

MEETING MINUTES
GROUND WATER ADVISORY COMMITTEE (GWAC)
February 13, 2009
Rogue Conference Room
North Mall Office Building, 725 Summer St. N.E., Ste. A
Salem, Oregon 97301

GWAC Members Present		Staff Present		Others
Lynne Parechan	Terry Daugherty(phone)	Doug Woodcock	Jerry Rodgers	Helen Moore
Kevin Gill	John Stadeli	Kris Byrd	Donn Miller	Jerry Schmidt
Tim Smith	Rob Turkisher	Phil Ward	Laura Wilke	
Greg Kupillas	Merilyn Reeves	Brenda Bateman	Arla Heare	

I. Call to Order – Tim Smith, Chair

II. Introduction of New Members

Tim asked people in the room to introduce themselves and asked Rob Turkisher and Kevin Gill to speak about themselves as this was both men's first GWAC meeting.

III. Director's Welcome and Comments

Tim recognizes Phil Ward, Director of the Water Resources Department. Phil welcomes new members, thanks the Committee, hands out centennial water code pins to each member and discusses budget problems and solutions that the Department is working on.

Tim asks new members if they have received and read new members packet. New members have not received new members information. Tim asks Donn to distribute new member packets.

Tim announces changes to the agenda. Jerry Rodgers explains that the representative from the ethics Commission was unable to attend the meeting. However, the written materials for the agenda item are still available for review by the Committee but discussion of the item will be much shorter. Tim suggests adding the item to the next Committee meeting agenda. Rob Turkisher attended the Well Being symposium and presents information.

IV. Approval of Minutes for 11/7/2008 Meeting

The Committee approved the draft minutes of the 11/7/08 meeting.

V. Legislative Update

Brenda Bateman, Senior Policy Coordinator discusses Senate Bills and House Bills with the Committee. The first item is Senate Bill 193 which presents an overarching concept to have an integrated water resource strategy for the State of Oregon. Oregon is one of two western states that does not currently have a formal written water supply strategy. The bill was presented by the Director of the Water Resources Department, Phil Ward, along with the Director of the Department of Environmental Quality, Dick Petersen, to the Senate Environment and Natural Resource Committee. It was well received by the Committee and stakeholders. Brenda outlines that the bill was written over a year ago in a different budget situation and although the bill has support there may not be resources to support it. The Water Resources Department will work to get the policies

in place and the concepts in statute. Hard deadlines will most likely be removed from the bill until financial resources are available in the future.

Merilyn Reeves asks if there has been any effort to have consultation from individuals with expertise in land use issues in regards to this bill. Brenda states that there was some consultation with the Water Resources Commission, stakeholders and people involved with land use issues last month. Most questions and feedback from these individuals were process related.

Merilyn asks if the Association of Oregon Counties and the League of Oregon Cities have been involved in the bill. Brenda explains that they were part of the stakeholder group included at the Commission meeting last month.

Tim Smith asks how this bill integrates with the Oregon Water Supply Conservation Initiative (OWSCI). Brenda explains that Senate Bill 193 is the next phase. The bill builds on the information and data collected through OWSCI. An inventory of potential water storage sites above and below ground and an inventory of conservation projects were created thru OWSCI.

Kevin Gill asks if the data will be historical or if there will be new data going forward to pull everything together. Brenda explains it is a combination of both based on what the Department already has and new data.

Kevin asks if the strategy includes ground water. Brenda states that yes it does.

Brenda presents Senate Bill 194 regarding Water Use Measurements. This bill confirms a strategy already in place in the Department. The bill would ensure measuring devices are installed on the biggest group of diversions on high priority watersheds. This would assist the Department to place deadlines and provide financial resources to implement measuring devices.

Greg Kupillas asks if the resources were available to pursue this and would the Department be looking at irrigators who are not currently monitoring their use. Brenda states that there are currently 2200 significant points of diversion that have already been identified by the Department and have been cataloged and placed into groups. The first group consists of users that have permit conditions for monitoring. The second group does not have permit conditions and participation would be voluntary. The Department wants to keep their participation voluntary because, if it's mandatory, those individuals would no longer be able to get cost-share funds.

Tim asks if the language included in the bill is public information. Brenda states it is and notes that the language, as well as other information on bills, is located on the Department's website.

Merilyn asks about the fiscal stimulus and when it will be implemented and if it will affect Senate Bill 194. Brenda explains that there is a fiscal note still attached to the bill. It will most likely make its way to the Ways and Means Committee if it leaves the Substantive Committee and that is where a decision would be made as to whether the fiscal note will be taken off or not. Merilyn asks what the amount is. Brenda states that it would include 8 full-time staff members but cannot remember exact numbers. She explains that if the bill passes all of the deadlines will be removed.

Tim asks if Brenda will be available for questions after the meeting or if she would take public questions now. Brenda agrees to take questions at this time. There are no public questions. Donn states that all handouts will be available to Terry Daugherty shortly by fax.

Brenda presents Senate Bill 195, Wave Energy Projects, to the Committee. This bill involves wave energy projects and the ability to connect those projects to the grid. The Department is responsible for hydro-electric licensing and the wave energy projects located in the ocean fall under those statutes. There was a hearing for the bill and there was good overall support.

Brenda states that Senate Bill 196 will likely not move forward. The bill was written in anticipation of the ending of the adjudication process. The group, who asked for the concept, has now asked to not move forward as they felt it was unnecessary.

Brenda presents House Bill 2231, Increasing Start Card fees. This concept increases the fee from \$125 to \$225 per filing. This bill was amended and declares an emergency for implementation in July. Tim states that GWAC made a recommendation on the increase to the Department.

Brenda presents House Bill 2232, Fee for Geotechnical Holes. This would be a new fee collected by the Department to cover administrative and data entry costs for entering information. Lynne asks about fees and dual reporting requirement thru DEQ for drilling holes. Jerry Rodgers explains that the reports received are for geotechnical holes that meet certain requirements. The reports are then entered into an online database. The fee would cover the expense to enter that information. Lynne asks if the fee would apply to geo-probe holes also. Jerry states if it meets the requirements then yes there would be a fee. Marilyn asks how many geotechnical holes would be charged the fee. Brenda states she will provide the Committee with a one page information sheet.

Lynne expresses the concern that staff has not kept the committee informed on the legislative concept for geotechnical holes that has now become HB 2232. She noted that this has resulted in GWAC not having the opportunity to properly discuss the proposed fee and the details of the geotechnical hole data entry program.

Following Lynne's comments, Tim added that GWAC needs to be better informed in the future on all areas that affect ground water issues so the committee can provide advice as needed to the Water Resources Commission.

Marilyn asks if there have been hearings held on other bills that affect the Water Resources Department. Brenda explains there are a number of bills regarding vacation resorts and work in the Umatilla Basin. Greg asks if there is a bill for exempt wells. Brenda explains that there has not been one yet, but anticipates there will be.

VI. Rulemaking Update

Doug Woodcock, Ground Water Section Manager, presents information regarding well construction rules that were adopted by the Commission in November of 2008.

The Rules Advisory Committee that was formed in early 2008 held several meetings to discuss changes in Divisions 200, 205, 215, 220, and 240 of the OARs. That Committee presented draft rules to the Ground Water Advisory Committee on November 7, 2008 by conference call. The Committee's recommendations were incorporated in the revised draft rules that were presented to

the Commission. About November 27, 2008 the new rules were adopted by the Commission and took affect on January 1, 2009. The Department website has the new rules available under water law, however the rule histories for each division have not been updated yet. Doug noted that he was not aware of the correct procedure to get them updated.

Greg comments that the new rules include a greatly expanded use of bentonite for abandoning borings and applies only to water wells. Greg asks if the rulemaking process can be opened up again to apply the same standards for the use of bentonite in monitoring well abandonment. Doug explains the issue has been discussed along with other issues. John makes a suggestion that it be discussed by the drilling Committee. Doug explains that there is not enough information at this time for a discussion with the Committee. The new rules are an educational tool to learn how effective bentonite will be and how easy the sealing process is using bentonite. Greg asks if the Department is willing to grant variances in monitoring wells. Kris Byrd explains that the Department has not been approached with that question often. Kris explains each well is looked at individually.

Tim redirects back to Doug and asks how GWAC stays informed and is included in the process. Further, will rulemaking for wells be done in the future. Doug explains that as the Department receives data on bentonite use it can be reported back to GWAC, perhaps at the end of the year since the rules have just been adopted. There is no schedule for when there will be more rulemaking.

Laura Wilke presents information on a current rulemaking. Division 380 encompasses the Department's transfer rules. Division 382 is the Department's ground water registration modification rules. The proposed modifications to both divisions are very similar. Currently, under both sets of rules, applicants are required to provide the Department with copies of notice letters that are sent to their lien holders that they are making a change to the water rights on the property. Also, they are required to submit a report to the Department that is prepared by a title company which establishes ownership and lien holder information. This documentation is required to be submitted after the Department has done the first report "Draft Preliminary Determination" and it cannot be any older than three months from the date the "Draft Preliminary Determination" is issued. The intent of these requirements is to ensure the Department that the applicant that is pursuing the change has the right to do it, either being the owner of the property or having permission from the owner to make the change.

The Department is now proposing to eliminate the requirement for applicants to submit copies of letters they have indicated they have sent to their lien holders. Further, the proposal would modify the ownership report to only include ownership information and to clarify when reports need to be prepared and submitted to the Department. The reason for these changes is financial. Several owners have requested to wave the lien holder requirement since the price of the letters and documents from the title companies can vary from hundreds to thousands of dollars. Some of the reports can be prepared without the title information for little or no cost. Kevin Gill asks if there has been an opposition to the proposal. Laura states there has been no opposition. She also says that the Rules Advisory Committee was supportive of the change. Marilyn asks what the ownership report is for. Laura states that it is used to identify the owner of the property. Tim calls break and makes a change to the agenda. Barry Norris will be the next person to present.

VII. Oregon Water Supply and Conservation Initiative (OWSCI) Website and Umatilla Recharge Update

Meeting resumed at 11:54 a.m. Barry Norris, OWRD engineer, presents a slideshow on the Umatilla Recharge Project. The legislature appropriated money to hire a consultant to look at the potential of storing winter Columbia River water in the Umatilla Basin to replace curtailments. Three critical ground water areas are affected there. The slideshow is available on-line through the Department website.

Merilyn asks what the timeline is on the project. Barry responds that it depends on funding from the government. Merilyn then asks if there are any losers for the project. Barry says the only people who may feel like a “loser” would be people who want no water taken out of the Columbia River.

Barry then walks through the OWSCI website with the Committee. OWSCI gives the Department an opportunity to view water demands and water availability throughout the state, to develop the tools, methodologies, and budgets required to ensure that those who need water will have access to the resource.

Tim comments that the storage sites that the Malheur Lake Basin Working Group had worked on were not included on the site. Doug Woodcock suggests doing follow up with Tim to include that information on the OWSCI website. Barry states he will follow up regarding those sites being included on the website.

Merilyn suggests that OWSCI be discussed in a future meeting and include discussion about the community planning grants. Tim says to include that at the end of the meeting when they take suggestions for agenda items.

VIII. Exempt Use Work Group

Doug Woodcock presents information on the Exempt Use Groundwater Well Policy Consensus Work Group and provides the final report from Oregon Consensus that facilitated the group. The full report is available thru a website link included in the section of the report provided to the Committee. The group has agreed on two points to focus on. More refined well location information would be of value. If someone is using water above the exempt use limit, the water user is required to get a permit and provide the Department with a detailed location map. The second point is OWRD should receive money in the budget to continue to do ground water studies.

Tim asks if the subject of “stacking” exempt uses has been presented to the group. Doug explains it was discussed by the group. Senator Dingfelder has proposed limiting the total exempt use to 5,000 gallons a day for any use. Also, if a conflict arose between users, there would be meters required to solve the problem. There was no consensus between group members on exempt use changes.

Merilyn asks if it is legal to bottle your well water and sell it. Doug explains that you can bottle up to 5000 gallons a day and sell it without a water right and that use would be included under the exemption. Kevin asks if small businesses that irrigate from their well without a permit, but use under 5000 gallons per day, will be able to do that if the law is changed. Doug explains that commercial irrigation is not an included exemption. Lynne asks if that is stated in statute. Doug says no. Lynne says it is the Department’s interpretation of the law.

Helen Moore from Water for Life comments that there is a belief that there are certain legislators that want a bill passed that would require permits for (current) exempt uses and then a fee for those uses to generate revenue. Doug responds that the Department has no interest in that type of a bill because of the number of permits that would be involved. However, Representative Dingfelder did put together a bill in a previous session that said the Commission could require that within ground water restricted areas. There was talk of a fee to pay for the program and to fund ground water studies throughout the state. Tim wants to make sure that GWAC is made aware when a bill like this or a change to rules is made so the Committee has time to review and comment. Doug says he will make sure that as the Department is updated, the Committee will be updated.

IX. Construction of Down-hole Heat Exchange Wells (geotechnical holes)

John Stadel, GWAC member, presents information on vertical geotechnical holes. He advises that the Department should make a separate classification for closed loop holes, require a start card, require construction by a licensed driller, and have a geologist onsite when the holes are drilled. Right now such holes are being drilled and the Department is unaware they are being constructed. John states there are heating companies buying their own drilling machines and building these closed loop holes. Doug asks if there is an engineer onsite when the holes are being drilled. John is not aware if there is.

Doug advises the Committee that the Department has recently received phone calls in regards to these holes being created or expanded without anyone monitoring the process. The Department would like to form a group to make recommendations to regulate the process.

Tim advises the Committee to draft a letter to the Department and the Commission regarding the issues around this process and any of the problems that may arise from not having a regulation process in place. Doug states a letter is not necessary, as long as GWAC has a consensus. Tim states there is a consensus among Committee members present. Marilyn requests that this issue be placed on a future meeting agenda for more discussion before another Committee is formed. Tim suggests any new Committee will be discussing the process of regulation. Doug will keep GWAC informed as updates are available.

X. Well Being Seminar in Eola Hills

Rob Turkisher, GWAC member, presents a quick summary of events held at the seminar. Marilyn states the same seminar will be held in March at the 4-H center. Doug explains that the presentation in March will be Abigail Brown's Groundwater Neighborhood Network Presentation, which has been presented to the Committee. Tim requests that Rob put together a summary of the seminar and distribute it to each member.

XI. Setting Meeting Schedule for 2009

Members set the following meeting dates: May 1st in Salem and July 31st by teleconference.

XI. Public Comment – None given

Audio-files of the meeting are available.