

Drought declared in Klamath County

By **GEORGE PLAVEN**
Capital Press

KLAMATH FALLS, Ore. — For the second straight year, Oregon Gov. Kate Brown has declared a drought emergency in Klamath County.

Brown signed an executive order March 31, citing lack of precipitation and low winter snowpack.

“Forecasted water conditions are not expected to improve, and drought is likely to have significant economic impacts on the farm, ranch, forest, recreation, drinking water and natural resources sectors, as well as impacts on fish and wildlife and other resources which are dependent on adequate precipitation and

streamflow in these areas,” the order states.

An emergency drought declaration gives state agencies the ability to expedite water management tools for affected producers, such as emergency water permits, exchanges, substitutions and in-stream leases.

As of April 2, total precipitation for the water year dating back to Oct. 1 was 70% of normal in the Klamath Basin, and snowpack was 78% of normal, according to the USDA Natural Resources Conservation Service.

Much of Southern and Central Oregon is mired in severe to extreme drought. The U.S. Drought Monitor shows 12.5% of the state is in extreme drought, includ-



U.S. Bureau of Reclamation
The Klamath Basin.

ing the Klamath Basin, indicating heightened risk of wildfires, lower-than-normal reservoir levels, irrigation shortages and higher-than-normal river temperatures for fish.

The Klamath Project,

which provides irrigation water for approximately 230,000 acres of farmland in Southern Oregon and Northern California, is facing a critical year, with record-low inflows coming in to Upper Klamath Lake.

Irrigators are now awaiting their water allocation from the U.S. Bureau of Land Management. Jeff Payne, deputy regional director for the bureau, forecast 130,000 acre-feet of water for the project at the beginning of March — less than one-third of historical demand.

If that occurs, it would be the lowest allocation for the project on record since the shutdown of 2001.

On March 26, the Klamath Water Users Association sent a letter to Jared

Bottcher, acting manager of the bureau’s Klamath Basin Area Office, urging changes to the agency’s interim operating plan for the Klamath Project.

The plan aims to balance the needs of agriculture with the survival of endangered fish, including shortnose and Lost River suckers in Upper Klamath Lake and salmon in the lower Klamath River.

The letter, signed by KWUA Executive Director Paul Simmons, points to “legal and technical defects” in the interim operating plan, which calls for both minimum water levels in Upper Klamath Lake for suckers and high enough streamflows in the lower Klamath River for salmon.

But in a previous inter-

view, Payne said the bureau does not expect to have enough water this year to meet either of those thresholds.

“This will be a disastrous year for the farm and ranch families in the project, as well as the wildlife and migratory birds that depend on farm and ranch land and two of the most important wildlife refuges in the nation,” the KWUA letter states.

“The agricultural community is already comparing this year to 2001, the year when in April, Reclamation announced zero deliveries for the project due to Endangered Species Act restrictions. That event was a shock to our rural communities. The impact cannot be overstated.”

Oregon wetland restorations provoke controversy

By **MATEUSZ PERKOWSKI**
Capital Press

Clearing blackberry bushes and leveling about 4 acres of land has proven costlier than expected for Oregon farmer Jack Scott.

Though Scott didn’t notice saturated soils or standing water on the parcel, state regulators accused him of destroying a wetland.

Restoring the property to their specifications would cost more than it’s worth, he said. “It would probably bankrupt me to have to do it.”

Lawmakers recently decided against moving forward with a bill that would prohibit Oregon’s Department of State Lands from requiring landowners to enhance wetland areas beyond their original condition after a fill-removal violation has occurred.

Instead of voting on House Bill 2246, the House Agriculture and Natural Resources Committee will form a work group that will recommend another bill for next year’s legislative session.

Such wetland restoration requirements are “a small subset of a significant problem” with DSL’s fill-removal enforcement, said



Joshua Bessex/EO Media Group File

A wetland is pictured in this file photo. Oregon lawmakers have decided against moving forward with a bill that would affect restoration of wetlands after fill-removal violations.

Dave Hunnicutt, executive director of the Oregon Property Owners Association.

Landowners don’t have a reliable, clear-cut way to check whether their property contains a wetland, leading to costly fill-removal fines and remediation, he said.

“It’s not sophisticated people who develop land who deal with this issue all the time. It’s typically a problem for a farmer, a husband and wife who own a piece of property, who don’t really understand

the law,” Hunnicutt said.

Inventories kept by county governments and DSL often don’t include areas that are later determined to be wetlands, even though they appear to be ordinary fields, he said.

“You end up with unsuspecting property owners doing work, only to find out subsequent to that, that what they’ve done is wrong,” he said.

Although DSL didn’t take a position on HB 2246, the agency

said it already lacks authority to require wetland enhancements.

“The department does not require wetlands damaged by fill-removal violations to be restored or mitigated to create functions and values that did not exist prior to the fill-removal activity,” said Bill Ryan, its deputy director.

While removing invasive species doesn’t violate fill-removal law, it often involves excavation or adding dirt, which are violations that require remediation, he said.

The agency requires that landowners restore wetlands to their original state, which typically involves an investigation into the property’s pre-violation condition using aerial photos and other tools, Ryan said.

“Sometimes people disagree as to what that is, but there is an administrative process to address that,” he said.

The Oregon Farm Bureau has found such wetland restorations to be a “persistent problem” for farmers because the work involves planting native species on parcels that were previously neglected.

“They’ve grown into noxious weeds or vegetation we don’t want on the property, so they’re asked to

replace it with something more or different than what had been there before,” said Mary Anne Cooper, the group’s vice president of public policy.

In Jack Scott’s case, he had leveled and removed the vegetation from the property in preparation for a larger hazelnut-planting operation.

In 2019, Oregon’s Department of State Lands imposed a \$6,000 civil penalty on him for altering a wetland without a fill-removal permit.

Though Scott has paid the fine, he’s reluctant to comply with the agency’s restoration requirements.

Scott said he’d have to revegetate about 6 acres of property with native plants, maintain them for five years and build a pond.

The Department of State Lands said it’s inaccurate that Scott was required to create a pond, only that he’d have to replant the affected wetland area.

Native plants are expensive to buy and maintaining them is also problematic, Scott said.

“You’d have to be out there hoeing every year,” he said. “And you’d have to irrigate to get them going.”

Washington farm groups: COVID housing rules outdated

By **DON JENKINS**
Capital Press

The Inslee administration has abused its powers by sticking with emergency farmworker housing rules, ignoring the fact that workers are being vaccinated for COVID, farm groups claim in a court filing.

The Washington Farm Bureau and Walfa, a supplier of foreign farmworkers, petitioned Yakima Superior Court on April 2 to toss out the 11-month-old rules. A hearing is set for April 16.

The groups claim the state has not bothered to reconsider social-distancing requirements written in the pandemic’s early days. The rules reduced housing capacity in 2020 and exposed farms to fines.

Walfa executive director Dan Fazio said Tuesday the rules should vanish when farmworkers are vaccinated, and that will happen soon.

Maintaining the rules after that will be a slap at farmers who hire and house foreign farmworkers, he said. “It’s not about workplace safety. It’s about politics,” he said.

The petition was filed against the Department of Labor & Industries and the Department of Health. An L&I spokesman said in an email Tuesday that the department expects to renew the emergency rules in May.

“At the same time, we’re continuing to consider permanent rule changes. We’re using what we learn during the emergency rules process to help inform the potential permanent changes,” he said.

A health department spokeswoman said the agency could not comment on a legal matter.

The state set the emergency rules for farmworker housing last May 13. Emer-

gency rules must be renewed every 120 days. Labor and Industries renewed the rules in September and January.

The farm groups complain the agencies have dodged discussions about whether the rules should be revised.

“I don’t see the rules coming off,” Farm Bureau CEO John Stuhlmiller said Tuesday. “All they know is, ‘Coronavirus — bad, bad, bad, and we have to live with it for the rest of our lives and be locked down.’”

“We’re hoping the court will finally say, ‘This could be better,’” he said. “It’s incumbent on the agencies to stay current with reality and science.”

“There’s no way you can have emergency rules for a year.”

The emergency rules require workers assigned to units with bunk beds to be isolated in groups of no more than 15.

Farmworkers with COVID or symptoms must be checked twice daily by a licensed health professional, a level of care not required for the elderly in assisted-living centers, the farm groups note.

The farm groups are not challenging rules that require farmworkers to wear masks, wash their hands and spread out while working in fields.

Fazio said he expects all, or nearly all, foreign farmworkers to be vaccinated. “We don’t tell them they can’t come, but they well understand that getting vaccinated is part of living in a congregate setting.”

Medical Teams International, a health organization, has been testing farmworkers coming into the state on H-2 visas. The organization reported that between Jan. 12 and April 5 it tested 7,183 workers and 16 tested positive for COVID, or 0.22%.

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