

MEETING MINUTES  
GROUND WATER ADVISORY COMMITTEE (GWAC)  
Friday May 7, 2010  
Rogue Conference Room (Third Floor)  
North Mall Office Building,  
725 Summer St. N.E., Suite A  
Salem, Oregon 97301

| <u>GWAC Members Present</u> | <u>Staff Present</u> | <u>Others</u>   |
|-----------------------------|----------------------|-----------------|
| Greg Kupillas               | Jerry Rodgers        | Steve Schneider |
| Merilyn Reeves              | Tracy Loudon         | Jerry Schmidt   |
| Bill Blair                  | Doug Woodcock        | Malia Kupillas  |
| Kevin Gill                  | Juno Pandian         |                 |
| Rob Turkisher               | Kris Byrd            |                 |
| Lynne Paretchan             | Arla Heare           |                 |
| Bob Jones (on phone)        | Brenda Bateman       |                 |
|                             | Tom Paul             |                 |

**A: Call to Order – Chair Greg Kupillas**

Chair Kupillas calls meeting to order and takes roll call. Reflected for the minutes that members Terry Daugherty, Tim Smith are not present nor attending meeting via phone conference.

**B: Approval of Minutes for January 29, 2010 Meeting**

Chair Kupillas acknowledging no objections opens up motions for approval of minutes, Merilyn Reeves motions to approved the minutes, Kevin Gill seconds the motion. Minutes approved unanimously.

**C: Integrated Water Resource Strategy Update**

Brenda Bateman, Senior Policy Coordinator, presents information to the committee members regarding the IWRS Open Houses. Brenda explains that turnout for the open house meetings have been good and the feedback has been positive. When the open houses are finished the information will be presented to a Policy Advisory Group and pared down to perhaps 10-20 ideas that will make up the strategy and presented to the commission.

**D: Budget Update**

Tracy Loudon, Administrator for Administrative Services, presents information to the committee members regarding the 2011-2013 biennium. Handouts given to the committee highlight a 2.5 billion dollar short fall in general fund. Start card fee revenue is expected to be up slightly, and the Department will continue to look for other opportunities to save money. Currently the department does have 2 positions vacant and there are 2 others doing some well inspections on a part time basis, as workloads are being spread around to some of the watermasters.

**E: Ground Source Heat Rules**

Doug Woodcock, Groundwater Section Manager, presents information to the committee members regarding the proposed schedule for rule making on Ground Source Heat Rules. The schedule right now reflects a Rules Advisory Committee meeting in August of 2010 to develop the rules. The public comment period would be during the month of September and that is when the Department would like to get GWAC input. The Department would like to present the rules to the Commission at the November 18th, 2010 commission meeting.

**F: Unhydrated Bentonite Abandonment of Water Wells**

Kris Byrd, Well Construction Specialist, presents information to the committee members regarding the status report on the use of unhydrated bentonite in the abandonment of water wells.

Since the rule allowing unhydrated bentonite in well abandonment went into effect in January 2009, there have been 656 water supply wells abandoned and of those 8 were abandoned using bentonite, under the rule. To abandon a well using bentonite, the Department needs 72 hours notice by the well driller, including information on the depth and construction of the well and the quality of the water. Other wells are being abandoned using cement and require no notification to the Department prior to the abandonment.

**G: 2009 Well Construction Report**

Kris Byrd presents to the committee members the 2009 Well Construction activity and inspection report. Jerry Rodgers points out to committee members that in 2009 the percent of well inspected was 47 percent. Jerry informs the committee that the Department is down a well inspector at this time, but is still striving to keep the number of inspections steady.

**I: Ecological Flow Technical Advisory Group**

Jerry Rodgers, Administrator for Technical Services, provides a status report on the activities of this technical workgroup (EFTAG) made up of scientists that study instream ecological flows. The committee's task is to write a background White Paper regarding ecological flows to be used to help set policy for both approving ecological flow studies and for setting ecological flows in regards to grant and loan programs established by HB 3369, passed by 2009 Legislature. Public comment is not open at this time. Greg has concerns about EFTAG not working together with IWRS on policy discussion, and that EFTAG could impact storage projects, particularly for the smaller projects. Greg asks where the Department stands on ASR projects in general and small scale ASR projects. Jerry states that the Department is generally supportive of ASR/AR as long as it can be done without impact to other users and still protect the resource. Doug Woodcock states that the Department sees ASR as a tool that will be expanded in the future to help people enhance their water supplies. There is nothing in the rules that would prevent smaller users from going down that path, but there are standards that need to be met.

**H: Delegation of Authority**

Tom Paul, Deputy Director, presents information on the Delegation of Authority granted by the Commission to the Department at their February 19th, 2010 meeting. Tom Paul explains to the committee that the Department has had an enforcement issue down in Lake County. A water well constructor was not following Department procedures for constructing wells. The Department followed the normal enforcement process, and when no compliance was received the Department went through the civil penalty process. Ultimately a civil penalty was assessed as well as suspension of constructor's license. To date no civil penalty has been paid, and the well corrections have not been made, well logs have not been submitted and the start cards have not been submitted and the fees have not been paid.

After investigation it was determined a criminal process would be too lengthy. Under statute for ground water injunctive relief (ORS 537.780), it states the Commission can pursue injunctive relief as it relates to groundwater, which is a faster process to remedy the continued violations. The Department requested Delegation of Authority to exercise enforcement action be given to the director. The commission delegated authority, requesting that the Department work with the GWAC to make any refinements to the implementation.

Extensive discussion ensued. Steve Schneider from OGWA provides comment to the committee and voices concerns about the need for the Delegation of Authority given to the Department and how that authority would be used. Bill Blair suggests the Department write down the steps that can lead up to an injunctive relief. Tom points out to the committee that this type of enforcement has to be approved also by the Director's Office. Lynne Paretchan points out that the Department could construct an internal guidance document to avoid rule making, and would provide a process to injunctive relief.

Lynne moves that the Department put together an internal guidance document that clarifies to staff that the Delegation of Authority will only be exercised after normal enforcement procedures have been exhausted. Marilyn Reeves states that an internal guidance document should be sufficient. Bill Blair agrees that the internal guidance document is sufficient. Motion carried unanimously. Greg Kupillas moves that the Department present at the next GWAC meeting, which statutes the Department would use the Delegation of Authority for. Motion is not seconded. Lynne requests the internal guidance document is provided to the committee when it is finished. Marilyn requests that there be follow-up on this issue.

#### **J: Klamath Basin Drought Activities**

Doug Woodcock briefs the committee on the Klamath Basin Water Bank activities for the upcoming irrigation season. Doug presents a power point presentation to the committee detailing the history of the Klamath Basin and groundwater use.

#### **K: Items not on the Agenda – no items**

#### **L: Public Comment**

Malia Kupillas presents to the committee a concern regarding the Department rejection of a small recharge project in the Grand Ronde Basin, intended to mitigate the groundwater impacts to surface water. Committee members asked to have the Department provide GWAC the OWRD policy on artificial recharge (AR) and aquifer storage and recovery (ASR) and how this denial fit into that policy.

Meeting adjourned

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