



REGION 10

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Ms. Leah Feldon
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Oregon Department of Environmental Quality
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Ms. Lisa Charpiloz-Hanson
Director
Oregon Department of Agriculture
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Mr. Ivan Gall
Director
Oregon Water Resources Department
725 Summer Street NW, Suite A
Salem, Oregon 97301

RE: Oregon Nitrate Reduction Plan for the Lower Umatilla Basin Groundwater Management Area

Dear Dr. Hathi, Ms. Feldon, Mr. Charpiloz-Hanson, and Mr. Gall:

On September 20, 2024, the Office of Oregon Governor Tina Kotek, the Oregon Health Authority (OHA), Oregon Department of Environmental Quality (ODEQ), Oregon Department of Agriculture (ODA), and Oregon Water Resources Department (OWRD) published the Oregon Nitrate Reduction Plan for the Lower Umatilla Basin Groundwater Management Area (LUBGWMA) – the state’s long-term strategy to reduce nitrate contamination in groundwater to protect the health of people who reside in the LUBGWMA. The U.S. Environmental Protection Agency (EPA) appreciates the opportunity to collaborate with the state agencies and provide technical guidance throughout the development of the Nitrate Reduction Plan (“Plan”). The purpose of this letter is to acknowledge and commend the state’s

efforts in developing a unified long-term strategy and to provide additional recommendations, already shared in earlier discussions with the state, to help guide continued collaboration in working to strengthen the Plan moving forward.

The Plan represents a significant step in the state's efforts to reduce nitrate contamination in groundwater in the LUBGWMA. The EPA is particularly encouraged by the ODA's commitment to develop a new regulatory program to monitor and address nitrate contamination from irrigated agriculture in the LUBGWMA. Because state agencies have identified irrigated agriculture as the primary source of nitrate to groundwater in the LUBGWMA, it is essential to develop and implement long-term strategies to measure and mitigate its nitrate contributions. The EPA is similarly encouraged by the ODA's and the ODEQ's commitment to ensuring that permit requirements for industrial facilities and concentrated animal feeding operations (CAFOs) in the LUBGWMA are consistent, and we look forward to working with the state agencies on permit revisions to ensure these requirements are protective of human health and the environment.

We support the state's description of the Plan as a "living document" that will be updated based on ongoing data collection and analysis, ensuring the state's approach remains responsive to the evolving needs of the LUBGWMA community, and applaud the state's decision to solicit public feedback on the Plan.

Specific areas where we would like to continue working with the state to strengthen the Plan include:

1. Including a nitrate allocation study, which incorporates nitrate leaching estimates based on local data, to identify and better understand sources of nitrate leaching to groundwater in the LUBGWMA. While section 5.1.5 of the Plan commits to developing a plan to identify additional data and resources necessary to update this analysis, the EPA recommends the state include a commitment, along with a process and timeline, for completing the leaching analysis. Identification of sources is an essential step in developing effective source control strategies.
2. For all potential sources of nitrate to groundwater in the LUBGWMA, ensuring consistent monitoring and reporting requirements to increase state agencies' understanding of sources' nutrient management and potential to contribute nitrate to groundwater. This information will help state agencies to target outreach, technical assistance, and enforcement efforts and maximize their impact on nitrate leaching.
3. Identifying specific nitrate reduction strategies for each industry sector. The Plan relies substantially on existing compliance programs to address nitrate pollution. Because nitrate concentrations in the LUBGWMA have increased under those compliance programs, new strategies are necessary to change the status quo. The Plan generally references the state agencies' intention to complete permitting and regulatory updates, including updates to the National Pollutant Discharge Elimination System (NPDES) CAFO permits, Water Pollution Control Facilities permits, the General Nutrient Application Permit, and new compliance benchmarks for irrigated agriculture. As new source control strategies are developed under these programs, the

EPA would expect the state to update the Plan to include the new strategies, along with metrics to measure their effectiveness.

4. To promote transparency and public accountability, including specific performance metrics and goals to track each strategy's success in reducing nitrate leaching from sources and nitrate levels in the aquifer over time. By reporting on performance metrics in the annual report, the state and the public will more readily identify when amendments to the Plan are warranted.
5. Identifying short-term pilot-study projects related to aquifer restoration and aquifer protection. These pilot projects should include steps to establish a managed aquifer restoration program to restore nitrate levels to concentrations at or below the water quality objectives to the extent it is reasonable, feasible and practicable to do so.

The EPA recognizes that the development of the state's Nitrate Reduction Plan was a significant collaboration effort between the state agencies, which required a substantial investment of time and resources. The Plan also identifies the need for additional resources to develop important nitrate reduction strategies, including the nitrate allocation analysis and the development of regulatory requirements for irrigated agriculture. A Plan strategy to pursue the necessary funding from the Oregon State Legislature to ensure the work can get done will be important so that the state can continue to plan for and timely request that funding.

Please do not hesitate to contact me with any questions and have your staff continue working with Ricardi Duvil in discussing the technical and regulatory issues that will arise as you update and implement the Nitrate Reduction Plan. EPA stands ready to continue working with you to further develop the Plan and implement the actions necessary to ensure the Plan accomplishes its goals.

Sincerely,

Edward J. Kowalski
Director
Enforcement and Compliance Assurance Division

cc: Mr. Geoffrey Huntington, Senior Natural Resources Advisor
Oregon Governor's Office of Natural Resources