Oregon
Kate Brown, Governor

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MEMORANDUM

TO: Water Resources Commission

FROM: Thomas M. Byler, Director

SUBJECT: Agenda Item D, May 11, 2017
Water Resources Commission Meeting

OAR Chapter 690, Division 507 – Request for Adoption of Rules to Update Terminology, Classify Further Use of Groundwater for Exempt Use Only, and Designate a Serious Water Management Problem Area

I. Introduction

This agenda items seeks Commission action to adopt rules that would classify groundwater in the Walla Walla Subbasin for exempt uses only and to designate the basalt aquifers in the area a Serious Water Management Problem Area (SWMPA).

II. Background

The State's groundwater management policy (ORS 537.525) sets forth that rights to use groundwater be protected, reasonably stable groundwater levels be determined and maintained, and groundwater overdraft be prevented.

Groundwater levels are declining in both the alluvial and basalt aquifer systems in the Walla Walla Subbasin of Oregon. The alluvial aquifer system has a total decline since 1940 of up to 15 feet. In the basalt aquifer, the rate of decline is up to four feet per year, with the total decline since 1950 exceeding 100 feet in some places. Senior basalt groundwater users have expressed concern about the stability of the resource and well yields have declined.

Staff members are actively engaging with local water users in the Walla Walla Subbasin to develop and implement a plan of action that will put the community on a more sustainable path for the use of groundwater. Early components of the plan of action include rulemaking to reclassify groundwater use in the basin for exempt uses only and to designate a SWMPA, as defined in statute, with required water use measurement and reporting for permitted basalt wells. The Department convened a Rules Advisory Committee (RAC) to advise amendments to basin rules.

Rulemaking has progressed under the following timeline:

December 9:	Department of Justice comment on proposed rule changes
December 12:	First RAC Meeting in Milton-Freewater
February 2:	Second RAC meeting in Milton-Freewater
February 13:	File hearing notice for publishing in the Oregon Bulletin
March 1:	Notify legislators, listserv, and stakeholders; place legal notices
March 22:	Public hearing in the basin
March 24:	Groundwater Advisory Committee (GWAC) review and comment
March 31:	Public comments due
April 13:	Finalize staff report
May 11:	Present Rules to Commission for Adoption

The Department now seeks Commission approval of these rule amendments.

III. Purpose of Rule Updates

The proposed changes to the OAR Chapter 690, Division 507 Umatilla Basin Program rules are in Attachment 1. The proposed changes include the following:

1. Classification of future groundwater allocation in both the alluvial and basalt aquifers for statutorily exempt uses only.
2. Designation of the basalt aquifers in the Walla Walla Subbasin as a SWMPA. The SWMPA will require installation of flowmeters on all permitted basalt wells, monthly recording of water use from those wells and annual water use reporting to the Department.
3. Correct language to address inconsistencies in terminology.

The Department held Rules Advisory Committee (RAC) meetings on December 12, 2016 and February 2, 2017 in Milton-Freewater. The RAC reviewed and discussed the proposed rule language, Department of Justice comments on the proposed rule language, and the Statement of Need and Fiscal Impact form. The RAC asked that the Department add definitions of key terms, clarify enforcement actions for noncompliance, limit further permit extensions, expand the SWMPA boundary to include the entire subbasin, include flowmeter installation costs in the Statement of Need and Fiscal Impact, and postpone the implementation date to install flowmeters.

A list of RAC members is provided in Attachment 2. Representatives included: the Confederated Tribes of the Umatilla Indian Reservation, the Walla Walla Watershed Council, the Nature Conservancy, city and county officials, irrigation districts, landowners and orchardists.

IV. Public Comment and Department Response

The Department held a public hearing on March 22, 2017 in Milton-Freewater, Oregon, with Commissioner Eric Quaempts as the hearing officer. Twenty one people attended the meeting. Attachment 3 provides text of the hearing transcript, including four verbal comments from the public. These comments focused on negative effects of declining water levels on the future of

long-term farming, requests that the Department evaluate groundwater permit extension requests for water availability, the need to quantify water use, the need for water management in conjunction with the State of Washington, protecting freshwater habitats and tribal rights, and economic impacts to the Subbasin.

The Department also accepted written public comments from March 1, 2017 to March 31, 2017. Attachment 4 provides the nine written comments received during this period. Written comments focused on the negative effects of declining water levels in the basalt aquifer, hardships facing both senior and junior users, sufficiency of data for decision making, water monitoring and management in conjunction with Washington, direct economic impacts to water users, and the secondary impacts to businesses in the Walla Walla Subbasin and Umatilla County. Many comments expressed concerns about future rulemaking that may curtail groundwater use.

The Department provides the following responses to the main issues that were presented during the public comment period.

- *Negative effects of groundwater declines.* Multiple users expressed concern that basalt groundwater declines are jeopardizing their ability to continue farming in the long-term. Department staff has recorded widespread groundwater level declines and is aware of the direct economic impact the declines have on senior users. The rules are proposed in response to these data.

- *Groundwater permit extension review.* Commenters requested groundwater permit extensions not be issued in areas where groundwater shortages are occurring. Permit extensions are outside of the scope of this rulemaking. The extension review process currently considers many factors, as required in OAR 690-315. One factor is the present and market demand on the resource, which includes 1) amount of water available to satisfy other affected water rights and scenic waterway flow; 2) Special water use designations established since permit issuance; 3) Habitat needs of ST&E species; 4) Economic investment to date; 5) Other economic interests; and 6) Other factors relevant to market and present demand.

- *Need to quantify water use.* Commenters expressed concern that the SWMPA does not include alluvial groundwater users but did express support for quantifying basalt groundwater use. The proposed SWMPA designation would require basalt groundwater measurement and reporting, allowing the Department to understand the local basalt water balance. While the Department recognizes the importance of water use quantification, the Department is prioritizing basalt use at this time because the declines and resulting problems are more extreme for basalt users. The alluvial system recharges from surface water and precipitation more quickly than the basalt system does resulting in significantly less water level decline in the alluvial system than in the basalt system.

- *Timeline of action*: Several commenters voiced concern that the Department is rushing decision making in the basin. As presented to the Commission at the October 2016 meeting and the January 2017 meeting, the Department held 7 public meetings outside of the RAC process between May 5, 2016 and December 13, 2016 to communicate information about groundwater declines in the area, the concerns of senior water users who are unable to access

their usual amount of water from the basalt aquifer due to water level declines, and options for addressing the problem. The Department also extended the deadline for flowmeter installation under the SWMPA from January 1, 2018 to January 1, 2019 based on RAC feedback related to the logistics of installing flow meters and the time required to research and take advantage of potential state and federal cost-share programs for water measurement. (House Bill 3051 proposes to add groundwater metering as a permissible use of the existing Water Measurement Cost Share Program Revolving Fund. At the time this staff report was prepared the bill had passed out of the House and was referred to the Senate Committee on Environment and Natural Resources.) The Department will continue to take these comments into account during future rulemaking and public outreach efforts while striving to implement solutions to address the needs of senior groundwater right holders in a timely manner.

- *Groundwater data*: Commenters expressed concern that the Department has not cited nor provided adequate basalt aquifer data to support its actions. The Department notes that all OWRD collected water level data are available on our website. Additionally, the Department hosted six public meetings in 2016 where water level data were presented in PowerPoint, handouts and on paper in conjunction with table-sized maps for attendees to view and a seventh meeting at which the Department solicited landowner cooperation to collect additional data to support future decisions in the basin. The Department continues to collect additional data through active testing and long-term monitoring. The Department will also continue to educate water users about available groundwater data in future meetings.

- *Collaboration with Washington*: Comments recommended collection and presentation of basalt water level trends within the Walla Walla Subbasin in Washington as well as involving Washington's Department of Ecology in any future management decisions. The Department is including Washington groundwater data in its analysis and will take all practical and legal measures to collect and share data and collaborate with the Department of Ecology as efforts move forward. Department field and technical staff met with counterparts at the Washington Department of Ecology to discuss water issues in the Walla Walla Basin on January 4, 2017, and both agencies plan to continue to work together on cross-state water issues in the future.

- *Stakeholder outreach*: Comments voiced concern that the Department did not involve certain stakeholders during the Rulemaking process. The Department notes that the Rules Advisory Committee included the Walla Walla Watershed Council, Walla Walla Irrigation District and Hudson Bay Irrigation District, Umatilla County, the City of Milton-Freewater, the Nature Conservancy, Confederated Tribes of the Umatilla Indian Reservation (CTUIR), senior and junior groundwater users, including small business owners. Additionally, the Department mailed multiple meeting and comment announcement letters to all basalt water rights holders of record within the WWSB. When the RAC recommended the SWMPA cover the entire WWSB, Department staff placed phone calls to notify newly affected water right holders before the second RAC meeting and invited them to participate. The Department will work to increase stakeholder outreach to groups such as small business owners in future meetings and rulemaking efforts.

The Department offers no modifications to the text of the hearing draft.

V. Groundwater Advisory Committee Consideration and Advice

The Department presented the proposed rule changes to the Groundwater Advisory Committee (GWAC) for their consideration and advice to the Commission on March 24, 2017. The Committee also invited public comment on the rule change at this meeting. One public member commented on the rule change and advocated for more flexibility and a sunset clause with respect to the groundwater classification rule.

The Committee made two motions that passed unanimously:

Motion 1: GWAC urges the Commission to:

- *Consider existing tools to allow time and rate limited permitted uses similar to those in place in the Amity-Walnut Hills Groundwater Limited Area of the Willamette Valley.*
  Response: The groundwater situation in the Amity-Walnut Hills GLA is similar to that in the Walla Walla Subbasin only in that both are concerned with groundwater from Columbia River Basalt aquifers. They differ in that the Amity-Walnut Hills basalt aquifer: 1) was classified to limit future groundwater use proactively before significant water level declines were observed; 2) appears to receive adequate recharge to balance existing uses; and 3) is situated in a geographic area with a climate that can sustain grape vines without irrigation after an initial limited irrigation period to establish the root stock. Further, community representatives on the RAC consistently advocated for stronger, not more permissible, exempt use classification language.

- *Revisit the exempt use classification once data is collected and analyzed.*
  Response: The existing observed water level trends will not diminish due to this classification, which limits future use but does not reduce existing uses or increase recharge. There is no reason to suspect that additional water is available for development from the basalt aquifer system in the future. Regardless, the Department plans to continue to collect data and work with the community in the coming years to reduce the rate of groundwater declines and ensure groundwater availability to senior water right holders. Future changes to the Walla Walla Subbasin rules are expected and will be based on analysis of additional data collection and input from the community.

Motion 2: GWAC supports the designation of a Serious Water Management Problem Area as proposed in 690-507-0030(4).

The Department offers no modifications to the text of the hearing draft.

VI. Conclusion

The Department finds that these proposed rules are consistent with statewide groundwater policy as they:

- Prevent the worsening of groundwater level declines by classifying future allocation from the Walla Walla Subbasin for exempt use only.

- Improve water use data collection across the basin to better inform decision making in the future.

The Department proposes that the Commission adopt the proposed rules to modify Division 507, Umatilla Basin Program, in order to classify groundwater for statutorily exempt uses only and designate a SWMPA as outlined above.

VII. Alternatives

The Commission may consider the following alternatives:

1. Adopt the proposed rules in Attachment 1.
2. Adopt the proposed rules as modified by the Commission.
3. Not adopt the rules and provide the Department with further direction.

VIII. Director's Recommendation

The Director recommends Alternative #1 to adopt the proposed rules.

Attachments:

Attachment 1 – Proposed Final Rules
Attachment 2 – Rules Advisory Committee Members
Attachment 3 – Oral Public Comments
Attachment 4 – Written Public Comments

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WATER RESOURCES DEPARTMENT
DIVISION 507
UMATILLA BASIN PROGRAM

The Umatilla Basin is delineated on agency Map 7.6, dated 1988.

690-507-0010

Definitions

The following meanings apply to the terms as used in these rules for the Umatilla Basin Program. Other rules of the Department may define these words differently:

(1) "Classification" or "Classified" means the allowed and preferred beneficial use(s) of a given surface or ~~ground water~~groundwater source for which future appropriations of water shall be permitted.

(2) "Commission" means the Water Resources Commission.

(3) "Department" means the Oregon Water Resources Department.

(4) "Director" means the Water Resources Director.

(5) "Minimum Perennial Streamflow" or "Minimum Streamflow" means an administrative rule that establishes a flow necessary to support aquatic life, ~~or~~ recreation or minimize pollution. The rule includes a priority date and specifies streamflow levels for all or any period of the year. It establishes priority for instream use over future appropriations and identifies flow objectives for future management in streams where shortages occur.

(6) "Statutorily Exempt ~~Ground Water~~Groundwater Uses" means those uses for which no ~~ground water~~groundwater application, permit, or certificate is required under ORS 537.545. These uses are for:

(a) Stockwatering purposes;

(b) Watering any lawn or noncommercial garden not exceeding one-half acre in area;

(c) Watering the grounds, three acres in size or less, or schools that have less than 100 students and that are located in cities with a population of less than 10,000;

(d) Single or group domestic purpose in an amount not exceeding 15,000 gallons a day;

(e) Down-hole heat exchange purposes; or

(f) Any single industrial or commercial purpose in an amount not exceeding 5,000 gallons a day.

(7) "Subbasin" means any subarea of a basin defined by surface drainage patterns such as the drainage basin of any tributary, or the area draining to any point on a river or draining between two points on a river.

(8) "Umatilla Basin" means the area comprised by the Walla Walla River, Wildhorse Creek, Upper Umatilla River, Birch and McKay Creeks, Columbia-Umatilla Plateau, Butter Creek, and Willow Creek subbasins as shown on Water Resources Department map number 7.6.

(9) "Withdrawal" or "Withdrawn" means an order of the Commission, or State Engineer or a Legislative act prohibiting all new appropriations for particular uses from a source for part or all of the year. A withdrawal can be set for a prescribed length of time or indefinitely until modified by the Commission.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRB 26, f. 3-2-64; WRD 1-1981, f. & cert. ef. 4-20-81; WRD 10-1985, f. & cert. ef. 9-3-85; WRD 13, f. & cert. ef. 12-18-85; WRD 14-1985, f. & cert. ef. 12-20-85; WRD 1-1986, RF. & cert. ef. 2-20-86; WRD 1-1987, f. & cert. ef. 2-27-87; WRD 8-1988, f. & cert. ef. 7-5-88; WRD 9-1990, f. & cert. ef. 6-25-90; Administrative Renumbering 1-1993, Renumbered from 690-080-0070

690-507-0020

Policies

(1) All rights to the surface waters of the Umatilla River and its tributaries initiated after September 28, 1987, shall be subordinate to permitted appropriations for the purpose of artificial ~~ground water~~groundwater recharge established before that date.

(2) To support present and proposed basin resource developments, no out-of-basin or out-of-state appropriations of water shall be made or granted by any state agency or public corporation of the state for the waters of the Umatilla River Basin.

(3) Rights to use water for industrial or mining purposes granted by any state agency shall be issued only on condition that any effluent or return flows from such uses shall not interfere with other beneficial uses of water.

(4) Future permits for consumptive water use shall be issued only on condition that efficient water use techniques or water conservation measures are proposed in the application. Failure to implement the proposed measures shall be a violation of the terms of the permit.

(5) Municipal water supplies, interstate cooperation in water management, instream needs, out-of-stream needs, water quality and watershed management are issues of concern in the Umatilla River Basin. The Commission's policies on these issues are as follows:

(a) Municipal water supply: In addressing the issue of municipal water supply in the Umatilla River Basin, it shall be the Commission's policy to:

(A) Assist cities with limited financial resources secure needed capital to develop, expand and improve municipal water supplies;

(B) Promote and aid municipal water conservation and encourage cities to plan for water service emergencies;

(C) Encourage the use of artificial ~~ground water~~groundwater recharge to supplement city ~~ground water~~groundwater supplies and help reduce water level declines in the basalt ~~ground water~~groundwater reservoir;

(D) Encourage and promote the concept of regional municipal water supply systems and preserve the options for proposed systems;

(E) Promote and support the purchase and transfer of water rights to municipal use;

(F) Promote the continued viability of municipal water systems reliant on the basalt ~~ground water~~groundwater reservoir.

(b) Interstate cooperation on water management: In addressing the issue of interstate cooperation on water management, it shall be the Commission's policy to:

(A) Coordinate and cooperate with the state of Washington in managing the water resources of the Walla Walla subbasin to the extent judicial decisions, stipulations and statutory authority allow;

(B) Open negotiations with the Washington Department of Ecology by 1990.

(c) Instream needs: In addressing the issue of instream needs, it shall be the Commission's policy to:

(A) Support the anadromous fish production goals of the Northwest Power Planning Council, Oregon Department of Fish and ~~w~~Wildlife and Confederated Tribes of the Umatilla Indian Reservation for the Umatilla River Basin;

(B) Protect and enhance instream values by limiting new uses of water from heavily appropriated streams and managing interconnected surface and ~~ground water~~groundwater conjunctively;

(C) Support and encourage watershed and riparian zone projects which improve instream habitat and water quantity and quality, and which provide multiple water resources benefits.

(d) Out-of-stream use: In addressing the issue of out-of-stream use, it shall be the Commission's policy to:

(A) Require conservation and efficient water use;

(B) Control growth of water demand by limiting new irrigation appropriations on selected streams to stored or conserved water;

(C) Support the efficient use of surplus surface and ~~ground water~~groundwater to supplement declining ~~ground water~~groundwater levels through artificial ~~ground water~~groundwater recharge;

(D) Support development of multipurpose surface storage consistent with policies in paragraphs (A), (B), and (C) of this subsection.

(e) Water quality: In addressing the issue of water quality, it shall be the Commission's policy to:

(A) Encourage and promote a formal ~~ground water~~groundwater quality monitoring program to ensure safe municipal and domestic ~~ground water~~groundwater supplies;

(B) Encourage development of management plans for ~~ground water~~groundwater aquifers susceptible to contamination;

(C) Support surface water quality standards to satisfy selected subbasin beneficial water uses identified in this basin program;

(D) Encourage and promote control of nonpoint and point sources of water pollution.

(f) Watershed management: In addressing the issue of watershed management, it shall be the Commission's policy to:

(A) Encourage and promote improvements in water quality, quantity, and related resources through agency-public cooperation and education about the benefits of watershed management;

(B) Encourage public and private landowners and managers to employ best management practices to benefit water quality and quantity;

(C) Encourage and support the retirement of highly erodible cropland as a means to enhance water quality and improve runoff patterns;

(D) Encourage and support riparian and stream channel enhancement as a means of improving flow distribution, water quality and related resource values.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRB 26, f. 3-2-64; WRD 1-1981, f. & cert. ef. 4-20-81; WRD 10-1985, f. & cert. ef. 9-3-85; WRD 13, f. & cert. ef. 12-18-85; WRD 14-1985, f. & cert. ef. 12-20-85; WRD 1-1986, RF. & cert. ef. 2-20-86; WRD 1-1987, f. & cert. ef. 2-27-87; WRD 8-1988, f. & cert. ef. 7-5-88; WRD 9-1990, f. & cert. ef. 6-25-90; Administrative Renumbering 1-1993, Renumbered from 690-080-0070

690-507-0030

Walla Walla River Subbasin

(1) Objectives: In developing a program for the management, use and control of the surface and ~~ground water~~groundwater resources of the Walla Walla subbasin, the Commission has the following objectives:

(a) Develop interstate cooperation with Washington in the management of surface and ~~ground water~~groundwater and related resources;

(b) Protect instream values in selected streams by closing them to future appropriations or limiting new appropriations to selected nonirrigation uses;

(c) Preserve the opportunity for future upstream storage for all beneficial uses;

(d) Permit artificial ~~ground water~~groundwater recharge to offset declining ~~ground water~~groundwater levels and supplement existing ~~ground water~~groundwater uses;

(e) Protect municipal ~~ground water~~groundwater supplies;

(f) Prevent new appropriations from causing ~~ground water~~groundwater/ surface water interference.

(2) Surface Water: Appropriation and use of surface water in the Walla Walla River subbasin shall comply with the following provisions:

(a) The unappropriated waters of the Walla Walla River and tributaries from and including the Little Walla Walla Diversion to the state border are withdrawn from further appropriation. This withdrawal does not apply to domestic, livestock, fish and wildlife uses or water released from storage. Frost protection between March 1 and May 15, up to a cumulative total of 35 cfs of permits and rights with priority dates after December 2, 1985, is also exempt from this withdrawal. This withdrawal was established by the Commission on January 17, 1986;

(b) The waters of Dugger Creek and tributaries, being entirely appropriated, are withdrawn from further appropriation. The purpose of the withdrawal is to avoid conflict between new uses and

existing rights and administrative problems in the distribution of water resulting from new appropriations. The withdrawal was ordered by the State Engineer on August 12, 1933;

(c) Classification: Permits to use surface water may be issued only for the following classified uses:

(A) The surface waters of the Walla Walla River subbasin generally, are classified for domestic, livestock, irrigation, municipal, industrial, power development (subject to ~~in~~ the limitations of OAR Chapter 690, Division 51), mining, fish life, wildlife, recreation, pollution abatement, artificial ~~ground water~~groundwater recharge, and public instream uses only;

(B) The surface waters of the Walla Walla River and tributaries upstream from the Little Walla Walla diversion are classified for domestic, livestock, irrigation of noncommercial lawn and garden not to exceed 1/.2 acre, municipal, mining, fish life, wildlife, recreation, pollution abatement, artificial ~~ground water~~groundwater recharge and public instream uses only;

(C) Subject to the rights and priorities existing on June 24, 1988, and established minimum perennial streamflows, 40,000 acre-feet of the annual yield of the Walla Walla River upstream from the Little Walla Walla diversion is further classified for all beneficial uses in conjunction with storage. All natural flow rights issued on the Walla Walla River and its tributaries upstream from the Little Walla Walla diversion after June 24, 1988, shall be subordinate to this classification. Any storage project built under this classification shall include provisions for municipal, fish and wildlife, and recreation uses acceptable to the Commission;

(D) The surface waters of Mill Creek and tributaries are classified for domestic, livestock, irrigation of noncommercial lawn and garden not to exceed 1/2 acre, fish life, wildlife, pollution abatement, artificial ~~ground water~~groundwater recharge and public instream uses only.

(E) The surface waters of Couse and Pine Creeks and tributaries are classified for domestic, livestock, irrigation or noncommercial lawn and garden not to exceed 1/2 acre, fish life, wildlife, pollution abatement, artificial ~~ground water~~groundwater recharge and public instream uses only.

(d) Storage: Surface waters legally stored and legally released may be used for any beneficial purpose;

(e) Artificial ~~ground water~~groundwater recharge: Use of surface water for ~~ground water~~groundwater recharge shall be subject to the following conditions:

(A) Recharged water used under a secondary permit for irrigation may only provide supplemental water to lands with existing irrigation rights or permits on June 24, 1988;

(B) Diversion of surface water for recharge for irrigation under a secondary permit shall not exceed 3.375 acre feet per acre to be irrigated;

(C) If the recharged water is to be used for municipal or industrial purposes under a secondary permit, the applicant shall demonstrate to the satisfaction of the Commission that it has an active water conservation program; and

(D) Water shall be recharged only between December 1 and May 15.

(f) Minimum perennial streamflows: Minimum streamflows may be established to support aquatic life, minimize pollution or maintain recreation values:

(A) To support aquatic life in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriation of water shall be made or granted by any state agency or public corporation of the state for waters of the Walla Walla River and tributaries when flows are below the levels specified in **Table 1**. This limitation shall not apply to domestic and livestock use or to waters legally stored or released from storage; and

(B) To support aquatic life, no appropriations of water except for domestic and livestock uses or waters legally stored or released from storage shall be made or granted by any state agency or public corporation of the state when flows are below the specified levels for the streams listed in **Table 1** with priority dates of 3-31-88.

(3) ~~Ground Water~~Groundwater: ~~Appropriation and use of ground water in the Walla Walla River subbasin shall comply with the following provisions:~~

~~(a) Classification: Permits to use ground water may be issued only for the following classified uses:~~

~~(A)~~ The ~~ground water~~groundwater resources of the Walla Walla River subbasin are classified for statutorily exempt ~~ground water~~ uses only as provided in and as consistent with ORS 537.545.~~(see definitionrefer to ORS 537.545), irrigation, municipal, industrial, power development, low temperature geothermal, mining, fish life, wildlife, recreation, pollution abatement, and artificial ground water recharge; and~~

~~(B) Ground water from the basalt reservoir in a five-mile radius around any municipal well of the cities of Athena, Helix, Milton-Freewater, and Weston is classified for municipal, group domestic and statutorily exempt ground water uses (see definition) only. Other uses may be permitted if it is documented that a barrier to ground water movement separates a proposed well from municipal wells and there will be no interference with municipal wells. Applications for other uses of ground water within a five-mile radius of a municipal well shall automatically be referred to the Commission for review and consideration of public interest unless the affected city affirms that is in favor of the proposed appropriation. This classification applies only when the affected city(ies) have a full-time conservation program in effect.~~

~~(b) Permits issued to appropriate ground waters that may be hydraulically connected with surface water shall be specially conditioned. The condition shall specify that when exercise of the permit~~

~~unduly interferes with surface water, the permit will be regulated in favor of the surface water source.~~

(4) Basalt Well Flow Meter Installation and Groundwater Use Reporting: The Commission establishes a Serious Water Management Problem Area (SWMPA, ORS 540.435) as shown in Exhibit 507-1~~xxx~~.

(a) As used in 690-507-0030(4):

(A) "Basalt well" is a water supply well that develops groundwater from the Columbia River Basalt Group within the designated SWMPA.

(B) "Totalizing flow meter" is an instrument used to measure and display both the instantaneous flow rate of groundwater produced from the well and the total volume of groundwater produced from the well.

(b) By no later than January 1, 2019, each water right holder, well owner, or well operator, shall properly install and thereafter properly maintain a totalizing flow meter on each basalt well within the SWMPA boundary listed as a point of appropriation on a valid water right. Totalizing flow meters must meet the specifications in subsections (e) – (h) and shall be properly installed according to manufacturer's specifications.~~A totalizing flow meter shall be properly installed according to manufacturer specifications on each basalt well within the SWMPA boundary authorized to pump groundwater under a permit, certificate, or groundwater registration by January 1, 2018. Failure to have and maintain a properly installed, functioning totalizing flow meter by January 1, 2018 will result in the Watermaster regulating and controlling the well such that no groundwater is pumped or appropriated under a water right until a flow meter is installed.~~

(~~b~~c) Totalizing flow meters and the method of flow meter installation are subject to approval by Department Staff. Once installed, totalizing flow meters must be maintained in good working order. Department staff shall have access to the totalizing flow meters upon request. ~~The water right holder, well owner, or well operator shall maintain the totalizing flow meter in good working order, and allow Department staff access to the totalizing flow meter upon request. The flow meter and flow meter installation are subject to approval by Department staff.~~

(d~~c~~) The water right holder, well owner, or well operator shall keep a complete record of the volume of water appropriated each month, and shall submit a report which includes water use measurements to the Department on an annual basis by January 31 of each calendar year. The Director may request submission of reports more frequently as necessary to monitor and administer the SWMPA. Reports of water use measurements shall be submitted to the Department during the month of January for the preceding year, or more frequently as required by the Director. Reports shall be submitted on a form developed by the Department. ~~The water right holder, well owner, or well operator shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes water use measurements to the~~

~~Department annually, or more frequently as may be required by the Director. The monthly water use measurements shall be submitted to the Department during the month of January for the preceding year on a form provided by the Department.~~

(~~d~~e) 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) ~~The~~A totalizing flow meter shall register the full range of discharge from the well.

(C) ~~The~~A totalizing flow meter shall have a visual 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.

(~~e~~f) The totalizing part of the flow meter shall have sufficient capacity to record 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~~. T~~ 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.

(~~f~~g) Totalizers on each meter shall not be field reset without notice to and written permission from the Watermaster.

(~~g~~h) 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. The flow meter shall be installed not less than five pipe diameters downstream from any valve, elbow, or other obstruction which might create turbulent flow, or other provisions shall be made that meet the manufacturer's specifications to control or eliminate turbulent flow.

(i) Failure to have and maintain a properly installed, functioning totalizing flow meter by January 1, 2019 will result in the Watermaster regulating and controlling an unmetered well such that no groundwater may be pumped or appropriated until a flow meter is obtained and installed consistent with these rules.

(j) Consistent with ORS 536.900, ORS Chapter 183, and OAR Chapter 690 division 260, the Department may assess civil penalties for violation of these rules.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRB 26, f. 3-2-64; WRD 1-1981, f. & cert. ef. 4-20-81; WRD 10-1985, f. & cert. ef. 9-3-85; WRD 13, f. & cert. ef. 12-18-85; WRD 14-1985, f. & cert. ef. 12-20-85; WRD 1-1986, RF. & cert. ef. 2-20-86; WRD 1-1987, f. & cert. ef. 2-27-87; WRD 8-1988, f. & cert. ef. 7-5-88;

WRD 9-1990, f. & cert. ef. 6-25-90; Administrative Renumbering 1-1993, Renumbered from 690-080-0070

690-507-0040

Wildhorse Creek Subbasin

(1) Objectives: In developing a program for the management, use and control of the surface and ~~ground water~~groundwater resources of the Wildhorse Creek subbasin, the Commission has the following objectives:

(a) Protect instream values by closing streams to future appropriations during the low-flow season and limiting future appropriations during the high-flow season to selected nonirrigation or nonconsumptive uses;

(b) Permit artificial ~~ground water~~groundwater recharge to offset declining ~~ground water~~groundwater levels and supplement existing ~~ground water~~groundwater uses;

(c) Protect municipal ~~ground water~~groundwater supplies;

(d) Prevent new appropriations from causing ~~ground water~~groundwater/surface water interference;

(e) Support efforts to reduce nonpoint source sediment loads in subbasin streams.

(2) Surface Water: Appropriation and use of surface water in the Wildhorse Creek subbasin shall comply with the following provisions:

(a) Wildhorse Creek and tributaries are withdrawn from further appropriation of unappropriated waters during the period June 1 through October 31 each year. The withdrawal does not apply to domestic, livestock, fish and wildlife uses or water released from storage. This action was taken by the Commission on December 2, 1985;

(b) Classification: Permits to use the surface waters of Wildhorse Creek and tributaries may be issued only for domestic, livestock, irrigation of noncommercial lawn and garden not to exceed 1/2 acre, power development (subject to the limitations of OAR Chapter 690, Division 51), mining, fish life, wildlife, recreation, pollution abatement, artificial ~~ground water~~groundwater recharge and public instream uses during the period November 1 through May 31 each year. This classification rescinds the Commission's order of December 2, 1985, withdrawing the Umatilla River and tributaries from further appropriation from November 1 through May 31 each year until December 31, 1988.

(c) Storage: Surface water legally stored during the period November 1 through May 31 and legally released may be used for any beneficial purpose;

(d) Artificial ~~ground water~~groundwater recharge: Use of surface water for ~~ground water~~groundwater recharge shall be subject to the following conditions:

(A) Recharged water used under a secondary permit for irrigation may only provide supplemental water to lands with existing irrigation rights or permits on June 24, 1988;

(B) Diversion of surface water for recharge for irrigation under a secondary permit shall not exceed 2.25 acre feet per acre to be irrigated; and

(C) If the recharged water is to be used for municipal or industrial purposes under a secondary permit, the applicant shall demonstrate to the satisfaction of the Commission that it has an active water conservation program.

(3) ~~Ground Water~~Groundwater; Appropriation and use of ~~ground water~~groundwater in the Wildhorse Creek subbasin shall comply with the following provisions:

(a) Classification: Permits to use ~~ground water~~groundwater may be issued only for the following classified uses:

(A) The ~~ground water~~groundwater resources of the Wildhorse Creek subbasin are classified for statutorily exempt ~~ground water~~groundwater uses (see definition), irrigation, municipal, industrial, power development, low temperature geothermal, mining, fish life, wildlife, recreation, pollution abatement, and artificial ~~ground water~~groundwater recharge; and

(B) Groundwater from the basalt reservoir in a five-mile radius around any municipal well of the cities of Adams, Athena, Helix, Pendleton, and Weston is classified for municipal, group domestic and statutorily exempt ~~ground water~~groundwater uses (see definition) only. Other uses may be permitted if it is documented that a barrier to ~~ground water~~groundwater movement separates a proposed well from municipal wells and there will be no interference with municipal wells. Applications for other uses of ~~ground water~~groundwater within a five-mile radius of a municipal well shall automatically be referred to the Commission for review and consideration of public interest unless the affected city affirms that it is in favor of the proposed appropriation. This classification applies only when the affected city(ies) have a full-time conservation program in effect.

(b) Permits issued to appropriate ~~ground water~~groundwaters that may be hydraulically connected with surface water shall be specially conditioned. The condition shall specify that when exercise of the permit unduly interferes with surface water, the permit will be regulated in favor of the surface water source.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRB 26, f. 3-2-64; WRD 1-1981, f. & cert. ef. 4-20-81; WRD 10-1985, f. & cert. ef. 9-3-85; WRD 13, f. & cert. ef. 12-18-85; WRD 14-1985, f. & cert. ef. 12-20-85; WRD 1-1986, RF. & cert. ef. 2-20-86; WRD 1-1987, f. & cert. ef. 2-27-87; WRD 8-1988, f. & cert. ef. 7-5-88;

WRD 9-1990, f. & cert. ef. 6-25-90; Administrative Renumbering 1-1993, Renumbered from 690-080-0070

690-507-0050

Upper Umatilla River Subbasin

(1) Objectives: In developing a program for the management, use and control of the surface and ~~ground water~~groundwater resources of the Upper Umatilla River subbasin, the Commission has the following objectives:

(a) Protect instream values by closing streams to future appropriations during the low-flow season and limiting future appropriations during the high-flow season to selected nonirrigation uses;

(b) Acknowledge the Confederated Tribes of the Umatilla Indian Reservation have an unquantified claim to water and preserve the opportunity for the Tribes to store excess winter flows for Tribal use or purposes;

(c) Preserve the opportunity for future upstream storage for all beneficial uses;

(d) Promote municipal use of surface waters;

(e) Permit artificial ~~ground water~~groundwater recharge to offset declining ~~ground water~~groundwater levels and supplement existing ~~ground water~~groundwater uses;

(f) Protect municipal ~~ground water~~groundwater supplies;

(g) Prevent new appropriations from causing ~~ground water~~groundwater/surface water interference.

(2) Surface Water: Appropriation and use of surface water in the Upper Umatilla River subbasin shall comply with the following provisions:

(a) Subject to the rights existing on March 3, 1941 the waters of the North Fork Umatilla River and its tributaries were set aside by the Oregon Legislature for the exclusive use of the City of Pendleton, ORS 538.450. Nothing in the statute prohibits the City of Pendleton from using the main stem Umatilla River to convey this water to the City;

(b) The Upper Umatilla River and tributaries are withdrawn from further appropriation of unappropriated waters during the period June 1 through October 31 each year. The withdrawal does not apply to domestic, livestock, fish and wildlife uses or water released from storage. This action was taken by the Commission on December 2, 1985;

(c) Classification: Permits to use surface water may be issued only for the following classified uses:

(A) Natural flows of the Upper Umatilla River and tributaries are classified for domestic, livestock, irrigation or noncommercial lawn and garden not to exceed 1/2 acre, municipal, industrial, power development (subject to the limitations of OAR Chapter 690, Division 51) mining (including sand and gravel mining), fish life, wildlife, recreation, pollution abatement, artificial ~~ground water~~groundwater recharge, and public instream uses during the period November 1 through May 31 each year. This classification rescinds the Commission's order of December 2, 1985, withdrawing the Umatilla River and tributaries from further appropriation from November 1 through May 31 each year until December 31, 1988;

(B) Until there is a final quantification of any reserved water rights of the Confederated Tribes of the Umatilla Indian Reservation, up to 75,000 acre feet of water in the Upper Umatilla River subbasin are classified for storage for the exclusive use of the Tribes. This classification applies to storage on or off the reservation in a single or multiple impoundments. Storage of this water is subject to the rights and priorities existing on June 24, 1988, and the withdrawal of the Umatilla River and tributaries from June 1 through October 31. All natural flow rights issued on the Umatilla River and its tributaries upstream from Pendleton and on the Umatilla main stem downstream from Pendleton after June 24, 1988, shall be subordinate to this classification. This classification shall be superior to the classification for storage contained in paragraph (C) of this subsection; and

(C) Subject to the rights and priorities existing on June 24, 1988, the withdrawal of the Umatilla River and tributaries from June 1 through October 31, and the 75,000 acre foot classification in paragraph (B) of this subsection, up to 100,000 acre feet of the annual yield of the Umatilla River above Pendleton are classified for all beneficial uses in conjunction with storage. All natural flow rights issued on the Umatilla River and its tributaries upstream from Pendleton and on the Umatilla main stem downstream from Pendleton after this date shall be subordinate to this classification, except that up to a total of 20,000 acre feet of additional permits may be granted for artificial ~~ground water~~groundwater recharge without subordination under this paragraph. Any storage project built under this classification shall include provisions for municipal, fish and wildlife, and recreation uses acceptable to the Commission.

(d) Storage: Surface water legally stored during the period November 1 through May 31, and legally released may be used for any beneficial purpose;

(e) Artificial ~~ground water~~groundwater recharge: Use of surface water for ~~ground water~~groundwater recharge shall be subject to the following conditions:

(A) Recharged water used under a secondary permit for irrigation may only provide supplemental water to lands with existing irrigation rights or permits on June 24, 1988;

(B) Diversion of surface water for recharge for irrigation under a secondary permit shall not exceed 2.25 acre feet per acre to be irrigated; and

(C) If the recharged water is to be used for municipal or industrial purposes under a secondary permit, the applicant shall demonstrate to the satisfaction of the Commission that it has an active water conservation program.

(f) Minimum perennial streamflows: Minimum streamflows may be established to support aquatic life, minimize pollution or maintain recreation values:

(A) To support aquatic life in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriation of water shall be made or granted by any state agency or public corporation of the state for waters of the Umatilla River and tributaries when flows are below the levels specified in **Table 1**. This limitation shall not apply to domestic and livestock use or to waters legally stored or released from storage; and

(B) To support aquatic life, no appropriations of water except for domestic and livestock uses or waters legally stored or released from storage shall be made or granted by any state agency or public corporation of the state when flows are below the specified levels for the streams listed in **Table 1** with priority dates of 3-31-88.

(3) ~~Ground Water~~Groundwater: Appropriation and use of ~~ground water~~groundwater in the Upper Umatilla River subbasin shall comply with the following provisions:

(a) Classification: Permits to use ~~ground water~~groundwater may be issued only for the following classified uses:

(A) The ~~ground water~~groundwater resources of the Upper Umatilla River subbasin are classified for statutorily exempt ~~ground water~~groundwater uses (see definition), irrigation, municipal, industrial, power development, low temperature geothermal, mining, fish life, wildlife, recreation, pollution abatement, and artificial ~~ground water~~groundwater recharge; and

(B) Groundwater from the basalt reservoir in a five-mile radius around any municipal well of the cities of Adams and Pendleton is classified for municipal, group domestic and statutorily exempt ~~ground water~~groundwater uses (see definition) only. Other uses may be permitted if it is documented that a barrier to ~~ground water~~groundwater movement separates a proposed well from municipal wells and there will be no interference with municipal wells. Applications for other uses of ~~ground water~~groundwater within a five-mile radius of a municipal well shall automatically be referred to the Commission for review and consideration of public interest unless the affected city affirms that it is in favor of the proposed appropriation. This classification applies only when the affected city(ies) have a full-time conservation program in effect.

(b) Permits issued to appropriate ~~ground water~~groundwaters that may be hydraulically connected with surface water shall be specially conditioned. The condition shall specify that when exercise of the permit unduly interferes with surface water, the permit will be regulated in favor of the surface water source.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRB 26, f. 3-2-64; WRD 1-1981, f. & cert. ef. 4-20-81; WRD 10-1985, f. & cert. ef. 9-3-85; WRD 13, f. & cert. ef. 12-18-85; WRD 14-1985, f. & cert. ef. 12-20-85; WRD 1-1986, RF. & cert. ef. 2-20-86; WRD 1-1987, f. & cert. ef. 2-27-87; WRD 8-1988, f. & cert. ef. 7-5-88; WRD 9-1990, f. & cert. ef. 6-25-90; Administrative Renumbering 1-1993, Renumbered from 690-080-0070

690-507-0060

Birch and McKay Creeks Subbasin

(1) Objectives: In developing a program for the management, use and control of the surface and ~~ground water~~groundwater resources of the Birch and McKay Creeks subbasin, the Commission has the following objectives:

(a) Protect instream values by closing streams to future appropriations during the low-flow season and limiting future appropriations during the high-flow season to selected nonirrigation uses;

(b) Preserve the opportunity for future upstream storage for all beneficial uses;

(c) Permit artificial ~~ground water~~groundwater recharge to offset declining ~~ground water~~groundwater levels and supplement existing ~~ground water~~groundwater uses;

(d) Protect municipal ~~ground water~~groundwater supplies;

(e) Prevent new appropriations from causing ~~ground water~~groundwater/surface water interference.

(2) Surface Water: Appropriation and use of surface water in the Birch and McKay Creeks subbasin shall comply with the following provisions:

(a) Birch and McKay Creeks and their tributaries are withdrawn from further appropriation of unappropriated waters during the period June 1 through October 31 each year. The withdrawal does not apply to domestic, livestock, fish and wildlife uses or water released from storage. This action was taken by the Commission on December 2, 1985;

(b) Classification: Permits to use surface water may be issued only for the following classified uses:

(A) The surface waters of Birch and McKay Creeks and tributaries are classified for domestic, livestock, irrigation of noncommercial lawn and garden not to exceed 1/2 acre, municipal, industrial, power development (subject to the limitations of OAR Chapter 690, Division 51) mining (including sand and gravel mining), fish life, wildlife, recreation, pollution abatement,

artificial ~~ground water~~groundwater recharge, and public instream uses during the period November 1 through May 31 each year. This classification rescinds the Commission's order of December 2, 1985, withdrawing the Umatilla River and tributaries from further appropriation from November 1 through May 31 each year until December 31, 1988;

(B) Subject to the rights and priorities existing on June 24, 1988, the withdrawal of Birch Creek and tributaries from June 1 through October 31, Birch Creek and tributaries are further classified for all beneficial uses in conjunction with storage. All natural flow rights issued on Birch Creek and tributaries after this date shall be subordinate to this classification. Any storage project built under this classification shall include provisions for municipal, fish and wildlife, and recreation uses acceptable to the Commission.

(c) Storage: Surface water legally stored during the period November 1 through May 31, and legally released may be used for any beneficial purpose;

(d) Artificial ~~ground water~~groundwater recharge: Use of surface water for ~~ground water~~groundwater recharge shall be subject to the following conditions:

(A) Recharged water used under a secondary permit for irrigation may only provide supplemental water to lands with existing irrigation rights or permits on June 24, 1988;

(B) Diversion of surface water for recharge for irrigation under a secondary permit shall not exceed 2.25 acre feet per acre to be irrigated; and

(C) If the recharged water is to be used for municipal or industrial purposes under a secondary permit, the applicant shall demonstrate to the satisfaction of the Commission that it has an active water conservation program.

(e) Minimum perennial streamflows: Minimum streamflows may be established to support aquatic life, minimize pollution or maintain recreation values:

(A) To support aquatic life in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriation of water shall be made or granted by any state agency or public corporation of the state for waters of the Umatilla River and tributaries when flows are below the levels specified in **Table 1**. This limitation shall not apply to domestic and livestock use or to waters legally stored or released from storage; and

(B) To support aquatic life, no appropriations of water except for domestic and livestock uses or waters legally stored or released from storage shall be made or granted by any state agency or public corporation of the state when flows are below the specified levels for the streams listed in **Table 1** with priority dates of 3-31-88.

(3) ~~Ground Water~~Groundwater: Appropriation and use of ~~ground water~~groundwater in the Birch and McKay Creeks subbasin shall comply with the following provisions:

(a) Classification: Permits to use ~~ground water~~groundwater may be issued only for the following classified uses:

(A) The ~~ground water~~groundwater resources of the Birch and McKay Creeks subbasin are classified for statutorily exempt ~~ground water~~groundwater uses (see definition), irrigation, municipal, industrial, power development, low temperature geothermal, mining, fish life, wildlife, recreation, pollution abatement, and artificial ~~ground water~~groundwater recharge; and

(B) Groundwater from the basalt reservoir in a five-mile radius around any municipal well of the cities of Pendleton and Pilot Rock is classified for municipal, group domestic and statutorily exempt ~~ground water~~groundwater uses (see definition) only. Other uses may be permitted if it is documented that a barrier to ~~ground water~~groundwater movement separates a proposed well from municipal wells and there will be no interference with municipal wells. Applications for other uses of ~~ground water~~groundwater within a five-mile radius of a municipal well shall automatically be referred to the Commission for review and consideration of public interest unless the affected city affirms that it is in favor of the proposed appropriation. This classification applies only when the affected city(ies) have a full-time conservation program in effect.

(b) Permits issued to appropriate ~~ground water~~groundwaters that may be hydraulically connected with surface water shall be specially conditioned. The condition shall specify that when exercise of the permit unduly interferes with surface water, the permit will be regulated in favor of the surface water source.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRB 26, f. 3-2-64; WRD 1-1981, f. & cert. ef. 4-20-81; WRD 10-1985, f. & cert. ef. 9-3-85; WRD 13, f. & cert. ef. 12-18-85; WRD 14-1985, f. & cert. ef. 12-20-85; WRD 1-1986, RF. & cert. ef. 2-20-86; WRD 1-1987, f. & cert. ef. 2-27-87; WRD 8-1988, f. & cert. ef. 7-5-88; WRD 9-1990, f. & cert. ef. 6-25-90; Administrative Renumbering 1-1993, Renumbered from 690-080-0070

690-507-0070

Columbia-Umatilla Plateau Subbasin

(1) Objectives: In developing a program for the management, use and control of the surface and ~~ground water~~groundwater resources of the Columbia-Umatilla Plateau subbasin, the Commission has the following objectives:

(a) Protect instream values in the Umatilla River main stem by closing the main stem to future appropriations during the low-flow season and limiting future appropriations during the high-flow season to selected nonirrigation or nonconsumptive uses;

(b) Permit future surface water storage for any beneficial use;

(c) Permit artificial ~~ground water~~groundwater recharge to offset declining ~~ground water~~groundwater levels and supplement existing ~~ground water~~groundwater uses;

(d) Achieve a balance between ~~ground water~~groundwater pumpage and natural recharge in designated critical ~~ground water~~groundwater areas and ~~ground water~~groundwater study areas;

(e) Protect municipal ~~ground water~~groundwater supplies;

(f) Prevent new appropriations from causing ~~ground water~~groundwater/surface water interference.

(2) Surface Water: Appropriation and use of surface water in the Columbia-Umatilla Plateau subbasin shall comply with the following provisions:

(a) Umatilla River and tributaries are withdrawn from further appropriation of unappropriated waters during the period June 1 through October 31 each year. The withdrawal does not apply to domestic, livestock, fish and wildlife uses or water released from storage. This action was taken by the Commission on December 2, 1985;

(b) Classification: Permits to use surface water may be issued only for the following classified uses:

(A) Subject to the provisions of OAR 690-507-0050(2)(c)(B) and (C), the surface waters of the Umatilla River main stem are classified for domestic, livestock, irrigation of noncommercial lawn and garden not to exceed 1/2 acre, frost control, municipal, industrial, power development, mining, fish life, wildlife, recreation, pollution abatement, artificial ~~ground water~~groundwater recharge, and public instream uses during the period November 1 through May 31 each year. This classification rescinds the Commission's order of December 2, 1985, withdrawing the Umatilla River and tributaries from further appropriation from November 1 through May 31 each year until December 31, 1988;

(B) The surface waters of Umatilla River tributaries are classified for domestic, livestock, irrigation, frost control, power development (subject to the limitations of OAR Chapter 690, Division 51), mining, pollution abatement and artificial ~~ground water~~groundwater recharge during the period November 1 through May 31 each year; and

(C) The surface waters of all other streams are classified for domestic, livestock, irrigation, frost control, power development (subject to limitations of OAR Chapter 690, Division 51), mining and artificial ~~ground water~~groundwater recharge.

(c) Storage: Surface water legally stored during the period November 1 through May 31, and legally released may be used for any beneficial purpose;

(d) Artificial ~~ground water~~groundwater recharge: Use of surface water for ~~ground water~~groundwater recharge shall be subject to the following conditions:

(A) Recharged water used under a secondary permit for irrigation may only provide supplemental water to lands with existing irrigation rights or permits on June 24, 1988;

(B) Diversion of surface water for recharge for irrigation under a secondary permit shall not exceed 2.25 acre feet per acre to be irrigated; and

(C) If the recharged water is to be used for municipal or industrial purposes under a secondary permit, the applicant shall demonstrate to the satisfaction of the Commission that it has an active water conservation program.

(e) Minimum perennial streamflows: To support aquatic life in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriation of water shall be made or granted by any state agency or public corporation of the state for waters of the Umatilla River and tributaries when flows are below the levels specified in **Table 1**. This limitation shall not apply to domestic and livestock use or to waters legally stored or released from storage; and

with priority dates of 3-31-88.

(3) ~~Ground Water~~Groundwater: Appropriation and use of ~~ground water~~groundwater in the Columbia-Umatilla Plateau subbasin shall comply with the following provisions:

(a) ~~Ground water~~Groundwater resources of the basalt aquifer and shallow gravel aquifer within the Ordnance Critical ~~Ground Water~~Groundwater Area are closed to further appropriation by Order of the Director dated April 2, 1976;

(b) ~~Ground water~~Groundwater resources of the basalt aquifer within the Butter Creek Critical ~~Ground Water~~Groundwater Area are closed to further appropriation by Order of the Director dated August 18, 1986;

(c) ~~Ground water~~Groundwater resources of the basalt aquifer in the Stage Gulch ~~Ground Water~~Groundwater Study Area are closed to further appropriation by Proclamation of the Director dated January 31, 1985.

(d) Classification: Permits to use ~~ground water~~groundwater may be issued only for the following classified uses:

(A) The ~~ground water~~groundwater resources of the basalt aquifer in the Ella Butte ~~Ground Water~~Groundwater Study Area described in the Proclamation of January 31, 1985, are classified for statutorily exempt uses (see definition) only. This classification terminates the critical ~~ground water~~groundwater area determination proceeding initiated January 31, 1985, and the Proclamation of the same date issued for the Ella Butte study area;

(B) The ~~ground water~~groundwater resources of the Columbia-Umatilla Plateau outside the Ordnance and Butter Creek Critical ~~Ground Water~~Groundwater Areas and the Ella Butte and Stage Gulch ~~Ground Water~~Groundwater Study Areas are classified for statutorily exempt ~~ground~~

~~water~~groundwater uses (see definition), irrigation, municipal, industrial, power development, low temperature geothermal, mining, fish life, wildlife, recreation, pollution abatement, and artificial ~~ground water~~groundwater recharge;

(C) Groundwater from the basalt reservoir in a five-mile radius around any municipal well of the cities of Heppner, Helix, Ione, Lexington, and Pendleton is classified for municipal, group domestic and statutorily exempt ~~ground water~~groundwater uses (see definition) only. Other uses may be permitted if it is documented that a barrier to ~~ground water~~groundwater movement separates a proposed well from municipal wells and there will be no interference with municipal wells. Applications for other uses of ~~ground water~~groundwater within a five-mile radius of a municipal well shall automatically be referred to the Commission for review and consideration of public interest unless the affected city affirms that it is in favor of the proposed appropriation. This classification applies only when the affected city(ies) have a full-time conservation program in effect;

(D) Subject to the more strict controls imposed by the existing State Gulch Proclamation or issuance of a critical area order for the Stage Gulch ~~Ground Water~~Groundwater Study Area, ~~ground water~~groundwater from the basalt reservoir in a five-mile radius around any municipal well of the cities of Echo, Hermiston, Pendleton, Stanfield, and Umatilla is classified for municipal, group domestic and statutorily exempt ~~ground water~~groundwater uses (see definition) only. Other uses may be permitted if it is documented that a barrier to ~~ground water~~groundwater movement separates a proposed well from municipal wells and there will be no interference with municipal wells. Applications for other uses of ~~ground water~~groundwater within a five-mile radius of a municipal well shall automatically be referred to the Commission for review and consideration of public interest unless the affected city affirms that is in favor of the proposed appropriation. This classification applies only when the affected city(ies) have a full-time conservation program in effect.

(e) Permits issued to appropriate ~~ground water~~groundwaters that may be hydraulically connected with surface water shall be specially conditioned. The condition shall specify that when exercise of the permit unduly interferes with surface water, the permit will be regulated in favor of the surface water source.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRB 26, f. 3-2-64; WRD 1-1981, f. & cert. ef. 4-20-81; WRD 10-1985, f. & cert. ef. 9-3-85; WRD 13, f. & cert. ef. 12-18-85; WRD 14-1985, f. & cert. ef. 12-20-85; WRD 1-1986, RF. & cert. ef. 2-20-86; WRD 1-1987, f. & cert. ef. 2-27-87; WRD 8-1988, f. & cert. ef. 7-5-88; WRD 9-1990, f. & cert. ef. 6-25-90; Administrative Renumbering 1-1993, Renumbered from 690-080-0070

690-507-0080

Butter Creek Subbasin

(1) Objectives: In developing a program for the management, use and control of the surface and ~~ground water~~groundwater resources of the Butter Creek subbasin, the Commission has the following objectives:

(a) Protect instream values by closing streams to future appropriations during the low-flow season and limiting future appropriations during the high-flow season to selected nonirrigation uses;

(b) Preserve the opportunity for future upstream storage for all beneficial uses;

(c) Permit artificial ~~ground water~~groundwater recharge to offset declining ~~ground water~~groundwater levels and supplement existing ~~ground water~~groundwater uses;

(d) Achieve a balance between ~~ground water~~groundwater pumpage and natural recharge in designated critical ~~ground water~~groundwater areas and ~~ground water~~groundwater study areas;

(e) Prevent new appropriations from causing ~~ground water~~groundwater/surface water interference.

(2) Surface Water: Appropriation and use of surface water in the Butter Creek subbasin shall comply with the following provisions:

(a) Butter Creek and tributaries are withdrawn from further appropriation of unappropriated waters during the period June 1 through October 31 each year. The withdrawal does not apply to domestic, livestock, fish and wildlife uses or water released from storage. This action was taken by the Commission on December 2, 1985;

(b) Classification: Permits to use surface water may be issued only for the following classified uses:

(A) The surface waters of Butter Creek and tributaries are classified for domestic, livestock, irrigation of noncommercial lawn and garden not to exceed 1/2 acre, municipal, industrial, power development (subject to the limitations of OAR Chapter 690, Division 51) mining (including sand and gravel mining), fish life, wildlife, recreation, pollution abatement, artificial ~~ground water~~groundwater recharge, and public instream uses during the period November 1 through May 31 each year. This classification rescinds the Commission's order of December 2, 1985, withdrawing the Umatilla River and tributaries from further appropriation from November 1 through May 31 each year until December 31, 1988;

(B) Subject to the rights and priorities existing on June 24, 1988, the withdrawal of Butter Creek and tributaries from June 1 through October 31, Butter Creek and tributaries are further classified for all beneficial uses in conjunction with storage. All natural flow rights issued on Butter Creek and tributaries after this date shall be subordinate to this classification. Any storage project built under this classification shall include provisions for municipal, fish and wildlife, and recreation uses acceptable to the Commission.

(c) Storage: Surface water legally stored during the period November 1 through May 31, and legally released may be used for any beneficial purpose;

(d) Artificial ~~ground water~~groundwater recharge: Use of surface water for ~~ground water~~groundwater recharge shall be subject to the following conditions:

(A) Recharged water used under a secondary permit for irrigation may only provide supplemental water to lands with existing irrigation rights or permits on June 24, 1988;

(B) Diversion of surface water for recharge for irrigation under a secondary permit shall not exceed 2.25 acre feet per acre to be irrigated; and

(C) If the recharged water is to be used for municipal or industrial purposes under a secondary permit, the applicant shall demonstrate to the satisfaction of the Commission that it has an active water conservation program.

(3) ~~Ground Water~~Groundwater: Appropriation and use of ~~ground water~~groundwater in the Butter Creek subbasin shall comply with the following provisions:

(a) ~~Ground water~~Groundwater resources of the basalt aquifer and shallow gravel aquifer within the Ordnance Critical ~~Ground Water~~Groundwater Area are closed to further appropriation by Order of the Director dated April 2, 1976;

(b) ~~Ground water~~Groundwater resources of the basalt aquifer within the Butter Creek Critical ~~Ground Water~~Groundwater Area are closed to further appropriation by Order of the Director dated August 18, 1986;

(c) Classification: Permits to use ~~ground water~~groundwater may be issued only for the following classified uses:

(A) The ~~ground water~~groundwater resources of the Butter Creek subbasin outside the Ordnance and Butter Creek Critical ~~Ground Water~~Groundwater Areas are classified for statutorily exempt ~~ground water~~groundwater uses (see definition), irrigation, municipal, industrial, power development, low temperature geothermal, mining, fish life, wildlife, recreation, pollution abatement, and artificial ~~ground water~~groundwater recharge; and

(B) Groundwater from the basalt reservoir in a five-mile radius around any municipal well of the city of Heppner is classified for municipal, group domestic and statutorily exempt ~~ground water~~groundwater uses (see definition) only. Other uses may be permitted if it is documented that a barrier to ~~ground water~~groundwater movement separates a proposed well from municipal wells and there will be no interference with municipal wells. Applications for other uses of ~~ground water~~groundwater within a five-mile radius of a municipal well shall automatically be referred to the Commission for review and consideration of public interest unless the affected city affirms that it is in favor of the proposed appropriation. This classification applies only when the affected city(ies) have a full-time conservation program in effect.

(d) Permits issued to appropriate ~~ground water~~groundwaters that may be hydraulically connected with surface water shall be specially conditioned. The condition shall specify that when exercise of the permit unduly interferes with surface water, the permit will be regulated in favor of the surface water source.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRB 26, f. 3-2-64; WRD 1-1981, f. & cert. ef. 4-20-81; WRD 10-1985, f. & cert. ef. 9-3-85; WRD 13, f. & cert. ef. 12-18-85; WRD 14-1985, f. & cert. ef. 12-20-85; WRD 1-1986, RF. & cert. ef. 2-20-86; WRD 1-1987, f. & cert. ef. 2-27-87; WRD 8-1988, f. & cert. ef. 7-5-88; WRD 9-1990, f. & cert. ef. 6-25-90; Administrative Renumbering 1-1993, Renumbered from 690-080-0070

690-507-0090

Willow Creek Subbasin

(1) Objectives: In developing a program for the management, use and control of the surface and ~~ground water~~groundwater resources of the Willow Creek subbasin, the Commission has the following objectives:

(a) Protect instream values by limiting future appropriations to selected nonirrigation or nonconsumptive uses;

(b) Preserve the opportunity for future upstream storage for all beneficial uses;

(c) Permit artificial ~~ground water~~groundwater recharge to offset declining ~~ground water~~groundwater levels and supplement existing ~~ground water~~groundwater uses;

(d) Achieve a balance between ~~ground water~~groundwater pumpage and natural recharge in designated critical ~~ground water~~groundwater areas and ~~ground water~~groundwater study areas;

(e) Protect municipal ~~ground water~~groundwater supplies;

(f) Prevent new appropriations from causing ~~ground water~~groundwater/ surface water interference.

(2) Surface Water: Appropriation and use of surface water in the Willow Creek subbasin shall comply with the following provisions:

(a) Classification: Permits to use surface water may be issued only for the following classified uses:

(A) The surface waters of Willow Creek and tributaries are classified for domestic, livestock, irrigation of noncommercial lawn and garden not to exceed 1/2 acre, municipal, industrial, power

development (subject to the limitations of OAR Chapter 690, Division 51) mining (including sand and gravel mining), fish life, wildlife, recreation, pollution abatement, artificial ~~ground water~~groundwater recharge, and public instream uses; and

(B) Subject to the rights and priorities existing on June 24, 1988, Willow Creek and tributaries are further classified for all beneficial uses in conjunction with storage. All natural flow rights issued on Willow Creek and tributaries after this date shall be subordinate to this classification. Any storage project built under this classification shall include provisions for municipal, fish and wildlife, and recreation uses acceptable to the Commission.

(b) Storage: Surface water legally stored and legally released, may be used for any beneficial purpose;

(c) Artificial ~~ground water~~groundwater recharge: Use of surface water for ~~ground water~~groundwater recharge shall be subject to the following conditions:

(A) Recharged water used under a secondary permit for irrigation may only provide supplemental water to lands with existing irrigation rights or permits on June 24, 1988;

(B) Diversion of surface water for recharge for irrigation under a secondary permit shall not exceed 2.25 acre feet per acre to be irrigated; and

(C) If the recharged water is to be used for municipal or industrial purposes under a secondary permit, the applicant shall demonstrate to the satisfaction of the Commission that it has an active water conservation program.

(3) ~~Ground Water~~Groundwater: Appropriation and use of ~~ground water~~groundwater in the Willow Creek subbasin shall comply with the following provisions:

(a) ~~Ground water~~Groundwater resources of the basalt aquifer within the Butter Creek Critical ~~Ground Water~~Groundwater Area are closed to further appropriation by Order of the Director dated August 18, 1986;

(b) Classification: Permits to use ~~ground water~~groundwater may be issued only for the following classified uses:

(A) The ~~ground water~~groundwater resources of the basalt aquifer in the Ella Butte ~~Ground Water~~Groundwater Study Area as described in the Proclamation of January 31, 1985, are classified for statutorily exempt uses (see definition) only. This classification terminates the critical ~~ground water~~groundwater determination proceeding initiated January 31, 1985, and the Proclamation of the same date issued for the Ella Butte study area;

(B) The ~~ground water~~groundwater resources of the Willow Creek subbasin outside the Butter Creek Critical ~~Ground Water~~Groundwater Area and the Ella Butte ~~Ground Water~~Groundwater Study Area are classified for statutorily exempt ~~ground water~~groundwater uses (see definition),

irrigation, municipal, industrial, power development, low temperature geothermal, mining, fish life, wildlife, recreation, pollution abatement, and artificial ~~ground water~~groundwater recharge; and

(C) Groundwater from the basalt reservoir in a five-mile radius around any municipal well of the cities of Heppner, Ione and Lexington is classified for municipal, group domestic and statutorily exempt ~~ground water~~groundwater uses (see definition) only. Other uses may be permitted if it is documented that a barrier to ~~ground water~~groundwater movement separates a proposed well from municipal wells and there will be no interference with municipal wells. Applications for other uses of ~~ground water~~groundwater within a five-mile radius of a municipal well shall automatically be referred to the Commission for review and consideration of public interest unless the affected city affirms that it is in favor of the proposed appropriation. This classification applies only when the affected city(ies) have a full-time conservation program in effect.

(c) Permits issued to appropriate ~~ground water~~groundwaters that may be hydraulically connected with surface water shall be specially conditioned. The condition shall specify that when exercise of the permit unduly interferes with surface water, the permit will be regulated in favor of the surface water source.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRB 26, f. 3-2-64; WRD 1-1981, f. & cert. ef. 4-20-81; WRD 10-1985, f. & cert. ef. 9-3-85; WRD 13, f. & cert. ef. 12-18-85; WRD 14-1985, f. & cert. ef. 12-20-85; WRD 1-1986, RF. & cert. ef. 2-20-86; WRD 1-1987, f. & cert. ef. 2-27-87; WRD 8-1988, f. & cert. ef. 7-5-88; WRD 9-1990, f. & cert. ef. 6-25-90; Administrative Renumbering 1-1993, Renumbered from 690-080-0070

690-507-0610

Butter Creek Critical Groundwater Area (CGWA): Purpose

(1) The Director issued an order on August 18, 1986 declaring the Butter Creek Critical ~~Ground Water~~Groundwater Area. The order described the exterior boundaries and divided the area into six subareas for the purpose of managing the ground-water resource. The response of ground-water levels to pumpage from each subarea is largely independent of pumpage within other subareas.

(2) To promote optimum use of the limited ~~ground water~~groundwater supply in the Butter Creek Critical ~~Ground Water~~Groundwater Area, the Commission encourages development of water management plans to maintain a high standard of water use efficiency.

(3) The Commission recognizes that exempt users in the North subarea are a stress on the ~~ground water~~groundwater resource in the Butter Creek Critical ~~Ground Water~~Groundwater Area. If, by 2000, reasonably stable water levels have not been achieved, the Department shall determine

whether or not to require prior authorization under these rules for ~~ground water~~groundwater uses that are exempt under ORS 537.545.

(4) The purpose of these rules is to stabilize water levels in the basalt ~~ground water~~groundwater reservoir in the Butter Creek Critical ~~Ground Water~~Groundwater Area of Umatilla and Morrow counties. These rules carry out the authority granted to the Commission in ORS 536.900 to 536.935 and ORS 537.505 to 537.745.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented: ORS 537.535
Hist.: WRD 9-1990, f. & cert. ef. 6-25-90; WRD 2-1999, f. & cert. ef. 3-3-99

690-507-0620

Butter Creek (CGWA) Definitions

The following definitions apply to OAR Chapter 690, Division 507:

(1) "Commission" means the Water Resources Commission.

(2) "Department" means the Water Resources Department.

(3) "Director" means the Director of the Water Resources Department.

(4) "Physically capable" means that the well, pump installed, and distribution system are able to produce and distribute the quantity of water requested.

(5) "Reasonably stable water level" means an annual static water level decline of less than one foot over the entire subarea as determined by averaging the annual water level change of the representative wells in the subarea, and the water level change for the subarea averaged over five consecutive years displays no decline.

(6) "Sustainable annual yield" means the volume of water that can be pumped on an annual basis while maintaining reasonably stable water levels. This is a measurement of the capacity of the available source.

(7) "Water user" means a person who pumps water from the basalt ~~ground water~~groundwater reservoir.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented: ORS 537.535
Hist.: WRD 9-1990, f. & cert. ef. 6-25-90; WRD 2-1999, f. & cert. ef. 3-3-99

690-507-0630

Butter Creek (CGWA) General Requirements

(1) Except as specified in OAR 690-507-0650(3) and 690-507-0670(7), the use of water from the basalt ~~ground water~~groundwater reservoir within the Butter Creek Critical ~~Ground Water~~Groundwater Area shall be limited to the sustainable annual yield.

(2) The Commission delegates to the Director the authority to implement these rules.

(3) Water from the basalt ~~ground water~~groundwater reservoir in the Butter Creek Critical ~~Ground Water~~Groundwater Area shall be used for irrigation only during the irrigation season. The irrigation season begins on the 15th of March and ends on the 1st of November.

(4) The Department shall not accept any new applications for appropriation of water from the basalt ~~ground water~~groundwater reservoir within the Butter Creek Critical Area.

Stat. Auth.: ORS 537.515, ORS 537.525, ORS 537.545 & ORS 537.730 - ORS 537.745
Stats. Implemented: ORS 537.535
Hist.: WRD 9-1990, f. & cert. ef. 6-25-90; WRD 3-1992, f. & cert. ef. 2-10-92; WRD 7-1992, f. & cert. ef. 5-14-92; WRD 2-1999, f. & cert. ef. 3-3-99

690-507-0635

Butter Creek (CGWA) Water Users Exempt from Division Requirements

Any school located in the Butter Creek Critical ~~Ground Water~~Groundwater Area using water from the basalt reservoir for watering lawns, grounds and fields not exceeding ten acres in area shall meet the requirements of OAR 690-507-0640(2) to (5) and 690-507-0645. All other water users exempt under the provisions of ORS 537.545(a), (b), (d), (e), and (f) are not subject to the provisions of OAR 690, Division 507.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented: ORS 537.535
Hist.: WRD 9-1990, f. & cert. ef. 6-25-90; WRD 2-1999, f. & cert. ef. 3-3-99

690-507-0640

Butter Creek (CGWA) Duties of Water Users

(1) Appropriation of ~~ground water~~groundwater from the Butter Creek Critical ~~Ground Water~~Groundwater Area is prohibited unless the water user meets the requirements of section (2) to (5) of this rule.

(2) A water user authorized by OAR 690-507-0670 to pump water from the basalt ~~ground water~~groundwater reservoir shall satisfy the following conditions:

(a) Wells shall have an access port with a minimum diameter of 3/4 inch. The access shall be adequate to determine the water level at any time.

(b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time.

(c) A water user shall install and maintain a totalizing flow meter on each well authorized by OAR 690-507-0670. The meter shall meet the requirements of OAR 690-507-0645.

(3) A water user shall record flow meter and power meter readings on a weekly basis at times when water is being used. The water user shall use forms provided by the Department and shall mail the readings to the Department in Salem by December 1st of the same year.

(4) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter.

(5) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented: ORS 537.535
Hist.: WRD 9-1990, f. & cert. ef. 6-25-90; WRD 2-1999, f. & cert. ef. 3-3-99

690-507-0645

Butter Creek (CGWA) Flow Meter Specifications and Installation Guidelines

(1) A flow meter shall meet the following specifications:

(a) A flow meter shall be of the velocity-propeller type or shunt line venturi type with enclosed propeller made of non-corrosive materials. Other types of flow meters may be used with the written approval of the Water Resources Director;

(b) A flow meter shall have a rated accuracy of plus or minus 2 percent of actual flow for all rates of flow within the range of flow for which the meter is designed. The flow meter shall register the full range of discharge from the source of water for which it is to be used;

(c) The register head of the flow meter shall have a visual, recording, mechanical, digital totalizer located on or adjacent to the flow meter and shall be equipped with a test sweep hand so that flow rate can be quickly determined. The register face shall be protected by a suitable plate or cover;

(d) Units of water measurement shall be in acre-feet, cubic feet, or gallons. The totalizer shall read directly in the above-described units. Flow meters recording in acre-feet shall read to the nearest 1/10th acre-foot, and the decimal multiplier shall be clearly indicated on the face of the register head;

(e) The totalizing part of the flow meter shall have a sufficient capacity to record the quantity of water authorized to be pumped over a period of 2 years;

(f) Both the register and the flow meter unit shall be provided with a method of sealing with a wire or lead seal to prevent unauthorized tampering with the placement or position of the flow meter.

(2) The flow meter installation shall be as follows:

(a) The flow meter shall be installed in accordance with manufacturer's specifications and in such a manner that there shall be a full pipe of water at all times during which water is being pumped;

(b) There shall be no turnouts or diversions between the source of water and the flow meter installation;

(c) The flow meter shall be placed in the pipe not less than five pipe diameters downstream from any valve, elbow, or other obstruction which might create turbulent flow, or install straightening vanes as recommended by the flow meter manufacturer. There shall also be at least one pipe diameter of unobstructed flow on the downstream side of the flow meter;

(d) All in-line saddle flow meters equipped with U-bolt fasteners shall be provided with a sealing wire and lead seal near the terminal ends of the U-bolt following the complete installation of the flow meter;

(e) The flow meter and register shall not be locked in a building which would prevent access to the register. The register or flow meter shelter may be equipped with a lock to prevent tampering or breakage, provided that a lock is used and for which the watermaster has a key;

(f) Provisions shall be made for rating of the flow meter in accordance with the manufacturers specifications;

(g) The flow meter installation is subject to inspection and approval by the Director;

(h) In the case of artesian wells which flow at various times, the flow meter shall be installed in a manner which will measure both pumped and flowing discharges.

(3) Flow meters shall be kept clear of debris or other foreign or vegetative growth which could impede their operation. All flow meters shall be lubricated as specified by the manufacturer.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRD 9-1990, f. & cert. ef. 6-25-90

690-507-0647

Butter Creek (CGWA) New Subarea Boundaries

(1)The Echo Junction Subarea shall be divided into two separate subareas being the Fourmile Canyon Subarea and the Echo Junction Subarea with boundaries as prescribed in sections a and b of this rule:

(a) Echo Junction Subarea: Beginning at a point approximately 3,290 feet east of the northwest corner of Section 3, Township 3 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence southerly through Emigrant Buttes in the east half of Section 3, Township 3 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence southerly through the center of Section 22, Township 3 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; and continuing southerly towards Service Buttes to a point approximately 750 feet east of the southwest corner of Section 10, Township 2 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence west to the southwest corner of Section 10, Township 2 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence southwest along a straight line to the southwest corner, northwest quarter southwest quarter, Section 22, Township 2 North, Range 27 East, ~~WM~~WILLAMETTE MERIDIAN; thence north along the west line of said Section 22 to the west quarter corner of Section 22, Township 2 North, Range 27 East, ~~WM~~WILLAMETTE MERIDIAN; thence northeast along a straight line to the southwest corner, northwest quarter southwest quarter, Section 19, Township 3 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence north along the Range line common to Range 27 East and Range 28 East to the northwest corner of Township 3 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence east along the Township line to a point approximately 3,290 feet east of the northwest corner of Section 3, Township 3 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; the point of beginning.

(b) Fourmile Canyon Subarea: Beginning at the southwest corner, northwest quarter southwest quarter, Section 22, Township 2 North, Range 27 East, ~~WM~~WILLAMETTE MERIDIAN; thence southwest along a straight line to the southwest corner of Section 21, Township 2 North, Range 27 East, ~~WM~~WILLAMETTE MERIDIAN; thence northwest along a straight line to the northwest corner of Section 1, Township 2 North, Range 26 East, ~~WM~~WILLAMETTE MERIDIAN; thence east along the Township line common to Township 2 North and Township 3 North, to the southwest corner of Section 35, Township 3 North, Range 27 East, ~~WM~~WILLAMETTE MERIDIAN; thence northeast along a straight line to the southwest corner of Section 6, Township 3 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence south along the Range line common to Range 27 East and Range 28 East to the southwest corner, northwest quarter southwest quarter, Section 19, Township 3 North, Range 28 East,

~~WM~~WILLAMETTE MERIDIAN; thence southwest along a straight line to the west quarter corner of Section 22, Township 2 North, Range 27 East, ~~WM~~WILLAMETTE MERIDIAN; thence south to the southwest corner, northwest quarter southwest quarter, Section 22, Township 2 North, Range 27 East, ~~WM~~WILLAMETTE MERIDIAN; the point of beginning.

(2) The North Subarea shall be divided into two separate subareas being the "North Subarea" and "Section 21" with boundaries as prescribed in sections (a) and (b) of this rule:

(a) North Subarea: Being the basalt aquifer underlying the following area; beginning at the center of Section 9, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN, at the Columbia River; thence southerly through Umatilla Butte in the east half of Section 28, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence continuing southerly through Hermiston Butte within the northeast quarter of the northwest quarter, Section 10, Township 4 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN and continuing southerly towards Emigrant buttes in the east half of Section 3, Township 3 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN, to a point on the Township line common to Township 3 North and Township 4 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence westerly along the Township line common to Township 3 North and Township 4 North, to the Southwest corner of Township 4 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence northerly along the west boundary line of Range 28 East to the Northwest corner of Township 4 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence easterly along the Township line to the southwest corner of Section 31, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence north along the west boundary line of Range 28 East to the Columbia River; thence easterly along the south edge of the Columbia River to the point of beginning, excepting therefrom the following:

(b) Section 21: Being the basalt aquifer underlying the following area above 100 feet in elevation above mean sea level, described as follows: beginning at a point 1725 feet west of the northeast corner of Section 21, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN on the section line common to Section 16 and Section 21, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence southerly to a point 1100 feet west of the southeast corner of Section 21, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN on the section line common to Section 21 and Section 28, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence westerly along the section line common to Section 21 and Section 28, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN to the southwest corner of Section 21, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence northerly along the section line common to Section 20 and Section 21, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN to the northwest corner of Section 21, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN; thence easterly along the section line common to Section 16 and Section 21, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN to the point of the beginning., all that portion of Section 21, Township 5 North, Range 28 East, ~~WM~~WILLAMETTE MERIDIAN within the North Subarea.

Stat. Auth.: ORS 537.515, ORS 537.525, ORS 537.545 & ORS 537.730 - ORS 537.745
Stats. Implemented: ORS 537.535
Hist.: WRD 3-1992, f. & cert. ef. 2-10-92; WRD 2-1999, f. & cert. ef. 3-3-99

690-507-0650

Butter Creek (CGWA) Sustainable Annual Yield

(1) Each of the eight subareas in the Butter Creek Critical ~~Ground Water~~Groundwater Area shall be managed according to the sustainable annual yield within that subarea. The Department shall refine the sustainable annual yield value over time through the use of pumpage data and the response of ~~ground water~~groundwater levels.

(2) The initial sustainable annual yield for each of the eight subareas was calculated using data from the 1983 through the 1989 irrigation seasons and is listed below by subarea followed by the Sustainable Annual Yield in Acre Feet:

(a) North, 250 Acre Feet;

(b) Section 21, 28 Acre Feet;

(c) Echo Junction, 1,260 Acre Feet;

(d) Fourmile Canyon, 1,300 Acre Feet;

(e) West, 5,670 Acre Feet;

(f) East, 720 Acre Feet;

(g) Pine City, 4,150 Acre Feet;

(h) South, 1,000 Acre Feet.

Stat. Auth.: ORS 537.515, ORS 537.525, ORS 537.545 & ORS 537.730 - ORS 537.745
Stats. Implemented: ORS 537.535
Hist.: WRD 9-1990, f. & cert. ef. 6-25-90; WRD 3-1992, f. & cert. ef. 2-10-92; WRD 7-1992, f. & cert. ef. 5-14-92; WRD 2-1999, f. & cert. ef. 3-3-99

690-507-0660

Butter Creek (CGWA) Method for Determining the Sustainable Annual Yield

(1) The Department shall determine the sustainable annual yield for each subarea by comparing the volume of ~~ground water~~groundwater pumped annually from each subarea for a given year to

the average of the annual changes in ~~ground water~~groundwater levels for the subarea for the same year.

(a) The Department shall calculate pumpage from each well based on data collected by the Department and as submitted under OAR 690-507-0640. The pumpage for each subarea shall be calculated by totaling the pumpage from each non-exempt well in the subarea.

(b) The Department shall calculate annual change in ~~ground water~~groundwater levels for a subarea by subtracting the current year's February or March water level from the previous year's February or March water level. The average shall be calculated by adding the change at each well in the subarea and dividing by the number of wells with available water level data. Data from all permitted or certificated wells in each subarea that are measurable shall be used to calculate the average annual change. If water level data cannot be collected at a particular well, data from a nearby well may be substituted.

(2) The total volume of ~~ground water~~groundwater pumped from each subarea for a given year shall be plotted against the average change in ~~ground water~~groundwater levels from that subarea for that year.

(3) A line of regression is drawn through the data using the least squares fit method and extended through the zero decline axis.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented: ORS 537.535
Hist.: WRD 9-1990, f. & cert. ef. 6-25-90; WRD 2-1999, f. & cert. ef. 3-3-99

690-507-0670

Butter Creek (CGWA) Distribution of Sustainable Annual Yield

(1) The method for distributing the sustainable annual yield from the basalt ~~ground water~~groundwater reservoir within each subarea in the Butter Creek Critical ~~Ground Water~~Groundwater Area is as follows:

(a) Except as provided in sections (5) of this rule, a water user who intends to pump water during any year shall make a request to the Department in Salem by July 1st of the preceding year on forms provided by the Department.

(b) The distribution of ~~ground water~~groundwater shall be based on the priority dates of the water rights within the individual subarea.

(c) In determining the amount of ~~ground water~~groundwater each water user is allocated to pump during the next calendar year or irrigation season, the Department may consider:

(A) Request for allocations received;

(B) The sustainable annual yield;

(C) The limits of the ~~ground water~~groundwater rights;

(D) The relative dates of priority;

(E) Historical usage;

(F) Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and

(G) Any other factors deemed appropriate by the Department.

(d) The Department shall notify, by certified mail with return receipt requested, each water user by August 1st of the amount of ~~ground water~~groundwater allocated under these rules to each water user for the next calendar year or irrigation season.

(2) If pumpage for a particular year exceeds the sustainable annual yield for a subarea, the total subarea allocation for the second year after that occurrence shall be reduced by that volume.

(3) If any water user requests more water than has been historically used, the Department may allocate less water than requested if, upon investigation, it appears unlikely the user will pump the volume requested.

(4) If any water user requests less water than has been historically used, the Department may allocate more water than requested if, upon investigation, it appears likely that the user will pump more than the volume requested.

(5) The method of requesting and distributing water in section (1) of this rule may not apply if a voluntary agreement among ~~ground water~~groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached.

(6) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director if the Director finds, after investigation and a public hearing upon adequate notice, that:

(a) The agreement is not being substantially complied with by the parties thereto;

(b) Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

(c) That the agreement is ineffective in achieving reasonably stable water levels.

Stat. Auth.: ORS 537.515, ORS 537.525, ORS 537.545 & ORS 537.730 - ORS 537.745
Stats. Implemented: ORS 537.535
Hist.: WRD 9-1990, f. & cert. ef. 6-25-90; WRD 3-1992, f. & cert. ef. 2-10-92; WRD 7-1992, f. & cert. ef. 5-14-92; WRD 2-1999, f. & cert. ef. 3-3-99

690-507-0680

Butter Creek (CGWA) Process of Periodic Review of Sustainable Annual Yield

(1) The Department shall determine whether a reasonably stable water level was achieved in the basalt ~~ground water~~groundwater reservoir in each subarea in 2000 and every five years thereafter.

(2) For any subarea in which a reasonably stable water level was achieved, the Department may increase the sustainable annual yield if the evaluation under section (1) of this rule indicates that more water is available than the existing sustainable annual yield.

(3) For any subarea in which a reasonably stable water level was not achieved, the Department may decrease the sustainable annual yield or modify subarea boundaries, or both, if the evaluation under section (1) of this rule indicates that less water is available than the existing sustainable annual yield.

(4) For any subarea in which a reasonably stable water level was achieved but for which individual wells, in the Director's judgement, show significant water level declines, the Department may propose modification of subarea boundaries.

(5) If the Department proposes to modify sustainable annual yields or subarea boundaries, it shall conduct a rulemaking hearing as part of the basin program.

(6) The Department may propose modification of subarea boundaries at times other than the five year review required in section (1) of this rule.

(7) Individuals with a ~~ground water~~groundwater right in the Butter Creek Critical ~~Ground Water~~Groundwater Area may petition the Department to modify subarea boundaries under the following conditions:

(a) The petition shall be in writing;

(b) The petition shall contain evidence in support of the proposed boundary change; and

(c) The petition shall specify the proposed location of the boundary.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented: ORS 537.535
Hist.: WRD 9-1990, f. & cert. ef. 6-25-90; WRD 2-1999, f. & cert. ef. 3-3-99

690-507-0690

Butter Creek (CGWA) Annual Reporting

The Department shall publish a report for the Butter Creek Critical ~~Ground Water~~Groundwater Area by May 31 of each year. The report shall include the water user's name, well locations, permit numbers, priority dates, authorized diversions, actual diversion and water levels.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented: ORS 537.535
Hist.: WRD 9-1990, f. & cert. ef. 6-25-90; WRD 2-1999, f. & cert. ef. 3-3-99

690-507-0700

Butter Creek (CGWA) Violation Policy

Whenever the Department has reason to believe a violation of a rule in OAR 690, Division 507 has occurred, it shall investigate. If a violation has occurred, the Director may take enforcement action.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRD 9-1990, f. & cert. ef. 6-25-90

690-507-0750

Stage Gulch Critical Groundwater Area (CGWA): Purpose

(1) The Director issued an order on May 15, 1991 declaring the Stage Gulch Critical Groundwater Area. The order described the exterior boundaries and divided the area with eight subareas for the purposes of managing the groundwater resource. The response of ground-water levels to pumpage in each subarea is largely independent of pumpage within other subareas.

(2) To promote optimum use of the limited groundwater supply in the Stage Gulch Critical Groundwater Area, the Commission encourages development of water management plans to maintain a high standard of water use efficiency.

(3) The purpose of these rules is to stabilize water levels in the basalt groundwater reservoir in the Stage Gulch Critical Groundwater area of Umatilla County. These rules carry out the authority granted to the Commission in ORS 536.900 to 536.935 and 537.505 to 537.745.

Stat. Auth.: ORS 536.900 - ORS 536.935 & ORS 537.505 - ORS 537.745
Stats. Implemented:
Hist.: WRD 6-1991, f. & cert. ef. 6-14-91

690-507-0760

Stage Gulch (CGWA) Definitions

The following definitions apply to OAR Chapter 690, Division 507:

(1) "Commission" means the Water Resources Commission.

(2) "Department" means the Water Resources Department.

(3) "Director" means the Director of the Water Resources Department.

(4) "Physically Capable" means that the well, pump installed, and distribution system are able to produce and distribute the quantity of water requested.

(5) "Reasonably Stable Water Level" means an annual static water level decline of less than one foot over the entire subarea as determined by averaging the annual water level change of the representative wells in the subarea, and the water level change for the subarea averaged over five consecutive years displays no decline.

(6) "Sustainable Annual Yield" means the volume of water that can be pumped on an annual basis while maintaining reasonably stable water levels. This is a measurement of the capacity of the available source.

(7) "Water User" means a person who pumps water from the basalt groundwater reservoir.

Stat. Auth.: ORS 536.900 - ORS 536.935 & ORS 537.505 - ORS 537.745
Stats. Implemented:
Hist.: WRD 6-1991, f. & cert. ef. 6-14-91

690-507-0770

Stage Gulch (CGWA) General Requirements

(1) The use of water from the basalt groundwater reservoir within the Stage Gulch Critical Groundwater Area shall be limited to the sustainable annual yield.

(2) The Commission delegates to the Director the authority to implement these rules.

(3) Water from the basalt groundwater reservoir in the Stage Gulch Critical Groundwater Area shall be used for irrigation only during the irrigation season. The irrigation season shall begin on the 1st of March and end on the 30th of November. Water for all other authorized uses may be used at any time :

(a) A water user who wishes to use water for irrigation at any time other than the irrigation season designated in this section shall make a written request to the Department in Salem;

(b) If the request is authorized, the Department may require the water user to submit to the Department in Salem a static water level measurement for each well authorized to be pumped. Water level measurements shall be made by a Certified Water Rights Examiner, Licensed Water Well Driller, Registered Geologist, Licensed Land Surveyor, Registered Professional Engineer, pump installer, or the water user.

(4) The Department shall not accept any new applications for appropriation of water from the basalt groundwater reservoir within the Stage Gulch Critical Groundwater Area.

Stat. Auth.: ORS 536.900 - ORS 536.935 & ORS 537.505 - ORS 537.745
Stats. Implemented:
Hist.: WRD 6-1991, f. & cert. ef. 6-14-91

690-507-0775

Stage Gulch (CGWA) Water Users Exempt from Division Requirements

(1) Any school located in the Stage Gulch Critical Groundwater Area using water from the basalt reservoir for watering lawns, grounds and fields not exceeding ten (10) acres in area shall meet the requirements of OAR 690-507-0780(2) to (5) and 690-507-0785. Except as provided in section (2) of this rule, water users with wells located in Subarea E of the Stage Gulch Critical Groundwater Area and all other water users exempt under the provisions of ORS 537.545(a), (b), (d), (e) and (f) are not subject to the provisions of OAR 690, Division 507.

(2) Permitted wells located in Subarea E of the Stage Gulch Critical Groundwater Area shall not be deepened to a point where the well would penetrate the deep basalt reservoir underlying said subarea.

Stat. Auth.: ORS 536.900 - ORS 536.935 & ORS 537.505 - ORS 537.745
Stats. Implemented:
Hist.: WRD 6-1991, f. & cert. ef. 6-14-91

690-507-0780

Stage Gulch (CGWA) Duties of Water Users

(1) Appropriation of groundwater from the Stage Gulch Critical Groundwater Area is prohibited unless the water user meets the requirements of sections (2) to (5) of this rule.

(2) A water user authorized by OAR 690-507-0810 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:

(a) Wells shall have an access port with a minimum diameter of 3/4 inch. The access shall be adequate to determine the water level at any time;

(b) A water user may install a functioning airline with a pressure gage in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time;

(c) A water user shall install and maintain a totalizing flow meter on each well authorized by OAR 690-507-0810 except wells authorized for irrigation of ten acres or less. The meter shall meet the requirements of OAR 690-507-0785.

(3) If a flow meter is required, a water user shall record flow meter and power meter readings on a weekly basis at times when water is being used. The water user shall use forms provided by the Department and shall mail the readings to the Department in Salem by December 1st of the same year. The Department may accept other power-use information from a water user in lieu of weekly power meter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility.

(4) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter.

(5) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification.

Stat. Auth.: ORS 536.900 - ORS 536.935 & ORS 537.505 - ORS 537.745
Stats. Implemented:
Hist.: WRD 6-1991, f. & cert. ef. 6-14-91

690-507-0785

Stage Gulch (CGWA) Flow Meter Specifications and Installation Guidelines

(1) A flow meter shall meet the following specifications:

(a) A flow meter shall be of the velocity-propeller type or shunt line venturi type with enclosed propeller made of non-corrosive materials. Other types of flow meters may be used with the written approval of the Water Resources Director;

(b) A flow meter shall have a rated accuracy of plus or minus two percent of actual flow for all rates of flow within the range of flow for which the meter is designed. The flow meter shall register the full range of discharge from the source of water for which it is to be used;

(c) The register head of the flow meter shall have a visual, recording, mechanical, digital totalizer located on or adjacent to the flow meter and shall be equipped with a test sweep hand so that flow rate can be quickly determined. The register face shall be protected by a suitable plate or cover;

(d) Units of water measurement shall be in acre-feet, cubit feet, or gallons. The totalizer shall read directly in the above-described units. Flow meters recording in acre-feet shall read to the nearest 1/10th acre-foot, and the decimal multiplier shall be clearly indicated on the face of the register head;

(e) The totalizing part of the flow meter shall have a sufficient capacity to record the quantity of water authorized to be pumped over a period of two (2) years;

(f) Both the register and the flow meter unit shall be provided with a method of sealing with a wire or lead seal to prevent unauthorized tampering with the placement or position of the flow meter.

(2) The flow meter installation shall be as follows:

(a) The flow meter shall be installed in accordance with manufacturer's specifications and in such a manner that there shall be a full pipe of water at all times during which water is being pumped;

(b) There shall be no turnouts or diversions between the source of water and the flow meter installation;

(c) The flow meter shall be placed in the pipe not less than five pipe diameters downstream from any valve, elbow, or other obstruction which might create turbulent flow, or install straightening vanes as recommended by the flow meter manufacturer. There shall also be at least one pipe diameter of unobstructed flow on the downstream side of the flow meter;

(d) All in-line saddle flow meters equipped with U-bolt fasteners shall be provided with a sealing wire and lead seal near the terminal ends of the U-bolt following the complete installation of the flow meter;

(e) Except for wells authorized for municipal use, the flow meter and register shall not be locked in a building which would prevent access to the register. The register or flow meter shelter may

be equipped with a lock to prevent tampering or breakage, provided that a lock is used and for which that watermaster has a key;

(f) The flow meter installation is subject to inspection and approval by the Director;

(g) In the case of artesian wells which flow at various times, the flow meter shall be installed in a manner which will measure both pumped and flowing discharges.

(3) Flow meters shall be kept clear of debris or other foreign or vegetative growth which could impede their operation. All flow meters shall be lubricated as specified by the manufacturer.

Stat. Auth.: ORS 536.900 - ORS 536.935 & ORS 537.505 - ORS 537.745
Stats. Implemented:
Hist.: WRD 6-1991, f. & cert. ef. 6-14-91

690-507-0790

Stage Gulch (CGWA) Sustainable Annual Yield

(1) Each of the subareas in the Stage Gulch Critical Ground-water Area shall be managed according to the sustainable annual yield within that subarea. The Department shall refine the sustainable annual yield over time through the use of pumpage data and the response of ground-water levels.

(2) The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation season and is listed below:

SUBAREA -- SUSTAINABLE ANNUAL YIELD

A -- 11,450 Acre Feet

B -- 200 Acre Feet

C -- 400 Acre Feet

D -- 3,250 Acre Feet

F -- 200 Acre Feet

G -- 2,750 Acre Feet

H -- 8,850 Acre Feet

Stat. Auth.: ORS 536.900 - ORS 536.935 & ORS 537.505 - ORS 537.745
Stats. Implemented:
Hist.: WRD 6-1991, f. & cert. ef. 6-14-91

690-507-0800

Stage Gulch (CGWA) Method for Determining the Sustainable Annual Yield

(1) The Department shall determine the sustainable annual yield for each subarea by comparing the volume of groundwater pumped annually from each subarea for a given year to the average of the annual changes in groundwater levels for the area for the same year:

(a) The Department shall calculate pumpage from each well based on data collected by the Department and as submitted under OAR 690-507-0780. The pumpage for each subarea shall be calculated by totaling the pumpage from each well in the subarea required to have a flow meter;

(b) The Department shall calculate annual change in groundwater levels for a subarea by subtracting the current year's February or March water level from the previous year's February or March water level. The average shall be calculated by adding the change at each well in the subarea and dividing by the number of wells with available water level data. Data from all permitted or certificated wells in each subarea that are measurable shall be used to calculate the average annual change. If water level data cannot be collected at a particular well, data from a nearby well may be substituted.

(2) The total volume of groundwater pumped from each subarea for a given year shall be plotted against the average change in groundwater levels from that subarea for that year.

(3) A line of regression is drawn through the data using the least squares fit method and extended through the zero decline axis.

(4) The initial determination of sustainable annual yield for subareas B, C, and F of the Stage Gulch Critical Groundwater Area shall be based on the average annual pumpage in each subarea during the period 1985 through 1989, rounded upward to the nearest 50 acre-feet.

Stat. Auth.: ORS 536.900 - ORS 536.935 & ORS 537.505 - ORS 537.745
Stats. Implemented:
Hist.: WRD 6-1991, f. & cert. ef. 6-14-91

690-507-0810

Stage Gulch (CGWA) Distribution of Sustainable Annual Yield

(1) The method for distributing the sustainable annual yield from the basalt groundwater reservoir within each managed subarea in the Stage Gulch Critical Groundwater Area is as follows:

(a) Except as provided in section (5) of this rule, a water user who intends to pump water for any authorized use except municipal use during any year shall make a request to the Department in Salem by July 1st of the preceding year on forms provided by the Department;

(b) The Department shall assume that municipal water users intend to pump a quantity of water equivalent to the average pumped for the previous three (3) years, unless the municipal water user informs the Department otherwise by July 1st;

(c) Except as provided in section (5) of this rule, the distribution of groundwater for any authorized use except municipal use shall be based on the priority dates of the water rights within the individual subarea;

(d) In determining the amount of groundwater each water user is allocated to pump during the next calendar year or irrigation season, the Department may consider:

(A) Requests for allocations received;

(B) The sustainable annual yield;

(C) The limits of the groundwater rights;

(D) The relative dates of priority, with preference given without regard to priority date for municipal use;

(E) Historical usage;

(F) Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and

(G) Any other factors deemed appropriate by the Department.

(e) The Department shall notify by certified mail with return receipt requested, each water user by August 1st of the amount of groundwater allocated under these rules to each water user for the next calendar year or irrigation season;

(f) Persons who wish to challenge the allocation determined under this rule shall request a hearing before the Department pursuant to ORS 183.415 to 183.470.

(2) If pumpage for a particular year exceeds the sustainable annual yield for a subarea, the total subarea allocation for the second year after that occurrence shall be reduced by that volume.

(3) If any water user requests more water than has been historically used, the Department may allocate less water than requested if, upon investigation, it appears unlikely the user will pump the volume requested.

(4) If any water user requests less water than has been historically used, the Department may allocate more water than requested if, upon investigation, it appears likely that the user will pump more than the volume requested.

(5) The method of requesting and distributing water in section (1) of this rule may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached.

(6) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent to the parties to the agreement or by the Director if the Director finds, after investigation and a public hearing upon adequate notice, that:

(a) The agreement is not being substantially complied with by the parties thereto;

(b) Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

(c) That the agreement is ineffective in achieving reasonably stable water levels.

(7) A gradual reduction of pumpage in excess of the sustainable annual yield shall be implemented beginning in 1992:

(a) Those users who would not be allocated any water in 1992 shall be allowed to pump seventy-five percent of their average pumpage for the period 1986 to 1990;

(b) Those users who would not be allocated any water in 1993 shall be allowed to pump fifty percent of their average pumpage for the period 1986 to 1990;

(c) Those users who would not be allocated any water in 1994 shall be allowed to pump twenty-five percent of their average pumpage for the period 1986 to 1990.

(8) Those users who would be allocated only a portion of their request because it exceeds the sustainable annual yield shall be allowed to pump that volume of water requested that is within the sustainable annual yield. The volume of water allocated under the sustainable annual yield shall be subtracted from the user's average pumpage for the period 1986 to 1990. A percentage of the difference shall be allocated as described in section (7) of this rule in addition to the volume allocated below the sustainable annual yield.

Stat. Auth.: ORS 536.900 - ORS 536.935 & ORS 537.505 - ORS 537.745
Stats. Implemented:
Hist.: WRD 6-1991, f. & cert. ef. 6-14-91

690-507-0820

Stage Gulch (CGWA) Process of Periodic Review of Sustainable Annual Yield

(1) The Department shall determine whether a reasonably stable water level was achieved in the basalt groundwater reservoir in each subarea in 1995 and every five years thereafter.

(2) For any subarea in which a reasonably stable water level was achieved, the Department may increase the sustainable annual yield if the evaluation under section (1) of this rule indicates that more water is available than the existing sustainable annual yield.

(3) For any subarea in which a reasonably stable water level was not achieved, the Department may decrease the sustainable annual yield or modify subarea boundaries, or both, if the evaluation under section (1) of this rule indicates that less water is available than the existing sustainable annual yield.

(4) For any subarea in which a reasonably stable water level was achieved but for which individual wells, in the Director's judgment, show significant water level declines, the Department may propose modification of subarea boundaries.

(5) If the Department proposes to modify sustainable annual yields or subarea boundaries, it shall conduct a rulemaking hearing as part of the basin program.

(6) The Department may propose modification of subarea boundaries or sustainable annual yields at times other than the five year review required in section (1) of this rule.

(7) Individuals with a groundwater right in the Stage Gulch Critical Groundwater Area may petition the Department to modify subarea boundaries or sustainable annual yields under the following conditions:

(a) The petition shall be in writing;

(b) The petition shall contain evidence in support of the proposed modification; and

(c) The petition shall specify the proposed location of the boundary or sustainable annual yield.

Stat. Auth.: ORS 536.900 - ORS 536.935 & ORS 537.505 - ORS 537.745
Stats. Implemented:
Hist.: WRD 6-1991, f. & cert. ef. 6-14-91

690-507-0830

Stage Gulch (CGWA) Annual Reporting

The Department shall publish a report for the Stage Gulch Critical Groundwater Area by May 31 of each year. The report shall include the water user's name, well locations, permit numbers, priority dates, authorized diversions, actual diversion, and water levels.

Stat. Auth.: ORS 536.900 - ORS 536.935 & ORS 537.505 - ORS 537.745
Stats. Implemented:
Hist.: WRD 6-1991, f. & cert. ef. 6-14-91

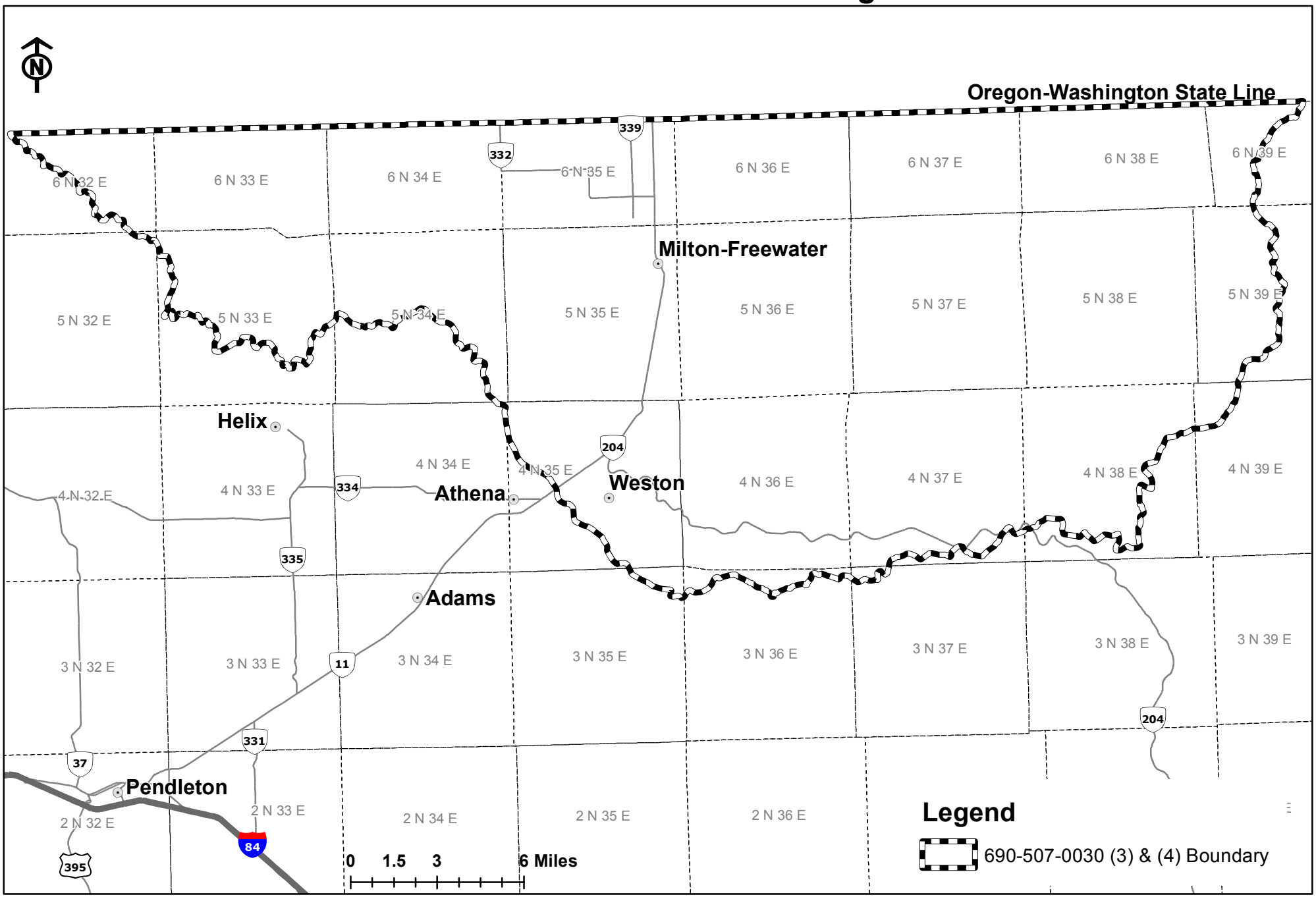
690-507-0840

Stage Gulch (CGWA) Violation Policy

Whenever the Department has reason to believe a violation of a rule in OAR 690, Division 507 has occurred, it shall investigate. If a violation has occurred, the Director may take enforcement action.

Stat. Auth.: ORS 536.900 - ORS 536.935 & ORS 537.505 - ORS 537.745
Stats. Implemented:
Hist.: WRD 6-1991, f. & cert. ef. 6-14-91

OAR 690-507-0030
Exhibit 507-1: Walla Walla Subbasin Serious Water Management Problem Area.



Rulemaking for Umatilla Basin Oregon Administrative Rule 690-507
Rules Advisory Committee Roster
December 12, 2016 and February 2, 2017

NAME	AFFILIATION
Brian Wolcott	Walla Walla Watershed Council
Allison Aldous	The Nature Conservancy
Larry Givens	Umatilla County
Chris Marks	Confederated Tribes of the Umatilla Indian Reservation (CTUIR)
Linda Hall	City of Milton-Freewater
Norm McKibben	Pepper Bridge Winery
Robert Klein	Farmer/ Irrigation Engineer
Teresa Kilmer	Walla Walla River Irrigation District
Ron Brown	Earl Brown & Sons, Inc
Nathan Rea	HT Rea Farms
Staff Present	
Mike Ladd	Oregon Water Resources Department (OWRD)
Justin Iverson	OWRD
Brenda Bateman	OWRD
Jen Woody	OWRD
Joe Kemper	OWRD
Greg Silbernagel	OWRD

Division 507 Hearing transcription by Machelle Bamberger

The Oregon Water Resources Department (OWRD) invited the public to submit written comments or to attend a public hearing on proposed rule amendments to the Umatilla Basin Program Rules (OAR Chapter 690, Division 507). These rule amendments would classify groundwater in the Walla Walla Subbasin for new exempt uses only and establish a Serious Water Management Problem Area (SWMPA) encompassing the subbasin. Owners of permitted basalt aquifer wells within the SWMPA will be required to install a totalizing flow meter on each well, measure and record water use on a monthly basis, and report monthly water use to the OWRD annually.

PUBLIC HEARING:

DATE AND TIME: March 22, 2017 from 5:00 p.m. to 7:00 p.m.

LOCATION: Milton-Freewater Community Building, located at 109 NE 5th Street, Milton-Freewater, Oregon 97862

Formal Hearing

This hearing is now in session and is being tape recorded to maintain a permanent record. My name is **Commissioner Eric Quaempts**, and I am the hearing officer. Today is March 22, 2015, and the time is 5:05 p.m.

The purpose of this hearing is to provide an opportunity for public comment on proposed rules in OAR Chapter 690, Division 507, Umatilla Basin Program.

The proposed rules include: These rule amendments would classify groundwater in the Walla Walla Subbasin for new exempt uses only and establish a Serious Water Management Problem Area (SWMPA) encompassing the subbasin. Owners of permitted basalt aquifer wells within the SWMPA will be required to install a totalizing flow meter on each well, measure and record water use on a monthly basis, and report monthly water use to the OWRD annually.

In addition to presenting oral comments at this hearing, anyone may submit written comments until 5 P.M. on March 31st, 2017 which is the close of the public comment period. Send comments to "Rules Coordinator" at Oregon Water Resources Department, 725 Summer Street NE, Suite A, Salem, OR 97301 or fax comments to: (503) 986-0903, Attn: Rule Coordinator or email comments to: rule-coordinator@state.or.us.

Comments received after 5 p.m. on March 31st 2017 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, which will be available from the Department.

(MARK 2:25) So the first commenter I have is **Steven H Corey** from Seven Hills Properties would wish to speak for about 4 minutes can you come up and sit and comment so we can capture it in a recording please.

(MARK 2:41)(Steven H Corey)
I will and will try to speak up so not only you and I can hear each other but so I can be heard behind us. I am an attorney in Pendleton; I represent Seven Hills Properties, LLC. Seven Hills has four deep water wells in the subbasin and is in the process the permitting stage of a 5th well. It wanted to appear here today, which is what I am doing here today to indicate to your department that if in fact you go forward and adopt rules that this becomes a Serious Water Management Problem Area that Seven Hills agrees that it will work cooperatively with your department as well as with its neighbors to address many areas of mutual concerns as we move through the process of analysis of information and that would include the installation of the totalizing flow meters, monthly measurement recording and annual reports to ODWR.

Seven Hills would look forward to, if that is the decision you make, they look forward to working cooperatively with you to do that. It also recognizes and I am going to hand you a letter we would like to be made part of the record, but it also recognizes that there are many things that accompany the analysis which would think would take place over several years but are things that need to be work on among those are identification of the basalt layers, identification of the aquifers themselves differentiation between the aquifers in terms of use and priorities, and casing of wells occurring and so on. I think Seven Hills would like to jump ahead too in the thinking and participate as time goes on in discussion of some type of consideration of recharge, whether is a natural recharge or artificial recharge, cost public and private funding, what those options are. We know that the department has experience those in other areas and this may be coming along here.

And further, I think we would like an examination of the exempt uses in terms of what really are the controls upon exempt uses for the future and how the analysis should occur with respect of those. I don't want to speak too long, but I think we feel that would need to look at the State of Washington it's participation in this subbasin because this aquifer happens we believe to be one that the aquifer is a bi-state aquifer and work that will be necessary with your department and Washington Department of Ecology and those things seem important for our clients Seven Hills Properties and for everybody that's our neighbors because its not going to do any good to have a program and a plan here, that's not going to work and be coordinated with the programs that is just across the state line. So we know you have a hard job ahead, but Seven Hills there are a few people here that are available to talk or answer questions. I will leave you a copy of the letter. Thank you very much.

Mark 7:02 (Commissioner Eric Quaempts) Next I have **John Barkley** from the Confederated Tribes of the Umatilla Indian Reservation.

(John Barkley)
First of all talksalwa (sp) that's good evening in my language at home, I am John Barkley Chairman of the tribal water commission for the Confederated Tribes of the Umatilla Indian Reservation, I would like to thank you and the Water Resources Commission this opportunity to comment on the Walla Walla Subbasin and Serious Water Management Problem rulemaking.

We are pleased to convey our support for the proposed rule amendment. Water is the most valuable and essential resource on Mother Earth, water or choose (sp) as we call it in our language is our first tribal foods which supports salmon, big game, plants , roots and berries. For my people the Cayuse and Umatilla and Walla Walla we have reserved under Treaty of 1855 rights to harvest these first foods. That treaty under the US Government was negotiated and sign in this very basin that we are address tonight. Treaties are ruled by the US Supreme Court is the supreme law of the land. That was a collaborative effort back in the day, and today we continue these collaborative efforts with a number of people as we are very engaged in the basin with various irrigators, businesses, ranchers, and public officials on how we can best manage this resource for the benefit of all of us. Finding a balance assures us sustainability of our natural habitat and resources and one that repairs extensive damage done to our treaty resources over the years. We have invested significant resources in this basin to restore instream flows to support our first foods and to exercise our treaty rights. Water is essential to realized intended benefits of habitat restoration and hatchery investments.

How Oregon manages our shared water resources directly impact our respected ability to succeed success. We know that water supply in this basin has been over allocated and these supplies include surface, alluvial and basalt groundwater. While we support the rule amendments, we are concerned that they do not go far enough to address the known and anticipated water supply dilemma and we offer the following comments:

1) Robust data is needed to develop holistic solutions. Measurement and reporting requirements are also needed for both surface and alluvial groundwater use. An active depiction of all the existing water supplies and use is essential to develop a balanced and comprehensive water supply solution.

2) Permit exempt uses can create impairment. To protect senior rights and to respect treaty rights including instream water rights, Oregon needs to consider eliminating the availability or reducing the amount of groundwater available under permit exempt uses.

3) There is not enough water to meet all the demands. Non irrigation seasons surface water supplies are being investigated to address low flow during irrigation season are already being applied with a limited license to address declining alluvial groundwater levels and have now been identified as a source to stabilize the basalt groundwater levels.

4) We are concerned the data gathered under the proposed rule amendments and the emphasis on basalt groundwater will lead to propose water solution that makes it even more difficult to address surface and alluvial groundwater supply issues, they are all interrelated and all interconnected.

Oregon Water Resources decisions have a direct impact on our fist food and treaty rights. As a treaty fisherman, I am unable to harvest any salmon in this basin because the water supply has been insufficient during key migration periods. The proposed rule amendments represent a

small but important step toward addressing instream and out of stream water supply issues in the Walla Walla subbasin.

We look forward to working Oregon Water Resources and stakeholders as we have done in the Umatilla River Basin to fill remaining water data gaps and developing a comprehensive and sustainable solution for water supply resources in the problem area. We will be submitting a formal letter regarding this proposal, proposed rulemaking by March 31st, again thank you for your time and the opportunity to come and comment our concerns and rights concerning this issue water is life with that katzia ???? Thank you that is all I have to say.

Mark 12:30 (Commissioner Eric Quaempts) Thank you, next I have Ronald E Brown and after that will be Nathan Rea.

(Ronald E Brown)
Ron Brown PO Box 249 I am the manager of Earl Brown and Sons, INC. we farm around 12 hundred acres on the Oregon side of permanent crops , apples and wine grapes and a few plums.

I was on the RAC committee when we discussed the rules that are being put before use with a little trepidation that we did not have a whole lot of data available to us at that time. I think the rules committee took into consideration that unless we go forward with the metering and reporting there would be less data in the future. So I think that was a good move.

The trepidation and fear comes in with the SWMPA as a designation for people who are putting a whole lot of dollars, capitol dollars in this area to plant more permanent crops to renew permanent crops we are talking about 15 thousand an acre just to redo or renew an orchard or vineyard there is a huge economic value here that plays in to this too. The comment was made about the Washington side and when the first meeting we held here, SWMPA was designated by this map and it stops on the Washington side And I don't think anyone here in the room can tell how many basalt wells or alluvial wells or how many exempt wells are on that side of the state line. A lot of important information needs to happen here to see where the total problem lies. Our aquifer is dropping but that doesn't mean that we are the sole problem with this, it could be on the other side. We have done a little research ourselves, they only have one water master on the Washington side, and his comment was to go to DOE and start looking up the information. I can tell you and the group, since 1990 there has been quite a few wells have been drilled. Unless we solve that problem and work out some bi-state agreement on both sides of the state, we are going to have the same we have with the surface water, ESA which was for Oregon to turn over 30 percent of its water back and allow the Washington side under no federal regulation to pump it. We can not have that happen when on the Oregon side you have a number 1 the largest apple growing area in the state of Oregon, we are the largest. We are increasingly planting wine grapes here and moving up the ladder at one time Oregon was 2/3 of wine grapes, they might not be now but with the amount of wine grapes that had been planted in this area so there is a whole lot of research that needs to be done here on what is happening on both sides of the state line and what ever rules apply here needs to apply on the

other side so that the data we need comes in so that it can be adjusted on both sides and its going to take a lot of work, take a lot of time I believe we have a start here but we have a long ways before we have an answer. Until we have that answer I would say this is where it stops until the Department on the Oregon side and the department on the Washington side figure out a mechanism, a bi-state agreement to allow the information to flow back and forth between themselves and the scientists we have working on it, because I know everyone on the Oregon side here is willing to work with Jenn Woody and the Department to figure this out but it can't be a one sided thing, it will not work, your going to cause economic damage to one side or the other and it will be a failure and it will be a train wreck and we can't let that happen.

The SWMPA acronym to me is... needs to be changed. Any time you declare an area serious water management problem, red flags go up. I have had more questions asking what in the world is SWMPA and why was it designated that without enough data to garner that name. Because all you do is put fear in everybody from landowners, small business, cities, tribal people, everybody when you name something a serious water management problem and we did not have enough data on the books to even say that. I know under Oregon Statutes that what has to happen to do the things we did, but my gosh lets be realistic about this we have been working on ESA since 2000 and hopefully in the next ten years we can, it going to take ten years , I don't care what anyone says to get enough data to be able to maintain what we are doing, the culture of the tribes, the farmers here we are going to have to have enough data to make sure that what ever we do doesn't screw things up because we really did screw things up in the ESA, we dried up spring branches we put it all back in the main stem we did not do all our homework, did we do enough? We heard from the Tribes, No. Tonight No, we did not ok so when we are dealing with this water source under the ground we have to be darn sure that we do it right and if we don't we are going to be in big trouble. Thank you for your time

Mark 19:11 (Commissioner Eric Quaempts) Thank you, Nathan Rea.

(Nathan Rea)
I am Nathan Rea, I am here representing HT Rea Farming, our family farm, My Dad, and Dennis is here as well. Thank you for hosting today's rulemaking hearing to consider the proposed rule changes to the Umatilla basin program, Walla Walla Subbasin Rules.

As participants in the resource advisory committee or RAC, my farming partner and Dad, Dennis and I contributed to the process and provided local water user input. As fourth generation family farmer here in Milton-Freewater we can't stress enough the importance of groundwater resources and its ability to increase the production and value, production value of our cropland, help to keep our farm economy afloat and community working in agriculture. For decade we have made tremendous financial investments in our irrigation systems to increase efficiencies and eliminate waste. Despite all this hard work we have notice a decline in groundwater levels and are concerned that our ability to continue farming over the long term is at risk.

We recognize that there is a need for updated rules to insure the groundwater resource will not be stretched to thin, thus we support the proposed rule changes before you today including

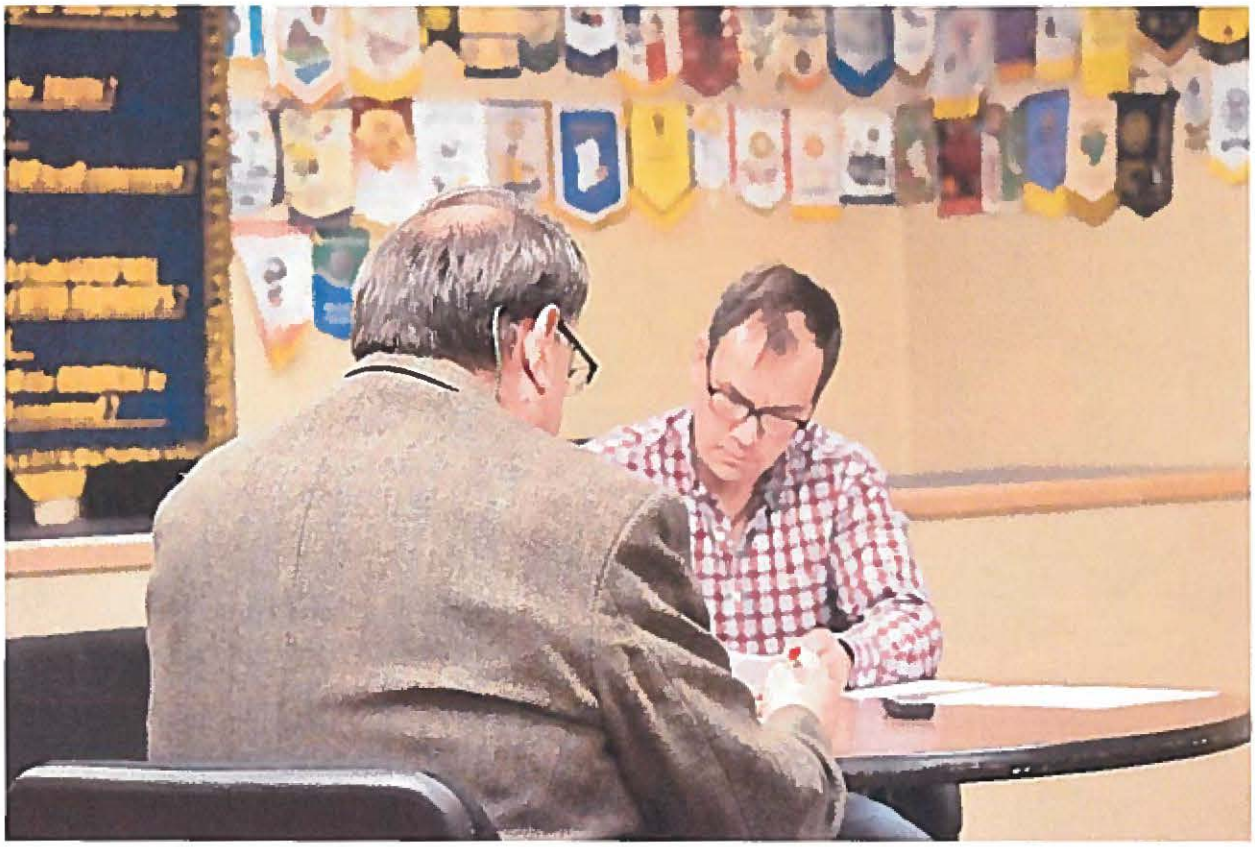
classifying groundwater for exempt uses only, creation of the Serious Water Management Problem Area and requirements for basalt aquifer wells to have a totalizing flowmeters, which ours already do, and monthly record and annual reporting of water use. We strongly encourage the Commission and the Water Resources Department to only move forward on beyond this rulemaking after meaningful alliances and agreements are made with the regulatory counterparts in Washington, something you have heard a number of times tonight already.

The lasting solution here is not possible without a unique effort that recognizes the true nature of the basalt aquifer which does not stop at the state line this will be a challenge but can only be done right if it is truly done basin wide. Regarding the timelines which the Water Resource Department has set to accomplish some of their goals here in the valley we believe the original timelines for action following development of the SWMPA are being rushed to quickly. We recognized there have been some adjustments already such as one year delay in the metering requirement which will help some. The importance of gathering good data on the basalt aquifer by subarea is important if water users will be asked to make future important decisions in agreements based on that information. A long term resolution here can not be created with rushed decisions and missing facts the Water Resources Department has a big job ahead of itself and they should be allowed to do the time to do a though job of gathering sufficient data to make decisions to have a lasting impact. Also enough time is needed to obtain adequate data for farmers to understand how best to approach creating voluntary agreements within these sub areas.

Finally the Water Resources Department should carefully evaluate any request for extensions on groundwater permits and transfers or new wells within the SWMPA given the limited water supply and knowledge among water users that supply is limited. Thank you for the time and opportunity to submit these comments.

Mark 20:40 (Commissioner Eric Quaempts) anyone else wish to comment at this time?

I have called the names of everyone who submitted registration cards. No else wished to comments the hearing is adjourned at 7:00 p.m.

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March 28, 2017

Rule Coordinator
Oregon Water Resources Department
727 Summer Street N.E., Suite A
Salem, OR 97301-1271

To: Rule Coordinator, OWRD, Salem

Re: Seven Hills Properties, LLC (SeVein)
Wells Nos. Umatilla 50516, 55523, 55526, 56382

Our office represents Seven Hills Properties, LLC, also known as SeVein, in regard to OWRD's letter of March 1, 2017, pertaining to rule making/amendments to the Umatilla Basin Program Rules.

I appeared on March 22, 2017 at the public hearing OWRD conducted in Milton-Freewater, Oregon. At the hearing, in addition to testifying, I also submitted written comments by way of a letter dated March 22, 2017, an additional copy attached.

I have further comments I desire to add on behalf of Seven Hills, as follows:

7. After listening to the oral testimony at the public hearing, it remains a critical concern that OWRD coordinate fact finding and rule making with the Department of Ecology, State of Washington. The Walla Walla subbasin is a shared subbasin by the two states, Oregon and Washington. Rules need to be similar and coordinated, or ground water users on one side of the state line will not be treated fairly. Recharge efforts on one side of the state line won't be effective unless withdrawal controls on both sides of the state line are similar.

8. No action by OWRD should be taken until a good dataset has been generated in Oregon, and comparable information has been made available by Washington. This is critical

and bi-state fact-finding should begin in the near future. We understand those efforts have not started.

9. To provide economic impacts, and demonstrate the importance of making good decisions based upon accurate data, please consider the following: SeVein, Seven Hills Vineyard, and a neighbor Earl Brown and Sons have over 2,800 acres of apples and grapes with a plant value of well over $100 million dollars. Total annual payroll today exceeds $5 million dollars.

10. In developing rules, seniority in use should be by flow zones and acquifers. A total restriction on ability to drill outside your current zone should be considered. Without these considerations, it will be difficult financially to justify refilling flow zones with winter water if others then can draw water from the same zone.

11. Consider giving credit for what is allowed water users based upon both conservation efforts already underway as well as new efforts. Seven Hills, for example, is using high tech and expensive equipment to measure moisture requirements every few minutes and broadcast them via satellite to experts for diagnosis, in addition to its own staff, for scheduling of water usage based on the reports. Records from California show a very large reduction in water required between vineyards who use this equipment.

As I mentioned before, Seven Hills is prepared to invest substantial time and energy in a cooperative effort, led by OWRD, to reach satisfactory solutions. It looks forward to working with you.

Sincerely yours,

Steven H. Corey

Steven H. Corey

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March 22, 2017

Rule Coordinator
Oregon Water Resources Department
725 Summer Street N.E., Suite A
Salem, OR 97301-1271

To: Rule Coordinator, ODWR, Salem

Re: Seven Hills Properties, LLC (SeVein)
Wells Nos. Umatilla 50516, 55523, 55526, 56382

Our law office represents Seven Hills Properties, LLC, also known as SeVein, in regard to ODWR's letter of March 1, 2017, pertaining to rule making/amendments to the Umatilla Basin Program Rules. I submit this letter as written comment by Seven Hills.

Seven Hills owns 5 wells in the Walla Walla subbasin in Oregon. Four of those wells are identified above, and the 5th well is in the permitting stage. The 4 wells now in service provide water for grape vineyards in the immediate area for multiple owners whose overall investment in the wells and vineyards already is in the millions of dollars. The investment of the participants adds jobs and increased tax base, critical to the wellbeing of Umatilla County.

Seven Hills reviewed the ODWR letter. As a general statement, if ODWR moves to establish a Serious Water Management Problem Area in the Walla Walla subbasin in Oregon, Seven Hills will work cooperatively with its neighbors and with ODWR staff to address the following mutual concerns:

1. Installation of totalizing flow meters, monthly measurement and recording of water use, and reporting to ODWR annually of said usage.

2. Identification and mapping of groundwater acquifers and basalt layers, and location, depth, usage, and casing of wells within the subbasin.

3. Examination of drawdown, natural recharge, and consideration of artificial recharge, together with costs, public and private funding, and possible timelines for recharge projects.

4. Formation of special water districts, if appropriate, among users in common of the separate acquifers within the subbasin.

5. Coordination with water users in the "Walla Walla subbasin in Washington" and with the Washington Department of Ecology, seeking common solutions.

6. Continued usage of water wells as certificated during the study period, with careful examination of any proposed changes to exempt uses.

Seven Hills is aware these concerns will be challenging. It is prepared to invest substantial time and energy in a cooperative effort, led by ODWR, to reach satisfactory solutions. It looks forward to working with you.

Sincerely yours,

Steven H. Corey

March 30, 2017

Rule Coordinator
Oregon Water Resources Department (OWRD)
725 Summer St NE, Ste A
Salem, OR 97301-1271

Dear Sir or Madam,

NF Land LLC is a land owner and water right permit holder (G-17347) within the Walla Walla Subbasin. We are writing to comment on the proposed amendments to the Umatilla Basin Program Rules. In general, we believe there is an unjustifiable mismatch between the small geographic problem area and the very large scale of the proposed SWMPA boundary.

The proposed SWMPA boundary includes the entire Walla Walla Subbasin. This is inappropriate because:

1. The problematic water-level declines are localized to a small, crescent-shaped area centered around Milton-Freewater. The SWMPA boundary should be limited to this area and not be expanded dramatically to include the entire Subbasin.
2. The expansion of the SWMPA boundary creates unjustifiable costs, work, and hassle for many water users who are not contributing to problematic declines.
3. OWRD has neither published nor cited scientific data of any kind to support or justify the location of the SWMPA boundary.
4. The choice to adopt the Subbasin boundary is arbitrary and capricious. Since there are water-level declines elsewhere, scattered throughout Oregon, one could argue the SWMPA boundary could just as well encompass the entire State.
5. Using the Subbasin boundary may make things easier for OWRD, but administrative convenience should not be the reason for establishing such an important boundary.

Under ORS 183.335(2)(b)(G), options that achieve the rule's substantive goals at a lower economic impact should be considered. One such option is to simply reduce the SWMPA boundary to include only the small area(s) with dense basalt groundwater development that are actually demonstrating clear, problematic declines.

If the Subbasin boundary is nevertheless chosen to be the SWMPA boundary, we believe the proposed rule should include the potential for sub-areas to be excluded in the future. Such a provision would allow water users to be excluded from the SWMPA by providing evidence such as but not limited to:

- No problematic water-level declines;
- No violation of water permit drawdown conditions;
- Empirical evidence from pumping data and water use demonstrating no problematic declines; or
- Other data and hydrogeological research demonstrating no problematic declines.

As an example of why SWMPA sub-area exclusion should be supported by the Umatilla Basin Program Rules, please consider the case of the local area in which our property is located:

- The entire eastern "half" of the Subbasin—within which our property is located—has very little groundwater development. The SWMPA should be limited to those areas with dense basalt groundwater development.
- The area in which our property is located does not exhibit problematic aquifer declines. The SWMPA boundary should be drawn to include only true "**Problem Areas.**"
- The area in which our property is located is isolated hydrogeologically from the problematic areas around Milton-Freewater. Our area neither relates to nor contributes to the water-level declines in the problematic areas and should therefore not be considered part of the SWMPA.

In addition, NF Land's groundwater permit (G-17347) has been recently and very aggressively vetted by OWRD already. The permit was issued in February 2015, which was long after the period of problematic water-level declines cited by OWRD that form the basis for OWRD's proposed SWMPA. OWRD must have believed in 2015 that despite declines elsewhere in the region, water was still available to support issuing NF Land's permit. Further, in processing the permit, OWRD cut NF Land's requested volume of water by more than 80%. OWRD also included very unusual, restrictive, and expensive conditions in NF Land's permit. These cuts and conditions have been extremely costly to NF Land. OWRD's justification for this aggressive permitting was the long-term, declining water levels in the region. Having just gone through this arduous permitting process, we should not now face the possibility of double jeopardy.

As described above, NF Land's local area is not experiencing problematic water-level declines, and NF Land's permit was recently reviewed and severely restricted by OWRD. There are other water users in the proposed SWMPA in similar situations. The proposed rule amendments need to include provisions, such as those described above, so that such water users can—based on good science and hard data—be excluded from the SWMPA and thereby relieved of unfair burdens, restrictions, and risks.

Sincerely,

Sam Hobson

NF Land LLC
by Sam Hobson, Member
2885 Sanford Ave SW, #21711
Grandville, MI 49418

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MAR 30 2017
OWRD

Walla Walla River Irrigation District
PO Box 248/323 Evans Street
Milton-Freewater, Oregon 97862
541-938-0144
teresa@wwriver.com

Rule Coordinator
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271

Re: RAC Walla Walla Subbasin Comments March 22, 2017

Dear Rule Coordinator,

The Walla Walla River Irrigation District supplies irrigation water to approximately 3,400 acres of high-value, permanent crops in Milton-Freewater, Oregon. The Walla Walla River water rights served by the District were decreed to the individual landowners. Our constituents have been very vocal about the proposed rule amendments concerning the Milton-Freewater basalt aquifer and have sent a clear message to the Walla Walla River Irrigation District Board as to the District's priorities in relation to a path forward from here. Landowners within the Walla Walla River Irrigation District have voiced concern with several aspects of the Serious Water Management Problem Area designation, including the negative connotation that the name suggests, and the Rules Advisory Committee process.

For background purposes, prior to 2000, the landowners in the Walla Walla River Irrigation District did not have the need for supplemental water from the basalt aquifer for the majority of the acreage served, as they have the most senior water rights from the Walla Walla River and had always been entitled to an ample supply of water during all seasons of the year. Beginning in 2000, the landowners in the Walla Walla River Irrigation District began contributing a portion of their state decreed water rights to instream flow in the Walla Walla River to benefit ESA listed bull trout and steelhead. This "voluntary" action came as a result of the threat of federal prosecution by US Fish & Wildlife Service, and others, for alleged harm to listed species that resulted in our legal diversion of irrigation water. Leaving a portion of their surface water rights made it necessary for landowners to drill basalt wells as an emergency back-up source for irrigation of permanent crops.

The first concern expressed by landowners is that there was not adequate data reported at the public meetings hosted by Water Resources Department that demonstrated specific declines in the basalt aquifer to necessitate declaring the Walla Walla Subbasin a SWMPA. The Department stated that there were some senior basalt users that were having issues with pumping water from their basalt wells at historic levels. There were graphs presented that showed steep declines in basalt aquifer levels over time, but no specific data related to when the declines

began, if the declines were getting worse over time or how many feet per year the basalt aquifer is declining. Preliminary data reviewed by District personnel indicates that the basalt aquifer in Milton-Freewater has shown significant declines since the 1950s. Landowners in the District are interested in knowing if the basalt aquifer is declining at a faster rate than it did historically. It also looks as if there are area basalts that are not declining at a proportional rate with other basalt wells. It would be prudent, if the Department is going to require landowners to participate in the solution, for the Department to identify the problem specifically and give landowners some idea what a sustainable level would be.

The second concern was the lack of information on water availability by the Department. The Department's primary responsibilities are to manage and regulate the state's water resources for the benefit of all Oregon citizens. Issuing permits and certificates for new water rights, when the Department does not know if the water is available is not a responsible way of protecting the state's water resources. Over-allocating water resources and then shutting the water off is not a responsible approach to regulating the resource. Landowners in the Walla Walla River Subbasin could potentially face significant financial hardship as a result of the Department's uninformed decision making process.

The third concern was brought up at many of the public meetings and during the Rules Advisory committee meetings. Washington basalt well owners have got to be included in the solution. Just as the Walla Walla River does not stop at the stateline, neither does the basalt aquifer. Due to the historical lack of water in the Walla Walla River during the irrigation season, the landowners in Washington rely heavily on wells for summer irrigation, more so than Oregon irrigators. The Department's assertion that no new basalt wells have been drilled in Washington since the early 1990s is incorrect. According to the Washington Department of Ecology's website, there have been numerous new basalt wells drilled for irrigation purposes on the Washington side of the Walla Walla River Basin since 1990. Further regulation of irrigators in Oregon, without inclusion of landowners in Washington is not an acceptable approach to water management in the Walla Walla Subbasin.

Lastly, the Rules Advisory Committee was not comprehensive in its inclusion of stakeholders in the Basin. Basalt well owners were notified of groundwater meetings and the proposed rule changes. However, small business owners, realtors and upriver water basalt well owners, among others, should have been included in the process. A Serious Water Management Problem Area negatively effects land values and ultimately has negative consequences on small area businesses, as well as all agricultural producers. Many local stakeholders felt as if the Department attempted to ramrod the rule changes to the detriment of the Milton-Freewater community at-large.

The Walla Walla River Irrigation District appreciates the opportunity to provide comments on the proposed rule amendments to the Umatilla Basin Program Rules. While the District is supportive of the Department's efforts to meter and monitor basalt groundwater use, we would have appreciated a more thoughtful, comprehensive approach. The landowners in Milton-Freewater have demonstrated a willingness to cooperate in finding solutions to the demanding water

issues in our region, the basalt groundwater issue included. However, we feel that there can be no successful resolution until specific aquifer decline information is available, the Department performs their due diligence in quantifying available water, if any exists, and all of the basalt water users in the Walla Walla Subbasin are included in the recovery process.

Sincerely,

Teresa Kilmer, District Manager

Ron Brown, Board President

Tracy Larson, Board Secretary

Sean Roloff, Board Member

Dennis Burks, Board Member

Alan Davis, Board Treasurer

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Pacific Hydro-Geology Inc.
18487 S. Valley Vista Rd.
Mulino, OR 97042
(503) 632-5016

March 30, 2017

Diana Enright
Oregon Water Resources Department
725 Summer St, Suite A
Salem, Oregon 97301-1271

RE: Draft proposed rules for OAR 690-507-0030

Dear Ms. Enright:

This letter is submitted for the public record to document oral testimony given to the Groundwater Advisory Committee on March 24, 2017, by Malia Kupillas. Her qualifications and the qualifications of Greg Kupillas, the other principal owner of Pacific Hydro-Geology, are enclosed with this letter. We recommend that the rules be modified to maintain flexibility with regards to new irrigation rights for the following reasons:

- First, most, if not all existing water rights contain a condition that the Director may require the water user to use "best management practices" when irrigating. The enforcement of this condition could result in the use of less water, which could help stabilize water levels.

- Second, efficient irrigation methods (such as drip irrigation) have the potential to use less water than growing houses on the same land if the land is subdivided according to current or future zoning codes. This was proven during the rule making process for the Amity Hills/Walnut Hill Ground Water Limited Area. In that case, the rules were implemented proactively to prevent declining water levels. Vineyards have been allowed to obtain a limited license for 5 years that provides enough time for the grapes to become established. At the time the rules were implemented, it was thought that if the water use under the limited license showed that water levels remained stable, then the Commission could be petitioned for an exception to the rules and a new, permanent water right could be applied for. In reality, a petition to the Commission may not be allowed under the current rules. Water levels have remained stable in Amity Hills/Walnut Hill area since the rules were adopted in 2003 with the establishment of vineyards instead of houses.

- Third, a brief review of well logs used in presentations by the Oregon Water Resources Department (OWRD) indicates there is a potential for a significant number of wells completed in the basalts to be considered comingling going back to at least 1965, which is one reason why many of the wells have similar static

water levels and why one of the hydrographs shows the earlier decline flattened out until recently. This commingling is also consistent with OWRD's policy that the basalts were considered all one aquifer in the mid-1990s. Rob Carter, a former Well Construction Compliance Coordinator for OWRD, personally told Malia this when she had a client who needed to deepen a basalt well, and Malia checked with well enforcement to see if there would be a problem. Commingling water in the basalts has been attributed to some, if not most of the water level declines observed at the Mosier area and Parrott Mountain to name a couple of examples. The impact from comingling wells on long-term water levels has resulted in "Special Area Well Construction Standards" for the Mosier area. The rules developed for the Mosier area are also being considered for any new well drilled and completed in the Columbia River Basalt Group (CRBG). Therefore, the impact to water levels from comingling wells needs to be addressed before the permitting of new groundwater rights is no longer allowed. It may be more economical to establish multiple, historically commingled water bearing zones as one aquifer and only require wells to be repaired that extend below those zones. This would also allow basalt wells completed in the upper zones to be deepened because they would then not be considered to be fully penetrating the aquifer.

- Fourth, there should be a depth limit set to any restrictions in the CRBG if the full depth of the basalts has not been explored or developed within the Walla Walla Basin. Taking water below the developed depth should be allowed because there are no data to support a restriction for that depth interval.

- Fifth, the long-term solution to declining water levels after the comingling issue has been resolved is implementing additional aquifer recharge (AR) and aquifer storage and recovery (ASR) projects. The recharge projects would be "place based" and potentially completed within a Water Management District (WMD) that could be created following the example of the Ground Water Management Districts currently active in Kansas. The WMD could be an extension of, or combined with, the existing Walla Walla Basin Watershed Council. The difference here is the WMD would allow the conjunctive management of both surface and groundwater for meeting the needs of all water users equally. The WMD could also manage water banking similar to the program in Kansas that encourages conservation, and gives the farmers more flexibility in how they distribute the water in their fields based on water needs and crop rotations. It may be more feasible for OWRD to manage a portion of the recharge projects like Idaho's Water Resource Department is currently doing.

It is our opinion that the proposed rule changes, as they are currently written, will result in an adverse economic impact to businesses, Umatilla County, and the State of Oregon. In addition, the proposed rules will not achieve the goal of resource protection. This letter discusses the economic impact of the proposed rule change and provides recommendations to minimize the economic impact and achieve the rule's goals of resource protection.

The area that will be the most impacted economically by the proposed rule change contains prime vineyard and orchard land. A review of existing water rights in the area indicates that most of the prime farm land is already covered with water rights, with relatively small areas not currently covered, as shown on Figure 1 (enclosed). Figure 1

also shows areas that are currently being illegally irrigated without water rights, which is already impacting the water budget. The main sources for irrigation water in this area are primarily surface water and groundwater from alluvial or basalt aquifers.

ECONOMIC IMPACTS

The economic impacts resulting from the proposed rule change will adversely affect not only the vineyard and orchard industry in general, but will also affect Umatilla County, and, in turn, the State of Oregon.

Economic Impacts to Vineyards from Prohibition of Irrigation

The currently proposed rule can have a substantial economic impact on new vineyard or orchard development in the area. Irrigation of grape plants or fruit trees in this area is required for long term survival.

It should be noted that once grape vines are established, the vineyards must also be careful to not apply too much water. Too much irrigation water can ruin the quality of the grapes, which is why established grapes require less water. Therefore, great care must be taken when irrigating to apply only the water necessary for plant growth and maintain a high quality of flavor in the grapes. The potential economic loss from poor quality grapes effectively limits the amount of water used to irrigate grape vines once they are established. The same goes for orchards.

Economic Impacts to Local and State Government

Vineyards and orchards represent one of the major agricultural industries in Umatilla County that has been important in supporting the local economy. Vineyard and orchard owners employ people to prune and maintain the grape vines or trees, harvest and process the fruit. The farmers purchase agricultural supplies and farm equipment, which supports a service industry related to the growing of grapes and fruit trees. The wine industry also brings people into the area to taste and purchase wine. These people also spend money in the county on other items, which supports other businesses like antique stores and restaurants that are not directly connected to the wine industry. Once a house is built on rural residential land, the contribution from the land to the local economy decreases significantly, which is why land use laws have been written to try and protect prime agricultural land. Agricultural land that is sitting idle because no crops can be profitably grown on the land does not support the local economy.

A strong local economy with low unemployment also benefits the State by providing more income to the general fund through income taxes. Restricting water use in the Walla Walla basin before applying other means of addressing the current water level declines is premature, and reduces the viability of vineyard and orchard development in this area, which will impact the local economy and ultimately the State of Oregon.

A Shift from Agricultural Use to Rural Residential

The proposed rule change could lead to a change in use of the land from exclusive farm use to rural residential. If agricultural land does not have the ability to obtain even limited ground water rights and only exempt uses are allowed, then the developers and prospective land owners can argue for a zoning change to rural residential. This shift

from agriculture to rural residential was observed when one of the first "Critical Groundwater Areas" was created in the Umatilla Basin. Subdivisions were developed and water use increased, which did not help the sustainability of the aquifer. When OWRD tried to change the rules and also restrict exempt use wells, everyone in the community was unhappy.

The goal in Umatilla County should be to develop the highest quality wines and orchards available in the world. To meet that world demand all the potential prime vineyard and land will be needed. Any loss of that limited resource has an impact on the future income from that land and income to the local economy. A shift in land use from agriculture (vineyards or orchards) to rural residential potentially removes prime vineyard or orchard land from future production. Unfortunately, the same land can be desirable for either vineyard or rural residential development. However, prime rural residential property is not always prime vineyard or orchard land. In Umatilla County, there is a limited amount of land that meets the requirements for grape and orchard production. To lose that land to rural residential development would impact income that could be generated if the land were in grape or orchard production, which has an impact on the local economy and the State's economy.

PROPOSED RULE WILL NOT PROTECT THE RESOURCE

Water Use for Rural Residences versus Vineyards and Orchards

The conventional wisdom is that residential use consumes less water than agricultural irrigation. However, it can be shown that irrigation using the most efficient methods can actually use less water than if the land is subdivided, in which case, the irrigation use should be allowed. In addition, developed vineyard and orchard land typically uses less water with time after the crops become mature. Furthermore, the impact from the new irrigation uses could ultimately be mitigated by repairing wells, developing additional AR/ASR projects, and using more efficient methods of irrigation, which is a better way of creating a sustainable water resource and protecting the local economy.

RECOMMENDATIONS

The new rules are proposed to protect existing water users. This is a reasonable goal. The challenge is finding a way to protect the ground water resource and minimize the adverse economic impact on the agricultural land, which is vital to the economy of Umatilla County and the State of Oregon.

Pacific Hydro-Geology recommends that the Department restrict new permitted uses to drip irrigation or equally efficient methods of irrigation, with conditions, in both the alluvial and the basalt aquifers for the following reasons:

- Restricting water use to only exempt uses in the basalts will have an economic impact on new vineyards and other crops dependent on drip irrigation and will consequently damage the agricultural economy in this area and have resulting impacts on the economies of Umatilla County and the State of Oregon. Restricting new water use to exempt use can only cause a land use shift from agriculture to rural residential, which could actually result in more water use. Allowing drip irrigation with proper conditions reduces the economic impact of the

rule and still provides some protection of the water resource. Water rights could initially be issued as a Limited License for five years, which should provide enough time to develop a better understanding of the hydrogeology of the area, repair wells to reduce the impact from commingling, and implement AR/ASR projects. Water level monitoring should be required in March and October. Totalizing flow meters should also be required and water use should be reported annually at the end of each irrigation season.

- This is prime agricultural land and vineyards are one of the major agricultural industries in this area. Water use in this area should be balanced between agricultural needs and exempt uses. Water use for exempt domestic use should not be favored over agricultural needs if water is available for further appropriation.

- Drip irrigation on vineyards uses less water on 5 acres than residential use on the same 5 acres. Therefore, it is better to keep the land for agriculture instead of 5 acre residential parcels.

Sincerely,

REGISTERED PROFESSIONAL
OREGON
MALIA R. KUPILLAS
G1354
GEOLOGIST
Expiration Date 5/31/17

Malia R. Kupillas, R.G., C.W.R.E.

REGISTERED PROFESSIONAL
OREGON
GREGORY E. KUPILLAS
G1304
GEOLOGIST
Expiration Date: 1/1/2018

Gregory E. Kupillas, R.G., C.W.R.E.

Enclosures: Qualifications of Malia and Gregory Kupillas
Figure 1. Water Rights in Area of Concern

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MAR 30 2017
OWRD

MALIA ROSNER KUPILLAS, R.G., C.W.R.E.
Pacific Hydro-Geology Inc.

PROFESSIONAL REGISTRATIONS:

Licensed Hydrogeologist, Washington (914) – 2002 to present
Certified Water Rights Examiner, Oregon (60772WRE) – 1999 to present
Registered Professional Geologist, Oregon (G1354) – 1993 to present

PROFESSIONAL COMMITTEES:

Oregon Geology Map Advisory Committee, current Co-Chair (26 members)
State of Oregon's Ground Water Advisory Committee for 6 years and chair for two of the years (9 members)
Oregon Water Resources Department Ground Water Advisory Subcommittee (13 members)
Oregon Water Resources Department Well Construction Rules Advisory Committee
Closed Loop Ground Source Heat Pump Boring Rules Committee (15 members)
Marketing, Ethics, and Technical/GWAC Committees, Oregon Ground Water Association

PROFESSIONAL HISTORY:

Pacific Hydro-Geology Inc., President, 5/1994 to Present
ATEC Associates, Inc., Staff Scientist, 5/1994 to 2/1995
Landau Associates, Inc., Senior Staff Hydrogeologist, 8/1988 to 2/1994
Kansas Geological Survey, Groundwater Section, Research Assistant, 9/1986 to 6/1988
Ground Water Associates, Subcontractor, June 1986

ACADEMIC/TRAINING HISTORY:

Oregon State University, Water Resource Science PhD program - Fall 2006 to present
Certified Water Rights Examiner Workshops, Sponsored by the Oregon Water Resources Department - Fall 2003, 2004, 2008 through 2015
DEQ Certificate of Training for Wellhead Protection Plan - 1996
Basic Wetland Delineation Training Course, Portland State University - 1996
Managing Forest Riparian Areas, Field Exercise, Oregon State University Extension Service - 1996
Managing Your Woodlands, Oregon State University Extension Service - 1995
Protecting Stream Corridors Workshop - Oregon State University Extension Service - 1995
DEQ Soil Matrix Cleanup License, Oregon (14262) - 1994 to 1996
Behavior of Dissolved Organic Contaminants in Groundwater, University of Waterloo - 1992
OSHA Training
- OSHA 8-Hour Refresher Course – 1989 through 2016
- OSHA 8-Hour Hazardous Waste Supervisor Training - 1990
- OSHA 40-Hour Hazardous Waste Training - 1988

M.S. in Geology (Hydrogeology), University of Kansas, Lawrence, Kansas - 1988
Thesis: Stratigraphy of the Quaternary Alluvium in the Great Bend Prairie, Kansas.
B.S. in Geology (minor in mathematics), Wichita State University, Wichita, Kansas - 1986

PUBLISHED WORKS:

Geology near Blue Lake County Park, Eastern Multnomah County, Oregon. Oregon Geology. 1993.
Bet, J. N. and Rosner, M. L. (Describes and maps the subsurface stratigraphy in east Multnomah County).

GREGORY E. KUPILLAS, R.G., C.W.R.E.
Pacific Hydro-Geology Inc.

PROFESSIONAL REGISTRATIONS:

Licensed Hydrogeologist, Washington (913) - 2002
Certified Water Rights Examiner, Oregon (#432WRE) - 1996
Registered Professional Geologist, Oregon (G1384) - 1992

PROFESSIONAL COMMITTEES AND ORGANIZATIONS:

Oregon Ground Water Association, Past President
Oregon Water Resources Department, Ground Water Advisory Committee – two terms (2005 – 2011). Served as committee chair in second term.

PROFESSIONAL HISTORY:

Pacific Hydro-Geology Inc., Vice President and Principal Hydrogeologist, 2/2002 to Present
Hart Crowser, Inc., Associate Hydrogeologist, 7/1991 to 2/2002
James M. Montgomery Consulting Engineers, Senior Staff Hydrogeologist, 4/1989 to 7/1991
Tetra Tech, Inc., Staff Geologist, 4/1988 to 4/1989
U.S. Geological Survey, Ground Water Division, Hydrologic Technician, 10/1983 to 12/1984

ACADEMIC/TRAINING HISTORY:

Certified Water Rights Examiner Workshops, Sponsored by the Oregon Water Resources Department Annually, Fall 2002 through 2009, and 2011 through 2016
The Modflow Course, Waterloo Hydrogeologic, Pheonix, Arizona - 2004
OSHA Training
- OSHA 8-Hour Refresher Course – Annually, 1988 - 2016
- OSHA 8-Hour Hazardous Waste Supervisor Training - 1989
- OSHA 40-Hour Hazardous Waste Training - 1988

M.S. in Hydrology and Water Resources, University of Arizona, Tucson, Arizona - 1988
Thesis: Development and Investigation of a Multiparameter Microbial Toxicity Test Using the Bacterium Salmonella typhimurium
B.A. in Geology, University of Oregon, Eugene, Oregon - 1983

PUBLISHED WORKS:

Kupillas, G.E. and Arnold, R.G., "A Multiparameter Toxicity Test Using Salmonella typhimurium, presented at the 15th Annual Aquatic Toxicity Workshop, Montreal, Canada, November 28-30, 1988.

Kupillas, G.E., K.E. Pill, F.W. Picardal, and R.G. Arnold, 1991, "A Multiparameter Toxicity Test Using Salmonella typhimurium and Spirocheata aurantia," Environmental Toxicology and Water Quality: An International Journal, Vol. 6, p. 293-307.

Figure 1.

Oregon Water Rights Map

March 25, 2017

Oregon Water Resources Department
725 Summer St NE, Suite A, Salem, OR 97301
(503)986-0900

Water Rights by Type

Water Rights by Use

Recreation
Fish
Wildlife
Domestic
Misc.
Agriculture
Livestock
Irrigation
Mining
Power
Commercial
Municipal

By Primary/Supplemental

Primary
Supplemental

1,288,895

0 4 8 16 km

Oregon Ground Water Association
P.O. Box 21285
Keizer, OR 97307
503-390-7080

March 30, 2017

Oregon Water Resources Department
c/o Diana Enright
725 Summer St., Suite A
Salem, OR 97301

Subject: Draft Proposed Rules for OAR 690-507-0030

To Whom It May Concern:

This letter is submitted for public record on behalf of the membership of the Oregon Ground Water Association (OGWA). The OGWA is comprised of members whom work with the groundwater resource and strive to promote sustainable groundwater development and management with its use. The members of the OGWA have a relationship with the Oregon Water Resources Department, and strive to facilitate an environment where the groundwater resource may be utilized by all sustainably.

In regards to draft proposed rules for OAR 690-507-0030, the OGWA is opposed to the acceptance of these proposed rules. The OGWA would like to see further data and evidence to warrant the moratorium of groundwater usage beyond exempt usage. The OGWA would argue that too little supportive data and evidence exists to support a conclusive rule change at this time.

Regards,

Michael Klobes, OGWA President

From: bkey22.bk@gmail.com
To: machelle.a.bamberger@state.or.us
Subject: FW: basalt wells and senior water rights
Date: Wednesday, March 29, 2017 12:34:38 PM

Sent from Mail for Windows 10

From: bkey22.bk@gmail.com
Sent: Wednesday, March 29, 2017 6:05 AM
To: bkey22.bk@gmail.com
Subject: RE: basalt wells and senior water rights

Sent from Mail for Windows 10

From: bkey22.bk@gmail.com
Sent: Tuesday, March 28, 2017 8:52 PM
To: scott rule-coordinator@state.or.us

Subject: basalt wells and senior water rights

Since 2005 we have had the state out to measure our wells on an annual basis. From the first measurement there has been a decrease in the static level in our and surrounding wells right through to the present. We were told that 5 years of data would be needed before a clear picture could be drawn to see if it was a trend. We are now in 2017 and that trend still continues by a rate of 2 to 3 feet of drop per year. Since 2005 there have been permits for numerous other basalt well permits in our area issued by the state with full knowledge of lowering water levels. Many of these new issued Jr. permits are pumping between 3000 and 8000 gallons a minute. Most of the Senior wells in our area are permitted 500 to 800 gallons and today cannot fulfill these permits. Because of the actions being taken by the State in recent months with public meetings and rules committee being formed, its clear that the State recognizes the fact that it has over issued well permits for this area. Therefore we are hopeful the State recognizes its obligation to fulfill the full permit issued to its Senior water users.

I would just like to add that at the last rules committee meeting in Milton-Freewater it was brought up that even though they had Jr. water permits they had high value crops such as orchard and grapes and were entitled to that water because of the value of that crop. This in no way should have any bearing on who should be allowed to have full access to water from one permit to another. That is why the State issued Senior water rights and Junior water rights.

In the bigger picture, if the reduction of the water levels are not slowed or stabilized, over time it will not matter whether you have a Jr or Senior water right, there will be no water for anyone. Thank you for your time, Brian Key, partner at Key Family Farms

J. FRANK SCHMIDT & SON CO.

The Wholesale Tree Growers

P.O. Box 189 • Boring, Oregon 97009 • (503) 663-4128 • FAX (503) 663-2121 • www.jfschmidt.com

March 29, 2017

Rule Coordinator
Oregon Water Resources Department
725 Summer Street NE Suite A
Salem, OR 97301-1271

Email: rule-coordinator@state.or.us

Dear Water Resources Department Persons,

The J Frank Schmidt & Son Co. (JFS) Milton-Freewater (MF) farm is the oldest continuously operated business in Milton-Freewater and the oldest continuously operated nursery in Oregon. The MF was established in 1878 by Aaron Miller and owned by the Miller family until purchased by JFS in 1969. The company grows deciduous, flowering, and ornamental deciduous trees on each of the company's six farms throughout Oregon.
JFS is a strong advocate of soil and water resource management and is a leader in the nursery industry for innovative conservation practices and environmental stewardship. The company has partnered with several governmental and private nonprofit groups in the past, such as Clackamas and Multnomah County's Soil and Water Conservation Districts, Shade Our Streams, National Resource Conservation Service, and Clackamas River Basin Council to promote and practice natural resource management and conservation.

Agricultural businesses are the economic backbone of the Walla Walla Valley. Current and future water management is essential to the continued success of the region's economy so high value/acre crop production can be sustained. Strategic use and protection of the region's water resource is both wise and necessary to maintain productivity and sustainability of high value crops.

There is almost no scientific evidence as to the water flow dynamics in the Walla Walla Valley aquifer. It is imperative to understand this information to best manage water use and consumption during the course of the entire year. Understanding dynamics of movement, not only vertically, but also horizontally, within different sections of the aquifer will also be essential.

JFS is a willing WRC partner in collecting this essential information by having already installed flow meters on all water pumping stations. Data is being recorded and submitted to WRC and Joe Kemper, hydrogeologist with the Oregon Water Resources Department regularly monitors the water depth in one of the MF Farm basalt wells.

OREGON ASSOCIATION OF NURSERIES

ANLA American Nursery & Landscape Association

The Walla Walla watershed crosses state lines, yet the Walla Walla aquifer does not know political boundaries. To truly understand the dynamics of the hydrology in the watershed, it is necessary for the Oregon Water Resources Department and their Washington state counterparts to work together collectively to understand the aquifer dynamics. Any future regulation of aquifer water management in only one state is not a solution, equitable, or sound management. Additionally, any management plan must have all stake holders at the table for best management practices to be developed.

Respectively submitted,

Arthur R. Anderson
General Manager and C.O.O.

From: Robert Klein
To: BAMBERGER Machelle A. * WRD
Subject: Fw: Walla Walla Subbasin Hearing dated 3-22-17
Date: Wednesday, March 29, 2017 12:12:45 PM

All three tries and even sending off your email before the hearing for rule-coordinator@state.or.us did not work.

On Wed, Mar 29, 2017 at 11:51 AM, Robert Klein <robertd.klein@yahoo.com> wrote:

> Dear Water Resources Department:
>
> My name is Robert Klein @ 50424 Schubert Road, Milton-Freewater, Oregon and I attended the hearing on 3-22-17 without making a comment for the record. I would like to comment now on a few items since I served on the RAC and attended this final hearing. Delaying the required flowmeter installation date by one year to allow NRCS time for matching funds was very thoughtful of the state considering the cost for some users. Unfortunately, that will impact the state's data collection that needs to continue in order to address our declining water levels. A common comment of junior water users seems to be that the state does not have enough data at this point to consider our Walla Walla Valley to be a SWMPA and yet data collection on basalt wells has been going on throughout the valley for the last 10 plus years. This data as the state has presented in several local public meetings shows basalt wells dropping 3-4 feet per year!
>
> I hold a senior water right that has experienced severe water usage drop especially in the last five years in which I am only able to pump less than half my instantaneous flow rate of 688 gpm. I am already being restricted while junior water users continue to pump their full permitted flowrate. Many surrounding junior wells around me are typically 3-5 times larger in pumping capacity also. My pumping cost have essentially doubled because it is now taking the same amount of horsepower to lift the water out and only half the water as my pumping level is now just 20 feet above the pump intake at the bottom of my well. Another comment that I heard several times from junior water users was that they have permanent crops with high installation cost. They knowingly planted these crops with water use restrictions on their water right certificates. These permanent crops require additional water burdens such as frost protection and cooling that have added a significant burden to our water supply. Water is not a garuntee for any of us, but those of us who have purchased land with senior water rights and paid higher land prices for that benefit are looking at some high land value loss if the state of Oregon does not protect this resource as the law requires. I have already had to change my crop rotations and water management to deal with this lack of water. This has increased my cost and reduced my income. I am not just an isolated case as many senior water users have told me throughout the valley that they are having to go deeper to maintain water usage or some have now maximized their resource like I have and learning to deal with less water as the economic benefit is not there. Most local water rights holders including myself have been appreciative of the state doing valley wide testing over the last 10 years and hope that the state will continue more intense testing in order to address our declining basalt water levels at an unsustainable rate.

Thanks,

Robert Klein