



April 4, 2019
House Committee on Natural Resources
Representative Brad Witt, Chair

Testimony on House Bill 2331
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Thank you for the opportunity to present information related to HB 2331-2. The Department is not taking a position on this bill at this time; however, we do note that it does present very important policy questions for the committee.

Need for Improvements to the Well Construction Program: Wells are relied on to provide access to a clean groundwater supply for drinking and domestic uses, municipalities, agriculture, and industry. Wells that are improperly constructed can contribute to groundwater level declines and provide a conduit for groundwater contamination. The Department is responsible for administering a well construction program that licenses drillers, sets standards for well construction practices, and inspects wells for deficiencies. The need for improvements in the Well Construction Program is outlined in the 2016 Secretary of State Audit, the *2017 Integrated Water Resources Strategy*, the Department's *2019-2024 Strategic Plan*, and the attached handout. Without policy changes and further investments in Oregon's well construction program, the Department is unable to ensure that wells are constructed properly. This means that improperly constructed wells, and their contributions to groundwater level declines and local contamination of aquifers, will continue to be a challenge into the future.

An example of one of the program's challenges pertains to identifying construction deficiencies on new wells. Following construction of a well, the well constructor submits a water well log that describes how the well was constructed and where water and geologic materials were encountered during drilling. The well log can provide some insight into whether a well is properly constructed; however, an inspection during seal placement may identify construction problems that cannot be identified by looking at the well log. Currently, the Department does not have resources to review all well logs for proper construction or to inspect all wells, which means that well construction deficiencies are often unidentified and unaddressed. Last year, 3,100 new wells were constructed and the Department inspected 947 wells, of which approximately 12 percent were found to have deficiencies or construction problems. This means that more than 2,000 new wells were not inspected for deficiencies.

Responsibility for Well Construction Deficiencies

In Oregon, the well constructor is responsible for constructing the well to standards and for fixing any deficiencies in the well that are associated with the original well construction for as long as the well driller holds a well constructor's license. The Department contacted other states to better understand other approaches. Washington has three years for driller responsibility, but includes a 72-hour notice of intent to drill a well, which can facilitate inspections. Other states such as New Mexico and Utah are similar to Oregon in that they do not have a limitation on driller responsibility. Some states take a different approach, such as Oklahoma, where driller responsibility continues until an inspection is completed; while South Dakota holds drillers' responsible for the work until the well completion report has been reviewed and accepted.

HB 2331 -2 and -3 Amendment

For well activities occurring on or after the act, the amendment prevents the Department from requiring a well constructor to address a well construction deficiency three years from the date the well log was filed with the Department (unless there is a material misrepresentation on the well log). This means that the well owner will be responsible for addressing well construction deficiencies after three years.

The -2 amendment *does not* require the Department to undertake a technical review of well logs within the three-year period that the driller retains responsibility for the well construction and *does not* provide for any new resources to undertake technical reviews. As a result, it is unlikely to result in identifying deficiencies sooner or within the three-year period that the well-driller is responsible.

The -2 and -3 amendments establish a Task Force on Oregon Well Construction Enforcement Activities that shall review and make recommendations on: a) technical review of well logs by the Department; b) limits to enforcement of well construction standards to those in effect when the well was constructed; and c) enforcement, operations and maintenance practices for well construction. The amendments call for three of the nine task force members to be representatives of the Water Resources Department; four of the members to be a combination of licensed well drillers; one member is to be a groundwater specialist/certified water right examiner/geologist. At least half of the task force must be members of a groundwater association.

The task force membership does not include entities that rely on groundwater for their water supply or other interested parties. Well construction issues affect a broad array of interests and any solutions will be difficult to carry forward without the support of those other interested parties.

Conclusion

We want to acknowledge the bill proponents for engaging in a dialogue with us about how to improve the well construction program and we hope that we can continue to work with the bill proponents, the Legislature, and others to address these challenges. The Department is interested in improving the well construction program (see attached handout) to provide greater assurance that wells are constructed properly and to better protect the resource for those that rely on it for their current and future water supply.