

Date: March 14, 2023

To: Chair Helm, Vice-Chair Owens, Vice-Chair Hartman and Members of the House Committee on Agriculture, Land Use, Natural Resources, and Water

From: Harmony Burrigh, Water Policy Advisor to Representative Mark Owens (HD 60)

Re: HB 3100 Amendments to Strengthen the Integrated Water Resources Strategy

HB 3100 was originally crafted to strengthen the Integrated Water Resources Strategy by addressing weaknesses that have been identified by state agencies, stakeholders, and the public through two updates and 10 years of implementation. The proposed amendments (attached) retain key elements of the original proposal while also addressing questions and concerns that have been raised via select stakeholder feedback. It is my professional opinion that these amendments will help create a more solid foundation to strengthen the IWRS but are ultimately insufficient to address many of the weaknesses identified. Oregon's water challenges will continue to intensify and the need for a coordinated framework will only increase. Unifying Oregonians around a coordinated framework will require a cohesive vision and purpose, steady leadership, a way to maintain social and political cohesion amongst different sectors and interests at multiple scales around a shared purpose, and sustained investments.

Background

Integrated water resources management is “a process that promotes the coordinated development and management of water, land and related resources in order to maximize economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems.”¹ In 2009 the Legislature authorized the development of an Integrated Water Resources Strategy (IWRS) through [HB 3369](#). The first Strategy was adopted by the Water Resources Commission and was last updated in 2017. The Oregon Water Resources Department is currently undertaking a 5-year update. After two updates and through ten years of implementation, a number of potential improvements have been identified.

Strengthening the IWRS: Proposed Amendments

Strengthening the IWRS so that it can truly help Oregonians understand and meet our instream and out-of-stream water needs will require a more concentrated undertaking than is possible through legislation alone. The base bill and amendments make minor adjustments to the existing statute to address some, but not all, of the weaknesses that have been previously identified. The amendments include:

Allowing More Time for Implementation Between Updates

- Require updates to the IWRS at least every 8 years rather than every 5 years to allow for more time to focus on implementation of recommended actions. Using an even number also allows the strategy to align with biennia.

Focusing on Implementation and Coordination with Other Relevant Plans

- Require that the IWRS describe how the Strategy will be implemented at multiple scales in a balanced, equitable, integrated manner. The current statute does not require specific provisions

¹ This definition is widely used and credited to the [Global Water Partnership](#).

describing how the strategy will be implemented. The lack of specific plans to implement the strategy has been identified as a weakness.

- Require that the IWRS describes how a biennial work plan will be developed to guide and support implementation. The current statute does not require development of a work plan. The amendment does not prescribe the contents of a work plan or the process for its development.
- Require that the IWRS identify how to support implementation of recommended actions in other state developed and state-recognized plans. The current statute does not encourage the IWRS to be coordinated with other relevant plans, despite the fact that coordination is a central tenet of integrated water resources management.

Tracking Progress and Accountability

- Require biennial progress reports to the Legislature on implementation progress, anticipated activities, policy changes needed, and investments needed. Reports to the Legislature do not occur on a regular, recurring basis, limiting the Legislature's knowledge of the Strategy as well as their ability to support the Strategy in an ongoing and cohesive manner.

Improving Inter-Agency Coordination

- Add agencies by reference to sections of the existing statute who play an important role in the updates to and implementation of the strategy, namely Oregon Department of Agriculture, the Oregon Watershed Enhancement Board, and Oregon Health Authority. Key agencies are not specifically called out in various sections of the statute where their inclusion might be beneficial.
- Require notification to the Boards and Commissions of core IWRS agencies when the Strategy is being updated or when an updated version is adopted. Only the Water Quality Commission is explicitly mentioned in the existing statute despite the fact that other commissions and boards have been notified in the past and should be notified in the future.
- Require that the IWRS describe provisions for inter-agency coordination and coordination with federal agencies during implementation. The statute explicitly calls for consultation with state and federal agencies in the development of the IWRS, but not in its implementation.

Communicating with and Engaging the Public During Implementation

- Require that the IWRS includes specific provisions for communication with the public and opportunities for public engagement during implementation. The statute explicitly calls for consultation with the public in the development of the IWRS, but not in its implementation.

Promoting Partnership with Tribes, Local Government, and Key Stakeholders During Implementation

- Require that the IWRS include specific provisions for partnership with the tribes, public bodies, and key stakeholders during implementation. The statute explicitly calls for consultation with Tribes and local governments in the development of the IWRS, but not in its implementation.

Recognizing Basin-Specific Critical Issues and Implementation at Appropriate Scales

- Require identification of critical issues at both the state and basin scales in the IWRS. Critical issues are currently a hallmark of the IWRS, but they are only identified at the state scales which may limit the relevance and effectiveness of the strategy at other scales. Building a shared understanding of critical issues is usually a necessary precursor for effective solution generation.

- Require that implementation of recommended actions should be considered at multiple scales. Some actions may be more appropriate at the state scale while other actions may be more appropriate at a regional, basin, or local scale.

Strengthening the IWRS: Unaddressed Issues

Unmet Need: Clarifying a Cohesive Purpose

- There is not a shared understanding of what the IWRS is and what it is meant to accomplish. It has been referred to as a blueprint and a framework though it does not appear that OWRD or state agencies use it as an organizing framework. It includes a broad suite of actions, but does not have include clear implementation pathways. Some view the IWRS as a potential vehicle for crafting broadly supported policy or coordinating water investments, though it has not effectively been used for either purpose in recent years. Some claim that the IWRS is Oregon’s Water Plan and some claim that Oregon doesn’t have a water plan and needs one. The 100 Year Water Vision confused stakeholders because they weren’t sure if the Vision was the framework for the Strategy or if the Vision was implementing the Strategy or if the Vision was replacing the Strategy. Regarding the link between the IWRS and place-based planning it is unclear whether place-based planning is a mechanism to implement the IWRS or whether place-based plans can roll up to inform the IWRS, or neither, or both. There is not a shared conceptual understanding of how the various efforts can or should fit together to achieve a specified purpose or outcome. There is also not consensus regarding whether the lack of a clear, cohesive purpose is a problem and whether or how to resolve it.

Unmet Need: Mechanism for Ongoing Coordination

- HB 3100 originally called for the creation of an Advisory Committee to support updates to and implementation of the Strategy, promote greater public participation, support a balanced approach to implementation, pursue partnerships and innovation between sectors, and identifying areas deserving of additional attention and resources. Preliminary outreach to some key stakeholders revealed very little support for an ongoing coordination mechanism with non-state actors. This section of the bill was removed. Integrated water resources management is a “*process that promotes the coordinated development and management.*” Integration will only occur through sustained, deliberative coordination between all sectors at multiple scales. The plan update process is and will be insufficient to ensure ongoing coordination. This is a core governance issue that remains unresolved. An analysis of how this is addressed in other states is in development.

Unmet Need: Technical Basis for the IWRS

- The current IWRS statute calls for agencies to “develop data on an ongoing basis to forecast Oregon’s instream and out-of-stream water needs,” which should provide a technical basis for updates to the IWRS. The last forecast was developed in 2015 and only included out-of-stream uses. Other states develop a technical product at the statewide and basin scales to inform both statewide and basin water planning. In Oregon there is not a consistent technical product developed by the state on a recurring basis to inform the statewide strategy or basin planning processes. An analysis of how this is addressed in other states is forthcoming. This may be addressed through the Responsible Water Accounting Bill (HB 3368).

Unmet Need: State Agency Capacity and Mechanism for Inter-Agency Coordination

- State agency capacity is not explicitly addressed in this bill but must be considered in any appropriations contemplated this session. Agencies need sufficient capacity to support updates to and implementation of the IWRS. No specific mechanisms for inter-agency coordination were introduced in this bill and will benefit from further consideration. An analysis of past and current mechanisms for inter-agency coordination is in development.

Unmet Need: Community Capacity and Public Participation

- Community capacity is not explicitly addressed in this bill but must be considered in any appropriations contemplated this session. Communities need sufficient capacity to support updates to and implementation of the IWRS. Public participation in the update process is also not explicitly addressed in this bill and will benefit from further consideration. An analysis of past and current public participation opportunities in the IWRS is in development.

Strengthening the IWRS: Identification of Weaknesses

Agency Testimony

Informational testimony provided to the House Interim Committee on Agriculture, Land Use and Water by the core IWRS agencies (the Water Resources Department, the Department of Environmental Quality, the Department of Fish and Wildlife, and the Department of Agriculture) in December 2022 highlighted progress made since 2017 and agency recommendations for continuing to make progress, including the following:

- Dedicated capacity is needed at OWRD and other key agencies to support ongoing coordination and implementation of the Strategy.
- More time is needed between IWRS updates to allow for an increased focus on implementation.
- The next update of the IWRS should clarify how the Strategy will be implemented, specifically:
 - Increase clarity about what entities should lead implementation of various recommended actions at the state and local levels.
 - Specify potential policy changes and/or investments needed to make progress on recommended actions.
- Funding has been inconsistent over time and sustained investments are needed to continue to make progress on recommended actions (e.g., the Water Data Portal will require investments over multiple biennia).
- Awareness and use of the IWRS across agencies varies significantly and there is a need for increased coordination to ensure that the Strategy is informed by and relevant to affected state agencies.

2022 Secretary of State's Water Advisory Report

The 2022 Secretary of State's Water Advisory Report identified a number of weaknesses with water governance in Oregon, including several findings immediately relevant to the IWRS:

- Many communities are not fully integrated into water decisions and often not even aware there is a problem.
- The Oregon Integrated Water Resources Strategy is not clearly connected to state and regional planning efforts and does not have clear implementation pathways.

- Oregon’s state leadership and agencies do not necessarily share water security priorities. Agencies have distinct areas of focus and limited resources and capacity that limit the ability to engage broadly with communities or work across agency lines.
- Oregon water data is disaggregated, sometimes incomplete, and not set up to support regional governance needs.
- Oregon lacks a water funding strategy that ties state and regional planning to investments. The state’s water infrastructure suffers from decades of disinvestment and natural resource agencies lack funding and capacity to properly enact their duties.
- State water regulatory agencies have broad discretion but face external pressures that may hinder them from fully using this discretion to benefit the public.

2016 Secretary of State’s Audit of the Water Resources Department

The 2016 Secretary of State’s Audit of the Water Resources Department also noted the limitations of the IWRS, noting the following:

- WRD staff across multiple divisions and in various field office locations indicated that the IWRS did not have much bearing on their jobs and many knew little or nothing about its implementation. The IWRS has not significantly influenced agency culture, functions, or priorities.
- WRD’s program planning seems to be siloed with limited coordination between divisions and priorities are not identified. In addition to improved inter-agency coordination, there is a need for improved internal coordination.
- The IWRS is not a replacement for agency-specific strategic plans to prioritize key functions and responsibilities.

Professional Observations

I had the opportunity to work closely with agency and community partners on implementation of many recommended actions in the IWRS at both the state and local levels when I worked for the Water Resources Department from 2015-2021. I assisted with public outreach for the 2017 update and have conducted extensive research on state and basin water planning in Oregon and other states. I experienced first-hand the challenges of pursuing an integrated approach in Oregon and walked away with the following observations:

- There is not a shared understanding of the purpose and function of the IWRS, which limits its overall effectiveness and increases divisiveness.
- The IWRS alone lacks information that is necessary to support implementation and should be accompanied by an implementation plan or work plan. The 2012 IWRS was accompanied by an inter-agency work plan. A work plan was not developed for the 2017 update.
- Many communities are unaware of the existence of the IWRS. Those that are aware are not sure whether and how the Strategy affects or benefits them.
- Information presented in the IWRS is aggregated to the state level, which dilutes its relevance to communities who have different hydrologic realities and water challenges.
- Agency outreach through the IWRS and related efforts such as the Water Vision have not resulted in visible follow-up or follow through for many communities, which has the effect of

diminishing trust. An extractive approach to outreach does not generate buy-in to the Strategy, especially when it occurs at infrequent intervals and does not appear to build on past efforts.

- While the IWRS is oftentimes referred to in agency documents, it has not been effectively used to coordinate agency activity.
- Various sectors and entities have different levels of buy-in to the Strategy, which generally corresponds with their level of participation in its original development, their experience with and perception of the process, and whether they feel that implementation has been balanced.
- Durable partnerships across sectors have been difficult to develop and sustain, and there is a tendency for agencies and stakeholders to revert to silos.
- Significant investments in water have resulted largely from intermittent efforts by enthusiastic individuals rather than through a cohesive, coordinated statewide investment strategy.