



January 28, 2023

To Senate Committee on Natural Resources

From: Oregon Association of Conservation Districts

Re: **Oppose SB 710 – Criteria for Determining Groundwater Use interference with Surface Water**

Chair Golden and Committee Members,

The Oregon Association of Conservation Districts (OACD) represents Oregon's 45 Soil and Water Conservation Districts (SWCDs), special districts governed by elected boards. The Districts protect and enhance soil quality, water quality and quantity, and habitat by supporting voluntary conservation in partnership with private landowners and managers as well as federal, state, and nonprofit partners.

OACD opposes SB 710 which establishes new criteria for determining when groundwater use interferes with surface water. Currently, there are rules for determining whether groundwater use (e.g., wells) interferes with surface water and providing authority to control groundwater use (OAR 690-008 and 690-009). The Oregon Water Resources Commission has directed the Oregon Water Resources Department (OWRD) to update and modernize Oregon's groundwater allocation policy to protect existing surface water and groundwater users and to maintain sustainable groundwater resources. In September and October 2022, OWRD held a series of public meetings to collect stakeholder input on this matter in advance of convening a rules advisory committee and updating the rules. The update is currently planned to be initiated in 2023. The provisions of SB 710 could preempt the options for updating the rules, and we contend that the OWRD stakeholder process should be allowed to proceed unimpeded.

Furthermore, we feel that the provisions of SB 710 are problematic for the following reasons:

- SB 710 states that impairment can only be declared if an **individual** groundwater use causes a decrease in a surface water source. By making this applicable to only individual uses, the cumulative effect of multiple uses is ignored.
- SB 710 states that impairment can only be declared if an individual groundwater use causes a decrease in a surface water source that is appropriated **under an individual water use right having an earlier priority date**. This means that the impact on the amount of in-stream water may not be a consideration. It also could mean that cumulative impacts to multiple surface water sources is not a consideration.

- SB 710 states that impairment can only be declared if an individual groundwater use causes a decrease in a surface water source by **0.1 cubic feet per second or more**. This amount is equal to about 65,000 gallons per day, enough to meet domestic requirements for about 150 homes. This amount is not insignificant.
- SB 710 states that the decrease of water **must be measurable within one season of use**. This ignores the fact that groundwater and surface flow vary significantly from one season to the next and accurate flow measurement can be difficult without long term data and trends. This also ignores the fact that groundwater decline can happen over many years, so it might take more time before a well's impact on surface water is fully realized. This provision also seems to indicate that if the harmed user can't detect it in one season, they forego their rights to claim harm.
- SB 710 modifies language regarding control of groundwater by the Water Resources Commission to possibly denude its authority. Current statute calls for voluntary control, when possible, but explicitly recognizes the police power of the state. The proposed revised language only calls for voluntary action whenever possible.

Thank you for the opportunity to provide input.



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