

# WATERWORKS

Newsletter of the Oregon Water Resources Congress

Spring 2011



1201 Court St. NE, Suite 303  
Salem, OR 97301  
Phone: (503) 363-0121  
Fax: (503) 371-4926  
[www.owrc.org](http://www.owrc.org)

Oregon Water Resources Congress

ISSUE #28

## A Note from President Wilcox...

The end of May is upon us and it seems that we haven't had a real spring yet and here it is time for summer. Most areas of Oregon have had above-average precipitation and below-average temperatures

which have only added to the challenges of water management. It would be so much easier if we could just have control of Mother Nature to manage our water needs but I guess we'll just have to dream and wish for things that aren't likely to happen.

This year has also brought another very stressful Legislative Session which so far has not been real successful if you count bills that we have passed so far. This is certainly no reflection on the great efforts of our staff, state lobbyist, and all of the members and affiliates who have testified or otherwise helped out. We still have a couple of bills that could possibly move forward but time will tell where these end up at the end of the session.

On a more positive note, several work groups have been formed to work on some of the issues that have not already made it through the legislative process. In the end, these efforts could lead to something better than the proposed legislation would have originally provided. Also, through this process we have gained some new allies which will be a benefit for future legislative efforts. Regardless of the number of bills that end up getting passed we will have had a successful year when you consider the progress that has been achieved in getting work groups to address some of our issues.

Other successes include participation on rulemaking committees, additional respect from state agencies, and pledges of support from legislators. All of these things help put our organization in a better position in the future. The professionalism, expertise, and hard work by our members, affiliates, lobbyist, and staff is what makes this success possible.

Continued

## TABLE OF CONTENTS

Topic	Page
<b>Note from President Wilcox</b> .....	1
<b>Executive Director's Report</b> .....	2
<b>OWRC Hydro Caucus Report</b> .....	3
<b>Federal Affairs Program</b>	
Spring News from Washington DC.....	4
<b>Save the Dates</b> .....	5
<b>Family Farm Alliance Update</b> .....	6
<b>Special Recognition</b> .....	7
<b>Event Updates</b>	
Natural Resources Day at the Capitol .....	7
<b>Upcoming Events</b> .....	8
<b>Board Roster</b> .....	8

Thinking about the hard work and dedication that seems to be endless within our organization also brings the OWRC Management Plan to mind. Currently, there are five major committees who are working to identify the priorities and related resources needed to carry out their missions. This work will allow the Board of Directors to evaluate the sum of the needs of our organization and make some tough decisions on the future direction and management of OWRC. Our goal is to have all of this information for the August board meeting so that decisions can be made that will guide the development of the 2012 budget. The plan and budget will reflect the decisions that the board has made and allow us to move forward in a progressive manner. Anyone with suggestions is encouraged to contact any of the committee members or staff. By working together once again we will be able to produce another success.

Sincerely,  
*Chuck Wilcox*  
OWRC President  
Hermiston Irrigation District



## EXECUTIVE DIRECTOR'S REPORT



As I write this article there is exciting news facing me – first, the weather forecast is for some spring like days later this week and second, the Legislative forecast is that the Legislature will meet its target of adjourning *sine die* by the end of June, if not before. Both are good and I'm not sure which I anticipate happily more!

Since the Legislative Session so heavily dominates OWRC's work during the first half of the year, it also dominates my report. This session has been unusual in many respects. It is the first session under the new provisions for annual sessions. That has taken away some of the urgency for action on a bill that was embedded in the bi-annual sessions of the past. It has provided an opportunity for legislators to ask interested parties to spend additional time working on bills during the interim with the idea of bringing back a better bill (or a bill with broader support) next year.

The House of Representatives is evenly split between Republicans and Democrats which means that body has been operating under rules different than before. Both co-chairs of a committee have to agree to hold hearings and work sessions on a bill which means either co-chair can stop a bill from moving forward. The Co-Speakers also must agree on their decisions that allow a bill to move forward or stop it from moving. Many people see this as resulting in some type of bi-partisanship on the House, but it also creates some interesting dynamics among the leadership.

The Legislature convened in January to elect its leadership and form committees and then recessed until February. The committees hit the ground running the first of February, hearing bills almost from the very start without the usual time for committee members to hear from state agencies about their operations and programs. In the first week or so, there was not much notice for bills being heard and little time to meet with Legislators about the early bills.

Everyone expected that the state budget would dominate the session and that has been true. State agencies' budgets; the allocation of funds among the competing needs for schools, social services or other state services; tax credits; PERS; and anything that would increase state expenditures or reduce state revenues entered the debate about bills in all of the policy committees. The even split in the House means that the House's co-chair of the Joint Ways and Means Committee is shared by two people – one from each party. The latest revenue projection in May did bring some good news, but the improvement in the state's economy was not enough to ease the difficult task of balancing the budget.

Finally, the Legislature faced its constitutional duty to redraw Oregon's legislative and congressional districts based on the 2010 Census. The redistricting committees have held hearings around the state on some ideas and additional hearings in Salem after developing more ideas to respond to what they heard in the hearings. It remains to be seen if there will be agreement on a redistricting plan or if the determination of the districts will default to the Secretary of State and the courts.

We have two to four weeks left of the session with lots left to do. Some of the biggest parts of the budget have not been adopted. There is not yet agreement on the redistricting plans. And there are still many bills in committee. Deadlines loom for moving bills out of committee and bill sponsors continue to work on those bills. As committees complete action on the bills before them, some have begun holding informational hearings to learn more about some of the topics that have come before then in proposed legislation – something they do not always have time to do during the time they are hearing bills.

OWRC's legislative program is not complete. We still have bills in committee and they may or may not move by the deadline later this week. Some of our bills resulted in commitments to work on policy issues during the interim to either resolve them without legislation or better refine our proposed legislation for introduction in 2012.

The rest of 2011 will be very involved in formal legislative work groups, informal work groups with agencies and other groups, as well as some on-going advisory groups and task forces along with the Water Resources Department's rulemaking on peak flows and ecological flows from HB 3369 in 2009. Staff looks forward to working with our members on all of these.

**Continued Next Page** 

## EXECUTIVE DIRECTOR'S REPORT CONTINUED

Meanwhile, our Federal program is moving forward with guidance from Peter Carlson. We submitted testimony on the FY 12 budgets for the Bureau of Reclamation, USFWS, EPA, and the Department of Agriculture. We have been working with the National Water Resources Association and the Family Farm Alliance on legislation to address the requirements for permits for the application of aquatic pesticides and small hydropower generation in canals as well as proposed guidance or regulations on the extent of federal jurisdiction under the Clean Water Act and canal safety. Peter Carlson provides more information about our federal program in his column later in this newsletter.

The Board of Directors is in the midst of a new way to set priorities for OWRC's work that relies more heavily on the leadership of the committees and the chairs of those committees. As this new approach evolves, there will be more opportunities for our members to become involved in developing priorities and working on issues important to our members. The list of priorities reaches far beyond the capacity of the staff and board members so I encourage everyone to volunteer for something that catches your interest. Feel free to call me or any of the officers as you see something for which you would like to volunteer.

*– Anita Winkler, OWRC Executive Director*

## OWRC HYDRO CAUCUS REPORT

### NEW OPPORTUNITY FOR OWRC DISTRICTS AND AFFILIATES



As we all know hydro is becoming as much a business for irrigation districts as is delivering irrigation water. In some cases implementation of hydro projects could be a districts savior and provide for a much needed boost in revenue to insure irrigation district viability without placing continued financial burden on the backs of patrons. However, as great as these projects are, we are continually hindered in our ability to advance district hydro projects. To address this issue, the OWRC Board of Directors approved the formation of a Hydropower Caucus for OWRC District Members and Affiliates at the January

20, 2011 Board Meeting. The Caucus will provide an arena within OWRC to allow for discussion, sharing of knowledge, and provide a means for taking action as warranted. The Caucus will be a vehicle for which OWRC Districts and Affiliates can share their experiences, provide guidance, and help each other with the variety of issues members are facing when it comes to these projects. OWRC has a tremendous opportunity, having several OWRC member districts who had successfully implemented hydro projects, to take advantage of this knowledge and experience.

The Hydro Caucus has already successfully helped address OWRC member needs through recent work regarding a private hydroelectric technology company that filed preliminary feasibility applications with FERC on several OWRC district members and other irrigation districts in Oregon, Washington, Idaho, and California. The company had filed the applications without the district's knowledge and in most instances the districts were not interested in working with this particular technology. The filing (and lack of notice) was legal but could have prevented districts from pursuing hydroelectric projects of their own or with another developer for several years. OWRC wrote a letter to the company on behalf of OWRC districts that did not want to work with the company. In response to the letter, the company chose to move forward with filing supplemental information on only the districts that were not included on the OWRC letter. Unfortunately, this type of situation can reoccur in the future making it all the more worthwhile to participate in the Caucus if these issues interest you.

If you are interested in joining the OWRC Hydro Caucus, please email April ([aprils@owrc.org](mailto:aprils@owrc.org)). She will compile the list and work with Mike Britton, Hydro Caucus Chair, to insure member notifications.

*– Mike Britton, Hydro Caucus Chair  
North Unit Irrigation District*

# FEDERAL PROGRAM

## SPRING NEWS FROM WASHINGTON DC

### The Challenges Ahead

When we last reported on the Federal Program last year, a new Congress had been elected, sweeping change in the make-up of the House of Representatives were expected to occur, the margins of the ratio's of Democrat to Senate were narrowed, and there was hope of solving the FY11 Budget in short order. Two out of three expectations were met. It took until April 15<sup>th</sup> for a FY 11 Budget for the Federal government to finally become law. Tens of billions of dollars worth of reductions occurred as the newly-elected Freshmen in the House held sway on promises to the voters to cut back Federal spending and the water programs of the U.S. Environmental Protection Agency, Army Corps of Engineers, U.S. Department of Agriculture and the Bureau of Reclamation shared in those cuts.

While all of that activity was occurring, a new FY12 Budget by the Obama Administration was sent to Congress at the beginning of 2012 and the process began anew with the Administration proposing reductions in programs of importance to the water community. For instance, the Water and Related Resources (construction) Account of the Bureau of Reclamation went from a request of approximately \$913 million in FY11 down to \$805 million for FY12. Their budget continues the support for over all Interior Secretarial Initiatives including the WaterSMART Program, Ecosystem Restoration, Cooperative Landscape Conservation, the New Energy Frontier, Strengthening Tribal Nations and Youth in the Great Outdoors. I encourage you to take a look at the OWRC website and review the FY12 Appropriations testimony submitted with regard to the programs of importance to you and your district or the organization that you represent.

### **Want to Know More?**

For more information about the Department of Interior's various Initiatives, visit: <http://www.doi.gov/index.cfm> and click on "What We Do"

I would like highlight one new effort under the Bureau's WaterSMART program – the Cooperative Watershed Management program. This program was authorized in the Omnibus Public Lands bill (P.L. 111-11) in the last Congress. OWRC membership should follow the implementation of this program because it exemplifies the new type of model the Obama Administration would like to follow in addressing water needs in the West.

It should seem familiar given the many watershed approaches that have been underway in the State of Oregon for years. Opportunity knocks for those in need.



A familiar saying in the politics of Washington on budgets – the Administration proposes, the Congress disposes – is at work again. With the once familiar issue of “earmarks” – those special carve outs in a program or appropriation bill for the favored few – now a creature of a bygone era, the heavy lifting of moving forward on increased cuts to programs is underway. These are perhaps the most dangerous times for water resource programs since the Carter Administration and the famous War on the West. With roughly 20 percent of the House Members newly elected, tremendous turnover in personal legislative staff, Committee and Subcommittee staff changes, and continued loss of institutional memory on programs and the benefits of programs, the challenges to maintain the budget levels and scope of programs is enormous. There is no point in attempting to describe the pace of activity – hearing after hearing, meeting after meeting continue to point to the ongoing need to engage, educate, analyze and act otherwise a program or funding that is important may be gone and never to return.

As might be expected during such times of heavy Congressional activity, the Executive branch continues on their path to remake and implement their government philosophy to affect the framework for the future approaches on water policy and programs. The Council on Environmental Quality (CEQ) continues to be the pivot point for this activity. It might sound like a trite request, but if everyone just took 15 minutes a week to visit the CEQ site or the agency site of your favorite Federal agency it would be a tremendous help to strengthen the strategic thinking and approaches to these issues by the OWRC. The OWRC Salem office and the Washington, D.C. office cover a lot of ground. But each of you brings a unique perspective and very often an inquisitiveness that is quite helpful when you make that decision to engage.

Working on Appropriations is a pretty straight forward and easy to understand process. Legislation is a little less easy and often not straight forward at all. Policy work is the most difficult of all.

## FEDERAL PROGRAM CONTINUED

Presently the Obama Administration, through CEQ, has come forward with new policy guidance documents on the Clean Water Act issue of waters of the United States, the [Clean Water Framework](#), released on April 27, 2011. They also continue to push forward in quiet ways on sustainability and climate change. And in perhaps one of the most arcane areas of all– the underlying approach to evaluating the cost effectiveness of whether to move forward with regard to Federal investing in a proposed water project – they are rewriting the rules of the game completely, complexly, and literally by revising the Principles and Guidelines (P&G).

### CEQ Who?

For more information about the Council on Environmental Quality and their Initiatives, visit: <http://www.whitehouse.gov/administration/eop/ceq>

The OWRC has decided to engage in a Coalition effort to focus on the CEQ proposals to rewrite the P&G as well as the Principles and Standards (P&S) for the development of Federal water projects. These principles were last updated in 1983. In 2007 Congress directed the Corps of Engineers to update them. OWRC engaged in that process. The Obama Administration took office and handed the effort off to the CEQ. OWRC participated in their process too.

The product that evolved was then submitted to the National Academy of Sciences (NAS) and for public comment. NAS produced a report in December of 2010 that was one of the most critical and chastising reports on such an effort that those who work in the area can recall.

The CEQ has now retrenched, and in a very non-public, and with no transparency, has produced what has been described as a vague and incoherent document now called Principles and Requirements. And the Guidelines are being written as you read this. It will now apply to every Federal agency water program, study, grant, loan, investigation or development plans. It will also apply to the land management issues associated with those plans. Unless something is done by Congress, you will see the wholesale involvement of Federal government decision-making in every watershed in the country if any Federal money is involved. One way to not spend money is to tie the system in knots. Stay tuned, the adventure continues.

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

– **Peter Carlson, Will and Carlson,**  
OWRC Federal lobbyist



### Save the Dates!!!

#### 2011 OWRC Water Law Seminar

The 2011 OWRC Water Law Seminar will be held **Thursday, October 13<sup>th</sup>** at the Seventh Mountain Resort in Bend, Oregon. The Seminar will include an all-day session and a dinner program covering recent state legislative action, pending rulemaking and other legal topics related to water and district management. CLE credits will be available.

#### 2011 OWRC Golf Tournament & 19<sup>th</sup> Hole Reception

Join OWRC for a casual afternoon of golf on **Wednesday, October 12<sup>th</sup>** at the Widgi Creek Golf Club at the Seventh Mountain Resort in Bend, Oregon. The Tournament will be a fun scramble format and will conclude with appetizers and beverages at the 19<sup>th</sup> Hole Reception. Non-golfers are also welcome to attend the 19<sup>th</sup> Hole Reception.



Further details on the Water Law Seminar and Golf Tournament will be sent out in August. Information will also be posted online at: <http://www.owrc.org>. **See you in October!!!**

# UPDATE FROM THE FAMILY FARM ALLIANCE (FFA)

## FAMILY FARMERS ADVANCE PRO-AGRICULTURE AGENDA IN D.C.



In early May, the Family Farm Alliance participated in its annual Farmer Lobbyist trip, one of our "cornerstone" programs which brings family farmers and water professionals to Washington, D.C. to

meet with legislators and Administration policy leaders on critical water issues. A group of diverse and effective Alliance members participated in this year's trip, including representatives from several Western states.

Many of our discussions on Capitol Hill were tempered by the very challenging budget reform proposals being discussed, associated with legislation that would raise the \$14.3 trillion national debt ceiling. Rather than focusing on making specific funding cuts or tax increases now, the talks are shaping up to be about how to require such choices down the road.

Our farmer lobbyists focused on the issues critical to our membership and their message conformed to the following:

**National Committee on Levee Safety (NCLS):** The NCLS was created in WRDA 2007, and tasked with making recommendations to Congress on a future National Levee Safety Program. However, the Family Farm Alliance is concerned that they have included in their draft recommendations, as well as in draft legislation (from the non-federal Committee members), that water delivery canals and ditches in the West be included in a levee safety program. The federal Bureau of Reclamation (Reclamation) already has a program for federally owned canals and ditches that is dealing with safety standards and facility condition assessments that will improve safety conditions across the West where there is a risk of damages resulting from potential canal failures. We view the NCLS recommendations as duplicative of existing federal programs.

### **Bureau of Reclamation Aging Infrastructure/Loans/Loan Guarantees:**

Reclamation owns and operates significant water infrastructure in the West. The nonfederal project beneficiaries pay their (very significant) portion of operation and maintenance costs in advance to Reclamation annually.

When these aging facilities are rehabilitated by Reclamation, project beneficiaries are required to provide their share of these much larger costs in advance without any federal financing options. Congress has recognized the need for such financing tools by authorizing Reclamation to implement both a loan guarantee program and a direct loan program for such projects. However, Reclamation and the Office of Management and Budget (OMB) at the White House have not yet worked out the details of these financing programs.

**Farm Bill/Young Farmers:** Nationally, the median age of farmers in America has never been higher, with the percentage of farmers under 50-years-old continuing to plummet. The Alliance recommends that the next Farm Bill create policies that can attract and retain young farmers for the future of American agriculture, and America's food supply. More than half of today's farmers are aged between 45 and 64, and only 6 percent of our farmers are younger than 35.

We are seeking to build on the efforts of the USDA Advisory Committee on Beginning Farmers and Ranchers, which in 2007 submitted recommendations to then-Agriculture Secretary Johanns. Current Agriculture Secretary Vilsack said at a recent hearing that his top priorities are making sure farmers have access to capital and credit, and that there is a "next generation" of farmers.

We are also interested in finding ways to use the new Farm Bill to improve the Agricultural Watershed Enhancement Program (AWEP) and facilitate low head hydropower development within existing water delivery systems. We support incentive-driven conservation programs, more local and state control of the funding for those programs, and streamlined implementation.

**Small Hydroelectric Projects:** The Alliance has backed efforts in this and past Congress' to encourage small, low-head hydroelectric development on existing water delivery and management infrastructure in the West through changes to the Federal Power Act to allow the Federal Energy Regulatory Commission (FERC) flexibility in the licensing process. We believe enhancing the opportunities to develop these sources of clean renewable electricity with no impact to the environment is good public policy.

## UPDATE FROM THE FAMILY FARM ALLIANCE CONTINUED

**Time Consuming-Burdensome Federal Regulations and Policies:** Currently, Western irrigated agriculture has been inundated with the barrage of new, expanded federal water and air quality regulations and guidance (including draft guidance to expand the reach of the Clean Water Act) from the EPA. The Alliance believes that the current expansion of federal regulatory restrictions and oversight costs food producers dearly and could not come at a worse possible time for job growth and economic recovery in our rural communities in the West. NEPA processes can and have delayed or stopped important water infrastructure construction or rehabilitation, project title transfers, and other federal actions that are critical to the management and delivery of water to farms and cities in the West.

The Alliance believes that such processes, while important, can be overly bureaucratic and not well organized for efficiency of time and resources. Simply ensuring that federal agencies are communicating and coordinating with each other and with their nonfederal project partners can speed up the process of NEPA compliance, making the federal decision-making process much more efficient and productive.

The current effort to re-write the Principles and Guidelines (now Principles and Standards) for the U.S. Army Corps of Engineers, the Bureau of Reclamation, and the USDA is important to our membership. We believe that, given recent significant changes to the new P&S draft that was out for public comments earlier, the newly revised P&S draft should be released for an additional public comment period and such comments considered before a final P&S is adopted.

It remains to be seen how our efforts will impact federal water management policy. However, after participating in over 25 meetings in three days, the latest farmer lobbyist trip proved to me that, once again, that the most effective voice in Washington DC is the individual family farmer. For more information about the Family Farm Alliance, please visit: <http://www.familyfarmalliance.org/>

– **Dan Keppen, Executive Director**  
**Family Farm Alliance**

### SPECIAL RECOGNITION SDAO Outstanding Special District Service Award - *Manager of the Year* **Marc Thalacker**

*Marc Thalacker, Manager of Three Sisters Irrigation District, was recognized by the Special Districts Association of Oregon at their Annual Conference in February 2011 for his numerous efforts on behalf of the District.*

**Congratulations  
Marc!!!**



## EVENT UPDATES

### NATURAL RESOURCES DAY AT THE CAPITOL

OWRC participated in the 2011 Natural Resources Day at the Capitol on April 19<sup>th</sup>. OWRC had a display in the Capitol gallery area along with the Oregon Farm Bureau and 30 other natural resources organizations. The event also included a free lunch that served over 500 people, an afternoon rally on the capitol step, and an evening reception.

OWRC shared table space with the Agri-Business Council of Oregon who helped staff the table. Special thanks to the “Squeezy Saviors” Ray Kopacz, Stanfield Irrigation District, and Shawn Gerdes, Arnold Irrigation District, who donated the funds for OWRC to purchase the water drop shaped stress relievers that were distributed at the event. Additional thanks to Blair Nash, Sutherlin Water Control District, and Brent Stevenson, Santiam Water Control District for taking time out of their busy schedule to help at the event.



*The stress reliever water drops were a big hit around the capitol and helped attract visitors to the OWRC display.*

– **April Snell**  
**OWRC Assistant Director**

## Oregon Water Resources Congress 2011 BOARD OF DIRECTORS

### EXECUTIVE COMMITTEE

Chuck Wilcox, President  
Jay Chamberlin, Vice-President  
Shawn Gerdes, Treasurer  
Blair Nash, Secretary  
Jim Pendleton, Past President  
Mike Britton, At Large  
Steve Shropshire, At Large

### 2011 REGIONAL DIRECTORS

Region 1: Bob Koenig  
Joe Rutledge  
Region 2: Brian Hampson  
Dan Shepard  
Region 3: Shane McDonald  
Mark Stuntebeck  
Region 4: Mike Britton  
Marc Thalacker  
Region 5: John Buckley  
Mike Richardson  
Region 6: Bev Bridgewater  
Ray Kopacz  
Region 7: Vacant  
Region 8: Dan Fulwyler  
Harvey Manser

### AFFILIATES

Steve Bruce, Skookum Water Associates  
David Filippi, Stoel Rives  
Douglas MacDougal, Marten Law  
Steve Shropshire, Jordan Schrader Ramis

### AT LARGE

Jon Burgi, David Evans and Associates  
Ron Kiester, Ridgeview Irrigation District  
Elmer McDaniels, Tumalo Irrigation District  
Brian Nakamura, East Fork Irrigation District

### OWRC STAFF

**Executive Director**  
Anita Winkler

**Assistant Director/Editor**  
April Snell



## UPCOMING EVENTS

### 2011 OWRC Water Law Seminar

October 13<sup>th</sup>

Seventh Mountain Resort  
Bend, Oregon



### 2011 OWRC Golf Tournament & 19<sup>th</sup> Hole Reception

October 12<sup>th</sup>

Widgi Creek Golf Club  
Seventh Mountain Resort  
Bend, Oregon

### 2011 OWRC Annual Conference

November 29<sup>th</sup> - December 2<sup>nd</sup>

Best Western Hood River Inn  
Hood River, Oregon

**For more information about these events,  
visit: [www.owrc.org](http://www.owrc.org)**

### Directory Corrections & Updates:

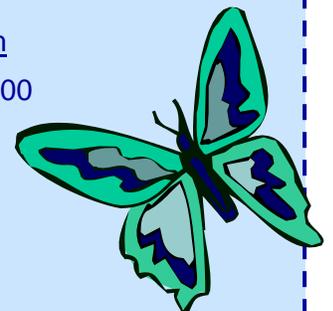
Please make the following revisions to your  
OWRC Member Directory:

#### New Affiliate:

#### **SoundEarth Strategies**

John Lambie  
[jlambie@soundearthinc.com](mailto:jlambie@soundearthinc.com)  
Paige Nilsen  
[pnilsen@soundearthinc.com](mailto:pnilsen@soundearthinc.com)

121 SW Salmon St., Suite 900  
Portland, OR 97204  
(503) 206-6610  
Fax: (503) 225-9022  
[www.soundearthinc.com](http://www.soundearthinc.com)



#### Correction:

#### **Under Product Suppliers:**

AgraTek's website is [www.agratek.org](http://www.agratek.org)