



WATERWATCH

Protecting Natural Flows in Oregon Rivers

WHAT'S INSIDE

<i>Mining Threatens Grave Creek.....</i>	<i>4</i>
<i>WaterWatch Welcomes.....</i>	<i>5</i>
<i>Water Briefs from Around the State</i>	<i>6</i>
<i>Abuses Continue in Klamath</i>	<i>8</i>
<i>WaterWatch in the Community.....</i>	<i>9</i>
<i>Take Action!.....</i>	<i>10</i>

INSTREAM

Summer 2018 Newsletter



Cutthroat trout by John DeVoe

Stream of Consciousness: Still Draining Oregon

By John DeVoe, Executive Director



It's high time our policies and public investments reflect just how important groundwater is to Oregon's economic and environmental future. Unfortunately, current groundwater practices, policies, and investments utterly fail in this regard. We cannot afford to delay groundwater management reform any longer.

Here's why: Scientists expect more variability in the amounts and types of precipitation Oregon receives as our climate changes. Much of the state relies on mid-elevation snowpack for water. For those areas, snowpacks will be reduced, with more precipitation

falling as rain rather than snow. The dry season will likely be longer. Runoff will likely come earlier.

All these changes will make the maintenance of healthy groundwater supplies, also known as aquifers, absolutely essential. Aquifers may help buffer the impacts of reduced snowpack. For streams, wetlands, and cold water species like salmon and trout, groundwater often provides a critical, life giving bridge across the dry season by providing cold, clean water when it is needed most. For farmers, industry, and drinking water supplies, judicious use of groundwater can buffer the impact of drought.

(Continued on page 2)



WaterWatch's mission is to protect and restore streamflows in Oregon's rivers for fish, wildlife, and the people who depend on healthy rivers.

Portland Office

213 SW Ash St., Suite 208
Portland, OR 97204
T: (503) 295-4039

Southern Oregon Office

P.O. Box 261
Ashland, OR 97520
T: (541) 708-0731

Staff

- | | |
|---|---|
| » Lisa Brown
Staff Attorney | » Kimberley Priestley
Senior Policy Analyst |
| » John DeVoe
Executive Director | » Molly Whitney
Development Director |
| » Nancy Drinnon
Comptroller | » Jim McCarthy
Communication Director &
Southern Oregon Program
Manager |
| » Megan McAfee
Administrative Assistant | » Jack Dempsey
Contract Lobbyist |
| » Brian Posewitz
Staff Attorney | |

Board of Directors

- | | |
|---------------------------------------|-------------------------|
| » Mary Lou Soscia
President | » Bob Hunter |
| » Karl Anuta
Vice President | » Dave Kilhefner |
| » Matt Deniston
Secretary | » Lynn Palensky |
| » Jerry Brown
Treasurer | » Jeff Perin |
| » Jean Edwards | » Dean Runyan |
| | » Mary Scurlock |
| | » Bryan Sohl |
| | » Katie Walter |

WaterWatch of Oregon publishes
Instream three times annually.
Jim McCarthy, Editor

(Stream of Consciousness: Still Draining Oregon... Continued from page 1)

We have already had ample warning that the time to act is now. Two summers ago, *The Oregonian* published "Draining Oregon," a landmark investigative report on the state of Oregon's groundwater. The series opened with the headline: "Water Giveaway Threatens Economic Chaos and Hurts Wildlife." It went on to document the importance of our groundwater to all of us: over a million Oregonians rely on well water for drinking water; over 5,000 farms rely on well water for irrigation; 652 species of sensitive plants and animals rely on groundwater and are threatened by overpumping. The series documented massive overpumping, Oregon's unsustainable ground water permitting practices, and the lack of investment in understanding and protecting our groundwaters.

Draining Oregon described how Oregon issues groundwater pumping rights well beyond natural aquifer recharge rates in several key areas of the state. The reporting described troubling data voids. Oregon lacks basic information on how much groundwater we have, what pumping rates might be sustainable – and fundamentally – how much groundwater is pumped because few water rights are required to measure and report use. *The Oregonian* reporters documented the Oregon Water Resources Department's wildly unsustainable water permitting practices. These included regularly issuing new groundwater rights without knowing whether water was available for the proposed use or whether the new use would harm other water users – including streams and fish and wildlife.

The investigative report concluded: "Oregon is helping farmers drain the state's underground reservoirs to grow cash crops in the desert, throwing sensitive ecosystems out of balance and fueling an agricultural boom that cannot be sustained."

Draining Oregon showed the critical need for reform of Oregon's groundwater management. Unfortunately, in the two years since the series ran, little has changed. Consider the following:

Permitting: Based on WaterWatch-compiled data, for roughly 80% of the new groundwater permits issued statewide in 2017

– and for a similar percentage in 2016 – Water Resources did not know if water was available for the new proposed use or whether the new proposed use was within the capacity of the resource – that is, whether issuance of the new permit would cause or contribute to over appropriation of the aquifer. Rather than default to non-issuance of new permits where information is lacking, Oregon continues to fly blind and issue new permits.

Even so, WaterWatch continues to push hard for permitting policy changes within Water Resources, including asking the agency to adopt a “default to no” policy on any new groundwater permit application where data is lacking on whether water is available or whether the proposed use is within the capacity of the resource. We believe this is what the law requires.

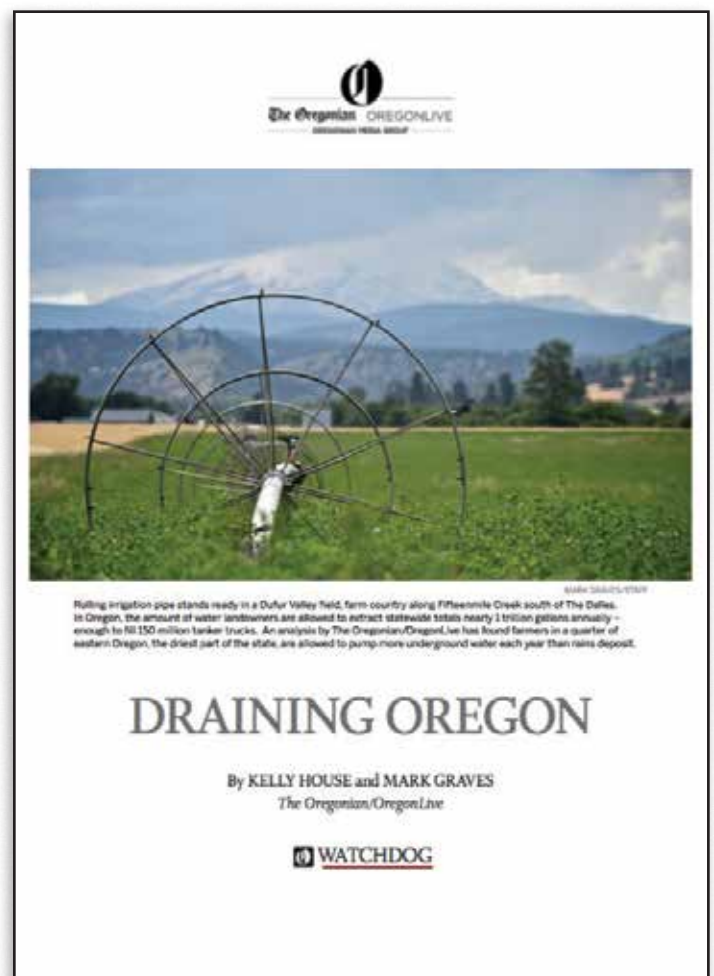
Funding: In 2017, Governor Brown asked for \$1.8 million for groundwater studies in her budget, but the Legislature failed to appropriate this money and actually ended up reducing funding for groundwater. In 2018, Water Resources asked for about \$1.3 million for groundwater studies, but received zero dollars. At current rates of investment, it is estimated that it will take until 2096 to obtain basic basin studies for all eighteen of Oregon’s groundwater basins. Adding insult to injury, the Legislature has doled out millions to private irrigation interests and other questionable water projects over the same period. Water Resources is poised to ask for upwards of \$3 million for groundwater studies in their 2019 budget. It’s crucial that the Governor include this in her budget and that the Legislature appropriate the funding.

Oregon Water Resources Commission: In a positive development, the Water Resources Commission is working with Water Resources to develop a groundwater strategy. This could have positive results, but in the meantime Oregon should stop issuing new permits where it cannot determine if water is available.

Legislative Reform: In the wake of Draining Oregon, as we had for many years prior, WaterWatch pushed for water management reform at the state legislature. Our agenda included one bill

adopting a modest fee for water right administration that would have helped pay for five new groundwater basin studies and one requiring water use measurement and reporting, crucial to understanding the state of our groundwaters. The legislature failed to pass these bills, but WaterWatch will be back again in future legislative sessions, and we will need your help.

The good news is we still have the opportunity to change to protect Oregon’s future. With your help, WaterWatch will continue making the case for more sustainable water management in Oregon’s communities, with its agencies, in the courts, and in the legislature. To paraphrase Ben Franklin, we know the worth of groundwater because many wells are already going dry. We need to stop draining Oregon. Please join WaterWatch to help secure an ecologically sustainable future for Oregon’s groundwaters.



Read “Draining Oregon” at oregonlive.com/environment/

Mining Proposal Threatens Iconic Grave Creek

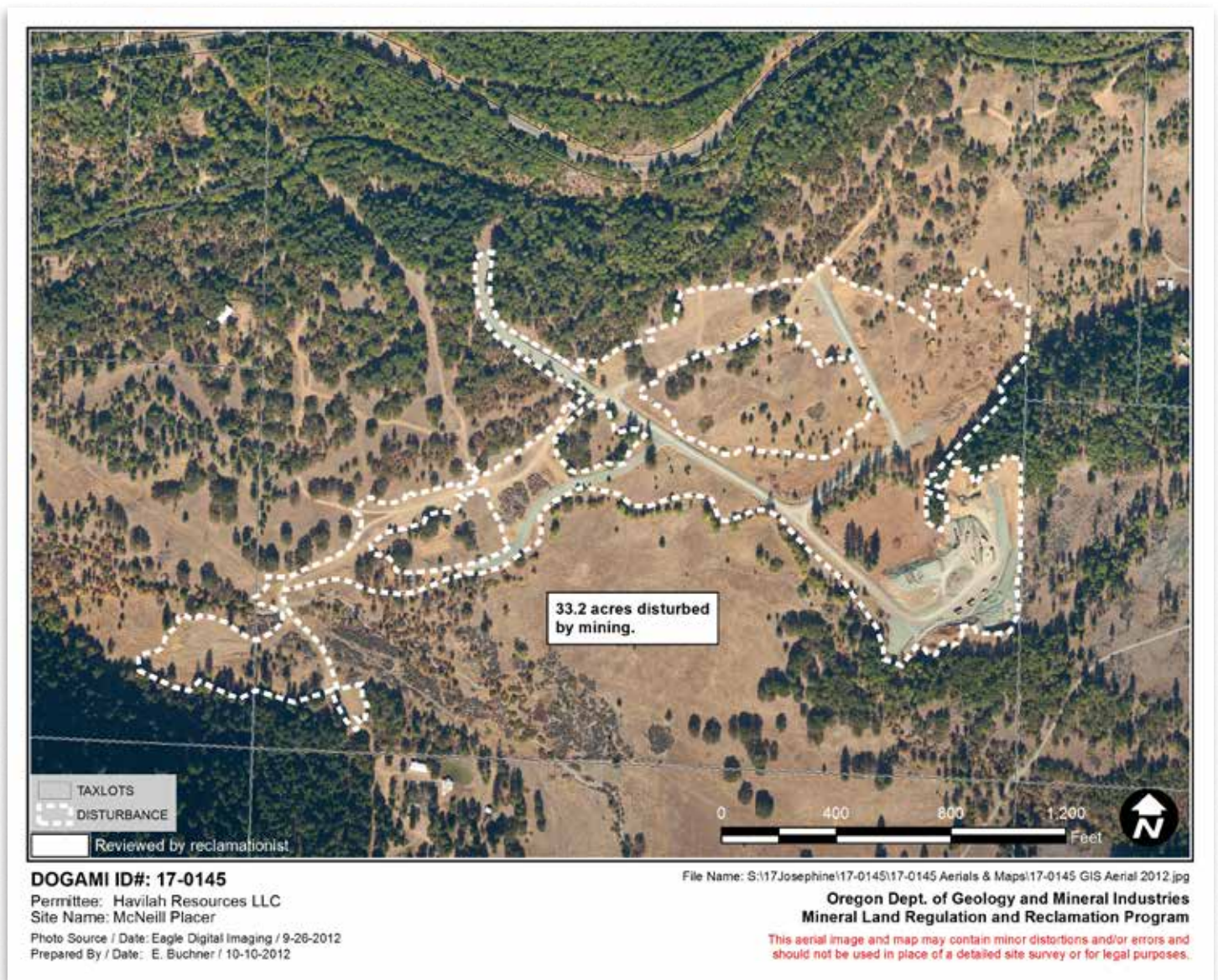
For over five years, WaterWatch has worked alongside local groups and residents to protect instream flows critical for fish by stopping numerous water permits for an aggregate mine proposed by Sunny Valley Sand and Gravel alongside the Rogue River Basin's Grave Creek. This creek, which enters the Rogue at the start of its cherished Wild and Scenic stretch, supports threatened coho salmon as well as fall chinook salmon, Pacific lamprey, and other native fish.

The proposed mine's owners have tried to secure several water permits during this time, including four reservoir permits, one groundwater permit, and three limited licenses – which provide temporary water use rights. Pushback by WaterWatch and our

allies ensured that the only two reservoir permits eventually issued included strong seasonal protections for fish and streamflows, including requirements for fully lined reservoirs to avoid groundwater capture that would deprive Grave Creek of cold, clean water.

Recently, the owners applied to transfer an irrigation water right to mining use and to move one diversion point upstream. This would reduce streamflows over a reach of Grave Creek and injure an instream water right established to protect fish. WaterWatch challenged this proposal.

Injuring the instream water right is only allowed if Oregon Department of Fish and Wildlife believes that there would be a



2012 map showing mining proposal next to Grave Creek.

net benefit to the resource consistent with the purposes of the instream water right, and Water Resources agrees to allow the injury. This is because instream water rights are held in trust by Water Resources for the benefit of all Oregonians to maintain instream flows for public use.

Water Resources, WaterWatch, and our allies are now awaiting ODFW's decision.

The facts of the case strongly support denial. For example, in denying another water permit application for the proposed mine, Water Resources found that "Grave Creek provides spawning, rearing, and migration habitat for federally threatened coho salmon, and state sensitive summer steelhead and Pacific lamprey. Grave Creek also ranks as a stream in the highest need of flow restoration, and water use should be allowed only when instream water right flows are met." ODFW has also stated that "[a]ny diversion or appropriation of water for storage during the period April through December poses a significant detrimental impact to existing fishery resources" in Grave Creek. State agencies charged with protecting instream flows on behalf of all Oregonians must discharge this duty with the utmost care and consideration for streams like Grave Creek. Should the agencies fail to do so here, WaterWatch stands ready to take action.

WaterWatch Welcomes...

Board Member Dave Kilhefner



Dave spent his college years playing baseball at Mount Hood Community College and then Washington State University. After college he went to work in the family business, KBI Insurance, and became the owner in 2006. He's also worked as an outdoor writer since the late 1980s and has fished, hiked, and hunted all over Oregon. Dave is a past president of the Northwest Outdoor Writers Association and is currently the vice president of the Clackamas Fly Fishers. When he's not stuck in the office he can usually be found on a river somewhere, walking as far as it takes to get away from the crowds. Welcome to the board Dave!

We hope you like our new logo and updated newsletter! Please let us know what you think at info@waterwatch.org!

And don't forget to check out our new website, starting in early September at waterwatch.org. While you are there, you can also learn more about our work, become a member, or sign up for RiverAction Alerts.



"Like" Us
on Facebook!



Follow us on Twitter
@WaterWatchofOR



Join us on Instagram at
WaterWatchofOregon



Water Briefs From Around the State

Drift Creek Dam Proposal

As part of WaterWatch's work to oppose a proposed new dam in Drift Creek, a tributary of the Pudding River near Mt. Angel, we recently completed a two-week administrative hearing. Drift Creek is an important home to coho salmon, Pacific lamprey, and cutthroat trout, among other fish and wildlife. Upper Willamette River steelhead, a threatened species under federal law, may also use this creek. The proposed dam, which would likely be built without fish passage, would flood and block access to valuable habitat in the upper reaches of Drift Creek and its tributaries.

East Valley Water District, an irrigation district, wants to build the dam to store more water for irrigation. The project would flood land owned by other farmers, many of whom do not want to sell but could be forced to give up their land because the district has the power of eminent domain, and can condemn private property. Please stay tuned as this case continues.

Lost Valley Farm Mega-Dairy

The so-called Lost Valley Farm near Boardman opened in the spring of 2017 with about 10,000 cows and plans to eventually

grow to 30,000 cows. A large coalition of groups, including WaterWatch, has been raising a host of concerns about this new mega-dairy. Because mega-dairies use a lot of water – to irrigate crops to feed the cows, for livestock drinking water, and for industrial operations, WaterWatch is focusing on the water quantity impacts. As part of this focus, we protested a transfer of groundwater rights that would have likely worsened conditions in the designated critical groundwater area surrounding the site. We also successfully opposed two short-term groundwater use permits by pointing out that, among other problems, the uses covered were in fact permanent and do not qualify for short-term permits. More recently, we daylighted the dairy's abuse of a loophole in Oregon water permit requirements – a pioneer-days exception for livestock watering – to tap already overstressed groundwater supplies to water an industrial-sized concentration of cows. If use of this unintended loophole becomes common practice for mega-dairies, it could create serious negative impacts to groundwater supplies throughout Oregon.

Our work to date has prevented the dairy from tapping overdrawn



John Day River's Cottonwood Canyon by Jeff Clark, U.S. Bureau of Land Management

aquifers with short-term water permits. It also led to an expose in the *Statesman Journal* and an editorial from the newspaper encouraging the state to close the livestock watering loophole. Our protest to the water rights transfer, which would give the dairy access to groundwater on a long-term basis, remains pending.

Place Based Planning for Sustainability

Oregon's roadmap to meet water needs now and in the future – the Integrated Water Resources Strategy – includes a place based planning program. WaterWatch and our supporters played a pivotal role in creating this strategy, and thanks to you, the strategy's place based planning program requires balanced workgroups, that any workgroup recommendations comply with the law, and that workgroups addresses instream needs.

The Water Resources Commission approved funding for four pilot placed based planning workgroups. WaterWatch is actively participating in two of these pilots: one in the Lower John Day River and the other in Harney Basin. We are monitoring the two others, located on the mid-coast and in the Upper Grande Ronde.

In the Lower John Day Basin, our staff is attending regular meetings, generally in Condon, assisting in preparation of reports, serving on the data collection and outreach committees, and reviewing and commenting on documents. Our focus has been on ensuring adequate consideration of fish and wildlife flow needs in the Lower John Day Basin. The planning group expects to release a draft state of the basin report for public comment soon. We will be encouraging comments from Oregonians interested in protecting flows for fish and wildlife, so please stay tuned!

For the Harney Basin pilot, our staff is attending meetings in Burns with the full collaborative group as well as workgroup meetings. Our involvement is mainly focused on assessing and addressing the needs of wetlands, springs, and fish and wildlife, including those impacted by declining groundwater levels; tracking the progress of a joint state-federal agency groundwater study; and working with other stakeholders to identify solutions to the significant over-allocation of groundwater.

Defending Instream Flow Restoration in Court

WaterWatch is heading to the Oregon Court of Appeals to defend an Oregon law that requires water rights for decommissioned hydropower projects to be converted to instream water rights to benefit fish, wildlife, and recreation. This case could have major ramifications for many Oregon rivers and streams with aging or abandoned hydro dams. In 1995, a hydroelectric power project on Rock Creek, a tributary to the Powder River in eastern Oregon, shut down. The owners surrendered the project's federal license in 2003. By law the Oregon Water Resources Department must convert any hydroelectric water right to a permanent instream water right "[f]ive years after the use of water under [the] hydroelectric water right ceases." In this case, instead of creating the new in-stream water right, Water Resources has argued that periodic leases of an old hydro water right for instream flow can eliminate their duty to permanently protect this water in the stream. Now a new company wants to use the old water right for a new hydroelectric plant in the same location. Recognizing this would set a terrible precedent for Oregon's rivers, WaterWatch challenged Water Resources' position in Marion County Circuit Court but unfortunately received an unfavorable ruling that we are challenging on appeal.

Willamette Basin Storage Reallocation Update

We are still waiting for the U.S. Army Corps of Engineers to release its recommended plan for allocating the water stored each year in the thirteen reservoirs it operates on the Willamette River system (a total of 1.6 million acre feet in a good water year). We commented extensively on a tentative plan released by the Corps in November 2017 that we think shorts fish by failing to allocate enough stored water to meet flow targets for threatened spring chinook salmon and winter steelhead and by insisting that releases for fish be cut at the same rate as releases for future irrigation and peak-season municipal demands (generally landscape irrigation) in years when the reservoirs don't fill. We also believe the Corps may be underestimating the environmental impact of the allocation by failing to conduct a full environmental impact analysis. Thanks to all our members and supporters who also submitted comments on the draft plan.

Groundwater, Taxpayer Funding Abuses Continue in Klamath

WaterWatch recently commented on a troubling plan, known as a draft Environmental Assessment, by the U.S. Bureau of Reclamation to distribute some \$10 million in taxpayer funds for drought disaster relief in 2018 to agribusiness interests in the federal Klamath Irrigation Project.

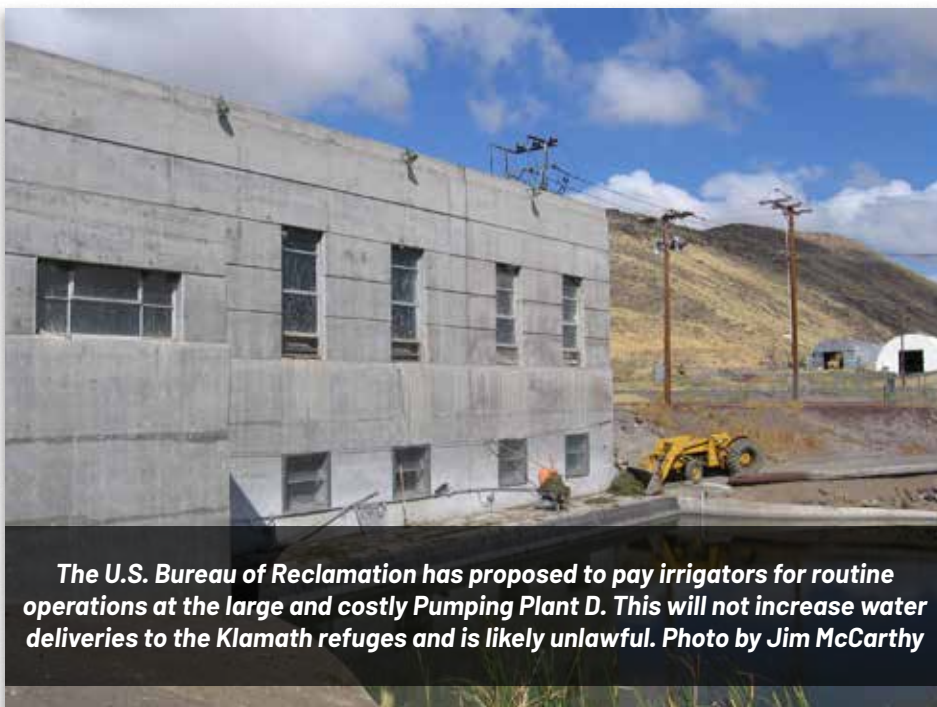
The draft plan purports to reduce stress on both overstretched resources and impacted communities by purchasing water that otherwise would be used by irrigators in order to provide that water to drought-imperiled fish and wildlife on the Klamath Basin's National Wildlife Refuges. However, the specific actions outlined in the draft plan appear instead to subsidize increased pumping from already heavily depleted groundwater supplies. The Klamath Basin's groundwater and surface water are connected, so this action also threatens surface streamflows and springflows which are critically needed for struggling fish and wildlife. Perhaps worst of all, the draft plan proposes to give taxpayer dollars to Tulelake Irrigation District for routine drainage pumping operations that happen every year anyway, and therefore would waste funds while not increasing water deliveries to the National Wildlife Refuges by a drop. Overall, the draft plan does not comply with the Reclamation States

Emergency Drought Relief Act of 1991, the statute the Bureau has claimed provides them with the authority to spend this \$10 million from the taxpayer.

Unfortunately, these troubling elements of the draft plan are reminiscent of findings in a report by the U.S. Department of Interior's Office of the Inspector General, which stated that the Bureau "wasted" \$32.2 million in taxpayer funds – funds intended to provide water to aid struggling Klamath Basin fish and wildlife populations between 2008 and 2015 – to the detriment of the environment. These funds instead benefitted local agribusiness interests. This report's findings were corroborated in a review by the U.S. Office of Special Counsel sent August 8, 2017 to the President of the United States as well as the Chairs and Ranking Members of the Senate Committee on Energy and Natural Resources and the House Committee on Natural Resources. To date, Oregon's Congressional delegation has ignored these reports and no one has been held responsible for this enormous waste.

The Bureau has not released a final plan for its 2018 funding distributions, and continues to negotiate with agribusiness interests over the details. Meanwhile, WaterWatch continues

to push the Bureau to follow common sense and the law while maximizing water deliveries to the Klamath refuges. Government decisions which unjustifiably and at times unlawfully favor agribusiness continue to seriously harm the natural resources and communities dependent on the Klamath Basin while squandering tens of millions in taxpayer dollars. WaterWatch will continue to work to bring accountability and reform to the basin while pushing for long-term solutions to the region's water woes. Read WaterWatch's detailed comments on the draft plan, and learn about our ongoing work in the Klamath, at waterwatch.org.



The U.S. Bureau of Reclamation has proposed to pay irrigators for routine operations at the large and costly Pumping Plant D. This will not increase water deliveries to the Klamath refuges and is likely unlawful. Photo by Jim McCarthy



Your River Advocacy Worked!

In June, the Oregon Fish and Wildlife Commission voted to include \$772,700 for the Water Program in its agency 2019-2021 budget. As you may know, a few months ago the agency was not proposing any increase to the program. However, thanks to your efforts in attending budget hearings and submitting written comments, expanded funding for this critical work will now be included in the Agency Recommended Budget.

Adequately funding ODFW's Water Program is of paramount importance for securing a sustainable water future for Oregon, recovering imperiled salmon and ensuring the health of Oregon's rivers.

The Water Program plays a vital role in protecting water in our state's iconic rivers. Whether it's reviewing new water right applications to ensure that they won't harm our rivers, securing new instream water rights to legally protect streamflows forever, or helping set water policy in every river basin statewide, ODFW works to protect water in our streams – and provides an invaluable service to all Oregonians.

Again, without your voices this would not have happened – so thank you!

But we are not done yet! Next steps involve urging the Governor to include this funding in her budget and then advocating for the program in the legislature, so please stay tuned over the coming months.



WaterWatch in the Community

WaterWatch...

- ... Attended the Columbia River Treaty listening session in Spokane
- ... Spoke at Oregon State University
- ... Joined in The Big Float in Portland
- ... Participated in U.S. Representative Earl Blumenauer's July Conservation Round Table
- ... Spoke at Mountain Rose Herbs in Eugene



WATERWATCH

Protecting Natural Flows in Oregon Rivers

Help Save Oregon's Most Threatened Fish, Wildlife, and Rivers!

The federal Endangered Species Act is a landmark conservation law that – in Oregon alone – has helped restore critically needed flows in the Upper Deschutes and Klamath rivers, has brought down obsolete, fish-killing dams in the Rogue Basin for the benefit of salmon and steelhead, and has protected and restored struggling fish runs across the state. In addition, all of these actions have provided significant benefits for Oregon's communities and economy.

But now, the Trump administration is trying to gut the ESA for the sake of corporate profits.

Recently proposed rollbacks would give industries the green light to cause further harm to our rivers and streams while driving our most threatened fish and wildlife populations towards extinction.

The Interior and Commerce Departments are accepting public comments on this disastrous plan until September 24. Please send a letter now urging the Trump administration to reverse course and save the Endangered Species Act.

Personalized comments reflecting your own experience and values are the most effective. Below are some suggested points to make:

Dear Secretary Zinke and Secretary Ross:

I support the Endangered Species Act and do not want to see it gutted. I am outraged you are proposing to dramatically weaken the law that has helped bring countless imperiled species back from the brink of extinction.

In Oregon alone the ESA has helped restore critically needed flows in the Upper Deschutes and Klamath rivers, has brought down obsolete, fish-killing dams in the Rogue Basin for the benefit of salmon and steelhead, and has protected and restored struggling fish runs across the state. In addition, all of these actions have provided significant benefits for Oregon's communities and economy.

I am especially troubled that the proposed changes will:

- ***Make it more difficult to extend protections to threatened species, delaying lifesaving action until a species' population is so small it may be challenging or impossible to save***
- ***Exempt climate change from key parts of the law, making it more difficult to protect imperiled species that are impacted by the effects of climate change***
- ***Require economic factors to be analyzed when deciding if a species should be saved***
- ***Make it easier for companies to build roads, pipelines, mines, and other industrial projects in critical habitat areas that are essential to imperiled species' survival***

Please reverse course and save the Endangered Species Act.

Thank you.

Comment by mail:

Public Comments Processing
Attn: FWS-HQ-ES-2018-0006, FWS-HQ-ES-2018-0007,
and FWS-HQ-ES-2018-0009
U.S. Fish and Wildlife Service
MS: BPHC, 5275 Leesburg Pike
Falls Church, VA 22041-3803

and/or

Public Comments Processing
Attn: FWS-HQ-ES-2018-0006, FWS-HQ-ES-2018-0007
and FWS-HQ-ES-2018-0009
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910

Comment online at: <http://www.regulations.gov>. In the "Search" box, enter FWS-HQ-ES-2018-0006, FWS-HQ-ES-2018-0007, or FWS-HQ-ES-2018-0009, which are the docket numbers for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on "Comment Now!"



Do you want to invest in the health of Oregon's rivers, aquifers, and wetlands? **Please donate now!**

We rely on the support of donors like you to watchdog, defend, and restore Oregon's waters. There are many options for giving. Donations large and small help protect and restore Oregon's waters.

Mail

Donations may be sent to:

WaterWatch

213 SW Ash Street, Suite 208
Portland, OR 97204

Online

Make a one-time or reoccurring donation at
waterwatch.org.

Donate Securities

Donating securities (stocks, bonds, mutual funds, etc.) can be one of the most effective, and economical, ways to support WaterWatch.

Estate Planning

When you include WaterWatch in your estate plans, you help secure a legacy of healthy rivers in Oregon. We can help you find a plan that meets your needs and benefits Oregon's rivers long into the future.

Fred Meyer Rewards

Take full advantage of your grocery runs by choosing WaterWatch to receive a percentage of eligible shopping through Fred Meyer Rewards.

Telephone

Our Development Director, Molly, is available at (503) 295-4039 x0 to answer any questions, take a donation by credit card, or provide pertinent information regarding our many donation options.

Become a Monthly Donor

Monthly donations can be automatically deducted from your checking account or credit card. They keep your membership current and provide reliable support.

Workplace Giving

Many employers make it easy and efficient to donate through payroll contributions, and many will match your donation. Talk with your employer to find out if your workplace is able to help you support WaterWatch.

Donate Your Vehicle

WaterWatch accepts vehicle donations with Charity Connections, a non-profit vehicle donations program.

WaterWatch is proud to participate in the following programs:





WATERWATCH

WaterWatch of Oregon
213 SW Ash Street, Suite 208
Portland, OR 97204

NONPROFIT
U.S. POSTAGE
PAID
PERMIT NO 110
MEDFORD OR

Printed on 30% post-consumer fiber

SAVE THE DATE!

16TH ANNUAL CELEBRATION OF OREGON RIVERS

NOVEMBER

17

2018

New Location - Leftbank Annex

101 N WEIDLER ST, PORTLAND, OR 97227

AUCTION AND BANQUET BENEFITING WATERWATCH OF OREGON

[HTTPS://WATERWATCH.EJOINME.ORG/AUCTION2018](https://waterwatch.ejoinme.org/auktion2018)

Thanks to our sponsors



CHEHALEM

