

Oregon Water Resources Commission Meeting
April 14, 2005
Salem, Oregon

WRC Members

Dan Thorndike
Jim Nakano
Tyler Hansell
Jay Rasmussen
Susie Smith

WRD Staff

Phil Ward
Shannon O'Fallon
Cindy Smith
Debbie Colbert
Adam Sussman
Jerry Rodgers
Juno Pandian
Mike Ladd

Barry Norris
Doug Woodcock
Tom Paul
Mike Auman
Bruce Sund
Dwight French
Cory Engel
Gary Ball

Others

Lisa Brown
Ed Henricks
Roger Prowell
Greg Corbin
Neal Stelting
Cortney Duke
Anita Winkler
Brad Taylor
Chuck Arrera
Bart McKee
Jay Bozierich
Tamra Mabbott
Connie Caplinger

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 Thorndike called the meeting to order.

A. Minutes

The minutes of the January 13 and 14, 2005, meeting were offered to the Commission for their consideration. Commissioner Nakano moved to approve the minutes as presented; seconded by Commissioner Rasmussen. Voting for the motion: Commissioners Smith, Nakano, Thorndike, Hansell and Rasmussen. Voting against the motion: None.

B. Commission Comments

Commissioner Hansell commented that he is still serving on the Umatilla Basin Task Force. The Task Force recommended to the County Commissioners to enlarge the area to cover the whole watershed. This could mean new members. Commissioner Hansell commented that the whole watershed needs to be included.

Commissioner Nakano commented that with regards to measuring devices, fish screens and flip-up dams, the first structure has been put in on the North Fork of the Malheur. He recognized everyone involved in the project.

Commissioner Smith commented that the Fern Ridge Reservoir and Dam area that the Commission visited in August 2004 is going to be drained and repaired over the summer. The Cedar Creek area has a lot of collaborative planning efforts and innovative solutions on water needs being developed. The

large poplar farm is doing well. The plan is to irrigate approximately 200 acres with reclaimed wastewater during the summer.

Commissioner Rasmussen commented about his unique experience in driving through a rainstorm. He noted that the coast has not received much rain.

Commissioner Thorndike commented about the OWEB meeting he attended in Corvallis. He complimented WRD staff for their efforts in preparing him for these meetings. The input he receives is very valuable.

C. Director's Report

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

Ward commented that, along with attending the Drought Council meeting in March, he also attended the Governor's Drought Conference and Senator Wyden's Drought Workshop in March.

Ward commented that the Department, through the Governor's Office, filed a Federal Appropriations Request asking for funds for a water needs assessment, storage inventory, and quantifying availability. \$450,000 were requested for these activities. There has been a good amount of interest in this request. The Department has been working with the Congressional delegation and the Bureau of Reclamation (BOR).

D. Drought Update

Barry Norris, Technical Services Administrator, briefed the Commission on the drought situation throughout the state. The month of February experienced record low precipitation. Norris briefly explained the drought declaration process. Norris used a powerpoint presentation to update the Commission on this issue.

E. Legislative Update

Adam Sussman, Senior Policy Coordinator, gave a brief update to the Commission on current legislative activities. Sussman commented that the bills that were pre-session filed by the Governor on behalf of the Department are moving smoothly through the system.

F. Budget Update

Mike Auman, Administrative Services Division Administrator, updated the Commission on the Department's 2005 – 2007 Budget. The Legislature put the agency's budget through a phased approach. The Department has already been through Phase I and II of the process. Phase III is the work session portion of the process and is expected to occur sometime in May. Auman used a powerpoint presentation to update the Commission on this issue.

G. Umatilla GW Application

Dwight French, Acting Water Rights and Adjudication Administrator, and Mike Ladd, North Central Region Manager, briefed the Commission on the public interest review of six applications under OAR 690-507-0070(3)(d)(D) in the Umatilla Basin.

Under OAR 690-507-0070(3)(d)(D), the Commission must review and consider the public interest for applications for uses other than municipal, group domestic and statutorily exempt ground water uses from basalt wells within a five-mile radius of the City of Hermiston.

Since the Umatilla Basin Program was adopted in 1988, the Commission has not been asked to review and consider the public interest under these rules for a number of reasons. The primary reason is that the water right application process was overhauled by statutory changes adopted in 1995 (Senate Bill 674, Oregon Laws 1995). The changes significantly modified how and when applications go before the Commission for a public interest review. With the adoption of SB 674 in 1995, the Department believed that basin plan rules requiring the Commission to review an application for the public interest such as OAR 690-507-0070(3)(d)(D) was overruled by the statutory changes in 1995.

On August 18, 2004, the Department of Justice (DOJ) advised the Department that the Umatilla Basin Program rules require the Commission to make a public interest review of ground water applications for uses other than municipal, group domestic and statutorily exempt ground water uses from basalt wells within a five-mile radius of municipalities wells identified in the basin program.

The advice from DOJ instructs the Department to bring qualifying applications to the Commission for review and consideration of the public interest. Specifically,

The Department found that all of the elements of the public interest presumption, besides the basin program element, have been satisfied with regard to the review and consideration of the public interest.

Commissioner Smith moved approval of the six applications as consistent with the public interest review as recommended in Alternative 1 of the staff report; seconded by Commissioner Nakano. Voting for the motion: Commissioners Nakano, Smith, Thorndike, Hansell and Rasmussen. Voting against the motion: None.

Dwight French, Acting Water Rights and Adjudication Administrator, asked the Commission to delegate its authority to the Director to review and consider the public interest in the Umatilla Basin.

French referred to page 3 of the August 18, 2004 letter to the Department stating that the Commission may wish to delegate the public interest review to the Department, as is appropriate under ORS 537.615 and ORS 536.025.

Lisa Brown, WaterWatch of Oregon, spoke against the delegation of authority.

Shannon O'Fallon, Legal Counsel, suggested that legally, it would be clearer to amend the rules and make sure that all the various processes fit together.

Commissioner Hansell moved to have the Department pursue rulemaking with regards to Division 507; seconded by Commissioner Rasmussen. Voting for the motion: Commissioners Nakano, Smith, Thorndike, Hansell and Rasmussen. Voting against the motion: None.

French and Engel used a powerpoint presentation to update the Commission on this issue.

H. Basin Program Exception

Commissioner Smith stated that due to conflict of interest, she will not be involved in the discussion or the voting of this issue.

Dwight French, Acting Water Rights and Adjudication Administrator, and Cory Engel, Water Rights Technician, briefed the Commission on the request for exception to the Willamette Basin Program by the Springfield Utility Board for Applications G-15241, G-15243 and G-15244 as provided in ORS 536.295(1)(e). Staff summarized the information provided by the applicant and evaluated the request against statutory criteria and rules of the Commission.

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 the applicable basin program.

To approve a basin program exception request under ORS 536.295, the Commission must find that the request meets one or more statutory criteria and the proposed use is consistent with the general policies and the applicable basin program.

Staff believe that the basin program exception submitted by Springfield Utility Board meets the extreme hardship criteria under ORS 536.295 and that the proposed use is consistent with the general policies of the Willamette Basin Program.

Commissioner Hansell moved to approve the request by Springfield Utility Board for a basin program exception to avoid extreme hardship, recognizing that a permit, if issued, may be conditioned to protect the public health, safety and welfare; seconded by Commissioner Rasmussen. Voting for the motion: Commissioners Nakano, Thorndike, Hansell and Rasmussen. Voting against the motion: None. Commissioner Smith abstained from voting.

French used a powerpoint presentation to update the Commission on this issue.

I. WRC Conservation Award

The Commission recognizes, on an annual basis, citizens, groups, businesses or other partners that promote the Department's mission "to serve the public by practicing and promoting wise long-term water management."

Recipients of the award show outstanding commitment to responsibly managing, conserving, and restoring Oregon's water resources.

Commissioner Thorndike introduced the 2005 award recipients. The recipients were the Port of Portland; Farmers Irrigation District, and the Confederated Tribes of the Grand Ronde Community of Oregon.

On May 18, these recipients will be honored in a ceremony hosted by the Governor on the Capitol Steps.

J. Public Comment

Roger Prowell, City of Bend, spoke regarding the outstanding drinking water awards the City of Bend received, the many calls that the City received regarding drought, and the activities of the Deschutes Water Alliance.

Tamra Mabbott, Umatilla County, and Connie Caplinger, Umatilla County, updated the Commission on the efforts of the Umatilla County Critical Groundwater Task Force.

Brad Taylor, Eugene Water and Electric Board, extended a sincere thank you to the Department staff for their participation in the Region 2050 planning process in Lane County. He also thanked Department staff for the work on HB 3038.

There being no further business, the meeting was adjourned.

Respectfully,

Cindy Smith
Commission Assistant

Oregon Water Resources Commission Meeting
April 15, 2005
Salem, Oregon

WRC Members

Dan Thorndike
Jim Nakano
Tyler Hansell
Jay Rasmussen
Susie Smith

WRD Staff

Phil Ward
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Jerry Rodgers
Juno Pandian
Mike Ladd

Others

Lisa Brown
Ed Henricks
Jerry Franke
David Moon
Lisa Milliman
Vicki Guay
Susan Potter
Tamra Mabbott
Connie Caplinger
Jessie Gibson
Jim Johnson
Terry Lawler
Rachel Walker
Emilie Wolff

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Chair Thorndike called the meeting to order.

K. Ground Water Concerns in Marks Prairie, Clackamas County

Doug Woodcock, Ground Water Section Manager, gave an informational update on the ground water concerns in Marks Prairie, Clackamas County.

Staff stated that the gravel aquifer in the vicinity of Marks Prairie is beginning to show signs of stress. However, the immediate concern for the Marks Prairie residents is well interference, which can be remedied by deepening wells and fully developing the ground water resource. Staff believe the Department should continue working with Marks Prairie residents by monitoring water levels and providing technical assistance. The Ground Water Advisory Committee (GWAC) concurs with this approach.

Woodcock used a powerpoint presentation to update the Commission on this issue. This was an informational report.

Vicki Guay, Marks Prairie resident, spoke on the issues in the area. She thanked the Department for working with the residents and educating them.

Susan Potter, Marks Prairie resident, spoke on the issues in the area.

Jessie Gibson, Marks Prairie resident, spoke on the issues in the area.

L. Water Use Report

Barry Norris, Technical Services Administrator; Gary Ball, Hydrographics, Measurement and Reporting Manager; Bruce Sund, Assistant Southwest Region Manager; and Jerry Rodgers, Eastern Region Manager, provided an update on the Department's implementation of statewide water measurement strategies.

Norris said that staff will present a comprehensive report to the Commission at their July 2005 meeting on the status of the significant diversion inventory and a strategy on how to deal with the installation of measuring devices.

Norris, Ball, Rodgers, and Sund used a powerpoint presentation to update the Commission on this issue. This was an informational report.

M. Exempt Uses

Commissioner Smith thanked the staff for their efforts on the issue of exempt uses.

Barry Norris, Technical Services Administrator, and Doug Woodcock, Ground Water Manager, briefed the Commission of the potential impacts of exempt ground water use.

A panel discussion on ground water availability and land use planning efforts was presented to the Commission. Rob Hallyburton, DLCD; Tom Lanfear, Lane County; Terry Lawler, Washington County, and Lisa Milliam, Marion County participated in the panel discussion.

Panelists used a powerpoint presentation to update the Commission on this issue. This was an informational report.

N. Performance Measures

Debbie Colbert, Water Policy Analyst, briefed the Commission on the Department's legislatively adopted performance measures and a summary of performance for each measure.

To meet these requirements, the Department reports annually on its performance measures to the Oregon Progress Board. The Department's September 2004 annual report is provided as Attachment 1. The Department also recently reported on its performance measures to the Ways and Means Natural Resources Subcommittee. As it considers the Department's budget, the Ways and Means Committee may make recommendations for changing the Department's current measures and will ratify the Department's measures for the next biennium.

The Department is currently meeting performance targets for eight out of its 13 performance measures. These measures track the Department's contributions to Oregon Benchmark 79, its goals and mission, and its efficiency.

Colbert used a powerpoint presentation to update the Commission on this issue. This was an informational report.

O. Other Issues

Barry Norris, Technical Services Administrator, and Nicole Charlson, Executive Support Specialist, briefed the Commission on the Twelfth Annual Children's Clean Water Festival at Portland Community College – Sylvania Campus. The festival is geared towards 4th and 5th grade children to learn about water science and watershed ecology. Charlson co-chaired the event this year.

Commissioner Hansell said that it is important for the Commission and the Department to keep contact with citizens. It is also important to get out into the community to see what is happening on the ground, which helps to develop a better understanding of local issues.

Commissioner Hansell said that he was going to miss everyone.

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Cindy Smith
Commission Assistant