

Oregon Water Resources Commission  
Work Session  
December 14, 2000  
Salem

Members

Tyler Hansell  
Ron Nelson  
Dan Thorndike  
Susie Smith  
John Fregonese  
Jim Nakano  
Nancy Leonard

Staff

Paul Cleary  
Meg Reeves  
Sharyl Kammerzell  
Tom Byler  
Diane Addicott  
Fred Lissner  
Cindy Smith  
Tom Paul  
Al Cook  
Dave Jarrett  
Barry Norris  
Gary Ball  
Bob Rice  
Jerry Rodgers  
Bob Main  
Bill Fujii  
Richard Whitman

Others

Rick Kepler  
Eric Glover  
Matthew Rea  
Ed Henricks  
Michael Tehan  
Kimberley Priestley  
David Johns  
Aubrey Russell  
Steve Applegate  
Martha Pagel  
Brad Harper  
Harlan Levy  
Andrew Purkey  
Pete Test  
Malia Kupillas

Written material submitted at this work session is part of the official record and on file at the Oregon Water Resources Department, 158 12<sup>th</sup> Street NE, Salem, Oregon 97301-4172. Audiotapes of the work session are on file at the same address.

Director Cleary opened the work session commenting that in May 2000 the Commission asked staff to form a work group to discuss the interplay between the Endangered Species Act (ESA) and Oregon water law. Commissioners Hansell, Nelson and Smith are members of that work group along with stakeholders. This group met twice during the summer and made a presentation to the Commission at its August meeting. Since then they have met three times — their last meeting included representatives from the U.S. Fish and Wildlife Service, the Bureau of Reclamation, the Army Corps of Engineers, and the Oregon Department of Fish and Wildlife.

The first panel before the Commission at this work session discussed the federal perspective on water use and the ESA. Panel members included Michael Tehan, National Marine Fisheries Service; Eric Glover, Bureau of Reclamation; and Matt Rea, U.S. Army Corps of Engineers.

The second panel discussed the state perspective. Panel members included Phil Ward, Oregon Department of Agriculture; Rick Kepler, Oregon Department of Fish and Wildlife; Geoff Huntington, Oregon Watershed Enhancement Board (OWEB); and Neal Coenen, of the Governor's Office.

The third panel discussed the ESA/Oregon Water Law Work Group perspective. Panel members included Meg Reeves, Oregon Water Resources Department; Karen Russell, WaterWatch; Pete Test, Oregon Farm Bureau; and David Filippi, Stoel Reeves.

The written staff report shared insights and information from the ESA/Oregon Water Law Work Group and offered recommendations and alternatives for the Commission's consideration.

Commissioner Nelson and Pete Test suggested that the Work Group continue to meet and keep legislators informed on issues of concern. David Filippi said the Oregon Water Resources Congress and the Walla Walla water districts would like to see the Work Group continue as it provides a forum for generating ideas.

Commissioner Smith expressed appreciation for all the staff work that went into supporting this Work Group. She suggested opening meetings to legislators and their staff. She is optimistic about the opportunity to work with the federal agencies and keep the state water law intact. Measurement, reporting and accountability needs to be a key component of what we do. We lose some credibility when we don't have accountability for the users when it makes a meaningful difference.

Commissioner Nakano said he still has a concern with instream leases, especially in Eastern Oregon, on bank storage using the uplands. If the soil is not saturated as off stream storage it makes a big difference in return flow at the end of the season. John Buckhouse, Oregon State University, gives a good explanation of this; and data on it is currently being collected. On the middle fork of the Malheur River an agency bought the uplands and did not irrigate; the result was very low water flow in September due to loss of bank storage return flows. Cleary said the split season concept might help address this concern.

Commissioner Nelson said he likes the list of recommendations in the staff report and supports more discussions of measurement and reporting as a tool. Another important discussion would be regarding the institutions and their interaction with the federal agencies, coordination with other natural resource agencies, formalizing tasks and responsibilities, and funding.

Commissioner Hansell said he has some concerns about the observation on the first page of the staff report that federal and state laws operate "side by side" in the state. He did say he was encouraged by Huntington's comments regarding money that might be available through OWEB to help finance measurement projects. Hansell said he agrees that measurement and reporting are crucial to know how much water is being used, where it is being used, and what is actually available. He said he too believes the Work Group should continue to meet — there are still issues to discuss.

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

Respectfully submitted,

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

Diane K. Addicott  
Commission Assistant