



Division 10 Rulemaking: Processes Related to Critical Groundwater Area (CGWA) Establishment

Oregon Water Resources Department Rules
Advisory Committee Meeting

December 5, 2022

Ground Rules

- Treat others respectfully
- You are here to express your viewpoint
- Remain muted when not speaking if you are online
- Use the “raise hand” feature to indicate you would like to speak if you are online
- Hold your questions/comments until the end of the presentation

RAC Role

- Attend and participate in meetings
- Provide input/advice and help Department consider various perspectives

Department Role

- Facilitate meetings
- Foster collaboration and consensus building

Meeting Agenda

1:00 – 1:10 PM	Welcome & Introductions
1:10 – 1:30 PM	Groundwater background information
1:30-1:50 PM	Overview of Governing Law and Draft Rules
1:50- 2:50 PM	Draft Rule Review
2:50 – 3:00 PM	Break
3 – 4:30 PM	Draft Rule Review
4:30 – 5 PM	Public Comment

Overview of Rulemaking Process



Develop Draft Rules



Rulemaking Advisory Committee (RAC)



Notice of Proposed Rulemaking



Public Comment Period & Hearing(s)



Staff Recommendation & Commission Decision

Rulemaking Timeline

**December 2022-
February 2022**

Rule
Development
(RAC Meetings)

May 2023

Consideration of
Comments &
Development of
WRC
Recommendation

**March/April
2023**

Notice in SOS
Bulletin (Public
Comment Period
& Public Hearing)

June 2023

WRC Meeting &
Decision on
Recommendation
(Potential Rule
Adoption)

The background features a stylized landscape. The top portion shows brown mountains with white snow-capped peaks and white, fluffy clouds against a light blue sky. The middle section is a solid dark blue band. The bottom section shows rolling green hills with light tan outlines.

Critical Groundwater Area

What is a CGWA?

- Critical Groundwater Area
- Authorized by ORS 537.730 to 742
- Groundwater control
- Once established allows WRD to take corrective actions

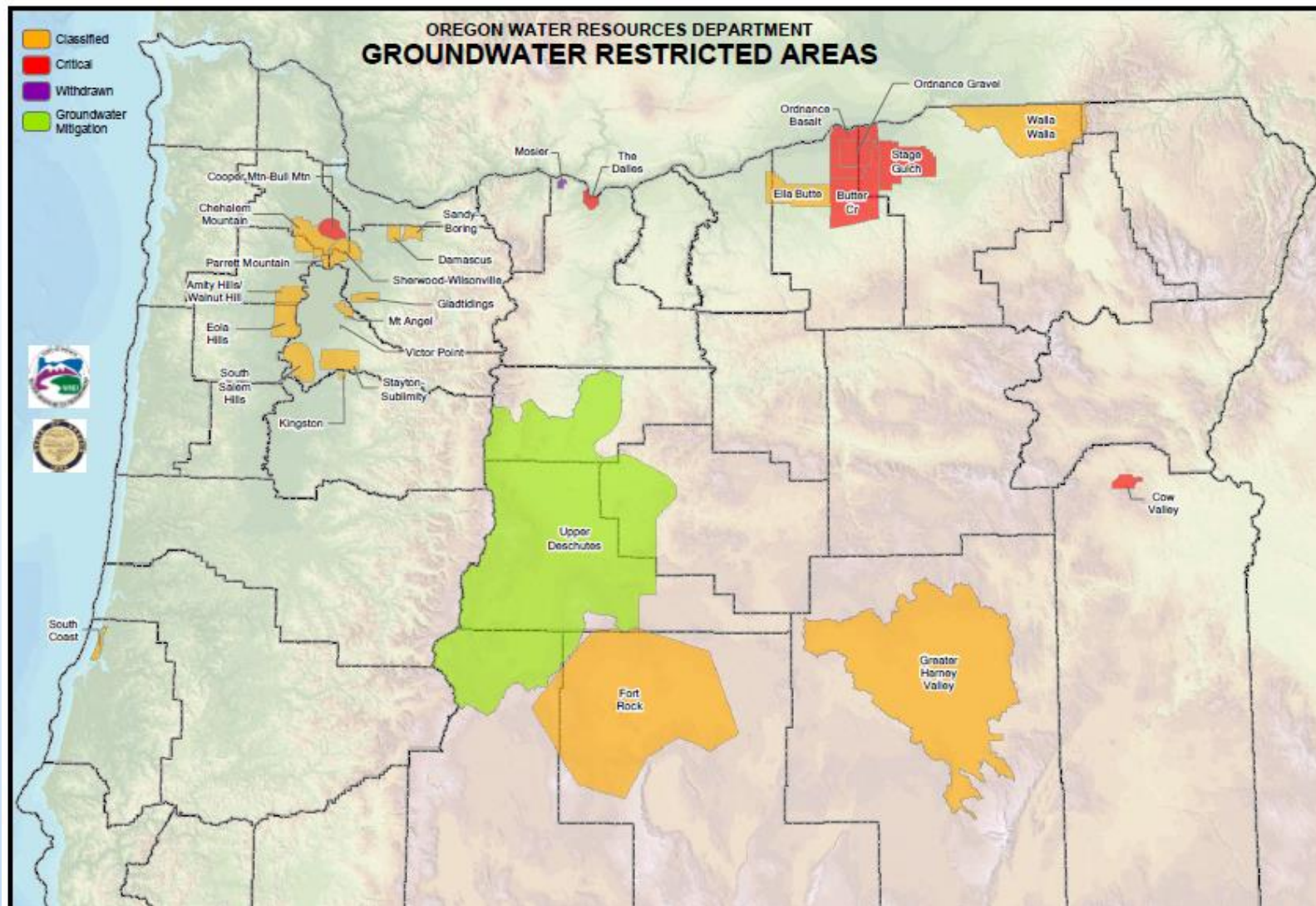
Background & History

1959: First
CGWA
Established

1959-1991:
Six CGWAs
Established





1991: CGWA
Statutes
Amended

Map of Groundwater Restricted Areas




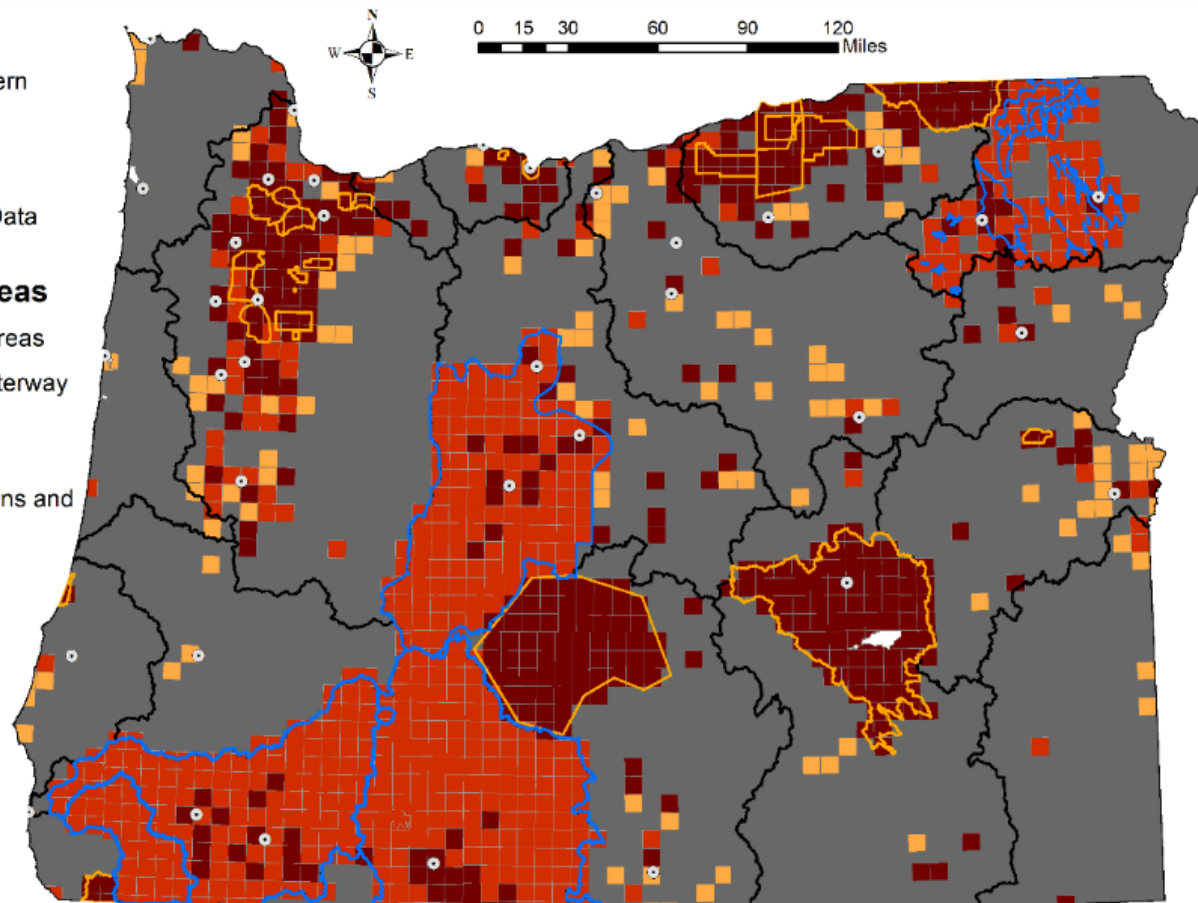
Groundwater Areas of Concern

Concern Ratings

-  Significant Concern
-  Concern
-  Yield-Limited
-  No Concerning Data Available

Administrative Areas

-  GW Restricted Areas
-  State Scenic Waterway Restrictions
-  OWRD Basins
-  County Seat Towns and Cities



The concern ratings shown on this map reflect the sustainability and restrictions associated with expanded consumptive use of groundwater in a given area. They are not a substitute for a review of a groundwater application to determine availability of water for a specific use. Users of this information should consult the primary report and data to ascertain the usability of the information. This map may not be suitable for legal, engineering, or surveying purposes. OWRD Groundwater Section, 4/20/2021. Projection: Oregon Lambert NAD 83 (EPSG #2992).

The background features a stylized landscape. The top portion shows a blue sky with white, fluffy clouds and brown mountains with white snow-capped peaks. The middle section is a solid blue horizontal band. The bottom portion consists of rolling green hills with light beige outlines, suggesting a valley or a path.

Overview of Governing Law

ORS 537.730

WRC can designate a CGWA if:

Ground water levels are declining.

Ground water supply is overdrawn

Pattern of substantial interference

Purity of groundwater polluted

Groundwater temperatures altered

Only one of these conditions need to be met for CGWA designation

- Outlines the proceedings and notice requirements

ORS 537.735

- Outlines CGWA rule requirements
- Requires consideration of certain orders or permits
- Authorizes certain corrective control provisions in CGWA rules

Corrective Controls That Can be Written in the Rules Per ORS 537.735

Water Rights	Thermal Characteristics
Close CGWA to new applications	Close all or part of CGWA to further appropriation
Determine permissible maximum basin withdrawal	Determine permissible change in thermal characteristics
Process or deny pending water right applications	

In addition to the above: engage in additional actions to protect the public welfare, health and safety.

ORS 537.740

- Outlines CGWA rule filing requirements

ORS 537.742

- Authorizes WRC to initiate contested case proceeding to limit use of groundwater in CGWA
- Outlines final order requirements
- Requires WRC to conduct proceeding according to ORS chapter 183

Corrective Actions under 537.742

Provision apportioning permissible total withdraw

Preference of withdraw of groundwater for residential and livestock first.

Reducing permissible withdrawal.

Adjusting the total permissible withdrawal of ground water for appropriators with two or more wells.

Abatement or sealing of a well causing pollution.

Requiring and specifying a system of rotation for groundwater.



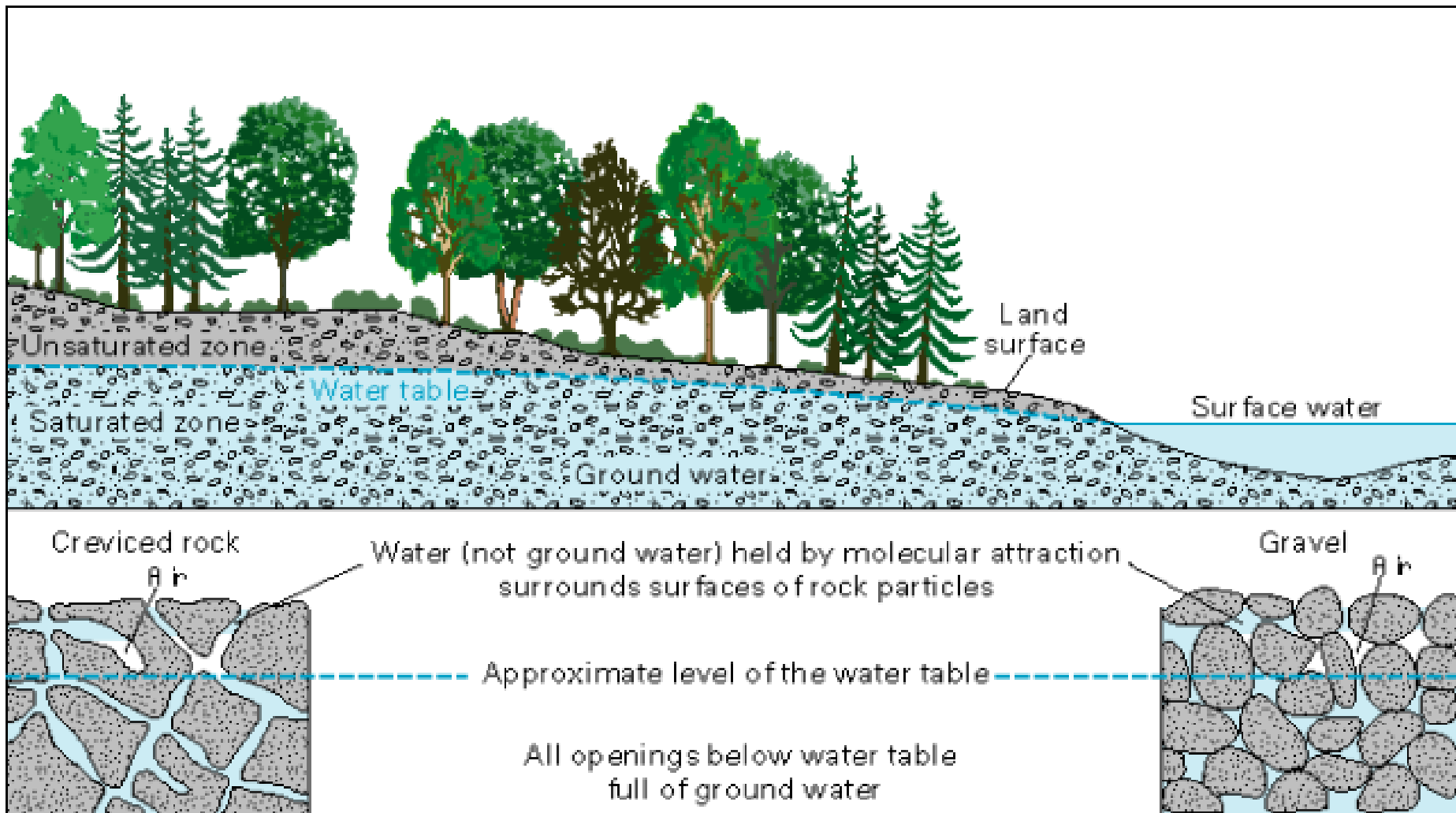
Key Groundwater Concepts

Relevant Definitions

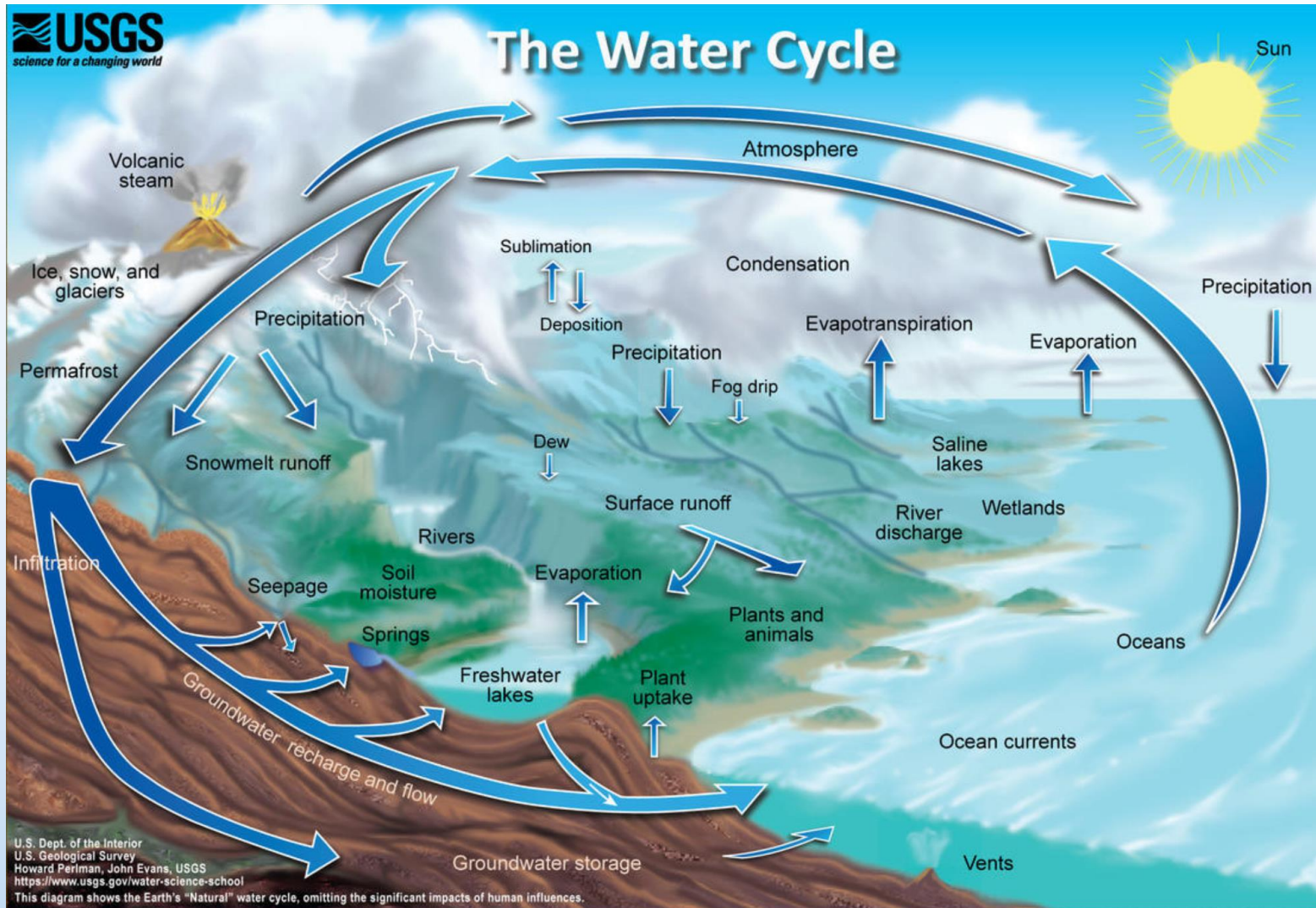
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3. Pattern of substantial interference.

What is Groundwater?

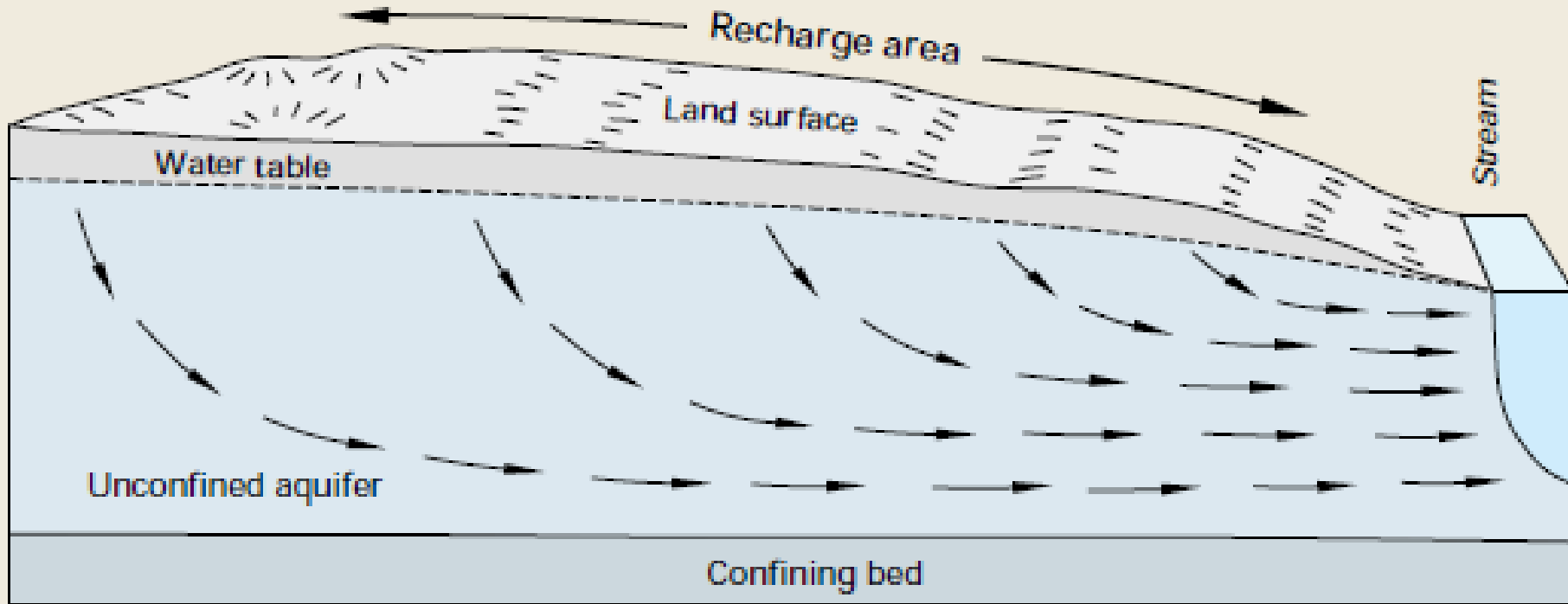


Groundwater in the Water Cycle



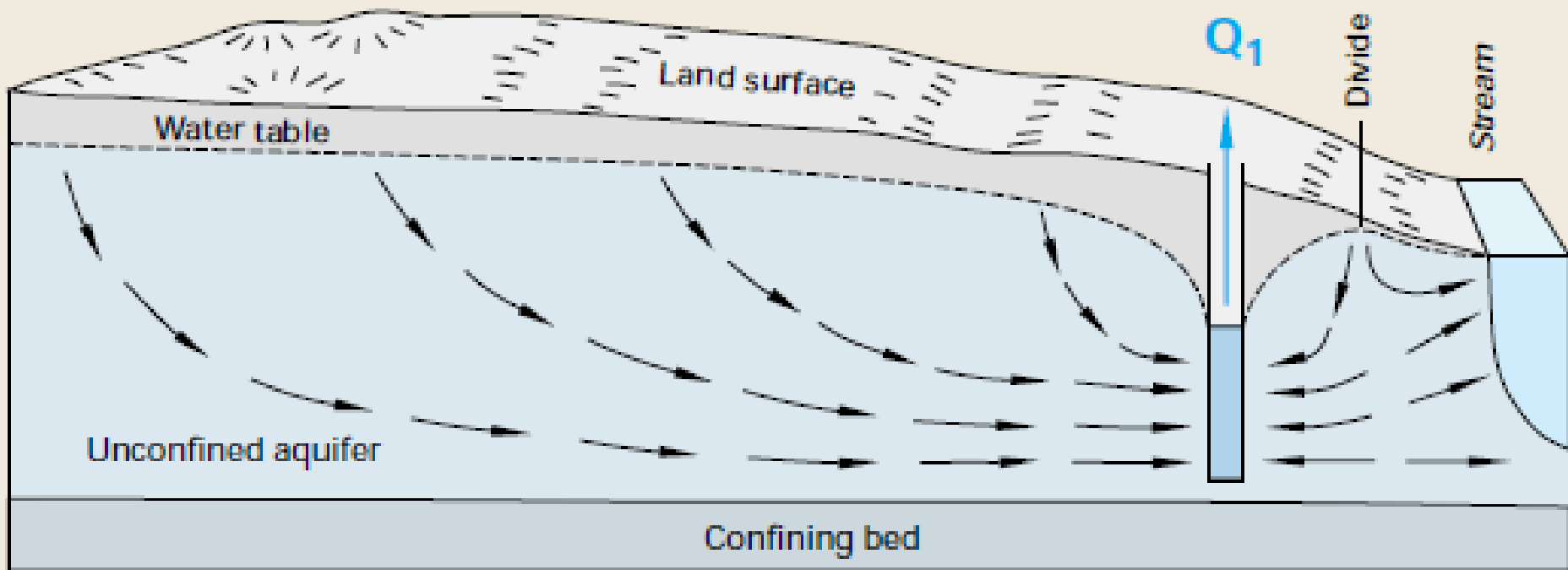
Groundwater to Surface Water

A



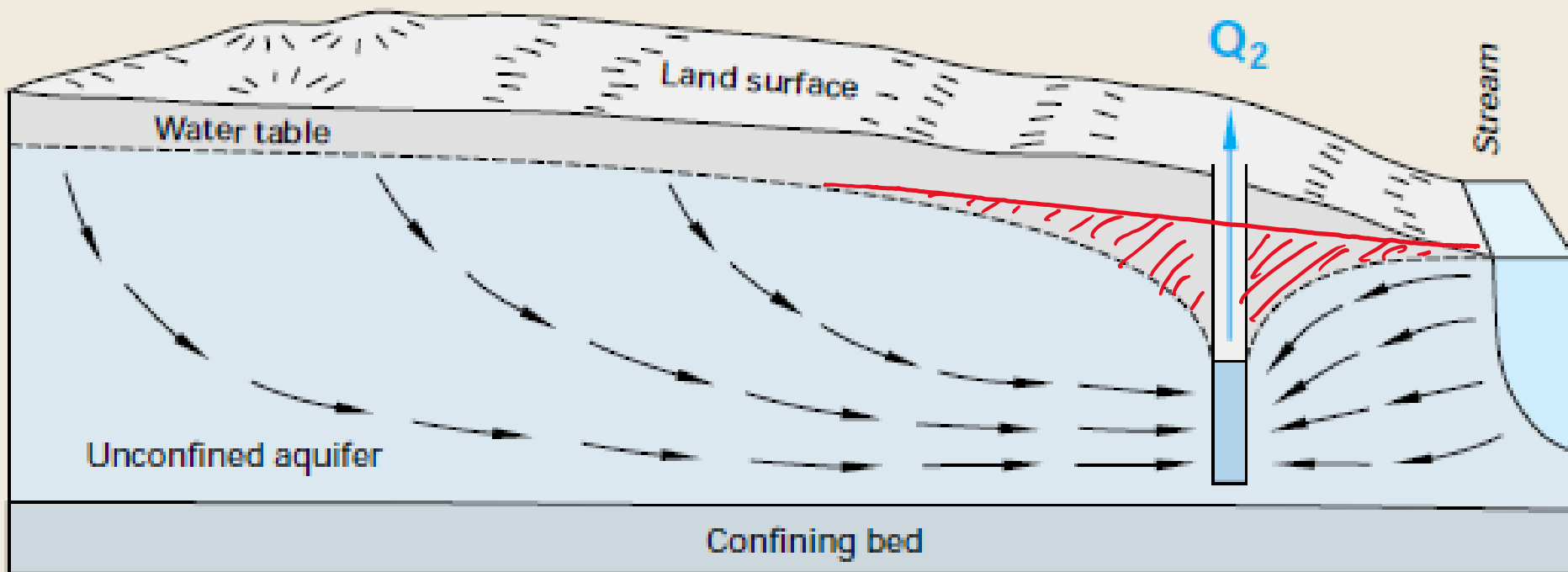
Groundwater From Wells

B



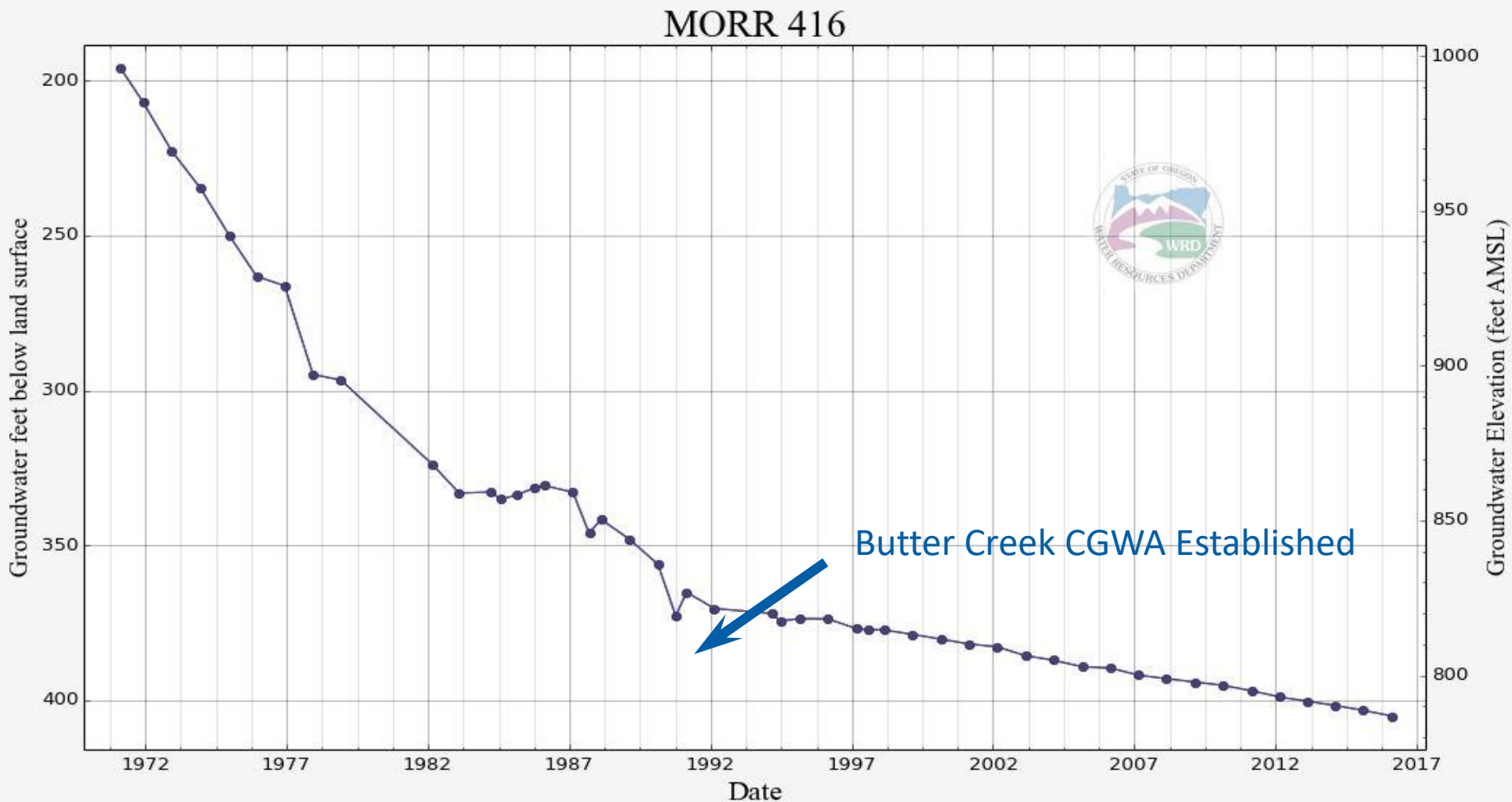
Streamflow Capture

C



Groundwater removed from storage (drained pore space) at early pumping time.

Definition 1: Example of declining groundwater levels



Definition 2: Overdrawn

- OAR 690-008-0001 defines overdraw:

(7) "Overdraw" means to artificially produce water, in any one-year period, from a ground water reservoir, or part thereof, at an annual rate that:

(a) Exceeds the average annual recharge to that ground water supply over the period of record; or,

(b) Reduces surface water availability resulting in:

(A) One or more senior appropriators being unable to use either their permitted or customary quantity of surface water, whichever is less; or

(B) Failure to satisfy an adopted minimum streamflow or instream water right with an effective date senior to the causative ground water appropriation(s).

(c) Reduces the availability of surface waters that have been:

(A) Withdrawn with an effective date senior to the priority dates of the causative ground water appropriations; or

(B) Restrictively classified with an effective date senior to the priority date(s) of the causative ground water appropriations.

Definition 3: Substantial Interference

- OAR 690-008-0001

(8) “Substantial or Undue Interference” means the spreading of the cone of depression of a well to intersect a surface water body or another well, or the reduction of the ground water gradient and flow as a result of pumping, which contributes to:

(a) A reduction in surface water availability to an extent that:

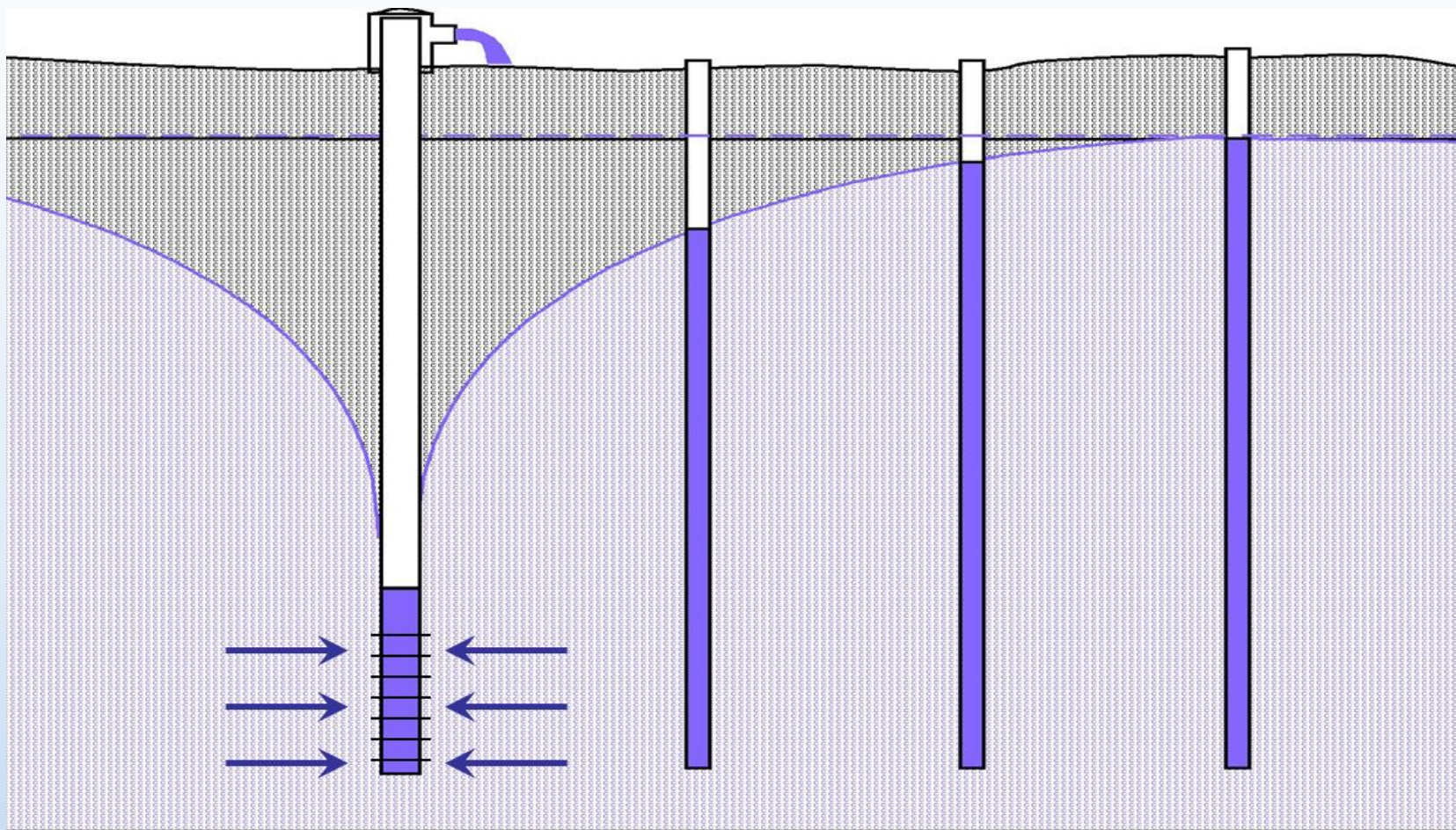
(A) One or more senior surface water appropriators are unable to use either their permitted or customary quantity of water, whichever is less; or

(B) An adopted minimum streamflow or instream water right with an effective date senior to the causative ground water appropriation(s) cannot be satisfied.

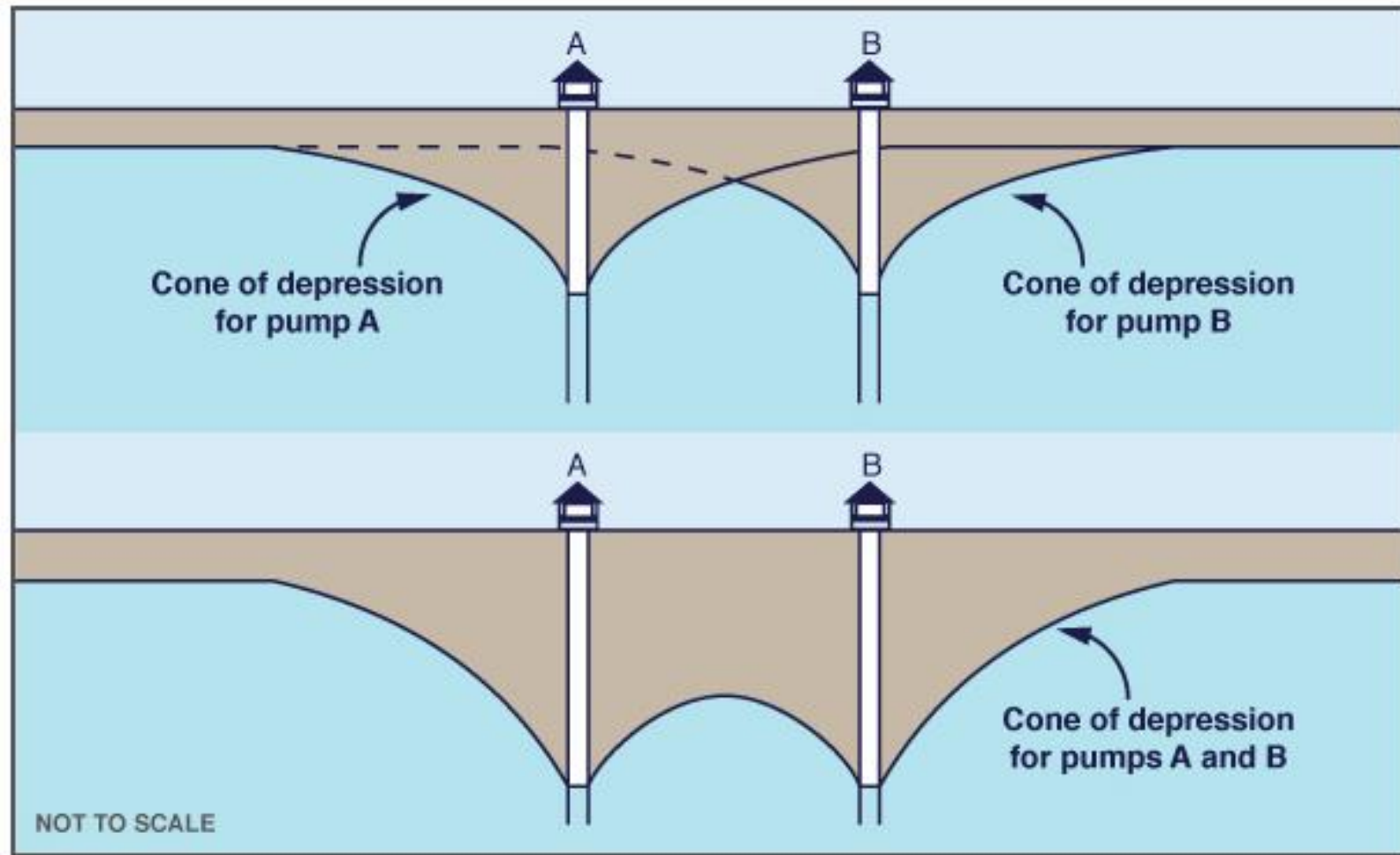
(b) The ground water level being drawn down to the economic level of the senior appropriator(s); or

(c) One or more of the senior ground water appropriators being unable to obtain either the permitted or the customary quantity of ground water, whichever is less, from a reasonably efficient well that fully penetrates the aquifer where the aquifer is relatively uniformly permeable. However, in aquifers where flow is predominantly through fractures, full penetration may not be required as a condition of substantial or undue interference.

Interference: Cone of depression



Interference: Additive effects of multiple wells



Summary

1. Groundwater level **declines** occur when discharge through pumping exceeds recharge
2. Groundwater is **overdrawn** when annual discharge through pumping exceeds annual recharge
3. **Substantial interference** occurs when pumping impacts surface water users or senior groundwater users



Proposed Rules



Why is Rulemaking Needed?

- Current rules are inconsistent with statute
- Statutory terms and processes require further clarification
- Framework will guide future CGWA designations

These Rules Will Address:

Definitions

Required CGWA
Criteria

CGWA Rulemaking
Process & Rule
Requirements

Local Government
Consultation

Corrective Control
Notification
Process

Contested Case
Process

These Rules Will Not:

Create basin or subbasin
specific CGWAs

Limit groundwater
appropriation

Implement corrective control
provisions

Proposed Rules

Repeal Existing Provisions

Rules & Rulemaking Processes

- 690-010-0100
- 690-010-0110
- 690-010-0120
- 690-010-0130
- 690-010-0140
- 690-010-0150

Corrective Actions & Contested Case Proceedings

- 690-010-0160
- 690-010-0170
- 690-010-0180
- 690-010-0190
- 690-010-0200
- 690-010-0210
- 690-010-0220

Rules We Are Focusing on Today

Rules	Name
690-010-0100	Purpose
690-010-0110	Definition
690-010-0120	Required Criteria for Designation of Critical Groundwater Area
690-010-0130	Additional Requirements for Critical Groundwater Area Rulemaking Process
690-010-0140	Consultation with Affected Local Government
690-010-0150	Content, Filing, and Review of Critical Groundwater Area Rules
690-010-0160	Initial Notification of Proposed Corrective Actions

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690-010-0100 – Purpose

- **These rules describe the purpose of OAR Chapter 690 Division 10**
- **Statutes ORS 537.730 to 537.742**

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690-010-0110 – Definitions

- **This rule defines terms used in OAR chapter 690 Division 10.**
- **Addition to chapter 8**

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690-010-0120 – Required Criteria for CGWA Designation

- **This new rule incorporates and clarifies the statutory requirements under ORS 537.730 for designating of a CGWA**

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690-010-0130 – Additional Requirements for CGWA Rule Making Process

- **This new rule describes the additional requirements of the rulemaking process applicable to rulemaking actions to designate an area of the state a critical groundwater area.**

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690-010-0140 – Consultation with Affected Local Government

- **This new rule describes the process and requirements of consultation with affected local government prior to adoption of a rule designating an area of the state a critical groundwater area.**

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690-010-0150 – Content, Filing, and Review of CGWA Rules

- **This new rule incorporates the statutory requirements for a rule designating an area of the state a critical groundwater area, references the available corrective control provisions, outlines the timing of rule filing under ORS 537.740, and describes the required frequency of rule review.**

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690-010-0160 – Initial Notification of Proposed Corrective Actions

- **This new rule describes the process and requirements of an initial notification of proposed corrective actions.**

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