



WaterWatch of Oregon

Protecting Natural Flows In Oregon Rivers

May 21, 2026

Eric Hartstein, eric.hartstein@oweb.oregon.gov
Oregon Watershed Enhancement Board
725 Summer St. NE, Suite 360
Salem, OR 97301

Re: Water Acquisition Grant Rulemaking, Draft Rule Comments

Dear Mr. Hartstein,

Thank you for the opportunity to provide public comments. WaterWatch is a river conservation group that works to restore and protect river flows statewide. WaterWatch drafted and championed the 1987 Instream Water Rights Act which provides the legal framework for much of the work that is funded by the OWEB Acquisition Grant Program. We also helped negotiate the Conserved Water Act. As such, we have a great interest in ensuring that state dollars in this fund are only spent on projects that result in legally protected instream flows and are in accordance with Section 4b of Article XV of the Oregon Constitution.

These comments supplement our comments submitted for consideration at the December 2025 and May 2026 RAC meetings.

Constitutional requirements of the Water Acquisition Fund: OWEB's Water Acquisition Grant Program is bound by Section 4b of Article XV of the Oregon Constitution. This section of law is clear: Funds must be used to (a) Protect and improve water quality in Oregon's rivers, lakes, and streams by restoring natural watershed functions or stream flows; (b) Secure long-term protection for lands and waters that provide significant habitats for native fish and wildlife; (c) Restore and maintain habitats needed to sustain healthy and resilient populations of native fish and wildlife; (d) Maintain the diversity of Oregon's plants, animals and ecosystems; (e) Involve people in voluntary actions to protect, restore and maintain the ecological health of Oregon's lands and waters; and (f) Remedy the conditions that limit the health of fish and wildlife, habitats and watershed functions in greatest need of conservation. In other words, the Water Acquisition Fund must be used to acquire waters that will result in water quality or quantity benefit to fish and wildlife. It does not allow funding projects that do not meet this end, nor does it allow for funding for projects that benefit private interests. We note this here as it ties into some of our comments on the draft rules.

OAR 695-046-0020, Definitions

Subsection (2), Conserved Water Project: The definition of "conserved water project" should be amended to clarify that it means a project that conserves "surface water" pursuant to Oregon's Conserved Water Act.

The clarification that ties the funding of Conserved Water Act projects to “surface water” is needed because public commentors have requested that OWEB expand use to acquisition of groundwater, and, in response, OWEB put together a draft guidance document that would allow this. As noted in our March comments, WaterWatch objects to the use of these very targeted state funds for groundwater conservation and/or ground water purchase for the following reasons:

- **The state cannot legally protect the saved and/or retired groundwater from other groundwater or surface water appropriators.** While groundwater and surface water are hydraulically connected in most areas of the state, and groundwater is critically important to many groundwater dependent ecosystems, Oregon’s water laws do not allow protection of retired groundwater as either groundwater or surface flow. No mechanism exists to achieve this. In other words, the state lacks the ability to protect either “conserved” or “purchased” groundwater either in the ground or in the stream. Public funds should not be used for projects that will result in water that will just be picked up by other water right holders.
- **Without legal protection of saved water, expansion to groundwater would not align with the purposes of the acquisition fund:** We do not believe the acquisition of groundwater rights, absent the ability to protect that water against other water right users, aligns with the purposes set forth in ORS 541.956, which focuses on funding projects that will protect or restore native fish or wildlife habitats and/or projects that will protect or restore natural watershed or ecosystem functions in order to improve water quality or stream flows. Absent securing legislation that would allow the state to protect saved/retired groundwater as against other ground/surface water appropriators, the groundwater dependent ecosystem benefits hoped for could likely not be realized.
- **State funds should not be used to purchase groundwater rights that are subject to regulation:** OWEB’s draft guidance anticipates that funds could be used for groundwater projects (including purchasing water rights) in restricted groundwater areas. The language is very broad and presumably includes water rights that will be regulated off. It is bad public policy to pay people to not use water that they could not use regardless. Water belongs to the public and while water users can obtain rights to use that water, those rights come conditions of use, including the risk of regulation based on interference, lack of water, etc
- **State funding of groundwater conservation projects could increase consumptive use to the detriment of the very values the Water Acquisition Fund is supposed to enhance.** To the extent OWEB is considering allowing state funding of groundwater efficiency projects that attempt to use the state’s Conserved Water Act (ACW), there are a number of concerns. First the legal efficacy of this is questionable. Our reading of the ACW is that it is directed at surface water projects. And while true that OWRD has allowed a handful of groundwater ACW projects to move forward, that does not mean the legal question is settled. Second, as noted previously, the state does not have the ability to protect any saved water from other groundwater or surface water appropriators. And third, in many cases, the “face value” of a groundwater right may exceed the actual amount of water that can be beneficially applied to the existing place of use. However, because water savings are self-reported under the ACW program, and savings are allowed to be “spread” to a larger place of use, enrolling a groundwater project in the ACW program may actually increase water use. Any efficiency projects that allow an increase in consumptive use (which is what the ACW allows) could make already bad situations worse for groundwater-dependent ecosystems (GDEs).

Subsection (6), Legally Protected Instream Flow: Please remove the term “time-limited instream transfer”, see comments on subsection (9) for the explanation.

Subsection (9), Time limited instream transfer: This definition needs to be struck. There is nothing in ORS 537.348(1) that allows a “time limited” instream transfer. The statutes allow instream leases, but those are capped at five years. If a user wants to extend a lease beyond five years, there is a renewal process. Deleting this is of critical importance to other instream flow programs, where water right holders are seeking to gain “time limited transfers” to get around important environmental requirements (for example, conversion of hydroelectric rights to instream rights). Agency rules must conform to statute; OWRD does not have the authority or discretion to issue time limited transfers, nor does OWEB have the authority or discretion to fund projects that are not grounded in the law. To the extent rule language allowed this previously, OWEB was in error for allowing this.

OAR 695-046-0035 Eligibility

We would suggest this section be reworked to more clearly articulate the eligibility criteria that is found in ORS 541.956(4)¹. As is, the rules seem to veer somewhat from the purposes of the fund and allow funding for work/projects not contemplated by the governing statute/constitution.

OAR 695-046-0185 Use of Grant Funds

Subsection (2): WaterWatch has significant concerns with the newly proposed language. Unless an efficiency project proposes to put 100% of the saved water instream via use of the Conserved Water Act, then the new language will allow use of funds to benefit districts and/or private individuals without a commensurate benefit to river/fish. For example, under this proposed allowance, a district that uses OWEB water acquisition funds to fund 100%² of its project, would only have to put 75% of the saved water instream (under the ACW). This does not align with the statutory sideboards of the fund, which only allow the funds to be used for projects that improve fish/wildlife habitat and/or water quality for ecosystem function. If you are going to keep this section in, it needs to be qualified that it will only cover these costs if the project puts 100% of the saved water instream.

Further rule language needed: The rules should make clear that this fund cannot be used for projects that provide mitigation water and/or mitigation credits (e.g. Deschutes Groundwater Mitigation Program). While we assume this is the intent, for clarity’s sake this should be written into the rules so that OWEB and/or the Technical Team do not waste staff time and/or state resources evaluating projects that do not meet the requirements of the Fund.

¹(1)Acquiring from willing owners interests in land or water that will protect or restore native fish or wildlife habitats. The interests may include, but need not be limited to, fee interests, conservation easements or leases.

(2)Projects to protect or restore native fish habitat or wildlife habitat.

(3)Projects to protect or restore natural watershed or ecosystem functions in order to improve water quality or stream flows.

(4)Resource assessment, planning, design and engineering, technical assistance, monitoring and outreach activities necessary for carrying out subsections (1) to (3) of this section.

² Note: The rule propose striking the 25% match. While the statute still requires a match, without a minimum it is entirely conceivable that a district or other water right holder could provide as little as a 1% match, and, per the rules, this does not even need to be funding but could be in-kind work.

OAR 695-046-0190, Matching Contributions:

Subsection (1): It is unclear why the 25% match language has been deleted. To the extent it was to incentivize instream transfers, we do not object. But if OWEB is going to allow the funds to be used to fund irrigation efficiency projects, then, unless the Project commits to putting 100% of the water instream, there should be a minimum 25% match. We would suggest that OWEB parse out the match requirements for different types of projects.

OAR 695-046-019, Coordinating and Partnering with Other Funders (proposed deletion): The draft rules note that this section is proposed for deletion because “relevant content” has been incorporated into the application evaluation process (OAR 695-046-0195). The full language of this section is not captured in draft OAR 695-046-0195, which raises questions as to whether the new placement opens the door to OWEB funding partnerships that do not align fully with Section 4(b) of Article XV of the Oregon Constitution (e.g. irrigation efficiency funding sources that do not require a public benefit).

OAR 695-046-0196 Evaluation Criteria:

Subsection (1)(f): It is unclear why the criteria related to climate change has been deleted, especially given Governor Kotek’s Ex Order 25-26. We would encourage OWEB to re-insert this provision and amend it so that it states “resilience and/or adaptation” to better align with Ex Order 25-26.

Subsection (2): We strongly support this new language; this is critical to the efficacy of the project that funding be tied to senior water rights. Moreover, requiring that ACW instream rights be at least of equal priority of the existing right ensures that in times of shortage it will not be completely regulated off against the original water right holder but rather share any reduction proportionally; that said, given these are public funds meant to restore water, we would encourage OWEB to go even further and require that the instream portion be one minute senior to the underlying right.

Subsection (3)(c): We strongly support the proposed amendments. That said, we would urge that OWEB funds for ACW projects be limited to projects that propose to put 100% of the saved water instream. Otherwise, again, this fund could end up serving private interests over the environment, which is not allowed by the fund purposes.

Subsection (4)(c): We strongly support the proposed amendments.

New evaluation criteria needed: We would suggest that evaluation criteria be added that gives greater weight to permanent instream transfers over temporary transfers or contractual agreements. Permanent transfers are much more aligned with purposes of the fund and should be weighed accordingly. Instream leases, on the other hand, are often utilized simply to stave off forfeiture and/or other water management measures to benefit the water right holder over time rather than provide a pathway to long term restoration of flows. We would suggest the following weighted order: (1) permanent transfers, (2) instream leases that are part of a larger basin strategy to restore flows over the long term (e.g. Walla Walla split duty leases), (3) instream leases.

OAR 695-046-0200 Application Evaluation Process

Subsections (1)(b), (1)(c)(A), (1)(c)(C) and (2)(b): Please include the statutory cites (e.g. ORS 541.956(4)) in addition to the rule cites. This is critical, because as noted elsewhere in these comments, the rules do not capture all the statutory requirements that govern use of the fund. Without the inclusion of either the full requirements of the statute and/or the statutory cite, the Technical Review team and/or the Board risk running afoul of statutory requirements.

Subsection (3): As we understand it, this section is an attempt to reconcile the proposed deletion of OAR 695-046-019 (Coordinating and Partnering with Other Funders) with the opportunity provided in the Consitution to partner with other funders. Our suggestion is that the original stand-alone subsection on this topic be retained, rather than incorporate it as screen in the application review. Our concern is that if this is embedded in this section, it could result in prioritization of irrigation efficiency projects (that tend to get funding from multiple sources) over single sourced (OWEB) instream transfers. While presumably not the intent, this could result in some valuable projects scoring less favorably only for lack of “funding partnerships”.

OAR 695-046-0201, Staff Funding Recommendation Process:

Subsection (1)(a): The proposed language “as suggested by the Technical Review Team” appears to take away OWEB’s discretion to evaluate the Technical Review Team’s proposed conditions and also limit the ability of OWEB to place additional conditions (beyond the Technical Review Team’s) on the project.

We do not object to the former **if** the Technical Review Team is made up of State and Federal Agencies and Oregon Tribes, however, given the definition of “Technical Review Team” was struck, it is unclear what the effect on the ground will be absent knowledge of who will be doing application review. We would suggest that Technical Review team be qualified as “State and Federal Agencies and Oregon Tribes” somewhere in the rules. Absent that, we would urge that OWEB change “shall” to “may” to give OWEB discretion to evaluate proposed conditions. As to the latter, it would also seem prudent for the rules to retain OWEB’s current ability to impose conditions independently. Public comments, which come after the Technical Review Team review, might warrant additional conditions. With the new rule language, it is questionable whether OWEB would have the authority to impose them.

Additional conditions for “contractually protected instream flows”: As noted in our May 2026 comments, the rules should include remedies for failure to abide by a contract. The state has no ability to enforce or regulate private contracts. Given public monies are being spent on these types of “alternate” instream agreements, it would seem prudent to include directives on enforcement/remedy, including refunding the state if the agreement goes awry. This should have a stand-alone section in the rules but should also be included as a condition of the project.

Public Notice and Comment: We would urge OWEB to amend this section of the rules to require a public notice and comment period before OWEB’s staff recommendation to the Board. As is, the rules are limited to public comment at the Board meeting.

OWEB’s current public comment opportunities are very confusing and seem unnecessarily limited. Given these are public funds, it is very important to have a transparent and inclusive public comment process. To that end, we would urge that the rules be amended to require: (1) public notice of the

technical review team evaluation of the application, (2) a set time period for public to comment to be received by OWEB, (3) OWEB consideration of public comments prior to OWEB's recommendations to the Board. This would be in addition to the public notice/comment opportunities for the Board meeting noted in OAR 695-046-0205. Moreover, related to our comments on Subsection (1)(a), the rules should also allow discretion to OWEB to recommend additional conditions in response to public comment. Under the hearing draft of the rules, the only conditions allowed are those recommended by the Technical Team.

OAR 695-046-0202, Funding Decisions: We would urge that the rules be amended to make clear that the Board's decision must include a determination that the project meets statutory requirements.

OAR 695-046-0205, Public Involvement: As noted in our comments to proposed OAR 695-046-0201 (Staff Funding Recommendation Process) we believe the OWEB Water Acquisition Grant program would benefit from more transparent and inclusive public notice and comment process, including providing the opportunity for public comment prior to the OWEB staff report and also the Board meeting. We will repeat those recommendations here and also fold in additional recommendations specific to the OWEB Board meeting. To that end, the full suite of our public notice and comment recommendations are: (1) public notice of the Technical Review Team evaluation of the application, (2) a set time period in rule for the public to provide written comments on the Technical Review Team evaluations, (3) OWEB consideration of public comments prior to OWEB's recommendations to the Board (including discretion granted to OWEB to further condition the project based on public comment), and (4) public notice of the OWEB Staff Report for the Board and opportunities for written and verbal comment for the Board meeting (including a set time period for written comment).

In closing, WaterWatch is very supportive and appreciative of OWEB's Water Acquisition Funding program. However, we urge you to address our comments to ensure that the program fully aligns with its intended purposes and also includes robust public notice and comment for use of these public funds.

Thank you for your consideration of our comments.

Sincerely,



Kimberley Priestley
Sr Policy Analyst



public comments to OWEB water acquisition grant program rules

From nunzie@pacifier.com <nunzie@pacifier.com>

Date Mon 6/1/2026 4:21 PM

To HARTSTEIN Eric * OWEB <eric.hartstein@oweb.oregon.gov>

[You don't often get email from nunzie@pacifier.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Hello Mr. Hartstein

Kindly enter this public comment email into the record on proposed rule changes to OWEB's water acquisition grant program rules.

<<https://records.sos.state.or.us/ORSOSCMSearch/Search/RecordViewer.aspx?uri=15779266>>

I would like to echo and endorse the comments made by Water Watch of Oregon dated 5-21-2026.

I would echo that OWEB's water acquisition fund grants should specify surface water and only apply to the acquisition of surface water.

To section 695-046-0185 Use of Grant Funds please add (10) The purchase and/or installation of river gage(s) that measure flow and temperature.

The objective of increasing surface waters in rivers for habitat enhancement both quantity and quality is ever more critical in our Oregon's climate changed, glacier depleting and record breaking high temperatures across the state. For instance in the middle Deschutes river there is a dire need for at minimum 4 additional river gages without which additional protected surface water flows achieved thru OWEB's water acquisition grant program would not be measurable, would not be able to be monitored and would not be able to be enforced.

River temperature and river flow are critical to fish and aquatic habitat that support fish. It is my opinion that ad neuseam basin planning might not actually add one more drop of wet water to our rivers and therefore I believe there needs to be added to the OWEB grant program a methodology for measuring flow achievements thru river gages to assure that public funds used to conserve wet water instream need to also enhance the river temperature to support fish and aquatic habitat.

I also believe that if a grant is not perfected, that river reach to be

benefited still be benefited and not just put the grant to the entirety of a particular basin.

695-046-0215(3)

Notwithstanding OAR 659-046-0215(1), funds may be distributed prior to Water Acquisition Project transaction closing for eligible activities specified in OAR 659-046-0185 and included in the application budget.

Is this the original application budget? or an adjusted application budget?

694-046-0225 doesn't show to be stricken from rule, yet it doesn't appear in the rule in the link at top of my email:

"Subsequent Conveyances

A water interest acquired with OWEB grant funds shall not be conveyed to another party unless the conveyance is approved by the Board and may not be conveyed for the purpose of consumptive uses."

I believe the above quoted "..." language should remain in rule and that the following language "and/or for the purpose of mitigation" should be added after 'consumptive uses'.

I do believe it's important for the Technical Review team to have expertise in surface to ground water evaluation because not all surface water modernizations are devoid of harm to groundwater. It's important that conserved wet surface water placed in stream not harm groundwater.

Since water is owned by the public in Oregon, it's imperative that the results of instream wet water have a priority date that secures it permanently. I concur with Water Watch's comment about issuing a priority date of 1 minute earlier to assure that wet water placed in our rivers is not subject to being stripped out of the river for human justification if/when for instance drought is declared.

It is the 2nd quarter of this century: it's time for new policies to restore the waters and water qualities of Oregon's rivers.

Thank you for considering my views. Kindly add my email to your outreach list when the final version is out for public comments.
<nunzie@pacifier.com>

Cheers,

6/23/26, 8:23 AM

Inbox - HARTSTEIN Eric * OWEB - Outlook

Nunzie Gould
541 420-3325

First and Last Name	David Filippi
I wish to provide (select one):	written comment
I want to provide comment at (select one):	OWEB Rule Revisions
Program (required)	OWEB Water Acquisition Grant Program
Type Comment Here (comments may also be uploaded below):	June 1, 2026 VIA EMAIL (eric.harstein@oweb.oregon.gov) Eric Harstein Rules Coordinator Oregon Watershed Enhancement Board 775 Summer St. NE, Suite 360 Salem, OR 97301 RE: Comments on Proposed Rules for Oregon Watershed Enhancement Board Water Acquisition Grant Program Rules Dear Mr. Harstein, The Deschutes Basin Board of Control (DBBC) is comprised of eight Central Oregon irrigation districts, including Arnold, Central Oregon, North Unit, Ochoco, Swalley, Three Sisters, Tumalo and Lone Pine (Districts). Through the DBBC, formed in January 2002, the Districts coordinate and share their respective resources and management assets to conserve water, improve their services for farm and ranch families, and enhance river conditions for salmon, steelhead, other fish and wildlife species, and recreational opportunities. We appreciate the opportunity to comment on the recently proposed rules associated with the Oregon Watershed Enhancement Board's (OWEB) Water Acquisition Grant Program. As background for our comments, OWEB's water acquisition grant rules, codified at OAR 695-046, specify the process and criteria for OWEB to award grants for Water Acquisition Projects. (All citations below are to the new rules.) A "Water Acquisition Project" is a voluntary transaction that results in Legally Protected Instream Flow or Contractually Protected Instream Flow. OAR 695-046-0020(10). Relevant here, "Contractually Protected Instream Flow" is the amount of water secured through a Water Use Agreement, OAR 695-046-0020(3), while "Water Use Agreement" is defined to mean a contractual agreement between a water right holder and grant applicant to change or forgo use of water during specified periods or under specified conditions, such as forbearance agreements, minimum flow agreements, and other private agreements, OAR 695-046-0020(11). Finally, "Legally Protected Instream Flow" is the "amount of water secured through Instream Leases, Split-Season Use Instream Leases, Time-limited Instream Transfers, Conserved Water projects, Permanent Instream Transfers, or other mechanisms administered by the Oregon Water Resources Department." OAR 695-046-0020(6). During the rulemaking process, there was a

	fair amount of discussion regarding the Deschutes Basin alternative pathway and the need to ensure that alternative pathway projects are eligible for grant funding. We understand that the outcome of the discussion is reflected in OAR 695-046-0185, which specifies how grant funds may be used. As relevant to the DBBC and the Deschutes Basin alternative pathway, OAR 695-046-0185(2) states that funds may be applied toward: “The cost of water conveyance or water use efficiency project elements, such as equipment, supplies, and contracted services for installation, that result in Legally Protected Instream Flow using Oregon Water Resources Department’s Allocation of Conserved Water program, or other Department-administered instream flow water conservation program.” (Emphases added.) OAR 695-046-0185(2) is a new provision. Based on the discussion in the RAC meetings, alternative pathway projects are intended to fall within the category of projects using “other Department-administered instream flow water conservation program.” The DBBC understands that this provision is intended to preserve the ability to use program funds for alternative pathway project including, among other things, the alternative pathway for protecting water that is set forth in the Oregon Water Resources Department’s Memorandum entitled “Water Conservation and Protection Pathway for Irrigation Modernization Projects in the Upper Deschutes Basin,” dated December 18, 2024. This pathway for protecting instream flow is critical to the DBBC and its member districts, as it provides a way of conserving water and protecting instream flows in the winter months, as set forth in the Deschutes Basin Habitat Conservation Plan approved by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Meanwhile, due to restrictions inherent to the Allocation of Conserved Water program (where conserved water must be protected in the same season it is conserved), the Allocation of Conserved Water program is not available for many DBBC conservation projects. In the event that the Department has a different understanding of the language in OAR 695-046-0185(2), we would appreciate a further discussion. We appreciate the work of the Department and the rules advisory committee during the rulemaking process to recognize and preserve alternative pathways for protecting water instream in order to qualify under the Water Acquisition Grant Program. Sincerely, Craig Horrell DBBC President
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Submission Date: 06/01/2026 05:24 PM CST

Submission ID: ea447d6f-396d-4411-847e-8f7ea85c2536

Record ID: 52756



Oregon Water Resources Congress

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June 1, 2026

Eric Hartstein, Rules Coordinator
Oregon Watershed Enhancement Board
775 Summer St. NE, Suite 360
Salem, OR 97301
Submitted via e-mail: eric.hartstein@oweb.oregon.gov

RE: Comments on OWEB's Proposed Revisions to Water Acquisitions Grants Program

Dear Mr. Hartstein,

On behalf of the Oregon Water Resources Congress (OWRC), I am providing comments on the Oregon Watershed Enhancement Board's (OWEB) proposed revisions to the rules for the Water Acquisition Grants Program under OAR Chapter 695, Division 46. OWRC served on the Rules Advisory Committee (RAC) for this rulemaking effort and appreciates the opportunity to provide formal public comment.

OWRC is a nonprofit trade association representing irrigation districts, water control districts, drainage districts, water improvement districts, and other local government entities delivering agricultural water supplies throughout Oregon. Our members are quasi-municipal local government entities charged with operating and maintaining complex water management systems, including water supply reservoirs, canals, pipelines, pump stations, hydropower facilities, fish screens, and fish passage. OWRC members deliver water to approximately 600,000 acres of farmland in Oregon—more than one-third of the irrigated land in the state. Several of our members and their patrons have used OWEB grants.

OWEB's Water Acquisition Grant program is important funding mechanism for water conservation and efficiency projects that directly result in benefits for fish and wildlife habitat. This grant program is fairly unique by providing funding to projects that will voluntarily transfer, lease, or otherwise contractually protect, all or part of their water rights instream. This helps incentivize projects with instream components that might not otherwise occur and provides a win-win solution for both the water user and the environment. There are many mechanisms for maintaining or restoring streamflows through voluntary transactions and OWEB's rules properly recognize the value of each, whether it is temporary or permanent, and whether it is protected through an instream water right or a water use agreement.

The mission of the Oregon Water Resources Congress is to promote the protection and use of water rights and the wise stewardship of water resources.

OWRC actively participated in the RAC and provided comments throughout the rulemaking process. The proposed rule revisions are generally minor, provide process improvements for the agency and the applicants, and are aligned with the RAC discussions we participated in. We mentioned this during the RAC process but want to reiterate in our formal comments the importance of having updated guidance for applicants once the rulemaking is finalized, which OWEB staff have committed to doing. It is crucial that the materials online are updated to match the final rules in advance of the next grant application cycle.

There are several modest language changes that will help provide applicants with greater clarity on what the grant program does or does not apply to. All of these changes were discussed extensively by the RAC, particularly definitions and new language. While a modest change, one important provision to highlight, OAR 695-046-0035, ensures that irrigation districts receive notice of any proposed water acquisition project inside their district boundaries. The language has been reworded for clarity and does not change the intent or process, which prevents inadvertent involvement of district water rights and that the transactions are only with willing water right holders.

There were also a few items discussed during the RAC process that did not make it into the final rule and we agree with OWEB staff on leaving those rule changes out, specifically related to Allocation of Conserved Water projects and groundwater projects. However, our agreement on these provisions not being included should not be construed as our support or opposition to the changes, but more indicative of the issues being more substantive than what the RAC had time to discuss. It is important to note that at some point OWEB will likely need to revisit the rules (perhaps at the next five-year rule review) and potentially make additional revisions once the Oregon Water Resources Department (OWRD) has clarified their own related rules and guidance related to groundwater. There have also been stakeholder suggestions for OWRD to update its rules related to the ACW program as well. It is also worth noting that the absence of rule language does not necessarily preclude OWEB from funding eligible projects as it has in the past, so long as it still aligns with the agency's existing statutory authority.

Overall, OWEB staff did a commendable job in keeping the RAC process focused and on track, while still providing time and space for new ideas and suggestions. Proposed rule changes and various materials were provided in advance to RAC members and meeting materials are posted online in a transparent and accessible manner. We look forward to participating in future rule update processes and appreciate your time and consideration of our comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'April Snell', is written over the word 'Sincerely,'.

April Snell
OWRC Executive Director