

PART II

WATER RESOURCES DEPARTMENT

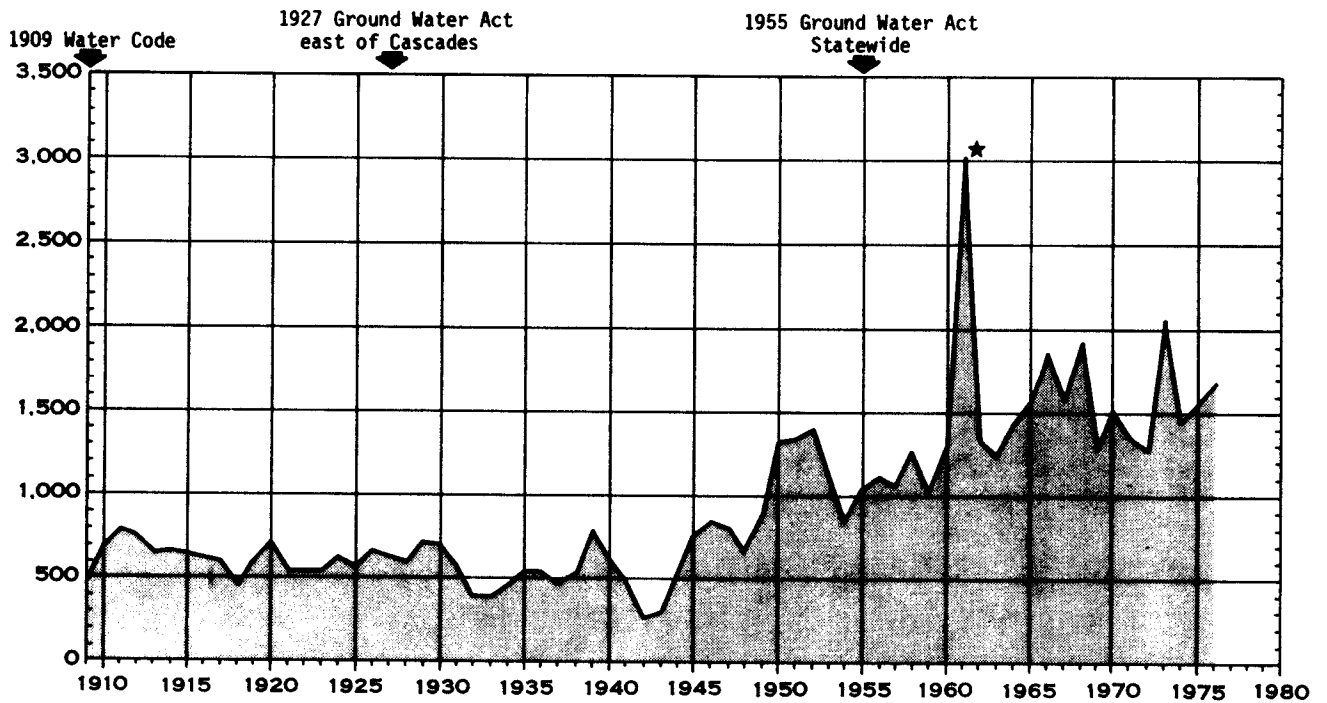
REGULATORY ACTIVITIES

Water Rights

The Water Resources Department has the statutory responsibility to issue and record water rights for the use of unappropriated water. The system of recording water rights has been in existence since February 24, 1909 when the state Water Code was adopted. Water rights are obtained under this system by making an application to the Director of the Water Resources Department for a permit to appropriate water, receiving the permit and using the water in a beneficial manner within the time limits of the permit.

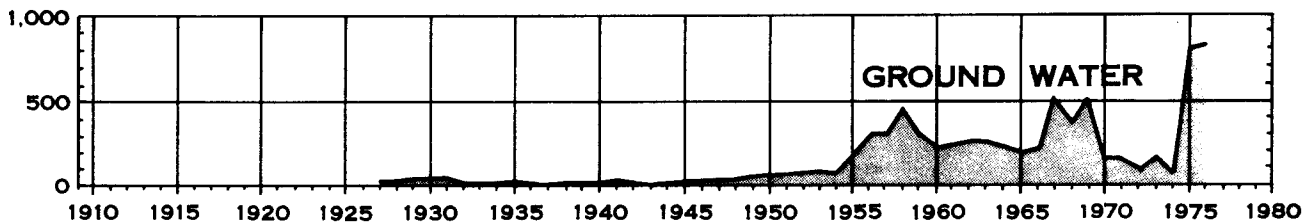
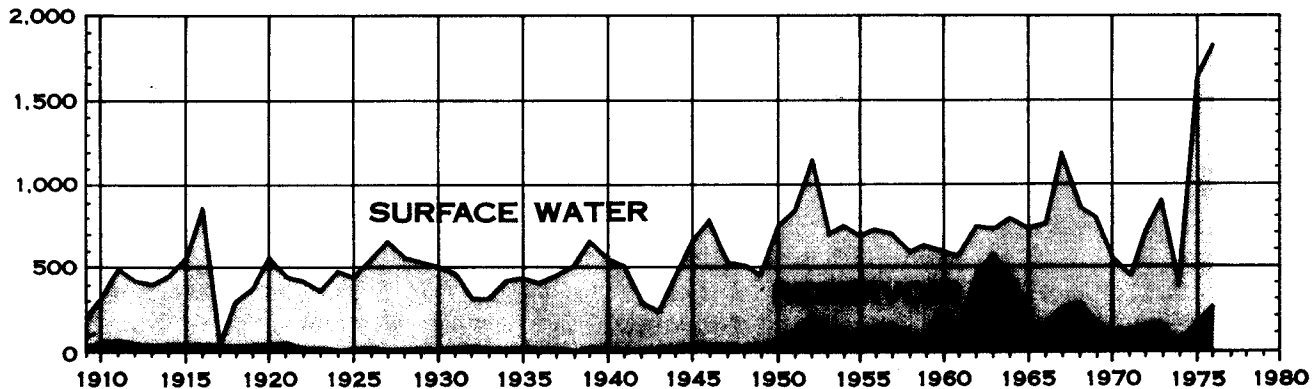
Rights to the use of water that predate the adoption of the Water Code are established through a judicial process. In this process, the relative rights of users are determined by a court decree. The responsibility of the Water Resources Department in the adjudication process is to conduct investigations into the use of water and present its findings to the court.

WATER RIGHT APPLICATIONS FILED

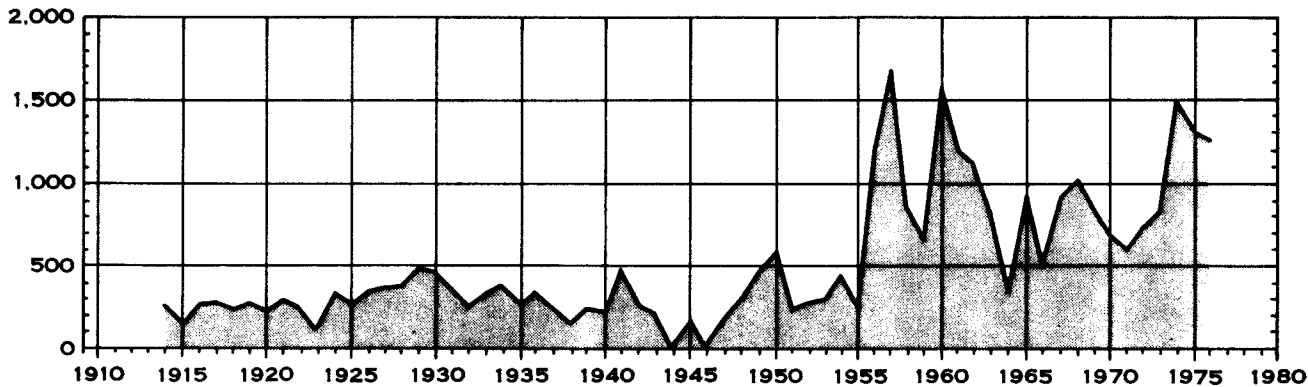


* Includes approximately 1800 BLM ponds

WATER RIGHT PERMITS ISSUED



WATER RIGHT CERTIFICATES ISSUED



Adjudication Proceedings

The Oregon Water Code was enacted in 1909, providing an exclusive centralized method for issuing new water rights and for determining existing ones. Oregon's system of administering water rights is conducted upon a first-come, first-served basis--the first person in time to make a beneficial use of water has the first priority rights. It is obvious that adequate regulation of water rights based upon priority dates is difficult in areas of the state where vested water uses prior to the 1909 Water Code have not been settled by court decree.

Today, vested water rights in approximately 65 per cent of the state, primarily the area east of the Cascades, have been determined in 86 adjudication proceedings. The determination of these water rights was pursued vigorously until shortly before World War II, when the program was virtually discontinued for a period of years. Although the adjudication process was revived some years ago and additional streams were adjudicated, progress was slow because of the low funding level. In 1969, the funding level was increased and more staff was hired to work on the adjudication process. Since then, with continued funding, this staff has completed the proceedings on Bridge Creek, Lake County; Rickreall Creek, Ash Creek, Luckiamute River, Polk County; and Tandy Creek, Lake County.

The Willamette River drainage basin is now 22 per cent completed. Completion of an additional 18 per cent of that basin is anticipated in 1978.

The vested water rights on all streams flowing into the Columbia River west of the Cascade Mountains and all streams running directly into the ocean, except the Rogue River, also remain undetermined.

The longer the adjudication process is delayed, the more difficult and costly it becomes. For example, a 100-acre farm may be subdivided into 400 one-quarter acre lots. Although the owners may have no authorized water rights, the Department, at the start of a proceeding, must determine who owns the land in the stream basin and notify each individual land owner by certified mail of his right to claim a water right. It becomes difficult for the holder of a legitimate water right which pre-dates the 1909 law to prove his claim, as many witnesses who have knowledge of original water uses are no longer available to testify. In addition, the water use of a person claiming a vested water right cannot be regulated by the Water Resources Department without risk of a damage suit being filed against the Department if the courts subsequently hold that the person did have such a water right.

Thus, the Department must treat all claims as valid until they have been adjudicated.

The Water Resources Department is also responsible for determining rights to the ground water resources of the state. Adjudication proceedings are held to determine the rights to appropriate ground water for those uses initiated prior to the Ground Water Act of 1955. As the demands increase for various uses of water in the coming years, ground water adjudication will become necessary to identify the available ground water for future users.

Status of Pending Adjudication Proceedings

Goose Lake Streams, Lake County - The findings of the Water Resources Department were entered on October 1, 1960, and the decree of the Lake County Circuit Court was entered one year later. This adjudication proceeding is now complete except for the issuance of water right certificates for the incomplete water rights which are being withheld pending the completion of various transfers.

Harbor Ground Water Reservoir, Curry County - Surveys have been completed, statements and proofs of claim have been taken, and inspections of claims have been held. Findings will be submitted to the Curry County Circuit Court in late 1977.

Hood River, Hood River County - This adjudication proceeding is complete except for the disposition of the incomplete water rights which have been allowed. The time limit for applying water to beneficial uses under these rights expired in 1962. Surveys of the land reclaimed and irrigated have been completed by the Water Resources Department. The final determination has been completed and presented to the Hood River County Circuit Court.

Klamath River, Klamath, Lake, Jackson, Josephine Counties - Adjudication proceedings have been initiated to determine the water rights within the Klamath River Basin, excluding those lands covered by the Lost River Determination. Field surveys will be started in 1978.

Lost River, Klamath County - By an order of the Klamath County Circuit Court dated June 29, 1961, the Water Resources Department was ordered to make a "...full and complete determination of the relative rights of Lost River and its tributaries located in Klamath County, Oregon." Since the water rights for the Lost River and its tributaries were adjudicated under the provisions of the state Water Code, an attempt was made to have the court order modified to include only the tributaries of Miller Creek above the Gerber Reservoir. A motion is pending before the Klamath County Circuit Court regarding the area to be considered in the proceeding.

The right of the federal government to reclaim and irrigate 38,000 acres in Oregon and 28,000 acres in California was recognized in the 1918 Lost River court decree. This decree provided that, upon satisfactory proof of such reclamation from the federal government, the Water Resources Director should issue final water right certificates. Proof has been submitted, the field work has been completed, and the information has been submitted to the Bureau of Reclamation for approval. Water right certificates should be issued by 1979.

McVay Creek, Curry County - The field surveys have been completed, the statements and proofs of claim have been filed, and inspections of claims have been held. Contested claims have been filed and hearings have been held. The findings will be submitted to the Curry County Circuit Court in the immediate future.

Marys River, Benton, Lane, Linn, Polk Counties - Proceedings have been initiated to determine water rights within the Marys River Basin. Field surveys have been completed and statements and proofs of claim will be taken this year.

North Santiam River, Linn and Marion Counties - This adjudication proceeding is complete except for the disposition of the remaining incomplete water rights allowed the Willamette Valley Water Company, now the Santiam Water Control District.

Rock Creek, Harney County - By a 1962 order of the Harney County Circuit Court, the task of determining the water rights to Rock Creek and its tributaries was referred to the Water Resources Department. The Department's findings were submitted to the Circuit Court in September, 1973. The adjudication proceeding should be completed in 1978 pending the disposition of the exceptions filed against the findings.

Santiam and South Santiam Rivers, Linn and Marion Counties - Field surveys have been completed, statements and proofs of claim have been filed, and inspections of claims have been held. The findings should be submitted to the Linn County Circuit Court this year.

Silvies River, Harney County - This adjudication proceeding was thought to be completed except for the disposition of incomplete water rights. Investigations and surveys had been started in order to complete these rights. The proceeding has been halted, however, pending an anticipated judicial correction of some errors found in a 1923 court decree.

Umatilla River, Umatilla County - The findings of the Water Resources Department regarding the disposition of incomplete water rights were entered in 1953. The Umatilla County Circuit Court confirmed and modified these findings in 1961. Certificates confirming the water rights allowed under this proceeding have not been issued because a substantial portion of the lands declared a vested right in the original decree of September 9, 1916 has not been irrigated for many years and other lands are involved in pending transfers due to highway and reservoir construction.

Yamhill River, Yamhill County - The field surveys have been completed, the statements and proofs of claim have been filed and inspections of claims have been held. The findings of the Water Resources Director should be submitted to the Yamhill County Circuit Court in 1978.

Inchoate (Incomplete) Water Rights

There are cases where a use of water was initiated prior to enactment of the Water Law of February 24, 1909 but not completed by the time adjudication of the basin was undertaken. During the adjudication process, a few of these were allowed an inchoate water right with time to complete use of water.

The inchoate water rights that have been allowed by adjudication procedures are for large quantities of water. Surveys and investigations must now be made by the Water Resources Department to determine the extent of beneficial use under the terms of the inchoate right. The time limits have expired on the final two streams; therefore, surveys can now be made and proofs of claim taken.

The two streams and affected acreage are listed below:

Stream and County	Acreage	Time Limit
North Santiam River, Marion County	24,000.00	**Expired
Silvies River, Harney County	4,985.02	Expired

**Acreage is that of Willamette Valley Water Company, now Santiam Water Control District.

TABLE 2

STREAMS WHICH HAVE BEEN ADJUDICATED

NAME OF STREAM	COUNTY	ACRES	
		VESTED RIGHTS	INCHOATE RIGHTS
Althouse Creek	Josephine	749.00	
Anna Creek	Klamath	6,356.69	
Ash Creek	Polk	0.90	
Bachert & Netter Creeks	Clackamas	(1) none	
Bridge Creek	Lake	676.90	
Bridge Creek	Wheeler	*2,090.65	
Buck Creek	Lake	6,478.15	
Burnt River	Baker	*22,554.60	
Butter Creek	Umatilla & Morrow	7,712.43	
Calapooya River	Linn	90.00	
Chenowith River	Wasco	130.10	
Cherry Creek	Jefferson	262.50	
Cherry Creek	KLamath	462.00	
Chewaucan River	Lake	*38,286.97	
Cochran Creek	Grant	*19.35	
Cottonwood Creek	Malheur	243.00	
Cougar Gulch	Jackson	(2) none	
Cow Creek	Douglas	1,311.22	
Cow Creek	Harney	2,589.90	
Crane & Kelly Creeks	Lake	2,881.80	
Crooked River	Crook	*32,975.02	
Deschutes River	Deschutes & others	(3)69,488.44	
Donner und Blitzen River	Harney	54,019.40	
Dugger Creek	Umatilla	553.35	
East Branch Mud Creek	Umatilla	(4)*512.25	
Fifteen Mile Creek	Wasco	*1,747.67	
Goodman Spring Branch	Umatilla	201.70	
Goose Lake Streams	Lake	25,166.73	
Grande Ronde River	Union	*25,872.11	
Helms Creek	Sherman	(2) none	
Hood River	Hood River	*1,326.21	(11)*29,978.52
Illinois River	Josephine	*2,472.13	

STREAMS WHICH HAVE BEEN ADJUDICATED
(continued)

NAME OF STREAM	COUNTY	ACRES	
		VESTED RIGHTS	INCHOATE RIGHTS
Imnaha River	Wallowa	7,681.95	
John Day River	Grant & others	*42,292.03	
Johnson Creek	Umatilla	339.55	
Little Butte Creek	Jackson	*5,790.58	
Lost River	Klamath	*7,016.00	
Luckiamute River	Polk & Benton	11.60	
Malheur River	Malheur	*46,058.53	
Middle Branch Mud Creek	Umatilla	471.85	
Mill & Coffee Pot Creeks	Harney	1,569.40	
Mill Creek	Marion	74.50	
Mill Creek	Union	*2,030.52	
Mill Creek	Wasco	*380.60	
Mill Creek	Yamhill	14.30	
Mosier Creek	Wasco	*164.60	
Neal Creek	Hood River	259.60	
North Powder River	Baker & Union	22,561.00	
North Santiam River	Marion & Linn	(5)2,031.38	24,000.00
Owyhee River	Malheur	*35,211.30	
Paulina Lake & Creek	Deschutes	530.00	
Pine Creek	Baker	13,839.63	
Pine Creek	Umatilla	*2,299.15	
Powder River	Baker & Union	*93,615.80	
Rattlesnake Creek	Harney	1,424.60	
Rickreall Creek	Polk	5.50	
Roberts Creek	Douglas	15.00	
Rock Creek, et. al.	Harney & Lake	22,263.70	
Rogue River	Jackson & Josephine	(6)*24,949.585	
Silver Creek	Harney	24,410.20	
Silver Creek	Lake	4,380.00	
Silvies River	Harney & Grant	*86,678.58	
Snow & Three Creeks	Deschutes	(10)560.00	
Sprague River	Klamath	*11,160.40	
South Branch Mud Creek	Umatilla	444.60	
Squaw Creek	Deschutes & Jefferson	14,693.20	
Sucker Creek	Josephine	*2,617.60	
Swan Lake	Klamath	975.80	
Tandy Creek	Lake	269.30	

STREAMS WHICH HAVE BEEN ADJUDICATED
(continued)

NAME OF STREAM	COUNTY	ACRES	
		VESTED RIGHTS	INCHOATE RIGHTS
Three Mile Creek	Wasco	28.45	
Trout Creek	Jefferson	*3,794.05	
Tualatin River	Washington & others	456.59	
Tumalo Creek	Deschutes	(9)5,164.70	
Umatilla River	Umatilla	*55,890.85	
Unnamed stream, trib. Willamette River	Marion	3.60	
Unnamed stream, trib. Tualatin River	Washington	6.90	
Walla Walla River	Umatilla	(7)*7,196.68	
Wallowa River	Wallowa	*37,253.72	
Warner Lakes	Lake	36,520.10	
West Prong, Little Walla Walla River	Umatilla	(8)563.74	
White River	Wasco	*5,706.45	
Wildhorse Creek	Harney	2,430.80	
Willow Creek	Malheur	*17,839.22	
Willow Creek	Morrow & Gilliam	6,238.98	
Wood River	Klamath	10,535.49	
TOTALS		*981,922.435	*58,963.54

NOTE: None of the above totals include rights initiated under the Water Code, except Willamette Valley Water Company under North Santiam River.

- (1) Rights allowed for stock and domestic use only.
- (2) Rights allowed for railroad purposes only. (Canceled)
- (3) Includes 9,646 acres awarded Walker Basin Irrigation Company, but does not include 50,000 acres of Jefferson Water Conservancy District.
- (4) Includes 104.0 acres in State of Washington.
- (5) Willamette Valley Water Company permits, now Santiam Water Control District.
- (6) Includes 0.125 acre in Curry County, 894.52 supplemental irrigation not included.
- (7) Includes 195.0 acres in State of Washington.
- (8) Includes 15.0 acres in State of Washington.
- (9) Adjusted for transfer to City of Bend and cancellations.
- (10) Adjusted for transfer and cancellations. (Tr. B-152)
- (11) Includes 14,615.65 acres that were irrigated when decree was entered, but 965.4 acres supplemental irrigation not included.

* Adjusted for canceled water rights.