

WATER RESOURCES COMMISSION

MEETING

SALEM

APRIL 24, 1992

MINUTES

Commission members present:

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

Water Resources Staff:

Bill Young
Jan Shaw
John Borden
Diane Reynolds
Steve Applegate
Mike Mattick
Ken Weese
Amin Wahab
Fred Lissner
Becky Kreag
Steve Brown
Larry Toll
Mike Ladd
Reed Marbut
Martha Pagel
Bud Bartels
Roelin Smith
Bob Main
Marc Norton
Rick Craiger
Bill Bledsoe
Tom Kline
Al Cook
Tom Paul

Others:

Kent Madison
Bob Hale
Doug Myers
Karen Russell
Keith Cyrus
Matt Cyrus
Jerry George
Todd Heidgerken
Jan Boettcher
Audrey Simmons
David Moon
Stephanie Burchfield
Marjo Nelson
Chris Eck
Charles Calica
Tom Hachtel
Scott Ashcom
Karl Anuta
Vincent W. Strand
Barry Stein
Bill Gauvin
Bill Brookes
Kip Lombard
Richard Whitman
Ladd Henderson
Clay Simon
Joe Hobson
Dan Bradley
Keith Petrie
Mike Walker
John Weber
Don Hansen
Mark Kintigh

Mary Evonuk
Cathryn Collis
Dan Halttonen
Milo Pearmine
Sylvia Beck
Walter Beck
Ed Heberlein
R.H. Whitby, PE
Linda Briggs
Ivan Bowers
M. Zimmerman
Helen Jacobsen
John Kelsch
Virgil Brown
Robert Jacobsen
Carol L. Breen
James Armpriest
Doris Brown
JoAnne E. Seibert
Adele Birnbaum
Adrienne Steele
Grace Howard
John W. Martin
Lorraine Milan
Tom Milan
John Milan
Mikelle Haines
Ervin Czimskey
Gayle Gilmour
Tom O'Connor
Jerry Schmidt

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 MARCH 12-13, 1992, WRC MEETING

Anita Johnson asked that Alternative 3 on Page 15 of the minutes be written out in full in order to clarify the Commission's action on the item.

It was MOVED by Jim Howland and seconded by Anita Johnson to approve the minutes as amended. The motion passed unanimously.

B. CONSIDERATION FOR APPROVAL OF APPLICATION R-71519 TO STORE THE WATERS OF HEINEY CREEK, TRIBUTARY OF JOHNSON CREEK (WILLAMETTE RIVER) FOR AESTHETICS AND RECREATION, CITY OF GRESHAM, MULTNOMAH COUNTY.

On April 19, 1991, the City of Gresham submitted an application to store 31.02 acre feet of water in two reservoirs for aesthetics and recreation.

Both structures are already in place on Heiney Creek, a tributary to Johnson Creek. The larger reservoir was built in 1957 to irrigate 89 acres. The City does not intend to allow the use of the reservoir as a source for irrigation but does use it for flood attenuation and water quality control. Conditions have also been placed on the permit which require the City to assist in the cancellation of the original storage right and the right to use stored water.

Reservoir "A" stores 30 acre feet of water behind a 25-foot-high earthen dam and Reservoir "B" stores 1.02 acre feet of water behind an 8-foot dam. Administrative rule 690-11-080(2)(a)(C) specifies that applications for dams greater than 20 feet in height shall be referred to the Commission to make a public interest determination under ORS 537.170.

Director's Recommendation

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

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

C. CONSIDERATION FOR APPROVAL OF APPLICATIONS G-12419, G-12420 AND G-12421 TO USE WATER FROM FIVE WELLS IN THE SQUAW CREEK DRAINAGE FOR QUASI-MUNICIPAL USE, IRRIGATION AND MAINTENANCE OF PONDS FOR AESTHETICS, KMB ENTERPRISES, DESCHUTES COUNTY.

An application in the name of KMB Enterprises was filed on January 16, 1991, for the use of 5,000 gallons per minute (gpm), from 4 wells (1, 2, 3 & 4), for the construction of a residential development and a golf course. The 5,000 gpm equals the pumping capacity of the highest yield well. When the applicant realized that the magnitude of the proposed use (over 5 cubic feet per second) would necessitate a Commission public interest review, and therefore a longer processing time, the requested appropriation was reduced to slightly below 5 cubic feet per second (cfs).

Three more applications in the name of KMB Enterprises were filed on February 20, 1991. The first was for the use of 800 gpm for quasi-municipal purposes from two wells, 1 & 2. The other two were for primary and supplemental irrigation and the maintenance of ponds for aesthetics. These two applications request the use of 1740 gpm (3.79 cfs) and 1530 gpm (3.41), respectively, from well number 5.

The application for construction was recently withdrawn and the one for quasi-municipal use was amended to include two additional points of diversion (wells 3 & 4). Since construction is a use encompassed by a quasi-municipal use, the earlier application was not necessary.

Director's Recommendation

The staff recommended Alternative 2, that the Commission find that the proposed uses of water for quasi-municipal use, irrigation, and maintenance of ponds for aesthetics 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 of Oregon, Inc., said that the conditions of the permit do not deal with the issue of what is happening as a result of the groundwater withdrawals and their effects on surface water. She said that the Department should not issue groundwater rights when those impacts are still unknown. Russell urged the Commission to delay issuance of the permits until the Department has more information and to direct the agency staff to develop mechanisms for reviewing these permits in order to better protect the resource. Russell also questioned issuing a quasi-municipal permit. She claimed that the Commission members did not have enough information before them to make those kinds of decisions.

Keith Cyrus, KMB Enterprises, described the water situation on his property and at the proposed well site where test pumping had exhibited good results. Cyrus said he did not anticipate any problems with the well.

Chair Stickel directed the staff to urge Deschutes and Jefferson Counties to seriously consider working with other agencies, federal or state, to gain a better understanding of this groundwater situation. That way, they might ensure that any comprehensive land use planning would meet state requirements that there be an adequate water supply.

It was MOVED by Hadley Akins and seconded by Jim Howland to amend the Director's recommendation to require measuring and annual reporting on any well(s) used for quasi-municipal purposes, and to otherwise approve the Director's recommendation, along with the chair's instructions as set out above. The motion passed unanimously.

D. PUBLIC COMMENTS

Kent Madison, Echo, said he wanted to bring the Commission up to date on what was being done in the basin in the way of recharge and recovery. The Commission urged him to work further with the agency staff on this.

E. COMMISSION COMMENTS

Jim Howland reported that he had attended the Department's public hearing the evening before on the allocation and storage policies. Howland said that 35 people were there, with 12 of them testifying. The continuing theme, he said, was about the 80% exceedance rule. Testimony held that the use of the resource was not being maximized and that agriculture should be considered a public use and benefit.

In connection with the storage concept, the witnesses claimed that the state should be more aggressive than the proposed policy would have it appear.

F. WATER DEVELOPMENT LOAN FUND (WDLF)

At the January 31, 1992, Commission meeting, questions were raised by Doug Myers of WaterWatch about the Commission's oversight of the Fund. The Department was asked to look into those questions and report back to the Commission. The report of the agency covered:

- A. The validity of Myers' charges.
- B. Water Resources Department's response to audits.

C. What the Commission's oversight of the Fund should be.

D. Other suggestions for change.

Doug Myers, WaterWatch, agreed with the Commission's recommendation to assign a Commission member to act as a liaison between the Commission and the loan fund staff. Myers also "wholeheartedly endorsed" moving the loan fund out of the Water Resources Department.

Roger Bachman volunteered to act as the Commission's contact point.

The Director recommended forwarding to the Commission any Attorney General's letters on the loan fund, after review by the liaison, as a method for keeping them current on conditions in the fund.

G. DIRECTOR'S REPORT

1. Late testimony: At its last meeting, the Commission directed the staff to prepare statements of the new policy on late testimony to be included on hearing notices and meeting agendas.

Director's Recommendation:

The staff recommended Commission concurrence on the suggested changes for notices and meeting agendas.

Commissioner Bachman suggested adding language to the first paragraph, as follows: "...the presiding officer will decide what testimony meets this test."

The Commission generally approved the Director's recommendation.

2. Drought Agreement: Pursuant to the provisions of OAR 690-19-080 and ORS 536.720, the Bend Metro Parks and Recreation District (Metro) submitted a "drought agreement" for consideration.

Metro is the owner of a parcel of land with a water right served by Tumalo Irrigation District (TID). Metro and TID signed an agreement to allow the Commission use of this right during the period of declared drought in Deschutes County. The water will be used to augment streamflows in Tumalo Creek and the Deschutes River. The Commission is the user and is a party to this agreement. This would usually occur when the right is to be used to enhance instream flows.

The agreement has been reviewed by Assistant Attorney General, Steve Sanders who advised