



MEMORANDUM

TO: Water Resources Commission

FROM: Ivan Gall, Field Services Division Administrator

SUBJECT: Agenda Item E, September 1, 2022
Water Resources Commission Meeting

2021 Field Services Division Activity Update

I. Introduction

During this informational report, staff will provide an overview of activities undertaken by the Field Services Division during 2021. Staff will also discuss new positions and sections added to the Division, and how these will aid in addressing water management challenges in Oregon.

II. Background

A. Division Structure and Focus

Maintaining a skilled and strong field presence is critical to water resources management. The Field Services Division (FSD) is the largest division within the Water Resources Department. Daily workloads are guided by statutory and rule requirements, management direction, water conditions, calls for water (demand), and complaints (illegal use, well interference, inadequate supply).

The last update to the Commission on the FSD was in August 2020. At that time, FSD had 58 multi-disciplined employees (e.g., Watermasters, Assistant Watermasters, Well Inspectors, Hydrologic Technicians, Transfer Specialists, Hydrologists, and Administrative Support). Currently, FSD has 85 positions (including two county funded Assistant Watermasters), supported by eight full time county employees (two Administrative Assistants and six Assistant Watermasters). The increase in staff resulted from the 2021-23 Legislative Session and a Special Session in December 2021 (HB 5561).

Staff are located in five regional offices (including Salem) and 16 satellite offices around the state. The 2021-23 Legislative Session also resulted in the formation of two new Watermaster Districts, 23 and 24 in the Walla Walla and Crooked systems respectively. Between the Legislative Session and December Special Session, the Division added a Deputy Administrator, two Administrative Specialists, 19 new NRS-2 Regional Assistant Watermasters, and provided funding for the reclassification of seven NRS-3 Watermasters to NRS-4.

The December 2021 Special Session (SB 5561) also added seven key staff to the Division in the form of an Enforcement Section. The Enforcement Section includes one manager and six staff, and will provide timely support for final orders, enforcement orders, headgate and measuring device orders, and assist staff with coordinating administrative and criminal processes, largely focused on water management associated with the cannabis industry.

As a result of the passage of the well construction program modernization legislation contained in HB 2145 in the 2021-23 Legislative Session, the Department added two General Fund Well Inspectors and one Well Construction Compliance Coordinator to assist in supporting the new deliverables and workloads associated with HB 2145. The two Well Inspectors are within the FSD.

Effective engagement with the public is a critical component of the Department's work, and field staff serve as the face of the agency in communities across Oregon. On any given day, staff may interface with water right holders, well owners, special districts, the public, local government officials and staff, Tribes, special interest groups, federal and state agencies, and elected officials. Outreach and education are particularly important in working with water users, who are better able to comply with Oregon's water laws when they are knowledgeable about their rights and responsibilities and know what to expect from staff. Trust in field staffs' knowledge, approaches, and overall integrity is essential in responding to complaints about water uses and distributing water. Staff problem-solve, conduct research, mediate between parties, and share information in order to devise workable solutions, which sometimes may include voluntary reductions, rotations, and compliance monitoring.

B. Field Activity

A key responsibility of Watermaster staff is distributing water under the Prior Appropriation Doctrine, meaning the last person to obtain a water right on a stream is the first to be regulated during times of low streamflow. When a senior user places a call to receive water, a Watermaster validates the call and regulates junior uses to distribute water to the senior user. Field staff also monitor streams and rivers to determine if senior instream water rights are being met and to regulate junior rights accordingly. After regulating water rights, staff conduct field checks at points of diversion/appropriation, or at places of use, to check for compliance. If voluntary compliance is not achieved, formal phases of enforcement begin. In recent years, field staff have responded to a significant increase in complaints of illegal water use, mostly centered around the cannabis industry. Complaint response and Watermaster-initiated investigations are significant workloads in some Watermaster districts.

In addition to water distribution and regulation, field staff have many other responsibilities. Field staff work with other agency sections protecting public safety and water resources by inspecting the construction of wells and the condition of dams. Watermasters provide input on water right transactions, incorporating field insights, data, and experience into the Department's processes. Staff help water right holders understand the terms and conditions of their water rights, and invest time in building relationships, technically advising, and assisting water right holders and entities seeking to restore streamflows.

Field staff operate and maintain surface water gaging stations, establish measurement sites at strategic ungaged locations, measure stream discharge and groundwater levels, participate in basin studies and place-based planning, and anticipate future water supply and management challenges to ensure readiness for changing conditions.

III. Discussion

The Field Activity Database (FAD) enables the Department to track and report on key actions over time. The FAD was brought online in 2018 to replace the 20-year-old Surface Water Summary database. The FAD continues to undergo improvement, enabling staff to refine data collection on water management and distribution activities. Staff enter the following types of data: surface water use and groundwater use investigations, monitoring and regulation for instream water rights, monitoring and regulation based on senior calls for water, and field checks to ensure that users are in compliance with both the terms and conditions of their right or are complying with staffs' regulatory actions. The FAD tracks field activities by complaints (actions brought by the public) and investigations (actions initiated by staff). The number of investigations is growing due to increased staffing in the field. An overview of the data tracked is provided below in sub-sections A, B, and C.

A. Regulatory Actions

Field staff are the sole providers of water regulation and distribution in Oregon. Regulatory actions are actions by staff that cause a change in water use behavior. In 2021, staff reported a total of 8,841 regulatory actions. There were 4,440 regulatory actions to fulfill a senior water right or to address an illegal use. Additionally, 4,401 regulatory actions were conducted to regulate for, or monitor, 204 instream water rights, which provide ecological benefits to fish, wildlife, and recreational.

As part of the regulatory actions, 40 notices of violation (NOV) were issued in 2021, similar to 2020 when the Division issued 41 NOVs. The number of NOVs in 2020 and 2021 were double that of 2019, and four times that of 2018, when 10 NOVs were issued. The increase reflected the growing hemp and cannabis industry, both regulated and unregulated.

Field staff responded to 1,120 complaints and conducted proactive investigations on 732 Watermaster-initiated investigations in 2021. Staff also conducted 23,153 compliance checks to determine if water right holders followed the law or a regulatory action.

B. Well Inspections

Field staff inspect water and monitoring wells. Properly constructed wells are important to maintain the integrity and quality of groundwater resources. In 2021, the Department received well log reports for 600 monitoring wells, 4,176 water supply wells, and 4,801 geotechnical holes. The Department also received 4,168 start cards for new wells; 393 monitoring wells, and 3,775 water supply wells.

The Department's goal has been to inspect no less than 25 percent of all newly constructed wells. In 2021, staff conducted a total of 1,556 inspections; 33 percent of new water wells were inspected, and 45 percent of new monitoring wells were inspected. Fifteen percent of the newly constructed wells were found to have a construction deficiency.

C. Dam Inspections

Dam Safety Program staff and FSD staff are responsible for inspecting the 950 statutory dams in the state. Statutory dams are non-federal structures that are ten feet in height and store more than 9.2-acre feet of water. Dam Safety Program staff inspect high hazard dams and FSD staff inspect significant and low hazard dams. In 2021, 51 dams with a high hazard rating were inspected. Field and Dam Safety staff conducted 109 inspections of significant and low hazard dams in 2021.

IV. Conclusion

FSD staff responsibilities are evolving to meet changing environments, advancing technology, and address emerging industry issues. FSD uses the Field Activity Database, staff mentoring and training, and evaluation of new technology and data tools to review annual outcomes and adapt to carry out the Department's mission. The likelihood of greater water scarcity in the future will increase the need for more efficient and comprehensive water management in basins across Oregon.

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