



725 Summer Street NE, Suite A
Salem, OR 97301
503-986-0900
oregon.gov/owrd

Division 512 Rules Advisory Committee

Meeting 3 (Oct. 25, 1-4 PM)

This document is a summary of Division 512 Rules Advisory Committee (RAC) hybrid meeting number three held at the Harney County Community Center on Oct. 25, 2023, from 1-4 PM. For more information, see the Meeting Agenda, Meeting Presentation, Draft Rules, and other Meeting Materials, available [on the Division 512 webpage](#).

This summary is intended to capture key questions and discussion items however it is not an official transcript or includes “minutes” of the meeting. [The recording of the meeting is available online](#). This summary captures the key take-aways as identified by the third-party facilitation support and should not be interpreted as the confirmed thoughts and opinions of the OWRD, the RAC, or members of the public.

RAC Members in attendance:

Angie Ketscher
Ben McCanna
Brandon Haslick
Breanna O'Connor
Brenda Smith
Fred Otley
Jeff Mackay
John Rowell
John Short
Karen Moon
Kristen Shelman
Lisa Brown
Lorissa Singhose
Louie Molt
Mark Owens
Susan Maupin
Zach Freed

Oregon Water Resources Department (OWRD) staff in attendance were Kelly Meinz, Ivan Gall, Tim Seymour, Alexandria Scott, Jason Spriet, Dally Swindlehurst, Graham Thomas, Jon Sanfilipo, Darrick Boschmann, Gerald Grondin, Laura Hartt, and Cade Tiller.

Bryant Kuechle with The Langdon Group contracted with the National Policy Consensus Center at Portland State University to provide third-party, neutral facilitation services.

Welcome and Introductions (1-1:20 PM)

Bryant Kuechle introduced himself, shared ground rules, reviewed the agenda and facilitated self-introductions but OWRD staff, RAC members and the public. The following ground rules were shared:

1. RAC members please sit at the horseshoe. All non-RAC-member attendees please sit in the seating area, except during the public comment period.
2. All attendees will show mutual respect for each other, OWRD staff, and RAC members. This includes refraining from using cell phones or talking while the meeting is in session.
3. For those wishing to provide public comment, 30-minutes is set-aside at the conclusion of the meeting and time will be extended if necessary. This is the public's opportunity to share their input. The RAC will not participate in this session.
4. Generally, commentators have about 2-5 minutes each and are asked to finish in a reasonable amount of time to allow for the maximum number of individuals to express their viewpoints.
5. The public will have the opportunity to provide public comment either virtually or in-person.
6. Commenters must show mutual respect for everyone participating in the meeting. Do not use unprofessional conduct or inappropriate language (yelling, profanity, etc.).

Draft Subareas Discussion (1:20-2:40 PM)

Darrick Boschmann led a presentation of the draft subareas with other OWRD staff providing additional information and insight. RAC members shared the following questions, concerns and requests:

- Request for more layers of data in the form of an online tool where anyone can toggle on and off layers.
 - o Layers should include authorized and current usage for each subarea.
 - o Information should be coordinated with state and county data.
- It was determined that time will be dedicated on the Nov. 29, 2023, agenda to further review the subareas after RAC members have had time to review between meetings.
- The question was asked if the area south (CGWA) of the identified Harney Basin should be included.
- Concerns were expressed about the accuracy of data specifically related to total decline It was suggested that Lower Blitzen/Voltage should be two subareas.
- It was suggested that Dog Mountain and Weaver Springs should be considered one subarea instead of two
- Concerns about southern subareas being penalized for declines in the north which were balanced by concerns about development causing decreases in spring flow.

NEXT STEP: Subareas in an online GIS format with multiple layers that can be toggled on and off will be provided to RAC members prior to Meeting 4. RAC members are asked to review this information and share questions with the facilitator or OWRD in advance for further discussion on Nov. 29, 2023. Additional information OWRD will be researching includes water level statistics by subarea and water use comparison of actual use with authorized use by subarea. OWRD will consider adding additional time for one-on-one discussion with RAC members prior to the meeting.

Possible Criteria for Curtailment (2:50-4:00 PM)

Gerald Grondin led a presentation of the possible criteria for curtailment with other OWRD staff providing additional information and insight. RAC members shared the following questions, concerns and requests:

- The following concerns about data and what is representative of a subarea were shared:
 - o Should be an average of wells for rate and magnitude.
 - o If not an average, then some sort of weighted average using priority date could be considered
 - o Would like to see statistics around data – range, median, mean, maximum, minimum.
 - o How do we normalize the data?
 - o How do we deal with the shallow wells versus the deep wells?
 - o Is the data punishing people with old wells because they have longer periods of record?
 - o Historic data and recent data should feed criteria.
 - o Consider fluctuation of water levels
 - o How are areas of recharge, from one subarea to another, considered?
- Consistent feedback was provided that OWRD should not focus on 4080 above mean sea level (amsl) as an arbitrary cutoff line as it may spatially bias the process.
- Questions and concerns were expressed about what constitutes a well-defined cone of depression.
- The data should clearly separate the conversation into multiple parts:
 - o Criteria for ranking subareas for curtailment
 - o Characterizing the status of each subarea
 - o Setting thresholds for when to curtail
 - o Goal of curtailment - reduce rate of, halt, or recover declines.
- Curtailment goals should be different by subarea based on conditions.
- Timeline for implementation of curtailment needs to be laid out. Could the timeline be tied to data confidence?
- Move forward regardless of data concerns since we'll never have perfect data. Build in the requirement for review.
- The value of setting unattainable goal numbers was questioned.
- Concern was expressed about the potential negative economic impacts to the community from curtailment. There is interest in a glide path to not let this impact the community significantly by building in phased curtailment, flexibility to the rule, and implementing subarea specific public processes to explore voluntary agreements and alternative land uses that could help with community buy-in and momentum for future subarea curtailment.

NEXT STEP: RAC Members are asked to send additional questions and concerns to the facilitator or OWRD in advance of Meeting 4. OWRD will research and identify how to best present the data being used and statistical analysis being performed at Meeting 4.

Rule Language Discussion – Classification (4-4:30 PM)

Tim Seymour led a presentation of the draft subareas with other OWRD staff providing additional information and insight. RAC members shared the following questions, concerns and requests:

- Preference for option 2 – classify for exempt uses only and use transfers
- Challenge: temporary transfers cannot change character of use so cannot be used for construction projects or other short term uses that are different from the right being transferred (why can't we change character of use in a temporary transfer?). Request to provide for short term water use for construction when changing land use.
- Build in some quantity of water in the rules for municipal uses (similar to school exemption) for small communities who may want to move to a community water system (TBD if OWRD has this authority)

- Can OWRD allow some sort of system where land is fallowed for a period of time and that water is allowed to be used for other purposes?

NEXT STEP: RAC Members are asked to send additional questions and concerns to the facilitator or OWRD in advance of Meeting 4.

Public Comment

Bryant Kuechle requested a show of hands (in-person and online) by members of the public interested in providing public comment. The following provided verbal comment. [Comments begin at 3:22:00 on the meeting recording.](#)

Lesly Richman
Ann Keshner
Chad Karges
Ken Bierly
Christopher Hall
Brandon Haslick

The following comments were provided in writing via the Zoom Chat feature by online attendees:
Christopher Hall public comment:

The carving up the CGWA into numerous sub-areas, some of which do not appear sufficiently discrete, is elective. In this case, the segregation allows for the piecemeal application of these Div 512 Rules imposing Corrective Control Orders. The piecemeal effect confounds the efficient and timely management of water in the CGWA when future necessary changes must be made to further impose Corrective Control Orders. The carving up of sub-areas serves as a loop-hole potentially weakening the CGWA process; as such the scheme must be prevented from allowing unreasonable water use to further damage the aquifers.

NEXT STEP: Bryant Kuechle closed out the meeting and requested that RAC members connect prior Meeting 4 so Bryant can better understand their questions and concerns and bring their issues to the conversation. Bryant can be contacted at: 208-739-3048 or bk@langdongroupinc.com.