

STATUTORY GROUND-WATER TERMS

690-008-0001

Definition and Policy Statements

A number of terms are used in the statutes, ORS 537.505–537.795, prescribing the management of ground-water in Oregon. These rules define terms to qualify and clarify the statutes. In all statutes and rules employed in the management of ground-water by the Water Resources Department and Commission, the following definitions shall apply, unless the context requires otherwise:

~~(1)~~ “Annual high water level” in a groundwater reservoir or part thereof means the highest elevation (shallowest depth) static groundwater level that exists in a year. In the absence of detailed analysis, the annual high water level may be assumed to be represented by the highest water level measured during the period from January through April. For some purposes and in some cases the annual high may be estimated using measurements made during other parts of the year.

~~(2)~~ “Aquifer” means a geologic formation, group of formations, or part of a formation that contains saturated and permeable material capable of transmitting water in sufficient quantity to supply wells or springs and that contains water that is similar throughout or varies gradually with location with respect to in characteristics such as potentiometric head, chemistry, and temperature ~~a water-bearing body of naturally occurring earth materials that is sufficiently permeable to yield useable quantities of water to wells and/or springs.~~

~~(3)~~ “Critical Groundwater Area Boundary” means a line established in a critical ground-water area order on a map that surrounds an area in which one or more of the statutory criteria for critical area declaration are met and which is located either:

(a) Physically by coincidence with natural features such as ground-water reservoir boundaries, hydrologic barriers, or recharge or discharge boundaries; or

(b) Administratively by surrounding an affected area when that area does not coincide with an area bounded by natural features.

~~(4)~~ “Customary Quantity” means the rate or annual amount of appropriation or diversion of water ordinarily used by an appropriator within the terms of that appropriator’s water right.

~~(5)~~ “Declined Excessively” means any cumulative lowering of the annual high water levels (OAR 690-008-0001(1)) in a ground-water reservoir or a part thereof which:

(a) Precludes, or could preclude, the perpetual use of the reservoir; or

(b) Exceeds the economic pumping level (OAR 690-008-0001(6)); or

(c) Constitutes a decline determined to ~~be interfering with:~~ substantially interfere with a surface water source as defined in OAR 690-008-0001(8).

~~(A) A surface water diversion having a priority date senior to the priority dates of the causative ground water appropriations; or~~

~~(B) A surface water body that has been administratively withdrawn with an effective date senior to the priority dates of the causative ground water appropriations unless the causative ground water appropriations are for uses that are exceptions to the withdrawals; or~~

~~(C) An adopted minimum stream flow or instream water right, or closure having an effective date senior to the priority dates of the causative ground water appropriations; or~~

~~(D) A surface water body source which has a classification that is senior to the priority date of the causative ground water appropriation(s) and the use or uses to which the ground water is being put are not included in the classification.~~

(d) Constitutes a lowering of the annual high water level OAR 690-008-0001(1) within a ground-water reservoir, or part thereof, greater than 50 feet below the highest known static water level; or

(e) Results in ground-water pollution; or

(f) Constitutes a lowering of the annual high water level OAR 690-008-0001(1) greater than 15% of the greatest known saturated thickness of the ground-water reservoir. ~~T~~he saturated thickness shall be calculated using pre-development water levels and the bottom of the ground-water reservoir, or the economic pumping level OAR 690-008-0001(6), whichever is shallower.

~~(56)~~ “Economic Pumping Level” means the level below land surface at which the per-acre cost of pumping equals 70 percent of the net increase in annual per-acre value derived by irrigating. (The value is to be calculated on a five year running average of the per-acre value of the three, if there are that many, prevalent irrigated crops in the region minus the five year running average of the per-acre value of the three, if there are that many, prevalent regional non-irrigated crops.)

~~(67)~~ “Excessively Declining Water Levels” (Note: “Excessively” as used in ORS 537.730(1)(a) is taken to modify both “are declining” and “have declined”) means any ongoing lowering of the annual high water level OAR 690-008-0001(1) in a ground-water reservoir or part thereof which:

(a) Precludes, or could preclude, the perpetual use of the reservoir; or

(b) Represents an average downward trend of three or more feet per year for at least 10 years; or

(c) Represents, over a five year period, an average annual lowering of the water level by 1% or more of the initial saturated thickness as determined by observation or investigation in the affected area; or

(d) Results in water quality deterioration.

(10) ~~(8) “Impairment”, “impair”, “Substantial interference”, “substantially interfere”, “undue interference”, or “unduly interfere”~~ “Substantial or Undue Interference” means the spreading of the cone of depression of a well to intersect a surface water ~~body-source~~ or another well, or the reduction of the ground-water ~~gradient and flow levels~~ as a result of pumping or otherwise extracting groundwater from an aquifer, which contributes to:

(a) Depletion of a surface water source with which the groundwater use has the Potential for Substantial Interference (OAR 690-009-0020(4)) and A reduction in surface water availability to an extent that:

(A) is already over-appropriated during any period of the year and is the source for a surface water right having a priority date senior to the priority date(s) of the contributive groundwater appropriation(s); or

(B) is administratively or statutorily withdrawn with an effective date senior to the priority date(s) of the contributive groundwater appropriation(s); or

(C) is restrictively classified with an effective date senior to the priority date(s) of the contributive groundwater appropriation(s); or

(D) is the source for one or more senior existing surface water appropriators rights-are unable to use either their permitted or customary quantity of water, whichever is less that have been regulated off due to insufficient supply to satisfy senior surface water rights and which that have priority dates senior to the priority date(s) of the contributive groundwater appropriation(s) or is subject to a rotation agreement to address limited surface water supplies; among surface water rights which that have a priority dates senior to the priority date(s) of the contributive groundwater appropriation(s); or

(E) An adopted has a minimum perennial streamflow or instream water right with an effective date senior to the causative ground-water appropriation(s) cannot be satisfied that is unmet during any period of the year and has an effective date or priority date that is senior to the priority date(s) of the contributive groundwater appropriation(s).

(b) The ground-water level being drawn down to the economic pumping level (OAR 690-008-0001(6)) of the senior appropriator(s); or

(c) One or more of the senior ground-water appropriators being unable to obtain either the permitted or the customary quantity of ground-water, whichever is less, from a reasonably efficient well that fully penetrates the aquifer where the aquifer is relatively uniformly permeable. However, in aquifers where flow is predominantly through fractures, full penetration may not be required as a condition of substantial or undue interference.

(798) “Overdrawn” or “Overdrawing” means to issue groundwater rights artificially produce water, in any one-year period, from a ground-water reservoir, or part thereof, at-with an combined annual rate volume that :

(a) eE exceeds the average annual recharge to that ground-water reservoir, supply over the period of record; or, (b) Reduces surface water availability resulting in:

(A) One or more senior appropriators being unable to use either their permitted or customary quantity of surface water, whichever is less; or

(B) Failure to satisfy an adopted minimum streamflow or instream water right with an effective date senior to the causative ground-water appropriation(s).

(c) Reduces the availability of surface waters that have been:

(A) Withdrawn with an effective date senior to the priority dates of the causative ground water appropriations; or

(B) Restrictively classified with an effective date senior to the priority date(s) of the causative ground water appropriations.

(109) “Reasonably Stable Groundwater Levels” means:

(a) The- annual high water levels (OAR 690-008-0001(1)) as measured at one or more representative wells in a ground-water reservoir or part thereof:

(A) indicates no decline or an average rate of decline of less than 0.5 feet per year over any immediately preceding averaging period with duration between 5 and 20 years. If data are insufficient to perform this test Two measurements are sufficient to calculate the rate of change, but if there is not at least one annual high water level (OAR 690-008-0001(1)) between 5 and 20 years before the year under evaluation, then the Department will presume that water levels are not reasonably stable; and

(B) compared with the highest known static water level, have not declined or have declined by less than the smaller of 25 feet and 8% of the greatest known saturated thickness of the ground-water reservoir.

(b) Water level data must be available in the year under evaluation to perform the tests in (a). However, in the absence of current data, a finding of reasonable stability may be presumed to persist for a maximum of 5 years beyond the most recent groundannual high water level (OAR 690-008-0001(1)) measurement in the record.

(c) If groundwater has not yet been extracted or authorized for extraction from the groundwater reservoir, then water levels may be presumed to be reasonably stable.

~~(d)~~ Part (a) of this definition may be superseded by a basin program rule adopted pursuant to the Commission's authority in ORS 536.300 and 536.310, but such a definition may not be less stringent than OAR 690-008-0010(10).

(e) Notwithstanding other components of this definition, groundwater levels may not be reasonably stable if they are either "declined excessively" { by OAR 690-008-0001(5)} (a), (b), (d), or (f), or "excessively declining:" { by OAR 690-008-0001(7) (a), (b), or (c).

(911) "Substantial Thermal Alteration" means any change in water temperature of a groundwater reservoir, or a part thereof, which:

- (a) Precludes, or could preclude, the perpetual heating or cooling use of the groundwater reservoir; or
- (b) Constitutes a change in the mean annual temperature within a groundwater reservoir, or part thereof, greater than 25 percent of the highest recorded naturally occurring Celsius (C) temperature.

~~(1012)~~ "Substantial Thermal Interference" means the spreading of the radius of thermal impact of a low-temperature geothermal production well or low-temperature geothermal injection well to intersect a surface water ~~body-source~~ or another well, or the reduction of temperature or heat flow as a result of pumping or injection, which contributes to change in groundwater or surface water temperature to an extent that one or more senior appropriators of the low-temperature resource are unable to use water for the purpose(s) designated in the associated water right.

~~(1113)~~ "Wasteful Use (of ground-water)" means any artificial discharge or withdrawal~~n~~ of ground-water from an aquifer that is not put to a beneficial use described in a permit or water right, including leakage from one aquifer to another aquifer within a well bore.

Statutory/Other Authority: ORS 537

History:

WRD 18-1990, f. & cert. ef. 12-14-90

WRD 21-1988, f. & cert. ef. 12-14-88