

**Water Resources Commission
Meeting
Salem, Oregon
May 29, 2014**

WRC Present

John Roberts, Chair
Ray Williams, Vice-Chair
Bruce Corn
Carol Whipple
Bob Baumgartner
Dennis Doherty
Jeanne LeJeune

Staff Present

Phil Ward
Cindy Smith
Tom Paul
Racquel Rancier
Matt DeVore
Renee Moulun
Tracy Louden
Dwight French
Brenda Bateman
Doug Woodcock
Ken Lite
Ivan Gall
Alyssa Mucken
Kris Byrd
Ken Stahr

Others

Lauren Smith
Lisa Brown
Maureen McGee
Martha Pagel
Marshall Gannett
Terrence Conlon
April Snell
Jim Myron
Tracy Rutten
Kimberley Priestley
Suzanne Butterfield
Leslie Bach
Adam Sussman
Dar Crammond
Colleen Johnson

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. Staff reports and PowerPoint presentations are available on the Department's website.

Chair Roberts opened the meeting and announced that the Commission would be going into Executive Session.

After Executive Session, Chair Roberts welcomed everyone to the meeting and asked the Commission and audience to identify themselves for the record. He also introduced Colleen Johnson, who is serving as the Environmental Quality Commission's (EQC) Liaison to the Water Resources Commission.

Chair Roberts explained that the Commission met in Executive Session to consult with legal counsel regarding the Commission's legal rights and duties on current litigation or litigation likely to be filed and to consider information or records exempt from public inspection.

A. Consideration of the Exceptions and Issuance of Final Order In the Matter of Water Right Application S-87330 in the Name of the Willamette Water Co.

Dwight French, Water Rights Services Administrator, gave a briefing on the contested case hearing held in Salem on November 14-16, 2011 to resolve a protest filed by WaterWatch of Oregon Inc. against the Willamette Water Company's surface water application. At the March 2014 Commission meeting, a

subcommittee was formed to consider the exceptions to the Director's final order in this case. The subcommittee consisted of Commissioners Carol Whipple, Jeanne LeJeune and Robert Baumgartner.

Commissioner Whipple made a motion that the Commission allow some exceptions, deny other exceptions and issue a modified order affirming the Director's order to deny application S-87330. Seconded by Commissioner LeJeune. Voting for the motion: Commissioners Roberts, Williams, Whipple, Corn, LeJeune, Doherty, and Baumgartner. Voting against the motion, none.

B. Consideration of the Exceptions and Issuance of Final order In the Matter of Water Right Application G-17165 in the Name of the Town of Lakeview

Dwight French, Water Rights Services Administrator, gave a briefing on the contested case to resolve a protest filed by Oregon Desert Farms against the Town of Lakeview's groundwater application G-17165. At the March 2014 Commission meeting, a subcommittee was formed to consider the exceptions to the Director's final order in this case. The subcommittee consisted of Commissioners Carol Whipple, Jeanne LeJeune and Robert Baumgartner.

Commissioner Baumgartner made a motion for the Commission to deny the exceptions and affirm the Director's order to approve application G-17165 as provided in the Commission's final order in contested case. Seconded by Commissioner LeJeune. Voting for the motion: Commissioners Roberts, Williams, Whipple, Corn, LeJeune, Doherty, and Baumgartner. Voting against the motion, none.

In The Matter of Charles Moore, Well Constructor #731.

In executive session, the Commission received legal advice pertaining to the case entitled *In the Matter of Charles Moore, Water Well Constructor License #731*. In this matter, the Department alleged that Mr. Moore violated two different well construction standards, related to two wells deepened by Mr. Moore, and three new wells constructed by Mr. Moore. The two rules at issue are the consolidated formation rule in OAR 690-210-0150 and the commingling rule in OAR 690-215-0045.

In August of 2013, the matter went to a contested hearing before the Office of Administrative Hearings. The Administrative Law Judge issued a proposed order, which was amended by the Director through an amended proposed order. Mr. Moore filed exceptions to both proposed orders. Mr. Moore has also requested an opportunity to provide oral argument to the Commission.

Commissioner LeJeune made a motion to appoint a subcommittee of three Commissioners to consider the *Matter of Charles Moore, Well Constructor #731*, and further moved that the subcommittee make recommendations to the full Commission on the final disposition of the legal matter, including the exceptions made against the Department's final order. Seconded by Commissioner Williams. Voting for the motion: Commissioners Roberts, Williams, Whipple, Corn, LeJeune, Doherty, and Baumgartner. Voting against the motion, none.

Chair Roberts appointed Commissioners Williams, Doherty, and Corn to the subcommittee. The subcommittee will review the record and report back to the full Commission with a recommendation for action at the August meeting.

C. Senate Bill 839 Update: Authorization to Appoint a Rules Advisory Committee

Racquel Rancier, Senior Policy Coordinator, and Brenda Bateman, Technical Services Division Administrator, briefed the Commission on Senate Bill 839 (2013), and the need to appoint a Rules Advisory Committee.

Rancier reported that the Seasonally Varying Flows (SVF) Task Force and the Governance Task Force have not yet been appointed by the Governor's office. The reports and recommendations of these task forces are due by July 1, 2014. If the Task Forces are not convened by the deadline, an interim report will be presented. Senate Bill 839 directs the Commission to appoint the SVF Task Force to serve as the Rules Advisory Committee (RAC) to advise on the SVF rules. The Department wants to be prepared to convene the RAC, since these rules are supposed to be adopted in time for them to take effect on January 1, 2015.

Commissioner Williams made the motion to authorize the Department to appoint a Rules Advisory Committee comprised of members of the SVF Task force, once convened. Seconded by Commissioner Corn. Voting in favor: Commissioners Roberts, Williams, Whipple, Corn, LeJeune, Doherty, and Baumgartner. Voting against the motion, none.

Introduction of Colleen Johnson as the EQC Liaison to the Commission

Commissioners Roberts and LeJeune introduced Colleen Johnson as the Environmental Quality Commission (EQC) liaison for the Water Resources Commission. Commissioner LeJeune will be the liaison to the Environmental Quality Commission.

D. Cooperative Groundwater Studies with the United States Geological Survey (USGS)

Ivan Gall, Groundwater Section Manager, Marshall Gannett, USGS, and Terrance Conlon, USGS, gave a presentation regarding USGS/WRD groundwater studies. They explained how studies are conducted and how results are used by WRD to make informed science-based decisions in managing water.

Lisa Brown, WaterWatch of Oregon, spoke about the importance of the groundwater studies, and suggested that studies should be conducted in Harney and Malheur counties.

E. Proposed Deschutes Basin WaterSMART Basin Study

Racquel Rancier, Senior Policy Coordinator, and Suzanne Butterfield, Vice Chair of the Deschutes Basin Board of Control and Chairwoman of the Deschutes Basin Study Work Group, provided an overview of the Deschutes Basin WaterSMART Basin Study.

Butterfield discussed the required elements of a WaterSMART Basin Study and the goals of the Deschutes Basin Study Work Group. The study will focus on resolving imbalances in water supply and demand for both instream and out-of-stream needs in the upper Deschutes Basin.

The Oregon Legislature has authorized \$750,000 of the Senate Bill 839 funds as a cost-share for the study. The Bureau of Reclamation is expected to announce whether the study has been accepted by June 10.

F. Information Update: Klamath Basin Update

Doug Woodcock, Field Services Division Administrator, and Tom Paul, Deputy Director, gave the background and an overview of the provisions of the Upper Klamath Basin Comprehensive Agreement (Comprehensive Agreement), and asked the Commission to approve the appointment of a Rules Advisory Committee to develop draft rules consistent with the Comprehensive Agreement.

The Department's rules govern wells that cause substantial interference with surface water supplies and the control of such interference are contained in OAR 690-009 (Division 9). That rule provides the authority for the Commission to adopt rules that locally supersede Division 9, providing more specific direction for the local area. The Department is recommending to the Commission that specific rules be adopted consistent with the language and intent of the Comprehensive Agreement, local to the Klamath Basin.

Kimberley Priestley, WaterWatch of Oregon, expressed concerns about the Upper Klamath Basin Comprehensive Agreement and how the proposed rules may affect instream and scenic waterway flows.

Commissioner Doherty made a motion to direct Department staff to convene a rules advisory committee for the purpose of developing local rules governing groundwater regulation that are consistent with the Comprehensive Agreement. Commissioner Whipple seconded. Voting for the motion, Commissioners Roberts, Whipple, Corn, and Doherty. Voting against the motion, Commissioners LeJeune, Williams, and Baumgartner. Motion passes.

Director Ward recommended that an update on the progress of rule development be brought to the August Commission meeting.

G. Water Supply Update

Brenda Bateman, Technical Services Division Administrator, and Ken Stahr, Hydrographics Section Manager, gave an informational report regarding water supply conditions statewide and an update on the Governor's drought declarations. Many counties in Oregon are drier than normal. The Water Availability Committee and Drought Council have been meeting monthly to evaluate statewide conditions and county requests for state drought declarations. At the May meeting, the Committee and Council agreed that conditions in Grant and Wheeler Counties could warrant a state declaration. In addition, it was determined that drought conditions exist in Josephine County.

The Governor has already issued drought declarations in Harney, Klamath, Lake, Malheur, Crook, and Jackson Counties. The Water Availability Committee and Drought Council will continue to monitor conditions to determine whether further drought declarations are warranted.

H. Place Based Planning Discussion and Workshop

Alyssa Mucken, Integrated Water Resource Strategy Program Coordinator, and Brenda Bateman, Technical Services Division Administrator, gave an update on the on-going efforts to develop place-based planning guidelines.

The Department is conducting workshops and accepting public comment on questions outlined in the Place-Based Planning Discussion Paper. In the fall, Department staff will update the Commission on the results of outreach efforts, identifying common themes and ideas about next steps for place-based planning. After providing an overview, Mucken and Bateman conducted a place-based workshop with the Commission to solicit feedback on some of the discussion questions.

There being no further business, the meeting was adjourned.

Respectfully,

Lorri Cooper
Exec. Administrative
Support to the Director's Office

**Water Resources Commission
Meeting
Salem, Oregon
May 30, 2014**

WRC Present

John Roberts, Chair
Ray Williams, Vice-Chair
Bruce Corn
Carol Whipple
Bob Baumgartner
Dennis Doherty
Jeanne LeJeune

Staff Present

Phil Ward
Cindy Smith
Dwight French
Racquel Rancier
Brenda Bateman
Doug Woodcock
Tracy Louden
Jon Unger

Others

Kimberley Priestley
April Snell
Lauren Smith
Jim Myron
Jeff Stone
Mark Landauer
Colleen Johnson

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. Staff reports and PowerPoint presentations are available on the Department's website.

Chair Roberts called the meeting to order. The Commission introduced themselves, as did others in attendance.

I. Approval of Minutes

The minutes of the March 6 and 7, 2014 meeting were offered to the Commission for consideration.

Commissioner Williams moved to approve the March 6, 2014 minutes as submitted, seconded by Commissioner Doherty. Voting for the motion: Commissioners Roberts, Williams, Whipple, Corn, LeJeune, Doherty, and Baumgartner. Voting against the motion, none.

Commissioner Corn moved to approve the March 7, 2014 minutes as submitted, seconded by Commissioner Williams. Voting for the motion: Commissioners Roberts, Williams, Whipple, Corn, LeJeune, Doherty, and Baumgartner. Voting against the motion, none.

J. Commission Comments

Commissioner Doherty talked about gaining an understanding of some of the experiences of the small farmer in regards to water, when he assisted his son make improvements on an old irrigation system. He attended a conference of the Northwest Tribes at the Portland Convention Center, which focused on fish recovery efforts on tributaries of the Columbia River. Several hundred people were in attendance. He also will be attending a conference of the Association of Oregon Counties on June 9-10, serving on a panel discussing Eastern Oregon

water. Commissioner Doherty recently visited with Representative Bob Jenson. He noted that Congress passed a water appropriation bill, and suggested a review of the bill to understand its implications.

Commissioner LeJeune met with the Directors of DEQ and WRD, regarding her position as the liaison for the Commission to the EQC. Her first EQC meeting will be June 18-19 in The Dalles. Colleen Johnson is the EQC liaison to the Commission. Commissioner LeJeune commented that she is looking forward to hearing the outcome of the Place-Based Planning workshops. She is also hoping that the Commission stays involved in the Water Rights Management Fee issue.

Commissioner Williams has been busy farming. He is also participating on a steering committee with a group that is working on long-range water planning for the Walla Walla Valley.

Commissioner Baumgartner has had the opportunity through the National Association of Clean Water Agencies to work with the Environmental Protection Agency (EPA) on Integrated Planning. EPA started Integrated Planning, recognizing that economic conditions and aging infrastructure makes it challenging for large municipalities to comply with the Clean Water Act. His energies are focused on broadening their horizons to include understand the challenges smaller municipalities and entities face to comply with the Clean Water Act. He commented that it is important to spend public monies wisely. He hopes their pilot project funding will expand as they demonstrate success. He noted that Place-Based Planning resonates with people and they are paying attention EPA's process. EPA and the U.S. Army Corps of Engineers are working on determining what are waters of the state, which could have significant impacts.

Commissioner Corn is concerned with drought issues in the Owyhee area. The recent storms did not add much to reservoir storage. He noted that 1992 was the worst drought year on record and this year only offered 20 more acre-feet. Conservation efforts are underway with the installation of sprinklers and pivots.

Commissioner Whipple feels fortunate to live in the area she does. She doesn't see the scope of water difficulties seen in the rest of the state. The largest dangers are fires. Liaison Colleen Johnson, EQC Commissioner, noted that she was very interested in the meeting topics and will be report to the EQC at their June meeting.

Chair Roberts attended the OWEB meeting in Bandon. Two-hundred and two grant applications were received from around the state. Ninety-two applications were funded: 52 for water restoration, 12 for technical assistance, three for watershed council action plans, 25 for outreach plans, and 18 for monitoring grants. A total of \$9 million in grants were awarded. Chair Roberts gave a presentation on the IWRS and drought to a group of retired military officers. He also attended a Drought Summit with irrigation districts and county commissioners, and provided a drought presentation. He also noted that the WISE group hosted a tour of the WISE project, followed by a Place-Based Planning Workshop. Chair Roberts will be attending the Place-Based Planning workshop Alyssa will be holding on June 2. He reported that the Medford OSU Experimental Station will remain open because the county passed a levy to support it. Jackson County also passed a ballot measure to exclude GMO crop production in that county. He also

commented that growers will be allocated about 75 percent of their normal water supply in the Rogue Basin.

K. Director's Report

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

L. Legislative update: 2015 Legislative Concept Development

Racquel Rancier, Senior Policy Coordinator, briefed the Commission on the development of the Department's Legislative Concepts for the 2015 Legislative Session, and asked the Commission to participate in a discussion on the Concepts and whether to move them forward.

Commissioner Corn commented that the Irrigation District Pilot Project has been an extremely useful tool during drought years, and hoped that it could be extended.

Kimberley Priestley, WaterWatch of Oregon, lent support to the concept of a water rights management fee, and thanked the Department and the Commission for their continued support and leadership.

April Snell, Oregon Water Resources Congress, thanked the Commission for its leadership and commended Racquel on her work with stakeholders on the legislative concepts. April said that OWRC would lend its support on issues surrounding the Klamath Agreement. She noted that the Irrigation District Pilot Project has provided Districts with the ability to move water in a timely fashion and that the program should continue. Speaking to the water rights management fee, April felt it should not move forward in its current rendition, because it has not achieved the desired equity.

Commissioner LeJeune emphasized the necessity of maintaining field and technical staff capacity, and that it is a challenge with current General Fund levels. She also agreed that there are flaws in the current proposal, but stated that it is a good starting point.

Commissioner Corn would like to see a white paper to understand the concepts better.

Chair Roberts encouraged all interested entities, including OWRC to submit ideas for equity and fairness in a water rights management fee. He would also like to reinstate the subcommittee with Commissioners LeJeune, Williams and Roberts to report back to the next Commission meeting. Director Ward and the entire Commission were in agreement.

Director Ward suggested the Commission convene a workgroup to discuss climate change and drought, particularly in regards to impacts on Oregon's water resources and the potential for future legislation.

M. Budget Update

Tracy Loudon, Administrative Services Division Administrator, and Racquel Rancier, Senior Policy Coordinator, provided a presentation on the proposed budget concepts for 2015-17. The Commission discussed and provided feedback on the proposed budget concepts.

Commissioner Williams made a motion that the Department move forward with the Budget Plan, but modify the *Re-Classify Well Inspectors and Hydrographics Techs* concept to include the *Review of Well Logs* concept, and make modifications to the narrative to include the additional description. Commissioner Corn seconded. Voting for the motion: Commissioners Roberts, Williams, Whipple, Corn, LeJeune, Doherty, and Baumgartner. Voting against the motion, none.

N. Update on Potential Storage Opportunities

Jon Unger, Water Supply Development Coordinator, briefed the Commission on the projects that are being pursued for water storage, and discussed approaches to identify and address water supply needs.

Project Update

Similkameen Project - In conjunction with the State of Washington, the Department is working with Fortis, a Canadian energy company, to investigate investing in a hydroelectric dam on the Similkameen River in exchange for releases of water to mitigate for withdrawals from the Columbia River. Washington and Oregon are considering providing a financial contribution to the environmental study to help assess the feasibility of the project prior to making a more significant investment.

Juniper Canyon Reservoir - A proposed dam in Juniper Canyon, 25 miles northwest of Pendleton, could store an estimated 49,000 acre-feet of water, which would be pumped from the Columbia during winter months. A Water Conservation, Reuse and Storage grant application was submitted to the Department to determine project feasibility, including hydroelectric generation potential. The grant application is pending review.

Wallowa Lake Dam Repair - The Wallowa Lake Dam, owned by the Associated Ditch Company, is an old concrete dam in poor condition. The Associated Ditch Company has an interest in marketing water downstream to provide mitigation for new diversions from the Columbia River. Repair of the dam could increase lake levels, allowing the release of additional stored water during the irrigation season.

East Valley Water District Proposed Reservoir - Located approximately six miles southeast of Silverton in Marion County, the proposed East Valley Water District reservoir would store 12,000 acre-feet of surface water from Drift Creek, a tributary of the Pudding River. The project would provide a new surface water source for irrigation in an area that has experienced groundwater level declines and contains two Groundwater Limited Areas.

Unger provided the Commission with an overview of a statewide water availability analysis that was performed by Department staff. The map shows where and for how long water is available for storage.

Unger noted that improving access to stored water is one component of a broader water supply development initiative to meet future instream and out-of-stream needs. He highlighted efforts and opportunities for the Department to help advance water resources solutions by working with communities to understand and address their water needs.

N. Public Comment

There were no comments from the public.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Lorri Cooper
Exec. Administrative
Support to the Director's Office