



Oregon

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February 21, 2025

MEMORANDUM

TO: Joint Committee on Ways and Means Subcommittee on Natural Resources

FROM: Ivan Gall, Director
Racquel Rancier, Deputy Director of Strategy and Administration
Douglas Woodcock, Deputy Director of Water Management

SUBJECT: Response to House Bill 5543, OWRD Budget Presentation on 2/19

After the February 19, 2025, informational hearing, the department committed to following up on the following questions:

How is “accuracy” defined for KPM #14?

The department conducts a customer service survey every two years of applicants who have received a final order from the water rights transactions process; results are reflected in KPM 14. The goal of the survey is to receive feedback on the applicant’s perception of how the process was for them. The questions in the survey are as follows:

1. How do you rate the timeliness of the services provided by the Oregon Water Resources Department? (timeliness)
2. **How do you rate the ability of the Oregon Water Resources Department to provide services correctly the first time? (accuracy)**
3. How do you rate the helpfulness of the Oregon Water Resources Department employees? (helpfulness)
4. How do you rate the knowledge and expertise of the Oregon Water Resources Department employees? (expertise)
5. How do you rate the availability of information at the Oregon Water Resources Department? (availability)
6. How do you rate the overall quality of service provided by the Oregon Water Resources Department? (overall customer service)

Results from the survey reflect applicants’ opinions; the survey is administered after the individual has received a final order. Processing timelines are much longer than the department or applicants would like, which can be a frustration for applicants that influences scores more broadly. It can be particularly frustrating for an applicant to wait a for a year or more only to be told that the application cannot be approved or can be approved but only with conditions. The

current customer service survey for this KPM is limited in the scope of who is surveyed to subset of department program areas; the department has started testing approaches for a broader survey to obtain feedback on all of the agency's programs or services.

How long will it take to eliminate water right transaction backlogs with existing staff, assuming the fee increase in HB 2801 and policy option package 102 are approved? If the backlog were to be eliminated in 5 years or 10 years, what resources does the department estimate would be needed?

To answer this question, the current workload information for this biennium is included in Table 1, which summarizes the number of applications received, final orders issued, and changes to the backlog for each type of water right transaction.

Table 1. Applications received, final orders issued and backlogs between July 1, 2023- January 1, 2025.

	7/1/2023 to 1/1/2025		
	Apps Received	Final Orders Issued*	Current Backlog
Water Rights	564	311	882
Transfers	296	284	483
Claims of Beneficial Use	412	698	1011
Extensions	135	157	106
Protests	25	25	231
*For Protests, this number represents protests resolved rather than final orders. Protests are resolved through issuance of a final order, issuance of a final order incorporating settlement agreement, withdrawal of the protest, or withdrawal of the protested proposed final order (PFO) or preliminary determination (PD) and returning the application to WRSD for a new PFO or PD.			

HB 2801 and policy option package 102 will maintain existing staffing levels if approved; it does not add FTE. If these are not passed and revenue gaps are not filled, 7 FTE will be reduced which will result in slower application processing and an increase in backlogs. If HB 2801 passes and retains current staffing levels, we do not anticipate a significant reduction in backlogs without statutory changes to processes, though it will prevent them from getting worse.

Regarding the question about what staffing levels would be needed to reduce or eliminate the backlog, the department evaluated staffing levels needed to bring the number of pending applications down to a manageable level that results in improved processing timelines for new applications received once the backlog is reduced to a certain workload. If there is a desire for faster processing times than these initial estimates, then additional staff may be needed. For new water right applications, the assumptions include reducing the workload to 240 (assuming 10 months processing time for new applications). For transfer applications, this means reducing the workload to 250 (assuming 12 months processing time of new applications), and for claims of beneficial use (COBUs) this means reducing the workload to 100 (assuming about 4-5 months processing time of new COBUs).

The department estimates in Table 2 the additional staff resources to achieve the above numbers in 5 years and 10 years. These estimates include an assumption that applications for new transactions will continue to be received at the same rate as in recent years.

Table 2. Staffing estimates to achieve manageable workloads within 5 and 10 years.

Transaction Type	Additional Resources Necessary to Achieve Manageable Workload in 5 Years*	Additional Resources Necessary to Achieve Manageable Workload in 10 Years*
Water Rights	1 NRS4 and 2 NRS2s	1 NRS4 and 1 NRS2
Transfers	1 NRS4 and 1 NRS2	1 NRS4 and 1 NRS2**
Claims of Beneficial Use	1 NRS3, 4 NRS2s, 1 NRSPRM 1	1 NRS3, 3 NRS2s and 1 NRSPRM 1
*In addition, an OS2 position, shared across the division, would be needed to achieve these goals. **Department estimates that it would be a partial position; however, hiring and retaining partial positions is difficult and would likely result in the target not being met.		

What is driving the fee increases generally? Why are we seeing such high increases for Water Right Transaction Fees, that are well outpacing regular inflation?

General drivers of all fees:

Increased employment costs. For 2023-2025, the department saw projected personal service costs (costs for PERS, health care, etc.) and supply and service costs, increase much higher than typical projections. This was due to compensation changes resulting from collective bargaining agreements, increased inflationary costs reflective of current economic conditions, and a DAS equal pay (Pay Equity) analysis that increased salaries for some staff. Furthermore, 2025-27 budget instructions from DAS, included higher inflation factors for personal services costs and services and supplies costs for the 2025-27 (14.5% and 4.2% respectively) and 2027-29 (9% and 4.1% respectively) biennia, which is what the fee increase packages are based on. Labor costs often out-pace CPI/inflationary metrics, which is why using that as a comparison is not recommended to predict costs.

The statewide salary pot typically provides most of the resources to cover increased costs of personal services for general fund positions, but it does not provide funding for cost increases associated with fee-funded positions. As such, higher projected costs over the 2023-2029 period are compounding the need for higher fee increases.

Prior budget cycles have not accounted for ending fund balances. The department first incorporated a small ending fund balance into fee increase needs for the start card fees in 2021; however, it was not the full ending fund balance needed. Aside from that, the department has not accounted for needed ending funding balances for prior fee projections for fee increases. Ending fund balances provide for stability within the program by ensuring that the agency will have sufficient funds to pay costs of a program even if revenues or costs fluctuate. Failure to maintain adequate ending fund balances can lead to a situation where the agency has insufficient reserves to cover immediate program costs. For example, during times when less applications are being

submitted, inadequate reserves could lead to the need for reductions to services or the need to seek additional funding assistance to cover the gap. Any available ending fund balances are considered in the fee calculation equation. Best practices for EFBs for water rights is 6-months operating expenses, dam safety is 9-months, start card fund is 6-months, and well driller licensing and permit fees is 3-months. Without a fee increase, the department anticipates that EFBs will be fully depleted for water right fees by the end of the 2023-25 biennium, and by the end of the 2025-27 biennium for start cards and dam safety fees.

Drivers for Water Right Transaction Fees:

The Water Right Transaction Fees have not historically been increased to the degree necessary to maintain services levels. Most recently in the 2021 legislative session, a 17% fee increase was only adequate to retain 2.5 FTE of the original 8.83 FTE slated for reduction; 6.33 FTE of vacant positions were reduced permanently; however, even that was not adequate to maintain the reduced staffing. The department also used \$550k in salary offsets and vacant position savings and \$1 million in federal ARPA dollars to manage revenue shortfalls.

Looking back at prior biennia, while positions were not permanently reduced in the 2013 and 2017 legislative sessions, the 13% and 15% increases were not adequate to meet revenue needs and resulted in revenue shortfalls that were managed by vacancy savings (leaving vacant positions open). For 2019-2021, the department used \$500k in salary offsets and vacant position savings to manage revenue shortfalls; this information is not available for 2017-2019.

This is the first time, in many years that the department is pursuing an increase that is reflective of the revenue needed to maintain staff, without having to cut positions or using vacancy savings. These fee increases do not provide additional staff or enhanced services; they are the amount necessary to prevent a reduction in service. Further, it is important to note that when fee increases are less than needed, that compounds the shortfalls over time because it reduces ending fund balances that are available and requires even larger increases to keep up with costs.

Increased complexity of the work. Due to evolving water needs and availability, the processing of water right transactions has become increasingly complex over the years; as a result, the average application takes longer to process and inherently costs more than it has in the past. The following tasks do not apply to every application, however when they do arise, they can be time-intensive and reduce the amount of time staff are working on processing applications, while also providing an important customer service. Tasks contributing to increased expenditures include:

- addressing frequent application status inquiries,
- application revisions requiring re-review including groundwater section re-reviews,
- extensive discussions about mitigation,
- repeated formal requests for applicants to provide missing information,
- communications in response to disagreements with department findings,
- preparing evidence and testimony for contested case hearings and court cases,
- pre-application conferences,

- and responding to general customer service inquiries.

Distribution of Workloads: When the department hires new staff, there is a time and learning curve associated with training new caseworkers. The department hired 10 temporary caseworkers with one-time funds provided by the legislature (spread across all types of water right transactions) from November 2022-April 2024, which increased the number of caseworkers, but also increased workloads for existing staff associated with hiring, onboarding and training of these new, temporary staff. Water rights are complex and have a high learning curve. In addition, while caseworker capacity was temporarily increased, higher-level staff involved in processing were not increased. These staff support critical work, such as peer reviewing application determinations, processing more complicated applications, and training new staff. This resulted in backlogs shifting from the caseworker to the higher-level team members.

Adjustments of projections based on policy changes and trends. The department has looked at transaction trends, historic, and new actuals data for both revenue and expenses. The department anticipates an overall reduction in water right transactions, paired with an estimated reduction in the number of new groundwater applications as result of new allocation rules, as well as a slight increase in transfers. A reduced number of anticipated transactions necessitates a larger percentage increase to maintain service levels. While normally one would expect to see a decline in the need for staffing with new applications decreasing; the workload on pending applications is still significant and cannot be addressed timely even without cuts to existing resources.

Payment for ODFW Services: ODFW reviews water right applications and some transfers received by the department for impacts of water use on fish and wildlife. In 2015, the Oregon Legislature passed House Bill 3315, which required ODFW to recoup costs incurred providing services to other agencies on fee-based programs, starting in the 2019 – 2021 biennium. When the original legislation was passed, there was no additional appropriation to OWRD to pay for those expenses, so bills were paid with a blend of fees and general fund. The department received three billings totaling about \$215k. Recently, the Department stopped receiving billings; ODFW has indicated that it is not currently intending to resume billings in the near future.