



WATERWATCH
Protecting Natural Flows in Oregon Rivers

INSTREAM

Fall 2022 Newsletter

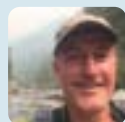


A **TIPPING** POINT *for Oregon watersheds*

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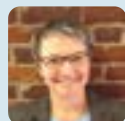
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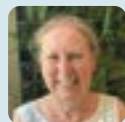
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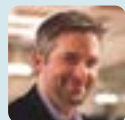
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*WaterWatch's mission
is to protect and restore
streamflows in
Oregon's rivers for fish,
wildlife, and the people
who depend on
healthy rivers.*



A rainbow of fall colors is reflected in the Rogue River

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*Front Cover Photo: Horsetail Falls – Columbia
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REMEMBERING

Bob Stacey, an influential
WaterWatch board member

Photo: courtesy of Metro

Former WaterWatch of Oregon board member Bob Stacey passed away in early September.

Stacey was best known in Portland area civic and land use/transportation circles for leading 1000 Friends of Oregon; directing Portland Bureau of Planning; as policy and planning director for TriMet; as Chief of Staff for U.S. Rep Earl Blumenauer (D-Oregon), and as a Councilor from 2012-21 for Metro, the Portland metropolitan area's regional government.

Not as well known is that Stacey, while a staff attorney with 1000 Friends of Oregon, befriended, consulted with and offered guidance to WaterWatch founders, Tom and Audrey Simmons. When Tom and Audrey created WaterWatch in 1985, they immediately sought out Stacey to join the board because of his wealth of knowledge and experience in the conservation arena. Stacey kindly joined the new board and served for many years, helping shape the fledgling organization into the force it has become today.

*“When Bob spoke,
everyone listened”*

WaterWatch Board Secretary and longtime Board Member Bob Hunter had the pleasure of working with Stacey in WaterWatch's early years. “When Bob spoke, everyone listened,” Hunter says. “He was extremely thoughtful, intelligent and strategic. He kept us on track and had a very positive influence on the organization and helped guide us through the early years.”

“I loved working with Bob. He had an incredible wit and charm and it was exciting and inspiring to be around him. He was just an all-around great person and will be missed.”

Karl G. Anuta, Board President and longtime WaterWatch Board Member, recalls fondly:

*“Bob was wicked smart, but also
had a great sense of humor. He
was someone who was super
fun to brainstorm with, because
he was well read, experienced,
multi-faceted, and creative, but
also self-deprecating and caring.”*

In a statement reported in the media, Blumenauer called Stacey a fierce defender of Oregon's land use system.

“Oregon just lost the most important person that most people never heard of,” Blumenauer said.

“In every capacity – professional, personal, friend and family man – he set the gold standard. He will be missed but his impact on our community and our state will continue for generations.”

The city of Portland earlier this year commemorated Stacey's commitment to land conservation and transportation planning, renaming a pedestrian bridge after him near Southeast 12th Avenue and Clinton Street Metropolitan Area Express light rail station.

Stacey was a longtime Portland resident, graduating from Parkrose High School, Reed College, and University of Oregon. He is survived by his wife of 51 years, Adrienne, and his daughters Amanda and Hesper, and two grandchildren. ■



STREAM OF CONSCIOUSNESS

John DeVoe

DEAR GOVERNOR,

Congratulations on your election victory. WaterWatch stands ready, willing, and able to assist your administration in addressing water issues across Oregon. For fish and wildlife, tribes, farmers and cities, water management in a climate changed Oregon presents some of the thorniest and most critical environmental, economic and equity issues facing Oregon and your administration today. Steps your administration takes or does not take will play a major role in determining whether Oregon's water future includes healthy rivers, stable aquifers, healthy economies and respect for cultures across the state; or allows a changing climate to exacerbate problems caused, in part, by the inequitable legacy of prior appropriation and, in part, by unsustainable water mismanagement over the decades. Here are some recommendations and suggestions for you, your Natural Resources Policy Office (GNRO) and agencies under your authority.

First, hire well. The next director of the Water Resources Department (and GNRO staff) must engage in solution-focused approaches to water across the state and demonstrate leadership that is acknowledged by all interests. The director and GNRO staff should be comfortable with both collaborative AND regulatory approaches. A successful director will use existing law and the discretion available to the agency to address climate change and drought in ways that do not sacrifice rivers, aquifers, fish and wildlife – and move the agency away from being unduly influenced by extractive interests. A successful director will continue to move the agency from a culture often focused on water allocation to one focused more on responsible,

sustainable and smart water management. The next director should be comfortable using the authority provided by the water code to enforce water laws. I was once told by a WRD director that he did not view the agency's role to be a "water cop in communities." But the law sometimes requires as much from the agency. Finally, the Director and the GNRO personnel should continue to be good listeners, willing to consult with a variety of interests, endorse inclusive decision making and create fair and balanced negotiating tables.

In the policy sphere, we have several suggestions for the next administration. First and foremost, the state should invest in the data needed to inform the sustainable management of our surface and groundwaters. Investing now in the science needed to make sound decisions will pay dividends into Oregon's water future. Groundwater policy reform should also be front and center in your administration. Groundwater-dependent communities and ecosystems are on the brink of disaster in many parts of the state due to decades of unsustainable groundwater mismanagement. While the Oregon Water Resources Department has recently signaled a sea change in approach, your long-term leadership will be necessary to implement these reforms to ensure that groundwater use is sustainable in Oregon and to prevent the spread of dry wells and the loss of hydrologic connectivity between aquifers and groundwater dependent ecosystems.

It will also be important, in a climate changed Oregon, to use "soft path" approaches for water storage and supply. Water conservation, efficiency measures and investments, measurement and reporting of water use, smart water management and increasing the landscape's

ability to retain water by protecting headwater systems and wetlands can have huge impacts on available water supply in the dry season and stretch existing supplies. Soft path, natural storage options and green infrastructure should be promoted first over capital-intensive bricks and mortar approaches.

Drought – or aridification – will also challenge your administration – from economic, environmental and public health perspectives. In addressing drought, we would ask that the state ensure that responses to drought include relief measures for rivers and fish and wildlife in the investments and policy changes used to address drought. Mandated conservation targets for agriculture and cities, minimum flows for fish, and robust enforcement against wasteful use of water are just some of the measures needed to ensure a sustainable water future as climate change brings increasing incidents of drought to Oregon.

Finally, healthy, connected aquatic habitat is a biological and economic engine for Oregon and its people. Policies and investments that produce free flowing rivers and remove barriers to migratory fish are critical to adapting to a changing climate – for fish and wildlife and for the people, cultures and economies of Oregon. Your administration should prioritize these policies and investments.

WaterWatch is ready to assist in helping to create a balanced, sustainable, ecologically appropriate and healthy water future and economy for Oregon. Our expertise is unmatched in the field. Congratulations on your election. We look forward to working with you and your administration on this critical set of issues. ■

Modernize the Columbia River Treaty now!

The Columbia River is, by volume, the fourth largest river in the US.

Forty percent of the river mileage is in Canada, though for some, the international border is a modern creation that ignores cultural, linguistic, family and other ties between people. Not long ago, the Columbia was the most prolific salmon river in the world. Now, the river is one of the most industrialized and monetized, with 14 mainstem dams and almost 400 more on tributaries.

For thousands of years, cultures, economies and ways of life have been tied to the river and its fish. Salmon on the Columbia used to migrate to and spawn near the Canadian headwaters over 1200 miles from the Pacific Ocean. Now, the mainstem dams above, and including Grand Coulee, lack fish passage. Today, salmon runs are one-tenth or less of historic abundance, even including hatchery supplementation. Wild, non-hatchery salmon runs are largely in serious trouble in the Columbia.

The Columbia River Treaty is a transboundary water management and engineering agreement between the US and Canada signed in 1961 and ratified in 1964. The current Treaty focuses on two subjects - hydropower and flood risk management on the Columbia and Kootenay rivers. The Treaty has no specified end date, though either nation can terminate it with 10 years notice. Tribes and Indigenous Nations were not consulted or involved in the negotiation of the Treaty and, though most impacted, they have not shared in Treaty benefits. Tribes, Indigenous Nations and ecosystem voices are not now involved in Treaty governance. The current Treaty is silent on ecosystem concerns. It was assumed that ecosystem function and salmon would be addressed by domestic actions and hatcheries.

Hydropower –

Treaty water management in British Columbia reservoirs results in additional hydropower

(downstream power benefits) generated in the United States. Under the Treaty, half of these downstream power benefits are for Canada (the Canadian Entitlement). To satisfy the entitlement, the US provides electricity and capacity to Canada, which is then sold on the market – including back to US utilities and in Canada. The annual entitlement value changes depending on power markets and assumptions, but it has been calculated in the range of \$220-335 million per year by Bonneville Power. Upon ratification, British Columbia sold 30 years of the entitlement to US utilities to finance three mainstem dams on the Columbia in Canada. Those dams were built. Today, British Columbia gets the entitlement annually, in perpetuity, unless the Treaty is terminated or renegotiated. Some US utilities have argued for Treaty termination. They want the entitlement eliminated or renegotiated.

Flood Risk –

The three Canadian mainstem Treaty dams now store almost 19 million-acre feet (MAF) of water. For its part, the US built Libby Dam on the Kootenay in Montana (5 MAF). These and other dams hold back almost 25 MAF of water from Columbia River spring and early summer streamflows, significantly reducing peak flows on the Columbia in those seasons. This flood risk regime heavily impacts salmon migration. It also dislocated people in Canada and causes environmental damage at the Canadian reservoirs where water levels now ramp up and down based on power market demands and other Treaty considerations. In essence, permanent floods were created upriver to reduce flood risk downstream.

The current Treaty provides for two types of flood risk management. One, known as “Assured Annual Flood Control”, provides that Canada will provide about 9 MAF of storage for downstream flood control – until September 16, 2024.

The second, known as “On Call”, allows the US to pay Canada for upstream flood control but only if the US “effectively uses” its available storage before “calling upon” Canada for storage. If the two nations move to the “Called Upon” management after 2024, it will create major challenges for the US, with impacts to fisheries, flood control, hydropower and navigation.

What do we want in a modernized Treaty?

WaterWatch has been pursuing a modernized Treaty for over a decade. We want three legs to the stool. Any modernized Treaty must include ecosystem function as a co-equal third priority. Fifteen US basin Tribes have developed a thoughtful, comprehensive definition of ecosystem function (See link below). Second, Treaty governance must change to give the river and the people most impacted a voice in Treaty governance and implementation. The US conservation caucus (<https://columbiarivertreaty.org/>) wants a modernized treaty to provide:

- **streamflows across the border with the right timing, quantity and quality to promote productive populations of anadromous fish, native fish and wildlife;**
- **fish passage into historical habitat;**
- **improved and just governance and implementation of the Treaty.**

Treaty Governance –

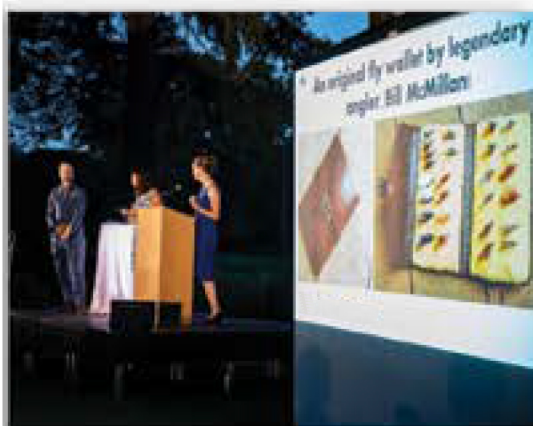
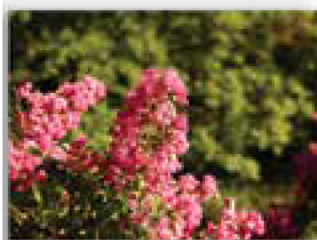
Tribes and Indigenous Nations were not consulted on the existing Treaty and they have no formal role in Treaty implementation. They largely do not share in the benefits of the Treaty system, though their cultures, economies and ways of life suffered huge impacts from the Treaty. It is moral, just, necessary and well past time to address the systemic racism and ongoing injustices inherent in the current Treaty. ■

What can you do to help?

Contact the White House (202.456.1111) and ask President Biden to add Ecosystem Function to the Columbia River Treaty and improve Treaty governance. Contact your elected representatives too: 202.224.3121

For more information, visit these links:

- <https://columbiarivertreaty.org/>
- Recording of Summer Webinar Series#2: Peter Marbach, author of “Healing the Big River”: <https://waterwatch.org/recording-of-summer-webinar-series-2-peter-marbach-author-of-healing-the-big-river/>
- Modernizing the Columbia River Treaty: Where do we go from here?: <https://www.youtube.com/watch?v=A1ePnnwcV8k>
- Columbia River Treaty non-governmental organizations letter: <https://waterwatch.org/columbia-river-treaty-non-governmental-organizations-letter/>
- Vanport Flood’s legacy in Columbia River dams: Guest opinion: <https://waterwatch.org/vanport-floods-legacy-in-columbia-river-dams-guest-opinion/>
- New Treaty must address ecosystem concerns: <https://waterwatch.org/new-treaty-must-address-ecosystem-concerns/>
- Columbia Basin Tribes - Common views on the future of the Columbia River Treaty: <https://critfc.org/wp-content/uploads/2015/05/Common-Views-statement.pdf?x78172>
- Columbia River Basin brochure: https://ucut.org/wp-content/uploads/2018/09/CRB-Brochure_WEB.pdf
- Columbia River Inter-Tribal Fish Commission – Ecosystem-based Function: <https://critfc.org/tribal-treaty-fishing-rights/policy-support/columbia-river-treaty/definition-ofecosystem-based-function/>



Thank you so much to everyone
who attended, bid online,
and donated to our

20th CELEBRATION OF OREGON RIVERS!

Our first in-person event since 2019
was a huge success!
We hope to see you all next year!

*"Thanks to everyone who made this a great event.
The setting was wonderful and everyone I spoke to was having a wonderful time."*

Bob Hunter

"All my guests LOVED the venue, it was stunning and the food was good. One thing I noticed (and perhaps you all did too) was how incredibly quiet it was the entire time John and MLS spoke!! It's never been quieter at our indoor events! Way to capture everyone's attention." Lynn Palensky

"I thought it was the best WW event ever, and top 2 or 3 of any conservation fundraiser (of many). The people who came with us really enjoyed the venue, spoke highly of the quality of food and thought the night had the right energy."

Jeff Perin

The state commits to modernizing Oregon's groundwater allocation policy

After years of WaterWatch advocacy for groundwater reform, this spring the Oregon Water Resources Commission directed Oregon Water Resources Department to modernize its groundwater allocation policy to protect both senior water right holders and the resource. While the policy is still under development, state presentations indicate that the new allocation policy will move away from the current practice of



Harney & Malheur Lakes

only analyzing short term impacts of groundwater pumping on aquifers and streams, to a framework that looks at long term and cumulative impacts as well. This modernization is long overdue and will bring agency practice in line with existing statutes.

The Oregon Water Resources Department has also committed to immediately moving off their longstanding – and illegal – practice of issuing groundwater rights when they don't have the data to show water is available (otherwise known as

“defaulting to yes”) and instead applying a “default to no” approach. Defaulting to yes has resulted in dramatically unsustainable groundwater pumping in many parts of Oregon. For instance, groundwater levels in parts of the Malheur Lake Basin have declined by more than 100 feet, creating problems for people and the environment alike. Default to no is what Oregon's Groundwater Act requires, and WaterWatch applauds the state for this sea change in approach.

This fall, the Oregon Water Resources Department held a series of public meetings regarding its efforts to modernize state groundwater allocation policy. WaterWatch thanks each of you who attended or submitted comments. As the state moves forward in finalizing its modernized water allocation policy, please watch for ways to join us in amplifying messages to lead Oregon to a sustainable water future. The state needs to ensure its new policy protects people and ecosystems in both the short and long term, maintains reasonably stable groundwater levels across Oregon, and ensures any new groundwater use is within the capacity of the resource. With climate change, better management of Oregon's groundwater becomes even more important for sustaining groundwater-dependent ecosystems and people. ■

More on Groundwater: Go to waterwatch.org and click PROGRAMS link to access PLUGGING THE DRAIN ON GROUNDWATER page.

Umpqua's biggest fish killer faces reckoning on water

Thanks to your ongoing support, WaterWatch is leading a coalition of local and statewide fishing, conservation, and whitewater groups working to remove Winchester Dam on the North Umpqua River. This disintegrating, 17-foot-high, 130-year-old structure is maintained solely to create a private waterski lake for surrounding landowners, and is ranked by the Oregon Department of Fish and Wildlife as the second highest priority



Winchester Dam

for fish passage improvement among privately owned dams in the state. Winchester Dam earns this ranking by continuously killing, injuring, or delaying salmon and steelhead migrating to and from the 160 miles of high-quality habitat upstream. Impacted runs include spring and fall Chinook, summer and winter steelhead, cutthroat, and Pacific Lamprey, as well as threatened Oregon Coast Coho listed under the federal Endangered Species Act.

In March, our coalition put the Oregon Department of Water Resources on notice that approval of the dam's 2023 repair plans submitted to the state this spring

would, among other problems, likely violate state water law to the detriment of the North Umpqua's natural resources and river dependent communities. At issue is an April 18, 1994 internal Department memo that states there is likely “about 400 acre-feet of illegal storage” behind Winchester Dam, over and above the owner's existing 300 acre-feet water right claim. Among other things, this means the dam owners' proposal to drain then refill the dam's reservoir to conduct repairs in 2023 would unlawfully injure downstream water rights, including instream water rights intended to protect the North Umpqua's invaluable fisheries. In response to our letter, in April the Department requested the owners hire an engineer to definitively measure the reservoir volume. The dam owners failed to take action by this fall, so the Department will now contract with an engineer for this work, and we will be monitoring the situation closely. Meanwhile, we requested the Department consider alternatives that maintain water levels in the reservoir while conducting repairs in a manner that protects life, property, and infrastructure. For example, this could be achieved by dewatering and isolating the repair work area through cofferdam construction.

Unfortunately, the dam owner has informed the Department that the long-delayed dam repairs will only be to the “minimum extent necessary” to address known public safety issues, not to address the many ways the dam harms fish and water quality. WaterWatch and our coalition will keep working until this outlaw dam is removed. ■

More on Winchester: Go to waterwatch.org and click PROGRAMS link to access UMPQUA BASIN page.



Advocacy Spotlight: Tom Christ, Volunteer Lawyer

Rock Creek, tributary to the Powder River – the subject of a case Tom Christ handled for WaterWatch



I was born, raised, and educated in Oregon, and have been privileged to spend my career here.

So, I have a keen appreciation for the state's waterways and the fish and wildlife that depend on them.

I've been following and supporting WaterWatch almost since its inception and am pleased to be able to offer my professional services now and then.

How did you become involved in river conservation issues?

I've been an avid fly-fisher all my life, mostly for trout, and trout need water, of course. So does everything else that lives in or along the streams where I like to cast a line. Until recently, I took water for granted, as most people do. Lately, however, I've been awakened,

partly from the good work of WaterWatch, to the need to protect our waterways from mis- and overuse or all that will be gone.

How would you describe the work you've been doing for WaterWatch over the last 10 years or so?

I've helped WaterWatch's staff attorneys – who are very good at what they do, but also very busy – bring or defend appeals in some of the organization's cases. In one recent case, the Oregon Supreme Court held that the right to dam a stream for hydroelectric purposes is lost, and the water right must be converted to an instream water right, after five years of non-use for hydroelectric purposes. In another recent case, we urged the Oregon Court of Appeals to uphold a Water Resources Commission ruling denying a permit to build a new dam on a stream providing habitat for cutthroat trout and threatened steelhead.

What is it about WaterWatch's mission that attracts you specifically to this organization?

WaterWatch is the one organization trying to protect natural flows – to keep rivers and streams as rivers and streams, for the creatures that need them, and the people that love them. And it focuses on waterways in Oregon, where I've been fortunate to live my entire life. ■

Appreciating Tom: WaterWatch is very fortunate to have Tom's expertise on our cases. Thank you, Tom, for all your great work!



Advocacy Spotlight: Elissa Karim, Legal Intern – Summer 2022

Autumn view of North Santiam River



Before coming to University of Oregon School of Law, I worked in nuclear disarmament. As I began to learn about the extensive contamination from nuclear testing in drinking water sources and on lands in US communities and abroad, I became more and more passionate about ensuring we are protecting and managing water as though our lives depend on it ... which they do.

Why did you want to intern at WaterWatch?

I came to law school because I want to help make progress on environmental issues, particularly the ever-pressing threats to water resources. I thought working at WaterWatch would be a great way to understand the landscape of Oregon water issues and be able to get involved in the fight for water protections. WaterWatch has a well-

established and substantial legal and policy track record, and I knew I could learn firsthand how these different tools can fit together.

What is it about WaterWatch's mission that attracted you specifically to this organization?

I was excited that WaterWatch works on complex legal issues that combines legal strategies and sound policy-focused discussions to bring about the necessary changes to improve Oregon's water reality. Because WaterWatch has existed as a player in the game for quite some time, WaterWatch is a great force for accountability in Oregon's water allocation practices.

What did you gain from your internship?

Of course, I learned so much about water science, how Oregon makes water policy, and how decisions about water allocations are made. Coming out of my first year of law school, I got to see things I learned in the classroom (and things I haven't learned yet) in a real-world application. I also got incredible insight into the strengths of legal strategy. ■

Appreciating Elissa: WaterWatch was very fortunate to have Elissa working with us this summer as a Legal Intern. Thank you, Elissa, for all your great work!



With your help, WaterWatch's vision for healthy, climate resilient watersheds across Oregon is possible.

Please consider a donation today in the enclosed envelope to fund advocacy for smart and sustainable action that benefits and protects fish, wildlife and people statewide.

You can also contribute online at
www.waterwatch.org/donate

This issue of Instream updates on the urgency of building a climate resilient water future for Oregon. In this issue, WaterWatch appeals to Oregon's new governor to listen and act now. We detail ongoing efforts to end harm caused to fish, water quality and public safety by Winchester Dam on North Umpqua River. We discuss our push for reform of state groundwater policies. We recap our work to press US officials to renegotiate for a modernized Columbia River Treaty. These are just some of WaterWatch's ongoing programs to protect and restore rivers, lakes, and aquifers across the state.

Please donate today and help WaterWatch secure a smart, equitable water future for Oregon's rivers and all those that rely on them!

BECOME A WATERWATCH

RIVER DEFENDER



"At some point, we will no longer be able to make an annual donation to WaterWatch. We included WaterWatch in our estate plan because we want WaterWatch to receive the funding they need to protect Oregon rivers for generations to come."

Anne & Jerry Brown

Are you interested in helping secure a healthy, equitable water future for Oregon's rivers, lakes, wetlands and people?

You're not alone. WaterWatch's River Defenders Program is for people who are committed to supporting WaterWatch through their estate planning. When you take steps to include WaterWatch in your estate, you'll be in good company, joining people like longtime WaterWatch supporter and former board member, Jerry Brown, and his wife, Anne. You can make a real impact for Oregon's rivers—now, and into the future—when you make a commitment to be a River Defender with WaterWatch.

PLEASE JOIN ANNE, JERRY AND MANY OTHERS BY BECOMING A RIVER DEFENDER TODAY!

By including WaterWatch in your will or estate planning, you give the gift of healthy rivers to future generations of Oregonians!

You can also direct estate gifts to WaterWatch's endowment fund, which invests in the future of WaterWatch and Oregon's rivers.

To learn more about planned giving and the different ways to give through your estate, please contact Neil Brandt, our Development Director, at neil@waterwatch.org or 503-295-4039 x0.

Please Support WaterWatch and invest in the health of Oregon's rivers, lakes, aquifers and wetlands!

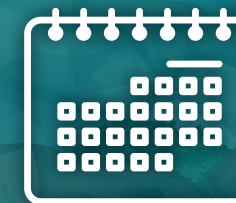
Ways to support!



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Portland, OR 97204

ONLINE
Make a one-time or recurring monthly donation at
waterwatch.org/donate



BECOME A MONTHLY MEMBER

Giving monthly is a simple way to provide us with consistent and reliable support throughout the year.

Sign up to become a monthly sustaining member at waterwatch.org/donate or via phone at (503) 295-4039 ext. 0



OTHER WAYS TO GIVE



Donate Securities
Donating appreciated securities such as stocks, bonds or mutual funds is an effective tax-friendly way to support WaterWatch

Estate Planning
You can help secure a legacy of healthy rivers in Oregon by including WaterWatch in your estate plans. We can help you find a plan that meets your needs and benefits Oregon's rivers long into the future.

Workplace Giving
Many employers make it easy to support by offering matching payroll contribution programs. Ask your employer 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.

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