

Oregon Water Resources Commission  
Meeting  
February 14, 2003  
Salem

WRC Members

Dan Thorndike  
Susie Smith  
Tyler Hansell  
Jim Nakano

WRD Staff

Paul Cleary  
Phil Ward  
Shannon O'Fallon  
Cindy Smith  
Diane Addicott  
Debbie Colbert  
Adam Sussman  
Tom Paul  
Mike Ladd  
Kyle Gorman  
Barry Norris  
Jerry Rodgers  
Dave Jarrett  
Juno Pandian  
Mike Auman  
Laura Snedaker  
Jerry Grondin  
Bill Fujii  
Fred Lissner  
Kyle Sullivan  
Dwight French  
Tracy Eichenlaub

Others

Roger Prowell  
Jerry Schmidt  
Kimberley Priestley  
Mary Meloy  
David Moon  
Jan Lee  
Martha Pagel  
Brad Harper  
Glenn Barrett  
John Lambie  
Ed Henricks  
Elizabeth Howard  
Matt Rea  
Bruce Aylward  
Larry Venell  
Ed Radke

Written material submitted at this meeting is part of the official record and on file at the Oregon Water Resources Department, 158 12<sup>th</sup> Street NE, Salem, Oregon 97301-4172. Audiotapes of the meeting are on file at the same address.

**A. Commission Meeting Minutes**

Smith moved approval of the meeting minutes of October 10-11, 2002; seconded by Nakano. All voted approval.

## **B. Commission Comments**

Hansell said that he and Cleary attended the January annual meeting of the Oregon Water Coalition in Hermiston.

Nakano reported on a recent meeting with the Bureau of Reclamation that he and Jerry Rodgers attended. The purpose of the meeting was to discuss the Bureau's request to have measuring devices installed on all private diversions on the Upper North Fork of the Malheur River because of fish concerns.

Thorndike said he attended the January meeting of the Oregon Watershed Enhancement Board in Florence.

## **C. Director's Report**

Cleary reviewed his written report with the Commissioners. He informed them that Bureau of Reclamation Commissioner John Keys would be in Salem February 24 for meetings and to celebrate the 100<sup>th</sup> anniversary of the 1902 Reclamation Act.

Cleary said that good progress is being made in the Klamath Adjudication process. In the last 18 months WRD has successfully resolved 75 percent of the contests to claims. Cleary thanked staff for their hard work and efforts to settle contests and avoid litigation. Reed Marbut will be attending a Klamath Basin Fishery Task Force meeting the week of February 17. The Independent Multidisciplinary Science Team (IMST) for Oregon is scheduled to have a discussion on February 19 regarding their evaluation of the 2001 Biological Opinions for Klamath Project operations; their findings may vary some from the interim report of the National Academy of Sciences.

Chair Thorndike recognized Doug Parrow, Natural Resource Specialist; and Kyle Sullivan, North Central Region Resource Specialist, for their outstanding efforts in advancing measures of the Oregon Plan for Salmon and Watersheds.

## **D. Legislative and Budget Update**

Mike Auman, Fiscal Manager, reviewed the written staff report updating the Commission on budget issues. He said the Governor's 2003-05 Balanced Budget has moved into the legislative process for finalization. The Department continues to struggle with defining what resources will be available for the balance of the current 2001-03 Budget given the uncertainty of upcoming revenue projections.

Adam Sussman, Senior Policy Coordinator, reviewed a list and description of legislative bills the Department is currently tracking.

Smith suggested that because of budget cuts the Department might consider an underlying theme to resist unfunded mandates. Cleary said that staff prepare fiscal impact notes on legislative bills that would affect our agency funding and expenditures, and testify to those effects during bill hearings.

**E. Rules for Continued Education of Well Constructors, OAR Chapter 690, Divisions 200, 205, and 240**

Barry Norris, Administrator of Technical Services; and Tracy Eichenlaub, Well Construction Specialist, presented rule amendments to the Commission for their consideration. They reviewed the written report with Commissioners and explained that the proposed rule amendments would implement statutory changes adopted in the 2001 Legislative Session establishing a continuing education requirement for licensed well drillers.

Hansell moved to adopt the final proposed rule amendments as presented; seconded by Nakano. All voted approval.

**F. IMST Lowlands Report**

Debbie Colbert, Water Policy Analyst; and Tom Paul, Field Services Administrator, presented a draft response to recommendations of the Independent Multidisciplinary Science Team (IMST) Report on the Recovery of Wild Salmonids in Western Oregon Lowlands (Technical Report 2002-1). Written comments on the draft response were accepted through January 21, 2003; and a public hearing was held January 21, 2003. The Department received three written comments; no testimony was received at the hearing.

Hansell moved to endorse the final response to recommendations of the IMST Lowlands Report as submitted in Attachment 4 of the staff report; seconded by Smith. All voted approval.

**G. Deschutes Mitigation Bank Charter**

Tom Paul, Field Services Administrator; and Laura Snedaker, Senior Water Resources Coordinator, presented a request for adoption of a mitigation bank charter for the Deschutes Water Exchange pursuant to the Deschutes Mitigation Bank and Mitigation Credit Rules. The Commission was also asked to delegate responsibility for drafting final language of the charter and final signature authority to the Director.

Snedaker briefly reviewed the written staff report and highlights of the proposed draft charter. She and Cleary were joined by Bruce Aylward of the Deschutes Water Exchange to respond to

Commissioners' questions.

Smith moved to approve the draft mitigation bank charter for Deschutes Mitigation Water Exchange substantially in the form of the staff report's draft charter, and to delegate responsibility to the Director for finalizing language in the charter, as well as final signature authority. Motion was seconded by Nakano. All voted approval.

#### **H. Request for Exception to the Willamette Basin Plan**

Tom Paul, Field Services Administrator; and Dwight French, Water Rights Manager, presented this request. French explained that Greenberry Irrigation District was asking for an exception to the Willamette Basin Program due to extreme hardship since stored water contracts with the Bureau of Reclamation are not currently available due to ESA consultation delays. He then summarized the issues surrounding this request using a PowerPoint presentation.

Elizabeth Howard, attorney representing Greenberry Irrigation District, spoke in support of the request and introduced Larry Venell, President of the District; and Ed Radke, District Board Member. Howard assured the Commission that Greenberry's request for 2.5 acre feet of duty per irrigated acre would be sufficient for the District.

Kimberley Priestley, WaterWatch, expressed concerns regarding clarity of Greenberry's intent in making this request. She asked if the request is intended to be a temporary bridge until Greenberry gets their stored water from the Bureau or if the intent is to obtain a stable supply of water without consideration of endangered species concerns. WaterWatch does not object to the request being a bridge until stored water is available for the District, if the Department conditions the permit so that it goes away once Greenberry gets the Bureau contract. WaterWatch would oppose the request if it is an attempt to be an end-run around possible endangered species restrictions.

Cleary said that when the basin program was adopted, the Department provided for exceptions to the program if certain criteria are met. The time to discuss whether this request is a bridge that goes away when the stored water contract is available, or is a bridge that converts to a supplemental use when the stored water contract is available, or is no bridge at all, will occur during the permit review process. The exception request would just allow the permit review process to start, not dictate the outcome of that process.

Matt Rea, Willamette Basin Coordinator, Army Corps of Engineers, said he is responsible for coordinating endangered species federal agency consultation on continued operation of the Willamette Reservoir Projects; and he coordinates the seasonal Project operations. He said it would not be appropriate for the Corps of Engineers or the Bureau of Reclamation to make a formal comment on the request by Greenberry for an exception to the basin program request. In 1999 when salmon and steelhead were listed, the federal government placed a moratorium on

any new contracted water for storage from the Willamette Projects until an ESA Section 7 consultation is completed. The Corps' consultation with NOAA and the U.S. Fish and Wildlife Service covers only the Corps operation of the reservoir for storage and release of water — the site-specific impacts associated with irrigation contracts will not be addressed. Currently, draft biological opinions are being prepared covering the continued operation of the Willamette reservoirs. The consultation has taken longer than anticipated but should be in final form a year from now.

Nakano moved to accept Alternative 1 of the staff report — to approve the request by Greenberry Irrigation District for a basin program exception due to extreme hardship; recognizing that a permit, if ultimately issued, may be conditioned to address public interest concerns; seconded by Hansell.

After discussion, Smith suggested amending the motion to read: To approve the request for a basin program exception due to extreme hardship consisting of the unanticipated delays in Bureau of Reclamation contracting for irrigation water contracts; recognizing that a permit, if ultimately issued, may be conditioned to address public interest concerns. Both Nakano and Hansell agreed to this new language. All voted approval of the motion.

## **I. Overview of Department Activities in the Klamath Basin**

Barry Norris and Fred Lissner, Technical Services Division; and Dwight French, Water Rights and Adjudication Division, provided this informational report to the Commissioners. They reviewed the written staff report while showing slides of the areas being discussed.

Glenn Barrett, rancher in the Langell Valley area, expressed appreciation for the ground water studies being conducted by the Department and commented on the activities of the Upper Basin Working Group, a Klamath Basin consensus group initiated by Senator Mark Hatfield. The Working Group addresses drought proofing, economic stability, and endangered species habitat restoration work.

## **J. Public Comment**

Roger Prowell, City of Bend, thanked staff for planning the informative panel discussions held during the previous day's work session. He distributed a handout on the Deschutes Coordinating Group and shared information on various activities to improve city water management and conservation.

Mary Meloy, City of Redmond, said that WRD and the League of Oregon Cities are planning to hire a consultant to create a model water conservation and management plan as a template to

WRC Meeting  
February 14, 2003  
Page 6

assist smaller cities and utilities in developing their plans. This will greatly help smaller government entities fulfil the requirements of the Division 86 rules.

Martha Pagel, Attorney with Schwabe, Williamson & Wyatt, submitted written comments on Oregon's long-term water supply management discussed at the previous day's work session. She suggested that instead of a statewide plan, the Department consider developing policies that make it clearer and easier to move water around and to make decisions about water management on a local or regional basis.

There being no further business to discuss, the meeting was adjourned.

Respectfully submitted,

Diane K. Addicott  
Commission Assistant