

MEETING MINUTES
GROUND WATER ADVISORY COMMITTEE (GWAC)
March 23, 2007
North Mall Office Building, 725 Summer St. N.E., Ste. A
Salem, Oregon 97301

<u>GWAC Members Present</u>		<u>Staff Present</u>		<u>Others</u>
Paul Christensen	Lynne Paretchan	Bill Ferber	Kyle Gorman	Jerry Schmidt
Bob Jones	Merilyn Reeves	Debbie Colbert	Tim Wallin	
Jim Mack Sr	Tim Smith(by phone)	Donn Miller		
Greg Kupillas				

I. Call to Order – Paul Christensen, Chair

II. Approval of Minutes for the 12/15/06 Meeting

The draft minutes of the 12/15/06 meeting were approved as written.

III. Measure 37 and the Water Resources Department

Bill Ferber, West Region Manager, presented this item as a substitute for Kim Grigsby, Water Resources Policy Analyst, who was not available. The Department has received 12 Measure 37 claims. All have been denied with one pending and two of the denials being appealed to circuit court. Bill and Doug Woodcock, Ground Water Section Manager, cited three reasons for the denials: state control per the ground water act of 1955 and the water code of 1909 precede the M37 claims, there is no guarantee of water by the state of Oregon when someone purchases property, and WRD rules are not a land use decision per the M37 definition of a land use decision. A handout was provided to note the various claim actions. Some of the claims have had nothing to do with Water Resources Department rules. The agency has received many questions from the public on Measure 37. These include both claim advocates and those who have concerns with increased water use impacts. The agency is also working closely with counties on Measure 37 claims. Members requested that they be sent a copy of a M37 denial. Such a copy was sent as a meeting follow-up.

New exempt uses play a key factor in actions taken under Measure 37. Exempt uses are statutorily exempt from the permitting process under ORS 537.545 and include domestic and stock watering. The Committee expressed a strong interest in learning more about the administration of exempt uses and community water systems. Members supported the distribution of exempt use information to the public in both web/electronic and print formats.

Members requested that they be sent a sample denial by the Department of a Measure 37 claim.

IV. Legislative, Budget, Commission and Rulemaking Update

Debbie Colbert, Senior Policy Coordinator, provided a handout on current House and Senate ground water bills and made additional comments on the bills.

MEETING MINUTES
GROUND WATER ADVISORY COMMITTEE
March 23, 2007

HB 2564 relates to the measurement of all water use by 2012. The bill was introduced by the House Energy and Water Committee and is of strong interest to WaterWatch. The fiscal impact has created much concern and a work group has been formed on the bill. Over the last five years, the Water Resources Commission has implemented a strategy of increased measurement by focusing on major diversions and priority watersheds. This makes the best use of existing resources.

HB 2566 would eliminate new exempt uses of ground water. Uses that are statutorily exempt from permitting are very common and include domestic and stock watering. There is some confusion about implementation of the current bill language. A work group was formed on the bill to better shape it as needed.

HB 2785 would make it easier for small hydroelectric projects to piggyback on existing certificated water rights. It would apply to both surface water and ground water situations. No generation could occur in-stream.

HB 3154 seeks to remove the presumption of the potential for substantial interference, for purposes of appropriation, by a well that is located within ¼ mile of a stream and is hydraulically connected. The agency does not support this bill.

HB 3525 and SB 483 direct the Department to issue permits to use water from the upper Columbia River. A limit of 500,000 acre-feet per year is set to allow offset for depleting ground water resources and allow new development. This bill would bypass current fish concerns and mitigation requirements.

SB 600 is very similar to the Department's Oregon Water Supply and Conservation Initiative. The bill directs the Department to conduct water supply and conservation assessment with particular emphasis on Columbia River water availability.

Debbie briefly discussed a number of other bills.

Paul expressed his concern with the low level of Department participation in the recent Oregon Ground Water Association's bentonite seminar. The event brought in a number of industry experts on the use of bentonite as well seal material. Debbie suggested that Barry Norris be contacted in the future to insure participation. Doug thought that there had been a misunderstanding with the Department about the event.

MEETING MINUTES
GROUND WATER ADVISORY COMMITTEE
March 23, 2007

V. Issues Involved with Water Right Splitting to Ownership

Greg Kupillas shared his draft letter for GWAC consideration. It proposes to the Department Director the concept of partial perfection of non-municipal water use permits as a possible legislative concept for the next session. This letter was prompted by GWAC per the discussion on the issue at the last meeting. The Committee sees that multiple perfections can create a work load for the Department but that, alternatively, multiple extensions of time for permits would also. Creating a fee for partial perfection could also be a possibility. The flexibility that partial perfection provides is clearly a benefit for permit holders. Tim Wallin commented that he recognized that there would be benefits for both the public and the Department. He stressed that the particulars would be very important for the Department to consider. GWAC would like to stay in the loop to refine the concept. Greg was asked to make certain revisions to the draft and distribute the resulting letter for further consideration at the next meeting.

VI. Deschutes Basin Ground Water Mitigation Program

Kyle Gorman, South Central Region Manager, presented information on the Deschutes Mitigation Program. The Water Resources Commission adopted program rules in 2002. The program has three objectives. The first is to maintain flows for Scenic Waterways and senior water rights, including instream water rights. The second is to facilitate restoration of flows in the middle reach of the Deschutes River and related tributaries. The third is to sustain existing water uses and accommodate growth through new ground water development. Mitigation activities have increased considerably over the last two years. The Deschutes River Conservancy Mitigation Bank facilitates much of the activity by providing mitigation credits for users through water leases. Kyle provided a recent staff report to the Water Resources Commission as detailed background information.

Kyle sees the program as a success. This success has been measurable by increased summer flows in the middle Deschutes near Bend and in the lower Deschutes by modeling results. The program stops increased consumptive use in the basin.

There is currently more water available for lease than is issued in permits with lease credits. This is due to the fact that expanding urban boundaries are bringing in former irrigated farm lands. The water rights for those lands can be banked/parked in the bank until there is a demand.

There is an allocation cap of 200 cfs on new, mitigated rights. About 175 cfs are in the queue for consideration. Program reporting to the Water Resources Commission in January 2008 will lead to a decision regarding seeking to increase the cap. A Program report will go to the 2009 Legislative session.

MEETING MINUTES
GROUND WATER ADVISORY COMMITTEE
March 23, 2007

Paul expressed his view that the unique mitigation scheme in the Deschutes might not be transferable to other locations in Oregon. Kyle later noted that changing local water values with an increasing population now place more emphasis on lifestyle/recreation than on irrigation. The local situation provides several motivations for appropriators to lease their water rights which include when they get out of farming, when developing land, and altruism.

Kyle provided a background of the ground water hydrology in the Deschutes Basin. Ground water is mostly recharged in the Cascades. The rest or about 1/7th of the recharge is the result of canal leakage. Ground water storage is immense, meaning there is no lack of ground water in the area. Ground water discharge supports scenic waterway flows in the lower Deschutes basin.

Greg asked why there was a cap. Lynne and Kyle recalled that the legislative direction was to allow for growth and allow everyone to gain experience with mitigation before continuing or increasing the process.

As a follow-up, Kyle agreed to provide the Committee with a PowerPoint presentation on the Deschutes basin mitigation program.

Public Comment

No public comment was offered.

Audio-files of the meeting are available.