



# INSTREAM

Fall '16 Newsletter



*Chinook salmon in the Umatilla River by Lynn Ketchum*

## Stream of Consciousness: Rivers Need Water – And You

Rivers Need Water. Distilled down to three words, that classic message captures the essence of WaterWatch's mission. Rivers do need water, but more than anything else, rivers need you. Your voice and your willingness to stand for streamflows and balanced water policies make the protection and restoration of our rivers possible. Water policy is highly political. Without your support – for water policies that protect instream values and the public interest in water as well as for leaders who can be trusted to do right by our rivers – Oregon's waterways don't stand a chance. You are the bulwark that stands for healthy rivers, with enough water to support fish, wildlife, and all of the public benefits that accrue from healthy rivers, and against unsustainable damming, diversion, and degradation of Oregon's watersheds for private gain.

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

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

## WaterWatch Welcomes



### Jack Dempsey, Contract Lobbyist

WaterWatch is thrilled to welcome Jack Dempsey to our team. Jack helps Waterwatch with our extensive efforts in Oregon's capitol, Salem. He has worked with the Oregon Legislature since 1998, including experience as leadership staff, campaign director, and lobbyist. He served as a policy advisor for then-Senate Democratic Leader Kate Brown and as legislative director for Senate President Peter Courtney. Jack has lobbied the legislature since 2006, working in-house for O.H.S.U. and the Oregon Nurses Association, and as an independent lobbyist. He lives in Portland with his wife and two daughters.



## WaterWatch in the Community

WaterWatch...

- ... Spoke before the League of Women Voters of Oregon and Washington about the Columbia River Treaty
- ... Spoke to the Mid-Coast Watershed Council regarding place-based planning
- ... Gave a presentation before the Oregon Drought Task Force



Your role protecting Oregon's rivers and public waters also means that you are protecting the public's purse. The truth is, much of the degradation of Oregon's rivers would not happen, and cannot happen, without large publicly-funded subsidies. Across the West, special interests now see climate change and drought as vehicles to repackage old thinking as new ideas for large, publicly-funded water infrastructure development. You will help determine whether Oregon embarks on massive giveaways of taxpayer dollars to finance new water development projects that would only benefit a handful of private interests. You can help stop proposals designed to transfer taxpayer funds and public resources to private interests for private gain.

This transfer of resources and money also happens in other areas. For example, through grant and low cost loan programs administered by the Water Resources Department and as part of each and every private water right application transaction conducted by the agency for private parties, you are subsidizing every permit application the agency considers and approves. The fees paid by permit applicants do not cover the cost of processing the application or provide any funds for the

potentially perpetual management of the water right once issued. On top of this huge bargain for the water user: the water itself is free. These subsidies will continue, in perpetuity, unless we can bring changes through your support. For a start, we could shift a reasonable amount of the funding responsibility over to water users themselves, thereby creating incentives for conservation and efficiency while also funding key management needs.

Protecting and restoring water in rivers, and bringing needed changes to water policy usually takes a lot of time and effort. The good news is, we have a passion for rivers, strength in numbers, and great supporters like you who live all across the state. In fact, although WaterWatch is sometimes portrayed as a group of city-dwellers in western Oregon, our supporters in Eastern Oregon's Second Congressional District actually outnumber our supporters in any other Congressional district!

No doubt about it: rivers need you. Without you, Oregon's rivers are in deep trouble. With you, we can accomplish anything. Thank you for standing up for Oregon's rivers and for all of your support for WaterWatch's programs. You are the key to our success and to the future health of Oregon's rivers.

## Connect with WaterWatch on the Web!

Learn more about our work, become a member, or sign up for RiverAction Alerts at [\*\*waterwatch.org\*\*](http://waterwatch.org).



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# Stopping the Drain on Oregon's Groundwater

*"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..."*

So begins "Draining Oregon," *The Oregonian's* landmark special report exposing the state's often maddeningly shortsighted management of our crucial groundwater supplies and the widespread problems created by Oregon's outdated, spottily applied, or underfunded groundwater protections. The series of stories highlights WaterWatch's work to reign in unsustainable groundwater development in the Malheur Lakes Basin.

It's extremely rare that these important groundwater issues receive this level of journalistic scrutiny and analysis. This series has drawn intense public attention, and for those who care about Oregon's rivers, lakes and streams – and their own wellwater – it presents a once-in-a-decade opportunity to demand concrete action. Thanks to your support, WaterWatch will be working hard to seize this chance to protect Oregon's threatened groundwater supplies – along with the waterways, fish, wildlife, and people dependent on healthy aquifers! Below are some of the key solutions we are proposing:

## Stop Digging the Hole Deeper

Oregon's groundwater may be in crisis, but you wouldn't know it from the speed at which regulators say "yes" to new groundwater pumping applications. Instead of defaulting to "yes" when the state isn't certain that there is enough groundwater to support the new pumping,

regulators should default to "no" when the information on groundwater in a specific area is absent or inadequate. At a minimum, the Department should stop issuing new permits unless they can determine additional pumping won't harm fish, wildlife, and other water users.

## Take Stock of Existing Groundwater Resources

In the past, the state has passed up matching federal funds to help pay for needed groundwater studies. We cannot afford to let this happen again. The Oregon Water Resources Department – with the full backing of Governor Brown – should ask legislators for increased funding on studies to rapidly improve our understanding of the current condition and future resiliency of our state's groundwater resources. The state should be required to have comprehensive studies completed for key watersheds by a set date.

## Get Serious About Funding Groundwater Management

There's no way around it - protecting vast and incredibly valuable public resources such as groundwater costs



money. Despite this, the state has always relied on a shoestring budgeting approach to groundwater management, with predictable results. In 2017, legislators should ask groundwater users to pay a nominal annual fee to help pay for the ongoing management and enforcement necessary to protect this vital public resource – and prevent the kind of underfunding and neglect that results in lawful groundwater permit holders seeing their rights being drained away from under them.

### **To Manage Water, We Must Measure Water**

The state must require and fund actions to achieve measurement and reporting of all waters in the state, including pumping at existing wells. Again, having a better handle on water use will not only protect water supplies, waterways, and wildlife, it will also protect existing users, communities, and economic activity dependent upon reliable water supplies.

### **Zero Tolerance for Unlawful Groundwater Use**

*The Oregonian* series exposed the practice of water users digging new wells first, then asking the state for permission later. This practice has become common in some parts of Oregon because it's an open secret that regulators will reward such scofflaws with permits after the fact. This practice must end if we are to stop Oregon's growing groundwater crisis and secure our water supplies.



Please go to [waterwatch.org/act-now-1](http://waterwatch.org/act-now-1) and join us in asking state water managers, our Governor, and the state legislature to take action now on key measures to help solve Oregon's growing groundwater crisis.

## **UPCOMING EVENTS**

### **October 1st & 2nd - Rogue on the Fly Merlin, OR - Indian Mary Park**

Please join us for a weekend of fun at the Rogue River's Indian Mary Park for the second annual *Rogue on the Fly*. Hosted by the Ashland Fly Shop, *Rogue on the Fly* is a steelhead fly fishing extravaganza, including and welcoming all fly fishing methods. The weekend agenda includes casting presentations, fly-tying demos, sponsored games including Steelhead Olympics, great food, and live music. Fly fishing manufacturers and their reps will be present to show you their stuff and, of course, you can try it out. Various vendor and outfitter booths will feature their products and venues. Call it a rave or gathering, we call it *Rogue on the Fly: A Fly Fisher's Rendezvous*.

### **October 8th - Umpqua Brew Fest "It's all about the water" Roseburg, OR - DC Fairgrounds**

WaterWatch will be tabling, and enjoying a brew, at the Umpqua Brew Fest. After the fall harvest each year the communities of the hundred valleys of the Umpqua celebrate the bounty of the land and the purity of the water. Sponsors, vendors, volunteers, organizers, musicians, brewers, and craft beer tasters all come together every October for a day of water, barley, and hop heaven at the Umpqua Brew Fest. Since the fall of 2010, the festival has raised funds for Umpqua Watersheds, a non-profit conservation organization located in Roseburg and dedicated to the protection and restoration of the Umpqua Watershed through education, training, and advocacy.

*(Continued on page 8)*





# Fighting for the Clackamas River

WaterWatch has been hard at work this year continuing a nearly decade-long battle for the Clackamas River and the fish that depend on it. In early 2008, WaterWatch challenged the Oregon Water Resources Department's decision to approve diversion of an additional 100 million gallons of water per day from the lower Clackamas River for municipal use. We asserted in part that the diversions were not conditioned to maintain the persistence of salmon and steelhead in the Clackamas listed under the state and federal Endangered Species Acts, as required by law. In essence, while the state identified Clackamas River flow levels needed at different times of year to maintain these imperiled fish, the mechanisms proposed in the water rights to maintain these flows had little or no effect on the cities' proposed use of water if the fish flows were not met. After a trial and an appeal, the Oregon Court of Appeals agreed with WaterWatch, concluding that with regard to protecting these fish, the agency's decision lacked "both substantial evidence and substantial reason." The court told the agency to try again.

Sadly, rather than improve the rejected rationale for the

clearly inadequate fish protection conditions, the state has chosen to double down in its defense of these clearly inadequate conditions. Instead of addressing the questions posed by the Court of Appeals, the state continues to gloss over the central dispute: how do the proposed conditions protect the streamflows needed for the river's struggling fish?

With an amazing team of experts and witnesses, WaterWatch went back to trial in early July to secure better protections for Clackamas River fish and to force Oregon to follow the law. The trial will likely be completed in October.

WaterWatch fundamentally believes that, if used wisely, there is plenty of water supply in the metro area and that any additional municipal diversions from the Clackamas River can be formulated to protect the needs of imperiled salmon and steelhead while the reasonable water needs of cities are also met. We are committed to ensuring that the Clackamas River and its fish enjoy the protections afforded by law – even if we have to go back to the Court of Appeals to make it happen.



*WaterWatch is going back to court to protect the Clackamas River. Upper Clackamas rafting by MtHoodTerritory.com*

# Oregon's Water Blueprint Up for Review

In 2012, the state adopted its first Integrated Water Resources Strategy, a blueprint for meeting instream and out-of-stream water demands into the future. By statute, the plan must be updated by 2017. The Oregon Water Resources Department is now in the midst of an update, and held a number of open houses around the state and convened a policy advisory group. (Many of you attended these open houses. Thank you!) WaterWatch and its members have taken this opportunity to ask the state to strengthen commitments to implement the instream provisions of the plan, both by setting deadlines and adding new provisions to fill any gaps. Some key asks from WaterWatch staff and supporters include:

## **Set Goals for New Instream Water Rights**

The 2012 Strategy called on the state to establish new instream water rights to protect flows for fish, wildlife, recreation, and water quality, but so far little has been done. The new strategy should require the Oregon Department of Fish and Wildlife to submit within one year the many applications that they have developed.

## **Quantify Future Instream Flow Needs**

The 2012 Strategy asked the state to define instream and out-of-stream demands. In response, the state produced a 2015 Demand Forecast Report projecting water demands for agriculture, commercial, municipal, and agricultural needs until the year 2050, but did not include any information on water needs for fish, wildlife, water quality,

and recreation. This makes no sense. Without data on the water needs of fish, wildlife, water quality and recreation, the state cannot plan for and protect instream needs into the future. The new Strategy should direct resources and staff to define statewide instream demands – including peak and ecological flows – within the next two years.

## **To Manage Water, We Need to Measure Water**

The 2012 Strategy called on the state to implement Oregon's Water Resources Measurement Strategy, which was created in the year 2000. Unfortunately, progress has been slow on this plan. Worse, the Water Resources Department recently backpedaled on its commitment to improve measurement by reducing its annual measurement goals. Improved measurement should be a first line strategy for extending our water resources

*(Continued on page 8)*



*Improved water use measurement is essential to extending our water resources and adapting to climate change. Photo by Ian Sane*

## UPCOMING EVENTS

### October 19th - Oakshire Inspires

#### Eugene, OR - Oakshire Brewing Public House

Join us in Eugene and raise a glass for Oregon's rivers – including the McKenzie River – the source of the water in Oakshire's delicious brews. \$1 from every pint sold from 11am to 10pm will be donated to WaterWatch, so please make a toast or two! WaterWatch staff will be present from 4pm into the evening to hang out and discuss instream flow issues! We look forward to seeing you!

### November 5th -

#### 14th Annual Celebration of Oregon Rivers

#### Portland, OR - Tiffany Center

We are getting close to selling out our annual auction and banquet dinner, so if you don't have your ticket yet, please register now at [waterwatch.org](http://waterwatch.org). Every year is a good time, but this year is shaping up to be one of the biggest and best. Our emcee for the evening will be Oregon State Representative Ken Helm, and our keynote speaker will Professor Kurt Fausch, author of *For the Love of Rivers*. Our guests are phenomenal, our auction packages intriguing and bid worthy, and our drinks free flowing. It's all in support of your favorite defender of Oregon's rivers: WaterWatch. We look forward to seeing you there!



and adapting to the realities of climate change. The new Integrated Water Resources Strategy should require full implementation of the Commission's Measurement Strategy by 2020, providing funding for widespread measurement improvement, and require that all water diversions are measured within a decade.

### Drought Resiliency for Rivers

The Governor's office has directed that the new Strategy include drought resiliency provisions. Oregon's existing drought laws currently do nothing to protect rivers and fish. The new Strategy should require development of drought provisions which protect flows for fish and wildlife, and, among other things, set minimum flows on ecologically significant streams.

### Improve Water Use Efficiency

The 2012 Strategy asked the state to improve water use efficiency and water conservation, including prioritizing efficient water use on farms. Using water beneficially without waste is a basic tenet of western water law, and a condition of use on most permits, yet the state still does little to regulate wasteful water use which is rampant in some basins. The new Strategy should direct the state to aggressively enforce against waste, develop basin-specific efficiency standards for agriculture and provide for additional watermasters to undertake this important work.



Now's your chance to stand up for Oregon's rivers! Please let the Governor know that we must strengthen Oregon's new Integrated Water Resources Strategy by including firm goals and deadlines for the establishment of new instream water rights protecting our rivers and fish.

By Mail:

Governor Kate Brown  
160 State Capitol  
900 Court Street  
Salem, OR 97301-4047

By Phone:

503-378-4582



# Water Briefs From Around the State

## Klamath Basin Refuges Planning Update

This August, WaterWatch and our conservation allies submitted extensive written comments on the draft Comprehensive Conservation Plan for Lower Klamath, Tule Lake, Bear Valley, Upper Klamath, and Clear Lake national wildlife refuges within the Klamath Basin. Last year, our coalition won a court ruling ordering the U.S. Fish and Wildlife Service to complete such plans for these internationally significant refuges, which help support three quarters of the migratory birds dependent upon the Pacific Flyway, and are a nursery for tens of thousands of waterfowl each year. Such plans are required by law, and the one for the Klamath refuges is now almost two years past the Congressionally-mandated deadline.

After the belated release of their draft plan, federal managers had originally set an extremely short period for public comments. WaterWatch and our allies pushed back, and a court ordered an extension of the comment period.

A big thank you to WaterWatch supporters is now in order, because you definitely took advantage of the additional opportunity for comment! In the end, over 800 comments were submitted by the deadline. Our initial review indicates that the overwhelming majority of commenters supported prioritizing refuge lands and water supplies for waterfowl, fish, and other wildlife, and phasing-out Lower Klamath and Tule Lake refuges' unique-in-the-nation and extremely harmful commercial agriculture leasing program, which displaces thousands of acres of wetland habitat in favor of onion and potato crops, and consumes the vast majority of the refuges' most senior water rights. We now await the release of the final plan in the coming months. Hopefully, it will be greatly improved from the profoundly flawed draft plan.

To view the coalition's comments, and learn more about the Klamath Basin's refuges, please visit [waterwatch.org](http://waterwatch.org).



*Toxic pesticide warning sign on Tule Lake National Wildlife Refuge leaselands, May 7, 2014. Photo by Jim McCarthy*



*WaterWatch continues to oppose those who would speculate in our public waters.  
McKenzie River fisherman by David Merwin*

WaterWatch recently learned that we will be arguing before the Oregon Court of Appeals this November, in the latest round in a six-year effort to defend streamflows in the famed McKenzie River and stop speculation in our public waters. This matter started back in 2010, when WaterWatch protested the state's initial approval for the the privately held Willamette Water Company to withdraw 22 million gallons per day from the McKenzie River. WaterWatch, as part of our work watchdogging all state water right transactions, argued that the permit should be denied because the company was speculating on Oregon's publicly held waters.

The company's application proposed to lock up a large amount of McKenzie River water, but failed to identify any committed customers, failed to show plans for necessary water infrastructure, and – to this day – lacks needed land use approvals. The applicant also challenged the fish protection conditions recommended by the Department of Fish and Wildlife and proposed by the Water Resources Department.

Following the recommendation of an administrative law judge, the Water Resources Department agreed with WaterWatch and denied the controversial application in 2014.

Willamette Water Company then appealed the permit denial to the Oregon Court of Appeals. WaterWatch and the other parties have submitted briefs and are now preparing for our day in court.



### Senator Alan Bates, River Champion, Passes Away

This summer, we were deeply saddened to learn of the sudden passing of Oregon State Senator Alan Bates. As a member of the state legislature for almost sixteen years, Dr. Bates was a champion for health care reform, education, and Oregon's rivers. He will be missed. Stronger protections for Oregon's rivers are an invaluable part of Senator Alan Bates' extensive legacy. The WaterWatch community extends its sympathies to Dr. Bates' family.



## Do you appreciate WaterWatch's work? *Please donate now!*

We rely on the support of donors like you to monitor, defend, and restore Oregon's water resources. There are many options for giving and we appreciate donations large and small.

### Mail

Checks can be sent to:

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

### 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.

### Online

Make a one-time or reoccurring donation at [waterwatch.org](http://waterwatch.org).

### 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 match your donation to WaterWatch. To leverage your investment, enter your company's name into our search query at [waterwatch.org](http://waterwatch.org).

### Donate Your Vehicle

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

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# *14<sup>th</sup> Annual Celebration of Oregon Rivers*

Please join us for our yearly banquet and auction benefit!

## **Save the Date!**

**Saturday, November 5, 2016**

## **Location**

**Tiffany Center, 1410 SW Morrison Street, Portland, Oregon**

## **Details & Tickets Available**

Visit [waterwatch.org](http://waterwatch.org) to purchase tickets and learn more!