

**Water Resources Commission
Teleconference - Meeting
Salem, Oregon
May 9, 2013**

WRC Present

John Jackson, Chair
Charlie Barlow, Vice Chair (by phone)
John Roberts
Jeanne LeJeune
Carol Whipple (by phone)
Ray Williams (by phone)

Staff Present

Phil Ward
Tom Paul
Brenda Bateman
Cindy Smith
Tracy Louden
Dwight French
Mary Graine
Juno Pandian
Ann Reece
Doug Woodcock

Others

Gary Yeakle
Dennis Doherty
Kimberley Priestly
Paul R. Ejgird
Monique Lopez

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, roll was taken. Audience introduced themselves.

A. Request for an Exception to the Willamette Basin Program by Gary Yeakle, pursuant to ORS 536.295

Dwight French, Water Rights Services Administrator, and Mary Graine, Hydroelectric Coordinator, presented a request from Gary Yeakle to consider a water right application requesting an exception to the Willamette Basin Program. Dwight French explained that if the exception were granted by the Commission, the application would then be able to continue through the permitting processes including evaluation.

Mr. Yeakle has filed an application (HE 600) for a new minor hydroelectric water right in Lane County. The application is for 300 gallons per minute (0.67 cubic feet per second) of water from Hucka Creek tributary to Fall Creek in the Willamette basin. The project is in the immediate vicinity of the Fall Creek Reservoir owned and operated by the U.S. Army Corps of Engineers. The proposed project will use about 80 feet of head to develop 6 theoretical horsepower for electricity production.

The proposed point of diversion for this project is within the NE ¼ NW ¼ of Section 33, Township 18 South, Range 1 East, W.M. The powerhouse would be located in tax lot 105. The project is on privately owned land.

Mr. Yeakle asked that an exception be approved so that he could apply for hydroelectric use on a year-round basis.

The Department believes that the proposed use is largely non-consumptive in nature and not likely to be regulated for other water rights since all flows are returned to the creek.

Commissioner Roberts moved to approve the Request for an Exception to the Willamette Basin Program by Gary Yeakle, seconded by Commissioner Williams. Voting for the motion: Commissioners Roberts, Barlow, Williams, LeJeune, Whipple, and Jackson. Excused: Meloy. Voting against the motion, none.

The Commission asked to be updated on the progress of the basin exception at the August meeting.

B. Klamath Basin Adjudication Status Update

Dwight French, Water Rights Services Administrator, and Doug Woodcock, Field Services Administrator, presented a status report on the Klamath Basin Adjudication. Dwight updated the Commission on the Klamath Basin Adjudication. It is the most complex adjudication in Oregon’s history and is the first to include determinations on federal reserved water right claims. On March 7, 2013, the Department filed the adjudicator’s Findings of Facts & Order of Determination with the Klamath County Circuit Court. In addition, original claim files, contested case records, claim maps, and various other components of the adjudication record were delivered to the circuit court.

This historical event represents the culmination of 38 years of work to determine the validity of more than 730 claims to the use of surface water in the Klamath River Basin. Since 1975, the Department has systematically reviewed and determined these claims. The Department also received and resolved 5,660 contests to these claims.

The Findings of Fact & Order of Determination was entered into the record of the Water Resources Department.

The filing of the Findings of Fact & Order of Determination brings an end to the Department’s administrative process. The circuit court phase of the Klamath River Basin Adjudication has begun. Adjudication claimants or contestants who dispute the Department’s determinations will have an opportunity to file exceptions with the Klamath County Circuit Court. The Court will then review those exceptions, and will ultimately issue a water rights decree, either affirming or modifying the Department’s Final Order of Determination. The Department can issue water right certificates in accordance with the decree once it is issued by the court.

Doug Woodcock, Field Services Administrator, provided the Commission with updated information on the current water conditions in the Klamath and the regulation process that may commence, now that adjudication is complete.

C. 2013 – 15 Governor’s Budget Update

Tracy Loudon, Administrative Services Administrator, provided an update on the status of the 2013-15 Governor’s Budget. The Department presented an overview of the 2013-15 Governor’s Balanced Budget of the Ways and Means Subcommittee to the Legislature on March 25-28, 2013. Committee members asked thoughtful questions and several stakeholders appeared the last day of the hearing to speak in support of the Department and its services. The Department presented its budget packages in more detail on April 23, 2013.

The Department has 13 program option packages in the Governor’s Balanced Budget:

	IWRS Recommended Action		<i>Governor’s Budget</i>		
			Total \$	FTE	Related Bills
101-Water-Use Reporting Program	2b	GF	174,363	1.00	
102-Instream Protections	3a, 11b	GF	366,856	2.00	
103-Re-Institute the Measurement Cost Share Fund	2b	GF	40,000	-	
108-Water Right Management Fee	13b	OF	1,996,342	7.00	SB 217
201-Implement IWRS	13a	GF	209,004	1.00	
202-Conduct Basin Groundwater Investigations	1a	GF	250,000	-	
203-Field Services (Wallowa & Klamath)	2c, 10	GF	342,333	1.83	

	IWRS Recommended Action		Governor's Budget		
			Total \$	FTE	Related Bills
204-Water Supply Development Program	10e	Mix	11,605,532	2.00	SB 839
205-Water Development Loan Fund-Umatilla Project	10b	OF	11,061,191	-	SB 839
206-Feasibility Study Grants	13c	Mix	992,489	0.50	
207-Update Water Right Certificates with contact info	2d	OF	369,117	2.00	HB 2257
208-Extend Water Transaction Fee Schedule	13b	OF	996,211	7.00	HB 2259
209-Limited Duration Asst. Watermaster		OF	167,080	1.00	
Total Policy Packages			28,570,518	25.33	

Further development of agency budgets will likely be put on hold until the May 16th revenue forecast becomes available. This forecast will determine the available statewide General Fund and Lottery Funds that will be allocated to program areas and then to state agencies for the 2013-15 biennium.

D. May 2013 Legislative Update

Brenda Bateman, Senior Policy Coordinator, provided an update of the water-related bills that are moving through the session, both put forward by the Department and others.

Senate Bill 199A (Split Season Leasing)

- The adopted amendment delays the sunset on the Department's split season leasing program to January 2, 2024, and clarifies statutory language describing the program.
- Passed through Senate unanimously.
- Assigned to House Agriculture & Natural Resources Committee for public hearing and worksession.

Senate Bill 200A (Split a Permit into Multiple Ownerships)

- The adopted amendment clarifies that this bill is for agricultural types of water use and requires the applicant to produce specific documentation.
- Passed Senate Floor 28-1-1 (excused).
- Assigned to House Agriculture & Natural Resources Committee for public hearing and worksession.

House Bill 2259 (Transaction Fees)

- The adopted amendment removes the sunset on the Department's statutorily authorized fees and authorizes the commission to increase fees each year by 2 percent or the Consumer Price Index, whichever is lower.
- WRD requires this bill to maintain adequate customer service levels.
- Passed House Agriculture and Natural Resources Committee 8-0-1 (excused).
- Subsequent referral to Ways and Means' Natural Resources Subcommittee.

A fourth bill—Senate Bill 217, proposing an annual water right management fee—has been sent to an interim workgroup, with direction to bring back in 2014 a bill that would help stabilize the Department's funding.

Other Water-Related Bills Still Considered Viable Include Four from the Senate:

Senate Bill 401 (Sen. Bates—Designation of Scenic Waterways)

- The adopted amendment converts this to a study bill only, with Oregon Parks as the lead, analyzing 27 stream reaches for potential scenic waterways designations; Water Resources Department will play a supporting role.
- The Department’s fiscal requests one NRS4 staff for 8 months.
- Passed Senate Environment and Natural Resources, 3-2.
- Subsequent referral to Ways and Means’ Natural Resources Subcommittee.

Senate Bill 837 (Sen. Johnson—In-Conduit Hydro Bill)

- The adopted amendment addresses a current obstacle to in-conduit hydro development, by allowing projects a choice: install fish passage when required by the Oregon Department of Fish and Wildlife, OR pay into a statewide fish passage account that will fund fish passage at ODFW-identified priority locations.
- The in-conduit hydropower program resides with the Water Resources Dept. No fiscal impact.
- Passed Senate Environment and Natural Resources, 5-0.
- Subsequent referral to Ways and Means’ Natural Resources Subcommittee.

Senate Bill 839 (SEN—Establishes Water Supply Development Fund)

- The adopted amendment lays out criteria for public funding of water development projects. Defines eligible projects, public benefit requirements, application and evaluation process, and funding/process for determining “seasonally varying flow” requirements for a water storage project.
- Tied to the Department’s Package #204, \$10 million+ for grants, loans, debt service, and fund administration.
- Passed Senate Environment and Natural Resources, 4-1.
- Subsequent referral to Ways and Means’ Natural Resources Subcommittee.

Senate Bill 846 (Sen. Hansell—Development of a Umatilla Basin Water Storage Program)

- Referred to Senate Committee on Rules for further work.

Other Water-Related Bills Still Considered Viable Include Four from the House:

House Bill 2620 (Reps. Clem and Gilliam and Sen. Edwards—Natural Resource Agency Coordination)

- The adopted amendment directs the Governor to develop a plan to align state economic and community development programs with regional and community based development programs; provides that Governor must ensure that representatives of natural resource agencies participate in regional solution teams.
- Passed House Consumer Protection Committee, 9-0.
- Subsequent referral to Ways and Means.

House Bill 3358 (Rep. McLane, Funding for the Deschutes Basin)

- The adopted amendment requests funding for the Bureau of Reclamation’s WaterSmart Basin Study cost match.
- This bill is intended as a back-up to language in Senate Bill 839.
- Approved without recommendation by House Agriculture and Natural Resources Committee, 8-1

- Referred to Ways and Means' Natural Resources Subcommittee

House Bill 3491 (Rep. Bentz—
Governor's Office Report to Legislature on Columbia River Treaty)

- The adopted amendment passed House Energy and Environment Committee, 9-0.
- Governor's office will report on inputs/perspectives on irrigation, water supply, and fish resources.
- Reports due Sept. 15, 2013, then quarterly through 2014, then annually through 2024.

House Joint Memorial 7

- Urges Congress to increase investment in Drinking Water State Revolving Fund and Clean Water State Revolving Fund.
- Assigned to the Senate Environment and Natural Resources Committee for public hearing and work session.

Water-Related Budget Bills in the Joint Committee on Ways and Means

Senate Bill 5547 Appropriates money from General Fund to Department. Bonding money for water supply development is also in this bill.

Senate Bill 5506 General obligation bonds, revenue bonds, certificates of participation and other financing agreements for biennium. Bonding money for loans to the Umatilla Basin is also in this bill.

Although Legislative leadership has indicated they would like to have the session completed by the end of June, the Constitutionally mandated *Sine Die* for this session is July 13, 2013.

Kimberley Priestley, Waterwatch of Oregon, commented regarding SB 217 and SB 839.

E. Director's Report

Director Ward reviewed the Director's Report with the Commission and responded to questions and comments.

There being no further business, the meeting was adjourned.

Respectfully,

Brandi Elmer
Executive Assistant