

Water Resources Commission
Meeting
Salem, Oregon
January 26, 2012

WRC Present

John Jackson
Mary Meloy
Ray Williams
John Roberts
Jeanne LeJeune
Charlie Barlow
Carol Whipple

Staff Present

Phil Ward
Tom Paul
Cindy Smith
Brenda Bateman
Doug Woodcock
Dwight French
Tracy Louden
Barry Norris
Renee Moulun
Ivan Gall
Tim Wallin
Juno Pandian
Ruben Ochoa
Ben Jenson
Alyssa Mucken

Others

Dan Bradley
Suzanne DeLorenzo
Katie Schwab
Brad Taylor
Amanda Rich
Leslie Bach
Kim Anderson
Willie Tiffany
Lee Moore
Joel Zayer
Niki Iverson
Katie Fast
Dawn Wiedmeier
Laura Hicks
Bruce McIntosh
Gil Riddell
Peggy Lynch
Kimberley Priestley
Brent Stevenson
Kim Swan
Teresa Huntsinger
Todd Heidgerken
Dale Jutila
Robin Freeman
Rick Kepler
Gary Allen
Lorna Stickel
Bill Ferry
Kathryn Warner
Karen Tarnow

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 Jackson welcomed everyone to the meeting. Commissioners and staff introduced themselves to the audience.

A. Revenue Subcommittee Update

Commissioner Roberts provided an overview of how the subcommittee was developed and what the subcommittee wants to accomplish: stabilizing an agency that is so dependent on the declining General Fund. He discussed the revenue options that have been developed using key criteria to develop solutions that would be equitable. He discussed how fees would be tied to the services and dedicated to the purposes for which they are collected.

Commissioner Roberts discussed how the subcommittee is exploring four proposals that have been developed as alternatives to lessen the Department's reliance on an ever-decreasing General Fund. The four proposals he discussed with the Commission were:

- 1.) Water Rights Mangement Fee
- 2.) Exempt Well Fee
- 3.) Expand existing Reimbursement Authority
- 4.) Instream/Recreation Fee

He discussed the four options and the value of each.

He asked the Commission for direction on how to further proceed and explained the need to get a legislative concept developed for the 2013 legislative session. He explained that the subcommittee's recommendation would be to pursue the Water Rights Management Fee, the Exempt Well Fee, and increased Reimbursement Authority.

Commissioner Williams commented that more details need to be worked out regarding dollar amounts and equitable solutions.

Commissioner LeJeune commented that the subcommittee had been working on this for a year and a half and she wanted to note the amount of analysis that has been done to look at every option. She noted that throughout the work of the subcommittee, they kept coming back to the issue of equity and wanted to be sure that whatever resources could be developed, were tied directly to benefit the service provided, more specifically the field services. She encouraged the Commission to keep moving forward on this.

Chair Jackson wanted to thank the subcommittee for all their work in the development of the information and noted all the work with the public that has been done to arrive at this point.

Commissioner Meloy commented that she is supportive of the exempt well fee, but feels it is necessary to assess the number of exempt wells in order to be able find out how much usage there is to balance the water budget. She noted that in regards to water right transactions, there will be a lot of paper that will have to be accounted for. She asked for recognition of that, and noted it will require a lot of labor to do this. She wanted to be sure to note that someone would have to gather the information which could involve a large amount of time. She also noted that some counties want to keep records private, and wanted the Commission to be aware of the amount of funding it would require to do the work.

Vice-Chair Barlow commented by sharing a couple of quotes. The first being "nothing in life is fair." The second, "equity is in the eye of the beholder." He stated that equity has been the key here this whole time. He said there is a need to look at the whole picture of fees and how it relates to water use. He felt there was still a lot of ground work to be done and doesn't feel it is ready to be developed into a concept for 2013 just yet. He also expressed concern about how the instream water rights would be calculated into the equation. Commissioner Barlow wanted to draw attention again to the fact that the watermasters not only spend their time protecting water rights, but also protecting instream flows. He expressed that the Department should then be able to charge a fee for this, as it is able to charge fees for other work that is being done.

Director Ward addressed his question and concern by stating that the instream uses would be appropriately covered by General Fund. He noted that the subcommittee had looked into the issue closely and noted there had not been a mechanism to develop a type of fee for instream rights outside of the General Fund.

Commissioner Roberts responded in agreement with what Director Ward had stated. He noted that the goal is to pursue equity.

Commissioner Whipple asked if the Department's receipt of General Fund dollars relates only to holding instream rights in trust?

Director Ward answered that the Department's receipt of General Fund dollars through the legislative budgeting process must only be utilized for purposes for which the Department is statutorily authorized and the protection for water instream is one of those.

When managing senior water rights, many are instream water rights, and that a significant amount of the Department's field activity goes to distribute water to protect instream water rights as well as out of stream uses. He noted that was not the case when the Instream Water Rights Act was adopted, because early instream water rights were junior. Now with the private transactions that have occurred in Oregon, many senior rights have become instream rights either on a temporary or permanent basis. To distribute water according to the law, watermasters regulate in favor of instream rights throughout the state, just like they would for a senior out of stream right.

Chair Jackson asked for a recommendation from the Commission to the Subcommittee. He suggested going forward with the Subcommittee's recommendation to pursue the Water Right Management Fee, Exempt Well Fee, and Increased Reimbursement Authority Fee. He suggested the Subcommittee continue to explore how to pay for the instream rights component. All Commissioners gave a thumbs up and Commissioner Barlow's concerns were noted.

B. Update on Willamette Basin Reservoir Study

Tom Paul, Water Resources Department Deputy Director, Laura Hicks and Kathryn Warner, U.S. Army Corps of Engineers, provided an update on the status of water reallocation discussions involving the U.S. Army Corps of Engineers reservoirs in the Willamette Basin. Dawn Wiedmeier and Bill Fery, both representing the Bureau of Reclamation participated by phone. A panel of stakeholders comprised of, Niki Iverson, City of Hillsboro; Brent Stevenson, Santiam Water Control District; Katie Fast, Oregon Farm Bureau; Kimberley Priestley, WaterWatch of Oregon; and Leslie Bach, The Nature Conservancy, provided observations about the work done thus far and potential next steps.

Commissioner LeJeune asked about the budget to complete the project and stated that the Commission needed some type of a resolution on it.

Director Ward stated that the Department would draft a resolution after the President's Budget is released and would circulate it among the Commission for their review and input.

Dawn Wiedmeier commented that she would look at the basin study program that they have for their WaterSmart Grants. She was not certain it would qualify, but said that it has been very effective in other basins.

C. Program Prioritization Discussion

Brenda Bateman, Senior Policy Coordinator, and Tracy Loudon, Administrative Services Administrator, presented the results of program prioritization exercises conducted with key staff and stakeholders during 2011.

Brenda Bateman explained to the Commission how the input from these groups was used to develop priority lists of the Department's 15 program areas. She explained the stakeholder process used to rank these 15 priorities began with a review of each program area and its individual components. The participants were then asked to indicate their top three program priorities. The programs with the strongest support were moved to the "top tier." The same exercise was conducted twice more and produced the next two tiers. The exercise was most valuable in that it confirmed the highest and lowest

priorities of group members. The outcome of the Stakeholder group indicated the lowest priorities of the group were the Hydroelectric Program, followed by Adjudication.

Components in the middle spurred discussion and disagreement as to their order. These included Water Right Permitting, Water Resource Development and Conservation, Hydrologic Data Development, Water Right Transfers, Water Use Reporting, Director's Office, Public Safety, and the Integrated Water Resources Strategy.

After Water Resources Department senior staff went through the same exercise, they came up with these recommendations, which included the incorporation of suggestions from the stakeholder exercise.

Water Distribution ranked first. Water Right Transfers ranked second to reflect this as emerging and powerful for both the water user and the environmental community. Hydrologic Data Development and Public Safety rounded out the top tier.

The second tier included Water Resource Development and Conservation, Water Right Permitting, the Director's Office, the Integrated Water Resources Strategy, and Water Use Reporting.

The third tier again consisted of Adjudications and Hydroelectric programs.

Kimberley Priestley, WaterWatch of Oregon, provided public comment and noted the importance of the Water Use Reporting position.

Peggy Lynch, League of Women Voters, expressed her support of the importance of the Water Use Reporting data.

Commissioner Meloy moved to adopt Alternative 1, with programs ranked in the following order of importance: A-Water Distribution, B-Water Right Transfers, F-Hydrologic Data Development, E-Public Safety in Water Related Infrastructure, H-Water Resource Development and Conservation, C-Water Right Permitting, I-Director's Office, J-IWRS, G-Water Use Reporting, D-Adjudication, K-Hydroelectric Program, L-Fiscal, M-Information Services as the Water Resources Department's Program Priority List; seconded by Commissioner Williams. Commissioner LeJeune asked for a statement regarding Water Use Reporting, noting it had a significant amount of concern for it and discussion surrounding it, particularly due to the Integrated Water Resources Strategy. Voting for the motion: Commissioners Jackson, Barlow, Meloy, Williams, Roberts, LeJeune and Whipple. Voting against the motion: None.

D. Integrated Water Resources Strategy Work Session

Brenda Bateman, Senior Policy Coordinator, and Alyssa Mucken, IWRS Policy Coordinator, presented a discussion draft of the Integrated Water Resources Strategy (IWRS) and lead a work session focused on recommended actions contained in the draft. Members of the IWRS Project Team from the Department of Environmental Quality and Oregon Department of Fish and Wildlife also participated in the work session. The Commission had an opportunity to discuss and provide input on the new document and next steps.

Commissioner LeJeune expressed her concerns regarding the timeline and commented that she would like to have more time for public comment on the next version prior to the Water Resources Commission's approval. She posed a question regarding the budgeting process and asked if there were a way to allow extra time for more public input before the final version is developed.

Director Ward said that the Department is on a very strict and structured timeline where the budgeting process is concerned. He noted that the Department must fit into the state budgeting process, that will not allow extra time. He stated that this year the structure will be different where it concerns the budget. He said that it would be best to push forward and stay the course.

Commissioner Williams asked what level of familiarity the other boards and commissions have with the Strategy. He noted extensive outreach efforts so far.

Chair Jackson stated that the Commission must give notice to boards and commissions before adoption and explained that it is part of the presentations to be given by himself and Brenda Bateman at the upcoming board and commission meetings. He noted that he is requesting a high level of endorsement by boards and commissions, by June 1, 2012.

Commissioner LeJeune asked about the timeline for the next draft. Would it be in April or August?

Dr. Bateman commented that she hoped to have it out by April, depending on the extent of public comment.

Chair Jackson reminded the Commission that there are key staff working on this project from the various agencies and should have been keeping their boards and commissions up-to-date. He also noted that there should not be major changes at that point.

Commissioner Williams congratulated staff on a job well done.

Commissioner Meloy commented that the agency involvement, partnerships, and outreach have all been excellent and thanked the staff for that. She noted that she thought there was a commitment to come back to the public with the document and she was unsure of how that is tied into the timeline.

Director Ward said that there has been a lot of contact between the Department and the public and comments have been rolling in. He noted that the Department has some new constraints on what can be done regarding new outreach efforts because of the state's budget situation. He said that the April Commission Meeting will be critical in the process and noted that there would be a venue at that meeting to supply the Department with more public comment if necessary.

Commissioner Meloy stated her concerns about the place based approach and whether or not all of the entities, no matter how small, have had an opportunity to comment or get familiar with the document.

Dr. Bateman noted that there has been great representation from cities, special districts, counties and irrigators to gather and get information back to their colleagues and members throughout the process.

Commissioner Meloy asked about data gaps where Oregon Department of Fish and Wildlife and Department of Environmental Quality are involved and how those would be addressed through the strategy. Bruce McIntosh from Oregon Department of Fish and Wildlife explained that there are several ways that have been identified for closer coordination.

Commissioner Barlow asked a question about how to quantify the different instream flow needs.

Bruce McIntosh explained the history surrounding instream flow studies and explained the need to get funding in order to move forward. There are 700 additional water rights that ODFW needs to process. He explained to get that done will require getting the studies done.

Director Ward stated that what is not yet included within the document are specific timeframes and costs for activities to be accomplished. He also noted that for some of the critical items there will be a need for funding. He hopes to have some of these more clearly stated in the next draft.

Dr. Bateman requested further input from the Commissioners surrounding the key issues that need to be highlighted and used to develop more specific workplans.

Members of the Project Team had a discussion with the Commission about the need to have a forward thinking document that in the end has all the agencies and stakeholders on board, moving towards the same goals and objectives.

Commissioner LeJeune asked if adopting the Strategy, would mean that the state is in agreement with the guest essays on the techniques and technologies?

Director Ward stated that there will need to be a disclaimer that the information contained in those essays represents the views of those parties and not the Water Resources Commission as the adopter of the Strategy.

Commissioner Williams said he would like to see more prominent discussions of Economic Development.

Commissioner Barlow said he believes that the key priorities are very well chosen and he liked the layout of the summary “placemat.”

Commissioner Meloy agreed with the key priorities also and she brought up some examples to use as a template to draw from and noted the Deschutes and Umatilla as those examples. She also asked about the process to review the document once adopted and how it would be updated.

Director Ward said that the plan will need to be updated every five years at a minimum.

Chair Jackson said that the ability to make adjustments when necessary is very important.

Director Ward thanked the Project Team for addressing the Commission.

Lorna Stickel, Portland Water Bureau, congratulated all the agency staff on a phenomenal job. She also addressed the comments that had been made and cautioned the Commission not to change the document that is in front of them too much; she stated that it is a major accomplishment. She stated that the Department will be receiving a letter from the Regional Water Providers Consortium thanking and congratulating the staff and Commission for the level of involvement that they have had in the process and on a job very well done. She stated that the Strategy is a success in the form it is currently in.

Kimberley Priestley, Waterwatch of Oregon, commended the staff for their work and said they did a good job balancing the instream and out of stream needs. She stated that they will have comments on the draft.

Gil Riddell, Association of Oregon Counties (AOC), thanked the Department for its participation in AOC's meetings. He commented that AOC supports the Department in its efforts regarding implementing the Strategy.

Teresa Huntsinger, Oregon Environmental Council, commented on some water efficiency and conservation processes that she expressed needs to be a higher priority. She suggested adding some timelines into the Strategy and she suggested a draft of those for the advisory groups to review before the next meeting.

There being no further business, the meeting was adjourned.

Respectfully,

Cindy Smith
Commission Assistant

Water Resources Commission
Meeting
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January 27, 2012

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Staff Present

Phil Ward
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Doug Woodcock
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Others

Kimberley Priestley
Peggy Lynch
Dave Palais
Julia DeGraw
Barbara McLean
Mary Worlein
Joy Keen
Dan Jarman
Jess Groves
Joeinne Caldwell
Chuck Daugherty
George H. Fischer

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Chair Jackson welcomed everyone to the meeting.

E. Approval of Minutes

The minutes of the September 29 and 30, 2011 meeting were offered to the Commission for consideration.

Commissioner Roberts moved to approve the September 29 and 30, 2011 minutes as submitted; seconded by Commissioner LeJeune. Voting for the motion: Commissioners Jackson, Williams, Roberts, LeJeune, Whipple, Meloy and Barlow. Voting against the motion: None.

F. Commission Comments

Commissioner Whipple reported on the storm damage in her area. She said that the local government in her area has lost its timber revenue and said she is reluctant to try and predict what will happen next.

Commissioner Williams reported that December was a record dry month, and he is curious to see what type of snow pack they will have. He talked about serving on the Revenue Subcommittee but noted that he had let others in the group do the heavy-lifting. He is working with a group on the Columbia River Exchange that is seeking to reduce the cost of water supplies, while meeting fish and agricultural needs.

Commissioner LeJeune reported that she had been serving as a Commission Liaison on the Integrated Water Resources Strategy, (IWRs), Policy Advisory Group. She said that they continue to do a very

good job and it is reflected in the draft Strategy that is now available. She talked about her work on the Revenue Subcommittee and the progress that has been made. She talked about being involved in Regional Water Planning in the Portland area. She expressed concern about the small coastal communities and their failing water systems.

Commissioner Barlow reported that he had experienced a very dry winter and storage facilities are fairly full in his region. He apologized for missing a couple of meetings last year, and said he is working on getting caught up, and reading the minutes. He said he had received a couple of calls regarding the fees and discussion on the Strategy and visited with people on that.

Commissioner Meloy reported that Mt. Bachelor had reported ten feet of snow in nine days. She talked about the City of Bend and a water supply project that is currently in the works, she said seven former Mayors of the City of Bend have called the study into question as to whether or not the City picked the right alternative. She is a member of the Deschutes Water Alliance and will join with them to discuss their concerns over the draft Integrated Water Resources Strategy.

Commissioner Roberts reported that the Water for Irrigation, Streams and Economy (WISE) Project is now underway in the Rogue Basin after about a ten year effort. Oregon Solutions, a team convened by the Governor, is involved, with Representative Buckley and Senator Jason Atkinson in leadership roles. The first meeting on January 17th, consisted of 35 people in the room representing all of the interests. There is potential to save about 40-45,000 acre feet of water a year. The WISE Project will submit a Grant and the Commission will be asked to review it, potentially at the next meeting, for an engineering feasibility study. He said it will add 60-65 full time jobs for at least 10-12 years, and will involve the local irrigation districts doing a lot of the work. He reported on his involvement with the Bear Creek Watershed Council. He noted his involvement in the Revenue Subcommittee and talked about briefing key people in state government and politicians. He also talked about attending the Association of Oregon Counties Meeting with Alyssa Mucken to talk about the Strategy and the WISE project. He has briefers State Treasurer Ted Wheeler on those topics.

Chair Jackson reported that he had attended the Association of Oregon Counties Meeting and he talked about the great opportunity to interact with staff and County Commissioners. He said he was appreciative of the opportunity. He also talked about attending the Tualatin Valley Irrigation District's Annual Meeting. He noted that the Bureau is looking to raise the height of the Dam at Hagg Lake. He talked about the costs involved in repairing and raising the height of the Dam. He attended the Oregon Watershed Enhancement Board Meeting in Newport.

G. Director's Report

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

Barry Norris updated the Commission on the most up-to-date water condition information.

Barry Norris updated the Commission on the grant application proposal the Department submitted to the Bureau of Reclamation for a "WaterSmart, Water and Energy Efficiency Grant for FY 2012."

H. Legislative Preview – February 2012 Session

Brenda Bateman, Senior Policy Coordinator, provided a preview of expected legislation for the 2012 Legislative Session.

I. Budget Update: 2011-13 Biennium

Tracy Loudon, Administrative Services Administrator, gave an update to the Commission on the current financial situation in the 2011-13 Biennium and the implications of the most recent Revenue Forecast for the Department.

J. Update on Water Conservation, Reuse and Storage Grant Program

Tracy Loudon, Administrative Services Administrator, gave the Commission an update on the Water Conservation, Reuse, and Storage Grant Program (SB 1069 Grants) applications received for the 2011-13 funding cycle.

The Department received 23 grant applications during the application time period of October 3 through December 15, 2011. Total dollar amount requested was \$2,295,774. At the time of this report writing, staff is reviewing the applications for completeness.

Tentative Date	Action
January 9, 2012	Posting summaries of each application on the Department website, Convening an Application Review Team (ART) with representatives from multiple agencies to score the applications and offer recommendations to the Department Recommendations fall into four categories: <ul style="list-style-type: none">○ Fund – High Priority○ Fund – Medium Priority○ Fund – Contingent on funding availability○ Do not Fund
January 30, 2012	Providing public notice of the applications and associated ART recommendations
February 6, 2012	Opening a public comment period for 30 days
March 6, 2012	Incorporating public comments and ART recommendations, into the Department's funding recommendations
March 27, 2012	Forwarding funding recommendations to the Water Resources Commission for consideration. The Water Resources Commission is scheduled to make Grant Awards at its April 2012 meeting

The Department is scheduled to negotiate grant agreements and make funding available in June 2012.

K. Key Performance Measure Report

Brenda Bateman, Senior Policy Coordinator, presented the Department's 2011 update on Key Performance Measures (KPM's), the 14 issue areas used to gauge how the Department is doing in terms of resource protection, customer service, and overall efficiencies. These performance measures cover agency programs related to: surface water restoration, protection, and measurement;

groundwater monitoring; and regulatory and outreach actions. The Department has had most of its measures in place since 2005 or earlier, and is building a solid data set that helps track how the Department is doing and identifies areas for improvement.

The Key Performance Measures Are:

- #1 – Flow Restoration
- #2 – Protection of Instream Water Rights
- #3 – Monitor Compliance
- #4 – Streamflow Gaging
- #5 – Assessing Groundwater Resources
- #6 – Equip Citizens with Information
- #7 – Equip Citizens with Information
- #8 – Water Measurement
- #9 – Promote Efficiency in Water Management & Conservation Plan Reviews
- #10 – Promote Efficiency in Water Right Application Processing
- #11 – Promote Efficiency in Transfer Application Processing
- #12 – Promote Efficiency in Field Staff Regulatory Activities
- #13 – Increase Water Use Reporting
- #14 – Customer Service (biennial survey)

Kimberley Priestley, representing Waterwatch of Oregon, commented on the Water Use Reporting position that was cut in the 2011-13 biennium.

Peggy Lynch, representing the League of Women Voters of Oregon, commented on the KPM's and how they should be used as a tool, not as a report card.

L. Request for Adoption of Rules Implementing HB 2133 (2011), HB 2135 (2011) and Making Other Miscellaneous Changes Encompassing a Total of 12 Divisions of Rules

Dwight French, Water Rights Services Administrator, presented a request to adopt final proposed rules, implementing HB 2133 and HB 2135, as well as other modifications. The two house bills, passed in 2011, contain streamlining language developed by the Department through process improvement efforts with staff and stakeholders. The Commission was asked to adopt the final proposed rules.

The Department initiated House Bills 2133 and 2135 in the 2011 session. Both bills passed and became law on January 1, 2012. The Department is required to adopt rules to implement the new law changes. In addition, the Department has used this rulemaking opportunity to make other needed miscellaneous changes. In total, 12 divisions of rules are affected by the changes. The rules affected by this change are: OAR 690-013, 690-018, 690-019, 690-053, 690-077, 690-300, 690-310, 690-315, 690-330, 690-380, 690-382 and 690-385.

The 2011 Legislature approved HB 2133, which allows the Department to adopt rules that facilitate the transmittal of electronic documents between the agency and its customers. The 2011 Legislature also approved HB 2135. This bill allows the Department to adopt rules that will decrease the number of times certain notices are required to be published in newspapers to two. The Department used this rulemaking process as an opportunity to make several other needed miscellaneous changes as well.

A Rules Advisory Committee convened and met on August 18 and 24, 2011, to discuss the proposed rule changes for the 12 divisions of rules. Notice of this rulemaking was published in the *Oregon Bulletin* on October 1, 2011. In addition to the opportunity to provide written comment, three public rulemaking hearings were held in Salem on October 24, 2011: one for HB 2133, one for HB 2135, and one for the other miscellaneous changes. No testimony was provided to the Department during the public rulemaking hearings.

No written comments were received.

The proposed rules were not modified as a result of the hearings or the public comment period.

Commissioner Williams made a motion to adopt the final proposed rules affecting OAR 690-013, 690-018, 690-019, 690-053, 690-077, 690-300, 690-310, 690-315, 690-330, 690-380, 690-382 and 690-385. Commissioner Barlow seconded the motion. Voting for the motion: Commissioners Jackson, Roberts, LeJeune, Williams, Barlow and Whipple. Voting against the motion: Commissioner Meloy.

M. Request for Adoption of Rules that Provide Clarification and Establish Requirements for the Construction of Closed Loop Ground Source Heat Pump Boring Rules, OAR Chapter 690, Division 240

Juno Pandian, Enforcement Manager, presented a request to adopt final proposed rules, which would provide guidance and standards for installers to meet when constructing closed loop ground source heat borings. The Commission was asked to adopt the final proposed rules.

In April 2009, concerns regarding the consistency of the sealing materials being used in these types of borings were brought to the Water Resources Commission. As a result, staff worked with the Oregon Ground Water Association (OGWA) and the Groundwater Advisory Committee (GWAC) to form a technical committee. The committee used national guidelines and State of Washington practices to develop a set of guidelines.

Staff began development of permanent rules (OAR Chapter 690, Division 240) in September 2011.

The Department appointed a Rules Advisory Committee (RAC) to assist with the development of permanent rules. The RAC met on September 22, 2011, which resulted in preparation of a public hearing draft.

The Department submitted a Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact to the Secretary of State on October 15, 2011. The notice was published November 1, 2011, in the *Oregon Bulletin*. A public hearing was held in Salem on November 22, 2011, and the public comment period extended from November 1, through December 1, 2011.

One written comment was received. The hearing draft rules were modified as follows:

- The sentence under OAR 690-240-0043(3) was modified for consistency to read, “grout” pipe.
- The paragraph under OAR 690-240-0046(1) was reworded for clarity to read, “Grouting of an uncased boring shall be completed after the heat exchange loop is installed. The boring shall be completed in a manner to allow ease in locating the boring including but not limited to the use of marking or locating magnetic tape, if maintenance or abandonment is necessary.”
- The paragraph under OAR 690-240-0046(3) was reworded for consistency to read, “grout” pipe.

The Ground Water Advisory Committee, which advises the Commission on rules for development and protection of groundwater (ORS 536.090), met on November 1, 2011, to discuss the draft rules. GWAC unanimously recommended that the Commission adopt the final proposed rules with the following modifications:

- The paragraph under OAR 690-240-0040(2) was modified by adding a sentence to clarify that municipal sewer and storm water systems are excluded from the 50 feet setback.

Juno Pandian noted a change that was left off of the final proposed rules, (refer to Attachment 1, Agenda Item M), the one term left off of page 18 was “tremie.” She noted that is the difference between the hearing draft and the final proposed rules.

Commissioner Mary Meloy suggested a change to 690-240-0035(3). She suggested the removal of the words “spelled out.”

Renee Moulun, legal counsel, was consulted and she said it was appropriate to delete the words “spelled out” and it could be either replaced with “stated in” or just leave it as “in” and it would be just as effective.

Commissioner Meloy made a motion to adopt the final proposed rules as amended to remove the words “spelled out” from 690-240-0035(3), Commissioner Roberts seconded the motion. Voting for the motion: Commissioners Jackson, Meloy, Williams, Roberts, LeJeune, Barlow, and Whipple. Voting against the motion: none.

After final approval of the rules, it was determined that this change could not be accommodated due to the fact that existing language cannot be changed by Commission action, therefore, the text “spelled out” in 690240-0035(3) was left in the final proposed rules as submitted to the Secretary of State.

N. Commission Approval of Appointments to the Groundwater Advisory Committee

Doug Woodcock, Field Services Administrator, presented recommendations to fill three positions on the Groundwater Advisory Committee (GWAC). The nine-person citizen panel advises the Department and Commission on issues pertaining to groundwater and well construction policies. 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 recommends the appointment of Michael Campana to replace Greg Kupillas in the Hydrogeology category; Kevin Gill to serve a second term in the Monitoring/Water Well Industry category, and Rob Turkisher to serve a second term in the Local Government category. Terms for these three members would begin on February 1, 2012 and continue through November 30, 2014.

Commissioner Roberts moved approval of the appointment of Michael Campana, Kevin Gill and Rob Turkisher to the Groundwater Advisory Committee; seconded by Commissioner LeJeune. Voting for the motion: Commissioners Jackson, Meloy, Williams, Roberts, LeJeune, Barlow and Whipple. Voting against the motion: none.

O. Public Comment

Julia DeGraw, representing Food and Waterwatch, commented on their efforts to try and stop the Nestle Water Bottling facility to be built in the Columbia River Gorge.

Joy Keen, representing Sierra Club expressed her concerns regarding Nestle Water Bottling facility.

Mary Worlein, representing Food and Waterwatch, expressed her concerns regarding the Nestle Water Bottling facility.

Barbara McLean, representing Sierra Club and Food and Waterwatch expressed her concerns regarding the Nestle Water Bottling facility.

George Fischer, a concerned citizen and former Mayor of the community of Cascade Locks expressed support for the Nestle Water Bottling facility.

Dwight French, Water Rights Administrator clarified the rules adopted through HB 2133 would become effective in the future and are aimed at new applicants and their ability to consent to receive notice via email from the Department. He also noted that there will be an electronic format to sign up to receive notifications by email. He also clarified that if someone did not want to participate in the electronic format then they would not have to.

David Palais, representing Nestle Waters North America, described the Nestle Water Bottling proposal.

Chuck Daughtry, representing Port of Cascade Locks expressed support for the Nestle Water Bottling proposal.

Jess Groves, citizen of Cascade Locks commented in support of the Nestle Water Bottling proposal.

Joinne Caldwell, Vice President of Port of Cascade Locks Commission, commented in support of Nestle Water Bottling proposal.

The Commission asked whether or not they should be taking public comment on this issue at this time.

Renee Moulun, Legal Counsel for the agency, clarified that it is important to allow the public to make comments and be heard. She also talked about building an accurate record and she said that in order to do that, these comments should be gathered and put into the relevant files so that whatever is considered in the future will include these public comments.

P. Other Issues

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Cindy Smith
Commission Assistant