



# Oregon

Kate Brown, Governor

Water Resources Department

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## MEMORANDUM

TO: Oregon Water Resources Commission

FROM: Racquel Rancier, Senior Policy Coordinator *RR*  
Tracy Louden, Administrative Services Division Administrator *TL*

SUBJECT: Agenda Item K, February 26, 2016  
Water Resources Commission Meeting

### Legislative and Budget Update

#### I. Introduction

This report provides an overview of the 2016 Legislative Session and efforts underway to prepare for the 2017 Legislative Session, including budget and legislation proposals. Commissioners will be asked to provide input on 2017 proposals during this agenda item.

#### II. 2016 Legislative Session

Oregon's Legislative Assembly convened in Salem on February 1. Bills were required to pass out of first chamber committees on February 11 and second chamber committees by February 23. The Constitutional Sine Die is March 6. The water-related bills have been assigned to the House Committee on Rural Communities, Land Use, and Water and the Senate Committee on Environment and Natural Resources. Committee membership is outlined below:

##### Senate Committee on Environment and Natural Resource

- Chris Edwards, Chair (D)
- Alan Olsen, Vice-Chair (R)
- Michael Dembrow (D)
- Doug Whitsett (R)
- Floyd Prozanski (D)

##### House Committee on Rural Communities, Land Use, and Water

- Brian Clem, Chair (D)
- Mike McLane (R)
- Vic Gilliam (R)
- David Gomberg (D)
- Ken Helm, Vice Chair (D)
- Bill Post, Vice Chair (R)
- Brad Witt (D)

On behalf of the Governor's Office, the Department worked with legislators to introduce a bill that, if passed would establish a task force on drought, as well as several budget proposals related to drought and groundwater in the Greater Harney Valley. See Attachment 1 for more information. Staff will provide an overview of the status of the Department's proposals as well as a review of other water-related bills introduced during the presentation.

### **III. 2017 Budget and Legislation Development**

Proposals for legislation are due to the Department of Administrative Services (DAS) on April 15 for the 2017 Legislative Session. If the Governor's Office approves moving forward, DAS will submit the requests to Legislative Counsel for drafting by June 3. Placeholders may be submitted to DAS through June 24 with DAS submitting approved requests to Legislative Counsel by July 29.

DAS's official kickoff of development of the 2017-2019 Biennium Budget will not begin until March; therefore, timelines for budget development have not yet been set.

The Department has begun brainstorming ideas for potential legislative concept and budget proposals and will seek input from the Commission on the potential proposals and Department priorities. Attachment 2 provides an overview of the potential 2017 legislative concept and budget proposals.

The Department met with stakeholders on January 11 and 27, 2016, to begin discussions about proposals for the 2017 Legislative Session. Additional meetings will be scheduled in March.

### **IV. Conclusion**

The Department has begun work on budget and legislation proposals for the 2017 legislative session. Over the next several months, the Department will refine its legislative and budget priorities for 2017.

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*Attachment 1: 2016 Legislative Proposals: Drought Resiliency and Groundwater*  
*Attachment 2: 2017 Potential Legislation and Budget Proposals for Water Resources*  
*Commission Discussion Purposes*

## 2016 Legislative Proposals: Drought Resiliency and Groundwater

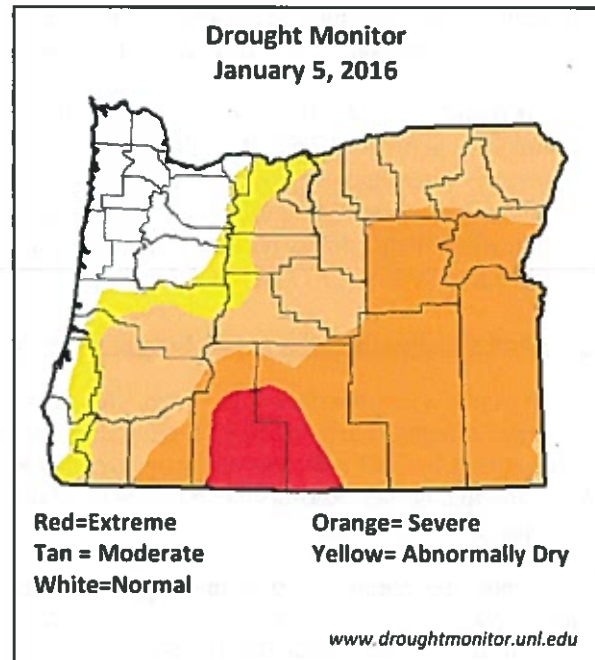


### Background

In 2015, Oregon experienced severe to extreme drought statewide. As a result, many streams in the state experienced below-normal to record-low flows.

Water users on many streams that are not typically regulated off in a normal year were required to shutoff to meet the call of senior water rights. Some groundwater users also experienced problems with their wells, likely due to greater pumping and lower recharge of groundwater. Instream flows for fisheries, water quality, and recreation were also affected.

Twenty-five of Oregon's 36 counties received a State drought emergency declaration from the Governor. Water Resources Department staff were pulled off of other duties to assist with drought response; however, resources were limited and the Department identified several areas where additional resources would benefit the public.



Current weather forecasts are predicting drought to continue in many parts of Oregon. The effects of drought can accumulate and intensify over time; therefore, it is important for water users and the State to be prepared in the event that drought conditions continue into summer of 2016.

In most parts of Oregon, streams are fully allocated and the Department is not issuing new permits for withdrawing water during the summer. As surface water has become fully allocated or drought conditions are encountered, many individuals turn to groundwater to meet their water needs. As a result, the Department needs additional resources to collect and analyze data to effectively monitor the resource.

Proposals to address these issues during the 2016 Legislation Session are outlined below.

### Drought Task Force Legislation

*Drought Emergency Response and Resiliency Task Force Legislative Concept* - The Department believes that it is time to take another look at how the State anticipates and responds to drought, and is working with a legislator to introduce legislation that would establish a task force on Drought Emergency Response and Resiliency.

This task force, made up of a diverse set of interests, could: (1) evaluate existing drought response tools and make recommendations to improve drought response, (2) identify options to minimize the impact of drought on fish and wildlife, (3) propose tools to assist small water providers to anticipate drought risks and responses, (4) identify data and resources needed to anticipate and understand drought impacts, and (5) recommend improvements to information sharing during drought.

The Department estimates that this would require a limited duration employee for six months to conduct research and prepare for task force meetings, staff task force meetings, and develop final task force reports. Task force costs are estimated at \$47,356, which includes a limited duration employee for six months, costs of task force members' travel, parking, lunches and photocopies.

## **Drought Funding Proposals**

*Drought Assistance Funding* – Washington State has allocated \$16 million for drought emergency response for the 2015-2017 Biennium, spending over \$5 million in 2015. In contrast, the Oregon Water Resources Department does not currently have resources to provide financial assistance to address drought-related impacts on community water supplies, agriculture, or instream needs. The Department is currently in the process of developing a proposal to provide drought funding assistance. [Estimated \$3 million GF or Lottery Bonds]

*Outreach and Rural Assistance Coordinator* – This position would provide technical assistance to smaller communities in responding to drought emergencies, understanding their water supplies, identifying opportunities to conserve water, and developing water management and drought contingency plans. This position would also be responsible for providing information to the public, press, elected officials, and stakeholders. If funded, this position would help administer the Drought Assistance Funds requested above. [Outreach and Rural Assistance Coordinator – NRS 4 – \$137,216 GF]

## **Groundwater Funding Proposals for the Greater Harney Valley**

Groundwater is an important water source for many parts of the state. One such area, the Greater Harney Valley in Harney County, has experienced significant groundwater development over the years. Recent preliminary data analyses by staff indicates declining groundwater levels over a broad portion of the Greater Harney Valley Area, and that no new permits can be issued without harming existing water users and appropriating water beyond the capacity of the resource.

Given this information, in 2015, the Department began denying new groundwater rights in the Greater Harney Valley Area, pending completion of a more detailed study. The Department needs more information in order to refine its analyses and understand whether there may be sections of the basin that can still allow for new uses. While the study is being conducted the Department is exploring and working with the community to try to identify near-term tools, such as water transfers, to meet new water needs.

The Greater Harney Valley community has requested that the State immediately commit to funding a groundwater study in the basin, as groundwater is a key component of economic development and the general welfare of this area. Groundwater studies usually take 3-5 years to complete. Therefore, taking steps this biennium to move the study forward will show that the State is committed to working through these issues with the local community.

In order to move the study forward, the Department has developed budget proposals *totaling approximately \$705,288* for consideration for the remainder of the 2015-2017 Biennium:

*A NRS 4 Hydrogeologist* would analyze groundwater data for the basin study to establish the nature and extent of the different aquifers and low permeability units in the basin, conduct complex data analyses to develop a water budget, and review groundwater transfer applications in the basin. [Hydrogeologist – NRS 4 – \$130,288 GF]

*Observation Wells* – A one-time allocation of general fund dollars in the amount of \$400,000 to drill and construct observation wells in and around the Greater Harney Valley study area. [State Observation Wells - \$400,000 GF]

*Cooperative Study Cost-Share* – General fund dollars in the amount of \$175,000 this biennium to begin immediate funding of the Greater Harney Valley cooperative groundwater study with the US Geological Survey. US Geological Survey scientists would assist with basin water budget and recharge analysis, hydrogeological characterization and data analyses, and groundwater flow construction. [Cooperative Groundwater Study - \$175,000 GF]

## **Oregon Water Resources Department Contact**

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## Oregon Water Resources Department Potential 2017 Legislative Concepts

### **Legislative Concept #1** - [LC and Budget Proposal]

#### ***Water Right Transactions Fee Schedule Sunset – Sustaining Existing Service Level***

The Department is proposing a bill to adjust its water right transaction fees schedule to maintain its current service level. The Department's fee schedule that was passed in the 2013 session is scheduled to revert to 2009 levels in 2017, which will impact the Department's ability to continue its current service level. In addition, without adjustments for increased costs, the Department will have to decrease its current service level over time. The Department seeks to maintain the agreed upon target 50-50 split with general fund dollars. [IWRS 13b].

### **Legislative Concept #2** - [LC and Budget Proposal]

#### ***Protection of Groundwater***

Staff have identified potential changes to statutes and fee structures relating to the protection of groundwater through well construction practices. [Proposals address IWRS actions: 7a, 12a, 13b]. These include:

- The existing \$300 Exempt Use Fee surprises well owners because it occurs after the well is complete. Propose to charge \$300 fee upfront for wells (exempt) at the same time the start card fee is paid. *Only would change fee timing. Does not increase or establish a new fee.*
- Existing fee for a landowner to drill own well is \$25, yet these often require more oversight from the Department than wells drilled by a professional driller. Propose to increase fee to match start card fee, which would pay for well construction staff. *Fee increase.*
- Individuals that seek to deviate from well construction standards, must seek a "special standard" from the Department. This review is currently subsidized by start card fees and can take days or weeks to process and multiple consultations/site visits. WRD receives hundreds of requests each year. Propose 1x start card fee for single well, and 2x start card fee for multiple wells on same site to pay for well construction staff. *New fee.*
- Bond requirements for driller are insufficient to remedy well construction issues. Propose to double bond requirements to \$10K for landowners and \$20K for drillers. *Bond increase.*
- Establish a streamlined enforcement process for minor well construction violations (690-225 Table 225-1), such as failing: to file start card, to submit fees, to place drilling license number or company name on drilling rig, or to attach a well ID label to the well within 30 days of construction completion.
- Add cost recovery to counteract 3 percent charge on credit card transactions. Erodes programs that currently accept credit cards (such as start cards). *Cost recovery.*

### **Legislative Concept #3** - [LC and Budget Proposal]

#### ***Modernize Dam Safety Authorities***

A strong Dam Safety program is essential to protecting the public, as well as new and existing water supply infrastructure. [Proposals address IWRS action: 7a]. This concept could:

- Update dam safety statutes. Established in 1927, Oregon's dam safety statutes need stronger authorities in order to rapidly address unsafe dam conditions, require monitoring, and require Emergency Action Plans (EAPs) for all high hazard dams.
- Establish fee for customers who are refurbishing, replacing, or building new dams that need to have their designs reviewed and approved by WRD's Dam Safety Engineer. WRD does not currently charge for this service, despite the fact that it is a time-consuming and technical review. Propose \$3 per \$1,000 of estimated cost of construction/engineering but not less than \$100 and not more than \$3000. Requires new filing fee per above when an owner resubmits an application that was previously rejected by the State Engineer. Fees would pay for Dam Safety staff. *New fee.*

**Oregon Water Resources Department**  
**Potential 2017 Budget Proposals**  
[Excluding Proposals Requiring Legislative Concepts]

**Focus Area #1 - Data to Inform Water Resources Solutions and Increase Resiliency to Drought**

As groundwater and surface water sources become fully appropriated, additional data is necessary in order to manage the resources and identify solutions to meet instream and out-of-stream needs. [Proposals address IWRS actions: 1a, 1b, 1c, 7a, 9a].

- Hydrogeologists and Hydrologists: Proposals include junior scientists responsible for data collection, and senior scientists to conduct analyses, review water right permits, and assist in identifying water resources solutions. Would add groundwater and surface water staff to: Collect data for current and future groundwater basin studies. Locate & instrument wells, collect water-level & use data, conduct aquifer tests, help construct observation wells. QA/QC and analyze groundwater data, review permit applications. Maintain gages, process gage records and backlogs. Install, calibrate & maintain gages and measuring equipment, secure landowner access agreements, protect cultural resources. Review water right applications. Coordinate studies for emerging issues: place-based planning, SW-GW interaction, climate change effects, extreme events, evapotranspiration (ET), real-time water distribution; and implement statewide Monitoring Strategy.
- Add Information System staff to support data efforts such as developing storage, water conditions, and GIS queries / applications; and serve as a place-based planning IT liaison.
- Dam Safety and Groundwater Coordinator – Assist groundwater and surface water staff to ensure files and schedules are maintained appropriately.
- Increase Groundwater Basin Study Funding to continue to characterize Oregon’s groundwater resources.
- Funding to reestablish cooperative program with USGS. The Cooperative Water Program supports the collection of basic hydrologic data, studies of specific water-resources problems (e.g., post-fire assessments, ground-level monitoring), updated groundwater recharge studies, hydrologic/snow research, and joint agency training on emerging technologies.
- Contract w/ University of Idaho to develop evapotranspiration data
- After a wildfire, the ground cannot easily absorb rainwater, increasing the risk of flooding and mudflows. Traditional stream monitoring equipment is expensive and time consuming to set up and maintain. Temporary, real-time, rapid-deployment equipment can be set up and removed quickly. Cost per unit is approx. \$5,400
- Add note to WRD Budget: The gaging network and its equipment is aging and equipment is failing, causing data gaps. Need to allow for equipment replacement and upgrade in stream gage installation line item.

**Focus Area #2: Department Underpinnings: Taking Care of Business and Core Functions**

These proposals support the Department’s key functions to serve the public from being responsive in the field, to providing information to the public, to ensuring that our information systems function properly. [Proposals address IWRS actions: 1b, 1c, 8c, 10]

- Add an Outreach and Public Information Coordinator: As other entities move to social media, blogs, and other means of communicating to the public, the Department struggles to maintain its website and generate basic fact sheets. In addition, the Department’s budget for graphic design, publishing, printing and other materials makes it difficult for the Department to provide information in a format that is accessible to the public.
- Add additional Assistant Watermasters: A strong field presence is important to ensuring water is distributed in a timely manner and to enforce against waste.
- Add position for user support and IT security to protect computer assets and corporate data by managing firewalls, networks, backups, disaster recovery plans, and system patching. Position previously lost.

- Add position for software development and IT project management. This position ensures data projects are well managed, and that the Agency database runs optimally, is well organized, protected, and backed up. Position previously lost.
- Department needs to replace servers before 2019, at a cost of \$250K.

### **Focus Area #3: Protection of Groundwater Resources**

This section contains proposals to protect the water quantity, water quality, and water pressure in Oregon's aquifers for existing and future groundwater users and ecosystems. [Proposals address IWRS actions: 7a, 12a]

- Add well construction positions: New Columbia River Basalt (CRB) rules (2016) will require drillers to provide 10 days notice before drilling and will require consultation with WRD to determine appropriate depths to case and seal. Would add an inspector and a well construction specialist.

### **Focus Area #4: Addressing Instream and Out-of-Stream Water Needs and Infrastructure**

Oregon needs to continue to invest in the state's water future to meet instream and out of stream water needs. These proposals include further investments in Water Resources Development Program funding, as well as improvements to the state's Dam Safety program to protect the public and water supplies. [Proposals address IWRS actions: 7a, 8c, 9a, 13c, 13b]

- Place-based Planning Grants: Provide additional funding for place-based planning grants. Also, proposes to convert LD place-based planning coordinator to permanent.
- Feasibility Study Grants: Recapitalize the Feasibility Study Grants program. Also proposes to make the .75 LD Grants Specialist permanent.
- Water Project Loans and Grants - Recapitalize the Water Supply Development Account (SB 839) for water resources implementation grants and loans.
- Rural Assistance Coordinator - This position would be responsible for providing assistance to small communities to understand their water supplies, identify opportunities to conserve water, and develop water management and drought contingency plans.
- Earthquake Resiliency - Conduct Seismic Studies of dams.
- Levees - Help communities write scopes of work & award contracts to repair & re-certify levees in order to remain eligible for national flood insurance. SB 306 (2015) provided authority but no funding for the Department to do this work.