

Tualatin Basin Water Supply Project Policy Steering Committee

Meeting Summary and Minutes

March 22, 2007

Attendance

Policy Steering Committee members:

Tom Brian (Clean Water Services Board Chair), **Mark Eves** (Lake Oswego Corporation), **Rod Fuiten** (former City of Forest Grove Councilor), **John Godsey** (City of Hillsboro Utilities Commissioner), **Jim Love** (Tualatin Valley Irrigation District Board Chair), **Dick Schmidt** (Tualatin Valley Water District Commissioner), **Forrest Soth** (former City of Beaverton Councilor), and **Tom Woodruff** (City of Tigard Councilor).

Water Supply Project Partner officials and staff:

Kevin Hanway (City of Hillsboro/Joint Water Commission), **Todd Heidgerken** (TVWD), **Dennis Koellermeier** (City of Tigard), **Dave Nelson** (Bureau of Reclamation), **David Winship** (City of Beaverton) **Joe Rutledge** (TVID).

Clean Water Services staff:

Jeanna Cernazanu (Public Involvement Coordinator), **Bill Gaffi** (General Manager), **Mark Jockers** (Government and Public Affairs Manager), **Bruce Roll** (Watershed Management Division Director) and **Tom VanderPlaat** (Water Supply Project Manager).

Other agency staff and consultants:

Eric Glover (consultant), **Richard Krikava** (Office of Senator Gordon Smith), **Chris Wayland** (Washington County Parks), and **Stephen Wille** (US Fish & Wildlife Service), **Wally Otto** (TVID), **April Olbrich** (Tualatin River Watershed Council)

General Public:

Larry and Doris Beman (Gaston), **Dennis Criss** (Gaston), **John Driscoll** (North Plains), **Greg Edwards** (Gaston), **Dale and Val Guillory** (Gaston), **Dan and Beth Irwin** (Gaston), **John Kelley** (Gaston), **Michael McMahan** (Hillsboro), **Judith O'Neill** (Hillsboro), **Bob Terry** (Gaston)

Meeting Summary

S-1. Call to Order and Introductions

The meeting was called to order at 6:36 pm. Members and others offered self-introductions.

S-2. Minutes of Previous Meeting

The minutes of the October 30, 2006 meeting were approved as distributed.

S-3. Project Status

There are two pending appropriations requests related to the Hagg Lake area that will go through the US Senate Commerce Committee. One is to fund part of the costs of preparing the Draft EIS/Planning Report associated with the Water Supply Project, which includes a proposal to raise Scoggins Dam at Hagg Lake. The other is a joint request from Senator Gordon Smith and Senator Ron Wyden to fund a feasibility study regarding a proposal to transfer ownership of Scoggins Dam and surrounding areas from the federal Bureau of Reclamation (RECLAMATION) to a local jurisdiction

The Draft Planning Report/Environmental Impact Statement (PR/EIS) for the Water Supply Project will be released to the public by the Bureau of Reclamation (RECLAMATION) this year. The draft document outlines the three alternatives for meeting future water supply needs in the region and summarizes the environmental and other impacts of each. After the document is released, there will be a 90-day public comment period which will include an open house and a public hearing. All comments must be addressed and a preferred alternative identified before RECLAMATION can issue the Final PR/EIS next spring.

The three alternatives included in the Draft PR/EIS are:

Alternative 1 (No Action Option) consists of making no changes to the current situation.

Alternative 2 (Dam Raise Option) includes raising Scoggins Dam by 40 feet, a Raw Water Pipeline to the TVWD water treatment plant, and a Pump-back System to bring winter water back up to the lake from Gales Creek using the TVID/TVWD pump station just south of Forest Grove.

Alternative 3 (Multiple Source Option) includes raising Scoggins Dam by 25 feet, a Raw Water Pipeline, a Pump-back System, and a Willamette River Transmission Pipeline to bring potable water north from the Wilsonville treatment plant to Beaverton, Sherwood, Tigard, and Tualatin and other areas served by TVWD.

The Draft PR/EIS also includes an analysis of the impacts of each alternative on private property, wetlands, wildlife, water quality, hydrology, fish habitat, recreation, and other factors such as social and cultural effects.

Details about the alternatives and various impacts were shared at previous meetings.

S-4. Title Transfer Concept Overview

RECLAMATION has a title transfer program through which ownership of their facilities can be transferred to local entities. Former RECLAMATION Commissioner John Keyes III suggested that the Water Supply Project Partners investigate a title transfer of the original Tualatin project constructed in the 1970's. This would include the dam, reservoir, and irrigation facilities, as well as water rights, land rights such as easements for TVID pipelines, and recreational facilities. Responsibility for operation and maintenance of all these would be transferred, as would legal liability and regulatory requirements and possibly other project elements.

The three main reasons for local partners to consider a title transfer are **potential cost savings** for the Water Supply Project, **local control** over facilities and water rights, and **greater control** over the Water Supply Project schedule. For RECLAMATION, title transfers of smaller projects such as the Tualatin allow the agency to focus its resources on fewer, larger projects.

If approved, a title transfer study would be conducted as a separate but concurrent process with the Water Supply Project work. Completion of one is not dependent upon completion of the other. The study would analyze current operations only, on an "as is, where is" basis, without regard for whether, when, or in what form the Water Supply Project might take place. There would be a separate environmental review process for the study, although it is yet to be determined whether that will require an EIS. The Project partners would have to go through a local governance process to determine an entity which could accept the title and accept the legal and other responsibilities for operating and maintaining the facilities. A "facilities condition assessment" would also be completed as part of the study.

Preliminary estimates of the cost to transfer title range from \$6.38 million to \$11.3 million. The basis for valuation is the net present value of the revenue to be received by the federal government over the life of the project. This is primarily from remaining construction loan payments, water services contracts and "Aid to Irrigation" payments from the Bonneville Power Administration (BPA).

The title transfer study will take about a year. If the decision is made to pursue a title transfer, the required Congressional authorization would likely occur in November, 2008. Congressional authorization for the selected Water Supply Project alternative would occur in March, 2009 if that process continues as scheduled. If the title transfer is authorized by Congress, subsequent Congressional authorization would not be required for the Water Supply Project as RECLAMATION would no longer be involved as the federal partner.

The Water Managers Group has recommended that the Policy Steering Committee "pursue transfer of the full or partial Tualatin Reclamation Project from US Bureau of Reclamation to local ownership."

S-5. Title Transfer Public Review Process

If a title transfer study is undertaken, the public and stakeholders will be engaged following the same public involvement structure used for the Water Supply Project and associated PR/EIS. The Tualatin River Watershed Council is a primary stakeholder group because of its broad membership. The Clean Water Services Advisory Commission, also with a broad representation of the community, would have an oversight role, making sure the public process is adequate and inclusive. The title transfer study idea will be discussed with both groups within the next month.

S-6. Discussion and Public Comment

A number of questions were offered by those in attendance regarding comparable transactions elsewhere in the country, private property owners' rights, irrigation and other water rights, actual costs for a transfer, operating costs, and what sort of entity might be set up to hold the transferred title.

S-7. Approval of Changes to PSC Roles/Members and Approval to Proceed with Investigation of Title Transfer

The PSC voted unanimously to include TVID, Lake Oswego Corporation, and Washington County as voting members of the PSC for purposes of acting on the title transfer issue.

The PSC voted unanimously to pass a recommendation that the Water Supply Project partners, in cooperation with the repayment contract holders of the existing Tualatin project, work with RECLAMATION to study a full or partial transfer of the Tualatin Reclamation project to local ownership. This action only directs that a title transfer be studied further. It does not direct the partners to complete a title transfer transaction.

S-8. Federal Funding Update

The Water Supply Project received Congressional authorization in 2004 for an appropriation of up to \$2.9 million to pay for 45% of the EIS. The actual funding, however, was not part of the authorization. In 2005 and 2006, Senator Smith, Senator Wyden and Representative Wu were able to secure \$537,000. An additional \$280,000 was earmarked last year for 2007 but because of a continuing resolution prohibiting earmarking, that funding became unavailable for the time being. The partners are working to regain that funding and to have the Project included in the President's budget.

In January and March, members of the PSC and staff from several Project partners visited Washington, DC to meet with members of the Oregon delegation as well as their staff, RECLAMATION staff, and House and Senate committee staff to advocate for the Water Supply Project.

Two federal appropriation requests are being prepared, as mentioned earlier. One is for \$2.36 million to pay the balance of the amount in the initial authorization. The other is for \$500,000 to fund the environmental assessment and facilities assessment needed for the title transfer study.

Senator Smith's staff is assisting with submitting legislation that would allow for reimbursement or credit to the partners for money already expended on the Water Supply Project. If approved, this could also lay the foundation for other credits that could reduce the cost of a title transfer.

S-9. Public Comment

Residents in attendance expressed questions and concerns about the interests of property owners in the Hagg Lake area, the taking of the entire Stutz property, the 300-foot buffer requirement, water level fluctuations after a dam raise, whether the reservoir behind a raised dam would fill, use of the pumpback system, route for the pumpback pipeline, how boundaries would change with a dam raise, how the pumpback might affect water quality, dredging the lake instead of raising the dam to increase capacity, and whether the Willamette pipeline would or could be a project separate from any dam raise. A letter from several residents of the Hagg Lake area was read expressing their support for some elements of the Water Supply Project alternatives and their opposition to other elements of the Project, and their request for consideration of alternatives they have developed.

S-10. Adjournment

The meeting was adjourned at 8:30 pm.

Meeting Minutes

1. Call to Order and Introductions

The meeting was called to order at 6:36 pm by Policy Steering Committee (PSC) Chairman Tom Brian in the conference room of the Clean Water Services Administration Building near Hillsboro. PSC members and others in attendance offered self-introductions.

2. Minutes of Previous Meeting

Forrest Soth moved to approve the minutes from the meeting held October 30, 2006. Motion passed.

3. Project Status

Chairman Brian introduced Richard Krikava, a field representative for Senator Gordon Smith. Mr. Krikava said there are two pending appropriations requests related to the Hagg Lake area. One is to fund part of the costs of preparing the Draft EIS/Planning Report associated with the Water Supply Project, which includes a proposal to raise Scoggins Dam at Hagg Lake. The other is a joint request from Senator Smith and Senator Ron Wyden to fund a feasibility study regarding a proposal to transfer ownership of Scoggins Dam and surrounding areas from the federal Bureau of Reclamation (RECLAMATION) to a local jurisdiction. He cautioned that both the House and Senate leadership have indicated that there may be no “earmarks” in the budget, but the Senators and their staffs are prepared to move the requests forward if the opportunity is available. Both funding requests are going through the Funding Committee of the Senate Commerce Committee. Senators Smith and Wyden sit on the Authorizing Committee of the Commerce Committee. Chairman Brian thanked Mr. Krikava for taking the time to attend and also expressed his appreciation for Senator Smith’s efforts.

Chairman Brian called upon Tom VanderPlaat, Clean Water Services Water Supply Project Manager, to share further information about the status of the Water Supply Project.

Mr. VanderPlaat displayed a copy of the completed portion of the 531-page Draft Planning Report/Environmental Impact Statement (PR/EIS). The draft document outlines three alternatives for meeting future water supply needs in the region and summarizes the environmental and other impacts of each. Mr. VanderPlaat briefly reviewed the three alternatives:

Alternative 1 (No Action Option) consists of making no changes to the current situation.

Alternative 2 (Dam Raise Option) includes raising Scoggins Dam by 40 feet, a Raw Water Pipeline to the TVWD water treatment plant, and a Pump-back System to bring winter water back up to the lake from Gales Creek using the TVID/TVWD pump station just south of Forest Grove. Alternative 2 would yield an additional 52,000 acre-feet of water, about double the current Hagg Lake capacity.

Alternative 3 (Multiple Source Option) includes raising Scoggins Dam by 25 feet, a Raw Water Pipeline, a Pump-back System, and a Willamette River Transmission Pipeline to bring potable water north from the Wilsonville treatment plant to Beaverton, Sherwood, Tigard, and Tualatin and other areas served by TVWD. Alternative 3 also would yield an additional 52,000 acre-feet.

Mr. VanderPlaat explained the Pump-back System in Alternatives 2 and 3 is needed to ensure that the reservoir (Hagg Lake) behind the raised dam will be filled at 90% reliability as specified by the cities and other entities involved in the Tualatin Basin Water Supply Project.

Mr. VanderPlaat listed the impacts that must be analyzed for each alternative and included in the Draft PR/EIS: private property, wetlands, wildlife (primarily elk in this case), water quality, hydrology, fish habitat, recreation, and others such as social and cultural effects.

Mr. VanderPlaat said the Draft PR/EIS actually belongs to RECLAMATION, as the lead agency in the Water Supply Project. RECLAMATION has received and reviewed a draft of the document and provided comments which the project team is currently addressing. After these revisions are made, RECLAMATION will issue the appropriate notices and then release the Draft PR/EIS this year. There will be a 90-day public comment period which will include an open house and a public hearing. All comments must be addressed and a preferred alternative identified before RECLAMATION can issue the Final PR/EIS.

4. Title Transfer Concept Overview

Chairman Brian asked Mr. VanderPlaat for his overview of the title transfer idea. Mr. VanderPlaat explained that in December, 2005, Bureau of Reclamation Commissioner John Keys III had suggested the Water Supply Project partners investigate the Bureau's "Title Transfer Program," which shifts ownership of federal facilities from RECLAMATION to local entities. Commissioner Keys has since retired from RECLAMATION, but his suggestion is now being considered. The title transfer in this case would include Hagg Lake, Scoggins Dam, and other adjoining RECLAMATION land and facilities. Ownership of these assets would be transferred to a local governance organization. This would be one of the more complex title transfers done by the RECLAMATION. It would include everything that was part of the original Tualatin project constructed in the 1970's—the dam, reservoir, and irrigation facilities. It would also transfer water rights, land rights such as easements for TVID pipelines, and recreational facilities, as well as the responsibility for operation and maintenance of all these. Legal liability and regulatory requirements would also become the responsibility of the new local owner, as would other project elements.

Mr. VanderPlaat cited three main reasons for considering such an idea: **potential cost savings** for the Water Supply Project, **local control** over facilities and water rights, and **greater control** over the Water Supply Project schedule. Commissioner Keys felt the Water Supply Project partners could save 25-40% on costs associated with the project, though Mr. VanderPlaat cautioned the actual savings might be somewhat less. However, with the current estimate for either Alternative 2 or Alternative 3 at \$300 million, even a smaller percentage is still significant. Local control over facilities and water rights would make sense as most of the Project funds are coming from local jurisdictions anyway, and local control would mean fewer layers and more flexibility for decision-making. This would also mean more control over the Project schedule.

Mr. VanderPlaat emphasized that the title transfer study is a separate process from the Water Supply Project, although it will run concurrently. The Water Supply Project will continue with the development of the Draft PR/EIS and the final EIS, permitting, and other steps required. Its progress is not dependent on developments or findings in the title transfer study.

Mr. VanderPlaat outlined four key elements of the title transfer study. The study will

analyze current operations only, on an “as is, where is” basis. There is a separate environmental review process for the study, although it is yet to be determined whether that will require an EIS. The Project partners will have to go through a local governance process to determine an entity which can accept the title and accept the legal and other responsibilities for operating and maintaining the facilities. Also, a “facilities condition assessment” must be completed—similar to a home inspection before a house sale is finalized.

Mr. VanderPlaat explained that RECLAMATION can transfer title only to an entity which has “an interest” in the project—in other words, a repayment contract associated with the original construction. He listed these “interested entities,” or “contractors,” along with the percentage of water they use from the existing Hagg Lake project: TVID (54.5%), Clean Water Services (24.9%), City of Hillsboro (7.4%), City of Forest Grove (6.6%), City of Beaverton (5.9%), and Lake Oswego Corporation (0.7%). He also included Washington County, as there is a contractual relationship between the county and RECLAMATION for operation and maintenance of the park facilities. These contractors have all been repaying RECLAMATION for the construction associated with the original project, but RECLAMATION holds ownership.

Mr. VanderPlaat next addressed the costs involved. Preliminary estimates range from \$6.38 million to \$11.3 million. The basis for valuation is the net present value of the revenue to be received by the federal government over the life of the project. In other words, the value of the existing project would be expressed as the total revenue yet to be received—primarily from remaining construction loan payments, water services contracts and “Aid to Irrigation” payments from the Bonneville Power Administration (BPA)—adjusted to 2006 dollar values. Mr. VanderPlaat estimated the total preliminary valuation of repayment and other contracts at \$14.13 million. Repayment contractors and estimated values (in millions of dollars) include: TVID (\$1.93), Washing County Parks (\$0.46), Clean Water Services (\$0.21), City of Forest Grove (\$1.17), City of Beaverton (\$0.97), City of Hillsboro (\$0.11), and Lake Oswego Corporation (\$0.11). There are also irrigation contracts (\$2.53), other water services contracts (golf courses, timber companies) (\$1.8), and the Aid to Irrigation payments from BPA (\$4.84). Mr. VanderPlaat noted that Clean Water Services made its final payment to RECLAMATION in 2006, so the future value of that contract would actually be zero.

From the preliminary valuation of \$14.13 million, Mr. VanderPlaat subtracted an estimated credit of \$2.91 million for the 40% of operations and maintenance costs currently paid by RECLAMATION (which they would no longer be paying if the title is transferred), and an estimated credit of \$4.84 million for BPA’s Aid to Irrigation payments. The total of \$7.75 million in credits subtracted from the \$14.13 project value leaves \$6.38 million as the preliminary estimated cost for a title transfer. He added that there would likely be additional credits for repairs or other deficiencies once the facilities condition assessment has been completed, which might further reduce the cost.

Mr. VanderPlaat clarified the elements that would be included in the estimated “purchase price” of \$6.38 million: **Scoggins Dam** (the 151-foot high earthfill structure and associated structures such as the spillway, intake structure and outlet works), **Hagg Lake** (the existing

1132-acre reservoir and approximately 1500 acres of surrounding land, plus the 6 existing recreational facility sites and the existing 11 miles of perimeter road), and **irrigation facilities** (Springhill and Patton Valley pump stations, various fish screens, discharge pipelines and regulating tanks, 98.5 miles of distribution pipeline, easements, and the TVID office and other structures).

Mr. VanderPlaat said there are two processes to be conducted related to the title transfer. There is the process with RECLAMATION to develop a memorandum of agreement regarding the project valuation, determine requirements for environmental review, and conduct a facilities conditions assessment. Separately, there is the process amongst the Water Supply Project partners to further study the title transfer idea and to develop the governance structure which would be required if the decision is made to proceed with a title transfer. He emphasized that the end result of all this work may be a decision **not** to proceed with a transfer of ownership. If, however, the decision is made to pursue the transfer, then the steps in these processes would be completed in more detail, a final transfer agreement would be drafted, and Congress would authorize the transfer.

Mr. VanderPlaat outlined several transfer-related issues that have been identified so far. One is that local jurisdictions would be assuming additional liability. Mr. VanderPlaat said Barney Reservoir on the Trask River is an example of local entities successfully managing similar liability issues. Another issue is the need to protect holders of existing water contracts and ensure that a change in ownership does not change the reliability of their water supply. He also mentioned the sense of certainty with RECLAMATION as a partner for the past 30 or so years, and the feeling of uncertainty that a new situation, new structure, new people, etc. can bring. He also noted that the TVID power rate structure is another concern. Currently TVID pays a “preferred rate” because of subsidies from BPA through Portland General Electric (PGE) and that would not necessarily continue. Mr. VanderPlaat said that other issues will be identified as the title transfer is studied further.

Mr. VanderPlaat also reviewed the existing contracts associated with the dam and lake area which would need to be addressed if a title transfer was pursued. RECLAMATION contracts with TVID to provide operation and maintenance of the dam, outlet works, and RECLAMATION zones. There is a contract with Washington County for operation and maintenance of recreational facilities and management of the land around the lake. The Army Corps of Engineers has a contract to provide flood control, and the Tualatin River Watershed Council is contracted to oversee mitigation efforts for impacts of building the original project. There are also several water service contracts as mentioned earlier in the presentation.

Mr. VanderPlaat explained how the schedules and steps for the title transfer study and the Water Supply Project would dovetail. A major component of the title transfer study is the environmental review, which will take about a year. Most of the information needed for the review has already been compiled as part of the Draft PR/EIS for the Water Supply Project. Because a title transfer would be based on existing operations, the data for Alternative 1 (No Action) can be used. The environmental review process should be complete by March, 2008. The other major component is the governance agreement, which should be finalized by June,

2008. There will be an ongoing public review process, which will be discussed in more detail later in the meeting. If the decision is made in favor of a title transfer, it would likely be authorized by Congress in November, 2008. Meanwhile, the Water Supply Project will proceed with the Draft PR/EIS, public comment period, Final EIS and Decision of Record, and securing any necessary permits, etc. This should all be completed by January, 2009, and preliminary design work could begin. Congressional authorization for the selected Water Supply Project alternative would occur in March, 2009. This timing is critical as it takes about two years for design and four years for construction, which must be completed by mid-2015 to accommodate those Project partners which need their additional water supplies by 2016. Mr. VanderPlaat pointed out that if the title transfer is sought and authorized by Congress, no Congressional authorization would be needed for the Water Supply Project.

Mr. VanderPlaat concluded by sharing a Water Managers Group recommendation that the Policy Steering Committee “pursue transfer of the full or partial Tualatin Reclamation Project from US Bureau of Reclamation to local ownership.” He said there would be other public presentations related to the topic, as well as meetings with stakeholders.

Chairman Brian asked for questions or comments from PSC members.

Mr. Soth asked if transfer of title would have to take place before Congressional authorization (for the actual Water Supply Project) could be sought. Mr. VanderPlaat said it is one and the same—the action that Congress would take would be to transfer the title.

Rod Fuiten asked about funding for the Water Supply Project. Do the current partners anticipate a revenue stream that could pay for a dam raise without federal assistance—in other words, is RECLAMATION a partner in the Project because it is their dam and their regulations rather than because their money is needed to help pay for the Project? Chairman Brian said any federal funding for the Project would be a loan, just as the existing project was funded by loans. Partners would be servicing debt for the Project no matter where the loaned money comes from. Asking Congress for a loan is just as difficult as asking for an outright grant, and rates are “municipal market,” so it is feasible for Partners to think about issuing their own bonds and servicing that debt instead of a federal loan. Potential advantages of this approach were lower interest rates, saving time in the Project process which would also hedge against rising costs, and possibly operating cost savings as well.

Mr. Fuiten followed up with a question about whether the potential cost savings were for construction or non-construction elements, and questioned the 25% figure as he finds it hard to believe that RECLAMATION costs could be that much more. Chairman Brian said it is non-construction costs such as administration, overhead, consultants, etc. He noted that 25% is not unrealistic—for some road and highway projects, for instance, when other entities ask the county to act as project manager the charge is 24-28% to cover supervision, liability, etc.

Mark Eves also expressed skepticism that cost savings could be that high, although Lake Oswego Corporation is very much in favor of local control. Mr. Eves observed that, in terms of governance structure to accommodate a title transfer, a new and separate entity would likely need to be created (rather than a partnership of multiple agencies) which would focus

on managing the lake, dam, and associated facilities and would need its own bond issuing authority through the state treasurer. Mr. Eves said it is possible that this would be such a unique situation that it might not fit within the current state statutes. He suggested this be explored immediately so if legislative changes are needed they could be put into motion now while the legislature is still in session. Chairman Brian responded that given that local partners must not only work with federal partners but also decide who gets what, who does what, who pays for what, and many other details all in a one-year time frame, he does not think they will be ready with the right questions to ask before this legislative session closes in June. However, the legislature is moving from biennial to annual sessions, and he has been assured that issues such as this could be brought to the legislature during the next session beginning February, 2008.

Mr. Fuiten suggested that a commission form of governance be established, based on his experience with the Joint Water Commission. He said a separate governing entity would have its own board calling the shots, which could mean less control for individual Project partners. Intergovernmental agreements between partners would help avoid “sovereignty issues” and ensure that concerns were continuously heard and addressed. Chairman Brian said there are so many legal, financial and other very complex details to be worked out that it will be quite the challenge to demonstrate to Congress by 2009 that the partners have a viable entity in place. There are many issues to consider before determining what sort of governance structure is best.

Chairman Brian thanked PSC members for their comments.

5. Title Transfer Public Review Process

Chairman Brian asked Jeanna Cernazanu for an overview of the public review process associated with the title transfer study, remarking on the high attendance at this meeting as an indicator of interest in this issue.

Ms. Cernazanu referred to a letter sent earlier this month to local property owners and other interested parties, a copy of which was also included in the pre-meeting packet sent to PSC members. The letter provided information about the Cultural Resources Survey (part of the Draft PR/EIS), water rights application, and schedule for the PR/EIS as well as information about the title transfer discussion at this meeting. Ms. Cernazanu said that like the Water Supply Project and the associated PR/EIS, consideration of the title transfer idea will also involve the public and stakeholders. The Project partners would like to use the same public involvement structure for the title transfer that is already in place for the Project and the PR/EIS.

She reviewed that the Water Managers Group—staff from Project partner agencies—meetings are open to the public to attend and/or comment. The Tualatin River Watershed Council, with members from a wide cross-section of the community, is a primary stakeholder group that is kept informed and included in discussions. Clean Water Services serves as the “lead agency” for the public involvement process, and the Clean Water Services Advisory

Commission, which includes broad representation by geographic area as well as by community segment (environmental, business, etc.), has been charged with making sure the public process is adequate and inclusive. Meetings are scheduled with the watershed council and the advisory commission within the next month to discuss the public involvement process for the title transfer study.

6. Discussion and Public Comment

Chairman Brian noted there is a public comment period at the end of the meeting but given the amount of information just shared it seems appropriate to stop and ask for any questions or public comments at this point, particularly those related to title transfer.

Beth Irwin wondered how many other comparable title transfers have occurred around the United States and any pluses or minuses experienced by those local jurisdictions which received titles. Mr. VanderPlaat said many of the title transfers that have been recorded have been for single-purpose facilities such as an irrigation canal or pump station. These were relatively simple transactions between RECLAMATION and an irrigation district. One transfer which involved a dam was in Palmetto Bend, Texas. In that case, the local jurisdiction formed a separate entity—a municipal corporation—to accept the title transfer. The Water Supply Project partners have talked about the benefits and detriments of local ownership vs federal ownership but have not completely researched the benefits and detriments of a municipal corporation—that would really be part of the governance study. Chair Brian pointed out this kind of research is part of the due diligence which must be undertaken as part of the title transfer study.

Dan Irwin asked what a municipal corporation would look like—is there anything in this area that is an equivalent? Chair Brian said he doesn't think anyone yet knows what it would look like—there are many different types of entities—Lake Oswego Corporation, TVID, TVWD, Joint Water Commission—and this seems like part of the homework that must be done. Mr. VanderPlaat said the Project partners probably need to begin by developing a “laundry list” of the various organizations and their capacities to provide various roles and functions that would be needed--security, flood control, land management, etc.

Bob Terry commented that there is a lot going on besides the projects Mr. VanderPlaat has mentioned, with fish and wildlife wanting to flood land in the Wapato Valley, Metro buying up land from farmers and others to get the water rights, and while he understands there is a lot we don't know yet, he hopes that private landowners like himself don't get lost in the shuffle.

Doris Beman asked about costs (beyond the acquisition cost) to accomplish the title transfer, such as costs for setting up a separate corporation and operating costs for the dam. Mr. VanderPlaat said that is true, and asked Wally Otto of TVID for clarification. The total annual operation and maintenance (O&M) costs are around \$400,000; about \$174,000 of that is for operating the dam. These and other costs will all have to be penciled out and compared to the potential cost savings. Mrs. Beman asked if those cost savings were from paying less

interest on loans and also from being able to do construction in a shorter time frame. Mr. VanderPlaat said yes to both.

Larry Beman asked how the title transfer might affect water rights for people who need irrigation—will those rights stay in place? He also asked about costs for acquiring roads associated with the project and wondered if this was going to be a deal like the tram which would end up with everyone's water and sewer rates being raised to pay for it. Mr. VanderPlaat explained that existing roads have already been paid for by participating agencies through construction loans, and they are not included in the estimated project value. Chairman Brian clarified that existing roads would have no bearing on costs associated with a title transfer—no one is going to be paying for them twice. However, construction of new roads would be a separate issue, not associated with a title transfer. Those construction costs will occur whether the title is transferred or not.

Dennis Criss asked why RECLAMATION would be interested in a title transfer. RECLAMATION representative Dave Nelson said that O&M accounts for 40% of what RECLAMATION spends on the project every year, so transferring title and the responsibility for O&M costs would be significant savings for RECLAMATION. Chairman Brian added that it is his impression that RECLAMATION continually reviews its projects to establish which are priorities, and this is a relatively small project compared to something like Hoover Dam, for instance.

Greg Edwards said he there is no way this project is worth only \$6.3 million. The land alone has to be worth at least 5-10 times that. He thinks these numbers (as presented by Mr. VanderPlaat) are very misleading. Chairman Brian agreed with Mr. Edwards that the land involved is worth much more. The difference is that rather than reflecting the true appraised value of the entire project, which might be hundreds of millions of dollars if a value could even be placed on it, the \$6.3 million reflects the actual cost of the remaining debt on the project. The agencies which have been paying off construction debts since 1972 or so have in a way already pre-paid for some of the project. The title transfer is attractive as a way to save money on the remaining payments. It is not really a "real estate" transaction.

Mr. Beman asked again about water rights for farmers. Chairman Brian said the RECLAMATION has made it clear from the very beginning that one of the primary requirements of the title transfer would be that irrigators must be taken care of and their rights preserved. This has also been the assumption in all discussions with TVID.

There were no other public comments related to the title transfer issue. Chairman Brian reminded everyone that there would be another public comment opportunity later in the meeting.

7. Approval of Changes to PSC Roles/Members and Approval to Proceed with

Investigation of Title Transfer

Chairman Brian said the PSC would like to expand the number of entities who have official votes on the issue of title transfer and would like to ask the Tualatin Valley Irrigation District, Lake Oswego Corporation, and Washington County to become official members in that respect.

Mr. Soth moved to include TVID, Lake Oswego Corporation, and Washington County as voting members of the PSC for purposes of acting on the title transfer issue. John Godsey seconded. Mr. Soth commented that these agencies are so integrated in the process and so essentially affected by any actions taken that it seems right that they should be directly involved with their comments and voting.

Mr. Fuiten asked if the addition of these three groups would complete the list of original contractors that are now involved. Mr. VanderPlaat said it would be all of the organizations which have repayment contracts, but not all of the water service contractors. Only repayment contractors can accept a title transfer. Water service contracts would then just be assigned to the entity accepting the title transfer.

Bill Gaffi, Clean Water Services General Manager, added that there are other partners in the proposed Water Supply Project which would also need to be fully integrated into the discussions regarding title transfer. Chairman Brian clarified there is a distinction between partners with financial obligations and partners with responsibility/interest in the operation.

Chairman Brian asked for any additional comments. There being none, he asked for a vote on the motion. The motion passed unanimously.

Chairman Brian introduced the next agenda item, consideration of whether to proceed with a title transfer study. He asked for a motion to recommend that the Water Supply Project partners, in cooperation with the repayment contract holders of the existing Tualatin project, work with RECLAMATION to study a full or partial transfer of the Tualatin Reclamation project to local ownership. Mr. Eves so moved. Mr. Fuiten seconded. Chairman Brian clarified that this motion only directs that a title transfer be studied further. The motion does not direct the partners to complete a title transfer transaction. As illustrated by the questions and comments this evening, there is much to learn.

Mr. Soth said that this study will be sort of the “go/no-go analysis.”

Mr. Fuiten commented that if the facts are as they seem, this looks like a remarkable opportunity for local government. Based on this briefing, he would recommend this to the people in Forest Grove. Chairman Brian agreed that intuitively it feels right, but there are a lot of issues to look at—facilities assessment, legal liability, holding entities, legal issues, water sharing, cost sharing, inclusion of other parties, and more. Mr. Fuiten said the group should be motivated to try to put it all together because of the opportunity it presents.

Tom Woodruff observed that you have to know what the responsibilities are going to be. On

a conceptual basis everybody believes that local control is better. He cited his own experience in the City of Tigard, where there is sometimes talk of the state turning over control of Highway 99W to the city. That would certainly be local control, but it would come with a cost and no money would come with it. We need to make sure we are not getting into a quagmire.

Chairman Brian restated the motion to recommend that the Water Supply Project partners, in cooperation with the repayment contract holders of the existing Tualatin project, work with RECLAMATION to study a full or partial transfer of the Tualatin Reclamation project to local ownership and asked for a vote. The motion passed unanimously.

8. Federal Funding Update

Chairman Brian introduced Mark Jockers, Clean Water Services Government and Public Affairs Manager, to discuss recent activities in Washington, DC.

Mr. Jockers reviewed that the Water Supply Project received Congressional authorization in 2004 for an appropriation of up to \$2.9 million to pay for 45% of the EIS. The actual funding, however, was not part of the authorization. In 2005 and 2006, Senator Smith, Senator Wyden and Representative Wu were able to secure \$537,000. An additional \$280,000 was earmarked last year for 2007 but because of a continuing resolution prohibiting earmarking, that funding became unavailable for the time being.

Mr. Jockers distributed a short written report and discussed some of the highlights:

In January, Mr. Jockers, Chairman Brian and Mr. VanderPlaat traveled to Washington, DC. They met with Congressional delegation staff, RECLAMATION staff, and key Congressional and Committee staff. They met with the new RECLAMATION Commissioner, Robert Johnson, who is familiar with the Water Supply Project and is supportive of the title transfer concept. In March, Todd Heidgerken of TVWD and Kevin Hanway of the City of Hillsboro, along with Greg DiLoreto, General Manager of TVWD met with delegation staff in support of the project. Also in March, Chairman Brian and Roy Rogers, also a Washington County Commissioner and a member of the Clean Water Services Board of Directors, met with Senator Smith's staff and with Senate and House committee staff to support the project and the current legislative requests associated with it.

Two federal appropriation requests are being prepared, as mentioned earlier by Mr. Krikava. One is for \$2.36 million to pay the balance of the amount in the initial authorization. The other is for \$500,000 to fund the environmental assessment and facilities assessment needed for the title transfer study.

Senator Smith's staff is assisting with submitting legislation that would allow for reimbursement or credit to the partners for money already fronted on the Water Supply Project. If approved, this could also potentially lay the foundation for some of the credits mentioned by Mr. VanderPlaat in his discussion of title transfer transaction costs.

Mr. Jockers said the Project partners are working to secure from RECLAMATION the \$280,000 that was previously earmarked. Under the continuing resolution, if a project was funded in 2006, it is eligible to receive funding for 2007. They are also working to have the Project included in the President's budget.

Chairman Brian added that all the Oregon delegation is supportive and willing to help pursue the title transfer study, and new RECLAMATION Commissioner Robert Johnson seems up to speed on that issue as well. He noted that the Project partners decided several years ago that they could not wait around for the \$2.36 million in federal money that might not ever appear anyway and they all chipped in with funding so the Project could proceed. There is no obligation for reimbursement of that money, but using it as a credit against the costs of a transfer might be a viable way to get it back. He added that the consulting firm engaged by the Project partners, Van Scoyoc Associates, has been very good to work with—with 20 years' experience they know water and they know their way around Washington, DC so were able to set up meetings with the right people.

Mr. Eves said thanks to Chairman Brian for a good job in Washington, DC. Chairman Brian acknowledged Mr. Jockers and Mr. VanderPlaat for their good work and the credibility they have established.

9. Public Comment

Chairman Brian welcomed additional public comments at this time.

Dan Irwin expressed his hope that the formation of any new entity to accommodate a title transfer would protect property owner interests and rights. The RECLAMATION rules are out there for all to see and even though we might not like all of them, at least we know what they are. Chairman Brian responded that all title transfer discussions will be public, and there are a number of communities that will want a variety of assurances—for instance, environmental groups will want to know that a new entity will provide the same commitment to the health of the environment. He said these are existing commitments which would not be affected by a title transfer—they are requirements and would remain in place.

Bob Terry encouraged Chairman Brian and the PSC to continue looking for that federal money.

Mr. Edwards, who has property in the Tanner Creek area, noted that very little or none of his land is impacted so far, but he would like to speak for the people whose property is being impacted. He cited Mr. VanderPlaat's statement in the minutes of the last meeting that the same amount of property would be taken regardless of whether the dam is raised by 25 feet or 40 feet. Mr. Edwards does not understand the rationale for that. There would not be as much water with a 25-foot raise. This is not fair to the people up there that are going to lose their home. Mr. Edwards mentioned an agreement which he and others had presented and felt was a reasonable approach but was blocked by TVID, which did not want to use

Willamette River water. Mr. Edwards is against local ownership as it removes another layer of bureaucracy that offers protection for the public right. Mr. Edwards stated that there is not enough water to support a 40-foot raise, and the pumpback is almost beyond his comprehension. He mentioned turbidity, cow poop, nitrogen, and phosphate and disagreed with a report from a government agency which stated that the additional nitrogen and phosphate would not add to the algae bloom. Mr. Edwards referred to the very first meeting when Mr. Nelson was asked what kind of impact there would be to each individual property owner around the lake; Mr. Nelson said at that time this situation was unique in that there was no other RECLAMATION facility with private ownership so closely related to it and that any impact on neighbors would be at best minimal. Mr. Edwards said now, however, there is a 300-foot setback scheduled which Mr. VanderPlaat said is to prevent someone from building a private dock. What is anyone going to do in a foot and a half of water? Let's be reasonable and rational about what is being done and what is being taken—people's complete homes are being taken off the map and it's not fair to those people. They have already given. Mr. Edwards asked Chairman Brian to protect the rights of those who live in the area and reconsider the 300-foot setback. That would make the difference of those people staying or leaving.

Mrs. Beman asked if the 300-foot setback is for just the new area or does it include all landowners. Mr. VanderPlaat said it would apply wherever the new water level, or a road—new or existing—reaches private property. The new park boundary would be 300 feet beyond that point. This will not affect the Beman property.

Chairman Brian asked if there would be any flexibility in the 300-foot buffer requirement if a title transfer put local control into place, assuming there were no environmental or other regulations that made it necessary. Mr. VanderPlaat said the 300-foot buffer was a standard RECLAMATION policy. If a local entity had control, then they could define the buffer or boundary. Mr. Fuiten observed that this should be clarified in any transaction with the RECLAMATION—would RECLAMATION expect that regulation to be carried forward? Mr. Nelson pointed out that the 300-foot buffer is not a RECLAMATION regulation, it's just a standard practice and there is some flexibility—it is not set in stone. Mr. VanderPlaat reminded the group that from the beginning he has been committed to sharing with neighbors the maximum potential impact, and that is what the maps reflect.

Mr. Terry asked whether fluctuations in water levels due to irrigation and other factors would affect houses. Mr. VanderPlaat said only one home--the Stutz property--would have water up to the existing front porch. The water level would not be inside the existing house. However, the entire property would be taken with either a 25-foot or a 40-foot dam raise and the landowners would have to be relocated.

Mr. Fuiten asked if the pumpback would stabilize water level fluctuation. Mr. VanderPlaat said there will still be fluctuation as the pumpback will be used in winter to fill the reservoir as needed and in summer the water level will fall again due to irrigation and other uses. Mr. Gaffi added that there will likely be significant carryover of water in the reservoir from one year to the next, which will help even out fluctuations. He said that use of the pumpback, and fluctuations in water level, will depend on whether a given year is "wet" or "dry" and

also noted that in the early years of the project the pumpback may not be used as much as it would be in later years as the demand for water continues to grow.

Mr. Beman asked if the location for the pumpback pipe has been decided. Mr. VanderPlaat said from the dam it will run west behind the Stimson Mill, through the bottom of Scoggins Creek to the Lakestop Store, around the hill to the north, and just below Williams Fuel it will cross the highway and then run along the east side of Highway 47. Mr. Beman wondered about access to the store and other points during construction. Mr. VanderPlaat said the disruption would be minimal, as the construction crews will bore under the highway to install the pipe.

Mr. Criss asked if there is an overlay map showing current boundaries and how they would change under each dam raise alternative. Mr. VanderPlaat said he has the two maps and they are available to anyone interested. Mr. Criss asked if that could be on the website and Mr. VanderPlaat said he would add it.

Mrs. Irwin wondered how water quality would be assured when using the pumpback--would phosphates or other contaminants be moved from the river to the reservoir? Mr. VanderPlaat said that is addressed in the Draft PR/EIS.

Ms. Cernazanu read a statement (attached) given to her before the meeting by John Kelley, a resident of the Hagg Lake area. The statement, addressed to the PSC, Clean Water Services, and RECLAMATION, expressed the hope and belief of Tanner Creek residents that a solution could be found to leave their community intact and residents able to stay in their homes on their property with minimal impact. Residents have lived with this for six years and would like to resume their lives without fear of dislocation. The residents support the search for water options for the county. The statement was signed by Mr. Kelley, Sally Wojahn, and Robert and Susan Stutz.

Ms. Cernazanu also read another statement (attached) from Ms. Wojahn and Mr. Kelley regarding the proposed placement of the Hagg Lake road in the Tanner Creek arm. They are very satisfied with the proposal to keep the main road where it is and allow the new water to go under the road. The proposed boundary for the 25-foot raise will not have a significant impact on their property but the negative impact on the Stutz property must be addressed. Ms. Wojahn and Mr. Kelley are adamantly opposed to the boundary associated with a 40-foot raise as the additional 300 feet of land needed will take away their home and those of three other property owners. The buffer decision was made by someone in an office without ever looking at the property and without regard to how it would affect individuals. There is no law, requirement, or precedent that actually requires the additional 300 feet. There is nothing associated with the 300-foot buffer that couldn't be accomplished within a buffer of 20-30 feet. There is precedent all over Oregon where private land comes closer than 300 feet to public water sources, and there are other areas around the lake where the boundary is not 300 feet from the water. Ms. Wojahn, Mr. Kelley and some of their neighbors have three or four alternatives to recommend for the Tanner Creek arm that will allow the partners all the water they need and allow the residents to keep their homes. They are sure these alternatives would be less expensive than purchasing four properties. They request someone in a position

to make decisions who is willing to see the importance of minimizing impacts on residents will come out and really listen to their recommendations. They accept that some of their land must be taken in order to provide for future water needs but they don't accept that another 300 feet is needed to get it.

Chairman Brian reflected these are very good comments regarding the 300-foot buffer. He reminded everyone of Mr. VanderPlaat's statement that the maps show the worst-case scenario. Chairman Brian said there is still a long way to go and it is important to look carefully at the buffer issue along the way.

Mr. Eves asked if a retaining wall could be built to keep homes away from the water. Mr. VanderPlaat said most of the land is fairly flat. Mrs. Irwin noted that their property is not flat. Mr. Edwards said they don't need a retaining wall, just less take line.

Mr. Criss said that of the three alternatives being considered, the first (No Action) is not a realistic option but wondered if there was a preference for either of the other two. Chairman Brian said there really is not at this point. There will be problematic issues with pumping water from the Willamette—distance, ongoing costs, etc. The leading option is probably the 40-foot dam raise, but the decision is still a long time away.

Mr. Irwin asked if the Willamette River pipeline would be a separate project or is it completely tied to the 25-foot dam raise. Dick Schmidt of TVWD said it would be a TVWD project in any case, and it could happen with or without a dam raise, based on projections for future population and water supply. Mr. VanderPlaat added that it is important to remember that for the purposes of the EIS, the alternatives must be comparable. The Willamette pipeline could be a separate element, but relative to the EIS it is considered part of the project package.

Mr. Beman offered two comments. First, he believes the existing lake could be dredged by 50 feet during the winter and not even bother the property owners. He had suggested this earlier and was told it would cost too much but it is going to cost a lot to take the trees off the property and the dirt will have to be moved anyway. Mr. VanderPlaat explained that raising the dam 40 feet would require moving 2 million cubic yards of dirt; dredging would mean moving many million yards. Working in water would further increase the expense. Dredging would also raise concerns about dam support and bank stability. Mr. Beman declined to state his second comment, saying that minds were already made up.

Mrs. Beman mentioned that the correct pronunciation for Hagg is "Hayg," with a "long a" sound. The lake is named after Henry Hagg and there are still family members in the area so it would be nice to get their name right.

Chairman Brian expressed appreciation for the citizens who took time to come to the meeting. He understands that this affects them more than anyone else and he hopes they will continue to be involved.

Mr. Fuiten asked if the title transfer could be done without a dam raise. Chairman Brian said

it could. Mr. Fuiten said he is not suggesting that, but considering what the City of Forest Grove has already paid a title transfer seems like a good idea.

10. Adjournment

Chairman Brian again thanked everyone for coming and declared the meeting adjourned at 8:30 pm.

(Meeting notes prepared by Sue Baumgartner)