

**Willamette Intake Facilities Commission
Board Meeting Minutes
October 26, 2020**

REGULAR SESSION – 6:00 PM

CALL TO ORDER AND ROLL CALL

Commissioners present:

Tualatin Valley Water District (TVWD):	Jim Doane (<i>Chair</i>)
City of Beaverton:	Marc San Soucie
City of Hillsboro:	John Godsey
City of Sherwood:	Sean Garland (<i>Vice Chair</i>)
City of Tigard:	John Goodhouse
City of Wilsonville:	Kristin Akervall

Managing Agency Staff present:

WIF Commission General Manager / Willamette Water Supply Program (WWSP) Director	Dave Kraska
TVWD General Counsel	Clark Balfour
WWSP Assistant Director	Joelle Bennett
WWSP Finance Manager	Lisa Houghton
TVWD Water Resources Division Manager	Joel Cary
WWSP Permitting & Outreach Manager	Christina Walter
WIF Commission Recorder / WWSP Administrative Assistant	Annette Rehms

Committee Members present:

Management Committee

TVWD:	Tom Hickmann
City of Hillsboro:	Niki Iverson
City of Sherwood:	Craig Sheldon
City of Tigard:	Brian Rager
City of Wilsonville:	Delora Kerber (alternate)

Operations Committee

TVWD:	Carrie Pak
City of Beaverton:	David Winship
City of Hillsboro:	Jessica Dorsey

Other Attendees:

Holly Tichenor – Water Systems Consulting	Rob Annear – Geosyntec
Susan Schlangen – Water Systems Consulting	

1. GENERAL MANAGER’S REPORT

Mr. Kraska presented the General Manager’s report, which included a safety moment on Fall safety tips, a Raw Water Facilities project update, progress on the Curtailment Plan, a request to obtain electronic signatures for past and future board meeting minutes and resolutions, and the delivery of the quarterly financial report for the period ending September 30, 2020.

Upon discussion, the Board provided their preferences for the December site tour, which can be held in-person with the option for a video tour. **Goodhouse** – in-person, **Doane** – video, **Godsey** – video, **San Soucie** – video, **Garland** – video, **Akervall** – open to either

Upon discussion, the Board consented to using Adobe Sign to obtain electronic signatures for approved Board meeting minutes and resolutions.

2. PUBLIC COMMENT

There were no public comments.

3. CONSENT AGENDA

- A. Approve the July 27, 2020 meeting minutes

Motion was made by San Soucie, seconded by Godsey, to approve the Consent Agenda as presented. The motion passed unanimously with Doane, Garland, Godsey, Goodhouse, Akervall, and San Soucie voting in favor.

4. BUSINESS AGENDA

- A. None

5. INFORMATION ITEMS

A. Legislative Update

Mr. Cary presented the staff report providing a summary of the communication with Oregon Legislative members about the financial impacts to water providers from COVID-19. He also highlighted that the Harmful Algal Blooms (HABs) Workgroup helped prepare two draft concepts for the 2021 Legislative Session: 1) supplying the Oregon Department of Environmental Quality with additional cyanotoxin testing equipment to support the requirements for seasonal drinking water providers, and 2) consolidating resources into a centralized, publicly facing website for improved coordination. Mr. Cary also noted that the wildfire impacts on Oregon water providers has become the focus of recent Legislative engagement and state-wide coordination.

B. Thermal Trading Plan Update

Ms. Walter presented the staff report providing an update on the WWSS Thermal Trading Plan, including overview of background, comments received, outcome of the recent public hearing, current status of the Oregon Department of Environmental Quality's (DEQ) approval of the plan, and next steps. (*see attachment*)

C. Mission, Vision, Values & Goals

Ms. Walter presented the staff report providing an update on the WIF Mission, Vision, Values, & Goals (MVVG) development including an overview of key accomplishments, background, and recognition of the MVVG Working Group representatives from each of the WIF partner agencies as well as the WWSP.

Ms. Walter then turned the topic over to Water Systems Consulting to facilitate the first Board update on the progress developing the WIF Mission, Vision, Values, & Goals. Ms. Tichenor walked the Board through results from the Board member interviews as well as results from the first working group discussion. Feedback from both sources was well aligned.

Ms. Tichenor then requested Board feedback on the following three key questions: (*see attachment*)

1. What is your top priority for developing strong partnerships?
2. What is your top priority for protecting the watershed?
3. What is your top priority for becoming regional influencers?

Notes taken on the Board members' responses to these questions are captured in the attached presentation file.

D. The next Board meeting is scheduled on January 25, 2021, via Microsoft Teams

6. COMMUNICATIONS AND NON-AGENDA ITEMS

A. None scheduled.

ADJOURNMENT

There being no further questions or business, Chairman Doane adjourned the meeting at 7:03 p.m.

Jim Doane, Chair

Sean Garland, Vice Chair

DRAFT

Draft Willamette Water Supply System Thermal Trading Plan

Response to Public Comment



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DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.



State of Oregon
Department of
Environmental
Quality

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.

Table of Contents

Introduction	1
Comments from: Bureau of Environmental Services	2
Comments from: Dale Feik	4
Comments from: Marissa Houlberg	5
Comments from: Oregon Department of Agriculture	6
Comments from: Willamette Riverkeeper.....	6
Comments from: Water Watch.....	8
Comments from: Northwest Environmental Advocates.....	12
Comments from: Clean Water Services	14
Comments from: Oregon Wild.....	14
Comments from: Willamette Water Supply Program	15
Comments from: NOAA	16

Introduction

This Response to Public Comments document addresses written and verbal comments received regarding the Draft Willamette Water Supply System Thermal Trading Plan dated August, 2019. The individuals and organizations shown in Table 1 provided comments on the Draft Willamette Water Supply System (WWSS) Thermal Trading Plan during the Public Comment Periods: the first comment period occurred between March 20 and April 3, 2020. During this first comment period, a public hearing was requested by WaterWatch and Willamette Riverkeeper. This public hearing will be referred to as a second comment period. The second comment period consisted of a virtual public hearing on July 1, 2020. Additional written comments were also accepted due to the COVID-19 pandemic, and to provide accessibility for anyone not able to attend the hearing virtually. Individuals representing three groups provided verbal comments during the second comment period: WaterWatch, WWSS, and Clean Water Services. The WaterWatch verbal comments were similar to their written comments, and therefore are not addressed separately in this document. All written and verbal comments received during the two public comment periods have been reviewed by DEQ and are addressed in this document. In total there were 24 unique comments from 11 entities. Whenever a comment was substantively the same across two or more commenters, the DEQ grouped that comment and provides a single response. For example several commenters objected to the WWSS request for a 1.7:1 ratio, and the DEQ has provided a single response to that comment. The DEQ has requested five modifications to the TTP based on the comments.

Table 1: Commenters on the August 2019 Draft Willamette Water Supply System Thermal Trading Plan

Commenter #	Commenter	Type	Acronym
1	Bureau of Environmental Services	Written	BES
2	Dale Feik	Written	DF
3	Marissa Houlberg (First Period)	Written	MH
4	Oregon Department of Agriculture	Written	ODA
5	Willamette Riverkeeper	Written	WR
6	Water Watch	Written	WW
7	Northwest Environmental Advocates	Written	NEA
8	Clean Water Services	Verbal	CWS
9	Marissa Houlberg (Second Period)	Written	MH
10	Water Watch	Verbal	WW
11	Oregon Wild	Written	OW
12	Willamette Water Supply Program	Written	WWSP
13	Willamette Water Supply Program	Verbal	WWSP
14	NOAA	Written	NO

Comments from: Bureau of Environmental Services

BES#1: Suggested Change ID #1

Description: Downsize Trading Area

Comment: Size of trading area is too large to meaningfully evaluate.

Response: The trading area was revised by the WWSS to better reflect the locations where trading projects are feasible. For example, BMPs installed in watersheds above reservoirs are unlikely to provide thermal benefits downstream from those reservoirs. The initial description of trading area was consistent with the DEQ's IMD and OARs relevant to trading. Trading area is defined in OAR 340-039-0005(5) as a "watershed or other hydrologically-connected geographic area, as defined within a water quality management plan adopted for a TMDL, trading framework, or trading plan. A trading area must encompass the location of the discharge to be offset, or its downstream point of impact, if applicable, and the trading project to be implemented." The DEQ's IMD generally encourages applicants to establish trading areas that are broad in geographic scope: "...a trading program should be large enough to encompass the universe of sources that contribute to the specific water quality problem that is to be addressed through trading." Given that the pollutant (heat) is added to water throughout the basin, it is possible for trading projects to lower temperatures in streams throughout the basin.

BES#2: Suggested Change ID #2

Description: Incorporate Attenuation Ratios

Comment: DEQ should incorporate attenuation ratios to account for the loss of thermal benefits between a credit-generating location and the point of credit use.

Response: The trading ratio is based upon the unique circumstances of the proposed trade and its elements, the particular trading area, the parameter to be traded, Best Management Practices (BMPs) used to generate credits, and other considerations. For the WWSS trading plan, the 2:1 trading ratio represents an appropriate balance of all trading requirements under OAR 340-039-0043.

BES#3: Suggested Change ID #3

Description: Keep 2:1 Trading Ratio

Comment: Reducing the standard 2:1 trading ratio may result in a net loss of thermal benefits to the environment if the project were to withdraw the full 150 MGD prior to 2085. Rather than reducing the trading ratio from 2:1 to 1.7:1, WaterWatch suggests the ratio should be increased due to attenuation and climate change.

If DEQ allows the use of a reduced trading ratio, DEQ should also include limits on the projects water withdrawals to ensure that the trading plan provides a net environmental benefit; that the thermal impacts do not occur before the realized thermal benefits.

Response: The applicant had requested lowering the trading ratio due to the fact that they are generating credits years before they are used. However, the trading ratio is also used to account for many other variables under OAR 340-039-0043. The DEQ requested and accepted a 2:1 trading ratio to account for any combination of the following: 1)

attenuation of water quality benefits between credit-generating BMPs and point of use; 2) uncertainty of BMP performance; 3) uncertainty of water quality benefit measurement; or 4) types of risk not associated with BMP performance.

BES#4: Suggested Change ID #4

Description: Account for Climate Change

Comment: If the thermal benefits are intended to address future thermal impacts, they should be calculated based on expected conditions of 2085, not 2001. Using 2001 may represent a conservative modeling scenario. If not adequately sized, the project could exacerbate impacts related to river temperature, decreased summer flow, and disconnected habitats. NWEA argues that plan doesn't account for climate change impacts; references a soon-to-be-outdated 2006 TMDL. "...climate change is...likely to eclipse a very dry year in 2001."

Response: Human alteration of the atmosphere has changed the timing, amounts, and quality of water on earth. The DEQ agrees that changes to climate may be relevant to some elements of the trading plan. For example, the DEQ expects that elements of planting plans will be managed adaptively to account for changes in growing seasons of individual plant species. That said, the regional scale of climate prediction is a poor match to the patchy and localized nature of individual water quality trading projects. (Each pixel within a mainstream climate models is often thousands of square miles in size.) Moreover, it is the DEQ's view that restoration of riparian areas increases resiliency and provides water quality benefits beyond the lowering of temperature during critical migration and spawning periods.

BES#5: Suggested Change ID #5

Description: Describe public availability of information on WWSS credit generation, acquisition, and usage

Comment: The plan only proposes to "evaluate posting trading credit information." A description of how this information will be made available to the public is a required component of a trading plan (OAR 340-039-0025(5)(i)) and should be included in the proposed thermal trading plan.

Response: If approved by the DEQ, the WWSS Thermal Trading Plan will be available via the WWSS website. The DEQ will evaluate ways to post all information regarding trading activities, including annual reports, to its website. The DEQ does not possess this capability at this time. The WWSS is also evaluating posting trading credit information to a public website. Water Quality trading rules do not require DEQ to post annual reports on its web site. Like all public records, in the event a particular document submitted to DEQ is not available on a website, it would be available via a public records request. Annual Report information may also be located on a third party website.

BES#6: Suggested Change ID #6

Description: Specify a date or date range for credit calculations

Comment: The proposed trading plan includes a description of when maximum thermal impacts are anticipated, but it does not specify the modeling date that will be used for credit calculations. The modeling date should align with the timing of the greatest impact and be specified in the trading plan.

Response: The WWSS trading plan presents timelines for credit generation in Tables 4 and 5. Maximum impact is estimated (Figure 1) for the period 2025 to 2085, based on flow data from a low-flow year (2001). The DEQ may request a specific date for credit calculations, and adjust that date to account for changes in project timelines.

BES#7: Suggested Change ID #7

Description: Describe alternative BMPs and public process for evaluating them

Comment: Many of the details for alternate BMPs, such as the method used for thermal credit quantification, are not fully described. It is unclear if a revision of the trading plan (OAR 340-039-0025(7)) and the required opportunity for public notice and comment would occur if WWSS were to pursue a BMP other than riparian shade (BES). NWEA wants to know if public comment will be allowed on each new BMP.

Response: After public notice and comment and DEQ approval of a trading plan, individual trading projects that are implemented pursuant to the trading plan must be consistent with the approved trading plan but are not required to be made available for public notice under OAR 340-039-0025(3). Requiring public notice and comment for implementation of each project would add unnecessary delay and process to trading. ORS 468B.555(3)(c) directs DEQ to minimize administrative requirements in order to encourage and facilitate pollutant trading. DEQ's approach in this instance is a reasonable application of this requirement. Projects that are not implemented in accordance with the approved plan are not eligible for credit generation.

BES#8: Suggested Change ID #8

Description: Clarify relationship between credit life and monitoring cycle.

Comment: The relationship between the credit life and the monitoring cycle is unclear. It is important to clearly crosswalk the phases of credit life with the monitoring cycle so that it is clear to the public when the required monitoring activities will occur and the associated performance criteria.

Response: The performance criteria and monitoring schedule listed in Table 5 and Appendix B addresses this concern to the satisfaction of the DEQ.

Comments from: Dale Feik

DF#1: Suggested Change ID #18

Description: EPA Clean Water Standards

Comment: Will the EPA Clean Water temperature standards be met by this proposed Thermal Trading Plan?

Response: Water quality trading is one compliance option among several available to meet regulatory requirements under the federal Clean Water Act, including water quality standards. The WWSS trading plan falls under section 401 of the Clean Water Act, thus putting the plan under the State of Oregon's regulatory purview. The EPA has published guidance in support of water quality trading. For example, in 2003 EPA published a water quality trading policy that endorses trading as a means of both attaining pollutant reductions and as a way to achieve ancillary environmental benefits. Trading plans include annual reports submitted to DEQ according to OAR 340-039-0017(3). Attainment of the water quality standard will take time and accordingly compliance with the trading plan is deemed compliance with the temperature conditions of the certification. In the event any report demonstrates non-compliance with trading plan (401 water quality certification) conditions, DEQ will follow up as appropriate.

Comments from: Marissa Houlberg

MH#1: Suggested Change ID #19

Description: Accountability and Future Demand

Comment: Who is going to hold WWSS members accountable consistently? Doesn't the WWSS need the additional water from the USACE storage to meet their future demand?

Response: Water quality trading rules under OAR Chapter 340, Division 39 are intended to address important and essential elements of DEQ's water quality trading program, with appropriate standards for accountability, enforceability and provisions to ensure transparency. DEQ believes that the rules strike a balance between program accountability and transparency with flexibility desired by regulated participants. The rules require annual reporting on trading plan implementation specific to each trading project and performance over the past year. These requirements are essential to ensure that trades are generating credits they are intended to generate and that this information is available for verification. When the elements of the Willamette Water Supply System Thermal Trading Plan are approved by the DEQ, those elements become enforceable conditions under section 401 of the Clean Water Act.

The DEQ takes no position on the WWSS's future water needs and the possibility of using USACE stored water to meet that need.

MH#2: Suggested Change ID #19

Description: Accountability and Future Demand

Comment: Who is going to hold WWSS members accountable consistently? Doesn't the WWSS need the additional water from the USACE storage to meet their future demand?

Response: Water quality trading rules under OAR Chapter 340, Division 39 are intended to address important and essential elements of DEQ's water quality trading program, with appropriate standards for accountability, enforceability and provisions to ensure transparency. DEQ believes that the rules strike a balance between program accountability and transparency with flexibility desired by regulated participants. The rules require annual reporting on trading plan implementation specific to each trading project and performance over the past year. These requirements are essential to ensure that trades are generating credits they are intended to generate and that this information is available for verification. When the elements of the Willamette Water Supply System Thermal Trading Plan are approved by the DEQ, those elements become enforceable conditions under section 401 of the Clean Water Act.

The DEQ takes no position on the WWSS's future water needs and the possibility of using USACE stored water to meet that need.

Comments from: Oregon Department of Agriculture

ODA#1: Suggested Change ID #17

Description: Edits and Clarifications

Comment: The Oregon Department of Agriculture is submitting the following three comments during the public comment period.

1. Page 4, Table 1, item (b), Oregon Department of Agriculture. Under the column for “Baseline Requirement”, please change the word “Program” to “Area Rules”, in two places. Baseline on agricultural lands is the regulations, AKA “Area Rules”, rather than the entire WQ “Program”. Note: the current wording in the shorter list on Page 3 is correct.
2. Page 7, 1st paragraph, refers to “ the 10-year floodplain“. However, Appendix C, Page 4, Section 3.1, refers to “ he 100-year floodplain”. It seems likely that the numbers on both pages should be the same.
3. Page 14, 1st paragraph and Table 4. The 1st paragraph explains clearly that the credit life would begin in 2026. It would be helpful to add that information to Table 4, e.g. add “credit life begins” in the 2026 row, and also clarify in the 2022 row that credit generation begins, but not credit life.

Response: The DEQ requested that the WWSS make the changes listed by Cheryl Hummon of the ODA. The WWSS made the revisions as requested. The DEQ appreciates the helpful ODA comment.

Comments from: Willamette Riverkeeper

WR#1: Suggested Change ID #1

Description: Downsize Trading Area

Comment: Size of trading area is too large to meaningfully evaluate.

Response: The trading area was revised by the WWSS to better reflect the locations where trading projects are feasible. For example, BMPs installed in watersheds above reservoirs are unlikely to provide thermal benefits downstream from those reservoirs. The initial description of trading area was consistent with the DEQ’s IMD and OARs relevant to trading. Trading area is defined in OAR 340-039-0005(5) as a “watershed or other hydrologically-connected geographic area, as defined within a water quality management plan adopted for a TMDL, trading framework, or trading plan. A trading area must encompass the location of the discharge to be offset, or its downstream point of impact, if applicable, and the trading project to be implemented.” The DEQ’s IMD generally encourages applicants to establish trading areas that are broad in geographic scope: “...a trading program should be large enough to encompass the universe of sources that contribute to the specific water quality problem that is to be addressed through trading.” Given that the pollutant (heat) is added to water throughout the basin, it is possible for trading projects to lower temperatures in streams throughout the basin.

WR#2: Suggested Change ID #3

Description: Keep 2:1 Trading Ratio

Comment: Reducing the standard 2:1 trading ratio may result in a net loss of thermal benefits to the environment if the project were to withdraw the full 150 MGD prior to 2085. Rather than reducing the trading ratio from 2:1 to 1.7:1, WaterWatch suggests the ratio should be increased due to attenuation and climate change.

If DEQ allows the use of a reduced trading ratio, DEQ should also include limits on the projects water withdrawals to ensure that the trading plan provides a net environmental benefit; that the thermal impacts do not occur before the realized thermal benefits.

Response: The applicant had requested lowering the trading ratio due to the fact that they are generating credits years before they are used. However, the trading ratio is also used to account for many other variables under OAR 340-039-0043. The DEQ requested and accepted a 2:1 trading ratio to account for any combination of the following: 1) attenuation of water quality benefits between credit-generating BMPs and point of use; 2) uncertainty of BMP performance; 3) uncertainty of water quality benefit measurement; or 4) types of risk not associated with BMP performance.

WR#3: Suggested Change ID #4

Description: Account for Climate Change

Comment: If the thermal benefits are intended to address future thermal impacts, they should be calculated based on expected conditions of 2085, not 2001. Using 2001 may represent a conservative modeling scenario. If not adequately sized, the project could exacerbate impacts related to river temperature, decreased summer flow, and disconnected habitats. NWEA argues that plan doesn't account for climate change impacts; references a soon-to-be-outdated 2006 TMDL. "...climate change is...likely to eclipse a very dry year in 2001."

Response: Human alteration of the atmosphere has changed the timing, amounts, and quality of water on earth. The DEQ agrees that changes to climate may be relevant to some elements of the trading plan. For example, the DEQ expects that elements of planting plans will be managed adaptively to account for changes in growing seasons of individual plant species. That said, the regional scale of climate prediction is a poor match to the patchy and localized nature of individual water quality trading projects. (Each pixel within a mainstream climate models is often thousands of square miles in size.) Moreover, it is the DEQ's view that restoration of riparian areas increases resiliency and provides water quality benefits beyond the lowering of temperature during critical migration and spawning periods.

WR#4: Suggested Change ID #9

Description: Present specific projects (BMPs) and locations for the public to evaluate

Comment: The Plan is unspecific on what projects will occur and where. Nor does the Plan clearly link its proposed BMPs with decreases in temperature, which is the pollutant the WWSS's withdrawals will cause. Without this basic information, there is no way the Plan can estimate the credits the WWSS may generate, nor is there any way for DEQ to assess whether the Plan complies with OAR 340-039-0025.

Response: Annual reports submitted to the DEQ will provide specific project (BMP) details. From the DEQ's perspective, only BMPs that meet quality standards may be used to generate credits for pollutant (heat) trading. The DEQ has the obligation to evaluate proposed trading plans (including BMPs). All trading plans are subject to public review and comment. Although trading projects will be evaluated by the DEQ, under OAR 340-039-0025 (3), individual trading projects do not require separate public notice and comment. The DEQ's position is that it would be neither efficient nor useful to require the inclusion of all possible BMPs in trading plan proposals. With traditional

compliance methods there is no corollary requirement for public comment on alternative mitigation methods and the basis for each of those. To require traders to propose alternatives would result in a cumbersome and inefficient review and approval process.

WR#5: Suggested Change ID #10

Description: Establish and define the trading baseline

Comment: Three commenters argued that the plan does not adequately address the trading baseline. Baseline-related comments included the following: The WWSS Plan proposes to evaluate baseline in the future (Willamette Riverkeeper). There isn't a way to determine if a project, shading or otherwise, is already required by the regulatory "baseline." (WaterWatch). NWEA makes several comments about baseline requirements: WWSS shouldn't be the entity to determine regulatory baseline; regulatory baseline is complex, possibly unknowable; asserts that the plan concludes no baseline requirements are applicable to NPDES permits; the public can't comment on the regulatory baseline because it's wholly unevaluated; commission not equipped to determine regulatory baseline of federal plans, 401s, local ordinances, tribal laws, other nonpoint source requirements and compensatory sites.

Response: The DEQ has reviewed the WWSS plan to ensure that credits are generated from project results that are above the trading baseline. Under the WWSS plan, and consistent with OAR 340-039-0030 and OAR 340-039-0025(5)(b), baseline is based on current regulations. Whenever those regulations change, the baseline will be reevaluated and amended accordingly. The DEQ recognizes that time will pass between trading plan approval and trading project initiation, and therefore regulatory requirements that make up trading baseline may change or be revised over the course of a trade. The WWSS trading plan identifies existing regulations such as ODA area rules, Oregon Department of Forestry forest practices rules and local ordinances that make up the existing baseline and will be later used to identify applicable location-specific regulations and to quantify trade project-specific baseline water quality benefits. Identifying applicable regulations at the time of trading plan proposal helps ensure that the most up-to-date versions of these regulations are applied at the time of individual project initiation. Trade credit users will document in their annual reports baseline conditions for each trading project initiated in the reporting period.

Comments from: Water Watch

WW#1: Suggested Change ID #2

Description: Incorporate Attenuation Ratios

Comment: DEQ should incorporate attenuation ratios to account for the loss of thermal benefits between a credit-generating location and the point of credit use.

Response: The trading ratio is based upon the unique circumstances of the proposed trade and its elements, the particular trading area, the parameter to be traded, Best Management Practices (BMPs) used to generate credits, and other considerations. For the WWSS trading plan, the 2:1 trading ratio represents an appropriate balance of all trading requirements under OAR 340-039-0043.

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Response: Human alteration of the atmosphere has changed the timing, amounts, and quality of water on earth. The DEQ agrees that changes to climate may be relevant to some elements of the trading plan. For example, the DEQ expects that elements of planting plans will be managed adaptively to account for changes in growing seasons of individual plant species. That said, the regional scale of climate prediction is a poor match to the patchy and localized nature of individual water quality trading projects. (Each pixel within a mainstream climate models is often thousands of square miles in size.) Moreover, it is the DEQ's view that restoration of riparian areas increases resiliency and provides water quality benefits beyond the lowering of temperature during critical migration and spawning periods.

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Response: Annual reports submitted to the DEQ will provide specific project (BMP) details. From the DEQ's perspective, only BMPs that meet quality standards may be used to generate credits for pollutant (heat) trading. The DEQ has the obligation to evaluate proposed trading plans (including BMPs). All trading plans are subject to public review and comment. Although trading projects will be evaluated by the DEQ, under OAR 340-039-0025 (3),

individual trading projects do not require separate public notice and comment. The DEQ’s position is that it would be neither efficient nor useful to require the inclusion of all possible BMPs in trading plan proposals. With traditional compliance methods there is no corollary requirement for public comment on alternative mitigation methods and the basis for each of those. To require traders to propose alternatives would result in a cumbersome and inefficient review and approval process.

WW#5: Suggested Change ID #10

Description: Establish and define the trading baseline

Comment: Three commenters argued that the plan does not adequately address the trading baseline. Baseline-related comments included the following: The WWSS Plan proposes to evaluate baseline in the future (Willamette Riverkeeper). There isn’t a way to determine if a project, shading or otherwise, is already required by the regulatory “baseline.” (WaterWatch). NWEA makes several comments about baseline requirements: WWSS shouldn’t be the entity to determine regulatory baseline; regulatory baseline is complex, possibly unknowable; asserts that the plan concludes no baseline requirements are applicable to NPDES permits; the public can’t comment on the regulatory baseline because it’s wholly unevaluated; commission not equipped to determine regulatory baseline of federal plans, 401s, local ordinances, tribal laws, other nonpoint source requirements and compensatory sites.

Response: The DEQ has reviewed the WWSS plan to ensure that credits are generated from project results that are above the trading baseline. Under the WWSS plan, and consistent with OAR 340-039-0030 and OAR 340-039-0025(5)(b), baseline is based on current regulations. Whenever those regulations change, the baseline will be reevaluated and amended accordingly. The DEQ recognizes that time will pass between trading plan approval and trading project initiation, and therefore regulatory requirements that make up trading baseline may change or be revised over the course of a trade. The WWSS trading plan identifies existing regulations such as ODA area rules, Oregon Department of Forestry forest practices rules and local ordinances that make up the existing baseline and will be later used to identify applicable location-specific regulations and to quantify trade project-specific baseline water quality benefits. Identifying applicable regulations at the time of trading plan proposal helps ensure that the most up-to-date versions of these regulations are applied at the time of individual project initiation. Trade credit users will document in their annual reports baseline conditions for each trading project initiated in the reporting period.

WW#6: Suggested Change ID #11

Description: Exclude 56 cfs “flow augmentation” from permit S-55045

Comment: City of Hillsboro, a member of the WWSS, purchased a water right of 56 cubic feet per second (cfs) from the City of Salem (Permit S-45565). In calculating the heat load from WWSS’s future water withdrawals, the plan appears to give WWSS credit for leaving the 56 cfs in the river from Salem to Wilsonville. Salem did not expect to ever need the water or therefore to withdraw it from the river. The reality is that WWSS will be withdrawing 56 cfs (in addition to other withdrawals) that would otherwise have stayed in the river.

Response: The WWSS appropriately modeled heat in the Willamette River and included the 56 cfs in their calculations. WaterWatch states that Salem did not expect to withdraw this 56 cfs from the Willamette River. However, it is not evident to the DEQ that the City of Salem had no intention to use this water. The original application S-55010 by the city of Salem requested 200 cfs from the Willamette River. The permit holder (City of Salem) had until 2086 to prove they are putting the water to beneficial use, and the DEQ has no reason to doubt the original intent of the applicant.

WW#7: Suggested Change ID #12

Description: Assume maximum permitted water withdrawal when modeling temperature impacts

Comment: “[t]he temperature impacts of the withdrawals were evaluated based on water demand estimates . . . by David Evans and Associates (2017).” (Trading Plan, p. 8.) If water demand and maximum permitted with withdrawal are different, temperature impacts should be modeled assuming maximum withdrawals permitted by WWSS’s water rights and permits.

Response: It is appropriate for cities to estimate future water use, and reasonable for the WWSS to base their water quality trading plan on those estimates. DEQ retains its regulatory oversight through its review of annual reports to ensure credits are generated as planned.

WW#8: Suggested Change ID #13

Description: Include temperature impacts from use of stored water when modeling

Comment: WWSS will be able to call for release of the stored water, thereby changing the time when that water flows downstream (in August instead of September, for example). That could create a positive temperature impact upstream when the water is released, but it will create a negative temperature impact (from the reservoirs to the ocean) when the water that would otherwise have been released is no longer available because it was released earlier to satisfy a call by WWSS.

Response: The DEQ is aware that the WWSS has no current plans to use stored water to offset thermal impacts. It is possible that the WWSS may pursue the use of stored water in the future. In the event that the WWSS chooses to pursue the use of stored water to offset their temperature impacts, the DEQ requests that the WWSS account for stored water releases in their annual WQ trading reports. Specifically, the following items would need to be addressed in the report: 1) thermally stratified reservoirs within the Willamette Valley, 2) the WWSS securing the right to use water from these reservoirs for thermal offset, 3) the eventual emptying of these reservoirs to the point of releasing warm epilimnetic water from these reservoirs into the Willamette River.

WW#9: Suggested Change ID #14

Description: Exclude possibility of using USACE water to mitigate temperature impacts

Comment: WaterWatch states that WWSS cannot use stored water from Army Corps of Engineers reservoirs to mitigate its temperature impacts. It is not clear at this point that WWSS will ever be able to get a contract for water from Corps reservoirs. If WWSS gets a future contract to use stored water, it will be for municipal use, not flow augmentation. Any stored water that WWSS gets a contract to use would be stored water that would otherwise be released to support target flows or fish.

NWEA objects to inchoate nature of stored water mitigation (“an idea without any details”) and 56 cfs municipal use permit, and argues it should be incorporated into the 401 certification.

Response: The WWSS is allowed to pursue a wide range of options to generate thermal trading credits. Under OAR 340-039-0005 (1), “BMPs include, but are not limited to structural and nonstructural controls and practices and flow augmentation.” Details regarding trading plan implementation and credit generation will be communicated to DEQ through the annual report. Details contained in annual reports are additive to other monitoring required by the 401 certification. In the event any report demonstrates non-compliance with 401 water quality certification conditions, DEQ will follow up as appropriate.

Comments from: Northwest Environmental Advocates

NEA#1: Suggested Change ID #4

Description: Account for Climate Change

Comment: If the thermal benefits are intended to address future thermal impacts, they should be calculated based on expected conditions of 2085, not 2001. Using 2001 may represent a conservative modeling scenario. If not adequately sized, the project could exacerbate impacts related to river temperature, decreased summer flow, and disconnected habitats. NWEA argues that plan doesn't account for climate change impacts; references a soon-to-be-outdated 2006 TMDL. "...climate change is...likely to eclipse a very dry year in 2001."

Response: Human alteration of the atmosphere has changed the timing, amounts, and quality of water on earth. The DEQ agrees that changes to climate may be relevant to some elements of the trading plan. For example, the DEQ expects that elements of planting plans will be managed adaptively to account for changes in growing seasons of individual plant species. That said, the regional scale of climate prediction is a poor match to the patchy and localized nature of individual water quality trading projects. (Each pixel within a mainstream climate models is often thousands of square miles in size.) Moreover, it is the DEQ's view that restoration of riparian areas increases resiliency and provides water quality benefits beyond the lowering of temperature during critical migration and spawning periods.

NEA#2: Suggested Change ID #7

Description: Describe alternative BMPs and public process for evaluating them

Comment: Many of the details for alternate BMPs, such as the method used for thermal credit quantification, are not fully described. It is unclear if a revision of the trading plan (OAR 340-039-0025(7)) and the required opportunity for public notice and comment would occur if WWSS were to pursue a BMP other than riparian shade (BES). NWEA wants to know if public comment will be allowed on each new BMP.

Response: After public notice and comment and DEQ approval of a trading plan, individual trading projects that are implemented pursuant to the trading plan must be consistent with the approved trading plan but are not required to be made available for public notice under OAR 340-039-0025(3). Requiring public notice and comment for implementation of each project would add unnecessary delay and process to trading. ORS 468B.555(3)(c) directs DEQ to minimize administrative requirements in order to encourage and facilitate pollutant trading. DEQ's approach in this instance is a reasonable application of this requirement. Projects that are not implemented in accordance with the approved plan are not eligible for credit generation.

NEA#3: Suggested Change ID #10

Description: Establish and define the trading baseline

Comment: Three commenters argued that the plan does not adequately address the trading baseline. Baseline-related comments included the following: The WWSS Plan proposes to evaluate baseline in the future (Willamette Riverkeeper). There isn't a way to determine if a project, shading or otherwise, is already required by the regulatory "baseline." (WaterWatch). NWEA makes several comments about baseline requirements: WWSS shouldn't be the

entity to determine regulatory baseline; regulatory baseline is complex, possibly unknowable; asserts that the plan concludes no baseline requirements are applicable to NPDES permits; the public can't comment on the regulatory baseline because it's wholly unevaluated; commission not equipped to determine regulatory baseline of federal plans, 401s, local ordinances, tribal laws, other nonpoint source requirements and compensatory sites.

Response: The DEQ has reviewed the WWSS plan to ensure that credits are generated from project results that are above the trading baseline. Under the WWSS plan, and consistent with OAR 340-039-0030 and OAR 340-039-0025(5)(b), baseline is based on current regulations. Whenever those regulations change, the baseline will be reevaluated and amended accordingly. The DEQ recognizes that time will pass between trading plan approval and trading project initiation, and therefore regulatory requirements that make up trading baseline may change or be revised over the course of a trade. The WWSS trading plan identifies existing regulations such as ODA area rules, Oregon Department of Forestry forest practices rules and local ordinances that make up the existing baseline and will be later used to identify applicable location-specific regulations and to quantify trade project-specific baseline water quality benefits. Identifying applicable regulations at the time of trading plan proposal helps ensure that the most up-to-date versions of these regulations are applied at the time of individual project initiation. Trade credit users will document in their annual reports baseline conditions for each trading project initiated in the reporting period.

NEA#4: Suggested Change ID #14

Description: Exclude possibility of using USACE water to mitigate temperature impacts

Comment: WaterWatch states that WWSS cannot use stored water from Army Corps of Engineers reservoirs to mitigate its temperature impacts. It is not clear at this point that WWSS will ever be able to get a contract for water from Corps reservoirs. If WWSS gets a future contract to use stored water, it will be for municipal use, not flow augmentation. Any stored water that WWSS gets a contract to use would be stored water that would otherwise be released to support target flows or fish.

NWEA objects to inchoate nature of stored water mitigation (“an idea without any details”) and 56 cfs municipal use permit, and argues it should be incorporated into the 401 certification.

Response: The WWSS is allowed to pursue a wide range of options to generate thermal trading credits. Under OAR 340-039-0005 (1), “BMPs include, but are not limited to structural and nonstructural controls and practices and flow augmentation.” Details regarding trading plan implementation and credit generation will be communicated to DEQ through the annual report. Details contained in annual reports are additive to other monitoring required by the 401 certification. In the event any report demonstrates non-compliance with 401 water quality certification conditions, DEQ will follow up as appropriate.

NEA#5: Suggested Change ID #15

Description: List local ordinances

Comment: NWEA argues that there are some local ordinances in place that should be included in the plan, but it's not their job to list them. The plan (Table 1) states about local ordinances: “Not applicable.”

Response: The DEQ appreciates the thoughtful comment. The trading plan identifies regulations such as ODA area rules, Oregon Department of Forestry forest practices rules and local ordinances that will be later used to identify applicable location-specific regulations and to quantify trade project-specific baseline water quality benefits. Identifying the source of all applicable regulations at the time of trading plan proposal is meant to ensure that the most up-to-date versions of these regulations are applied at the time of individual project initiation. Trade credit users will

document in their annual reports baseline conditions for each trading project initiated in the reporting period. Local ordinances will be listed to the satisfaction of the DEQ in annual reports.

The DEQ recognized that in Table 1 of the Draft WWSS Plan, the row titled: “(f) local ordinances” states “Not applicable.” under baseline requirement. The DEQ agrees that local ordinances applicable to individual BMPs may be identified at a future point in time (an eventuality that is alluded to in the draft plan). The DEQ has requested and accepted a WWSS update to this plan to state that when identified, local ordinances are applicable to the project. The Trading Plan has been updated to address this comment.

NEA#6: Suggested Change ID #16

Description: Post third-party verification on DEQ website

Comment: “The only acceptable location of verification is DEQ’s website because it is a public agency.”

Response: The DEQ is currently evaluating ways to post all information regarding trading activities, including annual reports, to its website. The WWSS is also evaluating posting trading credit information to a public website. Water Quality trading rules do not require DEQ to post annual reports on its web site. Like all public records, in the event a particular document submitted to DEQ is not available on a website, it would be available via a public records request. This verification information may also be located on a third party website.

Comments from: Clean Water Services

CWS#1: Suggested Change ID #20

Description: Promote ancillary environmental benefits

Comment: The DEQ is encouraged to continue to support innovative and effective trading programs that are designed to achieve broader environmental benefits beyond just fulfillment of the temperature requirements. For example, the two additional types of BMPs, Floodplain Resiliency and In-stream Habitat Restoration, focus on habitat improvements and improving cold water refuges.

Response: Thank you for the thoughtful comment. The commenter brings attention to the use of trading to promote holistic watershed health. Trading can provide ancillary environmental benefits such as: carbon sequestration, flood prevention, riparian improvement, and habitat enhancement. The DEQ acknowledges and encourages trading as a strategy to provide these benefits.

Comments from: Oregon Wild

OW#1: Suggested Change ID #23

Description: Mitigate at the point of diversion, not at the point of maximum impact

Comment: The DEQ is asked to require that all thermal impacts be mitigated, and the mitigation actions should be located upstream of the point of diversion, so that there are not any unmitigated impacts at the point of diversion, or at any point downstream of the point of diversion.

Response: All water quality trading areas must be described in a manner that is consistent with OAR 340-039-0005(5). The trading area described in the WWSS thermal trading plan is in accordance with this rule. The trading area described in the plan includes watersheds below the point of diversion and above the point of maximum impact. The DEQ is aware that the WWSS has researched locations to implement BMPs in those watersheds.

The commenter requests that all BMPs to mitigate thermal impacts be located upstream of the point of diversion (POD). However the DEQ anticipates that some BMPs will be located in watersheds above the point of maximum impact but below the POD. Trades may occur in this area because those trades result in heat load reductions called for in a TMDL. TMDLs target pollutant load reductions to comply with water quality standards at the point of maximum cumulative impact from human caused sources of pollution.

Comments from: Willamette Water Supply Program

WWSP#1: Suggested Change ID #21

Description: Additional Context

Comment: WWSS representatives provide details and context for the proposed thermal trading plan.

Response: Jacob Krall and Rob Annear of Geosyntec Consultants wrote a technical memo to Christina Walter and Jill Chomycia of the Willamette Water Supply Program. The subject of the memo was: “Technical Clarifications on the Willamette Water Supply System (WWSS) Thermal Trading Plan.” The memo responds to a subset of the comments made by WaterWatch during the first comment period. The DEQ appreciates the additional context and background information about the restoration projects under consideration by the WWSS.

WWSP#2: Suggested Change ID #22

Description: Two Water Quality Trading Projects

Comment: The Willamette Water Supply System has identified and researched two projects that would offset thermal impacts associated with this project: 1) Molalla River State Park Floodplain Forest and Riparian Area Health Restoration Project located at the confluence of the Molalla, Hooding, and Willamette Rivers; and 2) the Chicken Creek Habitat Project to restore habitat along the historic channel within the Tualatin Wildlife Refuge.

Response: The DEQ appreciates that the Willamette Water Supply System has identified and researched these two projects. The DEQ encourages this type of proactive work on behalf of all stream restoration practitioners.

Comments from: NOAA

NO#1: Suggested Change ID #24

Description: Coordinate With NOAA

Comment: NOAA wants to learn more; NOAA has concerns regarding our existing Biological Opinion that need to be addressed; and, NOAA want to coordinate with the DEQ.

Response: The DEQ appreciates the opportunity to collaborate with NOAA, and welcomes NOAA input and interest in Water Quality Trading.

Mission | Vision | Values | Goals

WIFC BOARD PRESENTATION

October 26, 2020 | 6:00 PM Board Meeting



Why Here? Why Now?



ENVISION

Create a shared vision,
understand gaps /
perspectives and
success for the WIF
Commission



ENGAGE

Build engaging
workshop interactions
that progressively
advance M, V, V, G



DELIVER

Facilitate a well-crafted and
designed mission, vision,
values and goals

The Core Ingredients



MISSION

Why the Commission exists—its purpose, goal or critical function especially as it relates to *watershed protection and water rights*.



VISION

An aspirational view of what the Commission wants to be in the future.



VALUES

The Commission's foundational character—how it conducts business and how it is perceived.

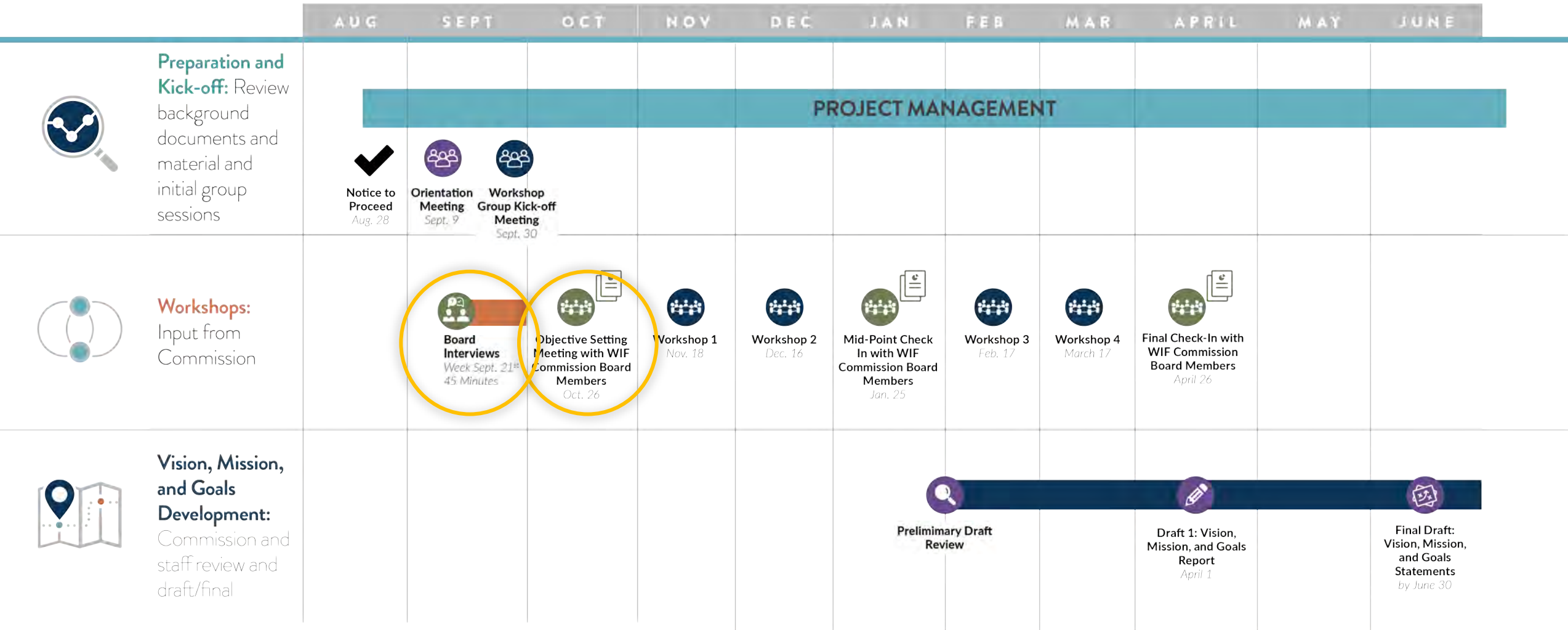


GOALS

The Commission's prioritized areas of focus that will drive strategies and actions to achieve your M, V, V.

PROJECT SCHEDULE

2021



Part 1

Board Member Interviews

Board Input

Desired Outcomes

Build strong partnership and collaboration

Construct WIF on schedule, on budget

Responsible, reliable facility operations

Leverage influence to protect watershed

Adapt to uncertainties in future

Board Input

Board Desired Outcomes for Process

Unified Voice

**Guidelines
for Priority
Setting &
Decision
Making**

**Defined
Success**

**Mechanisms
to Communicate
Purpose
(w/ public)**

Board Input on Areas of Focus

... general question to what degree?

**Water Quality and
Watershed Protection**

**Curtailment
planning & Future
Supply Needs**

**Construction,
Operation of
Facility**

Education

**Disaster /
emergency
preparedness**

*Long-term
planning >30
years out*

DEI

Part 2

Workgroup Workshop



Desired
Outcomes



Long-Term
Visioning



Why/ Mission-
Focused
Discussion

We asked...

responses very consistent with Board.

- Aligning goals, investments and priorities
- Effective management of WIF
- Protecting Willamette River Watershed
- Proactively managing water rights
- Creating partnerships and shared ownership
- Aligned communications around purpose and mission

What do you hope for from process?

What do you want from the MVVG product?

We asked...

what is possibility when we envision success of WIFC 20 years from now?

THEMES related to mission and vision. WIFC is recognized as:

Strong Partners

Results-focused collaboration

Long-term aligned vision and plans

Shared Purpose

Partnering for Watershed

Watershed Protectors

Supporting source water protection

Protecting habitat and environment

Resiliency to disasters

Regional Influencers

Advocating for legislation

Providing Watershed Education

Securing funding and support

What is your desire for WIFC in this area?

Your **1 Top Priority or question** for:

Strong Partners

Results-focused collaboration

Long-term aligned vision and plans

Shared Purpose

Partnering for Watershed

Commissioner Goodhouse: good to have relationships with our legislators; agency and legislative partnerships are important; keeping communication lines open, having staff that has eyes on the future; constant contact with partners is crucial; proactive in relationship building so can act fast when it matters

Commissioner San Soucie: 3/4 subheadings are strong, would pick out "long-term aligned vision and plans" but all contribute to theme

Commissioner Doane: how long will commission last? Is there a role beyond the facility construction

Commissioner Garland: "long term aligned vision and plans" is what I'm looking for; at this scale, it will make it easier to communicate to the public if we are aligned, to express why

What is your desire for WIFC in this area?


Your **1 Top Priority or question** for:

Watershed Protectors

Supporting **source water protection**

Protecting **habitat and environment**

Resiliency to disasters



Commissioner Doane: need to look as far into the future as possible - new emphasis on water quality we aren't considering; in particular microplastics /extent of issue; need to assure customers. We don't control releases into the Willamette, we need our interests at table - state or federal level.

Commissioner San Soucie: source water protection encompasses all three.

Commissioner Godsey: watershed upstream with many inputs - monitor; need involvement in upstream impacts

Councillor Goodhouse: make sure water is safe and clean and amount we withdraw is safe to environment; disaster preparedness a focus

What is your desire for WIFC in this area?

Your **1 Top Priority or question** for:

Regional Influencers

Advocating for **legislation**

Providing **Watershed Education**

Securing **funding and support**

Commissioner San Soucie: relationships with entities that control sources/releases. Coordination with other entities on education for stronger results

Councillor Goodhouse: education important, get simple facts out to the public/users; important to know where water is coming from and what is happening in the region/system, how to protect water source, how supply and quality are impacted. WIFC advocate for legislation - designated staff person or firm/lobbyist? and identify approach.

Commissioner Doane: consider funding for education at the school level, we can help younger generations understand relationship with water

Commissioner Akervall: articulating communication is an undercurrent, theme common to all these areas. Communications between member agencies as well as with legislative partners should be included as a goal/value

Mission | Vision | Values | Goals

WIFC BOARD PRESENTATION

October 26, 2020 | 6:00 PM Board Meeting

