div>
<p>I appreciate the Department's attention to groundwater loss, but the problem has persisted for a long time, and the Department should have acted sooner. Restoring springs and wetlands that support wildlife must be a top priority.</p>	<div> <div>Terry Keim</div> <div></div> </div>



The ongoing groundwater declines have resulted in significant declines to groundwater-fed springs and streams and native vegetation. ORS 537.735(2)(d) states “[a]ny one or more provisions making such additional requirements as are necessary to protect the public welfare, health and safety in accordance with the intent, purposes and requirements of ORS 537.505 to 537.795 and 537.992.” This includes the requirement to protect groundwater dependent ecosystems. The model was run to maximize irrigation pumping while ultimately stabilizing groundwater levels, creating an imbalance with ecological values. Proposed rules will result in unacceptable impacts to springs, streams, and native vegetation compared to the current water code.	WaterWatch
Stock wells in Warm Springs Valley have remained dependable, but spring discharge along the valley’s western boundary has declined for years. Discharge from springs and water from shallow aquifers matter most to me—if the shallow aquifer disappears, the valley will lose its springs, streams, and groundwater-dependent ecosystems.	Gary Marshal
Supports measures that will positively impact the generation of the “spring water” in the Warm Springs/Double O Valley, of the Lower Silver Creek drainage. These springs are essential for migratory birds, and many of these waters do not have senior protections like many groundwater right holders. These impacts need to be reversed ASAP.	Gary Marshall
Groundwater dependent ecosystems, native vegetation and domestic wells must be added back in as criteria for evaluating the management scenario. Support for language to require monitoring and developing programs to protect the spring discharge.	WaterWatch
Domestic wells were going dry before 2018; the baseline used in the model of 2018 should be set earlier to show a more accurate count of dry domestic wells. Most Domestic well users are shocked by how long it will take to stabilize. The Department rules are too lenient toward irrigators.	Laurie O'Connor
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
The proposed schedule for implementing reductions is intended to balance the economic hardship that will be caused by curtailing water rights with the impacts to groundwater levels, domestic wells, and discharge to springs, streams, and evapotranspiration. By frontloading curtailment	



the proposed rules achieve higher final water levels than would occur under an equal reductions schedule. The schedule also allows time for adaptive management based on measured responsive changes in groundwater levels as curtailment is implemented. The state provides funding to assist domestic well owners with repairing, replacing and abandoning wells through the Harney Domestic Well Fund. Low-to-moderate income homeowners may also be eligible for assistance through the Well Abandonment, Repair and Replacement Fund. Information on our grant programs may be found on OWRD's website at [oregon.gov/owrd](http://oregon.gov/owrd).

Comment	Commentor
Groundwater users expressed interest in and concern for springs, but also questioned whether the Department intended to monitor and manage for springs. In addition to implementing regulatory reductions, there are questions about what the Department can or will do to understand the springs in this area and collaborate with groundwater users on effective monitoring and management.	Lower Blitzen Voltage
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
Thank you for your comment. OWRD will review the comments as implementation capacity allows.	

## Authority

Comment	Commentor
What is the plan to address the "legality" of the current certificates? If the first water cutback occurs, then all water certificates will no longer be valid. That now puts OWRD in a breach of contract situation, creating a problem with the certificates that property owners hold. Is OWRD going to re-issue "every single" water certificate with the new water cutback amounts EVERY TIME there is a cutback in water?	Jolene Gouveia
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
If the proposed rules are adopted, it is anticipated that existing certificates will not be modified. Orders are expected to be issued curtailing use of existing certificates (ORS 537.742) within the proposed critical groundwater area using the adaptive management schedule as proposed in the rule OAR 690-512-0080.	



Comment	Commentor
The Department should develop a stronger legal and technical foundation for defining groundwater reservoirs, designating Critical Groundwater Areas, and determining allowable withdrawals. The current approach lacks consistency with existing policies and fails to justify regulatory reductions across the basin. As a result, it leads to an unfair distribution of restrictions, including in areas that do not meet the criteria for such measures.	Representative Owen
<b>OWRD Response</b>	
<p><b>Rule language changed: No</b></p> <p>A key finding from the six-year USGS groundwater study is that the Harney Basin contains a single, interconnected groundwater-flow system. This system includes distinct but hydraulically connected areas that vary in geology, location, and recharge/discharge rates (Gingerich et al., 2022). While these differences affect flow direction, well yield, and response to pumping, there are no known physical barriers within the basin that prevent groundwater movement. The study does not support the idea of isolated or compartmentalized groundwater zones.</p> <p>According to ORS 537.515(6), a “ground water reservoir” is a defined body of groundwater with identifiable exterior boundaries. The statute does not allow for internal subdivisions based on other criteria. In the Harney Basin, no internal flow boundaries are known; the only definable boundary is the basin itself. Therefore, the groundwater reservoir encompasses the entire basin, from recharge areas through flow paths to discharge zones which would provide the justification of a basin-wide stabilization plan with targeted reductions to meet a 30-year goal of groundwater stabilization in the basin.</p>	
Comment	Commentor
Water law says that only part of a reservoir can be designated a critical groundwater area. The Department is choosing to include areas that do not meet the criteria, putting an unjustified burden on these areas.	Lorissa Singhose
As defined in ORS 537.730, the Department lacks the legal authority to designate the area a critical groundwater area without substantial evidence.	Lorissa Singhose
The Department does not have legal authority to regulate groundwater users in favor of unpermitted uses, unprotected springs, or native vegetation. Unless a downstream spring has a senior water right, the Department cannot regulate to protect it. There is no data to support the claim that Warm Springs Valley springs are declining; therefore, the Department should not use springs as a basis for regulating groundwater.	Christina Keerins - Lower Blitzen-Voltage Lower Blitzen-Voltage Lorissa Singhose Richman Et Al



**OWRD Response****Rule language changed: No**

ORS 537, OAR 690-008, and OAR 690-010 authorizes the designation of a critical groundwater area and corrective controls when a groundwater reservoir, or parts thereof, meet certain criteria. The proposed rules designate a critical groundwater area and specify corrective controls that are consistent with statute and rule. The Groundwater Report for the Harney Basin Critical Groundwater Rulemaking identifies where the designation criteria have been met. That report is available on the OWRD website at

<https://www.oregon.gov/owrd/programs/policylawandrules/OARS/Pages/Division-512-Rulemaking.aspx>

Comment	Commentor
<p>The Department has a responsibility to protect existing water rights, as required by ORS 537.525. It granted rights based on findings that water was available, use was within the resource's capacity, and it served the public interest. The Department should not change its mind when data says otherwise or retroactively reduce allocations if recharge exceeds pumpage and Critical Groundwater Area criteria are not met. Regulating or taking back rights admits the Department failed to ensure public well-being and should be held accountable. The Department should remove subareas—Upper Blitzen, Lower Blitzen-Voltage, Silver Creek, and Silvies—that do not meet designation criteria to lessen economic impact and follow Oregon water law.</p>	<p>Angie Ketscher Lorissa Singhose Representative Owen</p>

**OWRD Response****Rule language changed: No**

The Department has publicly acknowledged that it overallocated water rights in the Harney Basin, and stopped issuing new water right permits in 2016 when signs of groundwater declines became more clear. The state has worked diligently to address impacts from groundwater declines, began community conversations and implemented the Harney Domestic Well Fund to help domestic well users deepen wells and supporting enrollment in the Conservation Reserve Enhancement Program, compensating irrigating landowners to reduce irrigated acres in production. The Department recognizes irrigators and those impacted need time to adapt practices and meet the proposed curtailments. Initial curtailments are planned to begin in 2028 and phase-in fully over a 24-year period to reach the 30-year goal to groundwater stabilization. Under the proposed rules, a roll-back in scheduled curtailments may occur under the adaptive management provisions. The provisions will act as a fail-safe to be reviewed every six years to determine if the groundwater responds more favorably than anticipated to the scheduled reductions to pumpage.



Comment	Commentor
Under the current allocation policy, the Department can allocate groundwater up to the recharge unless the groundwater levels are not reasonably stable or harm surface water rights. The Department's proposed rules are more restrictive than the Department's allocation rules.	Representative Mark Owens
<b>OWRD Response</b>	
<p><b>Rule language changed: No</b></p> <p>The Department's existing allocation rules are for new water right applications. In order for the Department to approve a new water right application, the groundwater reservoir must be considered reasonably stable. At a very minimum of the reasonably stable criteria is that the reservoir must not have more than 25 feet of decline in groundwater from the highest known levels. The Final Division 512 Critical Groundwater Report posted on the Division 512 webpage identifies wells that have more than 25 feet of decline in the basin.</p> <p>The proposed rules take into account that recovery in the Harney Basin is an unreasonable goal. Rather than set an unreasonable goal, instead, a target groundwater water level trend of zero declines in measured groundwater after 30 years is the goal of the proposed rules. During the RAC process the terminology "durability stability" was used to explain this topic. The proposed rules are less restrictive than the reasonably stable standard for new applications.</p>	
Comment	Commentor
The rules ignore the doctrine of prior appropriation and punish senior water rights holders. OWRD appears to circumvent prior appropriation by applying reductions by subarea, not across the entire CGWA. While OAR 690-512-0070(2) notes reductions will start with juniors, the Department should ensure curtailment follows a comprehensive and transparent priority data analysis. Mitigation efforts should target juniors who have doubled pumping over the last decade. Prior appropriation should be respected; everyone should not be treated equally.	Bar Heart Ranch Jon White Melodi Molt Robert Long
Subareas should not be used to curtail based on priority dates; instead, they should be used to monitor groundwater levels. The Subareas ignore prior appropriation, and reductions should be basin wide.	Barbara Cannady



OWRD Response	
<b>Rule language changed: No</b> By dividing the CGWA into subareas, the Department grouped portions of the groundwater reservoir that share similar hydrogeologic properties and groundwater conditions. Scientific modeling shows that applying targeted water use reductions within a subarea allows for less overall basin-wide curtailment than if reductions were to be applied broadly across the entire basin to meet the 30-year goal of groundwater stabilization.	
Comment	Commentor
Department staff should get permission from landowners to come and measure wells. They do not have the legal authority to go onto a person's land without permission.	Barbara Cannady
OWRD Response	
<b>Rule language changed: Yes</b> OAR 690-250-0090 currently allows OWRD to enter onto private property in performance of official duties. Department policy requires reasonable notice to landowners before entry onto private property. Language was added into the proposed rules to reiterate the notification requirements before measuring wells on the landowners land.	

## Rule Formatting and Errors

Comment	Commentor
Rule summary includes a statement about Static Water Level reporting starting in 2028; rule language does not include this requirement	Jerry Grondin
The reference in OAR 690-512-0070 (7) should be OAR 690-512-0070(1) and (2	Water League
690-512-0080(7)(c) -reduction should be pluralized	Water League
OWRD Response	
<b>Rule language changed: Yes</b> These comments are in line with or generally supportive of the intent of the proposed rules. Thank you for your comment. Changes have been made to the proposed rules.	



## Voluntary Actions

Comment	Commentor	
If a voluntary agreement is put into practice, then it needs to be scrutinized to make sure that it will not impact existing groundwater users.	Mary Jo Davies	
Clarify how voluntary agreements can be approvable. Clarify the 30% PTW requirement: 30% of subarea(s), any geographic area, or something else. Clarify if voluntary agreements crossing subarea boundaries satisfy the 30% PTW requirement. Explain how the Department reached the 30% PTW requirement. Clarify if the Department or Commission will approve voluntary agreements before final rules. Clarify what participating landowners must demonstrate for approval.	Riddle Ranch	
Voluntary Agreements must be allowed to be between different subareas. The Department must provide clarity on whether this can be done with a subarea.	Riddle Ranch	
Voluntary actions should allow for users not exceeding their combined max rate and duties to change POU, PODA, character and season without going through OWRD; make excess water available for other users; spread that excess water over new acres	Sabrina Maki	
Requesting that a Voluntary Use Agreement be established for property located on Weaver Springs Lane. The cap on CREP enrollment should be lifted to allow us to enroll as many acres as necessary to reduce groundwater use	Kelly Singhose	
OWRD Response		
Rule language changed: No		
Thank you for your comment. OWRD will carry the comments forward as we review future submitted voluntary agreements.		
Comment	Commentor	
The Department should prioritize voluntary reductions in groundwater use in reasonably stable areas. ORS 536.525 clearly states a preference for voluntary joint action with groundwater users before regulation. The Department consistently committed to partnership and collaboration through the Groundwater Study Advisory Committee and place-based integrated water planning processes. We urge the Department to pursue voluntary joint action, invest in collaborative approaches, and support community-led efforts. Water management decisions should prioritize local knowledge, stakeholder participation, and incentive-based programs. We share concern for groundwater-fed ecosystems and commit to partnering with the	Breanna O'Connor Christina Keerins – Lower Blitzen-Voltage City of Hines Debbie Webb Domonic Bachman	James E. Cambell Silvies Subareas Ken Bierly Lower Blitzen-Voltage Lorissa Singhose Mark Owens



Department to understand hydrogeology, measure spring impacts, and protect ecologically significant springs.	Erick Keerins Harney County Harney County Farm Bureau Hilda Allison	Oregon Farm Bureau Richman Et Al Sabrina Maki Windy Point
The Department should make fewer cuts up front and allow farmers to reduce use with the support of the Department.	Bachman Bay Farms	
The Lower-Blitzen subarea water users should be given the opportunity to work together using voluntary options	Christina Keerins – Lower Blitzen-Voltage Erik Steen Jacob Davis Laura Steen Steve Rickman	
Rather than imposing regulatory reductions in the Silvies subarea, I would much prefer to see the Department pursue voluntary joint action with groundwater users, setting targets or voluntary conservation efforts, and partnering with us to reduce use.	Mike Peila Steve Rickman	
The Department should prioritize voluntary and cooperative approaches for the Silver Creek subarea.	Steve Rickman	
Voluntary actions have been long discussed, including by the place-based planning group in the groundwater plan, and should be a key management tool in the basin. Voluntary agreements outside of established PTWs will give the users the agency to determine what achievable reductions look like.	Ken Bierly	
Farmers in Riley, Upper Silver Creek, are working on a voluntary agreement to manage the water resource.	Lorissa Singhose	
Nearly all groundwater users interviewed in the Blitzen Voltage Subarea are strongly interested in entering into a voluntary agreement. Groundwater users would like to delineate the Blitzen Voltage Subarea as a distinct groundwater management area; area may include a small portion of the Northeast-Crane area south of Windy Point and Upper Blitzen Subarea. Blitzen Voltage Area is distinct from the Silvies River and Silver Creek with minimal GW level declines. Groundwater users are concerned about losing their rights if they do not use the full duty allocated and want flexibility; Options for voluntary reductions include: Temporary fallowing, Crop rotations / delayed planting, alternate crops, Irrigation technology / sprinkler packages, Temporarily or permanently reducing acreage, Data driven management/more active management, Experimentation, Deficit irrigation.	Lower Blitzen Voltage	



Lower Blitzen area has responded with a voluntary agreement: more efficient irrigation equipment to get to a target reduction of 10% (as laid out in petition)	Eric Steen
With information from the groundwater study, a regional solution could be achieved locally.	Caitlin Ketscher
Would be open to the possibility of a reduction of my water usage to remedy the problem as opposed to the curtailment of my water rights.	Isaac Kirby
More clarity is needed on how the Department will handle voluntary agreements.	Harney County
We strongly believe we can sustainably manage groundwater and voluntarily reduce groundwater use without putting any farms out of business in our area.	Lorissa Singhose
Continue dialogue with water users, include local stakeholders, consider alternatives for groundwater management, increase collaboration, believe the community has the knowledge in the basin, fix the declining groundwater problem, require a co-ownership approach, not just a regulatory approach. The community is better equipped to manage water than a government agency because our future depends on it.	Bar Heart Ranch Dan Nichols Lorissa Singhose Sue Arbutnot Susan Ramsay Tom Davis
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
Voluntary Agreements are an option for groundwater users to work together to reduce use within a subarea. A voluntary agreement that is approved by the Commission will control in lieu of orders and allow the groundwater users to manage their usage in accordance with that agreement. If a water user is not participating in a voluntary agreement, then the proposed rules provide the process and timeline for when regulation of water rights will occur. Regulation will occur by priority date with the most junior water rights being regulated first.	

## Petition for Rulemaking

Comment	Commentor
On September 12, 2025, Representative Mark Owens submitted a Petition for Rulemaking, representing the signatories, as an alternative to the proposed rules.	Representative Owens
<b>OWRD Response</b>	
<b>Rule language changed: Yes, in part</b>	
The Department conducted a technical evaluation of the proposed rulemaking. The petition provisions were evaluated on whether it would be able to achieve the stated goal of groundwater stability in a 30-year period. It was run under the same optimization model used in evaluating the	



agency's proposed rules. This allowed for a consistent comparison between the two scenarios. The petition provisions did not meet the goal of groundwater stability within 30 years. The evaluation memo can be found on the Division 512 rulemaking website at [owrd.info/Division512](http://owrd.info/Division512).

OWRD updated the proposed rules to include content from the petition regarding the pause of the 2028 reductions for the Silvies, Silver Creek, and Lower Blitzen-Voltage subareas. The pause in these subareas would be contingent upon voluntary reductions beginning in those areas before 2028 that result in a 10 percent reduction from the 2018 estimated use. Additionally, municipal and quasi-municipal water right holders have been exempted from any groundwater reduction under the proposed rules.

Comment	Commentor
Supports the petition because it employs targeted regulation in declining areas and voluntary actions in stable areas, such as the Lower Blitzen-Voltage, Windy Point, Silvies, and Silver Creek subareas.	Donald Doverspike Lorissa Singhose Louis Molt Nick Schott Nikki Morgan (City of Hines) Oregon Ground Water Association Patty Dorroh Sally and Joe Hendry Scott D. Campbell Susan Otley Thompson Ranch
Supports the petition because it utilizes targeted regulation in declining areas and voluntary actions in stable areas, avoids economic impacts on local businesses, and encourages financial and technical support for impacts on domestic and stock wells.	Kristopher Robbins Sabrina Maki Stephanie Bowen

#### OWRD Response

##### Rule language changed: Yes

We have updated the proposed rules to include language for a pause of the 2028 reductions for the Silvies, Silver Creek, and Lower Blitzen-Voltage subareas if voluntary reductions occur in those areas before 2028, and result in a 10 percent reduction from the 2018 estimated use.

Comment	Commentor
Supports minor adjustments proposed in the petition to the proposed rules to clarify their applicability to the water rights of the Burns Paiute Tribe.	Environmental Defense Fund
The Nature Conservancy supports certain aspects of the petition, including the tribal rights exemption, municipal exemption, and spring monitoring. TNC supports the petition because the modeling indicates that only 10% of wells will reach durable stability by	The Nature Conservancy



2058. TNC supports voluntary actions, but those actions must achieve long-term sustainability.	
The Burns Paiute Tribe supports the petition because it recognizes the tribe as a partner. The petition is grounded in science, mutual respect, and shared responsibility.	Chris Hicks
The rule language for the Burns Paiute Tribe section should have been submitted to OWRD during the Division 512 rulemaking process, as required by the department's tribal engagement requirement under the laws of the United States, Burns Paiute Tribal Laws, and Oregon State Laws (i.e., OAR 690-0010). Water League formally calls for the inclusion of this text in OWRD's proposed rules as written.	Water League
<b>OWRD Response</b>	
<b>Rule language changed: Yes</b> Updates to the agency's proposed Division 512 rules include language exempting any state-issued groundwater rights or federally reserved groundwater claims held by a Federally recognized Indian tribe from corrective controls that result in reductions in groundwater use. Tribes are also exempt from the measurement and reporting requirements. Additionally, municipal and quasi-municipal groundwater rights are no longer subject to corrective controls resulting in reduced groundwater use, in the Department's updated Division 512 proposed rules.	
<b>Comment</b>	<b>Commentor</b>
The petition proposes a different policy approach than the OWRD rules; the OWRD model has been unavailable to the community, preventing them from testing their approach. The petition was developed using community planning and relied on voluntary agreements. The community also helped develop the CREP and the Harney Domestic Well Fund. The commission should collaborate with the community to refine the petition so that it benefits everyone. Recommend removing municipal rights.	Ken Bierly
Support for petition because it matches the basin's hydrogeology and ensures that regulatory action is targeted at areas experiencing real declines, rather than applying blanket restrictions across the region; it avoids the excessively broad municipal caps risk devastating Harney County's main population centers, threatening housing, public safety, and the local economy; capping municipal use based only on recent history, as in the draft Division 512 rules, conflicts with land use goal 14 and disregards the unique legal status of municipal water rights under state law; it balances voluntary agreements and immediate reductions with limits the economic and social impacts of the reductions; it incorporates support for well mitigation and assistance funds and investments in	City of Burns



conservation and shifts regulatory burden to high volume Jr users; and the adaptive approach, coordinated basin planning, and voluntary reduction pathways reflect the spirit and statutory preference in Oregon law for collaborative local action and solutions.	
Support for the petition stems from the current Governor's emphasis on the need for housing. With the original proposal regarding water restrictions, cities would have had a harder time establishing housing growth. Conservation has always been a better solution for the cities and certain areas in the Harney Basin; it allows for voluntary conservation to continue in those areas; it will eliminate the need to import cattle feed/hay from other areas; and it assures that there are adequate and safe supplies of groundwater for people and livestock. It also recognizes the need for ongoing support, reduces potential economic impacts, and provides those who have legally granted rights and have been following the law with financial and technical assistance for shallow domestic wells that may be impacted by declines.	City of Hines
<b>OWRD Response</b>	
<b>Rule language changed: Yes</b> Following the comment period, municipal and quasi-municipal groundwater rights are no longer subject to corrective controls, resulting in reduced groundwater use, in the department's updated Division 512 proposed rules.	
Comment	Commentor
There are outstanding questions on the analysis for the petition that the Department needs to answer regarding the modeling.	Lorissa Singhose
<b>OWRD Response</b>	
<b>Rule language changed: No</b> The petition provisions were evaluated on whether it would be able to achieve the stated goal of groundwater stability in a 30-year period. It was run under the same optimization model used in evaluating the agency's proposed rules. This allowed for a consistent comparison between the two scenarios. The petition provisions did not meet the goal of groundwater stability within 30 years.	
Comment	Commentor
Supports the petition because it applies targeted regulation in areas with declining groundwater, promotes voluntary actions in stable areas, and minimizes economic impacts on local businesses. It encourages fair compensation for groundwater right cancellations, provides financial and technical support for domestic and stock well	ACW Rock                      Jack and Emilie Glascock Anthony Ellis                      Julie A. Riel Ava Bowen                      Margaret Wallis Bachman Bay Farms                      Matt Stashin



users, and builds on local solutions through public input and transparency. It also outlines adaptive management and prioritizes restoring springs vital to the Malheur National Wildlife Refuge in partnership with the Refuge.	Craig Neher Earl Bowyer Erick and Christy Keerins Greg and Malia Kupillas	Robert N. and Sandra N. Cargill Roger Sheley Trenton Potter
Supports the petition because it applies targeted regulation in areas with groundwater decline and promotes voluntary actions in stable regions. It helps avoid economic harm to local businesses, as required by OWRD, and encourages fair compensation for groundwater right cancellations or regulations. By fostering collaboration, the petition also reduces the risk of litigation and supports more constructive, community-based solutions.	Jennifer Taynton Katie Baltzor Kelly Singhose	Mindy Sheley Philip Klimbal Ryan J. Krabill Sabrina Maki
Supports the petition because it represents a more equitable approach to protecting the groundwater resource while allowing the community to make a living; the process was too complicated to facilitate meaningful community engagement.	Andy Root	
Supports the petition because it comes from the community and minimizes the financial impacts on the economy.	Bryce Otley Cameron Molt Casey Otley Cheryl Larsen Christy Sanders Dan Otley Debbie Gouveia Denise Kryger Ellen Franklin Fred Otley Gerrit and Patricia Jager Jacob Davies Jesse Svejcar	Kacie Otley Katie Otley Kirby Isaac Kyla Lafferty Larry Otley Mary Jo Davies Louis Molt Patty Dorroh Sandy Potter Shani Hodge Susan Otley Tom & Barbara Howard Wayne Evans Donald Doverspike
Supports the petition because it would enable us to continue operating, and we could still meet the state's goal by 2040.	Jacob Davies Rachel Shahidzadeh Robert Long	



Support the petition because it places my well in an area where water levels are reasonably stable; the petition is also more in line with local knowledge.	Larry Otley Lesley Richman and Matthew Bixby
Support the petition because it reflects the recommendations of the Comprehensive Community Water Plan, addresses the concerns that were brought up during those long years of planning, and incorporates the public input.	Lesley Richman and Matthew Bixby
Supports the petition	Lou Davies Margaret Swoboda vineto andre
Support the petition because it is not possible to treat all water users equally. Water use has not been the same for over 100 years.	Melodi Molt
Support for the petition because the proposed administrative boundaries for the Silvies River area better align with the U.S. Geological Survey Groundwater Study findings and account for differing decline conditions on the ground; and the petition offers a straightforward, workable approach for voluntary agreements in the Silvies River groundwater reservoir administrative area.	Mike Peila Sallie Peila
Support portions of the petition and urge the Commission to exempt groundwater rights held by federally-recognized Tribes such as the Burns Paiute Tribe by incorporating petition-proposed language from Exhibit A – 690-512-0060(11)(e); support and encourage the development of programs encouraging voluntary cancellation of groundwater rights that impact ecologically-significant groundwater dependent ecosystems, as mentioned in petition-proposed Exhibit A – 690-512-0050; monitoring springs in the Silver Creek and Blitzen-Voltage subareas and developing voluntary solutions to mitigate impacts to springs are a valuable approach.	The Nature Conservancy
Support for petition b/c it comes from the community; can't trust regulation coming from the other side of the mountains; OWRD has not done a good job over the last 30 years, why trust them now; folks did the right thing and developed their rights legally	Tony Hackett
Our farm was assigned to an arbitrary subarea; on one side, our neighbors are located in the Lower Blitzen-Voltage, and on the other side, our neighbor is outside the CGWA. The petition is in the logical subarea of the Lower Blitzen, which follows the USGS southern boundary.	Dominic Bachman



The petition makes more sense if it passes, and the combination of voluntary agreements will stand behind it. It also provides a financial pathway to assist in reducing water.	Kurt Blackburn
The petition adjusts the boundaries to align with the USGS southern boundaries, in accordance with state laws. It takes into consideration that this area does not have any drawdown issues. It enables us to collaborate with our neighbors to develop a more effective solution. With the petition and voluntary agreements, we can preserve our community.	Dan Otley
Adopting the petition would lead to less litigation, because it was drafted in a collaborative manner within the community.	Fred Flippence
The petition offers a balanced, science-based solution to groundwater management and ensures the community voice is heard and shaping our future.	Sabrina Maki
Support for the petition because it prioritizes keeping the community intact and keeping family farms working; OWRD rules will devastate the community	Eric Kierings
Support for petition because it recognizes different conditions across the basin and encourages voluntary agreements in areas that are reasonably stable and do not meet CGWA designation; it protects legal water rights and minimizes impacts to economy and local job loss; petition meets criteria for perpetual use and three subareas are not even close to 25 foot declines; Blitzen, Silvies and Silver Creek have not met criteria and are not overdrawn; data being used in OWRD rules is misleading.	Lorissa Singhose
I support the petition because it was created locally, in the county, rather than statewide, and it addresses all of my concerns regarding the Division 512 process. The petition will minimize the fiscal impact	Bryce Otley
Does not feel that OWRD properly analyzed information for individual aquifers, which has led to a big disagreement re: water availability and GW declines in several areas; supports petition because it allows for management of specific issues in specific areas based on the conditions; vital to move forward with voluntary agreements; the area is not one aquifer but rather several smaller ones	Fred Otley
Would like to see the Petition Rules go one step further and include a Windy Point sub-basin conservation plan, similar to those for Silver Creek, Silvies River, and Blitzen. A voluntary agreement in Windy Point is being assessed and developed, and I hope that the	Stephanie Bowen



Commission recognizes the value of communities coming together to solve this problem and grants us the ability to do so.		
Oppose the petition because my pump has had to be lowered twice; irrigation wells are going dry.	John O'Connor	
Oppose the petition because it will not adequately protect the groundwater in Harney.	Antar Pushkara Bill Mosser Bob Bumstead Bob Hunter Charlie Harris Chuck Gehling Cliff Mitchell Dave Heller David Hohler Delores Porch Corinne C. Sherton Donna Harris Doug Heiken Fran Recht Gloria and Bob Ziller Jane McCleery Jim Coverdell Joan Suther Jocelyn Hough Joe Moore John Oconnor Julie Weikel Kathleen McNeill Laura Webb	Laurie O'Connor Leon Werdinger Linda Greenman Lydia Garvey Marjorie Stuart Melissa Brown Michael T Williams Mike Dahlstrom Normandy Helmer Patrick McCleery Paul Engelmeyer Penelope Kaczmarek Peter Tronquet Richard Stoltze Rob Kuntz Ron Garst Sara Pritt Stephen Parsons Susan Mates Theo Dreher Thomas Berridge Todd Sandell Tom Cooney Walter Petty Water Watch
Oppose the petition's promotion of optional voluntary actions that lack required reductions in pumping.	Bill Mosser Doug Heiken	Lydia Garvey Marjorie Stuart



	Gloria and Bob Ziller Harry L. Foster Jim Coverdell Joan Suther Jocelyn Hough Laurie O'Connor Linda Greenman	Penelope Kaczmarek Rob Kuntz Stephen Parsons Susan Mates Theo Dreher Thomas Berridge Walter Petty
I oppose the petition because it fails to require irrigators to form voluntary agreements or reduce groundwater use, allows full pumping and development in Silver Creek, Silvies River, and the Lower Blitzen-Voltage subareas until declines reach 25 feet, and results in lower groundwater levels compared to the Proposed Rules. It fails to stabilize groundwater, dries up more domestic wells, harms groundwater-dependent ecosystems and native vegetation, misrepresents the water code to prioritize economic interests, and excludes the Place-Based Planning group from its development. It removes the community-requested adaptive management framework, and its tribal co-stewardship components need more analysis due to potential loopholes; the rule should not include this requirement, though future exploration remains possible.	Water Watch	
Oppose some components of the petition because even if the petition were fully successful in both voluntary and regulatory actions, 9 out of 10 wells in the Blitzen, Northeast-Crane, Silver Creek, and Silvies subareas would continue to experience long-term declines. These declines are in addition to aquifer declines that have already occurred in the region.	The Nature Conservancy	
I oppose the petition because it subverts a years-long public process, lacks scientific credibility, and misrepresents the USGS/OWRD groundwater study by falsely claiming five reservoirs instead of one hydraulically connected system. It downplays the severity of groundwater declines, prioritizes short-term profits over public interest, and proposes lenient PTWs that preserve the status quo. The petition functions as a late-filed public comment, rather than a valid rulemaking request, and its signatories should not outweigh the equivalent public comments. It bases subareas on user convenience rather than technical findings, harming communities like Weaver Springs. It falsely assumes voluntary agreements will maintain groundwater without requiring action, allows	Water League	



worsening conditions in areas like Lower Blitzen, and overvalues the ECONorthwest report. It misstates OWRD's mandate by promoting maximum use over sustainable management, ignores the critical link between pumping and native vegetation, and misrepresents place-based planning as regulatory. It fails to meet the criteria under OAR 137-001-0070, lacks sufficient detail to justify rule changes, and should be denied.	
The recent petition rule proposal introduces reductions in pumping by less than 22%, which is half the reduction needed to stabilize groundwater according to our analysis.	Bill Jaeger
The Commission should recognize the petition as solely a public interest finding request and should utilize the Scandella and Boschmann memo dated September 30, 2025, and the multiple USGS–OWRD Harney Basin groundwater reports as the most complete, accurate, and reliable technical information.	Jerry Grondin
The Commission should reject declaring or recognizing separate groundwater reservoirs in the Harney Basin, and that declines in Upper Silver Creek and LBV are trivial. The Commission should be cautious when making technical hydrogeologic comparisons between the Harney Basin and the current seven CGWAs established between 1959 and 1986.	Jerry Grondin
The petition is a de facto “end run” that essentially attempts to supersede the results of a very public and transparent technical Harney Basin groundwater investigation and the results of a subsequent very public and transparent administrative public process for OAR 690-512 rule changes and additions. In particular, the petition reinterprets the USGS–OWRD Harney Basin groundwater investigation published results in a manner consistent with locally favored interpretation of basin groundwater occurring within separate, independent, isolated groundwater reservoirs that has been repeatedly advocated since the beginning of the groundwater investigation. The apparent reinterpretation goal is to technically justify creating- establishing separate, independent, isolated administrative groundwater reservoirs for managing and regulating the basin's groundwater. The USGS–OWRD Harney Basin groundwater investigation analyses of the totality of the historic and current data does not technically support the local interpretation of multiple groundwater reservoirs but rather a single groundwater system.	Jerry Grondin
The petition appears designed to allow a few businessmen to benefit financially in the short term at a great cost to the many in the long term. The Commission can reject it	Terry Keim



outright on the grounds that the main sponsor actively participated in this process for 10 years. The petition requests to revert to “voluntary” compliance, even though that approach was tried and led to the current disastrous results. The Burns Paiute Tribe, as a sovereign nation of first peoples, has water rights to all this basin’s groundwater that supersede the new rules, so their tribal land needs and concerns can be met via other mechanisms.	
I am concerned about the way the rule-making process associated with Harney Basin groundwater appears to be proceeding. The Harney Basin Community Petition would at least allow OWRD to receive community input again. The reduction of groundwater use can be prioritized in areas with the most problems, and other areas could be further evaluated.	Tony Svejcar
Do not support petition language in 690-512-0150, do support exempting tribal rights from curtailment.	WaterWatch
The petition does not require voluntary agreements in key areas (Silvies, Silver Creek, and Donner Blitzen-Voltage. The petition fails to stabilize groundwater levels, even with the 10% voluntary reduction that is not required. The petition will cause greater harm to domestic wells, ecosystems.	WaterWatch
This entire scientific justification for the petition is unjustified; groundwater levels are excessively declining and/or about to be overdrawn across the single connected groundwater reservoir, and no new uses should be approved at a time of water use curtailments.	Water League
The definitions in the petition for (2) Decline Trigger and (3) Dynamically Stable Groundwater Levels provide too much leniency to irrigators to manage their own affairs; definition for (5) Permissible Total Withdrawal adds the word “estimated” and creates an undefined amount of variance over which OWRD cannot regulate; (6) Reasonably Stable Groundwater Levels is unjustified in the Harney Basin because areas in the basin that are not declining as fast as others are	Water League
Compensation for voluntary cancellation should proceed independently of OWRD’s proposed Division 512 rules. For voluntary buyouts to be equitable to others, the state would have to prohibit any new water right applications in perpetuity in the single groundwater system that is the Harney Basin.	Water League



I oppose the petition because it relies on “all available data” to include anecdotal, outdated, and unscientific information, rather than rigorous scientific data. It includes satellite imagery, which dilutes the accuracy of wellhead metering as the only factual measurement of water use. It adds language for OWRD to “encourage and promote” reporting without enforcement mechanisms. It states that OWRD shall not enforce declining conditions, reneging on conditions that water users previously accepted. The public does not need permission to petition the commission.	Water League
Petitioners are not professionally qualified nor politically justified to make determinations and set PTWs, dates for stability, and other related criteria.	Water League
Reductions for Silver creek are not enough to stabilize conditions but rather allow for a controlled decline until the Department intervenes authors say that surface water shall have zero priority relative to all the water rights, foreclosing on the possibility of Oregon Department of Fish and Wildlife (ODFW )or the Department of Environmental Quality (DEQ) from filing instream water right applications; this combined with the continued pumping will exacerbate impacts on domestic wells, lakes, springs and streams	Water League
The rule leads in with a title and introductory language that mislead readers into believing that the public will have more control over water management than state preemption would ever allow	Water League
There has been a lack of conversation on the economic impacts of domestic wells. The Petition should have stronger protections for domestic users.	Laurie O'Connor
The Environmental Defense Fund supports the proposed rules as a science-based, 30-year glide path to groundwater sustainability in the Harney Basin that maximizes economic continuity while securing groundwater for future generations. Thank you to the Commission for considering EDF's comments.	Environmental Defense Fund
Supports the petition because it removes the Lower Blitzen from the CGWA and allows for a 10% voluntary agreement cut.	Jacob Davis
Throughout the process, it felt like our voices did not matter. This petition is a community-led initiative that represents a more equitable approach to protecting our natural resources.	Andy Root



The petition treats each area as its own reservoir; the basin cannot be treated as one reservoir. The petition has the support of the community and provides times for voluntary reductions.	Donald Doverspike
Issues with the Department's model stem from WRIS, GWIS, and data input errors; OWRD struggles significantly with its data infrastructure. Petition struggles with this as well, but it does provide more realistic reduction rates compared to consumption.	Mario Patrilli
The petition proposes an alternative plan that would mitigate the fiscal impact of the rules.	Kurt Blackburn
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
Thank you for your comments on the rulemaking petition filed. The petition provisions were evaluated by OWRD scientists on whether it would be able to achieve the stated goal of groundwater stability in a 30-year period. It was run under the same optimization model used in evaluating the agency's proposed rules. This allowed for a consistent comparison between the two scenarios. The petition provisions did not meet the goal of groundwater stability within 30 years.	

## General Comments

Comment	Commentor
Concerned about the Department's ability to track groundwater use and effectively regulate given an inconsistent track record in the past. There is also confusion about the contested case process and how water right holders are expected to engage in that process and how they could advocate for themselves in that process. Groundwater users are also concerned about transfers and how they will be handled in the future.	Lower Blitzen Voltage
<b>OWRD Response</b>	
The department, the governor's office and legislature have identified a need for process improvement, and the department is dedicated to reducing the time required for water rights transactions and making department processes more efficient. Additionally, improving the quality and amount of data collected by the department is a key goal identified in the Integrated Water Resources Strategy although the quality and extent of the data collection may be impacted by the legislatively approved budget.	
One of the Department's internal goals with the rules was to write rules that can be implemented within existing capacity and are enforceable. The critical groundwater area statutes require the Department to initiate a contested case and invite groundwater users who will be curtailed to	



be legal parties to the contested case. Since we are reducing the duty to 2.5 AF and reducing the overall use, all groundwater rights, other those rights exempted in rule from groundwater reduction, in the basin will be invited to participate in the contested case. A groundwater user is not required to participate in the contested case.

OWRD has determined that transfer applications will be accepted within a subarea as each subarea will be treated as a different source of water. Transfer applications from one subarea to another will not be accepted. During the contested case process, if a water right from the original Place of Use (POU) is regulated off, the transfer will be regulated off in the other subarea.

Comment	Commentor	
The Department knows there is a problem yet continues to allow transfers. The current policy enables moving water rights from problem areas, like Weaver Springs, into unaffected areas. OWRD should stop transfers from other subareas unless different groundwater reservoirs are clearly delineated. Transfers that allow new wells far from the original right—especially across the basin—should not be allowed. Preventing transfers from different sources is essential to protect local groundwater.	Bachman Bay Farms Jacob Davis Jaris Shelman John White Lorissa Singhose	Lou Davies Margarita White Mary Jo Davies Richman Et Al Susan Otley
There is a lack of transparency on how transfers are going to be handled between the 7 subareas. Language on how transfers will be handled should be added to the rules.	Kristen Shelman Ben McCanna	
Frustrated with transfers that were allowed into the area (Dog Mountain) that began heavily pumping and area not senior.	Carl Neumann	
Prevent additional transfers into the Blitzen-Voltage Subareas from other Subareas because it is not the same source.	Christina Keerins – Lower Blitzen Voltage	
Transfers could harm our water resources; we oppose new transfers into Lower Blitzen-Voltage or Silver Creek Subareas if they could affect wells/springs.	US Fish and Wildlife Services	
What data did OWRD use to approve new pivots, transfers, and extensions? These have all have large impacts on existing water users	Erick and Christy Keerins Gerrit and Patricia Jagar	Jacob Davies Mindy Sheley Tom & Barbara Howard

### OWRD Response

#### Rule language changed: No

Regarding transfers in the basin, the Department will treat each subarea as a different source of water and only allow transfers within a subarea. Transfers from one subarea to another will not allowed as the planned reductions were refined to target specific areas to achieve the goal of groundwater stability in 30 years. During the contested case process, if a water right from the original Place of Use (POU) is regulated off, the transfer will be regulated off in the other subarea.



Comment	Commentor
The Department and Harney County have worked on the Community-Based Water Plan for 10 years. That plan offers detailed strategies that should be implemented and incorporated into rulemaking decisions.	Calla Hagle Cheryl Smith
<b>OWRD Response</b>	
<b>Rule language changed: No</b> OWRD's Place Base Water Planning Grant fund offers Post-Plan Coordination Grants to support the implementation and coordination of state-recognized place-based integrated water resources plans. The Harney Basin Community- Based Water Plan has been state-recognized by the Water Resources Commission.	
Comment	Commentor
Oregon's groundwater management system has been recognized to be reactive rather than predictive or proactive by many observers. The state's groundwater rule to maintain reasonable stable groundwater levels is insufficiently defined and prior appropriation is not a functional corrective tool to regulate groundwater.	Bill Jaeger
These rules do not change how water is fundamentally managed; Rules fail to set predictable, transparent, and automatic corrective measures to respond to evidence of resource depletion; ex, Sustainable Yield caps for fisheries, expedited GW management in Kansas. GW resource is perceived to be owned by a WR holder and not a public resource	Bill Jaeger
Each time OWRD has tried to take action, this is met with opposition from the irrigators. Irrigators were, at a bare minimum, willing participants in the over issuance of groundwater permits up to the time OWRD put the brakes on and that OWRD's efforts to protect the resource have been repeatedly met with resistance	Water Watch
It's unfair that water rights that were developed within five years are being regulated, while water rights that were given long extensions are just now developing their right.	Jacob Davis
Rules do not abide by OWRD's own policies.	Roger Sheley
<b>OWRD Response</b>	
<b>Rule language changed: No</b> Thank you for your comment.	
Comment	Commentor
Reductions in use should not be used as the basis for forfeiture of a water right.	Oregon Farm Bureau



<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
Forfeiture does not apply when a water right is regulated off or if water is not available for use. Under ORS 540.610, water shut off by an order of the Commission would not be subject to forfeiture as the water right holder would be prohibited by law from using the water.	
<b>Comment</b>	<b>Commentor</b>
There should be a process defined in the rule on how the critical groundwater area designation can be lifted	Harney County
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
The statutory thresholds from ORS 537.730(1)(a)-(g) of “declined excessively”, “excessively declining”, and “overdrawn” authorize designation of a critical groundwater area. These definitions have been met for the Harney Basin Groundwater Reservoir or parts thereof as documented in the Groundwater Report for the Harney Critical Groundwater Area rulemaking. The critical groundwater area designation can be lifted once these statutory thresholds are no longer met. Since the draft rules do not propose reductions in pumping necessary to recover groundwater levels and because the adaptive management provisions in the proposed rules would not allow for recovery, it is highly unlikely the conditions for designation would be met. Therefore, there is no process for lifting the CGWA within the proposed rules.	
<b>Comment</b>	<b>Commentor</b>
Permit conditions need to be enforced. Focus on water rights that are out of compliance.	Fred Otley Kirby Isaac
The Windy Point Subarea was placed into an area that has long had a problem with over pumping. OWRD should have enforced permit decline conditions to slow declining groundwater levels.	Windy Point
Users who overuse their water rights contribute to water scarcity, and the Department should investigate and penalize these violations by reducing their allowed use. Enforcing accountability will help protect water resources and ensure fair distribution.	Susan Ramsey
OWRD did not give enough weight to comments on water rights transactions.	Harmony Burrigh
<b>OWRD Response</b>	
<b>Rule language changed: No</b>	
OWRD will be further engaging with those out of compliance as we implement the proposed rules and through other agency initiatives as resources allow.	



## Outside of Rulemaking Scope

Comments	Commentor
The state ignores water contributions from the Malheur Forest upland basin and fails to consider the clear relationship between forest cover and streamflow. The USFS has mismanaged uplands since 1990, allowing vegetation to grow out of control, increasing transpiration and impacting water tables. OWRD adopts rules without addressing upland vegetation mismanagement, placing the burden of this ecological disaster unfairly on irrigators. The decision-making process lacks input from the USDA Ag Research Center and BLM, raising concerns about the data being used.	Curt Blackburn Roger Sheley Mindy Sheley Tony Svejcar
The Malheur Lake Administrative Basin Map is incorrect. It should not include Catlow Alvord Basins nor the Hart Mountains or Guano Hills.	Mario Petrilli
The Silvies River Decree is no longer efficient or equitable and needs to be updated.	Mario Petrilli
The Harney Basin, groundwater needs to be managed holistically; it's a surface water and groundwater problem.	Mario Petrilli
Climate change is effecting surface water flow, precipitation further exacerbating water scarcity in an already relatively dry region.	Mario Petrilli
The rulemaking fails to include programs or investments in managed aquifer recharge, despite the potential benefits for the Harney Basin. State agencies, including OWRD, offer funding for artificial recharge projects, and the region should actively explore and implement these solutions to support long-term groundwater sustainability.	Craig Nehar Susan Ramsey
Weather manipulation and chemtrails are responsible for water problems.	Deborah Arntz
I disagree with the permitting of the gold/silver water pressure extraction in the region. It will further disturb and reduce the water necessary for the region.	Denise Tschann
The Department should be doing all it can to create programs within the department, FSA and NRC and ARS to reduce water use and help irrigators transition to out of irrigation or to more efficient systems instead of focusing on policies that will shut off irrigators.	Bachman Bay Farms Dominic Bachman



WRD must commit substantial investment to support the communities, including the ecological ones, that have been placed at risk by overpumping.	Calla Hagle
Encourages the Department to work with other agencies to coordinate funding for dryland cropping or buy-outs.	Erick Keerins
This problem is a multi-agency problem. Curtailment is just the scalpel, but it does not address the systemic issues that will be caused. The state needs to come into Harney County and take a holistic approach, or there will be nothing left of this county.	Kristen Shelman
Programs for establishing dryland crops should be established before the reduction is implemented.	Kristen Shelman
The Department should also assess the viability of utilizing and funding the High Desert Partnership to fund creative ways to assist the farming and ranching communities as we transition to reduced water use.	Dominic Bachman
The CREP program limits participation by offering uncompetitive rates for junior users, underfunding enrollment, and restricting flexibility. To improve viability, the program should adjust payment rates, allow partial water right cancellations, and expand eligibility to make it a more attractive and effective conservation option.	Breanna O'Connor Curt Blackburn Dominic Bachman Lola Tyler Roger Sheley
The allocation policies and practices should be revised to ensure that the Department protects senior users, accounts, or permit exempt uses, and accounts for environmental impacts in a balanced manner during allocation prior to issuing water rights.	Mark Owens
No holistic or science-based water management plan is complete without including all federal and state land management agencies in comprehensive recharge planning. Seventy percent of the Harney Basin is publicly owned, yet the rules lack regulatory or cooperative mechanisms to manage those lands. The rules focus narrowly on groundwater levels and do not take a holistic approach to groundwater management. The Department should bring in other agencies to help manage groundwater and address recharge across public lands.	Craig Neher
The Department should shut off unpermitted irrigation wells first to uphold fairness for those who followed the legal permitting process and waited years for approval. It must also investigate and address illegal practices, such as those occurring at Silvies, to ensure compliance and protect water resources.	Dan Nichols Debbie Gouveia
The Department should take the time to gather data on the Warm Springs area.	Mario Petrelli
The department has failed to discuss or consider other factors that could affect a spring other than pumping.	Lorissa Singhose
<b>OWRD Response</b>	



Thank you for your general comments. These comments are outside of the scope of this rulemaking.



## Attachment 14 - GWAC Comments and Responses

On July 29<sup>th</sup>, 2025, the Groundwater Advisory Committee (GWAC) met in their advisory capacity and developed the following 12 recommendations for consideration by the Commission:

1. GWAC agrees there is a need for corrective controls to reduce groundwater use.
2. GWAC agrees (majority, not consensus) that the three proposed tools (Classification, CGWA, SWMPA) are appropriate to use in this basin (additional advice on CGWA boundary)
3. GWAC agrees that the boundaries for implementation of the Classification and SWMPA are appropriate.
4. GWAC agrees (majority, not consensus) that the basin is one hydraulically connected groundwater reservoir, but the committee has questions about the upper Blitzen area being included in the CGWA.
5. GWAC agrees with six of the seven subarea designations; the upper Blitzen is the exception.
6. GWAC agrees that using the USGS numerical model of the Harney Basin to determine PTW and minimize economic impact was appropriate.
7. GWAC agrees that the adaptive management framework is a very important inclusion in the proposed rules.
8. GWAC agrees that an initial PTW designation based on water right duty of 2.5 ACFT/ac is appropriate.
9. GWAC agrees that actual “wet” water use is the appropriate benchmark for initial allocation.
10. GWAC agrees that a 30-year implementation timeline is appropriate for balancing community economic concerns with groundwater level stabilization.
11. GWAC agrees that a target water level trend as stated in rule is a good starting point. GWAC additionally recommends acknowledging and accounting for outliers (individual wells that may continue to show substantial declines).
12. GWAC recommends WRC to consider Voluntary Agreements to increase flexibility of water use within the subareas.

## Departments Response

The Department appreciates the GWAC’s comments on the rules. Below are responses to specific comments where appropriate:

In response to comment four and five, the proposed rules have been changed to remove the permissible total withdrawal (PTW) for the Upper Blitzen subarea. This change prevents



regulatory reductions from occurring within this area. The subarea was retained within the CGWA boundary to ensure that no further development may occur within that subarea.

The Department considered GWAC's recommendation to acknowledge and account for outliers when evaluating water level trends, however no changes were made to the rules. By dividing the CGWA into subareas, the Department has grouped portions of the groundwater reservoir that share similar hydrogeologic properties and groundwater conditions. The intent of dividing the CGWA into subareas is to group wells together that have similar local impacts on the groundwater reservoir, thereby reducing the likelihood and effect of outliers on the management scenario.



**WATER RESOURCES DEPARTMENT  
CHAPTER 690  
DIVISION 512  
MALHEUR LAKE BASIN PROGRAM**

**690-512-0010            Definitions**

Unless specified in these rules the definitions in OAR 690-300-0010 apply to the below rules:

- (1) “Adaptive Management Checkpoint” means the scheduled interval at which the Department evaluates changes in groundwater levels and determines if adjustments to scheduled reductions in groundwater use are required as described in OAR 690-512-0080.
- (2) “Exempt Groundwater Uses” are those defined in ORS 537.545.
- (3) “Groundwater Level Change Envelope” means the modeled trajectory for groundwater levels to achieve the target groundwater level trend by 2058. A groundwater level change envelope is modeled for each subarea including the median, 10<sup>th</sup>, 25<sup>th</sup>, 75<sup>th</sup>, and 90<sup>th</sup> percentiles relative to the modeled groundwater levels in 2028. The envelope describes the range of values that will be used to inform the adaptive management process in OAR 690-512-0080. The trajectories are modeled using “Groundwater model of the Harney Basin, southeastern Oregon” by S.B. Gingerich, D.E. Boschmann, G.H. Grondin, and H.J. Schibel, 2024, U.S. Geological Survey Scientific Investigations Report 2024-5017.
- (4) “Initial Allotment” means the maximum annual volume of water that may be used by each groundwater right upon completion of the contested case.
- (5) “Permissible Total Withdrawal” is the annual volume of groundwater pumping the Department has determined can achieve the target groundwater level trend by 2058 when following the schedule of reductions defined in OAR 690-512-0070. The unit of measure for the permissible total withdrawal is acre-feet.
- (6) “Public Uses” are those uses defined in ORS 537.332.
- (7) “Regulated off” and “reduce” means the act of limiting groundwater use through a regulatory order.
- (8) “Subarea” means an administratively defined portion of the critical groundwater area to which corrective control provisions under ORS 537.735(3)(a)-(f) may be applied.



(9) “Target Groundwater Level Trend” means the goal for the rate of change in groundwater levels within a subarea of the critical groundwater area.

(10) “Totalizing flow meter” is an instrument used to measure and display both the instantaneous flow rate, and the total volume of groundwater produced from a well.

Statutory/Other Authority: ORS 537.545, ORS 537.735, OAR 690-300-0010,

Statutes/Others Implemented: ORS 536.300 ORS 536.027, ORS 537.332, ORS 537.780

**Rule Summary:** This rule replaces OAR 690-512-0010 (Classification), readopted as 690-512-0030; the rule defines terms used in OAR Chapter 690, Division 512, ORS 536.300, ORS 536.027, ORS 537.545, and ORS 537.735.

#### **690-512-0020                      Administrative Boundaries**

(1) The Greater Harney Valley Groundwater Area of Concern (GHVGAC) Boundary is defined for administrative purposes and is described and shown in Exhibit 1.

(2) The Malheur Lake Basin Boundary is delineated on the agency Map 12.6, dated January 1, 1966, and shown in Exhibit 2.

(3) The Serious Water Management Problem Area (SWMPA) Boundary is defined as the Harney Basin within the Malheur Lake Basin and within portions of Grant and Harney Counties as shown in Exhibit 3.

(4) The Groundwater Classification Boundary is defined as the Harney Basin within the Malheur Lake Basin and within portions of Grant and Harney Counties as shown in Exhibit 4.

(5) The Harney Basin is defined as the closed surface-water basin that drains into Malheur and Harney Lakes and includes the four National Watershed Boundary Dataset 8-digit hydrologic units Donner und Blitzen 17120003, Silver 17120004, Harney-Malheur Lakes 17120001, and Silvies 17120002 as shown in Exhibit 5.

(6) The Harney Basin Groundwater Reservoir Boundary is defined as the area coincident with the Harney Basin Boundary, as shown in Exhibit 5.

(7) The Harney Basin Critical Groundwater Area Boundary is defined as the area coincident with the Greater Harney Valley Groundwater Area of Concern Boundary as shown in Exhibit 1 and contains a portion of the Harney Basin Groundwater Reservoir.

Statutory/Other Authority: ORS 540.435, ORS 536.340, ORS 537.735

Statutes/Others Implemented: ORS 536.027, ORS 537.525, ORS 536.300, ORS 537.780



**Rule summary:** This rule replaces OAR 690-512-0020 (Groundwater use in the Greater Harney Valley Groundwater Area of Concern); the rule defines the administrative boundaries used in OAR, Chapter 690, Division 512, including those for the Greater Harney Valley Groundwater Area of Concern, Malheur Lake Basin, Serious Water Management Problem Area, Groundwater Classification, Harney Basin, Harney Basin Groundwater Reservoir, and Harney Basin Critical Groundwater Area; the rule includes boundary maps as Exhibits 1- 5.

#### **690-512-0030**

#### **Classifications**

- (1) Except as provided in section 2 of this rule, the groundwater and surface water of the Malheur Lake Basin are classified for direct appropriation of, or storage of surface water and use of, water for domestic, livestock, irrigation, municipal, quasi-municipal, industrial, mining, agricultural water use, commercial, power development, forest management, public uses, road watering, dust abatement, and wildlife refuge management.
- (2) Groundwater in the Groundwater Classification Boundary defined in OAR 690-512-0020(4) is classified for statutorily exempt groundwater uses as specified in ORS 537.545 and nonconsumptive geothermal uses.

Statutory/Other Authority: ORS 536.340, ORS 537.621(2), ORS 537.545,

Statutes/Others Implemented: ORS 536.027, ORS 536.300, ORS 537.621(2), ORS 536.340, ORS 537.780, ORS 537.545

**Rule Summary:** This new rule readopts the current rule OAR 690-512-0010; the rule retains the existing surface water classification for the Malheur Lake Basin and classifies groundwater use to exempt uses and nonconsumptive geothermal uses only within the boundary defined in 690-512-0020(4).

#### **690-512-0041**

#### **Harney Basin Critical Groundwater Area**

- (1) The target groundwater level trend within the Harney Basin Critical Groundwater Area is a median groundwater level decline rate of no more than zero feet per year over a six-year period when calculated as described in OAR 690-512-0080(7).
- (2) The Department may access any well within the critical groundwater area that is authorized as a point of appropriation on a valid water right for the purpose of implementing these rules. The Department will provide notice to the groundwater right holder, well owner, or well operator prior to accessing the well.
- (3) A review of the Harney Basin Critical Groundwater Area rules shall be completed once every three years. The review shall be presented at a public meeting held within the basin at which written and oral public comments shall be accepted. The review and a summary of public comments received shall then be presented at a Commission meeting which has



been publicly noticed and provides opportunity for public comment.

- (4) A review of the conditions in the Harney Basin Critical Groundwater area shall be completed no less frequently than once every 10 years. The review shall be presented at a public meeting held within the basin at which written and oral public comment shall be accepted. The review and a summary of public comments received shall then be presented at a Commission meeting which has been publicly noticed and provides opportunity for public comment.
- (5) Except as defined in OAR 690-512-0030(2) Classifications, the Department will not accept new applications for groundwater permits within the Harney Basin Critical Groundwater Area.
- (6) The Harney Basin Critical Groundwater area defined in OAR 690-512-0020(7) shall be divided into seven subareas for the implementation of corrective control provisions as shown in Exhibit 6.
  - a. The Dog Mountain subarea is shown in Exhibit 7;
  - b. The Lower Blitzen-Voltage subarea is shown in Exhibit 8;
  - c. The Northeast-Crane subarea is shown in Exhibit 9;
  - d. The Silver Creek subarea is shown in Exhibit 10;
  - e. The Silvies subarea is shown in Exhibit 11;
  - f. The Upper Blitzen subarea is shown in Exhibit 12;
  - g. The Weaver Springs subarea is shown in Exhibit 13.
- (7) For water rights that include authorized points of appropriation in multiple subareas, the Department will determine which subarea contains the majority of those points of appropriation. The water right will be subject to the rules applicable to that subarea.
- (8) The following water rights shall not be subject to corrective controls that result in groundwater use reductions:
  - a. Exempt groundwater uses as defined in ORS 537.545;
  - b. Municipal and quasi-municipal groundwater rights;
  - c. Any state-issued groundwater rights or federal reserved groundwater claims held by a federally recognized Indian tribe.

Statutory/Other Authority: ORS 537.735, OAR 690-010-0130(3)(a) – (c), OAR 690-217-0045  
 Statutory/Others Implemented: ORS 536.027, ORS 537.525, ORS 537.780, ORS 536.300, ORS



**Rule Summary:** The new rule specifies the target groundwater level trend for the Harney Basin Critical Groundwater Area; a Department review of the rules every three years, and a Departmental review of the conditions at least once every ten years; the new rule contains a provision closing the Harney Basin Critical Groundwater Area to any further nonexempt consumptive appropriation; the new rule defines the seven subareas within the Harney Basin Critical Groundwater Area; the new rule includes subarea maps as Exhibits 6-13.

#### **690-512-0050 Permissible Total Withdrawal for Subareas Within the Harney Basin Critical Groundwater Area**

The Department may not reduce groundwater pumping in a subarea through regulatory orders to a value less than the permissible total withdrawal.

- (1) The permissible total withdrawal for the Dog Mountain subarea shall be 4,300 acre-feet per year.
- (2) The permissible total withdrawal for the Lower Blitzen-Voltage subarea shall be 8,300 acre-feet per year.
- (3) The permissible total withdrawal for the Northeast-Crane subarea shall be 35,000 acre-feet per year.
- (4) The permissible total withdrawal for the Silver Creek subarea shall be 15,300 acre-feet per year.
- (5) The permissible total withdrawal for the Silvies subarea shall be 21,200 acre-feet per year.
- (6) The permissible total withdrawal for the Weaver Springs subarea shall be 4,800 acre-feet per year.

Statutory/Other Authority: ORS 537.735

Statutory/Others Implemented: ORS 536.027, ORS 537.780, ORS 537.525, ORS 536.300

**Rule Summary:** This new rule specifies the permissible total withdrawal for six of the seven subareas in the Harney Basin Critical Groundwater Area. The permissible total withdrawal for each of the seven subareas is the annual volume of water that the Department has determined can achieve the target groundwater level trend by 2058 after implementing the scheduled reductions in OAR 690-512-0070. The Department may not reduce groundwater pumping through regulatory orders to a value less than the permissible total withdrawal.



### **690-512-0060 Determination of Initial Allotment for All Groundwater Rights**

- (1) To establish a schedule for reductions in groundwater use, the Department will determine an initial allotment for each groundwater right within the critical groundwater area. For each groundwater right not exempt from corrective controls as defined in OAR 690-512-0041(7), the initial allotment will be implemented through an order after completion of the contested case process as required in OAR 690-010. The initial allotment shall not exceed the total rate or duty authorized on the water right.
- (2) In determining the initial allotment for each primary and supplemental groundwater right with an irrigation use, the Department will allot a volume of water based on a maximum of 2.5 acre-feet per acre for groundwater rights not subject to forfeiture and the number of acres beneficially irrigated in the five-year period from 2020 to 2024.
- (3) In determining the initial allotment for each groundwater right with use types other than irrigation, municipal, and quasi-municipal, the department will consider:
  - a. The limits of the groundwater rights;
  - b. Beneficial use in the five-year period from 2020 to 2024;
  - c. Whether or not a water user is physically capable of putting the appropriated water to beneficial use; and
  - d. Any other factors deemed appropriate by the Department to determine historic beneficial use.

Statutory/Other Authority: ORS 537.742, ORS 537.735

Statutory/Others Implemented: ORS 536.027, ORS 537.780, ORS 537.525, ORS 536.300

**Rule Summary:** This new rule describes how the Department will determine the initial allotment allowed for each irrigation, municipal, and quasi-municipal groundwater right and all other groundwater right uses within the Harney Basin Critical Groundwater Area; initial allotments will be determined for groundwater irrigation rights based on beneficial use, with a maximum duty of 2.5 acre-feet for primary and supplemental rights; all other groundwater use allotments will be determined by the Department as specified in this rule (OAR 690-512-0060(3)(a) – (d)).

### **690-512-0070 Scheduling Water Use Reductions to Meet the Permissible Total Withdrawal**

- (1) For the purposes of scheduling reductions, the total reduction in groundwater use for each subarea will be calculated as the difference between the initial allotment plus the



greatest single year quantity of municipal or quasi-municipal use in the subarea between the years 2020 and 2024, and the permissible total withdrawal.

- (2) Notwithstanding adjustments made by the adaptive management methodology defined in OAR 690-512-0080, upon consideration of all water rights and after determining the initial allotment for each:
- a. Water use within the Weaver Springs subarea will be scheduled to be reduced to the permissible total withdrawal with 75 percent of the total reduction being scheduled for 2028 and the remaining 25 percent of the reduction scheduled for 2034;
  - b. Water use within Silvies, Silver Creek, and Lower Blitzen Voltage subareas will be scheduled for reduction to the permissible total withdrawal with 40 percent of the total reduction scheduled for 2028, 30 percent of the total reduction scheduled for 2034, 15 percent of the total reduction scheduled for 2040, 10 percent of the total reduction scheduled for 2046, and 5 percent of the total reduction scheduled for 2052;
    - A. Reductions in use within a subarea will be deferred and evaluated as described in B if, prior to 2028, water right holders implement voluntary measures that achieve a reduction in groundwater use within the subarea of no less than 10 percent, as measured relative to the 2018 estimated pumping volume;
    - B. At each adaptive management checkpoint defined in OAR 690-512-0080, groundwater levels within the subarea will be evaluated using the criteria defined in rule and;
      - i. If groundwater levels are found to meet conditions in OAR 690-512-0080(4)(c) through (e), then the Department will take no action,
      - ii. If groundwater levels are found to meet the conditions in OAR 690-512-0080(4)(a) or (b), then the Department:
        - I. May recommend to the Commission the termination of voluntary agreements approved within the subareas;
        - II. Will implement 70 percent of the total reductions scheduled in the irrigation season following the checkpoint, and the remaining 30 percent will be reduced as scheduled across future adaptive management checkpoints.
  - c. The water use within the Northeast-Crane and Dog Mountain subareas of the Critical Groundwater Area will be scheduled for reduction to the permissible total withdrawal with 40 percent of the total reduction scheduled for 2028, 30 percent of the total reduction scheduled for 2034, 15 percent of the total reduction scheduled for 2040, 10 percent of the total reduction scheduled for



2046, and 5 percent of the total reduction scheduled for 2052;

- d. The schedule for reductions will be based on the relative priority dates of the water rights within each subarea, with the most junior water rights being reduced first;
- e. Municipal and quasi-municipal water use will be evaluated at each adaptive management checkpoint, and the schedule of reductions for all other non-exempt rights may be adjusted to account for the greatest single year quantity of municipal or quasi-municipal use reported to the Department in the preceding six years;
- f. Corrective control orders reducing use will not be enforced until the completion of the contested case process specified in OAR 690-010-0170 through 230;
- g. If enforcement of corrective control orders reducing use does not occur as scheduled in 2028, then at such time as enforcement occurs, all reductions scheduled under OAR 690-512-0070(1) and (2), including any adjustments that should have occurred at the adaptive management checkpoints defined in OAR 690-512-0080, will be included in the enforcement.

Statutory/Other Authority: ORS 537.742, ORS 537.735

Statutory/Others Implemented: ORS 536.027, ORS 537.780, ORS 537.525, ORS 536.300

**Rule Summary:** This new rule describes the schedule for groundwater use reductions for the seven subareas defined within the Harney Basin Critical Groundwater Area and the process for enforcement of corrective control orders. The Weaver Springs Subarea will be scheduled for water use reductions starting in 2028 and the final reduction to permissible total withdrawal in 2034. For the other six subareas reductions may begin in 2028 and continue through 2052 with reductions happening every six years. All reductions will be by relative priority date and cannot be done until the contested case process is completed. Exempt uses will not be reduced. This rule also defines how municipal quasi-municipal use will be incorporated in adaptive management.

#### **690-512-0080 Adaptive Management of the Harney Basin Critical Groundwater Area**

The purpose of this section is to define how the Department will adaptively manage the Harney Basin Critical Groundwater Area over a 30-year period starting in calendar year 2028, with adaptive management checkpoints in calendar years 2033, 2039, 2045, and 2051, which are the years immediately preceding the scheduled reductions in OAR 690-512-0070.

- (1) Weaver Springs subarea and Upper Blitzen subarea are exempt from the adaptive management process as defined in sections 2 through 5 of this rule.



- (2) Groundwater level changes will be evaluated using representative wells with sufficient data as determined by the Department.
  - a. For each representative well, the groundwater level change will be evaluated based on a reference groundwater level determined by the Department. The reference groundwater level for a well shall be the annual high static water level measurement in calendar year 2028, if one exists. Otherwise, the Department may establish the reference groundwater level based on an analysis of water level data from that well or other water level data in nearby wells;
  - b. For each representative well, the groundwater level change will be calculated as the difference between the annual high static water level measured at the adaptive management checkpoint being evaluated and the reference groundwater level.
- (3) The median groundwater level change for each subarea will be evaluated at each adaptive management checkpoint using representative wells with sufficient data as determined by the Department.
- (4) At each adaptive management checkpoint, the Department will compare the median groundwater level change for each subarea defined in OAR 690-512-0041 with the groundwater level change envelope defined in Exhibit 14. If the median groundwater level change for a subarea is:
  - a. At or below the 10<sup>th</sup> percentile, the scheduled quantity of reduction will be doubled;
  - b. Between the 10<sup>th</sup> and 25<sup>th</sup> percentiles, the scheduled quantity of reduction will be increased by one and a half times;
  - c. From the 25<sup>th</sup> and through the 75<sup>th</sup> percentiles, no adjustment will be made;
  - d. Between the 75<sup>th</sup> and 90<sup>th</sup> percentiles, the scheduled quantity of reduction will be halved unless 10 percent or more of the measured wells fall below the 10<sup>th</sup> percentile, in which case no adjustment will be made;
  - e. At or above the 90<sup>th</sup> percentile, the scheduled quantity of reduction will be reduced to zero unless 10 percent or more of the measured wells fall below the 10<sup>th</sup> percentile, in which case no adjustment will be made.
- (5) Ten percent of the total reductions implemented for a subarea shall be rescinded at the next adaptive management checkpoint if the following conditions exist within the subarea:



- a. The median water level for the subarea recovers to above the measured 2028 median level; and
  - b. No wells have crossed the threshold for declined excessively or excessively declining.
- (6) At the end of each adaptive management checkpoint evaluation and after the Department has completed sections 3 through 5 of this rule, the Department will hold at least one public meeting at a location within the critical groundwater area at which the Department will prepare and present a technical memo including:
  - a. The findings of the evaluation of groundwater level changes;
  - b. The comparison to the groundwater level change envelope; and
  - c. Any adjustments to the scheduled reductions.
- (7) No sooner than 2058, the Department will evaluate the groundwater level decline rate for each subarea to identify if the target groundwater level trend has been achieved. The groundwater level decline rate will be calculated using the Sen's slope method using annual high measurements for representative wells with sufficient data as determined by the Department from the six years leading up to the evaluation. After the evaluation in this section, if:
  - a. The target groundwater level trend has not been achieved, and all scheduled reductions have not been implemented, the Department may evaluate groundwater conditions and implement additional reductions as needed to achieve the target groundwater level trend; or
  - b. The target groundwater level trend has not been achieved, and all scheduled reductions have been implemented, the Department may initiate a rulemaking process to adjust the permissible total withdrawal as needed to achieve the target groundwater level trend.

Statutory/Other Authority: ORS 537.742, ORS 537.735

Statutes/Others Implemented: ORS 536.027, ORS 537.780, ORS 537.525, ORS 536.300

**Rule Summary:**

This new rule describes how the Department will adjust scheduled reductions in groundwater use based on the median measured groundwater level data as compared to modeled trajectories, shown in Exhibit 14, for each subarea. The Weaver Springs and Upper Blitzen subareas are excluded from this process. For the other five subareas, adaptive management will occur every six years for the 30-year management period. In 2058 the Department will



evaluate the groundwater level decline rate to identify if the target groundwater level trend has been achieved. This rule also contains a provision for evaluating groundwater levels and the Sens's slope rate of decline in 2028, if certain conditions are met then the 2028 reductions will be reduced to zero.

**690-512-0110 Serious Water Management Problem Area (SWMPA)**

- (1) Groundwater conditions within the SWMPA boundary defined in OAR 690-512-0020(3) meet the criteria defined in OAR 690-085-0020(1)(a) and OAR 690-085-0020(1)(f).
- (2) Any state-issued groundwater rights or federally reserved groundwater claims held by a Federally Recognized Indian Tribe are exempt from the requirements of this rule.
- (3) By March 1, 2028, each groundwater right holder, well owner, or well operator shall install a totalizing flow meter in accordance with manufacturer specifications on each well listed as a point of appropriation on a valid groundwater right within the Harney SWMPA boundary as defined in OAR 690-512-0020(3). The Department may extend the deadline as needed. If the deadline is extended, the Department will notify each groundwater right holder, well owner, or well operator at least 60 days before March 1, 2028.
- (4) Totalizing flow meters and the method of flow meter installation may be subject to approval by Department staff. Once installed, totalizing flow meters must be maintained in good working order. Department staff shall have reasonable access to the totalizing flow meters upon request pursuant to ORS 537.780(1)(e).
- (5) The groundwater right holder, well owner, or well operator shall keep a complete record of the volume of water appropriated each month. The groundwater right holder, well owner, or well operator shall submit annually a report that includes water use measurements to the Department by December 31 of each calendar year for water used between November 1<sup>st</sup> of the preceding year and October 31<sup>st</sup> of the current year. Reports shall be submitted using a form developed and maintained by the Department.
- (6) A totalizing flow meter shall meet the following specifications:
  - a. A totalizing flow meter shall have a rated accuracy of plus or minus 2 percent of actual flow for all flow rates for which the meter is expected to measure;
  - b. A totalizing flow meter shall measure the entire discharge from the well;
  - c. A totalizing flow meter shall have a visual display and shall be equipped with a sweep hand or digital readout so that instantaneous flow rate can be read;



- d. The totalizing part of the flow meter shall have sufficient capacity to record at minimum the quantity of water authorized to be pumped over a period of 2 years. Units of water measurement shall be in acre-feet, cubic-feet, or gallons, and the totalizer shall read directly in one of these units. Flow meters recording in acre-feet shall, at a minimum, read to the nearest 1/10th acre-foot, and the decimal multiplier shall be clearly indicated on the face of the register head;
  - e. Totalizers on each meter shall not be field reset without notice to and written permission from the local watermaster. Prior to resetting the totalizers, the final reading must be recorded and reported;
  - f. The totalizing flow meter shall be installed in accordance with all manufacturer specifications. There shall be no turnouts or diversions between the well and the flow meter; and
  - g. The totalizing flow meter shall be installed no more than 100 feet from the well head unless an exception is approved by the watermaster in writing.
- (7) A water user shall report broken flow meters to the local watermaster's office within 48 hours after determining that the flow meter is broken. A water user shall not appropriate water for more than 60 days without an operating flow meter.
- (8) While the flow meter is broken, the water user shall use other methods of reporting as defined under OAR 690-085-0015(5) until the flow meter is replaced or repaired. The water user shall keep the monthly data and mail the data to the local watermaster upon request. The data shall include a statement of the initial reading on the newly installed flow meter, the current power meter reading and the time of operation. The water user shall notify the local watermaster within 48 hours of installing the repaired or replacement flow meter.
- (9) Failure to have and maintain a properly installed, functioning totalizing flow meter by the deadline will result in the local watermaster regulating and controlling the unmetered well such that no groundwater may be pumped or appropriated until a flow meter is installed consistent with these rules.
- (10) Groundwater wells that are regulated off and disconnected from all water use infrastructure including power and plumbing do not require a totalizing flow meter to be installed or to report water use unless or until use is permitted to resume.
- (11) Any governmental entity required to submit water use reports under OAR 690-085 is exempt from the reporting requirements of this rule.
- (12) Consistent with ORS 536.900, ORS 183.745, and OAR 690-260, the Department may assess civil penalties for violation of these rules.



Statutory/Other Authority: ORS 183.745, ORS 540.435, ORS 536.900, ORS 536.905, ORS 536.910, ORS 536.915, ORS 536.920, ORS 536.930, ORS 536.935, OAR 690-260, 690-085-0020(1)(a), OAR 690-085-0020(1)(f), OAR 690-085-0015(5)

Statutes/Others Implemented: ORS 536.027, ORS 536.900, ORS 536.905, ORS 536.910, ORS 536.915, ORS 536.920, ORS 536.930, ORS 536.935, ORS 537.780, OAR 690-085-0020(1)(f), OAR 690-085-0015(5)

**Rule Summary:** This new rule establishes water use measurement and reporting requirements within the Serious Water Management Problem Area boundary defined in OAR 690-512-0020(3). Each groundwater right holder, well owner, or well operator shall install a totalizing flowmeter by March 1, 2028, according to the specifications in this rule. Water use between November 1st of the preceding year and October 31st of the current year is required to be reported to the Department by December 31<sup>st</sup> each year. Failure to install a flowmeter or report use will result in the local watermaster shutting off the well and potential assessment of civil penalties.

#### **690-512-120 Whitehorse and Willow Creeks**

Willow Creek and tributaries, and Whitehorse Creek and tributaries are withdrawn from future appropriations except as described in the order of the Water Resources Commission effective April 24, 1992.

Statutory/Other Authority: ORS 536.410  
Statutes/Other Implemented: ORS 536.410

#### **690-512-130 Home Creek Reservations**

(1) Reservations of water for economic development are established pursuant to ORS 537.249 and 537.356 economic benefits through both instream and out-of-stream uses of water. 4,550 acre-feet of unappropriated water in Home Creek and tributaries are reserved for multipurpose storage for future economic development as allowed under ORS 537.356 with a priority date of February 25, 2009.

(2) "Multipurpose reservoir", as used in OAR 690-512-0100 means a reservoir storing water to serve more than two potential beneficial uses including but not limited to irrigation, power generation, municipal water supply, recreation and flow augmentation for instream purposes.



(3) Reservations of water for future economic development allocate surface water for storage in multipurpose reservoirs.

(4) For the purposes of review of applications to store reserved water under OAR chapter 690, division 310, and subject to the provisions of section (6), the reserved quantities of water listed in OAR 690-512-0100(1) are available for appropriation.

(5) The determination of water availability under section (4) shall not substitute for consideration during the public interest review of site-specific information related to the capacity of the resource to support the proposed project, as required under OAR chapter 690, division 310.

(6) In addition to the requirements of ORS Chapter 537 and applicable rules, the Department will only issue an order approving an application for a permit to store water in the Home Creek basin reserved under any reservation if it first finds:

(a) The proposed reservoir and any water rights secondary with the storage right are consistent with the purpose and intent of the reservation following consultation with Harney County Court;

(b) The proposed reservoir and any water rights secondary to the storage right will protect instream values, including but not limited to instream flows and water quality based upon a written assessment of these values developed in consultation with Department of Fish and Wildlife and Department of Environmental Quality; and

(c) Whether minimum bypass flows are required.

(7) In addition to the requirements of ORS Chapter 537 and applicable rules, any final order approving an application for a permit to store water and any order for water rights secondary with the storage right under the Home Creek Reservation shall contain the findings required in (6)(a)–(c) above, and will also contain conditions that:

(a) Set the appropriate storage season,

(b) Ensure no injury to senior water rights, including instream water rights,

(c) Protect instream values; and

(d) Set minimum bypass flows if identified under (6)(c) above.

(8) If the Department has not received applications for multipurpose reservoir permits for the full quantity of reserved water by July 1, 2014, the Department shall provide the Parties



involved in the Home Creek Settlement Agreement with a progress report on development of the reservations. The report shall include information on the continued need for the reservations and the quantities of water reserved. The Department shall continue to provide progress reports at five year intervals while these rules are in effect unless the Department receives applications for multipurpose reservoir permits for the full quantity of reserved water.

(9) If the Department has not received applications for multipurpose reservoir permits for the full quantity of water reserved by July 1, 2029, applications for remaining quantities of unallocated water under OAR 690-0512-0100(1) may not be accepted after July 1, 2029, unless this deadline is extended through rulemaking by the Water Resources Commission.

Statutory/Other Authority: ORS 536 & 537

Statutes/Other Implemented: ORS 536.310, 537.249, 537.356 & 537.358

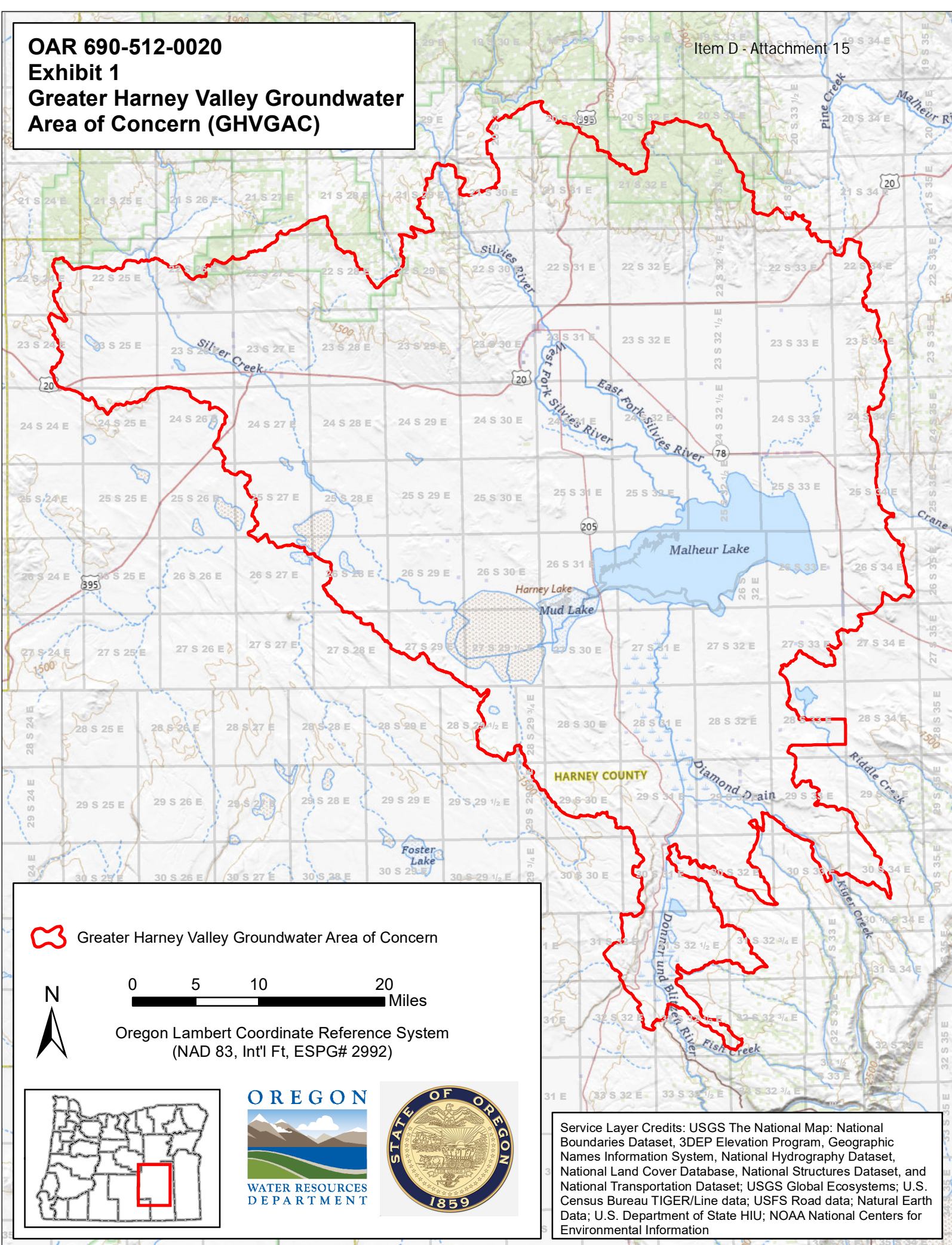


OAR 690-512-0020

Exhibit 1

Greater Harney Valley Groundwater  
Area of Concern (GHVGAC)

Item D - Attachment 15





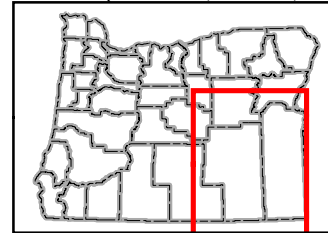
**OAR 690-512-0020**  
**Exhibit 2**  
**Malheur Lake Basin**



Item D Attachment 15

0 10 20 40 Miles

Oregon Lambert Coordinate Reference System  
 (NAD 83, Int'l Ft, ESPG# 2992)



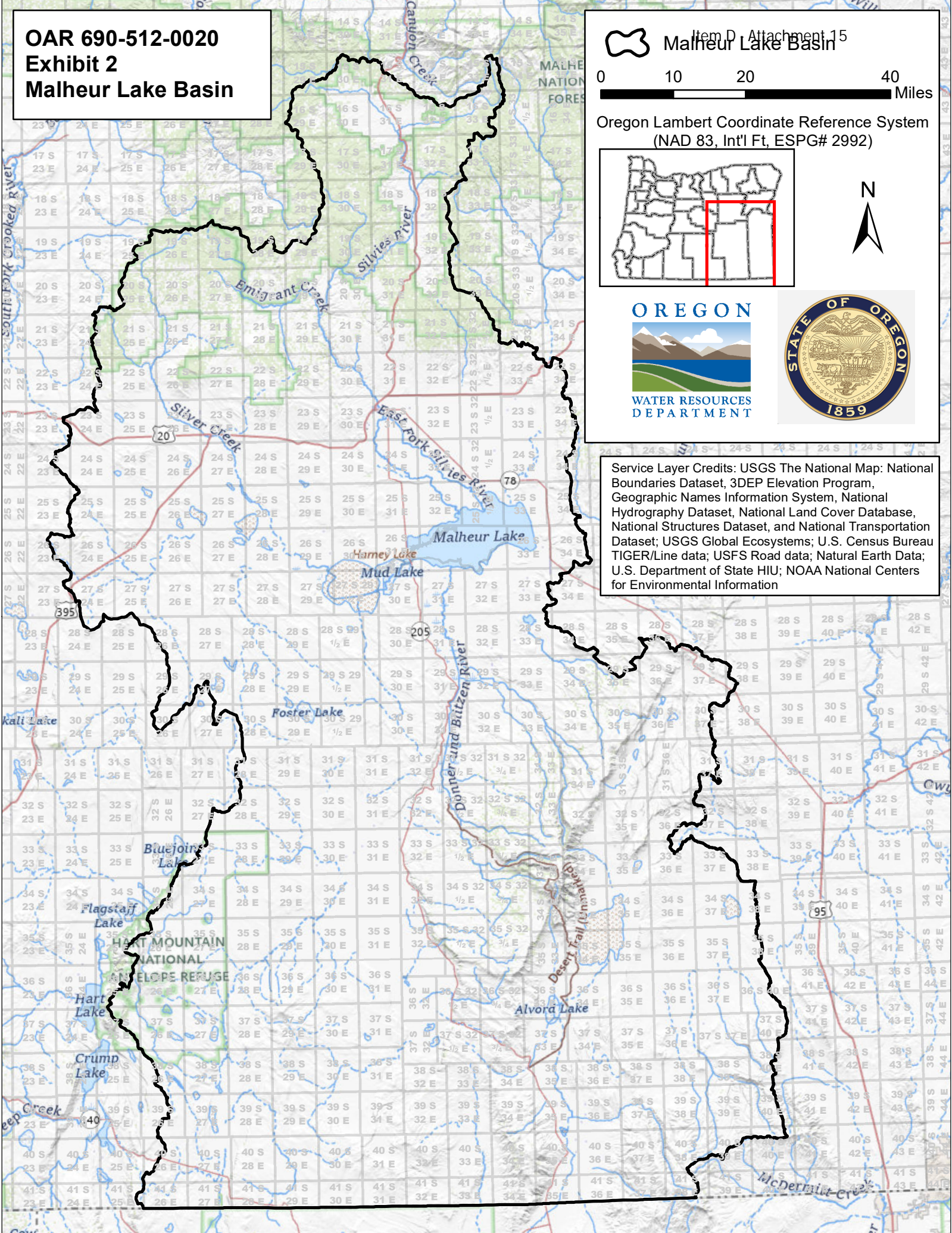
**OREGON**



**WATER RESOURCES  
 DEPARTMENT**



Service Layer Credits: USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information



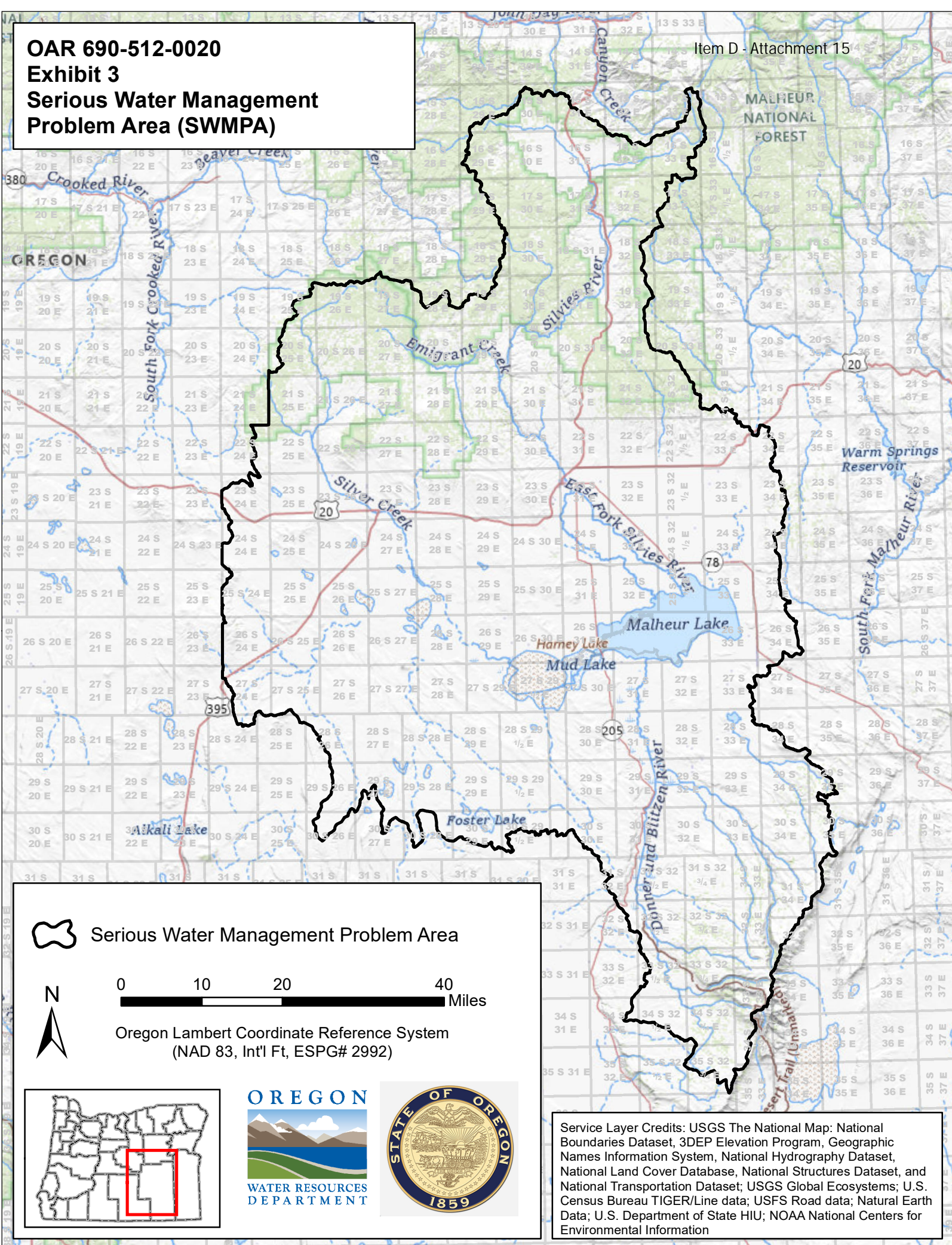


OAR 690-512-0020

Exhibit 3

Serious Water Management  
Problem Area (SWMPA)

Item D - Attachment 15

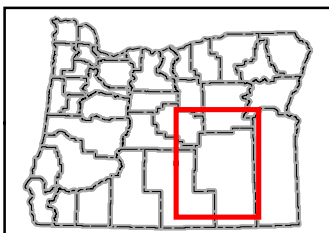


Serious Water Management Problem Area



0 10 20 40 Miles

Oregon Lambert Coordinate Reference System  
(NAD 83, Int'l Ft, ESPG# 2992)

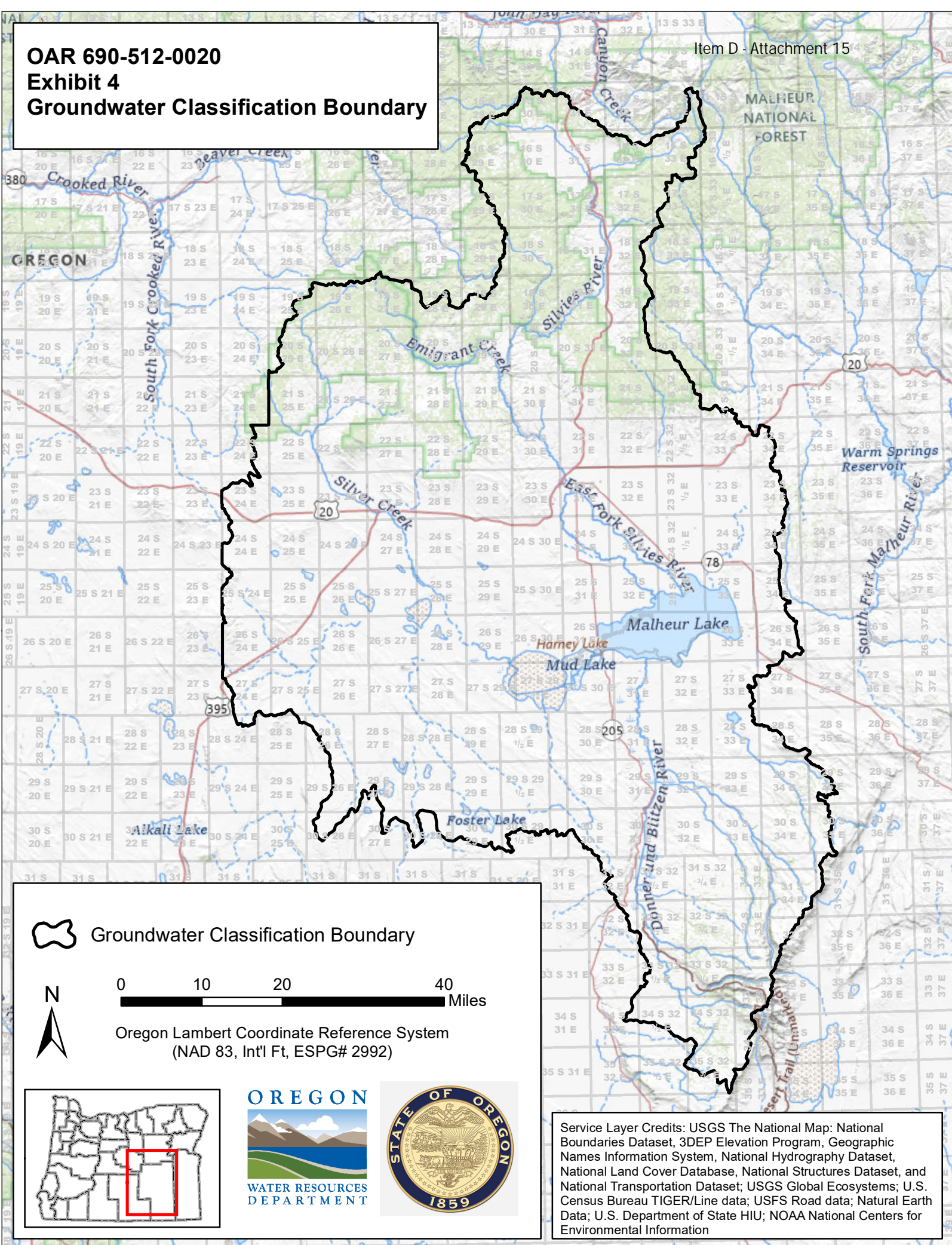


Service Layer Credits: USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information



# OAR 690-512-0020 Exhibit 4 Groundwater Classification Boundary

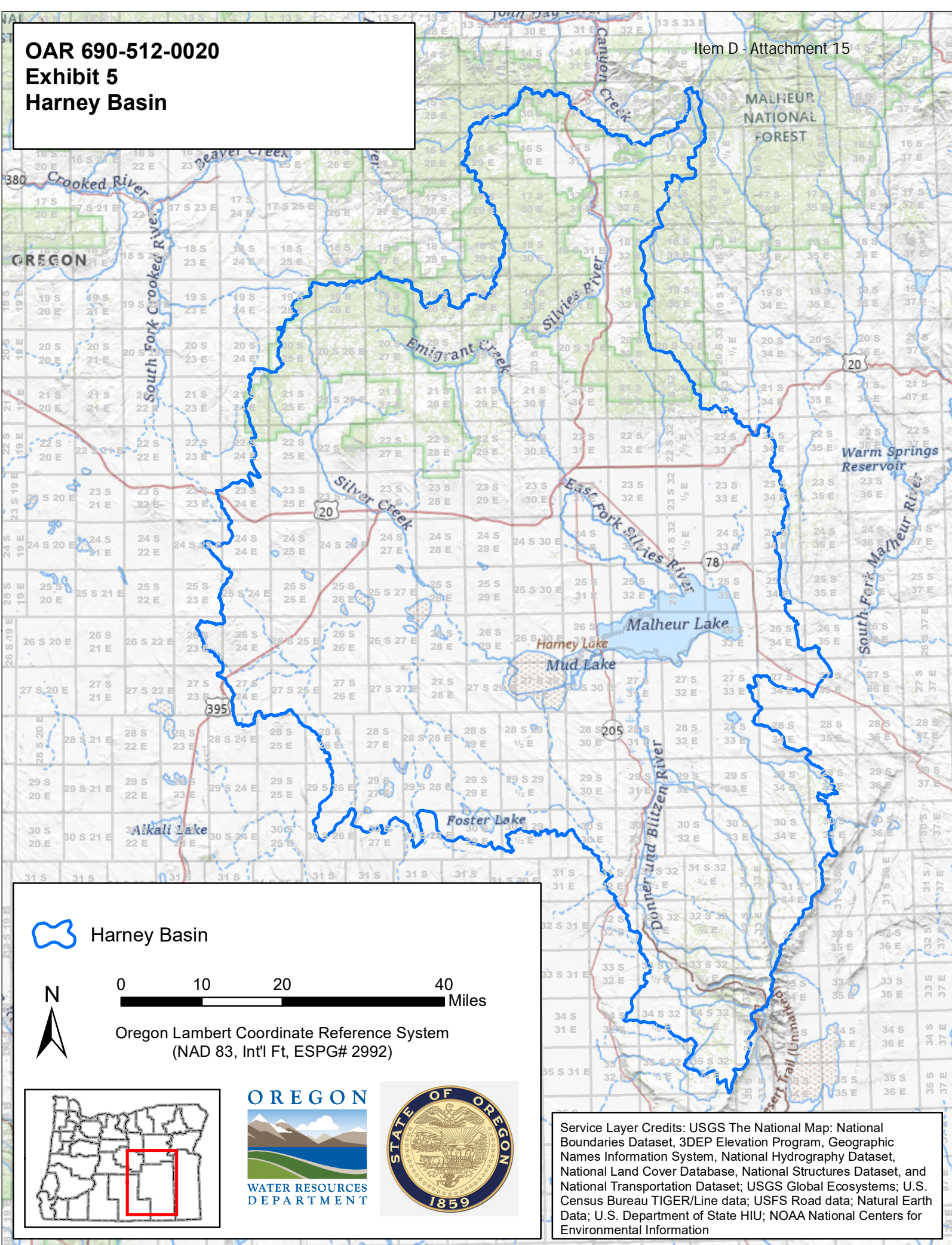
Item D - Attachment 15





**OAR 690-512-0020**  
**Exhibit 5**  
**Harney Basin**

Item D - Attachment 15



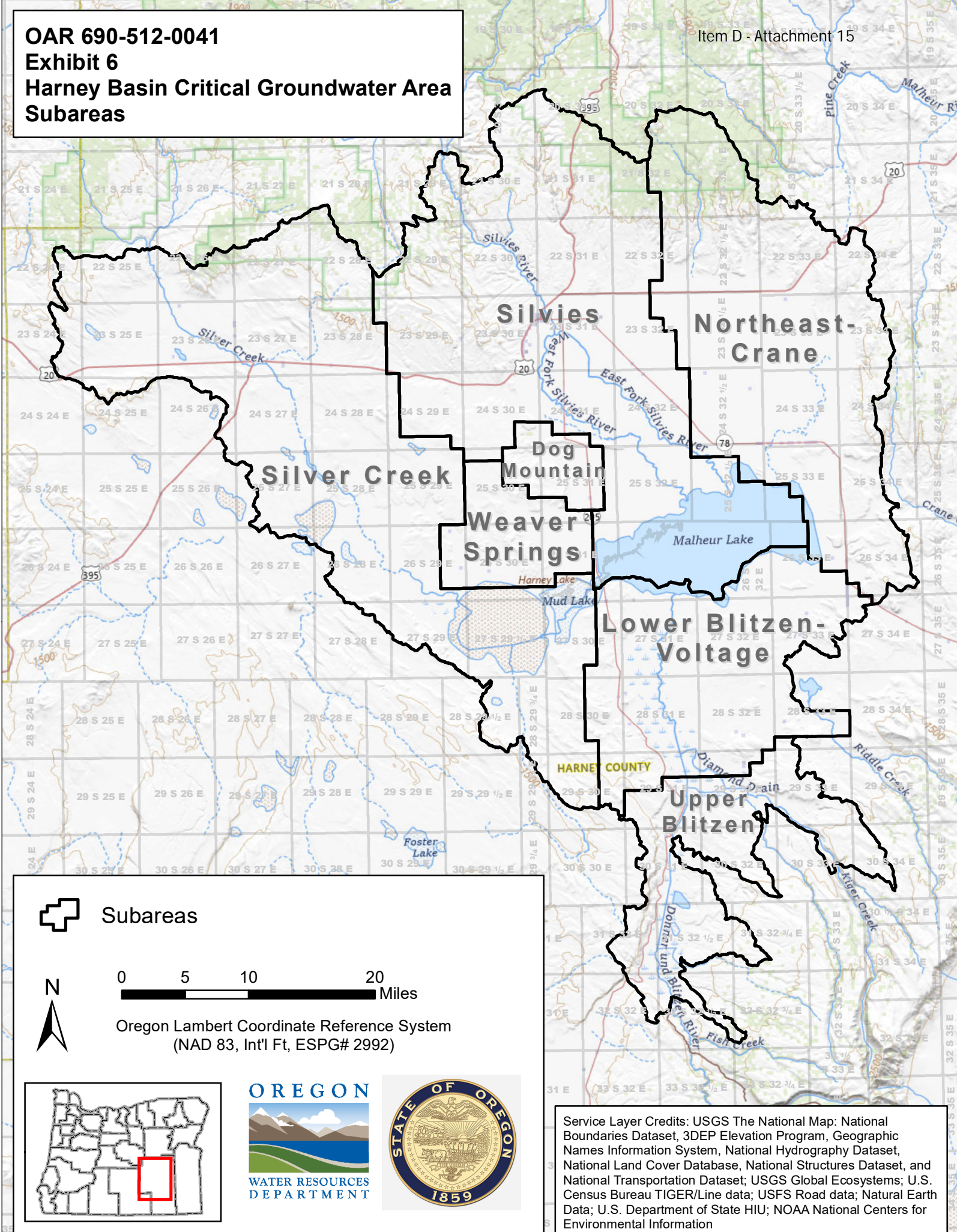


OAR 690-512-0041

Exhibit 6

Harney Basin Critical Groundwater Area  
Subareas

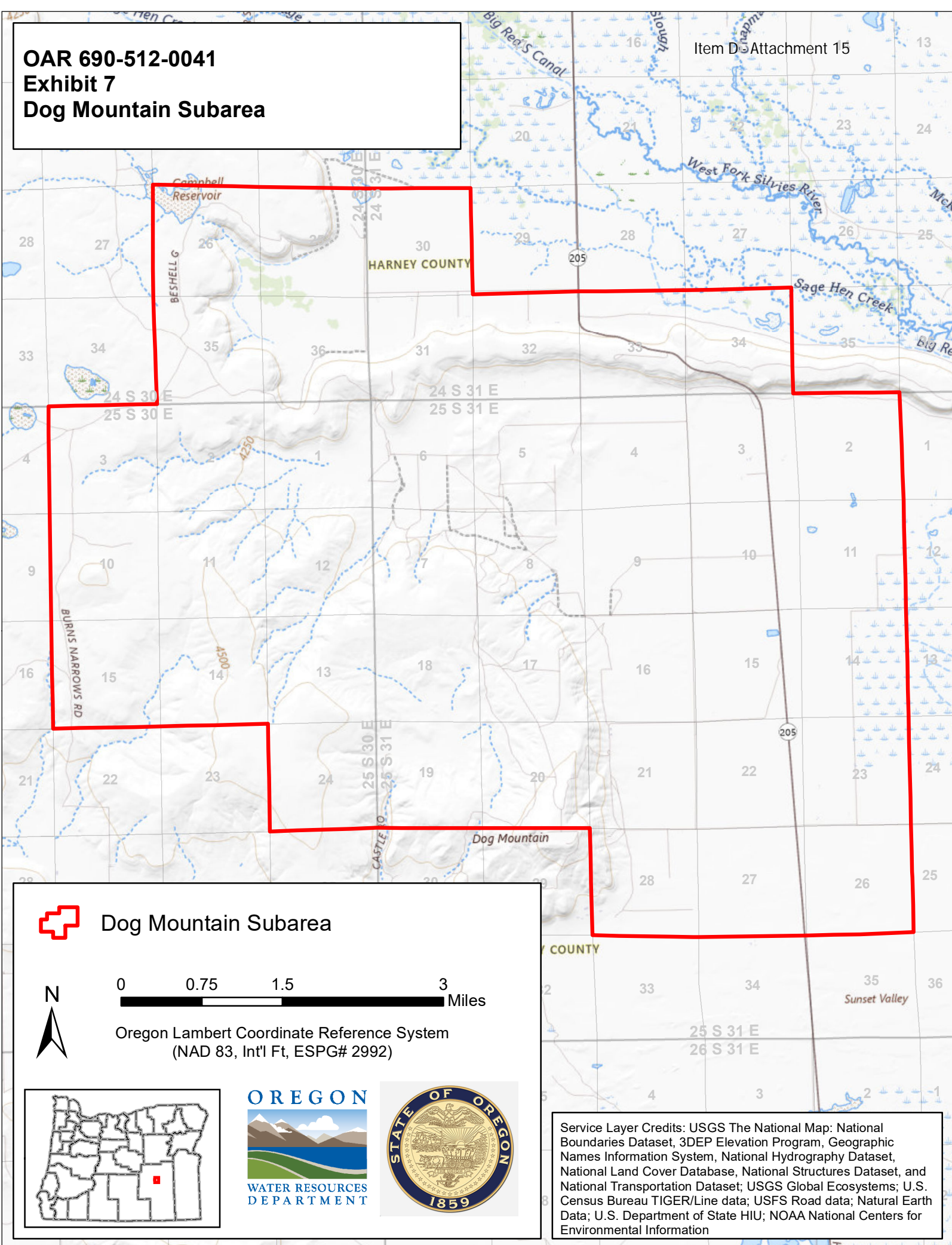
Item D - Attachment 15





**OAR 690-512-0041**  
**Exhibit 7**  
**Dog Mountain Subarea**

Item D-Attachment 15

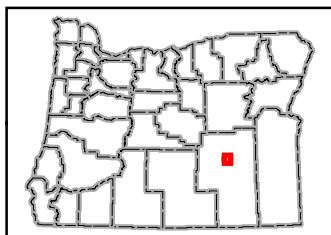


**Dog Mountain Subarea**



0 0.75 1.5 3 Miles

Oregon Lambert Coordinate Reference System  
 (NAD 83, Int'l Ft, ESPG# 2992)

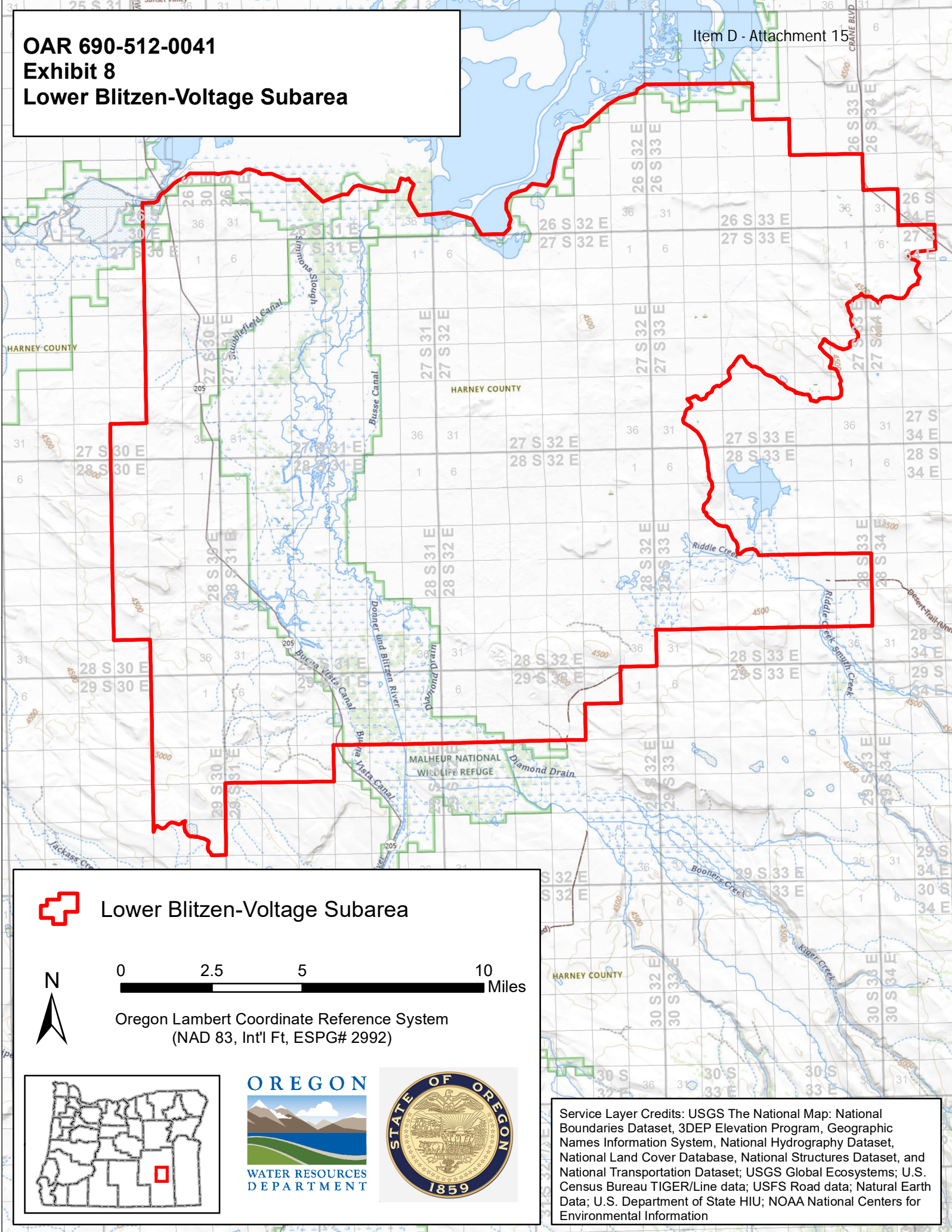


Service Layer Credits: USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information



**OAR 690-512-0041**  
**Exhibit 8**  
**Lower Blitzen-Voltage Subarea**

Item D - Attachment 15

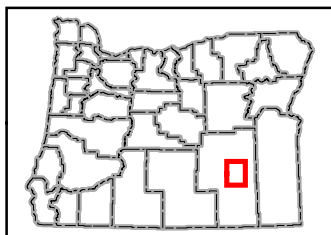


**Lower Blitzen-Voltage Subarea**



0 2.5 5 10 Miles

Oregon Lambert Coordinate Reference System  
(NAD 83, Int'l Ft, ESPG# 2992)

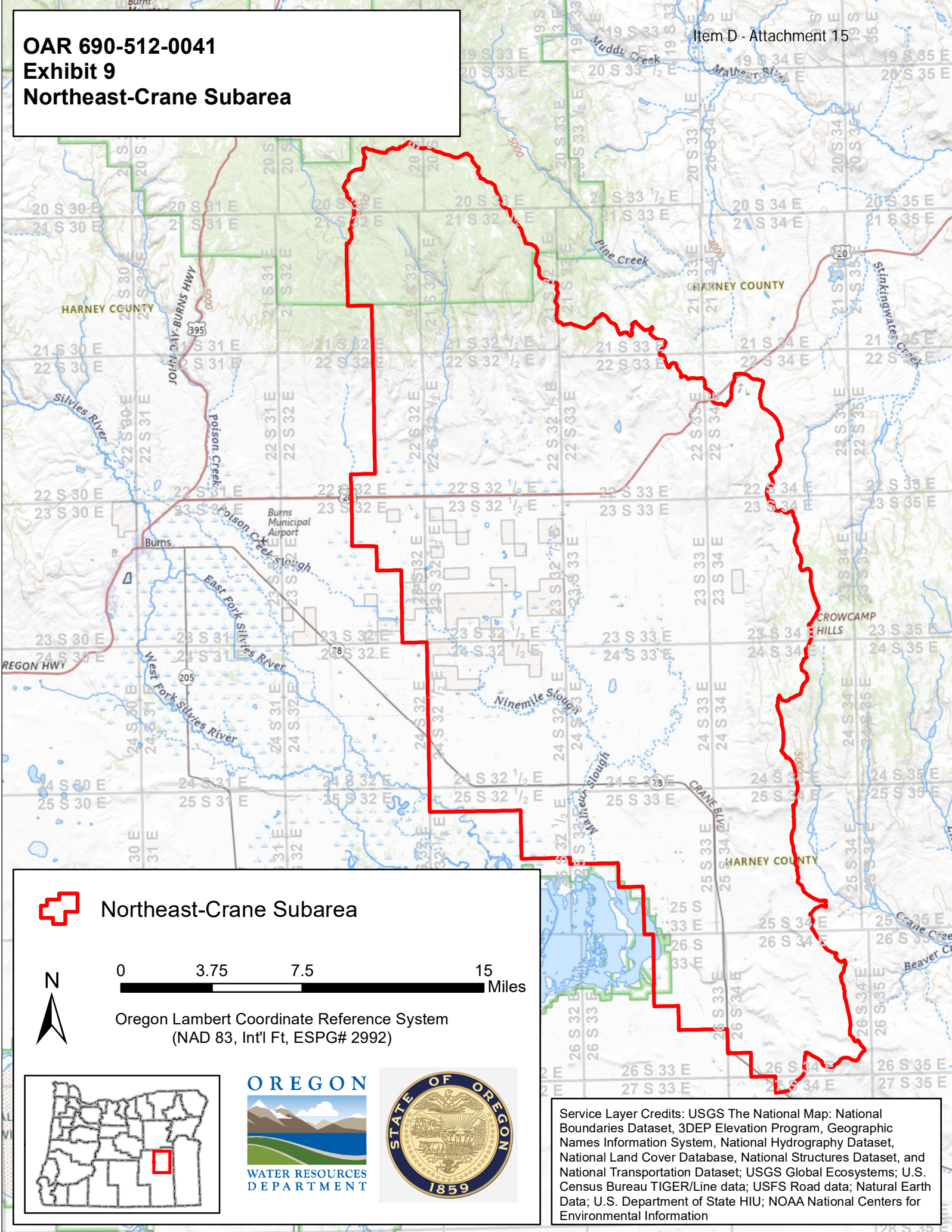


Service Layer Credits: USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information



**OAR 690-512-0041**  
**Exhibit 9**  
**Northeast-Crane Subarea**

Item D - Attachment 15

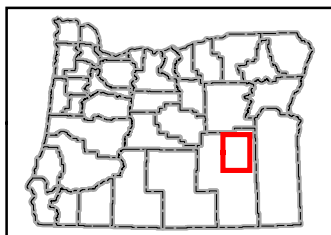


**Northeast-Crane Subarea**



0 3.75 7.5 15 Miles

Oregon Lambert Coordinate Reference System  
 (NAD 83, Int'l Ft, ESPG# 2992)

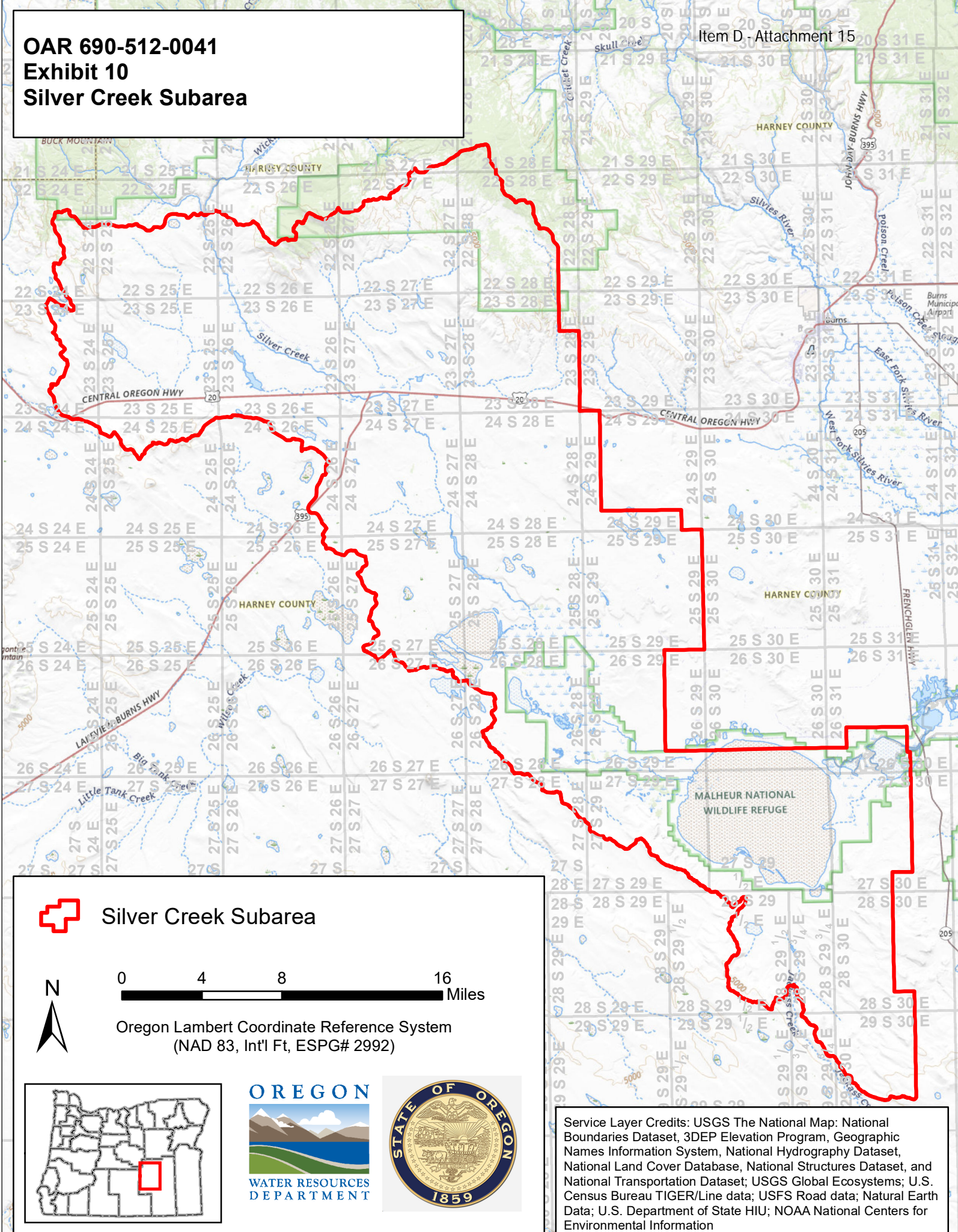


Service Layer Credits: USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information



**OAR 690-512-0041**  
**Exhibit 10**  
**Silver Creek Subarea**

Item D - Attachment 15

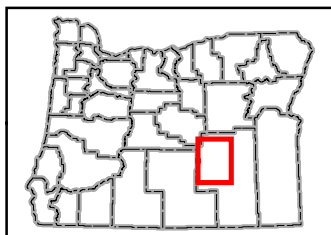


**Silver Creek Subarea**



0 4 8 16 Miles

Oregon Lambert Coordinate Reference System  
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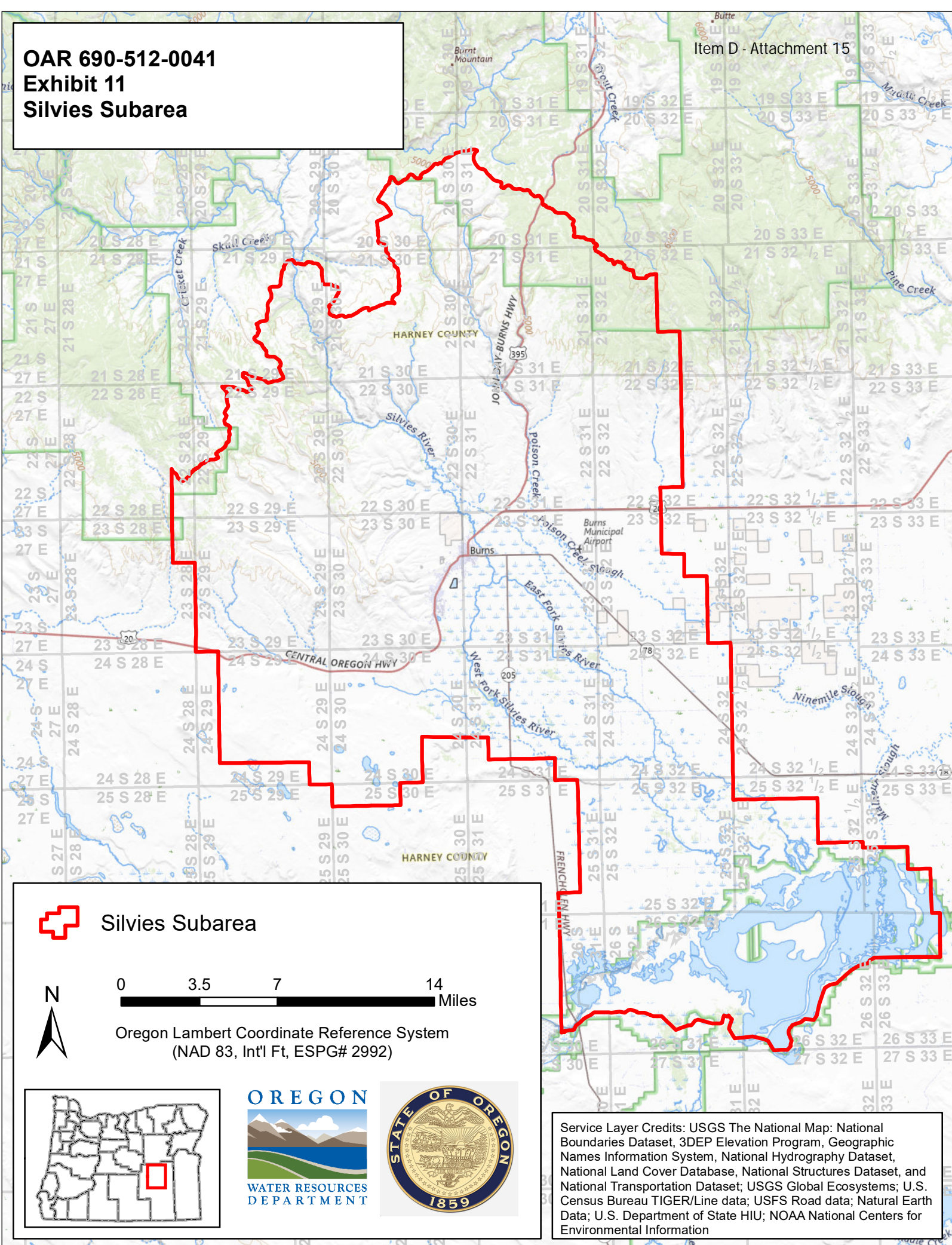


Service Layer Credits: USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information



**OAR 690-512-0041**  
**Exhibit 11**  
**Silvies Subarea**

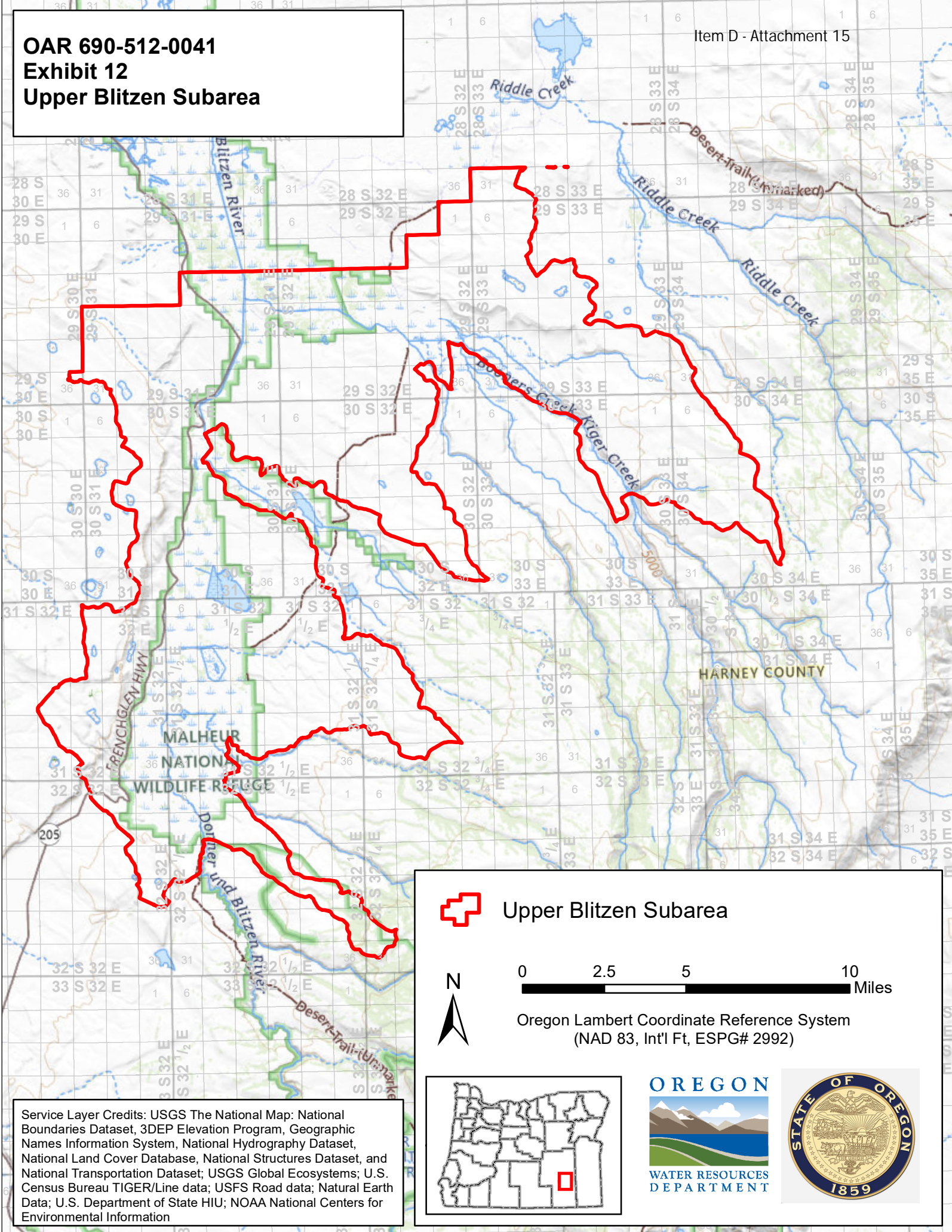
Item D - Attachment 15





**OAR 690-512-0041**  
**Exhibit 12**  
**Upper Blitzen Subarea**

Item D - Attachment 15

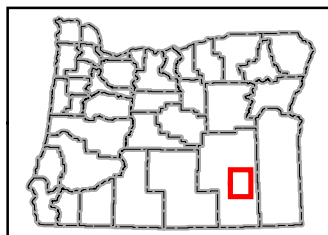


**Upper Blitzen Subarea**



0 2.5 5 10 Miles

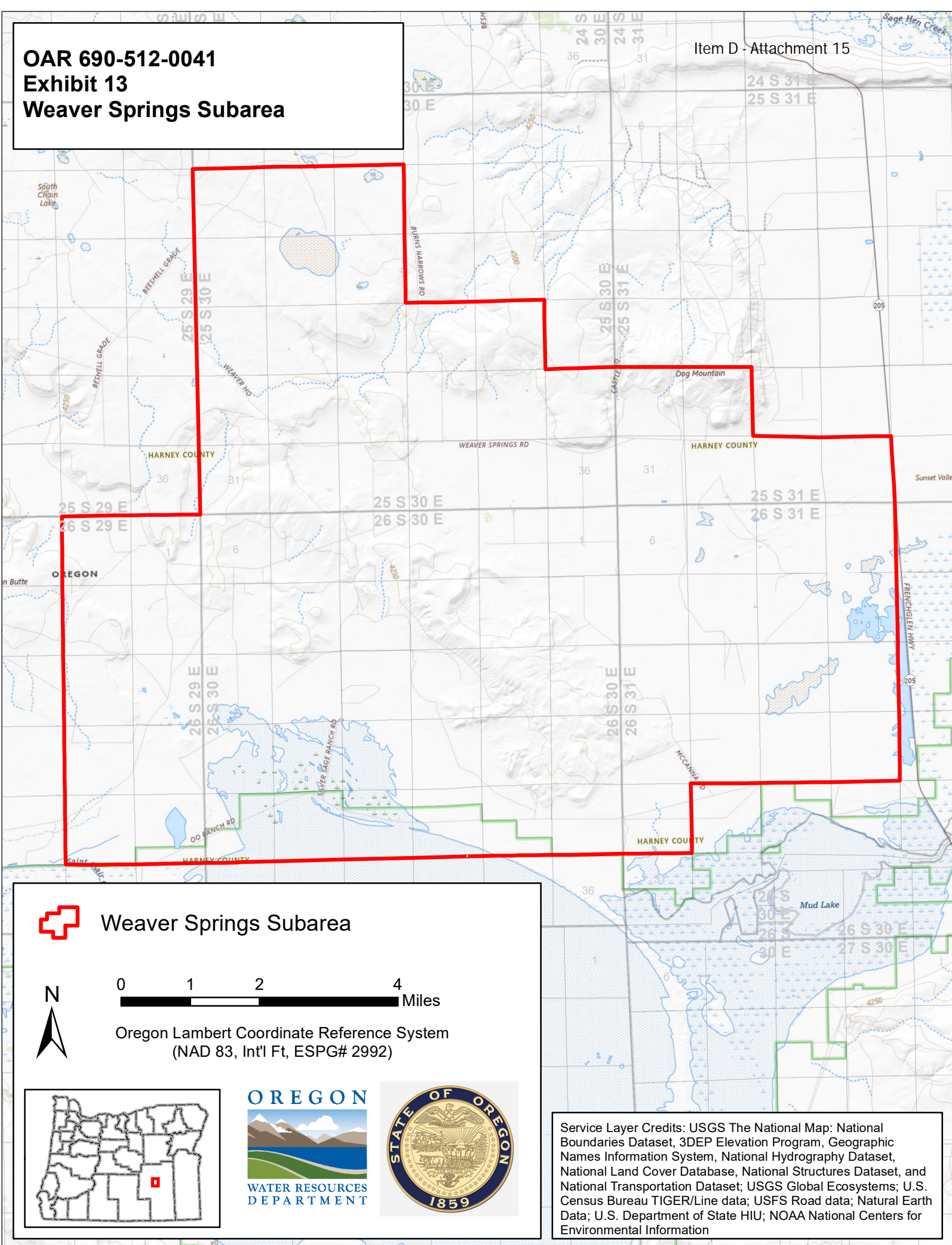
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Service Layer Credits: USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information



Item D - Attachment 15



Service Layer Credits: USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information



## Groundwater Level Change Envelope

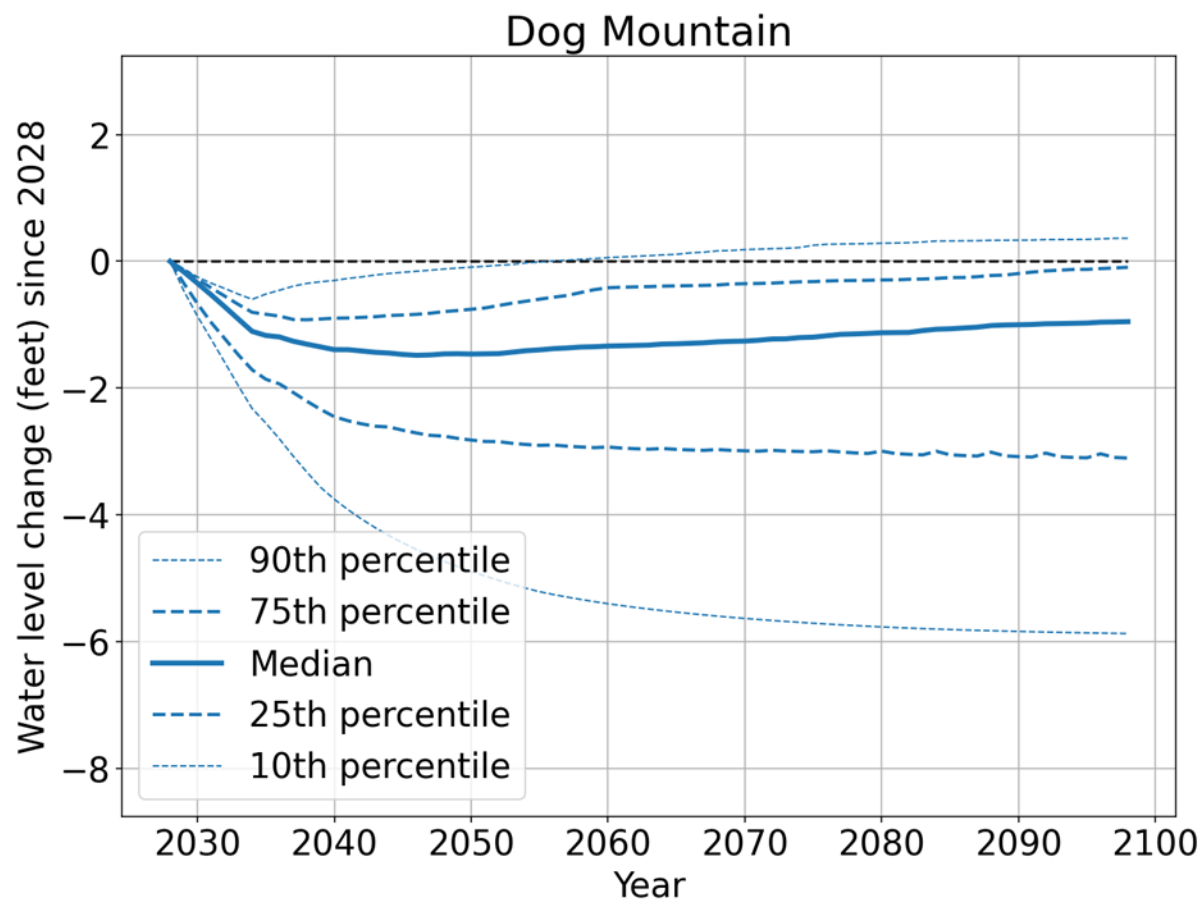


Table 1: Magnitudes of changes in annual high water levels (feet) compared with year 2028 in the Dog Mountain subarea. Each column represents a particular year when water level changes may be evaluated. Each row represents a percentile of water level changes within the subarea.

Percentile	2028	2033	2039	2045	2051	2057
90	0	-0.5	-0.3	-0.2	-0.1	0
75	0	-0.7	-0.9	-0.8	-0.7	-0.5
50	0	-0.9	-1.4	-1.5	-1.5	-1.4
25	0	-1.5	-2.3	-2.7	-2.8	-2.9
10	0	-2	-3.6	-4.4	-5	-5.3



## Groundwater Level Change Envelope

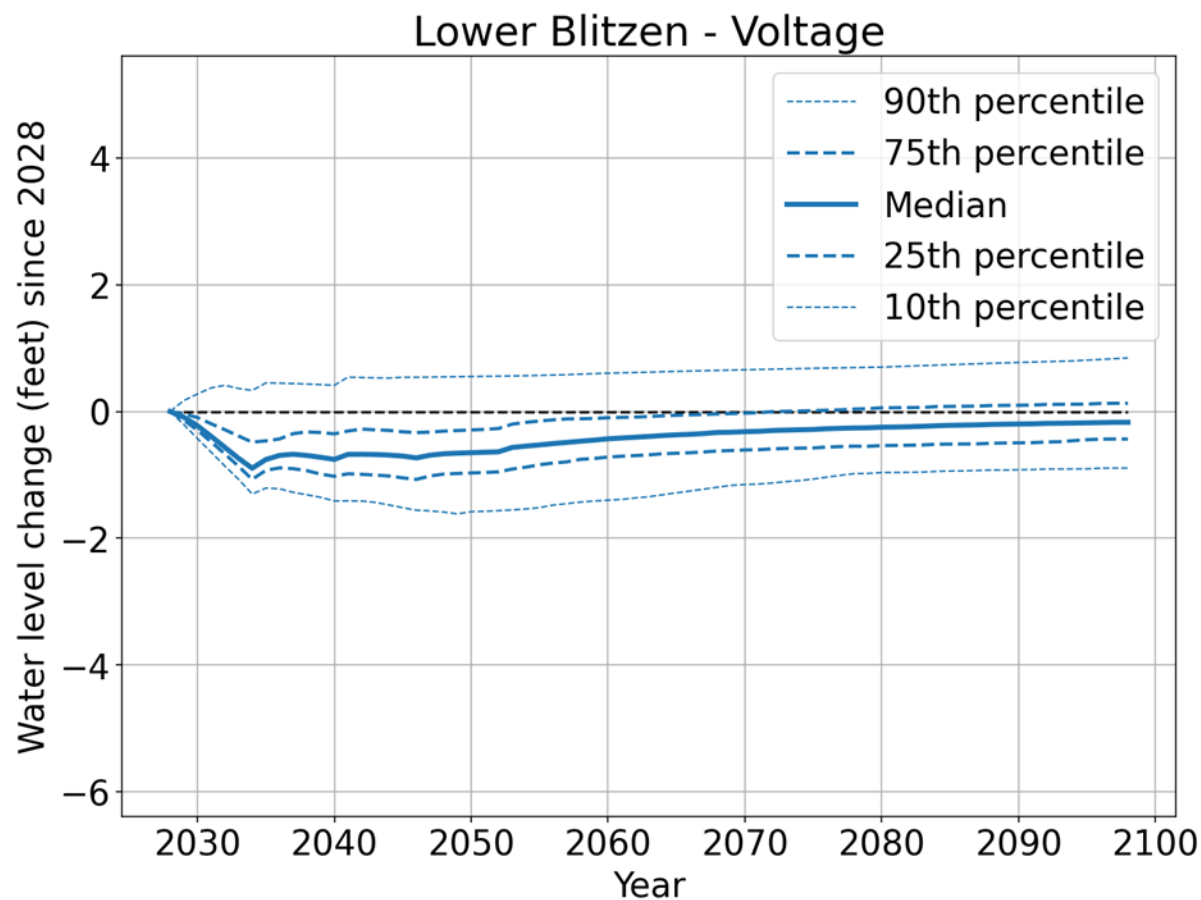


Table 2: Magnitudes of changes in annual high water levels (feet) compared with year 2028 in the Lower Blitzen - Voltage subarea. Each column represents a particular year when water level changes may be evaluated. Each row represents a percentile of water level changes within the subarea.

Percentile	2028	2033	2039	2045	2051	2057
90	0	0.4	0.4	0.5	0.6	0.6
75	0	-0.4	-0.3	-0.3	-0.3	-0.1
50	0	-0.7	-0.7	-0.7	-0.6	-0.5
25	0	-0.9	-1	-1	-1	-0.8
10	0	-1.1	-1.4	-1.5	-1.6	-1.5



## Groundwater Level Change Envelope

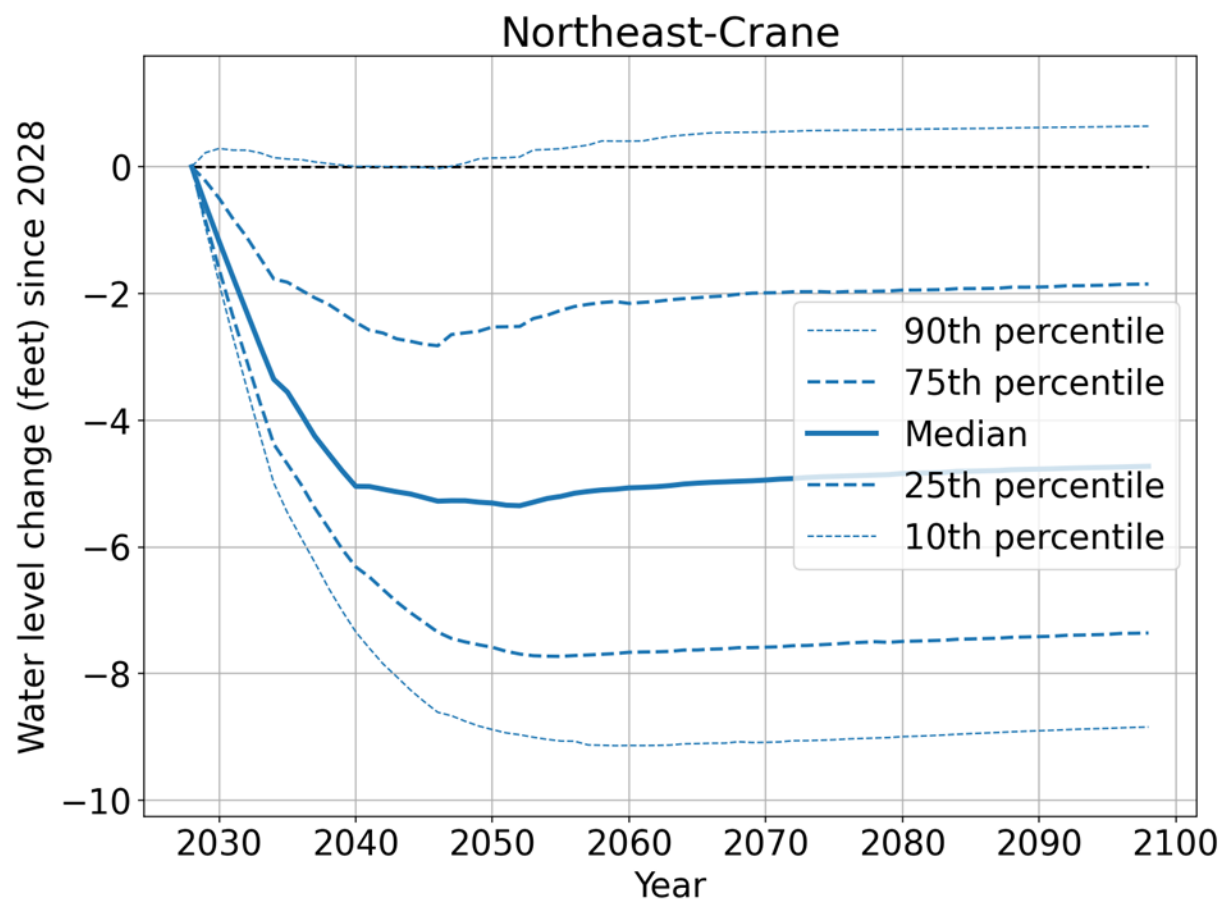


Table 3: Magnitudes of changes in annual high water levels (feet) compared with year 2028 in the Northeast - Crane subarea. Each column represents a particular year when water level changes may be evaluated. Each row represents a percentile of water level changes within the subarea.

Percentile	2028	2033	2039	2045	2051	2057
90	0	0.2	0	0	0.1	0.3
75	0	-1.4	-2.3	-2.8	-2.5	-2.2
50	0	-2.8	-4.8	-5.2	-5.3	-5.1
25	0	-3.7	-6	-7.2	-7.6	-7.7
10	0	-4.2	-7	-8.4	-8.9	-9.1



## Groundwater Level Change Envelope

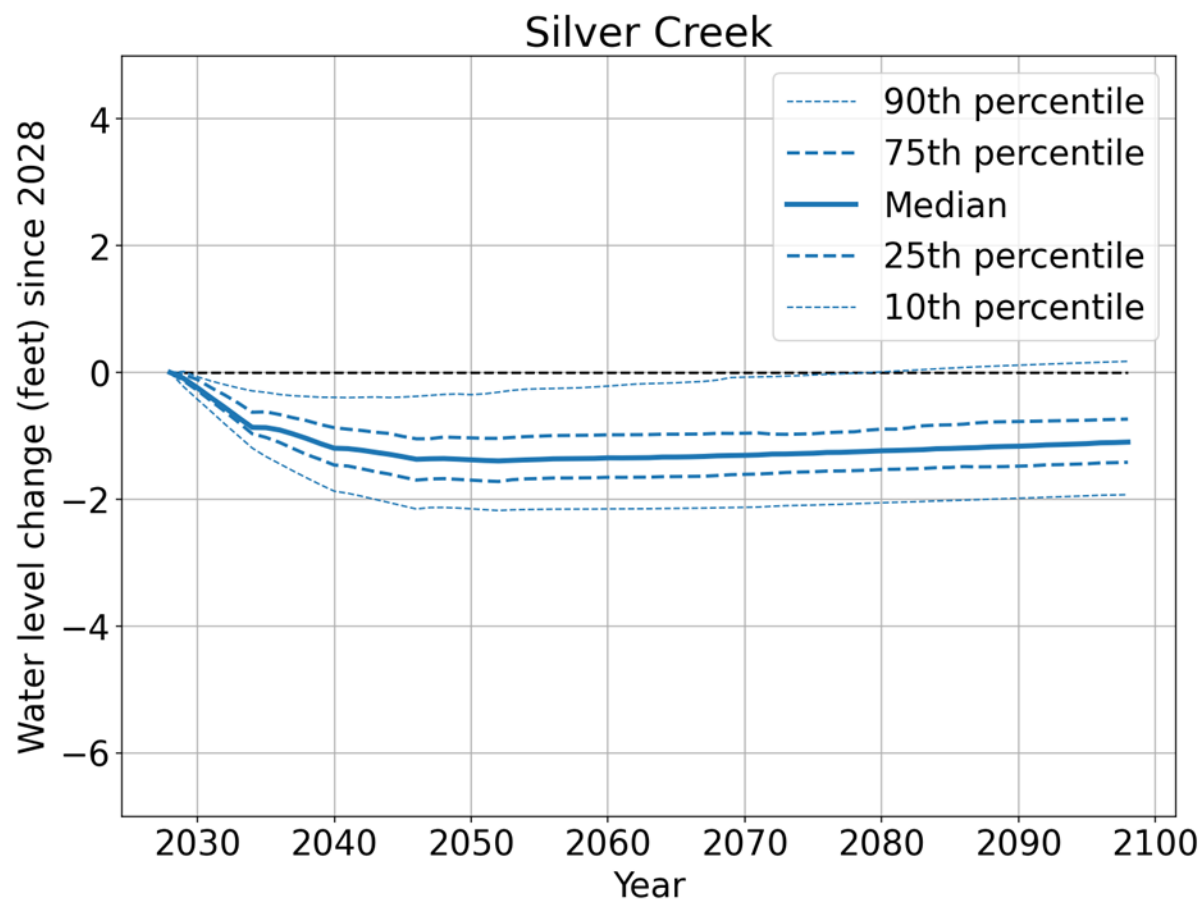


Table 4: Magnitudes of changes in annual high water levels (feet) compared with year 2028 in the Silver Creek subarea. Each column represents a particular year when water level changes may be evaluated. Each row represents a percentile of water level changes within the subarea.

Percentile	2028	2033	2039	2045	2051	2057
90	0	-0.2	-0.4	-0.4	-0.3	-0.2
75	0	-0.5	-0.8	-1	-1	-1
50	0	-0.7	-1.1	-1.3	-1.4	-1.4
25	0	-0.8	-1.4	-1.7	-1.7	-1.7
10	0	-1	-1.8	-2.1	-2.2	-2.2



## Groundwater Level Change Envelope

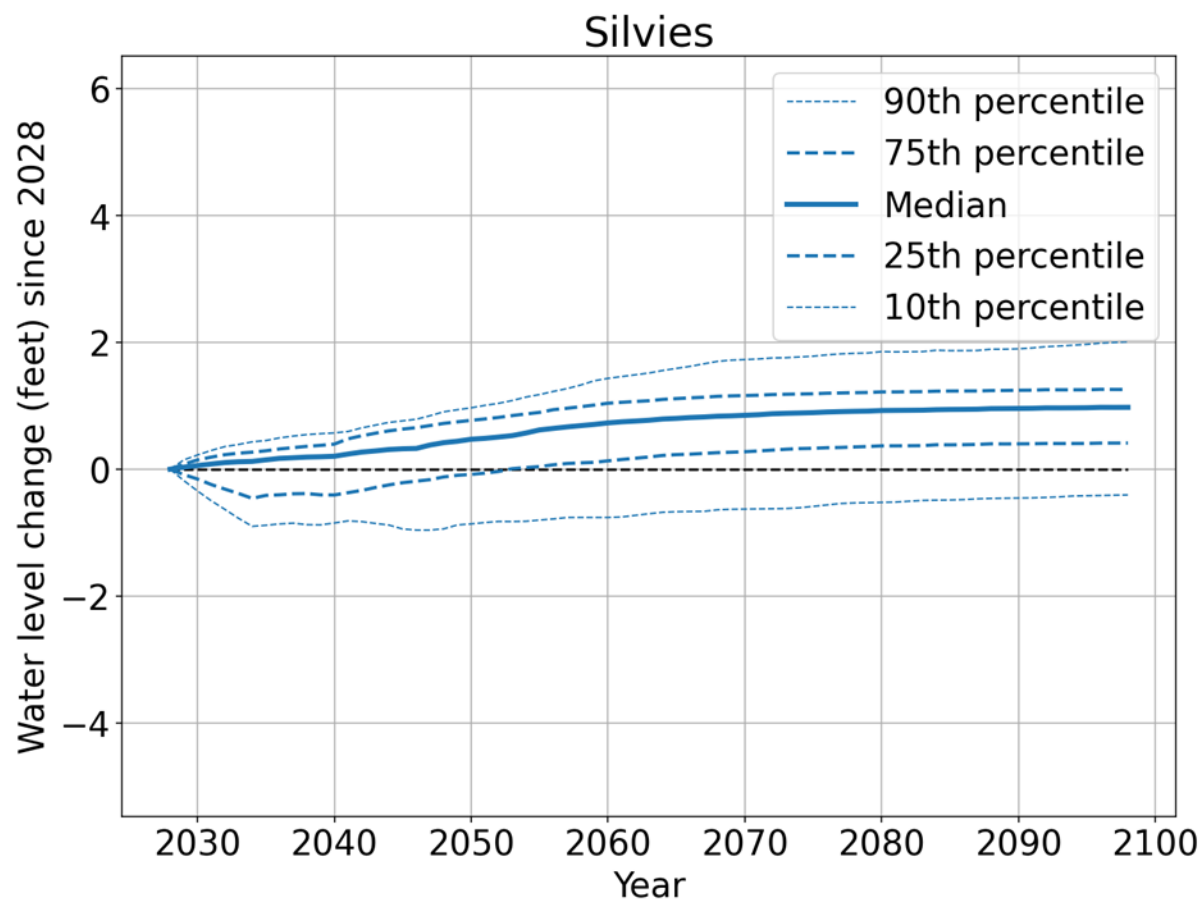


Table 5: Magnitudes of changes in annual high water levels (feet) compared with year 2028 in the Silvies subarea. Each column represents a particular year when water level changes may be evaluated. Each row represents a percentile of water level changes within the subarea.

Percentile	2028	2033	2039	2045	2051	2057
90	0	0.4	0.6	0.8	1	1.3
75	0	0.3	0.4	0.6	0.8	1
50	0	0.1	0.2	0.3	0.5	0.7
25	0	-0.4	-0.4	-0.2	-0.1	0.1
10	0	-0.8	-0.9	-0.9	-0.8	-0.8



**WATER RESOURCES DEPARTMENT  
CHAPTER 690  
DIVISION 512  
MALHEUR LAKE BASIN PROGRAM**

**690-512-0010            Definitions**

Unless specified in these rules the definitions in OAR 690-300-0010 apply to the below rules:

- (1) "Adaptive Management Checkpoint" means the scheduled interval at which the Department evaluates changes in groundwater levels and determines if adjustments to scheduled reductions in groundwater use are required as described in OAR 690-512-0080.
- (2) "Exempt Groundwater Uses" are those defined in ORS 537.545.
- (3) "Groundwater Level Change Envelope" means the modeled trajectory for groundwater levels to achieve the target [groundwater](#) level trend by 2058. A groundwater level change envelope is modeled for each subarea including the median, 10<sup>th</sup>, 25<sup>th</sup>, 75<sup>th</sup>, and 90<sup>th</sup> percentiles relative to the modeled groundwater levels in 2028. The envelope describes the range of values that will be used to inform the adaptive management process in OAR 690-512-0080. The trajectories are modeled using "Groundwater model of the Harney Basin, southeastern Oregon" by S.B. Gingerich, D.E. Boschmann, G.H. Grondin, and H.J. Schibel, 2024, U.S. Geological Survey Scientific Investigations Report 2024-5017.
- (4) "Initial Allotment" means the maximum annual volume of water that may be used by each groundwater right upon completion of the contested case.
- (5) "Permissible Total Withdrawal" is the annual volume of groundwater [pumping](#) the Department has determined can achieve the target groundwater level trend by 2058 when following the schedule of reductions defined in OAR 690-512-0070. The Department may not reduce groundwater pumping through regulatory orders to a value less than the permissible total withdrawal. The unit of measurement [ment](#) for the permissible total withdrawal is acre-feet.
- (6) "Public Uses" are those uses defined in ORS 537.332.
- ~~(7)~~ [\(7\)](#) "Regulated off" and "reduce" means the act of limiting groundwater use through a regulatory order.
- ~~(8)~~ [\(8\)](#) "Subarea" means an administratively defined portion of the critical groundwater area to which corrective control provisions under ORS 537.735(3)(a)-(f) may be applied.



~~(10)~~(9) “Target Groundwater Level Trend” means the goal for the rate of change in groundwater levels within a subarea of the critical groundwater area.

~~(11)~~(10) “Totalizing flow meter” is an instrument used to measure and display both the instantaneous flow rate, and the total volume of groundwater produced from a well.

Statutory/Other Authority: ORS 537.545, ORS 537.735, OAR 690-300-0010,  
Statutes/Others Implemented: ORS 536.300 ORS 536.027, ORS 537.332, ORS 537.780

**Rule Summary:** This rule replaces OAR 690-512-0010 (Classification), readopted as 690-512-0030; the rule defines terms used in OAR Chapter 690, Division 512, ORS 536.300, ORS 536.027, ORS 537.545, and ORS 537.735, ~~including “Adaptive Management Checkpoint,” “Exempt Groundwater Uses,” “Groundwater Level Change Envelope,” “Initial Allotment,” “Permissible Total Withdrawal,” “Public Uses,” “Subarea,” “Target Groundwater Level Trend,” and “Totalizing Flow Meter.”~~

## **690-512-0020                      Administrative Boundaries**

(1) The Greater Harney Valley Groundwater Area of Concern (GHVGAC) Boundary is defined for administrative purposes and is described and shown in Exhibit 1.

(2) The Malheur Lake Basin Boundary is delineated on the agency Map 12.6, dated January 1, 1966, and shown in Exhibit 2.

(3) The Serious Water Management Problem Area (SWMPA) Boundary is defined as the Harney Basin within the Malheur Lake Basin and within portions of Grant and Harney Counties as shown in Exhibit 3.

(4) The Groundwater Classification Boundary is defined as the Harney Basin within the Malheur Lake Basin and within portions of Grant and Harney Counties as shown in Exhibit 4.

(5) The Harney Basin is defined as the closed surface-water basin that drains into Malheur and Harney Lakes ~~including and includes~~ the four National Watershed Boundary Dataset 8-digit hydrologic units Donner und Blitzen 17120003, Silver 17120004, Harney-Malheur Lakes 17120001, and Silvies 17120002 as shown in Exhibit 5.

(6) The Harney Basin Groundwater Reservoir Boundary is defined as the area coincident with the Harney Basin Boundary, as shown in Exhibit 5.

(7) The Harney Basin Critical Groundwater Area Boundary is defined as the area coincident with the Greater Harney Valley Groundwater Area of Concern Boundary as shown in Exhibit 1 and contains a portion of the Harney Basin Groundwater Reservoir. ~~The boundary of the Harney Basin Groundwater Reservoir is shown in Exhibit 5.~~



Statutory/Other Authority: ORS 540.435, ORS 536.340, ORS 537.735

Statutes/Others Implemented: ORS 536.027, ORS 537.525, ORS 536.300, ORS 537.780

**Rule summary:** This rule replaces OAR 690-512-0020 (Groundwater use in the Greater Harney Valley Groundwater Area of Concern); the rule defines the administrative boundaries used in OAR, Chapter 690, Division 512, including those for the Greater Harney Valley Groundwater Area of Concern (~~GHVGAC~~), Malheur Lake Basin, Serious Water Management Problem Area (~~SWMPA~~), Groundwater Classification, Harney Basin, Harney Basin Groundwater Reservoir, and Harney Basin Critical Groundwater Area (~~CGWA~~); the rule includes boundary maps as Exhibits 1- 5.

### 690-512-0030

### Classifications

- (1) Except as provided in section 2 of this rule, the groundwater and surface water of the Malheur Lake Basin are classified for direct appropriation of, or storage of surface water and use of, water for domestic, livestock, irrigation, municipal, quasi-municipal, industrial, mining, agricultural water use, commercial, power development, forest management, public uses, road watering, dust abatement, and wildlife refuge management.
- (2) Groundwater in the Groundwater Classification Boundary defined in OAR 690-512-0020(4) is classified for statutorily exempt groundwater uses as specified in ORS 537.545 and nonconsumptive geothermal uses.

Statutory/Other Authority: ORS 536.340, ORS 537.621(2), ORS 537.545,

Statutes/Others Implemented: ORS 536.027, ORS 536.300, ORS 537.621(2), ORS 536.340, ORS 537.780, ORS 537.545

**Rule Summary:** This new rule readopts the current rule OAR 690-512-0010; the-rule retains-the existing surface water classification for the Malheur Lake Basin and classifies groundwater use to exempt uses and nonconsumptive geothermal uses only within the boundary defined in 690-512-0020(4).

### 690-512-0041

### Harney Basin Critical Groundwater Area

- (1) The target groundwater level trend within the Harney Basin Critical Groundwater Area is a median groundwater level decline rate of no more than ~~zero~~ feet per year over a ~~five~~six-year period when calculated as described in OAR 690-512-0080(7).
- (2) The Department may access any well within the critical groundwater area that is authorized as a point of appropriation on a valid water right for the purpose of implementing these rules. The Department will provide notice to the groundwater right holder, well owner, or well operator prior to accessing the well.



- (3) A review of the Harney Basin Critical Groundwater Area rules shall be completed once every ~~3~~three years. The review shall be presented at a public meeting held within the basin at which written and oral public comments shall be accepted. The review and a summary of public comments received shall then be presented at a Commission meeting which has been publicly noticed and provides opportunity for public comment.
- (4) A review of the conditions in the Harney Basin Critical Groundwater area shall be completed no less frequently than once every 10 years. The review shall be presented at a public meeting held within the basin at which written and oral public comment shall be accepted. The review and a summary of public comments received shall then be presented at a Commission meeting which has been publicly noticed and provides opportunity for public comment.
- (5) Except as defined in OAR 690-512-0030(2) Classifications, the Department will not accept new applications for groundwater permits within the Harney Basin Critical Groundwater Area.
- (6) The Harney Basin Critical Groundwater area defined in OAR 690-512-0020(7) shall be divided into seven subareas for the ~~purpose of management~~implementation of corrective control provisions as shown in Exhibit 6.
- a. The Dog Mountain subarea is shown in Exhibit 7~~;~~
  - b. The Lower Blitzen-Voltage subarea is shown in Exhibit 8~~;~~
  - c. The Northeast-Crane subarea is shown in Exhibit 9~~;~~
  - d. The Silver Creek subarea is shown in Exhibit 10~~;~~
  - e. The Silvies subarea is shown in Exhibit 11~~;~~
  - f. The Upper Blitzen subarea is shown in Exhibit 12~~;~~
  - g. The Weaver Springs subarea is shown in Exhibit 13.
- (7) For water rights that include authorized points of appropriation in multiple subareas, the Department will determine which subarea contains the majority of those points of appropriation. The water right will then be subject to the rules applicable to that subarea.
- (8) The following water rights shall not be subject to corrective controls that result in groundwater use reductions:
- a. Exempt groundwater uses as defined in ORS 537.545
  - b. Municipal and quasi-municipal groundwater rights



~~g. Any s~~State-issued groundwater rights or Federal reserved groundwater claims held by a federally recognized Indian tribe.

Statutory/Other Authority: ORS 537.735, OAR 690-010-0130(3)(a) – (c), OAR 690-217-0045  
 Statutory/Others Implemented: ORS 536.027, ORS 537.525, ORS 537.780, ORS 536.300, ~~ORS 537.735, OAR 690-010-0130(3)(a) – (c)~~

**Rule Summary:** The new rule specifies the target groundwater level trend for the Harney Basin Critical Groundwater Area; ~~the new rule requires static water level reporting starting in 2028~~, a Department review of the rules every three years, and a Departmental review of the conditions at least once every ten years; the new rule contains a provision closing the Harney Basin Critical Groundwater Area to any further nonexempt consumptive appropriation; the new rule defines the seven subareas within the Harney Basin Critical Groundwater Area; the new rule includes subarea maps as Exhibits 6-13.

**690-512-0050 Permissible Total Withdrawal for ~~Each~~ Subareas Within the Harney Basin Critical Groundwater Area**

- (1) The permissible total withdrawal for the Dog Mountain subarea shall be 4,~~32~~00 acre-feet per year.
- (2) The permissible total withdrawal for the Lower Blitzen-Voltage subarea shall be 8,300 acre-feet per year.
- (3) The permissible total withdrawal for the Northeast-Crane subarea shall be 35,000 acre-feet per year.
- (4) The permissible total withdrawal for the Silver Creek subarea shall be 15,~~32~~00 acre-feet per year.
- (5) The permissible total withdrawal for the Silvies subarea shall be 21,200 acre-feet per year.
- (6) ~~The permissible total withdrawal for the Upper Blitzen subarea shall be 76 acre feet per year.~~
- (7) The permissible total withdrawal for the Weaver Springs subarea shall be 4,800 acre-feet per year.

Statutory/Other Authority: ORS 537.735  
 Statutory/Others Implemented: ORS 536.027, ORS 537.780, ORS 537.525, ORS 536.300



**Summary:** This new rule specifies the permissible total withdrawal for the seven subareas in the Harney Basin Critical Groundwater Area. The permissible total withdrawal for ~~each~~<sup>six</sup> of the seven subareas is the annual volume of water that the Department has determined can achieve the target groundwater level trend by 2058 after implementing the scheduled reductions in OAR 690-512-0070. The Department may not reduce groundwater pumping through regulatory orders to a value less than the permissible total withdrawal.

#### **690-512-0060 Determination of Initial Allotment for All Groundwater Rights**

- (1) To establish a schedule for reductions in groundwater use, the Department will determine an initial allotment for each groundwater right within the critical groundwater area. For each groundwater right not exempt from corrective controls as defined in OAR 690-512-0041(7), which the initial allotment will be implemented through an order after completion of the contested case process as required in OAR 690-010. The initial allotment shall not exceed the total rate or duty authorized on the water right.
- ~~(1) equal to the greatest single year quantity reported to the Department in the preceding 6 years~~
- (2) In determining the initial allotment for each primary and supplemental groundwater right with an irrigation use, the Department will allot a volume of water based on a maximum of 2.5 acre feet per acre for primary and supplemental groundwater rights not subject to forfeiture based on and the number of acres beneficially irrigated in the five-year period from 2020 to 2024.
  - ~~a. Identify an annual volume of water used per acre for each groundwater right based on the beneficial use in the five year period from 2020 to 2024. The Use a maximum duty volume allotted shall not exceed of 2.5 acre-feet per acre for primary and supplemental groundwater rights; and~~
  - ~~b.a. Consider the historic, beneficial use in the five-year period from 2020 to 2024 when identifying the number of acres that will be allotted water.~~
- ~~(3) The initial allotment for municipal and quasi-municipal rights shall be a quantity of water equal to 110% of the greatest single year quantity reported to the Department in the five-year period from 2020 to 2024.~~
- ~~(4)~~<sup>(3)</sup> In determining the initial allotment for each groundwater right with use types other than irrigation, municipal, and quasi-municipal, the department will consider:
  - a. The limits of the groundwater rights;



- b. ~~Historic b~~Beneficial use in the five-year period from 2020 to 2024;
- c. Whether or not a water user is physically capable of ~~pumping and putting the allotted water~~ putting the appropriated water to a beneficial use; and
- d. Any other factors deemed appropriate by the Department to determine historic beneficial use.

Statutory/Other Authority: ORS 537.742, ORS 537.735

Statutory/Others Implemented: ORS 536.027, ORS 537.780, ORS 537.525, ORS 536.300

**Rule Summary:** This new rule describes how the Department will determine the initial allotment allowed for each irrigation, municipal, and quasi-municipal groundwater right and all other groundwater right uses within the Harney Basin Critical Groundwater Area; initial allotments will be determined for groundwater irrigation rights based on beneficial use, with a maximum duty of 2.5 acre-feet for primary and supplemental rights; ~~initial allotments for municipal and quasi-municipal groundwater rights will be set at 110% of the greatest single-year quantity reported to the Department between 2020 and 2024;~~ all other groundwater use allotments will be determined by the Department as specified in this rule (OAR 690-512-0060(43)(a) – (d)).

#### 690-512-0070 Scheduling Water Use Reductions to Meet the Permissible Total Withdrawal

(1) For the purposes of scheduling reductions, the total reduction in groundwater use for each subarea will be calculated as the difference between the initial allotment plus the greatest single year quantity of municipal or quasi municipal use the maximum volume used by municipal or quasi-municipal rights between the years 2020 and 2024, and the permissible total withdrawal.

~~(1)~~(2) Notwithstanding adjustments made by the adaptive management methodology defined in OAR 690-512-0080, upon consideration of all water rights and after determining the initial allotment for each:

- a. Water use within the Weaver Springs subarea will be scheduled to be reduced to the permissible total withdrawal with 75%percent of the total reduction being scheduled for 2028 and the remaining 25%percent of the reduction scheduled for 2034;
- b. Water use within ~~all remaining subareas of the Critical Groundwater Area~~Silvies, Silver Creek, and Lower Blitzen Voltage subareas will be scheduled for reduction to the permissible total withdrawal with 40%percent of the total reduction scheduled ~~infor~~ 2028, 30%percent of the total reduction scheduled for 2034, 15%percent of the total reduction scheduled for 2040, 10%percent of the total



reduction scheduled for 2046, and 5%percent of the total reduction scheduled for 2052;

- A. Reductions in use within a subarea will be deferred and evaluated as described in (b)B if, prior to 2028, water right holders implement voluntary measures that achieve a reduction in groundwater use within the subarea of no less than 10 percent, as measured relative to the 2018 estimated pumping volume. ~~by 10% or more, as measured from the 2018 estimated pumping amounts,~~
- B. At each adaptive management checkpoint defined in OAR 690-512-0080, groundwater levels, within the subarea will be evaluated using the criteria defined in rule and:
  - i. If groundwater levels are found to meet conditions in OAR 690-512-0080(4)(c) through (e), then the Department will take no action,
  - ii. If groundwater levels are found to meet the conditions in OAR 690-512-0080(4)(a) or (b), then the Department:
    - I. May recommend to the Commission the termination of all voluntary agreements approved within the subareas;:
    - ~~II.~~ Will implement 70 percent of the total reductions scheduled in the irrigation season following the checkpoint, and the remaining 30 percent will be reduced as scheduled across future adaptive management checkpoints.

- c. The water use within ~~all remaining~~ the Northeast-Crane and Dog Mountain subareas of the Critical Groundwater Area will be scheduled for reduction to the permissible total withdrawal with 40%percent of the total reduction scheduled for 2028, 30%percent of the total reduction scheduled for 2034, 15%percent of the total reduction scheduled for 2040, 10%percent of the total reduction scheduled for 2046, and 5%percent of the total reduction scheduled for 2052;

- ~~d.~~ The schedule for reductions will be based on the relative priority dates of the water rights within each subarea, with the most junior water rights being curtailed first;

- ~~d.~~ e. Municipal and quasi-municipal water use will be evaluated at each adaptive management checkpoint, and the schedule of reductions for all other non-exempt rights may be adjusted to account for so that the allotment for each municipal or quasi-municipal right is increased or decreased to 110% of the greatest single year quantity of municipal or quasi-municipal use reported to the Department in the preceding six6 years;:- The allotment municipal use shall not exceed the total quantity of water authorized on the water right;

- ~~e.~~ Uses exempt under ORS 537.545 are not subject to reduction;



- f. Corrective control orders reducing use will not be enforced until the completion of the contested case process specified in OAR 690-010-0170 through 230;
- g. If enforcement of corrective control orders reducing use does not occur as scheduled in 2028, then at such time as enforcement occurs, all reductions scheduled under OAR 690-512-0070(1) and (2)(a) and (b), including any adjustments that should have occurred at the adaptive management checkpoints defined in OAR 690-512-0080, will be included in the enforcement.

Statutory/Other Authority: ORS 537.742, ORS 537.735

Statutory/Others Implemented: ORS 536.027, ORS 537.780, ORS 537.525, ORS 536.300

**Rule Summary:** This new rule describes the schedule for groundwater use reductions for the seven subareas defined within the Harney Basin Critical Groundwater Area and the process for enforcement of corrective control orders. The Weaver Springs Subarea will be scheduled for water use reductions starting in 2028 and the final reduction to permissible total withdrawal in 2034. For the other six subareas reductions may begin in 2028 and continue through 2052 with reductions happening every six years. All reductions will be ~~done~~ by relative priority date and cannot be done until the contested case process is completed. Exempt uses will not be reduced. This rule also defines how municipal and quasi-municipal use will be incorporated in adaptive management adjusted.

#### **690-512-0080 Adaptive Management of the Harney Basin Critical Groundwater Area**

The purpose of this section is to define how the Department will adaptively manage the Harney Basin Critical Groundwater Area over a 30-year period starting in calendar year 2028, with adaptive management checkpoints in calendar years 2033, 2039, 2045, and 2051, which are the years immediately preceding the scheduled reductions in OAR 690-512-0070 ~~of these rules~~.

- (1) Weaver Springs subarea and Upper Blitzen subarea isare exempt from the adaptive management process as defined in section 2 through 5 of this rule.

~~(2) For each subarea, if the contested case process is complete and corrective control orders reducing use can be implemented in 2028, the Department will:~~

- ~~a. Determine the 2027 median annual high groundwater level for each subarea and compare it with the median annual high groundwater level measured in 2022 using representative wells with sufficient data as determined by the Department;~~
- ~~b. Calculate the median groundwater level decline rate using the Sen's slope method using annual high measurements for representative wells with sufficient data as determined by the Department for years 2022 through 2027; and~~



- ~~c. If the median annual high groundwater level in 2027 is found to be greater than or equal to the median annual high groundwater level measured in 2022 and the groundwater level decline rate calculated for 2022 through 2027 is found to be zero or above, then the regulatory reductions scheduled for 2028 will be reduced to zero.~~

~~(3)~~(2) Groundwater level changes will be evaluated using representative wells with sufficient data as determined by the Department.

- a. For each representative well, the groundwater level change will be evaluated based on a reference groundwater level determined by the Department. The reference groundwater level for a well shall be the annual high static water level measurement in calendar year 2028, if one exists. Otherwise, the Department may establish the reference groundwater level based on an analysis of water level data from that well or other water level data in nearby wells.
- b. For each representative well, the groundwater level change will be calculated as the difference between the annual high static water level measured at the adaptive management checkpoint being evaluated and the reference groundwater level.

~~(4)~~(3) The median groundwater level change for each subarea will be evaluated at each adaptive management checkpoint using representative wells with sufficient data as determined by the Department.

~~(5)~~(4) At each adaptive management checkpoint, the Department will compare the median groundwater level change for each subarea defined in OAR 690-512-0041 with the groundwater level change envelope defined in Exhibit 14. If the median groundwater level change for a subarea is:

- a. At or below the 10<sup>th</sup> percentile, the scheduled quantity of reduction will be doubled.
- b. Between the 10<sup>th</sup> and 25<sup>th</sup> percentiles, the scheduled quantity of reduction will be increased by one and a half times.
- c. From the 25<sup>th</sup> and through the 75<sup>th</sup> percentiles, no adjustment will be made.
- d. Between the 75<sup>th</sup> and 90<sup>th</sup> percentiles, the scheduled quantity of reduction will be halved unless 10%percent or more of the measured wells fall below the 10<sup>th</sup> percentile, in which case no adjustments will be made.



- e. At or above the 90<sup>th</sup> percentile, the scheduled quantity of reduction will be reduced to zero unless ~~10%percent~~ or more of the measured wells fall below the 10<sup>th</sup> percentile, in which case no adjustments will be made.

~~(5) Up to 25%~~ Ten percent of the total reductions implemented for a subarea may shall be rescinded at the next adaptive management checkpoint if the following conditions exist within the subarea:

- a. The median water level for the subarea recovers to above the measured 2028 median level; and
- b. No well have crossed the threshold for declined excessively or excessively declining.

(6) At the end of each adaptive management checkpoint evaluation and after the Department has completed sections 3 through 5 of this rule, the Department will hold at least one public meeting at a location within the critical groundwater area ~~boundary~~ at which the Department will prepare and present a technical memo including:

- a. The findings of the evaluation of groundwater level changes;~~;~~
- b. The comparison to the groundwater level change envelope; and;
- c. Any adjustments to the scheduled reductions.

(7) No sooner than 2058, the Department will evaluate the groundwater level decline rate for each subarea to identify if the target groundwater level trend has been achieved. The groundwater level decline rate will be calculated using the Sen's slope method using annual high measurements for representative wells with sufficient data as determined by the Department from the ~~six~~6 years leading up to the evaluation. After the evaluation in this section, if:

- a. The target groundwater level trend has not been achieved, and all scheduled reductions have not been implemented, the Department ~~will~~ may evaluate groundwater conditions and implement additional reductions as needed to achieve the target groundwater level trend;
- b. The target groundwater level trend has not been achieved, and all scheduled reductions s have been implemented, the Department ~~will~~ may initiate a rulemaking process to adjust the permissible total withdrawal as needed to achieve the target groundwater level trend. ~~;~~ or
- ~~c. The target water level trend has been achieved and all scheduled reductions have not been implemented, the Department will initiate a rulemaking process to adjust the permissible total withdrawal to match the implemented reductions.~~



Statutory/Other Authority: ORS 537.742, ORS 537.735

Statutes/Others Implemented: ORS 536.027, ORS 537.780, ORS 537.525, ORS 536.300

### Rule Summary:

This new rule describes how the Department will adjust scheduled reductions in groundwater use based on the median measured groundwater level data as compared to modeled trajectories, shown in [Exhibit 14](#), for each subarea. The Weaver Springs [and Upper Blitzen](#) subareas ~~are~~ excluded from this process. For the other ~~six~~[five](#) subareas, adaptive management will occur every ~~six~~[6](#) years for the 30-year management period. In 2058 the Department will evaluate the groundwater level decline rate to identify if the target groundwater level trend has been achieved. This rule also contains a provision for evaluating groundwater levels and the Sens's slope rate of decline in 2028, if certain conditions are met then the 2028 reductions will be reduced to zero.

### 690-512-0110 Serious Water Management Problem Area (SWMPA)

[\(1\)](#) Groundwater conditions within the SWMPA boundary defined in OAR 690-512-0020(3) meet the criteria defined in OAR 690-085-0020(1)(a) and OAR 690-085-0020(1)(f).

~~[\(4\)](#)(2) Any state-issued groundwater rights or federally reserved groundwater claims held by a Federally Recognized Indian Tribe are exempt from the requirements of this rule are exempt from the requirements of this rule.~~

~~[\(3\)](#)~~ By ~~no later than~~ March 1, 2028, each groundwater right holder, well owner, or well operator shall ~~properly install and thereafter properly maintain~~ a totalizing flow meter [in accordance with manufacturer specifications](#) on each well listed as a point of appropriation on a valid groundwater right within the Harney SWMPA boundary as defined in OAR 690-512-0020(3). The Department may extend the deadline as needed. If the deadline is extended, the Department will notify each groundwater right holder, well owner, or well operator at least 60 days before March 1, 2028.

~~[\(2\)](#)(4) Groundwater wells that are regulated off and disconnected from all water use infrastructure do not require a totalizing flow meter to be installed or to report water use unless or until use is permitted to resume.~~

~~[\(3\)](#)(5) Totalizing flow meters shall be properly installed according to manufacturer specifications and must meet the specifications in section 6 of this rule.~~

~~[\(4\)](#)(6)~~ Totalizing flow meters and the method of flow meter installation may be subject to approval by Department staff. Once installed, totalizing flow meters must be maintained in good working order. Department staff shall have reasonable access to the totalizing flow meters upon request pursuant to ORS 537.780(1)(e).

~~[\(5\)](#)(7)~~ The groundwater right holder, well owner, or well operator shall keep a complete record of the volume of water appropriated each month. The groundwater right holder,



well owner, or well operator shall submit annually a report that includes water use measurements to the Department by December 31 of each calendar year for water used between November 1<sup>st</sup> of the preceding year and October 31<sup>st</sup> of the current year. Reports shall be submitted using a form developed and maintained by the Department.

a. ~~Groundwater wells regulated off are not required to report until use is permitted to resume.~~

b. ~~Any governmental entity required to submit water use reports under OAR 690-085 is exempt from the reporting requirements of this rule.~~

~~(6)~~(8) A totalizing flow meter shall meet the following specifications:

- a. A totalizing flow meter shall have a rated accuracy of plus or minus 2 percent of actual flow for all flow rates for which the meter is expected to measure;
- b. A totalizing flow meter shall measure the entire discharge from the well;
- c. A totalizing flow meter shall have a visual display and ~~recording, mechanical or digital totalizer located on or adjacent to the flow meter and~~ shall be equipped with a sweep hand or digital readout so that instantaneous flow rate can be read;
- d. The totalizing part of the flow meter shall have sufficient capacity to record at minimum the quantity of water authorized to be pumped over a period of 2 years. Units of water measurement shall be in acre-feet, cubic-feet, or gallons, and the totalizer shall read directly in one of these units. Flow meters recording in acre-feet shall, at a minimum, read to the nearest 1/10th acre-foot, and the decimal multiplier shall be clearly indicated on the face of the register head;
- e. Totalizers on each meter shall not be field reset without notice to and written permission from the local watermaster. Prior to resetting the totalizers, the final reading must be recorded and reported;
- f. The totalizing flow meter shall be installed in accordance with all manufacturer specifications. There shall be no turnouts or diversions between the well and the flow meter; and
- g. The totalizing flow meter shall be installed no more than 100 feet from the well head unless an exception is approved by the watermaster in writing.

~~(7)~~(9) A water user shall report broken flow meters to the local watermaster's office within 48 hours after determining that the flow meter is broken. A water user shall not appropriate water for more than 60 days without an operating flow meter.



~~(8)~~(10) While the flow meter is broken, the water user shall use other methods of reporting as defined under OAR 690-085-0015(5) until the flow meter is replaced or repaired. The water user shall keep the monthly data and mail the data to the local watermaster upon request. The data shall include a statement of the initial reading on the newly installed flow meter, the current power meter reading and the time of operation. The water user shall notify the local watermaster within 48 hours of installing the repaired or replacement flow meter.

(11) Failure to have and maintain a properly installed, functioning totalizing flow meter by the deadline will result in the local watermaster regulating and controlling the unmetered well such that no groundwater may be pumped or appropriated until a flow meter is installed consistent with these rules.

(12) Groundwater wells that are regulated off and disconnected from all water use infrastructure including power and plumbing do not require a totalizing flow meter to be installed or to report water use unless or until use is permitted to resume

~~(9)~~(13) Any governmental entity required to submit water use reports under OAR 690-085 is exempt from the reporting requirements of this rule

~~(10)~~(14) Consistent with ORS 536.900, ORS 183.745, and OAR 690-260, the Department may assess civil penalties for violation of these rules.

Statutory/Other Authority: ORS 183.745, ORS 540.435, ORS 536.900, ORS 536.905, ORS 536.910, ORS 536.915, ORS 536.920, ORS 536.930, ORS 536.935, OAR 690-260, 690-085-0020(1)(a), OAR 690-085-0020(1)(f), OAR 690-085-0015(5)

Statutes/Others Implemented: ORS 536.027, ORS 536.900, ORS 536.905, ORS 536.910, ORS 536.915, ORS 536.920, ORS 536.930, ORS 536.935, ORS 537.780, OAR 690-085-0020(1)(f), OAR 690-085-0015(5)

**Rule Summary:** This new rule establishes water use measurement and reporting requirements within the Serious Water Management Problem Area boundary defined in OAR 690-512-0020(3). Each groundwater right holder, well owner, or well operator shall install a totalizing flowmeter by March 1, 2028, according to the specifications in this rule. Water use between November 1st of the preceding year and October 31st of the current year is required to be reported to the Department by December 31<sup>st</sup> each year. Failure to install a flowmeter or report use will result in the local watermaster shutting off the well and potential assessment of civil penalties.

690-512-120 Whitehorse and Willow Creeks



Willow Creek and tributaries, and Whitehorse Creek and tributaries are withdrawn from future appropriations except as described in the order of the Water Resources Commission effective April 24, 1992.

Statutory/Other Authority: ORS 536.410

Statutes/Other Implemented: ORS 536.410

### **690-512-130 Home Creek Reservations**

(1) Reservations of water for economic development are established pursuant to ORS 537.249 and 537.356 economic benefits through both instream and out-of-stream uses of water. 4,550 acre-feet of unappropriated water in Home Creek and tributaries are reserved for multipurpose storage for future economic development as allowed under ORS 537.356 with a priority date of February 25, 2009.

(2) "Multipurpose reservoir", as used in OAR 690-512-0100 means a reservoir storing water to serve more than two potential beneficial uses including but not limited to irrigation, power generation, municipal water supply, recreation and flow augmentation for instream purposes.

(3) Reservations of water for future economic development allocate surface water for storage in multipurpose reservoirs.

(4) For the purposes of review of applications to store reserved water under OAR chapter 690, division 310, and subject to the provisions of section (6), the reserved quantities of water listed in OAR 690-512-0100(1) are available for appropriation.

(5) The determination of water availability under section (4) shall not substitute for consideration during the public interest review of site-specific information related to the capacity of the resource to support the proposed project, as required under OAR chapter 690, division 310.

(6) In addition to the requirements of ORS Chapter 537 and applicable rules, the Department will only issue an order approving an application for a permit to store water in the Home Creek basin reserved under any reservation if it first finds:

(a) The proposed reservoir and any water rights secondary with the storage right are consistent with the purpose and intent of the reservation following consultation with Harney County Court;



(b) The proposed reservoir and any water rights secondary to the storage right will protect instream values, including but not limited to instream flows and water quality based upon a written assessment of these values developed in consultation with Department of Fish and Wildlife and Department of Environmental Quality; and

(c) Whether minimum bypass flows are required.

(7) In addition to the requirements of ORS Chapter 537 and applicable rules, any final order approving an application for a permit to store water and any order for water rights secondary with the storage right under the Home Creek Reservation shall contain the findings required in (6)(a)–(c) above, and will also contain conditions that:

(a) Set the appropriate storage season,

(b) Ensure no injury to senior water rights, including instream water rights,

(c) Protect instream values; and

(d) Set minimum bypass flows if identified under (6)(c) above.

(8) If the Department has not received applications for multipurpose reservoir permits for the full quantity of reserved water by July 1, 2014, the Department shall provide the Parties involved in the Home Creek Settlement Agreement with a progress report on development of the reservations. The report shall include information on the continued need for the reservations and the quantities of water reserved. The Department shall continue to provide progress reports at five year intervals while these rules are in effect unless the Department receives applications for multipurpose reservoir permits for the full quantity of reserved water.

(9) If the Department has not received applications for multipurpose reservoir permits for the full quantity of water reserved by July 1, 2029, applications for remaining quantities of unallocated water under OAR 690-0512-0100(1) may not be accepted after July 1, 2029, unless this deadline is extended through rulemaking by the Water Resources Commission.

Statutory/Other Authority: ORS 536 & 537

Statutes/Other Implemented: ORS 536.310, 537.249, 537.356 & 537.358





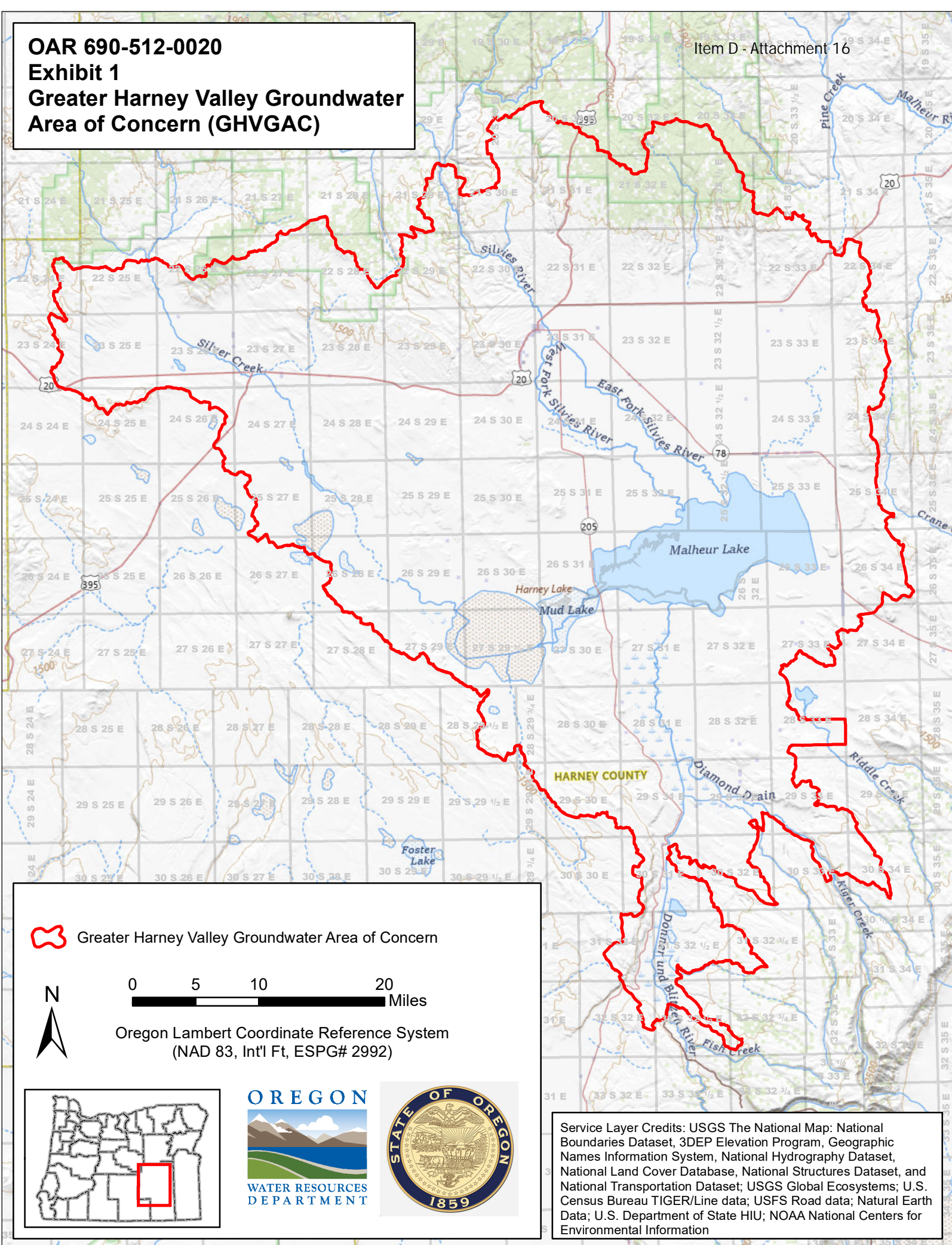


OAR 690-512-0020

Exhibit 1

Greater Harney Valley Groundwater  
Area of Concern (GHVGAC)

Item D - Attachment 16





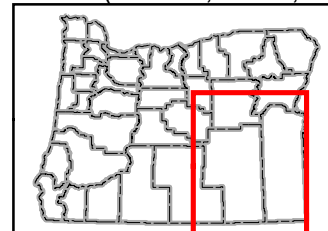
**OAR 690-512-0020**  
**Exhibit 2**  
**Malheur Lake Basin**



Item D Attachment 16  
Malheur Lake Basin

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Oregon Lambert Coordinate Reference System  
(NAD 83, Int'l Ft, ESPG# 2992)



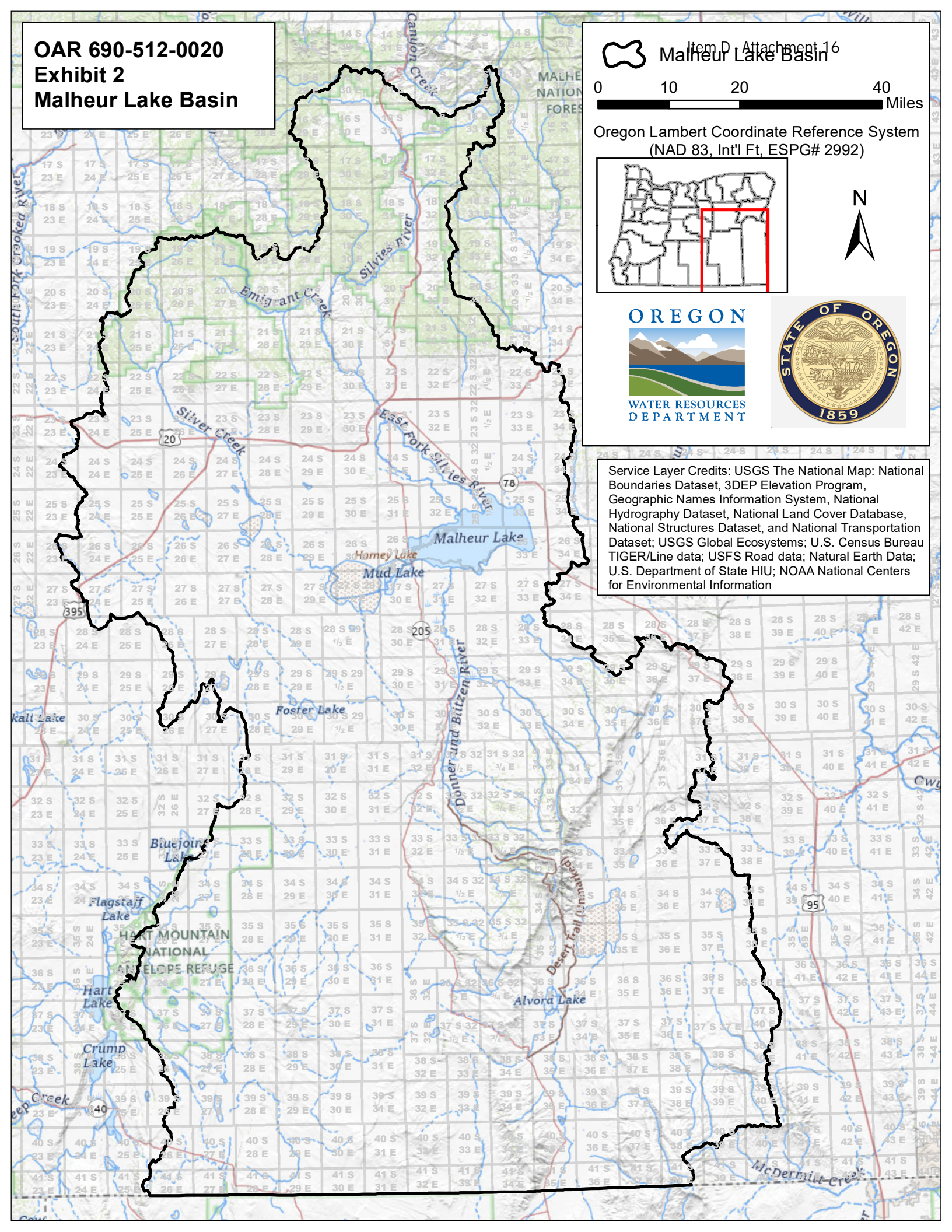
**OREGON**



**WATER RESOURCES  
DEPARTMENT**



Service Layer Credits: USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information



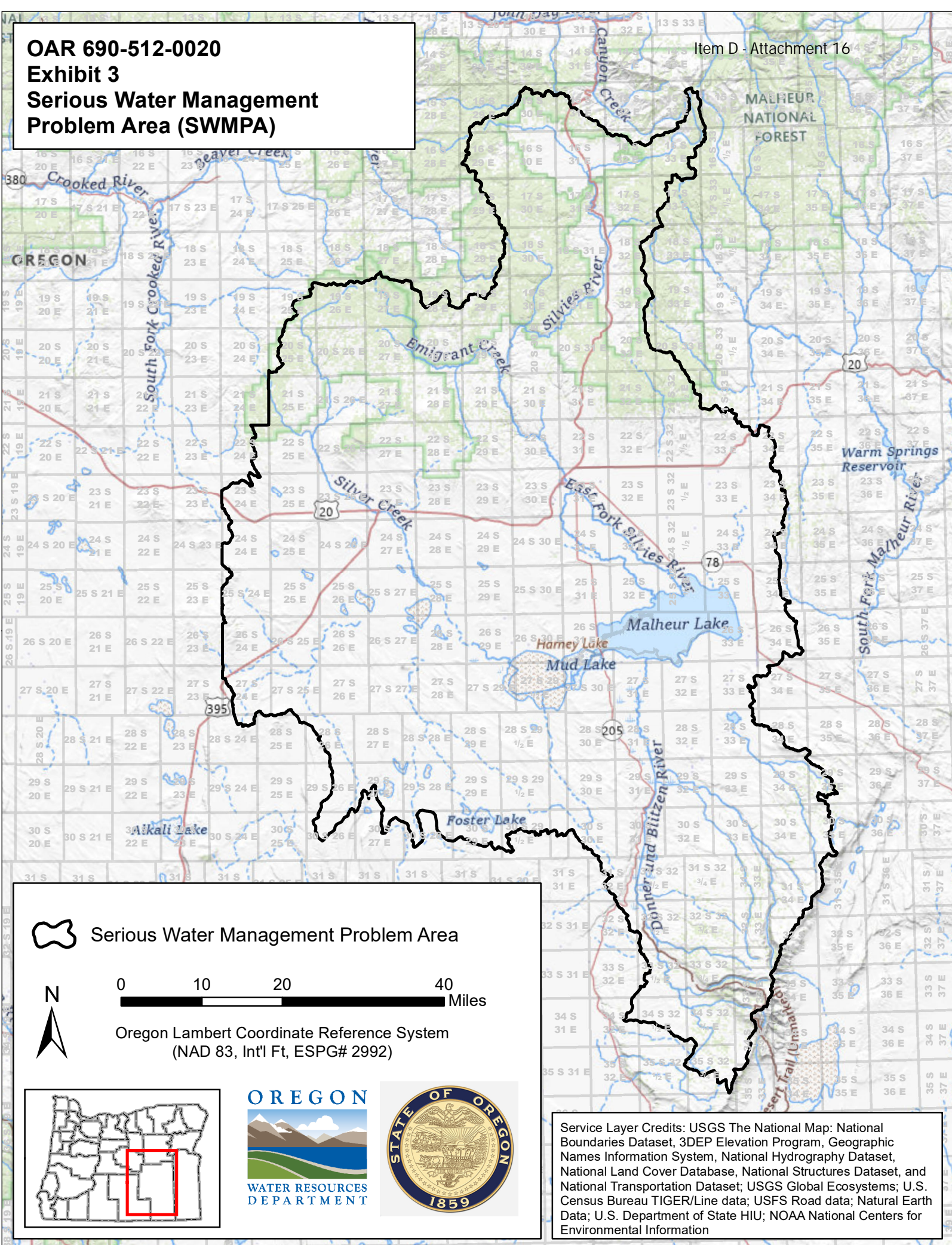


OAR 690-512-0020

Exhibit 3

Serious Water Management  
Problem Area (SWMPA)

Item D - Attachment 16

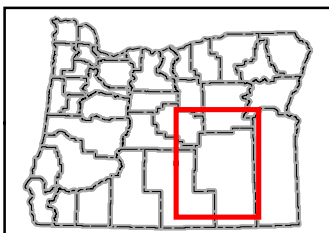


Serious Water Management Problem Area



0 10 20 40 Miles

Oregon Lambert Coordinate Reference System  
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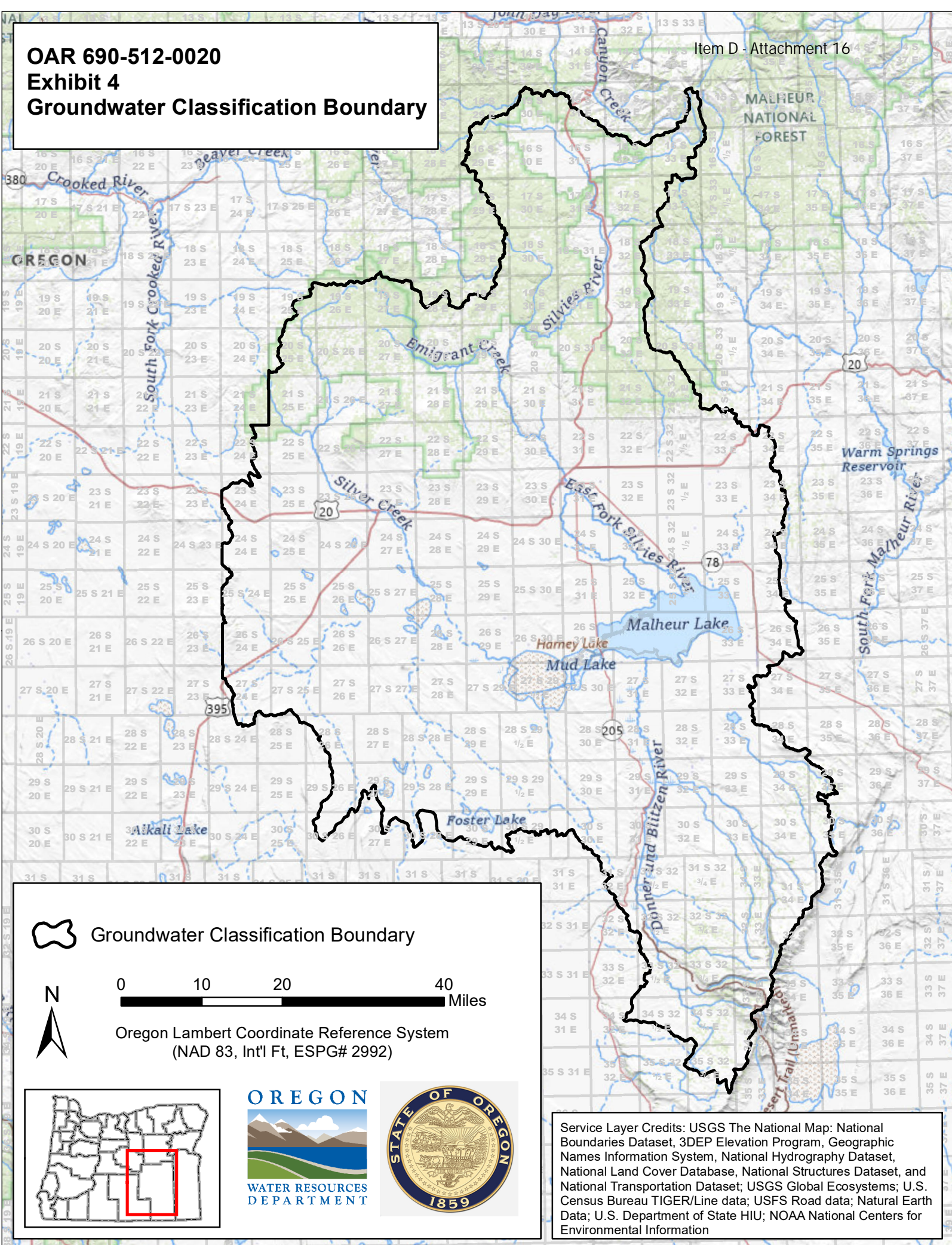


Service Layer Credits: USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information



**OAR 690-512-0020**  
**Exhibit 4**  
**Groundwater Classification Boundary**

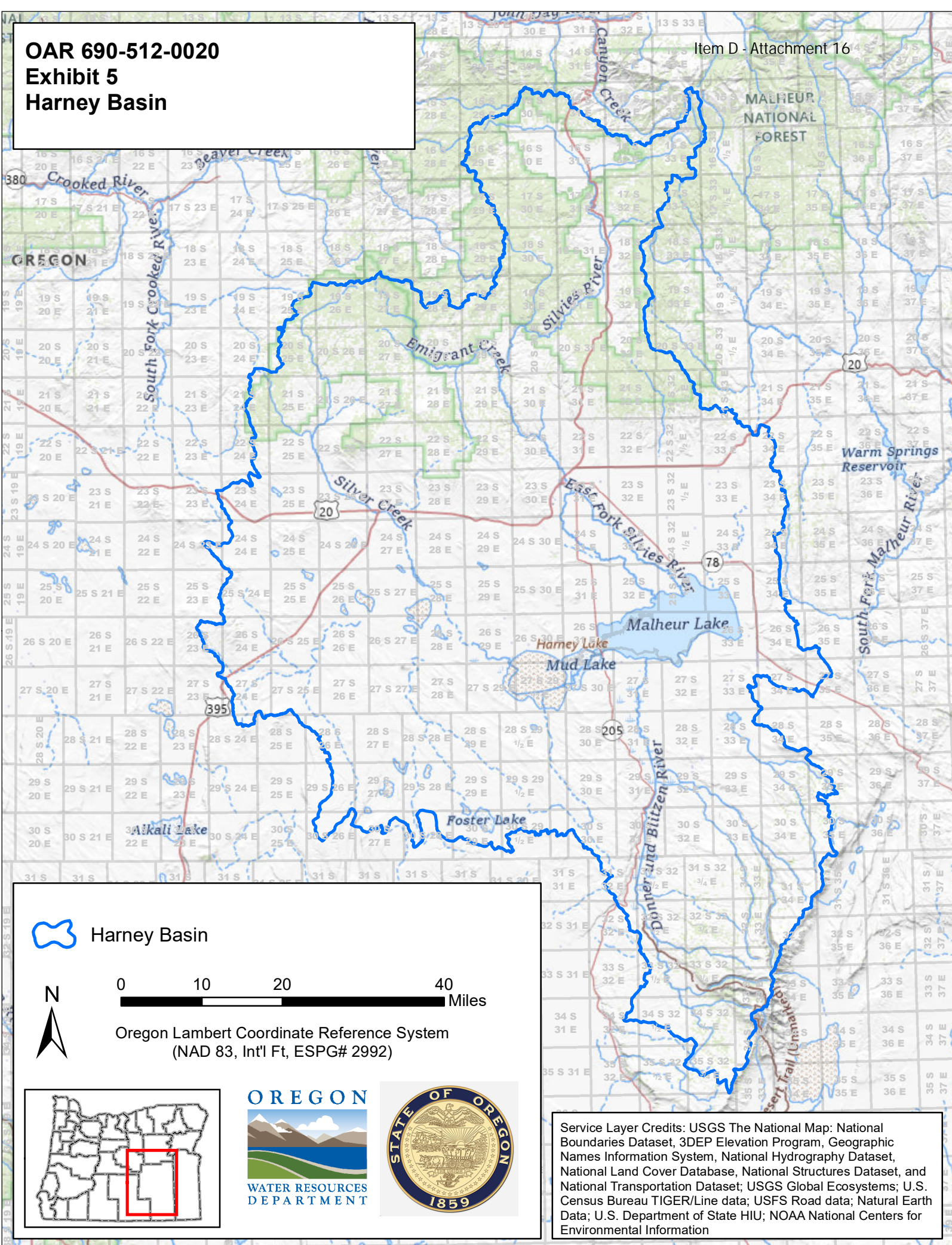
Item D - Attachment 16





**OAR 690-512-0020**  
**Exhibit 5**  
**Harney Basin**

Item D - Attachment 16



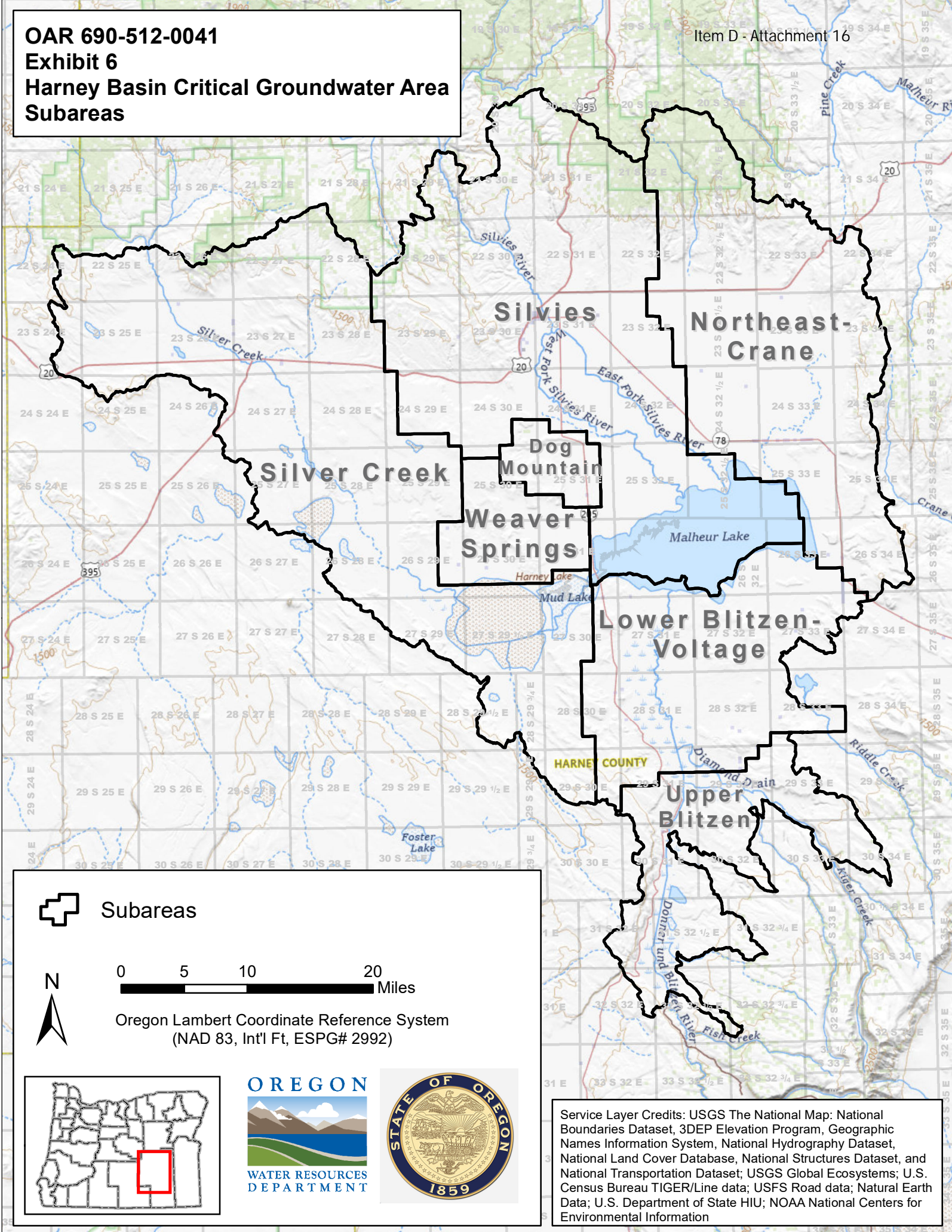


OAR 690-512-0041

Exhibit 6

Harney Basin Critical Groundwater Area  
Subareas

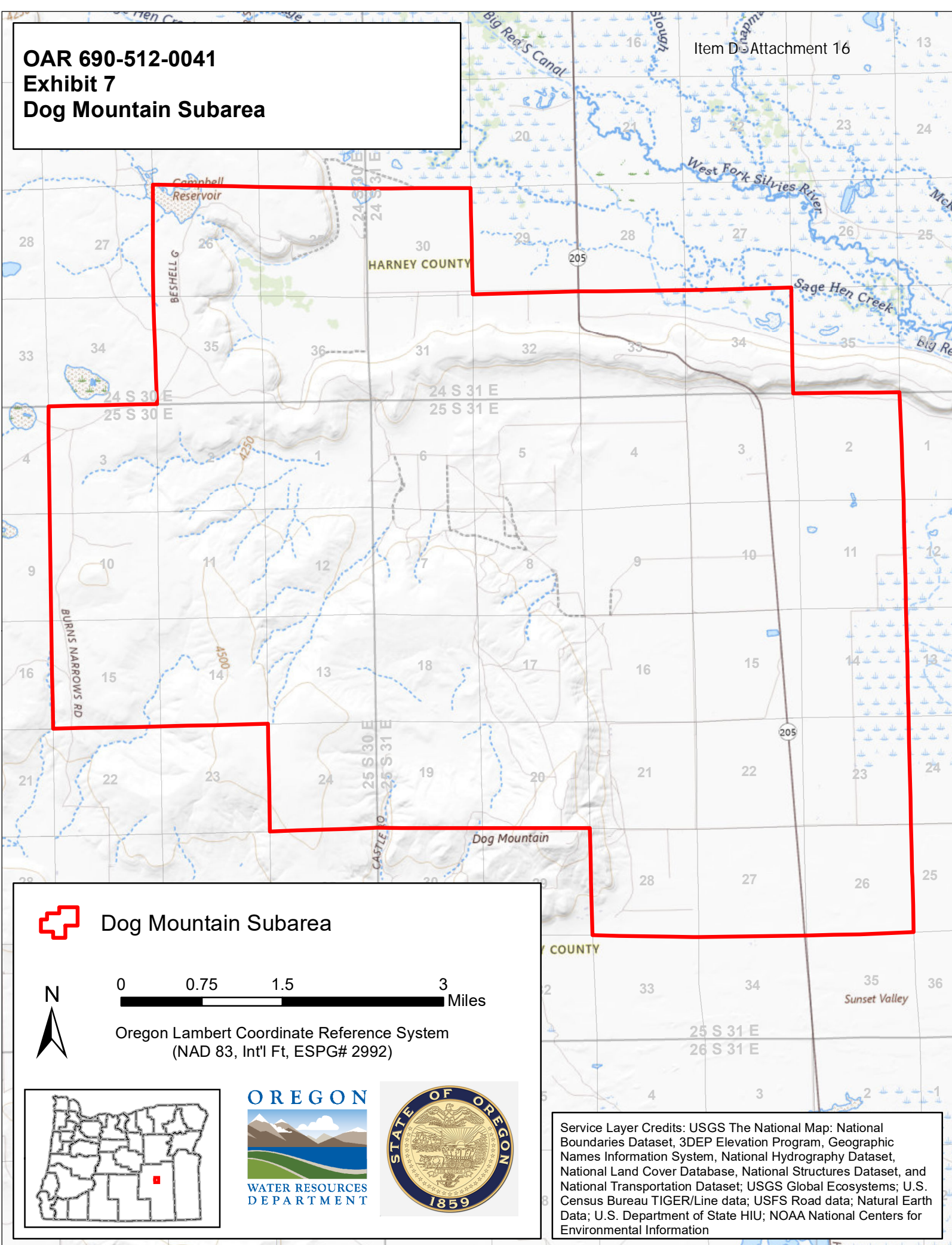
Item D - Attachment 16





**OAR 690-512-0041**  
**Exhibit 7**  
**Dog Mountain Subarea**

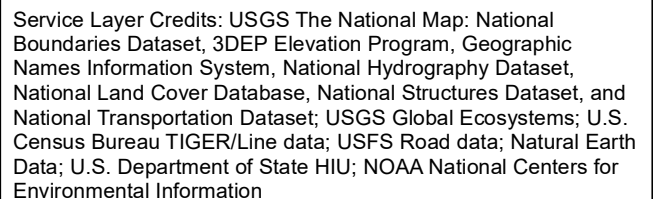
Item D- Attachment 16



Service Layer Credits: USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information



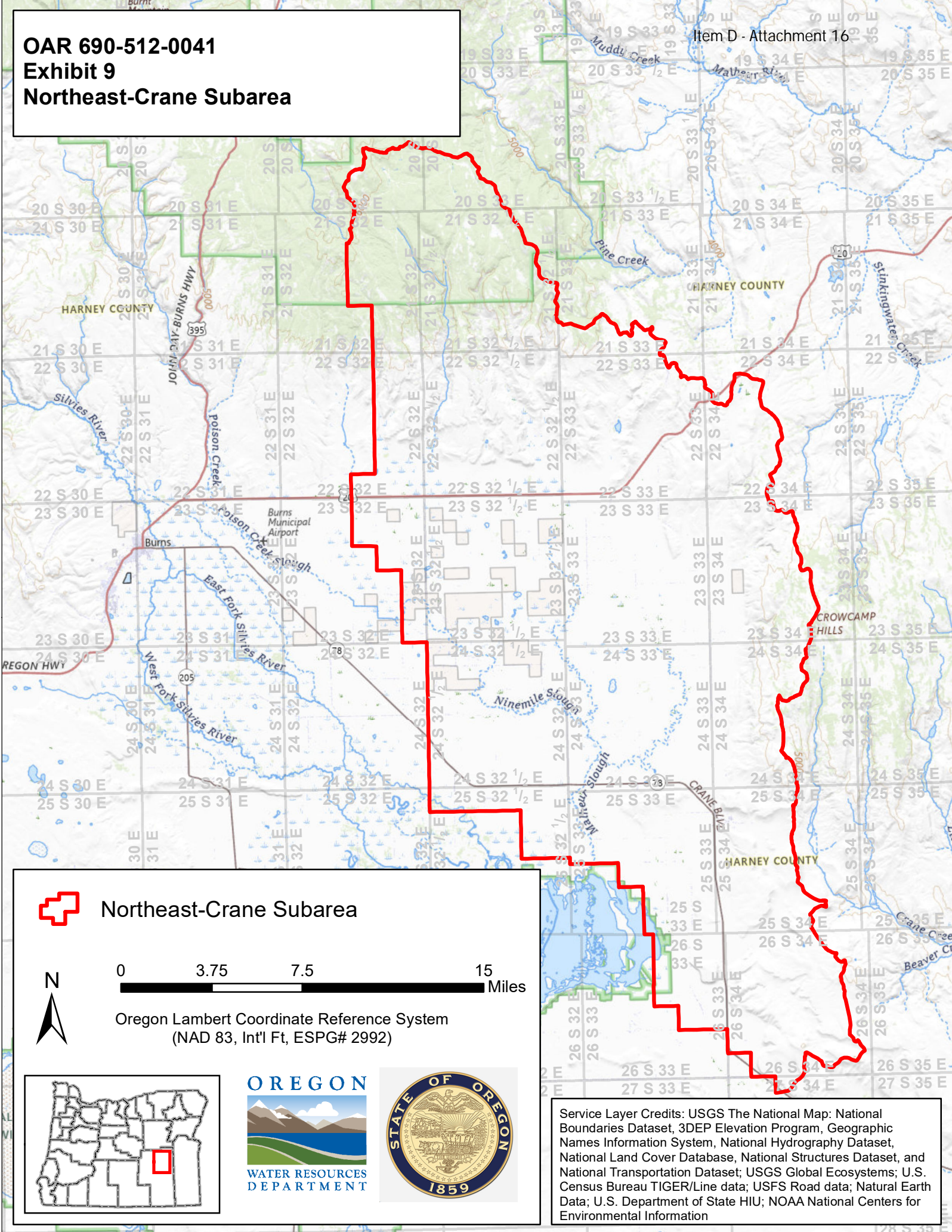
Item D - Attachment 16





**OAR 690-512-0041**  
**Exhibit 9**  
**Northeast-Crane Subarea**

Item D - Attachment 16

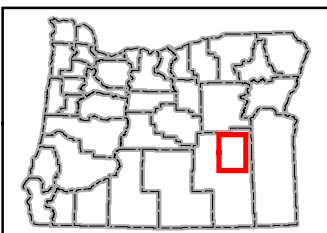


**Northeast-Crane Subarea**



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Oregon Lambert Coordinate Reference System  
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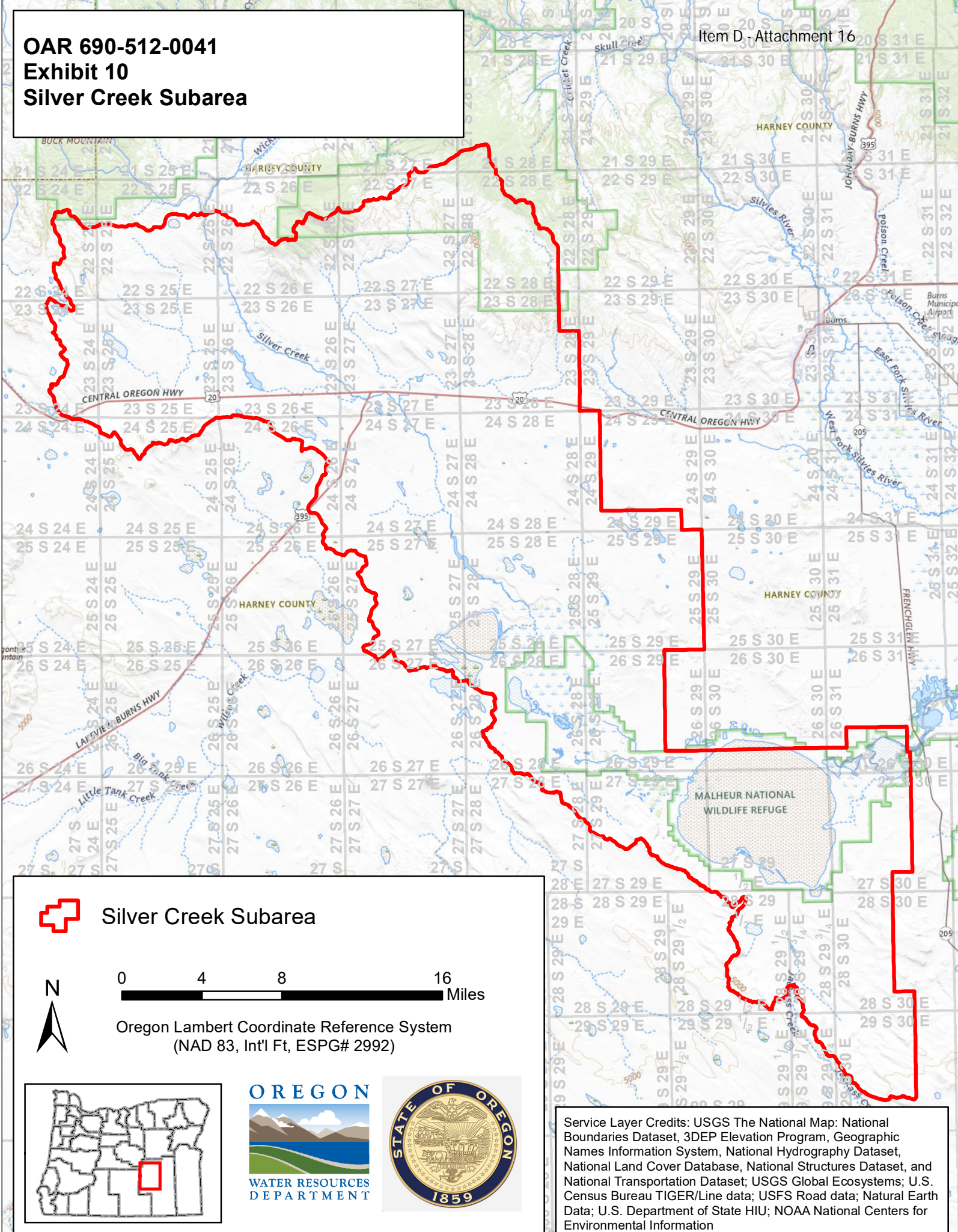


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**OAR 690-512-0041**  
**Exhibit 10**  
**Silver Creek Subarea**

Item D - Attachment 16

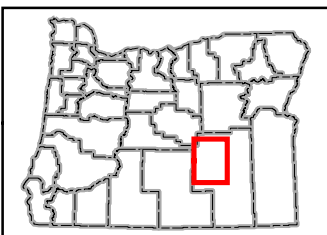


**Silver Creek Subarea**



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Oregon Lambert Coordinate Reference System  
(NAD 83, Int'l Ft, ESPG# 2992)

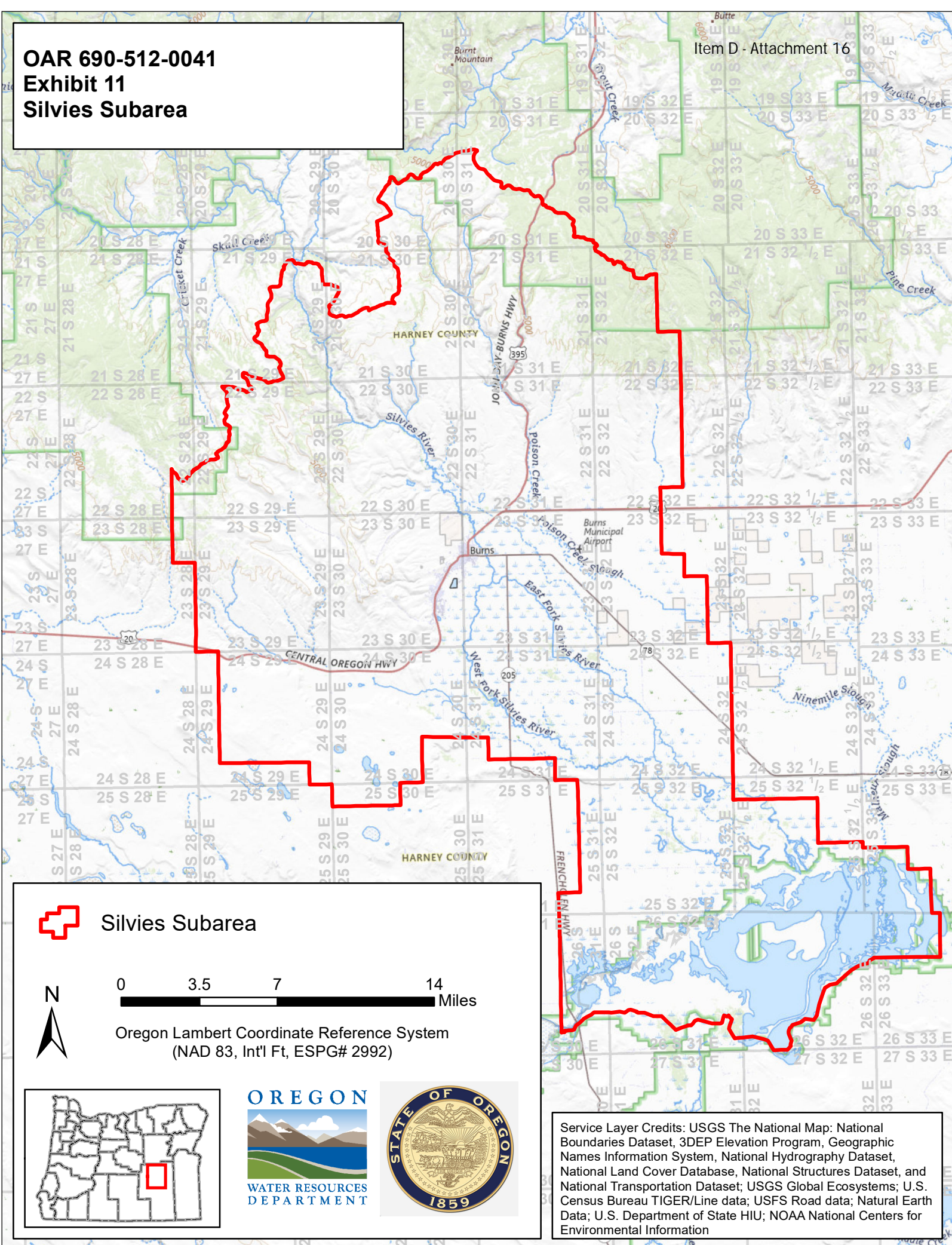


Service Layer Credits: USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information



**OAR 690-512-0041**  
**Exhibit 11**  
**Silvies Subarea**

Item D - Attachment 16

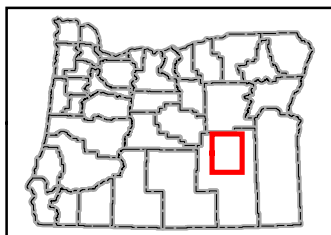


**Silvies Subarea**



0 3.5 7 14 Miles

Oregon Lambert Coordinate Reference System  
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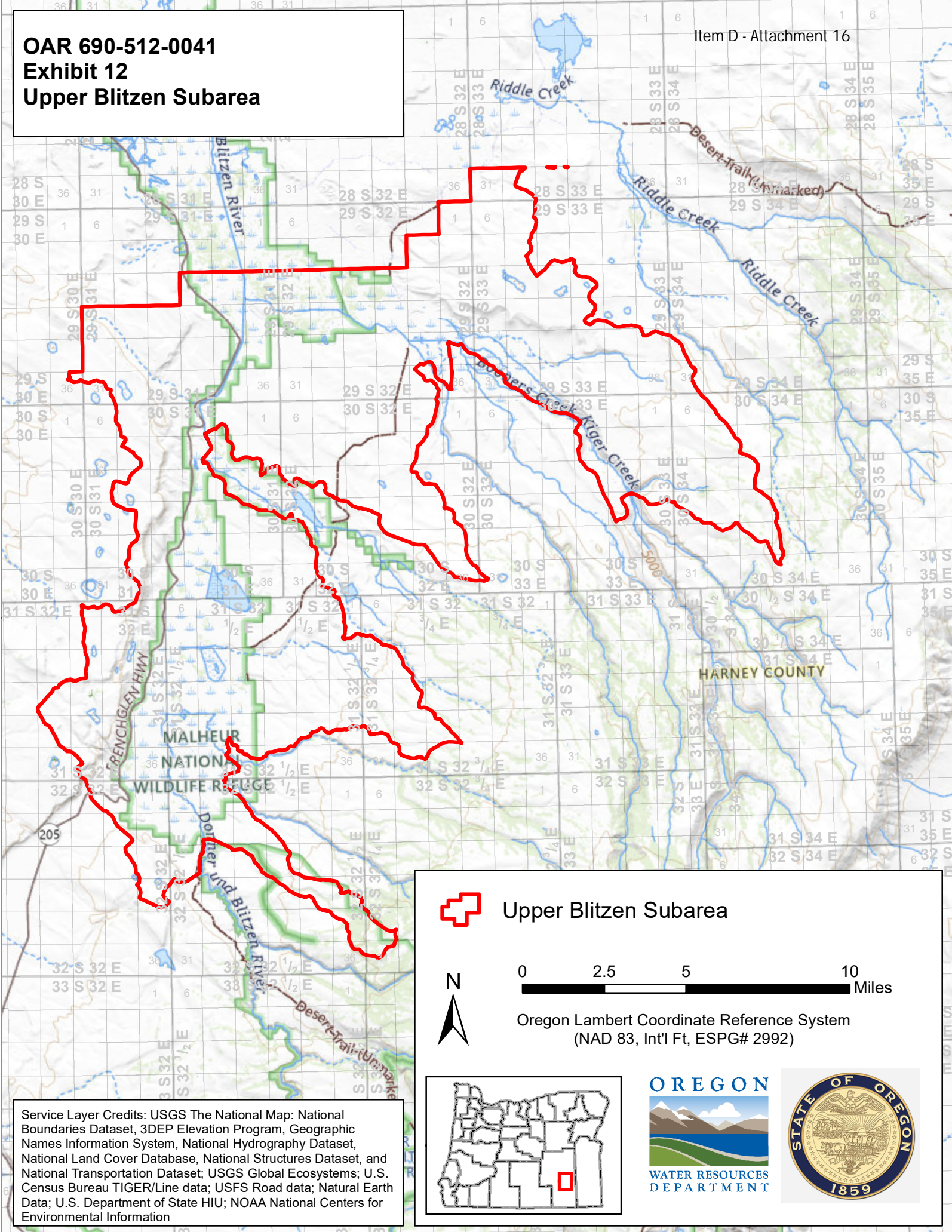


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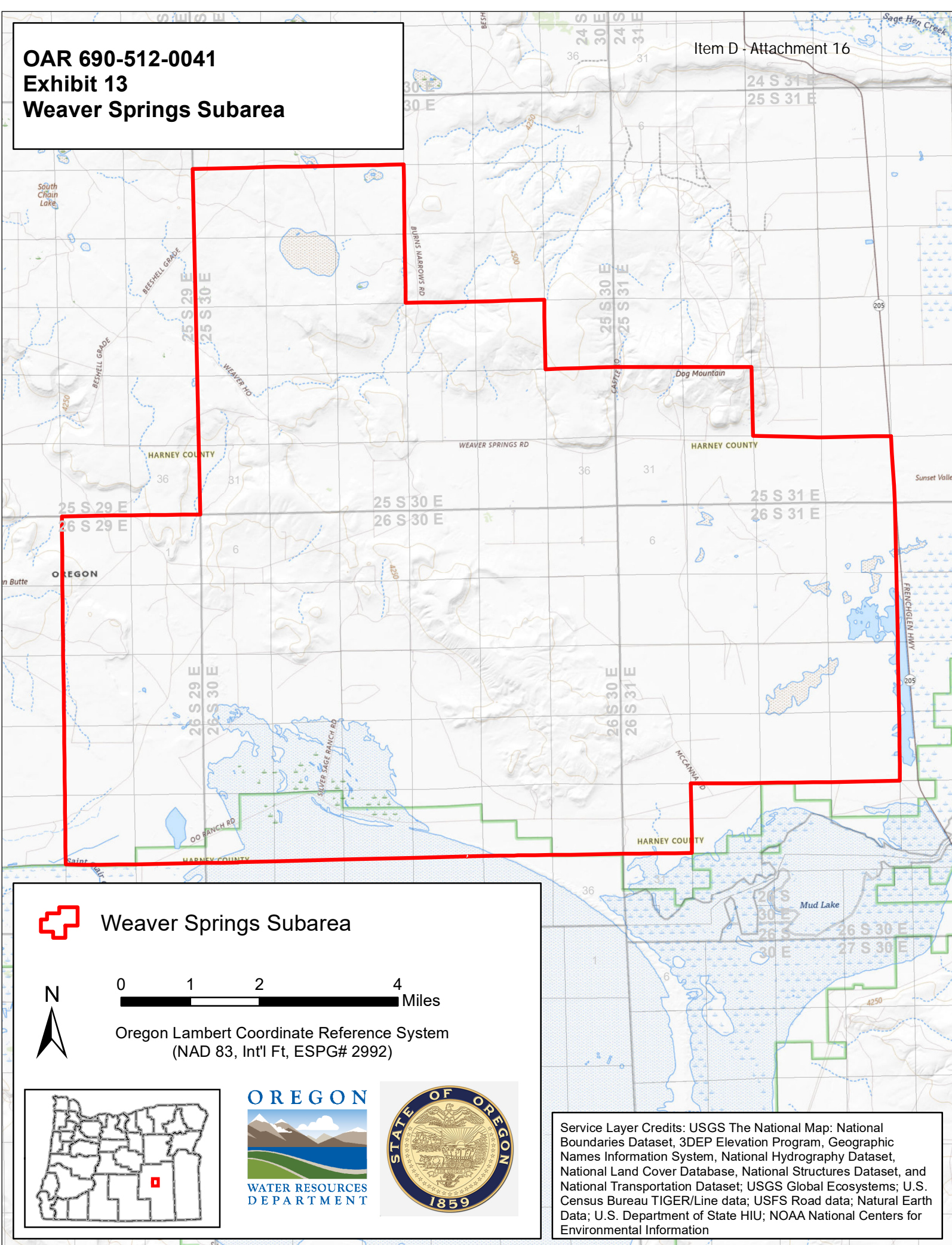
**OAR 690-512-0041**  
**Exhibit 12**  
**Upper Blitzen Subarea**

Item D - Attachment 16





Item D - Attachment 16



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## Groundwater Level Change Envelope

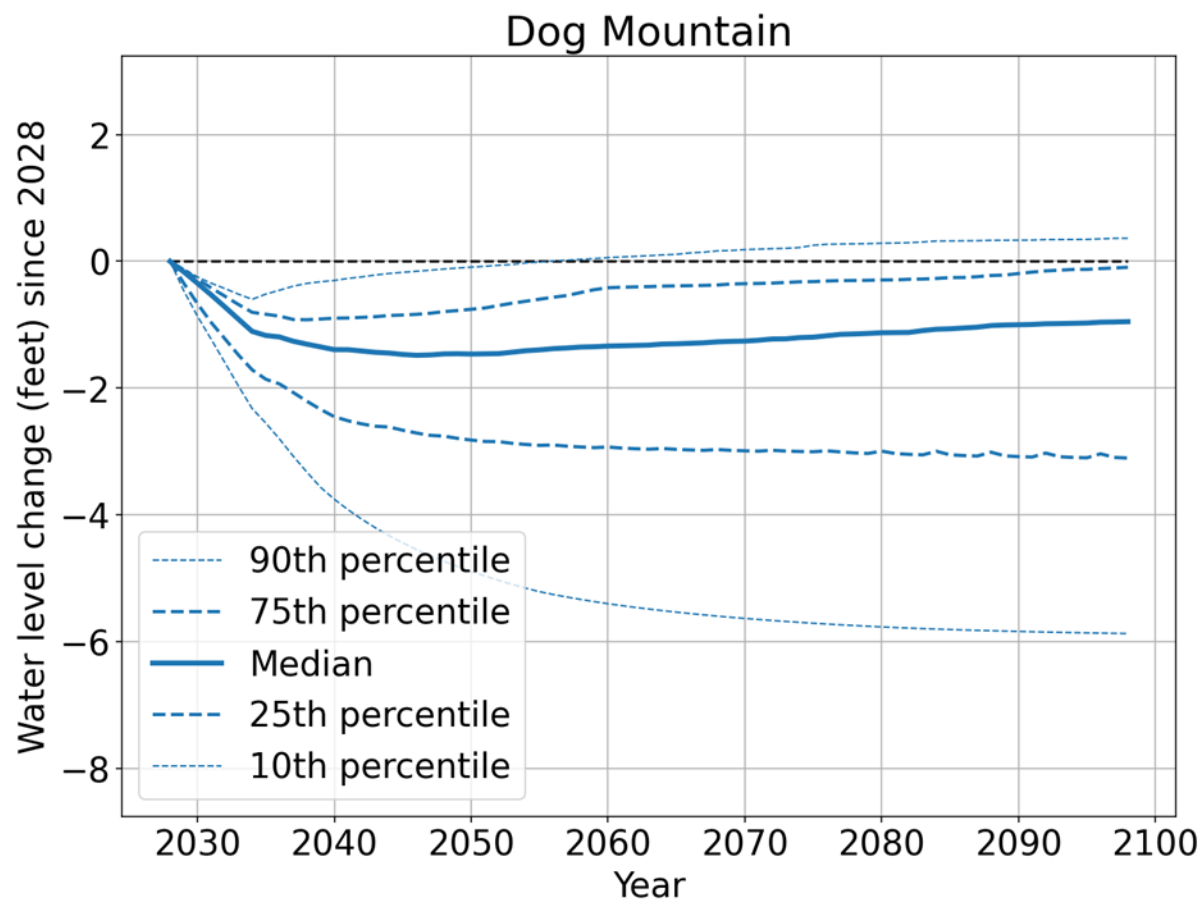


Table 1: Magnitudes of changes in annual high water levels (feet) compared with year 2028 in the Dog Mountain subarea. Each column represents a particular year when water level changes may be evaluated. Each row represents a percentile of water level changes within the subarea.

Percentile	2028	2033	2039	2045	2051	2057
90	0	-0.5	-0.3	-0.2	-0.1	0
75	0	-0.7	-0.9	-0.8	-0.7	-0.5
50	0	-0.9	-1.4	-1.5	-1.5	-1.4
25	0	-1.5	-2.3	-2.7	-2.8	-2.9
10	0	-2	-3.6	-4.4	-5	-5.3



## Groundwater Level Change Envelope

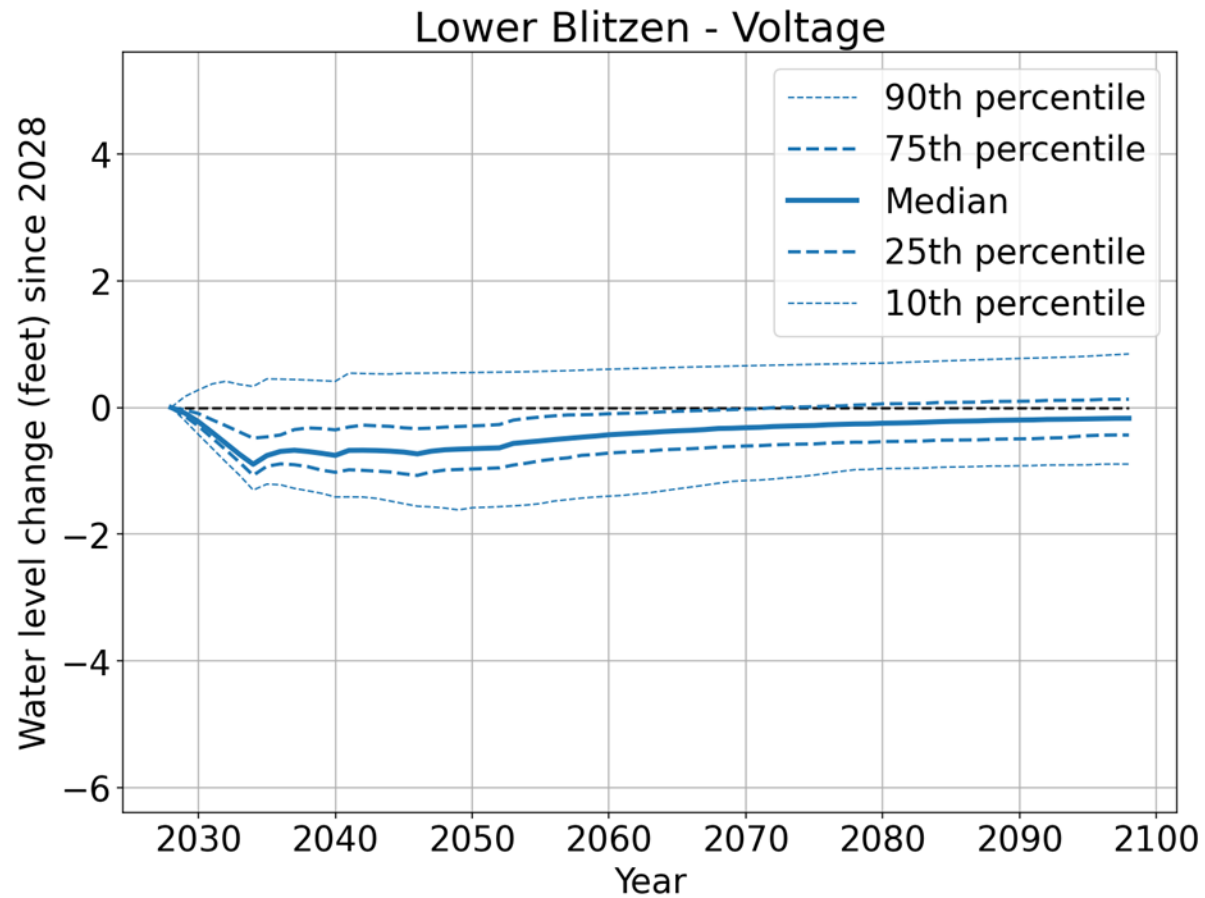


Table 2: Magnitudes of changes in annual high water levels (feet) compared with year 2028 in the Lower Blitzen - Voltage subarea. Each column represents a particular year when water level changes may be evaluated. Each row represents a percentile of water level changes within the subarea.

Percentile	2028	2033	2039	2045	2051	2057
90	0	0.4	0.4	0.5	0.6	0.6
75	0	-0.4	-0.3	-0.3	-0.3	-0.1
50	0	-0.7	-0.7	-0.7	-0.6	-0.5
25	0	-0.9	-1	-1	-1	-0.8
10	0	-1.1	-1.4	-1.5	-1.6	-1.5



## Groundwater Level Change Envelope

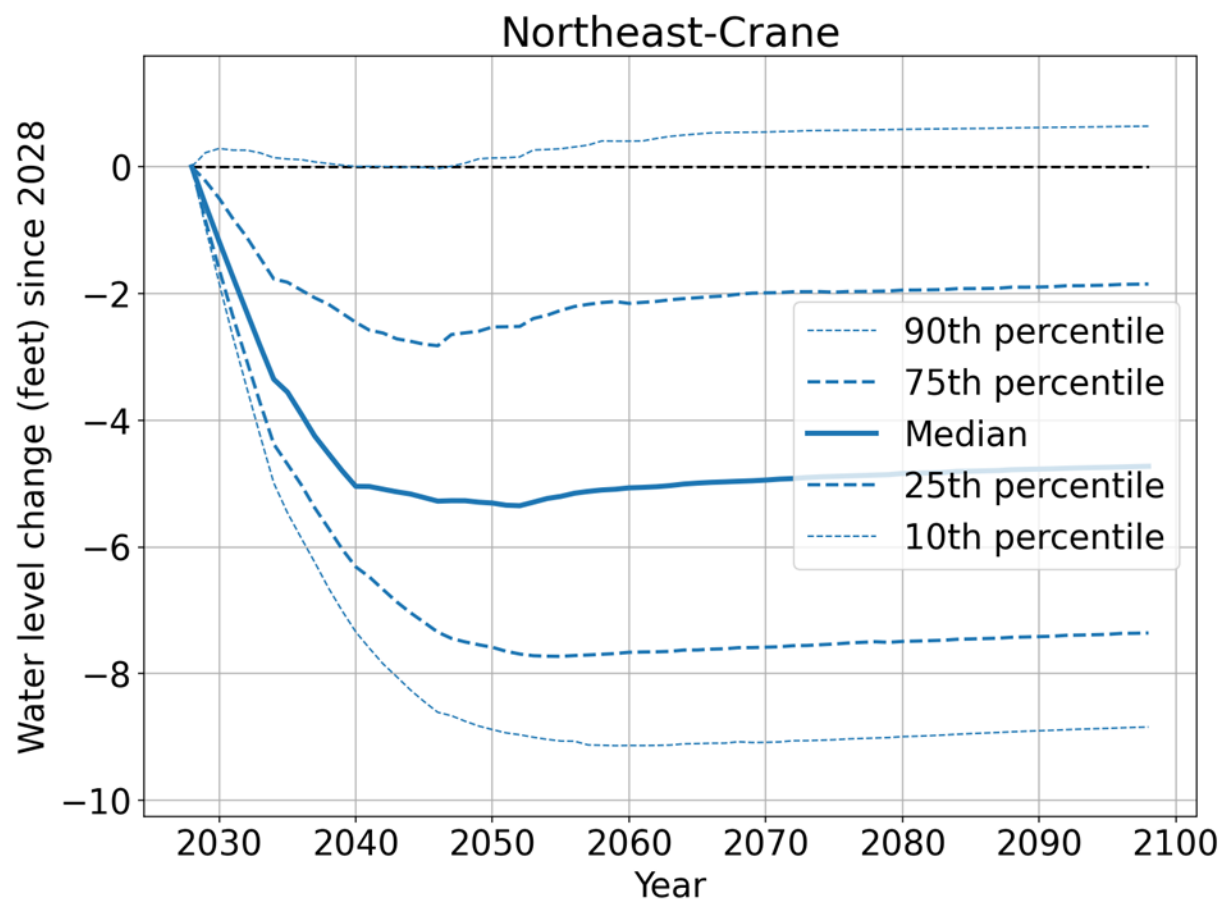


Table 3: Magnitudes of changes in annual high water levels (feet) compared with year 2028 in the Northeast - Crane subarea. Each column represents a particular year when water level changes may be evaluated. Each row represents a percentile of water level changes within the subarea.

Percentile	2028	2033	2039	2045	2051	2057
90	0	0.2	0	0	0.1	0.3
75	0	-1.4	-2.3	-2.8	-2.5	-2.2
50	0	-2.8	-4.8	-5.2	-5.3	-5.1
25	0	-3.7	-6	-7.2	-7.6	-7.7
10	0	-4.2	-7	-8.4	-8.9	-9.1



## Groundwater Level Change Envelope

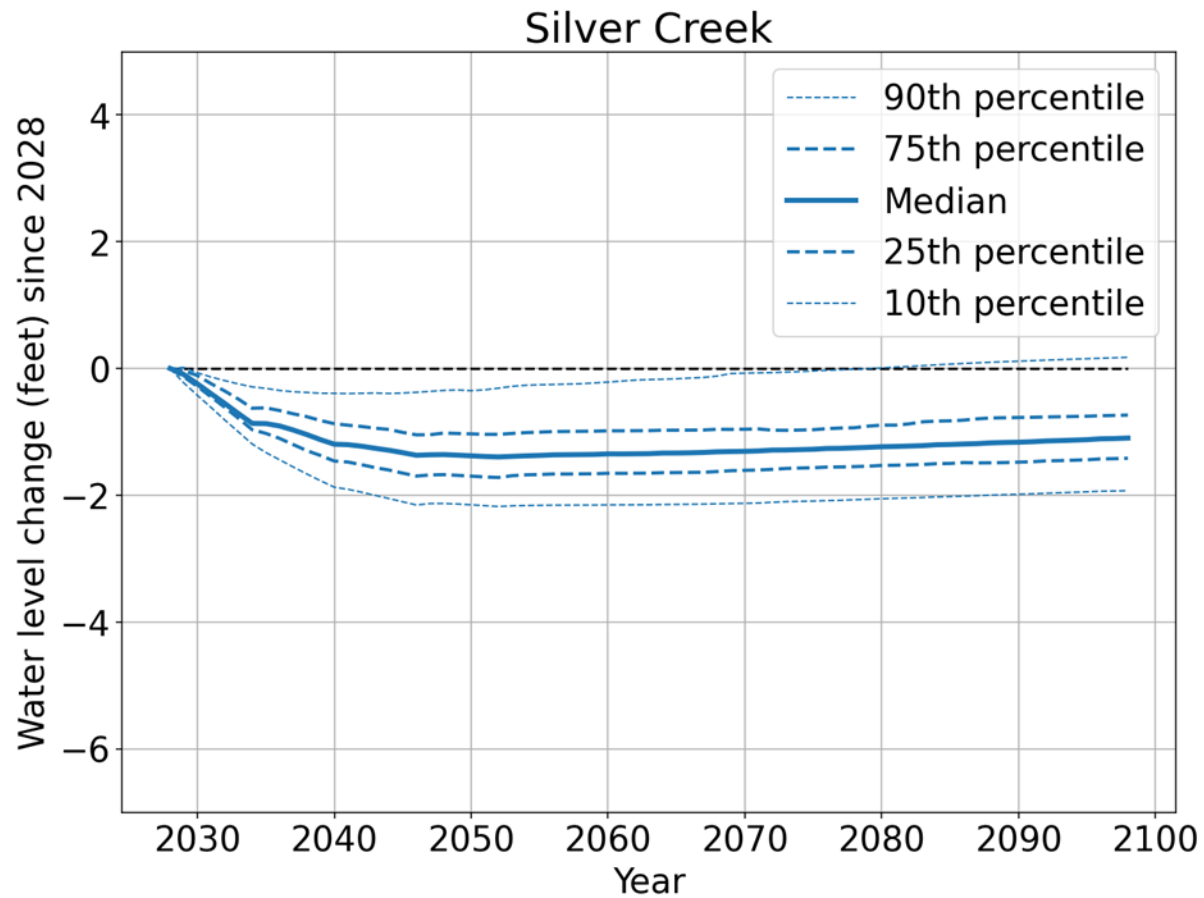


Table 4: Magnitudes of changes in annual high water levels (feet) compared with year 2028 in the Silver Creek subarea. Each column represents a particular year when water level changes may be evaluated. Each row represents a percentile of water level changes within the subarea.

Percentile	2028	2033	2039	2045	2051	2057
90	0	-0.2	-0.4	-0.4	-0.3	-0.2
75	0	-0.5	-0.8	-1	-1	-1
50	0	-0.7	-1.1	-1.3	-1.4	-1.4
25	0	-0.8	-1.4	-1.7	-1.7	-1.7
10	0	-1	-1.8	-2.1	-2.2	-2.2



## Groundwater Level Change Envelope

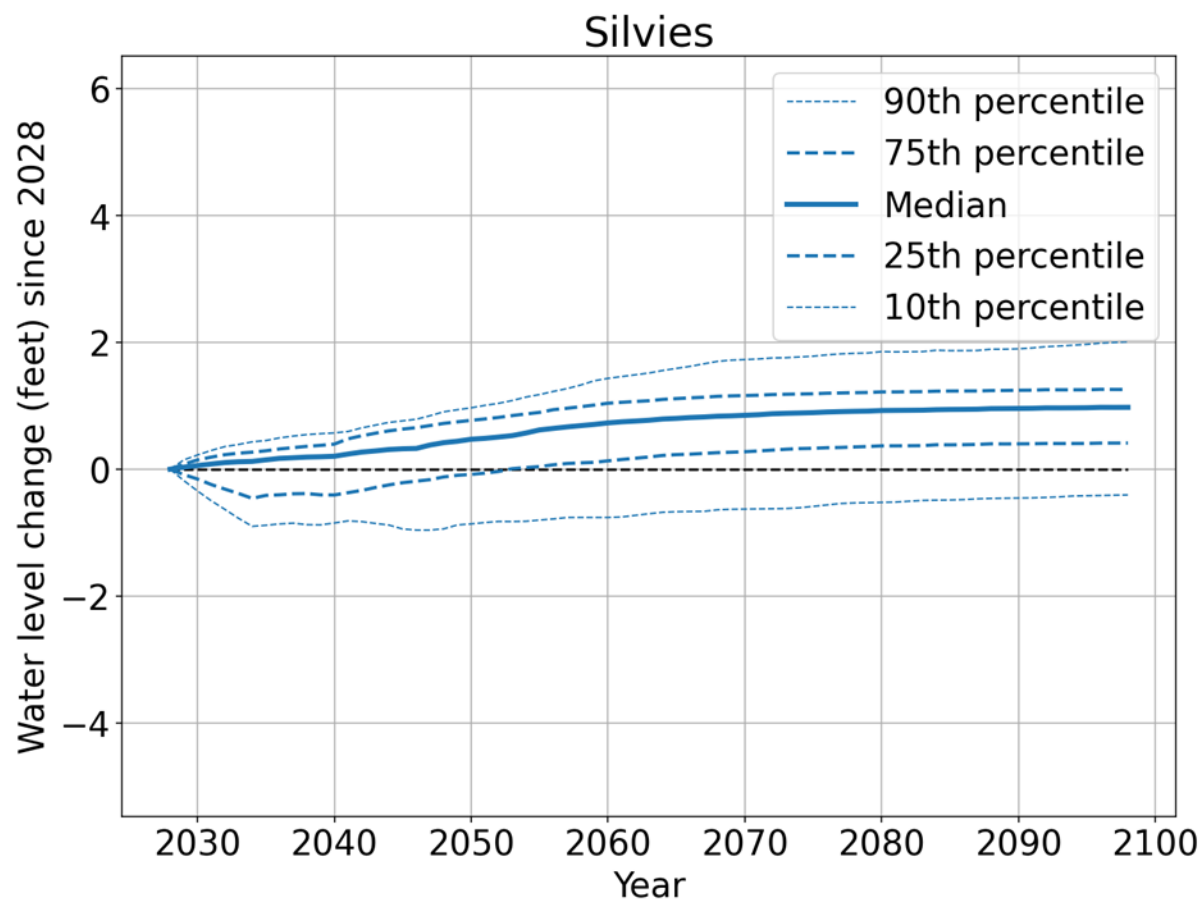


Table 5: Magnitudes of changes in annual high water levels (feet) compared with year 2028 in the Silvies subarea. Each column represents a particular year when water level changes may be evaluated. Each row represents a percentile of water level changes within the subarea.

Percentile	2028	2033	2039	2045	2051	2057
90	0	0.4	0.6	0.8	1	1.3
75	0	0.3	0.4	0.6	0.8	1
50	0	0.1	0.2	0.3	0.5	0.7
25	0	-0.4	-0.4	-0.2	-0.1	0.1
10	0	-0.8	-0.9	-0.9	-0.8	-0.8



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