



# Oregon

John A. Kitzhaber, MD, Governor

## Water Resources Department

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### MEMORANDUM

TO: Water Resources Commission

FROM: Tracy Loudon, Administrator  
Brenda Bateman, Senior Policy Coordinator

SUBJECT: Agenda Item J, August 3, 2012  
Water Resources Commission Meeting

### Budget and Legislative Update

#### I. Issue Statement and Background

The Department has made presentations to the Program Funding Teams of base programs in the 2013-15 budget that are associated with the Healthy Environment or Economy and Jobs program area. These presentations have gone well and the Department has received a number of compliments on the content of the discussions. The next step in the process of developing the Governor's Budget is to present program funding and budget policy packages to the Program Funding Teams. The Department's initial budget proposals for 2013-15 are detailed below.

#### II. Discussion

The development of the 2013-15 budget begins with forecasting what it will cost to continue providing current services, minus one time investments made by the Legislature. The table below articulates those calculations.

<i>(millions)</i>	General Fund	Lottery Funds	Other Funds	Federal Funds	Total Funds
Approved Budget for 2011-13	\$20.4	\$.7	\$29.2	\$1.2	\$51.4
Less One Time Expenditures:					
Grant and Loan Programs		-.1	-16.8		-16.9
Integrated Strategy	-.3				-.3
County Funded Watermaster			-.1		-.1
Add cost of living and inflation increases	3.7	-	1.0	.1	4.8
Current Service Level	\$23.8	\$.6	\$13.3	\$1.3	\$38.9

Budget Packages proposed by the agency include the following (packages related to the Integrated Water Resource Strategy note the recommended action in parentheses):

Package	FTE	\$ Millions	Fund Source
<i>Healthy Environment</i>			
101 - Water-Use Reporting Program (IWRS Rec #2b)	1.00	0.18	General Fund
102 - Instream Protections (3a, 11b)	2.00	0.37	General Fund
103 - Re-Institute the Measurement Cost Share Fund (2b)	-	0.05	General Fund
104 - Placed Based Planning - Template Development (9a)	-	0.25	General Fund
105 - Groundwater Data Collection and Integration (1b, 1c)	3.00	1.42	General Fund
106 - Surface Water Data Collection and Integration (1b, 1c)	5.00	1.12	General Fund
107 - Metolius Modeling	0.25	0.10	General Fund
108 - Water Right Management Fee (13b)	7.00	2.00	OF-Fee
<i>Economy and Jobs</i>			
201 - Implement IWRS (IWRS Rec #13a)	1.00	0.21	General Fund
202 - Conduct Basin Groundwater Investigations (1a)	-	0.25	General Fund
203 - Field Services (Wallowa & Klamath) (2c, 10)	1.84	0.34	General Fund
204 - Water Supply Development Program (10e)	4.00	21.00	OF - Bonds
205 - Water Development Loan Fund-Umatilla Project (10b)	-	10.00	OF - Bonds
206 - Feasibility Study Grants (13c)	0.50	1.20	OF - Bonds
207 - Update Water Right Certificates with contact info (2d)	2.00	0.37	OF-Existing
208 - Extend Water Transaction Fee Schedule (13b)	7.00	1.00	OF-Fee
209 - Limited Duration Asst. Watermaster	1.00	0.17	OF-Existing
Totals:	14.34	\$4.3	General Fund
	4.50	32.2	OF - Bonds
	14.00	3.0	OF-Fee
	3.00	.5	OF-Existing
Grand Total:	35.84	\$40.0	

The next steps in the process are for the Program Funding Teams to deliberate further on the merits of Agency programs and budget packages that are proposed.

On the Legislative front, the Governor's Office has forwarded six legislative concepts to Legislative Counsel for drafting. They are:

- A. Authority to Change the Name on a Water Right Certificate.** 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; about 71,000 of them are currently certificated. 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 would involve a fee, to fully pay for the required staff time.

**B. Establish a Water Supply Development Program.** Other western states, particularly California, Washington, and North Dakota, have long had authorities in place, allowing the state to take an active role in the development of water supply. Through discussions with Federal and other partners, the Water Resources Department has become aware of potential opportunities to purchase stored water, invest in, and develop new water storage projects. These opportunities may occur in the Columbia, Willamette, Rogue, and other basins, through arrangements with the state of Washington, U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, and other partners. Today, the state of Oregon has neither the authority to enter into such arrangements, nor the funding to enter into purchasing, investment, or other development opportunities.

This concept would direct the Water Resources Department to aggressively pursue the development of water supplies to benefit both instream and out-of-stream uses in Oregon. The Water Resources Department will focus its efforts to develop water supplies on the following needs:

- a) Alternatives to groundwater uses for agriculture and industry in Oregon's administratively managed groundwater areas such as, but not limited to, critical and classified groundwater areas.
- b) Sources of water supply for pending water right applications;
- c) A new reliable supply of water for the holders of water rights that are subject to regulation to satisfy senior water rights; and
- d) New water needs, including municipal, domestic, industrial, and irrigation.

Efforts will include assessing, planning, and developing new multi-purpose storage including above and below-ground storage, improving or altering operations of existing storage facilities, implementing conservation projects, or any other actions designed to provide access to new water supplies for instream and out-of-stream uses in Oregon.

A fee charged for the state's purchase and sale of water could partially offset the Department's expenses for this service.

**C. Establish a Water Right Management Fee.** The Water Resources Department, which is heavily dependent on the General Fund for its operating budget, has experienced a declining share of the General Fund, as well as declining dollars overall for the past two decades. Unlike most agencies, the Water Resources Department is smaller today than it was 20 years ago. This is compounded by a corresponding decrease in water management funds from county and federal partners. These declines come at the same time that water resource workload is increasing in complexity, particularly as it relates to groundwater science. The Water Resources Commission, the overarching policy body, increasingly concerned about these trends, has formed a revenue enhancement subcommittee, which has met with more than 40 stakeholder groups during the past two years. The Subcommittee has developed a set of revenue alternatives, to address this situation.

This concept represents one revenue solution developed by the Water Resources Commission. An annual fee, charged to all those holding a water right (a permit, certificate,

or decree), represents a good measure of equity, as water rights are used beneficially for industrial, agricultural, municipal, and instream purposes. This concept assumes that all water right holders would be subject to an annual fee of \$100 per water right. However, the Department has also assumed in its calculations a cap of \$1,000 for agricultural users, who often have an amalgamation of water rights, but no ratepaying base to assist with the costs.

There are currently 85,000 water rights in Oregon. Assuming water right holders would cancel a number of these rights, rather than pay a fee, and assuming significant implementation costs during the first biennium, the Water Resources Department has estimated net revenues of \$10 million, beginning in the second biennium after the program is established. Revenues would pay for implementation costs, as well as the cost of the critical field and science work, that help ensure water availability for beneficial uses.

- D. Split Season Leasing – Remove Program Sunset.** 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. The program has been in place since 2001, passing with strong support of the Oregon Legislature. In 2007, its sunset was extended to January 1, 2014, again with strong Legislative support. It has enjoyed participation from about a dozen water right holders from across the state; the largest concentration has come from the Deschutes, Rogue, and Willamette Basins.

This concept removes the program sunset. Responding to concerns voiced during the 2012 legislative session, this concept also clarifies that the Department will (and already does) guard against injury and enlargement of the water right during the course of program implementation.

Note: WRD is undertaking a review of this program with participants and stakeholders in accordance with Oregon Administrative Rules 690-077-0079.

- E. Extend Water Right Transactions Fee Schedule** (sunsets in 2013; reverts to 2003 levels.) The Department's fees for all water right transactions are set in statute. Last modified in 2009, the current fees are due to sunset in 2013. If this occurs, fees will revert back to levels that were set in 2003 and remained in place until 2009. The current fee schedule funds about \$2.1 million worth of work, or 16 permit writers in the Water Rights Division. A roll-back to 2003 levels would decrease authorized funding levels and would decrease staff by 7 FTE, resulting in drastically reduced staffing levels to customers.

This legislative concept: (1) removes the sunset, (2) creates a couple of additional fees, to bring consistency to the overall fee schedule, and (b) also adjusts the current schedule of fees to account for the increased cost of doing business; these increased costs are set each biennium by the Oregon Department of Administrative Services and are estimated at 13 percent for the 2013-15 biennium. This would maintain the 50-50 split between General

Fund and Fees negotiated in 2009.

**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. Amend the permit amendment process, allowing property owners to certificate their portion of the original water right permit as they become eligible. This would not release any of the well owners from obligations that existed under the original permit. This concept would apply to irrigation and agricultural permits only, as municipal water users already have access to a tool called "partial perfection."

### **III. Conclusion**

The Department will be working with the Program Funding Teams to determine which packages are recommended to the Governor for inclusion in his budget for 2013-15. Additional reports will be provided to the Commission as those decisions are made.

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