

Potential Legislative Concepts for 2013
Oregon Water Resources Department
Draft Dated April 19, 2012

- * **A. Update Water Right Certificates.** Today, there are no statutory provisions that allow the name on a water right certificate to be changed, even if the holder of the certificate has passed away or sold off interests. There are about 85,000 water rights in Oregon today. The state needs the ability to respond to holders of water rights who are asking to modify the names on these certificates, especially in light of recent court cases, favoring the name written on a water right certificate over other factors. Such a change would facilitate other process efficiencies, such as communicating with water right holders, mapping water rights, updating the water right database, and improving compliance with measurement and reporting conditions. Such a change will likely involve a fee, to pay for the required staff time. [Has budget implications. See “12” below]

- * **B. Secure Authority for WRD to Serve as a Water Contractor.** This would allow WRD to contract with instream and out-of-stream interests, providing water secured through an agreement with other states or the federal government. [Has budget implications; see “5 and 11” below.]

- * **C. Secure Stable Funding for Water Resource Management.** The state’s core science, fieldwork, and planning responsibilities related to water are underfunded and have been for years. Core responsibilities include water allocation, distribution, monitoring and protection, data collection/processing, permitting, enforcement, and technical assistance for Oregon communities. Develop additional sources of funding to mitigate the loss of General Fund. Options proposed by the Water Resources Commission include an annual water right management fee and an annual exempt use well fee. [Has budget implications as well; see “13” below.]

- D. Make WRD’s Split Season Leasing Program Permanent** (sunsets in 2014). Split Season Leasing allows water right holders to use water beneficially for a portion of the year, and lease (up to) the unused portion of the right for the remainder of the year, providing that the uses do not occur at the same time. This program, authorized under ORS 536.348, Section 3, is part of the Water Resources Department’s broader portfolio of instream leasing programs. Note: WRD will undertake a review of this program with participants and stakeholders this spring as set forth in program rules.

- E. Extend Water Right Transactions Fee Schedule** (sunsets in 2013; reverts to 2003 levels.) The Department’s entire fee schedule for water-right transactions is incorporated in this sunseting statute. [Has budget implications as well; see “2” below.]

F. Split a Permit into Multiple Ownerships. As properties are split up and sold, the water right appurtenant to the land is also affected. It is not unusual to have one or more property owners ready to “prove up” on their portion of a water right, while the other owners are not yet ready or willing. Increasingly, banks favor loaning money for property with certificated water rights, instead of permitted water rights. Allow property owners to certificate their portion of the original water right permit as they become eligible. Amend the permit amendment process. This would not release any of the well owners from obligations that existed under the original permit. This concept applies to irrigation and agricultural permits.

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