NORTHWEST ENVIRONMENTAL ADVOCATES

May 24, 2012

Dave Wilkinson, Program Manager
Water Quality Program
Natural Resources Division
Oregon Department of Agriculture
635 Capitol St., NE
Salem, Oregon 97301-2532 *Via Email*: dwilkins@oda.state.or.us

Re: **Interpretation of Oregon Department of Agriculture Area Rules**

Dear Dave:

If I am not incorrect, ODA has said that it interprets its Area Rules as prohibiting only certain conditions caused by active agricultural practices of current landowners and does not prohibit so-called legacy conditions created by previous landowners. At the last DEQ MidCoast LSAC meeting, committee member Wayne Hoffman articulated this as ODA's position but the ensuing repartee left room for interpretation. You went on to say later that ODA's program is 'supposed to be adequate to meet water quality standards,' a statement presumably clarified when Kevin Fenn stated that 'compliance with rules is one portion to get there [to water quality standards] and the plans get you the rest of the way.' From these statements, and what I and others have heard, it appears that Mr. Hoffman was correctly stating ODA's position with regard to the rules. If this is incorrect or there is some subtlety of language that I have missed or noted incorrectly, I would very much appreciate your correction. For example, I'm not sure if the ownership of the land is the key issue with regard to the so-called legacy conditions or simply the passage of time.

I am writing to make sure that I correctly understand ODA's interpretation of its own rules and plans and, in addition, to ask if you could provide me with any written materials that clarify, for example, that this distinction was the intent of the rulemaking when various Area Rules were passed, that this is official ODA policy, and/or that explain why ODA believes this is a correct interpretation of the governing statutes. I am not requesting by any means a complete compendium of documents but just asking if you could provide what you think are the best written explanations of ODA's policy, either as a statewide matter or on a basin-specific basis. I am also curious if this distinction was intended in the Area Rules when they were passed because it is my impression that it only surfaced publicly relatively recently – perhaps over the last couple of years. Given the importance of this distinction, it would be very useful to have ODA's own clear statement of its policy in writing.

Thank you very much for your assistance,

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Sincerely

Nina Bell
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