Most new Oregon wells drilled in groundwater concern areas

By MATEUSZ PERKOWSKI
Capital Press

SALEM — Most new wells in Oregon are drilled where groundwater is already at risk of depletion, potentially aggravating conflicts among irrigators, according to state water regulators.

In the past decade, about 80% of applications for groundwater permits were in "areas of concern" or "significant concern" for declining aquifers and other groundwater problems, an agency study found.

Roughly 80% of those applications were approved by the state's Water Resources Department, the study said.

One-third of the "significant concern" areas identified in the OWRD's analysis aren't currently subject to regulatory groundwater restrictions, the report said.

The report's findings were recently met with consternation by some members of the Oregon Water Resources Commission, which oversees the agency.

The problem is reminiscent of falling Chinook salmon populations in the Willamette River, which some consider the "best studied extinction ever," said Joe Moll, commission member and executive director of the McKenzie River Trust.

Brad Williams Water Well Service/Contributed Photo, File

Water well driller Brad Williams of Terrebonne stands beside his equipment. He has been working in California since the Oregon Water Resources Department in October 2019 revoked his license and fined him $7,550 for a string of civil violations.

"I kind of fear we have a similar situation where we're watching something get worse. We're kind of working but we're somewhat limited, i.e. helpless," Moll said during the commission's most recent meeting.

Under Oregon water law, regulators are limited in their ability to reject permits for new wells, said Justin Iverson, OWRD's groundwater section manager.

For example, wells must generally be within a mile of a stream or river to trigger concerns about substantially interfering with surface waters, he said.

Similarly, new wells are only considered to interfere with existing ones in limited circumstances, Iverson said. "There is a fairly high threshold for finding injury."

Applicants are often "savvy" enough to know which locations are more likely to be approved for drilling, he said.

"The statutes say that we're going to presume that a new application is in the public interest, but that's a rebuttable presumption," Iverson said.

Permitting entities must always make decisions based on "imperfect information," but the study indicates that Oregon may not have the correct standards for approving groundwater applications, said Meg Reeves, retired general counsel for Oregon State University and the commission's chair.

"This does raise the questions for me as to whether we have drawn the line in the right place as to whether we would act to limit further appropriation," she said. "I hope we'll be able to find a way to do something with this information that would help us prevent further drawdown."

The OWRD's study, which has mapped the state's areas of concern for groundwater, is intended to "stimulate conversations" with stakeholders and may discourage drilling in problem areas, Iverson said.

The analysis will also help prioritize aquifer monitoring and may indicate where the agency should re-evaluate the boundaries of groundwater restricted areas, he said.

For example, some wells next to the Mount Angel Groundwater Limited Area are showing declines similar to those within its boundaries, said Ben Scandella, OWRD's groundwater data chief.

"This is an example of how this tool can help us see areas where the existing boundaries of groundwater restricted areas may have been appropriate when they were created but don't necessarily reflect the current conditions," he said.

The agency's study does have a "data availability bias," in that it focuses on areas where irrigation is the most prevalent, Iverson said.

Areas of concern are also measured by township, a 36-square-mile unit of land measurement in which groundwater conditions may vary, he said.

The map will be incrementally improved as OWRD incorporates more data in the future, Iverson said.

"We wanted to make an objective and repeatable evaluation," he said. "This groundwater concerns map is going to be easily updated over time and we fully intend for it to be a living map as more information is brought in."

Carol Ryan Dumas/Capital Press, File

The United States Department of Agriculture says it will begin work on three proposals to strengthen its enforcement of the Packers and Stockyards Act.

USDA to bolster meatpacker antitrust enforcement act

Packers and Stockyards Act is intended to protect producers from unfair, deceptive, anti-competitive practices

By CAROL RYAN DUMAS
Capital Press

WASHINGTON — The United States Department of Agriculture says it will begin work on three proposals to strengthen its enforcement of the Packers and Stockyards Act.

The 100-year-old law was designed to protect poultry, hog and cattle producers from unfair, deceptive and anti-competitive practices in meat markets.

The Packers and Stockyards Act is a vital tool for protecting farmers and ranchers, but it needs to take into account modern market dynamics and should not be used as a safe haven for bad actors, USDA Secretary Tom Vilsack said Friday in announcing the proposed action.

USDA intends to take three actions related to rulemaking in the months ahead. First is to propose a new rule to provide greater clarity to strengthen enforcement of unfair and deceptive practices, undue preference and unjust prejudices. Second is to propose a new poultry grower tournament system rule. Third is to re-propose a rule to clarify parties do not need to demonstrate harm to competition to bring legal action against a meatpacker.

National Cattlemen's Beef Association said in a statement USDA's announcement signals the start of a lengthy process, not the conclusion.

"We don't yet have language for proposed rules, and we don't expect to see specifics from USDA for some time", said Colin Woodall, NCBA CEO.

"But we are actively engaging with the agency to get more information and make sure that the needs of our members are front and center in the administration's thought process," he said.

NCBA will fight hard to ensure that any regulations created or revised do not reduce cattle producers' ability to realize higher profits and make the decisions that are best for their business, he said.

NCBA is particularly concerned with cattle producers' ability to use alternative marketing arrangements, which represent value-added opportunities.

The North American Meat Institute issued a statement saying these sorts of proposals in the past have been opposed by many livestock producers and Congress.

The National Farmers Union welcomed the announcement, saying the Packers and Stockyards Act lacks the teeth to achieve its intended objectives and proposed reforms are a step in the right direction.

The Farm Action Alliance also welcomed the announcement, contending USDA can't rein in abusive corporate monopolies without new, strong regulations.

"Past failures to adequately strengthen the Packers and Stockyards Act left the regulatory environment a safe haven for huge corporations to grow and consolidate power," said Joe Maxwell, president of the alliance.

The Organization for Competitive Markets said the proposed rule in regard to competitive injury is the most needed reform.

"This regulation would clarify that parties do not need to demonstrate harm to competition in order to initiate legal action," said Mike Eby, the organization's executive director.

Oregon Senate to vote on plan to scale back business tax break

By HILLARY BORRUD
The Oregonian

SALEM — Oregon lawmakers in the Democratic-controlled Senate are set to vote as soon as this week on a proposal to trim a controversial business tax break that allows qualifying business owners to pay much lower tax rates than wage earners.

With less than two weeks left in the legislative session, the plan emerged from a seemingly unlikely collaboration between Sen. Ginny Burdick, D-Portland, and Sen. Brian Boquist, a former Republican from Dallas who is now a member of the Independent Party of Oregon.

In 2017, House Democrats passed a bill to pare back the tax break after state tax data showed it benefitted lawyers and doctors — "suits and scrubs," Democrats complained — rather than the manufacturers and exporters touted as beneficiaries when lawmakers approved the provision in 2013. The 2017 bill died in the Senate and qualifying taxpayers continue to use the break to cut their taxes by approximately $100 million a year, meaning the state misses out on an equivalent amount of revenue.

Boquist said in an interview Monday, June 14, that it's not surprising he and Burdick worked together to scale back the tax break for pass-through businesses, because eight years ago they were both part of the small group of lawmakers who worked with then-Gov. John Kitzhaber, a Democrat, to craft the tax cut.

"The only thing Burdick and I did is fine tune some issues we'd raised over those four months (writing the tax law) in 2013," Boquist said.

He said the bill now moving forward does not address all of the problems leaders were aware of when they drafted the law all those years ago.

"The concern then was OK, you're trying to create jobs and we know for the most part closely held doctor's offices don't create jobs," he said. He said it has proved challenging to find a way to restrict the break to certain sectors of business without drawing a legal challenge.

A large share of the state's top 1% of earners receive income from the types of businesses that can take advantage of the tax break: nearly 70%, according to the Legislative Revenue Office. Construction represented the largest sector of pass-through businesses in Oregon, followed by the combined category of "professional," scientific and technology, which includes lawyers and doctors, according to the state's most recent tax data from 2018.

The current proposal, Senate Bill 139, would completely eliminate the tax break for owners of businesses with more than $5 million in annual profits. For partnerships and S corporations with $251,000 to $500,000 in income, including lawyers and doctors, it would slightly lower the tax rate from 7.2% to 7%. By way of comparison, people's wages are taxed at 8.75% for a single filer with $9,200 to $125,000 of income and 8.75% for joint filers with $18,400 to $250,000 of income.

Senate Bill 139 would also tighten employment requirements businesses must meet to qualify, with an increasing ratio of employees to owners the more profits a business makes. For example, business owners with $250,000 to $500,000 in profits would have to employ one Oregon worker per owner of the business, according to a legislative document.

Currently, the state allows businesses to qualify if they have at least one employee other than the owner who works at least 1,200 hours a year. Businesses that could not meet the tighter requirement could still qualify for the special business tax rates, if they plow a large portion of their profits — 75% — back into the business.

Lawmakers on the Senate Committee on Finance and Revenue voted along party lines Monday to send the proposal to the full Senate for a vote. All three Democrats plus Boquist voted for it and Sen. Lynn Findley, R-Vale, voted "no." Findley did not express opposition to the change itself but questioned why his colleagues were not sending the bill to the Ways and Means committee, since the state would have to spend an estimated $165,000 to administer the changes over the next two years.

Boquist said he and Burdick pored over reams of state tax data in recent months as they researched potential changes to the business tax break.

"Ironically, the companies that are making more than $5 million a year in profit don't seem to be reinvesting the money and they don't seem to need the money for additional employees," Boquist said.