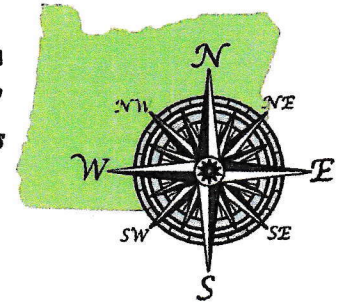


# Oregon Planning Solutions, LLC

Land Use Planning / Renewable Energy / Governmental Affairs



House Committee on Agriculture, Land Use, Natural Resources, and Water

March 28, 2023

TO: Chair Ken Helm, Vice Chair Annessa Hartman, Vice Chair Mark Owens, Representatives Court Boice, Mark Gamba, Bobby Levy, Pam Marsh, Susan McLain, and Anna Scharf

FROM: Doug White, Oregon Planning Solutions, LLC

This letter serves as my testimony in favor of HB 3180.

My review of the current draft concept from the Workgroup is from the perspective of a land use planner, working in Oregon for over four decades, involved at the state and local level, and as a private consultant. I was recently retained by a renewable energy company to work with them through existing regulations and new statutes being considered, including HB 3180. I was previously retained by two larger companies, working on both large and small renewable generating facilities.

The new Subsection (7)(c)(B) is one of the two options provided to renewable energy facilities using the size limits under subsection (i) or (ii) of this section. However, the "add" included in this subsection leaves only the areas being restricted by the Water Resources Department as qualifying under the Subsection (B) option.

The attached map shows groundwater restrictive areas under Classified, Critical, Withdrawn, Groundwater Mitigation, and Serious Water Management Problem Areas (SWMPA). Although, they do cover good portions of Central Oregon, Fort Rock, Harney Valley, along with portions of Morrow and Umatilla counties, the remaining areas of eastern Oregon would not qualify under the non-irrigation standards of Subsection (B). This leaves them to use Subsection (A), which is currently drafted as being available to only Wasco, Sherman, Gilliam, Morrow and Umatilla counties.

Again, very few areas remain when you have to be within the WRD restricted areas listed in Subsections (i), (ii) or (iii) of (c)(B). With the transmission line maximum setbacks also having to be considered leaves even the WRD restricted areas further limited for siting renewable energy facilities at the local level.

The Committee may want to consider replacing the word "and" with an "or" to read as follows:

"(B) On land that is not currently irrigated and does not have irrigated water rights, or [~~and~~] is land within:

- (i) A moratorium on the issuance of new permits;
- (ii) A critical ground water area under ORS 537.730; or
- (iii) A restrictively classified groundwater limited area or a serious water management problem area by the Water Resources Commission." (Emphasis added).

The new Subsection (7)(c)(A): "... on land that includes a majority of soils classified as ..." is not consistent with current statutes, and is difficult to interpret. I would suggest it read: "... on a tract of land that is predominately made up of soils ..." It's important that the use of "tract" be used as local and LCDC siting standards rely on this term.<sup>1</sup>

To me, the 5% standard is difficult to work with. Is it current acreage of EFU zoned land or an acreage from an acknowledged comprehensive plan that is 40-years old? Would using total farm tax deferral acreage work better?

I believe some clarification in the Bill would help the counties obtain this acreage, when applications are being pursued by solar developers.

I also support the changes that are being drafted to EFSC's ORS chapter 469 - to align the acreage thresholds with ORS 215.446.

I'm hope these comments are of some value, as you move forward to address this important and urgent need to move forward creating a comprehensive renewable energy-land use system.

Thank you for your services.

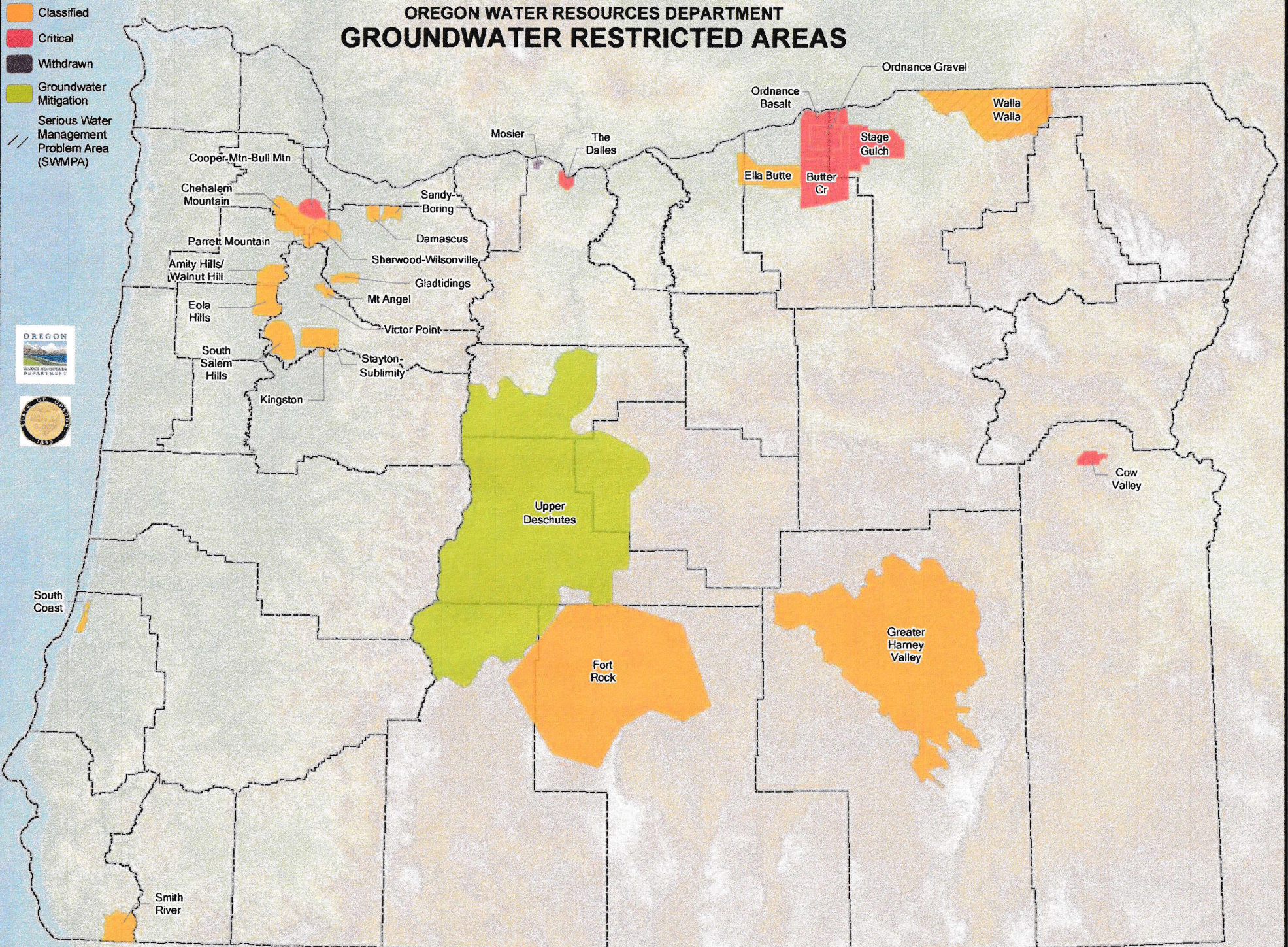
Attached: WRD Map

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<sup>1</sup> ORS 215.010(2), Definitions, "(2) 'Tract' means one or more contiguous lots or parcels under the same ownership." See also, OAR 660-033-0130(38)(f) regarding the defining of a solar facility on a "tract," to include common ownerships with fewer than 1,320 feet of separation.

# OREGON WATER RESOURCES DEPARTMENT GROUNDWATER RESTRICTED AREAS

- Classified
- Critical
- Withdrawn
- Groundwater Mitigation
- Serious Water Management Problem Area (SWMPA)



Map prepared by OWRD GIS (rh), 2/23/2018 (G:\dev\arcmap\projects\state\state\_2016\_GWRAs\_letter.mxd)