

Oregon Water Bill Dries Up In State Senate

An Oregon proposal to end the state's 15-year moratorium on withdrawing new water from the Columbia River died in the state Senate after Gov. Ted Kulongoski promised to veto the bill if it reached his desk because it threatened salmon.

The original proposal, called the Oregon Oasis Bill, was pushed hard by some eastern Oregon folks, including Steve Eldrige, director of the Umatilla Electric Coop, who said it would provide a big boost to the local economy. The original bill called for pumping 495,000 acre-feet out of the Columbia River for irrigating new crops and helping other growers reduce impacts on the region's declining aquifer by replacing water drawn from wells, as well as adding another 5,000 acre-feet for municipal uses.

The bill languished in a Senate subcommittee, but a companion bill introduced in the House passed last week after an unusual parliamentary move bypassed committee inaction. To satisfy the Senate, bill sponsors were prepared to reduce the withdrawals to 200,000 acre-feet and use it all to replace water from deep wells, but a June 22 letter to Senate president Peter Courtney from Governor Kulongoski said adoption of the bill would be a "gross violation" of the commitment between the four Northwest states to ensure no net reduction of Columbia River flows. Kulongoski said he would veto it "without hesitation."

As one backer of the proposed legislation put it, "The governor stepped on our air hose." But it wasn't something that Oasis Project supporters didn't really expect. And after the bill died, they were still wondering just what kind of commitment Kulongoski was talking about.

According to testimony from Portland attorney John DiLorenzo, special counsel to the Umatilla Electric Coop and general counsel to the Oregon Oasis Project, the Governor's office told him that it could not support the bill because that would conflict with a 1992 agreement with other states that called for "no net loss of flows."

DiLorenzo said an email from Mike Carrier, Kulongoski's natural resource policy advisor, informed him that any agreement, "no matter how minor," would trigger expensive litigation among the states. Later, DiLorenzo was given two documents that represented the agreement.

The first was a December 1993 letter signed by all four Northwest governors suggesting that the states should defer to the NW Power Planning Council to propose a cogent policy for fish recovery that included federal agencies.

The second document was a January 1994 letter from Oregon's two Council members asking that the state's Water Resources Commission adopt rules temporarily restricting withdrawals from the Columbia. But members, Ted Hallock and Angus Duncan, also said in the letter they weren't "proposing that the state maintain an indefinite moratorium on the issuance of new water rights in the Columbia-Snake system."

"As best as we can tell," DiLorenzo said, "there is no memorialized 'deal' among the states, and if there is an oral understanding, it is a bad deal for Oregon given the fact that Washington taps approximately 32 percent of the total withdrawals, Idaho approximately 52 percent and Oregon withdraws only 11 percent."

At an April 13 hearing, a parade of witnesses testified for and against the bill. University of Washington fisheries professor Jim Anderson said there was little to no evidence for a flow/survival relationship for salmon and steelhead, and that such a notion was another example of "policy being 10 years behind the science."

Anderson said that water temperature was the main factor driving the fish. He said that the 500,000 acre-feet requested in the bill represented a tiny fraction of the annual flows used by Northwest irrigators, and would increase the total percentage from 6.93 percent to 7.18 percent, with an immeasurable impact on fish stocks.

But others, including tribal representatives and state fisheries officials, said every bit of current flows was needed to keep Columbia Basin stocks healthy.

Umatilla tribal chairman Antone Minthorn said if the bill was passed, it would destroy decades of collaboration with local farmers that has improved flows and brought fish back to the Umatilla River. He denied the Umatilla Tribes were involved in a secret process to obtain a new water right, as some others had charged, but did say that his people were working with the Department of Interior to secure a federal "senior" water right.

Bob Hamilton from the Bureau of Reclamation's Boise office said that the process over the Umatilla Project has changed considerably from a few years ago, when a so-called "phase III" called for assessing a bucket-for bucket exchange in an agreement with the tribe and the Westland Water District. The assessment looked at a proposal to pump water from the Columbia for upstream irrigators, who would give up their Umatilla River water for more instream fish flows. Hamilton said an old estimate of costs for pumps and piping was in the \$200-million range for the proposal, a very expensive proposition since the Westland District was so far from the Columbia and highest in elevation, compared to other nearby water districts involved in earlier phases of the project.

Now, the process has morphed along two tracks, Hamilton said. The first has been creation of a water rights assessment team to decide if all parties can get to a solution regarding a new water right for the Umatilla Tribes. The tribes are interested in building a new business park and finding more water to irrigate a golf course, in addition to using more water for irrigation and instream flows for fish. Hamilton said much of that discussion is behind closed doors because of tribal proprietary information.

The second track calls for an "appraisal" study of the basin's water needs and uses. If conclusions from this report warrant more work, then a feasibility study will begin. The appraisal work should take about two years, Hamilton said.

Politicians at the April hearing asked witnesses if Oregon secured the new withdrawal why wouldn't Washington or Idaho retaliate and grab more water for themselves. DiLorenzo answered by saying that residents in those states should recognize how much Columbia water they are already consuming and one would hope that they would exercise self restraint. DiLorenzo also said the plan could be amended to allow for the Umatillas to secure a right for enough water for their commercial use.

Umatilla Electric Coop head Eldrige said proponents thought they had satisfied concerns over impacts to fish, and included water conservation efforts to make up for any new water taken out, but in the end, he said it didn't matter, and that's what the Governor's office told them.

Eldrige thought the Oasis proposal had enough votes in the Senate to pass this year, and they'll be back to try again. "If we don't continue the struggle, it will be another 20 years before any water is taken out of the Columbia."

Washington state has been working to develop new water rights as well, and new sources of water for those rights. Citing a future need of several million acre-feet for agricultural, business, and municipal uses and more flows for fish, the state has been looking at the

feasibility of developing several storage reservoirs in eastern Washington along the mainstem Columbia to reduce impacts on aquifers in some areas, and fill new water needs. The state's new policy calls for using two-thirds of the newly stored water for out-of-stream needs and one-third to be reserved for stream flows and fish.

It also calls for re-use of conserved water and managed through voluntary regional agreements to be "water-budget-neutral" during summer months.

But storage reservoirs would cost billions of dollars to construct and some question whether future needs are as large as the state has estimated. A [May 2007 report](#) released by the Washington Department of Ecology estimated that 1.4 million acre-feet would be needed to complete the Columbia Basin Project alone, a pie-in-the-sky dream, according to water consultant Darryll Olsen. The state also estimated up to 800,000 acre-feet more water would be needed for the Yakima Basin and 754,000 acre-feet added for fish flows. *-B. R.*