

Water Resources Commission
Meeting
Medford, Oregon
August 21, 2008

WRC Present

Jay Rasmussen
Mary Meloy
Ray Williams
Charlie Barlow
John Jackson
Jeanne LeJeune
John Roberts

Staff Present

Phil Ward
Tom Paul
Cindy Smith
Jerry Rodgers
Tracy Louden
Dwight French
Brenda Bateman

Others

Helen Moore Dan Thorndike
Larry Rains Dan Shephard
Tam Moore Bob Hunter
Julie Wilson CW Smith
Jim Hill
Jim Pendleton
Brian Hampson

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 Harry and David Orchards along with the processing and packing plants in the morning.

Vice-Chair Rasmussen welcomed everyone to the meeting. He welcomed the two newest Commissioners, Jeanne LeJeune from Portland and John Roberts from Medford, to the Commission.

Workshop: State Water Planning

Brenda Bateman, Senior Policy Coordinator, lead a panel discussion regarding State Water Planning.

The panel included Kamyar Guivetchi, P.E., Manager of Statewide Water Planning for California's Department of Water Resources, and Daniel R. Haller, P.E., Washington Department of Ecology, Columbia River Unit Supervisor. The panelists provided information on their states water plans and planning process.

Detailed notes from the panel are part of the November 20, 2008 staff report on An Integrated Water Resource Strategy.

Local Leaders Panel

Local leaders were invited to discuss water supply issues in the Rogue Basin. Panel members included Jim Hill, City of Medford; Jim Pendleton, Talent Irrigation District; Bob Hunter, WaterWatch of Oregon; and Commissioner CW Smith, Jackson County.

There being no further business, the meeting was adjourned.

Respectfully,

Cindy Smith
Commission Assistant

Water Resources Commission
Meeting
Medford, Oregon
August 22, 2008

WRC Present

Jay Rasmussen
Mary Meloy
Ray Williams
Charlie Barlow
John Jackson
Jeanne LeJeune
John Roberts

Staff Present

Phil Ward
Tom Paul
Brenda Bateman
Cindy Smith
Tracy Louden
Dwight French
Jerry Rodgers
Barry Norris
Ruben Ochoa
Bruce Sund
Larry Menteer
Kathy Smith

Others

Helen Moore
Larry Rains

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Vice-Chair Rasmussen opened the meeting by thanking Commissioner Roberts for his hospitality at this meeting and for the tour of the Harry and David Orchards and plant facilities the previous day.

A. Minutes

The minutes of the May 29 and 30, 2008, meeting were offered to the Commission for consideration.

Commissioner Meloy moved to approve the May 29 - 30, 2008, minutes as submitted; seconded by Commissioner Jackson. Voting for the motion: Commissioners Rasmussen, Barlow, Jackson, Williams, Meloy, LeJeune and Roberts. Voting against the motion: None.

B. Commission Comments

Commissioner Jackson echoed thanks for the hospitality at the meeting and for the informative discussions that were had during the previous days work session. He congratulated Director Ward for his reaffirmation as Director of the Water Resources Department. He commented that in his community of Cornelius, they are measuring water levels in wells once again. The work is very time consuming and gave him an appreciation for the need for measuring and monitoring in the state. He thanked the Department for the use of the Watermaster's time and guidance.

Commissioner LeJeune commented that she is trying to learn as much as she can about irrigated agriculture. She is making arrangements to visit with the different irrigation districts in her region. She received a letter of support from Representative Ben Cannon for her nomination to the Commission and is scheduling a time to meet with him.

Commissioner Roberts commented that since his confirmation in July he has met and toured with Talent Irrigation District, the Rogue River Valley Irrigation District and the Medford Irrigation District. He also has toured Savage Rapids Dam, which is scheduled for removal next April. He commented that he is getting acquainted with Senator Bates who is the local Senator for his area. He said that he will continue to visit more of the area soon.

Commissioner Meloy commented that she had enjoyed being in Southern Oregon. She also commented on the local activities in the Deschutes Basin. A group has been formed to report on the Deschutes Mitigation Program (HB3494) and that she attended the first meeting. She is not on the committee, but is sitting in as the Water Resources Commissioner from the area at these meetings. The issues that came out of the first meeting were: canal lining; zones of influence in the Deschutes; protection the lower Deschutes Scenic Waterway and Scenic Waterway rights; number of applications that are counted in the 200 cfs cap; length of time to process applications; net consumptive use; sunset date of 2014; and pre-1995 permits that have mitigation requirements. The group hopes to go over all these issues during the next four months.

Commissioner Barlow commented that he facilitated a tour of the Owyhee Irrigation District with Department staff. He is trying to get to know this area better. He commented that it was a good experience.

Commissioner Williams commented that the people in the community of western Umatilla and eastern Morrow Counties appreciate the Department's efforts with regards to SB 1069. He commented that the Governor came to the area and spoke on this issue. He said that the people in these counties feel that the Department was able to make something happen that they feel good about. Williams also commented that he wanted to thank the Department staff for their great work on the Walla Walla Subbasin rules.

Commissioner Rasmussen commented that the Department continues to be a major player in wave energy in Oregon. Rasmussen commented that there will be multiple water round table discussions this fall. These round table discussions will be hosted by the Institute for Water and Watersheds at Oregon State University and will be held around the state. He commented that it would be beneficial if the Commissioners could attend one of these round table discussions if it works for their schedules. He also commented that the Department is assisting in a Well Water Wellness Symposium on December 10 at the Northwest Vitaculture Center in Salem. He noted that he and former Commissioner Dan Thorndike attended the Oregon Business Council meeting a week earlier. Water is a major area of the Oregon Business Council's focus.

C. Director's Report

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

Tom Paul, Deputy Director, spoke to the Commission regarding the Fort Vannoy decision and possible legislation.

D. History of Basin Plans

Tom Paul, Deputy Director, and Debbie Colbert, Field Services Administrator, gave the Commission a brief history on the Department's basin plans.

In 1955, the State Water Resources Board was created to act as Oregon's water policy and planning department. It was given the direction for coordinated and integrated water resource planning and establishing minimum streamflows. In 1969, there was the study of long range water requirements. In the 1970s, the state began development of "basin plans".

The formation of the basin plans included basin advisory committees & public meetings. The state developed an inventory of available resources ("basin reports") which conceptually tried to address a broad range of issues. From a practical perspective, this resulted in rules to set minimum streamflows and restrictively classify high value streams.

Today, a majority of basin plans are outdated. As issues arise in a basin, they are addressed through basin program exceptions. To a large extent, water availability and the Commission's water allocation policy have displaced surface water classifications and the instream water right program has displaced minimum streamflows.

The differences between the planning efforts the Commission is undertaking now and basin planning in the past is a community-based versus top-down approach, the tools used for implementation, the focus and the diversity of public values considered.

E. Key Performance Measures 2007-2008

Brenda Bateman, Senior Policy Coordinator, briefed the Commission on the Department's 2007-2008 Key Performance Measures (KPMs).

Each year, the Department submits a report that tracks the Department's Performance in 14 key areas and is an essential part of the Department's budget presentation to the Governor's Office and Legislature. The Department submitted its most recent report on August 11, 2008.

The Department's performance measures cover agency programs related to streamflow restoration, protection and gaging; ground water monitoring; and regulatory, administrative, and outreach activities. The Department has had all of its measures in place since 2005 or earlier. The two KPMs of greatest concern are KPM #10 and #14, both negatively affected by the amount of time it takes the Department to review ground water applications for water rights. Bateman described interim steps the Department has taken to improve turn-around times for the initial review of ground water applications. The Department has also submitted several policy option packages as part of its 2009-2011 budget request to help in this area.

**F. Update on Rulemaking on Water Well Construction Standards
OAR Chapter 690, Divisions 200, 205, 215, 220 and 240**

Jerry Rodgers, Technical Services Administrator, gave an update to the Commission on the rulemaking on Water Well Construction Standards, OAR Chapter 690, Divisions 200, 205, 215, 220 and 240.

On March 3, 2008, the Oregon Ground Water Association (OGWA) submitted a petition for rulemaking to the Commission. The petition asserted that the Commission had recently altered its historical practice and had implemented a new policy on well alterations by requiring that entire wells be brought up to current standards when altered or repaired in any manner. The petition stated, in part, that previously “The expressed policy and practice was that the obligation and liability of the contractor was only for the work currently performed, i.e. the alteration must be performed in accordance with the current standards.” The petition requested that the Commission engage in rulemaking to clarify that a well contractor is only responsible to meet well construction standards for specific work performed on existing wells.

The Commission denied the OGWA petition, but asked that the Department move forward with rulemaking on well alterations for Commission consideration by the end of the year.

A Rules Advisory Committee (RAC) was appointed by the Department to assist with the development of rules that will include well alterations, use of bentonite in well abandonments, and other housekeeping related issues. The RAC met four times, with the last meeting held on August 12. A hearing draft set of proposed rules was prepared by staff based on input from the RAC.

The public comment period for the proposed rules will be open from September 1 through September 25. In addition to the opportunity to provide written comment, public hearings are scheduled for Pendleton on September 9th, Bend on September 10th, and Salem on September 22nd. The Ground Water Advisory Committee, which advises the Commission on rules for the development and protection of ground water (ORS 536.090), is scheduled to meet on September 23, 2008, to discuss the draft rules.

After the public comment period closes, staff will review the written and verbal comments and may modify the proposed rules based on the comments received.

The Commission will be asked to consider rules during its November 2008 meeting.

G. Update on the Planning Studies Grant Program Established under Senate Bill 1069 (Chapter 13, 2008 Laws), OAR Chapter 690, Division 600

Ruben Ochoa, Water Policy Analyst, gave an update to the Commission on the Planning Studies Grant Program established under Senate Bill 1069 (Chapter 13, 2008 Laws), OAR Chapter 690, Division 600.

Senate Bill 1069, enacted into law by the Oregon Legislature in 2008, became effective on March 5, 2008. SB 1069 directed the Department to establish a new grant program to pay the qualifying costs of planning studies performed to evaluate the feasibility of developing a water conservation, reuse or storage project. SB 1069 also directed the Department to adopt rules necessary to administer the grant program. The Commission adopted rules to administer the

grant program on May 30, 2008, and on June 6, 2008 the administrative rules became effective. The 2008 Oregon Legislature also passed Senate Bill 5556, in part, to appropriate \$1,750,000 to the Department for administration and funding of the Water Conservation, Reuse and Storage Grant Program (Program).

On July 15, 2008, the Department placed information pertaining to the Program on the agency's website, including a grant application form, application and evaluation guidance, administrative rules and other general information. The period for submitting applications extends through September 2, 2008.

A number of key Program activities will take place before the Department presents its final funding recommendations for the Commission's consideration at the November 21, 2008 meeting.

H. 100th Anniversary of Oregon's Water Code

Dwight French, Water Rights and Adjudication Administrator, and Brenda Bateman, Senior Policy Coordinator, briefed the Commission on the 100th Anniversary of Oregon's Water Code.

February 24, 2009 will mark the 100th anniversary of the Oregon Water Code. To commemorate the occasion, the Department has planned a number of activities for the Commission, policymakers, stakeholders, and the public.

The Department has commissioned a centennial logo that is being used in documents and presentations. This logo will also appear on lapel pins that have been produced with the help from a number of sponsors: GSI Water Solutions Inc.; Jordan Schrader law firm; League of Oregon Cities; Oregon Water Resources Congress; Schwabe, Williamson & Wyatt; Special Districts Association of Oregon; and Stoel Rives LLP. These pins will be made available to the Commission, Department staff, sponsors, stakeholders, and colleagues in the executive, legislative and judicial branches of state government. The pins provide an opportunity to make the link between the history of water law in Oregon and the water resource issues we face today.

In partnership with the Oregon 150 Committee, the Department will have display space at the Capitol during the 2009 Legislative Session (June 8 – 12).

Department staff will write a brief history of the Department and Commission as part of the Oregon 150 celebration; a separate section will highlight the history of the Oregon Water Code itself. All of these materials will be posted on the Department's website.

The Commissioners discussed additional ideas for getting the word out regarding the celebration. Other ideas were: radio/tv, news, Oregon Field Guide, talking points for Commissioners, old photos, expand beyond the valley, display in county courthouses, etc.

I. Public Comment

Helen Moore, Water for Life, expressed her concerns regarding the Fort Vannoy decision.

Bob Hunter, WaterWatch of Oregon, expressed his views regarding basin planning.

J. Other Issues

Commissioner Rasmussen discussed possible items for the November meeting. Those items were the Well Rules, Eola Update, and Feasibility Study Grants. The possibility of having the next meeting somewhere around the Salem area was also discussed.

Director Ward commented that there was a possibility that the Governor would be making a selection as to who the new Commission Chair would be sometime before the next meeting. At that time the Commission will need to designate a vice-chair and a representative to serve on the Oregon Watershed Enhancement Board.

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Cindy Smith
Commission Assistant