

**Water Resources Commission**  
**Meeting**  
**Salem, Oregon**  
**November 20, 2008**

<u>WRC Present</u>	<u>Staff Present</u>	<u>Others</u>		
Jay Rasmussen	Phil Ward	Renee Moulun	Beth Patrino	Jerry Schmidt
Mary Meloy	Tom Paul	Ruben Ochoa	David Pilz	Ronan Igloria
Ray Williams	Cindy Smith	Bruce Sund	April Snell	Mark Jockers
Charlie Barlow	Jerry Rodgers	Tim Wallin	Said Amali	Julie Wilson
John Jackson	Tracy Louden	Bill Ferber	Lorna Stickel	Brad Taylor
Jeanne LeJeune	Dwight French		Anita Winkler	Mark Landauer
John Roberts	Debbie Colbert		Helen Moore	Rob Turkisher
	Patricia McCarty		Niki Iverson	Michelle Girts
	Doug Woodcock		Lynn Rosik	Emily Callaway
	Brenda Bateman		Peggy Brown	Paula Brown
			Malia Kupillas	Leslie Bach
			Scott McCaulou	Roger Bachman
			Kimberley Priestley	
			Mark Wirganowicz	

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.

Vice-Chair Rasmussen welcomed everyone to the meeting.

Director Ward briefed the Commission on the State's Revenue Forecast.

**A. Oregon's Integrated Water Resources Strategy: November 2008 Update**

Phil Ward, Director, Water Resources Department and Dick Pedersen, Director, Department of Environmental Quality, briefed the Commission on proposed development of Oregon's Integrated Water Resources Strategy.

Directors Ward and Pedersen presented a draft legislative concept to the Commission. The draft legislative concept clarifies what shape the process, timelines, and content may take. Directors Ward and Pedersen also led a discussion about next steps.

Directors Ward and Pedersen discussed some of their goals for addressing water quantity and quality issues in an integrated water resources strategy. They also described the process the two Departments have engaged in with the Governor's office and an advisory group of stakeholders, to develop Legislative Concept #663, "Developing an Integrated Water Resources Strategy." LC #663 (now SB 193) builds upon the already-existing statutory language in ORS 536.220, to clarify the lead role the Water Resources Department will play in the development of an integrated water resources strategy. The Department of Environmental Quality will be responsible for developing water quality-specific narratives and data in the strategy.

The draft legislative concept emphasizes the need to work with a full spectrum of stakeholders, including the other natural resources agencies. It also notes the importance of continued data collection and quantification of water needs. The draft concept describes important components of a strategy, including: objectives, actions to achieve the objectives, adaptation plans related to climate change, an assessment of additional factors such as population growth or land-use change, and public policy options and recommendations.

The draft concept notes that the strategy shall take effect upon adoption by both the Water Resources Commission and Environmental Quality Commission, with an initial progress report to the legislature due Feb. 1, 2011, and the first completed strategy due Dec. 12, 2012. Updates should be completed every five years thereafter. Reports to the Oregon Legislature may include legislative concepts or budget recommendations.

Director's Pedersen and Ward talked about the importance of beginning to communicate widely about the strategy and the need to engage other state agencies. They said that ODFW and Governor's Office (GO) are aware and very involved and engaged in this process. There will be a need to bring straw proposals to Commission's and stakeholders in terms of what the strategy is going to look like. There will also be a need to have public meetings and bring updates to the Water Resources Commission.

The Commission asked multiple questions of the two Director's.

Commissioner Rasmussen summarized by saying that there is a great deal of interest in this process and challenging the agencies to do well with this effort.

Roger Bachman, Oregon Trout, expressed concerns.

Kimberely Priestly, WaterWatch of Oregon, expressed concerns with LC 663 as drafted.

Lorna Stickel, Portland Water Bureau, expressed interest in participating in the development of a strategy.

## **B. Oregon Water Supply and Conservation Initiative: November 2008 Update**

Brenda Bateman, Senior Policy Coordinator, gave an update on the Oregon Water Supply and Conservation Initiative.

The Oregon Water Supply and Conservation Initiative was approved by the 2007 Oregon Legislature. The Oregon Water Resources Commission and Water Resources Department have long recognized the need for data to help better understand, manage, and plan for Oregon's water resources.

The data gathering process began in 2007 in five issue areas:

- 1) a state-wide water demand forecast
- 2) an inventory of potential water conservation projects
- 3) an inventory of potential above- and below-ground water storage projects
- 4) grant funding for community and regional planning efforts, and
- 5) basin yield and peak flow analyses (not funded in 2007).

The first phase of the Oregon Water Supply and Conservation Initiative (OWSCI) is scheduled for completion in June 2009.

Barry Norris, State Water Resources Engineer supervised the OWSCI project, working with a combination of internal staff members and outside private contractors. The Department completed data collection during the summer, and will spend the remainder of the 2008 conducting data quality checks and processing the data into a user-friendly format on the Department website.

The Department will present results of the Oregon Water Supply and Conservation Initiative to the 2009 Oregon Legislature, identifying information gaps, lessons learned, recommendations about the level of resources and general approach needed to continue to build Oregon's long-term, integrated water conservation and supply strategy.

In addition to data, two products that result from this Initiative include the methodology used to collect and process information, and also the database into which the Department will place future data.

A peer review group, comprised of three colleagues from the U.S. Geological Survey, Oregon State University, and Portland Water Bureau, as well as a series of stakeholder meetings and workshops, helped the project team develop and revise its methodology.

Public outreach is critical to the success of continued data collection and future water planning. Stakeholders not only have good ideas about methodology, but they are a valuable source of data and source of support. Future water planning will require a dedicated staff to seek out, document, and publish the input that comes from the public, as well as from advisory groups, and technical groups. The Department's 2009-11 budget request includes Policy Option Package #102, "Developing and Communicating an Integrated Water Resources Strategy," which requests Department staff to conduct such work.

Roger Bachman, Oregon Trout, expressed his concerns regarding the initiative.

### **C. Oregon Business Council Update**

Michelle Girts, CH2M Hill, gave an update on the Councils' water committee discussions.

In 2008, the Council convened a water working group consisting of individuals from the Oregon University System, the Nature Conservancy, Siltronic Corp, Oregon State University, Clean Water Services, Portland General Electric, Madison Farms, Heinz, Oregon Water Resources Commission, Medford Fabrication, and Harry and David.

Businesses know that accessible, high quality water is a resource essential to human and economic well-being and recognize the value of a statewide water strategy framework for regional water management solutions, building collaboratively on work done to date.

The Council's Vision of Water Stewardship to 2050 would be to provide safe and sustainable water supplies for people, communities, businesses, energy production, food and crop production, manufactured goods, aquatic ecosystems and other environmental services.

The working group identified 10 key areas for strategic focus. These areas are 1) water markets for efficiency and strategic advantage; 2) coordinated, integrated institutional and regulatory systems; 3) least cost planning, demand management, conservation, and reuse; 4) climate change, uncertainty and risk; 5) management for water quality; 6) management for habitat and hydrologic function; 7) data analysis, including collection, management, reporting, and access; 8) public awareness and education; 9) Columbia Basin Compact; and 10) technology development.

The working group recommended 10 near term actions that could be implemented in a 6 – 10 year time frame. These actions are 1) community water value determinations; 2) promote conservation and reuse; 3) asset inventory of demand and conservation at a scale adequate for planning; 4) monitoring network; 5) pilot, demonstration, and model projects and technologies foundational to implementing strategic focus; 6) compilation of trends in water management and tools, practices, and technology sources; 7) public and stakeholder awareness education and engagement; 8) input to major policy initiatives; 9) assessment of environmental flow requirements for key aquatic species and communities; and 10) feasibility study for the development of a Columbia River Basin Compact.

The next step in moving this out into the community will be during a break out session at the Oregon Leadership Summit on December 11, 2008 in Portland. The Water Resources Commission members were invited to facilitate the group discussions during this session.

**D. Request Adoption of Administrative Rules Relating to Water Well Construction and Maintenance Standards, OAR Chapter 690, Divisions 200, 205, 215, 220 and Request Adoption of Administrative Rules Relating to Construction, Maintenance, Alteration, Conversion and Abandonment of Monitoring Wells, Geotechnical Holes and Other Holes in Oregon, OAR Chapter 690, Division 240**

Juno Pandian, Enforcement Manager and Jerry Rodgers, Technical Services Administrator, briefed the Commission of the adoption of these rules.

During the March 2008 Commission meeting, the Commission directed the Department to move forward with rulemaking on well alterations for Commission consideration by the end of the year.

The Department went through the formal rulemaking process and proposed administrative rules to modify and clarify submittal requirements related to initial notice of water supply well construction (start card) for water supply and monitoring wells; modify ground water protection rule provisions related to alterations performed on water supply wells; modify rule provisions related to the abandonment of wells; modify rule provisions related to information contained in the water supply well log; clarify the responsibility for work performed on existing water supply wells, address standards for material used in water supply well alterations, and develop standards for the placement and authorize the use of unhydrated bentonite for well abandonments.

Commissioner Jackson moved adoption of the final proposed rules as submitted; seconded by Commissioner Barlow. Voting for the motion: Commissioners Rasmussen, Barlow, Jackson, Williams, Meloy, LeJeune and Roberts. Voting against the motion: None.

Jerry Schmidt, Oregon Ground Water Association, thanked the Commission for their efforts on this issue.

**E. Request for Approval of Modification to the Mitigation Bank Charter for the Deschutes Water Exchange**

Debbie Colbert, Field Services Administrator asked the Commission to approve a modification to the mitigation bank charter for the Deschutes Water Exchange (DWE), changing the name of the mitigation bank from the DWE Mitigation Bank to the Deschutes River Conservancy (DRC) Mitigation Bank.

On July 30, 2008, the DRC submitted a request to change the name of the mitigation bank to the DRC Mitigation Bank. The DRC identified that during the past five years, as it has become more specialized in flow restoration, the DWE name has created some confusion. Flow restoration projects, such as instream leases and instream transfers, have been submitted to the Department to generate mitigation credits, to restore streamflows, and, in some cases, used as both a mitigation project and a streamflow restoration project. Some projects are submitted under the name of the DRC and some under the name of the DWE.

The DRC would like to drop the DWE name and use the DRC name to represent all of its flow restoration activities.

Commissioner Meloy moved approval of the proposed mitigation bank charter modification to change the name of the mitigation bank to DRC Mitigation Bank; seconded by Commissioner Roberts. Voting for the motion: Commissioners Rasmussen, Barlow, Jackson, Williams, Meloy, LeJeune and Roberts. Voting against the motion: None.

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

Jerry Rodgers, Technical Services Administrator, briefed the Commission on the approval of appointments to the Ground Water Advisory Committee.

The nine-member Ground Water Advisory Committee (GWAC) had three members with terms expiring on November 30, 2008. OAR Chapter 690, Division 235 rules describe a process for soliciting candidates. Staff used this process to generate a list of candidates for the three open positions.

The Department recommended the appointments of Kevin Gill in the Monitoring/Water Well Category and Rob Turkisher in the Local Government Category and reappointment of Gregory Kupillas in the Hydrogeologist Category. Terms for these three members would begin on December 1, 2008 and continue through November 30, 2011.

Rob Turkisher, GWAC candidate, introduced himself to the Commission.

Commissioner Williams moved approval of the appointments of Kevin Gill and Rob Turkisher and the reappointment of Greg Kupillas to the Ground Water Advisory Committee; seconded by Commissioner LeJeune. Voting for the motion: Commissioners Rasmussen, Barlow, Jackson, Williams, Meloy, LeJeune and Roberts. Voting against the motion: None.

## **G. Ethics Briefing with Oregon Department of Justice**

Lynn Rosik, Oregon Department of Justice, briefed the Commission on the new ethics rules that have been put into place by the Oregon Government Ethics Commission.

## **H. Umatilla Basin Aquifer Recovery Project**

Doug Woodcock, Ground Water Manager, briefed the Commission on the Umatilla Basin Critical Area Study.

The February 2008, Legislative Assembly approved Senate Bill 1069 and was signed by the Governor on March 5, 2008. The bill provided \$750,000 to the Department for a study to determine the feasibility of storing surface water below ground in the Umatilla Basin critical ground water areas. Storing water below ground is commonly referred to as ASR (Aquifer Storage and Recovery) or AR (Artificial Recharge).

OWRD issued a Request For Information (RFI) on January 18, 2008. The RFI was issued in anticipation of the passage of Senate Bill 1069. The intent of the RFI was to acquaint prospective contractors with the project and obtain enough information that would enable OWRD to develop a Request for Proposal (RFP) fulfilling the requirements expected to result from SB 1069.

With the information gained from the RFI, OWRD developed a Request for Proposal (RFP). The RFP was issued on March 5, 2008, with a proposal due date of March 17, 2008.

Two respondents provided proposals for the work. On April 15, 2008, a contract was awarded to a team of Oregon consultants lead by IRZ Consulting based in Hermiston, Oregon.

Considerable work has been completed investigating the potential for recharging the alluvial and basalt aquifers in the study area. Preliminary results indicate there is high potential for storing water in the County Line alluvial aquifer, and in the basalt aquifer system throughout the project area. The alluvial aquifers offer high potential for providing return flow to the Umatilla River, and for bringing water quality of the source surface water up to standards that allow for injection into the basalt aquifer system. Additionally, there is a considerable amount of water conveyance infrastructure that, with some minor modification and some additional new construction, allow for fast-track construction of a portion of the project.

The results from this investigation will be important as this technology, storage of surface water below ground, expands elsewhere in the state.

Staff will bring back an update at its February 2009 meeting.

**I. Request for Funding Feasibility Studies under the Water Conservation, Reuse and Storage Grant Program, Senate Bill 1069 (Chapter 13, 2008 Laws), OAR Chapter 690, Division 600**

Commissioner LeJeune recused herself from the discussion and the voting on this item due to a conflict of interest.

Commissioner Meloy recused herself from the discussion and the voting on this item due to potential conflict of interest.

Tracy Loudon, Administrative Services Administrator, and Bob Rice, Grant Program Specialist, briefed the Commission on a Request for Funding Feasibility Studies under the Water Conservation, Reuse and Storage Grant Program, Senate Bill 1069.

The Department received 36 grant applications, of which 35 were complete grant applications that met the requirements of Senate Bill 1069. A total of \$1.6 million is available for awards. Grant requests ranged from \$6,250 to the maximum allowed amount of \$500,000. Sixty percent of the applications requested \$100,000 or less.

The statute provides a priority for funding applications associated with Above Ground Storage projects that include provisions for using stored water to augment instream flows to conserve, maintain and enhance aquatic life, fish life or other ecological values. The statute also provides a priority for studies that are associated with projects that are identified by the Department in a statewide water assessment and inventory. Thirty-three of the applications fell into this priority category; two of the Above Ground Storage applications did not.

The statute requires that if a planning study concerns a proposed storage project that would impound surface water on a perennial stream or divert water from a stream that supports sensitive, threatened or endangered fish or divert more than 500 acre-feet of surface water annually; grant funding may be provided only if the study contains: (a) Analyses of by-pass, optimum peak, flushing and other ecological flows of the affected stream and the impact of the storage project on those flows; (b) Comparative analyses of alternative means of supplying water, including but not limited to the costs and benefits of conservation and efficiency alternatives and the extent to which long-term water supply needs may be met using those alternatives; (c) Analyses of environmental harm or impacts from the proposed storage project; (d) Evaluation of the need for and feasibility of using stored water to augment in-stream flows to conserve, maintain and enhance aquatic life, fish life and any other ecological values; and (e) For a proposed storage project that is for municipal use, analysis of local and regional water demand and the proposed storage projects relationship to existing and planned water supply projects.

Approximately 2/3 of the applications were for Water Conservation and Reuse and 1/3 were for Storage. The staff recommended 22 applications for funding.

During the public comment period, the Department received 46 letters and e-mails commenting on 17 applications and the recommendations made. In addition to the 34 public comments, there were comments from 16 elected officials.

In response to the comments received, the staff recommended modifying the funding recommendations and providing funding to four additional feasibility studies for \$93,355.

Staff further recommended that if not all funds are used by grant recipients, that the Commission authorize the Department to fund additional water conservation or reuse applications consistent with the program's statutory authorization.

Director Ward offered an additional amendment to the recommendation. That amendment would be to move forward Commission approval of the applications, but hold funding until a future meeting.

Scott McCaulou, Deschutes River Conservancy, expressed support for the program and concerns with delaying the funding. He also requested flexibility regarding budget and timing negotiations.

Niki Iverson, City of Hillsboro, thanked the Department and staff for their efforts in this program. She also expressed her concerns about delaying the funding.

Paula Brown, City of Ashland, expressed support for the program and recognized that the Commission had a difficult decision to make.

Peggy Brown, Baker County, Watershed and Stream Health Committee, expressed the importance of the funding, but that delaying it would not adversely affect them.

Commissioner Williams moved approval to adopt the staff funding recommendations in Attachment 1 - Application Funding Recommendations with the funding stipulations (if any) in Attachment 3 - Application Summary contingent on available funds, contractual negotiations, and as consistent with authorizing legislation and submitted applications. Further, the Commission moved to release the funds at a future meeting at a time to be determined; seconded by Commissioner Barlow. Voting for the motion: Commissioners Rasmussen, Barlow, Jackson, Williams, and Roberts. Commissioners Meloy and LeJeune abstained from voting. Voting against the motion: None.

On behalf of the Commission, Commissioner Rasmussen expressed his deepest regrets that the Commission had to delay the funding awards. He commented that their preferences would have been different had the current budget situation been different.

There being no further business, the meeting was adjourned.

Respectfully,

Cindy Smith  
Commission Assistant



**Water Resources Commission**  
**Meeting**  
**Salem, Oregon**  
**November 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  
Doug Woodcock

Others

Jerry Schmidt  
Anita Winkler  
Helen Moore

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**J. Oregon Water Round Table Update**

State Representative Jackie Dingfelder and Michael Campana, Oregon State University's Institute for Water and Watersheds gave an update on the five Oregon Water Round Tables that were held around the state.

Representative Dingfelder thanked the Department for their assistance in putting these Round Tables together. She specifically thanked Brenda Bateman for her efforts. Each Round Table had an attendance of 50+ people and were held around the state in Bend, Newport, Ontario, Medford and Salem. There was a representative from the Commission at each Round Table. Local water leaders were recruited to assist in developing participant lists and key issues for each session tailored to the specific region.

The mission of these Round Tables was to receive input and advice from Oregonians and develop information that will inform efforts to identify and communicate a vision describing where Oregon is, where Oregon is going, and where Oregonians want to be with respect to adaptive, integrated, equitable, and sustainable water management.

Michael Campana stated that he is in the process of putting together a synthesis report on the Round Tables. They hope to have this report available by December 1 on their website at [www.water.oregonstate.edu/roundtables](http://www.water.oregonstate.edu/roundtables).

Representative Dingfelder also gave a brief overview of the Exempt Ground Water Work Group which met throughout 2008. The group discussed the reduction of the existing exemption from 15,000 gallons per day to 5,000 gallons per day. They also discussed the proposal of a fee for exempt ground water wells. These fees would be used to fund ground water studies for the Department. No resolution was made during the meetings. A final report on these discussions will be available from the Oregon Consensus Center, located at Portland State University, in December.

Helen Moore, Water for Life, commented on the Round Tables.

## **K. Minutes**

The minutes of the August 21 and 22, 2008, meeting were offered to the Commission for consideration.

Commissioner Jackson moved to approve the August 21 - 22, 2008 minutes as submitted; seconded by Commissioner Roberts. Voting for the motion: Commissioners Rasmussen, Barlow, Jackson, Williams, Meloy, LeJeune and Roberts. Voting against the motion: None.

## **L. Approval of the 2009 Water Resources Commission Meeting Schedule**

Phil Ward, Director, asked the Commission for approval of the proposed 2009 Meeting Schedule.

Proposed meeting dates were as follows:

February 24 – 26	Salem
June 9 – 10	Salem
September 10 – 11	TBA
November 19 – 20	TBA

Commissioner Williams moved to approve the 2009 Meeting Schedule; seconded by Commissioner Meloy. Voting for the motion: Commissioners Rasmussen, Barlow, Jackson, Williams, Meloy, LeJeune and Roberts. Voting against the motion: None.

## **M. Commission Comments**

Commissioner Barlow commented that he attended the Roundtable in Ontario. He said that the facilitators did a good job. He was also asked help with the Watermaster interviews in Harney County. Because of other commitments, he had to decline the offer. He commented on the fact that his daughter got married and thanked everyone for the gifts and cards. He also thanked everyone for their thoughts and prayers during the untimely passing of his brother.

Commissioner LeJeune commented that she attended new Commissioner Training on September 9 in Salem. She commented that she, and Commissioners Jackson and Rasmussen met with the Director and Michael Carrier of the Governor's Office to discuss the agency budget. She noted that she attended the Newport and the Salem Roundtables. She commented that she was going to try and be a facilitator for the Oregon Business Council's Leadership Summit. She will be attending the Oregon Water Resources Congress' Annual meeting in Hood River in December. She will also be attending the Oregon Water Utility Council's Legislative Symposium in Salem. It is her idea to learn as much as she can as a new Commissioner.

Commissioner Jackson commented that he attended the Newport and Salem Roundtables. He said that he and Commissioners Rasmussen and LeJeune attended a meeting with the Director and Michael Carrier of the Governor's Office to discuss the agency budget. He commented that there is a lot of water level measuring taking place in the local aquifer in his area. He commented that he got involved in a request regarding a rock quarry issue.

He appreciated the staff's help on this issue. He noted that he would be attending the Environmental Quality Commission meeting that will be held in his area.

Commissioner Williams was not able to attend the Roundtable in his area due to business conflicts. He commented that he will be speaking at the Oregon Water Resources Congress' Annual Meeting. He also volunteered to be a facilitator at the Oregon Business Council's Leadership Summit. He commented that he has been involved with stakeholders, the Tribes, and agencies in his community, towards coming to a resolution regarding endangered species issues and water.

Commissioner Meloy commented that she attended the Roundtable in Bend. She appreciated the way it was done, and felt it was very informative. She commented that it is time for the Deschutes Mitigation Report to go before the Legislature. She attended the working group meetings that put together the report and felt that the group had done a good job.

Commissioner Roberts commented that all is quiet in the Southwest Region. He commented that he continues the learning process that goes along with being a Commissioner. He has gone out with each of the irrigation district managers in his area. He also commented that he attended the Roundtable in Medford. He feels that community outreach is very important.

Commissioner Rasmussen commented that he has talked to staff on multiple issues. He thanked Phil for his attendance at the recent Oregon Business Council meeting.

#### **N. Director's Report**

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

Director Ward suggested having a conference call to provide an update on the agency budget and how the agency may proceed with regards to the Feasibility Grants and the disbursement of funds.

Commissioner LeJeune commented on how great the staff are at the Department.

#### **O. Graves Consideration of Exceptions and Direction to Issue a Final Order that is Consistent with the Administrative Law Judge's Proposed Order**

Juno Pandian, Enforcement Manager, briefed the Commission on the Graves Consideration of Exceptions and Direction to Issue a Final Order that is Consistent with the Administrative Law Judge's Proposed Order.

Based on affidavits received from Robert Sessler, Michele Sessler and Karen Gilstrap, the Water Resources Department (OWRD) issued a Notice of Proposed Cancellation of Water Right evidenced by Certificate 39995, and a Notice of Proposed Partial Cancellation of Water Right evidenced by Certificate 56024 to Wolfgang Nebmaier (Protestant) on September 8, 2005. On October 31, 2005, Protestant filed a Protest in both matters and requested a hearing.

On May 26, 2006, OWRD referred the hearing request to the Office of Administrative Hearings (OAH). On July 6, 2006, a pre-hearing conference was conducted by telephone.

The issues for hearing were whether the water right evidenced by Certificate 39995 has been forfeited by failure to make beneficial use of the water for domestic purposes, including the irrigation of lawn and garden, for a period of six years and three months from April 1997 through July 2003 and;

Whether a portion of the water right evidenced by Certificate 56024 has been forfeited by failure to make beneficial use of the water for irrigation purposes for a period of six years and seven months from March 1997 through October 2003.

Hearings were held from October 25, 2006, through March 16, 2007. The record closed June 1, 2007.

On November 19, 2007, a Proposed Order was issued in which Administrative Law Judge (ALJ) Gutman found that Protestants' water rights had been forfeited. ALJ Gutman based this on a preponderance of evidence supported by a finding that the presumption of forfeiture for water right Certificate 39995 has been established and was not rebutted. The Proposed Order also found that a preponderance of evidence supported by a finding that the presumption of forfeiture for a portion of water right Certificate 56024 has been established and was not rebutted.

On December 19, 2007, Mr. Nebmaier and Ms. Ma filed exceptions to the Proposed Order with OWRD. On December 31, 2007, pursuant to OAR 137-003-0650, OWRD forwarded the exceptions to ALJ Gutman. OWRD asked ALJ Gutman for a response to the exceptions as well as a draft revised proposed order. On July 22, 2008, ALJ Gutman issued the Response to Exceptions filed by Wolfgang Nebmaier and Vajra Ma denying all of the exceptions and ruling that it was not necessary to revise the Proposed Order issued on November 19, 2007.

Pandian brought to the Commission's attention some typographical errors that were found on the final order. She proposed that these changes be made.

Legal Counsel described what the Commission can and can not do during deliberations on a case of this nature.

Each Commissioner noted that they had received a letter from the Protestants, but that they did not read it due to pending Commission action.

Commissioner Barlow moved to deny Mr. Nebmaier and Ms. Ma's exceptions and issue a Final Order (with typographical changes) that is consistent with the ALJ's Proposed Order; seconded by Commissioner LeJeune. Voting for the motion: Commissioners Rasmussen, Barlow, Jackson, Williams, Meloy, LeJeune and Roberts. Voting against the motion: None.

**P. Informational Report on OWRD and OSU Sea Grant Extension Cooperative Program: Neighborhood Ground Water Network**

Doug Woodcock, Ground Water Manager, and Abigail Brown, OSU Sea Grant Intern, gave the Commission an update on the voluntary well measurement and education program that was developed within the Eola Hills Ground Water Limited Area.

At its November 30, 2007 meeting, the Commission directed the Department to develop a voluntary well measurement and education program within the Eola Hills Ground Water Limited Area near West Salem. This pilot program was put together in conjunction with Oregon State University Sea Grant Extension.

On June 1, 2007, the Commission directed the Department to evaluate the available information in the Eola Hills Ground Water Limited Area to determine whether a serious water management problem existed. At the November 2007 Commission meeting, the Department presented findings that the existing information did not support the adoption of a serious water management problem area and recommended that additional information be collected in the Eola Hills. The Commission directed the Department to continue its monitoring efforts, develop special area well construction rules, and to develop a voluntary well measurement and education program to assist in the collection of ground water level and water use data in the area.

Per Commission direction, the Department developed a landowner well measurement education program focused in the Eola Hills Ground Water Limited Area. This work was developed through a cooperative agreement with Oregon State University Sea Grant Extension. This agreement extends to June 30, 2009.

The pilot program is titled *Neighborhood Ground Water Network* and is designed to provide interested landowners with a basic introduction to ground water hydrology and training on how to properly measure and document water level readings in a well. The Department is developing a web interface that will allow landowners that have completed the training to provide their water level data to the Department electronically. The goal is to add 25 additional wells in the Eola Hills area to supplement ongoing water level monitoring by the Department.

After considerable outreach for the pilot program, meetings were held on October 18 and October 25 for landowners in the Eola Hills area. Participants included nine attendees that were interested in learning about ground water and well measurement. The meetings provided a four-hour hands-on training in ground water science, well measurement, and documentation. The measurement equipment used for this training was purchased by OSU Extension and is available for checkout by participants of the neighborhood program.

As a pilot program, the *Neighborhood Ground Water Network* is an effort to develop a packaged program capable of serving multiple purposes: it can be presented to neighborhood meetings for general interest and water-use education or it can provide the tools necessary to landowners that are committed to measuring and sharing the data from their wells. In addition to the meeting

presentation materials, the Department will develop educational information sheets as tools that can be shared through the Department website or in person.

#### **Q. Public Comment**

Anita Winkler, Oregon Water Resources Congress, expressed her concerns regarding the recent decision regarding the feasibility grants.

Jerry Schmidt, Oregon Ground Water Association, spoke regarding the exempt ground water use workshops.

#### **R. Other Issues**

Commissioner Rasmussen suggested a list of topics to discuss with regard to the Integrated Water Resources Strategy. They were: staying engaged; providing leadership; convening a subcommittee of the WRC; and participating in the Oregon Business Council.

Commissioner Roberts suggested having a flow chart showing timelines and components of this plan, identifying tasks and responsibilities, and who can bring assets to the table. He will volunteer to help any way he can.

Commissioner Meloy also liked the idea of forming a subgroup that works the water resources strategy between Commission meetings. She feels that the Commission has a leadership role, including helping manage the process is another role. She would like to see these two objectives be part of a subcommittee.

Commissioner LeJeune said she feels there needs to be a companion document that discusses what process is going to be used. She suggested having Director Ward send a letter to the Oregon Business Council with a list of who can volunteer at the meetings. She said she would be happy to help wherever she can.

Director Ward encouraged the Commission to talk to their legislators on these issues.

A subcommittee of the Commission was picked to work with staff and stakeholders to further the Integrated Water Resources Strategy efforts. The subcommittee is Commissioner Meloy, Commissioner Roberts and Commissioner LeJeune. The subcommittee will report back to the Commission at each meeting.

Commissioner Rasmussen noted that Commissioner Jackson had been selected to be the Commission voting representative on the Oregon Watershed Enhancement Board.

Commissioner Williams moved to appoint Commissioner Jackson as the voting representative on the Oregon Watershed Enhancement Board; seconded by Commissioner Roberts. Voting for the motion: Commissioners Rasmussen, Barlow, Jackson, Williams, Meloy, LeJeune and Roberts. Voting against the motion: None.

Commissioner LeJeune asked if it would be helpful to have a motion from the Commission that indicates that there are critical water issues that need to be addressed in Oregon to maintain the economic and environmental health of Oregon and that the Commission supports adequate funding for the Department's programs now and in the future.

Director Ward agreed that something of this nature would be helpful.

Commissioner LeJeune suggested the following language to be used by the Department to show the Commission's priorities during the next biennium.

“Water resource issues are critical and key to the continued and economic and environmental health in Oregon. Water Resources Commission strongly recommends an adequate funding level for the Water Resources Department's program in the 2009-2011 Biennium and will work diligently with the Department to address these key issues.”

Commissioner LeJeune moved to approve the above language; seconded by Commissioner Roberts. Voting for the motion: Commissioners Rasmussen, Barlow, Jackson, Williams, Meloy, LeJeune and Roberts. Voting against the motion: None.

Brenda Bateman commented that festivities to commemorate the 100<sup>th</sup> Anniversary of the Oregon Water Code are being planned for February and throughout the year.

**S. Water Measurement Training**

This training was postponed due to weather and will be rescheduled at a later time.

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Cindy Smith  
Commission Assistant