

**Water Resources Commission
Work Session
Salem, Oregon
May 31, 2007**

| <u>WRC Present</u> | <u>Staff Present</u> | <u>Others</u> | | |
|--------------------|----------------------|---------------|--------------------|------------------|
| Dan Thorndike | Phil Ward | April Snell | Gil Riddell | Jerry Schmidt |
| Jay Rasmussen | Tom Paul | Kim Grigsby | Laurel Hines | Patricia Farrell |
| Susie Smith | Debbie Colbert | Mike Ladd | Helen Moore | Sarah Deumling |
| Charlie Barlow | Cindy Smith | Jerry Rodgers | Sonia Fendestein | Larry Givens |
| John Jackson | Barry Norris | Kyle Gorman | Tim Cunningham | Brad Taylor |
| Mary Meloy | Dwight French | Tracy Louden | Anita Winkler | Sid Freeman |
| | Doug Woodcock | Tim Wallin | Patrick Griffiths | Don Meyer |
| | Bob Devyldere | Bill Ferber | Tod Heisler | Ed Henricks |
| | Juno Pandian | Bob Rice | Linda Modrell | Rob Hallyburton |
| | Laura Snedaker | | Bev Bridgewater | Ray Kopacz |
| | | | Chuck Wilcox | Bob Patterson |
| | | | Tamra Mabbott | Chuck Hurliman |
| | | | Dennis Doherty | Kathy George |
| | | | John Griffith | John Elliott |
| | | | Kimberley Priestly | |
| | | | Steve Shropshire | |

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.

Commissioner Thorndike welcomed Benton County Commissioner Linda Modrell, Tillamook County Commissioner Chuck Hurliman; and Umatilla County Commissioner Larry Givens to the meeting.

I. Water and Land Use Connections

County Commissioner Panel

Kim Grigsby, Water Policy Analyst briefed the Commission on the panel and the discussion they would be hearing.

A panel of County Commissioners discussed their experiences with the connection between water and land use. The panel consisted of Umatilla County Commissioner

Dennis Doherty; Yamhill County Commissioner Kathy George; Klamath County Commissioner John Elliott; and Coos County Commissioner John Griffith.

Commissioner Rasmussen expressed his thanks to the County Commissioners for reaching out to the Water Resources Commission on this issue.

Commissioner Jackson expressed his thanks to the County Commissioners for their efforts in this matter.

The County Commissioners expressed their interest in having an advisory role with the Water Resources Commission.

County Outreach

April Snell, Oregon State Sea Grant Fellow, gave an update to the Commission on her county outreach efforts with the Department. At the time of her report to the Commission, she had visited 26 of the 36 counties. Snell interviewed the county planner in each of those counties to get a better understanding of each region and the impacts of growth in the area. Snell said a final report is scheduled to be completed by the end of July.

Commissioner Jackson thanked April for her efforts and said he looked forward to the report.

Water Issues and Land Use Planning Impacts

Lane Shetterly, Director of the Department of Land Conservation and Development, and Rob Hallyburton, Planning Services Division Manager, discussed the impacts of water issues and land use planning.

Ballot Measure 37 and Related Legislation

Lane Shetterly, Director of the Department of Land Conservation and Development, and Richard Whitman, Department of Justice, gave an update on Ballot Measure 37 and related legislation.

Jim Johnson, Department of Agriculture, gave a powerpoint presentation on Measure 37 Claims in the Willamette Valley, Hood River County and Jefferson County.

II. WRC Conservation Award

The Commission presents annual conservation awards to 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. The award recipients this year were the City of Pendleton and the Deschutes River Conservancy.

Kyle Gorman, South Central Region Manager, and Mike Ladd, North Central Region Manager, gave powerpoint presentations describing the award recipients' conservation projects.

Commissioner Thorndike introduced the 2007 award recipients.

Patrick Griffith, City of Bend, thanked the Director and staff for the issuance of the city's water permits. He also discussed mitigation credits and the cost involved.

Tod Heisler, Deschutes River Conservancy, discussed the Central Oregon water bank.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Cindy Smith
Commission Assistant

**Water Resources Commission
Meeting
Salem, Oregon
June 1, 2007**

| <u>WRC Present</u> | <u>Staff Present</u> | <u>Others</u> |
|--------------------|----------------------|-----------------|
| Dan Thorndike | Phil Ward | Renee Moulun |
| Jay Rasmussen | Tom Paul | Jerry Schmidt |
| Susie Smith | Debbie Colbert | Ed Henricks |
| Charlie Barlow | Cindy Smith | Tim Cunningham |
| John Jackson | Barry Norris | Wayne Simmons |
| Mary Meloy | Tracy Louden | James Cullitin |
| | Doug Woodcock | Don Meyer |
| | Bob Devyldere | Ken Dalke |
| | Craig Kohanek | Martha Pagel |
| | | Rep. Dingfelder |
| | | Lisa Brown |
| | | Gerald Freeman |
| | | Thron Riley |
| | | Kathy Freeborn |
| | | Dean Freeborn |
| | | Dale Palmquist |
| | | Rachel Walker |
| | | Sarah Deumling |

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Chair Thorndike called the meeting to order.

A. Minutes

The minutes of the February 22 and 23, 2007 meeting were offered to the Commission for their consideration.

Commissioner Smith moved to approve the February 22 and 23, 2007 minutes with minor typographical corrections; seconded by Commissioner Meloy. Voting for the motion: Commissioners Thorndike, Smith, Rasmussen, Barlow, Jackson, and Meloy. Voting against the motion: None.

B. Commission Comments

Commissioner Jackson commented that the Funding Committee has not met since the last meeting. The Funding Committee is looking at convening again before the next meeting in August. Jackson noted that he was invited to sit in on Representative Jackie Dingfelder's Exempt Well Work Group. He attended two meetings as a member of the public, not as a Commissioner. He also was asked to talk to a Washington County citizen participation organization about exempt wells on June 20, 2007.

Commissioner Smith had no comments.

Commissioner Meloy had no comments.

Commissioner Barlow gave a report on the Future's Committee meeting. The Committee last met on May 31, 2007. The Committee discussed possible vision statements. Barlow gave the Commission a handout for their review in preparation for discussion at the Commission Retreat in August. Barlow also noted that the eastern side of the state was going to be dry. He said that the watermasters are going to have a long summer. He noted that there will be a celebration of the 75th Anniversary of the Owyhee Dam on July 14, 2007.

Commissioner Thorndike commented that there is a group looking at establishing a water bank in Jackson County. This is being led primarily by the Oregon Water Trust. He attended an OWEB meeting a couple of months ago. This meeting was geared towards funding watershed councils.

C. Director's Report

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

D. Budget Update

Tracy Loudon, Administrator of the Administrative Services Division, reported on the Agency's 2007-2009 Legislatively Adopted Budget. With this budget, the Department will go from 138 FTE to 146.60 FTE. This is a 6 percent increase in FTE. The total agency budget will be \$32,304,080, which is a 12 percent increase from the last biennium.

Commissioner Jackson complimented the staff on their efforts during this budget cycle.

Director Ward noted that, as a member of the Funding Subcommittee, Commissioner Jackson shared the Commission's perspective with the Ways and Means Budget Committee during the Department's budget presentation in March.

E. House Energy and Environment Committee Update

Representative Jackie Dingfelder, Chair of the House Energy and Environment Committee, provided an update to the Commission on water related legislation considered by the committee during the session.

F. Legislative Update

Debbie Colbert, Senior Policy Coordinator, provided a brief summary of water-related bills enacted by the 2007 Legislature.

G. Eola Hills Ground Water

Doug Woodcock, Ground Water Section Manager, briefed the Commission on a request received from several residents from the area to further restrict exempt wells in the Eola Hills Ground Water Limited Area.

On April 20, 2007, the Department received a request to revise OAR 690-502-0200 to further restrict ground water development in the Eola Hills Ground Water Limited Area through elimination of the exempt use classification. The request complained of decreasing water resources, both ground water and hydraulically-connected surface water. The request noted that scientific data was required to further restrict ground water use and requested a moratorium on well drilling until sufficient scientific data could be obtained to support the request. Included with the request were 11 anonymous testimonials describing ground water and surface water observations in the Eola Hills area.

There continues to be a valid concern about water supply in the Eola Hills Ground Water Limited Area. It is an upland of basalt with limited opportunity for recharge, is prone to overdraft, and is underlain by low-yield bedrock. It is the staff's view that the available information is not sufficient for the Commission to restrict water development at this time.

Approximately 60 wells in the limited area have data consisting of two or more water levels. A quarter of them consist of only two data points and those are taken at different times of the year. These data are not useful for trend analysis. Twenty-two of the 60 wells are developed in the Columbia River Basalt Group aquifers and have multiple measurements for analysis. The remaining 23 wells are developed in alluvial gravel or marine bedrock.

The available data does not meet the standard of substantial evidence of a declining resource in any of the three aquifer types. A few individual wells show signs of decline, most of which are indistinguishable from the climate signal. A plot of precipitation measured at Salem displays a peak around 1998 and a general decreasing precipitation trend since that year. Several of the ground water hydrographs match this trend.

The testimonials included in the request described water supply problems, either multiple wells being drilled to access a sufficient quantity of water or well productivity declining over time. These facts by themselves do not establish a decline in the resource. Multiple wells are frequently necessary in low-yield environments and well yields naturally decay over time. Although reported decreasing surface water flows may relate to a combination of ground water interference and overall reduced recharge, the data was not available for a scientific assessment.

Sarah Deumling, spoke in favor of further restriction in the area.

Kathy Freeborn, spoke in favor of further restriction in the area.

Dean Freeborn, spoke in favor of further restriction in the area.

Gerald Freeman, spoke against further restriction in the area.

Ken Dalke, spoke against further restriction in the area.

Lisa Brown, WaterWatch of Oregon, spoke in favor of working with requestors to develop, analyze, and compile existing data in the area.

Commissioner Jackson moved to direct staff to conduct a hearing to determine whether a Serious Water Management Problem Area exists in the Eola Hills Ground Water Limited Area and concurrently consider existing information and secure additional information, if necessary, to combine with what is heard at the hearing and come back to the Commission at the next meeting with a recommendation on how to proceed; seconded by Commissioner Barlow. Voting for the motion: Commissioners Thorndike, Smith, Rasmussen, Barlow, Jackson, and Meloy. Voting against the motion: None.

H. Request for an Exception to the Willamette Basin Program by David Bugni under ORS 536.295.

Dwight French, Water Rights and Adjudication Division, Administrator, and Craig Kohanek, Hydroelectric Program Analyst, briefed the Commission on a request for an exception to the Willamette Basin Program by David Bugni (Applicant).

The applicant has operated an aquaculture facility at the proposed hydroelectric location for the past 14 years. On March 18, 1991, the Department issued a permit for a fish rearing facility.

In January 2006, they applied for a water right for 0.75 (May through October) to 2.75 cubic feet per second (cfs) (November through April) from Suter Creek, for operation of a small hydroelectric facility that would be operated in conjunction with their fish rearing facility. The diverted water is to be fed through a screened, side-bank reinforced pre-cast concrete intake structure into a 750 foot long 10-inch pipe that will feed both the existing aquaculture facility and the proposed small hydroelectric facility. The water will return to the creek adjacent to the location of the proposed powerhouse, where it currently returns under their existing permit for aquaculture.

On February 8, 2007, the Department received the applicant's basin program exception request. ORS 536.295 provides that the Commission may allow the Department to consider an application to appropriate water for a use not classified in the applicable basin program if the use is consistent with any one of seven statutory criteria. In their request, the applicant asserts that the use "is largely nonconsumptive in nature and not likely to be regulated for other water rights" [ORS 536.295(1)(c)] and "will provide a public benefit such as riparian or watershed improvement" [ORS 536.295(1)(f)].

The Department believes that the proposed use is largely non-consumptive in nature and not likely to be regulated for other water rights since all flows are returned to the creek and both the diversion and return of flow occurs solely on the applicant's property. There are no other water rights on Suter Creek within the project zone. If a permit is issued, it would likely be conditioned such that the diverted water is returned to the creek at a point described in the permit to ensure that the non-consumptive nature of the use is maintained.

Commissioner Meloy moved approval of the request, which allows the Department to review the application for an exception to the Willamette Basin Program because it meets the criteria that the use is largely non-consumptive in nature; seconded by Commissioner Rasmussen. Voting for the motion: Commissioners Smith, Thorndike, Jackson, Barlow, Meloy, and Rasmussen. Voting against the motion: None.

I. Klamath Basin Hydrology Report

Barry Norris, Technical Services Administrator, and Doug Woodcock, Ground Water Section Manager, briefed the Commission on the report regarding the release of the cooperative USGS/OWRD Klamath Basin Hydrology report.

The report, "Ground-Water Hydrology of the Upper Klamath Basin, Oregon and California," can be viewed on the Department's website at www.oregon.gov/owrd/gw/studies.shtml.

J. Public Comment

No public comment was given.

K. Other Issues

Doug Woodcock, Ground Water Manager, spoke regarding the Petes Mountain Homeowners Association's interest in the establishment of a Serious Water Management Problem Area along with a Special Area Well Construction Standard in the Petes Mountain area.

Martha Pagel, Schwabe, Williamson and Wyatt, as a representative for the Tumwater Development, expressed her concerns regarding the Petes Mountain area.

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Cindy Smith
Commission Assistant