

# WATER RESOURCES COMMISSION MEETING

SALEM

DECEMBER 20, 1991

## MINUTES

### Commission members present:

Lorna Stickel  
Jim Howland  
Hadley Akins  
Mike Jewett  
Roger Bachman  
Anita Johnson

### Commission members absent:

Cliff Bentz

### Water Resources Staff

Bill Young  
Jan Shaw  
John Borden  
Bill Fujii  
Steve Applegate  
Rick Bastasch  
Becky Kreag  
Fred Lissner  
Marc Norton  
Bud Bartels  
Mike Ladd  
Tony Justus  
Bev Hayes  
Tom Kline  
Amin Wahab  
Jack Donahue  
Reed Marbut  
Beth Patrino  
Randy Moore  
John Drolet

### Others

David Childs  
Tom O'Connor  
David Moon  
Mike Walker  
Bill Porfily  
Roger Sherwood  
Jack Hammond  
Jan Boettcher  
Tom and Audrey Simmons  
Larry Hanson  
Kent Madison  
Mike D. McCarty  
Loren Hanson  
Stephanie Burchfield  
Rep. Chuck Norris  
Anne Perrault  
Karen Russell  
Jack Nicholls  
John Borge  
Don Armstrong  
Tony Armstad  
Janet Adkins  
Jim Myron  
Doug Myers  
Dave Dorrان  
Jeff Barry  
Lisa Zavala  
William Blosser  
Phil Matson

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.

### A. MINUTES OF THE NOVEMBER 14 - 15 WRC MEETING.

It was **MOVED** by Mike Jewett, seconded by Jim Howland and passed unanimously to approve the minutes as submitted.

**B. CONSIDERATION FOR APPROVAL OF APPLICATION 70970 TO USE WILLAMETTE RIVER WATER, IN THE MIDDLE WILLAMETTE RIVER BASIN, FOR INDUSTRIAL USE, POPE & TALBOT, INC., LINN COUNTY.**

On December 4, 1990, Pope & Talbot, Inc. (PTI) submitted Application 70970, proposing to appropriate up to 15.31 cubic feet per second (cfs) of water from the Willamette River for industrial use.

The question before the Commission was whether the issuance of the permit would impair or be detrimental to the public interest. Oregon 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 Statute 537.170.

The Commission directed the staff to process applications in the Willamette River Basin filed prior to April 18, 1991, under existing basin rules, even though the Willamette River Basin rules are under consideration for amendment.

PTI was authorized to use up to 31.19 cfs from the Willamette River for industrial use under Certificate of Water Right number 42008 which covered current operations of the plant.

PTI requested the use of an additional 15.31 cfs of water for industrial use in the manufacturing of bleached pulp at the Halsey mill. A plant description and expansion plan was submitted to provide additional information. According to the applicant, approximately 90% of the water diverted would be treated and discharged back to the river. The point of return of water to the river is located approximately one-quarter mile downstream from the diversion point. Approximately 10% of the water diverted would be consumed in the operation.

Water is available. This use of water should not have a significant adverse effect on the public interest or the water resources in the basin.

**Director's Recommendation**

The staff recommended Alternative 2, that the Commission find that the proposed use of water for industrial use would not have a significant adverse effect on the public interest and authorize the Director to issue the permit with appropriate conditions.

**Roger Sherwood**, environmental manager at Pope and Talbot, answered questions from the Commission regarding environmental points.

[Chair Lorna Stickel arrived at this point in the meeting.]

**David Moon**, Water for Life, said he was concerned about water quality in the river and wondered if there would be a net increase in the dioxin load under this permit. PTI should be made to affirm that they would stay within their permit levels, he said.

Moon posed other questions on flow rates and on flow-related dioxin levels.

Karen Russell, WaterWatch of Oregon, Inc., had concerns about industrial uses and their impacts on water quality as well as on water quantity. She recommended that the Pope and Talbot permits be made the subject of a public hearing for an in-depth look at the quantity and quality issues. Russell wanted to see a cumulative impact analysis from DEQ and said that reporting on rate and duty should also be made a requirement of the permit.

It was **MOVED** by Roger Bachman and seconded by Jim Howland to approve the Director's recommendation, with amendments which would include measurement and reporting in the permit.

Before a vote was taken, it was moved by Mike Jewett and seconded by Roger Bachman to amend Bachman's motion to include in the permit appropriate water quality standards regarding dioxin. Chair Stickel, Hadley Akins, and Jim Howland voted no. The motion failed, 3-3.

On the vote on the main motion, Mike Jewett and Anita Johnson voted no. The motion passed, 4-2.

**C. CONSIDERATION FOR APPROVAL OF APPLICATION 71072 TO USE WILLAMETTE RIVER WATER IN THE MIDDLE WILLAMETTE RIVER BASIN, FOR MUNICIPAL USE, CANBY UTILITY BOARD, CLACKAMAS COUNTY.**

The Canby Utility Board (CUB) submitted Application 71072 on December 27, 1990, proposing municipal use of 12.4 cubic feet per second (cfs) of water from the Willamette River.

The question before the Commission was whether the issuance of a permit for up to 12.4 cfs would impair or be detrimental to the public interest. Oregon 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 Statute 537.170.

Water is available. This use of water should not have a significant adverse effect on the public interest or the water resources in the basin.

**Director's Recommendation**

The staff recommended Alternative 2, that the Commission find that the proposed use of water for municipal use would not have a significant adverse effect on the public interest and authorize the Director to issue the permit with appropriate conditions.

Don Goddard, Canby Utility Board, and Jack Hammond, attorney, answered questions from the Commission on the City's pricing of water.

Karen Russell, WaterWatch, said they wanted to join in a contested case if there were to be one and were also willing to appear before the Commission at its next consideration of this matter.

It was **MOVED** by Roger Bachman and seconded by Mike Jewett to defer this matter until January. The motion passed unanimously. Staff was requested to provide additional information on water availability and recommendations for submittal requirements for municipal applicants. The City was asked to provide staff with additional information to justify their request.

**D. CONSIDERATION FOR APPROVAL OF APPLICATION 69840 TO USE SANTOSH BARGE CHANNEL WATER, IN THE LOWER WILLAMETTE RIVER BASIN, FOR INDUSTRIAL USE, OREGON CITY LEASING COMPANY, COLUMBIA COUNTY.**

On February 24, 1989, Oregon City Leasing Company (OCLC) submitted Application 69840, proposing to appropriate 12.0 cubic feet per second (cfs) of water from the Santosh Barge Channel (Multnomah Channel of Willamette River) for industrial use.

The question before the Commission was whether the issuance of the permit would impair or be detrimental to the public interest. Oregon 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 Statute 537.170.

**Director's Recommendation**

The staff recommended Alternative 2, 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 permits with appropriate conditions.

Karen Russell, WaterWatch, questioned whether the proposed use of water could be considered a "non-consumptive use." This use will affect the quantity and quality of the water in the river, she said. WaterWatch recommended that this matter go to a contested case hearing.

It was **MOVED** by Jim Howland and seconded by Hadley Akins to approve the Director's recommendation.

Before a vote could be taken, a substitute **MOTION** was made by Roger Bachman, seconded by Mike Jewett, to proceed to a contested case hearing. Chair Stickel, Hadley Akins and Jim Howland voted no. The motion failed, 4-2.

At the vote on the main motion, Roger Bachman, Mike Jewett and Anita Johnson voted no. The motion failed, 3-3.

Mike Jewett called for reconsideration of the matter and changed his previous vote to yes. As a result, the affirmative votes to the original motion were made by Chair Stickel, Hadley Akins, Jim Howland and Mike Jewett, and the motion passed.

## **E. PUBLIC COMMENTS**

**David Moon**, Water for Life, expressed concern about confusion in the group working on the instream water rights rules. He thought that the scope of the work group had been unfairly restrained and that three things needed to be addressed: (1) adequate meetings for their task; (2) opportunity to review drafts of the rules; (3) avoidance of major time conflicts in meeting schedules. Staff responded that his concerns would be addressed in particular in the Director's report.

**Mike Walker**, Oregon Water Utilities Council, expressed concern at the lack of reservation for industrial and municipal water in the Willamette Basin plan and work session draft. Walker recommended two methodologies which would provide a range of need that the agency could use for reservation purposes. Walker proposed that the council work with Department staff in developing quantities of water for municipal reservation.

**Kent Madison**, Echo, talked about the use of off-stream and instream storage facilities. Madison missed a recent workshop on storage and allocation policies and wanted to bring his comments directly to the Department and the Commission. He said the 80% exceedence standard in the allocation policy was too high.

**Tom O'Connor**, League of Oregon Cities, spoke regarding discussions from previous meetings and work sessions on municipal rights. We need to find a way to recognize unknowns in municipal and industrial planning, he said. The Commission talked of scheduling a work session on municipal water supply needs.

## **F. FOREST PRACTICES FORUM REPORT AND FORUM/SB 1125 WORK PLAN.**

**Janet McLennan**, chair, Forestry Board, and **Jim Brown**, director, Department of Forestry, explained the work of Oregon Department of Forestry with regards to Forest Practices Forum and Forum Report; SB 1125; and the Forum/1125 Work Plan. Their objective was to share this information and develop a cooperative working relationship to ensure that their agency was meeting the needs of WRD, as well as Forestry's.

## **G. COMMISSION COMMENTS.**

**Roger Bachman** reported that he and Cliff Bentz had recently attended the annual conference of the Oregon Water Resources Congress. Bentz, in a speech at the conference, urged the attendees to refrain from further criticism and become involved in the rulemaking process.

At the first workshop Bachman attended on allocation and storage, the group heard many complaints about issues unrelated to the two water policies.

Chair Lorna Stickle reported that she had attended a workshop in Tigard on state policy and said that the Department staff was doing a fine job of presenting the information and letting people be heard.

Mike Jewett said that he had some concerns about the resolution of the Bureau of Land Management's statewide permitting process considered at the Commission's work session the day before this meeting. He asked to have the matter put on the agenda again for the March 1992 meeting.

Jewett reported that he had addressed the Oregon Farm Bureau recently, and his speech seemed to be well received.

#### H. DIRECTOR'S REPORT

1. Columbia River Basin Fish and Wildlife Program (Phase Two). The director reported that last week saw the adoption of the Phase II amendments to the fish and wildlife program for the Columbia Basin. These amendments, along with the Northwest Planning Council's August actions, constitute the proposed regional response to the listing of Snake River salmon under the Endangered Species Act.

The Department believes that some of the attention that has been focused on the NPPC will now likely shift to the recovery team working with the National Marine Fisheries Service. The council is expected to proceed with Phase III and IV amendments involving system integration and resident fish and wildlife in 1992 and 1993.

2. Public involvement. The Director asked John Borden to describe for the Commission the Department's public involvement in permit application processing rule-making process and how the Commission's instructions were being pursued. Borden said the agency had formed a task force which had met for the third time a few days ago. Still to be done is drafting the rules. Borden requested Commission approval to complete the procedural portion of the rule revision with the existing task force and undertake revision of the substantive (standards) portion of the Division 11 and 77 rules separately. The Commission concurred with this approach.

#### I. PROPOSED ENFORCEMENT SCHEDULE FOR THE UMATILLA RIVER AND MCKAY CREEK.

The Department reported to the Commission at its November 15, 1991, meeting in Bend in response to a petition by WaterWatch of Oregon to amend the Umatilla Basin Program (rule). The Commission denied the petition.

An enforcement schedule for the Umatilla River was part of the staff report. Comments were received from WaterWatch of Oregon, the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), and the Bureau of Reclamation (BOR) on the enforcement