

Department will begin publishing weekly reports on water conditions.

Doug Parrow presented the Commission with two proposals for action relating to the preparation of conservation and curtailment plans. Alternative 1 would require preparation of conservation and curtailment plans by certain state agencies and political subdivisions statewide; and Alternative 2 would require preparation of conservation and curtailment plans for state agencies and political subdivisions only in the 13 counties in which drought declarations have been made. After much discussion, Alternative 1, "Order Requiring Preparation of Emergency Water Curtailment Plans," was amended as follows:

Under Findings:

Insert the language as Finding 5, "Irrigation water supplies for more than 30 percent of districts are expected to have been exhausted by the end of July. Supplies for more than 70 percent of districts are expected to have been exhausted by the end of August.

To the former Finding 6, now Finding 7, in the first line insert "emergency" before "water," delete "conservation and," insert "or reports" before "by."

To the former Finding 7, now Finding 8, in the fourth line insert "emergency" before "plans." In the fifth line delete "conservation and," insert "use after "water."

Change the former Finding 8, now Finding 9, to read, "Counties use water for institutional uses such as parks. The preparation of emergency plans by all counties for the curtailment of water use not covered under plans submitted by the entities listed in Finding 10 is necessary to fulfill the purposes of ORS 536.780."

Change the Finding 9 to Finding 10. In the first line insert "providing wholesale and/or retail service to" after "for," and delete the word "serving." Add to the list of municipal water services Mt. Scott Water District, South Fork Water Board, and City of West Linn. Change the last sentence to read, "The preparation of emergency plans for the curtailment of water use by these municipal water suppliers is necessary to fulfill the purposes of ORS 536.780."

Change Finding 10 to Finding 11, and change the last sentence to read, "The preparation of reports of emergency water curtailment by these agricultural water suppliers is necessary to fulfill the purposes of ORS 536.780."

Change Finding 11 to Finding 12. In the third line, change it to read "Findings 8, 9, 10 and 11." The last sentence now reads, "The preparation of plans for or reports of emergency water curtailment

by other entities identified by the Director is necessary to fulfill the purposes of ORS 536.780."

Change Finding 12 to Finding 13. The last sentence now reads, "The preparation of emergency plans for the curtailment of water use by entities so affected is necessary to fulfill the purposes of ORS 536.780."

Under Order:

Number 1 reads, "The state agencies and political subdivisions of the state listed in Findings 8, 9 and 10 shall prepare and submit to the Water Resources Department emergency plans for the curtailment of water use pursuant to OAR 690-19-090 by August 31, 1992."

Number 2 reads, "The political subdivisions of the state listed in Finding 11 shall prepare and submit to the Water Resources Department reports of emergency water curtailment pursuant to ORS 690-19-090 by September 30, 1992."

Number 3 reads, "Authority is delegated to the Director to order additional agencies and political subdivisions of the state as identified under Findings 12 and 13 to prepare and submit to the Water Resources Department plans for or reports of emergency water curtailment pursuant to OAR 690-19-090 within 30 days of the date of the Director's order."

Number 4 reads, "The Director may extend by up to 90 days the time allowed for submittal of plans for or reports of emergency water curtailment on request of a state agency or political subdivision if the Director finds that the plan or report would not materially aid in curtailment of water use this year."

[The complete revised document is on file at the Department of Water Resources, 3850 Portland Rd. NE, Salem.]

#### DIRECTOR'S RECOMMENDATION

The Director and staff recommend that the Commission adopt the statewide order in Attachment 1, as amended by staff.

Gene Allen, Barry Beyeler, City of Boardman, outlined in a letter some of the steps the city is already taking in the interest of good water management. Education of the public in Eastern Oregon regarding the water shortage has been going on for years, and the community has been very supportive. They asked for an exception should the Commission adopt Alternative 2 recognizing the city has a well head demonstration project in process and the information from that project will not be available until September.

Kip Lombard, Jan Boettcher, Oregon Water Resources Congress, said they realize there is a need for conservation and curtailment but do not feel the August 17 date is realistic. Irrigation district water managers are working long hours to allocate what water is left. Most of the storage has been depleted. Out of 27 irrigation districts surveyed, one-third will be through operating by the end of July, two-thirds will be through operating by mid August. They requested that the Commission consider asking for the curtailment plans before the next season.

Laura Schroeder, representing local irrigation districts, spoke against the recommendations in both E-1 and E, and distributed two written documents to the Commission explaining her concerns.

Steve Bloom, representing Columbia Improvement District, Stanfield, Westland, and Hermiston Irrigation Districts, said that it is too late to request curtailment plans.

Brian Stahl, City of The Dalles, spoke against the request for curtailment plans by August 17. Water utility managers desire to have water management within the state be a joint effort between state agencies and the affected public. He asked the Commission to consider cost benefit analysis, inadequate public input, poor timing, plan quality due to short notice, lack of exceptions and variances, and the limited time Department staff would have to review plans.

Karen Russell, Ann Perrault, WaterWatch, said they feel curtailment is going on but suggested the Department can do more under the current drought statute to help mitigate the effects of drought. WaterWatch is concerned that sufficient public interest determinations are not being documented in the drought emergency permits. Rules should provide for public involvement -- perhaps 20 days. The rules currently don't speak to transfer and exchange permits. The drought might have the affect of authorizing more water use than would ordinarily be authorized. They asked that the Department implement the drought rules as written and interpreted by the Attorney General's office so that those suffering from the drought, and otherwise entitled to water under the drought, receive water.

It was MOVED by Hadley Akins and seconded by Anita Johnson to adopt the proposed amended order, Alternative 1, to be mailed with a letter of explanation from the Director. The motion passed unanimously.

F. STATUS REPORT AND REQUEST FOR APPROVAL OF INTERIM STRATEGIES FOR ADDRESSING APPLICATIONS FOR NEW USES OF WATER ON THE COLUMBIA AND SNAKE RIVERS AND THEIR OREGON TRIBUTARIES ABOVE BONNEVILLE DAM (RELATED TO LISTINGS OF THREATENED AND ENDANGERED SALMON SPECIES)

The states of Idaho and Washington have taken formal action regarding permits from the Columbia and Snake River systems. Washington is in the process of withdrawing the Columbia and Snake Rivers from further appropriation, affecting applications filed after December 20, 1991. Idaho, partly in response to severe drought conditions, has placed a moratorium on permit processing. The action allows the Idaho Water Resources Department to consider domestic and municipal uses and permits necessary for public health and safety.

In Oregon, there are currently eight applications pending on the main stem Columbia above Bonneville Dam, six on the Snake main stem and 864 applications on the tributaries above Bonneville. At its meeting in November 1991 the Commission directed staff to delay processing these pending permit applications until more information is available regarding future salmon recovery needs. The Commission then requested a follow-up report in July 1992.

#### DIRECTOR'S RECOMMENDATION

The Director and staff offered a revised recommendation to the Commission. Pending applications would be processed on a case-by-case basis rather than being put on a blanket "hold." The Columbia River, Snake River and tributaries would be temporarily closed to most new applications until a final salmon recovery plan is adopted.

Frank Harkenrider, Mayor of Hermiston, spoke in support of the Hermiston Development Corporation permit application.

Representative Chuck Norris spoke in support of the Hermiston Development Corporation permit application.

Senator Scott Duff encouraged the Commission to grant the 3 pending applications, and not proceed with a moratorium. Scientific information is not available to prove that granting these permits would harm the salmon.

David Moon, representing Water for Life, urged caution in adopting these proposals -- would instead encourage the Department to maintain flexibility. He favored considering applications on a case-by-case basis, and opposed a temporary closure on new applications. Water for Life feels that the 80 percent exceedance standard is an abnormally high standard, and would essentially have the same results as a closure.

Joe Burns and Fred Ziari, representing Hermiston Development Corporation, encouraged approval of the permit application. Hermiston Development Corporation has been working with WaterWatch and the tribes in formulating this project. The project would be a problem-solving project, restoring fish to the Umatilla River by adding 80 cfs of water, stopping the declining aquifers of the

area, primarily the Stage Gulch area, and securing the value-added agricultural economic base of this area.

Bruce Lovell and Dr. Darryll Olsen, Northwest Irrigation Utilities, spoke in support of the Hermiston Development Corporation application.

Mac Campbell spoke in favor of the Hermiston Development Corporation application.

Steve Mills spoke in favor of the Hermiston Development Corporation application.

Bill Reynolds spoke in favor of the Hermiston Development Corporation.

Laura Schroeder, representing the Hermiston Development Corporation and local irrigation districts, spoke in favor of the permit.

Kip Lombard and Jan Boettcher, representing Oregon Water Resources Congress, encouraged the Department to proceed with pending applications and maintain flexibility to address any future project which would meet the public purpose of augmenting and enhancing flows. They spoke in opposition to any type of temporary closure and encouraged staff to establish rules and procedures that would allow the Department to continue to receive applications with the guidelines applied consistently to pending applications. They spoke in support for the reservation for the Burnt River Irrigation District which has the potential for allowing flows to go into the Snake River.

Ed Glenn, Boardman Chamber of Commerce, spoke in support of the Port of Morrow's application, and continued access to the Columbia River water.

Martin Davis, Oregon Economic Development Department, submitted written testimony in support of the water availability from the Columbia to local irrigators.

Lisa Mittelsdorf, Port of Morrow, spoke in support of their permit application.

Rick George, representing the Confederated Tribes of the Umatilla Indian Reservation, expressed much concern with the rate of salmon extinction. The tribes do appreciate the Department's proposed interim strategy in dealing with the impact of water management practices on salmon. The tribes support the concept of the Hermiston Development Corporation proposal; however, much work has to be completed before the tribes can give full support to the project itself.

Karen Russell, representing WaterWatch, asked that the Commission wait to take action on this permit application until more details are available. The organization favored conditioning the permit if it is approved to make sure fish flows and development corporation needs are met. WaterWatch does believe that this can be a project to benefit all parties involved. She urged the Commission to establish an instream water right for the Columbia River system and to restore streamflows.

Stephanie Burchfield, Dept. of Fish and Wildlife, offered to bring department staff to an upcoming Commission meeting to discuss the salmon flow data. The Northwest Power Planning Council and the Salmon Recovery Team would be an appropriate forum for these discussions -- they will determine what flows are needed, our role is to work out how to allocate water within those boundaries. ODFW supported the staff recommendation in Alternative 1 with minor modifications -- if an agreement can be reached the permit should be approved. ODFW partially supported staff recommendation Alternative 2 asking for delay in processing of pending applications from the Columbia, Snake, Grande Ronde and Imnaha Rivers except for those designed to improve conditions for anadromous fish or that are essential to public health and safety. ODFW does support the temporary closure rule for new applications out of the Columbia Basin.

Following the public comment on this issue, Director Pagel and staff presented a revised recommended alternative for the Commission's consideration. The revised alternative was handwritten on a flip chart, and summarized as follows: The Department would proceed with pending applications using the same standards applied to all pending applications on case-by-case basis. New applications would be handled in the same manner described in the recommended staff report.

Revised Alternatives 1 and 2 both call for rulemaking by basin plan amendments to temporarily close new applications until the Recovery Plan is in place. New applications received after today would not be processed to avoid a run on permit filing applications between now and when the hearings are held.

Under Alternative 2, both pending and new applications would essentially await reclassification as proposed in the staff report.

Cliff Bentz asked staff to present a report to the Commission giving staff's "best guess" regarding what part the decision made today will play in future negotiations with other states.

It was MOVED by Jim Howland and seconded by Roger Bachman to accept the revised Alternative 1 as described by Director Pagel. The motion passed unanimously.

G. CONSIDERATION OF PETITIONS TO AMEND THE POWDER RIVER  
BASIN PROGRAM TO WITHDRAW MILL, MARBLE, PINE AND GOOSE  
CREEKS FROM FURTHER APPROPRIATION

In April the Baker County Court requested the Commission withdraw Pine Creek and tributaries from further appropriation, including instream water rights. In considering the request, the Commission reiterated its policy on instream flow protection and agreed that instream water right issues should be addressed through the instream water right process. In response to the April request, the Commission directed staff to assist the county to prepare rulemaking petitions if the county chose to proceed with the requests. Staff did assist the county in preparing petitions. On June 22, 1992, the county submitted rulemaking petitions that complied with provisions of the APA. The Commission must reject a petition or initiate rulemaking within 30 days of receiving a rulemaking petition. After reviewing the petitions, staff concluded that the proposal as presented, to withdraw Mill, Marble, Pine and Goose Creeks and tributaries from further appropriation, including instream water rights would be contrary to the Commission's current policy on instream flow protection.

DIRECTOR'S RECOMMENDATION

The Director and staff recommend the Commission reject the petitions, but consider the need for future withdrawal of the subject streams in connection with the basin program review process.

Karen Russell, representing WaterWatch, spoke in support of the staff recommendation, and asked that any withdrawal exclude instream water rights.

Steve Bogart, Baker County Judge, and Gerald Maxwell, Baker County Soil and Water District spoke in support of the withdrawal and encouraged the Commission to accept Alternative 1.

Stephanie Burchfield, representing the Department of Fish and Wildlife, spoke in support of Alternative 3 to reject the petitions, but would also accept Alternative 2.

Referring to a previous agenda item just passed, Director Pagel explained that these streams are within the area that would be involved in the rulemaking process for temporary closure as to new applications anyway.

It was MOVED by Anita Johnson and seconded by Mike Jewett to accept the staff recommendation. The motion passed unanimously.

Cliff Bentz told the Baker County citizens that an appropriate time to raise these issues would be when instream water rights are filed.