



Oregon Water Resources Congress Comments on
*Proposed National Objectives, Principles and Standards for Water and Related Resources
Implementation Studies* dated December 3, 2010

Submitted online on April 2, 2010

The Oregon Water Resources Congress (OWRC) is providing comments on the *Proposed National Objectives, Principles and Standards for Water and Related Resources Implementation Studies* ("Proposed Principles and Standards") issued by the White House Council on Environmental Quality (CEQ) on December 3, 2009. We are also including a copy of comments on the Army Corps of Engineers (ACOE) Principles and Guidelines Proposed Revision that OWRC submitted June 4, 2008, as many of our comments on that document are germane to this new document.

The Oregon Water Resources Congress (OWRC) represents irrigation districts, water control districts, and other local government water suppliers throughout the State of Oregon. Oregon districts operate and maintain water supply systems (federal and non-federal) that include reservoirs, canals, pipelines, and hydropower generation facilities production; and deliver water to 1/2 of all irrigated land in Oregon. This irrigated land yields a bounty of agricultural goods that are shipped around the world, including cherries, apples, pears, watermelon, onions, potatoes, hazelnuts, wheat, grass seed and other seed crops, nursery crops and Christmas trees.

OWRC has serious concerns about CEQ supplanting the Army Corps of Engineers role in revising the Principles and Guidelines, the lack of detail in the CEQ draft, and lack of balance between proposed environmental and economic planning standards. As stated in previous comments on the proposed ACOE revisions, OWRC agrees that the Principles and Guidelines need to be revised and should be applied to all federal agencies with water resources responsibilities. However, OWRC believes that a revision of this magnitude should be carefully developed through an open and transparent process involving all of the federal agencies with water management responsibilities. Because these planning standards ultimately impact our districts' ability to deliver water it is imperative that the revised standards are specific, understandable and feasible for federal agencies to implement.

OWRC is perplexed and alarmed that CEQ has wrested responsibility for the revision of the Principles and Guidelines away from the Army Corps of Engineers. Congress directed the Secretary of the Army to issue the revisions, not the President of the United States. Moreover, Congress directed the Secretary of the Army to consult with, among others, the Council on Environmental Quality. We believe this direction reflects Congressional acknowledgment of the Corps' knowledge and experience in water resources planning and in implementing projects to protect and enhance the nation's water resources while at the same time recognizing CEQ as a *resource* on environmental components of the Principles and Guidelines.

The CEQ Proposed Principles and Standards draft suffers from not having water resource planning expertise at CEQ and appears to have relied on policy staff more familiar with CEQ's environmental objectives. As a result, the document is difficult to use with a confusing intermixing of the terms "guidelines", "principles", and "standards" that lacks a sense of hierarchy among those elements of a guidance document and in planning efforts based on this document. We are concerned that this inconsistent in use of terms and the confusion within the document will not improve or add to the nation's water supply protection and development but worse, may well bring planning and project implementation to a halt while administrative agencies and courts work to bring order to the confusion. To be useful the document must be clear and concise, understandable and usable by the agencies and by the public.

It is difficult to provide comments on a document that is only partially complete, missing the Guidelines which will be developed by agencies and a later time. While the draft document does limit the use of this proposed document, it is difficult to accept that limitation without having the Guidelines available in order to assess their compliance with this limitation. Further, it is not difficult to image that federal agencies may turn to the Proposed Principles and Standards document for other uses and can do so without specifically referring to the Proposed Principles and Standards or without using or referring to the integrally related Guidelines, or acknowledging its use.

Furthermore, the list of Guidelines that will need to be developed is long and involve major levels of work to complete them (i.e. watershed planning, ecosystem services, monetization, non-monetary effects on several of the national benefits listed in the document, climate change, non-structure plans and a means to address exceptions to the requirements of this document). These guidelines will be major parts of the Principles and Guidelines and without them the full impact of the document on national water resources planning, development and protection cannot be estimated or properly addressed in our comments. The development of the long list of Guidelines will be expensive and will take a great deal of time. The two-layered process to develop the overall package of rules for the studies may well delay or even stop project development that would benefit the environment, the economy, and the nation's water supply.

CEQ, in its media release announcing the release of the Proposed Principles and Standards, states that one of the most significant changes proposed in the draft is "achieving co-equal goals" of environmental benefit and economic well-being in water resources planning. We agree that water resources projects "should both protect and restore the environment and improve the economic well-being," but are concerned about the lack of balance between these two goals in the draft document. For example, the language of the Planning Standards "...shall seek to protect and restore...the environment," when compared to the statement "encouraging sustainable economic development," over-emphasizes environmental benefits and treats economic benefits as an afterthought. It is hard to understand how this unbalanced treatment of environmental benefits and economic well-being amounts to co-equal treatment. There must be equal attention paid to both priorities and the Proposed Principles and Standards are clearly heavily weighted towards environmental needs.

Additionally, OWRC is concerned about the lack of detail describing what the "essential ecosystem services" are and how the value of these environmental benefits will be determined, prioritized, and monetized. In comparison to traditional economic evaluation, the concept of ecosystem services is very new with widely varying methods for evaluation and minimal on-the-ground implementation. This is an instance in which the document suffers from a lack of detail and including a lack of explanation of how environmental and economic "outputs" will be determined and measured. Furthermore, the terminology used throughout the Planning

Standards section of the draft seems to neglect the fact that humans are also an integral part of the ecosystem as active participants in restoration, beneficiaries of recreation and most importantly as dependents upon the environment for water, food and livelihood.

We acknowledge and appreciate that the Planning Standards' direct the use of watershed-based planning as this does recognize the diversity that occurs among watersheds. That does not overcome the overall sense that this document fails to recognize the partnerships that include the Federal agencies, states and local governments and others with interest in a given watershed that have resulted in successful watershed planning in states like Oregon. Unlike these recent collaborative and inclusive watershed efforts, the results of previous planning efforts in Oregon that were driven from the state down have not been successful tools to help watersheds meet their goals. We believe that the program as described in this draft document will likely meet a similar fate as the state driven planning effort in Oregon met and resulting in studies that will not be usable by the federal agencies or others in a watershed. The Federal effort will be better served and result in useful studies if it overtly and openly develops partnerships in the watershed from the very beginning of the process (including the development of the Principles and Guidelines) rather than rely on a heavy-handed Federalism approach.

While OWRC appreciates CEQ efforts to revise the Principles and Guidelines, we remain concerned about how proposed revisions will impact federal agency roles in water planning and management and ultimately our members' ability to deliver water to their patrons.

Rather than continue work on a document that fails to meet the goal of balance among the different national benefits, and is poorly written and confusing, OWRC recommends that CEQ abandon its effort and return the revision of the Principles and Guidance to the Army Corps of Engineers as originally directed by Congress. If CEQ wants to continue to pursue its interests which have been inserted in the draft document, it can do so in its role as a resource on the environmental component of the Principles and Guidelines as originally directed by Congress or via other means and reviews such as the Army Corps of Engineers recent effort "Building Strong Collaborative Relationships for a Sustainable Water Resources Future" or through development of interagency guidance documents that address specific CEQ interests. The use of the Proposed Principles and Standards document to advance those interests results in a document that is confusing and unusable and far exceeds Congressional direction to review the Principles and Guidelines.

Thank you for your consideration of our comments.

Anita Winkler
Executive Director



June 4, 2008

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Re: Principles and Guidelines Proposed Revision Comments

Thank you for the opportunity to provide comments regarding the proposed revision of the Principles and Guidelines. The Oregon Water Resources Congress (OWRC) is a statewide association founded in 1912 to represent local governments that supply water for irrigation, primarily irrigation districts and water control districts, as well as members' ports, and other special districts and local governments. The association represents entities that operate water management systems, including water supply reservoirs, canals, pipelines, and hydropower production.

In preparation for these comments, OWRC has reviewed the Federal Register Notice of May, 8, 2008; the 1983 Economic Principles for Water and Related Land Resources Implementation Studies and; Section 2031 of Public Law 110-114 and the accompanying legislative history.

Our overarching observation is that Congress would not have requested revisions to the Principles and Guidelines if the process of formulation, evaluation, and implementation of water resources projects was working. When the totality of Public Law 110-114 is examined with particular attention to Title II of the Act, the context of this directive in Section 2031 is better understood. More importantly, the country, environment, economic conditions, education, technology and operational understanding of water resources, as well as abilities within State and local government have changed since the last revision to the Principles and Guidance. It is within this framework that we offer the following comments for revising the Principles and Standards.

We have a great concern that such revisions will apply only to the U.S. Army Corps of Engineers (Corps). We believe Congress failed to appreciate the consequences of no longer having "proper and consistent planning" among **all** of the Federal water agencies. Though our membership has little operation experience with the Corps (and what experience they have is mainly through the regulatory program), we have a greater expectation of a greater relationship as a result of the passage of Public Law 110-114 and the new opportunities that it would afford to addressing needs in our region. We do not understand why such changes do not include the Bureau of Reclamation and the Department of Agriculture as previously covered agencies.

Furthermore, given the role that the Environmental Protection Agency, the Bonneville Power Marketing Administration, the U.S. Geological Survey, the U.S. Fish and Wildlife Service, Bureau of Land Management, the U.S. Forest Service, the National Oceanic Service and the Bureau of Indian Affairs

play in our region with regard to water resources planning and in looking at National Economic Benefits (NEB), we feel there is a need for better integration of the Federal partners in your process.

In addition, the effort in which the Corps is now involved needs to be inclusive of the Homeland Security issues regarding disasters. They are not just natural in scope. This represents a whole new category of economic costs and benefits not accounted for in 1983. Our organization has been actively engaged in the issue of security costs (who pays and what is and is not covered) with your fellow federal organization, the U.S. Bureau of Reclamation.

As part of this effort of revision we also believe the effort needs to be consistent with the Strategic Plan of the Corps. Strong consideration should be given to updating the Principles and Guidelines when the Strategic Plan is updated. We have noted that Federal agencies do not uniformly update their plans in coordination with a schedule that would allow those outside of Washington, D.C. to see a consistent Federal water resource vision and strategy. This is why we have been supportive of a National Water Policy Commission. Furthermore, we believe it is important to provide “definitions” to new terms of art that we would expect to find in such a revision such as “sustainable”, “degradation”, “vulnerabilities” and “watershed” as well as many others. Providing such definitions lends “consistency” to the planning process and an understanding of the expectation by all parties with an interest in the successful outcome of the project.

Given the Government Accountability Office (GAO), National Academy of Science (NAS) Independent Non-Governmental Organization (NGO) and Media series on program and policy abuses in the Federal water resource programs, we believe there should be greater transparency in the planning process. The 1983 Principles call for Federal water resource planning to be “responsive to State and local concerns”. We believe the Federal government has fallen short of that goal. In this day and age of a new technology that was not around in 1983 – the Internet – there should be no excuse for the lack of transparency in the process of developing the Principles and Guidelines. We would recommend that you post the comments that you have received from this process, and those to follow, on a website so we can all collectively learn from others and create a base of knowledge capital that can be used as a foundation on how to proceed.

We would recommend that you adopt as a model for this effort the elements described in the three pages that we have attached to this document that were taken from a recent publication of the American Society of Civil Engineers – State Water Resources Planning in the United States. When viewed in conjunction with the need for stakeholder involvement, a bettering of the process can take place. But we believe it is the cost-sharing partner who should be co-equal in the decision-making process.

As with other Federal water resource agencies we have heard about the issue and question of whether there is “consistency” from Corps District to Corps District. This must change. A possible conduit for rehabbing the Principles and Guidelines are the “Centers of Expertise” that were formally established under Public Law 110-114. These could serve as the “platform” to be the educational instrument for assisting in the understanding and expectation regarding how the Principles & Guidance would be used in that particular business line. Oregon has a strong history of watershed planning, often through locally governed and driven watershed councils or other local governments.

As studies go through this process, the expected Budget should match the effort and show the time to complete the project at an optimal funding schedule. We have heard the stories of projects taking 23 years to go from start to the end of the building process. That is not planning to meet a need. The process needs to be shortened and, if necessary, establish and commit to some fast track process if

funding is advanced to meet a priority need established by a state. Preparedness is an important cornerstone for alleviating and or eliminating the “crisis” approach to responding too late.

In the Northwest, we have our international issues with regard to the Columbia River. Our friends elsewhere in the West have their international issues on the Colorado River and Rio Grande River with Mexico. Others in the Missouri River Basin have theirs with Canada as well. Times and technology have changed and the new Principles and Guidelines need to reflect those expectations with regard to international concerns. In addition, the Columbia River system plays an important role in the power and navigation programs of the Northwest and we feel the revised Principles and Guidelines need to reflect the role of that system in regional economic development and national economic development benefits.

It is unclear from what we know of your process how Indian Tribes are treated under your proposed revision. A number of our members have worked in partnership with Tribes in our state and have found them valuable partners in the process of addressing needs in a watershed. We would suggest you provide some understanding of the expectation of how they fit into your process as part of updating your Principles and Guidelines.

As we noted earlier, times have changed since 1983. New State and Federal environmental laws have passed, population of areas have changed, the existing infrastructure has aged, and now there is an issue of world concern – climate change – that has come front and center in every discussion. We have no better crystal ball than anyone else with regard to the final content of Federal legislation on this issue. However, we would suggest you note sections 1254 and 1255 of the Senate amendment recently proposed by Senator Boxer. It appears to suggest a larger mission for the Corps in the environmental quality/environmental restoration area. The challenge appears to be a question of why expending resources presently on ecosystem restoration would work when the expectation is that sea level rise will occur and dramatically affect such efforts if climate change is not successfully addressed.

We raise this issue because we see the importance of addressing aging infrastructure and possibly the advantage of having a single purpose water supply being built to take advantage of the consequences of potential climate change – more rain, snowpack melting quicker, etc. as a greater priority for your program. It would appear to meet the definition of what “planning” is supposed to be about.

Conclusion

People don’t understand what they don’t know. We would strongly encourage you to use the annual or quarterly conferences of organizations such as ours to explain the Principles and Guidelines and, when completed, the Procedures for your program. We all have “technical” sessions if that is what is required. We view this as a two-way street. We are not looking for the heavy hand of Federalism to “tell” us what we need. We would like you to “explain” what you are doing and then “listen” to what we need.

Keeping in mind what Congress has provided for by way of direction in Public Law 110-114, some new adjustments need to be made in the Principles and Guidelines. But it may be that a comprehensive review of the Procedures accompanying the Principles and Guidelines is the most important part of this process. Added to that is the expectation of new guidance documents to accompany other policy areas addressed in Public Law 110-114 and a mosaic of moving pieces begins to form making it even more challenging to understand the prime objective of this exercise.

In addition, the integration of new assistance programs from the recently passed Farm Bill and ongoing changes to the Reclamation program should be reflected in your changes. It is a great opportunity for the U.S. Army Corps of Engineers to become the Federal "integrator" for the Federal government as a way of responding to the water and economic needs as expressed by State and local government, as well as Indian tribes.

We look forward to continuing to work with you throughout this process and offer our annual conference or other meetings as a venue to assist in the explaining of your efforts in this critically important area.

Sincerely,

Anita Winkler
Executive Director

ATTACHMENT TO COMMENTS FROM THE OREGON WATER RESOURCES CONGRESS

WATER RESOURCE PLANNING PRINCIPLES

Management of water resources should be sustainable so as to ensure that present and future generations have adequate supplies of good quality water to support their needs as well as those of natural systems.

Water resources planning processes should address ways to instill citizens with a stewardship obligation to conserve and protect their water resources.

Water resource planning and management should be founded on sound science, recognizing the interdependence of economic development and environmental quality.

Identification and prioritization of critical water-related issues and the development of strategies for addressing them should be ingrained in water planning processes.

Attributes of accountability and performance should be evident in water resources plans.

Available data and information technology should be optimally used to aid in setting priorities, assessing plan effectiveness, and to facilitate public access to information.

Water quality, water quantity, surface water, and ground water are interrelated and should be considered in that context, along with that of reasonable and beneficial use.

Effective water resources management requires meaningful participation, coordination, and collaboration among all affected stakeholders, including all relevant levels of government.

Working partnerships between water resources planning agencies and relevant stakeholder organizations foster plan acceptance and implementation.

Stakeholder involvement should be up-front, open, and collaborative.

Water planning agencies should design and maintain data systems that contain the scientific, demographic, institutional and economic information needed to develop sound plans and support good decisions.

Water resources planners should seek and incorporate innovative practices in their planning processes.

Water resource planners should consider partnering with water research organizations to aid them in developing databases and approaches to support planning and decision making processes.

Periodic revision of water plans will be required to accommodate new scientific and policy developments, and changing social, economic, cultural, and environmental conditions.

Water resource assessments should include current water sources and uses as well as forecasts of future water requirements for humans and ecosystems.

To the extent practical, the potential impact of global climate change should be considered in water resources plans.

Given concern for homeland security, water resources planners should incorporate measures that focus on water security, namely robustness, resiliency, emergency response, and the sustainability or recovery of services under catastrophic conditions.

Monitoring criteria for measuring the effectiveness of implemented alternatives should be included in water resources plans.

Mediation services to facilitate reaching consensus on water planning issues should be incorporated into the planning processes.

Water planners should consider the use of adaptive management as a planning tool. This process provides planning flexibility by incorporating scientific feedback as plans are implemented. The process encourages learning as plan implementation unfolds so that future decisions will have an enhanced database to support them.

An emerging tool applicable to water resources planning is share vision modeling. These models are suited for collaborative planning processes. They provide the technical rigor needed to identify options and tradeoffs while permitting stakeholders without modeling experience to participate in the process.

Educational programs directed towards children, the public, decision making bodies, NGO's, and others should be considered part of the planning process. Such programs support understanding among stakeholders, reaching consensus, and informed decision making.

Water planners should consider the need for research to support planning processes. This could be in-house, accomplished by partner organizations, or provided by contractors.

Excerpted from: State Water Resources Planning in the United States, by Warren Viessman, Jr. and Timothy D. Feather. Published in 2006 by the ASCE

OVERVIEW OF ELEMENTS FOR CONSIDERATION AT THE STATE LEVEL FOR PLANNING PURPOSES

Published State Water Plan

Goal, vision, mission

Direct stakeholder involvement

Shared vision planning

Monitoring and Assessment

Compartmentalized planning

Regional, river basin, watershed

NGO involvement

Federal & local government involvement

Coordination/collaboration

Adaptive management

Integrated Planning

Comprehensive planning Plan

implementation strategy

Research component

Education Component

Drought management component

Climate Change

Plan revision timetable

Sustainability considered

Water Supply planning only

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