

# CENTRAL OREGON CITIZEN'S ACTION GROUP<sup>1</sup>

Ms. Beth Reiley  
LPRO Analyst  
House Committee on Energy and Environment  
Oregon State Legislature  
900 Court St  
Salem, Oregon

February 7, 2017

Re: HB 2404, Requiring Oregon Health Authority to analyze ground water contaminant data and provide education in areas with ground water contaminant problems.

Dear Chair Representative Helm and Committee Members,

We applaud any effort to educate homeowners about well construction and groundwater contaminates. If the language of the bill restrained itself to education, we would have no objection. We have problems with the other aspects of this bill and request that the committee do not give the bill a due pass.

1. We strongly object to the use of real estate well test data in the declaration of groundwater areas of concern. We feel that Section2(3), lines 4 to 7 on page 2, gives a near mandate that DEQ use this data. Furthermore, we point out that DEQ already has access to the data – there isn't a need to give greater weight to real estate well test data by statute, nor does the Oregon Health Authority or DEQ need greater authority to work together on groundwater contamination issues. We point out that real estate well test data is useful to identify problems with the well in question and to suggest areas for future research, but it has significant problems that can lead to misinterpretation when used for policy.

<b>Variable</b>	<b>Problem</b>
<b>Historic Data</b>	Inaccurate recording, duplicates with transposed values, and related problems
<b>Age Of The Well</b>	Wells have a life span – over time, casings can leak, seals go bad
<b>Well Driller</b>	Quality of the well varies, with some owner drilled
<b>Well Depth</b>	La Pine Basin range from 6 to 1,000+ feet
<b>Well Casing &amp; Seal</b>	Industry standard casing and seal to substituted stove pipe
<b>Wellhead</b>	Storage of contaminants in the well house, proximity of agriculture and/or livestock (multiple horses paddocked around the wellhead or near the wellhead, for instance).
<b>Well Placement</b>	Adjacent to a fluctuating body of water, like a pond, irrigation water fluctuation

<b>Variable</b>	<b>Problem</b>
<b>Well test timing</b>	We found statistical correlation between precipitation levels before the test and nitrate levels
<b>Expertise of the data collection</b>	Inconsistent when the data collection is not a trained laboratory representative. Nitrate levels can vary depending on the amount of time the water ran prior to collection, especially if the well was unused for a few months before.

2. We have misgivings about Section 8 - 10. It seems that the drafters of this bill are seeking to administer by statute rather than by rule. Unfortunately, this greatly limits flexibility and we caution will possibly cause tenants to drink contaminated water when they were told it was safe. As we noted in the table under point 1, we found a correlation between precipitation levels and the time of the test. Conversation with Professor Todd Jarvis at the OSU Institute of Water and Watersheds also indicated that nitrate levels can fluctuate from nonsignificant to elevated from one test to the next. Attempting to limit tests by past results (Section 9) is no guarantee of safe water. It would be far better to allow the Oregon Health Authority to develop standards by rule. In addition, tenants in a sagebrush subdivision are potentially exposed to different contaminants than a tenant near an agricultural setting or in an old home, yet mandating testing to just two contaminants will do little to protect the latter's health. We also have misgivings about rigor of the tests to be used.
3. This bill fails to address any requirements to protect the dwelling wellhead or the septic drain field, two critical elements when protecting well water. It has been our observation that some landowners or renters abuse their property by pasturing multiple horses in areas under an acre that are adjacent or near wellheads. In addition, some compact the septic drain field by grazing horses or driving vehicles over it. Conversation with landlords indicated that it can be difficult to prevent well-intentioned tenants from harming these two critical components of rural living. It is unfair and self-defeating to require well testing without setting a standard of protection for the rental wellhead and septic drain field, much like the standards for siting septic systems a certain distance from wellheads.

In conclusion, we applaud the intent of this bill, but we oppose a due pass. We suggest that a better approach would be to require that the Oregon Health Authority prepare a report to the Committee, perhaps through a budget note, on best practices to protect tenant health when on domestic well water. We also feel that the education portion of this bill could also be better served through a budget note and a subsequent appropriation of any monies, if needed, to accomplish the mission.

Respectfully submitted,

John Huddle, EdD  
 President

---

<sup>i</sup> Formerly Deschutes County Citizen's Action Group