

Exhibit G

**Public Correspondence Received as of
February 2, 2022**



January 9, 2022

Oregon Department of Fish and Wildlife Commission
Via e-mail to odfw.commission@odfw.oregon.gov

Subject: Comments on Draft Regional Dry Maintenance Time Periods Rules

The Oregon Association of Conservation Districts (OACD) represents Oregon's 45 Soil and Water Conservation Districts, special districts governed by elected boards. The Districts protect and enhance soil quality, water quality and quantity, and habitat by supporting voluntary conservation in partnership with private landowners and managers as well as federal, state, and nonprofit partners.

OACD shares ODFW's mission to protect fish and wildlife and recognizes the need to establish time periods that are protective. We also recognize the need to streamline the process for channel maintenance.

The proposed time periods vary by region of the state and are typically about 4-10 weeks in duration. We are concerned that the time periods will not always correspond to the cropping patterns and irrigation seasons for some farmers, so these farmers will need to rely on the option to get a variance.

We appreciate that the rules provide opportunity for getting a variance and we believe that there are many local site-specific situations where a variance may be appropriate. The justification for the variance could be due to actual hydrologic and weather conditions in a specific year. The justification could also be based on physical barriers and features of a channel that restrict movement of sensitive species, or the specific plans for a given maintenance project. Therefore, in some cases it might be appropriate to grant a variance on a year-to-year basis while in other cases it might be appropriate to grant the variance for multiple years.

The draft rules are silent on the number of years that the variance can be issued. For the program as a whole, applicants can be granted approval for 5-years at a time. We recommend that ODFW adopt the practice of allowing variances up to 5 years depending on site and project specific conditions. In some cases, there will be justification for limiting the variance to a single year, but ODFW should remain open to approving multiple years.

It is important to keep in mind that a goal of this program is to streamline permitting both for the farmer and for the regulatory agencies. If ODFW can issue variances for multiple years, it will save staff time. For the farmer, if the process is too burdensome,

they may elect to avoid participating in the program and just do the maintenance anyway.

It appears that there are several important factors about this program that remain unknown to ODFW and the Oregon Department of Agriculture. The unknowns include:

- An estimate of the number of farmers who could and would use this program,
- A solid understanding of the relationship of the proposed time periods to farmer irrigation cycles,
- The range of field conditions that will be encountered in the program,
- The burden on the farmer to use the program, and
- The burden on regulatory agency staff to implement the program.

Because of the unknowns, we recommend an adaptive management approach to this program. This requires collection of data such as number of participants, estimates of the potential number of participants, and why non-participation occurs. Data should also be collected on the characteristics of the projects, regulatory agency time to administer the program, and new information on wildlife. We recommended that this data be collected over a period of 5 years, and then the program should be reassessed, and the rules should be modified accordingly.

Following are our recommended changes to the rule. Proposed new text is in italics and bold.

635-418-0020

Variance Process

A variance to conduct maintenance in dry traditionally maintained channels outside of the regional dry maintenance time periods identified in 635-418-0010 may be requested through OAR 603-095-4045. The Department, on a project-by-project basis, will consider variation in climate, location risk to fish and wildlife resources, project size and extent, and other factors when evaluating instances for work outside of the regional dry maintenance time periods. ***The Department may issue the variance for up to a maximum of five years, at their discretion, depending on specific project conditions.***

635-418-0030

Program Evaluation

The Department shall collect data to assess the regional dry maintenance time periods and associated variance process beginning in the year 2022 and continuing through the year 2026. By June 30, 2027, the Department shall complete an evaluation of the program, determine whether changes to the rules are necessary and if appropriate, initiate the rulemaking process.

Thank you for the opportunity to provide input into your decision-making process.

A handwritten signature in black ink that reads "Stan Dean". The signature is fluid and cursive, with the first name "Stan" and last name "Dean" clearly distinguishable.

Stan Dean, Advocacy Committee Chair
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