

Oregon Water Resources Congress

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WATERWORKS



ISSUE #24

The mission of the Oregon Water Resources Congress is to promote the protection and use of water rights and the wise stewardship of water resources.

A NOTE FROM PRESIDENT TROSI

Most of us involved with OWRC are in one way or another connected with managing a resource. I believe we try to manage that resource not only to benefit those that have developed the resource and the rights to the use of that resource, but also to accommodate others, to the best of our ability. I see parallels to resource management and the legislative process, and I know that's a little bit of a leap but having done both, you do try and work with others to understand and accommodate their views.

Sometimes, however, the trouble with accommodating others views in managing a resource or in the legislative process is that they come to expect it. There comes a time when you have to go back to the basics or the premise of which your rights were established and stand up for that standard.

As we come to the end of the legislative session, bills that OWRC staff have worked on throughout the course of the session may require us to take a hard-line stance. Kristina McNitt, Anita, Chuck Wilcox and the OWRC Legislative Committee have done an excellent job addressing legislation that could have an effect on the resources we manage.

Additionally, resource wise, changes in policy makers or opinions affecting our water resources can continue to chip away at the way we manage our water deliveries if we don't hold the line on certain values. It takes time, money and effort to hold the line on our historical practices. OWRC as an association of irrigation districts as well as its affiliate members need to continue to explore ways to fund, manage and administer the resources of the districts.

- Larry Trosi,
OWRC President

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OWRC Maps Now Available!!!

Ever wonder where all the OWRC District Members are in the state? Well, even if you haven't you can now purchase a custom map of Oregon, developed by Winzler & Kelly, that shows the location of OWRC district members, assessed acreage, and water basin.

42" x 36" color map

Ready for lamination or framing

Only \$25

(Plus shipping and handling)

Contact OWRC to order yours today!



EXECUTIVE DIRECTOR'S & LEGISLATIVE REPORT

As I write this, the Oregon Legislature has just adjourned *sine die*. The change in the wind patterns you may have noticed late Monday evening were the collective sighs of relief from the Legislators and the lobby.

As you read this column, you may think that OWRC has been working only on state legislation for the last few months. That is no quite true. We have continued our Federal efforts with the help of Peter Carlson in D.C. and Marc Thalacker who has taken a very active role as chair of the Federal Affairs Committee and filled in for staff when I have been at the Capitol. April Snell is getting a taste of the federal issues tackling climate change and some other issues for us. Peter Carlson's article highlights the Federal activity this year so far and what is on our agenda in the next several months.



We had our second district managers' workshop in March. I didn't know if we could do better than we did with the first one, but we did. We had most managers attending and the discussion was lively and informative. These are a success because the managers decide what they want on the agenda and then provide the program through their sharing with each other. We have already started the arrangements for the 2010 workshop. (Gee, how can we already be working on something for 2010?)

This has been a different kind of session for me with full control of the Legislature and the Governor's office in Democratic hands. That certainly changed the dynamics for OWRC and for Kristina and me. OWRC's Legislative Committee has been unceasing in its willingness to meet every other week and even more often if we needed quick response on legislation.

Our priority bills addressing the appointment of a district director in the event of a vacancy between elections (SB 663) and to extend the pilot district transfer program to additional districts (SB 664) have both been signed by the Governor. The bill to reinstate immunity to landowners, including districts holding easements over land, for the use of that land to access recreational opportunities (HB 2003) passed the Senate and House and is awaiting all the needed signatures to make it law. Our other priority bill that would have required any party wanting to discharge stormwater into a district canal get an agreement from the district (HB 3454) was gut and stuffed with a totally different bill late in the session.

The Water Resources Department budget for 2009-2011 was approved with no more cuts in staff beyond those taken early in the legislative session to rebalance the current biennium budget. There were reductions taken in the budget for the Klamath adjudication and for groundwater studies for the next biennium. But other cuts were avoided by significantly increase fees for all the transactions handled by OWRD and by implementing a new fee for geo-technical holes and registration of new exempt ground water wells. The fee increases can be found in SB 788. If you want a copy of a spreadsheet of the fee increases prepared by OWRD contact our office and we will be glad to email it to you.

Our focus in the last couple of weeks of the legislative session was on HB 3369, a bill to provide funding for water development projects. This has been the topic of some recent emails to our members so I will not repeat the information about this bill here. OWRC is one of very few voices that opposed this bill. The bill did pass both houses of the Legislature and will be on the Governor's desk in the near future. Our effort was not lost until the last few hours of the legislative session because of Kristina's dogged work following the last days of the Ways and Means Committee and unceasing effort talking to Senators about the bill.

While I can often thank one or two people for specific actions in this column, it is impossible to thank everyone who helps move OWRC's mission and principles forward. As we near the end of this Legislative Session, it is an opportune time to do just that.

-----Continued next page----->

EXECUTIVE DIRECTOR'S & LEGISLATIVE REPORT CONTINUED

In the last few days of the legislative session, I asked our members to contact their state senators and representatives asking them to vote no on HB 3369 as amended. We had very little time to make those contacts as the bill was moving quickly through the end of session process. You responded with emails, letters and phone calls to your senators and representatives. And you made follow up contacts to your Senator if we contacted you as we were working to defeat the bill in the Senate. Kristina's efforts would not have reached the point they did without your responses to our requests.

That point of all this is to tell all of you how much I appreciate your response when we need it. When we are working hard and feeling like we are pushing water uphill on legislation, your quick response to our request for help makes that push seem less difficult and reminds us why we are working hard to represent you. Your efforts reinforce our contacts with legislators and are key to building OWRC's reputation in representing your interests.

I can't individually thank each of you that took time to make the contacts we requested in this column, but be assured, we are very grateful for your effort. The final votes on HB 3369 belie the effects your contacts with your legislators had. Those contact made a difference – to us and to legislators. So please accept my thanks as a collective thank you and an individual thank you even though you are not each mentioned here.

With the end of the legislative session, our attention now turns to our upcoming Water Law Seminar, which will be September 24-25 at the Eagle Crest Resort in Redmond. The agenda will include information about just passed water-related and district-related legislation. We have invited some Legislators to speak. We have also invited staff from state agencies to talk about their respective agency's bills. We plan to have the agenda out by the end of this month.

We are just beginning work on the annual conference program. If you have suggestions for the program or something you would like to have covered, please email me (anitaw@owrc.org).



– **Anita Winkler, OWRC Executive Director**



EVENT UPDATES

2009 OWRC WATER LAW SEMINAR

Save the dates!!!



The **2009 OWRC Water Law Seminar** will be held **September 24-25th** at the Eagle Crest Resort in Redmond, Oregon.

The **2009 OWRC Golf Tournament** will be held **Wednesday, September 23rd** at the Eagle Crest Resort.



Further details and registration materials for both events will be sent out shortly.

WRAP-UP: 2009 DISTRICT MANAGERS WORKSHOP

The 2009 District Managers Workshop was held March 5-6 at the Hallmark Resort in Newport. 23 District Managers participated in the workshop and shared resources with one another. Topics included personnel management, stormwater issues, funding sources, intergovernmental agreements, and many other issues.

As a result of the workshop, a Managers group page, through Google has been re-launched to allow managers to ask questions and share documents on an integrated secure website and listserve. Only district managers are eligible to join the group. For more information about the group, please contact me.

Next year's District Manager's Workshop will be held March 4-5th, 2010 at the Hallmark Resort in Newport.

– **April Snell**

OWRC Assistant Director



OWRC RECEIVES "PARTNERS IN CONSERVATION" AWARD

In May it was my privilege to travel to Washington, D.C. to accept the *Partners in Conservation Award* from the U.S. Secretary of the Interior on behalf of OWRC. This award was made to OWRC and to the Pacific Northwest Region of the Bureau of Reclamation for the *John W. Keys III Partnership Program*. That program evolved from a dinner conversation with then Commissioner of Reclamation John Keys during one of our annual conferences when we were bemoaning the loss of historical and operation knowledge about irrigation district operations as long-time Reclamation employees were retiring and being replaced by new employees who had not grown up in or around irrigation districts, or in many cases, had not grown up in the west. We realized that we needed to step up and provide some training for these employees and could best accomplish that by having them spend extensive time in a district. Commissioner Keys committed to provide the resources needed from Reclamation if OWRC would commit to helping develop the program and our districts would commit to hosting the program.

The program consists of a two-day session during the water season and a two-day session during the dry season so the participants can see operations and maintenance activities under different conditions. They visit the district's system from the point of diversion to dams and reservoirs, different kinds of canals and piping, pumping systems and fish screens. They spend time with district board members, sometimes attend a board meeting, visit farmers to see different kinds of irrigation systems and learn about the crops being grown. One group assisted in the safety inspection of a siphon. Another group has visited a habitat restoration project.

So far about 30 Reclamation employees have participated in the program. They are from the former Portland area office, the Bend field office, the Pacific Northwest Regional office, the Upper Snake area

office, the Denver offices and from headquarters in D.C. I've had the good fortune to participate in all the programs and the pleasure of getting to know the Reclamation employees. I have been impressed with the intensity they brought to the program, the quality of the questions, and the overall caliber of the individuals and their commitment to Reclamation and its service to their customers. The feedback from Reclamation participants and management has been extraordinarily positive. Similarly, the feedback from the districts that have hosted the program has been positive as far as the actual program, the interest shown by the Reclamation employees in the program, and the relationship the program has built with Reclamation.

Thanks to the *Owyhee Irrigation District, Talent Irrigation District, and North Unit Irrigation District* who have hosted the program. They have devoted four full days of their managers' time plus uncounted hours of their employees' time for the actual visits plus the time to plan very full agendas for the days.

It was not only my privilege to accept the award on behalf of OWRC, it's been my privilege to work with these districts. The award belongs to the Federal Caucus that supported OWRC's involvement in this program and helped develop the concept behind the program and to the host districts who really are the heart of the Keys Partnership Program. I would be remiss if I did not also acknowledge Bill McDonald, PNW Director, for his commitment to the program. He assigned Sue Tholen from his office as the coordinator for Reclamation and he has been steadfast in his support for employees from the PNW region to participate. Without Sue's involvement, we would not have gotten this program off the ground nor would we have been able to sustain the quality of the program.

– **Anita Winkler, OWRC Executive Director**

UPDATE: OREGON WATER SUPPLY AND CONSERVATION INITIATIVE

Online tools developed as part of the Oregon Water Supply and Conservation Initiative are now available on the Oregon Water Resources Department's website. These tools include **Water Demand Forecast**, database of **Conservation Opportunities**, and maps of **Potential Storage Sites**. Highlights include:

- Online forecast model and a downloadable spreadsheet model that can be used to test demand assumptions.
- Maps for investigating potential water storage sites that includes an above-ground storage site search and a below-ground site search, with the ability to view on a map and any available information about the sites.

To use these tools, or for more information visit: http://www.wrd.state.or.us/OWRD/LAW/owsci_info.shtml

FEDERAL PROGRAM

SPRING NEWS FROM WASHINGTON DC

News From the Land of Further CHANGE

Now six months old – the 111th Congress and the Obama Administration – the expectations of results from the previously put forth Agenda have become clearer. With that however, has come a level of frustration with regard to the inconsistent pace and transparency that was promised.

ARRA 2009

When the American Recovery and Reinvestment Act (ARRA) passed into law four months ago the expectation that had built up from the anticipation of funding for water resource programs was overwhelming. Congress has done a fair job of oversight on how the money is moving through the programs, but the message they have been hearing is one of mixed results. At this point less than 10% of the funding for the Bureau of Reclamation has made its way out the door – check in hand. The Army Corps of Engineers is expecting to have obligated 45% of their ARRA funding by September 30 of this year. The EPA has been better because of the formula driven nature of their water programs.

OWRC continues to work with the Water Resources Coalition here in Washington, D.C. to advance and monitor these efforts.

FY2010 Appropriations

With the release of the Administration Budget earlier this year and more detailed agency budgets two months ago Congress has completed its hearing process for these proposals and started moving forward on “marking-up” their FY2010 bills for these agencies. The process was slowed until the confirmation process for the Administration

appointees was complete so the agencies views could be appropriately heard and understood and the results of that effort are reflected in how Congress is currently changing that proposed budget.

The first Appropriation bill approved by the House was the Interior and Environment bill. This bill funds the EPA and the USGS among other agencies. The bill provided the EPA with a substantial increase for FY2010 with a total of \$10.46 billion largely for the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund. The Senate has moved the bill through Committee providing EPA with \$10.19 billion with slightly less for these two Funds.

The House Appropriations Committee Energy and Water Subcommittee reported out their bill to full Committee before the July 4th recess. This bill funds the Bureau of Reclamation and the Corps of Engineers. The Subcommittee recommended a \$17 million increase in the Bureau’s program (\$1,080 billion) and a \$416 million increase for the Corps (\$5,541 billion). These increases may not sound significant, but you have to keep in mind the very significant funding each of the agencies received in the ARRA.

Omnibus Public Lands Act

Congress was finally able to pass the Omnibus Public Lands Act which contained several provisions of interest to OWRC that were reported on in the last newsletter. It became a Public Law on March 30 – P.L. 111-11. OWRC is actively involved in the implementation of the FRIMA reauthorization provision and is working through the Water Resources Coalition (WRC) on the broader Westwide/Nationwide issues concerning Interior water resource programs. The WRC has embarked on a 21st Century Blueprint project with its’ membership to provide a national perspective for decision-makers on planning and coordination by Federal agencies to better assist, Tribal, State and local governments. This is being done in conjunction with not only the new efforts in P.L. 111-11, but also with efforts underway the U.S. Army corps of Engineers and the EPA and the continued efforts by Congress with regard to a comprehensive integrated water policy.



More Information about ARRA

OWRC has posted several Administration documents on its website pertaining to the guidance documents for the programs. Visit www.owrc.org and click on the ARRA link.

We also encourage you to visit the following websites for the latest information:

- www.recovery.gov
- www.omb.gov
- <http://recovery.oregon.gov/> (Oregon info)
- www.defenselink.mil/recovery (Army Corps)
- www.doi.gov/recovery (Bureau of Reclamation and Department of Interior)
- www.epa.gov/water/eparecovery (EPA’s Water Programs)

Other Congressional Action

On June 18th the Senate Environment and Public Works Committee reported out S. 787, the Clean Water Restoration Act – their effort to clarify the jurisdictional reach of the Clean Water Act. The legislation removed the term “navigable” from the definition of “waters of the U.S.” OWRC has been working through the National Water Resources Association and directly with the Oregon Delegation offices regarding the significance of these changes to Oregon water users. The legislation will not likely come to the Senate floor in the near future because of the use of a procedure called a “hold” to keep the bill from coming to the floor. There is no companion bill on the House side at this time. Please stay in touch with the OWRC Federal Affairs Committee regarding the efforts on this issue.

The House has also passed H.R. 2998 the American Clean Energy and Security Act (ACES) on June 26th (The bill that was reported out of Committee was H.R. 2454 if you want to dig into background details and reports). There are numerous provisions in this legislation of interest to OWRC members and a version of this legislation will next be taken up in the Senate Environment and Public Works Committee later this month. There are hydropower provisions, climate adaptation fund programs, and water efficiency programs that may end up as new tools if this legislation ever becomes law.

To further add to the confusion, the Senate Energy and Natural Resources Committee reported out the American Clean Energy Leadership Act (ACELA). A collection of bills, it reportedly has language on including hydropower in the definition for renewable energy sources requirement for utilities. How this legislation will coincide with the Senate Environment and Public Works Committee efforts on Climate Change legislation are not clear.

Draft Sustainable Watershed Planning Efforts

Several drafts have emerged from the House Transportation and Infrastructure Committee concerning an effort to develop Sustainable Watershed Planning Act. Many are questioning the need for this effort. However, a careful reading of the Climate Change legislation, the philosophy behind the Clean Water Restoration Act and an expected Executive Order on Floodplain Management points to an interconnectedness with regard to the National Environmental Community document “Transitioning to Green” that was released earlier this year and the push for “environmental restoration”.

OWRC has been quick to share the potential conflicts with the efforts that have been underway for

years through OWEB in terms of how watershed planning works in the Northwest. Please stay engaged with the Federal Affairs Committee as these efforts continue to unfold.

Revising the Principles and Guidelines (P&G)

The Council on Environmental Quality (CEQ) has announced an effort to request suggestions for a proposal to develop uniform planning standards for the development of water resources that would apply government-wide. The existing P&G are the economic and environmental principles that are used to evaluate water resource development projects of the Corps of Engineers, the Bureau of Reclamation, the Natural Resource Conservation Service and the TVA.

Aside from the questionable legal authority to do such (Congress directed the Secretary of the Army to undertake this effort in WRDA 2007), there is greater concern about the consequence of future water resources development being able to take place while this effort is underway. The effort is expected to center on “monetizing ecosystem restoration benefits”. OWRC provided comment last year during the Corps effort to move forward with their Congressionally directed work. There is a Webinar on July 13th on the issue and OWRC has the announcement if you are interested.

The Final Word

With so much taking place in Congress and the Administration on issues of importance I continue to encourage you to participate in the OWRC Federal Affairs Committee. There are issues such as the efforts underway on Salmon Strongholds, Water Security, or moving forward with implementation of the Rural Water programs of a few years ago that I didn't report on here, but are just examples of a few of the items that may come into play as you look at your own operations as the Administration comes forth with new policy changes or Congress spews forth with legislation. OWRC – not only at the state level – continues to play a large role in the shaping of these issues covered in this newsletter. It is made easier by your participation. Thank You.

And remember, August is a Congressional recess. Now is a good time to schedule a meeting with the members of the Oregon delegation to give them some firsthand feedback on these issues.

Thank you again for your continued interest and involvement in OWRC's Federal Affairs Program.

**– Peter Carlson, Will and Carlson,
OWRC Washington DC lobbyist**

DISTRICT ISSUES

STORMWATER IN DISTRICT CANALS

That's not our water!

OWRC has become aware of a problem in some areas of the state where stormwater runoff is being discharged into district canals without the permission of the district. Stormwater runoff that is discharged into district canals, pipes, and other conveyance structures without district authorization poses several serious issues for district managers. These issues include:

- **Pollution:** Stormwater runoff can contaminate canals and other delivery structures and the water supply is conveyed. Ensuring a clean water supply is crucial as this water is provided primarily for the purposes of irrigating food and other crops. District members are concerned that they will be held responsible and liable for polluted water that came from other sources and entered their systems without their permission.
- **Capacity of conveyance structures:** Irrigation systems are designed to deliver water to lands, not to move stormwater. Drainage ditches owned and managed by districts are designed to move run-off from agricultural lands, not from urban or urbanizing lands. Unauthorized stormwater runoff can overload canals, ditches, and other conveyance structures causing breaches, and flooding business and residential property and buildings.
- **Interference with system maintenance:** Stormwater runoff can interfere with scheduled maintenance that occurs during the off-irrigation season, which is generally during the winter months. Personnel and equipment conducting that maintenance and construction work in the canals and are at risk if stormwater runoff is discharged to irrigation canals without permission.

- **Increased regulation:**

Introduction of stormwater to irrigation canals and other delivery systems could lead to increased regulation for pollution. This regulation could include new permit requirements under the National Pollutant Discharge Elimination System (NPDES) as some the Ninth Circuit Court of Appeals found that water in irrigation canals can be considered waters of the United States. Further, some districts' canal systems return water to navigable waterways and districts could lose different kinds of regulatory relief from carrying stormwater.



Because of these serious issues and specific problems with a few cities and counties, OWRC introduced HB 3454 to create a legislative solution. As originally drafted, HB 3454 would have created civil penalties for unauthorized stormwater discharges into district conveyance structures. Unfortunately, this bill was "gut and stuffed" with a different piece of legislation and did not move forward.

In addition to the legislation, OWRC is working with the cities and counties to find other ways to address stormwater issues. OWRC has provided information for the respective associations to use in informing their members of the problem and hopes to co-sponsor an event on stormwater issues in the future.

While the negative impacts of stormwater runoff are of grave concern to OWRC members, there are opportunities for districts, cities and counties to work collaboratively to address these issues before more serious problems arise. Through increased communication and cooperation between districts, cities, and counties, unauthorized stormwater discharge and its unintended consequences can be prevented.

– April Snell

OWRC Assistant Director

Do you have ideas on Oregon's water planning effort??



The Oregon Water Resources Department wants your thoughts on how to best to develop a process that involves all the different stakeholder interests as it moves forward with a long-term water resources strategy. If you would like provide your thoughts, the Department has a short online survey that you can fill out. Its only seven questions and your ideas will help shape this important planning process. To complete the survey, visit: http://apps2.wrd.state.or.us/apps/misc/customer_survey/

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UPCOMING EVENTS

2009 OWRC Water Law Seminar September 24-25th

*Eagle Crest Resort
Redmond, Oregon*

2009 OWRC Golf Tournament September 23rd

*Eagle Crest Resort
Redmond, Oregon*

2009 OWRC Annual Conference December 1-4th

*Best Western Hood River Inn
Hood River, Oregon*

**For more information about these events,
visit www.owrc.org**

OWRC on the Road...

Members relaxing at Scoggins Dams during a recent tour of the Tualatin Valley Irrigation District in Forest Grove.



From lower left: Chuck Wilcox, Hermiston Irrigation District; Heath Curtiss, Stoel Rives; Ray Kopacz, Stanfield Irrigation District; Joe Rutledge, Tualatin Valley Irrigation District; Marc Thalacker, Three Sisters Irrigation District; David Filippi, Stoel Rives; Steve Bruce, EnviroLogic Resources; Jay Chamberlin, Owyhee Irrigation District; Dawn Wiedmeier, Bureau of Reclamation; Harvey Manser, Owyhee Irrigation District; and Blair Nash, Sutherlin Water Control District.