

# Natural Resource Protection Initiatives

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*Isaak Stapleton*

*Natural Resources Program Area Director*

*September BOA Meeting*



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# CAFO Permitting Changes

# LUB GWMA Engagement



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# Senate Bill 85 Overview



Signed 7/27/23

Amends ORS 468B and ORS 537.545

Required rulemaking for ODA

- OAR 603-074

Public comment closed July 22nd

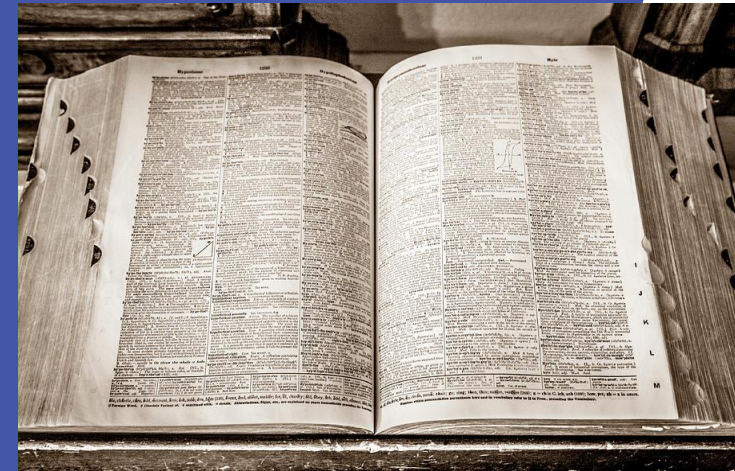
Rules expected to be final later this month



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# New Definitions

- **New CAFO**- means a CAFO that is seeking a permit under ORS 468B.050 to operate on a parcel of land on which no CAFO has previously operated. A CAFO is considered to have previously operated when it has been issued a WPCF or NPDES Permit.
- **New large CAFO**- means a large CAFO that is seeking a permit under ORS 468B.050 to operate on a parcel of land on which no CAFO has previously operated. A CAFO is considered to have previously operated when it has been issued a WPCF or NPDES Permit.
- **Expanding CAFO**- means a CAFO that is expanding operational size into a new tier as described in OAR 603-074-0011.
- **Expanding large CAFO**- means a large CAFO in the largest tier described in OAR 603-074-0011 that is expanding the capacity of the large CAFO to manage animal wastes, consistent with the conditions of a permit issued under ORS 468B.050, to more than 20 percent of the capacity of the large CAFO.



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# \*New Definitions

"Confined animal feeding operation or CAFO"  
means:

(a) An operation that engages in the feeding or holding of animals:

(A) In buildings, pens, or lots not sustaining vegetative growth in the normal growing season, for 12 hours or more per day for more than 120 days in a 12-month period, and has animal numbers as referred to in OAR 603-074-0011; or

(B) With a waste water control facility and generates 100 gallons per day or more of liquid manure, process wastewater, or contaminated production area drainage; or

(C) That discharge any wastes into waters of the state.

(b) An animal feeding operation that is subject to regulation as a concentrated animal feeding operation pursuant to 40 CFR § 122.23.



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# Pre-application Preliminary Consultation

- New large CAFOs and expanding large CAFOs must meet with agencies before applying

## ORS 468B.215

(4)(a) Before submitting an application for a permit under ORS 468B.050 for a new large confined animal feeding operation or an expanding large confined animal feeding operation, an applicant shall:

(A) Request that the Department of Environmental Quality or the State Department of Agriculture schedule a preliminary consultation.

(B) Participate in the preliminary consultation.

(b) Before scheduling the preliminary consultation, the Department of Environmental Quality or the State Department of Agriculture shall:

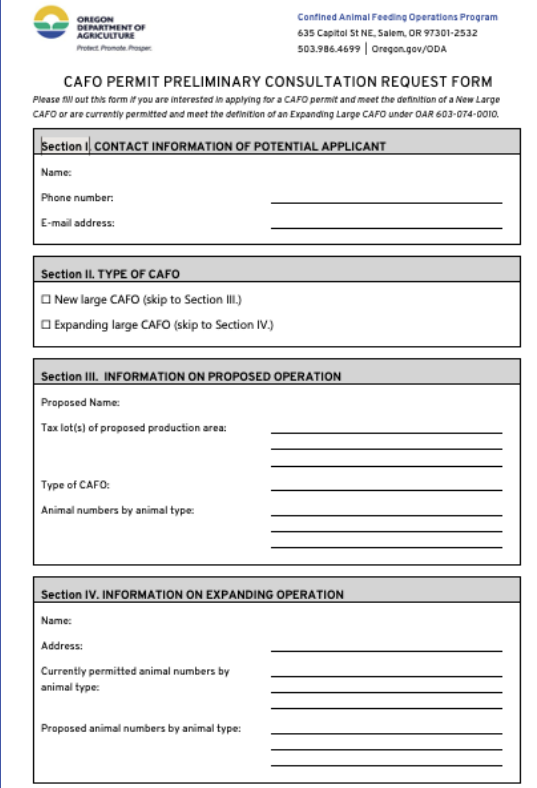
(A) Notify the governing bodies of all federally recognized Indian tribes in this state; and

(B) Consult with the governing bodies, upon request by the governing bodies.

(c) The preliminary consultation must:

(A) Include the applicant, the Department of Environmental Quality, the State Department of Agriculture, the Water Resources Department and other relevant state agencies, as determined by the Department of Environmental Quality and the State Department of Agriculture.

(B) Occur not more than 45 days after the request is received.



The image shows a form titled "CAFO PERMIT PRELIMINARY CONSULTATION REQUEST FORM" from the Oregon Department of Agriculture. The form is divided into four sections: Section I (CONTACT INFORMATION OF POTENTIAL APPLICANT), Section II (TYPE OF CAFO), Section III (INFORMATION ON PROPOSED OPERATION), and Section IV (INFORMATION ON EXPANDING OPERATION). Each section contains fields for name, address, phone number, email, and animal numbers by type.

**Section I | CONTACT INFORMATION OF POTENTIAL APPLICANT**  
Name: \_\_\_\_\_  
Phone number: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

**Section II. TYPE OF CAFO**  
 New large CAFO (skip to Section III.)  
 Expanding large CAFO (skip to Section IV.)

**Section III. INFORMATION ON PROPOSED OPERATION**  
Proposed Name: \_\_\_\_\_  
Tax lot(s) of proposed production area: \_\_\_\_\_  
Type of CAFO: \_\_\_\_\_  
Animal numbers by animal type: \_\_\_\_\_

**Section IV. INFORMATION ON EXPANDING OPERATION**  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Currently permitted animal numbers by animal type: \_\_\_\_\_  
Proposed animal numbers by animal type: \_\_\_\_\_



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# Neighbor Notice

- New large CAFOs must notify all neighbors within ½ mile of production area parcel

## ORS 468B.215

(5)(a) In addition to other permit conditions, a person that applies for a permit under ORS 468B.050 for:

(A) A confined animal feeding operation shall submit a water supply plan, as described in ORS 468B.216, with the application.

(B) A new large confined animal feeding operation shall send individual notice of the public comment period for the permit, by mail, to all persons on record as owning property within one-half mile of the parcel of land on which the new large confined animal feeding operation is proposed to be located.

(b) The Department of Environmental Quality and State Department of Agriculture may not consider a person's lack of receipt of the notice described in paragraph (a)(B) of this subsection when deciding whether to approve or deny an application for a permit under ORS 468B.050.



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# Pre-population Inspections

- Can't bring animals to new construction at new and expanding CAFOs until inspected and approved, eventually for all CAFOs

## ORS 468B.215

(7) After being issued a permit under ORS 468B.050, a person may not bring animals to a new confined animal feeding operation, or to newly constructed or installed facilities for an expanding confined animal feeding operation, until after the State Department of Agriculture:

- (a) Inspects the new confined animal feeding operation or expanding confined animal feeding operation; and
- (b) Confirms that the construction or installation of the waste management system and relevant operational functions of the new confined animal feeding operation or expanding confined animal feeding operation comply with the conditions of the water quality permit.




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# Water Supply Plan

- New application element to ensure CAFOs have sufficient legal sources of water
- Use ODA guidelines for estimating animal water consumption.
- OWRD has 45 days to review.
- OWRD can request measurement and reporting requirements for all uses.



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635 Capitol St NE, Salem, OR 97301-2532  
503.986.4550 | Oregon.gov/ODA

603-074-0019 (5)  
Water Supply Plan

Type of Animal	Drinking water consumption (gallons per day)
<b>BEEF</b>	
Bull	20.6
Lactating	20
Gestating	17.5
Calving	10
Feeder cattle	24
<b>DAIRY</b>	
Bull	20
Milking cow	54
Dry cow	15
Heifer	10
Calving	10
<b>SWINE</b>	
Boar	6
Sow	6
Weaner	2
Feeder	3
<b>CHICKEN</b>	
Broiler	203.4/1000 birds
Layer	84.5/1000 birds
Breeder	85/1000 birds
Pullet	48/1000 birds
<b>TURKEYS</b>	
15-21wk	300.9/1000 birds
1-7wk	118.3/1000 birds
<b>SHEEP/GOATS</b>	
Ram	2
Gestating	2.5
Lactating	3.5
Lamb/kid	3.5
<b>EQUINE</b>	
Horses	21.7
Donkeys	15.6
Mules	15.6
<b>OTHERS</b> Consult with ODA	



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Confined Animal Feeding Operations Program  
635 Capitol St NE, Salem, OR 97301-2532  
503.986.4699 | Oregon.gov/ODA

### WATER SUPPLY PLAN

**Section I. CONTACT INFORMATION**

Operator name: \_\_\_\_\_

Landowner name (if different from operator): \_\_\_\_\_

Name of operation: \_\_\_\_\_

Address of operation: \_\_\_\_\_

**Section II. CRITICAL GROUNDWATER AREA**

Is the CAFO located in a critical groundwater area?

Yes  No

**Section III. TYPE OF CAFO APPLICATION**

New Application  Renewal Application

**Section IV. IRRIGATION WATER SUPPLY**

Total Estimated Needs: \_\_\_\_\_ Gallons/day

Existing, perfected groundwater right(s):

Certificate/Permit# \_\_\_\_\_

Certificate/Permit# \_\_\_\_\_

Certificate/Permit# \_\_\_\_\_

Existing, perfected surface water right(s):

Certificate/Permit# \_\_\_\_\_

Certificate/Permit# \_\_\_\_\_

Certificate/Permit# \_\_\_\_\_

Check this box if the CAFO will not land apply any manure, litter, process wastewater, or compost to any irrigated land on the CAFO.

# Stockwater Exemption Limit

- New CAFOs will require water right for groundwater used for stockwater over 12,000 gallons per day

## ORS 537.545

(1) A registration, certificate of registration, application for a permit, permit, certificate of completion or ground water right certificate under ORS 537.505 to 537.795 and 537.992 is not required for the use of ground water for:

(a) Stockwatering purposes, unless the use exceeds 12,000 gallons per day and occurs at a new confined animal feeding operation, as defined in ORS 468B.215;...



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# Individual Permits in GWMA's

- New large CAFOs in GWMA's require individual permits if they land apply

## ORS 468B.050

(4) Notwithstanding subsection (2) of this section, the Department of Environmental Quality or the State Department of Agriculture may not issue a general NPDES or WPCF permit to a new large confined animal feeding operation that:

- (a) Is located in a ground water management area declared under ORS 468B.180; and
- (b) Applies manure, litter, wastewater or processed waste to land within the ground water management area.



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# Nutrient Application Permit

- New permit to be developed by ODA for land application of CAFO nutrients in a GWMA

## ORS 468B.215

(8) In addition to monitoring and reporting requirements under an NPDES or WPCF permit, a person that holds a permit under ORS 468B.050 for a confined animal feeding operation and sends manure, litter or processed wastewater to a person that holds a nutrient application permit described in ORS 468B.219 shall maintain records of the nutrient application permit, including the number of the nutrient application permit.

## ORS 468B.219

(1) The State Department of Agriculture may issue a nutrient application permit.

(2) As applicable, the permit must concern, but need not only concern:

(a) The rate of nutrient application.

(b) The source of the nutrients.

(c) The placement of the nutrients.

(d) The timing of nutrient application.

(e) The volume of wastewater applied to the surface of the lands per time period.

(3) Except as authorized under an NPDES or WPCF permit, a person may apply manure, litter, wastewater or processed

waste from a confined animal feeding operation on lands in a ground water management area declared under ORS 468B.180 only if the person holds a permit under this section.

(4) A person that holds a permit under this section shall provide the confined animal feeding operation from which the person receives manure, litter, wastewater or processed waste with a copy of the permit.

(5) The department may adopt rules to implement this section...



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# Additional Sections

- Air Quality- DEQ needs to come up with an air quality report within 180 days of EPA finalizing the National Air Emissions Monitoring Study (NAEMS)
- Land Use- Land use compatibility statements from city/county as part of the application process, same authority can require buffers for New Large CAFO next to a parcel that contains residential structures



# Summary of Changes

<p><u>New CAFOs</u></p> <ul style="list-style-type: none"><li>-WSP immediately</li><li>-Pre-pop inspections immediately</li><li>-Water right for stockwater over 12,000G/day</li></ul>	<p><u>New Large CAFOs</u></p> <p>← New CAFO requirements PLUS</p> <ul style="list-style-type: none"><li>-Pre-application consultation</li><li>-Neighbor notice</li><li>-Individual permit in a GWMA</li><li>-County can create specific buffers</li><li>-Water right for stockwater over 12,000G/day</li></ul>
<p><u>Expanding CAFOs</u></p> <ul style="list-style-type: none"><li>-WSP immediately</li><li>-Pre-pop inspections immediately</li></ul>	<p><u>Expanding Large CAFOs</u></p> <p>← Expanding CAFO requirements PLUS</p> <ul style="list-style-type: none"><li>-Pre-application consultation</li></ul>



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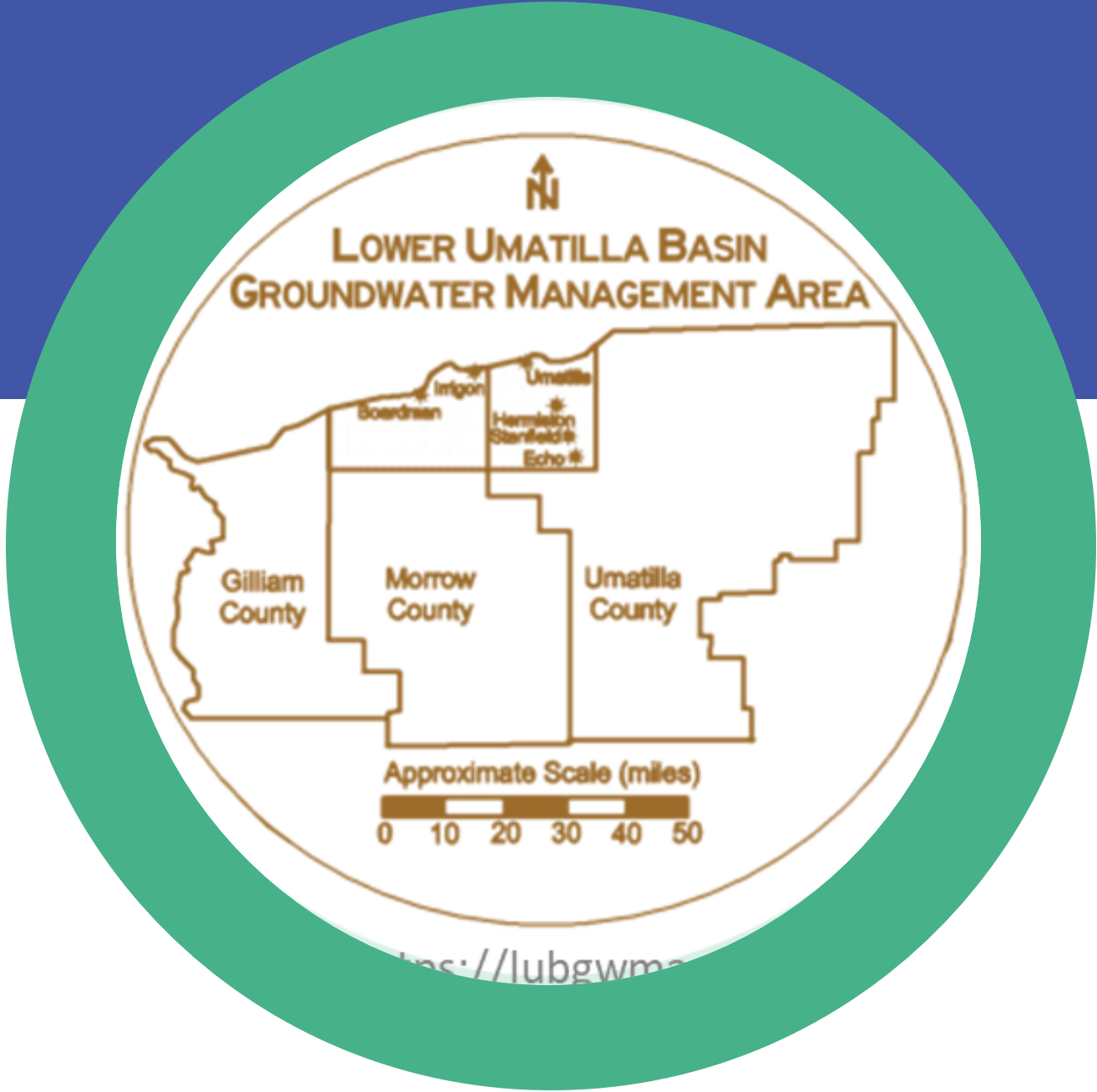
# LUB GWMA Engagement

History

Agency coordination

State Nitrate Reduction Plan

Non-point irrigated Ag rules



# History of the Lower Umatilla Basin

- Groundwater Quality Protection Act of 1989
- LUB GWMA established in 1990 documented nitrate contamination
- Impacting the communities of Hermiston, Boardman, Irrigon, Stanfield, and Echo.
- EPA petition in 2020
- Morrow County state of emergency 2022
- State Agency Nitrate Reduction Plan 2024



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# Agency Coordination

ODA/DEQ/OWRD/OHA/EPA

Development of Nitrate reduction plan

Collaborative governance

Nitrate reduction strategies by source

Monitoring, Data, and Analysis

Safe Drinking Water Strategies

Co-Leads for LUBGWMA Committee engagement



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# State Nitrate Reduction Plan

Anticipated to be released end of September

Living document that will change overtime

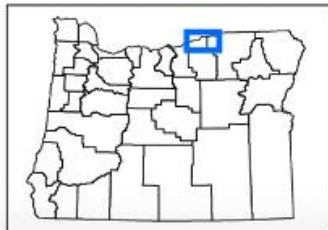
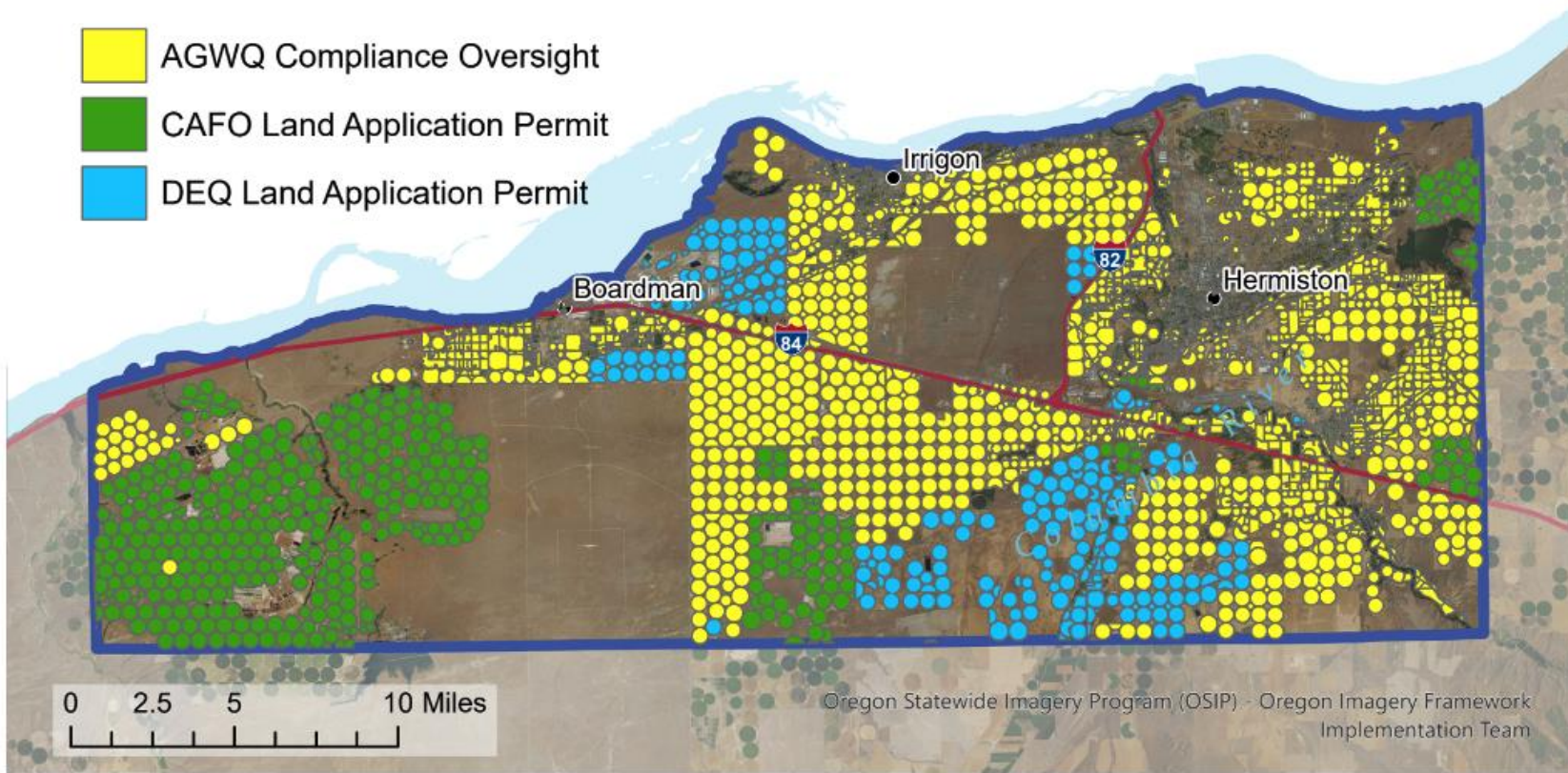
Will be seeking input on plan



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# Lower Umatilla Basin Groundwater Management Area

-  AGWQ Compliance Oversight
-  CAFO Land Application Permit
-  DEQ Land Application Permit



This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



Prepared By: ODA GIS Team  
Date Printed: 8/29/2024



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# Point-Source Protections

Three primary point-sources

CAFOs

- 13 facilities

- SB 85 specific provisions

- Permit alignment with DEQ wastewater

Food Processing Wastewater

- 7 wastewater reuse permits



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# Non-Point Source Protection

## Agriculture Water Quality Compliance

ORS 468B.025(1) no person shall:

- (a) Cause pollution of any waters of the state or place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means.

ORS 568.912 Management plan rules:

(1) The State Department of Agriculture in consultation with the State Board of Agriculture may adopt rules necessary to implement a water quality management plan initiated under ORS 568.909. The rules adopted under this subsection shall constitute the only enforceable aspects of a water quality management plan.



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# Non-Point Source Protection

OAR 603-095-0360(7)(a) states, “Crop nutrient applications, including manure, sludge, and commercial fertilizers must be done at a time and in a manner that does not pollute waters of the state.”

OAR 603-095-2840(5) states, “...irrigation must be done in a manner that limits the amount of pollution in the runoff from the irrigated area or that leaches into groundwater.”



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# Current Challenges

- Underdeveloped oversight and verification of compliance for groundwater.
- Non-point source no formal connection to AGWQ program
- Data gaps around potential and actual impact



# Principals for Program Development

- Reasonable and meaningful
- Scaling requirements based on equity
- Phased compliance implementation
- Broad stakeholder engagement
- Science based



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# Possible Program Development

- Keep farm management decisions with the producer
- Focus on nutrient and irrigation management to mitigate additionality
- Establish a direct relationship with producers to ensure compliance



# Proposed Non-Point Compliance



- Establish residual N levels in soils to mitigate groundwater impact
- Records, management plans, soil testing, audits
- Phased implementation with technical assistance



# Questions?



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