

**Water Resources Commission  
Meeting  
Salem, Oregon  
February 17, 2011**

WRC Present

John Jackson  
Carol Whipple  
Ray Williams  
John Roberts  
Jeanne LeJeune

Staff Present

Phil Ward  
Tom Paul  
Cindy Smith  
Brenda Bateman  
Alyssa Mucken  
Kody Thurgood

Others

Anita Winkler  
Peggy Lynch  
Dan Bradley  
Shannon Peterson  
Kimberley Priestley  
Helen Moore  
Jim Root

Written material submitted at this meeting is part of the official record and on file at the Oregon Water Resources Department, 725 Summer St. NE, Salem, Oregon 97301-1271. Audiotapes of the meeting are on file at the same address.

Chair Jackson welcomed everyone to the meeting. Commissioners and staff introduced themselves to the audience.

**A. Presentation by the Klamath Basin Rangeland Trust**

Jim Root, Founder of the Klamath Basin Rangeland Trust (KBRT), and Shannon Peterson, Executive Director, gave a presentation to the Commission. They discussed their mission, activities, and goals.

**B. Integrated Water Resources Strategy Update and Discussion**

Brenda Bateman, Senior Policy Coordinator, and Alyssa Mucken, Integrated Water Resources Strategy Policy Coordinator, briefed the Commission on the progress of the Integrated Water Resources Strategy (IWRs).

Topics discussed were:

- 2011 Progress Report to the Oregon Legislature
- Updates on IWRs Components
- Public Policy Discussion: Workshop and Feedback Loop

**2011 Progress Report to the Oregon Legislature**

On February 1, 2011, a progress report was submitted to the Oregon Legislature to fulfill requirements of HB 3369 passed by the 2009 75th Legislative Assembly. HB 3369 directed the Oregon Water Resources Department to develop a state-wide IWRs to better understand and meet Oregon's water quantity, water quality, and ecosystem needs, while taking into account

important factors such as population growth and changes in land-use and climate conditions. The four primary agencies involved in the IWRS are the Water Resources Department, Department of Environmental Quality, Department of Fish and Wildlife, and Department of Agriculture.

The Governor's Balanced Budget contains funding to continue the two staff positions for the IWRS. Continued funding will be crucial to ensure the timely production of an IWRS that meets the requirements of HB 3369 (2009).

All 90 legislators received the progress report electronically, with an offer to follow up with hardcopy if desired. The agency directors briefed members of the Senate Environment and Natural Resources Committee and the House Energy Environment and Water Committee during the first week of February, to coincide with the report's release.

### **Updates on IWRS Components**

**Issue Papers.** Version 2 of the issue papers was released for public review and comment in November 2010. The public comment period remains open until March 1, 2011. Commenter's were invited to pay particular attention to the "critical issues", and provide insight, resources, or expertise to ensure that these critical issues are adequately described and cited in the issue papers.

The Project team has met with a number of partners and stakeholder groups during the past three months to invite input on the issue papers.

**Critical Issues.** During the January 5, 2011 Policy Advisory Group (PAG) meeting, PAG members reviewed the "draft IWRS Framework" developed during Fall 2010. This is the same framework rolled out and discussed during the November 18, 2010, Commission meeting. PAG members advised staff to remove as many "qualifiers" and "caveats" as possible when describing the critical issues that must be addressed in this first iteration of the Strategy. This resulted in a more simplified list of critical issues.

**Recommended Actions.** During the January 5 PAG meeting, time was spent identifying and discussing potential recommended actions. Having spent previous meetings identifying some data and information gaps, as well as planning gaps, the group spent most of its time brainstorming recommended actions that would help meet Oregon's instream and out-of-stream needs.

The Group will continue its work on-line between meetings. PAG members were asked to participate in a "homework" assignment that allowed them to provide feedback on several dozen potential recommended actions.

### **Public Policy Discussion: Workshop and Feedback Loop to the PAG**

Commissioners were asked to comment on the contents of the recommended actions that came from the January 5 PAG meeting. This gave Commissioners an opportunity to identify their "top

pick” recommendations, any recommendations to avoid, and any missing recommendations that should be added.

This information will help the Project Team draft recommended actions, so they will be ready for inclusion in the draft IWRS, scheduled for public review and comment during fall 2011.

Kimberley Priestley, WaterWatch of Oregon, acknowledged the work and efforts staff have put into the PAG meetings and appreciates all the outreach that the Department has done. She also expressed a concern about recommended actions that would focus on basin efforts and/or local capacity.

Components of the IWRS continue to develop with the input of advisory groups, members of the public, commissioners, and staff.

Next steps will include using feedback to further shape the recommended actions to address Oregon’s most critical water resource issues.

### **C. Peak and Ecological Flow Policy Development Process**

Barry Norris, State Engineer, gave an update to the Commission on the policy development process that will follow the development of the Ecological Flow White Paper.

In 2009, the Oregon Legislature passed House Bill 3369, which provides grant and loan programs for water conservation and development projects. The bill further requires that proposed storage projects receiving this funding include protection for “peak and ecological flows.” beginning in 2012.

In December 2010, the Ecological Flow Technical Advisory Group completed its work and a white paper was posted on the Department’s website. It is important for the Department to work with interests throughout the state so that stakeholders have a common understanding of what is contained in the white paper. In July 2011, the Department plans to convene a Rules Advisory Committee to begin to develop draft rules that protect peak and ecological flows for storage projects that are funded by HB 3369 grant and/or loan funds. The draft rules will be presented to the Commission for its consideration.

There being no further business, the meeting was adjourned.

Respectfully,

Cindy Smith  
Commission Assistant

**Water Resources Commission  
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Salem, Oregon  
February 18, 2011**

WRC Present

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Ray Williams  
John Roberts  
Jeanne LeJeune

Staff Present

Phil Ward  
Tom Paul  
Cindy Smith  
Brenda Bateman  
Juno Pandian  
Tracy Louden  
Renee Moulun  
Dwight French  
Barry Norris  
Mary Grainey

Others

Anita Winkler  
Peggy Lynch  
Dan Bradley  
Jim Myron  
Katie Fast  
Christine Faith  
Garth Bowden  
Isabel Charles  
Julie DeGraw  
Nancy Hatch  
Kimberley Priestley  
Helen Moore  
John DeVoe  
Chris Fick  
Willie Tiffany  
Courtney Simpson  
Joy Kern  
Mary Soots  
Nancy Newell  
Katie Ryan

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Chair Jackson welcomed everyone to the meeting. Commissioners introduced themselves to the audience.

**D. Approval of Minutes**

The minutes of the November 18 and 19, 2010 and January 27, 2011 meetings were offered to the Commission for consideration.

Commissioner Roberts moved to approve the November 18, 2010 minutes as submitted; seconded by Commissioner Williams. Voting for the motion: Commissioners Jackson, Williams, Roberts, LeJeune and Whipple. Voting against the motion: None.

Commissioner Williams moved to approve the November 19, 2010 minutes as submitted; seconded by Commissioner Roberts. Voting for the motion: Commissioners Jackson, Williams, Roberts, LeJeune and Whipple. Voting against the motion: None.

Commissioner Williams moved to approve the January 27, 2011 minutes as submitted; seconded by Commissioner Whipple. Voting for the motion: Commissioners Jackson, Williams, Roberts, LeJeune and Whipple. Voting against the motion: None.

## **E. Commission Comments**

Commissioner LeJeune commented that she attended the Oregon Water Utility Council Legislative Symposium. She felt this was a great opportunity to see what utilities were discussing. She also attended the Oregon Water Resources Congress' Annual Conference in Hood River and gave a presentation regarding the work of the Commission's Revenue Enhancement Subcommittee. She also attended the January 5, 2011 IWRS Policy Advisory Group meeting. She commented that she also continues to work on the Commission's Revenue Enhancement Subcommittee.

Commissioner Roberts commented that he has started attending the monthly meetings of the Bear Creek Watershed Council. It is a very diverse group that meets in Medford. It includes a number of water related organizations in the area. He met with Representative Peter Buckley regarding what the Revenue Enhancement Subcommittee is doing. Representative Buckley is supportive and receptive to what is happening. He noted that the Commission's Revenue Enhancement Subcommittee continues to meet via conference calls to work on necessary issues.

Commissioner Williams said he continues to be involved in the Commission's Revenue Enhancement Subcommittee. He also noted that he was arranging a tour of Kent Madison's aquifer recharge and recovery storage project in Umatilla. He also plans on bringing back information to the Commission regarding the recharge project of the Hudson Bay Irrigation District.

Commissioner Whipple noted that things were quiet in her area. She watched the mainstem of the Umpqua River rise 22 feet in a 24 hour period.

Commissioner Jackson commented that he attended the January 5, 2011 IWRS Policy Advisory Group Meeting as well as the Oregon Water Resources Congress' Annual Conference and the Portland Area Water Providers Consortium Meeting. He also attended the Oregon Watershed Enhancement Board Meeting in January as the representative from the Commission. He commented that he would like to have someone speak to the Commission at its next meeting regarding the Oregon Climate Change Adaptation Framework. He also noted that the previous days tour of two aquifer storage and recharge projects in Beaverton were very informative and impressive.

## **F. Director's Report**

Director Ward reviewed his written report with the Commission and responded to their comments and questions.

## **G. February 2011 Legislative Update**

Brenda Bateman, Senior Policy Coordinator, gave an update to the Commission on the Department's bills and other water-related bills being considered this session.

Oregon's 76<sup>th</sup> Legislative Assembly convened briefly during mid January to form committees and adopt committee rules. The formal Legislative Session convened on February 1 with budget as the primary, but not the only, topic under consideration.

Committees that the Department work with closely are:

**Senate Environment and Natural Resources Committee**

The Senate Environment and Natural Resources Committee, comprised of:

- Jackie Dingfelder (D-Portland), Chair
- Alan Olsen (R-Canby), Vice Chair
- Mark Hass (D-Beaverton)
- Floyd Prozanski (D-Eugene)
- Chuck Thomsen (R-Welches)

Three of the Department’s bills will begin in this committee:

Senate Bill 126, “Certified Water Right Examiner Training”  
Senate Bill 127, “Department Ability to Enter into MOUs” and  
Senate Bill 168, “Klamath Basin Restoration Agreement Fund.”

**House Energy Environment and Water Committee**

The House, Energy Environment and Water Committee, comprised of:

- Ben Cannon (D-Portland), Co-Chair
- Vic Gilliam (R-Molalla, Silverton), Co-Chair
- Debbie Boone (D-Cannon Beach), Co-Vice Chair
- Wayne Krieger (R-Gold Beach), Co-Vice Chair
- Jules Bailey (D-Portland)
- Cliff Bentz (R-Ontario)
- Brad Witt (D-Clatskanie)
- Jim Thompson (R-Dallas)

The remaining three Department bills will begin in this committee:

House Bill 2133, “Electronic Transactions at WRD”  
House Bill 2134, “Broadens the Category of Permits Involved in an Exchange”  
House Bill 2135, “Newspaper Notices.”

**The Joint Ways and Means Natural Resources Subcommittee**, which builds the state’s budget, is comprised of the following members:

- Sen. Chris Edwards (D-Eugene), Co-Chair
- Sen. Jackie Dingfelder (D-Portland)
- Sen. Chuck Thomsen (R-Welches)
- Rep. Jean Cowan (D-Newport), Co-Chair
- Rep. Bob Jenson (R-Pendleton), Co-Chair
- Rep. Jules Bailey (D-Portland), Co-Vice Chair
- Rep. Mike McLane (R-Medford), Co-Vice Chair

The Department's budget is scheduled to be considered by the Ways and Means Natural Resources Subcommittee in early April.

### **Panel Discussion – Legislative Priorities for the Legislative Session**

Lobbyists from the water industry engaged in a panel discussion sharing their priorities and predictions for the 2011 Legislative Session. Panelists included: Katie Fast, Oregon Farm Bureau; Chris Fick, League of Oregon Cities; John DeVoe, WaterWatch of Oregon; Mark Landauer, Special Districts Association of Oregon; and Anita Winkler, Oregon Water Resources Congress.

#### **H. Request for an Exception to the Willamette Basin Program by the Opal Creek Ancient Forest Center under ORS 536.295.**

Dwight French, Water Rights Services Administrator, presented a request from the Opal Creek Ancient Forest Center to consider a water right application requesting a use not included in the Basin Program.

Katie Ryan, Executive Director, Opal Creek Ancient Forest Center, attended the meeting via phone conference.

Department staff met with owners of the Opal Creek Ancient Forest Center in May of 2008 and informed them that it would be necessary to apply for a water right for their existing hydroelectric project and suggested they request an exception to the basin program. In November 2010, the Center submitted a request for a basin exception. The 18 kilowatt hydroelectric project is the primary source of electricity for the buildings at the Center. The Center asks that an exception be approved so that it could apply for hydroelectric use on a year-round basis.

Under ORS 536.295 the Water Resources Commission may, under certain circumstances, allow the Department to consider an application to appropriate water for a use not classified as an allowable use by the applicable basin program. According to the request, the Center's hydroelectric use "is largely non-consumptive in nature and not likely to be regulated for other water rights" as provided in ORS 536.295(1)(c). In addition, the applicant maintains that the use of the water will provide a public benefit as provided in ORS 536.295(1)(f) .

To approve a basin program exception request under ORS 536.295, the Commission must find that the request meets statutory criteria and the proposed use is consistent with the general policies of the applicable basin program. The Center has demonstrated that approval of this request will allow for consideration of a proposed use that is largely non-consumptive in nature and not likely to be regulated for other water rights and is consistent with the general policies of the Willamette Basin Program.

Commission approval of a request for an exception to a basin program does not guarantee that a water right will be issued, or if issued how it may be conditioned. If the Commission approves the exception, the Department will complete the application review process. Public notice and comment opportunities will be provided in the same manner as any other hydroelectric water right application. If the Commission does not grant the request, the application will continue to be processed but will likely be denied due to the fact that the proposed use is not a classified use in the basin program.

Commissioner Williams moved to approve the request for a basin plan exception, as submitted; seconded by Commissioner Roberts. Voting for the motion: Commissioners Jackson, Williams, Roberts, LeJeune and Whipple. Voting against the motion: None.

## **I. Budget Update: 2011-13 Governor's Balanced Budget**

Tracy Loudon, Administrative Services Administrator, gave an update to the Commission on the current financial situation and the next biennium's budget as proposed by the Governor.

The Department submitted its 2011-13 Agency Request Budget in July 2010 for consideration of the Governor, who in turn crafted a budget for consideration of the Legislature. Following the Agency Request Budget submittal, there were consecutive revenue forecasts that projected decreasing General Fund revenue on a statewide basis, forcing the Governor to balance the 2011-13 biennium budget with reductions to current service level.

The Governor's Recommended Budget, released the first of February, includes reductions to the Water Resource Department's budget.

General Fund Reductions proposed by the Governor include, Groundwater Studies; a Water Availability Modeler; a Groundwater Hydrogeologist; a Information Services Manager; Procurement staff and a 5.5% reduction in salaries and benefits. This is a total of 4 FTE in the amount of \$793,817. The Governor's Budget also includes the continuation of the Integrated Water Resources Strategy and shifts two Oregon Plan positions to Pacific Coast Salmon Recovery Fund.

Other Funds were increased as follows: Two Oregon Plan positions; \$3.5 million in grants for the Klamath Basin Restoration Agreement Fund; \$15 million in loans for water development projects; and \$1.2 million for SB 1069 (2008) Feasibility Study grants. Federal Funds remained constant.

The next steps will be the Department's presentation before the Joint Committee on Ways and Means Natural Resources Subcommittee on April 4 – 7, 2011; Legislative consideration of all agency budgets; and the final revenue forecast on May 12<sup>th</sup>, 2011.

## **J. Water Resources Commission Revenue Enhancement Subcommittee Report**

Commissioners John Roberts, Jeanne LeJeune and Ray Williams, Revenue Enhancement Subcommittee, briefed the Commission on the outcome of discussions of the Subcommittee since the last Commission meeting.

At the November 19, 2010 Commission meeting, the Subcommittee provided the Commission with a briefing on the values that were developed, a listing of seven options that were identified, and a report on the Subcommittee's meeting with 25 stakeholders on November 17<sup>th</sup>, resulting in an additional 21 options brought forward.

Since that meeting, the Subcommittee worked with staff to analyze the 28 options. Options were narrowed to five. These options are: establish a water right management fee; increase cost recovery on water rights transactions; expand the Reimbursement Authority Program; index current fees to the annual inflation rate, and implement a one time Exempt-Use Wells Registration Fee.

More work needs to be done to bring out specific recommendations to the Commission that are cost-effective and fair, and add to the diversity of revenue sources for the Department. The



Subcommittee is committed to taking a long term perspective and continuing its work. They have appreciated the ideas and input from all of the stakeholders and will continue an open and transparent process.

The Commissions Revenue Enhancement Subcommittee recommended the following Resolution for adoption by the Water Resources Commission.

The amended Resolution is as follows:

*While the Oregon Water Resources Commission fully supports the Governor's proposed 2011-2013 budget for the Water Resources Department, it recommends continuing development of five funding options to reduce the Department's long term dependence on the State's general fund for the majority of its operating funds. The five funding opportunities include:*

- 1. A Water Right Management Fee*
- 2. Increasing cost recovery on water right transactions*
- 3. Expanding the current Reimbursement Authority Program*
- 4. Indexing current fees to the annual inflation rate*
- 5. One time Exempt-Use Wells Registration Fee*

*Implementation will require a specific management plan and will depend upon the Department's future financial needs and Legislative and Governor's Office approval.*

*With the Commission's approval of this Resolution, the Subcommittee will continue its work and provide a status report at the next Commission meeting in May. The ultimate goal is to bring forth specific Water Resource Department funding recommendations to the stakeholders, the WRC, the Governor's Office and the Legislature at an appropriate time and manner.*

Commissioner Williams moved to approve the Resolution with the additional paragraph; seconded by Commissioner Whipple. Voting for the motion: Commissioners Jackson, Williams, Roberts, LeJeune and Whipple. Voting against the motion: None.

Commissioner Jackson asked the Subcommittee if they would continue to work together on the efforts. The Subcommittee said yes.

Commissioner LeJeune commented on how much the Subcommittee appreciated the involvement of the staff on this issue.

Commissioner Williams commented on a previous discussion regarding writing a letter to the Governor's Office regarding the Commission's support of the Governor's Requested Budget and letting him know of their continued efforts on this matter.

Director Ward noted that staff could draft a letter for Chair Jackson's signature.

## **K. Public Comment**

Christine Faith, Northwest Food and Watchwatch, spoke opposing the Nestle Bottling Plant in Cascade Locks, Oregon.

**L. Other Issues**

Commissioner LeJeune asked for a continued briefing on the Willamette Basin activities when appropriate.

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Cindy Smith  
Commission Assistant