



Oregon

Tina Kotek, Governor

Water Resources Department

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MEMORANDUM

TO: Water Resources Commission

FROM: Douglas E. Woodcock, Acting Director

SUBJECT: Agenda Item I, September 29, 2023
Water Resources Commission Meeting

Commission Delegation of Authority to the Director

I. Introduction

Oregon Revised Statutes provides for the Commission to delegate to the Director the authority to discharge duties in the name of the Commission. In this action item, the Director will request a delegation of authority to make decisions related to litigation on behalf of the Commission.

II. Discussion

At times, the Department, and in some cases, the Commission, are parties to litigation as water users or other third parties exercise their due process related to orders of the Department. Attorneys for the Oregon Department of Justice (DOJ) advise and represent the Department and the Commission in matters of litigation in the execution of their duties. As there are several lawsuits implicating the Department at any given time, there is the need for considerable interaction between the attorneys at DOJ and the Director to weigh options for each case and make decisions. Sometimes the Commission is named as defendant in the suits, generally alongside the Department, thus bringing the Commission – represented by the Commission Chair – into decision-making discussions. Where these discussions are time sensitive, it can pose a challenge to schedule the Chair or convene the full Commission.

ORS 536.025(2) allows for the Commission to delegate authority to the Water Resources Director “...*the exercise or discharge in the commission’s name of any power, duty or function of whatever character, vested in or imposed by the law upon the commission.*” The Department is seeking a delegation of authority from the Commission allowing the Director to make decisions on behalf of the Commission on matters of litigation where the Commission is a named defendant. These decisions are generally a matter of routine process where it is unnecessary to involve the Commission. The Director will continue to confer with the Commission Chair, providing updates on the litigation process and decisions. The Director will seek the Chair’s input if a matter arises of significant importance to the Commission.

III. Summary

The Department is requesting the Commission delegate decision-making authority to the Director on behalf of the Commission regarding litigation where the Commission is named as defendant as specified in Attachment 1 to ensure timely and efficient decision-making.

IV. Alternatives

The Commission may consider the following alternatives:

1. Delegate the authority to the Director as specified in Attachment 1 to make decisions for the Commission when the Commission is named as a defendant in litigation.
2. Adopt a modified delegation to the Director.
3. Decline to delegate the authority as requested.

V. Recommendation

The Acting Director recommends Alternative 1, to delegate the authority to the Director to make decisions for the Commission in matters of litigation.

Attachments:

1. Draft delegation of authority order

Doug Woodcock
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OREGON WATER RESOURCES COMMISSION DELEGATION OF COMMISSION AUTHORITY

Pursuant to the Water Resources Commission's authority under ORS 536.025(2) to delegate the exercise, in the Commission's name, of "*any power, duty or function of whatever character, vested in or imposed by the law upon the commission,*" the Commission hereby delegates to the Water Resources Director, the authority to make decisions related to litigation on behalf of the Commission, where the Commission is a named defendant, and to seek the Commission Chair's input if a matter arises of significant importance to the Commission.

This delegation is pursuant to action taken by a vote of the Commission during its regularly scheduled Commission meeting on September 29, 2023.

This delegation of authority is in effect until rescinded by the Commission.

Signed: _____

Meg Reeves, Chair
Oregon Water Resources Commission

Date: _____