

MEETING MINUTES
GROUND WATER ADVISORY COMMITTEE
October 3, 2003
North Mall Office Building, 725 Summer St. N.E., Ste. A
Salem, Oregon 97310

GWAC Members Present		Staff Present		Others
Ed Butts	Nitin Joshi	Chris Byrd	Juno Pandian	Sonny Chickering
Malia Kupillas	Don Rajnus	Barry Norris	Donn Miller	Bill Cummings
Paul Christensen		Adam Sussman	Dave Jarrett	Frank Simas
		Marc Norton	Tracy Eichenlaub	
		Doug Woodcock		

- I. Call to Order - Malia Kupillas
- II. Approval of Minutes - The 6/20/03 minutes were approved with two corrections.

New Manager Introduction

Doug Woodcock introduced himself as the new Ground Water Section manager at the Water Resources Department (department). Doug said that the department has a request from Umatilla County to restrict new exempt uses in critical ground water areas. This was prompted as part of the county's periodic plan review remand from Oregon Department of Land Conservation and Development for goal 5 issues. The department is also seeking a letter of support from Morrow County for this as the two counties share three critical areas.

- III. Request for Clarification (OAR 690-240-0035) Geotechnical Holes: General Performance and Responsibility Requirements.

Sonny Chickering, Bill Cummings, and Frank Simas of Lane County explained their interest in the department's classification of slope stability holes (SSH). The county installs many of these holes along county roads for the purpose of obtaining and evaluating subsurface data relative to the movement and hydrogeologic features within a landslide, including water level measurements. Many SSH's are installed on road right-of-ways while others are placed on adjacent private property. Department rules require that SSH's used for water level measurement be constructed as piezometers (a type of monitoring well) and not "ordinary" geotechnical holes. This makes a difference to the county in three ways that involve money and time. First, as a well, the construction requires a start card fee. Second, a well must be abandoned by a licensed well constructor. Third, wells must be recorded on property deeds which requires a fee. Deed registration is the big problem for the county. Going to court for gaining right-of-way can pose problems with construction deadlines and timely addressing of problems.

If the department administered SSH's as "ordinary" geotechnical holes, the Lane County burden would be less. The County would like their SSH's to be reclassified simply as geotechnical holes to reduce this burden. This could occur now if water level measurement were not part of their use as a definition in the rules says that geotechnical holes are not monitoring wells. Paul highlighted that what a well is used for defines what it is called and the rules are structured accordingly.

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The rule language leads to some confusion. In OAR 690-240-10(32), it says that geotechnical holes are not monitoring wells. In OAR 690-240-35(9), it says that SSH's are a type of geotechnical hole but if the SSH is used for water level measurement it must be constructed to piezometer standards. In OAR 690-240-525, it says that piezometers are monitoring wells. GWAC discussed the issue at length to see if there were a way to relieve the county of its burden but found none. Several members said that it would be good if a well construction rules advisory committee considered possible changes.

Juno plans to review the 1995 rule advisory committee comments that address the classification. Department staff will come back with research and the county will research how other counties treat their SSH's.

IV. Legislative and Rulemaking Update

Adam Sussman, Senior Policy Coordinator, said that HB 2210, regarding increasing the well constructor bond, and HB 2268, regarding agency fee increases, are now law. He added that the legislature spent much time discussing who owns a water right for purposes of consent and notice. Don Rajnus said that he is concerned with water ownership issues as it relates to Bureau of Reclamation water sales in the Klamath Basin.

V. Rulemaking Update – Amity Hills/Walnut Hill

The Commission received a petition from Friends of Yamhill County to limit new ground water uses in this area. A hearing was held that proposed to limit new uses in both the Columbia River Basalt (CRB) and marine sedimentary aquifers to exempt uses only. Yamhill County Commissioners have expressed concerns about department actions. At this time, the department proposes to limit exempt uses only in the CRB. Marc Norton said that the data show patterns of water level decline there. Doug Woodcock said that the goal is to protect existing users. Adam noted that GWAC is being asked to advise the Water Resources Commission (WRC) on this new proposal.

Several GWAC members had concerns. Paul said that the proposal is taking in too much area and that decisions on water will impact property values. Malia said that decline patterns are not clear and that allowable new uses need to include some agriculture that uses less than domestic.

GWAC did not take a formal position but discussion comments will be forwarded to the WRC. Some individual GWAC members may attend the WRC meeting when rule action is expected.

VI. Rulemaking Update – Deschutes Basin Mitigation

Adam explained that the Commission adopted rules last year for mitigation and mitigation banking in the Deschutes Basin. Recent efforts to clarify four points in those rules drew numerous comments. The nature of the comments led the agency to conclude that it had work to do to explain the objectives of the rules. The department will slow down to explain the objectives before moving forward with rule implementation.

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VII. Proposed Special Area Well Construction Standards near Lakeview

This issue came to GWAC previously. As background, a site near Lakeview stored uranium mine tailings until a clean-up in the 1980's. The radioactive sources were removed but a ground water plume of sulfates and metals remained. The U.S. Department of Energy (USDOE) decided not to actively remediate due to cost and the impact on the local geyser attraction. Instead, institutional controls were implemented that included incentives to use the municipal water system and a land use advisory that referenced the plume and the need to follow any special area well construction standards. At this time the Oregon Office of Energy (OOE) is seeking adoption of a special area well construction standard that would continue to isolate the mineralized plume by requiring that new ground water use be below 250' over the one square mile area. A case and seal requirement to 250 feet would accomplish that.

Juno said that the department would go to hearing soon. She said that Oregon Department of Environmental Quality (DEQ) does not have a problem with the proposed special area well construction standards.

Paul was concerned that the plume is like nearby waters that won't be controlled. Still, what is the deeper alternative for water? Paul characterized this rulemaking action as a favor to another agency and not necessarily beneficial overall. He also noted that the proposed rules require a very close tolerance on liner placement.

Barry Norris noted that the department is proceeding on the basis of material developed by outside agencies and that the department has not studied the matter in detail itself. The department is taking the OOE's contention of health and safety issues at face value.

Nitin asked that the department should require OOE to get a report from DEQ that the rule is needed. Also, the department should get a legal opinion to protect itself from a landowner who suffers loss from contamination. Nitin thought that the rules would act to get USDOE off the hook from further ground water responsibility.

Malia recommended that the department seek DEQ's help to provide water quality information on the site from USDOE by a date certain. This could serve as a form of sunset on the rules. She also offered some wording changes to the proposed rules.

The department plans to hold a hearing on the proposed rules in October. The item will return to GWAC for its recommendation to the WRC.

Committee Officer Selection

The allowable term of Malia Kupillas as committee chair has expired. The Committee elected Nitin Joshi as the new Chair and Paul Christensen as the new Vice-chair.

Audiotapes of the entire meeting are available.