

Oregon Water Resources Commission Teleconference
April 5, 1999
Salem

Members

Nancy Leonard
Tyler Hansell
Jim Nakano
John Frewing

Staff

Martha Pagel
Tom Byler
Bonnie King
Barry Norris
Dick Bailey
Tom Paul

Others

Jan Lee
Chuck Norris
Larry Tuttle (late arrival)

Tom Byler presented an overview of legislative action since the last teleconference on March 22, 1999. HB 2165, a WRD bill relating to temporary geotechnical holes passed the House Water and Environment Committee and also successfully passed the House floor, and is on its way to the Senate. Thus far, all of the WRD bills have passed one house except for HB 2162, a WRD bill relating to hydroelectric issues. The finishing touches are being put into the final task force report on HB 2162. The Office of Legislative Counsel is working on substantive amendments, and a hearing should be scheduled sometime this month.

This week, the Senate Water and Land Use Committee has scheduled hearings on two bills submitted by Senator Brown — SB 660 (all state agencies) and SB 661 (WRD only) relating to notice requirements for orders in other than contested cases. Two other bills, SB 804 and SB 805, are also scheduled for hearing this week. SB 804 (WRD only) and SB 805 (all state agencies) are sponsored by Senator Adams and are similar to SB 660 and SB 661, except that they deal with the same notice requirements, but also have a section that limits the Department's ability to work with general counsel before, during, and after a contested case proceeding. WRD will testify, as will the Department of Justice, and several other state agencies.

Commissioner Leonard asked if that would limit attorney general contact. Tom Byler said the bill appears to prohibit the Department from consulting with an assistant attorney general (AAG) during and after a contested case hearing if that AAG had provided advice to the Department on issues related to the case prior to the contested case hearing.

WRD does not feel SB 661 is necessary, but our Department will not oppose. Pagel related WRD's involvement in the Teel Case; as a result of that case, which WRD won, staff now label final orders. The Department of Justice will oppose the bills on behalf of all state agencies as they do not want to see any changes to the Administrative Procedures Act as a result of the bills.

Tom Byler said that last week the Legislative finished printing new bills. The only new bills will be the two priority bills each legislator is allowed to submit. Byler stated that we are tracking about 60 bills this session that have some impact on water policy. Many of those have not been scheduled for hearing, and April 23 is the current deadline for a first hearing on the house that a bill originated in.

Pagel reported on the Department's budget hearings that took place during the past two weeks with the Ways and Means Subcommittee on Natural Resources, chaired by Senator Ferrioli. The Committee made no decisions and gave no indication of what they ultimately intend to do with the budget. It was an opportunity for our Department to provide an overview of our general agency operations and have brief discussions on our budget packages. Pagel felt we had a good discussion on the Stewardship and Supply Initiative which is our major new piece this session. That concept has been incorporated into SB 93 which Senator Tarno has taken on. SB 93 will do more than just authorize us to provide updated basin reports. Each division administrator gave good comprehensive overviews. It was a good constructive atmosphere. There was one day of public testimony with only a handful of folks attending — mostly discussing items that did not make it into the Governor's recommended budget. The Committee will schedule work sessions about a month from now. Pagel does not think any decisions will be made until the Committee has a clearer reading on the "big budgets," (i.e., Education). The other major topic of discussion will be how the Measure 66 (measure that was set up so lottery funds would go to parks and natural resource agencies) money will be used.

Commissioner Nakano asked if there is a backlog of permit extensions. Pagel said we have a backlog of about 300, but expect that to be eliminated by June. Byler said over half of the 300 are at the proposed final order stage.

Pagel gave the Commission a briefing on a new bill concept we hope to tag onto another bill that came out of the Inland Land permit extension discussions. Staff would like to move forward with a concept relating to permit amendments that would allow a person who holds a permit to move water to noncontiguous lands under certain circumstances.

Commissioner Nakano asked if the water would stay in a district. Tom Paul indicated there is a different process for transferring water within a district — this would be for an individual water right permit.

Commissioner Frewing asked if this was for the same source of water. Pagel replied that you can change the point of diversion, but you cannot change the source. You cannot increase the amount of diversion, or increase the total acres, but you can shift it around.

Commissioners agreed this would be a good idea to move along.

WRC Teleconference

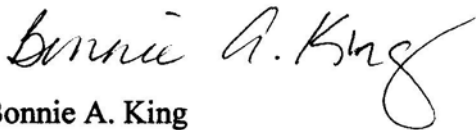
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Tom Paul said changing a point of diversion from surface water to hydraulically connected ground water is another concept WRD may tag onto another bill. The statute is now very narrow and staff are considering modifying the existing bill to include the ability to mitigate to eliminate the impact on sources other than the authorized surface water. Commissioners concurred that the Department should keep working on this.

There being no further business to discuss, the meeting was adjourned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Bonnie A. King". The signature is written in black ink and is positioned above the typed name.

Bonnie A. King
Legislative Assistant