OREGON
WATER RESOURCES DEPARTMENT

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Division 512 Rules Advisory Committee
Meeting 8 (June 27, 2024, 1-5 PM)

This document is a summary of the Division 512 Rules Advisory Committee (RAC) hybrid meeting number eight held at the Harney County Community Center on June 27, 2024, from 1-5 PM. 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 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:

Brenda Smith	Lisa Brown
Steve Rickman	Julie Weikel
Travis Singhose	Lorissa Singhose
Barbara Howard	Roger Sheley
Karen Moon	Mark Owens
Andy Root	Ken Bentz
Fred Otley	Zach Freed
Dominic Carollo (sitting in for Kristen Shelman)	Breanna O'Connor
Ben McCanna	Brandon Haslick
Jess Wenick	

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

Tim Seymour	Kelly Meinz
Laura Hartt	Alexandria Scott
Jason Spriet	Donald (Dally) Swindlehurst
Cade Tiller	

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

Welcome and Introductions

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

Bryant Kuechle shared the following goals for the meeting:

- Introduce the Division 10 groundwater draft report
- Gather input on proposed rulemaking milestones

- Introduce opportunity for outside discussion groups.
- Build a shared understanding around SWMPA and classification boundaries
- Gather feedback to prepare future meeting topics and determine level of discussion group each warrants.

Presentation – Division 10 Groundwater Report

Tim Seymour led a CONSULT level presentation of the Division 10 Groundwater Report and discussion of next steps. The presentation sought to answer the following key questions:

- What thresholds have been crossed that authorize the designation of a Critical Groundwater Area (CGWA)?
- Why designate the entire basin a CGWA when not all subareas have crossed a threshold for CGWA designation?

The following captures some of the key themes and questions that emerged from that discussion. In most cases, names are not attributed to their respective question or comment:

- OWRD and the USGS are defining the Harney basin as one aquifer; if we are going to say the basin is one unit, then leave it as one unit.
- Concern around measuring the success with regards to timing in the hydrologically connected reservoir.
- Why are Donner und Blitzen included in the Critical Groundwater Area map if they have not met the CGWA designation thresholds? (Slide 15)
- During the spring/summer, most of it but not all groundwater is contributing to the stream. Being overdrawn is a really bad situation for natural conditions. Being overdrawn means we are consuming all of the recharge.
- OWRD presented on what water budget regions are meeting the thresholds to designate a Critical Groundwater Area. The southern region has not tripped the overdrawn criteria. The western region is "about" to be overdrawn. The northern region has met the overdrawn criteria. RAC members asked if the "about" to be overdrawn in the western region can be removed if the unused paper water rights were cancelled? OWRD responded that this analysis is based on the 2018 pumping numbers, and we do not have peer-reviewed data that show more or less pumping has occurred since 2018.
- Are we applying Critical Groundwater Area designation criteria by water budget regions or in subbasins? OWRD has to work within the water budget framework because this is what the USGS study used and that is our best available science.
- "Part there of" in statute gives OWRD some flexibility.
- Besides the six subareas, are there other regions that meet excessively declined criteria (i.e., Crane Buchanan)? Are these criteria being applied to the whole reservoir or by water budget areas? OWRD responded with we divided these into the water budget regions because that is what the study gave us and that is the best available science.
- Question about transfers that have happened after 2018. OWRD response is we have done our best to prevent transfers, but may have not always been successful, protests can help stop this.
- Why include the west and south in the CGWA boundary when transfers to and from those areas are not happening?

- Are there any wells near the Silvies River that are increasing? OWRD responded that there are some wells with water levels that showed increased levels in 2023, but they have not recovered from years of decline.
- OWRD wants to divide the proposed Critical Groundwater Area into different subareas, and they want to regulate the subareas differently. Why can't we apply that same logic for the criteria for the designation?
- How will the CGWA designation affect land value inside and outside of the boundary? What happens if the area is not experiencing declines?
- Is a moratorium on groundwater rights possible without designating a CGWA? A moratorium does not prevent applications, OWRD wants to be sure no new permits will be allowed therefore a CGWA designation is needed.
- Conversations around corrective control measures will be added to future RAC agendas.
- Regulation on permit decline conditions will be addressed and is currently being assessed.

Public Comment

- Bryant Kuechle requested a show of hands (in-person and online) by members of the public interested in providing public comment in session #1. The following provided verbal comment. Comments begin at 1:20 on the meeting recording.

Kurt Blackburn	Jake Davis
Ken Bierly (online)	

Milestone Checks: Classification and Serious Water Management Problem Area (SWMPA) Boundaries

Tim Seymour led an INVOLVE level discussion of the Classification and SWMPA boundaries with the goal of building a shared understanding of these boundaries. The presentation sought to answer the following key questions:

- What options were offered by the RAC?
- Which options are being considered by OWRD and why?
- What are the levels of RAC agreement and disagreement with the options?

The following captures some of the key themes and questions that emerged from that discussion. In most cases, names are not attributed to their respective question or comment:

- Can we classify the Malheur River Basin area? OWRD responded that this would require opening the rules for the Malheur Administrative Basin, which is not feasible for OWRD at this time.
- Virginia Valley flowing into the Malheur Administrative Basin is an example of an area with a lot of activity and history. OWRD responded that Virginia Valley cannot be included because it is in the Malheur Administrative Basin.
- Recommended to add portions of Crook and Lake in the Classification boundary if they are in the Malheur Lake Administrative Basins. Including these would require significant outreach in those areas. OWRD acknowledged that this could be done. OWRD determined that there are only 4 groundwater rights outside of the proposed Classification boundary.
- SWMPA boundary should be the Administrative area.
- Is SWMPA in statute? Does SWMPA only give OWRD the authority to require measuring and reporting?
- Can we measure the water ourselves or does OWRD have to come out and do it?

- For consistency, I think we should make the two boundaries the same (Classification and SWMPA).

The following summarizes the resulting recommendations from this discussion:

Classification Boundary
The Classification Boundary is the geographic area where OWRD may limit new water permit applications.

Options Discussed at RAC
Option A. Set the Classification boundary as Harney Basin within the Malheur Lake Administrative Basin and within the portions of Grant and Harney Counties
Option B. Set the Classification boundary as the entire Harney Basin Groundwater Study Area boundary (including areas that extend outside of the Malheur Lake Administrative Basin).

RAC recommendation to keep Classification boundary as Option A. Set the Classification boundary as Harney Basin within the Malheur Lake Administrative Basin and within the portions of Grant and Harney Counties.

SWMPA Boundary
The SWMPA boundary is the geographic area where OWRD may require groundwater usage monitoring and reporting. Some of the more recent groundwater permits already include those requirements, but not older permits. This requirement is a way to provide more accurate data on water usage in a fair and consistent way to inform water management and regulation.

Options Discussed at RAC
Option A. Set the SWMPA Boundary as the Greater Harney Valley Groundwater Area of Concern (GHVGAC).
Option B. Set the SWMPA boundary as the RAC recommended Classification boundary (Harney Basin within the Malheur Lake Basin and within the portions of Grant and Harney Counties)
Option C. Set the SWMPA boundary as the entire Harney Basin Groundwater Study Area boundary (including areas that extend outside of the Malheur Lake Administrative Basin)

RAC recommendation to use Option B. Set the SWMPA boundary as the RAC recommended Classification boundary (Harney Basin within the Malheur Lake Administrative Basin and within the portions of Grant and Harney Counties).

Updated RAC Process
Bryant Kuechle led a COLLABORATE level discussion to introduce the opportunity for outside discussion groups. The discussion sought to answer the following key question:

- How to best get more discussion, and how to bring that information back to the RAC?

This discussion group process will be lead by Oregon Consensus and the High Desert Partnership. Brenda Smith provided an overview of the proposal for this discussion group process. More information and opportunities to participate will be posted and shared on the rulemaking website.

Framing Future Topics

Kelly Meinz led a COLLABORATE level discussion to gather feedback to prepare future meeting topics and determine the level of discussion each topic warrants. The discussion sought to answer the following key questions:

- How much discussion is needed for each topic?
- What topics could an outside discussion group take on?
- What information do you need to have meaningful discussions?

This discussion is described in the RAC 8 Future Topics Homework document provided on July 8, 2024.

Public Comment

The following provided verbal comment. Comments begin at 3:49 on the meeting recording.

Ken Bierly (online)