

6. Hadley Akins reported that he had attended a meeting in La Grande and was struck by the number of people who are apparently uneducated about water use.

G. PROPOSED ADOPTION OF A WITHDRAWAL ORDER FOR WHITEHORSE AND WILLOW CREEKS IN SOUTHERN HARNEY AND MALHEUR COUNTIES.

In early 1991, Oregon Trout requested the Water Resources Commission to withdraw, without any exemption, Whitehorse and Willow Creeks, located in Harney and Malheur Counties in southeastern Oregon, from further appropriation.

Whitehorse ranch appropriates almost all of the waters of Whitehorse and Willow Creeks for irrigation and stock watering. The ranch's water rights on the two creeks were adjudicated in 1989. The remaining lands through which Whitehorse and Willow Creeks flow are publicly owned. The public lands in the vicinity of the creeks are leased to the ranch for livestock grazing.

Whitehorse and Willow Creeks contain a rare species of fish, the Lahontan cutthroat trout. The Oregon Department of Fish and Wildlife (ODFW) estimates that the number of the trout in Whitehorse and Willow Creeks has declined by nearly 90 percent since 1985. ODFW blames inadequate instream flows and a degraded habitat for both the decline in numbers and a reduction in the historic range of the Lahontan cutthroat trout.

The Lahontan cutthroat trout is listed as threatened under the Federal Endangered Species Act of 1973 (Public Law 93-205). The Oregon Fish and Wildlife Commission has designated the trout as threatened under Oregon Revised Statutes (ORS) 496.172 to 496.192.

At its May 31, 1991, meeting, the Commission authorized the Department to conduct two public hearings to consider a proposed withdrawal of Whitehorse and Willow Creeks from further appropriation. The hearings were held in Burns and in Salem on September 16 and 25, 1991, respectively. Chair Stickel and Commissioner Bachman presided over the hearing in Burns. Commissioner Bachman presided over the hearing in Salem.

Various agencies, interest groups and individuals submitted written comments on the proposed withdrawal by the October 7, 1991, deadline. Additional comments were received when the hearing record was reopened and the written comment period was extended until December 18, 1991, at the request of some of the involved parties to submit additional information. The majority of those who offered testimony supported the proposed withdrawal. In all, about 22 people supported the withdrawal and 13 opposed it.

Director's Recommendation

The staff recommended the Commission adopt alternative 4 as shown in the Department's staff report.

[Cliff Bentz declared a conflict of interest and left the meeting table.]

Wayne Bowers and Al Mirati, Oregon Department of Fish and Wildlife, spoke in general terms about the area on and around the Sweeney Ranch.

Chair Stickel suggested a sentence to be added to the proposed order:

"A limited amount of irrigation use may be allowed from Whitehorse Creek that is not designated as critical habitat in the U. S. Fish and Wildlife Service recovery plan for the Lahontan cutthroat trout and which is consistent with that plan."

It was MOVED by Roger Bachman and seconded by Mike Jewett to adopt the order, as amended. Hadley Akins and Jim Howland voted no. Cliff Bentz abstained. The motion passed 4-2-1.

[Cliff Bentz returned to the table at this point.]

H. PROPOSED ADOPTION OF WILLAMETTE BASIN PROGRAM (OAR CHAPTER 690, DIVISION 502) AND APPROVAL OF BASIN PLAN

The development of the proposed Willamette Basin rules and plan has been the subject of several Commission work sessions. Those rules and the plan reflected substantive and editorial changes staff made to the documents as a result of public hearings held in May and early June. At the work session on December 19, 1991, staff presented the Commission with a matrix that clarified the evolution of the proposed groundwater rules and management proposals. The revised drafts proposed for adoption reflect the Commission's direction as presented to staff at the two work sessions.

The basin report, basin plan and basin rules were developed in the planning process. The discussion papers which identified management options and policies were the subject of a second round of town-hall meetings in June 1990. The report, based on those discussion papers, has been revised to reflect comments received during the planning process. The draft report was presented to the Commission at its meetings in March and April 1991.

Recommended management options and policies for all five issues are compiled in a draft basin plan. Public, work group and agency input was taken into consideration in selecting the recommended options. The plan identifies agencies and/or programs responsible for implementing the recommended management options. It also sets a course of action for coordination with local governments and representatives of municipal and industrial water users.

Director's Recommendation

The staff recommended that the Water Resources Commission:

- \* Adopt the Willamette Basin rules (OAR Chapter 690, Division 502).
- \* Approve the Willamette Basin plan.
- \* Authorize staff to schedule contested case hearings on the two reservation proposals.
- \* Concur with the basin plan implementing actions that direct staff to begin:
  - a more detailed groundwater study of the Parrett Mountain area,

- proceeding with the Serious Water Management Problem Area designations,
- coordinating with local governments on land uses and groundwater conditions in Spencer Creek and other areas with low-yield aquifers, and
- carrying out the land use coordination strategies.

- \* Authorize staff to make minor editorial changes and corrections to the rules and plan.

[This item was interrupted for the lunch break and delayed until after the time-specific Item J, scheduled for 1 pm.]

Chair Stickel recommended to the Commission, based on work with Cliff Bentz in the group, that the Commission authorize those two divisions to go out to hearing.

It was MOVED by Roger Bachman and seconded by Jim Howland to authorize sending Division 11 and 77 rules out for hearing. The motion passed unanimously.

It was MOVED by Mike Jewett and seconded by Anita Johnson to include other relevant rule divisions. The motion passed unanimously.

J. PROGRESS OF NEGOTIATIONS ON APPLICATIONS 71293 AND T-6621E, BUREAU OF RECLAMATION UMATILLA BASIN PROJECT, UMATILLA COUNTY.

Elaine Hallmark, Confluence Northwest, reported on the status of the negotiation on the above applications.

Hallmark said that parties to these negotiations started meeting in December 1991. Since the last Commission meeting, the Water Resources Department had begun a contested case process, and additional parties were identified through that means.

The negotiating group met for two days in January and scheduled an additional session for February 12. The group agreed on a number of conditions, resolving many issues.

The parties developed their comments and proposed language for the permit and exchange orders and expected to conclude this process at the February 12 session.

Following that meeting, the group expected to present a stipulated order by the end of February.

The Commission took no formal action on this item.

H. (continued)

Tom O'Connor, Eugene Water and Electric Board (EWEB), said that the Department had summarized EWEB's concerns. EWEB also recommended not limiting the municipal reservation to stored water only. He suggested the contested case process would identify water sources.

Bill Elliott, Oregon Water Utilities Council, recognized the time and effort that Greg Nelson and other agency staff members had expended on this project and appreciated their dedication.

Elliott said that the most recent draft of the Willamette Basin rules and plan contained important changes relating to municipal reservations on which there had been no opportunity to comment. The changes were of great concern to municipal drinking water providers, he said.

Elliott submitted amendments and his rationale for not limiting the municipal reservation to stored water. He said the Council members expected to participate fully in the contested case process to ensure that drinking water needs and economic development opportunities were satisfied.

It was MOVED by Jim Howland and seconded by Hadley Akins to delete the word "storage" from any reference to the municipal reservation requirements. The motion passed unanimously.

David Moon, Water for Life, complained about short public notice for preparing comments on the proposed municipal reservations and voiced concerns about the ramifications of some of the amendments being made today.

It was MOVED by Cliff Bentz and seconded by Mike Jewett to adopt the Director's recommendation, along with the motion already adopted on reservations, and with the following amendments, to:

- Change the heading on Page 6 (6) (a) to read, "Reservations for Economic Development";
- Add "irrigation" to the second line from where it had been deleted;
- Delete "for future economic development" from the same line;
- Delete on Page 7 (8), under Conservation, the word "measures" and add the words "specific conditions";
- Change any reference to "Groundwater Management Area" to "Groundwater-Limited Area."

The motion passed unanimously.

Hadley Akins suggested adding the phrase, "654,700 acre feet for agriculture purposes," to this section, as recommended by the Oregon Water Utilities Council, but cautioned that this endorsement did not include any of their other concerns. Cliff Bentz agreed.

It was MOVED by Mike Jewett and seconded by Cliff Bentz to initiate withdrawal procedures for the Parrett Mountain area.

The Commission further instructed the Department to start the process by putting out public notice with a brief description of the situation, schedule a hearing, go to hearing with a draft withdrawal order, take testimony, close the record, and return to the Commission with a recommendation for a final decision.

Mike Jewett amended his motion to include the above instruction. The motion passed unanimously.

#### I. REQUEST FOR APPROVAL OF SANDY RIVER SCENIC WATERWAY FLOWS FOR DIACK FINDINGS

The Sandy River Scenic Waterway Flow Assessment was first presented to the Commission at its May 31, 1991, meeting, but Clackamas County officials and citizens asked that the Commission delay action on the

recommended flows because of concerns that approval of the flows would hinder efforts to resolve water rights issues in the Hoodland corridor. The Commission agreed to delay action until its August 23 meeting, contingent upon development of a work plan by Clackamas County specifying how water rights issues might be resolved. At the August 23, 1991, meeting, Clackamas County presented a work plan and requested additional time to begin implementation. The Commission granted the request and deferred action on the recommended flows until its January 31, 1992, meeting.

#### Director's Recommendation

The staff recommended that the Commission approve the Sandy River Scenic Waterway Flow Assessment and the use of the recommended scenic waterway flows for making findings on water rights applications pursuant to the Diack decision.

John Borge, Clackamas County, briefly described some of the information the county has been gathering and the expected impacts in the Sandy River area.

It was MOVED by Jim Howland and seconded by Mike Jewett to adopt the flows as recommended by the Department. The motion passed unanimously.

#### K. INFORMATIONAL REPORT: PROGRESS ON DEVELOPMENT OF MUNICIPAL WATER CONSERVATION PLANNING REQUIREMENTS.

In December 1990, the Commission adopted the statewide policy on Conservation and Efficient Water Use. One principle in the policy requires major water users and suppliers to prepare water management plans under the guidance of schedules, criteria and procedures to be adopted by rule. The plans must evaluate opportunities for conservation and include a quantification of losses of water from the systems, an evaluation of the effectiveness and cost of alternative measures to reduce losses and an implementation schedule for all feasible measures.

A survey of municipal water suppliers conducted by the Department four years ago showed that only about five percent of municipal water suppliers had adopted water conservation plans. During the last year, the Department, at the direction of the Commission, has included in all new municipal permits a requirement that a water conservation management plan be prepared by the community. The plans must be submitted to the Department within one year after the Commission adopts standards for the plans. In addition, municipal permits include a condition that a plan/timetable be submitted which indicates the steps the community intends to pursue to obtain a long-term water supply.

The rulemaking schedule previously approved by the Commission calls for adoption of water management planning standards for municipalities and irrigation districts in October 1992. This will require that public hearings be held in June.

#### Director's Recommendation

This was an informational report only and no action was required. However, the Commission was asked to offer suggestions or to provide direction to staff, particularly with respect to scheduling a work session to address municipal application and planning requirements.

The Commission took no formal action on this item.

L. INFORMATIONAL REPORT: PROGRESS ON IMPLEMENTATION OF THE MIDDLE FORK JOHN DAY STREAM RESTORATION PROGRAM.

On April 19, 1991, the Water Resources Commission approved the Stream Restoration Program Report for the Middle Fork Subbasin of the John Day River. With the approval of this report, staff indicated that the stream restoration coordinator would make quarterly progress reports to the Commission and the John Day Basin Council.

The primary water resource problem in the basin is water quality (high water temperature). The lack of adequate flow is also an important issue. The Stream Restoration Program Report specified eight implementation actions to meet these and other resource issues. This progress report includes a summary of the status of each implementation action, the technical assistance and funding requirements associated with each action, and other significant developments.

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.

Chair Stickel asked staff to consider use of volunteers, automated measuring devices, and other approaches for monitoring water use in the planned evaluation of regulation strategy on the Middle Fork.

The Commission commended the Department staff on a good report but took no formal action.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Jan Shaw  
Commission Assistant  
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