

**Water Resources Commission  
Meeting  
Salem, Oregon  
March 12, 2015**

WRC Present

John Roberts, Chair  
Dennis Doherty, Vice-Chair  
Bruce Corn  
Carol Whipple  
Bob Baumgartner  
Dennis Doherty

Staff Present

Tom Byler  
Tom Paul  
Cindy Smith  
Racquel Rancier  
Brenda Bateman  
Tracy Loudon  
Dwight French  
Jon Unger  
Alyssa Mucken  
Kyle Gorman  
Ken Stahr  
Rachel Lovellford  
Mellony Hoskinson  
Mary Grainey  
Ivan Gall

Others

Danette Faucera  
Lauren Smith  
Kimberley Priestley  
Rick Kepler  
Margaret Matter  
Karen Tarnow  
Wade Peerman  
Smita Mehts  
Steve Mrazik  
Heather Tugaw  
Leslie Bach  
Ronan Igloria  
Chris Havel  
Peggy Lynch

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 General Session to order, and asked the Commission and audience to introduce themselves. Chair Roberts read a message from Commissioner Jeanne LeJeune.

**A. Integrated Water Resources Strategy Implementation (IWRS) Update**

Alyssa Mucken, IWRS Program Coordinator; Margaret Matter, Oregon Department of Agriculture; Danette Faucera, Oregon Department of Fish and Wildlife; and Karen Tarnow, Oregon Department of Environmental Quality, provided an update on implementation of recommended actions of the Integrated Water Resources Strategy, and responded to questions from the Commission.

Chair Roberts asked for a list of goals that will be worked on each year and that staff provide an update later in the year on progress.

**B. Integrated Water Resources Development: Meeting Instream and Out-of-Stream Needs**

Racquel Rancier, Senior Policy Coordinator; Brenda Bateman, Technical Services Administrator; Alyssa Mucken, IWRS Program Coordinator; Tracy Loudon, Administrative Services Administrator; and Jon Unger, Water Supply Development Coordinator, presented an update on the Integrated Water Resources Development Program including work underway to implement Senate Bill 839 and place-based integrated water resources planning. Staff responded to questions from the Commission.

Chair Roberts read comment from Commissioner LeJeune, who asked that staff review a discrepancy in the draft Place-based Planning Guidelines regarding complying with Public Meeting laws.

**C. Scenic Waterway Flow Methods**

Brenda Bateman, Technical Services Administrator; Ken Stahr, Hydrographics Manager; and Rachel Lovellford, Hydrologist, described potential methods for setting Oregon Scenic Waterway flows, including the benefits and drawbacks of each. Staff responded to questions from the Commission.

Chris Havel, Oregon Parks and Recreation Department (OPRD), responded to questions about policies and procedures OPRD uses in considering Public Comments.

Peggy Lynch, League of Women Voters of Oregon, remarked that the League was committed to local opinion in determining the validity of Scenic Waterway designations.

Commissioner Corn expressed concern of setting new designations at a time when Oregon is entering into a drought cycle and will potentially be affected by climate change.

**D. IWRS Implementation: Monitoring Strategy**

Brenda Bateman, Technical Services Administrator; Ken Stahr, Hydrographics Manager; and Mellony Hoskinson, Water Availability Technician, briefed the Commission on the development of a strategy that the Department will use to identify and implement surface and groundwater monitoring sites around the state. Staff responded to questions from the Commission.

**E. Deschutes Basin Groundwater Mitigation Program 2013 Annual Report**

Dwight French, Water Right Services Administrator, provided the 2013 annual evaluation of the Deschutes Ground Water Mitigation Rules and the Deschutes Basin Mitigation Bank and Mitigation Credit Rules. Staff responded to questions from the Commission.

**F. Hydroelectric Program Overview and Upcoming Rulemaking**

Dwight French, Water Right Services Administrator, and Mary Grainey, Hydroelectric Program Coordinator, provided an overview of the Hydroelectric Program and presented information on the upcoming rulemaking.

The Commission discussed the potential hydroelectric rule amendments.

There being no further business, the meeting was adjourned.

Respectfully,

Lorri Cooper  
Executive Administrative Support to the Director's Office

**Water Resources Commission  
Meeting  
Salem, Oregon  
March 13, 2015**

WRC Present

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

Staff Present

Tom Byler  
Tom Paul  
Cindy Smith  
Racquel Rancier  
Brenda Bateman  
Doug Woodcock  
Tracy Louden  
Ivan Gall  
Dwight French  
Keith Mills  
Renee Moulun  
Kyle Gorman  
Jesse Ratcliffe

Others

April Snell  
Lauren Smith  
Kimberley Priestley  
Margaret Matter  
Garrett Roseberry  
Randall Kizer

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 and asked the Commission members and audience to introduce themselves.

**G. Approval of Minutes**

The minutes of the November 20-21, 2014 meeting were offered to the Commission for consideration.

Commissioner Williams moved to approve the November 20-21, 2014 minutes as presented. Seconded by Commissioner Corn. Voting for the motion: Commissioners Roberts, Williams, Whipple, Corn, Doherty, and Baumgartner. Voting against the motion, none. Absent: Commissioner LeJeune.

**H. Commission Comments**

Commissioner Doherty attended the Oregon Water Summit in Pendleton. He discussed efforts to lease water from the Port of Umatilla, as well as the recently passed California Water Bond Measure.

Commissioner Whipple talked about rainfall in the Umpqua watershed and the lack of snowpack.

Commissioner Corn handed out copies of the "Oregon Basin Outlook Report", and pointed out the summary of streamflow forecasts for Oregon, specifically the Owyhee and Malheur Basins. He commented on the bleak situation and the extremely difficult year ahead.

Commissioner Baumgartner distributed a handout and discussed the water purification project he is involved in. The goal of the project is to demonstrate that technology can purify used water to any level for any use.

Commissioner Williams reported that he has been busy farming, and agrees with the other Commissioners' comments on weather conditions and water supply. He has been looking into the Columbia River Exchange, and working to pursue dependable supplies of water.

Chair Roberts reported that the Rogue Basin is expecting 50-60 percent of normal water availability. Dams expect to be full because of rainfall. Fruit trees are already in bloom, about a month early. In January, he presented with Director Byler at the Oregon Leadership Summit, talking about the Water for Irrigation, Streams and the Economy (WISE) project and Oregon's drought status.

Roberts also reported that he acted as Hearings Officer at two Klamath Groundwater Rulemaking Hearings in Klamath Falls, presented to the Applegate Watershed Council on Drought, and participated on the Regional Solutions Team for Southern Oregon.

Roberts attended the Oregon Watershed Enhancement Board (OWEB) meeting in Astoria. OWEB is working on changing its investment program to include different categories, and also merging watershed councils to pool resources and improve efficiency.

The WISE project continues to work on the economic feasibility study conducted by the Bureau of Reclamation. Thus far, they have cut out 30 miles of piping, saving roughly a million dollars a mile.

## **I. Director's Report**

Director Tom Byler briefed the Commission on drought declarations in Malheur and Lake Counties, and that other counties are anticipated to request state drought declarations in the near future. He also noted efforts in the Umatilla Basin to work with the Confederated Tribes of the Umatilla Indian Reservation; and to develop mitigation options for new water development. He discussed how the marijuana legislation affects the Department, and its educational and regulatory activities.

Director Byler also discussed the efforts to expand shared services with other agencies to pool resources in the areas of Human Resources and Cultural Issues.

## **J. Budget Update**

Tracy Loudon, Administrative Services Division Administrator, briefed the Commission on the General Fund Revenue Forecast and the Governor's Recommended Budget. He responded to Commission questions and comments.

Commissioner Corn asked to have a summary of each grant account at the next meeting.

## **K. Legislative Update**

Racquel Rancier, Senior Policy Coordinator, provided information about key issues and legislation for the 2015 Legislative Session, and responded to Commission questions and comments.

Lauren Smith, Policy Coordinator at the Oregon Water Resources Congress, expressed appreciation to the Department, Director Byler and Racquel, for their willingness to work with stakeholders on SB 267, and for their hard work on SB 839.

**L. Request for Adoption of Rules – OAR Chapter 690, Division 20, Dam Safety**

Brenda Bateman, Technical Services Administrator, and Keith Mills, Dam Safety Engineer, presented a request for adoption of rules to ensure the safety of dams. Staff responded to Commission comments and questions.

Commissioner Baumgartner recommended that 690-020-0250 (1)(i) be corrected to add an “s” to conduits, followed by a comma. He also recommended that all of the references to “Engineer of Record” and “State Engineer” be reviewed for clarity as to the correct tense and capitalization, as well as references to the “Department.”

Chair Roberts noted that the public comment period for these proposed rules closed on October 3, 2014, so no public comment will be taken prior to the vote.

Commissioner Williams made a motion to adopt the final proposed dam safety rules with modifications to the grammar for clarity as recommended by Commissioner Baumgartner. Seconded by Commissioner Baumgartner. Voting for the motion: Commissioners Roberts, Williams, Whipple, Corn, Doherty, and Baumgartner. Absent: Commissioner LeJeune.

**M. Request for Adoption of Rules – OAR Chapter 690, Division 25, Regulation of Groundwater in the Off-Project Area During the Irrigation Season for Senior Surface Rights in the Klamath Basin**

Chair Roberts noted that the public comment period for these proposed rules closed on March 3, 2015, so there will be no public comment. Comments will be accepted during the public comment agenda item.

Doug Woodcock, Field Services Administrator; Ivan Gall, Groundwater Manager; and Jesse Ratcliffe, Oregon Department of Justice, presented a request for adoption of rules to govern the regulation of groundwater wells in the Off-Project area of the Klamath Basin for the benefit of senior water users. Staff responded to comments and questions from the Commission.

Commissioner Williams complimented the Department on its efforts to be minimally intrusive on the irrigation community, while focusing on material benefits.

Commissioner Doherty asked Woodcock to respond to WaterWatch’s letter of concern that the State’s instream water rights would be compromised by the proposed rules. Woodcock responded that the rules do not compromise the State’s instream rights.

Commissioner Corn asked if these rules were premature if the agreements have not been signed. Ratcliffe explained that the agreements have been signed, but they are not permanently in effect yet because certain provisions have not been met. It is important to make progress on those provisions in order for the agreements to become permanent.

Chair Roberts asked for clarification on a letter from Senator Whitsett stating that the proposed rules still need to have specific statutory authority. Ratcliffe referenced 537.525 (9) that provides the Commission the authority, whenever the impairment or interference with existing rights to appropriate surface water exists or impends senior users, the Commission may control the use of groundwater.

Chair Roberts also asked about Senator Whitsett’s concern that provisions of the rules shift the burden of proof from the Department to the property owner. Ratcliffe explained how the existing Division 9 rules

set up a three-step process, and that in each step, the Department has an obligation to meet certain criteria before it moves forward with regulatory action. The proposed Division 25 rules do not affect two of the steps relating to hydraulic connection and demonstrating the potential for substantial interference. The proposed rules only clarify the step regarding “effective and timely regulation.” The well owner still has the ability to disagree with the Department’s determination.

Commissioner Baumgartner made a motion to adopt the proposed final OAR 690, Division 25 rules governing regulation of groundwater in the Off-Project Area of the Klamath Basin as provided to the Commission in Attachment 1. Seconded by Commissioner Corn. Voting for the motion: Commissioners Roberts, Williams, Whipple, Corn, Doherty, and Baumgartner. Absent: Commissioner LeJeune.

**N. Public Comment**

Margaret Matter, Oregon Department of Agriculture, clarified statements that she made during the discussion following Agenda Item A. She did not want her comments about water resources (globally) to be construed as “Water Resources Department” or “Water Resources Commission.”

Randall Kizer, President, Upper Klamath Landowner Improvement District, thanked the Commission for their consideration and vote in support of the Division 25 Rules. The rules will help irrigators meet their surface water right retirement obligations, and give them the stability that they need to keep agriculture in the Klamath Basin.

Garrett Roseberry, Sprague River Water Resource Foundation, said the Division 25 Rules will have a tremendous impact on the flexibility of the irrigators to make discerned, positive decisions on what they can retire in order to participate in the agreements. He feels with these rules in place, all three agreements will move forward in the best interests of all of the communities involved.

**O. Other Business**

No other business.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Lorri Cooper  
Executive Administrative Support to the Director’s Office