



Oregon

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Water Resources Department

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MEMORANDUM

TO: Water Resources Commission

FROM: Phillip C. Ward, Director

SUBJECT: Agenda Item G, August 2010
Water Resources Commission Meeting

Water Resources Department's Proposed 2011-2013 Legislative Concepts

I. Introduction

The Department submitted initial legislative concepts to the Oregon Department of Administrative Services on April 9, 2010, after discussion with the Department's legal counsel, Governor's office, and numerous stakeholder groups. Staff held subsequent meetings with the Water Resources Commission and various stakeholder groups to take specific comments on proposed concepts, modifying language or dropping concepts entirely as a result. Deleted concepts include the four entitled, "In-Conduit Hydro," "Alternate Reservoir Process," "WRD Issuance of Limited Licenses," and "Fees."

This briefing includes six legislative concepts the Water Resources Department proposes to bring to the 2011 Oregon Legislature. This is an action item, as the Department is requesting Commission approval of these Legislative Concepts before further developing them.

II. Background

Department staff introduced these concepts and more during the Water Resource Commission's June 4, 2010 meeting in Bend, Oregon. Today's update includes modified concepts, which are summarized below. The list contains numeric "holes" where some of the original Legislative Concepts have been removed. See Attachment 1 for one-page summaries and draft bill text provided by Legislative Counsel.

Legislative Concept #497 "Electronic Transactions at the Water Resources Department"

Currently, statute requires that a number of department documents including initial reviews, proposed final orders, final orders, and other records must be passed back and forth between the Department and customers in hardcopy. This involves extra time and materials, as these documents are created and used in an electronic format today, and then transferred to hardcopy for mailing to customers. The Water Resources Department proposes to send and receive documents electronically when mutually agreed to with the customer. The Department would

still plan to keep permits, certificates, and other final decisions in a hardcopy file for long-term record keeping. Department documents, whether electronic or hardcopy, would still be available as part of the public record.

Legislative Concept #499 “CWRE Training”

Ensure that Certified Water Right Examiners (CWREs) receive continuing education in water right rules and requirements, and ensure that the state has the ability to address problems that arise in CWRE work. This concept would clean up and modernize statutes related to CWRE training.

Legislative Concept #502 “Broadens the Category of Permits Involved in an Exchange”

Existing statute allows the “exchange” of water authorized under certificated water rights. The state’s goal is to use a commonsense approach to develop the Umatilla Basin Aquifer Recovery Project. Morrow County’s County Line Water Improvement District (CLWID) uses water from the Umatilla River, authorized under a water right certificate. Water has been used since the 1970s to operate a groundwater recharge project. Umatilla County’s Echo Meadows plans to establish a groundwater recharge site as well, and plans to apply for a water right permit using “winter water” from the Columbia River. However, the CLWID is physically located closer to the Columbia River than Echo Meadows, and Echo Meadows is closer to the Umatilla River than is CLWID. If the two entities “exchanged” the water involved in these rights, the region would save millions of dollars in new infrastructure and operation costs. The bill proposes to amend ORS 540.533 to allow groundwater recharge permits to be involved in an exchange.

Legislative Concept #503 “Reducing the Requirement for Multiple Newspaper Notices”

In many cases, the Department’s pending transactions must be noticed in local newspapers, some requiring multiple-week notices. This increases the time and materials involved, and does not take into account the fact that most members of the public now have access to information in electronic form. This Bill would decrease statutory requirements from multiple weeks in a row to one, and affects 12 of the Water Resources Department’s statutes.

Legislative Concept #504 “Water Resources Department’s Ability to Enter into MOUs”

Although it has broad authority, the Water Resources Department does not have the specific authority to enter into Memoranda of Understanding with other entities. Other states agencies in Oregon have already sought and received specific authority to do so. The Department seeks specific authority under “Powers of the Director/Department” (ORS 536) to enter into Memorandum of Understanding (MOUs) and Memoranda of Agreements (MOAs) with other entities.

Legislative Concept #506 Klamath Basin Restoration Agreement Fund

This concept requests \$3.4 million in lottery revenue bonds to offset economic losses resulting from the KBRA, including: lost property tax payments upon retirement of four hydroelectric dams, and reductions in property values, business opportunities, and agricultural water rights and water deliveries. The Governor’s office has requested that the Department carry this legislation.

III. Discussion

These legislative concepts represent a commonsense approach to Department operations and projects and have support from Department stakeholders. Legislative Counsel has already drafted and finalized these particular legislative concepts; the Department will have no further opportunity for language modifications until the Legislative Session begins in January 2011.

The Department requests that the Water Resources Commission review and discuss these concepts, and instruct the staff which concepts to move forward in the process. Should the Water Resources Department and Commission express interest in pursuing these six concepts, they will be forwarded to the Governor's office for consideration for submittal to the Oregon Legislature this Fall, in time for the 2011 Legislative Session..

IV. Alternatives

1. Instruct the Department to forward all six concepts as a package to the Oregon Legislature, as written;
2. Instruct the Department to pull certain concepts before forwarding a package to the Oregon Legislature;
3. Instruct the Department to submit no legislative concepts this year.

V. Recommendation

The Director recommends Alternative 1.

VI. Conclusion

The Legislative Session will begin by assigning these legislative concepts to policy-making committees, and assigning each concept a bill number. Department staff will present these concepts, along with formal testimony, to House and Senate Committees throughout the Spring and will keep the Water Resources Commission apprised of the status of these and other bills, as the session progresses.

Attachment 1: Legislative Concept Summaries and Draft Text

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