

Dear House Agriculture Committee Members:

My name is Glenn Harden and I am the President and co-founder of the Spencer Creek Community Growers Market in Eugene. The viability of our farmers' market was directly impacted as a result of the passage of HB 2929 on August 15th, 2023. This bill directed the Water Resources Department to exercise injunctive authority in order to prevent the "unlawful use or appropriation of groundwater", as pertains to existing water rights statutes. The OWRD was allocated \$5 million in funding after the passage of SB 5561 which provided for the "expansion and enhancement of water rights enforcement activities" under a section of the bill entitled "Cannabis Enforcement." HB 2929 provided the means for OWRD to enforce water rights law compliance, circumventing a lengthy administrative process previously required for enforcement. I am in full support of pursuing violations of water rights law by unlicensed cannabis operations as well as any other illegal diversion of groundwater or surface water in Oregon. However, in identifying and preventing such egregious illegal water use the OWRD has, inadvertently or otherwise, impacted the ability of farmers' markets such as ours to attract and retain small-scale produce vendors who have been providing fresh locally grown food to their communities. I will briefly outline two arguments that merit consideration when examining HB 3372.

1) In the absence of a valid water right, the law forbids the use of groundwater or surface water for irrigating commercial crops of any size. For the past several years it has been very difficult to obtain a new water right in Oregon. Due to the overallocation of water in the state, the new OWRD groundwater allocation rules that went into effect last Fall have made the likelihood of obtaining a new water right even more problematic. Application processing times are reportedly 18-24 months or more with application costs starting at around \$2500. Many if not most applications are denied. Small scale farmers and backyard growers who are aware of this issue and do not hold an active water right are unwilling to risk being fined and those that might have been interested in vending at their local farmers market no longer plan on doing so. Last year, our two main produce vendors elected to stop selling at our market and we have so far been unsuccessful in finding new produce vendors. After being part of our community for the past 15 years, our Board of Directors has been weighing whether 2025 will be our last year.

2) The OWRD estimates that commercial growers holding active water rights comprise 7% of the number of all wells in Oregon, but account for 82% of the groundwater pumped for any reason in the state. Domestic wells, on the other hand, make up about 88% of all wells in Oregon and account for only 4% of the groundwater pumped for any reason (please refer to the chart on page 2). A small fraction of this 4%, far fewer than 1 in 4 wells, might be used to irrigate produce on small farms and backyard gardens that is subsequently sold to the public. One might see the effort to enforce water rights law by going after individuals collectively consuming well under 1% of the state's groundwater as somewhat misplaced. Opponents of HB 3372 have

made the argument that granting an exemption for small farms will encourage more people to take up farming. This argument ignores the fact that the overwhelming use of groundwater in Oregon has been and continues to be large-scale irrigation by commercial agricultural concerns.

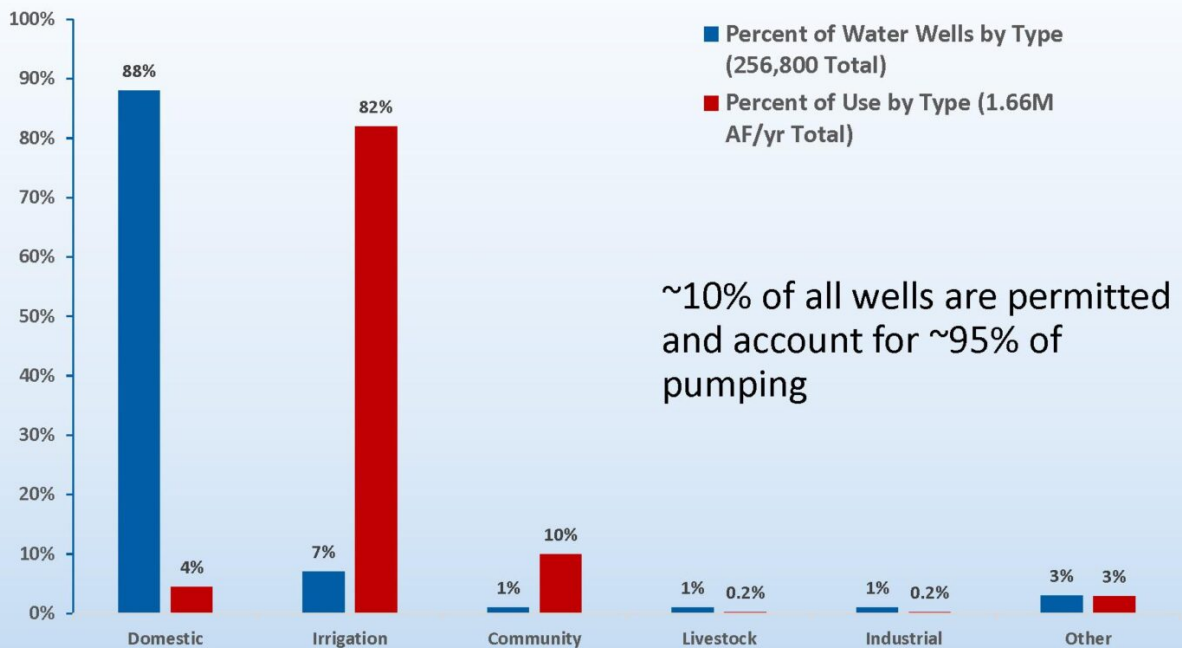
Water conservation and responsible water use is of paramount importance in our state. Allowing folks to grow food or farm products with a gallon restriction on 1/2 acre will not bankrupt the system. Please allow small-scale growers the ability to provide fresh healthy food to their communities. I urge you to pass HB 3372.

Thank you.

Glenn Harden
Board President
Spencer Creek Community Growers Market
spencercreekmarket.org



Wells in Oregon



Sources: Use from USGS (Dieter and others, 2018, Estimated use of water in the United States in 2015: Circular 1441, 65 p., <https://dx.doi.org/10.3133/cir1441>); Well type from OWRD