

2023 Update: Securing Oregon's Water Future

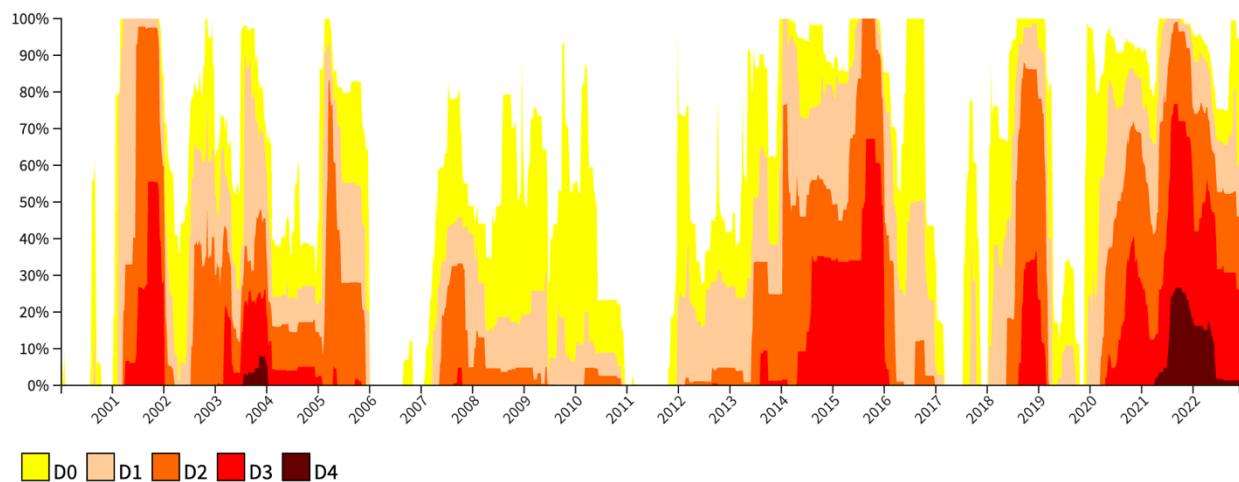
Oregon Business Council Water Task Force

Rounding the first quarter of the 21st century, Oregon faces a constant state of water crisis characterized by recurring drought. Both surface water and groundwater sources are severely strained. The drought combines with unfulfilled demand in many areas, which leads to diminished crop harvests, communities facing water shortages, and weakened natural systems more prone to wildfires. Over two-thirds of Oregon's counties regularly face drought; it has become Oregon's new normal condition. As with so many large-scale crises, the cost and harm are felt more acutely by Oregon's most vulnerable people and communities.¹

Drought in Oregon from 2000-Present

Source: National Integrated Drought Information System. View [interactive chart here](#).

Latest Available Data: 2022-11-29



Oregon is not alone. Drought conditions in the Upper Midwest have resulted in impacts to shipping on the Mississippi River, resulting in a \$9 billion loss to the country's economy. Increasing drought in New England affects residential drinking water supplies, commercial activities, and farming. Persistent drought in the Colorado River basin puts 40 million water users and food for 400 million consumers at risk, forcing states to revisit water allocation agreements forged decades ago.² Like these other examples, much of Oregon's water crisis is caused by climate change. But a large share of Oregon's challenge is self-inflicted. Specifically, we rely on a laborious yet under supported water management system run by agencies whose expanding priorities are not matched by investment in capacity. This results in well-intentioned systems that are ultimately built to fail, creating long and ineffectual management efforts. It's clear that we need to modernize our water management system, and we can – *if* we have the will to do so.

¹ Both *The Oregonian* and Oregon Public Broadcasting have published compelling series on the scope of Oregon's water crisis. See managing and mismanaging Oregon's groundwater [here](#) and Draining Oregon [here](#).

² For background on these examples, please refer to the following articles: 1) [Mississippi River](#); 2) [New England](#); 3) [Colorado River](#).

The timing to tackle this challenge could not be better and the opportunity it provides to improve the lives of all Oregonians is immense. Informed by a robust and bipartisan discussion among members of the Oregon Legislature,³ a coalition of water stakeholders, policy experts, and public and private sector leaders has come to a better understanding of the crisis and the potential of better management systems to address it. This coincides with new leadership taking the helm in various sectors of Oregon life, and in particular, the Governor's Office and the Legislature. Overhauling our water management systems will improve the quality of life in Oregon while confronting the impacts of climate change. This would be a legacy accomplishment for Governor Tina Kotek.

The benefits of updating our water management systems would be enormous. For example:

- Increasing Oregon's agricultural yield by 10 percent by increasing water efficiency would result in a nearly \$500 million increase in annual output.⁴ As producers in other states face declining water availability for agriculture, Oregon's importance in agricultural production will expand, increasing opportunities for farm and ranch enterprises and workers throughout the state.
- Expanding semiconductor activity in Oregon will require [making 2 to 4 million gallons of water available to each fabrication plant](#) every day. Implementing more efficient water management systems [can expand water availability to attract new semiconductor investments](#) and expand manufacturing statewide.
- Green or nature-based alternatives to traditional gray water infrastructure can create multiple community and environmental benefits while reducing the costs of gray water systems upgrades. [In 2017, for example, the City of Prineville completed a \\$7.7 million project creating a 120-acre wetland that provides the community areas for](#) hiking, wildlife observation,

One consequence of water uncertainty: In 2018, the City of Banks, Oregon declared a building moratorium on continued growth due to uncertainties associated with water and water services availability. Improving and expanding water services was estimated at \$10 million, a sum that a population of 2,000 residents couldn't afford to absorb through their water rates, and that the city could not afford to borrow. The city believes that it can store more water in aquifers, but to do so would require additional water rights, or access to a regional water service provider. (hearing The City of Banks; Water Infrastructure. Testimony before the House Committee on Water, May 5, 2021.)

³ See the hearings held by the [Oregon House Committee on Water](#).

⁴ According to a 2021 [report](#) from the Oregon State Board of Agriculture, Oregon's agricultural makes up 13% of the overall economy; \$5 billion in total production, half of which is exported.

and education, while avoiding what could have been a tripling of system development charges and doubling of sewer rates.

- Prioritizing plans for ecosystem restoration that incorporate human values, as in the Confederated Tribes of the Umatilla Reservation’s River Plan, supports the strategic implementation and funding of habitat restoration in a way that sustains natural water storage and biodiversity in the face of a changing climate.
- Expanding the scope of information gathering to include communities historically ignored will increase equitable access to high quality water and create greater transparency about water hazards to all communities.

Unfinished Agenda

In our 2021 water report, *Securing Oregon’s Water Future*, the OBC Water Task Force outlined four broad steps to modernize Oregon water management:

- Complete the evolution to a regional approach to water management.
- Modernize water data infrastructure to increase the use and usefulness of water data.
- Reform water permitting to facilitate timely response to the increasing variability and unpredictability of water supply.
- Ensure water affordability and equity throughout the state.

The Legislature was on a like-minded path in 2021 when it committed to invest over \$500 million to build Oregon’s capacity to manage water more efficiently, in particular by investing in groundwater studies, upgrading water data management, and increasing agency and stakeholder capacity to engage in place-based water management efforts.⁵ The OBC Water Task Force commends this critical commitment to better water management, but would like to recommend additional concrete measures to carry out that commitment based on the four broad steps described above. The Task Force believes that these steps – expanded in greater detail below – will prepare Oregon for a future where water is recognized for its true value and scarcity.

OBC’S STAKE IN WATER

Since its founding in 1985, the Oregon Business Council’s mission has been to enhance the quality of life for all Oregonians. Since 2008 OBC has emphasized **water’s central role in ensuring durable prosperity.**

This long-standing interest motivated OBC to publish *Securing Oregon’s Water Future*, its 2021 Water Task Force Report which [outlined the four recommendations](#) described at left to modernize Oregon’s water management systems. These recommendations were consistent with others leading water reform in the state, but emphasized the need to consider them as an integrated strategy rather than as separate issues.

⁵ See a press release from the Oregon Senate that details these steps [here](#).

This is also a timely opportunity for incoming State leadership. Building on work underway in State water agencies and the Legislature, Governor Tina Kotek can seize the initiative to modernize Oregon’s water management system, with all the benefits that will yield for Oregon’s economy, quality of life, and equity across regions and communities.

1. Complete the transition to regional water planning and implementation

Goal: *Create and implement basin-level water plans that reflect the priorities set by local stakeholders and approved by Oregon water agencies.*

It's time to make place-based planning a permanent part of Oregon water management. Efforts to accomplish this date back to 2012 when the State’s Integrated Water Resources Strategy called for creation of a statewide framework for developing place-based plans. In 2015, the Legislature authorized the Oregon Water Resources Department to develop guidelines to assist stakeholders interested in developing place-based water management plans, and it provided funding to launch four pilot projects in different regions of the state.⁶ In 2021 the Legislature tasked a group of water stakeholders to further advance place-based planning. More than 30 members met throughout 2022 in that effort.⁷ We commend the work of this stakeholder’s group, emphasizing these core recommendations:

- **Recruit a balance of stakeholders** to represent the many points of view on water in each basin. All water in Oregon is owned by the public. So, while basin level stakeholder group involvement is critical, each group should also include representatives from statewide and issue-specific organizations. Groups should be empowered to focus on basin and sub-basin priorities. Each group should work with a professional facilitator.
- **Task agencies to support the group** and ensure that they are adequately staffed for that purpose. They must provide the groups with clear guidelines and goals, and they must coordinate their own priorities to help the groups focus their energies. Stakeholders should be required to seek state approval for their proposed water plan through one process, a step that should encourage affected agencies to better coordinate their support and participation. Agency technical support must include adequate access to available science, including but not limited to a scientific understanding of the basin’s water budget.
- **Fund the stakeholder groups** to sustain ongoing water management planning and decisions, and make grants to fund projects, giving higher priority to those consistent with basin plans. Funding cannot be sporadic but must become part of water agencies’ core budget requirements.
- **Require groups to remain active** to provide periodic updates to agencies and the Legislature on water planning and projects. By remaining active, they can also participate in ongoing water management decisions.

⁶ See [Senate Bill 266](#). Also see the [2017 Integrated Water Resources Strategy](#), pages 115-118.

⁷ [State-Supported Regional Water Planning and Management Work Group](#).

OBC recommends that the State seriously consider authorizing the Oregon Watershed Enhancement Board to create and sustain these place-based planning groups and make funding available to support implementation of their plans.

2. Modernize water data management

Goal: *Organize water data so that water users can submit data more easily, and water stakeholders have access to water budget information.*

Basin-level water management planning requires good data; but as is the case with many states throughout the West, Oregon has an incomplete picture of its water resources. With funding from the Legislature, state agencies have begun creating a single point of access to current, high quality, integrated water data and implementing rigorous groundwater studies. Those data will support important decisions about management, planning and investing in water resources, including natural and human-made water infrastructure throughout the state. Agencies also hope to make water data more available to the public. But achieving both tasks is not easy. Although a modern water data system is a critical first step to write fully informed water management plans, organizing existing data will only provide a small window into water use. That's because our understanding of groundwater resources remains nascent and only 20 percent of Oregon water users on average are required to report their water use.⁸ At that rate of reporting it will be difficult if not impossible for Oregon to ever truly know how its water is being used. Much more could be known about water use if there was greater voluntary reporting, but many water users fear that providing usage information could lead to loss of their water rights. That concern must be taken seriously. Oregon must solve the puzzle of how to incent conservation and protection of existing water rights before it can expect senior water rights holders to feel confident enough to voluntarily report their water use.⁹

3. Make the water permitting process outcome oriented

Goal: *Streamline water permitting.*

In our initial 2021 report, *Securing Oregon's Water Future*, we highlight several key weaknesses in Oregon's water permitting process that leads to ineffectiveness and inefficiencies in water right permitting and transfers. Obtaining new water permits or transferring existing water rights to new uses can take years – even decades. This laborious process has limited the ability of water users and local managers to implement time-sensitive management decisions that are necessary to respond to an increasingly unpredictable water-supply. Timely adaptations can be critical to protecting existing agricultural investments, reducing economic impacts of business operations, and fostering social cohesion throughout challenges that often drive communities apart. While much of the workflow delay is caused by persistent under sourcing of water

⁸ [Oregon Water Resources Department: Enhancing Sustainability Efforts and Agency Planning Needed to Better Address Oregon's Water Supply Needs.](#)

⁹ According to [Water Rights in Oregon](#), "Under the law, the right is presumed to be forfeited and reuse does not reinstate the right. This is true even if the current owner did not own the property when use was discontinued. Under certain conditions, such non-use may exceed five consecutive years without forfeiture of the right. See [ORS 540.610](#) for more information" (page 35).

agencies by the Legislature, the design of Oregon’s water permitting process leads to protest and litigation – not resolution. In 2021 the Oregon legislature responded to some of these concerns by allocating funds to increase staffing and clean up permit backlogs. According to testimony presented in 2022, the agency has made [some progress](#) in this effort.

Rather than select an administrative law judge randomly to hear each case, we propose that Oregon dedicate water use disputes to judges with expertise in water law. These judges should be authorized to weigh the sometime conflicting priorities among affected agencies. This process would compel agencies to work harder to coordinate their priorities and make recommendations to the judge they can all live with. Under this scenario, the place-based stakeholder group charged to develop and maintain a regional water plan would offer consensus recommendations on water right permit applications and transfers for its region.

Addressing water permitting challenges was not part of the 2022 instructions from the Legislature to the place-based stakeholder process because all involved felt that trying to take on permitting would make it impossible for the stakeholders to reach an accord. However, as many individuals involved in the place-based pilot projects determined, failing to address this challenge to Oregon water management may undermine the effectiveness of regional planning because it discourages water management decisions based on the guidelines developed by the regional plan.

4. Ensure water quality and affordability for all

Goal: *Deploy all federal dollars available to invest in water services infrastructure expansion and maintenance provided by the Infrastructure Investment and Jobs Act.*

The 2021 OBC water paper highlights a trilemma facing water service providers as they try to address increasing water services infrastructure costs with increased rates unaffordable to many people and families. The high cost of potable water and wastewater services, combined with the lack of infrastructure to meet community needs has left too many Oregonians facing water insecurity – inability to access quality potable water and services due to a lack of income, water supply, or both.¹⁰

Responding to the global pandemic and the need for economic stimulus, Congress passed the Infrastructure Investment and Jobs Act (IIJA).¹¹ According to Business Oregon, the IIJA will bring Oregon localities a total of \$92 million each year for five years, providing funds for infrastructure and services for both potable and wastewater. Oregon needs to deploy these funds as rapidly as possible. However, at present there is no clear approach to identifying available funds and guiding them towards water project development.

We recommend that Governor Kotek use her office to coordinate agency efforts to secure and deploy federal infrastructure funds and streamline state funding to support timely match. For example, in 2020 Governor Kate Brown created the Governor’s [Wildfire Economic Recovery Council](#), selecting former Oregon Department of Transportation administrator Matt Garrett to develop a strategic recovery plan designed to consider the needs of all impacted Oregon communities. This is not a need unique to Oregon. For example,

¹⁰ Duke University research showed that too many households are burdened by the cost of paying for water services (page 12?)

¹¹ [H.R.3684 - Infrastructure Investment and Jobs Act](#)

Colorado has passed two bills to allocate state funding to assist communities around the state in applying for federal dollars, including paying for engineering and permitting, preparing grant applications, providing cash match, and hiring contractors to develop plans.¹²

The Need and Opportunity for Leadership

While much has been accomplished by the Legislature and water stakeholders to modernize Oregon water management, more work lies ahead. Oregon can either chart its own course and fully maximize the value of our water resources, or we can squander them, leaving our economy, our communities, and our natural systems to suffer.

In some respects, larger circumstances and trends will push Oregon forward whether it is ready or not. Technology has begun to fill in the data gaps on water availability and use. While satellites have been tracking water in the West since the 1980s, efforts are underway to make data documenting evapo-transpiration and other water information publicly available. Water management pioneers like Gallo Winery and others have begun to demonstrate that water conservation is good for business.¹³ Empowering water users to find creative and site-appropriate solutions to increasingly unpredictable water supplies will support innovation that could benefit all Oregonians.

Much of what we've outlined above falls to the Oregon Legislature to accomplish. More than a third of the 2023-24 Legislature will be comprised of new members. Veteran legislators and water stakeholders will have an opportunity to educate these new colleagues to make them aware of the water work that must be sustained. But in her capacity as head of State Government, Governor Kotek also has a vital leadership role. During her campaign, she emphasized that her role as governor would be to focus on improving the performance of government. We support that approach to governance, and in that spirit, we offer the three recommendations to shape her leadership on water issues as she undertakes all the priorities facing Oregon.

1. Put Oregon on a solid path to know its water balance

Oregon has a long history of leadership on progressive growth policies that balance the need to protect rural working lands with economic development in urban areas. As water availability becomes more variable and uncertain, supporting all communities in developing a process to establish water budgets that inform planning will ensure water use is available for economic, cultural, and environmental needs long into the future.

Governor Kotek can lead an effort to develop and maintain a water budget covering the entire state. She can use her budget proposals to support efforts by government and universities to follow through with groundwater studies, keep place-based water stakeholder groups engaged, and demonstrate that more extensive data on water use does not automatically threaten loss of water rights. The Legislature can

¹² Colorado's [H22-1379 Wildfire Prevention Watershed Restoration Funding](#); [HB22-215 Infrastructure Investment and Jobs Act Cash Fund](#)

¹³ [Raising a Glass in Wine Country to Better Water Management](#)

support this leadership by authorizing the Governor to staff her office with a senior water advocate, a person familiar with the issues, people, laws, and regulations that shape Oregon water management.

2. Make government function

We can no longer afford more agency roadblocks than solutions. As chief executive, Governor Kotek can ensure that water agencies immediately update the 2017 Integrated Water Resources Plan, incorporating basin developed planning as part of its core. By creating an interagency water resource coordinating group, the Governor's Office can compel water agencies to coordinate their efforts to implement the new plan, working with basin-level stakeholder groups to address high-priority statewide and basin-specific issues and projects, increase readiness for water-related federal funding opportunities, ensure equitable allocation of resources, and improve the water permitting process.

3. Support legislative water policy efforts – if necessary, with direct leadership from the Governor

As former Speaker of the House, Governor Kotek can use her knowledge of the legislative process to help set and support the water management priorities of the Legislature by fully funding water agencies' work. And, on currently intractable water issues, such as permitting, she could convene decision makers from the water stakeholder community to move beyond their narrow self-interests to find common ground.

With an incredible natural endowment in water, Oregon is uniquely positioned to manage this precocious natural resource to benefit both people and nature. But it cannot do so using a water management system designed for a time when we assumed that Oregon had all the water it would ever need, whenever it needed it. In an era of climate change and associated drought, managing water now and for future generations holds the key for setting Oregon on a sustainable and prosperous path.