

WATER RESOURCES COMMISSION

MEETING

SALEM

MAY 31, 1991

MINUTES

Commission members present:

Lorna Stickel  
Hadley Akins  
Cliff Bentz  
Jim Howland  
Mike Jewett  
Roger Bachman  
Jack Delay

Water Resources Staff

Others

Bill Young  
Jan Shaw  
Steve Sanders  
John Borden  
Becky Kreag  
Tom Kline  
Steve Applegate  
Amin Wahab  
Roberta Jortner  
Bill Fujii  
Mike Zwart  
Fred Lissner  
Bud Bartels  
Weisha Mize

Keith Cubic  
Jim Payne  
Al Cook  
Norm Kamp  
Karen Russell  
Jack Hammond  
Jan Boettcher  
Audrey Simmons  
Julia Doermann  
David Moon  
Joe Glicker  
Dick Robbins  
Ian Whitlock  
Jim Myron  
Tom Simmons  
Dave Riley  
Dave Butt  
Jill Zarnowitz  
Doug Myers

Alan Jensen  
John Borge  
Bill Hutchison  
Roger Hamilton  
Barbara Sullivan  
Charles Ciecko  
Jerry Schmidt  
Wayne Shuyler  
Susan Jessup  
Cathy MacDonald  
Florence Kuchs  
Don Willson  
Comm. Judie Hammerstad  
Marjo Nelson  
Bob Ratcliffe  
Gail Achterman  
Rep. Larry Sowa  
Rep. Bob Shiprack

The staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Office of the Director of the Water Resources Department, 3850 Portland Road, NE, Salem, Oregon. Written information submitted at this meeting is hereby made a part of this record and is on file at the above address. Audiocassette recording tapes of the meeting are also on file in the Water Resources Department office.

Pursuant to ORS 192.660 (1) (h), the Commission convened an executive session to consult with legal counsel regarding pending litigation.

The room was emptied except for the following:

WATER RESOURCES COMMISSION

Lorna Stickel  
Hadley Akins  
Cliff Bentz  
Jim Howland  
Mike Jewett  
Roger Bachman  
Jack Delay

WATER RESOURCES DEPARTMENT

William Young  
Jan Shaw  
John Borden  
Weisha Mize  
Tom Paul  
Barry Norris  
Steve Sanders

OTHERS

Eric Goranson, The Oregonian

At the conclusion of deliberations, the Commission adjourned the executive session and reconvened the regular meeting.

Upon reconvening in the general session, the following motion was made:

It was MOVED by Mike Jewett and seconded by Jim Howland, on the Commission's own motion and on the advice of counsel, to withdraw for reconsideration the license, dated February 14, 1991, based on Order #HE 502 from the Court of Appeals.

The motion passed unanimously.

A. MINUTES OF THE APRIL 18-19 WRC MEETING AND CONFERENCE CALLS.

It was MOVED by Jim Howland and seconded by Hadley Akins to approve the minutes as submitted. The motion passed unanimously.

B. REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING TO MODIFY RULES FOR REGULATION OF THE BUTTER CREEK CRITICAL GROUNDWATER AREA, MORROW AND UMATILLA COUNTIES (690-507-600 TO 700).

Administrative actions by the Water Resources Department to curtail pumpage in the Butter Creek Critical Groundwater Area have been continuing for 20 years. Testimony received at the May 9, 1990, rulemaking hearing asserted that water users in the echo Junction Subarea affected users in the West Subarea. The Department ran an aquifer test in March 1991 to determine whether or not the boundary

separated the water users. Preliminary analyses of the test showed that the user in the Echo Junction Subarea closest to the boundary did not impact users in the West Subarea. In addition, the analysis showed that irrigation wells to the east of the pumped well were not affected.

Under the current order and rules, the owner's ability to pump the well tested would be gradually cut back over the next four years. In the sixth year, no water would be allocated to the well. The results of the aquifer test indicated that the well is in a separate subarea. Regulation of this well in favor of senior users in the Echo Junction Subarea would not reduce the impact to the groundwater resource in that subarea.

The exterior and interior boundaries of the Butter Creek Critical Groundwater Area were determined through a contested case process. The determination of the sustainable annual yield and how water was to be distributed was determined through a rulemaking process. The rules require the Department to complete the allocation of water for any given year by August 1 of the preceding year. Changes must be made to the rules in order to allocate water fairly for the 1992 irrigation season. A new boundary can be added by dividing the Echo Junction Subarea into two subareas through the rulemaking process. Sustainable annual yields for both subareas would also be determined.

#### Director's Recommendation

The staff recommended that the Water Resources Commission conduct a public hearing on proposed modifications to the rules that regulate pumpage of water from the basalt reservoir in the Butter Creek Critical Groundwater Area. Because the rules are part of the basin program, the Commission was also asked to appoint a member to conduct the hearing.

It was MOVED by Roger Bachman, seconded by Jack Delay, and passed unanimously to approve the Director's recommendation.

Hadley Akins volunteered to conduct the hearing.

#### C. REQUEST FOR CONCURRENCE WITH INTERIM RIVER CLASSIFICATIONS FOR SCENIC WATERWAYS

Under the Scenic Waterways Act (ORS chapter 390), the Water Resources Commission is required to concur on:

- 1) Administrative rules relating scenic waterway management;
- 2) Condemnation of private property; and
- 3) Recommended additions to the scenic waterway system.

On May 9, 1991, the Parks and Recreation Commission adopted interim classifications for the rivers added in 1988. A public hearing was held on the proposed classifications on April 23, 1991.

River management plans are being developed for the designated river sections which will include final classifications. The interim classifications will provide the Parks and Recreation Department with a basis for evaluating proposed land use changes until management plans have been completed.

There are no water resources issues directly related to the interim classifications. Interim classification for scenic waterways should help speed-up the review of proposed projects.

Director's recommendation:

The staff recommended concurrence.

Keith Cubic, Douglas County Planning Department, said that Douglas County strongly disagreed with the "scenic river area" interim classification of the North Umpqua River. He said that the mix of public and private property along the lower river corridor would be affected by the designation both in terms of development specifications and resource harvest or utilization.

Cubic said that the scenic designation was not consistent with the direction of the county. He maintained that the North Umpqua corridor does not meet the criteria for a scenic river area. A recreational river, on the other hand, would contain mixed residential, commercial and agricultural development and would be rural in nature and readily accessible. The county supports any interim classification of a "recreational river area."

Cubic said that Douglas County looked forward to working closely with the Parks Department to resolve the designation issue and asked the Commission to delay concurrence with Parks for the North Umpqua River corridor.

It was MOVED by Jim Howland and seconded by Roger Bachman to approve the plan as proposed except for the North Umpqua River, Segment #12B. The motion passed unanimously.

D. PUBLIC COMMENT

Karen Russell, WaterWatch of Oregon, Inc., urged reconsideration of hydroelectric license #502. She asked for this further reconsideration in connection with requests from WaterWatch and Northwest Environmental Defense Council and asked that WaterWatch be included in any discussions on HE 502.

E. COMMISSION COMMENTS:

1. New Commission member Jack Delay said he was delighted to have the opportunity to serve with the Commission. He described his relevant experience, including his recent appointment as vice-president of the board of directors of the Eugene Water and Electric Board and his practice in dealing with water issues in the Eugene area.

2. Mike Jewett commended Steve Applegate and Mike Mattick for a good instream water right workshop in the Jackson/Josephine County area.

Jewett said he had attended the first meeting of the allocation committee on May 30.

3. Jim Howland reported that he and Cliff Bentz had attended the first meeting of the storage committee meeting on May 30. That committee felt that it ought to explore all types of storage and recharge aspects and developed 12 categories of issues. Department staff was asked to develop these further for consideration at future meetings.

4. Lorna Stickel said that she and the Director had attended a meeting in Utah sponsored by the Western Governors' Association and the Western States Water Council. About 50-60 people were in attendance, mostly representatives of western states. Also attending were delegates from federal and state agencies and from environmental organizations. There were lively discussions regarding water management in the West, about myths of water policy and about problems of water allocation. A final report will be distributed soon.

5. Hadley Akins briefly recounted the recent McKay flooding incident.

F.1. PENDING PERMIT APPLICATIONS IN THE WILLAMETTE BASIN

On April 18, 1991 the Water Resources Commission directed the Department staff to:

Process only those applications for permits to use groundwater from the Columbia River Basalt Aquifers in the Chehalem Mountain, Parrett Mountain, South Salem Hills, and Eola Hills management areas (proposed in the draft Willamette Basin rules) which had been submitted as of April 18, 1991. Applications submitted after April 18 would be held and made subject to the new basin rules upon adoption.

Delay the processing of permit applications for groundwater from any of the remaining seven groundwater areas proposed in

the draft Willamette Basin rules. Applications would be held and made subject to the new basin rules upon adoption.

Process only those applications for permits to use surface waters of the Willamette Basin which had been submitted as of April 18, 1991. Applications submitted after April 18 would be held and made subject to the new basin rules upon adoption.

Inform all applicants and interested parties of these procedures.

The Department informed applicants and sent out nearly 1000 Willamette Basin rules/plan hearing notices which, among other things, generally described the Commission's direction regarding the treatment of pending permit applications.

Since April 18, the Water Resources Department has received several requests that the Commission not delay processing of certain pending permit applications. Requests have come from both private individuals and public agencies.

In addition, the Benton, Yamhill, and Polk County Soil and Water Conservation Districts, the Oregon Department of Fish and Wildlife (ODFW), and the City of Eugene are concerned that holding surface water and storage permit applications until October will jeopardize continuing activities and funding options for wetlands mitigation and enhancement projects. Certain federal cost-share funds, as well as state funds (GWEB), may be lost if not spent by September 1, 1991, and June 30, 1991, respectively. Agency representatives emphasize that these projects have involved close coordination between government and private citizens and that the cooperation and generosity of private landowners in supporting wetland/wildlife values should be fostered.

#### Director's Recommendation

The staff recommended authorizing the Department to process those surface water and groundwater permit applications submitted after April 18, 1991, in accordance with both current and proposed basin rules and other applicable rule divisions if requested by the applicant and to notify applicants and interested parties of this procedural change.

It was MOVED by Jim Howland and seconded by Cliff Bentz to accept the Director's recommendation. The motion passed unanimously.

The Commission further urged Department staff to return to the Commission again if any problems arise from this policy.