



# INSTREAM

Summer '17 Newsletter



Rock Creek in Linn County by Ian Sane

## Stream of Consciousness: The Wet and the Dry

By John DeVoe, Executive Director



This column often focuses on the amazing results for Oregon's rivers made possible by WaterWatch's members and supporters. Your support and the work of the entire board and staff are truly exceptional. For this edition, I want to focus on the influence a special board member has had on Oregon's rivers and WaterWatch as an organization. Recently, Gary Hibler stepped down from the WaterWatch board after three terms and nine years of service, including stints heading up the finance committee and serving as vice president and president of the board. Those who care about water policy and healthy rivers in Oregon owe Gary a debt of gratitude. We at WaterWatch are

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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*



*We had a great time at The Big Float!*

## WaterWatch in the Community

### WaterWatch...

- ... Tabled at Wild Rivers Night at Patagonia Portland
- ... Tabled at the Northwest Fly Tyers and Fly Fishing Expo
- ... Spoke at Oregon State University
- ... Spoke at Lewis and Clark Law School, an event sponsored by Conservation Anglers Club
- ... Tabled at the Sandy River Spey Clave
- ... Attended the Conference on Seeking Water Justice at Willamette University Law School
- ... Held a fundraiser at Lake Creek Lodge in Camp Sherman
- ... Took part in The Big Float in Portland

particularly grateful for almost a decade of Gary's leadership and generosity.

Gary joined the board in August of 2008, on the eve of the Great Recession. By the end of the year, the nation and the world were staring down the barrel of huge economic troubles. Financial giants were shuttered or in bankruptcy, the housing market had collapsed, and unemployment was skyrocketing. Not surprisingly, it was also a particularly difficult time for many non-profits. Back then, WaterWatch had done little to prepare against the vagaries of the economy. We were so focused on producing conservation results (what Gary would call the "wet side") that we neglected to build an internal organizational support structure (the "dry side") sufficient to maintain the capacity to achieve conservation results over the long haul. Gary challenged this status quo and offered a vision of building an organization worthy of the WaterWatch mission.

Over the past nine years WaterWatch supporters and the board and staff have stepped up to meet that challenge. Consider some of the results. Since 2008, WaterWatch has:

- More than doubled staff capacity to over eight full time equivalent employees;
- Grown revenues by 270% (about 30% annually);
- Built an operating reserve and started to build an endowment;
- More than tripled auction revenues and attendance;
- Created and implemented three strategic plans;
- Revised policies and benefits to ensure WaterWatch could compete for excellent staff;
- Improved technology; and



- Added a year-round government relations contractor.

In short, WaterWatch is a much more mature organization – with expanded capacity to secure important water law reforms and conservation victories for Oregon's rivers, and with more tools to deliver on the mission.

Our wet side accomplishments have reflected this growing maturity. Since 2008, WaterWatch has protected and restored several thousand cubic feet per second of streamflows for rivers and streams, secured balanced water policies, helped remove six major dams in the Rogue Basin, and leveraged tens of millions of dollars of public investments in protecting and restoring the health of Oregon's rivers and streams.

It has surely been a team effort to achieve this growth over the past nine years. I also know that WaterWatch would be nowhere near as far down the path without Gary's counsel, leadership, generosity, and vision. His legacy will serve WaterWatch well over the next decade and beyond as we continue to build an organization worthy of Oregon's rivers.



# Public Funds Advance Private Grab on Klamath Refuge Water

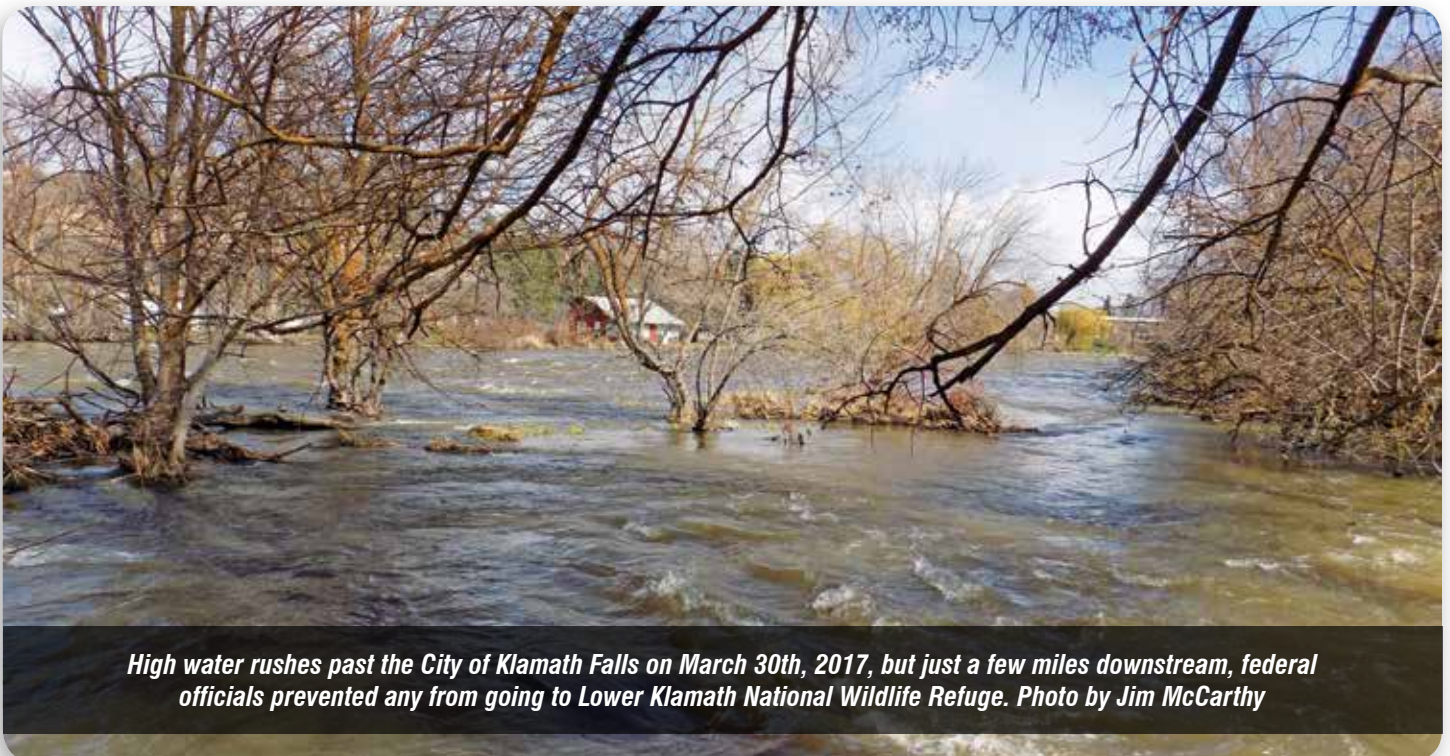
This May, the Oregon Water Resources Commission agreed to provide \$65,680 in public funds for a feasibility study to advance an apparent water grab by private agribusiness interests on Lower Klamath National Wildlife Refuge's water supply. WaterWatch uncovered the scheme and appealed to the Commission and our conservation allies to oppose it as harmful to one of North America's most important waterfowl refuges. The Commission's decision was disappointing, but we will continue to work to stop this damaging and unlawful water grab.

The refuge's sizeable rights to divert Klamath River water year-round have been determined under state law since 2013. The Oregon Water Resources Department has the duty to protect these determined water right claims against more junior water users in the basin and include the consumptive use amounts of these rights in its basin model to accurately calculate if and when water is available for new diversions.

The U.S. Bureau of Reclamation controls the headgates at the refuge's diversion, and since 2013, has prevented

it from diverting much of their water rights. This has happened despite water being available for the refuge for months during each year. The Bureau's problematic stance has been especially dramatic during springtime, when river flows are typically highest. For example, the Bureau's struggles to control near-flood flows made news headlines early this year, but for most of this period the diversion to the refuge remained closed against the swollen Klamath River. This water could have provided great benefit on the refuge. Shorting the refuge on water undermines its designated purposes by decimating critical wetland habitat for migratory waterfowl, reducing the carrying capacity of the Pacific Flyway, and eliminating habitat for breeding birds.

The Bureau is obligated to provide water when available to Lower Klamath National Wildlife Refuge. However, the Bureau inserted a March-through-May ban on refuge water deliveries into the water plan contained in its most recent Biological Assessment. This insertion was made without the input of U.S. Fish and Wildlife Service staff which manage the refuge. This plan dates to 2013 and



*High water rushes past the City of Klamath Falls on March 30th, 2017, but just a few miles downstream, federal officials prevented any from going to Lower Klamath National Wildlife Refuge. Photo by Jim McCarthy*



is ostensibly intended to protect fish, including Klamath River coho salmon listed under the Endangered Species Act. However, a judge has ordered a plan re-write after river flows under the plan sparked mass kills of baby salmon downstream in 2014 and 2015. This plan also set off a disease outbreak which killed some 20,000 birds on the Klamath refuges in 2014 because it failed to provide adequate water to the refuges.

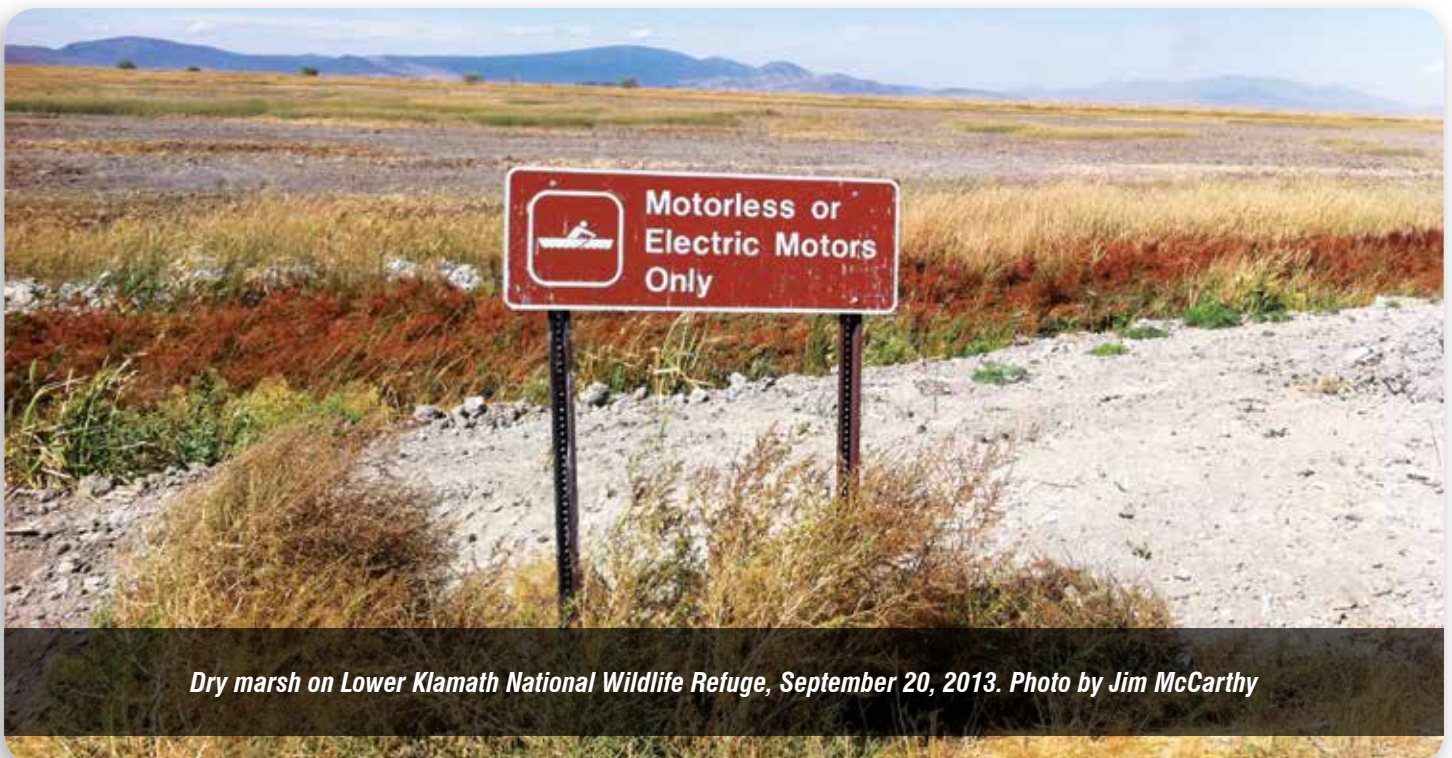
Against this backdrop, the Bureau is supporting efforts to develop a new, agribusiness-controlled reservoir in the basin, for which the Oregon Water Resources Department has provided public feasibility study money. This reservoir would draw much of its supply from springtime flow – water that should lawfully go to the refuge. This is not an appropriate use of state water funds.

Part of the justification for the new reservoir is that it might provide some stored water for fish and wildlife, duplicating a service previously provided by Lower Klamath National Wildlife Refuge, which was formerly a large lake. Before 2013, the refuge sometimes received surplus winter and spring flows for storage then release downstream for salmon at the Bureau's request. This was achieved using existing infrastructure and timed to align with refuge

purposes. Now the Bureau is supporting expenditure of considerable public funds to establish a new, privately-controlled reservoir to store this water, but with greatly reduced benefit to fish and wildlife.

Flaws in the Oregon Water Resources Department's Klamath Basin water availability model – used to make water allocation decisions – also appear to put Lower Klamath's water rights in jeopardy. Based on data WaterWatch has reviewed, the model fails to account for the refuge's full water rights, thus falsely showing that this water is available for new uses such as the proposed reservoir. For example, the model includes little to no water use by the refuge during November to March. In reality, the refuge is entitled to over 2.9 billion gallons per month, or 14.6 billion gallons total, over this period. This situation puts the refuge water rights, wetlands, and waterfowl in jeopardy, and sets the stage for additional over-promising of water resources and more conflict in the already overstretched Klamath Basin.

Please stay tuned for more news and alerts on this issue, as WaterWatch continues to work to increase legal compliance and agency accountability on water management decisions that affect the Klamath refuges.



*Dry marsh on Lower Klamath National Wildlife Refuge, September 20, 2013. Photo by Jim McCarthy*

# 2017 Oregon Legislative Roundup

The 2017 legislative session ended in early July. It was busy, with 2,829 bills introduced and over 800 passed. Thanks to the help of WaterWatch members we were able protect funding for critical agency programs, highlight long-term water management reform, defeat a number of misguided water policy bills, and finally pass suction dredge mining reform. (Hooray! Please see sidebar for details on this long-sought goal.) Your voices were critical to this effort.

Some details include:



## Suction Dredge Mining Reform Becomes Law

This June, Governor Kate Brown signed the Suction Dredge Reform bill into law. Supported by communities throughout Oregon, this law will protect our rivers by making sensitive salmon and lamprey habitat off limits to suction dredge mining.

We've put in four years of hard work together for this goal. Thanks to all our members who wrote in to support the Suction Dredge Reform bill, as well as all those who provided comments and support over the years of this reform effort. Your comments and support really made a difference.

Suction dredge reform, passed with bipartisan support and originally championed by the late Senator Alan Bates, takes a measured approach to protecting our most sensitive rivers and streams from the harmful impacts of suction dredge mining, while still allowing mining in areas where it does less harm. WaterWatch is thrilled to see this practice coming to an end in vulnerable river habitats.

## Oregon Department of Fish and Wildlife Budget

Another statewide budget shortfall meant critical agency programs and positions were on the chopping block. In the end, thanks to the voices of WaterWatch members and others, the Department's instream flow study work was funded at \$250,000 to maintain this important effort at current levels for the next two years. This work is critical to efforts to designate additional instream water rights across the state. Instream water rights protect water instream on equal footing as rights granted to farms and cities.



## Draining Oregon Drives Progress

Three bills requiring measurement of water use statewide, instituting a nominal water rights fee to provide stable funding for critical water management services, and boosting funding for

much-needed groundwater studies did not pass. However, thanks to the momentum created by your comments and support, and *The Oregonian's* landmark 2016 "Draining Oregon" expose, as well as Representative Ken Helm's leadership, we were able to advance the measurement and funding bills further than in any previous legislative session. WaterWatch has championed these important water policy reforms for years, and will continue to do so until passage is achieved.





## **Halting Legislative Mischief**

As is the case virtually every session, we saw a number of bills attempting to undercut existing river protection laws. Those we defeated with your support included bills to legalize illegal ponds in protected areas, provide loopholes to forfeiture laws, and stifle public involvement in the water right application process.

## **Major Threats Blunted**

Your emails and support helped stop the worst elements HB 2099, which would have rolled back protections for Oregon rivers, salmon, steelhead, and other native fish to reward certain cities' attempts to game the system with practices deemed unlawful by the Oregon Court of Appeals. The 40 member organizations of the Oregon Conservation Network (OCN) considered HB 2099 a

“Major Threat to Oregon’s Environment,” a designation reserved for OCN’s highest level of opposition. In the end, we were able to secure continued protections for a number of rivers, but saw protections reduced in other streams. Going forward, WaterWatch and our allies will continue to promote water conservation and urge cities to meet their water needs without threatening imperiled fish. We can and must do better than needlessly risk our rivers and fish populations.





# Water Briefs From Around the State

## WaterWatch Joins Farmers Fighting Proposed Dam

WaterWatch is joining a group of local farmers and landowners to make the case against a proposed new dam that would block an important tributary to the Pudding River near the City of Mt. Angel.

The East Valley Water District (EVWD), which is actually an irrigation district, proposes to build a 70-foot-tall dam across Drift Creek. The dam would create a 3.9-billion-gallon reservoir to provide water mostly for crops grown several miles away.

Drift Creek and the Pudding River, which runs into the Molalla River just before the Molalla enters the Willamette River near the City of Canby, are home to numerous fish species, including steelhead listed as threatened under the Endangered Species Act and Pacific lamprey listed as

sensitive under state law.

WaterWatch and others are concerned about the impact the dam will have on fish passage and on downstream flows in Drift Creek and the Pudding River. We will also join with a group of landowners in arguing that the reservoir would unfairly displace them from their homes and farms. Many don't want to sell, but EVWD has the power to take their land by eminent domain.

Although the application for the reservoir was filed in 2013, it is only now making its way to a contested case hearing before an administrative law judge. We are in the process of gathering and reviewing the numerous documents related to the case and expect the hearing to take place late this year or early next year.



*WaterWatch has joined local farmers and landowners fighting against a proposed new dam. Photo by Brian Posewitz*





## Hope for the Long-Suffering Upper Deschutes

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The Natural Resources Conservation Service and the Deschutes Basin Board of Control have proposed to use millions of public dollars to partially fund three separate infrastructure improvement projects for the Tumalo, Swalley, and Central Oregon irrigation districts, all of which use water stored and delivered in the Upper Deschutes River near the City of Bend.

A big part of the purpose of these three projects is to enhance river habitat by creating senior instream water rights to support struggling populations of Oregon spotted frog as well as other fish and wildlife. Boosting flows in the Upper Deschutes will also benefit the people and business who depend upon a healthy river.

This summer, WaterWatch has been working to make the public aware of these projects and provide input on these

proposals which will inform their next step – the creation of a draft “Watershed Plan” for each project. To ensure that the water conserved from this major public investment actually makes it instream, these plans must commit to using Oregon’s Conserved Water Act and dedicating 100 percent of the conserved water for instream use.

Thank you to all those who spoke up for the Upper Deschutes by the comment deadline of July 20th! There will be an opportunity to comment on the draft Watershed Plans in August. We will continue to keep our Deschutes-loving supporters informed on this important issue as we push for restoration of this amazing river.

## Oregon’s Water Blueprint Update

This summer, the Oregon Water Resources Department has been collecting public input for the 2017 draft update of the Integrated Water Resources Strategy. WaterWatch has been working hard to ensure river-lovers weigh in asking for a new Strategy that commits to strong instream protections and smart management directives while calling out adequate funding for this critical work. Originally adopted in 2012, with significant input from WaterWatch staff and support from our members, the Strategy serves as the blueprint for meeting instream and out-of-stream water needs into the future, and plays a critical role in directing state priorities and legislative funding.

We’d like to extend a big thank you to all our supporters who sent in their comments by the July 19 deadline. You are helping to shape Oregon’s water future! This process isn’t over yet, so please stay tuned. For details on WaterWatch’s specific policy recommendations for the new Strategy, please visit [waterwatch.org](http://waterwatch.org).

# WaterWatch Welcomes

## Preston Korst, Development and Program Assistant

Preston joined WaterWatch of Oregon in June of 2017. He supports all areas of development with particular attention to event support, donor tracking, and database management. He also assists with WaterWatch's litigation, legislation, and advocacy efforts. Prior to joining the team, Preston served as an intern in both Senator Wyden's Portland office and Congresswoman Bonamici's office in Beaverton. He has also worked on several local political campaigns. Preston holds a B.A. in Political Science from Oregon State University and is currently pursuing a Master's degree in Communication from Portland State University. Welcome aboard Preston!



## 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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## 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.

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**WaterWatch of Oregon**  
213 SW Ash Street, Suite 208  
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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

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