

# HB 4049 – TESTIMONY

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

February 4, 2025

Representative Mark Owens & Attorney Elizabeth Howard

# VOLUNTARY AGREEMENTS – ORS 537.745

In the administration of ORS 537.505 to 537.795 and 537.992, the Water Resources Commission may encourage, promote and recognize voluntary agreements among ground water users from the same ground water reservoir. When the commission finds that any such agreement, executed in writing and filed with the commission, is consistent with the intent, purposes and requirements of ORS 537.505 to 537.795 and, in particular ORS 537.525, 537.730 to 537.740 and 537.780, the commission shall approve the agreement. Thereafter the agreement, until terminated as provided in this subsection, shall control in lieu of a formal order or rule of the commission under ORS 537.505 to 537.795 and 537.992.

Any agreement approved by the commission may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by order of the commission if the commission finds, after investigation and a public hearing upon adequate notice, that the agreement is not being substantially complied with by the parties thereto or that changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 and 537.992.

# OWRD DRAFT GUIDANCE

- ▶ The minimum level of participation in a voluntary agreement must consist of water right holders whose total rights represent at least 30% of the total allocated Permissible Total Withdrawal (PTW) – **not equitable**
- ▶ Required to meet reductions scheduled in the Div 512 rules – **not flexible**
- ▶ Requires zero rate of decline as opposed to reasonably stable groundwater levels - **contrary to state policy**
  - ▶ ORS 537.525(7) “reasonably stable ground water levels” are to be determined and maintained
- ▶ Excludes water rights that meet a permit decline condition even though such conditions are known to be inconsistent with prior appropriation in the Harney Basin – **precludes participation** (for valid water right holders)
- ▶ Imposes artificially short duration of the agreement – **no assurances** to participants that they are going to benefit from their conservation measures and withdrawal reductions
- ▶ Open ended and extensive review periods by OWRD and Commission – **extended delays**

# HB 4049 – 3 AMENDMENT

- ▶ Ensures Commission retains authority to review and approve – **provides a fair review**
- ▶ No minimum participation level and allows all valid water right holders to participate - **equitable**
- ▶ Requires agreements that are likely to achieve reasonably stable groundwater levels within a reasonable time and likely to minimize economic impacts – **consistent with state policy**
- ▶ Protects flexibility in “how” achieve stable groundwater levels – **provides flexibility**
- ▶ Requires timely review and approval - **limits delays**
- ▶ Incentivizes participation by accounting for recent conservation measures and efficiency projects - **provides assurances**
- ▶ Requires measurement and reporting and regular reviews – **ensures accountability**

# CONCLUSION

- ▶ Oregon should promote voluntary agreements that will protect the resource and communities.
- ▶ The contested case on the critical groundwater designation will take many years.
- ▶ This legislation is necessary to jumpstart conservation in the Harney Basin.
- ▶ Our community deserves the chance to be water partners with Oregon. Oregon deserves the chance to make voluntary agreements work.