

**Water Resources Commission
Meeting
Salem, Oregon
February 18, 2010**

WRC Present

John Jackson
Mary Meloy
Ray Williams
Charlie Barlow
Jeanne LeJeune
John Roberts
Carol Whipple

Staff Present

Phil Ward
Tom Paul
Cindy Smith
Jerry Rodgers
Bob Rice
George Robison
Alyssa Mucken

Tracy Louden
Ruben Ochoa
Brenda Bateman
Jeffrey Purcell
Barry Norris
Bill Ferber

Others

Helen Moore
Peggy Lynch
April Snell
Willie Tiffany
Lorna Stickel
Sue Knapp

Kimberley Priestley
Jerry Franke
Dave Loomis
Brent Stevenson

Written material submitted at this meeting is part of the official record and on file at the Oregon Water Resources Department, 725 Summer St. NE, Salem, Oregon 97301-1271. Audiotapes of the meeting are on file at the same address.

Carol Whipple, Elkton, Oregon, was confirmed by the Oregon Senate to the Water Resources Commission on February 9, 2010. Whipple's term will be effective on March 1, 2010. Commissioner Whipple sat at the table with the other Commissioners, but was not able to vote.

Chair Jackson welcomed everyone to the meeting. Commissioners introduced themselves to the audience.

A. Klamath Basin Restoration Agreement Settlement

Sue Knapp of the Governor's Office provided an update of the two Klamath Basin Restoration Settlement Agreements.

Ms. Knapp started by saying that February 18, 2010 was a momentous day for the Klamath Basin. The Klamath Basin Restoration Agreement and the Klamath Hydroelectric Settlement Agreement had been signed by the representatives of more than 50 organizations, including the Governors of Oregon and California, Secretary of the U.S. Department of Interior, NOAA Fisheries, and PacifiCorp. The Department was also a signatory in the Agreement.

Ms. Knapp thanked the Department for their efforts and support during the process, and noted that the two Agreements together form the largest river restoration effort in the history in the United States.

Helen Moore, Water for Life, expressed her concerns about how the discussions were handled and that people were barred from participating in the discussions.

The Commission requested a "lessons learned" list for future use in Department and Commission activities. Commissioner LeJeune suggested that everyone get involved early in the Integrated Water Resources Strategy to avoid having the same things happen that happened in the Klamath Basin Restoration Settlement Agreement process.

B. Integrated Water Resources Strategy Update and Discussion

Brenda Bateman, Water Resources Department (WRD) Senior Policy Coordinator and Alyssa Mucken, WRD Policy Coordinator, along with Christine Valentine of the Governor's Office, briefed the Commission on activities that had taken place related to the Integrated Water Resources Strategy (IWRs) since the November 2009 Commission Meeting.

Valentine explained how her role as a member of the Governor's Economic Revitalization Team supports the IWRs. She said that she has been partnering with the IWRs Project Team to conduct interviews of officials at the Oregon Business Development Department (OBDD). She has hosted a workshop on the topic with OBDD staff, and has facilitated and scheduled meetings with representatives of Oregon's business sectors. She has been engaging the OBDD and private sector to make sure they are active players in the process.

Report-Back on the December 23, 2009 Agency Advisory Group (AAG) Meeting

Fifteen natural resource and economic development agencies and staff from the Governor's Office have formed an AAG, which was designed to provide technical expertise to the IWRs. The group has provided new content to the draft issue papers, and will continue to provide the data, text, maps, and other materials needed for the Policy Advisory Group and other discussions. The group has hosted a number of IWRs workshops for their agencies, to facilitate an exchange of information between their agency staff members and the Project Team.

The AAG continues to meet throughout the process, preparing technical analysis and materials for the Project Team to use in its work with other Advisory Groups, stakeholders, and partners.

Report-Back on January 19, 2010 Policy Advisory Group (PAG) Meeting

The PAG's first meeting was on January 19, 2010 in Salem. The group consists of 18 citizen members from around the state. They shared their vision for what Oregon's physical water resources will be like 50 years from now. The PAG expressed interest in fleshing out a formal vision statement as part of its overall workplan.

The PAG participated in discussions relating to the scope, purpose, structure and timeline of the Strategy. They reviewed the PAG's organizational charter and meeting protocols. Most of the conversation centered on the desire to move recommendations forward by way of consensus. Failing consensus, the group requested that the majority and minority views on any given topic be recorded in the meeting notes and forwarded / publicized along with all the other products of the committee.

The group focused on a high-level discussion of the draft issue papers and public involvement plan. The next edition of these papers is scheduled for release during mid 2010.

The next meeting of the Policy Advisory Group is scheduled for April 14 in Salem, and will focus on the types of information and data that water resource practitioners and policy-makers use in order to manage Oregon's water resources. Upcoming meeting dates and materials for the PAG will be posted on the IWRs project webpage at www.wrd.state.or.us. Click on "Project Page."

Addressing 2009 Public Comments on the Preliminary Workplan

The public comment period on the Preliminary Workplan closed November 1, 2009. The Project Team received comments from more than 20 stakeholders, partners, and members of the public, resulting in more than 230 additions, clarifications, or other modifications to both the preliminary workplan and draft issue papers.

Workplan-related comments have helped the Project Team clarify terms and develop a project framework.

A second round of comments arrived at the Water Resources Department between November 1, 2009 and January 31, 2010. The comments came from 13 different organizations and citizens representing agricultural interests, forestry, environmental interests, Tribes, cities, private consultants, and the public. Comments were supportive of the overall efforts, and commenters thanked the Commission for taking the time and effort to draft issue papers for the public in a way that thoughtfully addresses water issues. Commenters asked to be kept involved in the formation of the strategy.

The Project Team will continue to accept public comments on both the preliminary workplan and the draft issue papers throughout the project, and will incorporate both documents into the final Strategy, due to the Oregon Legislature in 2012.

Next Steps: Open Houses

Open House events are scheduled in eleven Oregon communities from March through June 2010. These Open Houses are to serve three purposes:

- To disseminate information about the state-wide strategy.
- To facilitate roundtable discussions and solicit input from community members, in terms of water resource challenges, opportunities, and recommended actions.
- To showcase successful examples of water resource solutions in Oregon communities today.

The Open Houses will be advertised through local newspapers, community fliers, field offices, stakeholder networks, and websites.

The Project Team recognizes the need to revisit communities late in 2011, when recommended actions and more detailed strategy are ready for review and comment.

Potential Adoption of Vision, Goals, and Objectives

At the June 2009 Commission meeting, the WRC's Water Planning Committee offered the following vision statement about how the integrated water resources strategy would work:

A statewide integrated water resources strategy will bring various sectors and interests together to work toward the common purpose of maintaining healthy water resources to meet the needs of Oregonians and Oregon's environment for generations to come.

The Commission discussed this vision statement at that meeting, but took no formal action. In the subsequent months, the Project Team drafted a series of goals and objectives that flow from the vision statement and address the requirements in HB 3369.

During the February 18, 2010 meeting, Commissioners reviewed the vision, goals, and objectives, and discussed whether these are crafted satisfactorily, and how and when then Commission would like to adopt them.

After a lengthy discussion, the Commission agreed to hold off on the adoption of the vision, goals, and objectives for now, and adopt these components as part of the entire IWRS in 2012.

Kimberley Priestley, WaterWatch of Oregon, expressed her concerns regarding the vision statement. She said that it needs to be made clear that the vision was created to guide the “process.”

Commissioner Meloy commented on how pleased she was with where the Integrated Water Resources Strategy is and that it is being elevated in visibility and status. She thanked the Governor’s Office and the Department and its partners for their leadership and getting it to where it is now.

C. Implementation of Grant and Loan Programs

Barry Norris, State Engineer, and Tracy Loudon, Administrative Services Administrator, gave an update to the Commission on activities related to SB 5535, SB 5505, and HB 3369 – implementation grants for the Umatilla Basin Aquifer Recovery Project and construction loans for water projects that are within the Columbia River Basin.

Umatilla Basin Aquifer Recovery Project

The Department continues to move forward with implementation of a \$2.5 million grant to develop a Umatilla Basin critical groundwater storage project. Building on the results from the 2008-09 feasibility study, the Department worked with project partners to develop a grant statement of work for construction/implementation.

A “Umatilla Water Commission” has been organized to manage the implementation activities and grant monies. The five-member commission includes Umatilla County, Morrow County, Confederated Tribes of the Umatilla Indian Reservation, County Line Improvement District and Westland Irrigation District. The Chair of the Commission is Mike Wick, Westland Irrigation Manager. The Umatilla Water Commission is responsible for submitting a formal grant proposal to the Department.

Water Development Loan Fund

HB 3369 (companion bill SB 5505) provided language for updating the Department’s Water Development Loan Fund program, and provided companion bill SB 5505 \$10 million in General Obligation Bond authority for loans to Columbia River Basin water projects during the 2009-11 biennium. An additional \$15 million was also authorized for the 2011-13 biennium. The Department is required to return to the Legislature prior to the issuance of a loan to request and receive expenditure limitation. This will allow the Legislature the opportunity to “fine tune” any necessary funding, loan repayment, or legislative issues as projects develop.

Department staff members will be identifying a Rules Advisory Committee to assist with the development of administrative rules. The rules will address standards for borrowers, application fees, revisions to existing Loan Fund administrative rules, receipt of public comment on applications, and other relevant issues.

Report-Back on January 28, 2010 Environmental Flows Technical Advisory Group

Because HB 3369 requires that projects include protection of Peak and Ecological Flows, the Department has organized a technical advisory group.

On January 28, an Ecological Flow Technical Advisory Group met in Salem for the first in a series of meetings in 2010. The group is comprised of scientists from the academic, public and private sector, led by George Robison, Ph.D., P.E., from the Water Resources Department and Barry Norris, State Water Engineer. The group is developing a white paper that clearly defines ecological flows and describes the methodologies available for determining such flows. The Water Resources Department is currently in negotiations with the Independent Multidisciplinary Science Team (IMST) to provide peer review for this project.

HB 3369 requires the Water Resources Department to protect peak and ecological flows during the course of its grant and loan programs, and to have such protections in place by 2012.

There being no further business, the meeting was adjourned.

Respectfully,

Cindy Smith
Commission Assistant

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George Robison
Dorothy Mortenson

Others

Helen Moore
Kimberley Priestley
Peggy Lynch
Jerry Franke
Anita Winkler
Jerry Schmidt
Jim Paul

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Chair Jackson welcomed everyone to the meeting.

D. Minutes

The minutes of the November 18 and 19, 2009 meetings were offered to the Commission for consideration.

Commissioner Williams moved to approve the November 18 and 19, 2009 minutes as submitted with changes; seconded by Commissioner LeJeune. Voting for the motion: Commissioners Barlow, Jackson, Williams, Roberts, Meloy, and LeJeune. Voting against the motion: None.

E. Commission Comments

Commissioner LeJeune commented that she attended the Regional Water Providers Consortium in Portland with Brenda Bateman. LeJeune opened the discussion on the Strategy and Brenda gave a presentation. The presentation was well received. LeJeune also attended a briefing from staff on how to be a hearings officer. She also noted that she will be working with Brenda to put together a workshop regarding the Strategy, which will be given to the American Water Works Association in Portland, in March. She noted that a quarter of the drinking water in the state comes from the Bull Run system in Portland and that a lawsuit regarding the filtering of the water, has resulted in a new filtration system being designed for the city.

Commissioner Roberts commented that he has been visiting with the irrigation districts in the southwest region. One big concern is with the Klamath Basin Settlement. He continues to follow the WISE (Water for Irrigation, Streams and Economy) Project. It is a collaboration among three irrigation districts in the Rogue Valley and is part of the Bureau of Reclamation system. The goal is to save water, increase streamflows, and improve water supply for municipal treatment and distribution and improve aquatic habitat. Estimated cost for the project is \$350 – \$500 million. He commented that Savage Rapids Dam is gone and that there is a backhoe in the river to clear debris and gravel from irrigation intakes.

Commissioner Barlow commented that reservoirs in his area are pretty low.

Commissioner Meloy commented that she conducted a hearing on the Deschutes Mitigation Rules, but no one came to the hearing. She commented that the Deschutes Water Alliance will be meeting again soon. This group consists of irrigators, private water providers, tribes, cities and counties. She sees good things coming from this group. She discussed a lawsuit in the basin regarding canal lining and piping. She commented that she is the President Elect of the Oregon Chapter of the American Public Works Association and there will be a conference in April with Brenda Bateman as the keynote speaker. She also asked whether it was possible to get an accounting of the permits that are in the queue with regards to the 200 cfs cap.

Commissioner Williams said that he attended the Oregon Water Coalition Meeting in Hermiston where Director Ward was a keynote speaker. He commented that the Director represented the Department extremely well. He noted that over the last couple of months he has been involved with the Tribes and irrigation districts regarding a proposed project in the Walla Walla River Basin called the Columbia River Exchange. The Department has been involved in this on-going project.

Commissioner Jackson commented that he attended a meeting with the Directors of the Departments of Water Resources, Agriculture, Fish and Wildlife, and Environmental Quality and their Board/Commission Chairs, along with the IWRS Project Team. It was a good opportunity to meeting the other players and to see that everyone is on the same page. He also commented that he, Director Ward and Brenda Bateman have been attending Board/Commission meetings of other agencies to discuss the Integrated Water Resources Strategy. He noted that he attended the Oregon Business Council's Water Policy Task Force Meeting with Brenda and he also attended the Ground Water Advisory Committee's Meeting with Director Ward. He attended the Tualatin Valley Irrigation District meeting last December.

F. Director's Report

Director Ward reviewed his written report with the Commission and responded to their comments and questions.

Jerry Rodgers, Technical Services Administrator, gave an update on the current water conditions in the state.

G. Budget Update – 2009–11 Biennium

Tracy Loudon, Administrative Services Division Administrator, briefed the Commission on the Department's 2009-11 biennial budget.

The Department's 2009-11 biennial budget is based on a projected revenue of \$37.2 million for the biennium. There are two key components that are being monitored. The first is changes that may be made to the General Fund budget by the Legislature's February special session and the second is the current economic recession, which has reduced fee-based revenues.

The Department's fee-based revenue, which represents 20 percent of the budget, is projected to be \$736,000 lower than anticipated for the 2009-11 Legislatively Adopted Budget. The remaining 80 percent of the budget, primarily comprised of General Fund, Lottery/Lottery bonding, Federal

Grants, and Contracts for services appears stable at this time. Staff will provide updates the Commission as they become available.

H. Legislative Update

Brenda Bateman, Senior Policy Coordinator, gave an update to the Commission on the 2010 Special Session, noting that the 2010 Special Session started February 1 and was to run through the month.

Legislative members and committees have introduced a number of substantive policy-related bills. House members were permitted to submit one bill each and Senators were permitted to submit two. In addition, Committees have submitted policy bills of their own.

At the beginning of the Legislative Session, the Department was aware of six bills pertaining to the Department—three in the House and three in the Senate. As of this presentation, three bills remained.

House Bill 3602 - pre-session filed by Representative Bob Jensen from Pendleton on behalf of Umatilla County. The bill is intended to give relief to Umatilla County, which obtained a hydroelectric project through foreclosure.

House Bill 3661 - The House Environment and Water Committee, chaired by Representative Ben Cannon, developed House Bill 3661, “relating to exempt ground water uses.”

Senate Bill 1021 - pre-session filed by Senator Edwards. This bill seeks full reimbursement for the State of Oregon for energy-related applications.

Brenda Bateman noted that with the passage of Ballot Measures 66 and 67, budgets have become much less of an issue in this special session. However, some adjustments may be made should the upcoming revenue forecast be down significantly.

I. Information and Update Regarding Oregon’s Dam Safety Program

Jerry Rodgers, Technical Services Division Administrator, and George Robison, Dam Safety Engineer, gave an update on the dam safety program, including its core programs and some of the key initiatives and tasks that have been and will be accomplished in the near future.

Dam safety laws in Oregon were first adopted in 1909, modified in 1927, and then modified again in 1929 following the catastrophic failure of California’s St. Francis Dam. The overall goal of this program is to create an environment where the likelihood of a catastrophic dam failure is greatly diminished because dams are designed, built, and maintained properly. The program helps to detect problems early and make repairs before the structure can become a threat to safety.

Dams subject to the program are given a hazard rating based on the likely level of damage caused by a catastrophic failure. Failure of a “high hazard” dam would likely result in the loss of human life. Failure of a “significant hazard” dam would result in significant damage to infrastructure such as roads or buildings. There would be minimal damage from failure of a “low hazard” dam.

In 2009, the core program activities completed included:

- The design, specification review, and approval for 16 projects involving new dams or significant modifications to existing dams.

- The inspection of approximately 285 dams.
- The database for dams has undergone significant revision since January 2008, with location information for more than 1,000 dams reviewed and 300 revisions made. In addition, the Department reviewed the hazard ratings for more than 800 dams and reclassified several as a result.
- In March 2009, the Department hosted a very successful dam safety conference with nearly 200 people attending.
- The completion of 12 Emergency Action Plans on high hazard dams.
- The adoption of updated administrative rules.

Program Initiatives/Current Events include:

- Encouraging owners of high hazard dams to complete emergency action plans.
- Awarding assistance grants of up to \$5,000 each to help dam owners complete emergency action plans, as well as improving information in Department correspondence and webpages about how to create plans.
- Passage of an annual dam safety program maintenance fee in Senate Bill 788. This fee led to rule revisions because the fees were based on a dam's hazard rating; clarification was needed on how hazard ratings were determined.
- Studying spillway capacity for all high and significant hazard dams in Oregon. This initiative began in 2008 and recently finished using federal grant monies.

In the coming year, the Department plans to continue to reduce the number of dams needing emergency action plans, continue to reduce the inspection backlog, improve the accuracy of the database for dams and do a fair and efficient job in collecting the new dam safety fee.

Commissioner Roberts thanked George Robison for his recent help regarding a high hazard dam issue.

J. Exempt Use Well Online Mapping Program Demonstration

Jerry Rodgers, Technical Services Division Administrator, Bob Harmon, GIS Coordinator, and Dorothy Mortensen, GIS Developer, demonstrated the Exempt Use Well Online Mapping Program.

Senate Bill 788, passed during the 2009 legislative session, included a requirement for landowners to record new water wells drilled for exempt use purposes. Recording includes the submittal of a \$300 recording fee and a map showing the location of the well on the tax lot. The Commission adopted Division 190 rules at the November meeting to implement the recording requirement.

The rules provide two ways for a landowner to submit a map. A landowner may submit a tax lot map showing the location of the completed well or use a Department approved electronic mapping program. The Department has developed a new online mapping tool. Using this option provides landowners a no cost alternative to meeting the mapping requirement.

K. Request for Delegation of Authority to Prosecute Suits to Enjoin Violations of ORS 537.505 to 537.795 and appear and become a party to any action, suit or proceeding in any court or before any administrative body when it appears that the determination of the action, suit or proceeding might be in conflict with the public policy expressed in ORS 537.525.

Oregon adopted the Groundwater Act in 1955. The act requires that anyone desiring to use ground water to first obtain a water right permit, unless the proposed use is exempt under ORS 537.545; it requires the Commission to adopt rules for the construction of wells; and, requires individuals in the business of constructing wells be licensed with the Department. Generally, the development and use of groundwater and the construction of wells is done in compliance with the Groundwater Act. However, formal enforcement actions are taken when staff is unsuccessful in gaining voluntary compliance. Quick and decisive action is needed when all other efforts to gain compliance have failed. Whether the offence is illegal water use or illegally constructed wells, the groundwater resource is in danger of depletion, contamination, waste, or loss of artesian pressure.

The Commission adopted administrative rules, Chapter 690 Divisions 200 through 230 and 240 through 260 to implement most of the provisions of the Groundwater Act. ORS 536.025, states that the Commission may delegate to the Director the exercise or discharge any power, duty or function vested or imposed by law upon the Commission except for adoption of rules. The authority to either join the suits of others or initiate new suits does not involve the adoption or modification of administrative rules.

Jerry Schmidt, Oregon Groundwater Association, expressed his concerns regarding the delegation of authority.

Commissioner Williams moved to approve the delegation of authority to the Director, to prosecute suits to enjoin violations of ORS 537.505 to 537.795 and appear and become a party to any action, suit or proceeding in any court or before any administrative body when it appears that the determination of the action, suit or proceeding might be in conflict with the public policy expressed in ORS 537.525. The Motion also included a request to the Groundwater Advisory Committee to review and make subsequent recommendations to the Commission for any potential modification of the Delegation, as submitted; seconded by Commissioner Roberts. Voting for the motion: Commissioners Barlow, Jackson, Williams, Meloy, Roberts and LeJeune. Voting against the motion: None.

L. Instream Accomplishments Update

Tom Paul, Deputy Director, and Dwight French, Water Rights and Adjudications Administrator, gave an update to the Commission in the Department's instream accomplishments for 2009.

During the past 14 years, the Department has actively sought tools and opportunities to restore and protect stream flows; in the last five years these efforts have begun to bear significant fruit.

Oregon leads the country in flow restoration, with more than 300 current instream leases, instream transfers, and allocations of conserved water that restore about 1,700 cubic feet per second (cfs) of streamflow for fish and wildlife, recreation, and pollution abatement. This is more than triple the amount for Washington, Idaho, and Montana combined.

During 2009, 43% of instream leases came directly from customer transactions with the Department. The instream leasing program also benefits greatly from active partnerships with The Freshwater Trust, Deschutes River Conservancy, and Klamath Basin Rangeland Trust. The Department has completed 61 permanent instream transfers, representing more than 285 cfs and approved more than 44 applications for allocations of conserved water, resulting in almost 95 cfs permanently protected instream.

As part of the 2009 removal of Savage Rapids Dam on the Rogue River, 800 cfs was placed instream through the conversion of hydroelectric rights to instream rights.

More than 70% of water put instream on a permanent basis in Oregon is senior water, with certificates pre-dating Oregon's 1909 water law.

In 2008, more than 50% of streams regulated in Oregon were regulated to protect instream water rights.

Since the adoption of Oregon's 1987 Instream Water Right Act, the Department has converted to instream rights more than 500 of the state's minimum perennial stream flows and has issued more than 900 state agency-applied instream water rights.

M. Process Improvement Update

Dwight French, Water Rights and Adjudications Administrator, Dorothy Pedersen, Transfer Coordinator, Gerry Clark, Water Right Analyst, and Joel Plahn, Water Right Processor, gave an update to the Commission on the Department's process improvements to date.

Lean Kaizen:

The Lean Kaizen process focuses on changes that can be made immediately and for low or no cost (e.g., redesigning forms that are easier to understand and use). The outcomes include better customer service, with paperwork and processes that are less complicated for the public and staff alike.

The Oregon Department of Environmental Quality (DEQ) hired a full-time position dedicated to process improvement using primarily "Lean" techniques. The Department met with DEQ's Process Improvement Coordinator (PIC) to explore concepts further. After this discussion, the PIC worked with the Department's Transfer Section to start implementing the Lean process. The PIC facilitated three work groups through a total of five different Lean exercises from mid November 2009 through January 2010. These three work groups (transfers, new water right applications, certificates) made several improvements leading to reduced applicant waiting times and more efficient processing.

Improvements made to date are:

- transfer backlog - in 2004 there were about 760 applications, by 2010 it had dropped below 400 for the first time in a decade;
- certificate backlog - in 2003 there were over 6,000, by 2010 it was reduced to less than 2,000;
- groundwater application backlog - in 2008 it was over 130, by 2010, it was reduced to five.

One of the reasons that Lean has proven effective around the country is that the process does not lessen or remove any existing environmental protection standards.

Efficiency Review Group:

The Department also convened a group of outside experts, who are familiar with Department processes and transaction programs. This diverse group represented a wide range of water use and environmental perspectives. Outcomes from this group will likely involve recommendations for statutory, rule, or administrative changes. The group of colleagues has committed to help the Department build support for statutory or rulemaking efforts that may result from their work.

The Department is committed to finding efficiencies through various process improvement efforts and will continue to reduce backlogs during current and future biennia.

N. Public Comment

Anita Winkler, Oregon Water Resources Congress, thanked staff for their efforts throughout the 2010 Special Session.

O. Other Issues

The Commission had a discussion regarding the June meeting location. It was determined that the Director and Commission Chair will discuss the next location by phone after the Special Session is adjourned.

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Cindy Smith
Commission Assistant