

WATER RESOURCES COMMISSION MEETING  
GRANTS PASS  
AUGUST 28, 1992

Commission Members Present:

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

WRD:

Martha Pagel  
Diane Reynolds  
Cindy Smith  
Steve Applegate  
Tom Kline  
Becky Kreag  
Greg Nelson  
Beth Patrino  
Bev Hayes  
Barry Norris  
Rick Craiger  
Doug Parrow  
Weisha Mize  
Jerry Lidz  
Fred Lissner  
Mike Zwart  
Donn Miller  
Reed Marbut  
Steve Brown  
Doug Woodcock  
John Borden  
Al Cook  
Bob Pierce  
Bruce Sund

Others:

Glenn C. Welden  
Karen Russell  
Audrey Simmons  
Bill Duncan  
Barbara Bean  
Jan Boettcher  
David Moon  
Todd Heidgerken  
Stephanie Burchfield  
Shirley Bryant  
Rep. Chuck Norris  
David Craig  
Norman E. Daft  
Edward Olson  
Lisa Zavala  
Ron Yockim  
Holly Manke White  
Bob Steimer  
Paul Eheide  
James Luzier  
Ben Wright  
Bill Brewer  
Laura Schroeder  
Chet Prior  
Bill Porfily  
Harold Haugen  
Jack Goldwasser  
A. C. Rohrman  
Kip Lombard  
Tom O'Connor  
John Freeman

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 JULY 16-17 MEETING

It was moved by Jim Howland and seconded by Mike Jewett to approve the minutes as submitted. The motion passed unanimously.

B. COMMISSION COMMENTS

Mike Jewett welcomed everyone to Southern Oregon.

Roger Bachman reported on the Water Development Loan Fund. The clients prevailed in a class action suit -- there is no judgement as of yet. The department will move forward with an appeal. The Sand Hollow Pipeline loan appraisal figure is approximately \$1,500,000; this figure is less than the outstanding balance of the loan. Foreclosure actions are still being pursued by the department. Bankrupt borrowers of another loan have not yet submitted a reorganization plan to pay off all their debts.

Bachman reported that he wrote a response to a misleading article that recently appeared in the Willamette Week.

Bachman commented on a report submitted regarding allocation of John Day River Basin stream restoration funds. He and Anita Johnson served as members of a subcommittee charged with the responsibility of deciding how to use the \$80,000 in restoration grants provided by Senate Bill 5576. In prioritizing projects consideration was given to: the health of the watershed, the availability of traditional programs to address the concerns, the amount of local support for the project, and the expected resource returns from both the restoration grants funds and any associated projects or additional funding. It was recognized that water quality and water quantity are inextricably linked and that there is a need for monitoring to determine baseline conditions and determine whether the stream restoration program is meeting its goals. The Funding Committee set the following priorities for funding projects: Ranch Plan, \$25,000; Riparian Easements, \$5,000; Water Quality and Quantity Monitoring, \$10,000; Alternate Stockwater Sources, \$12,000; Upper Main Stem John Day Aquifer Optimization, \$10,000; Beaver Management, \$3,000; Water Conservation, \$5,000; and North Fork John Day Fencing, \$10,000. Staff will provide updates to the Commission periodically as contracts are signed and projects are implemented. This was an informational report so no action was necessary.

Audrey Simmons, WaterWatch, commented that she hopes that as we move toward the legislative session, there will be a distinction between stream flow restoration (water in stream and protected for public uses) and stream restoration. WaterWatch questions spending limited public funds for private purposes.

Martha Pagel reported that the department will be submitting a proposed budget in September to the Executive Department. It will then be reviewed by the Governor and Executive Department staff to become part of the Governor's recommended budget. A detailed report of the department's budget and legislative concepts will be presented at the October Commission meeting.

Pagel mentioned the September schedule for public meetings on the water management planning program. Commissioners are invited to attend and participate in any of these hearings.

At the July meeting the Commission had asked staff to report back with more information on Columbia River issues and activities. Pagel informed the Commission that the department is planning on an informative presentation at the November meeting. Invited to participate will be representatives from the Power Planning Council and other states to discuss with the Commission what they are doing and how they see the roles coming together. The department has received a petition for emergency rulemaking from WaterWatch regarding these Columbia River issues. This petition is considered under Agenda Items I and J.

Pagel reported that a petition for rulemaking had been received from the South Slough National Estuarine Research Reserve asking the Water Resources Commission to amend the basin plan to withdraw from further appropriations within the South Slough boundaries. The South Slough Commission has the responsibility to provide for the ongoing integrity of that estuary as a research and educational area. Pagel and staff recommended not granting the petition for rulemaking since there is an existing schedule for basin plan changes and the South Coast will be considered in mid 1993. Agency staff will work with the South Slough Commission, providing them with any notices of permits or applications and inviting their participation using the existing basin plan standards.

It was MOVED by Mike Jewett and seconded by Roger Bachman to deny the petition received from the South Slough Reserve. Motion passed unanimously.

The city of Talent is facing serious problems with their drinking water supply because of the drought. Al Cook, Southwest Regional Manager, and Bruce Sund, Water Master, reported on the situation and possible alternatives. Cook reported that Talent Irrigation District which delivers water to the city of Talent is ceasing operation. Department staff met with representatives of the cities of Medford, Phoenix and Talent, and the Talent Irrigation District to discuss alternatives. These alternatives are: 1) out of Emigrant Lake; 2) City of Ashland's effluent from the treatment

plant; 3) a combination of Emigrant Lake, some of the effluent, and the Applegate River using Talent Irrigation District's conveyance system to deliver the water; 4) link up Medford to Phoenix and on to Talent using fire hoses where the system is lacking. The city of Talent has not asked the department or Commission for immediate relief. The city does have a curtailment ordinance but has not exercised the more restrictive elements of it. There may be the need for emergency action by the Commission should the city not be able to find sufficient water supply.

The Talent Irrigation District would normally shut off on October 31, rather than right now. Flows in Wagner Creek are normally replenished by that time to supply the city with water.

Stickel recommended that Talent implement curtailment provisions if the Commission is asked to grant a preference to the city due to drought emergency. Cook did inform the city of this.

It was agreed that Director Pagel would contact the Commission if any action becomes necessary.

Pagel reported that she has met with department staff in the Southern, Eastern, and South Central regions. She will visit the North Central office next week, and plans to schedule time soon with the Northwest Region staff in Salem.

#### D. DROUGHT UPDATE

Barry Norris reported that Oregon is in its sixth year of drought. July temperatures were above normal over most of the state. Warmer weather means more demand for the dwindling water supplies. Streamflow conditions remain critical at about 50 percent of normal for July and 48 percent for the water year. The weather forecast is for warm temperatures and less than normal precipitation. Many reservoirs are dry. There have been federal declarations for feed assistance by the Secretary of Agriculture in Crook, Harney, Malheur, Lake, Wallowa, Lincoln and Morrow Counties. When those counties receive that declaration, all adjacent counties are also eligible for 50 percent feed assistance. The Governor has made the request to the Secretary of Agriculture for drought declarations under the Farmers Home Low Interest Loan Program for Harney, Jackson, Malheur, Umatilla and Wasco Counties. If this request is granted all counties adjacent to these counties would be eligible for low interest loans. Eighteen Oregon counties have a drought declaration by the Governor. Department field staff have been very busy regulating and protecting instream uses throughout the state. Barry said that it will likely take at least two years for the state to recover if we have normal-to-wet seasons.

E. CONSIDERATION OF THE CONTINUED WITHDRAWAL OF BASALT  
GROUNDWATER FROM FURTHER APPROPRIATION AT NORTHERN  
PARRETT MOUNTAIN, IN WASHINGTON AND CLACKAMAS COUNTIES.

Martha Pagel explained that material in the addenda to Items E and F are the result of a recent meeting of Department staff with representatives of Friends of Parrett Mountain, Citizens Allied for a Rural Environment, the Oregon Ground Water Association, and Manke Lumber Company. She said this was a very constructive process and may result in some alternatives that may be less controversial.

Donn Miller gave a briefing on the background of this item and reviewed alternatives presented in the staff report. The department held a hearing in Newberg on July 15, 1992, on a proposal to continue the rule withdrawing from further appropriation the unappropriated basalt groundwaters of Northern Parrett Mountain until March 13, 1994. Commissioner Bachman was the hearings officer; approximately fifty people attended. The purpose of the proposed withdrawal is to prohibit additional groundwater use for a period of time necessary for the department to perform a groundwater study. The hearing testimony was balanced between support and opposition to the proposal. Further technical investigation by the department was generally supported but some questioned the department's commitment to a thoughtful study. Comments against the proposal stressed financial impacts to landowners, credibility problems, and lack of a technical basis.

Based on the technical record, it is clear that some basalt groundwater levels in wells on Northern Parrett Mountain have been lowered. Declines or drops range from a few feet to over 300 feet. The causes for the declines or drops are pumpage (use), lack of precipitation for normal recharge, and commingling within wells. The largest declines are due to the commingling of waters of different pressures from different water-bearing zones within a well. Commingling serves to mask the declines due to other causes, but these other causes are small in comparison. Weather-related declines are probably insignificant.

Miller gave revised numbers to a July 29 memo regarding Build-out Analysis of Northern Parrett Mountain, the last page of the Agenda Item E report. In Section 5, the number of existing dwelling units is changed to 72, and the number of potential new dwellings to 24; in Section 7 the number of potential new dwelling units is changed to 118-180, in Section 8 existing dwelling units should be 63, and potential new dwelling units should be 21. The totals are now 181 for existing dwelling units, and 163-225 for potential new dwelling units. In the last paragraph of that memo, second sentence, the number of "existing" dwelling units should be is changed to 202; and in the last sentence, 150 should be changed to 202.

An issue that came out of the July hearing was the Department's commitment to a conscientious groundwater investigation of the Parrett Mountain area. The study should disclose valuable new information but some expectations may be unrealistic due to limited staff and budget.

Miller reviewed the alternatives proposed in the staff report and explained that a fourth alternative (offered in an addendum to Agenda Item E) resulted from an August 19, 1992, meeting with representatives of Friends of Parrett Mountain, Citizens Allied for a Rural Environment, the Oregon Ground Water Association, and Manke Lumber Company.

Martha Pagel explained that staff was supportive of the proposal contained in Alternative 4. In developing this alternative, the hope was to reduce some of the conflict that has been associated with this issue, but perhaps this won't be possible. Pagel suggested the Commission may want to ask questions of the representative groups. She noted by putting this language into the plan that creates a classification, the Commission would not be approving any water right or request, but opening the door to consider it.

George Burns, Friends of Parrett Mountain, spoke in support of Alternative 2. He encouraged staff to study this area further to decide how much water is actually available. His group is concerned that a community well would encourage more new residences and would take water from existing individual residential wells.

Miller explained that Alternative 4 includes a reclassification that would allow exempt uses, domestic uses (community well), and the rural fire protection use. It would revoke the order of withdrawal, putting all the cards on classification without any lapse; would repeal the temporary rule on withdrawal; and would fulfill the other commitments of the agency.

Commissioner Bachman asked if it would be possible to consider at a later date reducing the three-square-mile boundary for Alternative 2 or 4. Miller responded that it would be possible for the Commission to consider this, if the future study determines that the size of the area can be reduced.

#### DIRECTOR'S RECOMMENDATION

The Director and staff recommended the Commission consider the additional option of a basin plan change as described in Alternative 4 (the written addendum to Agenda Item I), in concert with the basic policy direction of Alternative 2 in the original agenda item.

The Commission decided to listen to the staff presentation of Agenda Item F before hearing public testimony on both Items E and F.

F. CONSIDERATION OF SPECIAL AREA STANDARDS FOR THE CONSTRUCTION AND ALTERATION OF WELLS COMPLETED IN BASALT WITHIN THE PARRETT MOUNTAIN AREA

The Commission adopted special area well construction standards for the Parrett Mountain area as a temporary rule at their March 13, 1992, meeting. Commissioner Bachman presided as hearings officer at a public hearing on July 15, 1992, to adopt the rule as permanent. The majority of the testimony opposed the proposal, citing economic impacts, technical considerations, and concern for the groundwater resource. Some testimony, notably from the Ground Water Advisory Committee (GWAC), supported special area standards, but opposed the existing rule language as being inflexible. At a work session on August 13, 1992, staff reviewed the special area standards with some members of GWAC and reached agreement on several proposed changes to the existing language.

Several alternatives for administrative action were proposed in this staff report and addendum to it. The addendum resulted from an August 19, 1992, meeting with representatives of Friends of Parrett Mountain, Citizens Allied for a Rural Environment, the Oregon Ground Water Association, and Manke Lumber Company.

DIRECTOR'S RECOMMENDATION

The Director and staff recommended that the Commission direct staff to follow Alternative 2 as described in Agenda Item F and adopt the revised Special Area Standards as described in Attachment 1 of the Addendum.

David Craig, representing Citizens Allied for a Rural Environment, spoke in support of staff's recommendation on Agenda Items E and F. Craig said that Steve Schneider did attend the August 19, 1992, meeting but was there as an individual, not as a representative of the Oregon Ground Water Association. Craig asked that the adoption of the well construction standards be a temporary measure so the industry can give input during the permanent rulemaking process. He said there should be some outlined alternative construction practices so that drillers can better interpret what they can and can't do. CARE submitted a letter in support of Alternative 2 in Agenda Item E but would also support the changes offered in Alternative 4 of the Addendum.

Holly Manke White, representing Manke Lumber Company, spoke in support of the staff's position of removing from the withdrawal all wells that are finished below an elevation of 300 feet mean sea level. She also spoke in support of proposed well construction standards and Alternative 4 in terms of allowing the community

water system. White offered the following options which she believes Manke could pursue, regardless of the Commission's action: 6 wells already constructed could be utilized under the statutory exemption for domestic use and a declaratory ruling pursued to resolve the half acre per well restriction on irrigation; Manke Lumber Company could drill up to an additional 22 wells on the half of the property which lies outside of the moratorium boundaries, have 3 hook ups per well, and clustered around each well; or Manke Lumber Company could, if Alternative 2 is adopted, drill up to 66 individual wells on the property and subdivide into 5-acre tracts. She expressed preference for Alternative 4, which would allow the granting of a water right for a community water system.

White said that the community water system would be built before the properties would go on the market. Increased growth on Parrett Mountain would be guided by land use zoning. She disagreed with comments in the last paragraph, second page, of an August 26, 1992, letter from Friends of Parrett Mountain (Attachment C, Agenda Item E). She had met with Friends of Parrett Mountain and offered to enter into a legal agreement with that group indicating what they would do in exchange for support for this type of amendment in Alternative 4. She said the Mankes had listed alternative plans for the property, but hadn't indicated any specific preference.

Jim Luzier, hydrogeologist consultant to Manke Lumber, spoke in support of the staff report. He stated the new recommended procedures would protect existing users.

Director Pagel, Donn Miller and Mike Zwart spoke to clarify Item E with respect to Alternative 2 or 4 or both. Under the recommendation in Alternative 4 the Commission would be agreeing to the concept of the change in the basin plan classification to allow for this concept of group domestic. At the same time, they would be revoking the previous action establishing a withdrawal order and withdrawal rule. By taking the action on the basin plan change, the Commission would give the policy direction to support the special well construction standards that are discussed in Item F. Pagel raised the issue about whether to rely solely on the well construction standards. The Commission can, by the combination of basin plan change and well construction standards, be fully covered. Following the recommendation of Alternative 4, the Commission would be instructing the basin plan change but revoking the existing order and rule. This would be a strategy similar to the Commission's action on the Columbia River, where because of the statutory ambiguity over the process and requirements for accomplishing a withdrawal by order or rule, the Commission elected to go with a basin plan change. Language would have to be crafted if both Alternative 2 and 4 would be approved -- the basin plan change would be added to Alternative 2.

Bentz asked Pagel what the staff recommendation would now be following the discussion. Pagel stated Alternative 4 for Item E.