

Department staff introduced an amendment (below) to specify an effective date in both Divisions 11 and 77 for all applications on which no permit or certificate has been granted, application rejected, or contested case ordered on or before June 5, 1992.

Amendment to OAR 690-11-005 --

Add subsection (4):

"(4) These rules apply to all applications on which no permit has been granted, application rejected, or on which no contested case has been ordered, on or before June 5, 1992."

Amendment to OAR 690-77-000--

Add subsection (6);

"(6) These rules apply to all applications on which no certificate has been granted, application rejected, or on which no contested case has been ordered, on or before June 5, 1992."

It was MOVED by Cliff Bentz and seconded by Roger Bachman to adopt the Director's recommendation on the proposed rules, as amended. Mike Jewett did not vote. The motion passed 6-0.

[Mike Jewett returned to the table at this point.]

L. REQUEST FOR AUTHORIZATION TO INITIATE WITHDRAWAL PROCEEDINGS FOR A LOST RIVER GROUNDWATER RESERVOIR, KLAMATH COUNTY.

Department staff have noted declines in the discharge of Big Bonanza Springs in the Lost River Drainage of the Klamath Basin. Discharge rates have been monitored periodically since 1918. Measurements have been made by the Bureau of Reclamation, U.S. Geological Survey, and Water Resources Department. Measurement data gaps of 10 to 30 years are common in the record. Spring flow measurements taken by Del Sparks (local watermaster) at Bonanza Springs indicate approximate average flow in 1980 and 1981 of 93 and 78 cubic feet per second (cfs), respectively. Measurements taken in January 1992 were 38 cfs. Observations from local residents confirm a significant decrease this year.

The aquifer appears to be connected with the springs, and staff cannot make water availability findings with current data. Discharge rates have been monitored periodically since 1918. Measurements have been made by the Bureau of Reclamation, U.S. Geological Survey, and Water Resources Department. Measurement data gaps of 10 to 30 years are common in the record.

Spring flow measurements taken by the local watermaster at Bonanza

Springs indicate approximate average flow in 1980 and 1981 of 93 and 78 cubic feet per second (cfs), respectively. Measurements taken in January 1992 were 38 cfs. Observations from local residents confirm a significant decrease this year.

These springs are major contributors to the Lost River below Bonanza. Currently, Lost River is dry above Bonanza.

DIRECTOR'S RECOMMENDATION

Staff recommended Alternative 4, that the Commission authorize the initiation of withdrawal and rulemaking proceedings for a Lost River groundwater reservoir in the Bonanza Springs area, with exceptions for the city of Bonanza, drought permits and exempt uses; existing applications would be held until the springflows recover, new information is found that shows new uses would not harm the public interest, or December of 1997.

Pam Wiersma said she farms 400 acres across the river from Bonanza and protested any withdrawal of these groundwater appropriations.

Don Horsley, Horsefly Irrigation District, urged the Commission to approve applications for the use of groundwater for agricultural uses within the boundaries of the district. Horsley also submitted an agreement to that use of water, signed by a number of Bonanza residents.

[Vice-chair Cliff Bentz left the meeting at this point.]

David Moon, Water for Life, said there were no grounds for initiating a withdrawal proceeding.

Brad Bennett, Bonanza, submitted a letter signed by users of the Lost River groundwater reservoir in the Big Springs area asking that the Commission not initiate withdrawal proceedings for the Lost River groundwater reservoir.

Frank Hemmerich thought that the facts did not support a withdrawal of the groundwater in the Bonanza area.

Stan Masten, Masten & Son, thought that the staff recommendation was a negative approach to the water use in the Bonanza area and was based on inadequate information.

Scott Miller made a number of points: (1) Well applications prior to the declaration of drought should not be included in a permit moratorium; (2) Lands in the Yonna Valley area should not be included in a permit moratorium; (3) The current well permit process is extensive and protective enough; and (4) Applicants outside an established irrigation district need protection from a moratorium.

Grant Smith, Bonanza, submitted a number of comments: (1) The landowners in the Big Springs area said that the wells are not affecting their spring flow; (2) The water quality problem in Bonanza during 1991 is not a problem this year; (3) The lack of irrigation water is harmful to the abundant wildlife which inhabit the area; (4) The crops from these irrigated fields are mostly sold in Oregon; (5) The watermaster for the Klamath County area has already researched the effect of the agricultural wells upon the springs in Langell Valley; (6) The water level in a state test well has not changed since it was drilled; and (6) The majority of the wells discussed in the Department's staff report are for supplemental irrigation rights only.

Karen Russell, WaterWatch, said she fully supported the Department in initiating the withdrawal proceedings but recommended a modified pattern of withdrawal. Division 9 rules, she said, must be amended to allow regulation of the resource if the use is affecting surface water. She also urged the Commission to issue warnings to applicants that their water use may be regulated in the future.

William Kennedy agreed that the Commission must conserve groundwater but thought that processing and issuance of supplemental water permits should proceed with no restrictions.

Jeff Barry, CH2M Hill hydrogeologist, represented a client who wanted to locate a facility near Bonanza but had serious concerns about the Department's recommendation. Barry went on with comments on technical aspects of the report.

It was MOVED by Mike Jewett, seconded by Anita Johnson, to approve the staff recommendation, with the exception of the change recommended by Mr. Hammerich in Alternative 4.

[Jim Howland declared a conflict and withdrew from discussion or voting.]

Commissioners Akins and Bachman voted no. Commissioner Howland did not vote, and Vice-chair Bentz was absent. The motion failed 3-2.

[Jim Howland returned to the discussion at this point.]

J. REQUEST FOR APPROVAL OF DEPARTMENT PROPOSAL TO REDUCE THE BACKLOG OF WATER RIGHT PERMIT APPLICATIONS

Staff report Agenda Item H, presented to the Commission at its April 24, 1992, meeting described the current water right application backlog pending before the Department. That report explained that there is currently a backlog of approximately 2770 applications awaiting Department review; the rate of application filing has more than doubled in the last two years; this new workload increase is expected to accelerate due to the discovery of a substantial number of illegal stock ponds. In addition, due to

an escalation of basin-specific environmental and water availability issues and an increase in the number of comments and objections filed on applications (comments and objections are filed on virtually every application), application processing has become more complicated and time-consuming.

In the April 24 report, the Director set out four recommendations staff believed would facilitate reduction of the application backlog. Included was a recommendation that all applications received after April 1, 1992, be placed "on hold" pending reduction of the backlog to a reasonable level.

At its April 24 meeting the Commission expressed concern with the concept of a total processing moratorium and indicated that it would prefer that staff develop a backlog attack plan that could be implemented in the short term without causing significant reduction of other Department programs. In addition, the Commission felt that a short term accelerated process should be implemented whether or not long term processing efforts, such as basin planning updates, were developed.

DIRECTOR'S RECOMMENDATION

The Department recommended that the Commission approve the proposed application processing strategy and authorize staff to proceed.

This item was deferred until the next meeting of the Commission.

K. UPDATE ON JOHN DAY BASIN STREAM RESTORATION PROGRAM AND REQUEST FOR IMPLEMENTATION AUTHORIZATION

On April 19, 1991, the Water Resources Commission approved the Stream Restoration Program Report for the Middle Fork Subbasin of the John Day River. On January 31, 1992, staff gave an informational report to the Commission on the progress of implementing the stream restoration program. The present report was intended to update the Commission on the progress of the stream restoration program since the last report. Additionally, approval of a strategy for allocating state stream restoration funds is sought.

Stream restoration programs are currently drafted for the North Fork, Main Stem and South Fork John Day River Subbasins and Rock Creek Subbasin. The Bureau of Reclamation has taken the lead in developing the Main Stem, South Fork, and Rock Creek Subbasins. When completed, these program reports will be brought before the Commission for approval.

DIRECTOR'S RECOMMENDATION

The staff recommended that a Water Resources Commission subcommittee be formed to work with staff and the John Day Basin Council to allocate the state stream restoration funds.

Roger Bachman volunteered to act as a Commission subcommittee of one on this matter.

It was MOVED by Mike Jewett and seconded by Anita Johnson to approve the Director's recommendation and to accept Bachman's offer to serve as a subcommittee. Cliff Bentz was absent. The motion passed 6-0.

M. REPORT OF REGIONAL REVIEW COMMITTEES ON THE DEPARTMENT'S ENFORCEMENT PROCESS

At the direction of the Water Resources Commission, five regional enforcement review meetings were held. The meetings were for the purpose of obtaining citizen comments about the Department's enforcement process and suggestions for improvement. In all, forty-five people were invited to participate. Those invited represented a cross-section of water users and interest groups from each regional area.

Each meeting followed the same agenda. The 1991 Surface Water Regulation Summary was presented and discussed. This report summarizes the streams that are regulated each year and the reasons for regulation. A summary of formal enforcements for 1991 was also discussed at each meeting, and two sets of administrative rules, Division 250 and 260, relating to water distribution and civil penalty administration, were made available for review.

The regional review committees agreed that these meetings were educational and useful for public input to the Department's enforcement process. Each committee felt that the meetings should be continued on an annual basis.

There was consensus that the Department should continue its policy of trying to obtain voluntary compliance with rules and laws before using civil penalties or prosecuting in the courts for violations.

A significant outcome from the meetings was that there is general support for the Department policy of trying to obtain voluntary compliance before using formal enforcement methods.

Helpful comments on the organization and content of the Surface Water Regulation Summary will be incorporated in the 1992 report.

The Division 250 and 260 Administrative Rules will be reviewed on the regular triennial rule review schedule.

DIRECTOR'S RECOMMENDATION

This was an informational report and no Commission action was required. Staff recommends that regional enforcement review meetings be continued on an annual basis.

Item M, above, was deferred to another WRC meeting.

On another subject, it was MOVED by Mike Jewett and seconded by Jim Howland to approve the order lifting the stay for the Parrett Mountain withdrawal. Cliff Bentz was absent. The motion passed 6-0.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Jan Shaw
Commission Assistant