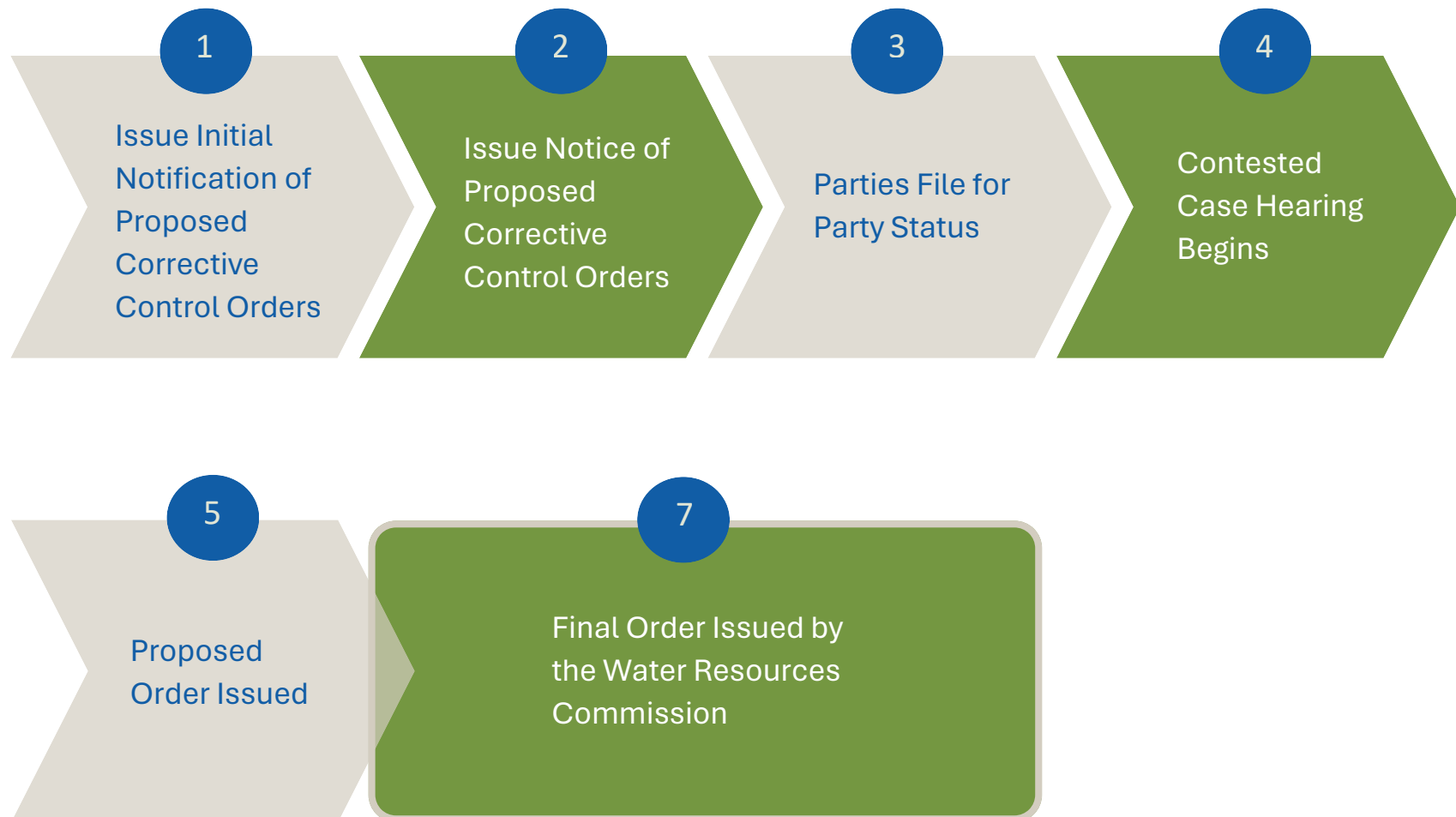


# Critical Groundwater Area (CGWA) Designation Contested Case Process



This flowchart outlines the CGWA contested process (OAR 690-010).





# Critical Groundwater Area (CGWA) Designation - Contested Case Process

## Issue Initial Notification of Proposed Corrective Control Orders (OAR 690-010-0170)

Once an area in the state is officially designated a Critical Groundwater Area, the Department can initiate the formal regulatory process known as the “contested case.” The contested case process begins when the Department issues the Initial Notification of Proposed Corrective Control Orders. It will identify the corrective control provisions that the Department believes will correct the problem resulting in the designation among other required information defined in [OAR 690-010-0170\(4\)\(a\) to \(e\)](#).

The Department must provide notice of the Initial Notification of Proposed Corrective Control Orders by:

- Publishing in the newspaper of the affected area for at least two weeks, with at least one publication per week;
- Publishing a notice in the Department's weekly publication for four consecutive weeks;
- Sending first-class mail to any affected local government and to all federally recognized Indian tribes within Oregon;
- Sending regular mail to the owners of record of all groundwater registrations, inchoate transfers, permits, and certificates for groundwater use within the affected area.
- Holding a public meeting to present the proposed corrective control orders.
- Posting the Initial Notification of Proposed Corrective Control Orders on its website.

Anyone can request a copy of the Notice of Proposed Corrective Control Orders prior to the deadline identified in the Initial Notification of Proposed Corrective Control Orders. The request must be made using a form created by the Department, which will be available on the Department's website.

## Issue Notice of Proposed Corrective Control Orders (OAR 690-010-0180)

After sending the Initial Notification of Proposed Corrective Control Orders, the Department issues the Notice of Proposed Corrective Control Orders. This Notice contains the draft order, and it does not impose groundwater reductions at this stage. Groundwater reductions only begin after the final order is issued in step G. [OAR 690-010-0180\(2\)\(a\)-\(l\)](#) outlines the required information for the Notice.

The Department must provide the Notice of Proposed Corrective Control Orders through the following methods:

- Mailing the notice to all groundwater and exempt users whose use will be curtailed;
- Sending first-class mail to any affected local government;
- Mailing or emailing the notice to anyone who has timely requested a copy;
- Publishing the notice in the Department's weekly publication for four consecutive weeks;
- Publication on the Department's website.

## Parties File for Party Status (OAR 690-010-0190)

Groundwater users and exempt users identified in the Notice of Proposed Corrective Control Orders may become parties to the contested case by submitting a Notice of Party Status by the deadline stated in the Notice of Proposed Corrective Control Orders. [OAR 690-010-0190\(2\)\(a\)-\(D\)](#) outlines the required contents for the Notice of Party Status.

Anyone may apply to be considered a party to the contested case by filing a petition for party status by filling a petition for party status outlined in [OAR 690-010-0190\(3\)\(a\)-\(b\)](#). The Department has the discretion to allow the applicant to become a party.

### **Contested Case Hearing Begins (OAR 690-010-200 through 0210)**

Once all timely Notices of Party Status and Petitions for Party Status are determined, the Department will make a list of all issues to be addressed in the contested case. Parties can ask for clarification or request changes to the list as permitted by [OAR 137-003-0630](#). After compiling all issues, the Department will send all information relevant to the case, including the list of issues and the Notice of Proposed Corrective Control Orders to the Office of Administrative Hearings initiating the contested case hearing.

All information referred to the Office of Administrative Hearings will be posted on the Departments website.

### **Proposed Order Issued. (OAR 690-010-0220)**

After the Contested case is complete, the Administrative Law Judge issues a proposed order. Parties can file exceptions to the proposed order within 60 days following the date of service of the Proposed Order. Exceptions must be mailed to the Department and emailed to all email addresses listed on the Certificate of Service. All timely filled exceptions must be considered by the Water Resources Commission.

### **Final Order Issued by the Water Resources Commission (OAR 690-010-0240)**

After the Commission considers all timely-filed exceptions, it will issue a final order. If the Water Resources Commission finds that the factors that led to a Critical Groundwater Area designation will be corrected by the corrective controls proposed in the Notice of Proposed Corrective Control Orders, the Commission will issue a final order.

A final order is appealable to the Oregon Court of Appeals. If no appeal is filed, the Commission shall issue a final order in default.

Final orders are immediately enforceable by Department staff.