

**Water Resources Commission  
Work Session  
Clackamas, Oregon  
November 29, 2007**

WRC Present

Dan Thorndike  
Jay Rasmussen  
Susie Smith  
Charlie Barlow  
John Jackson  
Mary Meloy  
Ray Williams

Staff Present

Phil Ward  
Brenda Bateman  
Debbie Colbert  
Cindy Smith  
Barry Norris  
Dwight French  
Doug Woodcock  
Ken Stahr  
Jerry Rodgers  
Tracy Louden  
Bill Ferber

Others

Brad Taylor  
Kathy Newcomb  
Helen Moore  
Bill Drumheller  
Lara Whitely Binder  
Mark Wirganowicz  
Michael Campana  
Bill Brown  
Lorna Stickel  
Tracey Liskey  
Kimberly Priestley  
Camila Thorndike  
Liz Townsend

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 a couple of students from Whitman College. The students were Camila Thorndike and Liz Townsend. The students were attending the meeting as members of the Whitman College Campus Climate Challenge Group. The group is associated with the Sierra Student Coalition and is working towards getting the campus to be climate neutral.

**I. Climate Change Update**

Barry Norris, State Engineer, briefed the Commission on the panel and the discussion they would be hearing.

The panel consisted of Lara Whitely Binder from the University of Washington, Climate Impact Center; Bill Drumheller, Governor's Climate Change Integration Group; Lorna Stickel, Portland Water Bureau; and, Michael Campana, Oregon State University.

Lara Whitely Binder gave two presentations. The first on, Global and Regional Climate Change and Implications for Water, and the second on, Generating a Comprehensive Climate Change Streamflow Scenarios Database for the Columbia River Basin.

Bill Drumheller works for the Department of Energy and is on the Governor's Climate Change Integration Group. His presentation was on, Oregon Climate Change Integration Group: Background and Progress.

Lorna Stickel is the Portland Water Bureau & Regional Water Providers Consortium Project Manager. Her presentation was on, Municipal Water Supplies and Climate Change: Challenges and Opportunities.

Michael Campana is the Director of the Institute for Water & Watersheds at Oregon State University. His presentation was on, Effects of Climate Change on Oregon's Snowpack and Water Resources.

Kathy Newcomb, representing Citizens for Safe Water, commented regarding a study on the impacts of the Corps of Engineers dams on the Willamette River.

Bill Brown, Klamath County Commissioner and Tracey Liskey, also from Klamath County spoke on behalf of the Klamath County Natural Resources Advisory Council. The Council was formed a couple of years ago and consists of 11 members from the community. As a member of the Council, Liskey will be attending the Commission meetings to monitor and update back to the Council what is happening.

## **II. Oregon Water Supply and Conservation Initiative Update**

Barry Norris, State Engineer, and Debbie Colbert, Field Services Administrator, provided an update to the Commission on the Oregon Water Supply and Conservation Initiative (OWSCI).

Norris discussed the five components of the Initiative.

### **1. Assessment of existing and future water supply needs:**

- a. \$230,000 supplied by legislature to do an assessment of future demands around the state.
- b. Deadline for Request for Proposals was 10/1/2007.
- c. A contractor was selected on 11/1/2007.

Assessment will be a statewide investigation and will identify existing supply issues based on economic trends, population trends and market trends:

It will separate the supply demand forecast into four categories:

- Municipal, Industrial, and Domestic
- Agricultural, Irrigation and Livestock
- Instream, Fish, Recreation
- Power and Storage

Ultimately it will develop a Geographic Information System based scenario forecasts by major basin to allow for querying, analysis, maintenance (data updates).

**2. Inventory of conservation opportunities:**

- a. \$100,000 supplied by legislature to do an assessment of future demand around the state.
- b. Deadline for Request for Proposals was 10/1/2007.
- c. A contractor was selected on 11/1/2007.

Assessment will be a statewide investigation and will identify, project location, type, description, estimated cost, water savings, timeline, and any other data identified.

**Project timeline for the first two components:**

Kick-off Workshop	12/20/2007
Completion of Outreach and Data Collection	4/2/08
Completion of Data Analysis and Demand Forecast (Modeling Efforts)	5/20/08
Submit Draft Report	6/1/08
Submit Final Report	7/1/08

The Commission asked to be kept up-to-date on the progress of the Oregon Water Supply and Conservation Initiative.

Commissioner Rasmussen suggested creating an external peer review group to work with staff on the project.

Commissioner Smith suggested a work plan that outlines the vision for the initiative so the Commission understands its role.

**3. Inventory of potential storage sites:**

- a. 2 full-time positions funded

Information will be gathered to prioritize future projects that includes above ground and below-ground projects. The below-ground options include Artificial Recharge (AR) and Aquifer Storage and Recharge (ASR).

**4. Basin-yield estimates**

Not funded.

A database exists that shows 3000 water availability basins. A basin yield analysis has been done to identify acre-feet per month from these basins. There still needs to be work done on gage sites and then a regression for the unengaged sites and work up a database that is accessible. This could take three or more years to complete.

**5. Match funding for community and regional water supply planning**

The Department has developed draft criteria for awarding funds for regional and community-based water supply planning under the OWSCI.

The 2007 OWSCI budget package included \$200,000 to assist regions and communities that are working to address their long-term water supply needs. The Department identified two priority areas for funding. These include 1) efforts to identify and prioritize regional water supply solutions and 2) to respond to special program needs. The Department is proposing to award funding up to \$20,000 for each project. This level of funding is designed to help ensure that a wide array of projects over a diverse geographic area can be supported. Funding recipients will be required to demonstrate a 25% cost share toward the total project cost.

**Project Timeline**

Post Request for Proposals	1/15/08
Applications Due	3/15/08
Award Funding	4/15/08

Commissioner Smith commented that there needs to be a conservation element added to the funding requirement. It is critical that there needs to be consistency in the application of that requirement when submitting the plan.

Commission Barlow expressed concerns regarding the efforts that concurrently address water quality/land use. He felt that it needs to address multiple water issues, not just water quality/land use.

Commissioner Jackson suggested that municipalities that have a conservation plan, go back and update after study is complete.

Commissioner Williams complimented the Director, staff and the Commission for their efforts on this project.

Mike Carrier, Governor’s Natural Resources Director, was scheduled to speak to the Commission regarding the Governor’s vision of the Statewide Water Supply Task Force. Due to scheduling conflicts, Mr. Carrier was not able to make the meeting.

Commissioner Rasmussen discussed having a conference or retreat regarding the Initiative and the Commission’s role in the Statewide Water Supply Task Force sometime after the first of the year.

Commissioner Smith said that she would like to see another meeting date added where the Commission can discuss the Initiative further. She suggested topics of discussion being: what is the Department doing as part of the Initiative; how it relates to the work plan that the

Department is developing and if it meets the needs of the objectives that the Commission laid out around sustainability, stewardship, and future thinking.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Cindy Smith  
Commission Assistant

**Water Resources Commission  
Meeting  
Clackamas, Oregon  
November 30, 2007**

WRC Present

Dan Thorndike  
Jay Rasmussen  
Susie Smith  
Charlie Barlow  
John Jackson  
Mary Meloy  
Ray Williams

Staff Present

Phil Ward  
Brenda Bateman  
Tom Paul  
Cindy Smith  
Renee Moulun  
Dwight French  
Doug Woodcock  
Salem Opeifa  
Jerry Rodgers  
Tracy Louden  
Bill Ferber

Others

Ed Henricks  
Ed Henricks, Jr.  
Judy Messner  
Doug Warden  
Helen Moore  
Elaine Newland  
Kimberley Priestley  
Mark Wirganowicz  
Steve Shropshire  
Bill Brown  
Tracey Liskey

Dan O'Brien  
Ed Radke  
Pat Carey  
Kathy Freeborn  
Ron Eggers  
Carl Hopp, Jr.

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Chair Thorndike called the meeting to order.

**A. Minutes**

The minutes of the August 29 and 30, 2007 meeting were offered to the Commission for consideration.

Commissioner Smith moved to approve the August 29 and 30, 2007 minutes with a request to have a follow-up summary of the notes from the retreat; seconded by Commissioner Rasmussen. Voting for the motion: Commissioners Thorndike, Smith, Rasmussen, Barlow, Jackson, Williams and Meloy. Voting against the motion: None.

**B. Commission Comments**

Commissioner Williams commented that Debbie Colbert would be in his region on December 17-18, 2008, to tour the west side county projects and meet with players involved in the water issues.

Commissioner Smith had no comments.

Commissioner Rasmussen commented that he was a member of a panel at a water law meeting held by the Oregon Water Resources Congress in Welches, Oregon.

Commissioner Barlow had no comments.

Commissioner Meloy had no comments.

Commissioner Jackson commented that he spent time interviewing some municipal water providers on their conservation practices. He also attended the 16<sup>th</sup> Annual Oregon Water Law Conference.

Commissioner Thorndike commented that the next Oregon Watershed Enhancement Board meeting will be held in Astoria in January.

### **C. Director's Report**

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

Renee Moulun, Legal Counsel, discussed pending litigation.

### **D. Legislative Update**

Director Ward provided a brief to the Commission on the upcoming 2008 Legislative Session.

### **E. Commission Approval of Appointments to the Ground Water Advisory Committee**

Jerry Rodgers, Technical Services Division, Administrator, offered a list of candidates to serve on the Ground Water Advisory Committee (GWAC). Terry Daugherty was recommended for appointment in the Drilling Industry category; Marilyn Reeves was recommended for reappointment in the Environmental category; and Tim Smith was recommended for reappointment in the Groundwater User category. Terms for these three members would begin on December 1, 2007 and continue through November 30, 2010.

Commissioner Barlow moved approval of the GWAC appointment of Terry Daugherty and reappointment of Marilyn Reeves and Tim Smith to terms beginning December 1, 2007 and expiring on November 30, 2010; seconded by Commissioner Williams. Voting for the motion: Commissioners Thorndike, Smith, Jackson, Barlow, Meloy, Williams and Rasmussen. Voting against the motion: None.

## **F. Update on Rulemaking on Special Area Well Construction Standards, OAR Chapter 690, Division 200**

Jerry Rodgers, Technical Services Administrator, gave an update on the rulemaking on special area well construction standards.

The Department proposes to establish special area well construction standards for the Petes Mountain Area, in Clackamas County. The Department initiated rulemaking in an effort to ensure that accurate water level data can be obtained from wells in the area.

The draft proposed special well construction standards incorporate the material specifications for the measuring tube, addressing the casing size for new construction and who is responsible for the installation of the measuring tube into the hearing draft.

The Department provided notice of the rulemaking and held a public hearing in Canby on July 23, 2007. On July 27, 2007, the Department met with the Commission's Ground Water Advisory Committee (GWAC), which advises the Commission on rules for the development and protection of ground water (ORS 536.090).

The public comment period closed on August 1, 2007. The comments received focused on three main issues: 1) responsibility for installation of the measuring tube; 2) casing size in new construction; and 3) specifications for materials and sizing of the measuring tube. GWAC recommended that the Department work with the Driller's Technical Committee to develop material specifications for the measuring tube to ensure that the installation of the measuring tube was feasible. The Department met with the Driller's Technical Committee on October 16, 2007, and developed recommended material specifications for the measuring tube.

The Department is in the process of redrafting the proposed special area well construction rules to incorporate the revised material specifications, address the casing size for new construction and identify who is responsible for the installation of the measuring tube. Since the proposed rules will be significantly changed from the earlier version, the Department will need to provide a new notice of the rulemaking and hold another public hearing in the Petes Mountain Area.

The Department anticipates notice to the Secretary of State and a hearing draft to be available for public comment by February 2008 and to hold a public hearing towards the end of February.

The Department is expected to come back to the Commission at its May 2008 meeting with a set of proposed rules for Commission action.

## **G. Recommended Action on Eola Hills Ground Water, Polk County, Oregon**

Doug Woodcock, Ground Water Section Manager, briefed the Commission on a request for recommended action on Eola Hills Ground Water, Polk County, Oregon.



A request to further restrict ground water development in the Eola Hills Ground Water Limited Area (EHGWLA) was submitted to the Department and heard by the Commission at its June 1, 2007 meeting. At this meeting, the Commission directed the Department to conduct a hearing to determine whether a serious water management problem exists in the EHGWLA and report back with a recommendation.

The request called for elimination of the domestic exemption in the limited area citing declining water levels, inadequate yields from existing domestic wells, and the threat to senior water rights. The Department presented a summary of the available ground and surface water information in the Eola Hills. Substantial evidence is required to justify a restriction on ground water use. The available data at the time did not support the required standard of substantial evidence in the record. The Commission directed the Department to hold a hearing to assess whether a serious water management problem exists in the EHGWLA. The Department was to collect additional information in the area and return with a recommendation. A hearing was held August 1, 2007 and the public comment was open through August 2007.

The testimony offered during the hearing and comment period, plus the additional information collected by the Department, provided no clear evidence of a serious water management problem in the Eola Hills area. There is potential for interference between wells that develop ground water from the Columbia River Basalt Group (CRBG) aquifers and springs from the hills, but the issue is complicated by local geology. The degree of interference, if any, is unknown at this time.

The Eola Hills area requires further collection of data to document whether problems beyond individual wells exist or whether spring discharges are influenced by ground water development. The Department suggests the following four action items for the EHGWLA:

A. Special Area Well Construction Standards: Case and Seal New CRBG Wells to Within 100 ft of the Bottom of the Well

Through rulemaking, adopt a special area well construction standard requiring all new wells in the Eola Hills CRBG to have a continuous grout seal from land surface to within 100 feet of the bottom of the well. This allows well owners to develop an aquifer while reducing the opportunity for the borehole to act as a conduit for flow from one aquifer to another.

B. Special Area Well Construction Standards: Measuring Tubes in New Wells

Water level data are inaccessible in many wells due to depth to water and obstruction caused by pump installation. Through rulemaking, adopt a special area well construction standard to require a dedicated measuring tube be installed at the time of pump placement in new wells and at the time of pump replacement in existing wells. This will consistently provide access to water levels in the EHGWLA aquifers.

C. Develop a Voluntary Water Use and Measurement Program

As evidenced by turnout at the public hearing and resident's interest in water supply in the EHGWLA, a voluntary program of water level and water use data collection could be implemented for the area. The Department has had success elsewhere in the state with training concerned residents in collecting and sharing data from their own wells. The program, which requires oversight by the Department to assure data veracity, is a useful means of collecting information beyond what Department staff could accomplish and provides residents with knowledge of their local resources.

D. Continue Monitoring of Water Supplies

Continued work would be necessary to determine whether broad water supply problems develop in the EHGWLA. Such work includes expansion of the current well net and installation of continuous water level recorders; continue ongoing field location and data collection on new wells in the area; identifying springs that are suitable for flow measurement; and testing of hydraulic interference between wells and springs, if feasible. Accomplishment of these tasks will need to be within existing staff resources.

Kathy Freeborn, Freeborn Farms, spoke in support of the Department's recommendation.

Pat Terry, Eola Hills area resident, thanked the Commission and staff for the work that has been done regarding this issue.

Commissioner Rasmussen expressed a need for an education plan on the rehabilitation or replacement of wells.

Commissioner Smith encouraged staff to continue to provide the information that is collected to the county planning staff and to continue the information sharing and connection with the planners.

Klamath County Commissioner Bill Brown said that, with regard to measuring devices, one of the problems is the fact that the state charges a fee.

Commission's recommended changes to Optional Action Items:

Item C – Amend title to read: Develop a Well Water Education and Voluntary Water Use and Measurement Program.

Item D – Amend to second sentence to read: ...hydraulic interference between wells and springs, and other affected surface water, if feasible.

Commissioner Rasmussen moved to pursue the identified four optional action items for the Eola Hills Ground Water Limited Area with changes listed above; seconded by Commissioner Smith. Voting for the motion: Commissioners Thorndike, Smith, Jackson, Barlow, Meloy, Williams and Rasmussen. Voting against the motion: None.

**H. Request for an Exception to the Willamette Basin Program by Cougar Creek Water Company (G-16960) pursuant to ORS 536.295.**

Commissioner Meloy declared a direct conflict of interest on this matter. Meloy works for David Evans and Associates, who was involved in putting the application together.

Dwight French, Water Rights and Adjudication Division, Administrator, briefed the Commission on a request for an exception to the Willamette Basin Program by Cougar Creek Water Company (CCWC).

CCWC requested an exception to the Willamette Basin Program based on criteria provided in ORS 536.295(1).

CCWC applied for a permit to divert 0.45 cubic foot per second for quasi-municipal use from one well near the Little North Fork of the Santiam River. The Willamette Basin Program does not allow quasi-municipal use from alluvial wells that are within a quarter mile from Little North Fork of the Santiam River during the months of July and August (OAR 690-502-0110(1)(b)).

To accept an application under ORS 536.295, the Commission must find that the request meets at least one of the statutory criteria and the proposed use is consistent with the general policies of the applicable basin program. CCWC has demonstrated that the use qualifies for an exception by meeting two criteria: 1) the use is largely nonconsumptive in nature and not likely to be regulated for other water rights; 2) will provide a public benefit such as riparian or watershed improvement.

The request is consistent with the general policies of the Willamette Basin Program.

Steve Shropshire, Jordan Schrader Law Firm, was available for questions from the Commission on behalf of the applicant.

Commissioner Smith moved approval of the request by Cougar Creek Water Company for a basin program exception because the use, with conditions, is largely nonconsumptive in nature and not likely to be regulated for other water rights and will provide a public benefit; seconded by Commissioner Jackson. Voting for the motion: Commissioners Smith, Thorndike, Jackson, Barlow, and Rasmussen. Voting against the motion: None. Excused for conflict of interest: Meloy.

**I. Request for an Exception to the Willamette Basin Program by Greenberry Irrigation District (S-87035) pursuant to ORS 536.295.**

Dwight French, Water Rights and Adjudication Division, Administrator, briefed the Commission on a request for an exception to the Willamette Basin Program by Greenberry Irrigation District (GID).

GID applied for a permit to divert 50 cubic feet per second for supplemental irrigation on 7,373 acres. The area to be irrigated is generally located on the south end of Corvallis near the airport.

Use of live flow from the Willamette River for irrigation or supplemental irrigation is not a classified use. When developing the Willamette Basin Plan, the Commission did not allow irrigation from live flow in this section of the Willamette River because stored water, in the name of Bureau of Reclamation (BOR), totaling more than one million acre-feet was available for contract for irrigation purposes. The stored water remains available in various Willamette Project reservoirs to meet irrigation needs. However, the BOR is not issuing long term contracts for the use of the stored water.

GID has two applications pending (Files S-84426 and S-87034) that propose to use stored water from Willamette Project reservoirs for irrigation of the same acreage as requested under the application. Permits to use stored water will be issued after an executed contract with the Bureau of Reclamation has been received by the Department. The use of stored water for irrigation is allowable under the Willamette Basin Program.

In February of 2003, the Commission approved an exception for GID that led to the Department's issuing a permit for live flow irrigation for up to seven years while the district pursued a contract for stored water. That permit, S-54059 will expire no later than April of 2011.

To grant an exception to a basin program under ORS 536.295, the Commission must find that the request meets at least one of the statutory criteria and that the proposed use is consistent with the general policies of the applicable basin program. GID has demonstrated that there will be extreme hardship. In addition, there will be some watershed improvement to naturally occurring water bodies within the district. Obtaining a backup water supply will allow GID to build the infrastructure for to three separate projects that would provide additional watershed improvement. The request is consistent with the general policies of the Willamette Basin Program.

Ron Eggers, Bureau of Reclamation, spoke in support of the GID request.

Dan O'Brien, Greenberry Irrigation District, was available for questions from the Commission.

Kimberley Priestley, WaterWatch of Oregon, expressed concerns with regards to going forward with an exception at this point in time.

Commissioner Smith moved to approve the request by Greenberry Irrigation District for a basin program exception due to extreme hardship and watershed improvement; recognizing that a permit, if ultimately issued, may be conditioned to address public interest concerns; seconded by Commissioner Barlow. Voting for the motion: Commissioners Smith, Thorndike, Jackson, Meloy, Barlow, and Rasmussen. Voting against the motion: None.

**J. Request by Tumalo Irrigation District for Expanded Quit Claim Deed**

Tracy Loudon, Administrative Services Division Administrator, briefed the Commission on a request by Tumalo Irrigation District for Expanded Quit Claim Deed.

Bill Hopp, Attorney for Tumalo Irrigation District, was available for questions from the Commission.

In 1988, the Water Resources Commission authorized conditional conveyance of 930 acres of former Tumalo Reservoir Project property to the Tumalo Irrigation District (TID) through recorded statutory Quit Claim Deed to be held under public ownership and used as a winter feeding area for wildlife. TID requested an additional 533 acres of contiguous property be added to the 930 acres, also to be used as a winter feeding area for wildlife.

Under the Carey Act, ORS 555.010 to 555.190, the federal government granted certain desert lands to Oregon. Under the Oregon statute, the state was authorized to contract for construction of irrigation projects to reclaim those desert lands granted by the federal government. Once an irrigation project could ensure a reliable water supply, the law allowed entry by settlers on the reclaimed lands and conveyance of title to the settlers following settlement and cultivation. In some cases, the land reverted back to the State of Oregon if the settler could not “prove up their claim”.

The Tumalo Reservoir project was authorized by the 1913 State Legislature to build a reservoir at Wimer Flat and to improve and enlarge the canal system to irrigate 22,500 acres. The dam is structurally sound, but Tumalo Reservoir fails to hold water. This is a case where land reverted back to the State of Oregon.

The August 1988 meeting of the Water Resource Commission authorized the transfer of a 930 acre parcel to TID through a Quit Claim Deed, to hold under public ownership, allowing use as winter grazing for wildlife but excluding any form of transfer, mining, drilling or other form of exploration. The 930 acres fell roughly within the boundaries of the old reservoir. Adjoining parcels owned by the State were not transferred at that time.

TID is requesting transfer of additionally identified Carey Act property bordering the lands transferred in 1988 for the purpose of expanding the amount of property that is protected from vandalism and litter created by the general public to provide for a winter feeding area for wildlife in the area.

Commissioner Jackson moved approval of the request by Tumalo Irrigation District to convey 533 acres through a conditional Quit Claim Deed; seconded by Commissioner Williams. Voting for the motion: Commissioners Smith, Thorndike, Jackson, Meloy, Barlow, and Rasmussen. Voting against the motion: None.

**K. Approval of the 2008 Commission Meeting Schedule**

Tom Paul, Deputy Director, reviewed the 2008 Commission meeting schedule.

The dates being proposed were as follows:

March 6 – 7

May 29 – 30

August 21 – 22

November 20 - 21

Meeting locations will be determined at a later date.

Commissioner Smith expressed an interest in having an additional meeting in January or February regarding the Governor’s Statewide Task Force.

Due to scheduling conflicts the March meeting will not work for Commissioner Thorndike.

Commissioner Smith noted that depending on the location of the August and November meetings, she may or may not be in attendance.

The Commission expressed interest in attending the ASR/AR Conference in Corvallis on February 28, 2008.

The Commission sent staff back to work on meeting date options for the March meeting and optional dates for the January or February meeting to discuss the Governor’s Statewide Task Force.

**L. Public Comment**

No public comment was given.

**M. Other Issues**

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Cindy Smith  
Commission Assistant