

**Final Report
of the
Efficiency Review Group**

October 29, 2010

Participants

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Introduction and Background

During a meeting of the Natural Resources Ways and Means subcommittee during the 2009 Legislative Session, the Department agreed to gather a group of interested water right professionals, consultants and attorneys to review Department operations and develop a list of possible areas for improvement.

Eight individuals graciously donated their time and energy for this purpose. The group met four times: December 16, 2009, January 14, 2010, February 25, 2010 and April 9, 2010.

Members were given oral descriptions and flow charts depicting water right and transfer processes. The group was also given a presentation on the Lean-Kaizen process which the Department was undertaking. A list of ideas for process improvement and efficiency savings was developed. During the last couple of meetings the list was refined further to include the concepts on the following pages. The group focused on developing ideas that would result in improved process efficiency, customer service and streamlining.

The group talked about existing water right and transfer processes but the resulting list of concepts represents ideas for time and money savings from new ideas or outside-the-box thinking. Ideas one and two would require statutory changes. Both were developed into Legislative Concepts and idea one is moving forward at this time. A description of each idea and its current status is listed below.

In addition to the concepts listed below, there were several other ideas discussed that did not share consensus among the group and have not been included in the report. One idea that did not make the list, for example, was to add a position at the Department that would serve as a coordinator of comments that come from the Oregon Department of Fish and Wildlife on water right and transfer applications.

Please direct any follow-up questions to Dwight French or Tom Paul.

Efficiency Review Group Concepts

(Note: The list of concepts is not ranked in order of importance.)

1) Newspaper Notice Requirement

PROBLEM: There are twelve different places in WRD statutes that require the Department or an applicant to publish a notice in the newspaper. Some require notice four times while others require notice only once. This is time consuming and expensive for the public, which bears most of the expenses, and the Department.

DESIRED RESULT: Cut back instances of multiple newspaper notices to one notice. In addition, the notices are published in our weekly public notice. The weekly public notice is posted on the WRD website every Tuesday except holidays, and links to the website are emailed to a list of approximately 200 email addresses.

HOW TO ADDRESS: Legislative changes are required to make the proposed changes. This idea has matured into LC #503.

2) Modification of Alternate Reservoir Statute (ORS 537.409)

PROBLEM: There are elements of the alternate reservoir process that are unnecessarily confusing. Additionally, the process does not allow a protest period, and therefore, petitioning the circuit court for judicial review of the Department's final order is the only available method for a third party to formally challenge a final order.

DESIRED RESULT: Repealing the statute, one possible option, was deemed unlikely by the Department due to heavy support this statute had from the legislature and pro-water storage groups during the 1995 legislature. Instead, modifications to the statute can be proposed to improve the statute by addressing two confusing areas and possibly adding a proposed final order.

HOW TO ADDRESS: Legislation is required to make the proposed changes. The Department determined that there was considerable angst related to this idea and chose not to pursue a legislative adjustment at this time.

3) Scanning Department Records

PROBLEM: Many of WRD's frequent customers do not live in Salem. Costly trips to Salem and time consuming copying of files should be reduced if possible. In the internet age, public records should be scanned more and copied less. Additionally, the Department has concerns regarding the integrity of its files when handled by members of the public.

DESIRED RESULT: Develop a pool of temporaries that would be on call to scan files for customers. Scanned copies would be posted to the internet and available for viewing.

Small jobs could be done by existing staff if time permits. The customer requesting the copies would reimburse the Department for the cost of the temporary or existing staff.

Additionally, when an entire water right or transfer file is being copied, the Department will link the scanned copy (electronic file) to the water right within our WRIS system so the we the entire scanning process is not repeated for that file in the future.

HOW TO ADDRESS: This proposed change does not require statute or rule change. The Department has experimented with this concept and is now ready for law firms, consulting offices or the public to request this service.

4) Improving “Process” Communications

PROBLEM: The Department has several processes for different types of water right transactions. Understandably, the public can become confused regarding the various steps for any given process. Our process checklists come in all types of design and detail. Most steps are documented on the Department’s webpage but often the naming of the steps on the webpage and the flow charts do not read the same and are thus hard to understand.

DESIRED RESULT: Standardize flow chart design and use. Change the naming protocol in the WRIS system to sync with words used in the flow charts so the public can better understand our processes and how they work.

HOW TO ADDRESS: This proposed change does not require statute or rule change. The Department needs to prioritize a list of flow charts and the related WRIS naming features that need to be changed and assign appropriate staff to implement the changes. Full implementation could take a year, possibly longer, depending on staff availability.

5) Pre-Application Conferences for New Applications and Certificate Reimbursement Process

PROBLEM: Pre-application conferences have not always been easy to schedule and the results vary widely depending on the Department staff person who handles the meeting. They are currently not available in the reimbursement authority (RA) process but could be used to improve the process.

DESIRED RESULT: Standardize the format of pre-application conferences so employees of the Department have a format to follow that would give our customers consistent results. Regarding RA for certificates, build in an option in the “request” phase that allows for a meeting early in the process if requested by the customer.

HOW TO ADDRESS: This proposed change does not require statute or rule modification. The Department is developing a Pre-Application Checklist that we can use in the Water Rights Division and in our field offices. Regarding RA for certificates, the

Department has modified our forms and processes to allow for the applicant to request and receive time with appropriate staff.

6) Develop System to Track State Agency Comments and Processing Results by Stream or Designated Area

PROBLEM/OPPORTUNITY: The Department processes 350-500 new water right applications each year throughout Oregon. Could the Department organize or categorize these applications by geographic area or stream source so that potential applicants, consultants and attorneys could learn from and possibly begin to estimate the results of how a new application would be processed? Additionally, could the Department find new efficiencies by reviewing the historic processing on surface water sources or geographic areas that have had several applications processed recently?

DESIRED RESULT: Create a catalog of processing results and public or agency comments organized by area so that staff and the public have a greater understanding of issues, producing documents that are more consistent and save staff time.

HOW TO ADDRESS: This is a complicated project. The Department needs to brainstorm this concept and opportunity with our Information Technology team and explore the possibilities. WRD's IT section has this idea on the list of projects for agency leadership to discuss.

7) Allow Instream Lease to Inform Injury Reviews for Permanent Instream Transfers

PROBLEM: Instream leases are subject to a less strict injury review than permanent transfers because they are not permanent. An instream lease might exist for one or more years in a row and not cause injury with another water right. However, if a water right holder wishes to move from an instream lease to an instream transfer, the experience of not having an injury during the instream lease period is not taken into consideration when determining whether injury might occur.

DESIRED RESULT: Devise a method for allowing a history of non-injury during an instream lease of specific water rights to inform the injury determination for an instream transfer of those same water rights.

HOW TO ADDRESS: The Department and stakeholders could attempt to develop a process, scenario or circumstance that would provide the desired result. Rulemaking would be required to implement a change to the injury review process for instream transfers.

8) Allow Character of Use for Temporary Transfer

PROBLEM: Character of use changes are currently not allowed under a temporary transfer. This option could be very useful especially to fulfill a temporary water need

when a limited license cannot be granted for some reason or when the temporary water user needs a more secure water use authorization than a limited license may be able to provide.

DESIRED RESULT: Allow character of use changes under temporary transfers.

HOW TO ADDRESS: The Department and stakeholders could attempt to develop a concept that would provide the desired result. Rulemaking would be required to implement this idea.

9) Eradicate Application Zombies

PROBLEM: Occasionally applications may be pending for several years before the processing is complete. This may be because a protest is filed or it may be due to the applicant's inability to move forward. Occasionally applicants sit on an application for years tying up water that should be made available to other appropriators. Because we have a statute that requires that only the rules in effect at the time the application is filed be used in the review, sitting on a pending application allows some applicants to secure an older set of rules even as rules change to meet current resource needs.

DESIRED RESULT: Devise a strategy that reduces or eliminates an applicant's or the Department's ability to keep applications on hold for extended periods of time without just cause.

HOW TO ADDRESS: The Department will revisit then articulate its policy to move applications along without undue delay. In the future, the policy could be converted into rule.