

Testimony of
STEPHEN SCHNEIDER, Individual
Before the House Committee on Natural Resources
In Support of HB 2331-2
April 4, 2019

I am an Oregonian, having been born, raised and educated in this State. I graduated from Oregon State University with a BS in Mechanical Engineering in 1972. I was able to pay my way through college by working on our family farm, but more importantly by working with my parents and others in their family owned well drilling and pump and water system contracting company. I am currently the last of the second generation owning and operating that same family business which was founded in 1945. My wife and I have three children, all three of them are current active third generation owners of Schneider Water Services. In my testimony today, I have not only my interest, but my whole family's interest in mind in addition to my cohorts, our company's clients, and our groundwater.

I am not only an Oregon licensed bonded water well and monitoring well constructor, I hold licenses for the same type of contracting in the states of Washington and Idaho.

I believe that I am one of only two National Ground Water Association (NGWA) certified Master Ground Water Contractors in the State of Oregon.

I have taught others about well construction as part of their state continuing education requirements, primarily for use in Oregon and Washington, but also for other states via the NGWA. I am the primary author of Water Supply Well Guidelines for use in Developing Countries and have taught proper well construction practices internationally at many venues.

I served for several years on Oregon's Ground Water Advisory Committee, including as chair. I have served on several Water Resources Department rules and technical advisory committees related to wells and well constructors.

I am also a well owner and a groundwater user. My drinking water, both at work and at our home is from groundwater. I am also an owner of permitted irrigation and public supply groundwater wells.

It is rare that an industry comes forward requesting more inspection of, and potential enforcement against, themselves. That is exactly what the Oregon Ground Water Association did in its testimony here today. OGWA, via HB 2331-2, is promoting implementation of a timely, practical, cost effective, and appropriate inspection of every well (i.e. 100% inspection) that is constructed, altered, abandoned or converted in Oregon for which a well log is filed. I concur with their testimony and support the passage of HB 2331-2.

HB 2331-2 is about timeliness and legality. Timeliness is important in order for the Department to have all its enforcement tools available should a well deficiency be found. By clarifying a statute of limitations for well enforcement related to timely filing of proper well logs

(i.e. containing no material misrepresentation and that utilize standards in effect at time of construction), the Department is encouraged to implement a relatively simple, low cost, inspection program that is legal and that is consistent with the bond requirements of ORS 537.783, and also similar to the existing time limit restrictions of ORS chapter 12, especially as they apply to the Department's civil penalty authority available pursuant to ORS 537.787 and potential action related to renewal, revocation or suspension of a well constructor's license pursuant to ORS 537.747.

In implementing a timely technical review of all well logs, the Department would be able to utilize all of its enforcement tools to facilitate compliance rather than letting those tools expire. As a result, well owners will be protected from otherwise constructor responsible liabilities and groundwater management would be significantly enhanced.

When construction standards are not enforced in a timely manner, constructors are often led to believe that their practices are lawful. In addition, the longer the delay in enforcement, the more likely a well constructor is to have retired, left the State, died, or not renewed his/her license. A constructor may also no longer have equipment available to affordably make a repair or infrastructure changes around the well may prohibit access with equipment needed for a repair.

As mentioned herein and in other testimony, the Department does not currently recognize a statute of limitations on well construction. While I know of a very reputable legal opinion that disagrees with the Department's position, to fully litigate a statute of limitations case would likely result in at least a six, if not a seven, figure cost to the individual or entity defending itself in addition to the time and cost that would similarly be incurred by the State in pursuing such a case. With the specific added limitation afforded by HB2331-2, it is anticipated that few individuals or entities, including the State, would be placed in a position of having to decide whether to argue a well construction enforcement issue based on the applicability of a statute of limitations.

HB 2331-2 is not intended to extend, supersede, replace or restrict any statute of limitation that already exists in law; it is intended to clarify a limitation and attach such limitation to the filing of a well log. It is worthy to note that when enforcement is undertaken by the Department related to a completed well construction activity, especially a tardy enforcement, such enforcement is almost always initiated based on information contained in the well log.

Thank you for taking the time to consider my testimony. I sincerely urge your support of HB 2331-2.

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