

Water summit comes to Eastern Oregon

Sessions touch on legislation, funding for projects

By **GEORGE PLAVERN**
EO Media Group

PENDLETON, Ore. — It's no secret that water is a pretty big deal in Eastern Oregon.

Faced with growing demand and economic reward, local farmers have been trying for years to secure new water supplies for irrigation from the Columbia River. But the answer isn't that simple; endangered fish also need water to survive, and hydroelectric

dams need water to keep the power grid in balance.

The result is a complicated maze of laws, regulation and compromise. It's against that backdrop the agricultural team from Dunn Carney law firm of Portland held a water summit Feb. 28 in Pendleton.

About 40 people gathered at the Slickfork Saloon to hear a brief presentation from Tom Byler, director of the Oregon Water Resources Department, as well as a panel discussion about the future of water availability for agriculture.

Dunn Carney — the same firm that represented an area farmer in the mysterious case of genetically modified wheat

in 2013 — has hosted a number of agricultural summits in the past, but never one east of the Cascades. The timing is appropriate, with potentially millions of dollars in state funding for water projects working its way through this year's legislature.

Newly inaugurated Gov. Kate Brown has said she will pursue a \$51.6 million water development fund that John Kitzhaber proposed before his resignation. Friday also marked the first day of rules advisory meetings for Senate Bill 839, which was approved by the 2013 legislature and authorizes a \$10 million Water Supply Development Account.

Agriculture already accounts for 85 percent of the state's water use, yet forecasts show it will need another million acre-feet to keep up with demand. One acre-foot is equal to 326,000 gallons of water.

"We know there's new demand on the horizon," Byler said. "However we solve our problem is going to take time, it's going to take energy and it's going to take money."

SB 839 is the horse they're riding to get there, Byler said.

A four-member panel talked in greater detail about how to get projects off the ground, from navigating complex laws to building a system that can

efficiently pump water to the farm.

Any water taken from the Columbia River must be mitigated through bucket-for-bucket replacement, said Kate Moore, environmental attorney with Dunn Carney. It must also remain in stream between April 15 and Sept. 30, when it's needed for fish runs.

"Despite all these difficulties, there's a lot of opportunity here," Moore said.

Craig Reeder, board chairman for the Northeast Oregon Water Association, believes they have a balanced solution. Their project calls for up to 500 cubic feet per second of new water into three distinct

critical groundwater areas, in exchange for mitigation work farther upstream.

Last November, a top resources aide for Kitzhaber said they were "weeks away" from a deal between NOWA and environmental groups that would clinch a smaller chunk of water to get the project started. That was before all the drama in the governor's office, and Reeder said they have been reassured the support is still there under new Gov. Brown.

"We're closer than we have ever been," Reeder said. "We've got a shot. So be involved, and ask how you can participate."

Environmentalists claim feds minimized logging impacts

Timber sales challenged before 9th Circuit

By **MATEUSZ PERKOWSKI**
Capital Press

PORTLAND — Environmentalists claim the federal government tried to minimize the harmful effects of a logging project they're seeking to stop in Southern Oregon.

Soda Mountain Wilderness Council and several other groups have asked the 9th U.S. Circuit Court of Appeals to reverse the findings of a federal judge who previously ruled the U.S. Bureau of Land Management lawfully approved the 600-acre "Sampson Cove" timber sale.

The BLM failed to consider the "cumulative impacts" that the logging project would have in conjunction with a nearby timber harvest that the agency was planning, said Marianne Dugan, attorney for the environmentalists, during oral arguments in Portland on March 2.

"There is an incentive not to mention adjacent timber sales," she said.

The BLM had already named the neighboring "Cot-



Pioneer Courthouse in Portland, where the 9th Circuit held oral arguments in logging cases March 2.

tonwood" timber sale and knew the geographic area in which trees would likely be logged even if the final plans weren't yet laid out, Dugan said.

The BLM's claim that the Cottonwood project wasn't "reasonably foreseeable" at the time it approved the Sampson Cove project "stretches credulity," she said.

The government should

not be allowed to engage in regulatory "gamesmanship" by excluding the adjacent timber sale from its broader consideration of environmental effects, she said.

"There's no mystery as to the location of the trees," Dugan said.

Nina Robertson, the government's attorney, said the BLM was contemplating the Cottonwood project at a preliminary stage but critical

factors were still unknown.

Before wildlife surveys and stand examinations were completed, it was too early to include this timber sale in the cumulative impact analysis of the Sampson Cove project, she said.

The situation would have been different if the two projects were developed in

parallel, Robertson said. "In this case, that overlap never occurred."

The cumulative impacts were nonetheless considered during a later environmental assessment of the Cottonwood project, she said.

During the March 2 hearing session, the 9th Circuit also heard oral arguments in another dispute over a federal timber project.

Bark, an environmental group, opposes the U.S. Forest Service's 2,000-acre Jazz timber sale in Oregon's Mount Hood National Forest because the thinning project would allegedly aggravate large soil shifts known as "earth flows," leading to sediments runoff into streams.

The government exaggerated the economic costs of Bark's suggested alternatives for the project in order to reject them, said Brenna Bell, attorney for the environmental group.

Bark's main concern is with the rebuilding of 12 miles of previously decommissioned roads, which Bell likened to "picking off a scab."

"That will set back the re-

covery for years in a protected watershed," she said.

Robert Oakley, attorney for the government, said the Forest Service examined the group's alternatives but found they'd reduce the project's size by 75 percent to 95 percent, rendering it unpractical.

The Jazz timber sale aims to thin overcrowded trees that are unlikely to grow any thicker because they were planted so close together, he said.

"Old growth" stands won't be logged as part of the project, which actually intends to help the forest recover such "late successional" characteristics more quickly, he said.

As for the impact of roads, the project will actually improve conditions in much of the project area, Oakley said. "The government could not have been more transparent on the status of the soils."

Runoff of sediments from log hauling in the timber sale area is so small as to be immeasurable due to mitigation measures, said Rob Molinelli, attorney for Interfor, a timber company that intervened in the lawsuit as a defendant.

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