

MEETING MINUTES  
GROUND WATER ADVISORY COMMITTEE (GWAC)  
May 1, 2009  
Rogue Conference Room  
North Mall Office Building, 725 Summer St. N.E., Ste. A  
Salem, Oregon 97301

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

I. **Call to Order** – Tim Smith, Chair. Terry Daugherty suggested each member check with one another to make sure everyone has each other’s correct email addresses.

II. **Approval of Minutes for 2/13/2009 Meeting**

Lynne Paretchan sent an email to the Department with corrections regarding the minutes. Merilyn Reeves urged the Department review the minutes again and make appropriate changes and hold the minutes until the corrections are made. Tim stated information requested by GWAC for HB 2232 was not sent to members. This was an item Lynne had mentioned in her email. Doug Woodcock, Ground Water Section Manager, pointed out that Lynne commented in her email that by not receiving certain requested additional information that “this resulted in GWAC never having had the opportunity for substantive discussion about the actual proposed fees or the details of the geotechnical hole data entry program.” Doug stated that the minutes from the May 2008 meeting reflect the presentation given to GWAC regarding geotechnical holes which was the same information given to the commission. Lynne was not present at the May 2008 meeting and was not able to comment. Out of consideration for Lynne, Tim requested to hold the minutes and have a discussion regarding this issue. Donn Miller will make corrections to the draft minutes.

III. **WRD budget 2009-2011**

Tracy Louden, Administrator of the Administrative Services Division, presented information regarding the budget for 2009-2011. GWAC members received handouts regarding the budget. Tracy explained Water Resources has a \$24.9 million budget made up of general and lottery funds. This is roughly 1/1000<sup>th</sup> of the entire state budget as it relates to those funds.

Tracy presented to the committee the budget broken down by division, by expense category and by funding source. Tracy explained that a large part of Water Resources budget is staff. Statewide 15% of budget goes to staff while 61% goes to special payments. Water Resources does not have special payments except for the grant program for water reuse and storage, highlighted on the handout. Most agencies are targeting special payments to cut expenses to meet the 30% reduction, however, at Water Resources a 30% reduction would mean \$7.5 million, eliminating 45-46 staff members or 1/3 of current staff. Bob Jones asked for examples of one time cuts that can be made by the Department to reduce the budget. Tracy explained items such as the Water Reuse Storage Grant Program, Umatilla aquifer study, and contracts for services with counties or federal governments. Kevin asked

how many of the 46 positions eliminated can be covered by attrition or current vacancies. Tracy explained attrition within a year would be perhaps 6 people and there are currently 10 positions vacant.

Merilyn asked if it would be possible for Water Resources to take lottery funds with restrictions. Tracy explained OWEB has stepped forward to fund 2 positions that tie into the Oregon Plan for Salmon until the end of the current biennium. Merilyn asked if the positions are currently vacant. Tracy explained that they are currently occupied. He also explained the Department is not aware if those positions will continue in the next budget, as they are on the 30% reduction list.

Tim requested the committee comment on the time spent by a staff member to facilitate GWAC meetings and suggested teleconferencing may help save money. Tim also asked if the committee will continue to function. Tracy explained if all 46 staff members are lost there will be some time needed to assimilate the impact to the Department's customers. However, GWAC is outlined in statute and will continue.

Greg Kupillas asked about the decision process the legislature will use when making cuts. Tracy explained the 30% was requested because it will more than cover the "hole" in the budget and exceptions can be made to the list. However the "budget hole" has grown and it is possible that the legislature may need to use all the proposed cuts. It is not likely that any agency's 30% list will be taken entirely as the legislature will be looking at each item individually.

Merilyn Reeves asked what the current backlog is for individuals seeking water rights and will this further delay individuals from receiving those rights? Doug Woodcock explained that the backlog has been considerably reduced; however the reduction list would cut 30% of the ground water staff and may inflate the backlog.

#### **IV. Water Conservation, Reuse, and Storage Grants 2007-2009**

Tracy Loudon presented information to the committee regarding the Department's grant program. The legislature set aside at the February, 2008 session \$1.7 million for the grant program. Roughly \$600,000 was taken back to address the budget shortfall. At this time, the Department is funding just under \$1 million in grants. The program is designed to fund feasibility studies of the possibility of creating a project. It does not cover construction costs.

Merilyn asked if the reductions were done in the interim and not by the current legislative session. Tracy responded that the reductions were done during the current session as the legislature had to balance the current budget and went through all state agency budgets and made reductions. Tracy also explained the grant program was one time in nature and only for this biennium. The Governor does not have the grant program included in the budget for the next biennium. Bob Jones stated that it was originally intended to continue into the next biennium and Tracy agreed and explained that it was to continue if there was money available.

Merilyn noted the meetings that are currently taking place around the state to help citizens understand the "doomsday" feel of the current budget. She asked what information is presented at those meetings as it relates to Water Resources and is there any opportunity for making a case for Water Resources. Tracy responded that there is opportunity for the public to provide input to the legislature regarding impact to their community. However, the agency has already presented information to the Ways and Means committee regarding its budget.

Tim recognized Helen Moore to make a statement. Helen stated that there is an opportunity for the public to email or send letters to the Ways and Means Committee and the committee is on the web.

Bob Jones encouraged GWAC to make a statement regarding the cuts to the budget and how important the availability of water is and how lack of water can affect the economy. Water Resources should be considered a valuable department. Tim asked the Department to clarify the procedure on making a statement as the GWAC is not considered a lobbying body. Tim asked if it is appropriate and possible to make a statement to the Ways and Means Committee. Doug Woodcock responded that it is not the role of the GWAC to lobby the legislature or Ways and Means.

#### **V. Umatilla Recharge Update**

Barry Norris, presented a slide show on the critical ground water areas located in the Umatilla Basin and the feasibility of taking water from the Columbia River, cleaning and storing it by recharge to alluvium at County Line and Echo Meadows and later injecting it into basalt aquifers. The State of Oregon is currently conducting feasibility research through a local contractor

Greg Kupillas asked if using the alluvium will treat the water appropriately and has the Department done the research to be sure that this type of treatment will work. Barry explained that there has been research done and using the alluvium will work.

#### **VI. Rulemaking Update**

Debbie Colbert, Administrator of Field Services Division and Laura Wilke of that division presented follow-up information on proposed rule changes to Division 380 and Division 382. Laura previously presented on this to the committee in February. The public comment period has closed. The Department received two comments on the proposed rules, one from Central Oregon Irrigation District, supporting the Department and thanking the Department for starting this effort to simplify the transfer process. The other comment was received from GWAC member Lynne Paretchan who had wordsmithing suggestions, many of which have been incorporated into the rules. The proposed rules will be presented to the commission for adoption in June. Tim asked if the GWAC will be provided with final copies of proposed rules, Debbie states that the Department will provide a copy of the staff report that will have the final proposed rules attached.

Merilyn asked if the commission understands that the GWAC supports the Department, as they have not made an official comment on the rules. Doug Woodcock responded that at the time Laura Wilke made the presentation in February, there was a discussion among the GWAC members that the rules proposed were procedural and did not involve the protection of a resource. It was decided there really was not a need for a GWAC motion.

#### **VII. Interstate Compacts**

Debbie Colbert presented information on interstate water compacts. There are three methods used to resolve interstate water conflicts. One is by one state suing another state in front of the United States Supreme Court. Usually a downstream state will use this method to prevent an upstream state from diverting water. There are not very many of these cases and the Supreme Court does not like to decide water cases. The second method is by congressional apportionment, this method is very rare as Congress does not like to make these decisions. The most typical way to resolve water conflicts is through interstate compacts. The first step is to present a proposal to Congress and request to have a

conversation about interstate water compacts. The states involved go through a negotiation process. If all states involved can come to an agreement, each state involved passes identical legislation through their own legislative process. The compact becomes effective when ratified by Congress.

In Oregon there are 3 compacts, all of which are in Oregon Revised Statute 542. The first compact is the Goose Lake Interstate Compact between Oregon and California. This compact specifically includes groundwater. It was passed in 1963 but was not ratified by congress until 1984, when it became effective. The second compact is the Columbia Natural Resources Compact. This compact was passed by the Oregon legislature in 1999. However, it was never ratified by the other states, Washington, Idaho, Montana, or the US Congress and is not effective. This compact was originally proposed by the Oregon Governor in 1911. Reasons for the process taking so long were the cost of negotiations and disagreement among the states.

Tim stated that because these compacts can take up to 20 years to ratify, there should be some state action soon to protect the groundwater resources in the Klamath Basin and other areas of the state where water is being pumped out of the ground by other states. This is depleting the groundwater in Oregon specifically by California in the Klamath Basin, right on the border between California and Oregon. Doug states that in the Klamath Basin Oregon happens to be the upstream state and it may be California who eventually is clamoring because Oregon is taking all of the water.

Doug informed the committee that discussions have started with the State of Washington's Department of Ecology regarding the Walla Walla River that runs across the state line. Once again Oregon is the upstream state. Washington would like Oregon to do what they have done administratively on their side of the line with regards to ground water use. Debbie pointed out that the Walla Walla is an example of a Supreme Court decision between states. Decades ago the State of Washington sued the State of Oregon regarding the amount of surface water flowing into Washington from Oregon. The court ruled in favor of Oregon stating Washington gets what Oregon does not use and were not entitled to call on anything more. Debbie added that sometimes it does not need to involve a complex, long, expensive process, it can be done through interstate cooperation and making an attempt to adopt rules that are consistent across the state line without escalating it to the next level.

Merilyn stated the time for big interstate compacts is gone and there should be discreet smaller types of agreements.

Tim requested the record reflect that the GWAC members really appreciate the service Donn Miller has given to the committee and thanks Donn for his hard work and time spent keeping the members informed and on track. Merilyn would also like for the record to reflect best wishes to Jerry Rodgers, who has broken his leg.

### **VIII. Construction of Ground Source Heat Borings**

Juno Pandian, Well Construction and Compliance Manager presented information to the committee regarding work of the ground source heat borings work group meeting held on April 15<sup>th</sup>. Juno handed out work group contact information to the committee. Most work group members did not appear at the meeting, but communicated by email. Concerns and the purpose of the meeting were reviewed.

Juno stated that proposed rules are currently being drafted and she would be happy to submit them to GWAC. At this time they are guidelines and whether or not they are written into rules depends on

the 2009-11 budget and whether or not the Department has the resources and staff. Juno noted that if rules were proposed, a rules advisory committee would help finalize a hearing draft version.

Merilyn asked if there was a consensus that this is a problem. Juno stated there is concern because of the incentives from federal tax credits and Oregon state tax credits through the Department of Energy, prompting inexperienced drillers to enter the business. Also there is concern about directional drilling without grouting and contamination and comingling. Tim stated there should be some concern about the location of the borings. After holes are drilled they are difficult to find and could be a problem with leaking fluid if no one is able to find them. John stated that currently the regulations require a submittal of a map with the geotechnical hole report. The current rules do not require a start card and there are heating companies purchasing directional drills and drilling the holes unaware that they have to submit a geotechnical hole report. John also stated there should be a report submitted not necessarily per hole but per site in order to protect the ground water.

Merilyn stated that at some point the problems need to be identified. Merilyn went on to say she was unaware what the guidelines might do. Juno responded that there are basic rules already in place for geotechnical holes. The guidelines were taken to the work group and concerned parties to decide if the current guidelines are enough to address the problem or does the department need sometime more strict on the books. Juno also added that depending on the budget, those guidelines could potentially become rules and be incorporated into the well construction rules.

Bob Jones asked what kind of guidelines or rules are in place in case there is a leak and the fluid contaminates the aquifer and the procedures for reporting a leak. Juno responded that the borings are supposed to be filled with grout from the bottom to the top. The consensus of the group was because the boring is already filled with grout there should be no potential for contamination and the boring can be capped. John Stadel explained that there are no standards established by IGSHPA (International Ground Source Heat Pump Association).

Bob disagreed explaining that if the holes are grouted there is still the ability for leaks or cracks and feels there should be some reporting of these instances because the aquifer is potentially polluted if this happens. Kevin Gill commented that it is important to know from the original log what water zones were encountered during the drilling process or was it a dry hole. Juno commented the boring log criteria were discussed and that was one of the items. Also discussed were minimum borehole size, the materials put into the hole, how there were put in, the size of the loop, grouting completely around the loop, etc.

Bob asked if the loops are shallow. Juno and John Stadel explained that they are usually dug deep; an average residential system is 200 ft. Terry Daugherty asked if most of the chemicals being used in the loop are drinking water compatible. John explained that some materials used are not safe for drinking water, such as propylene glycol which is anti-freeze. Juno explained the work group did discuss what fluids would be allowed. Rob Turkisher asked if IGSHPA has guidelines on set backs to surface waters or groundwater supplies. Juno explained the workgroup did discuss this and came up with the consensus of 50 feet from water supply wells but surface water was not discussed.

Merilyn Reeves asked what communication the OWRD has had with the Department of Energy regarding the maximum \$600 tax credit and if they are able to hand out these guidelines or regulations. Juno explained that OWRD has been working with CCB (the Constructors Contractors Board) because all contractors need to be licensed through them and they have a newsletter and OWRD plans to do some outreach with the Department of Energy as you must use their certified

HVAC installers to get the state tax credit. Also Juno explains she is meeting with DEQ next week to coordinate the draft of the regulations. Marilyn asks if there are any guidelines for groups like the Building Codes Structures Board or others who have a newsletter. Juno explained she has the contact information and will be contacting those groups with the current requirements.

## **IX. Legislative Updates**

Brenda Bateman, presented information to the committee regarding legislative activity. At the end of April all of the bills needed to be heard and passed through committee or they are considered “dead bills”. Many of the bills that the Department has interest in went straight to the Ways and Means Committee and have a fee or money component. Legislative members want to have them on the table when the budget for the next biennium is discussed. Marilyn asks if the Ways and Means Committee is comprised of both members of the House and the Senate. Brenda explained that there are members from both the House and the Senate on the committee and it saves time in getting the bill to the floor for voting. Brenda handed out to each GWAC member a list of bills that are groundwater related. Included on the handout are URL to websites where the bill text and news about legislative updates and agenda can be found.

SB 193- relates to an Integrated Water Resource Strategy. This is an OWRD bill. Brenda presented where the bill is in process and that the commission has started having discussions about the content of an Integrated Water Strategy. The bill is going to the Ways and Means Committee. Brenda explained a lot of the bills that have a “price tag” or request general funding have been “killed”.

HB 2231- Increasing Start Card Fees & HB 2232 Establishing Geotechnical Hole Fees. These two bills originated at OWRD. Brenda explained the bills have received good support and the discussion and questions were productive. Kevin asked if the geotechnical hole fee is per hole or per site. At this time the language in the bill states site. Greg Kupillas requested information on how the money from the geotechnical holes fee might be spent.

SB 740 – Establishing a Water Rights Maintenance Fee. This bill did not originate by OWRD. Brenda explained the bill would create a \$100 fee per year for each water right. There are more than 85,000 water rights in Oregon. However, if a cap is placed on them so that no one entity or one person will be paying a lot of money if they hold many water rights, there are 60,000 unique water rights holders in throughout the state. Tim Smith stated that he feels this is more of a tax than a fee. Doug explained the steps and staff time involved in maintaining a water right and how the fee would help recover some of those costs. The bill was introduced by Senator Dingfelder.

SB 788 – Exempt Use Wells. This bill was introduced by Senator Dingfelder and would require a well location map and a \$250 fee for each exempt use well. Doug explained this concept originated last legislative session when Representative Dingfelder, now Senator Dingfelder, presented a bill that had a lot of these components in it. The bill died last session, however Representative Dingfelder put together a water interest work group to discuss the components of the bill. Out of this came 2 items: the need for better maps for locating wells and the need for better funding for ground water studies. Doug presented the evolution of SB 788 out of HB 2859. What this bill would do is require a well location map submitted by a qualified person, such as a CWRE, Licensed Surveyor or a Well Constructor. Bob Jones asked if this fee is only for new wells. Doug responded yes. Kevin Gill stated that the cost of this along with a start card fee increases the cost of it to \$475 versus \$125 now, plus the map fee. Doug explained that you can use a tax lot map and the map is required to be submitted by the landowner not the well driller.

SB 190 – Department of Geology and Mineral Industries(DOGAMI) geothermal bill – Doug explained this bill as originally proposed by DOGAMI conflicted with other agencies statutes. OWRD statutes state that the Department has process and regulatory authority over waters that are 250 degrees F and lower (low temperature geothermal) DOGAMI has authority over everything above 250 degrees F. (high temperature geothermal) DOGAMI submitted this bill to raise fees to cover their cost to process an application. They currently collect \$250 for any geothermal project but in proposing the new fee they eliminated the 250 degree F standard, stating that DOGAMI has authority over any geothermal process. There were meetings between DOGAMI and the agencies affected and the bill was amended to address these issues.

SB 101 The Department of Energy originated this bill. It relates to green house gas emissions. OWRD was listed as a consultant to help draft rules regarding carbon sequestration. Doug explained he does not know which committee it is in, but will get that information to GWAC.

HB 3361 – relating to “Big Water”. This bill is proposed by Representatives Jefferson Smith and Bob Jensen who have teamed up to look at water issues in Oregon. The bill provides funds to help address water projects and developments.

At this point, Lynne Paretchan arrived at the meeting via phone.

Tim Smith stated to the committee that GWAC should be included further in legislative discussions relating to groundwater along with the Commission. Perhaps the GWAC and WRC meetings should be scheduled prior to legislative session and have two meetings early on in the session before the bills have moved too far for the GWAC to advise the WRC. Doug stated that he would like a background from Brenda Bateman about the Commission and what their involvement in the legislative process is. Brenda stated that the Commission’s most active role occurs early on in setting the sideboards for the Department bills that are moving forward and also the policy statements. Events then move very quickly after that. Brenda stated that GWAC input would be most helpful as a framework for upcoming sessions to help the Commission. Greg Kupillas asked if the Commission has opportunity to provide additional input as bills are changing. Brenda said no. Once the session begins, most of the interaction is done through updates since the sideboards are given to the director in the beginning for him and staff to follow. The Commission meets quarterly. However, if there is something that causes concern it is addressed through conference calls. Tim asked for permission to contact Jay Rasmussen the current vice-chair of the Commission.

Merilyn Reeves stated that it would be important to have a meeting with the Commission and ask what the role of GWAC is to the WRC. Further, how should GWAC advise them efficiently, rather than simply stating that GWAC wants to be more involved with the legislative process. Lynne Paretchan suggested that the first thing they ask should be “how can we add value” not so much what the WRC wants the GWAC to do, but how the GWAC can add value to the Commission regarding groundwater. Kevin Gill suggested an executive summary page of the issues presented at the meeting regarding legislation and the impact it may have that includes the group consensus. Tim and Lynne agree that it would be a good idea to have a summary report. Rob Turkisher asked how information provided by GWAC is presented to the WRC. Tim explained that the Department presents that information to the Commission. Rob suggested a combined meeting with the WRC and GWAC. Doug states that the idea of a combined meeting can be suggested to WRC. Tim stated he will contact the chair and ask their preference. The GWAC chair will take on the responsibility of drafting the executive summary.

## **X. Public Comment**

Jerry Schmidt from the Oregon Ground Water Association presented comments relating to SB 2859 regarding exempt use in the Eola Hills. The bill was not moved out of committee. Senator Dingfelder took SB 2859 and replaced it with new verbiage. Relating to SB 788, Jerry stated that the fee proposed in the bill should be a fee that is spread out over the entire state and not just a select group. Jerry thanked the GWAC for its work. Jerry also thanked Doug Woodcock for providing accurate information.

The next GWAC meeting is scheduled for July 31<sup>st</sup>. Agenda items should include a legislative wrap-up and a budget wrap-up. Greg made a suggestion again that geotechnical hole information on how those fee dollars will be spent be presented. Tim explained to Lynne that the minutes from the previous meeting have been held for approval until items can be added to them. Lynne suggested a proposed change be sent out thru email and then the minutes are approved by email to not delay the minutes being approved and posted online. Doug asked if feedback can be acquired by email and the minutes can be approved. Lynne made a motion to have the minutes reviewed and approved by email provided there is no objection. Marilyn seconded the motion and motion was carried unanimously.

**Audio-files of the meeting are available.**