

The Water Resources Commission hereby delegates the following powers and authorities to the Director of the Water Resources Department:

1. Authority to issue a hydroelectric license for a project of 100 THP or less under ORS 543.260.
2. Authority to issue a hydroelectric license for a project of 100 THP or more as provided under ORS 543.260, after the WRC has made a public interest finding provided in ORS 543.225.
3. Authority to transfer the ownership of a license or right under ORS 543.440.
4. Authority to cancel a claim under ORS 543.730.

This delegation is authorized by ORS 536.025(2). In addition, the Commission hereby ratifies any exercise by the Director since September 19, 1985, of these powers and authorities. Actions by the Director pursuant to this delegation and ratification have the same force and effect as if they were taken by the Commission.

Karen Russell, WaterWatch, read into the record two letters from WaterWatch representatives in opposition to the recommendation of the Department.

It was MOVED by Roger Bachman and seconded by Mike Jewett to give the Director authority to issue hydroelectric licenses (ORS 543.260 and 543.255), transfer hydroelectric licenses (ORS 543.440), and cancel claims for non-payment (ORS 543.440). The authority would be limited to signing the documents only when the time since Commission review was less than two years.

The Commission delayed action of ratification of all previous actions made by the Director until the staff could come back with a listing of all known actions that would be ratified by this action.

The motion passed unanimously.

#### H. CONSIDERATION FOR APPROVAL OF APPLICATION G-12269 TO APPROPRIATE GROUNDWATER FOR MUNICIPAL USE AT SUBLIMITY, MARION COUNTY

The Commission considered this application at its May 31 meeting. At that time, the Commission wanted more information from the City in order to consider the matter further at its July meeting. The Commission wanted to know the City's plans for obtaining a long-term water supply. The Commission requested the information so that it might issue a conditioned permit with confidence that the City would develop a more dependable water supply in a few years. The City responded to the various issues which the Department's letter raised.

The City of Sublimity intends to develop surface water from the North Santiam River. Full development would require from five to seven years. Connection with the Stayton municipal system is preferred, requiring contractual agreements, pipelines, and water treatment expansion. The legal access to the water could come through new live-flow permitting which is subject to instream water right regulation in summer, water right exchange/transfer with a local irrigator of North Santiam water for inexpensive Bureau of Reclamation stored water, or purchase of expensive Corps of Engineers stored water.

A permit conditioned for seven years of municipal use would appear to provide adequate time for Sublimity to obtain funding, make water rights arrangements, and build the necessary

structures. The City's feasibility study of February 1991 projected a \$600,000 cost for development. For a small city like Sublimity, this figure is substantial and may require much time to secure needed financing.

#### Director's Recommendation

The staff recommended Alternative 1, find that the use, conditioned to limit it to seven years followed by emergency backup use only and to require a connection to the Stayton system within two years, would not be detrimental to the public interest and instruct the Director to issue a permit with those conditions.

Jack Hammond, representing the City of Sublimity, told the Commission that the City feels that the Department's proposed recommendations are good ones and that they endorsed them.

It was MOVED by Cliff Bentz and seconded by Hadley Akins to adopt the Director's recommendation with modified language for the pump test condition. The motion passed unanimously.

#### I. CONSIDERATION FOR APPROVAL OF APPLICATION R-63272 TO USE WATER FROM SALMONBERRY CREEK TRIBUTARY TO MILTON CREEK, FOR RECREATION, CITY OF ST. HELENS, COLUMBIA COUNTY

On October 3, 1940, the St. Helens Water Commission submitted applications for permits to construct and store water in a reservoir and use 1.0 cubic foot per second of water for municipal purposes. Permits were issued in approval of the applications on January 10, 1941. The reservoir was constructed during the summer of 1941.

During the process of making an inspection of the structure for dam safety requirements in 1962, staff determined that the City was not using water for municipal use. The State Engineer, as authorized by the St. Helens Water Commission, canceled the permits on May 24, 1963.

The City contacted the Department in December 1981 and inquired about the status of the rights associated with the reservoir. No rights existed for the storage in the reservoir at that time.

On February 19, 1982, the City of St. Helens filed Application R-63272 proposing to store 46.2 acre-feet of water in Salmonberry Reservoir behind a 38.7-foot dam for recreation.

The question before the Commission was whether the issuance of this permit would impair or be detrimental to the public interest. Administrative Rule 690-11-080 (2)(a)(A) specifies that reservoirs with a height greater than 20 feet be referred to the Commission to make a public interest determination under ORS 537.170.

#### Director's Recommendation

The staff recommended that the Commission find that the project would not have a significant adverse effect on the public interest and authorize the Director to issue the permit with appropriate conditions.

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

J. CONSIDERATION FOR APPROVAL OF APPLICATION G-12277 TO USE WATER FROM TEN WELLS IN THE OAK CREEK BASIN (WILLAMETTE RIVER) FOR INDUSTRIAL USE, OREGON METALLURGICAL CORPORATION, LINN COUNTY

On October 30, 1990, the Oregon Metallurgical Corporation (OREMET) filed Application G-12277 proposing to use up to 6.13 cubic feet per second (cfs) of water from ten wells for industrial use.

The OREMET plant was built in 1959 for the production of titanium metal. The plant began using groundwater in 1969. Seven of the proposed ten wells are currently in use. Three additional wells would be developed, if necessary, to accommodate expansion.

The question before the Commission was whether the issuance of this permit would impair or be detrimental to the public interest. Administrative Rule 690-11-080 (2)(a)(A) specifies that appropriations for greater than five cfs be referred to the Commission to make a public interest determination under Oregon Revised Statutes 537.170.

Director's Recommendation

The staff recommended that the Commission find that the project would not have a significant adverse effect on the public interest and authorize the Director to issue the permit with appropriate conditions.

(Roger Bachman recused himself and did not participate in this item because the applicant is a client of his firm.)

Karen Russell, WaterWatch, urged the Commission not to issue this permit and to hold a public interest hearing.

Mike Jewett MOVED, seconded by Lorna Stickel, to adopt Alternative 1 and to schedule a public interest hearing. Cliff Bentz voted no. The motion failed.

It was MOVED by Cliff Bentz and seconded by Lorna Stickel to approve the Director's recommendation. Before the vote was taken, Bentz asked to interrupt action on his motion until after Steve Sanders had time to research findings from a recent court case.

After Sanders brought back the case law information and indicated it was not pertinent, Cliff Bentz MOVED again to adopt the staff's recommendation, Alternative 2. Lorna Stickel seconded the motion. Roger Bachman abstained. The motion passed.

K. PROPOSED ADOPTION OF AMENDMENTS TO THE RULES FOR WATER USE REPORTING

The Commission adopted OAR 690-85-010 (Water Use Reporting) in August 1988. Under the current Water Use Reporting Rule, OAR 690-85-010, methods used by public entities to estimate water use must be approved in advance by the Director for reports submitted after December 31, 1991. Rule revisions were proposed to establish a process for approving methods which would minimize the need for the Department to review individual proposals.

A memorandum explaining the proposed process and preliminary descriptions of approved methods was distributed with the 1990 annual mailing to reporting entities, inviting comment. Rule amendments were then drafted, incorporating the comments received. At its March 8 meeting, the Commission authorized a public hearing on the amendments. A public hearing was held in Salem on April 23.

### Director's Recommendation

The staff recommended that the Commission adopt the amended rules for water use reporting.

It was **MOVED** by Hadley Akins and seconded by Mike Jewett to approve the Director's recommendation, following correction of the minor typographical errors pointed out by the staff. The motion passed unanimously.

### L. REQUEST FOR AUTHORIZATION TO APPOINT AN ENFORCEMENT ACTION REVIEW COMMITTEE

The Commission received a report from the Department which described the civil penalty review process for the first year of civil penalty implementation. In the report, staff requested the Commission's views on the formation and duties of a reviewing group. Staff requested that the Commission consider appointment of an ongoing enforcement action review committee to review all enforcement actions on an annual basis and recommend program improvements.

### Director's Recommendation

The staff recommended appointment of one statewide committee.

It was **MOVED** by Mike Jewett and seconded by Cliff Bentz to approve the Director's recommendation, Alternative 1.

Roger Bachman made a substitute **MOTION** to approve Alternative 2. That motion was seconded by Hadley Akins.

Bachman withdrew his motion.

The vote on the first motion had Hadley Akins and Roger Bachman voting no, and the motion failed.

It was **MOVED** by Roger Bachman and seconded by Hadley Akins to approve Alternative 2, including language proposed by Chair Stickel:

"...after the five original committees have met and results have been generated, the Commission will receive a report on how successful this approach has been..."

The motion passed unanimously.

### M. STATUS REPORT AND PROPOSED SCHEDULE MODIFICATION: STATE WATER ALLOCATION AND STORAGE POLICIES

On March 8, the Commission directed staff to initiate the formulation of state water resource policies on water allocation and storage. The Commission agreed that a separate advisory committee would be formed for each policy. Commissioners Mike Jewett and Roger Bachman volunteered to work with the allocation committee, and Commissioners Jim Howland and Cliff Bentz offered to work with the storage committee.

The Commission also endorsed a schedule for formulation, public review, rulemaking hearings, and adoption of the policies. The schedule included four committee meetings during summer

of 1991. The Commission directed staff to scope the issues with the committee before drafting policy concepts or language. Public workshops would be held in September to obtain comments and suggestions from interested parties. In November 1991, staff would request the Commission to authorize staff to conduct rulemaking hearings. Hearings would be held in December 1991, and rule adoption would be scheduled for the Commission's March 1992 meeting.

Director's Recommendation

The staff recommended approval of the revised schedule.

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

N. PRESENTATION OF NEW GWEB VIDEO: "GWEB: MOVING INTO THE 90's--THINGS ARE LOOKING DIFFERENT HERE"

The staff of the Governor's Watershed Enhancement Board previewed for the Commission the board's new 14-minute video explaining the state's program for maintaining and enhancing Oregon's watersheds. GWEB's program reaches out to rural landowners and city residents, school children and business executives, governments and special interest groups.

The video is available to borrow or to purchase for \$10.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Jan Shaw  
Commission Assistant

JS:dkh

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