



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

MEMORANDUM

TO: Water Resources Commission

FROM: Phillip C. Ward, Director

SUBJECT: Water Resources Commission Meeting
Agenda Item C, January 13, 2005

Director's Report

I. Commission Follow Up

Bonanza Ground Water Study: The Department has completed a ground water investigation of the Bonanza area. The ground water investigation was conducted to address conditions that were included in 32 ground water permits issued in 1996. The report has made findings that there are no "excessively declining ground water levels" in the study area. However, wells that are located within the Bonanza Sub-Area have a direct effect on discharge from the Bonanza Big Spring. Hard copies of the report have been furnished to libraries, schools, and local government. Copies are also available on CD by request. With the study complete, the Department is processing water right extensions for those permits in the Bonanza Sub-Area to continue water use consistent with the findings of the study.

Well Constructor Continuing Education Program: Over the months of October to December 2004, the Department conducted well constructor continuing education classes in Pendleton, Bend, Roseburg, Tualatin, and Salem with over 90 participants statewide. Classes focused on well construction standards and ground water rules and statutes. On January 28, 2005, the Well Constructor Continuing Education Committee will meet in Salem to review continuing education course applications and to review and assign continuing education credits.

Oregon Coastal Coho Project: The State of Oregon is heading into the final phases of an assessment of recovery efforts for Coastal Coho salmon. The assessment will evaluate the effectiveness of the State's Oregon Plan efforts over the past seven years to recover Coastal Coho. As part of the State's assessment, the Department has completed a report on voluntary streamflow restoration in Coastal Coho streams and the impact of consumptive use on predicted streamflows. The State is planning to submit a draft report to the Independent Multidisciplinary Science Team for review in January 2005 and a final report to the National Oceanic and Atmospheric Administration (NOAA) and the Legislature in March 2005.

II. Current Events

Current Water Conditions: As of the end of November 2004, most of the state was well below normal for accumulated precipitation. The average surface water supply index is slightly below normal ranging from -2.4 in the Klamath Basin to +0.8 in the northeast corner of the state.

The Climate Prediction Center forecast through February 2005 is for above normal temperatures and precipitation. It is still early in the water year for a meaningful assessment of water conditions. January and February will be important months for the accumulation of snowpack and the resulting water supply for 2005.

Administrative Fee Work Group: On November 1, 2003, the Department convened an Administrative Fee Work Group as part of the Department's 2003 fee adjustment bill (HB 2268). The main task for the work group is to "evaluate the relevance, equity, and sufficiency of fees in ORS 536.050 and 537.762." The purpose of this provision is to ensure an on-going dialog about the Department's statutorily established fees and how they are being expended. The work group includes Commissioner Rasmussen, constituent groups, and Department staff. The first meeting of the work group included an overview of the Department's budget, opportunities for process streamlining, opportunities to contract out services, and trends in the Department's workload. The work group will meet again on January 21, 2005, to review the Governor's Recommended Budget and a draft report on the work group's discussions.

Real-Time Hydrographics Data: In October 2004, staff completed a project to add over 100 new real-time gaging station links to the Department's website. This project created a clearinghouse where real-time data can be readily accessed with almost double the number of links previously available. New links include real-time gages for US Bureau of Reclamation canals. Links to real-time hydrographic data are located at http://www.wrd.state.or.us/surface_water/index.shtml.

State Agency 2004 Toy Drive: The Department hosted numerous fundraisers in November and December 2004 to raise money for the Governor's State Agency Toy Drive. The Department collected close to \$1400 to purchase over 250 new toys in addition to the new toys donated by staff. Toys were donated to the Salvation Army's Toys for Joy Program.

Bicycle Commute Challenge: In September 2004, the Department participated in the Bicycle Commute Challenge hosted by the Bicycle Transportation Alliance. The Department placed first in its category (public agency with 100 to 499 employees) within the "mid Willamette Valley area." 13% of the Department's employees participated in the challenge with over 8% of all trips to work by bicycle.

Department's Website Changing: In January 2005, the Department website will have a new look as it is migrated to the "oregon.gov" format developed by the Department of Administrative Services. The new site will include all of the Department's existing data but will be easier to navigate, more user friendly, and have improved search engine capabilities.

Certified Water Rights Examiners (CWRE) Workshops: In October and November 2004, the Department hosted CWRE workshops in La Grande, Bend, and Salem. Workshop topics included the new CWRE and water right transfer administrative rules, new claim of beneficial use and transfer application forms, and the reimbursement authority program. This year's workshops had the best attendance to date with over 110 participants statewide.

III. Litigation Update

Brayman et al v. Lewis et al: Harney County Circuit Court – This matter involves several legal challenges to the watermaster's regulation of water in Foley Slough, a distributary channel of the Silvies River in Harney County. As part of settlement discussions, the parties developed a water management plan that outlines regulatory and management actions. The plan, which was finalized and issued after reviewing written comments, has been appealed to the circuit court. In January 2005, the Department will be hosting a meeting in Burns to work with Foley Slough/Silves River water users to explore developing a locally-based water management solution.

Fitzgerald Ranch, Inc., et al v. Oregon Water Resources Department: Lake County Circuit Court – Petitioner Fitzgerald Ranch, Inc. and others are seeking judicial review of a water right certificate the Department recently issued to Adel Irrigation District. In November 2004 the Department participated in a mediation session on the matter; to date no resolution has been reached.

Harrington v. Oregon Water Resources Department: Jackson County Circuit Court – This involves two separate petitions for judicial review. In May 2004, Petitioner Harrington sought judicial review of final orders denying reservoir permit applications. In October 2004, the Jackson County Circuit Court ruled in favor of the State's Motion for Summary Judgement and found the Department had properly denied the Applicant's Request for Reconsideration under ORS 183.484.

In June 2004 Petitioner Harrington sought judicial review of final orders related to water use regulation. There currently is no action on the petition regarding water use regulation.

Hood River Valley Residents Committee and Friends of Mt. Hood v. Water Resources Department: Oregon Court of Appeals – In September 2004 the above named organizations petitioned for judicial review of a final order approving a permit extension for Meadows Utilities LLC. The parties are currently negotiating; the record is due to the court in March 2005.

WaterWatch et al v. Oregon Water Resources Commission: Oregon Court of Appeals – In November 2002, WaterWatch of Oregon and thirteen other individuals, businesses, and organizations filed a petition for judicial review of the Commission's Deschutes Ground Water Mitigation rules, and Mitigation Bank and Mitigation Credit rules (OAR Chapter 690, Divisions 505 and 521). Briefing by the parties was completed in December 2003. Oral argument before the court took place in May 2004.

WaterWatch of Oregon v. Oregon Water Resources Commission and Coos Bay North Bend Water Board: Oregon Supreme Court – This case involves judicial review of a January 17, 2001, Commission final order approving a water right permit application for Coos Bay North Bend Water Board. Upon review, the court reversed the Commission’s order approving the application and remanded the matter back to the Department. In September 2004, the Oregon Supreme Court accepted the Department’s petition for review and also accepted the petition for review filed by Coos Bay North Bend Water Board. The Supreme Court also granted petitions by League of Oregon Cities, the Special Districts Association of Oregon, Oregon Association of Water Utilities, and the Oregon Water Resources Congress to submit *Amici Curiae* briefs on the merits of the case. Oral argument before the Supreme Court is currently scheduled to take place on January 7, 2005.

IV. Commission/Board Schedules

	Location	Date
Environmental Quality Commission (EQC)	Portland	Feb. 3-4, 2005
Oregon Watershed Enhancement Board (OWEB)	Pendleton	Jan. 19-20, 2005
Land Conservation and Development Commission (LCDC)	Salem	Feb. 2-4, 2005
Parks and Recreation Commission	Portland	Jan. 27, 2005
Fish and Wildlife Commission	Troutdale	Feb. 10-11, 2005
Board of Agriculture	Salem	Mar. 2-3, 2005
State Land Board	TBA	TBA
Board of Forestry	Salem	Mar. 9, 2005
Dept. of Geology and Mineral Industries (DOGAMI)	TBA	TBA