

Oregon Water Resources Congress

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WATERWORKS



ISSUE #19

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.

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A Note from President Pendleton

We are nearing the end of another irrigation delivery season (thank goodness). As always, we now start looking towards the upcoming maintenance season and the inevitable task of putting systems back together and completing projects in time to spin our systems up for the next season.

This has been one of the more interesting years because most of our problems have not necessarily stemmed from what would be the traditional water delivery problems. The problems have tended to be in the form of ESA, TMDL, storm water, land use issues and labor problems, even though our authority actually lies with water right/water delivery issues.

As always, our staff at OWRC has been able to keep us informed and educated on the issues and problems that come up from around the State. The staff is always very responsive to any questions that come up from the membership.

Anita and her staff, together with the various committees and attorneys, have put forth an excellent list of seminars and conferences for this fall and winter. The information being presented is aimed at helping the districts and entities navigate the ever increasing complicated issues facing irrigation districts.

To that end, I would like to thank the OWRC staff, committee chairs and their respective committees and the OWRC attorneys that are always willing to give freely of their time to help keep the organization strong.

Jim Pendleton
OWRC President

EXECUTIVE DIRECTOR'S REPORT

It's been some time since I've written a column for the OWRC newsletter, mostly because it's been a long time since we've published one. I'm glad to be writing this one and looking forward to resuming somewhat regular publication of the newsletter.

Lest you think that everything else has been as quiet at the OWRC offices as our newsletter activities, let me assure you, that is not the case. Our committees continued their work, much of which is reported elsewhere in this newsletter and the Board has been hard at work meeting the needs of our members.

The Legislature adjourned sine die Thursday, June 28, 2007, the earliest adjournment since I have been with OWRD. It was a very different session from many perspectives – new leadership with the Democrats in the majority, different kinds of bills about water supply and water quality that I have seen the last 3 session, and generally just a different atmosphere in the Capitol building. Consider this a tease to encourage you to attend the Water Law Seminar. As you can read in my legislative report on Oregon, overall, it was a successful, but unremarkable, session for OWRC.

As I write this, we are in the midst of lining up speakers for our annual conference. While I am usually excited about the conference agenda, this year's conference agenda has a very different feel to it as we celebrate OWRC's 95th anniversary with sessions that focus on creative actions to address the challenges our members face. We should have the preliminary agenda out by late next week. We will be at the Hood River Inn again this year, November 27-30, with a members-only workshop on how to become more involved in local land use processes on the 27th.

In a couple of weeks, I complete 6 years with OWRC. I'm not very good at looking back – I don't keep a diary and I file my calendar pages at the end of each year. I tend to be more interested in the next challenge and the next activity rather than very retrospective. I have no reference for what OWRC was like before I joined so I can only look at what has happened while I have been here. I do know that OWRC is recognized by many other groups as a leader in the water business and we are consulted early and often on water-related issues.

It seems that each year, another group or agency or new individuals contact us asking for our input on policies and issues in general. This seems an appropriate time to recognize the importance role having a strong Board and involved members play in an organization's success.

Your Board of Directors works hard on your behalf. The Board meetings are only a small part of the effort they put into OWRC. Most of them serve on one or more committees, many chair committees or task forces, and they are always available to brainstorm with me or exchange thoughts about issues and ideas.

The committee members and chairpersons are integral to this organization. They do some heavy lifting which makes it easier for the Board to reach decisions. They meet more often than the Board does and work hard to develop recommendations for Board action.

I want to take this opportunity to recognize the important role that having a strong Board and involved members plays in an organization's success. Without their involvement and support, the staff would be merely caretakers of this organization. We cannot represent our members without their involvement. I encourage you to become involved on a committee and help build OWRC's ability to represent your interests at the state and national level.

As I said, I tend to spend my time and effort looking forward. Sometimes that can be intimidating and downright unnerving when working in the water world. But there is never a time that it is anything less than interesting and challenging. I look forward to working with our members as this world keeps changing.

– Anita Winkler, OWRC Executive Director



WELCOME WAGON

New OWRC Members

Since the last newsletter, several new members have joined or rejoined OWRC. Please extend a warm welcome to:

- Affiliate members Jeffrey Wilson and Will Van Vactor with the Prineville office of Miller Nash LLP,
- Affiliate member Mark Theetge of ISCO
- Individual member Bill Smith, and
- District member, Lacombe Irrigation and Hydro District, who recently rejoined OWRC.



New OWRC staff

One of the most exciting events for OWRC this year is Board approval of an Assistant Director position, effective August 1st. Most of you have seen emails from April Snell, the new Assistant Director; some of you have had the privilege of meeting her here at OWRC or maybe during her recent work at the Water Resources Department. April just completed a year as a Sea Grant Fellow at OWRD where, among other assignments, she conducted a survey of counties about their expectations of OWRD and managed the project to develop a new guidebook for agricultural water management and conservation plans. She holds a Masters in Public Administration with a specialization in natural resources and a certificate in non-profit management. With that background, I think she is a great match for OWRC's needs. Needless to say, I'm thrilled to have her on board. April will be working on developing membership services and increasing membership. Additionally she will be taking over as the lead staff for some substantive and policy areas.

You have also seen recent emails from Lea Rasura who joined OWRC as the Office Administrator in the last few weeks. Lea is a transplant from southeastern Nevada where she managed the Lincoln County Nuclear Oversight Program (related to the proposed Yucca Mountain repository program).

For those of you that have not met April or Lea yet, you will be able to meet them and welcome them at the Water Law Seminar and the annual conference this fall.

COMMITTEE HIGHLIGHTS

URBANIZATION IMPACTS TASKFORCE



Members of OWRC formed the Urbanization Impacts Taskforce to address various impacts of urbanization and other land use trends that affect districts. The Taskforce has identified three major issues facing districts:

1. Water and land use are not integrated on a statewide basis.
2. Conveyance structures in some districts receive discharges from municipal use (often unauthorized). These discharges pose water quality liabilities, increased maintenance costs, and interfere with maintenance schedules.
3. Public agencies have encroached onto district lands and easements (e.g, unauthorized trails, etc). The public also may perceive these lands as

open-space to be permanently protected from development.

Since the issue of water and land use integration is highly complex, there will be a workshop on land use issues at the OWRC annual conference in November. This workshop is designed to assist district managers in addressing these problems and initiating conversations with local government.

To address unauthorized discharges and encroachment issues, the Taskforce is currently drafting a white paper to county/city officials about these issues and their possible impact on districts. Once finalized, district managers can use this white paper to initiate discussions with local planning and other government officials. The Taskforce will continue to look at and develop solutions to address the impacts of urbanization on districts.

– **Steven R. Bruce, GeoEngineers, Inc.**
OWRC Affiliate Director

MEMBERSHIP SERVICES COMMITTEE

The membership services committee has recently embarked on a membership recruitment drive. Recently solicited potential new members include water control districts as only two are currently OWRC members and there are about thirty. As part of a long-term membership recruitment strategy, the committee is also developing ideas for recruiting other groups of water users, such as ports and other water users that are currently eligible for membership. The committee is also looking into new services to provide members, such as group purchasing. The committee will continue to research and develop new member benefits based on existing member needs as well as potential members.

As part of enhancing member services, the OWRC website is undergoing some content and design revisions. A recent addition is a new search feature, GoodSearch. Every time members or staff use GoodSearch instead of other internet search engines, a penny from each search will be given to OWRC. This can add up with multiple users and searches. GoodSearch can also be installed on your business or personal computer as a search toolbar, and you

will simply need to select "Oregon Water Resources Congress" as your charity. The toolbar can be downloaded by clicking the GoodSearch icon on the OWRC website, or by visiting: www.goodsearch.org

Additionally, since the last newsletter, the membership services committee has also successfully completed the new OWRC brochure. It will be available at the Water Law Seminar and the 2007 annual conference. Please contact the OWRC office if you would like copies to distribute.

Plans are also underway for the next O/M workshop which will be hosted by Owyhee Irrigation District next January. The date and topics are still being developed.

**– Bev Bridgewater,
West Extension Irrigation District,
OWRC Past President**



PROJECT UPDATES

OWRC-BUREAU OF RECLAMATION JOINT TRAINING PROJECT



Two years ago then-Commissioner of Reclamation John Keys had dinner with some OWRC Board members at the Annual Conference. During the discussions the commissioner and OWRC committed to developing a

training program for Reclamation employees with the goal of providing hands on training about system operations and the role of irrigation districts in their community's economy. This was to be a pilot project in Oregon that could be replicated elsewhere in the western U.S.

We are now in the second year of the project. Last year Owyhee Irrigation District and the South Board of Control hosted one group of Reclamation employees and Talent Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District hosted a second group of Reclamation employees. At the end of the program, both groups met to evaluate the experience and provide input for the future of the program. The support for continuing this program from both the Bureau participants and

the District Managers far exceed anyone's expectations.

This year Reclamation chose to have just one training group. The Owyhee Irrigation District and the South Board of Control are hosting that group and we have had the first two days on site in the Owyhee Project. The enthusiasm of those participants is even greater than last year which makes it very rewarding for OWRC and the host districts. Their second session is mid-November when they will have a chance to participate in some maintenance work, attend a district board meeting and have discussions with district directors, and learn about the complexity of coordinating needs of districts sharing the reservoir.

In addition to Reclamation employees, a representative of the North Unit irrigation District and the Boise Project in Idaho are joining the training this year to learn about the program so they can host it next year. Meanwhile, discussions are underway with Reclamation about how to transfer this project to other regions.

– Anita Winkler, OWRC Executive Director

THE OREGON LOWER COLUMBIA AND WILLAMETTE SALMON AND STEELHEAD RECOVERY PLANNING STAKEHOLDER TEAMS

The most recent meeting for the Lower Columbia Domain Recovery Plan was held in Astoria on August 17, 2007. The meeting was originally scheduled in June, then July, finally in August due to time constraints by ODFW. Updated material was presented for Section 6 - Limiting Factors and Threats and new material was presented for Section 7 - Management Strategies/Actions. Review comments will be submitted on these sections for the next meeting in October. The final section will be presented at that meeting for comment and review (Section 8 - Recovery Scenarios). Sections 6 and 7 contain the information specific to each subbasin in the Domain for recovery of each listed species. These include which population to target for recovery, which locations to implement recovery actions, and which key entities are responsible for implementing the actions.



The draft plan contains information on statewide programs implemented by state agencies. Input from the stakeholder team and other agencies will be used to add current federal and local programs that support recovery. For more information about the stakeholder team or to read the draft plan, visit:

<http://www.dfw.state.or.us/fish/esa/lower-columbia/>

– **Brian Nakamura, Nakamura Orchards Inc., East Fork Irrigation District**
OWRC Director, At Large

FISH SCREEN TASK FORCE (FSTF) UPDATE

The Fish Screen Task Force is an advisory body to ODFW on fish screening and bypass devices at diversions. The duties include development of a stable and equitable cost share program, review applicants applications, recommend priority criteria, technology, screen and bypass maintenance and monitoring, review and approve ODFW screening or bypass devices in order to complete screening of a stream reach. The Task Force is awaiting final legislative approval for the reauthorization of the FRIMA funding. Measure 66 funding (Lottery) should be \$4,000,000 for the 07-09 biennium. You may have noticed recently that the Oregon Lottery is running TV and billboard ads to inform the public about the screening being done on Oregon's waterways. The progress that has been made is impressive ever since cost share funding has been more readily available to water users. The Taskforce also recently appointed two new members, Mark Wharry and Tony Brauner of Grants Pass, for a total of seven members that represent agricultural, fisheries, and public interests.

– **Carol Bradford, Medford Irrigation District,**
OWRC Member

OWRC'S GRASSROOTS EFFORTS UPDATE

Over the last two years, OWRC has engaged in a grassroots program, meeting with district water users around the state to talk about water management in districts. The original intent was to hear their ideas about how water should be managed in a district and the relationship between the district and its water users in managing water rights and water delivery. It turned out to be much richer with discussions about the role of districts in the community, irrigators' expectations of districts to ensure water delivery and to handle outside issues that affect the district's water delivery. Krisina McNitt, OWRC's lobbyist and I met with several hundred water users in two series of meetings around the state.

The first round of meetings involved listening sessions where we asked the water users to talk to

us. In the second round of meetings we brought three different concepts describing the relationship between the district and its water users to the water users and asked for their feedback about these ideas. One of these ideas built on the trust concept that is already part of irrigation district law; one reflected the current statutes; and the third, "Bill of Rights," came entirely on ideas from the water users meetings. Once again, the discussions far exceeded our expectations and



we came away with an incredible amount of information and broad support for the Bill of Rights concept with some modifications.

The OWRC Board spent many hours at Board meetings and committee meetings refining the Bill of Rights into a legislative concept. It was sent through the bill drafting process and emerged in a form with changes that did not accurately reflect our intent and interests. We were not able to get a correct version of our proposal through the drafting process in time to introduce it in the 2007 Legislative Session. OWRC's Board remains committed to this process and we will continue to work with our members and our grassroots on this concept during this interim.

While we (the OWRC Board, Kristina and I) were disappointed in not moving the Bill of Rights in 2007, the effort put into this was rewarding. The meetings with water users around the state enriched the concept and provided a welcome opportunity for Kristina and me to learn more about the relationships between districts and their water users and water management in districts. We built a stronger understanding of these issues and were able to build a consensus about the role of districts and their patrons and their shared interests. We look forward to additional opportunities to work with everyone in the next year.

– **Anita Winkler, OWRC Executive Director**

THE FISHERIES RESTORATION IRRIGATION MITIGATION ACT (FRIMA)

Anita and Peter have worked very hard on FRIMA. I have been privileged to testify twice in front of the Senate on behalf of OWRC during the last two years, most recently on July 26, 2007. A copy of the testimony I provided is available on the OWRC website. Senators Wyden's and Smith's staffs have been wonderful to work with. Their relentless efforts have moved this reauthorizing legislation forward. With any luck, FRIMA will pass by the end of 2007. This process is complicated and sometimes very political. You can also read more about FRIMA in Peter's report from DC.

– **Marc Thalacker, Three Sister's Irrigation District,**
OWRC Member

LEGISLATIVE UPDATES

REPORT ON THE 2007 OREGON LEGISLATURE



The 2007 Legislature adjourned sine die on June 28, 2007, the earliest adjournment in many sessions. Early in the session the leadership had set a schedule for adjourning on that date and they held to that schedule in spite of pressure

from different groups to change the schedule in order to get their bills through the process. There was no Water Committee in the House of Representatives this year. Instead, water bills were heard by the Energy and Environment Committee which had many non-water topics on its agenda as well.

The water bills fell primarily into four categories: bills introduced on behalf of the Water Resources Department which could be described largely as "clean up" bills to extend or remove sunset provisions from prior legislative sessions or to address administrative issues that had arisen during the last couple of years; the budget and fee bills for the Department; water management tools; and water supply and storage bills. When the dust settled at the end of the session, the Department's bills passed

and the Department's budget was increased at a level that restored some of the cuts from prior years and included funding for the Water Conservation and Supply Initiative.

Over a dozen bills related to water supply bills covered everything from appropriations for a city to appropriations from the Columbia River for several uses to funding to help evaluate water supply projects. All of them languished in committees at session end. Having so many bills about water supply introduced elevated the discussion about Oregon's water supply and how to meet demands for water in the short and long-term far above past sessions. The result is work during the interim with the Department, among water user groups and by the Governor's office to bring something forward in 2009.

The two water-related bills that received the most attention in terms of committee hearing in times, time spent by interested parties in discussions and work groups, and overall discussions around the Capitol were a bill requiring all water users to measure water and a bill requiring registration of new exempt ground water uses. Both bills had work groups formed to discuss amendments to make them more palatable

and improve the chance of passage. As a result of the work groups' efforts, a few words to describe the amendments will suffer from brevity, as the amendments did change the content of the bills. They were significant in that they generated discussion about water management tools and needs at an intense level. The text of the various versions of the bills can be found on the Legislature's websites – or you can hear more about them at OWRC's Water Law Seminar in October.

OWRC bills:

- **HB 3291**, introduced on behalf of OWRC, benefits water control districts. This bill amended the statutes so that action by a city to annex land that was inside the district boundaries would not automatically remove that annexed land from the district. The bill becomes effective January 1, 2008.
- **HB 2785**, introduced on behalf of OWRC and the Oregon Farm Bureau Federation, provides for an expedited review by the Water Resources Department of applications for water rights for small hydropower generation. The bill becomes effective January 1, 2008.
- **HB 3203**, introduced on behalf of a broad coalition of groups including OWRC-- funding for studies related to water

Two other bills that OWRC followed and supported:

- **HB 2294**, extended ODFW's cost share program for fish screen and bypass devices to larger diversions and increased the cost-share cap. Both of these provisions will attract larger diverters to the program.
- **HB 3201**, the session's omnibus tax credit package, eventually included provisions from HB 2211 to increase the Business Energy Tax Credit (BETC) for renewable energy from 35 percent to 50 percent of eligible cost taken over five years. The bill increases the size of hydroelectric

facilities eligible for BETC from one megawatt to ten megawatts, provided the facility meets all statutory requirements for protection of fish and wildlife. The maximum amount of costs eligible for the tax credit was also increased from \$10 million to \$20 million per project for renewable energy resources including alternative fuels, renewable energy manufacturing facilities or combined heat and power projects. Additionally, the bill provides a tax credit to homebuilders for installing renewable energy systems in homes and for designing and building high-performance, low energy use homes. HB 3201 also permits the use of the BETC and any federal energy tax credit for the same qualifying energy efficiency or renewable energy project, and provides that alternative fuels facilities, combined heat and power facilities, and renewable energy manufacturing facilities qualify for the 50 percent tax credit. Places a sunset date of January 1, 2016 on the credit.

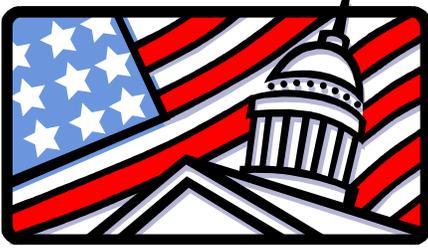
The Water Law Seminar will include information about all these water bills, about some the water-related bills that did not pass, and will cover non-water related bills that affect district management.



The Legislature scheduled a "supplemental" session in February 2008 as an experiment in annual sessions. As of this writing, the rules for that session are not final but so far it appears that only bills that have general consensus will be moved, and there will be limits on the number of bills that can be introduced by individual legislators and by committees. Whether or not any water bills will be on the agenda is yet to be determined.

**- Anita Winkler, OWRC Executive Director
- Kristina McNitt, KLM Consulting**

To learn more about these bills and other water related legislation in Oregon, attend OWRC's Water Law Seminar, October 17-19 at the Resort at the Mountain in Welches, Oregon.



As Congress returns from the Summer recess and readies itself for the Fall First Session wrap-up OWRC would like to provide the following 110th

Congressional/Bush Administration snapshot on issues that we have been involved with.

Appropriations

As Congress battles with the Bush Administration over funding priorities, this is the first time ever where “earmarks” are identified by the requesting Member of Congress or the Administration. If you go to:

<http://www.thomas.loc.gov/home/approp/app08>

you will find a copy of each respective Appropriation bill and the Committee report that accompanies the bill and provides the detail of funding.

- **H.R. 2643/S.1696 – Interior and Environment**
Of interest to OWRC, this bill funds the U.S. Fish and Wildlife Service (the FRIMA program), the U.S. Geological Survey (stream gauging program), and programs for the U.S. Environmental Protection Agency (state and tribal assistance grants).
- **H.R. 2641/S.1751 – Energy and Water**
Of interest to OWRC this bill funds the Bureau of Reclamation (Water 2025 program and individual projects) and the U.S. Army Corps of Engineers (individual projects and the Corps Section 404 Regulatory permitting program).
- **H.R. 3161/S.1859 – Agriculture**
Of interest to OWRC is the funding for the small watershed projects program and ongoing programs of the previous Farm bill.

All of these bills have passed the House of Representatives and have been reported out of Committee in the Senate and are pending Senate floor action so the bills can go to conference with the House. The fiscal year ends September 30th and most people expect this process to carry on into the Fall setting up Federal agencies to run on a Continuing Resolution through the middle of November (usually funded at last year’s levels) until the final bills can be passed.

The Fisheries Restoration Irrigation Mitigation Act (FRIMA)

The OWRC continues to pursue the reauthorization of this program on behalf of our members and sister organizations in the Pacific Northwest. All of the eight member Senate Congressional Delegation from the four benefiting states (OR, WA, ID, and MT) introduced S. 1522 on May 24th. A hearing was held on July 26th at which OWRC testified in support of the legislation. The bill is expected to be reported out of Committee this month. We are working to have companion legislation introduced in the House this month. The funding for this program comes through the U.S. Fish and Wildlife Service and has greatly assisted our member’s work on fishscreening.

Farm Bill

The House has passed the Farm, Nutrition, and Bioenergy Act of 2007 (H.R. 2419) the new version of a Farm bill which was up for reauthorization. The Senate has floated a “draft discussion” bill with formal introduction expected shortly. Of prime interest to OWRC is a new section in the Conservation title of the bill (section 2106) for a Regional Water Enhancement Program that is receiving wide-spread support This would fund innovative partnerships on a regional scale to address water quality and quantity. Final passage (or an extension of the existing program) is still expected this year.

Energy Bill

The Senate passed their version of an Energy Bill (H.R. 6) in June, minus an energy tax section and the House passed their version (H.R. 6) right before the August recess which included the extension of the small hydro tax credit. The issue of interest to OWRC members is the renewable energy tax credit for small hydropower projects developed by irrigation districts. There are obviously much larger issues at play with regard to reconciling these two bills thus making it challenging to produce a comprehensive energy bill especially with the larger Climate change issues hovering.

WRDA

Both the Senate and the House of Representatives have passed H.R. 1495, the Water Resources Development Act, the major comprehensive authorization bill for projects, programs and policies for the U.S. Army Corps of Engineers. The conference report finally passed the Senate on September 24 and has been sent to the President. Aside from specific projects authorized for Oregon, there are new reviews and policy changes for any of our members who have an interest in developing projects in partnership with the Corps.

Waters of the U.S.

The "Clean Water Restoration Act of 2007" has been introduced in the Senate and the House, as S.1870 and H.R. 2421 respectively. Hearings have been held in the House in the Committee on Transportation and Infrastructure. OWRC has developed a white paper on this issue and feels that this legislation, by redefining Federal jurisdiction under the Clean Water Act as "waters of the U.S." would greatly and unnecessarily expand Federal jurisdiction over waters in Oregon. We have been working with our other partners at the regional and national level to get

policy makers to understand the impact of this jurisdictional enlargement.

Stay the course and keep following our efforts and paper trail by checking out our website on these and other important Federal issues. OWRC's FRIMA testimony and white papers on the Farm Bill reauthorization and Waters of the US bills are available on our website (www.owrc.org). You can also find links to federal legislation of interest to our members on the website.

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

CONFERENCE INFORMATION

2007 Water Law Seminar

The 2007 Water Law Seminar will be held at the Resort at the Mountain in Welches, OR from October 17-19th. The Seminar will focus on recent developments in Oregon water law, with an update on the 2007 session, as well as a wide breadth of water topics with a focus on solutions for meeting Oregon's water supply needs.

Speakers will include: Oregon State Representatives Jackie Dingfelder and Bob Jenson, Oregon Water Resources Commissioner Jay Rasmussen, Karl Wirkus from the Bureau of Reclamation, and many other representatives from government agencies, water related organizations, and OWRC members. A detailed agenda and registration information is available on the OWRC website.

2007 Annual Conference

The 2007 OWRC Annual Conference will be held November 27-30 at the Hood River Inn, in Hood River, Oregon. Topics include: Climate Change and Water Supply, Water and Land Use Planning, Strategies for Meeting Oregon's Water Needs, Working with TMDL's, Perspectives on Managing Stormwater, Conjunctive Management of Water, and many other interesting sessions. Speakers will include representatives from federal and state agencies, cities and counties, water user organizations, and OWRC district and affiliate members.



Need more information?

Visit our website (www.owrc.org) for updated agendas and information about the Water Law Seminar and 2007 Annual Conference.



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UPCOMING OWRC EVENTS

OWRC Board Meeting

October 17th, 2007
Resort at the Mountain, Welches, Oregon

2007 Water Law Seminar

October 17-19, 2007
Resort at the Mountain, Welches, Oregon

Educational Workshop

"District Water Management & Conservation Plans"
October 19th, 2007
Resort at the Mountain, Welches, Oregon

2007 Annual Conference

Hood River Inn, Hood River, Oregon
November 27-30, 2007

*For more information about these and other
upcoming OWRC events, visit: www.owrc.org*

GOT A BRIGHT IDEA?



Ongoing updates are made to the OWRC newsletter and website. However, we are very interested in what additional content you would like to see available. Please e-mail us at: owrc_info@yahoo.com with any suggestions for upcoming newsletters or website content.

