



Photo of Fourth Creek Reservoir Salmonid Passage, Coquille Indian Reservation. Credit Laura Hartt (OWRD)

Oregon Water Resources Department 2023 Government-to-Government Report



The Oregon Water Resources Department (OWRD) values its long-standing working relationship with Oregon’s nine federally recognized Tribes. This report contains key contact information, a summary of interactions, and related training attended by OWRD staff.

**2023 Government-to-Government Report
Oregon Water Resources Department**

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OREGON WATER RESOURCES DEPARTMENT STATEMENT AND POLICY

On September 23, 1997, the Oregon Water Resources Department (OWRD) adopted the Government-to-Government Interest Statement, based on two key objectives: (1) honor and protect existing Tribal rights to use water, and (2) continue forging partnerships to share responsibility for water management. That interest statement forms the foundation for our current policy on tribal relations (see *Policy on Relationship with Tribes*, appended to this report).

OVERVIEW

OWRD works with Oregon's nine federally recognized Tribes on issues related to water supply, watershed management, and water distribution, including matters related to water rights held or claimed by Tribes. In addition, OWRD works with Tribes on a government-to-government basis to address water issues of mutual interest.

The following are agency actions undertaken to engage with multiple Tribes; Tribe-specific areas of engagement are outlined further below.

General Coordination

The Director's Office houses a water policy analyst that also serves as OWRD's Tribal Liaison to facilitate engagement between OWRD and the Tribes.

The Natural Resources Workgroup (NRWG), the Cultural Resources Cluster (CRC), and the Legislative Commission on Indian Services (LCIS) convene regularly throughout the year and offer valuable opportunities to share information on agency programs, efforts, rulemaking, and legislative concepts. During 2023, OWRD participated in these regular meetings. OWRD will continue to attend and seek to engage Tribes through the NRWG, CRC, and LCIS on OWRD projects and policies of potential interest to Tribes.

With respect to annual training, this past year OWRD's Tribal Liaison attended the Department of Justice Public Law Conference session on Tribal Relations: Respecting Sovereignty in the Government-to-Government Relationship (October 23, 2023). The Tribal Liaison and other OWRD staff attended several information sessions during the Changing Currents: Tribal Water Summit held in North Bend (June 26-30, 2023). This Summit was co-sponsored by OWRD. LCIS staff have indicated that training opportunities are forthcoming in early 2024; OWRD will take advantage of those opportunities as they arise. The Director's office will continue to explore other training options with LCIS as well as share this report and state laws, policies, and educational resources with staff.

The Director's office also reviews fee-to-trust applications submitted by Tribes to the Bureau of Indian Affairs. During 2023, OWRD reviewed four applications, one each for the Confederated Tribes of Grand Ronde, the Confederated Tribes of Siletz Indians, the Coquille Tribe, and the Cow Creek Band Creek of Umpqua Indian Reservation.

Tribal/State Water Task Force

In response to the Tribes' September 15, 2021, letter to Governor Kate Brown, staff from the Governor's Office, OWRD, and Oregon's nine federally recognized Tribes engaged with Oregon Consensus to facilitate a Tribal/State Water Task Force. The task force was initiated in June 2022, with state agencies sharing their responsibilities related to water. Tribes shared their histories, their perspectives on water, and opportunities and challenges interacting with state agencies. [The final report containing Task Force recommendations was published in 2023 and is available online.](#)

In June 2023, the Oregon Legislature authorized \$100,000 for Portland State University's Oregon Consensus to continue Task Force facilitation concerning recommendations outlined in the final report, including formation of a standing work group.

Items of Tribal Cultural Interest

In November of 2019, OWRD submitted an Inventory of Items of Tribal Cultural Interest to the nine federally recognized Oregon Tribes, the Governor's Office, and the Legislative Commission on Indian Services (LCIS). OWRD periodically assesses whether there are needed updates to the 2019 Inventory and, if there are future changes, will include the update in the annual Government-to-Government Report. No additional items of cultural interest beyond those identified in the 2019 report have been identified.

To comply with HB 2112 (2023), the OWRD Records Officer will send a written notification to each Tribe of intent to destroy any records to give Tribes the opportunity to review and object to any destructions. If no objections or requests for additional information are filed, the OWRD Records Officer will proceed with destruction per the Secretary of State's guidance.

Water Rights

During 2023, OWRD coordinated with the new LCIS State Physical Anthropologist to refine methods for providing more targeted notices of new water rights applications to interested and potentially impacted Tribes. OWRD remains engaged in ongoing discussions with some of the Tribes on issues related to water rights and administration of water resources. Activities are generally conducted under Executive Order 96-30, or specific provisions of federal and state law.

As the lead agency for Oregon's hydroelectric laws (ORS 543 and 543A), OWRD administers the Hydroelectric Application Review Team (HART) for state projects. Besides OWRD, the core HART is made up of representatives from Oregon Department of Environmental Quality (ODEQ) and Oregon Department of Fish and Wildlife (ODFW). Where Tribes may be affected by a project or involved as a project applicant, the HART members work to ensure coordination. OWRD also notifies LCIS of any new applications filed for hydroelectric projects and this notice is forwarded to the appropriate tribal representatives.

More updates concerning Tribal-specific engagement on water rights issues are outlined below.

Water Management and Water Use Regulation

OWRD works with Tribes to plan and implement strategies for streamflow restoration and riparian protection on both reservation lands and lands that are culturally significant to Tribal

communities. These strategies may include streamflow measurement and monitoring, enforcement on illegal water uses, and the transfer or lease of out-of-stream water rights to instream water rights for the benefit of fish and wildlife, recreation, and water quality. Additionally, the OWRD Surface Water Section and Groundwater Sections coordinate and communicate any soil disturbance activities related to stream gaging activities or OWRD observation well drilling with tribal cultural resource representatives across the state.

During 2023, OWRD sent letters offering to engage or consult on the proposed installation of six observation wells, consisting of two wells in the Walla Walla Basin (Confederated Tribes of the Umatilla Indian Reservation), two wells in the Rogue Basin (Cow Creek Band of Umpqua Tribe of Indians, Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz Indians), one well in the Willamette Basin (Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz Indians, Confederated Tribes of the Warm Springs Reservation), and one well in the Columbia Basin (Burns Paiute Tribe, Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz Indians, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation).

More updates regarding Tribal-specific engagement on issues concerning water management and water use regulation are included below.

Drought

In early 2023, OWRD contracted with the National Drought Mitigation Center, the Oregon Climate Change Research Institute, and the University of Oregon to conduct a Drought Vulnerability Assessment. The Assessment focuses on (1) drinking water supplies, (2) agriculture, and (3) water-dependent recreation and fisheries. The Assessment seeks to implement Recommendation B from the 2016 Task Force on Drought Emergency Response (HB 4113): "Provide resources for assessments of drought impacts, risks, and vulnerabilities on instream and out-of-stream sectors in order to better prepare for, respond to, and recover from drought," and part of the 2017 Integrated Water Resources Strategy Recommended Action 5.5A: "Plan and Prepare for Drought Resiliency. In September 2023, OWRD sent letters to each of the nine federally recognized Tribes in Oregon inviting them to engage on the Assessment. No Tribes responded to the letter. The final report will be available in early 2024.

Business Case for Investing in Water

In July 2023, OWRD's consultants completed "[The Business Case for Investing in Water in Oregon](#)." The report includes case studies to highlight some of the water-related challenges Tribal communities face, emphasizing that these communities are often frontline communities impacted first and most by depleted or degraded water resources. The Department and the report also acknowledge that Tribal sovereignty and Government-to-Government co-management of Oregon's water resources are essential components of making the business case for water investments, and that that the relationship between Oregon's Tribes and water "goes beyond viewing water as resource for human use and is rooted in stewardship, community and reverence."

Legislative Work

OWRD staff provide regular updates on legislative and budget efforts during the quarterly CRC, NRWG, and LCIS meetings. The 2023 Legislative Session included several issues of potential interest to the Tribes. [OWRD's legislative and budget summaries for 2023 are available online](#). Most items from the 2023 session are outlined in other sections of this report, with two exceptions below.

Capacity for Government-to-Government Consultation Work: OWRD developed twenty policy option packages to address a variety of the water challenges facing Oregon, including a policy option package in its Agency Request Budget to increase its capacity to engage with Oregon's Tribes. Package 112 – Supporting Tribal Water Solutions & Relations would have added one position for Government-to-Government coordination, including to further develop relationships with Tribes to better understand their interests and needs, and to partner in accomplishing shared water resources management objectives. The package was not adopted by the Legislature.

Water Justice Funding: During the 2021 Session, the legislature appropriated \$1.5 million for equitable water access and indigenous water/energy resiliency. The Department discovered that it did not have authority to spend the money and notified legislative staff. The funding was dis-appropriated from the agency's budget in 2023. The Oregon Legislature approved \$500,000 for the University of Oregon Just Future Institute for work related to equitable water access, including research to understand and address the needs of environmental justice communities as well as grants to community-based organizations, tribes, and other entities to build capacity to engage in water-related work.

Rulemaking

During 2023, OWRD was engaged in four, active rulemaking efforts pertaining to groundwater allocation, critical groundwater area designation, Harney Basin groundwater control measures (see also "Burns Paiute Tribe" update below), and well construction. OWRD sought representatives from Oregon Tribes to serve on the Rules Advisory Committees (RAC). Not all tribes expressed interest in participating; however, at least one tribe participated in each RAC. The OWRD Tribal Liaison and other staff provide regular updates on rulemaking efforts during the quarterly CRC, NRWG, and LCIS meetings. At each of these meetings, Tribal representatives are invited to join a RAC, attend a RAC meeting, provide comments, and/or request formal consultation with OWRD.

Integrated Water Resources Strategy (IWRS)

The IWRS provides an inter-agency framework for better understanding and meeting Oregon's instream and out-of-stream water needs. The first IWRS was adopted in 2012, and the second in 2017 by the Oregon Water Resources Commission (OWRC). As indicated in ORS 536.220, OWRD must update the IWRS every five years. OWRD completed a 2017-2022 Progress Report, summarizing Oregon agency accomplishments since the last plan update. The Department collected data from 15 water-related state agencies, documenting IWRS implementation efforts, and presented the findings to the Oregon Legislature in early December 2022. [The 2017-2022 IWRS Progress Report is available online](#).

Due to the number of projects arising out of the 2021 session and staffing capacity, OWRD postponed the 2022 update, now anticipated for 2024. In 2022, OWRD hired a limited duration position to work on the update, and the 2023 Legislature made it a permanent position. This position will update and implement the IWRS and coordinate among Tribal, state, federal, and local agencies, as well as educational and non-governmental organizations. OWRD is leading the update in conjunction with the Department of Land Conservation and Development, Oregon Department of Agriculture, ODEQ, and ODFW. The update will address climate more holistically, apply an equity lens to the framework, and incorporate findings from the work under the 100-Year Water Vision.

In 2023, OWRD contracted with Oregon's Kitchen Table to develop and implement an inclusive outreach and engagement process. Feedback during that process indicated a need for the IWRS to be more accessible to wider audiences.

Also in 2023, OWRD sent letters to Oregon's Tribes with a request to understand how best to engage with each Tribe and their members on the IWRS update process. As a result of these efforts, OWRD completed one Government-to-Government consultation with the Klamath Tribes and held informal conversations with the Cow Creek Band of Umpqua Tribe of Indians. OWRD continues to share regular IWRS updates with the Tribes during the quarterly CRC and NRWG meetings and presented during the Changing Currents: Tribal Water Summit.

State-Supported Regional Water Planning and Management

In June 2021, the Legislature provided funding and direction for OWRD to form a workgroup to discuss regional water planning and management this biennium. Each of the nine federally recognized Tribes in Oregon were invited to participate. Members of the [State-Supported Regional Water Planning and Management Workgroup](#) included representatives from the Burns-Paiute Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs, the Confederated Tribes of the Grand Ronde, the Cow Creek Band of Umpqua Indians, and the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.

The Workgroup met from January to December in 2022 and released a [report containing 22 recommendations](#) to inform future policy development, funding allocations, and guidance around water planning and management and the next generation of the state's Place-Based Integrated Water Resources Planning Program. The Legislature considered the Workgroup's recommendations in the authorizing legislation for the new Place Based Water Planning Fund (House Bill 2010 (2023)), and the Department is actively reviewing the recommendations as it stands up the new Fund.

Place-Based Integrated Water Resources Planning

In 2020, OWRD began a statewide planning assessment to better understand the planning needs of places across Oregon and to reflect on and make improvements to the current [Place-Based Integrated Water Resources Planning](#) framework and guidelines. This assessment included an independent evaluation of place-based planning, in which Tribes were invited to participate. Tribal representatives participated in the [independent evaluation](#) which was completed in 2022.

There are four places that are currently undertaking place-based Integrated Water Resources Planning in partnership with OWRD: Harney Basin, Mid-Coast Region, Lower John Day Sub-Basin, and Upper Grande Ronde Sub-Basin. In 2022, three of the four planning groups received state recognition of their final plans and are now turning their attention to implementation. The Harney Basin has completed work on the groundwater portion of their plan and is beginning work on the surface water portion. Several Tribes are vital partners in the currently funded planning efforts. Specific tribal involvement in these planning efforts is discussed further below.

The 2023 Legislature also made the place-based integrated water resource planning fund permanent and allocated \$2 million for pre-planning work, community capacity building, place-based planning, and implementation coordination of place-based plans. The new fund will update the program to reflect the new statutory language and lessons learned. Tribes will be eligible to receive grants through the fund and will be notified before any funds are issued if they are within the proposed planning boundary of an application. Implementation of the funding program will require rulemaking as well as updates to planning processes and guidelines. OWRD will begin Tribal engagement once those efforts begin.

Chewaucan Basin Planning

In 2022, in response to a request from both local and statewide interests, OWRD contracted with Portland State University's Oregon Consensus to conduct a neutral situation assessment to determine whether and how a collaborative agreement-seeking process might help address ongoing concerns around water quality, quantity, and habitat in the Chewaucan Basin and Lake Abert. The assessment asked the following questions:

- Are the conditions ripe for collaboration between Tribes, ranchers, conservation groups, agencies, and others to protect the ecosystem and sustain livelihoods?
- If yes, what topics are important to discuss? and
- If yes, what kind of processes, information, and actions are needed to support collaboration.

OWRD sent a letter to Oregon Tribes to seek their interest in participating and, if so, how they would like to participate in this assessment. Representatives from the Burns Paiute Tribe, Confederated Tribes of the Umatilla Indian Reservation, and the Confederated Tribes of the Warm Springs were interviewed. [The assessment was completed in early 2023 and is available online.](#)

The 2023 Legislature appropriated \$420k to Portland State University to facilitate a collaborative process to identify broadly supported actions to meet water needs in the Chewaucan River watershed. Several agencies, including OWRD are participating in this process.

Funding Programs

OWRD engages with Tribes on three funding programs: (1) Feasibility Study Grants, (2) Water Project Grants and Loans, and (3) Water Well Abandonment, Repair and Replacement Funds.

Feasibility Study Grants: [Feasibility Study Grants](#) provide funds to assess water conservation,

reuse, and storage projects. These grants are designed to fund 50 percent of the qualifying costs of feasibility studies and Tribes are eligible to apply.

During each application period, OWRD staff contact Tribal staff to solicit input as well as offer to consult on the applications and funding recommendations for its Feasibility Study Grant funding opportunities. In January 2023, OWRD reached out to Oregon's nine federally recognized Tribes for government-to-government comments on the study applications and received one comment on an application, which was shared with the Application Review Team. In March 2023, OWRD reached out to all nine Tribes to submit government-to-government comments on the Application Review Team's funding recommendations. OWRD received no comments from Tribes on the funding recommendations. In June 2023, OWRD followed up with all nine Tribes to inform them of the funding awards made by the Water Resources Commission.

Water Project Grants and Loans: [Water Project Grants and Loans](#) provide funds through a competitive process for a variety of instream and out-of-stream water projects with economic, environmental, and community benefits. These grants require a 25 percent cost match and Tribes are eligible to apply.

During each application period, OWRD staff contact Tribal staff to solicit input as well as offer to consult through the Director's office. OWRD offers several ways that Tribes may participate and review applications for Water Project Grants and Loans funding. Based on input from Tribes and the LCIS, OWRD's current process for each funding cycle includes contacting LCIS and asking them to identify which applications may be of interest to each Tribe, based on a project's location. OWRD then contacts each Tribe identified by LCIS and provides relevant information regarding the project proposal(s) and access to the application(s). This includes project type, project summary, the county, the nearest city, and a link to the application where applicants list all ground-disturbing activity by tax lot.

Opportunities offered to Tribes to engage in the review process include:

- Providing comment during the initial 60-day public comment period on applications;
- Serving as a member of the Technical Review Team (TRT) to review, score, and rank applications;
- Providing government-to-government comments on the application(s) for consideration by the TRT during scoring;
- Providing government-to-government comments for consideration by OWRD and OWRC on funding recommendations; and
- Providing comment during the 30-day public comment period on the TRT ranking and funding recommendations.

During the 2023 funding cycle, LCIS determined that eight of the nine Tribes may have an interest in one or more Water Project Grants and Loans project applications. In May 2023, an invitation was sent to the identified Tribes detailing the opportunities to participate in the review process as listed above. The same information was provided to the ninth Tribe with an invitation for participation as well as a note that LCIS did not identify any specific project in which their

Tribe may have a potential interest. OWRD did not receive comments from Tribes on the Water Project Grants and Loans project applications.

A multi-agency TRT scored and ranked the project proposals based on potential public benefits in three categories: economic, environmental, and social/cultural. OWRD practice is to share all comments with the TRT to be considered as they score and rank projects and develop a funding recommendation list. In August 2023, OWRD reached out to all nine tribes to submit government-to-government comments on the TRT's funding recommendations. OWRD did not receive any comments from Tribes on the projects recommended for funding. In November 2023, OWRD followed up with all nine Tribes to inform them of the funding awards made by the Water Resources Commission.

Water Well Abandonment, Repair and Replacement Fund: In June 2022, OWRD launched the [Water Well Abandonment, Repair and Replacement Fund \(WARRF\)](#). WARRF funding may reimburse qualifying individual homeowners or members of a federally recognized Tribe for the cost to abandon and replace or repair a well that is no longer able to supply water for household purposes.

Based on the direction from the Oregon Legislature during the December 2021 special session, OWRD prioritized funding assistance for low-to-moderate income households during the first phase of the program in areas impacted by drought and wildfire. The initial funding for the program already has been awarded, so the WARRF Program is not currently accepting new applications. While funding is not currently available for new grants, OWRD anticipates additional wells will be eligible for funding in the future.

OTHER WORK WITH INDIVIDUAL TRIBES

In addition to efforts outlined above, OWRD has engaged with individual Oregon Tribes on specific issues involving water rights, water management and use, planning, and funding. These efforts are outlined below.

Burns Paiute Tribe

As summarized below, OWRD has engaged with the Burns Paiute Tribe on water rights, watershed enhancement, the Harney Basin Groundwater Study and Rulemaking, and the Harney's Water Future place-based planning effort.

Water Rights: OWRD has worked with the Burns Paiute Tribe on general water rights issues, including transfer applications and groundwater planning. In 2023, OWRD issued a final order for an instream lease renewal between the Tribe and the Freshwater Trust (IL-1693). The instream lease is in effect through September 30, 2027, and provides for the conservation, maintenance, and enhancement of fish and wildlife habitat.

Watershed Enhancements: OWRD staff in the Eastern Region continued their work with the Burns Paiute Tribe to review proposed watershed enhancement projects in the area and secure funding for implementation.

Harney Basin Groundwater Study and Rulemaking: OWRD and the U.S. Geological Survey (USGS) completed a five-year groundwater study in the Greater Harney Valley Area in the

Malheur Lake Basin. In conjunction with the Harney County Court, OWRD appointed members of a local Groundwater Study Advisory Committee to track progress and provide input as the study progressed. A representative of the Burns Paiute Tribe served on this committee. In April 2022, the Groundwater Study Report went through a peer-review process before publication. In October 2022, the [Advisory Committee](#) reconvened to review the published study. In November 2022, OWRD held a public open house to present conclusions as well as discuss current and future efforts to stabilize groundwater levels in the Harney Basin.

In spring 2023, OWRD formed a rules advisory committee to look at water management options for the Harney Basin. A Burns Paiute Tribe representative serves on that committee. The committee is anticipated to continue to meet into 2024. [More information is on the Department's Division 512 rulemaking webpage.](#)

Harney's Water Future Place-Based Planning: In 2016, OWRD awarded a grant to the Harney County Watershed Council to undertake and develop a [collaborative water planning group](#) in the Malheur Lake Basin. Through this planning process, partners are developing strategies to meet current and future instream and out-of-stream water needs. The planning group has completed the groundwater portion of the plan and is now working on the surface water portion. A representative from the Burns Paiute Tribe is participating in this process as a member of the broader planning group and various working groups.

Confederated Tribes of Siletz Indians

In 2016, OWRD awarded a grant to Seal Rock Water District to support collaborative integrated water resources planning and implementation in the Mid-Coast region. During the planning phase (2016-2022), a representative from the Confederated Tribes of Siletz Indians participated as a member of the coordinating committee and the Mid-Coast Water Planning Partnership. Completed May 2022, the [Mid-Coast Water Action Plan](#) is designed to meet instream and out-of-stream water needs and received state recognition from Oregon Water Resources Commission. Partners continue to work together to prioritize the suite of actions to pursue with the goal of developing workplans to guide implementation efforts. The Confederated Tribes of Siletz Indians has continued to participate in prioritization workgroup meetings held in 2023.

Confederated Tribes of the Umatilla Indian Reservation

The State of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, federal agencies, and irrigation districts have worked for over 30 years to improve the Umatilla River Basin's water supply for farmers and ranchers, fish and wildlife, and the community. As part of the water supply efforts underway in the Umatilla Basin, OWRD is working with representatives of several federal agencies, the Oregon Department of Justice (ODOJ), and the Confederated Tribes of the Umatilla Indian Reservation to achieve a shared goal of satisfying the region's long-term water needs. OWRD continues to provide water rights information to the Confederated Tribes of the Umatilla Indian Reservation and have offered to meet as needed.

Water Rights: In the Wallowa River Basin, staff have worked with the Confederated Tribes of the Umatilla Indian Reservation and The Freshwater Trust on a series of complex transactions, which included instream leases and Allocation of Conserved Water (ACW) projects. The ACW

projects have been completed and instream water right certificates were issued.

In 2023, OWRD issued a final order approving Instream Lease IL-1919 in the name of the Confederated Tribes of the Umatilla Indian Reservation, including Trout Unlimited. The instream lease was in effect through October 31, 2023, and provided for the conservation, maintenance, and enhancement of fish and wildlife habitat.

OWRD holds voluntary monthly meetings to discuss ongoing projects and proposed projects and any issues they may need to be discussed with the Restoration Partners (Trout Unlimited, The Freshwater Trust and many others). A representative from the Confederated Tribes of the Umatilla Indian Reservation regularly attends these meetings.

OWRD also has been working with Wallowa Lake Irrigation District, the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, and ODFW regarding instream releases from Wallowa Lake Reservoir after rehabilitation of the existing dam. Wallowa Lake Irrigation District filed Transfer Application T-13931 on February 25, 2022, proposing to change the character of use for which water is stored under Storage Certificate 2949 in Wallowa Lake to Multipurpose Use. On November 21, 2022, OWRD issued a Preliminary Determination (PD) proposing to approve Transfer Application T-13931. A timely protest of the PD was filed on December 29, 2022. The next phase of processing is to seek resolution of the protest among the parties involved. If no settlement can be reached, the protest will remain in the queue of protests awaiting referral to the Office of Administrative Hearings for a contested case proceeding.

Umatilla Basin Water Rights Settlement: OWRD, the Confederated Tribes of the Umatilla Indian Reservation, ODOJ, a federal negotiation team, and the Westland Irrigation District initiated formal water rights settlement negotiations in June 2012. Discussions include protecting instream flows for fisheries and cultural traditions, while also providing water for economic and agricultural development. Negotiations also include ODFW, ODEQ, Stanfield Irrigation District, Hermiston Irrigation District, and West Extension Irrigation District.

OWRD engaged with tribal staff and lobbyist on needs for the 2023 session, particularly to support the tribal water settlement work. OWRD included resources to support the ongoing water right negotiations in its 2023-2025 Agency Request Budget and was successful in obtaining funds for this purpose. OWRD received \$1.2 million for facilitation relating to the Confederated Tribes Umatilla Indian Reservation (CTUIR) water rights settlement as well as for other complex issues, in addition to a position to lead the CTUIR settlement work. Negotiations are ongoing.

Water Management and Water Use Regulation: OWRD's Salem office provided the Confederated Tribes of the Umatilla Indian Reservation with periodic updates on the Umatilla Water Supply Project and associated applications for new water rights out of the Columbia River.

Through the North Central Region and East Region offices, OWRD and the Confederated Tribes of the Umatilla Indian Reservation together are

- continuing to discuss water management and monitoring in the Walla Walla Basin, including discussions related to instream flow in the Walla Walla River;
- attending Umatilla River Operations Group meetings to share information regarding the protection of instream water right flows and irrigation demands;

- coordinating on McKay Reservoir storage allotments, including the amount of water released and remaining in McKay Reservoir;
- working on water management issues related to the operation of the Umatilla Basin Project Exchange, including coordinating canal startups and shutdowns to reduce the potential for fish take;
- conducting a gaging program in the Grande Ronde Basin that is largely beneficial to the Confederated Tribes of the Umatilla Indian Reservation and results in periodic consultation and/or collaboration associated with Confederated Tribes of the Umatilla Indian Reservation's stream habitat projects;
- coordinating with Tribal Cultural Resources Staff on the installation of a "near real-time" gaging station on McKay Creek in Crook County; and
- monitoring and protecting instream leases negotiated by the Confederated Tribes of the Umatilla Indian Reservation.

Walla Walla Basin Initiatives: During 2023, OWRD collaborated with the Confederated Tribes of the Umatilla Indian Reservation on several initiatives benefitting the Walla Walla Basin. As a member of the Walla Walla Basin Advisory Committee, OWRD is working in cooperation with the Confederated Tribes of the Umatilla Indian Reservation, Washington Department of Ecology, and other Committee members to evaluate strategies for restoring instream flows for fish in the Walla Walla River.

The Director's Office is working with the Confederated Tribes of the Umatilla Indian Reservation and Washington's Department of Ecology to explore opportunities to work together as co-managers of water in the Walla Walla Basin. The three sovereigns met several times throughout 2023 to discuss both groundwater and surface water management goals.

OWRD, the Confederated Tribes of the Umatilla Indian Reservation, USGS, and Washington Department of Ecology are engaged in a cooperative study of the groundwater systems of the Walla Walla Basin. Ongoing data collection efforts include monitoring quarterly bi-state groundwater levels and surface water flows, conducting seepage runs along major stream systems, and sampling surface and groundwater for naturally occurring tracers.

OWRD will continue to engage with the State of Washington and the Confederated Tribes of Umatilla Indian Reservation in high-level discussions on the mutual interests of water management across the Oregon-Washington state line.

Upper Grande Ronde River Watershed Partnership Place-Based Planning: In 2016, OWRD awarded a grant to Union County to support collaborative place-based integrated water resources planning and in the Upper Grande Ronde in partnership with OWRD. During this planning process, the [Upper Grande Ronde River Watershed Partnership](#) developed strategies to meet their instream and out-of-stream water needs. In early 2022, the Partnership completed an [integrated water resources plan](#) and received state-recognition from the OWRC. The Confederated Tribes of the Umatilla Indian Reservation has participated actively in the Upper Grande Ronde planning meetings to ensure the plan addresses instream and other water needs.

Confederated Tribes of Warm Springs

As summarized below, OWRD has engaged with the Confederated Tribes of Warm Springs on water rights, the Deschutes Basin Water Collaborative, and the Lower John Day Place Based Planning efforts.

Water Rights: In 2020, OWRD issued two additional final orders for instream leases submitted by the Tribe (IL-1430 and IL-1808). The instream leases are both in effect through September 30, 2024, and provide for the conservation, maintenance, and enhancement of fish and wildlife habitat.

Transfer Application T-13699 was submitted to OWRD on May 3, 2021, by applicant MGN, LLC. This transfer proposes to change the point(s) of diversion and place(s) of use associated with water right Certificates 25324 and 25608 and is being done in conjunction with a habitat restoration project funded by the Confederated Tribes of Warm Springs. This transfer is currently pending and under review.

OWRD met with the Tribes twice in 2023 to discuss water right applications under review and to discuss the Tribes' preferences for engagement.

OWRD continues to work with the Tribes to facilitate improved mutual understanding, coordination, and implementation of the Confederated Tribes of the Warm Springs Reservation Water Right Settlement Agreement (November 17, 1997). Discussions have largely focused on process improvement for noticing the Tribes of proposed water right transactions and on examination of OWRD's injury evaluation process to ensure alignment with the Settlement Agreement stipulation that tribal reserved water rights shall not be injured as a result of transfer applications in the Deschutes Basin.

Deschutes Basin Issues: During 2022, OWRD sought to identify project priorities for the new OWRD Complex Basin Coordinator position filled in 2022. The new Basin Coordinator assessed challenges and opportunities for water management projects in the Deschutes Basin and met with the Tribal Treasurer/CEO to understand tribal priorities for near term work. Additional consultation on basin-specific project priorities is expected to occur in 2024 and beyond.

OWRD continues to participate in the [Deschutes Basin Water Collaborative \(DBWC\)](#), a joint effort facilitated by the Central Oregon Intergovernmental Council and the Deschutes River Conservancy, and co-lead by the Confederated Tribes of Warm Springs. The DBWC focuses on critical water allocation and management issues in the Deschutes Basin and develops strategies to meet stream flow, ecological, agricultural, and community needs for water.

Water Management and Water Use Regulation: OWRD's 2023 engagement with the Tribes on issues relating to water management and water use included the following:

- Signing of a Memorandum of Agreement between OWRD and the Confederated Tribes of Warm Springs, which led to the purchase of equipment to install a new stream gaging station on Lower Fifteenmile Creek. The operation of the gaging station is ongoing.
- Continued monitoring of the flow at the Pine Creek Gage near Clarno by the District 21 Watermaster's Office. This monitoring is related to the transfer of irrigation certificates

C-25617, 25332, 25333, 25334, 25335, 25365, 25462, and 25523 from Pine Creek with priority dates ranging from 1870–1880 to instream rights resulting in Certificate C-85824.

- Continued cooperation between the District 3 Watermaster’s Office in The Dalles and the Confederated Tribes of Warm Springs. Flow meters have been installed and data are being collected on significant diversions on Fifteenmile Creek. Seasonal use and streamflow data are available to the Confederated Tribes of Warm Springs and others.
- Technical support and input provided by OWRD staff to Wheeler County Soil and Water Conservation District and Confederated Tribes of Warm Springs on a Bureau of Reclamation Tribal Assistance grant application to get new AgriMet stations in the John Day Basin. OWRD staff continue to look for ways to partner with Tribes on the AgriMet station expansion effort supported by OWRD and OSU funds.

Lower John Day Basin Place Based Planning: OWRD awarded a grant to the Gilliam Soil and Water Conservation District to undertake collaborative [water planning in the Lower John Day Basin](#). Through this planning process, conducted in partnership with OWRD, the planning group developed [an integrated plan](#) that was recognized by the Oregon Water Resources Commission in early 2022. The Confederated Tribes of Warm Springs participated in the planning partnership since its inception and continue to provide guidance as needed in the implementation process.

Cow Creek Band of Umpqua Tribe of Indians

During 2023, OWRD communicated with a representative of the Tribe to answer questions concerning the use of existing water rights or obtaining new water rights to support a fish propagation project.

Klamath Tribes

OWRD continues to work closely with the Klamath Tribes, Klamath Basin water users, the Bureau of Reclamation, and the U.S. Department of the Interior to address regulatory questions and concerns and to develop coordination protocols for calls on water as a group.

During the past year, OWRD has continued to engage in discussions on water-related issues in the Klamath Basin. These talks have included the Klamath Tribes of Oregon along with three tribes in California. The issues continue to focus on streamflow, water quality, and fish. These efforts are focused on identifying projects that will increase stream flows and Upper Klamath Lake elevation, improve water quality, and restore riparian corridors. Recognizing the cultural significance of the endangered sucker to the Klamath Tribes and the Tribes’ desire to address water quality, OWRD has participated in many of the proposed restoration conversations. Additionally, OWRD has invested many hours working with out-of-stream water users to increase instream flows through temporary and permanent instream transfers.

In 2023, the District 17 watermaster staff regulated junior water users to protect Tribal determined claims for instream flows. Also in 2023, the watermaster staff regulated junior users to the Tribe’s Upper Klamath Lake in-lake determined claim. Staff investigated, validated, and regulated water use resulting from calls for water made by the Klamath Tribes and Bureau of Indian Affairs to satisfy the Tribes’ determined claims contained in the Amended and Corrected

Finding of Fact and Order of Determination (ACFFOD) in the Klamath Adjudication. During 2022, the District 17 Watermaster continued the weekly conversations with the Tribal Council liaison. These conversations provided for a timelier response to Tribal questions and concerns. OWRD staff continue to respond to questions from Tribal members regarding regulation activities relating to water rights priority dates, instream flow needs, irrigation needs, and other general topics related to the ACFFOD.

OREGON WATER RESOURCES DEPARTMENT POLICY ON RELATIONSHIPS WITH TRIBES

The Water Resources Commission and Department will communicate and collaboratively problem-solve with the nine Oregon Tribes. The Water Resources Department has established the following guidelines to foster and maintain its relationship with each of the nine Tribes:

1. Maintain parallel contact directories: (1) Agency personnel available to the Tribe(s) for immediate contact, and (2) A list of tribal leaders or staff who can be contacted to initiate discussion quickly. (In the Department's case, the initial contact is at our Regional office, with a Salem office follow-up.)
2. Spot issues quickly, and get accurate details as soon as possible. That is, be aware of water use issues that may create conflict between the state government and a Tribe or the federal government as the Tribe's trustee. Once the issue is identified, research the details both factual and legal so that the issue can be scoped and accurate, and appropriate contact can be initiated.
3. When an issue arises, Department staff will offer to meet face-to-face with Tribal leadership as soon as possible to ensure that clear, constructive communication is initiated promptly.
4. During initial contact on an issue, be positive and stress common interests and goals indicating that a cooperative solution is most likely possible.
5. Keep the agencies' other (non-Indian) constituents advised, and where appropriate involve the non-Indian community in discussions with the Tribal leadership.
6. As issues arise and are addressed, establish a system or protocol for future issues—building on successes.

The Department believes that its relationship with Oregon's nine Tribes must be based on two essential attributes. First, we must honor and protect existing Tribal water rights to the use of water, and second, we must continue to forge partnerships with Tribes to support our mutual interest in water issues.