

WATER RESOURCES COMMISSION MEETING  
BAKER CITY  
OCTOBER 15, 1992

Commission Members Present:

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

WRD:

Martha Pagel  
Steve Sanders  
Diane Reynolds  
Cindy Smith  
Larry Powers  
Ron Synan  
Bill Beal  
Boyd Hadden  
Bev Hayes  
Becky Kreag  
Tom Kline  
Barry Norris  
Pam Homer  
Rick Craiger  
Steve Applegate  
Ken Weese  
Reed Marbut  
Rick Bastasch  
Greg Nelson  
Kent Searles  
Vern Church

Others:

Jim Colton  
Bob Hall  
Ron Kister  
Bob Mount  
David Moon  
Jim Scott  
Lynn Shumway  
Ralph Morgan  
Tom Simmons  
Audrey Simmons  
Anne Perrault  
Karen Russell  
Doug Heiken  
Eric Schultz  
John Ross  
Todd Heidgerken  
Ladd Henderson  
Jan Boettcher  
Kip Lombard  
Roberta Bates  
Lisa Karnopp  
David Castleberry  
Kevin Campbell  
Dale Johnson  
Stephanie Burchfield  
Mac Kerns  
Michael Pelzer  
Jasper Coombes  
Barbara Phillips  
Kit Kamo  
Riley Freeman  
Ken Teramura  
George Gover  
John Freeman  
Frank Howe  
David Capps  
Steve Bogart  
G. F. Joyce  
Judy Whitley  
Art Shenk  
Donna Shenk  
Mac Kearnes  
Bryon Brinton  
Jim Sinkbeil  
Ed Glenn  
John Hays

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 AUGUST 27-28 MEETING

It was MOVED by Cliff Bentz and seconded by Mike Jewett to approve the minutes as submitted. The motion passed unanimously.

B. REQUEST FOR CONCURRENCE WITH LAND MANAGEMENT RULES OF THE DEPARTMENT OF PARKS AND RECREATION REGARDING THE NORTH UMPQUA, GRANDE RONDE, AND WALLOWA RIVERS SCENIC WATERWAYS

Under the Scenic Waterway Act (ORS Chapter 390), the Commission's concurrence is required on administrative rules relating to the management of lands adjacent to scenic waterways; condemnation of private property for scenic waterway purposes; and recommended additions to the scenic waterway system. The Scenic Waterway Management Plans for the North Umpqua, Grande Ronde, and Wallowa Rivers were adopted by the Parks and Recreation Commission on September 17, 1992.

DIRECTOR'S RECOMMENDATION

The Director and staff recommended that the Commission concur with the rules as approved by the Parks and Recreation Commission.

It was MOVED by Jim Howland and seconded by Cliff Bentz to concur with the rules as presented. The motion passed unanimously.

C. COMMISSION COMMENTS

Jim Howland reported that he and Roger Bachman visited the Madison Farms operation in Echo. He encouraged the Commission and Department staff to support Madison Farms' effort to participate in an experimental aquifer storage and coverage project. The experiment is being hampered by the restrictions of their existing water right permit.

Roger Bachman commented that he plans to write a memo to the Commission on the insight he gained from the visit to Madison Farms regarding the economics of irrigated agriculture. Bachman reported that he and Howland also visited three ranch owners in the Baker City area.

Bachman reported there are still significant threats to the solvency of the Water Development Loan Fund. The Sand Hollow foreclosure is slowly proceeding. The bankrupt owners of the Logan properties have not offered a plan to the court for paying off

their debts. Even though the department is appealing the Poplar Farms class action suit, lawyers are attempting to calculate the damage.

Hadley Akins commented that he has seen a very interesting program offered by CH2M Hill on aquifer storage.

Commissioner Akins also reported that the \$11,000,000 funding of the second phase of the Umatilla Basin project was in the budget signed by the President. Construction of this second phase should start sometime this winter.

Lorna Stickel reported on the most recent meeting of the Western States Water Council. She will distribute to the Commission written comments on the presentation she gave on solving water management problems. Stickel will be giving a similar talk at the Oregon Water Utilities Council meeting in December.

Stickel reported that after four days of rain the reservoirs were brought up enough to allow Portland to lift its water curtailment measures. The curtailment restrictions initiated this summer in the Portland area resulted in more than a 38 percent reduction of overall water usage. Portland is proceeding with plans for their regional water supply project -- currently considering two proposals for the second phase.

Cliff Bentz reported that between 300-500 people attended the Water Management Rule hearing in La Grande.

Anita Johnson reported on a recent Governor's Watershed Enhancement Board (GWEB) meeting she attended in The Dalles. The meeting included a visit to the Buck Hollow Project where 52 landowners are working on a 10-year project. Dan and Jean Carver, ranchers involved in this project, have participated in the development of a kindergarten through twelfth grade curriculum that the Wasco School District is using. This curriculum offers practical environmental and ecological education. Core curriculum using Oregon's common curricula goals will be published in September 1993. The application period for GWEB grants opens November 1, 1992, and closes March 1, 1993.

#### DIRECTOR'S REPORT

Martha Pagel reported that she has completed visits to all the regional offices and several watermaster offices. She has met with all management and field staff which has helped her to better understand the issues and circumstances around the state. She attended the Western States Water Council meeting with Lorna Stickel and Steve Sanders and a conference on Indian Water Rights Negotiations.

Pagel met October 15 with John Keyes and others from the Bureau of Reclamation. It was a very informative meeting giving an

opportunity to exchange briefings on several issues and discuss strategy for working on joint projects.

Pagel reported on speaking opportunities before area groups including the Eugene City Club and the Oregon Association of Nurserymen. She is also scheduled to speak at meetings of the Oregon Association of Conservation Districts, the Oregon Association of Water Utilities and the Oregon Ground Water Association.

Pagel discussed the negative statewide public response to the draft water management rules. Although a consensus group with several subcommittees met to develop these rules, the group had difficulty reaching agreement. As a result of the public response, Pagel and staff will reforumulate the consensus group and include a broader range of agricultural interests and individuals that will be affected by the rules. Rather than presenting the Commission with rules for consideration at the November meeting, staff will provide a formal report on recommendations for this process.

Steve Applegate and Pagel presented a request from the Umatilla area irrigation districts to extend the time for review of the Department's preliminary proof maps.

The Commission had formally adopted the "Enforcement Objectives and Timelines for the Umatilla River" at their December 1991 meeting. Since reviews by the Commission of the proposed final water right certificates are included in that schedule, changes to the schedule require Commission approval.

Staff agreed that the requests from the districts could be accommodated without jeopardizing the enforcement objectives of the schedule. The Director and staff recommended that the Commission approve the following changes to the schedule:

1. Change the date for issuance of proposed certificates to Teel and Hermiston Irrigation Districts from Spring 1992 to December 1992.
2. Change the date for review by the Commission of the proposed final certificates for Teel and Hermiston Irrigation Districts from Fall 1992 to Spring 1993.

Anne Perrault, representing WaterWatch, commented that WaterWatch is following the issue closely and would like notification when certificates will be issued.

It was MOVED by Mike Jewett and seconded by Roger Bachman to accept the proposed changes to the schedule. The motion passed unanimously.

E. DROUGHT UPDATE

Barry Norris gave a brief summary of drought conditions for the water year. Accumulated precipitation is 80 percent of normal, and we are entering the new water year with major irrigation reservoir levels at only 20 percent of normal. Available storage on October 1 is only about half of what was available at this time last year. Even if the state experiences a water year with available water close to normal conditions, many irrigation reservoirs are not likely to fill. Soil moisture is also lacking, and the state will need at least two years of normal conditions to get water availability back to normal conditions.

Lorna Stickel asked about the possibility of retaining the drought declaration in certain counties. Norris said this is a possibility and he would bring it up at the next Drought Council meeting.

F. REQUEST FOR AUTHORIZATION TO CONDUCT A RULEMAKING HEARING ON REVISIONS TO OAR CHAPTER 690, DIVISION 51, PERTAINING TO HYDROELECTRIC APPLICATIONS

Senate Bill 240 passed by the 1991 Legislature requires revisions to OAR Chapter 690, Division 51. The intent was to develop a state process and filing requirements for hydroelectric projects similar to that of the federal government.

Commissioner Howland served on a rulemaking task force which was formed in November 1991 and met several times throughout the year. The proposed rules define a process of review and coordination between the applicant, agencies and the public. The rules modify the information requested in the preliminary permit and the license or permit applications so that they are consistent with federal filing requirements.

Commissioner Jewett proposed that major and minor projects be defined in the Definition Section of the rules.

DIRECTOR'S RECOMMENDATION

The Director and staff recommended that the Commission authorize the Department to proceed with a public hearing on OAR 690, Division 51. Following the hearing, staff would present the proposed changes to the rulemaking task force and then bring a final version of the rules to the Commission for adoption.

Bob Hall, representing Portland General Electric, spoke in support of the rules as drafted.

Jan Boettcher, representing Oregon Water Resources Congress, and as a member of the NW Hydro Power Organization, spoke in support of the rules as drafted.

It was MOVED by Anita Johnson and seconded by Mike Jewett to accept the rules as proposed and send them to hearing. The motion passed unanimously.

G. REQUEST FOR APPROVAL IN CONCEPT OF PROPOSED DELEGATION OF AUTHORITY TO THE DIRECTOR UNDER ORS 537 and 543 AND OAR CHAPTER 690, DIVISION 51, TO PROCESS AND TAKE ACTION ON HYDROELECTRIC LICENSE AND PERMIT APPLICATIONS

Staff reported that the state process for licensing and permitting hydroelectric projects should parallel the FERC process. This was the intent of SB 240 from the 1991 Legislative Session and it will save time and money for the state, applicants, and other interested parties. Uncertainty in the current delegation of authority causes delays and repeated requests to the Commission for action on routine procedures.

Rick Craiger explained that statutes and rules set forth standards for resource evaluation and protection. When no policy disputes are identified for a permit or license request, processing could reasonably be delegated to the Director. This request for approval in concept was presented to the Commission so that the current process of revising the Division 51 Rules as described in Agenda Item F, could reflect the contemplated delegation. A request for final action on this proposal will be presented to the Commission either in the form of the revised rules or as a separate order when the Division 51 rules are presented for adoption.

DIRECTOR'S RECOMMENDATION

The Director and staff recommended that the Commission approve in concept the delegation of hydroelectric license and permit authority and direct staff to develop a specific proposal to accomplish the delegation by administrative rules or order of the Commission.

Steve Sanders stated that the only thing the Commission cannot delegate is rule writing authority.

Karen Russell, representing WaterWatch, expressed support of the rules but still had serious concerns about the delegation request. Russell agreed with the delegation process through the rules but asked that a process be developed whereby the public can bring concerns to the Commission.

Martha Pagel said that staff intended that any policy issue, dispute or exception would be presented to the Commission. If a proposed order were issued and there were no exceptions to it, staff would assume that there would not be any policy issues for the Commission to contend with.

It was MOVED by Cliff Bentz and seconded by Mike Jewett to accept the Director's recommendation with the caveat that emphasis be