State of Oregon
Department of Environmental Quality

OREGON DEPARTMENT OF AGRICULTURE
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Oregon Health Authority

August 24, 2020

Sent via electronic mail to davies.lauris@epa.gov

Ms. Lauris Davies
Acting Director, Office of Enforcement and Compliance Assurance
Environmental Protection Agency Region 10
1200 Sixth Avenue, Suite 155
Seattle, WA 98101-3188

Reference: 20-C04

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 Ms. Davies:

Thank you for your correspondence of July 2, 2020, regarding the Lower Umatilla Basin Groundwater Management Area ("LUB GWMA"). We appreciate the increased interaction we have had with EPA and the opportunity to explain how GWMA and domestic well oversight occurs in Oregon. Below we discuss current and future collaborative actions Oregon agencies are working on.

**Overview**

As you are aware, the State of Oregon designated the LUB GWMA an area of concern over 20 years ago. Oregon's GWMA process calls for a locally led effort to institute changes to reduce groundwater pollutants. Multiple state agencies are also involved, providing support and guidance. We appreciate EPA's recognition of these efforts, and recognition of efforts planned in the draft *Second Lower Umatilla Basin Groundwater Management Area Local Action Plan*. As our agencies discussed with you in recent calls, we agree there are opportunities to focus our efforts further to bring about better results. We plan to work together to better define roles when it comes to oversight of drinking water wells, and to provide a project lead to ensure we are speaking as one state voice.

**Enhancing Understanding of Domestic Well Safety**

One such area is improving how private domestic drinking water wells are inventoried, monitored and tested in areas where known groundwater quality issues exist. We understand the EPA would like to know whether the state can evaluate shared data related to domestic wells in the LUB GWMA 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.

We also understand the 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 private well owners.

Oregon state agencies appreciate this inquiry and share in the concern for the safety of those who depend on LUB groundwater as their primary source of drinking water. Ensuring access to safe drinking water is a foundational aim of environmental public health. Under the Safe Drinking Water Act, private domestic wells are not regulated and fall outside the regulatory authority of state agencies charged with implementing the Act; therefore, treatment and maintenance responsibilities belong to the well owner. Despite not being within the purview of the Safe Drinking Water Act, the Oregon Department of Environmental Quality (DEQ), Oregon Health Authority (OHA), Oregon Department of Agriculture (ODA) and Oregon Water Resources Department (OWRD) collaborate to assess and manage risks associated with private domestic wells and promote their safety through data collection, outreach and education.

**Agency Roles and Responsibilities**

Each agency provides a unique perspective on the landscape of private well data in this GWMA. DEQ leads the work related specifically to the LUB GWMA through a study involving free well testing and providing results to voluntarily participating well owners. DEQ monitors wells and collects test results, and shares those results to well owners along with OHA educational materials. DEQ refers study participants to OHA for any health-related questions.

OHA oversees the state Domestic Well Testing Act (DWTA), which requires that property owners test domestic well water for coliform bacteria, arsenic and nitrate at the time of a real estate transaction (sale of a property). Although samples may be collected by anyone knowledgeable in the sample collection process, those samples must be analyzed by a laboratory accredited to test drinking water for those analytes. The law requires owners to submit test results to OHA, which uses the data to update a hazard analysis, maintain an online storyboard and better target outreach and education. OHA staff send follow up letters with health information when exceedances are identified during a real estate transaction. The legislature did not include enforcement provisions in the DWTA and compliance is difficult to track. Recent legislative sessions have included proposals to strengthen reporting requirements and consolidate data collection within DEQ; while none of the measures were enacted, we anticipate continued legislative activity and stakeholder interest in this topic.

OWRD studies and manages groundwater quantity and also seeks to ensure that well constructors and landowners use proper well construction, alteration, and abandonment techniques. OWRD administers well construction standards, conducts well inspections, and licenses well constructors. OWRD has required submittal of well logs for all water wells drilled in the state beginning in 1955 and maintains a database of well logs and other well records that is accessible on the internet. Starting in 1996, each new or altered well recorded in OWRD's records has received a unique well identification number. Since 2009, owners of wells exempt from water right requirements are supposed to submit a map to record the location of their well. The completeness and accuracy of well data relies on submittals to OWRD. OWRD often finds wells that have not been recorded or inaccuracies in location information submitted. OWRD also maintains a database of information containing water level and other groundwater data to study and characterize groundwater aquifers in the state to help OWRD understand and manage groundwater quantity. OWRD's data are used by other state agencies to understand groundwater aquifers and to characterize groundwater quality issues.

ODA receives monitoring well data in the LUB GWMA from individually permitted Confined Animal Feeding Operations that land apply manure. This monitoring is required on a quarterly basis to ensure the operations are protective of groundwater. The data from these wells contribute to the state's datasets of overall groundwater conditions in the LUBGWMA. In addition, some of the CAFO operations licensed by ODA in the GWMA have potable water wells used for milking/process water and testing data for these wells are also available.

**Next Steps for Improving LUBGWMA Domestic Well Data**

The data sources outlined above can inform a very general understanding of groundwater quality. Given legal and resource constraints, compiling a complete census of private wells, associated addresses, water quality data or presence of installed water treatment systems in the LUB GWMA and across the state is not feasible in the foreseeable future. However, DEQ, OHA, and ODA can collaborate to begin building toward this goal, and to cross check a growing list of wells recorded with OWRD against the dataset of nitrate well test results shared by DEQ and OHA to gain a clearer understanding of the scope of contamination issues over time, and to assess opportunities and available resources to provide targeted outreach and education to identified households and communities of concern.

Additionally, OHA staff are pursuing detailed data from real estate sales in Oregon through Zillow's Assessors and Real Estate Transaction Database, ZTRAX. Data from this source would give us information about the total number of real estate transactions including a domestic well to gain a better understanding of compliance with the DWTA. This information will guide targeted outreach both among community members and real estate agents. Finally, OHA recently completed a needs assessment of both well users and partners to identify gaps in information. Based on findings from this assessment, the Domestic Well Safety Program will continue to improve educational resources and outreach activities to better reach well users across the state and in specific areas of concern.

Unfortunately, COVID has had severe health and economic effects in Oregon. On August 10th, the Governor convened a special session of the legislature to close a $ 1.2 billion budget gap in the current fiscal year. Deeper cuts are expected for the 2021-23 biennium when the legislature convenes in February, meaning significant reductions in workforce and resources across the enterprise of state government. We plan to continue our work on this issue within available resources. We appreciate EPA's offer of assistance in this matter and welcome the opportunity to discuss the form this assistance might take.

Sincerely,

Stephanie Page

Mr. Justin Green
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Oregon Department of
Environmental Quality

Ms. Stephanie Page
Natural Resources Director
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Ms. Gabriela Goldfarb
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cc: Mathew Martinson, Environmental Protection Agency
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