OREGON
WATER RESOURCES DEPARTMENT

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Division 512 Rules Advisory Committee
Meeting 12 (Jan. 22, 8 am – 3 pm and Jan. 29, 10-11 am)

This document is a summary of Division 512 Rules Advisory Committee (RAC) meeting number twelve held at the Harney County Community Center in Burns, OR and online on Jan. 22, 2025, from 8 am to 3 pm, and extended online only, Jan. 29, 10-11 am. For more information, see the Meeting Agenda, Meeting Presentation, Draft Rules, and other Meeting Materials, available 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 Jan. 22 meeting is available online.
This summary captures 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 on Jan. 22:

Barbra Howard
John Short
Karen Moon
Kristen Shelman
Mark Owens
Jess Wenick
Lorissa Singhose
Andy Root
Travis Singhose
Lisa Brown
Ken Bentz
Rob Frank
Zach Freed
Brenda Smith
Fred Otley

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

- Tim Seymour
- Kelly Meinz
- Laura Hart
- Jason Spriet
- Ben Scandella
- Darrick Boschman
- Alexandria Scott

- Dally Swindlehurst
- Cade Tiller
- Doug Woodcock

Bryant Kuechle 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. Bobby Cochran from Oregon Consensus was also in attendance.

Welcome and Introductions

Bryant Kuechle introduced himself, shared ground rules, reviewed the operating guidelines, reviewed the 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 "raise hand" feature to indicate that you would like to speak.
- If in-person, raise hand to indicate that you would like to speak.
- RAC only participates in RAC meeting and Public only participates in comment period.

Bryant Kuechle shared the following goals for the meeting:

1. Provide a recap on the process so far.
2. Build a shared understanding of the relationship between groundwater reductions and their economic impacts.
3. Present the plan for adaptive management and gather feedback on the plan.
4. Build a shared understanding of now and what we learned with model runs.
5. Present the proposed management scenario and gather feedback.
6. Gather in put around the CGWA rule language outline.
7. Gather input around the draft SWMPA rule language.
8. Gather input around the draft classification rule language.

Fiscal Impacts

OWRD led a presentation and discussion on Fiscal Impacts with the following goals:

- Build a shared understanding of the relationship between groundwater reductions and their economic impact.
- Present plan for assessing impacts on domestic wells.

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

- Add livestock data into IMPLAN (Economic Impact Analysis Software). Specifically, hay prices, direct impact, stocking rates. EcoNorthwest agreed to research this data.
- There needs to be more robust data with potential downstream impacts (selling prices outside of the county). EcoNorthwest confirmed that this will be shared after the final management scenario.
- Consider partially irrigated land is not likely viable because when water is shut off it is shut off completely. EcoNorthwest can model 2, 5 lands and not consider 3.

- Concern that the business case scenario, Operation and Maintenance (O&M) may be $7.5m, not $10.5m. Number of households are estimated from 2018.
- Classification rules should allow for flexibility for communities to drill community well systems.
- People apply for well funds before well runs dry. There needs to be understanding around the state's cost – What is a threshold value for the amount of head in a well for it to be viable? OWRD will need to consider some threshold for that. 3-5 ft buffer level below pump is not appropriate, however, follow up may be needed with a well driller on this.
- There have been a lot of wells that have been deepened or reconstructed already by people who saw the declines coming. OWRD responded that these numbers are an estimate based on 2018 data because that is what the model is based on and that is the best information available.

Adaptive Management

OWRD led a presentation and discussion on Adaptive Management with the following goals:

- Present the plan for adaptive management.
- Gather feedback around: Check in intervals.
    - What conditions trigger adaptation?
    - How much to adapt if we are off schedule?
    - How to account for variability?

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

- The estimated contested case process is 18 months per OWRD.
- OWRD stated they will only be measuring groundwater levels (each subarea evaluated separately), other metrics are difficult. There was a request from RAC members for:
    - Consider baseflows and similar metrics.
    - Stable groundwater levels as the goal, not PTW – Confirmed by OWRD if we are only 50% to PTW and groundwater is stable, PTW does not need to be reached (per subarea).
- Will it be clear what well data is being used? OWRD confirmed that it will be clear. There is a list of well log IDs used in each analysis.
- Will each subarea have a specific number of wells being used? Is the analysis for the median subject to the worst well? OWRD response: We will be looking at the median water level for the subarea.
- Request for spring and base flow measurements to be taken as well.
- Early portions of the envelope are narrow, so how do we adapt early on? OWRD response: It is more likely we will adjust early on because of the narrow envelope. As people take advantage of CREP and Voluntary Agreements we could start out above the curve by implementation of curtailment.
- What is the data that supports 60% curtailment at the 90% of water level? OWRD response:
    - Evaluation of adjustment by subarea.
    - Reasonable balance by efficiency and effectiveness.
    - Can provide 2018 – 2024 subarea data to show actual fluctuation rates.
    - Too much adaptation in one check in period could cause significant variations in the groundwater levels. There is some uncertainty in future water levels. OWRD will talk about sensitivity in adjustment based on recharge.

- Appreciation for OWRD's efforts to consider these adjustments.
- Consider past data standards deviation over percentages. OWRD has tried to mitigate the impact of variability between wells by making subarea boundaries. OWRD will investigate.
- Why not make the change based on 25th percentile? Why not average over the time period between check ins?
- Don't adjust parameters – keep static.
- Consider averaging the 6 years.
- Equal percentiles and correction percentage – use difference for adjustments.
- Consider taking the overall average and using field Sen's-slope to determine what the adjustment would be. Calculate the magnitude of adjustment based on the variation from the expected trend.
- Find easier way to average data over 6 years.
- How will the CREP program, voluntary agreements and any other voluntary actions taken by the community be factored in or considered? OWRD response: If voluntary mechanisms can be used and we don't have to shut people off, that is ideal.

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 2:44 on the meeting recording.

- Leslie Rickman
- Debbie Prevaya
- Curt Blackburn

Model Behavior

OWRD led a presentation and discussion on Model Behavior with the following goals:

- Build a shared understanding of how and what we learned with model runs.

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

- Split Dog Mountain and Weaver Springs subareas.
- Put variability in 6-year period of time.
- RAC members expressed disappointment with additional criteria added after the exercise.
- Some of the results do not show all the profiles we got from the RAC and this presentation reflects trends but not all the criteria. OWRD response: Methods used in result analysis are designed to bring out some clear patterns in the data.
- Don't believe criteria results are representative of RAC and feel developing two profiles based on the criteria survey results unnecessarily puts RAC into separate camps. OWRD and facilitator indicated this was not the intention, however, this was the best way to model where criteria preferences lined up due to the wide diversity of priority within the RAC. The two profiles represent the variability in responses but not all responses.

Proposed Management Scenario

OWRD led a presentation and discussion on the Proposed Management Scenario with the following goals:

- Present the proposed management scenario and gather feedback.

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

- OWRD expressed that this is a difficult conversation, there is no winning here. We understand there is going to be significant difficulty for the community as a result of the curtailment and impacts will be severe.
- RAC members reminded OWRD we must consider the economic impacts of curtailment and the future of Harney County.
- Keep eye on ORS 537.525, public welfare and health.
- Don't believe the proposed management scenario represents a middle ground scenario.
- Consider all beneficial uses.
- Dry wells should not be a threshold because this can be fixed if they go dry – There is state money available this. Poor construction can cause dry wells as well.
- Propose measuring stream flow as part of adaptive management.
- Weaver Springs is still actively flowing.
- It is still unclear if these are metrics that will be considered in adaptive management. If we stay within our range of decline, we should know the amount of impact. OWRD responded that the model constrains pumping by one of these parameters or the groundwater levels alone.
- In most of the subareas if only using groundwater levels, there could still be declines in springs even if the groundwater level stabilizes.
- It would be helpful to incorporate spring flow measurements into the dataset being used and management going forward.
- What would happen if we changed the rate of curtailment in one subarea to create impact in some of the criteria? Ex. If we immediately fully curtail Weaver Springs, will that improve the outlook for OO Springs?
- More information is requested on where dry wells trigger the PTW.
- What data supports the 60% drop for the 90th percentile. Would this vary by subarea? Will every subarea react the same way? OWRD responded, yes it would be by subarea and believe yes, they would react the same way.
- What data was used? OWRD responded: 2018 – 2024 data. OWRD could provide by subarea the modeled out versus what was actually measured.
- Appreciation for this decent attempt at listening and trying to come up with ways to ratchet up or down.
- Are the percentiles appropriate or could standard deviations have been used? OWRD responded: that would be good to use standard deviation if dealing with normal distributions. OWRD responded: we could work that out and use those if people are more familiar with them. The subarea boundaries helped account for wells grouped together that behave similarly to reduce chances for fluctuation.
- The difference in simplicity/complexity is in the eye of the beholder. There is disagreement with

the variability of years. Suggested to average the 6-years to make adjustments. 90% would cause whiplash for famers to adjust. Another RAC member offered, he doesn't care as much about 6 years or 9 years he cares more about the rate of change.

- Appreciation that input was taken from the discussion groups and was generally supportive of 24 years.
- 60% does not reflect conservation interests or dry wells. Phasing the timeline is a middle ground.
- Does the model show why Sod House Springs dried up?
- To make sure we do a good job measuring spring flow to understand the springs reactivity. OWRD responded they will submit a proposal to account for this in adaptive management.
- What does adding the constraints do for the PTW? OWRD responded, if we add constraints, then the goal is not stabilization of rising water levels. This is moving the goal post from stabilizing declines.
- The Dog Mountain well shown as a hotspot is a bad well and OWRD should look at more wells in the area.
- The transfer of water into the Upper Blitzen has impacted that subarea (potentially). How will the Department address the lands that have been transferred into the subarea? Particularly with regards to senior rights that were transferred into the subarea? OWRD response: Transfers should have language that states water must be available at the old point of diversion for use to be available at the new point of diversion.
- There was disagreement in the RAC if domestic wells should be used as a metric for reduction.
- In some areas if we add other criteria to limit PTW, then the goal changes from zero decline to recovery.

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 6:44 on the meeting recording.

- Justin Verlin
- Curt Blackburn

The In-person meeting concluded with a brief wrap-up and planning for a virtual extension that occurred on Jan. 29 with the following in attendance:

Ben McCanna
John Short
Karen Moon
Mark Owens
Lisa Brown
Rob Frank
Roger Sheley
Brenda Smith

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

- Kelly Meinz
- Jason Spriet

- Darrick Boschman
- Alexandria Scott

Bryant Kuechle 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. Bobby Cochran from Oregon Consensus was also in attendance. A full recording of the meeting is available online.

SWMPA Rule Language

OWRD led a presentation and discussion on SWMPA Rule Language with the following goals:

- Gather input around the draft SWMPA rule language.

The following captures some of the key comments and questions from that discussion organize by sections of the rule language as presented by OWRD. Names are not attributed to their respective question or comment:

- Section 2
  - Recommendation to use Open ET potentially as a pilot project. This provides more accurate measurements of field size, and the method can be revoked at anytime. OWRD legislative report indicated Open ET data supports science-based decision-making. New information has been released recently about Open ET. Consider running as a parallel analysis in addition to individual devices. Another RAC member express non-support at this point and recommends OWRD prescribes specific devices.
  - OWRD should prescribe which measurement device is used.
- Section 3
  - Fine with the exemption.
  - Meter on a shut off well is a way to verify that they are not being used. Measure until you are regulated off. Need to have discussion over the timeframe.
- Section 4
  - Dec 31 for current year not previous year.
  - Why wouldn't OWRD require more frequent reporting of volume, more consistent with adaptive management approach? Request to consider more frequent reporting and reporting of the rate. OWRD responded: that they struggle getting people to report and they are looking at ways to improve.
  - With Open ET you have more reliable data. Checking electric meters is not reliable. OWRD has already used open ET to challenge findings in water right applications and transfers.
- Section 5
  - Entire discharge to the well should be to permitted use to account for Hobby Farms.
  - Why use 5" pipe diameters from the pump for meter installation if the manufacturer recommendation is different? Be consistent with standard in rule with manufacturer recommendation.
  - It would be appropriate to draft language for someone who is trying to install but cannot get it to work. Can we write in language another way to report other than a totalizing flowmeter?
- Section 8
  - Draft language that if flow meter is not working there would be an option at that time to do something different? OWRD will look into that.
  - Does OWRD have the staffing and resources to share the reported data with the public

Public Comment

Bryant Kuechle requested a show of hands by members of the public interested in providing public comment. The following provided verbal comment. Comments begin at 53:40 on the meeting recording.

- Chris Hall
- Jerry Grondin