

TASK FORCE ON DROUGHT EMERGENCY RESPONSE



HB 4113(2016)

October 12, 2016 – MEETING NOTES Location: Department of State Lands | Land Board Rm.

MEMBERS PRESENT:

Representative Ken Helm, Co-chair	Richard Kosesan	Bob Rees
JR Cook	Mary Anne Nash	Dan Shoun
Suzanne DeLorenzo	Rod Park	Julie Smitherman
Brett Golden	Kimberley Priestley	April Snell
Jason Green	Eric Quaempts	

AGENCY STAFF:

Racquel Rancier, OWRD	Chris Kowitz, OWRD	Debbie Moller, OEM
Lanaya Blakely, OWRD	Anna Pakenham Stevenson, ODFW	

AUDIENCE:

Mike Faught, Lauren Smith, Jeff Stone, Tracy Rutten, Clair Klock, Brent Stevenson, Peggy Lynch

I. Welcome and Introductions

Co-chair Helm welcomed everyone. Task Force members and the audience introduced themselves.

II. Agenda Review and Approval of Previous Meeting Minutes

Co-chair Helm reviewed the agenda; no changes were made.

Meeting Five Minutes, September 27, 2016: Meeting minutes contain member feedback received by staff via e-mail. Co-chair Helm asked if there were any requested revisions to the minutes; Nash requested clarification of what “small systems” referred to on Page 3, bullet 5. Members discussed identifying vulnerability for both small stream systems and small water systems. Snell requested small water systems refer to both municipal and agriculture. Staff to amend accordingly. Green moved to accept the minutes with the changes discussed. Motion passed 14-0-1.

III. Task Force Discussion

The task force members continued discussion on each topic area in the Draft Ideas for Discussion document, and identified potential recommendations for further drafting. No formal votes of the task force were taken. Pakenham -Stevenson presented Oregon Department of Fish and Wildlife’s feedback on topics X, P, and ZG.

Topic X. Conduct more scientific studies evaluating instream flow needs with climate change and Topic P. Stream assessment for High Priority

Task Force members discussed the need for identifying instream flow needs to prioritize restoration and inform future funding decisions. Concerns about calling out data needs specific to one sector and the proposals’ utility as a drought response tool were discussed. Members agreed that a portion of these ideas should be incorporated into the previously discussed Scientific Data potential recommendation as a bullet point.

Next Steps: Include “Assess instream data needs in the context of drought” as a bullet point to the Scientific Data potential recommendation.

Topic ZH. Emergency Minimum Flows for Fish

Members discussed California's minimum flow program, achieved through voluntary agreements and mandatory curtailment if streamflow levels are not met, and an exclusively voluntary agreement program, as an alternative. Discussion included barriers to voluntary agreements and the other tools for instream flow restoration.

Next Steps: No decision made. Continue discussion on developing a potential recommendation.

Topic ZG. Fishing Regulations During Drought

ODFW clarified that the agency already has the authority to develop and implement fishing regulations during drought. The Task Force discussed how the proposed recommendation fit into the charge of the task force and the relative need for the recommendation. It was determined that this proposal would not go forward because ODFW is already working on this.

Next steps: Include it on the list of topics discussed without recommendation.

Topic A. Review of Programs

Members generally agreed that efforts by the Drought Readiness Council and Water Supply and Availability Committee to coordinate actions and share information are essential, even when not in drought. Discussion focused on how to ensure that agencies continue to collaborate and integrate resources, including codifying the groups existence, providing information services support, and coordinating with representatives of all sectors.

Next Steps: Continue discussion. No agreement on a proposal. Consider "The Drought Readiness Council should continue to meet and ensure they are coordinating on drought preparedness, response, and data, and to the extent possible coordinate with cities, counties, and other local government jurisdictions."

Topic B. Drought Declaration Process and Tools (except conservation plans)

Members discussed issues associated with drought declarations and opportunities to improve their usefulness. One member mentioned that coordination is improving, but there are opportunities for the State to increase communication on conditions with local entities. Members generally agreed that there are too many issues for the Task Force to adequately evaluate.

Potential Proposed Recommendation: The State should review the drought declaration process and tools to ensure drought declarations are effective to assist with emerging drought response.

Next steps: Develop context for proposal. Include the list of perceived issues pertaining to the drought declaration process in the review.

Topic C. Funding for Drought Planning & Topic D. Drought Emergency Funding

Members discussed having an emergency fund, as a tool for Oregon to respond to drought emergencies for instream and out of stream projects/needs. A member suggested that by also providing funds for drought planning, an emergency fund can act as a true emergency option.

Potential Proposed Recommendation: 1) The legislature should look at establishing a drought emergency fund for instream/out-of-stream projects/needs, 2) The legislature should look at establishing a fund for drought planning to help communities be better prepared and more resilient to drought.

Next steps: Develop context language for proposed recommendations: instream needs, municipalities, and agriculture; drought funds provide both short-term (emergency funds) and long-term (drought planning) support; and needs that don't fit the criteria of existing funds.

Topic Y. Need to Anticipate and Mitigate versus Respond

Members discussed the importance of focusing efforts on anticipating and mitigating rather than responding to drought, and finding opportunities to incentivize planning and preparedness.

Next Steps: Do not include this recommendation, but instead retain as a principle. To be discussed at the end of the process.

Topic E. Support for Water Use Regulation, Drought Response and Mitigation Staff

Staff explained the function of Watermasters and the challenges they face during drought, as well as, the Departments budget request for additional Regional Assistant Watermasters. One member identified Watermasters as the most effective educator for water users in the field. Discussion focused on being sensitive to counties that fund Assistant Watermasters, staffing and training challenges, and opportunities to increase efficiencies through technology. Members discussed the need for additional watermaster staff, whether drought exists or not, to provide timely distribution and management of water.

Potential Proposed Recommendation: Provide funding for additional watermaster staff and tools to make water distribution more efficient.

Next Steps: Develop context language for proposed recommendation.

Topic R. Tax incentives for Conservation

Members discussed creating tax incentives for water conservation measures and the potential disincentives associated with including water efficiency improvement rebates as taxable income.

Potential Proposed Recommendation: 1) The legislature should look at providing tax credits for water conservation and efficiency measures. 2) The legislature should look at making water rebates nontaxable income.

Next Steps: Develop context language for proposed recommendation, including: making water efficiency and conservation incentives analogous to energy efficiency incentives.

Topic H. Allocation of Conserved Water Program

Members discussed that the lack of participation in the Allocation of Conserved Water program has been due largely to a lack of promotion.

Next Steps: Include it on the list of topics discussed without recommendation. Already incorporated portion on outreach into recommendation on communication.

Topic I. Reducing Tax Risks Associated with Leasing Water Rights Appurtenant to EFU lands

Members discussed the challenges for farmers when land loses its Exclusive Farm Use (EFU) tax deferral. There was discussion about the potential for leasing water instream to result in the loss of EFU status, but others pointed out that fallowing is a normal farming practice. Some concerns about the proposal were expressed. Members agreed that more research should be done to determine whether there was an actual risk to farmers leasing water instream before making a recommendation.

Next Steps: Golden and Nash agreed to discuss potential proposal. Need to contact Oregon Department of Agriculture and county officials to determine the risk of losing EFU status by participating in instream leasing.

Topic O. Allow Pre-Approval of Leases Under ORS 537.348 and Topic V. Add Instream Use to Any Water Right Certificate

Members discussed how the pre-approval of instream leases could improve water right flexibility and reduce burden to WRD staff, as well as, opportunities for such a program to be misused. Also discussed was the necessity for sideboards to avoid injury and enlargement and to address forfeiture. Members discussed that pre-approval of leases could act to inform implementation of a permanent process that adds instream use to an existing certificate. Members voiced concerns about the complicated nature of instream transactions and the many unknowns.

Potential Proposed Recommendation: The legislature should look at establishing a program that would allow for the pre-approval of leases for instream purposes. The legislature should look at adding instream use to a water right certificate

Next Steps: Develop context language for proposed recommendations, including: improve flexibility for water users, create sideboards that minimize opportunities for misuse, injury and enlargement review, workload shift from processors to field staff, experience with preapproval of leases could inform adding instream use to a certificate. Include higher level recommendation directed at instream if there are multiple proposals.

Topic U. Allow Management Agreements Such as Forbearance Agreements to Count as Use for the Purpose of Forfeiture

Members discussed how registering forbearance agreements could provide more flexibility for water users to move their water rights instream. Some discussion about the need. Members agreed not to pursue this recommendation given the number of other proposals related to instream use.

Next Steps: Include it on the list of topics discussed without recommendation.

Topic T: Incentives for Agriculture or Districts to Do WMCPs/Forfeiture

Member discussion included how to create incentives for agriculture and/or districts to complete an Ag-WMCP and the disincentives of participating in the program.

Next Steps: Include it on the list of topics discussed without recommendation.

Topic Q: Implement OAR Division 410, Sub-basin Conservation Plans Including Setting Efficiency Standards

Members discussed reasons why the existing rule had not been implemented yet, staffing challenges to implementation, and its usefulness as a tool to mitigate drought conditions. The task force decided that because the rule already existed, the report should identify it as an existing tool that has not been implemented.

Next Steps: Identify rules in the list of existing programs and that they have not been implemented. Include on the list of topics discussed without recommendation.

Topic S. Update Plumbing Codes and Water Efficient Fixtures

Members discussed the opportunity to adopt updated plumbing codes, developed by the International Association of Plumbing and Mechanical Officials (IAPMO), due out in December 2017. Some members were concerned about the potential for unintended consequences.

Next Steps: Include it on the list of topics discussed without recommendation. Check in with Building Codes.

Topic W. Groundwater Recharge

Members generally agreed that groundwater recharge is a long term solution. One member suggested that it should be identified as a useful existing tool.

Next Steps: Include it on the list of topics discussed without recommendation. Include it in a list of existing tools.

Topic ZD: Upland Forest Management

Discussion focused on the importance of upland forest management for water management, but that the proposal is beyond the scope of emergency drought response. One member identified a State funding opportunity for dry side forest enhancement. Another member suggested the funding opportunity be included in a list of existing tools.

Next Steps: Include it on the list of topics discussed without recommendation.

Topic ZE: Land Use and Water Resources

Member discussion focused on the importance of considering water resources in land use decisions.

Next Steps: Include it on the list of topics discussed without recommendation.

IV. Public Comment

None received.

V. The Task Force adjourned at 4:08 pm.

Next Meeting

Date: October 25, 2016

Location: Department of State Lands, Land Board Room
775 Summer St., NE, Salem, OR 97304