

MEETING MINUTES
GROUND WATER ADVISORY COMMITTEE (GWAC)
January 30, 2004
North Mall Office Building, 725 Summer St. N.E., Ste. A
Salem, Oregon 97310

GWAC Members Present		Staff Present		Others
Barry Beyeler	Nitin Joshi	Paul Cleary	Juno Pandian	Vicky Guay
Malia Kupillas	Don Rajnus	Barry Norris	Donn Miller	
Dave Graham	Jim Mack Sr	Adam Sussman	Dave Jarrett	
Merilyn Reeves	John Stadel	Doug Woodcock	Tracy Eichenlaub	
Paul Christensen				

I. Call to Order – Nitin Joshi

II. Introduction of New Members

Since the last GWAC meeting, the Water Resources Commission (WRC) took action to appoint two new members. Paul Cleary, Water Resources Director, welcomed Merilyn Reeves as a new environmental category member and John Stadel as a new well industry member. Paul spoke of major ground water issues in Oregon and the West. Merilyn and John briefly shared their backgrounds and interests in water.

III. Approval of Minutes - The 10/3/03 minutes were approved without correction.

Election of GWAC Officers

Nitin Joshi and Paul Christensen were re-elected unanimously as chair and vice-chair. Elections last meeting occurred with fewer than five members.

IV. Rulemaking Update – Well Construction Rule Changes

Tracy Eichenlaub discussed upcoming rulemaking to several sections of both the monitoring well and water well rules. The changes include rule clarification that the rules advisory committee worked through in 2002 and changes due to recent legislation dealing with the start card fee and bond amounts. GWAC members were particularly interested in the change to allow latitude/longitude in place of township/range/section on well reports. WRD would use software to convert “lat/long” on well reports into township/range/section for data filing purposes. Paul noted that lat/long can provide the more precise location and that constructors might be more inclined to provide it if additional locational information isn’t also required. Malia was concerned that lat/long would introduce more error into the reporting of well locations than currently exists so more locational information rather than less would be beneficial. Tracy will return to GWAC at the next meeting to seek a GWAC recommendation to the WRC on a subsequent rule draft after February hearings and public comment.

MEETING MINUTES
GROUND WATER ADVISORY COMMITTEE
January 30, 2004

V. Rulemaking Update – Five-Year Ground Water Permits in Willamette Basin
Adam Sussman, Senior Policy Coordinator, discussed proposed rule language that would allow the replacement of certain five-year permits with regular permits subject to all current application processing rule and review requirements. Five-year permits came out of basin planning rule requirements of the early 1990's as a way to deal with new applications in ground water limited areas. These permits can be renewed for additional five-year periods if the Director finds that the resource can probably support the extended use. In some cases permits have been renewed twice, leading to the interest in removing the five-year provision. Permit holders asked the legislature to consider making the permit changes by statute but the Department proposed an administrative solution instead. Several members observed that the renewal process is time-consuming for the Department. Adam thought that very few permits would ultimately be replaced based on the requirement of water availability on new applications.

VI. Rule Update – Amity Hills/Walnut Hills Ground Water Limited Area
Adam Sussman explained this topic. The WRC 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 expressed concerns about that Department action. The Department proposed to limit exempt uses only in the CRB. The WRC acted to classify new ground water uses in the CRB to exempt uses and limited licenses to establish a crop pursuant to ORS 537.143. The marine sedimentary aquifer was not reclassified as it is thought to be self-regulating by its poor yields. The sides involved in the rulemaking thought that the rule was a fair compromise.

VII. Rulemaking Update – Deschutes Basin Transfer Provisions (SB 820)
Adam Sussman updated the Committee on the Department's proposed modifications to the transfer rules (OAR Chapter 690, Division 380). These rules implement Senate Bill 820 from the 2003 Legislative Session and allow greater flexibility to change a point of diversion from surface water to ground water in the Deschutes Ground Water Study Area. The rules also contain provisions to allow temporary changes in place of use and type of use from irrigation to municipal use in the Deschutes River Basin. The rules basically use the statute's language. Adam viewed the applicability of the law to be very narrow due to the potential for injury which is always a transfer standard. Several GWAC members expressed concern about basin or area specific laws of this kind as they seem to conflict with statewide policies. Paul Cleary shared this concern and said that there needs to be a high bar for such laws. In this case, the special ground water knowledge in the Deschutes Basin is such a basis. Paul offered the topic of basin specific rules/statutes as a future GWAC agenda item for GWAC knowledge and policy comment.

MEETING MINUTES
GROUND WATER ADVISORY COMMITTEE
January 30, 2004

VIII. Rulemaking Update – Special Area Well Construction Standards near Lakeview

Juno Pandian updated GWAC on proposed final rules that establish special area standards for well construction (OAR Chapter 690, Division 200, Special Area Well Construction Standards), seeking a recommendation from GWAC on the proposed final rules. Specifically, the proposed special area standards would apply to the alteration, conversion or deepening of any well in the sedimentary units (clay, sand, silt gravel) in a specified area to the north of the Town of Lakeview in Lake County. The rules include deeper casing and sealing requirements to prevent commingling of contaminated and uncontaminated aquifers and to ensure the safe development of ground water. The rule is sought at the request of the Oregon Department of Energy as an institutional control of a plume from a former uranium mill tailings site. Radioactive materials have been removed from the site but other constituents remain.

GWAC discussed this issue extensively. Paul and John questioned the need for the rule based on the information that has been presented. Nitin and Marilyn were concerned that these rules provided a way for the U.S. Department of Energy to rid itself of further responsibility at the site. David Stewart-Smith, Oregon Department of Energy said that that would not happen. Dave cited his experience at such sites to say that there probably is a ground water problem at this site even if the documentation to GWAC is weak.

GWAC split its vote on the matter of recommending the proposed rules to the WRC. Barry, Don, Malia, and Dave voted yes. Nitin and John voted no. Marilyn, Paul, and Jim abstained.

See Barry Beyeler's memo dated 4/12/04 on this topic.

Umatilla County Overlay Zone/Umatilla County Critical Ground Water Taskforce

Barry Beyeler asked Doug Woodcock to update GWAC on the taskforce activities. Doug explained that Umatilla County had proposed an overlay zone that would restrict new exempt uses in critical ground water areas. This was in response to the County's goal five deficiency of its land use plan. The zone was highly controversial and action was subsequently tabled when the state made the decision to allow the County to delay goal five changes. In response, the County formed a taskforce to look at ground water needs through 2050. The taskforce will recommend to County officials how they should address water issues in critical ground water areas. The taskforce has asked WRD staff to appear at some of its monthly meetings to provide background and input.

Audiotapes of the entire meeting are available.

Oregon Water Resources Department

Ground Water Advisory Committee

MEMORANDUM

DATE: April 12, 2004

TO: Ground Water Advisory Committee

FROM: Barry C. Beyeler, GWAC Member

SUBJECT: Draft January 30 Minutes - Item VIII

As I read through the Draft minutes of the January 30, 2004 GWAC meeting, the Special Area Well Construction Standards near Lakeview section of the minutes appeared to need some clarification of the discussions held and the decision made. Because this was a split vote I feel it is important both prevailing opinions are stated clearly. I believe Donn has summed up the dissenting opinion relatively well; however, the majority opinion was not a rote approval of the Department of Energy position. I offer the following recollections of the discussion for consideration.

After significant discussion of this item the majority opinion turned to the low potential number of wells this would affect, current zoning of the area would not like create a proliferation of adverse effects, any land use action increasing well density would be subject to public notice and comment, the local public process indicated support of the plan submitted by the DOE, and although, the establishment of special area standards is not preferred, it could be an effective tool in this isolated situation. I believe the position of the majority was; this action would not relieve the DOE of further responsibility for the contamination present in the area as a result of the mill processing and tailings site. In addition, the proposal for the City of Lakeview to supply water to this area would mitigate the impacts, IF, land-use exceptions (Goals 11 and 14) were to be approved by the Department of Land Conservation and Development, requiring yet another public process for comment. In either instance of a zone change of the area or the exception process the Department needs to identify itself as a party of interest notified by the local planning jurisdiction(s) so the Department can respond to the potential changes appropriately. This strategy provides a minimum of two and possibly three levels of protection to prevent exacerbating the problems identified. Without the protection provided by being able to comment during the public notification associated with any land use action in this area, I would not have supported approval of these special well construction standards.

I believe it is important for these points to be reflected in the decision record for review by the Water Resources Commission, so they understand this was not simply a majority following a recommendation without thinking the process through. I believe the Committee was more evenly divided on this issue than the record shows. The record shows a clear majority of 4-2; however, I believe, the 3 abstentions could have produced an entirely different result with a narrow majority decision.

If you should have any questions, concerns or comments please don't hesitate to contact me and we can discuss them in greater detail.