

# OREGON CONSENSUS

A PROGRAM OF THE NATIONAL POLICY CONSENSUS CENTER  
HATFIELD SCHOOL OF GOVERNMENT – PORTLAND STATE UNIVERSITY



## Report on the Exempt Groundwater Well Policy Consensus Workgroup For the *Wells and Well-Being of Oregon* Symposium



# Exempt Groundwater Well Consensus Workgroup

- ⦿ Convened by Oregon Consensus
- ⦿ Facilitated for OC by Sam Imperati, *Director, Institute for Conflict Management*
  - One of OC's network of neutral facilitators/mediators

Oregon Exempt Well Policy

# Background

# Rules and Exceptions

- ⦿ In general – a water right must be obtained from OWRD for groundwater withdrawals
- ⦿ Certain wells are exempt from the requirement to obtain water right

# Exemptions

- ◎ ORS 537.545 describes the following exemptions:
  - Lawn/non-commercial garden watering under ½ acre
  - Single or group domestic use of 15K gpd or less
  - Single industrial/commercial use of 5K gpd or less
  - Stock watering
  - Down-hole heat exchange uses
  - Watering school grounds of 10 acres or less in critical GW area
  - Certain land applications associated with water re-use and CAFOs

# Interest in Change

- ◎ Interest in changing focused on:
  - number of exempt wells
  - comparatively high 15K gpd threshold
- ◎ Legislation proposed to:
  - Lower single domestic use to 5K gpd
  - allow OWRD to require permits in limited and critical GW areas
  - establish \$250 recording fee for certain exempt uses

# Interest in Collaboration

- OC asked by Representative Jackie Dingfelder to assess potential for a dialogue or consensus-based process to address the issue of exempt groundwater wells policy in Oregon
- Looking for opportunity to discuss potential changes without pressures of legislative session

Collaborative Governance

# About Oregon Consensus

# Oregon Consensus (OC):

- ◎ Oregon's program for public policy consensus building and conflict resolution
- ◎ A **neutral forum** providing assessment, convening and facilitation to resolve complex multi-party policy issues
- ◎ Established by the Legislature in 1989 as part of the Oregon Dispute Resolution Commission
- ◎ Now based at Portland State University
- ◎ Financed through a combination of state funding and fees for services

# OCP Vision/Goal:

- Integrate *collaborative approaches* into the way government does business with the public.

# What OC Does:

- ⦿ Resolve conflicts and develop effective policy collaboratively
- ⦿ Build problem-solving capacity – empower citizens and governments to solve problems together
- ⦿ Develop innovative best practices
- ⦿ Decrease the cost of conflict

# Benefits to Participants:

- ◎ OC provides the neutral forum needed to bring stakeholders to the table
- ◎ A consensus based process can lead to **effective, lasting, and cost-effective** solutions that **enhance relationships** rather than deepen the divides.

# OCP Services:

- ◎ Consultation
- ◎ Conflict Assessment
- ◎ Process Design and Convening
- ◎ Facilitation/Mediation
- ◎ Project Management

# Who Can OCP Help?

- ⦿ Any state, county or local government agency
- ⦿ Anyone who interacts with these agencies

**OCP provides services anywhere  
and everywhere in Oregon**

Seeking Consensus

# An Exempt Well Policy Workgroup

# Convening the Process

- Obtained funding from several interested agencies
- Interviewed a cross-section of stakeholders to identify issues and potential participants
- Worked with subgroup to select facilitator
- Convened the first of 5 meetings

# Process Participants and Supporters

- OWRD
- ODFW
- OWEB
- DEQ
- DLCDC
- ODA
- Oregon Groundwater Association
- Oregon Farm Bureau
- Oregon Cattlemen's Association
- Oregon Association of Nurseries
- Oregon Association of Realtors
- Marion County Planning Commission
- Oregon Homebuilders Association
- The Nature Conservancy
- WaterWatch
- 1000 Friends of Oregon
- Water for Life
- Oregonians In Action
- League of Oregon Cities
- Institute for Water and Watersheds

# Purpose

*“The purpose of the Work Group is to seek consensus on what, if anything, should be done with the state’s policy on exempt groundwater. If members are able to reach consensus, the Work Group will provide recommendations on whether or not the policy should be changed, and if so, what changes should be made. The Work Group may provide its recommendations to the Oregon legislature, the Water Resources Department, or others, as it deems appropriate.”*

- Collaboration Principles

# Discussion

- ◎ The group explored a wide variety of issues and options including, e.g.:
  - What is an appropriate cap on domestic uses
  - Should stacking exemptions be permitted
  - Should there be restrictions based on proximity to resources of concern or location within a groundwater area of concern
  - Should OWRD be authorized to require fees or permits for exempt wells and under what circumstances
  - Should there be monitoring of exempt well usage

# Key Underlying Questions:

- ◎ Is there is sufficient data to assess whether the existing exempt groundwater policy needs to be changed?
  - In other words – is there a problem here?
  - What additional data is needed?
- ◎ Can the exempt well issue be separated from the broader groundwater issues?
- ◎ Is a discussion of exempt wells a surrogate for discussion of land use and growth issues?

# Outcomes

- ◎ Final report is pending – subject to adjustment
- ◎ Areas of *potential* consensus include recommending (1) additional support for OWRD research on groundwater, and (2) allowing OWRD to collect more specific location data for new exempt wells

# Observations

- ◎ These issues are discussed at the intersection of science and politics
- ◎ Different interests see the intersection differently – e.g.,
  - Those who prefer current policy do not see science as supporting a change while those that prefer change do
  - Those who want change see exempt well issues as separable from a larger discussion about groundwater while others do not
- ◎ To resolve such issues...time is needed

# Observations

- ◎ Some Key Characteristics of Successful Consensus-Based Collaboration:
  - Clear Objectives
  - Manageable and Negotiable Issues
  - Sufficient Data/Information
  - Identifiable Parties in Reasonable Numbers
  - Good Faith Participation
  - Adequate Resources and Time
  - Action-Forcing Deadline

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