



OREGON WATER UTILITIES COUNCIL
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Report from Oregon Water Utility Council 2018 PNWS-AWWA Spring Trustees Report

Chair: Sara Petrocine, City of Portland
Vice-Chair: Karen Kelley, City of Albany
Sec/Treasurer: Mike Grimm, West Slope Water District
Past Chair: Suzanne DeLorenzo, Clackamas River Water
Trustee: Kari Duncan, City of Lake Oswego

The Oregon Water Utility Council monitors legislation, regulations, and court actions that could impact the water industry, giving members the ability to help shape these kinds of issues. In addition, it provides its members with the ability to network with other water utilities of all sizes across the state to share information, discuss issues of importance to drinking water providers, and to engage in solutions to issues. The legislative activities are closely coordinated with policies of the AWWA when applicable.

Review of Activities and Accomplishments

State Legislative Session

OWUC closely monitored legislation during the 2018 Legislative Session, which began February 5 and ended March 3.

Public Contracting - Qualifications-Based Selection

HB 4127 would have created an alternative process that contracting agencies could use for the procurement of architectural, engineering, photogrammetric, land surveying and transportation planning services. The optional process proposed in HB 4127 would have allowed cities and other contacting agencies to select up to three qualified firms with which to negotiate, including on pricing information. The bill passed the House and had a public hearing in the Senate, but did not advance further. Stakeholders, including OWUC members, expect to participate in an interim work group on this issue, which will likely result in legislation during the 2019 session.

Carbon Cap and Invest

SB 1507 and HB 4001 would have updated existing state greenhouse gas reduction targets and would have required the Oregon Environmental Quality Commission to establish an overall statewide cap on greenhouse gas emissions. The bills would have required regulated entities to obtain an allowance for every metric ton of carbon produced, and it would have set up a system for entities to trade allowances by establishing a market. Though both bills failed to



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advance, the policy remains a priority for both the Governor's Office and the House leadership, and it is expected that similar legislation will be introduced again in the 2019 session.

Water Rights Transfers

SB 1558, which was introduced to address specific concerns of the Tumalo Irrigation District in Central Oregon, proposed several changes to the ways in which water can be transferred. The bill tried to clarify that stored water be considered a water use that is eligible to be transferred. The bill would have authorized the Oregon Water Resources Department (OWRD) to approve transfers of stored water from one location to another and would have allowed an applicant to use the state's transfer process in lieu of being required to obtain a new water right. In addition, the bill would have clarified the authority of the OWRD to approve transfers of stored water for instream purposes. Several stakeholders, including the League of Oregon Cities, met in the weeks before the session to address concerns with the proposed bill, including a significant concern about unintended consequences for existing transfer statutes. The concerns were unable to be resolved and the bill did not receive a public hearing; however, the bill did result in a stance taken by WRD that caused OWUC to engage with a water rights attorney for a legal analysis (more details are below). Further discussion on water rights transfers are expected during the interim session.

Legal analysis

Storage Water Rights Transfers

As a result of the failed SB 1558 legislation detailed above, WRD took a close look at its transfer authorities and in February issued a memo that concluded that contrary to 90 years of department practice, they did not have the authority to approve transfers of stored water. This conclusion caused immediate concern amongst OWUC members, particularly in light of the Willamette Basin Reallocation project, which is based on the existing understanding of the statute, that stored water can be transferred. After conversations with other concerned stakeholders and with WRD, OWUC decided to engage an attorney to provide a legal analysis of WRD's new position. WRD has proposed legislation to fix the perceived issue, and OWUC continues to work with other concerned parties and its contract attorney to work on finding a solution to this important issue.

Subcommittee Business

Willamette Basin Reallocation Study

In November 2017, the United States Army Corps of Engineers (USACE) released its Tentatively Select Plan (TSP). Unfortunately, the TSP cuts in half the USACE's own analysis that the projected municipal and industrial (M&I) need for stored water is 159,750 acre-feet – proposing to allocate only 73,300 acre-feet of storage space or 5 percent of the total to M&I use. At the same time, the TSP proposes to allocate over 60 percent of the storage space to fish and wildlife use and to retain a joint use pool of almost 20 percent of the total storage space.



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The TSP's proposed allocation of 73,300 AF of storage space for M&I use does not provide the water providers with the certainty they need to invest in large, regional water supply solutions and infrastructure needed to meet future demands over the next 50+ years.

The OWUC Chair and Vice Chair will meet with members of Oregon's federal delegation during the AWWA Fly-In in April to encourage the members to ask the USACE to allocate the original projected demand for municipal water, and to continue to support funding for the project in the 2019 budget.

Other OWUC Business

Regular meetings and AWWA Fly-In 2018

OWUC continued to hold its regular monthly meetings, holding the January and February meetings in Salem, and the March meeting in Eugene.

The Chair and Vice-Chair of OWUC prepared in March and April to attend the 2018 AWWA Water Matters! Fly-In in Washington D.C. As of this writing, the Chair and Vice-Chair are preparing to meet with Oregon's delegation to discuss the Willamette Reallocation Project, infrastructure funding, and the conservation title of the Farm Bill.