# Comments on ODEQ Toxics Reduction Rulemaking Package

I have been a farmer in the Southern Willamette valley for the last thirty years. Our farm is currently 2500 acres diversified into grass seed, cereal, vegetable, specialty seed, and peppermint production. I have also spent four years on the Willamette TMDL Council, the Long Tom Watershed Council Steering Committee, the Upper Willamette Local Advisory Committee (SB1010), the Southern Willamette Valley Groundwater Management Area Committee, as well as other water quality/quantity groups. I am very concerned about certain aspects of the proposed Human Health Toxics Pollutants rulemaking and possible negative impacts it may present to Oregon agriculture.

As viewed from a Federal perspective, Oregon agriculture is an anomaly made up of over 200 minor crops produced without federal subsidy, and yet it provides a substantial economic benefit to the state. That same diversity of production is also very beneficial to the waters of Oregon due to higher crop rotation protocols and an abundance of perennially planted crops. The wisdom of the 1993 legislature in developing Senate Bill 1010, allowed Oregon to address non-point water quality issues in what I view as possibly the most productive way to achieve some fairly complex goals. To overstate the obvious, Senate Bill 1010 plans are outcome driven and allow land managers in any portion of the state to apply their experience and knowledge of the unique attributes of the land that they farm, to constructive mitigation of any potential water quality limiting activity on the land. This system can and has led to those desirable outcomes. On the other hand, if we were to adopt a prescriptive treatment protocol designed by someone not in constant contact with the lands in question, following the general regulatory wisdom of "one size should fit all" and measured in terms of "compliance", I can fairly safely say the results will be less than positive.

I also believe that the legislature chose the correct agency to oversee non-point regulation and enforcement. Agricultural land managers have responded well to the management of the SB1010 program and have embraced the plans as cooperative strategies to improve quality limitations in the areas *where they live*. In the brief history of the Oregon Department of Environmental Quality, farmers have been somewhat less impressed by ODEQ's spirit of cooperation, and generally view that agency as a fine levying enforcement agency, and therefore not a place to turn if they need help working on a complex water quality issue. And I have not seen nor heard of any instance wherein the ODA has failed in their responsibility to administer and enforce the area plans.

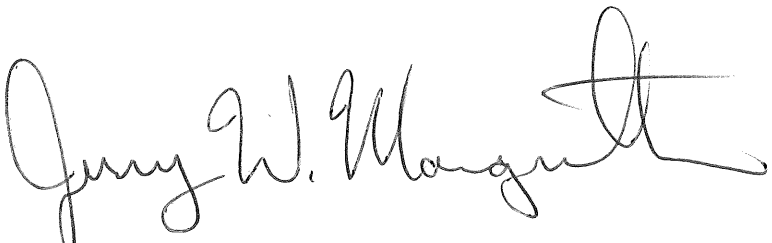
So, then we need to ask if the Agriculture Water Quality Management Plans have been successful, and to what degree. My experience in the Southern Willamette has been very favorable. I have seen many in-field drainages seeded to perennial grasses (largely at grower expense), and many riparian plantings conducted with the assistance and cooperation of the local watershed council. No-till and minimum till practices are becoming the norm whenever practical and the Best Management Practices portion of the Upper Willamette Plan are being adopted, as farmers are generally more conscious of any activity which might degrade water quality. And the plan and practices are themselves under continuous review and improvement. Since the plans were written by stakeholders in generally readable English, understanding of intent and long term goals is not an issue. To answer the question then, I would say without qualification that the plans have been successful to a very high degree. Contrast that with an alternate

scenario wherein strict proscription and prohibition rules generated largely to withstand court challenge and applicable to every farm in the state irrespective of soil conditions, slope, drainage, irrigation capability, micro-climate, macro-climate, cropping or grazing use, rotation, and ignoring background levels of load contribution. In the second scenario I would envision agriculture becoming not economically feasible on most of the protected farmland within the state.

Concerning the concept of "implementation ready TMDL's" I generally view it as impractical and probably unworkable. It seems as though an attempt is in play to shift the Clean Water Act concept of non-point load attribution to one of allocation which does not make much sense to me. After more than two decades of looking at this issue, it seems most likely to me that since we can't even accurately separate out anthropogenic influences on non-point load, it becomes naïve to believe that we can through any mechanism control and therefore allocate that load. It would also seem that a direct conflict would immediately arise with Oregon Revised Statute 568.912(1), which gives ODA sole authority to regulate farming practices in conjunction with any enforceable aspect of the water quality management plan. Even if that were not the case, I would still question the ability of the EQC or ODEQ to provide practices or rules that were reasonable and practical simply because there has been to this point no reason for either entity to begin to understand what is or is not reasonable, practical or even possible.

As a participant in the working group that agreed with the 2004 fish consumption rate of 17.5 grams per day, I frankly think that a ten-fold increase in the standard is not realistic.

Finally, it has been my experience that no person or group has any higher interest in protecting and maintaining clean waters in this state, than the farmers and ranchers who live on the adjacent lands, and hope to pass on their lands to subsequent generations. Many projects enhancing water quality have been undertaken within the agricultural community for the benefit of all, with no expectation of compensation or cost share simply because the landowner believes that it is the right thing to do. And I firmly believe that those projects will continue on into the future as the science evolves. I am a member of the Oregon Farm Bureau, the Oregon Wheat Growers League, and the Oregon Seed Growers League and I am fairly certain that we are all in agreement on this proposal. On the one hand you have a system that is working better than anyone expected to minimize or remove non-point load contribution and on the other a proposal to try and insert untested control theories into the problem with almost certain unintended consequence. I merely hope that you can expand your view to consider all of the ramifications. Thank you.



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