State of Oregon
DEQ Department of Environmental Quality

Temperature Total Maximum Daily Loads Replacement project: John Day River Basin

Written comments – AMMENDED

This document provides a compilation of written comments submitted by Rule Advisory Committee members during the designated comment period for RAC Meeting 1. Meeting materials were posted on January 14, 2026, and the RAC convened on January 28, 2026. The comment period was open from January 28 through February 5, 2026.

This document was amended on March 3, 2026, to include additional comments received by the Oregon Department of Agriculture and the Grant Soil and Water Conservation District board of Directors.

Original comments are on file with DEQ.

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Comment 1: US Bureau of Land Management

Subject: BLM comment on Draft John Day River Basin Total Maximum Daily Load (TMDL) (dated January 28, 2026)

Oregon Department of Environmental Quality:

The Prineville District Bureau of Land Management (BLM) appreciates the opportunity to comment on the Draft John Day River Basin Total Maximum Daily Load (TMDL) (dated January 28, 2026).

As a Designated Management Agency (DMA) overseeing 418,402 acres—including 54% of the North Fork's streamside area—we are committed to meeting water quality standards through effective land management.

We respectfully submit the following comments regarding the proposed requirements for a new Implementation Plan on pages 18-19 of the draft TMDL:

Suggested Text Revision: The BLM suggests replacing the phrase:

- *"Given the continuing issues identified above and the limited improvements made since the publication of the John Day RMP, there is a clear need for a more targeted approach, informed by additional temperature monitoring, streamside evaluation, and shade gap analysis."*

with

- *"Given the continuing issues identified above and the limited improvements made since the publication of the John Day RMP, there is a clear need to consider water quality when prioritizing the implementation of 43 CFR 4100, informed by additional temperature monitoring, streamside evaluation, and shade gap analysis."*

Collaborative Strategy: BLM suggests emphasizing collaboration with other DMAs to avoid redundant monitoring, and DEQ help with shade gap analysis. This approach allows the BLM to address unauthorized livestock use within the regulatory framework of **43 CFR 4100,** while utilizing the best available shared information.

Resource Optimization: The BLM operates under fixed annual Congressional appropriations. By collaborating and using the best available information, the BLM would optimize the use of appropriated funds on the most essential priority management actions.

Again, we appreciate the opportunity to comment.

Comment 2: US Forest Service

I have looked over the draft documents and do not have any comments at this time.

Comment 3: Phil St. Clair

Reading table 2 is not reassuring to me that DEQ has a good handle on the water temperature big picture.

I see the words, "regulatory and enforce" prominent in there. That will not be productive in Grant County.

I have worked for 40 years to improve shade and will continue to do so until I am dead or nearly so. Still, do not put all your eggs in that basket. Shade could cool the rocks in a dry channel, but it's still a dry channel.

Nothing here sounds as though you are addressing the BLM or National Forest. 2 Agencies that I don't think DEQ has any regulatory power over.

An issue that is more prevalent on Federal lands is conifer versus hardwood along streams. For many years, a flawed shade paradigm has allowed conifers to "shade" and crowd out aspen, willow, red osier dogwood, alder, cottonwood and other hardwood trees and shrubs along streams. I hope this will be addressed IF the feds actually can and will do stream assessments.

Planting trees and protecting them will be very expensive, but that is what it is.

I do not agree with taking flood irrigation rights and putting that water back in stream.

Whole channel modification is very expensive and usually only taken on by rich, absentee landowners that are not concerned with making a living on the agricultural potential of their land.

Beavers tend to produce in-channel ponds a lot. What should we do about that?

There is no mention of upland restoration which makes me worry that DEQ doesn't understand the water cycle. I think DEQ needs to hire some Range and Forestry specialists.

I am reminded of a line from the Game of Thrones series. "You know nothing, John Snow!"

Comment 3: Oregon Department of Agriculture 1 of 2

ODA Water Quality will be meeting this Friday to determine our alignment on RAC TMDL comments. We'll do our best to stay aligned with your requested deadlines for submitting recommendations, but we may be a bit late on this first round.

I do plan to submit comments related to monitoring but those will follow after this Friday's meeting.

Regarding your question on Table 2 (page 7) management strategies: the John Day Partnership, through the Atlas prioritization process for the John Day Basin, identified approximately 27 aquatic restoration actions. You already have a strong list, but a couple of

additional actions that may be worth considering is to include beaver restoration and management, as well as potential aquifer recharge projects informed by the recently completed groundwater survey by Grant SWCD, which is currently in the analysis phase in the Upper John Day.

I've also attached (below) a table of upland-specific restoration actions that, while focused on uplands, provide water quality benefits through a ridge-top-to-ridge-top restoration approach. I'm not sure whether these would be appropriate to include in the plan, but they represent restoration actions currently occurring throughout the basin.

Additionally, I attached the John Day Basin Strategic Action Plan. This plan is currently being updated by the John Day Basin Partnership to be included in the Basin's OWEB FIP application this year but is a good reference for the Basins goals, objectives, restoration actions, and priorities.

Please let me know if you have any questions.

Comment 4: Oregon Department of Agriculture 2 of 2

We appreciate the opportunity to comment on the draft TMDL for the John Day Basin and strongly support efforts to improve water temperature monitoring and management. To ensure effective implementation and adaptive management, we recommend expanding and standardizing monitoring across the basin, integrating modeling tools, and using data to guide restoration priorities and evaluate project effectiveness.

1. Establish a Coordinated Multi Partner Monitoring Network

We recommend forming a "John Day Water Temperature Working Group" composed of state agencies, Tribes, federal partners, Soil and Water Conservation Districts, Watershed Councils, NGOs, and local landowners. A collaborative structure will ensure consistency, transparency, and shared responsibility for monitoring and data management.

2. Inventory Existing Data and Incorporate into AWQMS

A comprehensive inventory of existing and historical stream temperature datasets is essential. We recommend that DEQ catalog all monitoring efforts including those by Tribes, USGS, watershed councils, and volunteers and incorporate these records into the AWQMS database. We understand that some water temperature data is currently excluded due to differences in collection methods, data ownership, or difficulty formatting data for AWQMS. Including these datasets will strengthen the database, reduce duplication, and support basin wide analysis and decision making.

3. Expand Monitoring Across Subbasins

Current monitoring is limited in both spatial and temporal coverage. We recommend establishing additional monitoring stations at strategic locations throughout the Upper, Middle, North Fork, and Lower John Day subbasins, with priority given to under monitored tributaries and representative reference streams. Expanded coverage will improve basin-wide

assessments of temperature status and trends and support evaluations using existing water quality index metrics.

In 2025, Local Advisory Councils across all four Agricultural Water Quality Management Areas in the John Day Basin expressed consistent support for expanded, basin-wide, and more informed water quality monitoring to better assess conditions and guide management actions.

4. Integrate Modeling, Climate Scenario Analysis, and Adaptive Management

Monitoring data could be paired with DEQ's Heat Source modeling and other analytical tools to evaluate both current and future temperature regimes. This integration will enable managers to identify stream reaches where restoration actions such as riparian shading, channel modification, or flow augmentation will have the greatest cooling effect. Ideally modeled outputs would be made publicly accessible through interactive maps to provide a practical tool for restoration prioritization, improve transparency, and strengthen stakeholder engagement.

In addition, water temperature data combined with modeling should guide restoration prioritization and demonstrate project effectiveness. Continuous monitoring before and after implementation provides tangible evidence of success, building trust with landowners and partners. This feedback loop is essential for cost effective, climate resilient restoration and helps deliver measurable improvements.

Summary Statement

We strongly recommend that DEQ integrate a basin wide, standardized water temperature monitoring network with its modeling framework to guide restoration prioritization and adaptive management. Monitoring data should be used to identify and prioritize impaired reaches, evaluate project effectiveness, and inform adaptive strategies when actions are insufficient to achieve water quality standards. This approach will maximize ecological benefits, build stakeholder confidence, and ensure restoration investments are strategic and climate resilient.

Comment 5: Grant County Soil and Water Conservation District 1 of 3

Hey Trea,

I mentioned at the meeting last week that I had to respond to some questions in a grant regarding Grant County's social status.

Here was a screenshot of the results. The grant was for fire resiliency through the Community Wildfire Defense Grant program.

The datasets are referenced; not all would be applicable to the TMDL, but there are a few that regard income and climate / economic justice.

Hope this is helpful,

Comment 6: Grant County Soil and Water Conservation District 2 of 3

Just wanted to follow up after yesterday.

The message below is from the Grant County Assessor. A property under ag. deferral has to demonstrate agricultural income in order to keep the status; I'm not sure if there is a similar requirement for private forestlands.

I ran a quick analysis of parcels designated with the codes he mentioned; I've attached a shape file of the most recent Assessor's information.

I'm assembling a presentation for my board to cover another subject that uses this information. Based on my estimates, Grant County is 63% public ownership and 27% private ownership; about 91% of the private ownership is either under an agricultural or forestry deferral.

Based on the maps of the streams of concern in the Draft TMDL (Figure 2.1, for example), I think it would appropriate to assume a property that generates revenue through agriculture or forest use has the potential to be impacted by the TMDL. I'm not familiar with the database you researched for identifying small businesses, but I can't see them accounting for every agricultural operation in the basin. Even the largest of the agricultural operations I'm aware of in Grant County won't employ more than maybe 4 or 5 workers, so I think it could be said that the small business definition applies.

Multiple parcels are likely to be owned by a single business, so please don't assume that each of the parcels are a small business. I'm not exactly sure how to tease out the actual small businesses from the data set; maybe see if each Assessor's Office can give you a number from their systems based on the codes?

Anyway, I think going this route would provide a more realistic account of the small businesses that could be impacted.

Hope this helps,

Comment 7: Grant County Soil and Water Conservation District 3 of 3

See next page for full letter.

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March 12th, 2026

RE: Comments on the Temperature Total Maximum Daily Load Replacement Project: John Day Basin Draft Fiscal Impact Statement

Dear Ms. Nance,

Grant Soil and Water Conservation District (SWCD or District) has reviewed the draft Fiscal Impact Statement (FIS) reference document and have compiled comments. Our review raised a number of concerns and we would appreciate clarification.

Our first concern regards the impact of the proposed rule on small businesses within the John Day Basin. As stated in the FIS on page 9, DEQ is obligated to provide an estimate of the number of small businesses and industries subject to the proposed rule. While the use of the Oregon Employment Department's database would seem to be an adequate method for providing this estimate in more populated areas of the State, based on fact the database only showed 156 agricultural businesses, we believe it seriously underrepresents the number of small agricultural operations that will be directly impacted by the rule.

Our cursory review of tax information from the Grant County Assessor's Office shows there are over a thousand properties which are under either agricultural or forest deferral. To achieve this status, landowners must demonstrate they use their property to generate revenue from these industries; we are not aware of any of these operations employing more than 50 people. We feel they meet all the requirements of a small business.

As of the date of this letter, we understand you have working to ascertain better information regarding the extent of agricultural small businesses in Grant County. This effort is appreciated and we look forward to hearing more in the coming months.

Second, per the draft FIS, an estimated 49% of the private agricultural land area within the watershed are adjacent to streams, which makes these private agricultural lands subject to Oregon Department of Agriculture (ODA's) Management Area Plans. As stated in Section 5.1.3 of the accompanying Draft Total Maximum Daily Loads for the John Day River Basin Temperature Water Quality Management Plan, DEQ has:

"concluded that in the John Day Basin current ODA WQ program Area Rules combined with the implementation of Area Plans' voluntary measures are not adequate in all locations to meet the streamside vegetation requirements necessary to achieve TMDL effective shade targets, load allocations, and temperature water quality standards. Therefore, ODA is required to develop a separate TMDL implementation plan to be submitted to DEQ for review and approval."

We would appreciate seeing DEQ's evidence for this claim. More concerning to us is that Section 5.2 of the same plan requires ODA to integrate a streamside shade gap analysis or ***"choose to establish and protect overstory, woody vegetation within a 120-foot slope buffer"*** on each side of the stream. Could you share the assumptions/variables that drive the shade gap analysis and the ODA's statutory authority to establish on private property a 120-slope buffer? A 120-foot buffer will require lands adjacent to streams undergo a conversion from agricultural use to riparian; this will significantly impact the economic viability of numerous agriculture operations. Essentially, this impact is the metropolitan equivalent of demolishing a portion of a factory and expecting that business to stay operational. Finally, given these two options, we believe it's incumbent on DEQ to undertake an economic analysis on both options as they are potentially critically different.

A third concern found in the FIS is ***"The proposed rule is unlikely to result in costs to approximately 1,549 small businesses that are unrelated to agriculture and forestry."*** What is DEQ's evidence for this? We ask because our conversations with State of Oregon staff regarding employment numbers have shown that agricultural operations are the leading private sector employer in Grant County. State personnel have also shared with the District that numbers reflecting agricultural employment are typically not reported due to the seasonal nature as well as the challenges associated with how agricultural operations are run.

Given this information, it's hard to see how financially impacting our agriculture sector won't financially impact the county's broader small business sector. E.g., recent labor statistics indicate the Grant County workforce runs about 3,081 people. For comparison, 1,322,700 people are currently employed within the Portland metropolitan area; one job lost in Grant County is the equivalent of 429 jobs lost in Portland. Which is to say, seemingly minor changes or decisions that appear to have limited impact in a place like Portland almost certainly significantly impact rural areas like Grant County.

Our fourth concern is best exemplified from the last sentence on page 7: ***"The proposed rule may have a positive economic impact on income from recreational anglers and the public."*** This sentiment is repeated throughout the document and infers that clean water equals more fish which in turn leads to economic opportunities.

This sentiment seems to be somewhat based on a study cited in the FIS. The study is specifically represented in the FIS on page 7 by the statement ***"The statewide economic contribution of recreational anglers to Oregon's economy as of 2019 was $1.2 billion, supporting over 11,000 jobs."*** We believe this statement is misquoted. When checking the source, we found the actual statistics referred to a combination of ***"fishing, hunting and wildlife viewing"*** activities from a combination of ***"local recreationists and visitors"*** not just recreational anglers.

Regardless, the use of statewide informed statistics does not necessarily provide insight into what kind of impact clean water will have on recreation in Grant County. Additionally, the District questions how the substantial, potential impacts to the vital agricultural economic sector of Grant County could be offset by recreational fishing. It's also important to keep in mind that a portion of the existing

recreational fishing in the John Day Basin targets small mouth bass which are an introduced species that favors warmer water temperatures.

In conclusion, Grant SWCD feels the draft FIS has flaws that need to be addressed. It is our opinion the report in its current state fails to meet DEQ's statutory obligations.

Sincerely,

Patrick Voigt

Patrick Voigt
Chairman