

**Water Resources Commission Meeting
Salem, Oregon
August 17, 2017**

WRC Present

John Roberts
Carol Whipple
Bob Baumgartner
Meg Reeves
Bruce Corn
Eric Quaempts
Ray Williams

WRD Staff Present

Tom Byler
Renee Moulun
Cindy Smith
Racquel Rancier
Lisa Snyder
Kim Ogren
Dwight French
Alyssa Mucken
Brenda Bateman
Ivan Gall
Greg Wacker
Justin Iverson
Doug Woodcock
Samantha Phillips
Diana Enright
Salem Opeifa
Kyle Gorman
Harmony Burright
Steve Parrett
Jon Unger

Others

Kimberley Priestley
Dennis Knight
Dani Watson
Peggy Lynch
Lauren Smith
April Snell
Jerome Rosa
Susan Morgan
Gil Riddell
Lori Grant
Heather Tugaw
Sarah Mitchell
Curtis Martin
Gordon Lyford
Tom Elliott
Ken Bierly
Martha Pagel
Margaret Matter
Tim Gross

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 Commissioners and the audience to introduce themselves.

A. Budget and Legislative Update

Lisa Snyder, Administrative Services Division Administrator, and Racquel Rancier, Senior Policy Coordinator, provided an overview of the Legislatively Adopted Budget, and an update of legislation that passed during the 2017 Legislative Session.

Snyder, Rancier, and Director Byler responded to comments and questions from Commissioners.

Chair Roberts asked what the budget for Attorney General fees was compared to last biennium. Snyder answered that this biennium the budget is about \$800,000, and last biennium the Department spent over \$2 million. Those increased costs were covered by administrative

reductions. Litigation costs will be more difficult to cover, since administrative reductions are already built into the 2017-19 budget.

Commissioner Williams asked if litigation costs might go down as cases move from circuit court to appellate court. Renee Moulun, Legal Counsel, said that while circuit court by nature, has more costs, it is hard to predict what costs are going to be with so many cases at so many different stages. Commissioner Reeves commented on the automatic stay for cases related to regulation. Byler commented that there is a record being built around the use of stays.

Gil Riddell, Association of Oregon Counties (AOC), spoke on behalf of Craig Pope, Polk County Commissioner, and incoming AOC President. AOC finds the outcomes of the Legislative session on behalf of water issues acceptable, but looks forward to big gains in water policy.

B. Water Resources Development Program

B-1. Water Resources Development Program 2017-2019 Recommended Spending Plan

Lisa Snyder, Administrative Services Administrator, and Kim Ogren Water Resources Program Development Manager, presented the Department's 2017-2019 recommended spending plan for feasibility study grants and water project grants and loans.

Chair Roberts suggested dialogue with the Oregon Watershed Enhancement Board (OWEB) to glean from their experience. Ogren said they often look to OWEB for expertise.

Commissioner Williams asked if the existing loan program allows for the Department to be a guarantor, rather than a lender. Rancier stated that the statute guides the Department's authorities and that it does not reference a guarantor; therefore, she did not think the statute would allow for that. Williams suggested for the Department to look into it, and if the legislature would consider it as an option to make it easier for the private sector to obtain funds.

Commissioner Whipple asked how the Department makes decisions about loans, and the increased risks of loaning the public's money.

B-2. Water Project Grants and Loans Update and Discussion of Loans

Lisa Snyder, Administrative Services Administrator, and Kim Ogren, Water Resource Program Development Manager, presented the Department's 2015-2017 biennial review and proposed process for developing loan award and interest rate recommendations.

Commissioner Williams asked if the financial review done by the Technical Review Team, another entity, or the Department? Ogren answered the financial review is done by Business Oregon and the Department.

Commissioner Baumgartner noted that the loan process is more complex than the grant program. He asked if the Department pays Business Oregon for its financial review, and would they be paid out of General Fund, or loan fees? Lisa Snyder answered that the Department has a contract with Business Oregon for their services, and at this time it is paid with General Funds. He then asked what the costs to review a loan are. Ogren said she will get back with a detailed answer.

Commissioner Whipple stated that the inability of the technically qualified application to meet the financial requirements is important, and knowing what the cost of the financial review is very important.

Commissioner Baumgartner asked if the review of the financial requirements for a loan in parallel to the second public process or in lieu of that process. Ogren answered that it is in parallel.

Commissioner Whipple asked when an applicant meets the technical requirements, how much more information is anticipated during the review of the financial requirements? Are financial questions asked at the same time as the technical questions? Staff answered that in the current cycle, additional questions are asked after the technical review. In the next cycle all questions will be asked upfront.

Commissioner Williams asked if it is possible to lock in an interest margin. Ogren responded that the Department is consulting with Business Oregon.

Commissioner Baumgartner asked if there is a plan to provide more guidance in how loan worthiness is evaluated so the allocation of the loan rate does not come across as arbitrary.

Chair Roberts noted that ORS 541.669 indicates the Commission be a part of the evaluation system to determine score and ranking for projects. He then asked when the Commission will participate in that step, or if it is being delegated to the Department? Ogren responded that in the last cycle, the Technical Review Team brought forth recommendations and asked the Commission to review and accept those recommendations, and that is the intention for this round.

Commissioner Whipple stated that she is comfortable following a process from the Technical Review Team, although she has concerns about loans.

Commissioner Reeves referred to the restrictions in the statute about collateral and security requirements, and knows that the Department will follow those.

Commissioner Baumgartner stated that he is comfortable taking a risk, and that it is very important to start getting money out to projects. He wants to see the Department move into the loan program, and start a revolving account to get more money out and working for projects. He wanted more details on how loans are approached.

Chair Roberts would like the Commission to provide seed money as opposed to paying for significant portions of projects.

Commissioner Quaempts echoed comments about being careful, but needing to keep in mind the mission of long-term sustainable water supplies and the need, noting that the loan program is an important piece. He appreciates the spending plan and timeline.

Commissioner Williams asked if the Department wanted a recommendation on a split between loan and grant dollars. Ogren said that guidance would be appreciated. Chair Roberts would like to see flexibility as the needs change; and to encourage both grant and loan dollars to be seed money, not to pay for large projects.

Commissioner Williams asked how the Department would define seed money. Chair Roberts thinks the responsibility is on the applicant to indicate how that money would be used.

Commissioner Quaempts would prefer to see alternatives and rationale for the Commission to discuss in future meetings.

Commissioner Williams asked if the Department is allowed to consider applications that ask for both grant and loan funds. Ogren answered that the Technical Review Team is only allowed to consider the public benefit in review of applications. There is additional criteria that the Commission is allowed to consider.

April Snell, Oregon Water Resources Congress, stated that she advocated for SB 839, and participated on the task forces and rules advisory committee that helped develop the program. Because of the diversity of participants, the language of the rules is very specific in some areas, and very vague in others. The intent was that when grants and loans were issued, they would be done in a way to reduce risk to the Department. She referred to the Department of Environmental Quality's Clean Water State Revolving Loan Fund, as an example of a program that has worked well at the state level. She cautioned against setting aside a specific amount for loans of what is an extremely limited amount of funding. She also stated that the intent was never that an applicant would be awarded a loan to subsidize a grant award; but to be seed money to assist obtaining other funding sources. Snell addressed safeguards written into the SB 839 Rules that would decrease the risk of applicants defaulting on loans.

C. Update on Oregon's 2017 Integrated Water Resources Strategy

Alyssa Mucken, IWRS Coordinator, and Brenda Bateman, Technical Services Administrator, briefed the Commission on the public comments submitted on the public review draft of Oregon's 2017 Integrated Water Resources Strategy, and responded to Commissioner comments and questions.

Peggy Lynch, IWRS Policy Advisory Group member, brought examples of how other agencies will implement IWRS Recommended Actions through their budgets and processes. She stated

that she is thrilled with multi-agency collaboration and data sharing and other measures to ensure abundant clean water for all. She commented that the IWRS must be aspirational and implementable over time.

Sarah Mitchell, Oregon Farm Bureau (OFB), provided comments to key points made in their public comments. OFB would like to see a stronger focus on investment in storage capacity and infrastructure throughout the document. They would like to see stronger sideboards on agency coordination. She stated that OFB recommends the update provide for a critical look at OWRD funding streams and their administration in light of the goals they were developed to meet.

Commissioner Baumgartner asked Mitchell about her reference to confusion and lack of efficient use of resources in agency coordination.

Mitchell explained that the Place-based Planning program is intended to help facilitate local collaboration around water supply needs of different stakeholders within a specific community. However, some communities administering the program have been following the framework provided by the Strategy which contains significant discussion of water quality and ecosystem services. She stated that water quality and ecosystem services are outside the scope of grant funding and wouldn't be appropriate for an OWRD administered program. DEQ and OWEB already have programs for improving water quality and wildlife habitats in Oregon, and using funds for these purposes would be duplicative and poor use of state resources.

Commissioner Whipple said she is interested in more specific examples. Whipple also asked about OFB's written comments that ask for references to the Klamath be removed, as it is the only program in the Strategy identified that is not statewide. It is Whipple's experience that what happens in the Klamath is significant on a statewide basis. She thinks there is much to be learned by what is going on in the Klamath area, and that it is instructive to the state. She encourages the OFB to rethink their approach, as it relates to the Klamath and its importance statewide.

Mitchell agreed to share the questions with Mary Anne Nash, and follow-up.

Kimberley Priestley, WaterWatch of Oregon, thanked Alyssa for pointing out that their comments were not part of the compilation. Priestley highlighted that the Department committed that the Update is about shoring up existing directives and/or filling in the gaps, not to take away developed concepts from the 2012 Strategy. Priestley would like to see more substance in groundwater, even making groundwater sustainability a critical issue. She would like to see more meat to the drought section.

D. Strategic Planning

Tom Byler, Director, and Kim Ogren Water Resource Program Development Manager, briefed the Commission on the Department's ongoing strategic planning efforts.

Commissioner Corn asked what the Department envisions the end goal to be. Director Byler stated that he does not see staffing levels changing much, but wants to make sure we are using resources in the most efficient way, and that this tool should help us keep our focus on priorities.

Commissioner Williams thinks the process would work as a communication tool, and the Department is right to be concerned about measurement of productivity, and maximizing efficiencies. The primary goal should be to find solutions to Oregon's water issues. Commissioner Williams asked if there was a budget associated with this process. Director Byler answered no.

Commissioner Quaempts asked how public input would be solicited. He expressed concerns about stakeholder fatigue, and would like to see input from people we do not hear from as much, as well as those who provide regular input. Byler said the Department is looking at a variety of means to hear from stakeholders, including new ones.

Commissioner Quaempts suggested the option of a special WRC meeting near the end of the process to be able to focus on this topic, before it is time for adoption.

E. Groundwater Policy Discussion

Brenda Bateman, Technical Services Division Administrator, Justin Iverson, Groundwater Manager, and Doug Woodcock, Deputy Director, briefed the Commission on the Department's ongoing efforts regarding management of groundwater in Oregon, and responded to Commissioner comments and questions.

Lori Grant, Water Program Director at Oregon Environmental Council, provided documents with recommendations from Wild Salmon Center, WaterWatch of Oregon, and the Oregon Environmental Council. They hope that the Commission will move now to start moving forward on groundwater investigations, to update the Strategic Water Measurement Plan, and to set direction to ensure new groundwater rights are issued only when the data is truly there to demonstrate the groundwater resource is not over appropriated.

Gordon Lyford commented on the subject of land subsidence and salt water intrusion, and their effects on groundwater, and thinks these issues should be studied in Oregon.

F. Update on Place-Based Integrated Water Resources Planning

Harmony Burreight, Planning Coordinator and Steve Parrett, Planning Coordinator briefed the Commission on progress and lessons learned to date on Place-Based Integrated Water Resources

Planning. Conveners of the pilots, Tim Gross, Public Works Director for City of Newport, representing the Mid-Coast Region; Mark Owens, Harney County Commissioner, and Brenda Smith, Harney County Watershed Council, representing Malheur Lake Basin, provided a report on the progress of the pilots.

Commissioner Corn remarked that this closes the loop of the discussions previously about Strategic Planning, the IWRS Update, and now the local level where details can happen to provide solutions. He asked how they look at things differently now and what is the vision for the future.

Owens answered that the first hurdle was to educate the community that even though the planning is for a specific place, that since water is a state resource, other groups such as WaterWatch, needed to be included in the discussions. There are many things happening in Harney County in regards to water and the group had to work through what community based planning is, and how to do that without knowing what the full system capacity is, getting partners and stakeholders engaged, and understanding water law and boundaries, talking about flexibility and policy, and basin rules. After a year, he feels that they are just now beginning to develop shared knowledge.

Brenda Smith thanked staff for their dedication to this process. She hopes to have the community feel like they have a stake in what is happening. She thinks professional, neutral facilitation is important to authentic collaboration.

Tim Gross agreed on the importance of gaining trust. His area has a lot of competing interests, and this process has provided the opportunity for those groups to come together and discuss common interests. He thinks that if all Place-Based Planning ever did was bring the water communities together and talk about how decisions are made, it has been successful. It's been very eye opening to him to collect data, analyze the data, and see how decisions they are making are impacting each other.

Commissioner Baumgartner thanked the conveners for taking on the effort, and stated his desire to see these efforts be successful. He asked what needed to be done to ensure their success.

Panelists noted that original assumptions of time commitment were very underestimated. As individuals have built trust, they realized they needed to meet and talk more. There needs to be consistency in plans, but also tailoring for the individual regions. It will take a lot more time and money. Capacity is an issue.

Chair Roberts assured the conveners that they have the full support of the Commission. His concern is to see results in 2019 in order to continue the program.

Owens said that there needs to be a discussion of expectations, which needs to be shared with legislators, the public, Department, and Commission. They need to show enough progress to continue, and not lose funding opportunities.

Commissioners and panelists engaged in further discussion.

Ken Bierly, representing the Harney Basin on Place-Based planning, asked the Commission to consider challenges to the planning efforts including: maintenance of the effort by busy local people is very difficult; without significant technical support the efforts are of limited use; many authorities need to be engaged; and, there must be benefit for the local community. Policy bodies need to find incentives for communities to put forth the effort. For the Harney Basin, he suggested the Commission consider exploring the use of the state statute 537.455-537.500 which would reduce use but allow retention of rights. He thanked the Commission for supporting the pilot effort.

Curtis Martin, Powder and Brownlee Working Watershed Group, lent his support to Place-Based planning. This group decided to move forward despite not being chosen to be one of the pilot projects. His thinking has evolved over the years, and believes that there are issues that need to be addressed, and help the rural communities survive. He encouraged coordinated efforts of watersheds to make Place-based Planning effective.

Commissioner Corn agreed with Martin, and from his time on the Commission appreciates what he has learned about differing points of view and finding common ground through collaboration. He thinks that for not a lot of money, there has been a lot of progress, and the Commission has a responsibility to advocate for these programs to continue to receive funding.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Lorri Cooper
Executive Administrative Support to the Director's Office

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Chair Roberts called the meeting to order.

G. Minutes

The minutes of the May 11 and 12, 2017, meeting were presented for Commission approval.

Commissioner Williams moved to approve the May 11 and 12, 2017 minutes as presented. Seconded by Commissioner Corn. Voting in favor of the motion: Commissioners Roberts, Baumgartner, Corn, Reeves, Whipple, Williams, and Quaempts. Voting in opposition: none. Motion passed.

H. Commission Comments

Commissioner Corn reported that the water conditions are very good, and the reservoirs will have excellent carryover. Because of the late, wet spring, followed by a hot summer, the onion crop was significantly reduced from last year. The conditions are sometimes considered a flash drought. He has become more convinced of the importance of storage for all of Oregon, with wetter winters and hotter, drier summers.

Commissioner Reeves clarified her understanding on the groundwater presentation. She said that Strategic Planning and the Groundwater plan are moving in tandem with the finishing of the

IWRS. She thinks the presentation on how decisions are made on allocations of groundwater was extremely useful, and suggested the subcommittee take a look at how groundwater is allocated, and see if improvements could be made, and report back to the Commission.

Chair Roberts would like an update at the next meeting.

Commissioner Quaempts said that he and Reeves should try to characterize those times when there isn't enough information. He thinks that would be useful information for the Commission and stakeholders to understand. When multiple projects are going on, he would like them in context before reporting on the one.

Commissioner Baumgartner reported a wet winter and spring, and dry since then in his area. There is a lot of growth in the Portland Metro, and there are a lot of new, high tech industries coming into the area with high water demands, creating an opportunity for conflict in years when water is short. He appreciated Curtis Martin's views at looking at issues from other people's perspectives. He is excited about the IWRS and Place-Based Planning because they are positive ways to address some of these issues.

Commissioner Whipple is thankful for Galesville Dam, as it allows for water now, as it is very dry in her area.

Commissioner Williams echoed Commissioner Corn's remarks on the importance of storage. He thinks supporting other activities, such as recharge, is important.

Chair Roberts gave an update on the WISE Project, which is in the engineering phase.

I. Director's Report

Director Byler briefed the Commission. He noted several basin-wide issues.

Ken Stahr, Surface Water Hydrology Manager, Technical Services Division, provided a report on Water Conditions. Stahr asked for feedback from the Commission on the Water Conditions Report, and the data that comes in it.

Chair Roberts expressed the Commission's appreciation for the regular and complete report. Chair Roberts asked if the report was going to a larger audience. Stahr reported that it goes out to a listserv of about 400 people, and is posted on the Department website, but he is open to providing it to other audiences.

J. Public Comment

None.

K. Request for Adoption of Rules – OAR Chapter 690, Division 215, Maintenance, Repair and Deepening of Water Supply Wells

Brenda Bateman, Technical Services Division Administrator, and Kris Byrd, Well Enforcement Manager, presented a request for adoption of rules related to back-siphon prevention devices, and responded to Commission questions and comments.

Commissioner Williams moved to adopt the Division 215 rules as presented. Seconded by Commissioner Quaempts. Voting in favor of the motion: Commissioners Roberts, Baumgartner, Corn, Reeves, Whipple, Williams, and Quaempts. Voting in opposition: none. Motion passed.

L. Update from Watermaster District 19 and Report on 2016 Field Regulation and Enforcement Activities

Ivan Gall, Field Services Division Administrator, reported on the 2016 field regulation and enforcement activities, and responded to Commission questions and comments.

Gall pointed out a typographical error on page 5, Item C, should read “in 2016, only fifteen Notices of Violation were issued...”.

Commissioner Whipple commented on the gap between accessing water, and the reluctance of water users to report their use. She commended the field staff on their work and communication with users.

Director Byler observed that as many communities are facing shortages, the question is finding ways to incentivize communities to report their use.

Gall explained that the Significant Point of Diversion (SigPod) program was designed to install measuring devices on points of diversions, but without a water use reporting requirement.

Chair Roberts asked if the Commission had the authority to make that requirement. Director Byler said that the Legislature could authorize the department to require reporting, but doesn't know if the Commission could be authorized to do that via rulemaking.

Racquel Rancier, Senior Policy Coordinator, reported that a workgroup met weekly through the last legislative session on the matter of use and reporting, and that there were proposals that would give us authority to require water use reporting when requiring water use measurement. Those proposals did not move forward, but Rep. Helm hopes to discuss those concepts further in the future.

Commissioner Reeves asked if reporting was burdensome to the water user. Gall answered that depending on the nature of the diversion, for instance, gages on open channel systems are much more complicated to accurately monitor and read.

Greg Wacker, District 19 Watermaster, provided an overview of his district, and responded to Commission comments and questions.

M. Other Issues

No other issues.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Lorri Cooper
Executive Administrative Support to the Director's Office