

Northwest Water Policy & Law Symposium

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Water Regulation vs. Land Use Planning
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I. Introduction

This morning we learned about aging water infrastructure. Last night Donald Worster predicted that much of our western water infrastructure will fall apart and be abandoned by 2078, like the waterworks of lost empires.

Infrastructure is the basic framework of the built environment – of human use of the land. It is the skeleton upon which our communities, urban or rural, are built.

In the arid West water systems and transportation systems are the bones and muscles that support and direct our communities and their growth. Towns from Greeley, Colorado and Santa Fe, New Mexico to Bend, Oregon grew around irrigation projects (for farms and community water supply) and railroads. Now they grow around interstates. But trace the canal and you trace the towns and farms.

So with tremendous population growth projected for the Northwest, where and how will development occur? Will it be in compact, walk able, bicycle-friendly communities served by municipal water and wastewater systems, or will it be sprawling large cities like Las Vegas importing from far distances and surrounded by ranchettes dependent on wells and septic tanks?

Public investments in infrastructure will define where future development occurs and what happens to our existing water infrastructure.

II. The Problem

We have been asked to address the question: “What is the most important issue related to water and land use regulation?”

The issues we all face everyday come to mind and we could spend days on the specifics of each:

1. Exempt Wells. Rural residents are built and drill new wells for water – 10 acre hillside view lots!! Things are fine until the first late summer drought when the well goes dry. Then come the questions: “Who let these houses be built without water?? Why didn’t someone tell me I couldn’t depend on this well??”

2. Irrigation District Urbanization. The city expands into the existing irrigation district and the subdivisions hook up to municipal system.

- Who will pay the irrigation district assessments to keep the system intact?
- Can the irrigation district charge the city for the stormwater services its ditches now provide?
- How can the district maintain its canals and ditches if subdivisions and shopping malls encroach on the right of way?

3. Drainage. The farmland was developed by draining wetlands. The area upslope turns into houses and commercial with miles of streets and parking lots, not forests. Runoff increases dramatically. Who pays to upgrade the drainage systems?

All of these issues are important, but the critical issue is lack of very basic planning.

We are building and rebuilding urban communities and rural lands *without blueprints and without budgets.*

What is the most important issue related to water and land use regulation? The lack of integrated, multiple use, financially constrained, watershed management plans.

III. The Oregon Experience.

I'm from Oregon – the planning state. Surely Oregon must have figured the out? I wish I could say we have – but in spite of some valiant tries, we haven't. But we have tried over many years and some elements of our system are worth thinking about as models.

A. Water Planning.

In 1955 Oregon revised its Water Code to require the State to adopt an “integrated, coordinated approach to the use and control of Oregon’s water resources.” Multiple use basin plans were prepared based on solid resource assessments, but the plans uniformly fail to come to grips with limits. They are based on premise that we can all have it all, all the time.

In the 1980's and 1990's local watershed councils were formed and they prepared watershed assessments to guide watershed restoration efforts for endangered species and water quality. The Northwest Power and Conservation Council funded Subbasin Plans, again intended to guide fish and wildlife habitat restoration. These efforts are all aimed at environmental restoration, not long term community water supply planning.

And now we require municipalities and irrigation districts to prepare water conservation plans.

B. Land Use Planning.

Oregon created a statewide planning system in 1973. Every Oregon city and county must prepare comprehensive land use plans and zoning ordinances in accordance with a set of 19 statewide goals.

All state agencies, including the Water Resources Department (WRD), must “carry out their planning duties, powers and responsibilities and take actions with respect to land use” in compliance with the statewide goals and acknowledged local land use plans. What does this mean practically? No new water use or transfer will be approved by the WRD unless the proposed land use for which the water is used is permitted outright or necessary discretionary land use permits have been obtained. For example, a water right for a subdivision cannot be issued by the WRD in an area zoned by the local government for exclusive farm use.

Statewide Goal 11 requires communities of 2,500 or larger to prepare public facility plans. They are to plan and develop a timely, orderly efficient arrangement of public facilities to serve as a framework for urban and rural developments. But these plans are only required for drinking water and sewers, not for agriculture or industrial water use. These plans must include a capital improvement program and budgets. But most important, the public facilities plans must match and support the designated land uses.

The bottom line is that in Oregon we have two separate planning systems that relate to one another on paper, but often fail to connect in practice and neglect the relationship between urban and rural water utility systems.

IV. The Solution

The solution is to develop integrated, multiple use, financially constrained watershed management plans – or water system plans. What does this mean?

Integration. Coordination and consistency between water system plans (for all water utilities) and land use plans based upon sustainable surface water and ground water supply.

Multiple Use. Water and land use plans that address all water uses, not just drinking water, wastewater and storm water. Include irrigation, industrial, hydropower uses in system planning and environmental restoration.

Financially constrained. Plans, if they are to be implemented, must be supported by budgets that show where revenue will come from and how it will be spent. Financially constrained capital improvement plans require that all the funding sources and revenues for all proposed projects be included in the plan.

Oregon provides an example of this type of planning that might be a model for integrated land use and water planning. Oregon adopted a Transportation Planning Rule. 1991. It requires cities and counties to develop transportation system plans (TSPs), consistent with the statewide transportation plan. These plans provide long term direction for development of transportation facilities and services to meet needs.

The TSPs integrate transportation facilities and land use and they guide all transportation investment and project development. They include finance programs and require extensive public involvement. Following adoption, all state and local transportation infrastructure investment must be consistent with the TSP. It gets implemented through capital improvement plans.

The result is that in order to be funded, all city, county, and state transportation projects must be consistent with the local infrastructure plan. And all real estate developments that affect transportation facilities are evaluated for their impacts on and consistency with the plan.

Similar community-based specific water plans for all water uses and needs could be developed. The key to developing plans like this is for local leaders to come together to plan their future, develop policies for their area and agree on funding priorities from all sources: local, state and federal. To have cities, irrigation districts, soil and water conservation districts, watershed councils, drainage districts and public representatives sit down together – to create community capacity essential for creating hydrologic neighborhoods where the conversations essential to water reallocation take place. Citizens working together can collectively create the blueprints and budgets for a changing western water system.

Community alliances could also address money. Perhaps they could create a new finance system for water equivalent to the gas tax – so that all users pay the real cost of use, not just Operation and Maintenance charges.