

Oregon Water Resources Commission

October 27, 2005
Klamath Falls, Oregon

Minutes

WRC Members

Dan Thorndike
Susie Smith
Charlie Barlow
John Jackson
Mary Meloy
Gary Reed

WRD Staff

Phil Ward
Tom Paul
Cindy Smith
Debbie Colbert
Jonathan LaMarche
Ivan Gall
Barry Norris
Doug Woodcock
Vern Church
Kyle Gorman
Ken Lite
Ned Gates

Others

Emilie Wolff
Bob Hunter
Lyle Ahrans
Glenn Barrett
John Elliott
Glen Spain
Lisa Hanson
Dick Nichols
Edward Bartell
Dan Keppen
Manuel Molina
Jeff Eicher
Greg Addington
Ambrose McAuliffe
Earl Danosky
Mark Buettner
Lisa Brown
Ken Rykbost
Jon Burgi
Cecil Lesley
Bill Kennedy
Dave Solem
James Ottoman
Ray Jaindll
Dave Livesay
Dylan Darling
Bob Gasser
Anita Ward
Jim Pendleton
Steve Kirk
Tracey Liskey
Mark Stern
Alan Bowes
Doug Whitsett

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.

Senator Doug Whitsett and Klamath County Commissioner John Elliott welcomed the Commission to the Klamath Basin.

Klamath Basin – Department Update

Barry Norris, Technical Services Administrator, gave an overview of the Basin. PowerPoint was used during this presentation.

Vern Church, Watermaster, was introduced. Church was recently hired as the District 17 Watermaster, located in Klamath Falls.

Debbie Colbert, Senior Policy Coordinator, discussed permitting processes, flow restoration efforts and working relationships in the Basin. PowerPoint was used during this presentation.

Jonathan LaMarche, Hydrologist, South Central Region, discussed surface water hydrology in the Upper Klamath Basin. PowerPoint was used during this presentation.

Doug Woodcock, Ground Water/Hydrology Manager and Ken Lite, Hydrogeologist, discussed the ground water hydrology in the Upper Klamath Basin. PowerPoint was used during this presentation.

Klamath Basin – Panel Presentations

Barry Norris, Technical Services Administrator, facilitated a series of presentations relating to water resource issues in the Klamath Basin. Presentations were given in the areas of water management, conservation, and state agencies activities in the basin. PowerPoint was used during these presentations. Panelists included the following:

Water Management Issues

Dave Solem, Klamath Irrigation District
Cecil Lesley, Bureau of Reclamation
Bud Ullman, Representing Klamath Tribes
Dennis Lynch, US Geological Survey
Emilie Wolff, Water for Life
Ed Bartell, Upper Klamath Basin Irrigator

Conservation Issues

Mark Stern, The Nature Conservancy
Shannon Peterson, Klamath Basin Rangeland Trust
Mark Buettner, US Fish and Wildlife Service
Bob Hunter, WaterWatch of Oregon
Lisa Brown, WaterWatch of Oregon

State Agency Activities

Chip Dale, Oregon Department of Fish and Wildlife
Dick Nichols, Oregon Department of Environmental Quality
Ray Jaindl, Oregon Department of Agriculture

Commissioner Thorndike thanked all the panelists for their time and efforts in making their presentation.

The Commission and staff toured the Upper Klamath Basin in the afternoon.

There being no further business, the meeting was adjourned.

Respectfully,

Cindy Smith
Commission Assistant

Oregon Water Resources Commission

October 28, 2005
Klamath Falls, Oregon

Minutes

<u>WRC Members</u>	<u>WRD Staff</u>	<u>Others</u>	
Dan Thorndike	Phil Ward	Emilie Wolff	Lorna Stickel
Susie Smith	Tom Paul	Bob Hunter	Wilma Heiney
Charlie Barlow	Cindy Smith	Lisa Brown	Tracey Liskey
John Jackson	Debbie Colbert	Greg Addington	Lynn Long
Mary Meloy	Vern Church	Ken Rykbost	Doug Whitsett
Gary Reed	Ivan Gall	Glen Spain	James Ottoman
Jay Rasmussen – by phone	Barry Norris	Bob Gasser	Tom Hickman
	Doug Woodcock	Tom Buckhouse	Adam Sussman
	Vern Church	Willie Tiffany	Kevin Hanway
	Kyle Gorman	Jim Pendleton	Jeff Eicher
	Ken Lite	Jim Carleton	
	Renee Moulun – by phone		
	Jas Adams – by phone		
	Mary Grainey – by phone		

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Chair Thorndike called the meeting to order.

A. Minutes

The minutes of the July 28 and 29, 2005, meeting were offered to the Commission for their consideration. Commissioner Jackson made a correction to the minutes with regards to Commission comments. Commissioner Smith moved to approve the minutes as revised; seconded by Commissioner Reed. Voting for the motion: Commissioners Smith, Thorndike, Barlow, Jackson, Meloy, and Reed. Voting against the motion: None. Commissioner Rasmussen was absent.

The minutes of the August 25, 2005, meeting were offered to the Commission for their consideration. Commissioner Smith moved to approve the minutes as submitted; seconded by Commissioner Reed. Voting for the motion: Commissioners Smith, Thorndike, Barlow, Jackson, Meloy, and Reed. Voting against the motion: None. Commission Rasmussen was absent.

B. Commission Comments

Commissioner Mary Meloy commented that she enjoyed being in the Klamath area and seeing things first hand. Meloy also commented that the Deschutes Water Exchange is working on a number of issue papers that seem to be forming around a water management plan for the basin. A

summit is planned for May 2006 to discuss the issue papers. A peer review of the issue papers will be scheduled soon. Meloy asked the Department to be engaged in the peer review.

Commissioner Reed encouraged the WRC to think about how a statewide water resource analysis can be done. He said he was looking forward to the January 2006 meeting in Corvallis.

Commissioner Smith commented that the Corps of Engineers has been working hard to get the Fern Ridge Reservoir completed. Smith also said that she would like to have a Commission Strategic Planning Retreat and feels that this would be helpful for the new group of Commissioners.

Commissioner Jackson commented that he took the Department of Administrative Services Boards and Commission training and found it to be very enlightening. Jackson commented that he had been visiting the Watermasters in his region to discuss ongoing issues. Jackson agreed with the idea from the Strategic Planning Retreat and felt that an issue that needs to be dealt with is the rapid development on the coast.

Commissioner Barlow had nothing to report.

Commissioner Thorndike commented that he attended an Oregon Watershed Enhancement Board meeting in Jordan Valley in September. He felt that there was close to 100% of the rancher and landowner participation at the meeting.

C. Director's Report

The 2006 Water Resources Commission schedule was brought before the Commission for their approval. The proposed 2006 dates were:

January 12 and 13
May 4 and 5
August 10 and 11
November 16 and 17

Commissioner Jackson moved to adopt the 2006 Commission meeting schedule with the understanding that a Strategic Planning Meeting will be considered sometime during this period; seconded by Commissioner Meloy. Voting for the motion: Commissioners Smith, Thorndike, Barlow, Jackson, Meloy, and Reed. Voting against the motion: None. Commissioner Rasmussen was absent.

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

Ward commented that the Agency's 2005-2007 budget was approved by the Legislature.

Ward also commented that out of 730 claims filed in the Klamath Adjudication, 550 claims have been resolved. Over 5000 contests have been resolved on the 550 claims. This leaves 181 active claims and 605 active contests to resolve.

D. Legislative Update

Debbie Colbert, Senior Policy Coordinator, gave a brief summary to the Commission on the water-related bills enacted by the 2005 Legislature, highlighting bills that are likely to require rulemaking activity.

E. Commission Discussion – Klamath Basin

Barry Norris, Technical Services Division Administrator, gave a recap to the Commission on the previous day's workshop on activities in the Klamath Basin. There was a broad range of interests providing presentations including governmental interests, conservation interests, tribal interests and irrigation interests. This spectrum of viewpoints provided the Commission with a good understanding of the basis for conflict and the complex nature of the path to resolution.

Following the workshop the Commission spent time reflecting on what they learned. There was general consensus among the commissioners that any long-term conflict resolution would need to come from local interests. Additionally, the Commission concluded the job of government is to facilitate resolution by providing data and good science as a solid basis for good decisions. The Commissioners asked some questions and asked staff to prepare a short white paper addressing them.

F. Repeal – OAR Chapter 690, Divisions 50 and 74

Mary Grainey, Hydroelectric Program Coordinator, requested the Commission repeal OAR Chapter 690, Divisions 50 and 74 related to hydroelectric projects.

Divisions 50 and 74 apply to hydroelectric projects greater than 25 megawatts for which funding was approved by a city before May 15, 1985. Divisions 50 and 74 were superseded in 1986 by Division 51. The Department has concluded that there are no pending projects subject to these divisions and that Divisions 50 and 74 can be repealed without affecting any present or future hydroelectric projects. All hydroelectric projects are to be reviewed under Division 51. The repeal of Divisions 50 and 74 would also further the Department's regulatory streamlining efforts by deleting regulations that are outdated and unnecessary.

Commissioner Smith moved to adopt the final proposed rules as shown in Attachments 1 and 2 of the staff report; seconded by Commissioner Jackson. Voting for the motion: Commissioners Smith, Thorndike, Barlow, Jackson, Meloy, and Reed. Voting against the motion: None. Commissioner Rasmussen was absent.

PowerPoint was used during this presentation.

G. Final Proposed Rules – OAR Chapter 690, Division 315

Debbie Colbert, Senior Policy Coordinator, requested the Commission approve the final proposed rules under OAR Chapter 690, Division 315 pertaining to water right permit extensions. The proposed rules implement House Bill 3038 (Chapter 410, 2005 Oregon Water Laws) which adjusted the standards the Department uses to review certain applications for extensions of time filed by holders of municipal use permits. The proposed final rules also clarify the process for submitting protests on extension proposed final orders (PFOs).

Adam Sussman, CH2M Hill, commented on the proposed rules.

Willie Tiffany, League of Oregon Cities, commented on the proposed rules.

Lorna Stickel, Portland Water Bureau, commented on the proposed rules.

Lisa Brown, WaterWatch of Oregon, commented on the proposed rules.

Glen Spain, Pacific Coast Federation of Fishermen's Association, commented on the proposed rules.

Tom Buckhouse, Eugene Water and Electric Board, commented on the proposed rules.

Tom Hickman, City of Bend, commented on the proposed rules.

Senator Doug Whitsett, spoke in support of the enabling legislation, HB 3038, and expressed some concern regarding the proposed rules.

Colbert brought forward proposed changes to 690-315-0010, 690-315-0080, and 690-315-0080 to address some of the concerns expressed by commenters.

Suggested changes to the proposed final rules dated October 28, 2005 were as follows:

(Bold and underlined language was proposed additional language; strikethrough was proposed for deletion)

690-315-0010

Purpose

(7) By November 30, 2006, the Water Resources Commission shall evaluate implementation of rules related to applications for extension of time for municipal water use permits.

690-315-0080

Criteria for Department Review of Extension Applications for Municipal and Quasi-Municipal Water Use Permits

(2)(b) Upon notifying ODFW under subsection (2)(a) of this rule, the Department shall also notify the applicant **and, within 10 days, give public notice in the weekly notice published by the department** that ~~its~~ **the** municipal permit extension application has been sent to ODFW for review.

(f) Upon receiving ODFW's written advice, the Department shall notify the applicant **and any persons that requested notification** of any fishery resource protection conditions that may be proposed in the proposed final order under **OAR** 690-315-0050. The Department's notice shall also provide the applicant an opportunity to request the Department place the permit extension application on administrative hold.

690-315-0080

Criteria for Department Review of Extension Applications for Municipal and Quasi-Municipal Water Use Permits

(2) The Department's finding for municipal use permits under subsection (1)(f) of this rule shall be based on existing data ~~that is available at the time of the permit extension~~ and advice of the Oregon Department of Fish and Wildlife (ODFW). The Department's finding shall be limited to impacts related to streamflow as a result of use of the undeveloped portion of the permit and further limited to where, **as a result of use of the undeveloped portion of the permit, ODFW indicates that** streamflow ~~is~~ **would be** a limiting factor for the subject listed fish species.

(e) ODFW may recommend to the department fishery resource protection conditions for inclusion in the proposed final order under OAR 690-315-0050 that would provide protection to maintain the persistence of listed fish species if its written advice to the department indicates that:

(i) Use of the undeveloped portion of the permit would not maintain persistence in the portions of the waterways affected by water use under the permit, and;

(ii) As a result of the use of the undeveloped portion of the permit, streamflow would be a limiting factor for the listed fish species.

Commissioner Smith recommended that the Commission appoint a subcommittee to study, evaluate and report back to the full Commission. Smith suggested that she and Commissioner Rasmussen work with staff to develop a scope of work for the subcommittee and bring it to the Commission in January 2006.

Commissioner Meloy expressed some concern with OAR 690-315-0080.

Commissioner Rasmussen moved to adopt the proposed rules with proposed changes. Commissioner Rasmussen also proposed he and Commissioner Smith work with staff to bring back a recommendation to the Commission for a scope and charge of a subcommittee at the January 2006 meeting; seconded by Commissioner Jackson. Voting for the motion: Commissioners Smith, Thorndike, Barlow, Jackson, Rasmussen and Reed. Voting against the motion: Commissioner Meloy.

PowerPoint was used during this presentation.

H. Public Comment

Senator Doug Whitsett, provided comments regarding the Klamath Basin.

James Ottoman, Rancher, provided comments regarding the Klamath Basin.

Glen Spain, Pacific Coast Federation of Fishermen's Association, provided comments regarding the Klamath Basin.

Bob Hunter, WaterWatch of Oregon, provided comments regarding the Klamath Basin.

Bob Gasser, Klamath Water Users Association, provided comments regarding the Klamath Basin.

Ken Rykbost, Klamath Water Users Association, provided comments regarding the Klamath Basin.

Lynn Long, Farmer, provided comments regarding the Klamath Basin.

Tracey Liskey, Rancher, provided comments regarding the Klamath Basin.

Wilma Heiney, Wife of a Farmer, provided comments regarding the Klamath Basin.

I. Other Issues

Commissioner Jackson asked about the petition that the Commission received from Fred Fleetwood.

Colbert commented that the Department is reviewing the petition for completeness. If the petition meets the qualifications, it will be brought before the Commission in January.

Commissioner Smith recognized staff for their work on the Division 315 rulemaking process.

Commissioner Thorndike thanked everyone in the Klamath Basin for their hospitality.

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Cindy Smith
Commission Assistant