



Oregon

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Water Resources Department

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MEMORANDUM

TO: Water Resources Commission

FROM: Debbie Colbert, Field Services Administrator
Dwight French, Water Rights and Adjudications Administrator

SUBJECT: Agenda Item J, May 30, 2008
Water Resources Commission Meeting

Deschutes Basin Ground Water Mitigation Program Follow Up

I. Issue Statement

This report provides follow up on the status of the allocation cap under the Deschutes Ground Water Mitigation Program (OAR Chapter 690, Division 505). The report also provides an update on the Department's efforts to convene a stakeholder group for the legislative report required under House Bill 3494 (2005 Oregon Laws). *This report is informational only; no Commission action is required.*

II. Background

At the February 29, 2008, Commission meeting, the Department presented the results of its Five-Year Evaluation of the Deschutes Ground Water Mitigation Rules. By rule, the mitigation program allows only an additional 200 cubic feet per second (cfs) "cap" of new ground water use unless the Commission adjusts the rules based on its evaluation of the program.

At the time of the February Commission meeting, pending applications for new ground water permits exceeded the 200 cfs cap. Based on the Department's recommendation, the Commission chose not to initiate rulemaking to adjust the cap. Instead, the Commission directed staff to report back on activity related to the cap as part of its broader HB 3494 review of the program. The Commission also directed staff to review pending applications to ensure that appropriate and documented needs were provided.

III. Discussion

A. Allocation Cap

The Department has been reviewing all of the pending ground water applications for completeness of information and documentation of the requested quantity of water. As a result of these efforts, one application has been withdrawn, which has freed up five cfs of water under the allocation cap (see attached pie graph). There are a number of additional applications that may be denied or may have the requested quantity of water reduced. Reasons for denial or reduction in quantity include: 1) a lack of documentation of land-use consistency; 2) insufficient

justification of the quantity of water requested; or 3) unclear information confirming whether the applicant is authorized to apply for the requested use. Resolving these applications may free up even more water under the allocation cap.

B. HB 3494 Stakeholder Group and Report

By January 31, 2009, the Department is required to report to the Legislature on the implementation and operation of the Deschutes Ground Water Mitigation and Mitigation Bank programs. The Department will be working with a contractor to facilitate the Deschutes Group and to help draft the report. The Department announced the request for proposals from potential contractors on March 31, 2008. Three contractors submitted proposals. A review team ranked these proposals and recommended Watershed Network Professionals, LLC to receive the contract. Staff will be meeting with the contractor to identify stakeholder participants and select meeting dates for the workgroup.

IV. Summary

The Department, as recommended by the Commission, reviewed existing applications for consistency, and found a number of applications with issues. One of these applications has been withdrawn, leaving 5 cfs available under the cap. The Department will continue to review and process the remaining applications and may request more information where needed. The Department is also moving forward with the HB 3494 stakeholder effort.

Attachment:

Status of the 200 cfs Allocation Cap

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