



Oregon

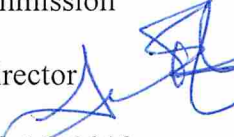
Kate Brown, Governor

Water Resources Department

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MEMORANDUM

TO: Water Resources Commission

FROM: Thomas M. Byler, Director 

SUBJECT: Agenda Item J, March 16, 2018
Water Resources Commission Meeting

Director's Report

I. Current Events:

New Staff & Staff Promotions

Since the December meeting, the Department has hired four new employees, processed two staff transfers and promoted five staff. Positions filled include a Watermaster, a Hydrologist, a Hydrogeologist, two Office Specialists, an Assistant Watermaster, two Data Technicians, a Transfer Specialist, a Grant Coordinator and a Public Service Representative.

II. Commission Follow Up

A. Klamath Basin Update

On December 28, 2017, the Secretary of the Department of the Interior published the "Negative Notice" as described in the Upper Klamath Basin Comprehensive Agreement (UKBCA). The UKBCA specified how the Department would regulate hydraulically-connected groundwater in the Off-Project area of the Klamath basin, the provisions of which were written into the Department's Division 25 rules adopted by the Commission in March 2015. Filing of the negative notice terminates the UKBCA, which results in groundwater regulation occurring under the state-wide Division 9 rules, instead of the Division 25 rules. Regulation under Division 9 likely will result in a greater number of wells being subject to regulation this year than under Division 25 rules. Groundwater staff are currently in the process of assessing wells in the Upper Klamath Basin under the provisions of Division 9 regulation criteria.

During the week of February 5th, Department staff held three public meetings in the Upper Basin in Ft. Klamath, Chiloquin, and Sprague River. The meetings were designed to answer questions regarding water and water rights, and to educate the public on determined claims, watermaster duties, transfers, and regulation and distribution. All three meetings were well attended. On February 20th, staff presented information and answered questions, largely around groundwater use and drought permits, at a public meeting in Klamath Falls for Klamath Project irrigators. Klamath Commissioner Donnie Boyd attended each of the four meetings.

During the upcoming irrigation season, the Department will have monthly meetings with the California Department of Water Resources, the U.S. Bureau of Reclamation, and Klamath Project districts to share information on issues such as water supply and demand, groundwater pumping, and impacts to other wells from groundwater pumping. The projected shortfall on surface water delivery for the Klamath Project lands will likely result in significant interest in exercising supplemental groundwater rights and drought permits, where issued.

On March 8, 2018, the Klamath Tribes submitted a call for water on instream determined claims and the Klamath Marsh for the upcoming irrigation season. The U.S. Bureau of Indian Affairs concurred with the call on March 9, 2018. The Watermaster is in the process of validating the call. Regulation is likely to begin as early as next week.

On March 13, 2018, Governor Brown and several agency directors attended meetings in the Klamath Basin. Governor Brown issued an Executive Order declaring drought in Klamath County.

B. Umatilla Water Supply Project

The Department has an \$11 million grant agreement with the Port of Morrow to implement one or more infrastructure projects that will deliver water primarily to lands that are currently not irrigated or are under-irrigated. These funds come from a direct appropriation from the Legislature in 2015 to assist with financing water supply projects in the Umatilla Basin. The Port of Morrow is in the process of entering into a sub-agreement with the East Improvement District for construction of an irrigation pipeline referred to as “East Project.” In mid-January, the Department received a project plan and budget for the East Project. Of the \$11 million grant, \$7 million would go to help construct a pump station on the Columbia River two miles northeast of Hermiston, and an approximately 9 mile long pipeline that would travel south from the Columbia River down into the Stage Gulch Critical Groundwater Area. The maximum capacity of the new pipeline will be 200 cfs, sufficient capacity to convey new water rights associated with this project as well as other existing rights. The Port of Morrow and East Improvement District are working to secure construction permits and hope to start construction in the fall of this year.

The Department is also processing eight new Columbia River surface water rights and their associated mitigation for the East Project and any other projects funded by this grant. Two of the eight permits have been issued. Another Final Order has been issued for a third water right application and is awaiting mitigation prior to permit issuance. The Department continues to process the five other applications and their mitigation.

C. Mosier Update

Mosier Commingling Well Repair and Replacement Program

Two comingling wells have been replaced by a drilling contractor retained by the Wasco County Soil and Water Conservation District (SWCD). The driller is contracted to permanently abandon 15 priority comingling wells and construct replacement wells in the Mosier area with \$1 million in cost-share funds made available by the Legislature in 2015. As of early March, the driller was

working to abandon and replace a third well, and plans to continue work through the spring and summer to complete the contract.

Mosier Deep Supply Wells

Two deep supply wells are planned for construction utilizing Water Project Grant and Loans (SB 839) funds awarded by the Commission in May 2016. The goal of the project is to reduce demand on the upper and administratively withdrawn Columbia River Basalt aquifers near Mosier to improve long-term groundwater supply and streamflows in Mosier Creek. Well 1 was drilled to a depth of 1,223 feet below ground surface, where a high pressure water bearing zone was encountered. Several months of work were required before the driller sealed-off the upper water bearing zones and controlled the underlying high pressure zone in January, though complications with casing set depth during placement of the final well seal necessitates additional work before the well will be complete.

Wasco County SWCD, the contracted driller, Department staff, and the owners of Well 1 and Well 2 met in late January to discuss the project budget, final completion work on Well 1, and well design modifications to Well 2 based on recent drilling experience with Well 1. In February, the SWCD alerted the Department that the extraordinary and unique challenges of drilling and completing Well 1 resulted in a significant budget overrun. The SWCD requested an additional \$450,000 be added to their original grant of \$917,238 in order to complete construction of Well 2 as planned. The Department reviewed the request and determined that it does not have the authority to increase the grant award by that magnitude. Rather, the Department recommended the SWCD reapply to Water Project Grants and Loans for funds to drill Well 2. The SWCD expressed an intent to apply for additional funding during the 2018 funding cycle.

D. Walla Walla Subbasin Groundwater Update

Public meetings were held in Milton-Freewater on December 11, and in Weston on December 12. Department staff summarized recent changes to the Walla Walla Subbasin rules and introduced Department cost-share measurement and federal (NRCS) funding sources available to assist with flowmeter purchase and installation. After the presentation, staff organized an open house forum with information stations and made themselves available to answer questions. In addition, staff presented at a January 24th informational workshop in Milton-Freewater regarding ASR and AR, which was organized by the Walla Walla Basin Watershed Council.

Staff continue to collect water levels and assess well interference, aquifer hydraulics, and geologic structures in the Walla Walla Subbasin. Department staff visited a network of approximately 80 basalt wells on the Oregon side of the subbasin in February to collect manual water level data. Six of these wells are instrumented with automated high frequency water level recording equipment. The Department contracted with the U.S. Geological Survey (USGS) to collect water levels from 22 historic USGS basalt groundwater monitoring locations in the Washington portion of the subbasin during the same period in February, which will be used to develop a more comprehensive view of current groundwater level conditions in the basin.

Construction began on a dedicated deep basalt monitoring well near Milton-Freewater in February. As of early March, the borehole had been advanced to approximately 500 feet below ground surface

and the driller was working to seal-off the uppermost major basalt water bearing zone before continuing borehole advancement. Target completion depth is approximately 1,000 feet below ground surface.

E. Willamette Basin Review Feasibility Study Update

In early November 2017, the U.S. Army Corps of Engineers (Corps) released a draft Tentatively Selected Plan describing how to allocate 1.59 million acre-feet of conservation storage held in the Willamette Valley Project Reservoirs, soliciting public comment through early January 2018. Several stakeholder organizations submitted comments to the Corps, offering a wide range of perspectives on the future use and allocation of stored water. Some comments suggested that the Corps consider distributing the remaining joint use pool of nearly 300,000 acre-feet to irrigation, municipal, and industrial uses.

The Corps recently completed an independent external peer review process on the draft Tentatively Selected Plan and is currently preparing a briefing for Corps' Headquarters in Washington D.C., scheduled for March 19, 2018. During this briefing, the state and the Corps will continue to express support for allocating stored water to all three uses: fish and wildlife, municipal and industrial, and irrigated agriculture. The current schedule requires the Corps to make a final decision on the allocation volumes and water management guidelines for dry years later this spring. Once those are finalized, the Corps will initiate consultation under the Endangered Species Act with the National Marine Fisheries Service.

The Study is currently scheduled to be completed by August 2018. At that time, the Portland District's Chief of Engineers will issue a report, making a formal recommendation. Following this recommendation, several steps need to occur. The final report and recommendation will be forwarded to the Office of the Assistant Secretary of the Army (ASA's Office) for Civil Works. The ASA's Office will review the documents to determine the level of administration support for the Chief of Engineers' recommendation. The report is then transmitted to the U.S. Office of Management and Budget (OMB). OMB will then provide a letter to ASA's Office either clearing the release of the report to Congress subject to whatever changes OMB deems necessary, or objecting to the release. It is anticipated that federal authorization to allocate stored water could occur as soon as 2020 through introduction of legislation to the United States Congress. In parallel to this process, the state will need to process a change to allow storage for uses other than irrigation, the only use currently authorized by the storage water rights.

F. Greater Harney Valley Groundwater Area of Concern Update

The Malheur Lake Basin Program was amended by the Commission in April of 2016. This created the Greater Harney Valley Groundwater Area of Concern (GHVGAC). Part of the rules require an annual report to the Commission on new groundwater permits issued within the GHVGAC, information on groundwater level data and an update on the groundwater study, as well as staff recommendations, if any, on amending or repealing the rules.

Since April 15, 2016, five permits have been issued within the GHVGAC. See table below:

	App #	Priority Date	Permit#	Issue Date	Name
G	17799	3/19/2014	17765	6/8/2017	BO THORENFELDT
G	17916	9/2/2014	17918	12/7/2017	PHILLIP W. SINGHOSE
G	17940	9/23/2014	17745	8/30/2017	PATRICIA M. JAGER
G	18000	2/17/2015	17667	10/13/2016	RIDDLE RANCH INC.
G	18129	8/11/2015	17647	8/30/2016	OTLEY BROTHERS INC.

The second permit on the list was issued from within the Northwest Sub-Area. The fourth and fifth permits on the list were issued from within the South Sub-Area. The first and third were not in either of the sub-areas. The two permits issued from within the sub-areas were not required to provide offset water to have their permits issued. Depending on the outcome of the ongoing groundwater study these permits may be required to provide offset water in order for their permits to continue. The other two permit holders submitted provided mitigation in order for their permits to be issued.

The Department has initiated a Groundwater Basin Study (see OAR 690-512-0020(10)) in cooperation with the USGS. In furtherance of the study, the Department is also participating in a research project with the University of Nevada Reno - Desert Research Institute to assess evapotranspiration across the basin using remote sensing techniques and has commissioned DOGAMI to undertake detailed geologic mapping of select areas of the basin.

Groundwater section staff have significantly increased the number of groundwater level observation wells in the Harney Basin since initiation of the study in 2015. Table 1 summarizes the current state of the groundwater measurement well network as of January 2018 and compares it to data available in early 2014. In addition to locating additional observation wells and measuring quarterly or annual water levels in existing wells, staff have installed continuous water-level recording equipment in twelve unused wells in the basin, and installed nine dedicated observation wells constructed for the study and subsequent monitoring.

Summary of Water Level Monitoring Activities in the Harney Basin

	As of:	1/2018	1/2014
Total Wells Field-Located		567	51
Total Water-Level Synoptic Wells		236	-
Total Water-Level Quarterly Wells		118	23
Spring 2017 Water Level Synoptic Measurements		213	-
Fall 2016 Water Level Synoptic Measurements		242	-
Total Water Levels Measured 2015 (by OWRD staff)		400	-
Total Water Levels Measured 2016 (by OWRD staff)		672	-

Total Water Levels Measured 2017 (by OWRD staff)	688	
Continuous Recorder Instruments Installed	21	2
New Observation Wells Constructed	9	-

Staff met with the local Groundwater Study Advisory Committee (GSAC) on January 18th. The meeting included presentations from one of the GSAC members regarding ecological and watershed conditions in the Donner und Blitzen watershed, a USGS presentation regarding the process of building a hydrologic budget, and a work session regarding groundwater terminology and how the Department classifies and manages “anomalous data”.

There are no recommendations, at this time, regarding amending or repealing the rules.

G. Update on Use of Reservations

A reservation of water for future economic development establishes a priority date and sets aside a quantity of water for storage to meet future needs. They are established in the basin program rules and typically have a sunset date. Water right permits must be subsequently obtained in order to store and use water under a reservation. The rules require the Department to provide updates to the Commission on a biennial basis on the amount of water available under the reservation, and the quantity allocated under the reservation. This information is provided in the table below.

Administrative Basin	Stream Name	Rule Citation (OAR)	Total Amount (AF)	Status	Sunset Year
Grande Ronde River	Meadows Creek	690-508-0110	14,900	No applications	2037
	Grande Ronde River	690-508-0110	12,000	No applications	2037
	Catherine Creek	690-508-0120	9,000	No applications	2037
Hood River	Lake Branch	690-504-0110	9,000	No applications	2036
	East Fork Hood River	690-504-0120	50,000	No applications	2036
	Neal Creek	690-504-0130	5,000	No applications	2036
	Mosier Creek	690-504-0140	6,400	No applications	2036
	Eightmile Creek	690-504-0150	4,000	1 application pending: 55 AF	2036
	Fifteen Mile Creek	690-504-0160(1)	5,000	No applications	2036
	Larch Creek	690-504-0160(2)	3,500	No applications	2036
Powder River	South Fork Burnt River	690-509-0110	17,800	No applications	2036
	North Fork Burnt River	690-509-0120	6,500	No applications	2036
	Burnt River	690-509-0130	2,000	No applications	2036
	Pine Creek	690-509-0140	10,000	No applications	2020
	Eagle Creek	690-509-0150	4,300	No applications	2020

	Goose Creek	690-509-0160(1)	3,990	No applications	2020
	Powder River (upper)	690-509-0160(2)	27,000	No applications	2020
	Powder River (lower)	690-509-0160(3)	2,900	No applications	2020
Malheur River	Malheur River	690-510-0110(1)	35,000	No applications	2037
	South Fork Malheur River	690-510-0110(2)	13,200	No applications	2037
Owyhee River	Owyhee River	690-511--0110	60,000	No applications	2037

The rules also provide that the Department or Commission may require the Department of Agriculture, who was the applicant for establishing the reservations, to provide periodic reports from on the continued interest in the reservation, efforts undertaken to develop the reservation, and any challenges to developing the reservation.

H. Revisions to Key Performance Measures

The Department is considering proposing changes to three Key Performance Measures:

- KPM 2: Protection of instream rights – ratio of streams regulated to protect instream water rights to all streams regulated.
- KPM 6: Equip citizens with information – Percent of water management related datasets collected by WRD that are available to the public on the internet.
- KPM 7: Equip citizens with information – Number of times water management related data was accessed through website.

A discussion of these Key Performance Measures was included in the December 2017 staff report for Agenda Item H. The proposed changes are under discussion. If the Department opts to propose changes, the Department must submit its proposals to the Legislative Fiscal Office in April.

III. Litigation Update

Blue Mountain Angus, LLC. v. Oregon Water Resources Department, Oregon Court of Appeals Case No. A156669

This case is a petition to the Oregon Court of Appeals for review of a final order denying a transfer (T-10898). Blue Mountain Angus filed a water right transfer application to change the point of diversion and place of use under Water Right Certificate 25844. The Department denied the transfer because the Department was unable to make findings of no injury or enlargement.

Staff continue to work with Blue Mountain Angus’s Counsel exploring possible solutions to their stock water needs. The Court of Appeals has not scheduled a date for oral arguments.

Willamette Water Co., an Oregon Corporation, v. Oregon Water Resources Commission and WaterWatch of Oregon Inc., Oregon Court of Appeals Case No. A157428

This case is a petition for judicial review of a Final Order in a Contested Case, denying water right application S-87330 filed by Willamette Water Company (Company) for 34 cubic feet per second

of water from the McKenzie River for quasi-municipal use. The Department issued a proposed final order on January 26, 2010, proposing to issue the permit with conditions. The Company and WaterWatch of Oregon filed protests on March 12, 2010.

A contested case hearing was held November 14-16, 2011. The Administrative Law Judge issued a proposed order recommending denial of the application on several grounds. The Company and WaterWatch both filed exceptions with the Department. On March 7, 2014, after consideration of the exceptions and the record, the Director issued a final order recommending denial of application S-87330. The Company and WaterWatch both filed exceptions on March 31, 2014. The Commission considered the exceptions and on May 29, 2014, affirmed the Department's final order.

The Willamette Water Company subsequently petitioned for review of the Commission's final order in the Court of Appeals. Reply briefs have been filed. The Court of Appeals held oral argument on November 22, 2016. The Court affirmed the order of the Commission.

Larry J. Sees and Joan A. Sees, Garret J. Duncan and Cameron M. Duncan, and Stanley S. Stonier and Dolores E. Stonier v. Oregon Water Resources Department and Water Resources Commission, Marion County Circuit Court Consolidated Case Nos. 15CV18272, 15CV19347, 15CV23126, 16CV24087 and 16CV24120, Judge Channing J. Bennett – Petitions for Judicial Review of Final Orders

These cases involve petitions for judicial review of final orders issued to regulate junior groundwater users in response to a call by a senior user in the Klamath Basin in 2015 and notices spanning a two-year period. Each petition resulted in different court case numbers. All of these cases are similar and have been consolidated into case No. 15CV18272.

The Department, working with the Attorney General's Office, presented testimony on the consolidated case during the Marion County Circuit Court trial which began on March 13, 2017. The Court heard this matter over a six day period. The Court issued an Opinion Letter on July 10, 2017. The Court found that the State followed the process required by the rules and relied on the best information available at the time and the State's findings of hydraulic connection and its stream relief calculations are supported by substantial evidence. Accordingly, the Court affirmed the Department's orders.

Counsel for the Sees filed objections to the Court's findings. A hearing was scheduled for August 22, 2017 to hear the objections. Marion County Circuit Court affirmed the State's decision and a General Judgment was entered on August 24, 2017.

Sees filed an appeal on September 19, 2017.

TPC, LLC and Dayton O. Hyde and Gerda V. Hyde v. Oregon Water Resources Department and Tyler Martin: Marion County Circuit Court Case No. 16CV27427, Thomas M. Hart – Petition for Judicial Review of a Final Order

In 2016, the watermaster received a call for distribution of water from the Klamath Tribes. The call involved the Tribes' time immemorial instream rights in the upper Williamson River basin along with the marsh elevation right on the Klamath Marsh. After validating the call for water, the

watermaster sent regulation notices to water users junior to the time immemorial rights. The Department is working with the Attorney General's Office on this case.

Various motions have been filed. In one filing, the Klamath Tribes argued that the case should be dismissed since they are a necessary and indispensable party to this court case. The Court subsequently denied the Tribes' motion to dismiss.

Klamath Tribes have filed a Mandamus Proceeding with the Oregon Supreme Court asking that the Court compel the Marion County Circuit Court to dismiss the TPC and Hyde Family's petition for judicial review (Case No. 16CV27427). The Tribes are arguing that they are a necessary and indispensable party who are not named in the case.

The Oregon Supreme Court denied the petition for writ of mandamus on June 1, 2017.

Petitioners motion for summary judgment was granted and signed by Judge Thomas M. Hart on March 2, 2018.

Thomas W. Mallams and Beverly Mallams v. Oregon Water Resources Department and Commission, Marion County Circuit Court Case No. 16CV23679, Judge Audrey J. Broyles – Petition for Judicial Review of a Final Order

Regulation notices were sent to water users in the Sprague River system in July 2016, in response to a call for the Klamath Tribes' time immemorial instream water right. Mallams filed a Petition for Judicial Review of the regulation order in Marion County Circuit Court. There was little activity relating to this case pending the ruling on the Sees, Stonier case. The case has not been scheduled for hearing.

Marion County Circuit Court Judge Bennett signed a stipulated general judgment of dismissal on March 6, 2018.

WaterWatch v Oregon Water Resources Department, Marion County Circuit Court Case No.16CV11938, Judge Audrey J. Broyles – Petition for Judicial Review and Petition to Compel Agency Action

This case involves a petition for judicial review of an Order approving the instream lease of a hydroelectric right. WaterWatch is also asking the Court to require that the right be converted to an instream water right. A hearing on motions was held on April 11, 2017. The Court issued an order dismissing the case on May 18, 2017.

WaterWatch filed a notice of appeal with the Oregon Court of Appeals on June 14, 2017.

Harrington v Oregon Water Resources Department and others, US Federal District Court, Case 1:16-CV-00200-CL, Judge Michael J. McShane

This issue began several years ago. It involves the illegal storage of water and the subsequent notching of the dams by the State. This is the second filing in US Federal District Court.

The court adopted the findings and recommendations of Magistrate Judge Clark. The recommendations included: (1) Motions to dismiss presented by state and federal defendants should

be granted; and, (2) Mr. Harrington should be given an opportunity to amend and refile his Complaint as it pertains to those Oregon state defendants entitled to qualified immunity. The court allowed until January 1, 2017 for Mr. Harrington to file an amended complaint. Harrington filed a motion for an extension of time until February 1, 2017. The State filed a motion requesting dismissal. Harrington filed a motion to deny the State's motion to dismiss and the State replied in support of the motion to dismiss. The court dismissed this appeal because it was filed from a non-appealable order on June 7, 2017. Judgment has been entered.

Harrington has filed an appeal.

Tumalo Irrigation District v. Oregon Water Resources Department, Deschutes County Circuit Court, Case No.16CV01703

In a second petition for judicial review, Tumalo Irrigation District challenged the Department's order on reconsideration, which affirmed unauthorized storage of water in two ponds within the District and cancelled a limited license. The petition was filed in Deschutes County Circuit Court.

The parties signed a stipulated general judgment on February 8, 2018.

Dan and Nina Micke v Oregon Water Resources Department and Commission, Marion County Circuit Court Case, Judge Tracy A. Prall, Case No. 16CV17876

Dan and Nina Micke were issued a regulation notice to release waters stored in two reservoirs in the course of water distribution to satisfy the call of a senior water right holder. The Micke's filed a petition for judicial review. Various motions were filed by both the Petitioner and the State. The court entered a Judgment of General Dismissal on March 17, 2017.

The petitioners have filed a notice of appeal with the Oregon Court of Appeals.

Klamath Filings in 2017

The following Petitions for Judicial Review of water use regulation Orders have been filed in Marion County Circuit Court. All of these involve the regulation of water in Klamath County.

NBCC, LLC; Agriwater, LLC; Roger Nicholson; Nicholson Investments, LLC; Mary Nicholson, as trustee of the Nicholson Loving Trust; Martin Nicholson; Goose Nest Ranches, LLC; Randall Kizer; Fort Klamath Land Company, LLC; Rascal Ranch, LLC; Gerald H. Hawkins, as a trustee of the CN Hawkins Trust and Gerald H. Hawkins and Carol H. Hawkins Trust; John B. Owens, as a trustee of the John and Candace Owens Family Trust; Harlowe Ranch, LLC; Jacox Ranch, LLC; and E. Martin Kerns, Petitioners, v. Oregon Water Resources Department, and Tyler Martin, Case No. 17CV21859

A petition for judicial review of final orders in other than contested case was filed on May 26, 2017 for the Wood River and/or its tributaries Fort Creek, Annie Creek, and Sun Creek for the purpose of irrigation and stock watering. An amended petition for judicial review was filed on June 20, 2017 to include the final orders.

Petitioners filed a notice of voluntary dismissal on February 9, 2018. Marion Circuit Court Judge Courtland Geyer signed the general judgment of dismissal on February 12, 2018.

Steve M. Mosby, as Trustee of the Mosby Family Trust, v. Oregon Water Resources Department, and Tyler Martin, Case No. 17CV22113

A petition for judicial review of final orders in other than contested case was filed on May 30, 2017 for use of water from Sand Creek for irrigation and livestock watering, and from a well located in proximity to Sand Creek. A status hearing was held on July 24, 2017. A notice of intent to dismiss was filed by Marion County Circuit Court on July 28, 2017.

Petitioners filed a notice of voluntary dismissal on January 23, 2018. Marion Circuit Court Judge Lindsay R. Partridge signed the general judgment of dismissal on January 30, 2018.

Thomas W. Mallams and Beverly Mallams, v. Water Resources Department of the State of Oregon and Water Resources Commission of the State of Oregon, Case No. 17CV26590

A petition for judicial review of final orders in other than contested case was filed on June 23, 2017 for use of water from a well for irrigation purposes. On August 1, 2017, Marion County Circuit Court granted an order to consolidate 16CV23679 and 17CV26590.

Marion County Circuit Court Judge Bennett signed a stipulated general judgment of dismissal on March 6, 2018.

Stanley S. Stonier and Dolores E. Stonier, v. Water Resources Department of the State of Oregon and Water Resources Commission of the State of Oregon, Case No. 17CV26659

A petition for judicial review of final orders in other than contested case was filed on June 26, 2017 for use of water from two wells. This case was voluntarily withdrawn on October 17, 2017. Marion County Circuit Court Judge Bennett signed a judgment of dismissal on December 15, 2017.

Larry J. Sees, Joan A. Sees, Garrett J. Duncan, and Cameron M. Duncan, v. Water Resources Department of the State of Oregon and Water Resources Commission of the State of Oregon, Case No. 17CV26774

A petition for judicial review of final orders in other than contested case was filed on June 26, 2017 for use of water from three wells for the use of irrigation. This case was voluntarily withdrawn on October 17, 2017. Marion County Circuit Court Judge Bennett signed a judgment of dismissal on December 15, 2017.

TPC, LLC, an Oregon Limited Liability Company, and Dayton O. Hyde and Gerda V. Hyde, as General Partners of the Hyde Family Limited Partnership, Petitioners, v. Oregon Water Resources Department, and Tyler Martin, Case No. 17CV26962

A petition for judicial review of final orders in other than contested case was filed on June 23, 2017 for use of water from the Williamson River for irrigation and livestock watering. An amended petition for judicial review was filed on July 21, 2017 to include the final orders.

Petitioners motion for summary judgment was granted and signed by Judge Thomas M. Hart on March 2, 2018.

IV. Commission/Board Schedules for 2018

<i>Commission/Board</i>	<i>Location</i>	<i>Date</i>
Board of Forestry	Salem	April 25, 2018
Land Conservation and Development Commission	Salem	May 24-25, 2018
Parks and Recreation Commission	Lincoln City	April 17-18, 2018
Fish and Wildlife Commission	Astoria	April 19-20, 2018
State Land Board	Salem	April 10, 2018
Environmental Quality Commission	Portland	March 21-22, 2018
Watershed Enhancement Board	Frenchglen	April 24-25, 2018
Board of Agriculture	Hood River	June 5-7, 2018

Attachments:

1. Rulemaking Calendar

Oregon Water Resources Department Current/Anticipated Rulemaking

Rule Division	Topic	Lead Staff	RAC Planned or Convened?	GWAC Input Expected?	Target WRC Date	Status
Division 54 (New Rule Division)	Hydro conversion to instream	Mary Graine	Yes	No	Late 2018	Underway
Division 86 Water Management and Conservation Plans	Option for smaller municipal water suppliers	Dwight French, Chris Kowitz	Yes	No	Late 2018	Underway
Division 87 (New Rule Division)	Municipal Reclaimed Water	Dwight French, Kerri Cope	Yes	No	Late 2018	Underway
*Division 300 Definition	Definition updates					
*Division 310 Water Right Application Process	Conversion of memos to rules and clarify opportunity for settlement discussion after a protest has been filed	Dwight French	Yes	No	2019	Planning
*Division 500 Basin Program Preamble	Minor updates					
Division 77 Instream Water Rights	Consistency with SB 199 (2013) – allowing lease applications to be processed more efficiently	Dwight French, Laura Wilke	Yes	No	2018	Planning