



Staff Report

TO: Water Resources Commission
FROM: Ivan Gall, Director
DATE: February 26, 2026
SUBJECT: Agenda Item F
Water Resources Commission

DIRECTOR'S REPORT

I. Recent Actions and Updates

A. Staffing Update

Since the December meeting, the Department has filled five positions with start dates before February 15, 2026. Of the positions filled, there are two staff who are new to the state, two internal promotions and one current staff member who accepted a permanent role with the agency. Positions that have been filled include the following:

- Groundwater Data Specialist
- Northwest Region Manager
- Public Information and Resiliency Specialist
- Senior Water Advisor
- Transfer Program Advisor

As of February 1, 2026, the Department has eighteen vacant positions. One position has an accepted offer whose start date is after February 15 and will be detailed in the June 2026 Director's Report. The remaining positions are being held open to accrue vacancy savings, assess available revenues, or are awaiting recruitment decisions after the February 2026 Legislative Session.

B. Drought Update

Oregon began Water Year 2026 with extensive drought coverage, including ~47% of the state in moderate drought, ~24% in severe drought, and just over 1% in extreme drought. As of January 27, approximately 17% of Oregon remains in moderate to severe drought, including over 4% in severe drought.

Moderate drought persisted across much of western Oregon through early December, but successive atmospheric river events brought significant precipitation resulting in notable drought improvement statewide. Despite near-normal precipitation totals for much of Oregon, statewide snowpack remains well below the historical median, with record-low snowpack recorded at monitoring stations across the state. These snowpack deficits are primarily attributed to persistent above-normal temperatures throughout the water year, limiting snow accumulation and increasing the proportion of precipitation falling as rain. Water year-to-date (WYTD) streamflows have been normal to above normal across most basins. However, in most of western Oregon, particularly southwestern basins, WYTD streamflow conditions have been below normal, reflecting ongoing precipitation deficits since spring 2025. Over the past 30 days, precipitation has been below normal statewide, resulting in below to well-below normal streamflows across much of the state, especially in western Oregon. Near-term climate outlooks indicate an increased likelihood of below-normal precipitation and above-normal temperatures in early February, while outlooks for February through April remain highly uncertain, with equal probabilities of below-normal, normal, or above-normal precipitation and temperatures.

C. Tribal Update – Laura Hartt

State-Tribal Water Policy Forum: The Department is working with the Governor’s Office to refine the scope, agenda, and scheduling of a water policy forum. The forum will be inter-agency in nature and will meet regularly to explore water-related topics of interest to the Tribes, including implementation of the IWRS and Tribal Water Task Force recommendations.

Burns Paiute Tribe Memorandum of Understanding (MOU) Update: This effort is on pause during the legislative session. The Department will have some resources to re-engage on this issue to explore an MOU with the Tribe.

Water Rights Rulemaking Consultations: January 21, the Director’s Office held a second consultation with the Klamath Tribes. Other topics were discussed, including Tribal interest in exploring co-management opportunities with the Department and Oregon Department of Fish and Wildlife.

Confederated Tribes of Warm Springs Engagement: November 20, 2025, the Tribes requested clarification regarding groundwater transfers and enforcement of groundwater permit decline conditions. January 21, 2026, the Department responded by providing the information and explaining the enforcement process. The Department also invited formal government-to-government consultation. February 4, the Tribes responded by requesting consultation. On February 4, the Tribes sent an addition consultation request pertaining to potential 2027 legislation which would extend the sunset date on the Deschutes Basin Groundwater Mitigation Program. The Department is coordinating with the Tribes to conduct consultation on both matters.

Tribal Cultural Items: December 15, to support the efforts of the [Oregon Tribal Cultural Items Task Force](#), the Governor's Office requested that each agency's Tribal Liaison serve as the designated contact for all matters and inquiries relating to Tribal Cultural Items. The Department has complied with the request.

Ongoing Coordination Efforts: The Department's Tribal Liaison and other staff continue to attend and provide updates during quarterly meetings held by the Oregon Legislative Commission on Indian Services (LCIS) Cultural Resources Cluster and the LCIS Natural Resources Working Group. During each update, Tribal staff are invited to offer input and encouraged to request either coordination or formal consultation on any issue of interest or concern. The Tribal Liaison continues to work with sister agencies and Tribal staff to update and standardize communications, coordination, and consultation efforts between the Department and the Tribes concerning policy issues of potential interest or concern.

Task Force on Tribal Consultation and Department Policy on Tribal Engagement: The Department continues to monitor the progress of the Task Force charged with identifying and clarifying the requirements of State agencies to engage in Tribal consultation. The Department will rely on Task Force recommendations to update the Department's 2007 policy on Tribal engagement.

Annual Government to Government Summit: The next Summit is tentatively planned for this Summer in the Salem area.

D. Klamath Update

ODFW has released a summary report on 2025 salmon returns to the Upper Klamath basin in Oregon (above the former dam reach). Monitoring also continues in California. In both states, tribes and other partners are working collaboratively to document the results of dam removal (including water quality and fish disease). 2025 results indicate that over 10,000 fall chinook passed above the location of the furthest downstream of the former dams (Iron Gate). ODFW estimates that approximately 1550 chinook spawned in the mainstem Klamath river in Oregon in the reach leading up to Keno dam; that 1,900 spawned in Spencer Creek (also below Keno); that 2,500 passed through the Keno fish ladder during daylight hours (when monitoring is currently possible); and 210 passed through the Link River fish ladder (also during daylight hours). Radio telemetry sampling indicates that many chinook that passed Keno returned to areas below that dam.

Net inflow into Upper Klamath Lake is currently slightly above the long-term median but the NRCS index for snow water equivalents to date are at 30 percent of the long term median due to high temperatures and precipitation resulting as rain rather than snow. As a result, the initial water supply forecast for the basin

is well below median levels.

E. January Changes to Water Right Transaction Processes

In 2025, the Oregon Legislature passed House Bill 3544, pertaining to protests and contested cases. This legislation went into effect January 1, 2026, and changed some water right transaction processes. The legislation:

- **Standardized document names:** OWRD is standardizing document names across all processes for consistency. This does not add new requirements, actions, or processes.
- **Automatic Final Orders:** Proposed Final Orders (PFOs) for affected processes automatically become final orders 33 days after the close of the protest period if no protest is received, unless OWRD withdraws the PFO.
- **Updated and standardized protest filing requirements:** The procedures for filing a protest to request a contested case hearing and the required contents of a protest are now the same for all affected processes.
- **Streamlined request for party status:** Anyone supporting a PFO for an affected process may submit a request for party status and relevant fees within 30 days after the protest period closes, but only if a protest is filed.
- **Contested case efficiencies:** Efficiency provisions include preferences for online hearings and providing hearing testimony orally rather than in writing, as well as development of a default hearing schedule that provides for completion of hearings within 180 days. The efficiency provisions apply to contested cases that are referred to the Office of Administrative Hearings on or after January 1, 2026.

More information on these changes can be found on our [water right process improvement webpage](#), where we are cataloging changes to the process.

F. Willamette Forecast Informed Reservoir Operations Project

The U.S. Army Corps of Engineers, in partnership with the Center for Western Weather and Water Extremes, has launched a multi-year effort called Forecast Informed Reservoir Operations (FIRO) for the Willamette Valley Project. The project includes a series of 13 dams and reservoirs primarily operated for flood control during the winter and used for other authorized purposes during the late spring and summer months.

FIRO is a reservoir operations strategy that uses enhanced monitoring and improved precipitation forecasts. The skill in weather and streamflow forecasting has improved dramatically over the last 50 years, with significant improvements in the western U.S. as researchers better understand the impacts of atmospheric river events. Extreme events cause most major wintertime flooding along the west coast while smaller beneficial atmospheric events provide critical water supply. A FIRO operations strategy, by design, will inform decisions about when to retain or release water and provide added flexibility to reservoir operations without the need to build new infrastructure.

The Willamette FIRO project is the fifth project site, with other efforts occurring in California (Lake Mendicino, Prado Dam, and the New Bullards Bar Dam-Oroville Dam project) and one in Washington at Howard Hanson Dam near Seattle. FIRO projects have multiple objectives, many of which are designed to achieve benefits related to flood risk management, water supply reliability, environmental functions, recreation, and navigation.

The Willamette effort is the first FIRO project that involves multiple dams that are operated as a system of reservoirs, where one management decision impacts operations at other facilities. Deputy Director Doug Woodcock is serving as co-chair of the Willamette FIRO Steering Committee, along with Dr. Marty Ralph, Director of UC San Diego's Center for Western Weather and Water Extremes, and Cary Talbot, USACE's national program lead for the FIRO Program. Various work teams are being formed to help develop a workplan to guide the analysis, project timelines, and deliverables.

Attachments:

1. Rulemaking Calendar
2. Litigation Update



Rulemaking Update February 2026

Current Rulemaking

Rulemaking Name	Description	Lead Staff	GWAC Input Expected	Target Adoption Date	Anticipated Timelines
2025-2026 Water Rights Related Rulemaking #1 Divisions 2, 14, 17, 18, 77, 300, 305 (new), 310, 315, 325, 340, 380, 382	Implementing HB 3544 (2025) regarding Protests and HB 3342 (2025) Contested Cases and other water right process and policy improvements and efficiencies.	Racquel Rancier, Katie Ratcliffe, Laura Hartt	No	March 2026	Public Comment Period Begins January 2026
2025-2026 Water Rights Related Rulemaking #2 Divisions 52, 53, 54, 320, 330	Standardization for issuance of orders and notice for hydroelectric projects with other minor updates. Reorganizes, repeals, cleans up, and aligns with statute the rules in Divisions 320 and 330.	Racquel Rancier, Katie Ratcliffe, Laura Hartt	No	June or Sept. 2026	Public Comment Period Begins Spring 2026

Upcoming Rulemaking

Rulemaking Name	Description	Lead Staff	GWAC Input Expected	Target Adoption Date	Anticipated Timelines
Water distribution, Civil Penalty, and Enforcement Rulemaking Divisions 250, 260, 340	Updates existing rules, aligns with statutory and other case law changes. Implements HB 4061(2021), SB 326 (2023), HB 2929 (2023). Establishes civil penalty classification and schedule.	Kim Fritz-Ogren, Jake Johnstone, Kelly Meinz	Yes	June or Sept. 2027	Start in Summer 2026

Repeal Package Divisions 22, 25, 93	Repeals Divisions 22 Klamath Drought Rules (Rules Expired), 25 Groundwater in Klamath Basin Need to repeal (Court Decision), and 95 Columbia Basin Water Development Loan Program (Statute Repealed in 2013).	Margo Mashkovsk aya	No	June or Sept. 2026	No RACs necessary Public Notice Spring 2026
Grant Programs Rulemaking Divisions 93, 600, 601	Program improvements and updates relating to HB 3364 (2025) for the Feasibility Study Grants and Water Projects Grants and Loans.	Unassigned	Unknown	Target Adoption 2027	Start in Summer 2026

*Planned rulemakings and timelines are subject to change as legislative and other priority topics may require adjustments.

STATE COURT CASES (TRIAL LEVEL)			
Case	Court	Description	Rulings & Dates/Litigation Deadlines/Next Steps
KBA	Klamath Case 00001 Judge Rowan	Adjudication of water rights in the Klamath Basin	The Klamath Tribes (KT) filed a petition for judicial review of OAH's decision to reassign the ALJ overseeing the remand of the tribal claims naming OAH as a party. KT has also filed a motion to stay the OAH proceedings and/or the court's remand order. We filed a "statement" as a response on Dec. 19, 2025; and UBI and OAH filed motions to dismiss. The responses to those motions are due on January 16, 2026. Additionally, the parties' work on finalizing the order related to Walton/KTA claims, which OWRD will file on Feb 13.
KID 3	Marion 21CV39570 Judge Partridge	PJR of April 6, 2021 Order to BOR; challenges OWRD's method of calculating whether stored water is being released	On January 6, 2026, the case was reassigned to Judge Manuel Perez. Judge Perez held the status hearing on January 12, 2026, and scheduled the next status hearing for April 13, 2026. The case is otherwise still stayed.
Sprague River Cattle	Marion County 22CV27077	Takings and declaratory judgment claim.	Markowitz firm has taken lead on discovery efforts. Electronic document collection and privilege review are occurring now. During the November 14, 2025 hearing on plaintiff's motion to compel, the court granted plaintiff's motion to compel production of attorney-client privileged documents older than 25 years. On January 13, 2026, the Oregon Supreme Court stayed the order on OWRD's emergency motion.
Rogue River v. OWRD	Marion County 23CV19220	A junior water-rights holder filed this petition challenging Oregon Water Resources Department's enforcement of the Klamath Tribes' call on claim No. KA 622.	Case consolidated with MID. On October 16, 2024, the court entered an order granting parties' stipulated motion to abate case pending completion of infrastructure project necessary to release water reservoir for downstream senior users. Status updates to be filed every six months.
MID v. OWRD	Marion County 23CV19218	A junior water-rights holder filed this petition challenging Oregon Water Resources Department's enforcement of the Klamath Tribes' call on claim No. KA 622.	Case consolidated with Rogue River. On October 16, 2024, the court entered an order granting parties' stipulated motion to abate case pending completion of infrastructure project necessary to release water reservoir for downstream senior users. Status updates to be filed every six months.
Lloyd Piercy v. OWRD, et al.	Umatilla County 23CV27740	A junior water-rights holder filed this petition challenging OWRD's enforcement of the Westland Irrigation Districts' call per the Water Mangment Plan for the Umatilla Basin Project.	Partial summary judgment granted to Petitioners; trial scheduled for May 18-20, 2026.
New Foothills Properties LLC, et al. v. OWRD, et al (New Foothills I)	Umatilla County 23CV27892	A junior water-rights holder filed this petition challenging OWRD's enforcement of the Westland Irrigation Districts' call per the Water Mangment Plan for the Umatilla Basin Project.	Partial summary judgment granted to Petitioners; trial scheduled for May 18-20, 2026.
Lloyd Piercy, et al. v. OWRD, et al (New Foothills II)	Umatilla County 24CV32021	A junior water-rights holder filed this petition challenging OWRD's enforcement of the Westland Irrigation Districts' call per the Water Mangment Plan for the Umatilla Basin Project. This is the 2024 version of New Foothills I.	Partial summary judgment granted to Petitioners; trial scheduled for May 18-20, 2026.
NBCC, LLC, et al v. OWRD, et al	Marion County 23CV32928	PJR Case Regarding Water Rights.	Partial motion to dismiss granted during October 2024 hearing. Awaiting entry of order and petitioner's amended petition. Discovery ongoing. OWRD's document production is complete as of December 19, 2026. During January 14, 2026, status hearing, the court set trial for November 4-5, 2026, and a follow-up status hearing for April 8, 2026, at 8:15 a.m.
Winchester Water Control Dist. v. OWRD, et al	Marion County 23CV33445	Petitioner district contends OWRD wrongfully denied amendment to their water right registration statement that claims less water than is actually held in reservoir.	The parties have filed cross-motions for summary judgment. Briefing on those motions is almost complete; our reply is due on 1.16.25. Oral argument on the summary judgment motions will be on 2.18.26 at 9:00am. Although we anticipate that the case will be decided on summary judgment, the court has also tentatively scheduled a two-day trial for 3.9.26 and 3.10.26.

OWRD ACTIVE LITIGATION CHART

Roaring Springs Ranch, Inc. v. Water Resources Department, et al.	Harney County, 24CV20196	Petition for Judicial Review challenging the decision by the Water Resources Department denying an application for groundwater use for irrigation.	The Court denied OWRD's motion to dismiss during a hearing on March 18, 2025. During a hearing regarding the parties' disputed proposed orders on July 23, 2025, the court approved OWRD's straightforward order. We filed an answer on August 4, 2025. The parties have agreed to file cross-motions for summary judgment in spring 2026, and discovery is ongoing. Discovery ends February 6, 2026, and Petitioner is scheduled to file its motion for summary judgment on March 20, 2026, and our cross-motion is scheduled to be filed May 1, 2026.
Pinnacle Utils v. OWRD (mandamus)	Marion County, 25CV07127	Mandamus petition seeking to compel OWRD to process Transfer Application T-14165	Court denied Tribes' motion to dismiss; Tribes appealed; potentially working on limited judgment
Western State Steelhead vs. OWRD	Marion County, 24CV59824	Petition for Judicial Review challenging OWRD's final order approving a water right permit amendment as it relates to certain wells on the property and their permissible use.	The parties are exploring settlement options. Next status check hearing set for February 11, 2026, at 8:30 a.m.
Piercy, New Foothills v. OWRD et al (New Foothills III)	Umatilla County, 25CV37634	A junior water-rights holder filed this petition challenging OWRD's enforcement of the Westland Irrigation Districts' call per the Water Mangment Plan for the Umatilla Basement Project. This is the 2025 version of New Foothills I.	Reversed regulation order and permanently withdrew notices of violation; Petitioners intending to seek limited judgment and attorney's fees; DOJ intends to move to dismiss as moot; consolidated w/ 2023 and 2024 cases; trial scheduled for May 18-20, 2026.
Piercy v. OWRD (Piercy II)	Umatilla County, 25CV40394	Petition for judicial review challenging OWRD's notice of violation, which asserts that the water user is unlawfully using groundwater	Amended NOV issued with "NOT a final order" box; petitioner filed amended PJR; motion to dismiss filed; reply brief due Jan 22
Piercy v. OWRD (Piercy III)	Umatilla County, 25CV65567	Petition for judicial review challenging OWRD's notice of violation, which asserts that the water user unlawfully failed to maintain functional water meters	Response to PJR "due" January 15; DOJ emailed OWRD about potentially withdrawing
Gould v. OWRD (Gould II)	Marion County, 25CV44570	Petition for judicial review challenging OWRD's approval of Pinnacle Utilities' Water Management and Conservation Plan	Stayed pending outcome of related contested cases

STATE COURT CASES (APPELLATE LEVEL)

Case	Court	Description	Rulings & Dates/Litigation Deadlines/Next Steps
Gould vs. OWRD	A185116	PJR of order granting temporary change in place of use and points of diversion. Pinnacle Utilities has moved to intervene.	Argued January 8, 2026, waiting for a decision.
Waterwatch of Oregon v. OWRD (Bridge Creek Ranch)	A189353	Judicial review of final agency order T-14158 approving a point of diversion to allow Bridge Creek Ranch to withdraw and use water from Bridge Creek	Notice of Appeal filed 12/15/2025; in pre-briefing phase; currently awaiting the agency record and negotiating briefing deadlines
Waterwatch of Oregon v. OWRD (Bridge Creek Ranch)	A189355	Judicial review of final agency order T-14170 approving a point of diversion to allow Bridge Creek Ranch to withdraw and use water from Bridge Creek	Notice of Appeal filed 12/15/2025; in pre-briefing phase; currently awaiting the agency record and negotiating briefing deadlines
Pinnacle Utilities v. Conferederated Tribes of Warm Springs	A189328	Interlocutory appeal of a denial of a motion to dimiss for failure to join an indispensible party (the Tribes)	Notice of Appeal filed 12/03/2025; in pre-briefing phase; currently awaiting the trial transcript

FEDERAL COURT CASES (TRIAL LEVEL)			
Case	Court	Description	Rulings & Dates/Litigation Deadlines/Next Steps
US v. OWRD (fka BOR v. OWRD)	USDC OR 21-cv-1442 Judge Clarke	BOR asserts same claims as in Yurok case and also a PJR under the Oregon APA against the April 6 No Release Order	N/A [Stayed] Next status update is due June 12, 2026, or within 30 days of the Yurok Tribe decision.
Yurok v BOR & NMFS Intervenors: KWUA and Klamath Tribes	ND CA3:19-cv-04405 Judge Orrick	Tribes and others challenge the final BiOp (2019), BOR's environmental assessment and finding of no significant impact from BOR operations; primarily that set amount of irrigation water is unlawful and harmful to listed species	Limited judgment entered on US's First Claim for Relief; Appellate is handling appeal; opening and response briefs filed in 9th Circuit; oral argument complete and waiting on a decision; filed response to KID motion to certify state law questions on 11/18/24. The court denied motions to dismiss by BoR and KWUA on 9/12/2025. We are waiting on a decision on KID's motion to certify and on the merits of the appeal.
Grant Knoll v. OWRD/WRC	USDC Oregon 1:23-cv-00928-CL Judge Mark D. Clarke	A junior water-rights holder filed this petition challenging Oregon Water Resources Department's enforcement of the Klamath Tribes' call on claim No. KA 622.	Case is stayed. Status update filed on 6/30/25. Next status update is due within 14 days of a ruling in the Yurok Tribe case.
Grant Knoll v. OWRD/WRC	USDC Oregon 1:23-cv-00929-CL Judge Mark D. Clarke	A junior water-rights holder filed this petition challenging Oregon Water Resources Department's enforcement of the Klamath Tribes' call on claim No. KA 622.	Case is stayed. Status update filed on 6/30/25. Next status update is due within 14 days of a ruling in the Yurok Tribe case.
Glenda Stilwell v. OWRD/WRC	USDC Oregon 1:23-cv-00930-CL Judge Mark D. Clarke	A junior water-rights holder filed this petition challenging Oregon Water Resources Department's enforcement of the Klamath Tribes' call on claim No. KA 622.	Case is stayed. Status update filed on 6/30/25. Next status update is due within 14 days of a ruling in the Yurok Tribe case.
Ryan Hartman, et al v. OWRD/WRC	USDC Oregon 1:23-cv-00927-CL Judge Mark D. Clarke	A junior water-rights holder filed this petition challenging Oregon Water Resources Department's enforcement of the Klamath Tribes' call on claim No. KA 622.	Case is stayed. Status update filed on 6/30/25. Next status update is due within 14 days of a ruling in the Yurok Tribe case.