



Oregon

Tina Kotek, Governor

Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

April 5, 2023

MEMORANDUM

TO: Senator Michael Dembrow, Co-Chair
Representative Khanh Pham, Co-Chair
Joint Committee on Ways and Means Subcommittee on Natural Resources

C: Matt Stayner, Committee Coordinator

FROM: Bryn Hudson, Legislative Coordinator

SUBJECT: April 4 and 5, 2023 Budget Hearing Follow Up

The Department's responses to questions received during the April 4 and some of the questions received on April 5, 2023, budget hearings are provided below.

Do counties take into account where dams are located in the state when permitting new developments through the land use process?

Development restrictions are generally determined through the local land use planning process. Counties are not required to consider the locations of dams and their inundation areas (the area that would be flooded, if the dam were to fail) in the approval of new developments or zoning. Counties generally do not have restrictions on development in an area just because it is in a dam inundation area. If this was a requirement, it would likely have a large impact on the supply of developable land. Flood inundation zones can be large and there are several examples of communities that have been established or have development in inundation zones, including La Grande, Prineville, Mill City, Gates, Lyons, and Stayton. Aside from inundation areas, note that the area along a river is typically in the ordinary flood hazard area mapped by FEMA and has development regulations implemented by cities and counties, consistent with the National Flood Insurance Program. The Department of Land Conservation and Development can provide more detailed information on those programs, if needed.

Status of Umatilla Ordinance Project

OWRD and Umatilla County entered into a grant agreement for the Ordinance Regional Water Infrastructure (Ordinance) Project for \$6M. The grant agreement was executed on March 10, 2023 and expires March 31, 2025. Project funds are available now for reimbursement upon submittal of a fund request and documentation for project costs incurred. The \$6M is included in POP 105 of the GRB to allow the County to access the funds, if necessary, in the 2023-25 biennium.

The source of funding for the \$6M legislative appropriation to the Ordinance Project is American Rescue Plan Act (ARPA) dollars. Prior to entering into a grant agreement, the Department needed additional information from the federal government and DAS on the requirements to expend the funding and to confirm eligibility. We received that information in late spring 2022. In the summer and fall of 2022,

OWRD and project partners had several conversations to understand the specifics of the project and how it fit within the requirements of the ARPA dollars. As the Ordnance project is a multi-use pipeline this was a bit complicated and took time to sort out. For example, a portion of the Ordnance Project is to provide irrigation water; however, irrigation infrastructure is not eligible to receive ARPA dollars. After a number of conversations, OWRD requested project information in writing in September. Because of the nuance and complexity of the requirements, in late October, OWRD agreed to help the County fill out part of the information form and provided that on 12/8/2023. The County submitted the project information for the grant agreement on 1/18/2023 and answered some questions about that information on 2/8/2023. After the DOJ legal sufficiency review, we sent the grant agreement to the County for signature on 2/14/2023. They signed and returned the agreement on 2/24/2023. The County received the executed grant agreement on 3/10/2023. Umatilla County can now submit a fund request and supporting documentation (e.g., invoices) for the reimbursement of eligible project costs incurred and up to \$5,400,000 at any time. After the project is completed and the County submits and the Department approves the Final Report, the Department will release the final 10% (\$600,000) as is best practice for grants.



Oregon

Tina Kotek, Governor

Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

April 7, 2023

MEMORANDUM

TO: Senator Michael Dembrow, Co-Chair
Representative Khanh Pham, Co-Chair
Joint Committee on Ways and Means Subcommittee on Natural Resources

C: Matt Stayner, Committee Coordinator

FROM: Bryn Hudson, Legislative Coordinator

SUBJECT: April 5, 2023 Budget Hearing Follow Up

The Department's responses to questions received during the April 5, 2023, budget hearing are provided below.

Current Vacancies

The retirements of highly experienced personnel have and will continue to impact our progress on key metrics and projects. In addition, turnover of staff and internal movement of staff into new positions has led to additional vacancies. A big undertaking in 2021 has been recruiting and onboarding new staff. The agency had a number of vacancies due to temporary COVID budget reductions, attrition, retirements, and internal changes, including promotions and lateral job movements, and also received 70 new positions in the 2021 regular session and the December 2021 2nd Special Session. As a result of these combined factors, the Department has filled more than 150 positions this biennium.

There are currently 22 open positions at the Department; there are 9 recruitments in process and 13 vacant positions pending recruitment.

Groundwater Review Process

The Department's Groundwater Allocation practices and upcoming rulemaking.

During the Department's budget hearing on April 5th a question was asked about the Department's practice for reviewing new groundwater applications. As part of the application review process in ORS 537.621, the Department conducts a technical review of groundwater applications to determine:

- is the source aquifer over-appropriated (or not),
- will the proposed use result in injury to an existing groundwater right holder,
- is the proposed use within the capacity of the resource, and
- is there potential for substantial interference with hydraulically connected surface water?

In Fall of 2022 the Department reviewed its practice of issuing permits where a technical reviewer could not determine if the source aquifer was over-appropriated. As a result of this review, the Department will

no longer issue permits unless an affirmative finding can be made that the resource is not over-appropriated. The Department has included and may continue to include permit conditions to ensure that a new use will remain within the capacity of the resource and that it will not injure a senior groundwater right holder.

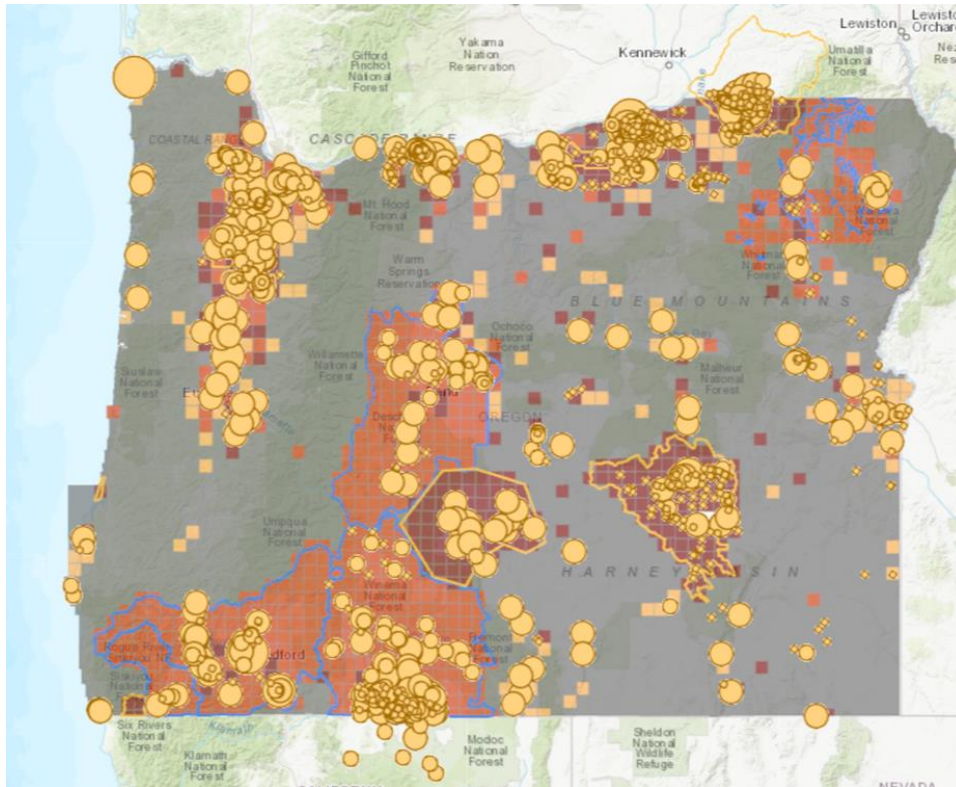
The groundwater allocation rulemaking currently underway seeks to (among other things):

- define reasonably stable water levels as a specifically measurable criterion for evaluating whether a source is or is not over-appropriated,
- align the definition of potential for substantial interference with the existing criteria for over-appropriation of, “results in the further depletion of already over-appropriated surface waters,” and
- more specifically define the criteria for evaluating capacity of the resource.

The Department’s Groundwater Concerns Map (slide 46 of the April 5th budget presentation).

During the Department’s budget hearing on April 5th a question was asked about the gray shaded areas of the Groundwater Concerns Map shown on slide 46 of the budget presentation. These areas are indicated in the legend as “no concerning data available.” This designation indicates that not enough reliable data have been collected within a given Township to objectively assess a concern rating given the criteria of a 2021 state-wide analysis, or available data indicates no concern related to the categories above (the later comprises about 5% of all Townships in this category). A detailed discussion of the criteria designations is provided in the [2021 Groundwater Resource Concerns Report](#).

An indication of the location of the Department’s available water level data is presented in the [Groundwater Information System Mapping Tool](#). By opening the “layers” bar on the left navigation pane and checking the box for “GW Concerns” one can see an overlay of concern ranked Townships with groundwater data sites (screenshot below). The mapping tool allows the user to zoom in to areas of interest and select sites of interest to explore data details.



House Bill 2018 Progress

Below is an update on the components of HB 2018:

Cost-match agreement with USGS to publish groundwater budgets for all major basins in Oregon

- Joint-funding agreement was executed December 2022. Project initiation occurred January 2023. Scope of work calls for final GW budget report by 2032, with an initial report by March 2026.
- Staff are supporting field data collection and participating in project coordination meetings

Peer-reviewed report on statewide consumptive water use summarizing historical irrigation consumptive water use for all irrigated fields and estimates of open water evaporation from all major reservoirs (1984-2020)

- Statewide ET contract with Desert Research Institute (DRI) for Field Boundaries, ET Demands, Reservoir Evaporation, and Satellite-based ET and a report. Work is 50% complete; anticipated to be 90% complete by June, 2023, and 100% complete by Dec. 2023.
- Satellite-based ET Data Production Contract (RFP) awarded in March and contract currently being finalized with OpenET Inc. Initial data delivery of monthly ET and field summaries for all available OpenET models and ensemble value for 1984-2021 for the state of Oregon, along with ancillary data (precipitation, vegetation index, reference ET) to be delivered by June 2023.
- OpenET and DRI will be working on a peer reviewed report to be completed by early 2024.

Expand a comprehensive groundwater level monitoring network to improve estimates of changes in groundwater storage.

- Hired a project manager for well installation and modification contracts to expand the groundwater level monitoring network. Hired three new hydrogeologists to support well installation and modification projects, and to conduct instrumentation and expanded water level data collection in the field.
- Drilling projects are under contract for two new observation wells – (Umatilla and Rogue basins).
- Contracted for repairs to a well in the Harney Basin that will then be added to the state observation well network as a dedicated observation well.
- 2 RFPs out for bid for 2 projects in the Walla Walla basin
- Drafting 1 RFP for a project in the Hood Basin
- Negotiating with landowners on access agreements for as many as 7 additional sites to drill new wells or modify existing wells to gain access for regular measurement. This includes sites in the Klamath Basin, Hood Basin, and Willamette Basin.

Measure progress in estimating and monitoring groundwater levels, groundwater recharge and consumptive groundwater use by:

(a) Publishing one or more reports that quantify groundwater recharge for all major hydrologic basins in this state:

- Initial report scheduled for March 2026.
- **Hiring.** Unable to hire the NRS 4 Field Hydrologist position (started August, 2022). Currently interviewing new candidates, and hope to hire someone by the end of April, 2023.
- **Specific Conductance data collection.** Staff have been collecting specific conductance data from streams across Oregon – this will continue for an additional 6 years.
- **Aligning streamgage gages analysis.** USGS has been working with OWRD staff to identify gaps in our streamgage network. New gages will be added in the next biennium to address some of these gaps.
- USGS Q1 2023 progress report and invoices to date indicate their work on the project is progressing according to the scope of work.

(b) Producing statewide maps and datasets that quantify open water evaporation from all major reservoirs in this state:

- Quantifying open water evaporation from major reservoirs is part of the Statewide ET Contract with DRI and will be completed by Dec. 2023.

(c) Collecting and processing data concerning baseline groundwater levels and use:

- Quantifying ET from groundwater irrigated fields is part of the Statewide ET contract with DRI that will be completed by Dec. 2023.
- Currently collecting data from approximately 1,200 wells across the state. Will increase number of wells as more are added to the network as per the observation well drilling program noted above.

(d) Assessing the time and cost of conducting groundwater basin studies:

- The cost of comprehensive groundwater basin studies has been steadily increasing, and USGS cost match has been decreasing as our basin and state-wide study needs have grown while federal matching funds have not. Recent and current studies include:
 - Harney Basin GW Study (actual, Phase 1 only); 5 years (OWRD began data collection and public outreach 1 year before USGS contract in place), \$1.5M, cost match USGS 40% / OWRD 60%.
 - Walla Walla Basin Study (in progress, contracted time and cost for Phase 1); 5 years (scoping meetings with USGS, Ecology, and CTUIR began 1 year before USGS contract in place), \$1.8M, cost match USGS 40% / OWRD 60%.

- Statewide GW Recharge (in progress, contracted time and cost for Phase 1 culminating in initial report March 2026); 5 years, \$2M, cost match USGS 20% / OWRD 80%.

(e) Prioritizing hydrologic basins for study:

- The current groundwater basin study priority is listed on page 24 of the 2017 IWRS and will be updated in the next version of the IWRS, currently in preparation.
- As of 2017 the priority list is: Walla Walla Subbasin (currently in progress), Lower Umatilla Subbasin, Fifteen Mile Creek Subbasin (south of The Dalles), Grande Ronde Basin, Powder Basin.

Ensure that department staff members serve as community engagement coordinators to help communities provide the data described in this section and use the data collected by the department pursuant to this section.

- Hired one community engagement coordinator focusing on the East Region.
- After two failed recruitments, we have accepted offers for two additional community engagement coordinators (they start in mid-April and early May 2023).