

Approved by the Board March 16, 2005
Oregon Watershed Enhancement Board
January 19, 2005
OWEB Board Meeting
Pendleton, Oregon

Minutes

OWEB Members Present:

Bobby Brunoe
Paula Burgess
Dianne Guidry
Daniel Heagerty, Co-Chair
Skip Klarquist
Jane O’Keeffe, Co-Chair
Dave Powers
Scott Reed
Mark Reeve
Diane Snyder
Michael Tehan

OWEB Staff Present:

Bonnie Ashford
Ken Bierly
Tom Byler
Rick Craiger
Douglass Fitting
Allison Hensey
Cindy Kraai
Karen Leiendecker
Melissa Leoni
Greg Sieglitz
Roger Wood

Others Present:

Bruce Taylor
Russ Hoeflich
John Moriarty
Spencer Hovekamp
Jeff Oveson
Antone Minthorn
Leo Steward
Eric Quaempts
Armand Minthorn
Kat Brighan
Carl Scheeler
Gary Jones

Members Not Present:

Alan Christensen
Dan Thorndike
Pat Wortman

**Due to the absence of a Board quorum for both days of the meeting (January 19 and 20, 2005), voting members were polled regarding recommended funding decisions. Voting to expend funds was postponed until a telephone conference call could be scheduled with Board members to fulfill the quorum requirement. Funding recommendations discussed at the meeting will be revisited and voted on at that time.*

Commissioner Denis Doherty, Umatilla County, welcomed OWEB to Pendleton.

A. Board Member Comments

Dan Heagerty, Board Co-Chair, introduced Tom Byler as the Acting Director of OWEB, appointed by Governor Kulongoski in December following a recruitment process headed by the Board Co-Chairs. Byler’s appointment is awaiting Senate confirmation sometime in late January to early February 2005. Byler greeted the Board, expressed his enthusiasm to be named to the position, and described his background.

Co-Chair Heagerty thanked Board members for their participation at the OWEB Biennial Conference held in Ashland last November. More Board members attended this 8th Biennial Conference than any other previous conference.

New OWEB Board member Paula Burgess representing the Bureau of Land Management was introduced. Burgess replaces Hugh Barrett as the BLM representative on the Board. Other Board members introduced themselves, and provided updates on the issues their agency and interests they represent on the Board had.

B. Minutes

Minutes of the September 14-15, 2004, Board meeting in Portland were unanimously approved. Board member Diane Snyder requested OWEB staff to provide an update on the development of criteria to deal with future requests for additional funds outside of the regular grant cycles.

C. Executive Director Update

Tom Byler, Acting Director, and Ken Bierly, Deputy Director, provided the following comments to the Board.

- Greg Sieglitz was introduced as the new Monitoring Program Manager. He was hired last fall to replace Kelly Moore.
- Ken Bierly, Deputy Director, thanked Board members for their participation and provided an update on the OWEB Biennial Conference held in Ashland last November.
- An Aquatic Restoration Strategy proposed by the USDA Forest Service, Pacific Northwest Region was distributed to Board members. More discussion on the partnership will take place at the March Board meeting.
- The Office of the Inspector General has released an audit report of the Pacific Coastal Salmon Recovery Fund in Oregon. Board members discussed the report's findings. OWEB staff are working with NOAA Fisheries to address the technical and administration details of the audit.
- Three Board members are needed to form a subcommittee to assist staff in reviewing land acquisition grant applications. Staff would like the subcommittee members by March.
- A report was recently completed by the University of Oregon on watershed councils and their relationship to the economic benefits to local communities. Board members suggested that the report be posted on OWEB's web site and sent to watershed councils and soil and water conservation districts. Board members also requested that the report authors come to the March Board meeting to present their findings.

D. Reports to the Board

D-1: OWEB Budget 2005-2007

Acting Director, Tom Byler, and Cindy Kraai, Fiscal Manager, provided a brief overview of the Governor's Recommended Budget for OWEB. Board members strongly encouraged OWEB to keep a detailed report on expenditure of PCSRF funds to backfill other natural resource agency budgets. Board members also expressed an interest in making funding for watershed councils a top priority. Board member Diane Snyder expressed concern that our additional position requests as outlined in the GRB do not follow OWEB's core mission. The issue will be scheduled for further discussion. When? What?

D-2: Coastal Coho Assessment of the Oregon Plan

Acting Director Tom Byler, updated Board members on the Oregon Plan Assessment for Coastal Coho ESU. Governor Kulongoski directed state natural resource agencies to evaluate the status of coastal coho as a way to evaluate the effectiveness of the Oregon Plan. The State of Oregon and the National Marine Fisheries Service (NOAA Fisheries) worked together to develop the assessment. The draft assessment is due by the end of January, and will be available to the IMST and a Stakeholder Team for review and comment. The final assessment is expected to be completed by the end of March. State and federal agency participants will then work with the Stakeholder Team to develop a conservation and recovery plan for coastal coho, expected to be completed by the end of the year. The primary objectives of the project are:

1. Assess Oregon Plan efforts to conserve and rebuild coastal coho populations.
2. Use the assessment to inform NOAA Fisheries' final status review listing determination under the federal ESA.
3. Use the assessment as a basis to seek legal assurances for local participants.
4. Use the assessment as a foundation for developing a recovery plan for coho.

Board members requested a presentation on the project at a future Board meeting.

D-3: Biennial Report Discussion

Tom Byler, Acting Director, and Ken Bierly, Deputy Director, briefed Board members on the status of the Oregon Plan 2003-2005 Biennial Report, and displayed draft samples of the basin pages for this report. Board members Michael Tehan, Dave Powers, and Mark Reeve comprise a subcommittee to work with OWEB on the Board recommendations and accomplishments for the current report.

D-4: Pacific Coastal Salmon Recovery Fund Performance Measures

Ken Bierly, Deputy Director, outlined draft PCSRF performance measures for the Board. A recent evaluation by the federal government Office of Management and Budget, of the PCSRF program was conducted and rated "Results Not Demonstrated." In response to the rating, NOAA Fisheries worked with state and tribal recipients of PCSRF funds to draft the performance measures. Final performance measures are due to Congress by the end of April 2005. OWEB will continue to work with NOAA fisheries to further develop the performance measures and reporting methods to measure progress.

D-5: OWEB Performance Measures

Allison Hensey, Policy Specialist, and Ken Bierly, Deputy Director, discussed OWEB's performance measures which were approved in October 2004 by the Interim Joint Legislative Audit Committee. The measures will assist OWEB in assessing its performance in customer service, strategically investing public funds in watershed enhancement, and in the effect OWEB's investments have on water quality, and native fish and wildlife habitat. The measures have been included in the Governor's Recommended Budget and will be used as OWEB's budget is negotiated with the Legislature. Since the measures are newly approved, OWEB does not have supporting data for most of the measures, and it may take several years before OWEB has supporting data demonstrating OWEB's performance and showing trends. OWEB will be making changes to its data base to better track and report on the data to support the measures. Involvement in John Hagen workshop?

Board members made the following suggestions:

- Reorder measures to focus on OWEB's mission.
- Track how OWEB is doing with partnerships.
- Show change in status of delisted species.

D-6: Education Policy Decision Process

Public Comment: Russ Hoeflich, The Nature Conservancy, commented on OWEB's target audience for the Education and Outreach Strategy.

Melissa Leoni, Grant Program Specialist, and Scott Reed, OWEB Board member, updated Board members on the development of the Education and Outreach Strategy. OWEB staff have worked with the Board subcommittee to develop a process to refine the strategy and begin development of an implementation plan. The proposed approach is described below:

- Select members for two focus groups: an Awareness Focus Group and a Knowledge & Skills Development Focus Group.
- Identify a series of questions as the basis of each focus group's deliberations.
- Use the results of each focus group's deliberations to revise the Education and Outreach Strategy and develop a recommended Implementation Plan by the May 2005 Board Meeting.

The Board discussed watershed council roles in increasing local understanding and communication, the need to develop a survival plan as an accountability function to stakeholders and constituents, skills development for staff, Board, and constituents, and gaps in delivery of outreach and education. Some Board members expressed a reluctance to market the agency and Board explicitly, but overall agreed that OWEB needs to develop a marketing plan separate from the education and outreach strategy. The purpose of a marketing plan would be to communicate with voters, community leaders and elected officials about the benefits from Measure 66 investments, targeting the entities critical to success and identifying specific goals for that type of effort. For example, the watershed council study suggests audiences outside of the traditional outreach audiences who are addressed in the Strategy.

Staff will continue to update Board members as the Strategy develops.

D-7: Watershed Council Support Briefing

Roger Wood, Grant Program Manager, briefed Board members on the recent Watershed Council Support application process. Fifty-seven applications requesting over \$6.6 million were received by the December 13, 2004, deadline. Applications were screened for eligibility, copied, and distributed to reviewers. The Board's Council Support subcommittee (Mark Reeve, Michael Tehan, Dave Powers, Dan Thorndike, and Dianne Guidry) will assist in reviewing the applications.

Applications were randomly distributed to one of five watershed council support review teams who will work with staff to assess the strengths and weaknesses of each application. In March, OWEB staff and the Watershed Council Review Teams will meet to review the application summaries, and hear testimony, either in person or via conference call, from watershed councils who wish to clarify information. Staff and the Teams will then score and

prioritize each Team's applications to assist staff in preparing funding recommendations to the Board for consideration at the May 2005 Board meeting.

E. Public Comment

Russ Hoeflich, The Nature Conservancy, had comments relating to OWEB's conservation easement program, OWEB's vulnerability to continuing receipt of federal funds, and OWEB's target audience for the Education and Outreach Strategy.

Bruce Taylor, Defenders of Wildlife, discussed OWEB's budget and the need for support for a common agenda for the environmental community.

John Moriarty, Statewide Coordinator, Network of Watershed Councils, commented on the need to promote awareness of watershed councils through communication and partnerships.

F. Attorney General Advice Concerning the Administration of Lottery Funds

This item was postponed until the March Board meeting.

G. Conservation Easement Management Rulemaking

Melissa Leoni, Grant Program Specialist, briefed Board members on the Land Trust Alliance annual "Rally" she attended in Providence, Rhode Island, and on a request to initiate a rulemaking effort regarding conservation easements. As part of the rulemaking, OWEB needs to address specific policies related to enforcement and amending easements. These policies will enable OWEB to address long-term monitoring and enforcement needs of conservation easements. The rulemaking effort identified in the staff report will begin with staff discussion with Board members to develop recommendations for full Board discussion at the May 2005 meeting. Depending on staffing availability and Board discussions, formal rulemaking could begin in June with Board adoption of rules in September 2005.

Board members unanimously approved staff initiation of rulemaking for conservation easement management. Jane O'Keeffe and Paula Burgess will be part of a Board subcommittee to work with staff on the rules. Staff will contact Alan Christensen to also take part on the subcommittee.

H. Support for the Governor's Willamette River Legacy Plan

Tom Byler, Acting Director, and Ken Bierly, Deputy Director, presented a request from the Governor's Office to fund a position, which will be held by Louise Solliday, to manage the Governor's highest priority environmental initiative, the Willamette River Legacy. Approximately \$90,000 is needed to fund the position through October 31, 2005.

After discussion, Board members voted to support (one Board member opposed) staff's recommendation to fund the position February 1, 2005 through October 31, 2005, in the amount of \$90,000. Board members also requested that Louise Solliday make a presentation at the next Board meeting to present objectives and outcomes, and discuss the Board's question of duplication of existing efforts. They also requested that Louise Solliday come back to the Board at the end of the project to report on accomplishments.

I. Water Acquisition Rules Adoption

Public Comment: Jeff Oveson expressed concern over the proposed rules, asking that there be the ability for an applicant to demonstrate the priority nature of proposed projects that do

not fall within the Oregon Plan Streamflow Restoration Priorities. The proposed rules do provide an applicant the ability to demonstrate a project's merit that falls outside the Streamflow Priorities area. OAR 695-046-0050(1)

Allison Hensey, Policy Specialist, presented proposed changes to administrative rules for evaluating grant applications for the lease and transfer of water rights. In September 2004, the OWEB Board authorized staff to begin a rulemaking process to complete the separation of land and water acquisition grant rules. OWEB staff worked with the Water Resources Department (WRD) and stakeholders in developing the rules. The proposed rule changes accomplish two primary goals: to make grammatical changes to allow OWEB to disengage the water lease and transfer grant rules from the land acquisition grant rules and place them in a separate division, and to revise the rules consistent with recommendations by WRD staff so that the rules are compatible with current WRD practice and allow OWEB to accomplish the goals of its program. The following minor substantive changes were made:

- Clarifying that the Oregon Plan Streamflow Restoration Priorities will be used to evaluate instream water lease or transfer projects to benefit fish and wildlife habitat
- Requiring applicants to submit more specific data regarding the water right to be leased or transferred.
- Requiring applicants to submit a proposal for monitoring and evaluating the project's benefits over time
- Allowing applicants to submit a valuation of the instream water lease or transfer using an alternate valuation method approved by the OWEB Board that may differ from a formal appraisal.
- Asking applicants whether the project will occur within an irrigation district.
- Asking applicants to submit a report containing ownership and lien information rather than a title report.
- Clarifying the Board's authority to designate alternate instream water lease and transfer grant cycles and review processes should the need arise.

The following significant issues raised by public commenters may warrant further Board discussion:

- More flexible grant cycle with faster turnaround time using different review team.
- Funding diversion reduction agreements.
- Expanding eligible project costs: Funding for the transactional costs of donated right or moving point of diversion.

Board members unanimously approved the proposed rules as listed in Attachment A of the staff report making sure that the web sites referred to in the rules are updated.

J. Small Grant Program Rulemaking

Roger Wood, Grant Program Manager, presented a request to the Board to initiate rulemaking on the agency's Small Grant Program rules. Staff have identified clarifying adjustments to the program rules which were adopted in January 2004. Two significant issues have been raised since the rules were adopted:

1. How to encourage teams to be more strategic and less opportunistic in the types of project they recommend to OWEB for funding, and
2. How to resolve persistent problems of outstanding balances.

OWEB staff will enlist assistance from a rules advisory committee to work through the rule changes, which are expected to be presented to the Board for adoption in May 2005.

Board members unanimously approved staff to initiate rulemaking for the Small Grant Program rules.

K. Implementation of Legal Advice on the use of Capital Funds

Cindy Kraai, Fiscal Manager, and Roger Wood, Grant Program Manager, explained this item to the Board. OWEB recently received advice from the Attorney General's office on the "Use of Measure 66 Funds for Restoration Project Education and Outreach and Direct Costs Associated with Personnel." The advice states that education and outreach (E/O) costs associated with M66 "capital" restoration projects are not eligible for M66 capital funds. These costs include field tours, display creation, kiosks, and costs associated with the production of materials describing the work on a restoration project.

Board members were presented with two options.

Option 1 creates a choice on how the Board wishes to provide a separate allocation of "non-capital" funds to cover E/O elements of restoration grants.

Option 2 is based on the circumstance that the Board wishes to not allow "non-capital" funds to be missed with "capital" funds in restoration grants.

Board members unanimously approved Option 1.b. of the staff report, which would allow a reimbursement payment for Education and Outreach expenditures only and allocate "non-capital" funds for these elements.

L. Project E2 (Environment and Economy) Issues and Evaluation Process

At the September 2004 Board meeting, staff were asked to suggest a process and schedule to work with stakeholders to further develop two possible approaches to the E2 concept, and develop recommendations to bring to the Board. Co-Chair Heagerty and Allison Hensey, Policy Specialist, outlined the proposed process and timeline for development of the E2 concept. When? The project could expand our role in building strong communities through the watershed, economic and social benefits of funded projects, and make OWEB more strategic in its funding decisions.

Board members stressed the importance of focusing on OWEB's core mission, and had concerns about taking more money from the competitive grant program.

Board members Dan Heagerty and Diane Snyder will work with OWEB staff to develop a working group to discuss the E2 concept, identify and assess the opportunities and limitations, and evaluate whether OWEB should implement some approach to better link economic and community benefits to restoration projects. Staff will return to the May 2005 Board meeting with an update on formation of the working group.

At this time, representatives of the Confederated Tribes of the Umatilla Indian Reservation were present for an informal discussion on tribal issues.

Antone Minthorn, Chairman, Board of Trustees
Leo Stewart, Vice Chair, Board of Trustees
Armand Minthorn, Member, Board of Trustees
Kat Brighan, Member, Board of Trustees
Eric Quaempts, Director, Department of Natural Resources
Carl Scheeler, Wildlife Program Manager, Department of Natural Resources
Gary James, Fish Program, Department of Natural Resources

Oregon Watershed Enhancement Board

January 20, 2005

OWEB Board Meeting

Pendleton, Oregon

Minutes

OWEB Members Present:

Bobby Brunoe
Paula Burgess
Dianne Guidry
Daniel Heagerty, Co-Chair
Skip Klarquist
Jane O’Keeffe, Co-Chair
Dave Powers
Mark Reeve
Diane Snyder
Michael Tehan

OWEB Staff Present:

Bonnie Ashford
Ken Bierly
Tom Byler
Rick Craiger
Douglass Fitting
Allison Hensey
Cindy Kraai
Karen Leiendecker
Melissa Leoni
Greg Sieglitz
Roger Wood

Others Present:

Phil Blanton
John Moriarty

Members Not Present:

Alan Christensen
Scott Reed
Dan Thorndike
Pat Wortman

M. Alder Creek Farm Deferred Acquisition

Public Comment: Phil Blanton, Lower Nehalem Community Trust, thanked the Board for their support and was available for questions on the project.

The Alder Creek Farm Acquisition (Application No. z205-002) was deferred in April 2004 to allow staff and the applicant time to work through appraisal issues prior to Board action. All due diligence issues have been resolved.

Board members unanimously supported funding the Alder Creek Farm Acquisition for \$50,000.

N. Conservation Reserve Enhancement Program Agreement and Funding

Ken Bierly, Deputy Director, summarized a recent amendment to the CREP agreement between the USDA and the State of Oregon. The agreement, signed in December 2004, has the potential to expand enrollment by:

- Making the program available to any stream within the boundaries of a water quality management area plan in addition to streams that supports listed fish species. Streams on reservation and tribal trust lands are also now eligible regardless of listed fish presence.

- Paying for costs associated with water right leases and transfers.
- Adjusting goals to specific geographic areas rather than a statewide goal.
- Adding new conservation practices to the agreement.
- Creating a local watershed option for the Tualatin watershed.

Staff will return to the Board with a request for CREP program funding after the agency's 2005-2007 budget has been legislatively adopted.

O. Other Business

1. Coastal Wetlands Protection, Restoration, and Planning Act Grants

The U.S. Fish and Wildlife Service granted \$952,514 to OWEB for the Yaquina Wetlands project. At its May 26-27, 2004, meeting, Board members approved a \$317,404 capital grant for the Yaquina River Estuarine Wetlands Acquisition and Restoration project (204-317). In September 2004, the Board gave its approval for OWEB to enter into an agreement with the USFWS, and authorized staff to grant up to \$45,000 in USFWS funds to The Wetlands Conservancy to fund the appraisal and project development work to complete the due diligence requirements of an OWEB acquisition grant application.

As an oversight, OWEB staff did not request Board authority to spend the USFWS federal funds approved to be received in September for the Yaquina Wetlands project.

Board members unanimously supported staff's recommendation to develop a grant agreement with The Wetlands Conservancy that includes the remaining \$907,514 of federal funds and to move forward with the Yaquina River Estuarine Wetland Acquisition and Restoration project.

2. A Unique Opportunity to Assist Watershed Councils

Ken Bierly, Deputy Director, presented the Board with an opportunity to provide additional funding to watershed councils. The executor of the estate of Jane Claire Dirks-Edmunds, a Professor of Biology at Linfield College until her retirement, bequeathed \$50,000 to fund local conservation interests. Dr. Dirks-Edmunds wanted the gifts to go to local organizations that are helping Oregon restore the ecological conditions that characterize the Douglas fir forests that she cared deeply about. OWEB requests Board approval to provide a 1:1 match for the estate funds that will be distributed to councils. OWEB has recaptured PCSRF funds available from under-budget and canceled grants that will allow for the matching funds.

Board members unanimously supported Option 1 of the staff report to provide a special award to the top three category rankings from the 2003-05 biennium watershed council support review. OWEB will provide 1:1 matching funds from the PCSRF non-capital funds for each \$1,000 gift distributed separately from the Dirks-Edmunds estate. Expenditure of funds will be consistent with terms of the MOU between OWEB and NOAA Fisheries.

At this time, local area partners presented Board members information on recent activities.

Bev Kopperud, Umatilla SWCD, briefed Board members on activities of the District, work under the Conservation Security Act, and other work of the District.

Mike Pelissier, Coordinator, and Gary Rhinehart, Chair, Umatilla Basin Watershed Council, discussed recent basin prioritization efforts and other work of the council.

Having no further business, the meeting was adjourned.

At the conclusion of the meeting, Board members participated in a field tour highlighting the watershed-scale effort in the basin and the partnerships involved. The tour was sponsored by the Confederated Tribes of the Umatilla Indian Reservation.