



# Oregon

Kate Brown, Governor

**Water Resources Department**

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone (503) 986-0900

Fax (503) 986-0904

[www.Oregon.gov/OWRD](http://www.Oregon.gov/OWRD)

## MEMORANDUM

**TO:** Water Resources Commission

**FROM:** Douglas E. Woodcock, Acting Director

**SUBJECT:** Agenda Item F, November 18, 2022  
Water Resources Commission Meeting

### Director's Report

#### I. Current Events and Updates

##### A. Staffing Update

Since the September meeting, the Department has filled 21 additional positions as of the end of October. Of the positions filled, there are 13 staff who are new to the agency, two promotions, two lateral moves and three job rotations. Positions filled include the following:

- Assistant Groundwater Manager
- Assistant Watermaster (6)
- GIS Application Developer
- Physical Hydrogeologist
- Water Policy Analyst
- Water Rights Backlog Reduction Case Worker (7)
- Water Rights Transfer Specialist (2)
- Watermaster
- Well Inspector

##### B. Legislative and Budget Update

###### 2023 Legislative Concepts

The 2023 Legislative Session is slated to begin January 17, 2023, with a constitutional Sine Die date of June 25, 2023. During the summer, the Department met with and sought feedback from stakeholders about legislative concepts and budget options for the 2023 Legislative Session. As time allows, staff will hold additional meetings later this year to continue to improve legislative proposals; however, the agency anticipates that some concepts will require further work during session. The Department will be pursuing three pieces for legislation; summaries of legislative concepts under consideration are included in Attachment 1.

## 2023-2025 Agency Request Budget

In September, the Department submitted its 2023-2025 Agency Request Budget (ARB) to the Department of Administrative Services. The Department's ARB, and those of other state agencies, will be considered by the Governor's Office, as they develop the Governor's Recommended Budget (GRB). The State budgetary outlook is still uncertain, and it is likely that many agency ARB proposals will not be included in the GRB. As a reminder, the new Governor will have until February 2023 to release their GRB, which becomes the starting point for budget discussions with the Legislature. Ultimately, the Legislature will make the final decisions on agency budgets for the 2023-2025 biennium in May or June.

Attachment 1 provides an overview of the 2023-2025 Agency Request Budget policy option packages. The full Agency Request Budget and policy option package narratives can be found on our website:

<https://www.oregon.gov/owrd/programs/policylawandrules/LegislativeAndBudget/Pages/default.aspx>.

### **C. Well Abandonment, Repair, and Replacement Fund Update**

The Well Abandonment, Repair, and Replacement Fund (Fund) was established through the passage of HB 2145 in the summer of 2021. Its purpose is to provide financial assistance to permanently abandon, repair, or replace a water well used for household purposes when certain criteria are met. The Department is implementing this funding opportunity in two stages. Stage one is to initially meet the urgent public health needs of Oregonians with low to moderate income that have been affected by drought and wildfire. Stage two will focus on comprehensive design for full implementation.

The Department launched stage one on June 1, 2022. The program was announced via a press release and emails sent to the Governor's Office, Oregon Health Authority, counties, community action programs, well drillers, and homeowners who had reported dry wells to the Department. The Department created a webpage about the funding opportunity and posted the application forms, guidance for homeowners, frequently asked questions, and contact information. Information is provided in both English and Spanish. A dedicated phone number was set up to provide responsive customer service.

The Department started receiving applications in mid-June. A well fund coordinator was hired, started work in July part-time, and began processing applications full-time on August 1, 2022. The Department is moving as quickly as possible to review and process applications and enter into grant agreements with eligible homeowners. As of November 7, 2022, the Department has received over 145 applications, completed 99 interim reviews, authorized 66 pre-inspections, completed 52 pre-inspections, and has entered into 36 grant agreements with eligible homeowners.

#### **D. Water Data Portal Update**

The Oregon Water Data Portal was funded by the 2021 Legislature to develop a work plan for the creation of a single website for all data and information needed to support strategic water- and water infrastructure-related decisions. The project was motivated by the Integrated Water Resources Strategy and Oregon's 100-Year Water Vision, which identified data accessibility as a primary obstacle to management, planning, and investment. The Department is collaborating with other state agencies to plan the Water Data Portal, with the Department of Environmental Quality leading the first stage of the project. The Portal is expected to collect and redistribute data and information from a variety of sources including state agencies, as well as federal, local, and potentially Tribal partners. The Portal will build on related tools and efforts including the Department's existing public web applications, the Oregon Explorer Water Map Viewer, the Oregon Open Data Portal, the Internet of Water, and similar water data portals offered by other states. What distinguishes the Oregon Water Data Portal from these other efforts is a focus on the end-user experience and providing data with appropriate quality and spatial resolution to support critical planning and investment decisions.

The project will be carried out in three stages. The current work plan stage of this project includes evaluating existing state agency data and infrastructure, engaging Tribes and stakeholders to identify and prioritize desired features, and designing the data platform and data-sharing framework. Three Tribal and stakeholder listening sessions held in October revealed strong support for this project among its likely users. The next stage of the project, if further funded by the 2023 legislature, will develop a pilot version of the Portal using datasets that are already in a condition appropriate for connection to a data portal. Datasets not yet ready or not yet in existence will require additional development funded through agency-specific Policy Option Packages. Development of these datasets will support expanded capabilities for the Water Data Portal in future biennia, in the third and final phase of the project.

#### **E. Klamath Basin Update**

The Klamath Falls Watermaster office moved to a new location this summer to accommodate additional staff. The Klamath Falls office houses the watermasters for Klamath and Lake Counties, three Assistant Watermasters, and one county-funded administrative assistant. Dani Watson, the current Klamath Basin Watermaster, will be retiring in February 2023. The Department is currently recruiting for a new Watermaster.

The irrigation season has ended in the Klamath Basin. The 2022 irrigation season saw all out-of-stream water use regulated off through the entire season to satisfy senior Tribal instream water rights which hold time immemorial priority dates. Nearly all out-of-stream water rights in the Wood River were regulated off for most of the irrigation season for the same reason. Bureau of Reclamation contract holders in the federal Klamath Project saw reduced deliveries, 90,000 acre feet in 2022, compared to a full allocation of 400,000 acre feet needed to irrigate the 200,000 acres in the project, which includes lands in Oregon and California. Many acres in the project were not

irrigated due to the water shortage. Other acres in Oregon and California were irrigated from wells. Over the past two years 400 complaints of domestic wells going dry in and around the Klamath Project have been received. Groundwater level declines, which has led to dry domestic wells, is the result of groundwater pumping for irrigation and several years of drought with low groundwater recharge. No new dry well complaints have been received since irrigation has ended.

#### **F. Harney Basin Update**

On October 12, the Department convened the Greater Harney Valley Groundwater Study Advisory Committee to review the published study results with Department staff and U.S. Geological Survey (USGS) scientists. The study advisory committee members in attendance generally agreed that they understand and concur with the study results. During the week of October 17, the groundwater study team and additional staff from both the Department and the USGS toured the Harney study area to learn in detail how the study was conducted and to expand the base of skills within the agencies.

On November 3, the Department hosted a community meeting in Burns to share results of the groundwater study with the broad community and present the Department's vision for a combination of voluntary and regulatory measures to help slow the rate of groundwater decline. As part of OWRD's vision for voluntary initiatives in Harney County, the Department has begun to organize and develop internal processes for the Harney Valley Groundwater Conservation Reserve Enhancement Program (HVG CREP) in preparation for a 2023 launch. HVG CREP is designed to provide incentives for eligible groundwater irrigators to voluntarily cancel their groundwater rights, reduce consumptive water use, and convert their agricultural production into native vegetation; in exchange, landowners are paid an annual rental rate for 15 years. The Harney Place-Based Planning Collaborative submitted the groundwater portion of their integrated plan for an inter-agency review before they proceed to complete the surface water portion of the plan. The Department and agency partners completed their review and are scheduled to respond to the planning collaborative with feedback by November 18. As required by the Division 512 Rules (the Harney Basin Program), the Department is preparing to convene a Rules Advisory Committee by April of 2023 to consider whether to update the rules considering the groundwater study results.

#### **G. Willamette and Deschutes Basins Update**

This past year, the Department filled two newly created Basin Coordinator positions that will focus on complex water issues in the Deschutes and Willamette River Basins. Staff have been interviewing and holding meetings with other section staff and managers, sister agencies, Tribal staff, and stakeholders to assess the range of complex water challenges facing each basin. Using feedback from interviews and existing plans and recommendations, staff are beginning to identify and prioritize potential projects. The goal of this assessment effort is to identify, plan for, and clearly communicate what basin-specific projects or initiatives will be the focus of work in the

coming years. Given the complexity and list of issues, the Department will need to take a strategic approach to sequencing projects in a way that recognizes existing staff capacity, ongoing commitments, and other agency initiatives. Basin Coordinators will spend the next few months further scoping and investigating the list of projects while also continuing ongoing discussions with agency leadership and stakeholders. Staff will create a summary report of input gathered from staff and stakeholders, make the workplan(s) publicly accessible, and share an overview of the process and outcomes with Commissioners in early 2023.

## **H. Willamette Environmental Impact Statement**

The Department is participating as a cooperating agency for development of an Environmental Impact Statement (EIS) led by the U.S. Army Corps of Engineers (USACE). The EIS is intended to address the continued operations and maintenance of the 13 federal reservoirs in the Willamette Valley System in accordance with authorized project purposes, while meeting Endangered Species Act obligations. The last programmatic EIS was completed in 1980. Since then, operations have been modified and structural improvements for fish passage and temperature control have been implemented to address effects of dam operations on federally listed fish. As part of EIS development, the USACE has also re-initiated formal consultation under Section 7 of the Endangered Species Act on the 2008 Biological Opinion for the Willamette Basin project reservoirs.

As a cooperating agency, which also includes the Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, and the Oregon Department of Agriculture, staff were asked to complete a “red flag review” of the draft EIS during the month of September. Considering the extensive length (5,000+ pages), complexity, and short review window, Oregon agencies were only able to provide a very limited review of the draft EIS and strongly encouraged the USACE provide the maximum amount of review time possible during the public review period, especially considering the anticipated timing of a 45-day review during the winter holiday season. The draft EIS is scheduled for public release in late November. The USACE will be developing a biological assessment this fall and winter and a new biological opinion will be drafted in late 2023. The final EIS and Record of Decision is scheduled for June 2024.

## **II. Litigation Update**

### **Circuit Court Filings**

#### ***Golden Rule Farms, Inc. v. Oregon Water Resources Department; Harney County Circuit Court, Case No. 19CV53051***

On December 10, 2019, a petition for judicial review was filed by a water right holder in Harney County against a Department final order denying an extension of time for lack of diligence to complete construction and apply water to a beneficial use under a water right permit.

The case was voluntarily dismissed by the petitioner and an order dismissing the case was entered in July 2020. An order granting motion to reinstate the case was issued in August 2020. An order staying the proceedings pending the Court of Appeals' rulings in Case Nos. A172879 and A172880 was issued in August 2021. That Appellate judgement was issued on September 12, 2022, lifting the stay in this Circuit Court proceeding.

**Klamath Basin Adjudication; Klamath County Circuit Court**

This adjudication is the process for determining claims to the use of surface water in the Klamath River Basin. On-going since 1975, the first phase was the review and determination of these claims by the Oregon Water Resources Department, including the hearing of contests to claims and the issuance of proposed orders by administrative law judges from the State's Office of Administrative Hearings. This phase of the process was completed with the Department's issuance of and filing of the Adjudicator's Findings of Fact and Final Order of Determination with Klamath County Circuit Court on March 7, 2013.

The process is now in the second phase, which is the review of the Final Order of Determination by the courts. Adjudication claimants or contestants who dispute the Department's determination of their claims or contests had an opportunity to file exceptions with the Klamath County Circuit Court. The court is now reviewing these exceptions and will ultimately issue a water rights decree affirming or modifying the Final Order of Determination. The Department will issue water right certificates in accordance with the final decree once it is issued by the court.

**Fort Klamath Critical Habitat Landowners, Inc., et al. v. Oregon Water Resources Department; Marion County Circuit Court, Case No. 21CV37688**

On September 22, 2021, the Fort Klamath Critical Habitat Landowners, Inc. filed an amended petition for judicial review opposing a temporary transfer of the place of use and points of diversion of a determined claim from the Wood River Valley, above Upper Klamath Lake (UKL), to the Lower Klamath National Wildlife Refuge below UKL. The court granted an extension of time for this case on December 29, 2021. On January 20, 2022, the petitioners filed a second amended petition for judicial review. On August 18, 2022, petitioners filed a third amended petition for judicial review. A hearing date has not been set.

**Annunziata Gould. v. Oregon Water Resources Department; Marion County Circuit Court, Case No. 21CV48665**

On December 22, 2021, Deschutes County resident Annunziata Gould filed a petition for judicial review of a final order of the Department granting a temporary change in place of use and points of groundwater appropriation in the Deschutes Basin. Temporary transfer applicant, Pinnacle Utilities, filed a motion to intervene in the case, which was approved. A hearing date has not been set.

**Klamath Irrigation District v. Oregon Water Resources Department; Marion County Circuit Court, Case No. 21CV39570**

On October 1, 2021, Klamath Irrigation District (KID) filed a petition for judicial review in Marion County Circuit Court. The petition was filed in response to an order issued by the Department on April 6, 2021, to the U.S. Bureau of Reclamation regarding releases of stored water from Upper Klamath Lake. The order to Reclamation was issued in compliance with an order from Marion County Circuit Court directing the Watermaster to prevent releases of stored water in excess of water rights entitled to the use of that water. Petitioners and the Department jointly filed a motion to stay the case, which was signed by the court April 15, 2022.

**Pinnacle Utilities, LLC v. Oregon Water Resources Department; Deschutes County Circuit Court, Case No. 22CV08683**

On March 11, 2022, Pinnacle Utilities filed a petition for judicial review challenging an order of the Department denying a limited license application. The Department filed a motion to dismiss, which was heard on August 22, 2022, and was denied by the court on September 19, 2022. A hearing date has not been set.

**Bridge Creek Ranch, LLC v. Oregon Water Resources Department; Marion County Circuit Court, Case No. 22CV05598**

On February 11, 2022, Bridge Creek Ranch filed a peremptory or alternate writ of mandamus in Marion Circuit Court directing the Department to process a transfer application for a change in point of diversion of a storage right certificate or show cause for not doing so. Petitioner additionally filed the same in the Oregon Supreme Court which was subsequently denied on April 7, 2022. Parties proposed an alternative writ and requested a status conference with the Circuit Court to explain mandamus proceedings, which was held October 4, 2022. A hearing on the motion for summary judgment is scheduled for December 5, 2022.

**Earth and Water Works v. Oregon Water Resources Department; Union County Circuit Court, Case No. 22CV24108**

On July 21, 2022, Earth and Water Works, Inc. filed a petition for judicial review in response to an order approving a special well construction standard requiring abandonment of a deep water well that was compromised during construction. The Department withdrew its order for reconsideration on October 18, 2022, and on October 26, 2022 the parties agreed to a stipulated motion to stay the case as they discuss next steps in resolving this issue.

**Sprague River Cattle Company v. Oregon Water Resources Department; Marion County Circuit Court, Case No. 22CV27077**

On August 15, 2022, Sprague River Cattle Company filed a complaint and demand for a jury trial due to the State's quantification of the Klamath Tribes' federal reserved water rights in the

Klamath Basin Adjudication. The suit asserts that quantification and subsequent regulation of rights junior to those claims has resulted in reduced property value. Plaintiff seeks monetary damages. A hearing has not been set.

### **Court of Appeals Filings**

#### ***Golden Rule Farms, Inc. v. Oregon Water Resources Department; Court of Appeals, Case Nos. A172879 and A172880***

On December 13, 2019, a petition for judicial review was filed by a water right holder in Harney County against a Department final order denying an extension of time for lack of diligence to complete construction and apply water to beneficial use under a water right permit. Opening brief was filed December 4, 2020. On February 23, 2021, the Department filed a notice of withdrawal of the final orders for reconsideration. The Department reissued the orders denying extension of time on June 11, 2021. Oral argument in this case was heard on February 10, 2022. On September 12, 2022, an appellate judgement was issued in favor of the Department.

#### ***WaterWatch of Oregon v. Oregon Water Resources Department, et al; Oregon Court of Appeals, Case Nos. A169652, S32410 and S37839 (Lower Clackamas River)***

WaterWatch appealed a Department order supplementing and clarifying previous orders on municipal water rights, pursuant to a remand from the Court of Appeals. The Department approved municipal permit extensions in 2010, which WaterWatch appealed, and the court remanded the orders to OWRD for clarification. A hearing was held and the order on remand was issued in 2018. WaterWatch appealed. Oral arguments were heard January 8, 2021. The parties are awaiting a decision.

#### ***East Valley Water District v. Oregon Water Resources Commission, et al; Oregon Court of Appeals Case No. A173292***

This appeal, filed with the court in January 2020, challenges an order of the Oregon Water Resources Commission that denies a reservoir application filed by the water district. Multiple extensions on filing briefs were requested by the parties. Petitioners East Valley Water District and WaterWatch of Oregon filed opening briefs on February 25, 2021. On July 27, 2021, WaterWatch's petition for judicial review was dismissed for lack of standing, and WaterWatch's motion for reconsideration of that order was denied on October 4, 2021. Court briefings have been filed. Oral arguments were heard November 3, 2022.

#### ***Klamath Irrigation District v. Oregon Water Resources Department; Oregon Court of Appeals, Case Nos. A176270 (Marion Circuit Case No. 20CV17922)***

On May 14, 2020, Klamath Irrigation District (KID) filed a Complaint for Declaratory and Injunctive Relief in Marion County Circuit Court. The complaint was filed under ORS 183.490



and ORS 540.740. KID is seeking an injunction compelling the Department to carry into effect the Amended and Corrected Order of Determination (ACFFOD) in the Klamath Adjudication by ordering the Bureau of Reclamation (BOR) not to divert stored water through the Link River Dam for instream purposes unless or until it obtains a water right or instream lease authorizing the use of water for such purpose, obtains a stay of the ACFFOD pursuant to ORS 539.180, or obtains a final judgment providing that federal law authorizes the BOR to use stored water in UKL reservoir for instream purposes without securing a water right in accordance with state law and the Reclamation Act.

A hearing was held in Marion County Circuit Court on June 18, 2020. On July 30, 2020, Judge Bennett issued an opinion letter approving the KID's motion for partial summary judgment on the injunction claim under ORS 540.740 and denying the Department's motions on the same claim. An order was issued October 13, 2020, by the court. In June 2021, the Department appealed the Circuit Court order. On December 27, 2021, the Oregon Court of Appeals issued an order granting a stay and expediting the case. Oral argument was held on July 15, 2022. On September 8, 2022, an order issued by the Court of Appeals reversed the Marion County Circuit Court judgement.

***Klamath Irrigation District v. Oregon Water Resources Department; Oregon Court of Appeals, Case No. A175510 (Marion Circuit Case No. 20CV17922)***

This appeal also stems from Marion Circuit Court case number 20CV17922, and is brought forth by Pacific Coast Federation, WaterWatch, and the Yurok Tribe appealing the orders denying their motions to intervene in the limited judgement from that case. Awaiting arguments to be scheduled.

**U.S. District Court**

***Klamath Irrigation District v. United States Bureau of Reclamation; U.S. District Court, Medford, Oregon, Case No. 1:21-cv-00504-AA***

On March 29, 2021, the Klamath Irrigation District filed an emergency motion for preliminary injunction against the Bureau of Reclamation in Klamath County Circuit Court, which is managing the judicial phase of the Klamath adjudication. The preliminary injunction was filed to prevent the Bureau of Reclamation from using stored water contrary to the water rights determined in the Amended and Corrected Findings of Fact and Order of Determination. On April 5, 2021, the Bureau of Reclamation filed notice with the court of removal of the case to the U.S. District Court of Oregon. On April 12, 2021, Oregon Water Resources Department filed a motion to intervene in the case, which was granted. On April 20, 2021, Klamath Irrigation District filed a motion to remand the case back to Klamath County Circuit Court. The hearing on remand was held at U.S. District Court on May 20, 2021. On April 21, 2022, the court denied the motion to remand. KID filed a second mandamus, which will be heard November 18, 2022 in San Francisco.

**United States of America v. Oregon Water Resources Department; U.S. District Court, Medford, Oregon, Case No. 1:21-cv-1442**

On October 1, 2021, the United States filed a complaint challenging the April 6, 2021 final order of the Department issued against the Bureau of Reclamation relating to the release of stored water from Upper Klamath Lake, as well as two notices of violation. Additionally, the complaint contained a petition for judicial review under the Oregon Administrative Procedures Act. A hearing was held on a motion to stay, which was subsequently granted on March 3, 2022.

**Yurok Tribe, et al. v. United States Bureau of Reclamation and National Marine Fisheries Service; U.S. District Court, Northern California, Case No. ND CA3:19-cv-04405**

In 2019, Yurok Tribe and others challenged the final Biological Opinion under multiple Endangered Species Act and National Environmental Policy Act provisions. Klamath Water Users Association and Klamath Tribes filed as intervenors in the case. In October 2021, the United States filed a crossclaim in this case against the Department to bring the State of Oregon into the federal case. The crossclaim centered around the April 6, 2021 order issued by the Department to the Bureau of Reclamation relating to the release of stored water from Upper Klamath Lake. On April 7, 2022, the Department filed a counterclaim against the United States. A hearing has been set for December 7, 2022.

**Klamath Irrigation District; U.S. Judicial Panel on Multidistrict Litigation, Case MDL No. 3048**

On July 29, 2022, the Klamath Irrigation District filed a motion to transfer seven existing federal cases to a federal court in New Mexico. These federal cases relate to Klamath Project operations. The Department is named in three of the seven cases. On October 24, 2022, the court issued an order denying the transfer of cases.

### **III. Upcoming Commission/Board Schedules**

<b><u>Commission / Board</u></b>	<b><u>Date</u></b>
Land Conservation and Development Commission	November 17-18
Parks and Recreation Commission	TBD
Fish and Wildlife Commission	December 15-16
State Land Board	December 13
Environmental Quality Commission	November 17-18
Watershed Enhancement Board	January 24-25
Board of Agriculture	TBD

### **Attachments**

1. 2023 Legislative and 2023-2025 Agency Request Budget Summary
2. Rulemaking Calendar
3. 2023 Proposed Commission Meeting Schedule

# 2023 Legislative and 2023- 2025 Agency Request Budget Summary



For additional information please contact:

Bryn.Hudson@water.oregon.gov; 503-302-7584/ Lisa.J.Snyder@water.oregon.gov; 503-983-5801

## Water Resources Department Legislation

### LC 554 – Establishing a Water Planning Fund

Provides authority to Department to create a new fund, the Water Planning Fund, for multi-purpose water planning grants to eligible entities to plan and prepare for their water future. The existing place-based planning authority sunsets July 1, 2023. The Department is working directly with local stakeholders on this concept.

### LC 549 – Split Season Instream Leasing

Provides authority to Department to issue split season leases beyond the existing 10-year cap. The authority for this existing provision sunsets on January 2, 2024. This concept repeals the sunset date and removes the provisions stating that land cannot be enrolled in this program for more than 10 years. This voluntary provision allows for the split season instream leasing for a water right holder to use water during part of the season, and then lease the authorized water right instream during remainder of the season in the same year.

### LC 553 – Transfers of Stored Water

This bill is a placeholder in the event that a solution is identified by the workgroup.

In 2021, ORS 540.510 and 540.520 (HB 3103) clarified the Department’s authority to approve character of use transfers on a stored water right. The legislation directed the Department to engage with a professional facilitator to work with stakeholders to identify the authority and draft policy solutions for transferring the point of diversion and location of use of storage right.

## Water Resources Department Agency Request Policy Option Packages

### Package 101 – Facilitate Interagency Work & Implement IWRS – \$371k GF; 1 FTE / 1 positions – [IWRS](#) Actions: 6.B, 9.B, 9.C, and 13.A

This package proposes to make a limited duration position from the 2021-2023 budget a full-time permanent position in order to effectively carry out and monitor implementation of the IWRS and its future updates, and ensure coordination and integration among the participating state, federal, and local agencies, as well as educational and non-governmental organizations.

### Package 102 – Addressing Agency-Wide Foundational Support Gaps – \$1.12m Total Funds (\$998k GF, \$122k OF); 3.01 FTE / 4 positions – [IWRS](#) Actions: 13.B

This package supports critical foundational staff that support the work of the Department: 1) more timely fiscal transactions from accounting staff and financial reporting from the fiscal team; 2) internal auditing; 3) employee development and retention; 4) public records modernization and support.

### Package 103 – ODFW Review and Scenic Waterway Revenue Gaps – \$694k Total Funds (678k GF; \$16k OF) – [IWRS](#) Actions: 10.G, and 13.B

This package would pay for costs incurred by WRD for ODFW fish related expertise as part of the water rights and extensions processes to complete reviews as well as the backlogged fish persistence work. In addition, this funding proposal will backfill the six existing split funded positions with general fund in the amount above the existing contracted amount with the Oregon Parks and Recreation Department for Scenic Waterway work. These positions are currently funded with a blend of Scenic Waterway funds and with general fund.

## ***2023 Legislative and 2023-2025 Agency Request Budget Summary Continued...***

### **Package 104 – IT Foundation, Modernization & Strategic Plan – \$1.5m GF; 4.77 FTE / 6 positions**

This package would include a number of investments needed to support expanded use of IT resources and the analysis and planning of modernization efforts, including following appropriate procedures established by the Department of Administrative Services (DAS) such as development of business cases for projects and increased oversight requirements around strategic planning, open data and information security.

### **Package 105 – American Rescue Plan Act Carry Over – \$15.9m OF**

This package proposes to carry forward American Rescue Plan Act funding authorized in the 2021-2023 budget in order for those efforts to be completed and have legislative desired outcomes be achieved. The federal requirements for these dollars state must be obligated by December 31, 2024, and expended by 2026 for the following: 1) place-based planning; 2) fish passage; 3) ordnance project in Umatilla County; 4) Well Abandonment, Repair, and Replacement Fund; 5) support fee based programs and engagement with stakeholders; 6) engineering services for flood methodology & inundation assessments; and 7) support surface water and groundwater data collection field equipment.

### **Package 106 – Water Planning Funding, Support, and Data – \$3.6m GF; 6.52 FTE / 9 positions – [IWRS](#) Actions: 5.B, 9.A, 9.B and 13.C**

This package would provide financial assistance for planning that helps communities understand water resources and water challenges, and then develop strategies or solutions to sustainably meet instream and out of stream water needs. In support of planning, this funding would be used for pre-planning work, community capacity building, integrated water resources planning, and implementation coordination of place-based plans. This package also proposes to fill critical gaps in information necessary for basins and regions to plan for their water future and pursue a more secure water future. This package requests additional staff resources tasked with developing a multitude of water supply analysis and tools to support future planning efforts. This is a companion POP to LC 554.

### **Package 107 – Feasibility Studies, Water Projects, & Wells – \$28m Total Funds (\$4.7m GF; \$22.4m OF; \$954k LF); 2.25 FTE / 4 positions – [IWRS](#) Actions: 5.B, 10.E, 13.D, and 13.E**

This proposal includes investment in several of the Department's funding programs, including, 1) Feasibility Study Grants; 2) Water Projects Grants and Loans; 3) Well Abandonment, Repair, and Replacement Fund; and 4) Harney Domestic Well Remediation Fund.

### **Package 108 – Water Rights and Protest Backlog Reduction – \$1.7m GF; 7.63 / 10 positions – [IWRS](#) Actions: 10.G and 13.B**

This package proposes to allow the Water Right and Transfer sections to keep reducing processing times and allows continued progress on the protest backlog. The package extends seven limited duration staff hired as a result of legislative actions during the 2021 session meant to reduce water right and protest processing backlogs and adds additional staff for providing outreach to applicants with recently approved permits or transfer orders and analyzing and modernizing the Water Rights Services Division's programs.

### **Package 109 – Adapting to Climate Change & Drought – \$1.7m GF; 5.78 FTE / 7 positions – [IWRS](#) Actions: 5.A, 5.B, 5.5A, 8.C, 10.A, 10.B, 11.D, and 13.C**

This package proposes six new positions that focus on climate change and drought response, mitigation and adaptation, improving the agency's instream programs, working with cities, districts, and others to promote water conservation, identifying potentially vulnerable water systems and working with the systems to improve their resiliency to water scarcity and drought, and Artificial Storage and Recovery/Artificial Recharge projects. This package also includes an administrative support position.

### **Package 110 – Centering Equity in Agency Programs & Policy – \$949k GF; 1.76 FTE / 2 positions – [IWRS](#) Actions: 8.B, 8.C, and 9.A**

This package proposes to fund two positions that would be responsible for leading the agency's efforts in advancing environmental and racial justice and diversity, equity and inclusion, as well as increasing the agency's capacity to reach

## ***2023 Legislative and 2023-2025 Agency Request Budget Summary Continued...***

underrepresented and underserved groups, including BIPOC and rural communities. In addition, the Department is seeking to hire a consultant to undertake a DEI assessment and to provide guidance and expertise to the agency. The assessment would explore the agency's current culture to understand what is working, and what could be different. Data collected will help to establish goals, objectives, and a baseline for DEI initiatives.

### **Package 111 – Water Use, Supply, and Availability Data – \$2.2m GF; 6.87 FTE / 9 positions – [IWRS](#) Actions: 1.B, 5.B, 9.C, and 13.B**

This package proposes to modernize several systems and datasets to ensure water allocation, management, and planning decisions consider current and spatially representative data. These data sets that support the Department's water allocation and management decisions are also fundamental for planning and funding eligibility (e.g., Federal drought payments). By hiring staff and establishing contracts, the Department can continue to improve and develop these datasets, establish additional monitoring sites, and make these data more easily publicly accessible. This work will also provide datasets supportive of the work proposed in POP 106 prioritized by communities doing water planning across the state.

### **Package 112 – Supporting Tribal Water Solutions & Relations – \$247k GF; 0.88 FTE / 1 positions – [IWRS](#) Actions: 9.C**

The Department proposes to add one position for Government-to-Government coordination, as well as to develop relationships with Tribes to better understand their interests and needs, and to partner in accomplishing shared water resources management objectives. This position would seek to provide more regular formal Government-to-Government consultation where desired, as well as to develop relationships with tribal staff and council members to increase mutual understanding and allow the agency to be a better partner.

### **Package 113 – Continuing Legislative Basin Investments – \$547k GF; 0.25 FTE / 1 position**

This package will carryforward the Columbia River Umatilla Solutions Task Force (CRUST) phase II work funded in the 2021-23 biennium and support administration of the Harney Conservation Reserve Enhancement Program to facilitate implementation of voluntary approaches to water use reduction in ways that minimize economic and cultural disruption in the basin.

### **Package 114 – Watermaster Staff: Improving Water Management – \$1.6m GF; 5.53 / 7 positions – [IWRS](#) Actions: 5.5B, 5.5C, 7.A, and 7.C**

This package is critically important to adapting water management to our changing climate, growing population, and increased water scarcity. This package would add a Region Manager for the Klamath-Lake County region; three field staff Klamath Falls office to assist with continued heavy workloads; one assistant watermaster in Burns to assist with workload in Harney and Malheur Counties, one Program Analyst to assist the Field Services Division with modernizing its programs and helping analyze and carry forward policy issues, and 0.25 FTE of a human resources assistant to handle hiring, onboarding, and HR issues. This package proposes to reclass 15 watermaster positions to address equity issues, water management complexity, program size, and an increase in job responsibility. This package also proposes to reclass one engineering position to address training, mentoring, retention, and succession planning in the dam safety program.

### **Package 115 – Supporting Resolution of Complex Issues – \$2.9m GF; 4.52 FTE / 5 positions – [IWRS](#) Actions: 5.B and 9.C**

The Department proposes to add three Natural Resource Specialist 5 Basin Coordinators and make permanent an existing Special Assistant to the Director to serve as a point of coordination for the Department as it works with parties involved in complex water management issues to assist in developing solutions, with work in the Southwest Region, North Central Region, East Region and Klamath/Lake Abert/Summer & Goose Lake Basin being a priority. These positions would complement the work of the existing positions that are currently focusing on the Northwest Region and Central Oregon. This package also includes a senior level water policy analyst that would be responsible for supporting the complex policy positions in their work and helping to carrying forward associated policy development and implementation necessary to carry out identified solutions.

### **Package 116 – Increase Engagement Through Communications – \$733k GF; 0.88 FTE / 1 position – [IWRS](#) Actions: 5.5A, 10.F, and 10.G**

## ***2023 Legislative and 2023-2025 Agency Request Budget Summary Continued...***

This proposal includes the addition of a communications professional to focus on further developing and implementing the Department's communications strategies for social media, video, newsletters, and graphics to reach, educate, and engage more Oregonians.

### **Package 117 – Assess and Inventory Levees – \$301k GF; 0.88 FTE / 1 position – [IWRS](#) Actions: 7.A and 7.C**

This package proposes the funding of one permanent Professional Engineer 2 (PE2) position to complete the inventory, condition assessments, and risk determinations for levees in Oregon. This inventory will be completed through both office and field work.

### **Package 118 – Understanding the Lake Abert Watershed – \$1.6m GF; 1.38 FTE / 2 positions – [IWRS](#) Actions: 1.B and 5.B**

The resources described here include additional data collection that would provide critical datasets to inform future scientific work and management conversations. The data collected would improve information in the watershed that would give the Department and basin stakeholders foundational data: 1) investments in Agrimet; 2) observation wells; 3) LIDAR; and 4) streamgages.

### **Package 119 – Studying Springs in Deschutes Basin – \$612k GF; 1.76 FTE / 2 positions – [IWRS](#) Actions: 3.A and 5.B**

This package proposes a study to address the following goals: 1) identify high-value ecological springs, 2) understand the sources and fluxes of water of high-value springs, and 3) understand the magnitude and causes of impacts on these sources and springs. The positions requested will work with existing WRD staff to complete the study, as well as the interagency coordination and stakeholder engagement necessary to identify springs and the habitat and ecological values.

### **Package 120 – Improving Data Accuracy and Availability – \$1.7m Total Funds (\$1.7m GF; \$3k OF); 8.17 FTE / 10 positions – [IWRS](#) Actions: 1.C and 6.B**

This package would include a number of investments needed to support efforts to enter, update, digitize and confirm agency data. Staff will perform both paper and computer-based quality assurance, make application and database programming changes specific to linking and relating program area data and perform physical visits of sites with missing or incorrect data. The programming and database changes will support the agency's effort to better leverage the value of data when combined and compared with and against other data sets from other program areas. In the end this work will make great strides in improving agency data quality, availability, efficiency and result in better data-based decision making.

## Oregon Water Resources Department Current/Anticipated Rulemaking

Rule Division	Topic	Lead Staff	GWAC Input Expected	Target WRC Date	Status
<b>Division 10 – Critical Groundwater Areas (CGWA)</b>	Conform Rules with ORS 537.730–742 / Establish Framework for CGWA Designations	Ivan Gall	Yes	June or Sept 2023	RAC Meetings 12/22 to 3/23
<b>Divisions 200 205 &amp; 240 – Well Construction</b>	HB 3030 and SB 688 Implementation Relating to Temporary Authorizations for Armed Forces Spouses	Kris Byrd	Yes	06/23	RAC Meetings 12/22 to 3/23
<b>Divisions 190 225 &amp; 260 – Well Construction</b>	Updates to Rules / HB 2145 (2021) Implementation Relating to Exempt Map and Recording Fee / Civil Penalties	Kris Byrd Travis Kelly	Yes	06/23	RAC Meetings 12/22 to 3/23
<b>Division 215 – Well Construction</b>	Replace Erroneously Repealed Section Relating to Dedicated Measuring Tubes (690-215-0200)	Kris Byrd	Yes	06/23	RAC Meetings 12/22 to 3/23
<b>Divisions TBD – Groundwater Allocation</b>	Modernizing Process for Groundwater Allocation	Annette Liebe Justin Iverson	Yes	09/23	Prep to Convene RAC 4/23
<b>Division 512 – Malheur Lake Basin Program</b>	Update to Rules Following Publication of Groundwater Study	Ivan Gall Justin Iverson	Yes	2023/2024	Prep to Convene RAC 4/23
<b>Division 380 – Water Right Transfers</b>	HB 3103 (2021) Implementation Relating to Stored Water Character of Use Transfers	Dwight French Lisa Jaramillo	No	TBD	Not Started

**Last Revision: 11/9/22**

<b>Rule Division</b>	<b>Topic</b>	<b>Lead Staff</b>	<b>GWAC Input Expected</b>	<b>Target WRC Date</b>	<b>Status</b>
<b>Division 77 – Instream Water Rights</b>	Updates to Rules / Streamline District Lease Process / Consistency with SB 199 (2013) & SB 206 (2015) / Instream Leases and Transfers of Stored Water	Dwight French, Lisa Jaramillo, Sarah Henderson	No	TBD	On Hold (Reconvene RAC)
<b>TBD – Klamath Groundwater</b>	Regulation of Wells in the Klamath Basin	Ivan Gall	Yes	TBD	Not Started
<b>Division 340 (Formerly 87)</b>	Municipal Reclaimed Water Registrations	Dwight French, Kerri Cope	No	TBD	Not Started

\* There are additional rulemakings in backlog that will likely remain on hold for the remainder of the biennium.

\*\*RAC means Rules Advisory Committee





# Oregon

Kate Brown, Governor

**Water Resources Department**  
North Mall Office Building  
725 Summer St NE, Suite A  
Salem, OR 97301  
Phone (503) 986-0900  
Fax (503) 986-0904  
[www.Oregon.gov/OWRD](http://www.Oregon.gov/OWRD)

## **2023 Proposed Commission Meeting Schedule**

The following dates are proposed for the 2023 Commission meeting schedule. All meeting dates are proposed for Thursdays and Fridays:

- March 16-17 Salem
- June 15-16 Salem
- September 28-29 Location to be announced
- November 16-17 Location to be announced