



Water Resources Department Agency History

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1 Introduction

The State of Oregon has been involved in developing and managing the state's water resources since the nineteenth century, although the Water Resources Department in its present form was

not created until 1975. A variety of offices, boards, and commissions have been created and abolished since the management of water resources was first rationally addressed by the state in 1905. Major agency restructuring efforts occurred in 1955, 1975, and 1985.

The Water Resources Department is charged with managing public water in Oregon. Oregon Revised Statutes define this to include all surface and groundwater. A primary goal of the department is to protect existing water use while assuring enough water in rivers, lakes, and streams to support fish, wildlife, general water quality, and recreational needs. To further this, the department promotes water conservation and coordinates planning activities with governments from the local to federal level as well as with citizen groups. It also collects and manages information about streamflows, water rights, and other topics for public use.

2 Historical Narrative

Government attempts to control the appropriation and distribution of water in Oregon in the late nineteenth and early twentieth centuries proved unsatisfactory. The state was unsuccessful in carrying out the provisions of the Carey Act which the U.S. Congress passed in 1894 to grant arid federal land in western states to settlers.

The need for water laws and an office to oversee the state's water resources culminated in the creation of the Office of State Engineer in 1905 and in the Water Appropriation Act of 1909 which declared that all water in the state belonged to the public. The act also delegated to the state engineer the responsibility of regulating and developing the state's water resources.

The following discussion uses a functional approach to trace the development of laws and policies related to water in Oregon.

2.1 Reclamation and Irrigation

Responsibility for irrigation and reclamation projects was transferred from the State Land Board to the state engineer, and finally, in 1909, to the Desert Land Board which was created to oversee reclamation under the Carey Act. Under the Carey Act, a settler who wished to apply for land contracted with an irrigation company to provide water. Upon proof that the land was being settled, cultivated, and irrigated, the settler could receive title to the land. At first the Desert Land Board worked to assist in financing and completing early reclamation projects that had faced difficulties or failed. The board also entered into new contracts for reclamation projects.

A related commission, the Irrigation and Drainage Securities Commission, was created in 1917 to oversee the contracts executed by irrigation and drainage districts.

In 1927, the functions of the Desert Land Board and the Irrigation and Drainage Securities Commission were merged to form the State Reclamation Commission which was authorized to investigate and make recommendations concerning irrigation and drainage districts. In 1955, the Reclamation Commission was abolished and its functions were transferred to the State Water Resources Board.

2.2 Hydroelectric Power

With the adoption of a code of water laws in 1909, all water in Oregon was declared to belong to the public. The Water Appropriation Act outlined the framework for appropriating water. Originally, fees for the development of power were paid to the State Water Board; in 1911 the fees went to the state engineer.

In the 1920s and 1930s the Legislative Assembly continued to pass laws for water use and control and laws for withdrawals of water for special purposes such as municipal, recreation, aesthetics, pollution control, and hydroelectric power. In 1931, the Hydroelectric Commission was created to license power projects and to investigate water resources for conservation and development. In 1961, these functions were transferred to the state engineer.

2.3 Administrative Organization

In addition to its main functions of administering reclamation and hydroelectric programs, the state engineer had duties relating to conservation, flood control, and irrigation. The Willamette River Basin Commission, created in 1939, studied and managed navigation, irrigation, and flood control in the Willamette River Basin. The State Irrigation Board created water conservation districts in 1947. In 1951, the Upper Columbia River Basin Commission, headquartered in Pendleton, supervised public improvement projects in that basin.

The state engineer and the commissions were not the only agencies responsible for water resources. In addition, there were irrigation, drainage, and flood control districts, reclamation projects, Sanitary Authority, and Fish and Game Commissions. In 1955, following a major review of water legislation and policy, the Legislative Assembly passed the Water Appropriation Act and created the State Water Resources Board. The Willamette River Basin Commission, Upper Columbia River Basin Commission, Irrigation Board, and Reclamation Commission were abolished and their duties transferred to the State Water Resources Board which was given the task of formulating programs for the use and control of the state's water.

Further restructuring of the water agency occurred in 1975 and 1985. In 1975, the State Water Resources Board and the State Engineer's Office were merged to form the Water Resources Department. In 1985, the Water Resources Department was restructured and the Water Resources Commission was created to oversee all activities of the department.

2.4 Water Rights

2.4.1 Initiation of Water Rights

The system of recording water rights in Oregon originated with placer miners who posted notices claiming a certain quantity of water at its point of diversion from the natural channel for use on their claims. During this period, many streams were diverted entirely into other watersheds for mining or irrigation, and to create power for flour mills, woolen mills, and other factories.

The passage of Oregon's first unified water code in 1909 (L.1909, Ch. 216) introduced state control over the right to use water. The code dismissed the concept of "riparian rights," the right to use water because it flowed through an individual's property, and replaced it with the idea of

prior appropriation--first in time is first in right. Water users were required to file an application with the state engineer and include maps and drawings of important water diversion structures. Applications were also required to prove they were using the water "beneficially" for stock watering, irrigation, or fire control before a permit was issued. By limiting approved usage to defined parameters, monopolization of water resources was prohibited and the barter and sale of water rights was largely eliminated. (L. 1909, Ch. 216)

2.4.2 Adjudication of Existing Water Rights

In addition to providing a centralized and regulated method for issuing new water rights, the water code of 1909 prescribed adjudication procedures to inventory and investigate pre-1909 water rights claims. A "Board of Control" consisting of the state engineer and two appointees of the governor was established as the preliminary arbiter of claims for existing rights. These rulings were either upheld or denied in the circuit court in which the right was claimed.

The "Board of Control" was replaced in 1913 by the State Water Board, assuming the same functions and containing the same membership. (L. 1913, p. 82) By 1984 vested water rights in approximately 67% of the state, primarily the area east of the Cascade Mountains, had been determined in 91 adjudication proceedings. (1983-1984 Rpt.)

The 1909 water code divided the state into water districts with local enforcement of water rights and investigations of claims assigned to watermasters. Watermasters were appointed by the state engineer and funded by the county in which the work was performed. Their duties included regulating and adjusting headgates; enforcing orders of the state engineer, court decrees, and permits; filing copies of all related paperwork; making inspections of structures; supervising the installation of hydrometric devices; and protecting and policing the water rights of property owners. (L. 1909, Ch. 216)

2.5 Ground Water

The regulation and protection of ground water resources by the office of state engineer began in 1929 in the counties east of the Cascade Mountains. All major users of ground water were required to obtain permission from the state engineer by proving "beneficial" usage. Stock watering, watering of lawns and gardens, and household use of ground water was exempted. (L.1927, Ch. 410) Regulation of ground water resources was added to the area west of the Cascade Mountains by the Ground Water Act of 1955. (L. 1955, Ch. 708).

Major administrative duties relating to ground water regulation by the Office of State Engineer and the subsequent Water Resources Department included answering public inquiries relating to ground water and water wells; receiving, reviewing, and processing water well reports; collecting basic ground water data; licensing water well constructors; outlining ground water basin resources; determining critical ground water areas; publishing ground water information singly or in cooperation with the U.S. Geological Survey; and providing hydrogeological investigation and review of solid waste disposal sites and hazardous waste and sub-surface ground water quality problem areas in conjunction with the Oregon Department of Environmental Quality.

In 1982 the Water Resources Department adopted rules to provide standards and procedures for the development, use, and management of low temperature geothermal resources, a new technology with power generating capability. (1983-1984 Rpt., p. 23)

2.6 Regulation of Dams and Hydraulic Structures

The regulation and inspection of dams by the office of the state engineer began in 1911 with the requirement that owners pay an annual license fee based on the amount of water horsepower generated. (L. 1911, Ch. 236) Fees collected were placed in the "survey fund" which was used to finance the collection of streamflow data. The state engineer was given the authority in 1927 to inspect the plans and construction of any dam, canal, ditch, or other structure more than ten feet high or holding more than three million gallons of water. If the dam or structure did not meet specifications, he was authorized to interrupt construction or dismantle completed structures. (1927, Ch. 353) By 1984, there were 160 hydroelectric projects under license or permit from the Water Resources Department excluding federal projects, which did not require state permits or certification.

2.7 Policy / Planning

Beginning in 1895, the U.S. Geological Survey (USGS) conducted hydrometric work in conjunction with the state engineer and the subsequent Department of Water Resources. In 1905, the Legislative Assembly appropriated matching funds for USGS "streamgaging" work. (1905-1906 Rpt., p. 13) Legislative approval was required for each agreement until 1931 when the state engineer was authorized to singly enter into agreements with the USGS on an ongoing basis to investigate and survey surface and ground water resources. (L. 1931, Ch. 297) By the end of 1984, the Water Resources Department was operating 274 surface water gaging stations and 60 precipitation storage projects to measure rainfall.

Snow surveys were taken to predict streamflow, and thus irrigation potential, and to forecast flood potential. From 1928-1936 the state engineer established snow survey stations manned by local watermasters at the headwaters of streams considered to represent average conditions of a watershed basin. In 1936, the U.S. Bureau of Agricultural Engineering purchased equipment and built shelter cabins for the use of personnel. By the 1950s the U.S. Soil Conservation Service managed the survey stations and largely funded their operation.

3 Current Organization

To implement the broader goals of laws related to water, the Water Resources Commission sets statewide water policy through Oregon Administrative Rules. It also determines the use of unallocated water through the creation or amendment of programs for the 18 river basins in Oregon. The commission consists of a seven-member board that oversees the actions of the Water Resources Department. The governor appoints one member from each of five regions to terms of four years. In addition, one member each is appointed at large from either side of the Cascade Mountains. The Oregon Senate holds the authority to confirm members. During the regular sessions of the Legislative Assembly, the commission meets in Salem to better coordinate activities with lawmakers. Otherwise, meetings are held throughout the state to give

citizens more opportunity for involvement and to keep commission members in touch with local issues.

The director of the Water Resources Department executes the policies of the commission, enforces water laws, and oversees the administrative responsibilities of the agency. The director is appointed by the governor to four-year terms and is confirmed by the Oregon Senate.

As of 2002 the Water Resources Department was organized into five divisions:

Field and Technical Services
Resource Management
Water Rights and Adjudications
Director's Office
Administrative Services

The department headquarters and the Northwest Region offices are in Salem. Additionally, the department operates four other regional offices:

Southwest Region-Grants Pass
South Central Region-Bend
North Central Region-Pendleton
Eastern Region-Baker City

The department is further represented by 19 watermaster districts located around the state, with offices often located in or near county courthouses. Watermasters enforce water laws and measure water levels at locations in their districts.

Functionally, the department employs a wide range of experts from numerous disciplines such as hydrology, engineering, geology and planning. Water Resources Department employees document water levels at hundreds of gaging stations. They work to design long-range water plans for Oregon basins by mapping and studying underground aquifers. And they assist local governments and citizen groups by providing information and technical assistance.

3.1 Water Law and Policy

The commission sets and the department executes statewide general policies and more specific rules for most of Oregon's 18 river basins. The statewide policies include:

- protecting existing water rights.
 - allowing water uses only for beneficial purposes without waste.
 - improving the efficiency of water use.
 - allocating water only within the capacity of the resource to prevent over-appropriation.
 - recognizing water storage as an integral part of Oregon's water supply strategy.
 - protecting streamflows needed to support public uses.
 - encouraging the protection of water-related riparian functions.
 - managing groundwater to promote sustainable multiple uses.
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- allowing new hydroelectric power development only when there will be no harm to the state's salmon and steelhead or no net loss to the state's natural resources.

3.2 Field and Technical Services Division

The Field and Technical Services Division is the largest organizational unit within the department and includes management of the regional offices and watermaster districts. Among other areas of responsibility, the division provides information services, dam safety inspection and enforcement, water availability analysis, well construction inspection and enforcement, ground water hydrology, and water right transfers.

Watermasters use water rights priorities based in laws and rules to distribute water. They watch for diversions or appropriation of water without required permits. When streamflows lower in the summer, watermasters monitor both the supply and use of water in their area. They also answer complaints from users and reduce or shut off water as needed to maintain the water rights of senior users.

3.3 Water Rights and Adjudications Division

The process of rationally determining water rights continues nearly a century after the original legislation. The Water Rights and Adjudications Division accepts applications for new water use and issues water right permits, certificates, and limited licenses. The division organizes and processes adjudications of pre-1909 water right claims and it maintains the records of existing water rights in Oregon. It also coordinates the relicensing of hydroelectric projects. Currently, the department is adjudicating water rights in the Klamath Basin. This complex work is conducted with a backdrop of chronic drought and public protest related to the difficulty of balancing natural resource needs with economic and social needs.

3.4 Resource Management Division

Technical and planning services are provided by the Resource Management Division. Its experts assist in many of the scientific aspects and review of water management and conservation plans. The division coordinates with a variety of agencies, groups, and the public in relation to water planning activities. It also coordinates instream leases and reservations of water. Moreover, the division assists with water supply and water basin planning.

3.5 Dot Administrative Services Division

The Water Resources Department facilitative and support functions are conducted by the Administrative Services Division. It provides services related to fiscal management, training, personnel, clerical, copying, and mailroom functions as well as the Water Development Loan Program. This program is responsible for overseeing the Water Development Loan Fund, which provides money to finance irrigation, drainage, community water supply, fish protection, and watershed enhancement projects.

3.6 Director's Office

Coordination of legislation, policy, and public information is provided by the director's office. The director makes plans, establishes policies and programs, and oversees special projects to carry out the mission of the department. The focus of a majority of the director's efforts is on

relationships that are external to the Water Resources Department, including working with the Oregon Attorney General's Office on lawsuits and court cases involving the department. The director is the department's liaison with the governor and Legislative Assembly, and with other agencies on the local, state, and federal level. The director is a member of the Western States Water Council, an inter-governmental water resource planning body that facilitates the management of rivers and streams that flow through or between more than one state.

The deputy director focuses primarily on the day-to-day functions of the department. The hearings program within the office investigates, holds hearings, and issues special orders for the department on many issues including disputes over water rights, fines, and water management plans. The director's office also prepares administrative rules for filing with the Oregon Secretary of State's Office.

Note: Current Water Resources Department programs and records are described in a records retention schedule produced by the Oregon State Archives.

4 Chronology of Events

1894 U.S. Congress passed Carey Act.

1899 State Land Board created.

1901 Oregon accepted provisions of Carey Act.

1905 Office of State Engineer created.

1907 Administration of reclamation of desert land moved from the State Land Board to the State Engineer.

1909 Desert Land Board created to administer reclamation laws. Board of Control created. Office of State Water Superintendent (two positions) created for two water districts.

All water within Oregon declared to belong to the public. Water code passed.

1913 Board of Control name changed to State Water Board.

1917 Irrigation and Drainage Securities Commission created. Irrigation drainage districts organized.

1923 State Water Board and Office of State Water Superintendent abolished; duties transferred to state engineer.

1927 State Reclamation Commission created to oversee irrigation and drainage districts. Desert Land Board and Irrigation and Drainage Securities Commission abolished; duties transferred to Reclamation Commission.

1931 Hydroelectric Commission created to manage power plants.

1935 Committee formed to study navigation, irrigation, and flood control in the Willamette River Basin.

1939 Willamette River Basin Commission established.

1947 State Irrigation Board established to create water conservation districts. Membership of board is same as State Hydroelectric Commission.

1951 Upper Columbia River Basin Commission established.

1953-1955 Water Resources Committee functioned.

1955 Water Resources Board created. Irrigation Board, Reclamation Commission, Willamette River Basin Commission, and Upper Columbia River Basin Commission abolished.

Water Appropriations Act passed.

1961 Hydroelectric Commission duties transferred to state engineer.

1975 Water Resources Department created. Water Resources Board and Office of State Engineer merged to form Water Resources Department. Duties transferred to newly created office of Director. Water Policy Review Board created to supervise Water Resources Department; Water Resources Board abolished.

1985 Water Policy Review Board abolished; Water Resources Commission created.

1993 Watershed Management program established to coordinate activities of other state, interstate and federal agencies, local governments, local watershed councils, nonprofit organizations, and volunteer groups.

1997 The Water Resources Department cooperates with other agencies in the Oregon Plan for Salmon and Watersheds.

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