

Water Resources Commission
Work Session
OSU - LaSells Stewart Center
Corvallis, Oregon
January 12, 2006

WRC Present

Dan Thorndike
Jay Rasmussen
Susie Smith
Charlie Barlow
John Jackson
Gary Reed

Staff Present

Phil Ward
Tom Paul
Debbie Colbert
Cindy Smith
Barry Norris
Dwight French
Mike Auman
Mike Mattick

Others

Roger Bachman
Jim Johnson
Kimberley Priestley
Gail Andrews
Laila Parker
Aaron Wolf
Dave Livesay
Jeff Barry
President Ray, OSU
Bernie Faber
Brad Taylor
Todd Jarvis
Laura Moscovitz
Stephanie Pointer
Barbara Geren
Gail Achterman
Stan Gregory
Richard Adams
Roy Haggerty
Sam Chan
Scott Reed
Michael Campana
Bill Braunworth

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.

The Commission toured the OSU Hinsdale Wave Laboratory in the morning.

Following the tour, the Commission convened at the LaSells Stewart Center.

Commissioner Thorndike opened the meeting.

President Ray, Oregon State University, welcomed the Commission on behalf of the faculty, staff and students. He commented that the work the Commission does is essential for all of Oregon.

Following President Ray's remarks, Commissioner Thorndike and Director Ward gave an overview of the Department's mission and current priorities. Director Ward also gave a brief overview of the water supply and management issues facing the Department and the State.

Commissioner Rasmussen facilitated a designed dialogue with invited experts from a variety of disciplines for a conversation on key issues such as long-term water supplies, the intersection between the Federal Endangered Species Act and state water law, drivers of current and future water "conflicts", and water conservation and education.

The panelists included: Gail Achterman, Institute for Natural Resources, OSU; Dr. Richard Adams, Agricultural and Resources Economics, OSU; Sam Chan, Sea Grant Watershed Education, OSU; Dr. Stan Gregory, Department of Fisheries and Wildlife, OSU; Dr. Roy Haggerty, Institute of Water and Watersheds/Geosciences, OSU; Tom Paul, Oregon Water Resources Department; and Dr. Aaron Wolf, Universities Partnership for Transboundary Waters, OSU.

Following this discussion, the Commission provided time for public comments.

Roger Bachman, Oregon Trout, commented on the definition of waste. He expressed concern regarding how people use data that is provided.

Kimberley Priestley, WaterWatch of Oregon, spoke regarding community-based planning and fees for water.

Bernie Faber, Oregon Board of Agriculture Chair, spoke regarding the "use it or lose it" provisions of Oregon law. He encouraged everyone to find a way to work together. He also proposed a joint meeting of the Commission and the Board of Agriculture.

Jim Johnson, Department of Agriculture, responded to questions that Commissioners had during the dialog regarding agriculture and water.

Commissioner Rasmussen thanked Debbie Colbert and Cindy Smith for their help in putting the meeting together.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Cindy Smith
Commission Assistant

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Phil Ward
Tom Paul
Debbie Colbert
Cindy Smith
Barry Norris
Dwight French
Mary Grainey
Tim Wallin

Others

Dan Bradley
Paul Eckley
Erik Steimle
Dr. Vincent Lamarra
Frank Thayer
Ron Staehlin
Adam Sussman

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Chair Thorndike called the meeting to order.

A. Minutes

The minutes of the October 27 - 28, 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, Rasmussen, Barlow, Jackson, and Reed. Voting against the motion: None. Commissioner Meloy was absent.

B. Commission Comments

Commissioner Smith commented on how well the previous day's dialog went. She said she would like to see the Commission have more conversation about mediation and conflict resolution. One of the key issues is that basin plans are outdated. There needs to be strategic thinking about long-term planning for the stewardship aspect of the basins. Resources will be required for any long-term planning. Smith looks forward to continued discussion about funding and rebuilding the Department's ability to look at the long-term view. She suggested that the Commission have a retreat to discuss legislative concepts in March.

Commissioner Barlow commented that the previous day's dialog was a great learning tool. He enjoyed the conversation and the ideas from others. He also commented that the reservoirs are filling in his area.

Commissioner Reed commented that he really liked the previous day's dialog. He commented that he would like to see a transcription of the panel discussion. He said that he would like to have a similar dialog at future meetings. Having these types of meetings would help to educate the public. He also suggested that the public be made aware that the Department doesn't have the money to follow-up on all good ideas.

Commissioner Jackson commented that he has been visiting the watermasters in his region and hopes to have a better understanding of what is happening so he can do a better job as a Commissioner. He commented that the previous day's dialog was marvelous and he supports the idea of getting other user groups together in a similar type of forum. He also said that the annual water report on the Tualatin River Basin is available.

Commissioner Rasmussen thanked the other Commissioners and the Department for the previous day's dialog. He asked the Department to do some imagining. What if? How about? Wonder if we could? What if the WRC suggested that there was a value in water? What would happen with that money? He commented that the Commissioners would like to see more of this. He suggested that the Department engage in strategic planning and engage some of the Commissioners also.

Commissioner Thorndike commented that he attended the Oregon Business Summit on January 9, 2006 in Portland. He thanked Jay and Debbie for their efforts in putting together the previous day's dialog. He suggested having some of the panelists on rules advisory committees or task forces.

C. Director's Report

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

Ward reported that the Department will be holding an all managers meeting on January 24, 2006 at Silver Falls to discuss key issues of the Department along with looking at the "big picture."

D. Legislative and Rulemaking Activities

Debbie Colbert, Senior Policy Coordinator, briefed the Commission on the process and timelines for the Department to develop and submit legislative concepts for the 2007 Legislative Session.

Over the next two months, staff will collect internal suggestions concerning agency issues and needs requiring legislative consideration in 2007. The Department's Agency Coordination Team (ACT) will help refine the legislative ideas. Following the internal process, the Department will schedule a meeting with stakeholders to seek feedback on Department legislative ideas and to discuss issues that may need to be addressed in the 2007 session. Based on the internal process and stakeholder input, the Department will develop draft legislative proposals to discuss with the Commission. To meet Department

of Administrative Services (DAS) timelines, the Department needs to schedule a conference call with the Commission prior to its May 2006 meeting to discuss the substance and policy implications of draft legislative proposals. Based on the discussion and continued refining of draft concepts, staff will submit legislative proposals to DAS on April 15, 2006.

The Commission suggested having another meeting in March prior to submitting legislative concepts to DAS.

Colbert briefed the Commission on the Department's anticipated rulemakings for 2006. A list of these rulemakings was provided.

E. Willamette Basin Program Exception

Dwight French, Water Rights and Adjudication Administrator, presented a request from the City of Monroe for an exception to the Willamette Basin Program as provided in ORS 536.295.

Under ORS 536.295 the 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. The City of Monroe ("the applicant") requested an exception to the Willamette Basin Program for their Application S-86270 indicating that use of water is necessary to ensure public health, welfare and safety and is necessary to avoid extreme hardship as provided in ORS 536.295(1)(d) and (e).

Frank Thayer, Mayor, City of Monroe, spoke in favor of the exception.

Ron Staehlin, City of Monroe, spoke in favor of the exception.

Adam Sussman, CH2M Hill, spoke in favor of the exception.

Commissioner Smith moved to approve the request by the City of Monroe for an exception to the Willamette Basin Program to avoid extreme hardship, recognizing that a permit, if issued, may be conditioned to protect the public health, safety and welfare; seconded by Commissioner Barlow. Voting for the motion: Commissioners Smith, Thorndike, Rasmussen, Barlow, Jackson, and Reed. Voting against the motion: None. Commissioner Meloy was absent.

Commissioners Smith and Rasmussen commented that they met with Adam Sussman and Ron Staehlin outside of the meeting on the issue. They also said that the conversation had no influence on their vote.

F. Willamette Basin Program Exception

Dwight French, Water Rights and Adjudication Administrator, and Mary Grainey, Hydroelectric Program Coordinator, presented a request from Symbiotics LLC for an exception to the Willamette Basin Program as provided in ORS 536.295.

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 Symbiotics LLC's request, use of water in their proposed hydroelectric project would be largely non-

consumptive in nature and not likely to be regulated for other water rights as provided in ORS 536.295(1)(c).

Commissioner Rasmussen moved to approve the request by Symbiotics LLC for an exception to the Willamette Basin Program, recognizing that if a right is approved for a hydroelectric project, it may be conditioned to protect the public health, safety and welfare; seconded by Commissioner Jackson. Voting for the motion: Commissioners Smith, Thorndike, Rasmussen, Barlow, Jackson, and Reed. Voting against the motion: None. Commissioner Meloy was absent.

G. GWAC Appointments

Barry Norris, Technical Services Administrator, presented a request to fill three positions on the Ground Water Advisory Committee (GWAC). The Department recommended appointment of Greg Kupillas (hydrogeology category) and reappointments of Jim Mack (well industry category) and Nitin Joshi (local government category). Terms for these three members would begin immediately and end November 30, 2008.

Nominee Greg Kupillas briefed the Commission on his background and qualifications for membership on GWAC.

Commissioner Jackson moved to approve the appointment of Greg Kupillas and reappoint Jim Mack and Nitin Joshi to terms beginning immediately and expiring on November 30, 2008; seconded by Commissioner Smith. Voting for the motion: Commissioners Smith, Thorndike, Rasmussen, Barlow, Jackson, and Reed. Voting against the motion: None. Commissioner Meloy was absent.

H. Subcommittee Report on Division 315 Implementation

Commissioner Smith and Debbie Colbert, Senior Policy Coordinator, gave a subcommittee report on the Division 315 municipal extensions. A subcommittee was created to provide oversight for the Department's implementation of the Division 315 rules regarding conditions to maintain the persistence of listed fish species on certain municipal extension applications. The Subcommittee will also provide an opportunity for public feedback on implementation of provisions of the Division 315 rules. The subcommittee consists of Mary Meloy, Jay Rasmussen and Susie Smith.

The Subcommittee recommended a review schedule through November 2006. In November 2006, the Subcommittee would bring to the Commission a report and recommendation for any adaptive management necessary.

Dan Bradley, Oak Lodge Water District, spoke in favor of the Subcommittee.

Paul Eckley, Oregon Water Utility Council, spoke in favor of the Subcommittee.

The Commission gave consensus on the efforts of the Subcommittee.

I. Public Comment

There was no public comment.

J. Other Issues

The Commission discussed their schedules with regards to meeting on the Department's development of the 2007 Legislative Concepts and budget.

The Commission agreed to meet on March 7 for a work session to discuss these issues.

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Cindy Smith
Commission Assistant