



Burnt River Irrigation District Measurement Accuracy Waiver Request

Item A

9/10/2026

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Presentation Overview

- Background
 - Water Management and Hydrologic Setting
 - 3111 Irrigation District Remapping
 - Water Use Reporting Accuracy Waiver
- Request: BRID Water Use Reporting Accuracy Waiver
 - Financial hardship
 - Management needs
- Decision from Commission

Background – District Water Management and Re-mapping

District Water Right Remapping

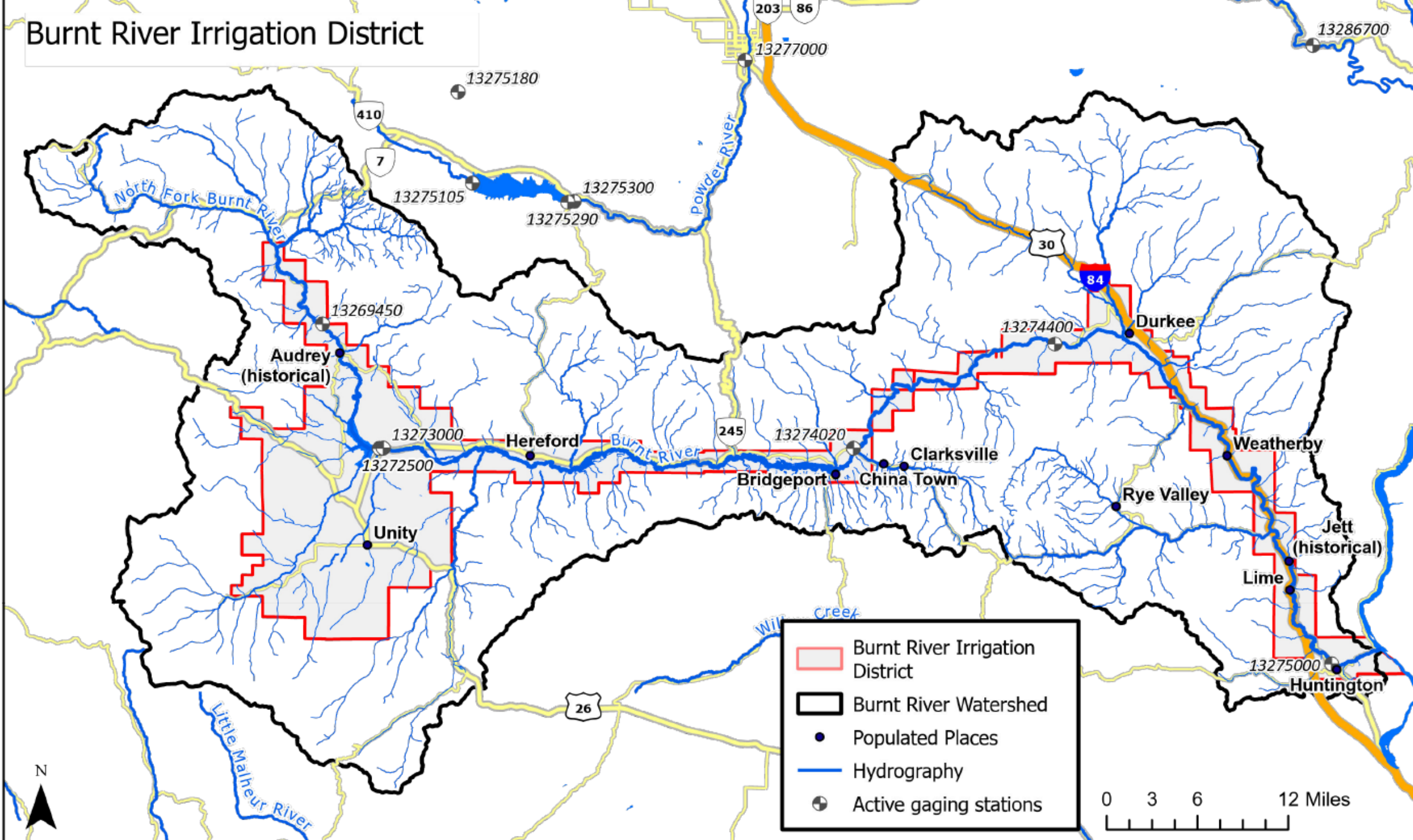
- Burnt River Irrigation District (BRID) filed a petition with OWRD requesting approval a petition and maps indicating the location and use of existing rights within BRID under HB 3111 (ORS 541.325 to 541.333)
 - OWRD staff worked with BRID to finalize the petition and superseding certificates
 - Certificates reflect the petition and maps submitted by BRID
 - Draft Certificates are in the name of the district – triggered Div 85 (WUR)

OWRD Water Management

- Downstream irrigation rights on tributaries
- ISWRs within canyon, 1992 priority
- OWRD operates three, soon to be four, gaging stations within the BRID boundaries
- Idaho Power operates two gages within the district
- Gages provide OWRD and BRID meaningful data for water management



Burnt River Irrigation District



Background Summary

- BRID partners with OWRD and Idaho Power on five, soon to be six gages
- District focuses management on exchange contract and settlement releases
- Little groundwater or spring flow contributing to flows in the Burnt River below Unity Reservoir
- Geology limits gains or losses along the river
- Geography limits future out-of-stream development
- Given limited groundwater development, unlikely regulatory impact

Background: Water Use Reporting Accuracy Waiver

Governmental Entities and Water Use Reporting (WUR)

- **In 1987, codified 537.099 - ...**“any governmental entity that **holds a water right** shall submit an annual water use report to the Water Resources Department.”
- **Who?**
 - State or Federal agency
 - Local government (ORS 294.004)
 - Irrigation districts formed under ORS 545
 - Water control districts formed under ORS 553



Governmental Entity Accuracy Requirement

OAR 690-085-0010(3). ...the reported monthly volumes of water shall be accurate within plus or minus 15 percent

Government entities can:

- Provide required data,
- Request an extension, or
- **Request a waiver**

Why seek a waiver now?

- New water rights
- Governmental entities coming into compliance
- Water rights re-issued in name of governmental entity



WUR Accuracy Requirement Waiver

OAR 690-085-0010(6) The Commission may waive section (3) of this rule...To qualify for a waiver, the governmental entity shall show that:

a) Complying with the rule(s) would cause an economic hardship on the governmental entity;

AND

(b) The information to be collected would not materially aid water management...



Economic Hardship



OAR 690-085-0008 (7) “Economic hardship” means a financial burden of an extraordinary nature.



Unusually large number of diversions or locations



Costs of measuring and reporting for a diversion or location greatly exceed the normal costs associated with a similar volume of water, or



Costs of measuring and reporting threaten the entity’s fiscal ability to continue operating.

Materially Aid Water Management



OAR 690-085-0010(6)(b)

The information to be collected would not materially aid water management because:

(A) The **regulation** for or of the use is **unlikely** due to the **absence of other water rights**; or

(B) Use of water is unlikely to materially affect water availability; or

(C) Another similar situation exists.

Request from BRID

BRID Accuracy Waiver Request

- Attachment 2 – Request Letter from BRID
- Burnt River Irrigation District (BRID) submitted a Water Use Reporting Accuracy Waiver Request for all rights to be issued in the name of the district because of the HB 3111 petition
 - **Economic Hardship:**
 - significant economic hardship for the BRID
 - measurement on 130 individual diversions
 - additional costs for monitoring and management
 - impossible to absorb within the current BRID annual budget
 - **Water Management**
 - Adding 130 new measuring devices does not materially aid BRID in water management within the district.

OWRD Findings

- Measuring individual diversions would not materially aid water management because of the exchange contract and lack of senior rights downstream of the district
- ISWRs are junior, existing gaging and spot measurement adequate
- Existing network of gages and district measurement provides adequate information for management; working to review and finalize with Water Use Reporting
- WRD estimates installation cost of ~\$800k for 130 measurement devices; doesn't include maintenance
- BRID has been a consistent long-term partner in measurement in collaboration with Baker County

Commission Alternatives

The Commission may consider the following alternatives:

- **Alternative 1:** Direct the Department to draft a special order for the Commission chair to sign that:
 - 1) grants a waiver of compliance from the fifteen percent accuracy requirement [OAR 690-085-0010(3)] by issuing a special order for all 160 PODs implicated in the HB 3111 re-mapping process (Attachment 3), including the 130 PODs authorized by certificates being reissued in BRID's name as a part of the petition for approval of the district mapping process, and
 - 2) allows staff to rescind the order if a review of local conditions finds that management needs or economic hardship impacts have changed to the extent that the waiver should be rescinded.
- **Alternative 2:** Direct the Department to further evaluate the request and return with a revised recommendation
- **Alternative 3:** Deny the accuracy waiver request.

Director Recommendation

- **Alternative 1:** Direct the Department to draft a special order for the Commission chair to sign that:
 - 1) grants a waiver of compliance from the fifteen percent accuracy requirement [OAR 690-085-0010(3)] by issuing a special order for all 160 PODs implicated in the HB 3111 re-mapping process (Attachment 3), including the 130 PODs authorized by certificates being reissued in BRID's name as a part of the petition for approval of the district mapping process, and
 - 2) allows staff to rescind the order if a review of local conditions finds that management needs or economic hardship impacts have changed to the extent that the waiver should be rescinded.

Next Steps

- If waiver approved, certificates will be issued in name of BRID
- If waiver not approved, certificates will be issued in the name of the private landowner
- Regardless, OWRD will work with BRID to establish methods of measurement per OAR 690-085, including review and finalization of the block measurement approach for existing reported PODs

OREGON



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