Oregon Water Coalition
Member Newsletter

Inside this Issue:

- Ag/Water bills fall by wayside
- Growers test drip irrigation
- Klamath braces for shutoffs

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Columbia River treaty raises questions, fails to address irrigation

Farmers and irrigators worry how changes to the Columbia River Treaty between the United States and Canada could impact their water supply.

Norm Semanko, executive director of the Idaho Water Users Association, said water supply and irrigation are not getting enough attention during the treaty review.

"It's almost an afterthought," he said. "It should be part of the goals and objectives of the process to make sure we have enough water for water supply, for irrigation, for food security."

Semanko is concerned about differing interpretations by the two countries over the flood control Canada would provide if the treaty expires or is renegotiated.

Semanko said the Canadians believe the U.S. must use all of its reservoirs before Canada provides any flood control after 2024.

That means a reservoir used for irrigation, recreation or local fisheries in Boise or Payette could suddenly be emptied to make room for excess water to avert flooding in Portland, Semanko said.

The U.S. believes all authorized projects, including the Canadian dams, must be used for system flood control. Semanko said his association agrees with that.

The U.S. Army Corps of Engineers and Bonneville Power Administration held the first in the latest series of treaty open houses in the Pacific Northwest on April 10.

Officials from the two agencies offered an update on the process the U.S. and Canada are following to determine whether to continue the treaty, which expires in 2024. The nations can decide to terminate the treaty with 10 years of advance notice. In the U.S., the Corps will send its recommendation to the U.S. Department of State this December.

Matt Rea, treaty review program manager for the Corps, said the two countries do differ on their interpretations. Ultimately, the issue may be negotiated between the U.S. and Canada, he said. Rea said the United States will retain the right to ask Canada for flood control storage after 2024.

"If you terminate the treaty, Canada is free to operate their reservoirs as they see fit for optimization of Canadian benefits, with no consideration for optimization of hydropower downstream," Rea said. "The flip side of that is the United States does not owe Canadian entitlement."

Under the treaty, Canada is entitled to half of the downstream benefits associated with water storage. The U.S. currently pays $250 million-$300 million to Canada in electricity. That represents half of the power generated by the dams along the river.

Terry Buchholz, a consultant for the Corps, said irrigation and navigation are not likely to be impacted if the treaty is terminated or continues.

The U.S. team's study found almost no change for irrigation or navigation from current conditions under any of the decision options, she said.

"The differences were so small that it just had no impact," she said. The Corps and BPA examined a series of different scenarios, called components. In each scenario, the team researched the overall effect of emphasizing just one aspect of the river system, such as the ecosystem, hydropower or flood risk.

Several scenarios did show a difference in navigation or water supply, but Buchholz said they are unlikely to ever occur in reality. The team will use the information from its research in the next step of the process, Buchholz said.

Removing the entitlement might mean drawing down water in Lake Roosevelt deeper and more often, said Don Dashiell, a Stevens County commissioner and rancher in Hunters, Wash. The lake is one of the flood control reservoirs.

Matthew Weaver, Capital Press, 4/11/2013

Some bills fall by the wayside as legislature reaches halfway point

Oregon farmers can continue to experiment with giant cane, and water rights holders will not have to pay a $100 annual fee for each of their water rights -- at least not in the near future.

And folks changing water withdrawal points of diversion will not have to start evaluating whether the change will result in a loss of fish habitat.

Bills stipulating giant cane as a noxious weed, establishing a new water right management fee and requiring environmental evaluations for points of water diversion changes are among dozens of proposals laid to rest in the Oregon Legislature.

The death knell sounded when lawmakers failed to move the bills out of their committees of origin by April 18, a self-imposed legislative deadline.

Also a bill to label food with genetically engineered ingredients apparently has died, as has a bill allowing employees to put a lien on an employer's property when filing a wage claim.

As lawmakers hit the halfway point of the 2013 legislative session, many bills to impose new regulations and fees on agriculture were left behind. Others, however, still survive.

"There are a lot of bad bills that are still alive," said Ian Tolleson of the Oregon Farm Bureau.

"It is definitely a mixed bag," said agricultural lobbyist Roger Beyer, when asked to rate the session. "There is probably still more bad than good here."

"There still is a lot of work to be done and a lot of uneasiness," said Katie Fast of the Oregon Farm Bureau.

Paulette Pyle of Oregonians for Food and Shelter said OFS is keeping a close watch on several bills to regulate GE crop production, including four that were recently moved into the House Rules Committee. The bills include:

- House Bill 2319 allows the Oregon Department of Agriculture to impose safeguards on crops to prevent the spread of GE materials.
- House Bill 2715 authorizes counties to establish control areas for commodities containing GE materials.
- House Bill 2736 exempts farmers from liability for inadvertent acquisition or use of GE plants or seeds.
- House Bill 3476 prohibits importation of GE fish into Oregon.

Other bills still alive that are causing concern among the farm lobby include a bill Beyer has called "public enemy number one for agriculture."

House Bill 2504, which is in the House Revenue Committee, calls for the state to end property tax breaks on, among other property, farm machinery, irrigation equipment, livestock, grain, hay and seed.

Other bills of interest that are still alive include:

- Senate Bill 633, which would bar counties and other government bodies below the state level from imposing regulations on the production of GE crops.
- Senate Bill 833, which would create a pathway for undocumented immigrants to obtain Oregon driving privileges.
- Senate Bill 839, which would create a development fund for future water supply projects.
- House Bill 2624, which would allow counties to opt out of a ban on the use of dogs to hunt cougars if voters approve the exemption in a county election.
- House Bill 2427, which would create a three-year moratorium on the production of canola in the Willamette Valley.
- House Bill 3452, which allows ranchers in zones of chronic wolf depredation to kill wolves attacking or chasing livestock without first obtaining a permit from the state.
- House Bill 2259, which gives authority to the Oregon Water Resources Department to raise fees up to 2 percent annually, or at the rate of inflation, whichever is lower.
- Senate Bill 841, which regulates winery activities in exclusive farm zones.

Mitch Lies, Capital Press, 4/25/2013

Senate Rules Committee OKs Levy, Evanstad to board appointments

Two farmers are among executive appointments the Senate Rules Committee endorsed in a hearing April 24.

The appointments of Hermiston farmer Bob Levy to the Port of Portland Commission, and vineyard and winery owner Kenneth Evanstad to the Oregon Tourism Commission now go to the full Senate floor.

If confirmed, Levy, a former chair of the Oregon State Board of Agriculture, will replace Steve Corey, whose term has expired, as one of two statewide members on the nine-member Port of Portland Commission.

Evanstad, founder-owner of Domaine Serene vineyard and winery in Dundee Hills, is one of two new members of the nine-member Oregon Tourism Commission. He and Nigel Francisco of Ninkasi Brewing Co. in Eugene, will replace outgoing commissioners Jackie Edmunds and Win McCormack, whose terms expire July 1.

Also in the April 24 hearing and work session, the committee endorsed the appointment of Umatilla County Commissioner Dennis Doherty to the Oregon Water Resources Commission.

Doherty will have spent 197 months as a Umatilla County commissioner when he retires May 31.

If confirmed by the full Senate, Doherty will replace Mary Meloy on the seven-member water resources commission. Meloy's term expires July 1.

The appointments were among 37 appointments to 25 boards and commissions that the committee endorsed.

Mitch Lies, Capital Press, 4/24/2013

Potato growers in Southern Oregon test drip irrigation

Potato growers in Oregon's Klamath Basin, an area known for its frequent shortages of water for irrigators, one farm is test the use of drip irrigation, an irrigation method with the potential to reduce water use.

After testing the system on seven acres last year, Baley Trotman Farms, a major Klamath Basin potato grower, plans to try again on another nine acres this year.

"It's part of the solution to being as conservative and efficient with the water as we can be," said Mathew Trotman, farm manager for Baley Trotman Farms and an independent potato grower. "Our customers like to see we're moving forward in new ways -- green ways -- of working with our crops."

Trotman said the 2012 use had positives and negatives, calling last year's use of drip irrigation a learning season. "We're going to do some things a little differently," he said.

Drip irrigation, long used by commercial greenhouses and residential gardeners, is the slow, even application of low-pressure water to soil and plants using plastic tubing., called drip tape, placed direct5ly in the plants' root zone. Based on tests monitored by the Oregon State University Extension Service in Eastern Oregon's Treasure Valley, when successful the drip irrigation method results in very little evaporation, zero runoff, saves water and results in fewer weeds.

"With drip irrigation you can monitor how much water you're putting on," Trotman said. "It's probably a more direct way to get fertilizer to the plant."

Lee Juillerat, Capital Press, 4/26/2013

Groups split on water fee increases, department directed to generate revenue

A proposal to establish a new water-rights management fee fell flat this legislative session, but a second water fee bill, this one to increase existing fees, is faring better.

House Bill 2259 was moved recently with a do-pass recommendation from the House Agriculture and Natural Resources Committee to the joint Ways and Means Committee, where it currently sits. As amended, the bill will give the department authority to increase water transaction fees as much as 2 percent annually, retroactive to 2009. The fee increases are aimed at satisfying a 2009 legislatve policy directive for the department to generate half its revenue from fees and half from the general fund.

Currently the department generates about 60 percent of its revenue from the general fund and 40 percent from fees, according to the department. Adding urgency to the issue, the existing fee schedule is set to sunset on

July 1 and fees would revert to pre-2009 levels. Speaking recently before the Senate Environment and Natural Resources Committee, Richard Whitman, Gov. John Kitzhaber's natural resources policy advisor, characterized HB2259 as "critical for the (OWRD's) budget in this (2013-15) biennium."

The bill is backed by a consortium of environmental and farm interests, including the Oregon Environmental Council, the Oregon Association of Nurseries and the Oregon Water Resources Congress, which represents irrigation districts.

"For nurseries, we recognize that a water resources department that has adequate funding will help us with water transfers, water certificates and a variety of different services that we need in order to do our business," said Jeff Stone, executive director of the nursery association.

Without legislative action, department administrators said they will need to cut OWRD's water permitting staff from 32 to 24 full-time-equivalent positions.

"At that level, I think that anything the nursery industry would need from the department, if it was an extension of a water right or any number of things, that the line would get longer, the responsiveness would be less," Stone said.

"If we're trying to move a water right or transfer it over to a different area, we need to have a department that is able to respond and do it in a timely manner," he said.

While nurseries and irrigation districts support the bill, other natural resource organizations are in opposition to what they see as a continued push by the department to raise fees. Oregon Cattlemen's Association lobbyist Jim Welsh said cattlemen support leaving fees at current levels.

Similarly, the agricultural water rights organization Water For Life opposes the bill and would like to see fees left at the current schedule.

Richard Kosesan, who lobbies for Water For Life, said the department raised fees substantially in 2007 and 2009. Another fee increase, he said, will place a significant burden on water users.

"The reality is, the Water Resources Department's fee revenues have increase approximately 75 percent between the 2001-03 biennium and the 2011-13 biennium," Kosesan said.

Given an improved economy and a corresponding improvement in fee revenue, the existing fee schedule should be adequate to meet the department's needs, he said.

"If in fact the fee revenue anticipated (in 2009 fee-increase legislation) would be actually generated, the department without a fee increase would realize well over $700,000 in additional fees from the existing fee schedule," Kosesan said.

"I believe it would be prudent to extend the sunset for two or four years and find out what the experience is with the realization of the increased generation of fee revenue," he sad.

Mitch Lies, Capital Press, 4/25/2013

Upper Klamath Basin braces for drought-based irrigation shutoffs

With drought looming, the state of Oregon is preparing for the likelihood it will have to shut off irrigation access for many of the 200 cattle ranchers and hay farmers in the upper Klamath Basin as the Klamath Tribes take control of senior water rights in the region for the first time in a century.

Since a formal declaration of drought last month, representatives of the governor's office have been making regular visits to Klamath County to brief local law enforcement and other officials on what they can expect if irrigation withdrawals are shut off. A nearby federal irrigation project saw weeks of bitter protests in 2001 when drought triggered a water shut-off to conserve flows for protected fish. "Now if there are shortages of water in the basin, people can request that newer more junior water rights are shut off so older water rights can be satisfied," Richard Whitman, natural resources adviser to the governor, said in a telephone interview Tuesday. "There is a fairly high likelihood of that happening in the upper Klamath Basin this year."

Snowpack in the Cascade Range is thin, and prospects are diminishing for a wet spring. The state of Oregon earlier this year recognized the findings of a lengthy legal process known as adjudication that gave the tribes the most senior rights to the majority of the water flowing into Upper Klamath Lake, dating to time immemorial.

Don Gentry, chairman-elect of the Klamath Tribes, said no decision has been made yet, but it is likely the tribes will exercise the senior water rights granted earlier this year to protect endangered sucker fish, which spawn in rivers running into Upper Klamath Lake.

The tribes are closely monitoring the flows in the rivers, which are already below the levels covered by their water rights, and a decision is likely in coming weeks.

"Given the endangered status of our (short-nosed sucker and Lost River sucker) fisheries, we have to do everything we can to protect them," Gentry said. "They are on the brink of extinction."

The largely independent irrigators on the Williamson, Sprague and Wood rivers, which flow into Upper Klamath Lake through the communities of Beatty, Chiloquin and Fort Klamath, escaped the irrigation shutoffs of 2001, when drought forced a shutdown of irrigation on most of the land covered by the Klamath Reclamation Project to save water for threatened salmon and sucker fish.

The shut-off triggered angry confrontations between farmers demanding their water, and federal authorities who shut it off under the demands of the Endangered Species Act. Some turned their anger toward the tribes because they supported devoting scarce water to fish.

The places are reversed this year. Farmers on the federal irrigation project straddling the Oregon-California border have made agreements with the tribes protecting their access to water, and won their own senior water rights in the upper basin. They have also joined the tribes in endorsing the removal of four aging hydroelectric dams on the Klamath River to help struggling salmon runs.

Many farms and ranches in the upper basin started withdrawing water May 1, and if a shut-off is ordered, they will lose crops of hay and alfalfa, said Tom Mallams, a Beatty hay farmer, Klamath County Commissioner, and Tea Party member.

The threat of shutoffs has already hurt ranchers, who have lost contracts to feed cattle from California on irrigated pasture, he said.

Mallams is one of about 65 upper basin irrigators who have formally challenged the tribes' water rights, hoping to have them overturned in the second phase of the adjudication process.

"I have talked to neighbors, talked to irrigators, talked to friends," he said. "I hope that nothing bad happens here. But if something bad happens, I am going to point the finger at the state Water Resources Department and state leadership as the cause of it. The process they used has been very biased, very selective, in how they did the adjudication process."

Capital Press, 5/10/2013

EPA to get tougher on Oregon's water temperature standards for fish

A Portland-based federal judge has signed an agreement between The Northwest Environmental Advocates and the federal government that requires more rigorous oversight of Oregon's setting of water temperature standards for the state's rivers and streams.

The agreement, between the NWEA and the U.S. Environmental Protection Agency, comes after the court ruled in favor of NWEA's challenge to numerous aspects of Oregon's water quality standards under the Clean Water Act and the Endangered Species Act. The lawsuit is the second time NWEA has successfully challenged EPA's approval of Oregon's temperature standards.

"For 20 years Oregon has tried – and repeatedly failed – to put standards in place that protect salmon, steelhead, and bull trout," said NWEA Executive Director Nina Bell. "We hope that the court's order will usher in a new day in which the State of Oregon and the federal agencies take seriously their obligations to protect these threatened and endangered species from the most widespread pollution problem in Oregon: high water temperatures."

"This case is important for Oregon water quality and salmon but it also has important national implications," said Allison LaPlante, staff attorney with the Earthrise Law Center at Portland's Lewis and Clark College (formerly the Pacific Environmental Advocacy Center), one of NWEA's lawyers on the case.

"Importantly, the court ruled that EPA could not allow Oregon to essentially exempt the very human activities – logging and farming – that are causing high water temperatures across the state."

Among the provisions the court struck down was EPA's approval of an Oregon Department of Environmental Quality rule that allowed the agency to automatically re-

place its other criteria with temperatures it deems "natural," without any subsequent federal agency review. A provision widely used by DEQ, it has generated temperatures as high as 32 degrees C (90 F), compared to the 18 C (64° F) numeric criterion that the court found was, while high, acceptable for fish.

"We are very pleased the court has vacated provisions that allowed Oregon to automatically change its water quality standards to temperatures clearly unsafe for fish," said Dan Mensher, an attorney with Earthrise.

"Those provisions made a mockery of the law, of common sense, and of the science that shows that salmon and steelhead need cold water, not temperatures up to 90 degrees Fahrenheit."

EPA agreed to take action on the rules within four months. It also agreed to review an Oregon DEQ guidance document that allegedly shows how Oregon will implement federal requirements intended to protect clean water from becoming more polluted.

In an order signed in January, the court approved an agreement between the parties that allowed Oregon DEQ to remove the provisions in its rules that exempt the major sources of temperature pollution from the standards. Oregon must complete that rulemaking by June or face an EPA action on those provisions.

The January order also directed EPA, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service to analyze the temperature standards under the ESA. The federal agencies have roughly two years to complete those actions.

The January order set aside NMFS and USFWS ESA "biological opinions" and accompanying "incidental take statements" on the effects on listed species from EPA's approval of Oregon's temperature water quality standards. It ordered that the BiOps be redone, requiring that EPA complete a biological evaluation within nine months.

That evaluation would then be scrutinized by the federal fisheries agencies. The court's January says after receipt of the EPA biological evaluations, NMFS and USFWS must produce BiOps within 14 months.

Under the ESA biological opinion formal consultation process, NMFS and USFWS determine whether a federal action, such as the approval of state water quality rules, is likely to adversely affect a listed species or critical habitat.

In this case NMFS will judge whether the water quality rules jeopardize the survival of 14 listed salmon and steelhead stocks, while the USFWS will weigh the impacts on two bull trout "designated populations segments."

In a separate lawsuit filed in September 2012, NWEA challenged all the temperature clean-up plans developed since 2004 in which Oregon DEQ automatically changed its water quality standards from 16 to 18 degrees C to much higher temperatures. Known as Total Maximum Daily Loads or "TMDLs," each clean-up plan invoked the provision that allowed Oregon to change its standards without federal agency review. That case is still pending.

Columbia Basin Bulletin, 4/12/2013

BPA issues new book tracking last 30 years of northwest power industry

On the heels of its 75th anniversary, the Bonneville Power Administration offers a look at the past 30 years in the power industry in the Pacific Northwest with a new, full-color book of "little-known stories and behind-the-scenes intrigue," according to a press release.

Examples cited in a press release:

- How the fractious region pulled together through conservation to weather the West Coast power crisis that nearly bankrupted BPA and other utilities.
- BPA Administrator Peter T. Johnson's emotionally charged encounter with angry construction workers who would lose their jobs when he canceled BPA financing of new nuclear plants.
- How one tree and a cascade of glitches in BPA's system blacked out much of the western United States.

The 300-page book, "Power of the River," tracks the Northwest's efforts since 1980 "to equitably share low-cost hydroelectric power from the Columbia River while responding to evolving environmental values and building out the regional power grid.

Filled with spectacular photographs, it tells the stories vividly through the lens of BPA, the federal power marketing agency that sells and transmits hydroelectric energy from federal dams on the Columbia and its tributaries.

"The book demonstrates how BPA successfully evolved, sometimes in the face of crisis, to become an even more durable and resilient organization," said Bill Drummond, the administrator for BPA.

"I hope through this wealth of stories, we can motivate people to embrace new approaches and thereby find their own place in history."

Review copies of the book are available upon request. Publication of the book caps BPA's 75th anniversary year and picks up in 1980, roughly where an earlier book published for BPA's 50th anniversary left off.

"If you wonder how electricity could be interesting, take a look at this book," said Michael Milstein of BPA, who oversaw the book's production. "The Northwest enjoys some of the cleanest, lowest-cost electricity in the country, but that makes it so valuable that plenty of drama and controversy surrounds it." Power of the River, said the press release, "offers a revealing look at BPA's trials and triumphs, recognizing, for instance, that the agency nearly did itself in by promising too much inexpensive hydroelectric power to too many in the run up to the power crisis that hit in late 2000.

It even recounts how Al Gore's appearance on David Letterman's late night talk show helped BPA cut red tape and pass on savings to Northwest electric ratepayers.

"Beyond the suspense, the book also recounts the numerous inventions and innovations BPA engineers brought to efficient power line design that are now used around the country and named after Northwest rivers and mountains such as Toutle and Deschutes."

The book is available in a PDF format on BPA's website at: **http://www.bpa.gov/news/pubs/Pages/Power-of-the-River-BPA-History-Book.aspx**.

Columbia Basin Bulletin, 3/15/2013

Fisheries council adopts 'ecosystem plan' to protect unmanaged forage fish

A fishery ecosystem plan was adopted Thursday by the Pacific Fishery Management Council with the purpose of enhancing its decision-making process with more ecosystem science.

"We now enter into a new era of more sophisticated fishery management," said Council Chairman Dan Wolford.

"We heard strong public testimony calling for more protection for unmanaged forage fish, and the Council's adoption of this motion today formalizes the Council taking this up this as a fishery management action."

Two years in the making, the Fishery Ecosystem Plan will allow broader consideration of ecosystem factors – for example, the food web, climate change, human interactions with fisheries, and habitat.

The Pacific Fishery Management Council is one of eight regional fishery management councils established by the Magnuson Fishery Conservation and Management Act of 1976.

The Pacific Council recommends management measures for fisheries off the coasts of California, Oregon, and Washington. It is peopled by representatives of the states and the region's tribes as well as fishing interests.

The plan will not replace the Council's four fishery management plans (for salmon, groundfish, highly migratory species, and coastal pelagic species), but will deliberately insert additional ecosystem science and factors into the decision making on fishing seasons that occurs under those plans.

The new plan also mandates an annual "State of the Ecosystem" report to the Council to be made at March Council meetings each year.

Several new ecosystem initiatives are connected to the plan. The first relates to protecting currently unmanaged forage fish due to their importance in the marine ecosystem.

The Council is not pursuing a permanent moratorium on fishing for forage fish; rather it intends to prohibit the development of new, directed fisheries on forage species that are not currently managed by the Council or states, until the impacts of any proposed fishery can be fully understood.

There are eight other initiatives related to the Fishery Ecosystem Plan. They relate to effects of harvest policies on stocks, bycatch, habitat, fisheries safety, fisheries jobs, reacting to climate change, socioeconomics, and other factors.

Columbia Basin Bulletin, 4/26/2013

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Inside May 2013 Newsletter

1. Columbia treaty raises questions, fails to address irrigation
2. Ag/water bills fall by wayside as legislature reaches midpoint
3. Rules Committee OKs Levy, Evanstad for board appointments
4. Potato growers in Southern Oregon test drip irrigation
5. Groups split on bill to increase existing water fees