UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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ENFORCEMENT &
COMPLIANCE ASSURANCE
DIVISION

Reply To: 20-C04

Mr. Justin Green
Water Quality Administrator
Oregon Department of Environmental Quality
700 NE Multnomah Boulevard
Portland, Oregon 97232-4100

Ms. Stephanie Page
Oregon Department of Agriculture
635 Capitol Street NE
Portland, Oregon 97301-2532

Ms. Gabriela Goldfarb
Manager
Environmental Public Health Section
Public Health Division
Oregon Health Authority
800 NE Oregon Street, Suite 640
Portland, Oregon 97232

RE: January 16, 2020, Petition to EPA for Emergency Action Pursuant to Safe Drinking Water Act Section 1431 to Address Nitrate in LUB GWMA in North Central Oregon

Dear Mr. Green, Ms. Page & Ms. Goldfarb:

Thank you for sharing your agencies efforts to protect drinking water in the Lower Umatilla Basin (LUB) Ground Water Management Area (GWMA) in north central Oregon, an area of elevated nitrate contamination. We appreciate that your agencies are actively working to address the nitrate contamination through state-administered programs.

On January 16, 2020, EPA received a Petition from Food and Water Watch and eight other parties, requesting the EPA take emergency actions in the LUB GWMA, including supplying a free source of drinking water and taking other investigative and enforcement actions. Much of the material submitted with the Petition is summarized in the *Second Lower Umatilla Basin Groundwater Management Area Local Action Plan*, Final Draft, dated January 9, 2019 (Second Action Plan), which was published by your agencies and recently made available for public comment.

Thank you for assisting us in our review of available data and in multiple discussions with you and your staff in February, March, and most recently during the week of April 13, 2020. We know each of your agencies is participating in the LUB GWMA and have specific regulatory responsibilities for permitting, monitoring and ensuring compliance with regulatory standards, including Oregon Health Authority's role of overseeing regulated public water systems and implementing the Safe Drinking Water Act (SDWA). Our review of the petition materials and discussions with your agencies indicate that OHA's oversight of public water systems under the SDWA is consistent with EPA's expectations of a state with primary enforcement authority. We also recognize that the Oregon Departments of Agriculture and Environmental Quality have permits in place to prevent discharges of pollutants to waters of the state and to monitor discharges to groundwater from agricultural facilities, consistent with state law. We also understand the GWMA is working on voluntary efforts to supplement those regulatory efforts, including the most recent development of the Second Action Plan.

Through our discussions, you confirmed that several different sampling events show nitrate contamination in private wells in the GWMA. However, we also understand that the State does not have a comprehensive inventory of private water wells in use within the GWMA or of private wells with elevated nitrate levels. Before responding to the petition, EPA would like to understand whether private well[1] users are aware of the actual and/or potential elevated nitrates in drinking water in the LUB GWMA and have adequate information for what steps can be taken to mitigate any health risks associated with elevated nitrates in private wells.

The Second Action Plan identifies public outreach actions planned in 2020 by Umatilla and Morrow Counties to inform and educate private well owners, and we understand public notice has occurred through a combination of brochures, websites and distribution of materials at local events or door-to-door canvassing. EPA understands that technical assistance is primarily provided through dissemination of general information and community outreach and that OHA maintains a webpage on nitrates in ground water to assist private well owners and that more data on private wells is available at the Oregon Water Resources Department, which has been used as a source of information by state agencies. EPA would like to understand whether your agencies intend to evaluate that information more systematically in an effort to track the universe of private wells, the most recent nitrate concentrations, and whether treatment (e.g., point of use) is installed where nitrate levels are above the Maximum Contaminant Level.

EPA is not requesting that the State collect additional data or information, but rather is seeking to understand the actions which the State is taking or will take to better identify the universe of private wells in the GWMA and the extent of potential nitrate contamination in private drinking water sources, and to communicate effectively with those well private owners. We would appreciate your written reply by August 10, 2020. If the State chooses to provide additional data or information, such data and information would be helpful to EPA in determining whether we can be of assistance to the State in this matter.

If you wish to discuss these matters further, please contact Jeff KenKnight, Branch Chief, Water Enforcement & Field Branch in this office, at (206) 553-6641, or CAPT Mat Martinson, Branch Chief,

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[1] The term "private wells" as used in this document refers to wells that are not "public water systems" within the meaning of the Safe Drinking Water Act because they serve fewer than 25 people. See SDWA Section 1401(4).

Permits, Drinking Water and Infrastructure Branch, Water Division, at (206) 553-6334. We look forward to your response and thank you for your ongoing commitment in this matter.

Sincerely,

LAURIS DAVIES

Digitally signed by LAURIS DAVIES
Date: 2020.07.02 13:58:36 -07'00'

Lauris C. Davies
Acting Director