

River, and tributaries from further appropriation except water legally stored. On August 16, 1984, Transfer Order 5430, approved a change in use of water from Cooper Spring, a tributary to Roberts Creek. The transfer involved 0.004 cubic feet per second (cfs) of an 1871 right for irrigation. The transfer was made in favor of Gregory and Sharon Thrall. The former irrigation right was changed to 0.003 cfs for domestic use and 0.001 cfs for irrigation. The transfer order clearly stated that the use of water was limited to the irrigation season.

On October 10, 1990, the Commission received a petition from Sharon Thrall, requesting amendment to the May 22, 1959, Roberts Creek Order of Withdrawal. The petition requested use of 0.003 cfs of water from Roberts Creek for domestic use at her existing dwelling during the non-irrigation season of September 15 to May 15 of each year. The petition also requested use of Roberts Creek water for hydroelectric power generation not to exceed 2.2 theoretical horsepower at the same time period for use in the dwelling.

At its meeting on October 26, 1990, the Commission acted to accept the petition and authorized staff to hold a public hearing on the matter. On July 24, 1991, Commissioner Michael Jewett presided over a public hearing in Roseburg on the proposed amendment. The hearing record remained open until August 7, 1991.

#### Director's Recommendation

The staff recommended that the Commission amend the May 22, 1959, Roberts Creek Order of Withdrawal to read as stated in an attachment of the staff report. Staff also recommended the Commission amend the Umpqua Basin program to reflect the change in Attachment 2 of the report. In addition, staff recommended that permit application for domestic water use be limited to 0.002 cfs and permit application for hydroelectric power generation be limited to 2.2 theoretical horsepower, using a maximum of 6 gallons of water per minute. Further, the domestic use permit should be conditioned to require installation of a meter in a location where it is accessible to the watermaster. The change would allow the Department to accept applications for the proposed uses.

It was **MOVED** by Cliff Bentz and seconded by Hadley Akins to approve the Director's recommendation. The motion passed unanimously.

#### J. REQUEST FOR APPROVAL TO SCHEDULE PUBLIC WORKSHOPS ON DRAFT STATE WATER ALLOCATION AND STORAGE POLICIES AND TO STREAMLINE THE PROCESS FOR COMMISSION APPROVAL OF THE DRAFTS

On March 8, 1991, the Commission directed staff to initiate the formulation of state water resource policies on water allocation and storage. Two committees were formed to assist staff in formulating the water allocation and storage policies. Commissioners Mike Jewett and Roger Bachman volunteered to work with the allocation committee. Commissioners Jim Howland and Cliff Bentz offered to work with the storage committee.

At its July 19 meeting, the Commission approved a revised schedule for formulation, public review, rulemaking hearings, and adoption of the policies. The schedule includes four to six committee meetings from May to October of 1991 and public workshops in December to obtain comments and suggestions from interested parties. In March 1992, staff will request Commission authorization to conduct rulemaking hearings. Hearings will be held in April 1992. Rule adoption is scheduled for the Commission's July 1992 meeting.

Staff presented a report containing a revised schedule of events leading up to the workshops in December and recommending that the Commissioners assigned to each policy committee be delegated the authority to approve the draft policy language prior to public distribution. These requests were made to allow staff time to prepare for and provide adequate public notice for the December workshops.

#### Director's Recommendation

The staff recommended approval of the rulemaking process as provided in the staff report.

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

#### N. INFORMATIONAL REPORT AND RECOMMENDATIONS REGARDING COOS BAY-NORTH BEND WATER BOARD WATER RIGHTS AND PENDING APPLICATIONS, COOS COUNTY

The Coos Bay-North Bend Water Board (CBNB) has eleven applications on file with the Department for permit to use water. Ten of the eleven applications were filed between December 1963 and June 1972.

On March 23, 1990, application 70256 was filed, proposing the use of 38.68 cfs of water from Tenmile Creek. This application was made during the discussion of reclassification of the use of water of Tenmile Lakes. No action was taken to process this application because of the prior applications, the pending reclassification of Tenmile Lakes, and potential public interest concerns that have been raised by ODFW, WaterWatch of Oregon, City of Lakeside, Oregon Trout and staff.

#### Director's Recommendation

The staff recommended that the Commission agree that the applications may continue to pend but allow the applicant 60 days (until December 3, 1991) to submit a work plan, time table and commitment of funding to obtain the information needed; provide new public notice of the applications and restart the process for the examination of the applications under current standards; and make the proposed order effective on December 4, 1991, if the applicants fail to provide the requested information.

Timm Slater, mayor of North Bend, spoke on behalf of his community in support of the Coos Bay-North Bend Water Board's position.

Loren Wiese, Coos County Economic Development Department, opposed the staff's recommendation at this time. The fact that the applications are 30 years old does not diminish their desirability in 1991, he said.

Phil Matson, general manager of the Coos Bay-North Bend Water Board, said the board has invested hundreds of thousands of dollars on developing a water source over the last 20 years and would consider the rejection of their water right applications unfair.

Matson said that each of the applications is important and they do not wish to lose any of them. He said that it is incumbent on municipal water suppliers to plan as far as

possible into the future, and that is what the Coos Bay-North Bend Water Board has tried to do. They should not have their applications rejected because of it.

Roger Gould, mayor of Coos Bay, endorsed the CB-NB Water Board's viewpoint.

Karen Russell, WaterWatch of Oregon, Inc., supported the staff's recommendation. An application is not meant to be a process to protect development rights, she said. She thought that 60 days was sufficient to complete the pending applications.

It was **MOVED** by Jim Howland and seconded by Cliff Bentz to approve Alternative 3 (the Director's recommendation), with the understanding that what was required was the plan for gathering the information, rather than the submittal of the necessary data to complete the applications. The motion passed unanimously.

**K. REQUEST FOR APPROVAL OF ROGUE, ILLINOIS, AND ELK RIVER SCENIC WATERWAY FLOWS FOR DIACK FINDINGS**

The Commission has approved scenic waterway flows for the Clackamas, Deschutes, Metolius, John Day, and Klamath Scenic Waterways. The Commission also directed staff to hold public meetings in areas affected by scenic waterway flow assessments. An interagency briefing was held to review the assessment process and discuss any issues and concerns. Representatives of the US Forest Service, State Marine Board, ODFW, and Jackson and Josephine Counties attended the interagency meeting. To gather public comment, workshops were held on August 14 and 15, 1991, in Gold Beach and Grants Pass. Agency and public comments were used in revising the assessment.

**Director's Recommendation**

The staff recommended that the Commission approve the Rogue River and Illinois River scenic waterways flow assessment and the use of the recommended scenic waterway flows for making findings pursuant to the Scenic Waterway Act.

Don King, Siskiyou National Forest, declared that the Illinois River is essentially dead because the redbside shiner, a non-game fish, is driving out the wild game fish. The redbside shiner is highly adaptable to the warmer temperatures which are present now in the river, but those same warm temperatures are lethal to salmonids.

Tom Dew, wild and scenic river specialist, Siskiyou National Forest, asked the Commission to set aside their recommendations until the Department can complete a thorough instream flow study.

It was **MOVED** by Mike Jewett and seconded by Jim Howland to approve the Director's recommendation. The motion passed unanimously.

**L. REQUEST FOR DELEGATION OF WITHDRAWAL AUTHORITY AND CONFIRMATION OF DIRECTOR'S HYDROELECTRIC ACTIONS SINCE SEPTEMBER 1985**

At the Commission's July 19 meeting, delegation was granted to the Director to issue and transfer hydroelectric licenses, and to cancel hydroelectric claims. The delegation did not include authority to withdraw hydroelectric licenses.

The Commission was also asked to ratify all past hydroelectric actions that may have been taken by the Director in the absence of their formal delegation. The Commission asked to review a list of actions, including comparisons of project size to typical power requirements, before granting the requested ratification.

Director's Recommendation

The staff recommended that the Commission delegate to the Director authority to issue withdrawal orders for hydroelectric licenses.

The staff further recommended that the Commission confirm all hydroelectric actions taken by the Director since September 19, 1985, so it will be clear that they have the same force and effect as if they were acted upon directly by the Commission.

Karen Russell, WaterWatch of Oregon, Inc., opposed the Department's proposal for delegation of withdrawal authority and urged the Commission to take a closer look at the Department's actions to ensure they will protect the natural resources of Oregon. She further recommended that the Commission be briefed on HE 303 on the Oak Grove Fork of the Clackamas River.

Stephanie Burchfield, ODFW, expressed concerns about HE 404 on the Sprague River.

It was **MOVED** by Mike Jewett and seconded by Jim Howland to confirm all hydroelectric actions taken by the Director since September 19, 1985, except for HE 303 and HE 404. All such actions shall have the same force and effect as if they were acted upon directly by the Commission. The motion passed unanimously.

It was further **MOVED** by Jim Howland and seconded by Cliff Bentz to delegate to the Director of the Water Resources Department authority to issue withdrawal orders for hydroelectric licenses. The motion passed unanimously.

**M. RULEMAKING PRIORITIES**

At the Commission's August retreat, the Department was given the assignment to recommend which of the rulemaking activities required involvement by Commission members, which could be delegated entirely to staff, and which required drafts approved by the Commission before they went to hearing.

It was unclear from the Commission retreat in August, whether the Commission had authorized the Department to file notice with the Secretary of State that it will begin the triennial review of existing rules as requested in the staff report. To be sure the Department has been authorized, staff asked that the Commission authorize this review.

Director's Recommendation

The Department recommended that the Commission adopt the revised schedule and authorize the Department to file notice with the Secretary of State that it will begin its triennial review of existing rules.

Chair Stickel offered to participate in the public involvement process for water right applications review (Divisions 11 and 77). Cliff Bentz also volunteered to work with the staff on this review. Hadley Akins volunteered to work with the municipal conservation committee and Jim Howland volunteered to work on monitoring wells. The Commission



asked staff to return with a proposal on which Commission members need to be assigned to participate in the basin-by-basin classification update.

It was **MOVED** by Cliff Bentz, seconded by Mike Jewett and passed unanimously to approve the Director's recommendation and adopt the schedule.

**O. INFORMATIONAL REPORT: STATUS OF THE STATEWIDE GROUNDWATER ASSESSMENT PROJECT**

Under ORS 537.665, the Commission is charged with identifying and characterizing the groundwater resources in Oregon, to better manage and protect the state's aquifers. The responsibility for this work has been assigned to the Groundwater Assessment Program (program) of the Groundwater/Hydrology Section (section). Program staff conduct groundwater investigations through extensive field work, data analysis, literature review, and cooperative studies with the U.S. Geological Survey and the Department of Environmental Quality.

To date, section staff have assessed the hydrogeology around the state by conducting several detailed, site-specific groundwater studies. These groundwater studies have focused mainly on areas that are experiencing groundwater quantity and/or quality problems. Groundwater studies have recently been completed in proposed critical areas and in the following areas: Mosier (Wasco County) - water level declines; and Ontario (Malheur County) - water quality problems. Groundwater studies are underway in the following areas: Grants Pass (Josephine County) - limited water availability; Lower Umatilla Basin (Morrow and Umatilla Counties) - limited water availability and water quality problems; Sam's Valley (Jackson County) - water level declines and interference problems; and Sandy-Boring (Clackamas County) - water level declines.

In addition to site-specific groundwater investigations, program staff have also been involved in various projects having a broader scope. These projects include:

1. An aquifer units GIS (Geographical Information System) coverage and map;
2. A database of the statewide observation well network, and the aquifer unit(s) corresponding to each well; and
3. A water-level trend GIS coverage and map of the state observation wells.

To expand the understanding of Oregon's groundwater resources, a comprehensive and systematic compilation and analysis of existing groundwater conditions are needed on a statewide basis. Program staff are developing a statewide groundwater database as part of this project, to allow the Commission to take a proactive approach to managing the state's groundwater resources. Groundwater data obtained from the project will aid in identifying problem areas, setting future project area priorities for the agency, and providing information for basin planning and land use planning coordination efforts.

**Director's Recommendation**

This was an informational report only. No action was requested or required. However, the Commission was asked to offer suggestions or provide additional direction to staff.

The Commission offered some discussion on format and content. No formal action was taken on this item.

P. FOLLOW-UP ON COMMISSION RETREAT ACTIVITY

The Commission reviewed the submittal to the Executive Department of the Department's effort to display a potential 25% reduction in the agency caused by short General Fund moneys in the next biennium.

No formal action was taken by the Commission.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Jan Shaw  
Commission Assistant

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