



# Division 512 Rules Advisory Committee 11 Meeting Summary

## Division 512 Rules Advisory Committee Meeting 11 (November 13, 2024, 8 am – 4 pm)

This document summarizes Division 512 Rules Advisory Committee (RAC) meeting number eleven, held at the Harney County Community Center in Burns, OR, and online on November 13, 2024, from 8 a.m. to 4 p.m. For more information, see the Meeting Agenda, Presentation, Draft Rules, and other Meeting Materials on our [rulemaking website](#).

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 key takeaways as identified by the third-party facilitation support. It should not be interpreted as the confirmed thoughts and opinions of the OWRD, the RAC, or members of the public.

RAC Members in attendance:

Barbra Howard
Breanna O'Connor
John Short
Karen Moon
Kristen Shelman
Lisa Brown
Mark Owens
Roger Sheley
Jess Wenick
Lorissa Singhose
Louie Molt
Andy Root
Travis Singhose
Brandon Haslick
Julie Weikel
Lisa Brown

Oregon Water Resources Department (OWRD) staff in attendance were:

Tim Seymour
Darrick Boschman
Ben Scandella
Jason Spriet
Laura Hartt
Darrick Boschman

Bryant Kuechle and Angela Singelton with The Langdon Group contracted with Oregon Consensus (OC) at the National Policy Consensus Center at Portland State University to provide third-party, neutral facilitation services.

## **Welcome and Introductions**

Bryant Kuechle introduced himself, reviewed the operating guidelines and agenda, reviewed the upcoming schedule, and facilitated self-introductions by OWRD staff and RAC members.

The following ground rules were shared:

- You are here to express your viewpoint.
- Treat others respectfully.
- If online, remain muted when not speaking.
- If online, use the “raise hand” feature to indicate that you want to speak.
- If in person, raise your hand to indicate that you would like to speak.
- RAC only participates in RAC meetings, and the Public only participates in comment periods.

Bryant Kuechle shared the following goals for the meeting:

1. Gather feedback around criteria for management scenario selection.
2. Build a shared understanding around model results.
3. Build a shared understanding of different management element tradeoffs.
4. Gather Feedback on how to balance tradeoffs in future scenarios.
5. Gather feedback around outstanding SWMPA questions.
6. Answer any questions around Voluntary Agreement Guidance Document.

## **Criteria to Evaluate Management Scenarios**

Tim Seymour from OWRD led a presentation and discussion on Criteria to Evaluate Management Scenarios with the following goal:

- Gather feedback around what criteria should be used for management scenario selection.

The following captures some of the key comments and questions. Names are not attributed to their respective question or comment:

- Suggest adding adaptive management to the criteria list.
- There is no flexibility to do adaptive management. We must set goals that are stepping down curtailment but can't be adaptive until we've reached zero decline.
- OWRD has been discussing identifying a trend line they would follow to reach the goal. They will monitor to see if we are following the trend line. Based on the trend line, they may need to adjust, which could mean additional curtailments or pausing curtailments to see if we recover more quickly.
- Suggested rule language that OWRD will adjust if they see certain trends and meet with the community to establish an achievable timeline for curtailment.
- If 537.524 is used, we must hold the basin to the statutory figures.
- There is consensus that adaptive management is important to the RAC, but there is a need for a common understanding of adaptive management.
- OWRD statement: For a rule to have an if/then statement, we must have substantial evidence that something will occur to regulate. OWRD may be able to have if/then statements for other things. Confirmation is needed on where those if/then statements would be appropriate.

## Criteria-Weighing Activity

Tim Seymour from OWRD led a presentation and discussion on Criteria to Evaluate Management Scenarios with the following goal:

- Gather feedback on how OWRD assesses and/or weighs the criteria

The following captures key comments and questions. The participants' names are not attributed to their respective questions or comments.

- Edits were requested for the worksheet to expand the options of the subareas to 1-15 and implementation to 10-60 years.
- An additional criterion of “Adaptive Management (to be defined)” was added.
- Individual RAC member scoring and weighting will be shown at the next RAC meeting and used to consider how scenarios are optimized. RAC member names will not be attached to results, and results will not be aggregated.

## Preliminary Results of the Model Runs

Tim Seymour from OWRD led a presentation and discussion regarding modeling results for each of the five defined management scenarios to understand how each scenario impacted water levels in the basin. The following captures some of the key comments and questions from that discussion. Names are not attributed to their respective question or comment:

- If there is a subarea that uses more than 2018 pumping levels, would that mean a higher percentage reduction than the presentation indicates? **OWRD Response:** Yes.
- The basin is hydrologically connected. What happens when you swap a 59% reduction with 20%? **OWRD Response:** While an interesting question, a better question is, “What is the maximum amount of pumping that achieves the goal?”. We’ll focus on answering this question later in the meeting when we talk about optimization.
- Scenario A (15 subareas)
  - Each well has been allocated to either 2018 pumpage or the water right based on what was pumped.
  - Would a user who did not irrigate in 2018 not be allocated any water? This scenario appears in the modeling results only and not in reality. Total irrigation appears accurate, so OWRD will discuss allocating water based on priority date and historic, beneficial use.
- Scenario B (6 subareas)
  - Could we easily change the implementation timeline to 20 years? **OWRD Response:** Yes.

## Model Results: Comparison of Scenarios

Darrick Boschman from OWRD led a presentation and discussion comparing results from each defined management scenario. The following captures some of the key comments and questions from that discussion. Names are not attributed to their respective question or comment:

- Why does Scenario C decline to 2050 on HARN51722 when it does not show those same characteristics in other scenarios? **OWRD Response:** It likely is because the wells being shut off as we move through the curtailment are not near this one.
- Is there any assumption that curtailment operates in the well, or is it just wells nearby? **OWRD Response:** Some of these example wells could be pumping wells that were curtailed.
- Why is the violin plot based on 20 years while other examples are 10 or 30 years? **OWRD Response:** It is a good example of a scenario where the median and 80% are on opposite sides of the zero line.
- Does equal curtailment only impact the subarea(s) or the whole basin? **OWRD Response:** It would only be in the subarea for scenarios with subareas.
- Keep in mind the fiscal impact for each of these scenarios and whether there will be a power provider for the county. **OWRD Response:** Water reductions are correlated with the amount of fiscal impact.

### **Optimization of the RAC Identified Management Scenarios Part 1**

Ben Scandella from OWRD led a presentation and discussion about optimizing management scenarios. The following captures some of the key comments and questions from that discussion. Names are not attributed to their respective question or comment:

- If the Department misses optimization in one area, will you have to run the model for the entire basin again? **OWRD Response:** Yes; however, OWRD should not need to run too many iterations at a median percentile.
- Has OWRD used other timeframes aside from 30 years? **OWRD Response:** This scenario shows proof of concept and does not represent a Department decision.
- Why are we running maximum pumping in these iterations? **OWRD Response:** Optimization intends to achieve the target water level trend goal of zero decline, based on a defined success metric, within a specified timeframe, with the least curtailment. Some RAC members are concerned about the fiscal impact of the amount of pumping. Optimization is intended to minimize the fiscal impact of curtailment by achieving the maximum amount of beneficial use while stabilizing water levels. These scenarios have been optimized using a median (50<sup>th</sup> percentile) threshold.

### **Public Comment**

Bryant Kuechle requested a show of hands by members of the public interested in providing public comment in session #1. The following provided verbal comment. [Comments begin at 3:54 on the meeting recording.](#)

- Travis Hatley
- Christopher Hall
- Curt Blackburn
- Rob Frank

### **Optimization of the RAC Identified Management Scenarios Part 2**

Ben Scandella from OWRD led a presentation and discussion about optimizing management scenarios. The following captures some of the key comments and questions from that discussion. Names are not attributed to their respective question or comment:

- The charts have some minor variances. Can the model get down to some of the same levels of accuracy we are showing in the charts? **OWRD Response:** We acknowledge that the model is not perfect. It gives us some confidence for adaptive management and provides a timeline for implementation and reaching the goal of zero decline.
- Cutting Silver Creek does not make high-decline areas recover faster. Even if a specific amount cuts off other areas, does it make sense to cut other areas when it may not make a difference? **OWRD Response:** If we shut off Weaver Springs completely, declines in Silver Creek will still not be prevented. Declines in Silver Creek are a result of pumping in Silver Creek. In some areas, substantial reductions may impact nearby subareas, and others may have very little impact. This is largely because of the subsurface characteristics.
- Is there a way to identify the new groundwater levels in the 30 and 60-year scenarios? **OWRD Response:** Yes, that is possible.
- Can OWRD put domestic wells in a graph to show how they will be impacted? **OWRD Response:** Yes, but the information will be limited to only the wells that OWRD has reported in its well report database.

### **Discussion: Serious Water Management Problem Area (SWMPA)**

Kelly Mainz from OWRD led a discussion to gather RAC input around outstanding SWMPA questions. Captured input will be considered and may be incorporated into the SWMPA rule language that will be discussed in the next RAC meeting. The options can be found [starting on slide 86](#). The following captures some of the key comments and questions from that discussion. Names are not attributed to their respective question or comment:

#### **SWMPA Question: Where geographically should a SWMPA be required?**

- Group support for the already agreed upon SWMPA boundary.
- Some RAC members would not support eliminating any subareas from the requirement of measuring and reporting water use. It is more accurate to have basic measurements of that use. Support keeping the larger SWMPA boundary.
- Why, if my subarea is not declining, should it be designated as a SWMPA requiring me to measure? **OWRD Response:** A SWMPA requirement is a water use measurement and reporting requirement independent of the Critical Groundwater Area Designation.

#### **SWMPA Question: When should the measurement devices be required?**

- Some preference is to have the measurement as soon as possible (within one year).
- Most of the RAC preferred option 4 (timeline varies by subarea).
- There are concerns about installing flowmeters. We still need confidence in their ability to operate, and maintenance and operation can be difficult.
- Would like options if a flowmeter does not operate well in a certain area.
- We need data and want to emphasize that measurement is important.
- Seems like people are making it more difficult than it needs to be. Municipalities and irrigation districts have been reporting for years, and some states have already required measurement and reporting for all water rights.
- Roll-out should be based on when curtailment will occur.

#### **SWMPA Question: How should water use be tracked?**

- There will be ongoing expenses for reading the flowmeters each month.
- The more flexibility we are given, the more likely we will be accountable for reporting.
- Power consumption is not an accurate measure of water use.
- Whether you use OpenET or the Harney Basin Groundwater Model, both models have inaccuracies.
- Can data from flowmeters be used to compare to OpenET data?

#### **SWMPA Question: How often should reporting be required?**

- Lack of reporting exists today. Can we require more frequent reporting? **OWRD Response:** OWRD can require more frequent reporting.
- Can we make the reporting methods easier? The current reporting method is complicated. **OWRD Response:** No response was given.

#### **SWMPA Question: What groundwater users should be included in the SWMPA Requirement?**

- Regardless of use, any groundwater right should be required to be reported. Most of the group agrees.
- Why don't domestic water users have to report? **OWRD Response:** Domestic use is exempt and doesn't require a water right.

#### **SWMPA Question: What should OWRD consider for measurement devices?**

- Is the Department able to put in rule a certain device or any device that the department approves? Nevada did get specific meters and was able to buy them in bulk. **OWRD Response:** OWRD doesn't like to be restricted to one device because technology evolves.
- If the Department does have a list of specific meters, they should not require people to replace working meters.

#### **SWMPA Question: Does measurement happen at the well level or the field level?**

- At the point of appropriation or each well.

## **Economic Analysis**

EcoNorthwest provided a brief update on the economic analysis process and initial results. The PowerPoint presentation can be found here: [ECONorthwest Preliminary Results](#).

## **Public Comment**

Bryant Kuechle requested a show of hands by members of the public interested in providing public comment in session #2. The following provided verbal comment. [Comments begin at 6:55 and 7:31 on the meeting recording](#).

- Christopher Hall

## **Voluntary Agreements (VA)**

Jason Spriet from OWRD provided an update and reminder to the RAC about giving feedback to the [Draft Voluntary Agreement Guidance Document](#). The following captures some of the key comments and questions from that discussion. Names are not attributed to their respective question or comment:

- OWRD emailed the third draft guidance iteration on October 25, 2025, and is requesting feedback **by January 8, 2025**. The Department will discuss input and answer questions during the December 18<sup>th</sup> RAC meeting (Postponed until January 22, 2025).
- One RAC member suggested that ORS 537.545 requires voluntary agreements to include all groundwater users within a groundwater reservoir. **OWRD Response:** The statute says, "among groundwater users," which implies more than one but not necessarily all.
- One RAC member noted that the timeline for reaching voluntary agreement goals must be "reasonable" but that the timeline may not match timelines for the chosen management scenarios. The RAC member then asked if the Department has thought about developing rules, noting concerns about creating a situation where more water is used under an approved voluntary agreement than would be allowed under the PTW established by the Division 512 rulemaking. **OWRD Response:** The Department will initiate a statewide rulemaking for voluntary agreements in the future.
- One RAC member asked if the requirement for 30% participation by groundwater users was a random number. The RAC members also asked what happens if a small group of groundwater users does not represent 30% of the total PTW, i.e., in that case, should the Department allow groundwater users to enter into a Voluntary Agreement? **OWRD Response:** The 30% was to ensure the feasibility of the agreement in reaching the goal. Moreover, the agreement should not point to meeting the PTW, it should be meeting the goals for the basin set by the Water Resources Commission.

## **Next Steps/Wrap Up**

- RAC members would like an update on the Harney Valley CREP, a discussion of individual subareas and impacts shown in the optimization presentation, and results looking at domestic wells and Groundwater-Dependent Ecosystems (GDEs) either in the next RAC meeting or in an upcoming discussion group.
- Bryant Kuechle and Bobby Cochran closed the meeting with a vote to add a February meeting to the rulemaking schedule. An announcement was made that the next Water Resources Commission meeting is on December 12 and 13, and the date for the next RAC meeting is on January 22, 2025.