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The Only Weekly A Busy Rancher Needs To Read.

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Klamath Water: City under siege

By Erika Bentsen

In a hauntingly aggressive move, Oregon Water Resources Department (OWRD) has been ramping up its assault with water restrictions on the city of Klamath Falls with proposed rule changes that could cost the city millions. Already this summer, new well restrictions correlated with surface water shut-offs in Klamath County involve

more than just farmers and ranchers throughout the basin area. Klamath Falls, with a population exceeding 20,000 residents within the city limits, has been ordered to restrict municipal well water usage because of "presumed interference" due to the proximity of several city wells to the river system. In addition to manufacturing businesses, lawns, and golf courses, this has directly impacted the regional hospital, which

serves 120,000 people in a 10,000-square-mile area, and the Oregon Institute of Technology, an engineering and health technologies college affiliated with the Oregon University System. What's worse, city leaders were not notified of the rule changes as required by law. A third party informed them of the hearing regarding the proposed changes only hours before the meeting commenced.

Subtle rewording not so subtle...

OWRD is proposing to make a permanent ruling based loosely on a temporary emergency use of water during extreme, continued drought. By making these changes exclusive to Klamath County, where binding water agreements restrict private citizens who signed on from speaking out against the agreements, OWRD is

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possibly hoping to avoid public backlash.

OWRD is attempting to radically and fundamentally restructure drought water regulations simply by eliminating the term "surface water" and replacing it with "water." This subtle change will forever merge surface and groundwater into one. OWRD claims it has the authority to make

these changes because of the recent, controversial signings of Klamath area water agreements. Echoing the previously ignored outcries in the ag-community, the city of Klamath Falls vehemently disagrees with OWRD's proposal.

In an official letter to OWRD, the City states: "The City has not had time to examine the official rulemaking record. However, given the Department's (OWRD's) limited amount

of time and experience regulating in favor of senior surface claims in the Klamath Basin, it would be impossible for the Department to have developed a sufficiently detailed body of evidence to support a basin-wide conjunctive management scheme. The Department has even less experience regulating groundwater rights. It is, therefore, premature for the Department to push forward a rule that seeks to tie these complex water

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the explanation of the rule, the Department presented no explanation about why this proposed rule applied only to Klamath County. Further, the Department has presented no evidence for the need to make a rule incorporating groundwater permanent."

More concerns...

The City claims OWRD failed to assess the economic impacts as required by law. "In the event that a senior water right makes a call for water, the City would be required to ensure that its users comply... this would cast the City in the role of watermaster for... more than 14,000 individual connections. ... It would be necessary to read each customer's meter daily... Our best estimate, this would

require an additional 22-25 staff members, costing the City well over \$1 million.

... Limiting water usage to human consumption and stock watering will greatly reduce the City's water revenue, limiting the City's ability to pay for the staff and infrastructure required to comply... The effects could mean more than \$2 million in reduced revenue..."

Not just ag's problem...

When water restrictions first devastated the Klamath ag community, they cried foul, but since it was only a farmer-rancher issue, few outsiders cared, even in Klamath Falls. Now "ag's problem" has spread into the city. Currently, other counties in Oregon are avoiding the issue altogether, claiming it's just "Klamath County's problem."

And it is ... so far.

Reduced flows...

Mirroring upper basin ranchers' arguments that irrigation well restrictions will result in reduced river instream flows, the City said: "The City is almost exclusively reliant on groundwater as the source for its municipal water supply. ... The City discharges approximately 438 to 586 million gallons annually to the river ... If the City's groundwater use is curtailed for any purpose, but if it is confined to human consumption under this rule, the City's real-time augmentation of flow in the Klamath River will cease or be significantly curtailed. This creates the ironic result where regulation of the City's groundwater use will actually exacerbate the downstream shortage for senior water users during the irrigation season."

Singling out Klamath County...

For singling out Klamath County, the City argues: "In 2014, the Governor has declared drought in nine counties. The proposed rule only affects Klamath County. In

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systems together with the stroke of a pen."

Other concerns...

"The City also has several specific concerns about the rulemaking process. First, the City is concerned that this rulemaking process has moved far too quickly and that insufficient notice was given to interested parties. Second, the City is concerned that the rulemaking effort is based on an incomplete factual and technical record and that the speed of the rulemaking is inappropriate given the lack of time-tested empirical data. Third, the City believes that the proposed rules exceed the Water Resources Department's statutory authority to develop drought preference rules because the proposed rules would allow the use of groundwater out of priority."

The city of Klamath Falls goes on to say: "The rule-making notice posted on the Department's website makes no specific mention of the need or justification for the proposed policy change that would link the entire basin's surface and groundwater systems during times of drought. ... Historically, depending on whether the water was acquired from surface water or from groundwater, the Oregon Legislature established two different sets of laws. While it may be true that some groundwater use impacts surface water availability, it is an extraordinary step to conclude that such a connection exists across an entire basin. ... The rule-making has skipped over the scientific determination as to whether groundwater has a hydraulic connection and whether it substantially interferes with surface water in the Klamath Basin. It also eliminates any burden on the Department to prove with any scientific modeling whether the groundwater use has a measurable effect on the surface water."