

MEMORANDUM

TO: Water Resources Commission

FROM: Paul R. Cleary, Director

SUBJECT: Agenda Item C, April 12, 2002
Water Resources Commission Meeting

Director's Report

Drought Update:

The Water Availability Committee met on March 20, 2002. Conditions have improved significantly over the last year. Generally, water conditions are best in the western part of the state and deteriorate toward the east. As of February 1st, accumulated precipitation ranges from 89% to 107% of normal. Accumulated snow ranges from 89% to 144% of normal, and accumulated stream flow ranges from 39% to 121% of normal. Reservoir storage ranges from 32% to 105% of normal with some reservoirs not expected to fill.

The next meeting of the Drought Council is scheduled for June 19, 2002. Eighteen counties remain with state declarations of emergency drought. Because of the improved water conditions, the Drought Council will notify each county that action may be taken to rescind state declarations after the next Drought Council. Counties desiring to maintain their drought emergency status can inform the Council by its June meeting by providing information to support the continuation of the state declaration within their county.

Dam Safety Conference:

In February, the agency sponsored a Dam Safety Conference in Wilsonville. The conference, held every two years for the last 16 years, had approximately 150 participants. A number of papers were presented with topics including case studies of dam rehabilitation projects, new dam construction projects, and a flood frequency model being developed by the Department.

Budget:

During the Second Special Session of the Legislature, the Governor and the Legislature reached a partial agreement on the State's \$830 million shortfall. As a part of the plan, the Department's \$23.3 million General Fund budget was reduced by \$1.17 million or 4.9%. The reductions included \$750,000 in Klamath drought emergency ground water development funding; administrative reductions totaling \$121,123 in services and supplies and legal services; and reductions of \$300,833 in field and technical services including ground water studies, digital mapping, and regional clerical support.

The Department's General Fund budget could have an additional 0.9% reduction during a Third Special Session of the Legislature tentatively scheduled for June 1, 2002. The

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Legislature will be called into session to address the adverse effects of the federal economic stimulus package on State revenues. The package will cost the State an estimated \$153 million in General Fund revenue. The Special Session could also address the effects of the Governor's veto of three one-time spending bills passed by the Second Special Session as well as any implications from the May revenue forecast and the outcome of Ballot Measure #17 regarding the Education Trust Fund. Additionally, the Department may have to reduce General Fund programs by about 2.9% if the Emergency Board does not fully fund the Cost of Living increase at its April 19 meeting.

Woodland, Edison and Victor Point Area:

At the September 24, 2001, meeting, the Commission withdrew two basalt aquifers in the Woodland, Edison and Victor Point area. As a result of the ground water withdrawal, the City of Silverton is proposing annexation of this area to provide a one-time option for affected property owners to receive city water. Property owners affected by this proposed annexation will be meeting with local and state government representatives on April 23, 2002, including staff from the Water Resources Department.

Willamette Basin Reservoir System:

Fill conditions for the Willamette Basin reservoirs are improved compared to last year with all reservoirs expected to fill by mid-May. Detroit Reservoir is currently about 7000 ac-ft above rule curve with above average inflow. During the past week, the U.S. Army Corps of Engineers (Corps) increased outflows to over 1000 cfs. The rest of the system is also in good shape. Fern Ridge Reservoir is slightly behind the rule curve, but one good rainstorm will allow it to catch up. Lookout Point and Hills Creek Reservoirs are also behind the fill schedule but are gaining and about one good rain storm from catching up. With the improved water conditions, the Corps will be able to meet the spring flow targets at Salem for salmon and steelhead.

Rulemaking:

The Department continues work to update rules for continuing education requirements for well constructors and for well construction standards (Division 205 and 240). Staff anticipate proposing rules for adoption at the October 2002 Commission meeting.

The Community Water Supply Work Group continues to work on revisions to the Water Management and Conservation Plan rules (Division 86) and permit extension rules (Division 315); staff anticipate having rules for the Commission's consideration and adoption at its August 2002 meeting.

The Transfer Rules Advisory Committee continues to make progress on proposed modifications to the transfer rules (Divisions 15 and 21).

Working with a sub-committee of the Deschutes Basin Steering Committee, the Department has developed a revised hearing draft of the Deschutes Basin Ground Water Mitigation rules. The Department will hold a public hearing on the revised rules in Bend on April 22, 2002. The public written comment period ends May 7, 2002. The

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Department plans to ask the Commission to adopt proposed rules at the June 7, 2002, meeting.

Willamette Valley Ground Water Workshop:

At the February 7, 2002, Commission meeting, staff presented an overview on managing ground water use in Willamette Valley aquifers. In response to Commission discussion at that meeting, the Department is developing a Willamette Valley Ground Water Workshop. In preparation for the workshop, ground water staff are developing a report that presents existing ground water supply information along with a discussion of water demands projected for the valley. The Department has tentatively scheduled the workshop for September 2002 and will invite planning staff from Willamette Valley counties to participate. The Department welcomes Commission input regarding the development of the workshop agenda.

Regulatory Streamlining:

As a result of budget hearings associated with the first special session, the Governor and the Legislature have asked agencies to “make recommendations on (a) agency coordination, especially siting of new or expanding businesses, (b) eliminating unnecessary regulation, and (c) streamlining permit granting.” To that end, agency heads, along with staff from the Department of Administrative Services (DAS), have interviewed stakeholders to determine what agencies are doing well and where agency services can be improved. DAS is in the process of compiling the results of the interviews and will work with agency heads to develop a report and recommendations.

Joint Meeting with the Oregon Environmental Quality Commission (EQC):

On June 6, 2002, the Commission will hold a joint meeting with the EQC to discuss the intersection between water quality and water quantity. Agenda items will focus on interagency coordination including the collaborative development of the Umatilla TMDL (total maximum daily load) Water Quantity Plan and water right permit processing and review. The agenda may also include a presentation of existing water reuse authorities and the development of DEQ’s Water Reuse Initiative.

Western States Water Council Meeting:

Paul Cleary and Meg Reeves attended a joint meeting of the Western States Water Council, the Interstate Council on Water Policy, and the Association of State and Interstate Water Pollution Control Administrators, in mid-March, 2002, in Washington D.C. The meeting also provided an opportunity for meetings with Administration officials, Congressional committee staff and our Congressional delegation staff, focused primarily on drought, adjudication funding and Klamath Basin issues.

Klamath Update:

Klamath Project Operation: Development of an operating plan for the Klamath Project involves consultation under the Endangered Species Act between the Bureau of Reclamation (BOR), the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). The BOR issued a biological assessment in March

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that proposed a ten-year operating plan for the Klamath Project. The proposal provides for water deliveries this year and in subsequent years, with some variability depending on the water year. The USFWS and NMFS subsequently issued interim biological opinions approving operation until early June 2002, when they expect to issue final biological opinions. The BOR began Project operations in early April.

President's Klamath River Basin Federal Working Group: President Bush has established a cabinet-level working group to address the economic, ecological and legal issues in the Klamath Basin. The Working Group includes the Secretaries of Interior, Agriculture and Commerce, and the Chair of the White House Council on Environmental Quality.

WRD Request for Federal Funding: One result of last year's drought and Project water shut-off was renewed calls for a speedy conclusion of the Klamath Basin Adjudication. In order to address those requests, the Department made a request to the President's Klamath River Basin Federal Working Group for \$2.5 million in federal funding to help us finish the administrative phase of the adjudication by December 31, 2004. The Klamath Tribes responded with a letter to the Working Group opposing the request, citing concerns that they would not be able to keep up with the proposed pace of the adjudication. Staff are working with tribal representatives to address their concerns and assess alternatives to both support the adjudication and encourage negotiated settlements.

Klamath Compact Commission Meeting: The Klamath Compact Commission, of which Paul Cleary is Oregon's representative, will meet in Klamath Falls on May 17, 2002. The focus of the meeting will be ground water development, monitoring, and studies in the Basin.

United States v. Adair: Federal District Court for the District of Oregon ruling on Klamath Tribes water rights: (1) Tribes are entitled to amount of water necessary to support their treaty gathering rights in addition to previously ruled hunting and fishing rights; and (2) Tribes are entitled to amount of water necessary to support productive habitat for hunting, fishing, and gathering rights. The State argued, unsuccessfully, that the District Court either did not have, or should not exercise, jurisdiction because of the ongoing Klamath Basin adjudication. Appeals, if any, must be filed in late April.

City of Malin – Ground Water Issues: Paul Cleary and Department ground water staff met on April 9, 2002, with City of Malin, Tulalake Irrigation District (TID), California Water Resource Department, and Klamath County Commissioners. Discussions centered on interference problems between TID wells located across the state line in California and Malin's municipal well system. Monitoring in Oregon and California documented the direct hydraulic connection, with Malin's wells declining whenever TID wells were pumping. Malin recently lowered a pump in one well to improve reliability. TID does not anticipate pumping this season due to availability of Klamath Project water. All parties agreed to support Malin's efforts to drill a new well and seek funding from any available local, state and federal sources.

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Litigation Update

In Re Water Right Application in the Name of Coos Bay North Bend Water Board, WaterWatch of Oregon v. Oregon Water Resources Commission

Oregon Court of Appeals - Judicial review of January 17, 2001 Commission order approving Coos Bay North Bend Water Board water right application. State's brief due mid-April, will likely be extended to May 10.

Kerivan v. WRC, WRD

Oregon Court of Appeals – Judicial review of Josephine County Circuit Court dismissal of challenge to Department's refusal to initiate cancellation proceedings on a water right that had already been transferred. Court of Appeals heard arguments on March 15. Decision likely in six months to a year.

Lane v. WRC

Marion County Circuit Court – Challenge to Commission order denying “entry,” under the Carey Act, to state owned land in Deschutes County. Trial set for June 26 through 28.

Commission/Board Schedules

Commission/Board Schedules	Location	Date
Environmental Quality Commission (EQC)	April 23-25	Hines
Oregon Watershed Enhancement Board (OWEB)	May 16-17	Klamath Falls
Land Conservation and Development Commission (LCDC)	April 25-26	TBA
Parks and Recreation Commission	May 9	TBA
Economic and Community Development Commission	April 25	Fossil
Fish and Wildlife Commission	April 12	Portland
Geology and Mineral Industries Governing Board	May 16	TBA
State Board of Forestry	April 19	Salem

*TBA = to be announced