

Legislative Committee

Monday, January 23, 2012

12:00 p.m.

Lunch will be available at 11:30 a.m.

Local Government Center, Room 113

1201 Court Street NE

Salem, Oregon

**REVISED* Agenda*

12:00 p.m.

1. Call to order

President Tammy Baney

1.1 Agenda approval **(Action)**

1.2 Minutes of January 9, 2012 meeting **(Action)** *Page 4*

12:05 p.m.

2. Show and Tell

President Baney

12:15 p.m.

3. Action or possible action items

3.1 Priority items from committees

President Baney

3.2 Federal legislative agenda

Mike McArthur

- Identifying waters protected by the Clean Water Act *page 8*

Emily Ackland

- Renewable energy production tax credit *page 10*

Emily Ackland

3.3 Federal forest payments and management *page 11*

3.4 Dam resolution *page 14*

Gil Riddell

3.5 Appointment: Advisory Committee for Implementation of *page 16*

Gil Riddell

National Forest System Land Management Planning Rule

3.6 NACo resolution on stormwater runoff from logging roads *page 17*

Emily Ackland

3.7 NACo resolution on Energy Storage *page 19*

Emily Ackland

3.8 Facebook Data Service Center/Enterprise Zone Exemption

Gil Riddell

3.9 LC 170 – 911 Funding Distribution *page 20*

Paul Snider

12:35 p.m.

4. Health Transformation

Bruce Goldberg

1:20 p.m.

5. Mass ingenuity, Budgeting for Outcomes *page 25*

Aaron Howard

1:50 p.m.

6. Steering Committee reports

- | | |
|--------------------------------------|--|
| 6.1 Communications Policy | Jeanne Burch, chair |
| 6.2 Economic & Community Development | Tony Hyde & Diane McKeel, co-chairs |
| 6.3 Energy & Environment | Larry Givens, chair |
| 6.4 Governance | Andy Duyck & Earl Fisher, co-chairs |
| 6.5 Human Services | Janet Carlson, chair |
| 6.6 Public Lands | Steve Grasty & Joe Laurance, co-chairs |
| 6.7 Public Safety | Jim Bernard & Jay Dixon, co-chairs |
| 6.8 Transportation | Al Switzer & Fred Warner, co-chairs |
| 6.9 Water Policy | Craig Pope & Alan Unger, co-chairs |

2:00 p.m.

7. Affiliate Organizations reports

- | | |
|--|-----------------|
| 7.1 OSACA (Assessors) | Scot Langton |
| 7.2 OCCA (Clerks) | Dana Jenkins |
| 7.3 NACA (County Administrators) | Ralph Wyatt |
| 7.4 ODAA (District Attorneys) | Eric Nisley |
| 7.5 OACES (Engineers & Surveyors) | Robb Paul |
| 7.6 OJPA (Justices of the Peace) | Charles Fadeley |
| 7.7 OSSA (Sheriffs) | Jack Crabtree |
| 7.8 OACTC (Tax Collectors) | Bob Vroman |
| 7.9 OACTFO (Treasurers & Finance Officers) | Laurie Steele |

2:05 p.m.

8. Other business

President Baney

- 8.1 AOC Legislative Reception, February 20, 4:30-6:30 p.m., Capitol Galleria

9. Adjourn

President Baney

The AOC Executive Committee will meet immediately following the Legislative Committee

Next AOC Legislative Committee meeting – February 6, 2012
12 p.m. at the Local Government Center, Salem

Scheduled AOC Legislative Committee meetings for 2012

January 23

February 6

February 20

AOC Legislative Reception, February 20, 4:30-6:30 p.m., Capitol Galleria

March 12

April 9

May 14

September 10

October 8

December 10

June 10 – 12, AOC Spring Conference (*in Deschutes County, location TBD*)

November 13 – 15, AOC Annual Conference (*location TBD*)

Association of Oregon Counties
Legislative Committee

Monday, January 9, 2012
12:00pm

Local Government Center, Room 113
1201 Court Street NE
Salem, Oregon

Present: President Tammy Baney, Commissioner Mary Stern, Judge Pat Shaw, Commissioner Earl Fisher, Commissioner Janet Carlson, Commissioner Greg Malinowski, Commissioner Craig Pope, Commissioner Tony Hyde, Commissioner Mark Labhart, Commissioner Jim Bernard, Commissioner Diane McKeel, Commissioner Annabelle Jaramillo, Commissioner Jay Dixon, Commissioner John Lindsey, Commissioner Kathy George, Commissioner Andy Duyck, Judge Steve Grasty, Commissioner Bill Hansell, Commissioner Cheryl Hukill, Commissioner Larry Givens, Judge Gary Thompson, Commissioner Dennis Linthicum, Commissioner Fred Warner, Commissioner Chris Perry, Commissioner Al Switzer, Commissioner Ken Kestner, Administrator Ralph Wyatt, Sheriff Jack Crabtree

Via telephone: Judge Dan Joyce, Commissioner Peter Huhtala, Commissioner Alan Unger, Commissioner Simon Hare, Public Works Director Robb Paul

Guests: Greg Wolf, Lisa Howard, Troy Rayburn, Doris Penwell, Bobby Green,

Staff and consultants: Mike McArthur, Gil Riddell, Emily Ackland, Mark Nystrom, Mike Eliason, Paul Snider, Eric Schmidt, Laura Cleland, Kenneth Crick

President Tammy Baney called the meeting to order at 12:00 p.m. and asked for self-introductions.

Judge Grasty moved to approve the minutes of the December 12, 2011 meeting. Commissioner Hansell seconded the motion. Motion passed by unanimous vote.

Priority Items from Committees

Transportation

Commissioner Switzer spoke about LC64 and asked for the Legislative Committee's support in backing LC64. **Commissioner Bernard moved to support. Commissioner Perry seconded the motion. Motion passed by unanimous vote.**

Public Safety

Commissioner Bernard spoke about LC101 for HB2012 and advised that the Public Safety Steering Committee would be watching this amendment.

Steering Committee Work Plans

Economic and Community Development

Ann Hanus provided highlights from the committee work plan provided in today's packet. **Commission Hyde moved to accept the Economic and Community Development Committee work plan. Commissioner Pope seconded the motion.** Commissioner

Carlson recommended moving to a standardized format for steering committee work plans.
Motion passed by unanimous vote.

Energy & Environment

Emily Ackland provided highlights from the committee work plan provided in today's packet. A lively discussion on fracking ensued. Several members of the Legislative Committee were interested in hearing the upcoming presentation on fracking. President Baney asked Emily Ackland if she would arrange for a presentation at a future Legislative Committee meeting.
Judge Thompson moved to accept the Energy & Environment Committee work plan. Commissioner Josi seconded the motion. Motion passed by unanimous vote.

Transportation

Ann Hanus provided highlights from the committee work plan provided in today's packet.
Commissioner Bernard moved to accept the Transportation Committee work plan. Commissioner Pope seconded the motion. Motion passed by unanimous vote.

Public Lands & Natural Resources

Gil Riddell provided highlights from the committee work plan provided in today's packet.
Commissioner Josi moved to accept the Public Lands & Natural Resources Committee work plan. Judge Grasty seconded the motion. Motion passed by unanimous vote.

Water

Gil Riddell provided highlights from the committee work plan provided in today's packet.
Commissioner Hyde moved to accept the Water Policy Committee work plan. Commissioner Josi seconded the motion. Motion passed by unanimous vote.

Governance

Michael Eliason advised the Legislative Committee that the Governance Steering Committee would have a work plan ready by the next Legislative Committee meeting.

Communications Policy

Eric Schmidt advised the Legislative Committee that the Communications Policy Steering Committee will meet on January 23, 2012.

Human Services

Commissioner Carlson advised the Legislative Committee that the Human Services Steering Committee will meet on January 23, 2012 to work on its work plan.

Public Safety

Commissioner Bernard advised the Legislative Committee that the Public Safety Steering Committee will meet on January 23, 2012 to work on its work plan.

NACo Workforce Funding Resolution & Workforce Investment Act Reauthorization

Ann Hanus spoke about these resolutions which are provided in today's packet.
Commissioner Hyde moved to support both of these resolutions. Judge Thompson seconded the motion. Commissioner Stern found a grammatical error. Discussion ensued. Motion passed by unanimous vote.

AOC 2012 Federal Agenda: Legislative fix for NEDC v. Brown/Decker

Gil Riddell spoke about this resolution. Discussion ensued. **Commissioner Hansell moved to support this resolution. Commissioner Hyde seconded the motion. Motion passed with one opposed vote from Commissioner Lindsey.**

AOC 2012 Federal Agenda: Biomass from Federal Lands

Emily Ackland spoke about this resolution.

Judge Grasty moved to support this resolution. Commissioner Bernard seconded the motion. Motion passed by unanimous vote.

The new Executive Director of the Department of Human Services Erin Kelley-Siel spoke to the Legislative Committee about restructuring and other changes taking place. She also answered questions from those present.

Director of Local Government Affairs at the Oregon Health Authority Bobby Green spoke to the Legislative Committee about changes taking place at OHA.

Steering Committee Reports

Economic & Community Development

The name of this committee has changed from Community Development to Community and Economic Development.

Energy & Environment

Commissioner Givens advised the Legislative Committee that the Energy & Environment Steering Committee plans to bring a resolution to the next Legislative Committee meeting to support of Senator Wyden's Energy Storage Act.

Governance

Commissioner Fisher reported the Governance Committee heard from speakers today about Facebook and Data Centers.

Human Services

Commissioner Carlson stated that the Human Service Steering Committee will meet on January 13, 2012. She also talked about their discussions on means of communicating with committee members and others interested in the committee. She asked the Legislative Committee how they would like to hear about what's going on. Commissioner Josi recommended email. Commissioner Pope talked about the citizen's concerns about being able to choose their own doctors. Commissioner Carlson also spoke about county government's role, risks and liabilities in health care transformation. Commissioner Lindsey talked about his conversations with local doctors and how they feel about health care transformation. Discussion continued about the different means of communicating and the need for speedy notification when issues arise. Discussion also continued about a need for better timelines for legislative response.

Public Lands & Natural Resources

Judge Grasty assured everyone that the check is in the mail.

Public Safety

President Baney announced that Commissioners Bernard and Dixon will be chairing a new task force on juvenile services.

Transportation

Commissioner Switzer advised the Legislative Committee that he, Commissioner Warner and Ann Hanus visited with Pat Egan the new chair of the OTC to discuss county issues. They also had a good meeting with Lynn Peterson in the Governor's Office. He and Ann Hanus went to a Freight User's meeting and saw a presentation on the Columbia River Crossing. He thought it would be beneficial for the rest of the Legislative Committee to see this presentation since it will affect ODOT's budget. President Baney thought it would be a very good idea to see this presentation and since no one had any objections she asked Commissioner Switzer and Ann Hanus to set it up.

Water

Commissioner Pope advised the Legislative Committee that the Water Policy Committee will have resolutions coming.

Affiliate Organizations Reports

Administrators

Ralph Wyatt advised the Legislative Committee that they had a good meeting with Chief Operating Officer and DAS Director Michael Jordon about the new budget process.

Sheriffs

Sheriff Crabtree thanked the Legislative Committee for its work on HB2712. He thanked everyone for their support of the Commission for Public Safety. It has helped lower the crime rate in Oregon to the lowest it's been since 1960.

Other Business

AOC Legislative Reception

Mike McArthur reminded everyone about the AOC Legislative Reception on February 20, 2012 from 4:30pm to 6:30pm at the Capitol Galleria. He reminded everyone that this will be an excellent time to meet with legislators.

NACo

Eric Schmidt announced that the NACo Legislative Conference starts on March 3rd. He asked that attendees arrive on February 29th as we are setting up hill visits on March 1st and other visits on Friday, March 2nd.

Up & Coming

Laura Cleland announced a new electronic publication that will only be going out to the county family. This publication will include meetings and conferences that the AOC staff will be attending in the next week. Judge Grasty thought that this was a great idea.

Commissioner Labhart thought we should hear from Greg Wolf from the Governor's Office. Greg Wolf wanted to introduce Lisa Howard. She worked with Governor Kitzhaber during his previous term. He also wanted to announce that regional solutions are growing and if they have missed any issues in our communities to please let him know.

There being no further business, the meeting was adjourned at 3:40pm.

Date: January 23, 2012

To: AOC Energy and Environment Committee; Public Lands and Natural Resources Committee; Legislative Committee

From: Emily Ackland, Environmental Policy Manager

Subject: AOC 2012 Federal Agenda: EPA's "Guidance on Identifying Waters Protected by the Clean Water Act"

Requested Action: Add to the AOC Federal Agenda information on how the EPA's draft "Guidance on Identifying Waters Protected by the Clean Water Act" will impact Oregon counties if is implemented as rule. Also include in the packet the requests of the EPA that are bulleted below.

Background: The following comments were submitted to the EPA in a letter from AOC. These comments align with NACo's platform and NACo has also submitted comments to EPA.

The Environmental Protection Agency intends on using their draft "Guidance on Identifying Waters Protected by the Clean Water Act" to develop their rule regarding jurisdiction of waters under the Clean Water Act (CWA). Counties will be impacted by the implementation of the Guidance, particularly because the regulatory jurisdiction of the EPA and U.S. Army Corps of Engineers (ACOE) will be expanded.

Expanding regulatory jurisdiction and requiring permits to work in small waterbodies will be an unnecessary requirement that will be burdensome to counties and ultimately not do much more to serve the environment.

Expanding the coverage of the CWA will also trigger other federal regulations such as the Endangered Species Act and the National Historic Preservation Act. This could involve extensive environmental studies and public comment periods for even small scale projects. This will be costly for counties and time consuming for regulatory agencies.

With an increase in regulated waters, counties will be required to obtain more permits for road construction and maintenance activities that are associated with waterways. If this expansion of federal regulatory jurisdiction is to take place it is critical that:

1. ACOE continue to honor existing maintenance exemptions for transportation related structures to keep the impact of the rule to a lesser degree;
2. The ACOE Nationwide Permits with section 401 certifications and Regional Conditions must be continued;
3. Other regulatory agencies impacted by this change, such as the National Marine Fisheries Service, must develop programmatic permits that expedite project review and permitting, particularly for routine actions;
4. Federal rules should include the flexibility to honor state regulatory processes with environmental programs. County road projects currently face problems with concurrently satisfying wetland mitigation criteria by both state and federal agencies. This is because in Oregon, the ACOE removal/fill regulatory rules do not always accept the same form of mitigation (specifically the in-lieu fee programs) as the state fill/removal rules. Expanding federal jurisdiction over wetlands will exacerbate this problem, leaving wetland mitigation more difficult to successfully achieve and more expensive.

Date: January 23, 2012

To: AOC Energy and Environment Committee; Public Lands and Natural Resources Committee; Legislative Committee

From: Emily Ackland, Environmental Policy Manager

Subject: AOC 2012 Federal Agenda: Federal Renewable Energy Production Tax Credit

Requested Action: Add to the AOC Federal Agenda a request for supporting the continuance of the Federal Renewable Energy Production Tax Credit (PTC)

Background: The PTC was initiated in 1992 under the Energy Policy Act. Under present law, the PTC provides an income tax credit of 2.2 cents/kilowatt-hour for the production of electricity from utility-scale wind turbines. In the past, the credit has had bipartisan support and has been renewed. Currently, the PTC is scheduled to expire on December 31, 2012.

In order to continue wind energy development, the wind industry needs a more consistent and longer-term federal tax policy. Extending the production tax credit this year and keeping it in its current form rather than delaying action, is critical to the stability and growth of wind energy production. A multi-year extension of at least 4 years would encourage investment of new capital, help catalyze the export of wind energy technologies and related products, and support the goal of increasing domestic energy production. Without policy certainty, investors, developers, and manufacturers will most likely move projects and jobs elsewhere.

Wind energy has been a large economic driver in Oregon. According to the American Wind Energy Association, the wind industry has been able to lower the cost of wind power by more than 90%, provide power to the equivalent of 10 million American homes, and foster economic development in all 50 states. If extended, it will mean that federal dollars will continue to come into our state. Maintaining the PTC is a crucial piece to continue wind development and economic development in Oregon.

Date: January 23, 2012

To: Public Lands & Natural Resources Committee
Legislative Committee

From: Gil Riddell, policy coordinator

Subject: AOC support for the direction in which the national campaign and current federal legislation are headed, relating to federal forest payments and management.

Requested Action: State AOC support for work being done in Congress on the House bill, “National Forest County Revenue, Schools, and Jobs Act of 2011”, and Senate bill, “County Payments Reauthorization Act of 2011”.

Background: In response to the expiration of the Secure Rural Schools and Community Self-Determination Act, Senators Wyden and Merkley have been working with Senate colleagues to gain passage of an extension of county payments without addressing forest management issues.

Meanwhile, in the House, Congressmen Walden, DeFazio, and Schrader, are working with Doc Hastings, Chair of the Committee on Natural Resources, and others on legislation to address both federal forest management and county payments.

The national campaign, sponsored by AOC and the O&C Counties Association, is at a critical juncture, and statements of support for both efforts are needed now. This support is in the hope that the two chambers will ultimately agree on a sustainable and adequate solution to both forest payments and management.

“Dear colleague” letters circulating in both chambers provide models for an AOC letter of support.

Attached is a description of key provisions of the House draft bill.

NATIONAL FOREST COUNTY REVENUE, SCHOOLS, AND JOBS ACT OF 2011
TITLE I
[Hastings bill]
Discussion Draft (9-15-11)

Key Provisions

Trust: Creates County, School, and Revenue Trust (Trust), to provide a dependable source of revenue for each “beneficiary county” (county eligible to receive payments under Secure Rural Schools Act Title I).

The Trust has fiduciary responsibility to each beneficiary county to use Trust Projects (TP) to generate sufficient revenue to satisfy the annual revenue requirement for each National Forest.

Trust assets are initial deposits from the federal treasury of \$_____ appropriated during FY 2012 to _____.

Opt out: A beneficiary county may elect not to participate for a single FY before the beginning of that FY. If the county opts out, there will be no TPs in that county.

Annual revenue requirement: Secretary of Agriculture (Secretary) determines for each National Forest;

- Annual revenue requirement, which is ___% of the annual gross receipts from that NF from FY 1980 to FY 2000.
- Minimum sale level, which is ___% of the average annual “chargeable” timber volume from the NF from FY 1980 to FY 2000. “Chargeable” volume does not include posts or personal-use firewood.

Trust Projects: Each FY, the Secretary shall carry out TPs necessary to achieve the annual revenue requirement for each NF. TPs include timber sales, grazing permits, special use permits, mineral development, power generation, recreational uses, and implementation of a Community Wildfire Protection Plan.

Excluded from TPs are wilderness areas and other federal lands where removal of vegetation is specifically prohibited.

Maximum number of TPs for a NF shall not exceed the number necessary to meet the annual revenue requirement.

TP Standards shall be consistent with Standards and Guidelines in the NF plan, except the Secretary may modify the S&G for a specific TP.

Administrative Review of TP: The bill provides the sole means for administrative review.

Public review of a TP is due by 30 days after federal notice of the TP.

Final decision by the Secretary is not later than 120 days after notice. Only a person who submitted comments may submit specific written comments to the final decision, which are due 30 days after the final decision.

Environmental report will be prepared by the Secretary for each TP within 180 days after initial notice, to:

- Evaluate environmental impacts, including effects on T&E-listed species;
- Report public comments and responses; and
- Report any modifications to the TP.

No judicial review of the environmental report.

The Secretary may designate any project responding to a **catastrophic event** as a TP. “Catastrophic event” means it will cause or has caused severe damage to the NF, by fire, insects, disease, windthrow, or extreme weather. Regarding a catastrophic-event TP, the Secretary shall prepare an environmental report within 30 days of initial notice, and adjust deadlines for public comments as necessary.

Compliance with the bill is deemed **compliance with environmental and procedural laws**.

Distribution of revenues: Revenues from TPs are distributed:

- 75% to the Trust, for distribution to beneficiary counties as soon as practicable after the end of the FY;
- 20% retained by the NF for management. Of that, up to 1% may be used for performance-based cash rewards to employees who help exceed the minimum sale level;
- 5% to the federal treasury.

Initial Payments: Pending implementation of TPs, the Secretary shall distribute to each beneficiary county payment equal to its SRS payment for FY 201_. From 2013 to 20__, payments will equal ___% of the first payment to the county.

Date: January 23, 2012
To: Legislative Committee
From: Gil Riddell, policy coordinator
Subject: Proposed AOC Resolution: Dam Removal or Breaching as the Final Option.

Requested Action: The proposed Resolution calling for dam breaching or removal as the last option will be considered today by the AOC Water Policy Committee. If the Water Policy Committee recommends AOC adoption, requested action is for the Legislative Committee to adopt the Resolution.

Background: The proposed Resolution is offered by Commissioner Dennis Linthicum. It is attached.

**[Draft AOC Resolution;
Commissioner Dennis Linthicum; 1-13-12]**

ASSOCIATION OF OREGON COUNTIES

RESOLUTION 2012-

Dam Removal or Breaching as the Final Option

WHEREAS, the National Association of Counties American County Platform 2011-12 provides: “Before any decision is made to continue drawdowns, removal or breaching of dams, a full review of all relevant scientific and socioeconomic implications of such actions should be made and affected counties consulted”;

WHEREAS, dams can provide safe, healthful, economically viable, and culturally positive techniques for efficient use of water as a critical renewable resource, and clean pollution-free energy;

WHEREAS, dams provide water storage, flood control, irrigation management, fresh water for drinking and industrial uses, clean carbon-free hydroelectric generation opportunities, recreational opportunities, and appropriate levels of instream flow for fish and wildlife habitat;

WHEREAS, environmental values can be addressed more effectively by enhancing stream flow from reservoirs in a regulated manner than by non-management of flows;

WHEREAS, critical water management requires an informed weighing of competing needs and integration of economic, social, and environmental values;

WHEREAS, when properly managed, dams can play a key role;

NOW, THEREFORE, BE IT RESOLVED that the Association of Oregon Counties firmly agrees with the NACo American County Platform statement above;

BE IT FURTHER RESOLVED that AOC finds that all other means of water management by appropriate operation of a dam should be explored and rejected by relevant scientific and socioeconomic findings before there is a decision to breach or remove the dam.

Date: January 23, 2012

To: Legislative Committee

From: Gil Riddell, policy coordinator

Subject: Recommendation for appointment to the National Advisory Committee for implementation of the National Forest System Land Management Planning Rule.

Requested Action: Endorse the recommendation by the Public Lands & Natural Resources Committee of a Judge/Commissioner for appointment to the National Advisory Committee for implementation of the National Forest System Land Management Planning Rule.

Background: AOC participated in the federal administrative process that led to the planning rule governing management of the National Forest System. Proper implementation and interpretation of these rules are critical in Oregon, which contains 14 million acres of national forests in 31 counties.

This national advisory committee will consist of up to 21 members, including a seat for “county or local elected office”.

Date: January 23, 2012
To: AOC Legislative Committee
From: AOC Energy and Environment Committee
Subject: NACo Resolution on Stormwater Runoff from Logging Roads

Requested Action: AOC support the proposed NACo resolution on stormwater runoff from logging roads.

Background

This resolution was brought to NACo in 2011 and passed the NACo Board.

The current draft of the proposed NACo Resolution is as follows:

Issue: A statutory exemption for stormwater runoff from logging roads.

Proposed Policy: NACo supports the statutory exemption for logging roads (and forest roads) from the Clean Water Act's National Pollution Discharge Elimination System (NPDES) permits.

Background: On August 17, 2010 the United States Court of Appeals for the Ninth Circuit held that a National Pollution Discharge Elimination System (NPDES) permit is required for stormwater runoff from logging roads.

The Clean Water Act (CWA) requires a National Pollution Discharge Elimination System (NPDES) permit for the discharge of any pollutant to any navigable water (AKA "water of the U.S.") from any point source. Since 1973, rules promulgated by the Environmental Protection Agency ("EPA") have distinguished between point source and non-point source pollution in the CWA. Non-point source pollution, which is not defined in the CWA, includes any source of water pollution not characterized as a point source discharge.

Included in the CWA rules is the so-called Silvicultural Rule found at 40 C.F.R. § 122.27(b)(1), which has remained substantially in its current form since 1976. The Silvicultural Rule specifically defines timber "harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff" to be "non point source silvicultural activities," and thus, excluded from NPDES permitting requirements.

The Ninth Circuit disagreed with the Silvicultural Rule, holding that stormwater runoff that is collected and channeled in a system of ditches and culverts before being

discharged into streams and rivers constitutes a point source, and that EPA lacks authority to promulgate a rule to the contrary. The Ninth Circuit stated that Congress has a history of providing specific statutory exemptions for certain categories of discharges. The court went on to say that federal courts have invalidated EPA regulations that provided similar regulatory exemptions.

The Court's decision has potentially sweeping implications. If broadly read, this opinion would require NPDES permits for every road in the country that is served by ditches or culverts that eventually discharge to natural surface waters and that is not already regulated by the CWA.

The court's opinion also leaves many critical questions unanswered. Even if the opinion were limited to logging roads, what constitutes a logging road? Contrary to the court's assumptions of fact, many forest roads, including the roads at issue in this case, are not dedicated just to logging. They are used for a variety of purposes, both public and private, beyond just logging. If this is the case, who is responsible for obtaining these required permits? The court did not address whether the permit obligation rests with the owner of the roads or every entity that transports logs on the roads, or even those using the roads to access the forest for recreation.

This proposed policy is consistent with current NACo policy that states that stormwater from all roads, gutters and ditches should not be considered a "water of the U.S." under the CWA.

Fiscal Urban/ Rural Impact: If rural county owned roads, such as logging or forest roads, require federal NPDES permits, this will be an unfunded mandate and preemption on county governments.

Sponsor: Tim Josi, Commissioner, Tillamook County

Date: January 23, 2012
To: AOC Legislative Committee
From: AOC Energy and Environment Committee
Subject: NACo Resolution on Energy Storage

Requested Action: AOC support the proposed NACo resolution on energy storage.

Background

The current draft of the proposed NACo Resolution is as follows:

Issue: Energy Storage

Proposed Policy: NACo supports legislation that encourages the development of energy storage technology such as, but not limited to S. 1845, the Storage Technology for Renewable and Green Energy Act of 2011.

Background: Energy produced from renewable sources such as wind and solar is increasing. Given the nature of these types of energy supplies however, it is generally harvested intermittently depending on the weather and/or time of day. Improvements in energy storage technologies will enable more efficient management of energy availability and demand while promoting further growth of renewable energy projects across the country.

Legislation such as the “Storage Technology for Renewable and Green Energy Act of 2011” (S. 1845) offer an investment tax credit for storage systems directly connected to the grid and for on-site storage projects (for businesses and homeowners). An increase in the amount of energy stored will make our nation’s electricity grid more reliable, secure, and enable more efficient use of energy sources.

Fiscal Urban/Rural Impact: Counties directly benefit from renewable energy projects. If storage of energy is increased, more renewable energy projects will be brought online. This will result in an increase in jobs and revenue to counties.

Sponsor: Gary Thompson, Judge, Sherman County, OR

Date: January 23, 2012

To: Legislative Committee

From: Public Safety and Communications Committees
Public Safety co-chairs Jim Bernard & Jay Dixon
Communications chair Jeanne Burch

Subject: LC 170 - 911 Funding Distribution

Staff: Paul Snider/Eric Schmidt

Requested Action:

AOC Communication Policy and/or Public Safety Committees may have a recommendation.

Background:

LC 170 would change the distribution of 911 funds from cities and counties to 911 jurisdictions. The purpose is to avoid diversion of 911 funds for unauthorized purposes.

Concerns have been raised that some 911 funds have been used to pay for unauthorized expenditures, including law enforcement. The purpose of the bill is to prevent those unauthorized uses. The concept was raised with the County Administrators and Communications Policy Committee briefly in November at the AOC Annual Conference. A legislator is concerned that this appears to be an ongoing statewide problem.

During AOC Conference, concerns were raised that this issue is already covered by audits, that it is a statewide response to what is essentially a local problem(s) and such a solution could cause its own problems in the future.

D R A F T

SUMMARY

Requires Office of Emergency Management to distribute 9-1-1 tax revenues directly to 9-1-1 jurisdictions. Applies to distributions from Emergency Communications Account after January 1, 2013.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1 Relating to distribution of 9-1-1 tax revenues; creating new provisions;
2 amending ORS 403.240; and prescribing an effective date.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 403.240 is amended to read:

5 403.240. (1) The Office of Emergency Management shall distribute quar-
6 terly the entire amount of the moneys in the Emergency Communications
7 Account. The office shall pay the following amounts from the account:

8 (a) Administrative costs incurred during the preceding calendar quarter
9 by the Department of Revenue in carrying out ORS 403.200 to 403.230 in an
10 amount that does not exceed one-half of one percent of the amount in the
11 account on the date of distribution, or actual expenses incurred by the de-
12 partment, whichever is less.

13 (b) Administrative costs to be incurred during the calendar quarter by the
14 Office of Emergency Management in carrying out its duties under ORS
15 305.823 and 403.105 to 403.250. The amount to be paid under this paragraph
16 may not exceed four percent of the amount in the account on the date of
17 distribution, and, on or before the next date of distribution, the office shall
18 repay to the account any amount received under this paragraph that exceeds
19 the actual expenses incurred by the office in the quarter.
20

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (2) The office may:

2 (a) Provide funding for the Oregon Emergency Response System in an
3 amount that does not exceed 15 percent of the legislatively approved budget
4 for the Oregon Emergency Response System subject to availability of funds
5 within the limit for administrative costs in subsection (1)(b) of this section.

6 (b) Prescribe the manner in which funding is provided to the Oregon
7 Emergency Response System under this subsection.

8 (3) The office shall use funds in the Enhanced 9-1-1 Subaccount to pay for
9 costs incurred during the preceding calendar quarter for enhanced 9-1-1
10 telephone service established pursuant to ORS 403.115. The office may not
11 disburse funds in the Enhanced 9-1-1 Subaccount to a 9-1-1 jurisdiction that
12 does not have an approved final plan as required in section 7, chapter 743,
13 Oregon Laws 1991. The office shall make payments for reimbursement only
14 after a reimbursement request has been submitted to the office in the manner
15 prescribed by the office. Reimbursement requests for recurring and nonre-
16 ccurring charges necessary to enable the 9-1-1 jurisdiction to comply with
17 ORS 403.115 must be submitted directly to the office. The costs reimbursable
18 under this subsection are only those incurred for:

19 (a) Modification of central office switching and trunking equipment;

20 (b) Network development, operation and maintenance;

21 (c) Database development, operation and maintenance;

22 (d) On-premises equipment procurement, maintenance and replacement;

23 (e) Conversion of pay station telephones required by ORS 403.140;

24 (f) Collection of the tax imposed by ORS 403.200 to 403.230; and

25 (g) Addressing if the reimbursement request is consistent with rules
26 adopted by the office.

27 (4) Subject to availability of funds, the office shall provide funding to
28 9-1-1 jurisdictions that have enhanced 9-1-1 telephone service operational
29 prior to December 31, 1991, based on cost information provided in their final
30 plan required in section 7, chapter 743, Oregon Laws 1991. The office shall
31 approve final plans submitted that meet the minimum requirements set forth

1 in ORS 403.115 (2) and (4). The office shall limit funding for costs incurred
2 prior to the preceding calendar quarter to charges associated with database
3 development, network and on-premises equipment that satisfies the require-
4 ments of ORS 403.115 (2) and (4). The office shall prescribe the manner in
5 which funding is provided under this subsection.

6 (5) 9-1-1 jurisdictions may use funds distributed to the jurisdiction from
7 any account described in ORS 403.235 to repay loans from the Special Public
8 Works Fund if the loans were used for purposes that are allowable under
9 ORS 403.105 to 403.250.

10 (6) The office shall retain amounts remaining in the Enhanced 9-1-1 Sub-
11 account and may distribute the amounts in a subsequent quarter for those
12 purposes set forth in subsections (3), (4) and (5) of this section.

13 (7) The office shall review reimbursement requests for modification of
14 central office switching and trunking equipment, conversion of pay station
15 telephones, and network development, operation and maintenance costs nec-
16 essary to comply with ORS 403.115 for the appropriateness of the costs
17 claimed. The office shall approve or disapprove the reimbursement requests.

18 (8) The office shall review reimbursement requests for database develop-
19 ment, operation and maintenance, and on-premises equipment procurement,
20 maintenance and replacement costs necessary to comply with ORS 403.115 for
21 the appropriateness of the costs claimed.

22 (9) After all amounts under subsections (1) and (2) of this section and ORS
23 403.235 (2) have been paid, the office shall distribute the balance of the
24 Emergency Communications Account to cities on a per capita basis and to
25 counties on a per capita basis of each county's unincorporated area for dis-
26 tribution **directly** to 9-1-1 jurisdictions [*within the city or county*]. However,
27 each county must receive a minimum of one percent of the balance of the
28 account after the amounts under subsections (1) and (2) of this section and
29 ORS 403.235 (2) have been paid. [*A city or county shall pay each 9-1-1 juris-*
30 *isdiction whose 9-1-1 service area includes all or part of the city or county.*]

31 [(10) Notwithstanding subsection (9) of this section, a city or county may

1 *have its quarterly distribution made payable and sent to the 9-1-1 jurisdiction*
2 *responsible for providing the services required in ORS 403.115.]*

3 [(11)] (10) 9-1-1 jurisdictions shall submit an accounting report to the of-
4 fice annually. The report must be provided in the manner prescribed by the
5 office and must include but not be limited to:

6 (a) Funds received and expended under subsection (9) [*or (10)*] of this
7 section for the purposes of fulfilling the requirements of ORS 403.115;

8 (b) Local funds received and expended for the purposes of fulfilling the
9 requirements of ORS 403.115; and

10 (c) Local funds received and expended for the purposes of providing
11 emergency communications services.

12 **SECTION 2. The amendments to ORS 403.240 by section 1 of this**
13 **2012 Act apply to distributions from the Emergency Communications**
14 **Account after January 1, 2013.**

15 **SECTION 3. This 2012 Act takes effect on the 91st day after the date**
16 **on which the 2012 regular session of the Seventy-sixth Legislative As-**
17 **sembly adjourns sine die.**

18



Mass Ingenuity is a management consulting firm and is headquartered in Portland, Oregon. It provides organization development and transformation services to the public and private sectors.

Mass Ingenuity's mission is to close the gap between what leaders envision and what employees deliver to customers. Clients benefit from a greater ability to meet growing demand, improve the customer experience and reduce costs. Each of the firm's members and senior consultants have been building and transforming organizations for over 20 years.

Our Oregon public sector clients include Oregon Youth Authority, Dept. of Administrative Services, Dept. of Environmental Quality, Oregon Health Authority, Dept. of Human Services, Oregon State Lottery, Dept. of Transportation and Dept. of Consumer and Business Services.

John Bernard, Founder and Chairman

John Bernard, as the principal architect, merged the principles of organization development, performance management, and continuous process improvement to create the *NOW Management System*. After 30 years of experience in world-class organizations, John founded Mass Ingenuity and assembled a team of executives with proven expertise to help deliver on the dream of game-changing organizational performance.

John is author of "Business at the Speed of Now," published by Wiley in November of 2011. He's a top-rated speaker for the Conference Board, Outdoor Industry Association, and Packaging Machinery Manufacturers Institute. He is also a discussion leader on the Harvard Business Review blog, and his monthly newspaper column is syndicated to 41 *Business Journals* across the U.S.



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Aaron Howard, President and CEO

Aaron has 30 years of blending executive leadership with emerging technologies, including social media. He has held senior executive positions within publicly traded enterprises as well as venture funded companies ranging from \$5 million to over \$100 million in annual sales. Aaron is a leader with experience managing teams ranging from startups to over 1,000 people. Aaron has created distribution channels for retail, direct, VAR, OEM and online businesses. He has a proven track record raising strategic/venture capital and is a strong negotiator.

Aaron grew U.S. sales of Aldus PageMaker software to over \$100 million, and brought to market the first all-digital diagnostic ultrasound scanner now owned by Philips Medical Systems. In addition, Aaron's has worked with Microsoft, Apple, Sony, Nike, Kodak, McGraw-Hill Home Interactive, The Washington Post, Toshiba, REI, HarperCollins, The American Electronics Association (now TechAmerica), Washington Software Association and the University of Washington. Aaron has worked hands on with several Oregon state agencies, including Dept. of Administrative Services, Dept. of Consumer and Business Services, Dept. of Human Services, and Oregon Health Authority.



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NOW Management System

Mass Ingenuity installs and implements the NOW Management SystemSM to provide the framework and embed the behaviors required to create extraordinary performance. Our goal is to dramatically improve the execution of an organization’s routine work, the fundamentals, in order to close the gap between what leaders envision and what employees deliver to customers. Our clients achieve significant measurable gains in all aspects of organizational performance.

Outcomes

The NOW Management System enables public sector organizations to:

- Better meet growing customer demand with fewer resources
- Improve the customer experience and citizen outcomes
- Reduce waste and costs
- Align leadership on how to run the enterprise
- Increase accountability and transparency
- Increase employee engagement
- Create a common language for the enterprise



Mass Ingenuity Customer Results and Return on Investment

- ““If I could go back, I’d have implemented the Management System framework before investing in lean.”
- “We are on target to reduce our long-standing overtime costs by \$600,000 to \$1 million this year.”

- “By implementing the NOW Management System we have achieved across-the-board results beyond anything we had imagined. Measures have improved in virtually every part of the business – ranging from 10% to 400%.”
- “When we started I had no idea how much upside there was to our performance. All I can say is our bottom line is up 24% in two years on an 8% increase in revenue and I attribute the spread to the NOW Management System.”
- “Mass Ingenuity talks a lot about how much waste there is in organizations but I thought we were different. In our first breakthrough we decreased the cost of one of our most complex processes by 23% and the overall throughput by 30%. I was floored.”
- “Looking back we managed the business by reaction and there was drama everywhere. Now we can see problems coming and we solve them *before* we have a disaster on our hands. We are agile enough now to handle anything that comes our way.”
- “We paid for our investment in the NOW Management System with the first breakthrough effort. After two years the return on investment is easily 9 or 10 times the money we spent.”



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STATE OF OREGON




Transformation Update
Aaron Howard
President and CEO

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PRESENTING

- Aaron Howard, President & CEO
- John Bernard, Founder & Chairman
 - Had planned to present
 - Critical Meeting in Olympia with AG Rob McKenna
 - Author of: 

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Oregon's Challenge

- Expenditures growing more rapidly than revenue
- Growing demand (mandates, citizen needs)
- Systems in major transformation (education, health care)
- Growing frustrations from citizens
 - Transparency
 - Accountability
- Employee engagement needs for driving innovation and customer outcomes

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Mass Ingenuity's Involvement

- Met with Gov. Kitzhaber twice before the election to discuss outcomes for better government
- Made suggestions for structural changes within state government (enterprise focus)
- Continue to have ongoing conversations with Michael Jordan and his staff wrt achieving critical outcomes for the state
- Began working with agencies on transformation and installing our Management System

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Legislation

- Governor Kulongoski appointed Committee on Performance Excellence, Fred King as Chair
 - John presented multiple times to the Committee
 - SB676 – Outcome-based management was signed into law this past summer
 - Actively supported by the Governor, Michael Jordan, and key legislators
 - Fred actively supports the NOW Management System as the solution

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AGENCIES

NOW MANAGEMENT SYSTEM TRANSFORMATION WORK



OTHER RELATED EFFORTS



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What Agencies Leaders Say

“Our citizens demand transparency and accountability. Government must achieve outcomes that matter. Business at the Speed of Now is more than thought-provoking it provides answers every leader needs to understand.”

Michael J. Jordan, Chief Operating Officer, State of Oregon

“This is the most engaging and valuable work I have done in my government career. Now [our agency] has the credibility to better influence the Legislature’s decisions and they are listening to us. This applies to the Governor’s office as well. The time we spent building our Management System has been well worth it and I would do it again in a heartbeat.”

Fariborz Pakseresht, Deputy Director, Oregon Youth Authority

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What Agencies Leaders Say

“If I could go back, I’d have implemented a management system framework before investing in lean.”

Fariborz Pakseresht, Deputy Director, Oregon Youth Authority


“We struggled for years for the right system for my government work and we have found it. This is the system we need to do the right work. Now the Legislature will be able to make informed decisions, see improvements and support our agency’s efforts.”

Dick Pedersen, Director, Oregon Dept. of Environmental Quality

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Mass Ingenuity Vision, Value Proposition and Customer Benefits

- Vision
 - Every Opportunity, Every Employee, Every Time
- Value Proposition
 - We build a direct connection between what leaders envision and what employees deliver to customers
- Customer Benefits
 - Improve customer experience
 - Accelerate growth
 - Reduce costs

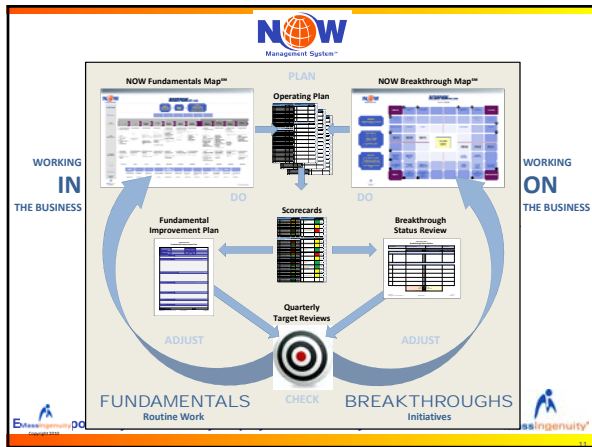
Every Opportunity → Every Employee → Every Time™ 

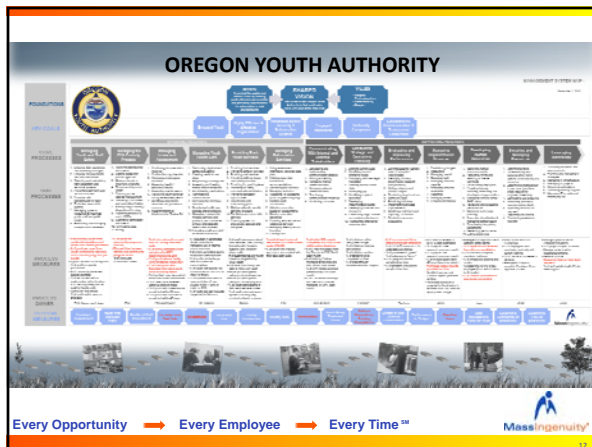
So, What Do We Do?

- We work with the organization's leadership team to put in place a management system and philosophy that:
 - Achieves high levels of accountability and transparency
 - Dramatically improves employee engagement
 - Drives communication with all stakeholders
 - Focuses improvement on areas of greatest constraint and weakness
 - Builds in discipline and focus to drive out waste/costs and improve citizen outcomes

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Why Do We Call it the NOW Management System?

The NOW Moment

When an employee encounters an opportunity to *make a "YES" decision and take action* that will move the business toward its goals

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Typical Results

Months	ROI
3	0x
6	0x
9	0x
12	0x
15	6x
18	12x
24	30x

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business at the speed of now

COMPLIMENTS OF
John M. Bernard

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