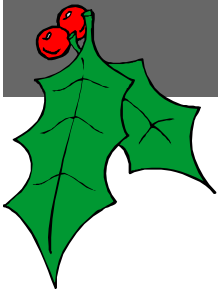
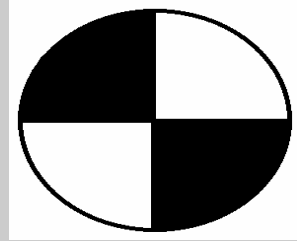


December 2003

# LAKE WISE

A Voice for Quiet Waters



The Oregon Lakes Association Newsletter

## Aquatic Herbicides Are Not Extinct In Oregon, Just in Limbo

**Krista Born, Attorney, Stoen Rives LLP, Portland:** By now, everyone has heard about *Headwaters, Inc. v. Talent Irrigation District*, 243 F3d 536 (9<sup>th</sup> Cir 2001)—the 9<sup>th</sup> Circuit case that held that application of aquatic herbicides to waters of the United States requires an NPDES permit under the Clean Water Act. That case changed how irrigation districts, lakes management, and mosquito control districts manage weeds and pests in Oregon. The question everyone is still asking over two years later is whether the use of aquatic herbicides is legally feasible, and if so, how.

Unfortunately, the answer is complex and uncertain in Oregon. In 2001, the Oregon Department of Environmental Quality (DEQ) responded to *Headwaters* by issuing Mutual Agreement and Orders (MAOs) in lieu of NPDES permits to one Oregon lake and several irrigation districts. In 2002, DEQ moved forward with the new regulatory program and issued NPDES permits to irrigation districts. That same year, the 9<sup>th</sup> Circuit extended the *Headwaters* decision to aerial spraying, an indication that indeed the *Headwaters* decision was as broad as we had feared. In July 2003, the Environmental Protection Agency (EPA) issued draft guidance stating that NPDES permits are not required so long as the

requirements of FIFRA are met. In September 2003, DEQ was ordered to withdraw the irrigation district NPDES permits because the permits were issued in part based on the alternate mixing zone rule, a rule that was held invalid by Oregon U.S. District Court Judge Ancer Haggerty in *Northwest Environmental Advocates v. EPA*, No. CV-01-510-HA (D Or 2003).

Some believe that EPA's final guidance document precludes the need for NPDES permits, and therefore, the regulated community should not worry. However, here in Oregon it is not that simple; we must live with the court decisions coming down from the Ninth Circuit. An EPA guidance document stating that NPDES permits are not required for application of pesticides to waters of the United States will not provide protection from citizen suits, particularly where there are two clear court decisions holding otherwise. For this reason, DEQ is working with EPA and the fisheries agencies (Oregon Department of Fish & Wildlife and National Marine Fisheries Service) in an attempt to develop a state-wide policy and NPDES permitting program for pesticides. The hope is that this program will encompass weed control by irrigation districts and lake management groups, mosquito control districts, and aerial spraying over forest lands. An overview of the court cases and EPA guidance is important to understand why DEQ is developing the program and the issues DEQ must consider along the

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#### NALMS NEWS

#### LOOKING AHEAD

**Lake Wise Editorial Policy and Notes on Authors**

- If you don't care where they put grass carp, or where they introduce trout in lakes of the state, then you might as well not join OLA because we want to be making statements and taking positions so that the way of managing Oregon's lake becomes more reasonable; **and**,
- You can join OLA and get in on something good for your mind and spirit at the annual conferences.

The October 10<sup>th</sup> OLA Conference in Lakeside was attended by enthusiastic participants. The morning's discussions took a look at the role of agency management responsibilities for lakes. The afternoon sessions covered examples of watershed council efforts to address management and problems in lakes and reservoirs. The meeting concluded Saturday with an opportunity to learn about further development of the Oregon Lake Atlas. Many thanks to those hardworking individuals who planned and participated in this year's conference and made it a success!

October's business meeting started discussions on the direction OLA will take in the upcoming year. A number of ideas were considered with focus on creating a greater awareness of the organization, also developing the Lakes Awareness Month, continuing with the website and newsletter, re-establish an active Citizen Lake Watch Program, and helping define regulatory responsibilities of agencies.

This year part of our focus will be to establish stronger relationships with lake associations, watershed groups, and others interested in protecting lakes and becoming educated on lake issues. OLA will strive to work closely with Center for Lakes and Reservoirs. The CLR has technical resources to offer and OLA can provide the connection to lake associations and folks interested in lakes. We have an opportunity to educate others, and will continue to, through the OLA website and newsletter. The NALMS promoted Lake Awareness Month, now in its fifth year, offers an excellent opportunity to draw attention to lakes through various activities. With some planning and commitment OLA can help develop this important event in Oregon. L. Campbell (dlwid@wcn.net).

## President's Perspective

### Lori Campbell, Lincoln City:

If you are reading this and are not an OLA member, you might be asking yourself "Why join OLA if I get *Lake Wise* for free?" Well, here are some suggestions:

- If you feel strongly about the way lakes are being managed in Oregon, just think that the isolated voice is less effective than the collective voice and clout of many ;
- If you really like lakes, and want to learn more about them from people who know them (and even live by them), then take advantage of the OLA network of lake lovers;
- If you want to help with some really great projects that won't get done for years, like the Oregon Lake Atlas, or the volunteer lake monitoring program and Great North American Secchi Dip-In, send in your dues and get on board;



## Herbicides in Limbo (cont.)

(Continued from page 1)

way.

### Summary of Case Law

In *Headwaters*, the Ninth Circuit held that Talent Irrigation District (TID) was required to comply with both FIFRA and the Clean Water Act in the application of aquatic herbicides to its irrigation canals. The court then held that TID's application of magnacide H to irrigation canals required an NPDES permit under the Clean Water Act because the activity met all four prerequisites: TID was (1) "discharging", (2) a "pollutant" to (3) "waters of the United States" (4) from a "point source." There were two significant components of this holding. First, the court determined that the residual chemical left over from the herbicide after it had served its useful purpose met the Clean Water Act definition of "pollutant." Second, the court held that a man-made irrigation canal amounted to "waters of the United States" because it exchanged water with natural streams. The fact that TID could seal off the canal during application periods did not matter in the court's analysis.

In *League of Wilderness Defenders v. Forsgren*, 309 F3d 1181 (9<sup>th</sup> Cir 2002), the 9<sup>th</sup> Circuit went even further and held that an NPDES permit was required for the aerial spraying of pesticides over forest lands in Washington and Oregon by the United States Forest Service (Forest Service). To control moth outbreaks and combat damage caused by the Douglas Fir Tussock Moth, the Forest Service implemented an annual spraying regime. Evidence in the court record also indicated that aerial insecticide applications were occurring directly above streams, and insecticide could settle in such waters, possibly affecting stoneflies and other aquatic insects. As discussed above, the Clean Water Act requires an NPDES permit only when four prerequisites are satisfied: (1) discharge (2) of

a pollutant (3) to waters of the U.S. (4) from a point source. Incredibly, the Forest Service did not dispute whether the insecticide was a pollutant, whether the streams within the spray area qualified as waters of the U.S., or whether the spraying of pesticides into the air was a "discharge." Rather, the Forest Service focused exclusively on whether spraying insecticide from an aircraft was point source pollution. The court held that an airplane was a point source because it was a "discrete conveyance." The court also rejected the Forest Service's argument that aerial pesticide application was excluded from the definition of "point source" by the "silvicultural point source" exclusion.

In direct contrast to the 9<sup>th</sup> Circuit's opinion in this case, the U.S. District Court in *No Spray Coalition v. City of New York*, 2000 WL 1401458 (SDNY), *affirmed on other grounds*, 252 F3d 148 (2<sup>nd</sup> Cir 2001), reached an entirely different conclusion than the 9<sup>th</sup> Circuit on similar facts. That case involved a challenge to an insecticide spraying program undertaken by the City of New York to control mosquitoes. In *No Spray*, the court concluded that while trucks and helicopters might amount to point sources, the discharge is to the atmosphere, not jurisdictional waters. The mere fact that a pollutant might ultimately end up in jurisdictional waters does not mean an NPDES permit is required under the Clean Water Act.

The next significant decision also came from the state of New York. In *Altman v. Town of Amherst, N.Y.*, 47 Fed Appx 62, 2002 U.S. App. Lexis 20498 (2<sup>nd</sup> Cir 2002), the court reviewed a district court decision concerning whether the Town of Amherst, New York was required to have an NPDES permit for spraying pesticides on and above freshwater wetlands to control mosquitos. The 2<sup>nd</sup> Circuit found that the record on appeal was not complete and remanded the matter back to the district court for further development of the record. The court further noted that "participation by the EPA in this litigation in any way that permits articulation of the EPA's interpretation of the law in this situation would be of great assistance to the courts." In response, EPA

(Continued on page 4)

## Herbicides in Limbo (cont.)

(Continued from page 3)

issued the Interim Guidance in July 2003.

### EPA Interim Statement and Draft Guidance (July 2003)

As the 2<sup>nd</sup> Circuit requested, on July 11, 2003, EPA issued its interpretation of the Clean Water Act with respect to whether an NPDES permit is required to apply pesticides on or above waters of the United States. EPA is taking the position that two types of applications do not require NPDES permits under the Clean Water Act if the pesticides are applied consistent with all relevant requirements of FIFRA:

- (1) “The application of pesticides directly to waters of the United States in order to control pests. Examples of such applications include applications to control mosquito larvae or aquatic weeds that are present in the waters of the United States,” and
- (2) “The application of pesticides to control pests that are present over waters of the United States that results in a portion of the pesticides being deposited to waters of the United States; for example, when insecticides are aerially applied to a forest canopy where waters of the United States may be present below the canopy or when insecticides are applied over water for control of adult mosquitos.”



EPA’s conclusion is based on several interpretations. First, EPA states that the interpretation is not at odds with *Headwaters* because in that case, TID did not comply with the FIFRA label. Had TID complied with the FIFRA label, the herbicide would not have come into contact with fish and would not have caused a fish kill. If one complies with the FIFRA label and all FIFRA requirements, then these activities do not require an NPDES permit.

Second, EPA’s interpretation distinguishes the application of a pesticide for its intended function from the definition of “pollutant” under the Clean Water Act. EPA opines that if one applies a pesticide to waters of the U.S. for its intended purpose in compliance with FIFRA, this activity is not a discharge of a pollutant. EPA’s interpretation expressly rejects the 9<sup>th</sup> Circuit reasoning that the residual chemical from the pesticide is a “chemical waste,” and therefore a pollutant. As EPA states, “chemical wastes’ do not include pesticides applied consistent with FIFRA.” EPA also rejects the argument that a pesticide is a “biological material” and therefore a “pollutant.” EPA reasons that the term “biological materials” has always been used to describe waste material of a human or industrial process, not a useful product such as a pesticide.

While EPA’s reasoning appears to be a reasonable interpretation of the Clean Water Act, the 9<sup>th</sup> Circuit specifically held in *Headwaters* that compliance with FIFRA does not preclude the need to comply with the Clean Water Act. The 9<sup>th</sup> Circuit also specifically held that a pesticide is a “pollutant” under the Clean Water Act. So who is right? What does this mean for you? Can you rely on the EPA guidance now? Can you rely on the EPA guidance in final form?

Unfortunately, an agency guidance document is not sufficient protection from a citizen suit such as the one *Headwaters* brought against TID. Protection from citizen suits would require EPA to turn the guidance document into formal rulemaking. Then the Oregon DEQ would need

(Continued on page 5)

## Herbicides in Limbo (cont.)

(Continued from page 4)

to adopt the federal rule as part of DEQ's delegated state Clean Water Act program. Such a rulemaking would force the legal challenges to be brought directly against EPA and/or DEQ to determine whether the agency interpretation is legal, rather than focusing the litigation against the individuals applying the herbicide.

### What Does the Future Hold For Us In Oregon?

Although DEQ has indicated it will not take enforcement action against those who apply aquatic herbicides to jurisdictional waters, DEQ has recognized the need for a regulatory program pursuant to the *Headwaters* decision. In 2001, in direct response to *Headwaters*, DEQ issued MAOs in lieu of NPDES permits to one Oregon lake and several irrigation districts. DEQ subsequently went to work on NPDES permits for irrigation districts and intended to develop an NPDES program for lakes and other users. A surprise decision by the Oregon District Court in late 2003 has turned the preliminary DEQ program upside down, and brought DEQ back to the drawing board.

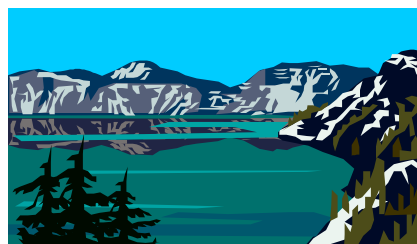
The DEQ rules were not written with aquatic herbicides in mind, and it may be a challenge to fit the aquatic herbicide applications into the existing DEQ framework. The Oregon water quality standards impose numeric and narrative criteria on NPDES discharges to water. Often times with the typical industrial discharge, the DEQ rules allow for mixing zones to provide sufficient time for the chemicals to mix with the receiving water. Compliance with the water quality standards (transferred into permit limits) is measured outside this mixing zone. Placing an aquatic herbicide into water will necessarily exceed many of the numeric criteria, depending on

the chemical make-up of the herbicide. It is uncertain whether the standard mixing zone rule would be sufficient in the context of aquatic herbicides, because the application points vary, the application area varies, the contact time varies, and the flow or ability to mix varies. With respect to the NPDES permits issued to the irrigation districts, DEQ relied in part on the "alternate mixing zone rule." This rule allowed for a larger than normal mixing zone in certain circumstances, *i.e.* if there was an overall environmental benefit (which would seem to apply in the context of managing invasive weeds in lakes) or if there was a constructed water course (which would seem to apply to irrigation districts). Thus, the alternate mixing zone rule appeared to provide DEQ with the ability to permit aquatic herbicide applications.

In *Northwest Environmental Advocates v. EPA*, No. CV 01-510 HA, U.S. District of Oregon, plaintiffs brought suit against EPA under the Clean Water Act and Administrative Procedures Act challenging EPA's approval of certain DEQ state water quality standards. Although

### FULTS ON BORN

The Oregon Department of Agriculture – Pesticides Division continues to license pesticide applicators and pesticide operators; however, as Krista Born's article explains, the present rub is the anxiety of uncertainty associated with the outcome of certain federal court decisions and the implementation of those decisions. Not noted in Born, the US Western District Court should be finalizing its decision on buffer zones along "salmon supporting waters" in the Pacific Northwest very soon. This decision will most likely require mandatory buffers for specific active herbicide ingredients when applied next to certain waterways. The size of buffers, applicability to urban sites as well as agricultural sites, time frame for implementation, and other factors will hopefully be known soon. The ODA will make every effort to communicate these decisions and any resulting expectations to pesticide applicators and interested persons as quickly as possible. **Janet Fults**, Chief, Pesticide Division, ODA, Salem (503) 986-



Crater Lake clip art. Clip art in this issue of *Lake Wise* from Microsoft web site ([office.microsoft.com/clipart](http://office.microsoft.com/clipart)).

## Herbicides in Limbo (final)

(Continued from page 5)

aquatic herbicide applications were not a focus of the case, the case had a significant impact on DEQ's NPDES permits issued to irrigation districts. On summary judgment, plaintiffs raised for the first time a challenge to the alternate mixing zone rule. In March 2003, Judge Ancer Haggerty ruled that the alternate mixing zone rule was invalid because EPA never approved the rule. The Court then ordered DEQ to withdraw all permits issued pursuant to the rule if EPA had not approved the rule by September 12, 2003. EPA failed to prove the rule by the deadline, and has still not acted on the rule, so DEQ has withdrawn the irrigation district permits that were issued pursuant to the alternate mixing zone rule.

DEQ is working with EPA and the fisheries agencies to address approval of the alternate mixing zone rule. As part of this process, the agencies are working together to develop a statewide program for permitting all aspects of pesticide application to jurisdictional waters, pursuant to the 9<sup>th</sup> Circuit decisions in *Headwaters* and *Defenders of Wildlife*. This would include weed control for irrigation districts and lakes, mosquito control, and aerial spraying over forest lands. Because the DEQ program must consider many different interests and factors, it will likely require a rule change at the state level and there is currently no definite timeline for completing this task. The process is further complicated by the fact that EPA has issued the Interim Statement and Draft Guidance stating that NPDES permits are not required for these activities so long as the requirements of

## PSU CLR Clatsop Plains Project Nearing Conclusion

**Erin Harwood, PSU CLR, Portland:** Three of the lakes on DEQ's 303d list (Smith, Cullaby, and Sunset) are coming one step closer to being removed from that list. As noted in the March and August 2003 editions of *Lake Wise*, four lakes on the Clatsop Plains (Coffenbury the fourth lake) are being studied as part of the development of integrated aquatic vegetation management plans for each lake.

The public has been involved along the way, with a total of nine meetings conducted with groups such as the Skipanon Watershed Council, Oregon State Parks at Fort Stevens State Park, Smith Lake Improvement, Inc. and the Cullaby Lake Homeowners Association. In addition, a website was created in June to allow direct communication with the public and update them on the project's progress:

<http://www.clr.pdx.edu/projects/clatsop/clatsop.html>.

The aquatic vegetation management plans are being prepared now and will be submitted in draft form to DEQ in early January. After that time, the plan will be sent out to interested agencies and members of the public for review and comment. A public meeting will be held for each lake, to update the public on the project and present the recommended plant control methods for each lake. The vegetation management plans will be incorporated into a final document with the surface water and groundwater chemistry data and an analysis of each lake's watershed and the Clatsop Plains as a whole. For further information, please contact Erin Harwood at the PSU Center for Lakes and Reservoirs, 503-725-9076 or [eharwood@pdx.edu](mailto:eharwood@pdx.edu).

**Answer:** Phoksumda Lake, Nepal. Lake referenced in P. Matthiessen 1978 *Snow Leopard* (p. 146). He notes lake is 0.5 mile deep. Can this be so?

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## Lake and Reservoir Water Quality Issues and the Role of Watershed Councils

**Jason Dedrick, Crooked River Watershed Council Coordinator, Prineville:** Many of us Oregonians take for granted our wealth of natural resources. Perhaps even more under-appreciated is the unique management approach that Oregon has taken to the watersheds of the state, watersheds that are home to not only fish and wildlife, but the communities and economies we depend on. In creating the Oregon Plan for Salmon and Watersheds in 1997, Oregon initiated a unique, citizen-based approach to assist in managing natural resources. This plan was the foundation for the over 80 watershed councils that have been formed throughout the state.

Whereas most of these councils have been engaged in important restoration and education efforts, in many cases these efforts have not specifically focused on the special role that lakes and reservoirs play in watershed function. Considering that Oregon has 33 lakes currently on the 303(d) list that are located within the boundaries of an existing watershed council (See Table of these lakes and councils in the Publications section of the OLA web site), there is a tremendous opportunity for these organizations to take an active role in addressing limiting factors. Some councils, including the Crooked River Watershed Council, are determining how they can have a beneficial impact on Oregon's lakes.

The Crooked River Watershed is home to Prineville and Ochoco Reservoirs, both important recreational resources within the watershed that are inexorably tied to the local economy. For many visitors to the watershed, their first and often only impression of water quality in the area is the clarity of the water they fish in or boat on. Because both Prineville and Ochoco Reservoirs have high turbidity levels resulting from sediment inputs and wave

action, this represents an important issue for our council. The traditional approach to addressing lake water quality is to immediately undertake protection and enhancement efforts on the streams that feed lakes.

In Prineville Reservoir (Figure 1), which is situated in a watershed that contains highly erosive volcanic soils, an analysis of sediment production by sub-watersheds could indicate areas where upland vegetation management

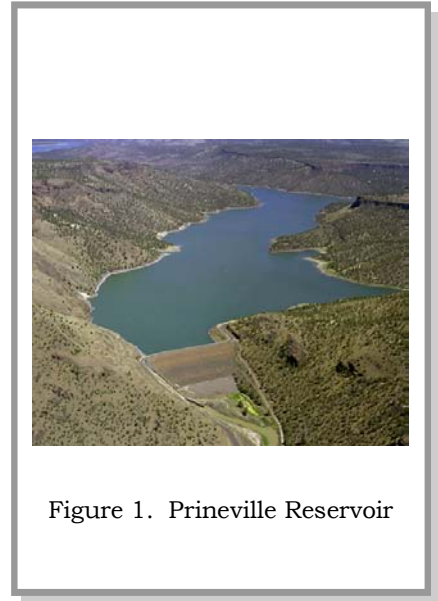


Figure 1. Prineville Reservoir

could improve water quality. Since many of these areas are located on private lands, a watershed council would be well situated to address this issue as part of a locally-led process involving individual landowners. A similar analysis of Ochoco Reservoir would identify levels of mercury in the sediment that could be harmful to the resident fish populations (currently under review by DEQ). This suggests that historic mines in the area may need to be assessed to determine if they still pose a threat to the watershed. Where these mines are located on private property, a watershed council would be uniquely positioned through its relationships with landowners to help state and federal agencies work with these landowners, under the auspices of the council, if necessary, to gain access to a property. In each of these cases, and in areas around the state, there are many roles that a council can take and

*(Continued on page 8)*

## Watershed Councils and Lakes (cont.)

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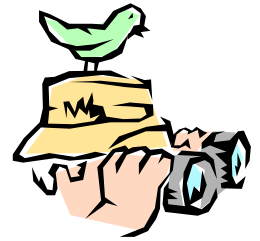
resources that they can offer to facilitate collaborative management approaches.

Where to start? One opportunity is through monitoring. Many councils have the ability to provide resources for lake water quality monitoring. Because this type of work often involves multiple agencies and organizations, councils provide an ideal forum for making the types of connections that are vital to lake management issues. A second way for councils to get involved in lake issues is through education. Many councils actively engage their local communities through tours, workshops and volunteer efforts. These events help bring the public into contact with the resources and the issues that surround them. Although the councils' efforts in the past have focussed on riparian issues, there is no reason that councils cannot work to bring greater awareness to the problems that threaten lakes throughout the state. One example would be greater council participation in the annual statewide Secchi Dip-In. Currently only a few councils are participating and submitting results. To date, councils have operated under the assumption that riparian issues are central to watershed management. Although riparian zones are important indicators of watershed health, we must continue to approach watersheds with lakes and reservoirs (and upland areas) as key ecosystem components, rather than as the unintended beneficiary of restoration and enhancement efforts. If lake-related issues are brought into the consciousness of the local people in the watershed, council involvement could potentially follow. Similarly, OLA is uniquely positioned to help bring lake management issues to the attention of individual watershed councils.

The watershed council model is an innovative and resourceful example of how citizens can become a part of resource

management at the ground level. I receive several calls annually from groups outside of Oregon that are attempting to establish similar entities. Inevitably, after describing the Oregon Plan, OWEB and our unique relationships to partner organizations such as Natural Resources Conservation Districts, their reactions (usually envy and amazement) are a reminder of what makes Oregon such a wonderful place to live and work. We are

## Looking Ahead



Forest Service will be issuing their draft EIS for the proposed fish management program for Diamond Lake in February of 2004.

A workshop on Upper Klamath Lake research needs has been scheduled for the first week in February in Klamath Falls. Location has yet to be determined, but dates appear to be February 3-5.

The Nature Conservancy and their consultant DEA should be completing the development of a draft EIS soon for restoration of the Williamson River Preserve at the lower end of the Williamson River leading into Upper Klamath Lake.

An NSF-funded workshop on Crater Lake research will be held this winter, facilitated by Bob Collier, OSU.

Oregon Lake Appreciation Month, July 2004

The Great North American Secchi Dip-In June 26—July 11, 2004

Oregon Lake Association annual meeting  
October

NALMS 2004 Annual Meeting will be held at Victoria, BC, November 3-5 at the Victoria Conference Center adjacent to the Empress Hotel.



## OLA Members at NALMS Annual Meeting

**M. Sytsma, Tualatin, and M. Rosenkrantz, Portland:** M. Sytsma (PSU CLR Director) and M. Rosenkrantz (Lake Manager, Lake Oswego Corporation): Over 500 people attended the 23rd annual International Symposium of the North American Lakes Management Society at the Foxwoods Resort and Casino in Mashantucket, Connecticut during the first week of November. Although the gambling ambience left much to be desired, the conference and workshops were run in the typically smooth NALMS fashion. The conference theme was "Protecting Our Lakes' Legacy" and presentations were focused on highlighting success stories in lake restoration and preservation. There were three days of concurrent technical and not-so-technical sessions on nearly every aspect of lake management. As always, NALMS is a great opportunity to see the latest technology in restoration and management. The annual change of the NALMS guardians had Steve Heiskary replacing Jeffery Schloss as President. Harry Gibbons is the new Region 10 representative.

The opening plenary session was an opportunity to hear about regional water quality issues and priorities from Robert Varney, the US EPA New England Regional Administrator. Also presenting was Dr. Charles Driscoll with the Department of Civil and Environmental Engineering at Syracuse University. Dr. Driscoll discussed nitrogen pollution in the northeastern US. It is always striking that even though NALMS encompasses a huge geographical area the lake problems and management issues are often very similar. The sharing of common problems and solutions always results in an enjoyable and pleasant NALMS meeting. Also, sharing what has been learned in the past enables others to move forward with restoration projects without spending valuable money and time repeating past mistakes. On November 3-5, 2004 the

annual NALMS meeting will be in Victoria, BC at the Victoria Conference Centre adjacent to the Empress Hotel. Plan now to attend this enlightening and enjoyable meeting.

## Harry Gibbons, New NALMS NW Rep

Those who study, manage and enjoy lakes and reservoirs founded NALMS in 1980 to promote restoration and protection science and application of effective lake and reservoir management. NALMS' mission is to forge partnerships among citizens, scientists, and professionals to foster the management and protection of lakes and reservoirs for today and tomorrow.

**Lake Wise** asked Harry why he volunteered to be the Northwest NALMS representative. His response was: "Good question! First, I wanted to visit with folks like you and get a feel for the needs and direction that the different groups are heading in the NW relative to lakes and reservoirs. I have met with WALPA (Washington Association of Lake Protection Associations) and based on your invitation I hope to meet with OLA's board after the New Year. Anyway, after gathering some basic information I hope to identify common issues and formulate a NW initiative for NALMS that would be in support of the needs and direction that the local groups are trying to head. In short, my goal is to get NALMS more involved in the regional needs of the lake and reservoirs in the Pacific NW and to encourage membership in both NALMS and the state Chapters such as OLA. In order for our organizations to meet their objectives as defined in their mission statements we must reach out to more people and expand our active and inactive memberships."

Welcome Harry! Harry (Ph.D.) works for TT, Inc./ISG, Seattle, WA as limnologist and Senior Aquatic Scientist (206-728-9655)

## Contemplations on the Conference

**Roger Edwards, Gresham:** The plan for the Fall Conference to tap into the energy of watershed councils proved to be an inspired strategy. The contrast between OLA and the councils as organizations was made very clear at the October 10<sup>th</sup> meeting in Lakeside. Historically, OLA's formation in 1989 predates the watershed councils by nearly a decade. It was originally conceived as an organization that would work through lake associations, giving a voice for quiet waters that would be loud enough to be heard. OLA has had difficulty establishing a platform from which to proclaim its message. It has spoken "lakes" with a watershed subtext. Now watershed councils speak "watershed" with a very muted lake subtext. There is a need to have common emphases.

When the Oregon Legislature set down guidelines for watershed councils in 1995, they recognized that the energy to get things done comes from pay or passion, and that local people can be very motivated about local issues. They also recognized that problems within a watershed are due to upstream conditions and must be addressed as such.

Richard Petersen echoed this observation in his presentation, saying limnologists and stream hydrologists have both come to realize that where lakes and streams are connected, they cannot be studied in isolation from one another. OWEB was established to fund the projects the watershed councils had put together. The ability of the councils to secure funding for their projects gave them stature in their communities, which in turn, provided enough local support to hire coordinators and needed technical staff. As hoped, the councils proved able to work among people within a community in a non-threatening manner, to reach agreement on how conditions might be improved. Ruth Mirth stressed that when conflicting interests can work out their differences, their proposals receive high consideration for funding. Jason Dedrick agreed and as an example, cited 1.5

million dollars that they had secured from 21 sources in 4 years. He said this money funded projects where a win/win approach had been fashioned.

OWEB is still alive and well in Salem, and has State and Federal money to disperse.

Andy Schaedel described how utilizing the monitoring data from 401 hydroelectric recertifications, SDWA source water assessments, and the DEQ point source control program could stretch grant money. DEQ still prioritizes grant requests for EPA's 319 funding.

Another theme that emerged from the presentations was the lack of coordination between government agencies. While this condition has been bemoaned in past OLA deliberations, the topic came up at the Conference in the presentations of Ken Bierly and John Lilly. Both said that the dispersed authority to regulate actions concerning lakes, and all of Oregon's other natural resources too, is a problem for the agencies themselves as well as the public. Janet Fults pointed out how much worse this fault could be by describing the labyrinth created by judicial rulings on pesticide applications (see more on this in this issue of *Lake Wise*).

There are many reasons to be pleased about the Conference this year. It provided an opportunity to revive old acquaintances and make new ones. The Conference attendees have gained insight on the success of watershed councils. And OLA has a better understanding of the logical role it can play to be an effective voice for quiet waters. The formal discussion about placing the Atlas of Oregon Lakes on a website is an excellent example of how OLA can continue to contribute to the thoughtful management of Oregon's watershed ecosystems. An on-line AOL would be a valuable resource for lake users and watershed councils throughout the state. It would provide a place to put the data of ongoing monitoring programs, and utilization of the Oregon Lake Condition Index format would allow tracking of changes



Name this Lake  
[hint: think *snow leopard*;  
answer bottom p. 6]

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## The Oregon Lakes Association Newsletter

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## Lake Wise Editorial Policy and Notes on Authors

Opinions of those who contributed to articles in this Newsletter are judged by the Oregon Lakes Association Board Editorial Committee (S. Geiger-Chair, R. Edwards, Joe Eilers and Ralph Vaga) to be typical of the diversity of opinions of those who have a scientific, economic and political interest in the lakes of Oregon. Comments praising or disparaging articles in this newsletter are welcome and representative comments will be considered for presentation in the next issue of *Lake Wise*. Advertisement in *Lake Wise* does not constitute OLA endorsement.

**Krista Born** (*Aquatic Herbicides Are Not Extinct*). Krista is an Attorney with Stoel Rives LLP, a Portland law firm.

**Lori Campbell** (*President's Perspective*). Lori is Manager of the Devils Lake Water Improvement District, Lincoln City, Oregon. She is beginning her stint as President of OLA.

**Jason Dedrick** (*Lake and Reservoir Water Quality Issues*). Jason is Watershed Council Coordinator of the Crooked River Watershed Council, Prineville.

**Roger Edwards** (*Contemplations on the Conference*). Roger, current Secretary of OLA, monitored the water quality of the City of Portland Bull Run Reservoir for the past 27 years.

**Janet Fults** (*Fults on Born*). Janet is Chief of the Pesticides Division with the Oregon Department of Agriculture in Salem.

**Erin Harwood** (*PSU CLR Clatsop Plains Project Nearing Conclusion*). Erin is completing her Master's degree at the Center for Lakes and Reservoirs.

**Mark Rosenkrantz** (*NALMS Annual Meeting*). Mark is Lake Manager for the Lake Oswego Corporation and OLA President Elect.

**Mark Sytsma** (*NALMS Annual Meeting*). Mark is Director of the PSU Center for Lakes and Reservoirs.

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