

Oregon Water Resources Commission
Work Session
January 13, 2000
Salem

Members

Nancy Leonard
Jim Nakano
Dan Thorndike
Tyler Hansell
John Frewing
Mike Jewett

Staff

Martha Pagel
Tom Byler
Meg Reeves
Diane Addicott
Gary Ball
Tom Paul
Barry Norris
Sharyl Kammerzell
Dick Bailey
Bruce Moyer
Fred Lissner
Donn Miller
Doug Parrow
Adam Sussman
Rick Cooper
Bob Rice
John Wynn
Renee Moulun

Others

J. Kem
Roger Bachman
Aubrey Russell
Steve Applegate
Karen Russell
Jerry Franke
Doug Myers
Kimberley Priestley
Ed Henricks

In addition to those listed above, other staff were present for particular segments of the work session. Written material submitted at this work session is part of the official record and on file at the Oregon Water Resources Department, 158 12th Street NE, Salem, Oregon 97310. Audiotapes of the work session are on file at the same address.

1. Water Use Measurement Follow-up Discussion

Barry Norris, Administrator of the Technical Services Division; Tom Paul, Administrator of the Field Services Division; and Tom Byler, Legislation and Rules Coordinator, spoke on plans to implement water use measurement Oregon Plan measures of the Department.

Byler opened the discussion by reviewing how interest has developed by the Department and the Commission in a management strategy to better implement agency programs related to water use

measurement. At the Commission's April 1999 meeting, staff presented a report on activities relating to the Oregon Plan for Salmon and Watersheds. As part of that discussion staff acknowledged that the existing Oregon Plan measure on measurement and reporting did not sufficiently emphasize the broad range of program efforts and tools available. This led to a major focus on the issues of water measurement at the Commission's November 1999 biennial workshop. Workshop discussions covered topics including types of measuring devices, current measurement authority and programs, and examples of several water use measurement projects from different parts of the state. At that workshop Commissioners asked staff to look further into measurement-related issues and develop recommendations for their consideration.

Barry Norris reviewed and explained the agency work plan presented in the written staff report. He said the first step is to inventory all significant diversions. This information will be used to help assess compliance with water right measurement condition requirements and to initiate steps to install measurement devices at all significant diversions. Significant diversions include all diversions that are required by permit conditions, and the remainder that exceed a specified rate. Staff hope to complete the inventory of post-1993 water rights by January 2002; then efforts will begin to develop an inventory of water right conditions for permits issued prior to 1993.

Tom Paul explained that the next step will be to begin a compliance assessment of the water measurement device present at each identified significant diversion. This will involve field staff contacting water users and visiting diversion sites. Norris commented that it is difficult to recommend a reasonable implementation schedule for this task until the initial inventory is completed.

Norris continued reviewing parts of the work plan saying that by January 2001 staff propose, using existing agency resources, to develop a database accessible through the Internet that allows retrieval of reported water use data and provides summary information from the water use reports.

Also, using existing agency resources, staff will review annual water use reporting requirements for instream water rights and public entities and identify methods to make data for these rights more useful. This review is expected to be completed by January 2002.

By July 2001, staff will develop strategies to ensure expeditious entry of water use data into the water use report database, including electronic submittal of reports, and to flag reports which should be reviewed for quality assurance. This task may include a budget proposal for new resources.

Hansell expressed concern that these projects would add too much of a workload for existing staff who are already very busy. Tom Paul replied that this is a real concern but measuring and reporting has become a higher priority, in part due to the Oregon Plan.

By January 2001, staff will review and develop priorities for the elimination of the backlog of existing hydrographic records.

Staff also plan to address ground water rights with conditions requiring water use measurement. By January 2001, staff will present recommendations to the Commission for a schedule to develop a ground water diversion inventory, perform diversion assessments, and secure compliance with measurement requirements.

By January 2002, the Department will develop a program that consolidates ground water measurements into a central database easily accessible providing quality assured data.

By July 2003, staff plan to develop a program to inspect and quality assure water measurement devices and protocols for water right holders required by permit conditions to measure and report water use.

By January 2004, staff propose to incorporate all water use data received from water right holders required to report under permit/certificate conditions into the annual water use reporting program data base for public entities.

By January 2004, staff will review the ground water pump test program to verify quality assurance, data accessibility and complete public notification. Staff will also assess the success of the voluntary compliance program.

Pagel commented that it will take time to accomplish these tasks with existing staff resources. Staff will be focusing on high priority areas first and move as quickly as possible. To get the job done more quickly, it will require additional staff; this is unlikely considering the budget outlook. She commended staff who developed this work plan keeping in mind the Oregon Plan, along with the Department's mission and strategic plan.

Frewing asked about requiring water right holders by rule or legislation to be responsible for installing gages, and measuring and reporting. Byler responded that the Department is holding a legislation placeholder for stewardship items; incentives could be considered through this avenue.

Byler added that this work plan will likely be revised over time — perhaps staff will meet some time lines early, and other may need to be extended. Staff plan to update the Commission routinely on their progress.

Public Comment

Karen Russell, WaterWatch, distributed written comments on the Department's report. She said the Department's proposal is a good beginning step; however, WaterWatch has concerns because the staff report lacks a clear commitment by the agency to place a high priority on measurement throughout all its programs, such as transfers and extensions. Russell said that in 1990 WaterWatch focused on raising administrative appeals on all new applications where measurement was not a condition of water use; and perhaps that helped get the 1993 guidance in place. It would be good to see a similar type of guidance in all agency activities. WaterWatch also has concerns because the plan fails to set specific enforceable goals for obtaining measurement of all water uses over time. It lacks a commitment to seek the resources. The state must be aggressive in making this a funding priority. WaterWatch would be willing to help the Department seek funding. Measurement means a lot not just in terms of existing water users but in terms of how it affects the rivers. The Wood River measurement project by WaterWatch is an example of a huge win in the context of the Oregon Salmon Plan and in the context of endangered fish. WaterWatch will likely be filing a petition at the next Commission meeting asking for adoption of a policy similar to its instream flow and water conservation policies making some clear statements about prioritizing measurement and proposing deadlines for achieving goals. Russell said she supports the Department's push to take immediate action now to at least administratively try to make measurement a priority. WaterWatch would like to see the Department have as a long-term goal measurement of all water users. She also asked to see some changes in the Department's definition of "significant." WaterWatch is very concerned that ground water appropriations are not included in this initial work plan, at least by including measurement and reporting conditions in applications. As it relates to existing permits, WaterWatch believes that at least staff should be considering hydraulically-connected ground water applications. Russell said that in 1993 the State of Washington legislature passed laws saying that all new uses of water should be required to measure; and for existing uses 1 cfs or greater or where there are streams with depressed or critical salmonid stalks measurement is required. (tape 1, mark 734)

Pagel said Russell brought up some good points that might be incorporated into the Department's strategy. Frewing asked that the Commissioners be updated on how this might be done.

2. Legislative Concepts

Tom Byler, Legislation and Rules Coordinator, led a discussion on preliminary legislative concepts identified by staff in preparation for the 2001 legislative session. He reviewed the timelines that must be met for submitting proposed legislation, and the draft list of placeholder concepts currently being considered by staff. Pagel, Byler, and other staff responded to questions and comments by Commissioners.

Frewing suggested the following be considered for proposed legislation: establish a service fee on all permits to facilitate WRD management; lower the limit of use in exempt water withdrawals; allow WRD to issue time-limited permits; and encourage new technology contributions in streamflow measurement, such as a offering monetary prize.

3. Powder Reservation Rulemaking Update

Tom Paul, Administrator of the Field Services Division; and Lara Burgel, Regional Liaison for the South Central Region, updated the Commissioners on an ongoing rulemaking process for reservations of water in the Powder Basin.

Burgel explained the history of this particular rulemaking. The legislature authorized the reservation of water in 1987; administrative rules were completed the following year. The first reservation request received was for a contested case hearing for the south fork of the Burnt River, with a priority date of June 5, 1992. A subsequent reservation request was submitted to the Department by the Oregon Department of Agriculture (ODA) in November 1992; this request included parts of the Burnt River sub-basin, streams within the Powder Basin, and Pine Creek (tributary to the Snake River). In March 1996 the Commission adopted the Burnt River sub-basin reservation as the first reservation in the State.

In 1996 staff developed draft rules for the Powder Basin reservation request and invited public comment. Interested parties within the Basin expressed concern that the Department's water availability figures presented in the draft rules were too low. In response to the comments, staff delayed action on the rules to provide an opportunity to address the issue. In January 1997 ODA requested additional sites and quantities of water within the Powder Basin. In 1999 a Rules Advisory Committee was formed to help develop the reservation rules. A public hearing on these draft rules was held December 6, 1999, in the Powder Basin.

Burgel said the issues still to be considered are: the Eagle Creek Sub-basin which is a part of the Powder Basin request; water availability; the 1997 request by ODA for additional streams; requirement within the rules to enhance instream values; required updates; the future repeal of reservation rules, and various issues raised by Baker City. She and Tom Paul reviewed each of these listed issues and responded to Commissioners' comments and questions.

Public Comment

Kimberley Priestley, WaterWatch, thanked Lara Burgel for her good work in the reservation rules process. She however expressed concerns with the reservation in general. The reservation was applied for in 1992; since that time bull trout have been listed as threatened in the Powder Basin by the federal government. The fish are found throughout the stream reaches that would be affected by this reservation. The populations in the stream reaches are comprised of fish

found to be of moderate to high risk of extinction. As a result of the listing, both state and federal agencies are working hard to figure out recovery efforts, such as restoring habitat, getting water in stream, etc. Time and resources are going into these efforts to protect these threatened fish. At the same time that people are scrambling to protect fish, she has not seen anyone in the irrigation community come forward to say that they have a need for this reserved water. Nor has she seen anything that shows that these people are trying to be more efficient. There is a need in that basin for water conservation measures. Priestley said the Department's proposal to reserve these huge blocks of water for storage and irrigation is ill-timed and contrary to the many efforts going on in the basin to restore fish. If the Commission wants to do something to address ODA's concerns and request, perhaps a better way would be to simply close the basin to all further allocation. This could be for a set time period, perhaps ten years. During this time period the state and others could come forward with the information necessary to do this responsibly — the irrigation districts' needs could be quantified, fish needs could be quantified, and the water availability numbers could be finalized. Priestley said WaterWatch believes that reservations are not the answer. She asked that the Commission deny these reservation requests. But if the Commission does eventually go forward with these reservations, Priestley suggested amending language to the rules regarding water availability. WaterWatch prefers the more precise numbers but this was a topic of discussion at the RAC meeting. The RAC participants signed off on this draft language with the understanding that there would be a site specific analysis. She asked that stronger language be used in the rules and she handed out suggested language changes to OAR 690-509-0100(6); these proposed language changes will be in WaterWatch's final comments submitted to the Department. (tape 3, mark 300)

Jerry Franke, Manager of the Burnt River Irrigation District, spoke on the Burnt River drainage. He said he does not believe that bull trout are throughout the drainage; they have been identified in some of the minor drainages, but he is not aware of any bull trout identification in the Burnt River drainage at all. Regarding quantity, it was mentioned that water is sometimes wasted and run over the fields in excessive quantities. He said he monitors both the north and south forks of the Burnt River where storage reservoirs have been requested. On the south fork in the summer he said he delivers approximately 20 percent of the authorized rate; and the irrigation district's water rights do specify a rate. There is very little opportunity to waste water. In the process of delivering the 20 percent he totally dries the river up. The last diversion takes all the water; the only water below that point is return flow that is mostly subsurface. On the north fork he delivers even less, approximately 15 percent of their authorized rate. The ranchers on the north fork get one cutting of hay. There is seldom, if ever, water available for a second cutting. If the reservoir can be built at the requested capacity, along with Unity reservoir, they would be storing approximately 48,000 acre feet of water. Franke said that the average run-off from the Burnt River drainage is approximately 95,000 acre feet. Instream values and stream flows would be enhanced, and flows would be created where currently they do not exist, if the storage projects were built. (tape 3, mark 639)

Nakano commented that Kent Searles, now-retired WRD East Region Manager, had given him a personal tour of irrigation systems in that area; Nakano was impressed with practices in place for the types of crops being grown. There were two pressurized pipelines that could be used for gravity flow or sprinkler systems. In the last few years they have installed thousands of acres of center pivots to conserve water, and constructed a reservoir to keep more water in stream.

4. Aquifer Storage and Recovery/Artificial Recharge

Fred Lissner, Manager of the Ground Water Section; and Donn Miller, Ground Water Section, presented an overview on the Department's current authority for Aquifer Storage and Recovery (ASR) and Artificial Recharge. Using overheads, charts, and photos, they shared information covering administrative, physical, and financial issues.

Lissner said that a significant part of nonstructural storage, which would be discussed at the next day's meeting, is storing water under ground for future beneficial use. Today's population and economic growth add to the demand for more water, and at the same time more water must be left in streams for fish and aquatic life, pollution abatement, aesthetics, and recreation. Most streams in Oregon do not have water available at least one month of the year; several streams do not have water available for several months of the year. So people are turning to ground water as an alternate source of supply. Typically ground water resources and surface water resources are hydraulically connected; so appropriation of ground water eventually impacts surface water resources.

Miller explained that statutes allow water to be stored underground and pumped back out for beneficial use at a future time. He discussed things to consider for a successful project including the site, surface conditions, access to a source of water, and any existing infrastructure. Using overheads, Miller showed the Commissioners a variety of projects, explaining them and answering questions. He said that all ASR and aquifer recharge projects are subject to public interest review and water quality policies.

Lissner spoke on artificial recharge in the context of conjunctive use of ground and surface waters. In the Oregon there is a lot of water available in the form of precipitation. The high use of water occurs during the summer months when precipitation is limited. Availability of water in time is the problem; this can be solved through storage. Nature helps out by storing water in the form of snow pack, soil moisture, and in aquifers as a result of natural ground water recharge. In many basins there are surface storage projects already in place which help to make water available during the peak time of use. But where basins do not have enough surface water storage to meet demands during summer months, regulation occurs. Lissner said one conjunctive use scheme is storing water underground for beneficial use in the future; this can be done under current statute. A second type of conjunctive use involves using surface water until a short fall occurs when people would then stop using surface water and transfer their demand to a ground

water resource. If water could be artificially recharged into an aquifer system it may be possible to provide an alternate source of water to make up for loss of water in streams. He explained some of the positive and negative impacts associated with artificial underground storage that must be evaluated before moving ahead with a project.

Following their report, Lissner and Miller responded to questions and comments by Commissioners.

There being no further discussion, the work session was adjourned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diane K. Addicott".

Diane K. Addicott
Commission Assistant