

Geese, Graywater and the Holgate Channel Public Involvement in State Government

In this issue:

Public Involvement:

- 1) Holgate Channel
- 2) Geese
- 3) Graywater
- 4) How is social media impacting public participation?
- 5) DOJ Workshop:
Facilitating Stakeholder Advisory Committees

State agencies participate in over 100 stakeholder advisory committees and 500 public rulemaking hearings each year¹. This appropriate dispute resolution (ADR) update highlights three recent advisory committees and information related to agency use of social media.

The Holgate Channel Working Group was created in response to a request made to the [Oregon State Marine Board](#) in 2009 to designate the Holgate Channel and Ross Island lagoon a “no-wake zone.” A popular recreational area, the Holgate Channel is the section of the Willamette River on the east side of

Ross Island in downtown Portland. A public meeting in response to the proposal attracted more than 300 people from the community. The views expressed were diverse with paddling community and environmental groups who petitioned for a slow, no-wake zone in the channel and those in the powerboating community who oppose such a restriction. Among the suggestions was establishment of a Working Group to help identify a workable solution to this controversy.

The Marine Board used the [State Mediator and Facilitator Price Agreements](#) and contracted with [Doug Zenn of Jeanne Lawson and Associates](#) (JLA) to conduct the Public Participation process. The Marine Board also made use of a wide variety of social media to engage the public and stakeholders including a [blog](#), [Twitter announcements](#), [Facebook](#) and a series of public advisory committee meetings.

The Holgate Channel Working Group met for the first time March 15, 2010 and for the last time [on June 2010](#). While the process did not result in a consensus



See Video: <http://www.kptv.com/video/23505342/index.html>

¹ See 2009 ADR Update at http://www.doj.state.or.us/adr/pdf/2008_state_agency_adr_update.pdf

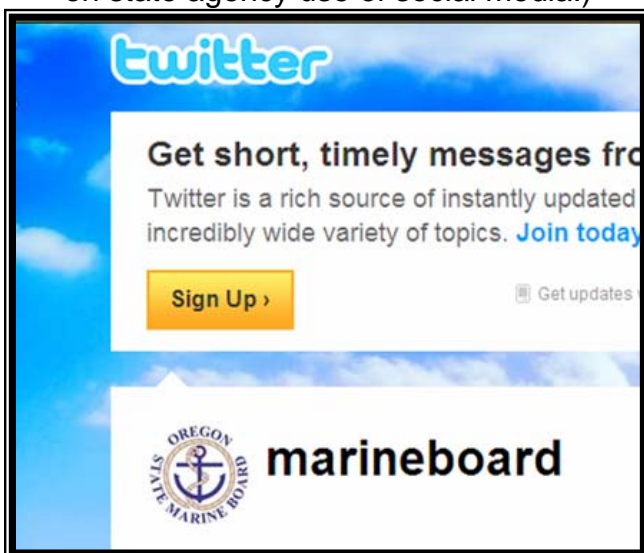
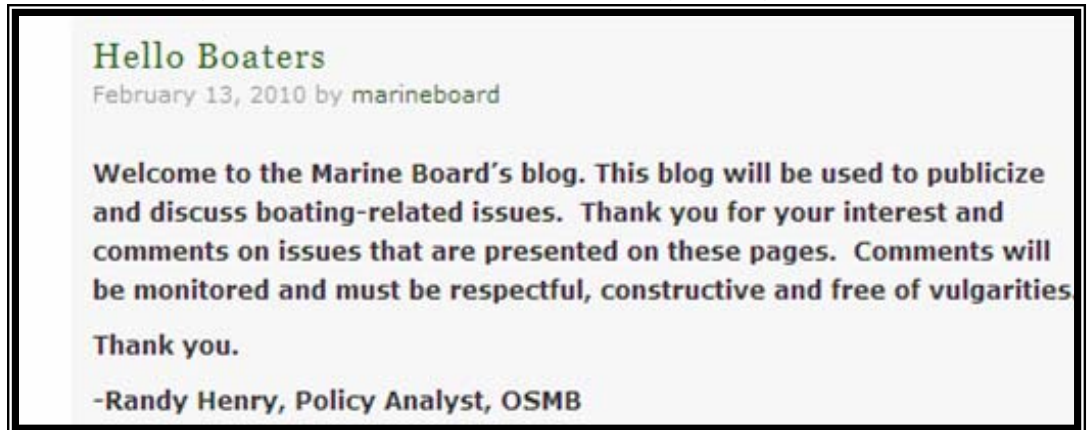
recommendation to the Board there were [several agreements that came out of the process that the Marine Board is planning on implementing right away.](#)

Noteworthy for agencies who are convening stakeholder advisory committee's was the Marine Board's use of a [blog](#) that allowed the public to post content or comments. A concern for many agencies has been the fear that regulating or

moderating inappropriate comments will be too challenging. At a recent Department of Justice/ Department of Administrative Services workshop on law and social media it was

recommended that agencies establish a policy on permissible speech when establishing this type of forum. The Marine Board did that by adding a header to the blog (See "Hello Boaters" right.) For another example of an agency blog comment policy see the [State Library blog](#).

[The blog](#) also made use of a "rate this" technology as a means to provide peer vetting of comments, presumably as a way to encourage a higher level of discourse. Also see the website [Slashdot.com in which those posting comments earn "karma" points](#) or the use of the ["intense debate" technology](#) on the KATU news blog. (See page 7 for more on state agency use of social media.)



Graywater Rulemaking Advisory Committee – Why couldn't the water used to wash your dishes also be used to water your garden? That question is at the core of HB2080 (2009) that directed the Department of Environmental Quality to

“... adopt rules for permits issued under this section....In adopting the rules, the commission shall: (a) consider the recommendations of an advisory committee appointed by the department pursuant to ORS 183.333...”

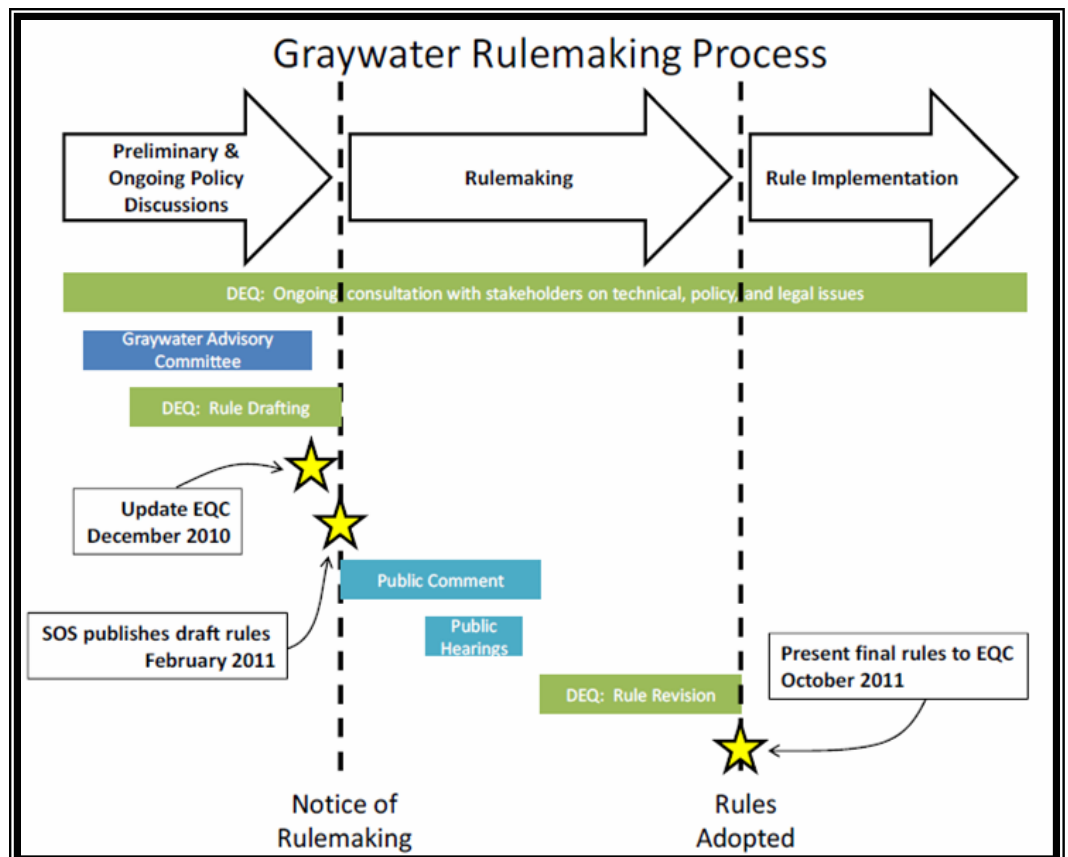
In response to this legislation DEQ [developed a rulemaking workplan](#) which asked the Greywater Advisory Committee to:

“...provide DEQ with recommendations for the treatment, disposal, and reuse of graywater that are protective of public health and the environment. DEQ will consider the recommendations of the GWAC when writing graywater rules.”

As is typical with similar advisory committee legislation, HB 2080 included no funding to hire a facilitator. DEQ staff Ron Doughten identified a committee member (Lynne Paretchan) who had the interest and requisite skills and agreed to take on the role of meeting chair. Linda West, a Department of Revenue employee and a member of the [State Employee Facilitator pool](#), also facilitated part of one meeting. Ken Vanderford chaired the June meeting in Lynne's absence.

For more information:

- Agency Contact: Ron Doughten (503) 229-5472.
- [DEQ Graywater website](#)
- [DEQ Graywater Fact Sheet](#)
- [Committee and staff roles and responsibilities.](#)
- [Rulemaking work plan](#)
- [Business Journal article](#)
- [Daily Journal Commerce Article](#)



The Task Force on Geese Control was created by SB622 (2009) which directed the Department of Fish and Wildlife to work with a diverse group of stakeholders to identify problems, barriers and solutions to goose-caused damage on private and public lands and to make recommendations regarding opportunities to control the geese population and its impacts. The committee met four times and is preparing final recommendations this week (7/16/2010.)



“At my airport, I chase them with car and horn honking and they barely look up.... Droppings are also a health hazard.”

Committee member

“I spend summer chasing geese off my crops and lost \$60,000 last year.”

Committee member

For more information:

- Goose [Task Force Members](#)
- [Oregon Goose Control Task Force website](#)
- [First meeting Press release](#)
- [KGW Story](#)
- [Statesman Journal Story](#)
- [SB 622](#)
- Agency contact: Ronald Anglin, Wildlife Division Administrator, Oregon Department of Fish and Wildlife.

A comparison of three advisory committees

	Holgate	Graywater	Geese
Authority	Marine Board	HB2080	SB622 (2009)
Agency Sponsor	Marine Board	Dept Environmental Quality	Oregon Dept. Fish and Wildlife
Purpose	The Holgate Channel Working Group is made up of individuals who are all boaters, using different types of watercraft to enjoy a specific portion of the Willamette River. These boat uses often create conflict. The purpose of this group is to come up with collaborative solutions to share the waterway.	To develop recommendations for the treatment, disposal, and reuse of graywater that are protective of public health and the environment.	Study issues raised by the increasing number of various species of geese in Oregon and to make recommendations regarding opportunities to control the geese population and its impacts pursuant to applicable state and federal laws.
Meeting Facilitation/ chair	JLA Associates (Public Involvement Contractor)	Stakeholder/ Committee member A portion of one meeting was facilitated by a Revenue Dept Employee from the State Employee Facilitator pool.	Legislator/committee member "The task force shall elect one of its members to serve as chairperson."
# Committee members	16 (not including alternates)	15 (One has since resigned)	11
# meetings	6 (total)	8 (as of 7/10)	4 (Final Meeting 7/13/10)
Interests represented (examples)	Fisherman, kayakers, wake boarders, rowers, water skiers, Dragon boats, outriggers and the yachting community.	Environmental Activist; environmental engineering; Public Health; Landscaping; architecture; Water Quality; Water conservation; and Waste water treatment.	"The State Fish and Wildlife Director shall appoint nine members to the task force who represent the interests of this state and federal, aviation, agricultural, conservationist and academic interests."
Public Access via	Public meetings (included time for public comments), press-releases, Twitter, Facebook, Committee website, committee blog	Public committee meetings (included time for public comments), press releases, committee website.	Public Committee meetings (included time for public comments), press releases, Committee website, phone access to live meetings.
Decision making	The group agreed to define consensus as "A willingness to not stand in the way of what the group has decided". Consensus is vital to going to the board with a recommendation.	The committee agreed to try and reach consensus. If this is not possible, then the majority and minority opinions will be reflected in the minutes and also in the report that goes to EQC with recommendations.	A majority of the members of the task force constitutes a quorum for the transaction of business. Official action by the task force requires the approval of a majority of the members of the task force.
Type of outcome	Recommendation to Board (Board is committed to making a decision that reflects this group's suggestions.)	Recommendations to the EQC that will ultimately be incorporated into administrative rules.	2010 Legislation and/or policy coordination with state, national and multi-national agreements and groups, such as Pacific Flyway Council.
Website	Holgate Channel Group	Graywater	Goose Control Task Force

Advisory Committee Observations:

- 1) **Professional facilitators preferred but there are rarely resources for that.**
What's plan B? The Holgate Channel process used a public involvement contractor, the Geese Task Force was convened by a legislator and the Graywater Task Force is “peer” facilitated by a committee member. Here is where other agencies are finding facilitator's:
 - a) Rosters of professional public-policy facilitators available by contract:
 - [State Mediator and Facilitator Roster](#)
 - [Oregon Consensus Program](#) (Portland State University)
 - [US Institute for Environmental Conflict Resolution Roster](#)
 - [EPA Roster](#)
 - b) Other facilitator options:
 - *Agency staff-facilitator* - While it's not a good idea to have the same agency staffer charged with facilitating the meetings and representing the agency's interests before a collaborative advisory committee, such an arrangement is appropriate when the committee's stated purpose is simply to inform.
 - *Committee peer facilitator*. Research on watershed councils has shown that some groups may prefer peer-facilitators to a skilled, outside professional² The obvious challenge for peer-facilitators is to be able to advance their own interests and also manage the process in a fair manner.
 - *Committee leader-facilitator*. Many committees will be chaired by the agency head, legislator or other leader. This works best when that leader is open to all solutions and it is most challenging when the leader is also representing a particular viewpoint.
 - *Community convener*. See Oregon Solutions video [“Legislators as Convenors”](#)
 - *Outside facilitator from public employee pool*. For activities involving just a meeting or two to complete and where stakeholders find an employee from a different state or federal agency acceptable, the [state facilitator pool, ORS 183.502\(9\)](#), has been helpful in providing skilled, no-cost facilitation services.
- 2) **Agencies limited scope of authority can be frustrating for stakeholders looking for a broader solution.** Stakeholders, particularly those new to state agency committees, are often frustrated with the legal limits on agency authority. While agencies may make policy and strategic choices regarding the scope of an advisory committee's work, potential solutions are always circumscribed by laws that limit the range of options that an advisory committee may consider. The guiding principle here is to ensure that stakeholders know what these sideboards are before they invest significant time in the process.
- 3) **Stakeholders represent groups and need time to bring those groups along.** Hard-won support from a stakeholder at one stage in the process may shift 180 degrees if they get too far in front of their constituency and need to backtrack. A neutral, pre-meeting assessment can help determine the extent to which interest groups can be represented on the committee and on what issues the representatives will need to check in with their constituency.

² Leach, William D., and Paul A. Sabatier. 2003. “Facilitators, Coordinators, and Outcomes.” In *The Promise and Performance of Environmental Conflict Resolution*. Washington, DC: Resources for the Future.

Social Media And Public Participation

State agencies have been using Gov 1.0 for some time but are just beginning to make use of the interactive features of web-based media (Gov 2.0.) Creating web-based public forums for controversial issues offers significant advantages and some challenges. For example:

- 1) Can the agency agree to the *Terms-of-Use* for Facebook or Goggle Blogs?
- 2) To what extent can/should the agency regulate speech on a blog or Facebook forum it creates?
- 3) Are the blog or social media comments a public record and, if so, must they be archived?

In the Spring of 2010 the Oregon Department of Justice and the Department of Administrative services hosted three workshops on law and technology for state agencies. The written materials and PowerPoint presentations from those workshops are available here: *(if you aren't already registered on GovSpace the links below will first invite you to log onto that site -click on "create a new account")*.

- [Emergent Technologies: Opportunities & Legal Issues for State Agencies](#)
- [Emergent Technologies & Public Employment](#)
- [Web Conferencing: Opportunities & Legal Pitfalls for Public Agencies](#)

Also see: [Oregon Agency Social Networking Guide](#)

Public Involvement and web-based media

Public Involvement and web-based media	
Informing the Public	<p style="text-align: center;">Gov 1.0</p> <p>Agency pushes out information to the public using:</p> <ul style="list-style-type: none"> • Video and photo sharing, • Podcasting DHS Health Alert Network Webinar DCBS Building Codes Division (streaming live Board meetings) • Mashups • Widgets • Twitter: Oregon Marine Board, Sec of State; • Static blogs - Sec State • Static Facebook pages
Educating the Public	
Soliciting input from the public	<p style="text-align: center;">Gov 2.0</p> <p>Agency creates forums that allow the public an opportunity to comment, consult or collaborate on the development of public policies and agency actions.</p> <ul style="list-style-type: none"> • Blogs (allows public input) Holgate; State Library • Wikis EPA Puget Sound Wiki • Social Media (with public input) Oregon Strawberry Commission (2,237 friends) Sec of State Facebook (119 friends) • Web Conferencing NRC Rulemaking
Consulting with the Public	
Collaborating with the Public	

Related DOJ Training for State Employees

(See all trainings at http://www.doj.state.or.us/ca/client_training_calendar.shtml)

RULEMAKING PROCESS

TRAINING, September 23, 2010 -

The training will include the basis for rulemaking, when an agency needs a statute, rule, or policy, when rulemaking is required and when it is not, use of advisory committees, fiscal impacts statements, administrative filing requirements, scheduling and conduct of hearings.

CORE MEDIATION WORKSHOP,

September 27- October 1st, 2010, Salem. A 36-hour training for Oregon state agency employees. The course will use dispute scenarios, dispute resolution protocols, mediator ethical challenges and mediation confidentiality issues relevant to Oregon state agencies. Trainees will have an opportunity to practice mediation of a workplace interpersonal dispute, a consumer-business dispute; and mediation as the informal disposition of a contested case.

Are you convening an advisory committee?
You might be interested in:

Convening & Facilitating Collaborative Stakeholder Groups

August 24 & 25, 2010 in Salem.

This highly interactive workshop is for state employees charged with organizing or convening a task force, rulemaking committee or advisory group that is seeking a collaborative outcome.

What works? What doesn't? We glean valuable "lessons-learned" by looking at stakeholder comments and evaluations from past agency advisory committees. We will also review process assessment, design and meetings management practices and give you an opportunity to apply your consensus-building and conflict management skills. The workshop will also review applicable rulemaking, public meetings and public records requirements.

Public Involvement Resources for Agencies:

- [DOJ website "Public Policy Controversies"](#) (Includes examples of process agreements for several Oregon advisory committees)
- [Attorney General Transparency Initiative](#)
- [ODOT Public Involvement webpage](#)
- [Portland Development Commission Public Involvement Website](#)
- [PSU Center for Public Participation](#)
- [EPA Public Involvement database](#)
- [Oregon Solutions](#)
- [International Association for Public Participation](#)

Questions? Mike Niemeyer, the Department of Justice ADR Coordinator,
(503) 947-4570 or mike.niemeyer@state.or.us