

Nine water rights tools for farms, ranches facing drought

By **SIERRA DAWN McCLAIN**
Capital Press

As much of Oregon faces another year of drought, water experts say farmers and ranchers should be aware of all the tools available to them under the state's water laws.



Elizabeth Howard



Lindsay Thane

At a seminar March 29, Elizabeth Howard, Oregon water law attorney, and Lindsay Thane, natural resources attorney, both of Schwabe, Williamson & Wyatt, spoke about nine tools for farmers through the state Water Resources Department, or OWRD.

"There are tools available to water users, especially in drought years," said Thane.

- **Drought transfers:** If Oregon's governor issues a drought declaration for a county, water users in that county can then access emergency water use tools, one of which is a "drought transfer."

According to Thane, a farmer can



Sierra Dawn McClain/Capital Press

Irrigation systems on a farm near Mount Hood.

apply for an expedited, short-term drought transfer of their water right to change its type of use, place of use or location of the point of diversion.

- **Temporary emergency water use permits:** This tool is also only available to drought-declared counties.

According to Thane, if an existing surface water right doesn't have enough water during drought — for example, a stream dries up — then the farmer can apply for an emergency permit to temporarily tap into groundwater.

These expedited applications

should take 10 days to process.

- **Temporary transfers:** A temporary transfer allows farmers to move water to areas of critical need. Applicants need not come from a drought-declared county.

A farmer can change the place of use, point of diversion or type of use of a certified water right and can move water on their own property or temporarily transfer to another farmer.

Unlike the first two tools, a temporary transfer takes longer to apply for and process.

"This isn't a particularly speedy

process most of the time," said Thane.

Howard said this tool "is really good to think about for long-term planning."

- **Agriculture water use transfers:** Howard said an agriculture water use transfer can be useful during hot and dry years.

The tool enables a farmer with an existing irrigation water right to use that right for purposes other than irrigation — "incidental agricultural uses" including dust control, keeping farm animals cool or giving drinking water to livestock within limitations.

- **Limited licenses:** A limited license is a short-term tool for a farmer who does not have water right.

According to Howard, a farmer can apply for a limited water license to establish a crop for which further irrigation won't be required, such as a vineyard or hazelnut orchard, or to mitigate the impacts of drought when water is needed "to avoid irreparable damage to the user's crop."

- **Exempt water uses:** Howard said it's also useful for farmers to be aware of exempt water uses in Oregon — opportunities to use water within limitations without applying for a permit.

Farms may qualify for the surface

water stock water exemption, commercial and industrial uses exemption and domestic water rights exemption.

- **Conserved water rights:** A conserved water right allows a farmer to shrink a water right temporarily and move the balance to other places, such as to in-stream flows that benefit fish.

- **New water right:** A farmer can also apply for a new water right, but these are difficult to get.

"It's pretty much impossible to get a surface water right in Oregon right now because basically all the water has been allocated," said Howard.

Thane said getting a new groundwater right is more plausible, but OWRD has labeled some parts of Oregon as "groundwater restricted areas" where new wells can't be drilled.

- **Stored water right:** The final tool is called a stored water right, enabling a farmer to create a pond or reservoir.

For this tool, said Howard, a farmer needs two rights — the right to store water and the right to remove water from a reservoir or pond for a specific purpose. The right to store water is separate from the right to use the stored water.



Owyhee Irrigation District

The Owyhee Reservoir near Adrian, Ore.

Owyhee Irrigation District cuts allotment

By **BRAD CARLSON**
Capital Press

The Owyhee Irrigation District's governing committee has set this year's allotment at just above half of normal.

The Nyssa, Ore.-based district's Joint Committee on March 31 set it at 2.1 acre-feet. It was 3.0 acre-feet last year, when a dry spring and unusually hot summer pushed demand, compared to 4.0 acre-feet when Owyhee Reservoir is full.

The committee said it will monitor conditions through the start of irrigation season and adjust the allocation if the water is available.

Clancy Flynn, the district's manager, told Capital Press that the reservoir contains enough water to support this year's 2.1 acre-foot allotment.

Snowpack in the Owyhee River Basin was 47% of the 30-year median as of April 4, USDA's Natural Resources Conservation Service reported.

Flynn said in-district transfers are allowed in drought years.

For example, one field could be left fallow and its 2.1-acre-foot allotment transferred to another field and added to its allotment, providing a combined 4.2 acre-feet.

"What we've heard most of is people switching different crops," he said. Some farmers planned to plant less corn and more small grains, which use less water and are harvested earlier.

Flynn said the current allotment increases the risk that a normal year's crop mix will fall short of water, especially for irrigators operating near a canal's end late in the season.

"It's going to be a tough year," he said, "not even close to an ideal year for anybody in the Owyhee Irrigation District or anybody in most of Oregon, for that matter. But farmers are resilient, and they'll find a way."

Southeast Oregon farmer Bruce Corn said many irrigators in the district planned for the short water year.

He said some spring wheat has been planted, and he expects some reduction in corn acres. Some ground totally dependent on the reservoir will be fallowed, and there will be some transfers to higher-value crops.

"The key now is the length of the season as much as the quantity," Corn said. Usage could vary based on summer heat, for example.

"Conservation is a big deal in a year like this," he said.

Corn said that in recent years, most of the district's large onion crop converted to water-saving drip irrigation and more growers of various crops installed efficient sprinklers. Both strategies "stretch the supply longer than in years past."

The district also pumps from the Snake River. Flynn said that allotment did not change.

Irrigators receiving water from both rivers use Snake water where possible to help reduce Owyhee usage.

Releases from Owyhee Reservoir into the Owyhee River increased April 2 so Old Owyhee Canal could be primed ahead of a planned April 6 start of Snake River pumps. The canal will convey a mix of water from both rivers for most of the season.

Delivery from the district's four canals is expected to be fully underway by April 11.

Owyhee Reservoir can store more than 1.5 year's worth of water. Most of the carryover from the 2020 irrigation season was used last year.

Drought looms in Washington; no state relief funds set aside

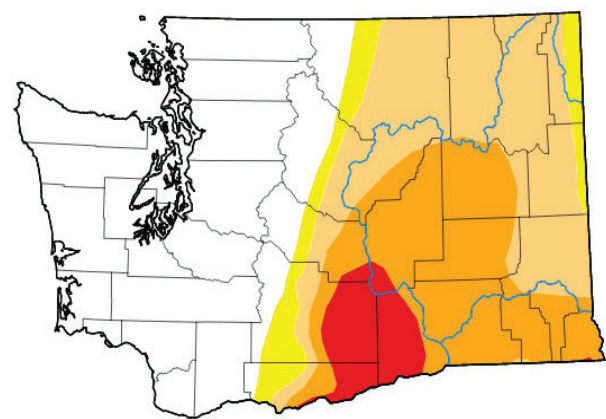
By **DON JENKINS**
Capital Press

Drought likely will strike portions of Eastern Washington, a state Department of Ecology official said Friday, catching the state for the second straight year without money for relief projects.

The state's snowpack started strong, but was down to 80% of normal on Friday. Some basins, particularly in southeast Washington, probably will have summer water supplies below 75% of normal, the threshold for a drought declaration, Ecology drought coordinator Jeff Marti said.

Ecology has no money for drought-relief grants, he said. Lawmakers didn't fund Ecology's request to establish a permanent account that could be drawn upon in an emergency.

Moses Lake Sen. Judy Warnick, the top-ranking Republican on the Senate agriculture committee, sponsored the bill to set up a \$3 million account. The



Intensity	
None	None
D0 (Abnormally Dry)	D0 (Abnormally Dry)
D1 (Moderate Drought)	D1 (Moderate Drought)
D2 (Severe Drought)	D2 (Severe Drought)
D3 (Extreme Drought)	D3 (Extreme Drought)
D4 (Exceptional Drought)	D4 (Exceptional Drought)
No Data	No Data

NOAA

Washington Drought Monitor

bill passed the Senate unanimously, but was not voted on in the House.

"That was extremely disappointing," Warnick said Friday. "I'm going to try again next year."

April 1 is the traditional date for sizing up the winter's snowpack. At 80% of normal, the snowpack is the 10th smallest in the past 33 years. It's much healthier than the 21% of normal in 2015, the year of the "snowpack drought."

The snowpack was 95% of normal on March 1. Nat-

ural Resources Conservation Service water supply specialist Scott Pattee said the snowpack has probably peaked and there is little chance for a rally.

More likely, he said, it will run off early, which is especially concerning for irrigators in basins without reservoirs.

Above-average temperatures have ripened the snowpack to melt and only a cold snap can hold it back now, Pattee said. "We've got that train rolling," he said.

Yakima River Basin reservoirs held 132% of their normal volume of water on Friday. The Bureau of Reclamation in early March forecast full or nearly full water allotments for junior water-right holders in the basin. The bureau will update the forecast in early April.

Last year, a dry spring drove much of Eastern Washington into a drought. Ecology had \$700,000 for three state agencies, but no drought-relief funds for irrigation districts or cities.

Water agency funds repairs at Friant-Kern Canal

By **SIERRA DAWN McCLAIN**
Capital Press

SACRAMENTO, Calif. — The California Department of Water Resources has allocated almost \$30 million to help repair the Friant-Kern Canal, which has lost more than 60% of its original water-carrying capacity in eastern Tulare County due to land subsidence — settling or sinking of the earth's surface.

The 152-mile-long canal is a major artery for water delivery in the San Joaquin

Valley, delivering water to about 1 million acres of farmland stretching from Fresno to Bakersfield. It also brings water to more than 250,000 Californians.

Segments along a critical 33-mile stretch in Tulare County have been damaged by land subsidence. According to the water department, subsidence has been a long-term challenge that recent droughts have exacerbated.

The damaged segments have threatened the canal's water-carrying capacity, a problem for irrigators who

rely on the conveyance system.

Ernest Conant, the Bureau of Reclamation's regional director for the California Great Basin Region, recently told the Capital Press that fixing the Friant-Kern Canal is "very important" to farmers and California communities.

Although Reclamation owns the canal, the federal agency's projects usually involve a cost-share aspect, so the state's commitment this month to help with funding is significant. Phase one of the project is estimated

to cost \$292 million. California Department of Water Resources released \$29.8 million in funding to help meet this goal.

The first step in repairing the canal started in January, and this additional funding will continue to move the repairs forward. The project is expected to be completed in 2024.

Friant Water Authority CEO Jason Phillips said this funding is "a large part of the reason that we were able to break ground" on the project early this year.

CREATE A PLANTER RUNWAY

The **Rolling Harrow**[®] soil conditioner has been creating smooth, one-pass seedbeds with consistent soil density for more than 30 years. The time-tested design saves you time and money during the planting rush when partnered with your high-speed tillage tool, field cultivator or disc. Choose a 16" or 12.5" diameter basket with a trailing drum or basket to fit your needs.

Unverferth Mfg. Co., Inc.
P.O. Box 357
Kalida, OH 45853
unverferth.com | 419.532.3121

➤ **Prepare the ideal seedbed**
Visit UMequip.com or see your nearest dealer today.

SOIL CONDITIONERS