

placed on making more clear that decisions on policy issues be retained by the Commission. The motion passed unanimously.

H. INFORMATIONAL REPORT ON AND REQUEST FOR CONCEPTUAL APPROVAL OF THE 1993-1995 BIENNIAL WATER MANAGEMENT PROGRAM

The Department is responsible for leading the development of the Biennial Water Management Program. The program is a coordinating document approved jointly by the Commission and the Strategic Water Management Group (SWMG). It will identify the upcoming biennium's major water issues; display agencies' programs and proposals that address the issues; and report progress on activities scheduled in the previous Biennial Program.

Staff offered the Commission three alternatives for approving the Biennial Program:

Under Alternative 1 the Commission would review and provide staff with direction on the draft outline and format; approve the concept, scope and character of the draft; review, provide direction on, and conditionally approve a preliminary draft at the November Commission meeting; and appoint a subcommittee of the Commission to work with staff on format, style, and major revisions, and give final approval on behalf of the Commission.

Under Alternative 2 the direction and conceptual approval outlined in Alternative 1 would be included. However, the Commission would forego reviewing the preliminary draft in November. Instead, it would designate a subcommittee to work with staff on both the content and style of future drafts, and give final approval on its behalf.

Under Alternative 3 the Commission would defer action until the document is nearly completed in December. This alternative would require a special conference call meeting because no regular Commission meeting is scheduled in December.

DIRECTOR'S RECOMMENDATION

The Director and staff recommended Alternative 1.

Roger Bachman, Anita Johnson and Jim Howland volunteered to serve on the subcommittee.

It was MOVED by Cliff Bentz and seconded by Mike Jewett to accept Alternative 1. The motion passed unanimously.

I. PUBLIC COMMENT

Kip Lombard, Jan Boettcher, representing Oregon Water Resources Congress, spoke in support of Martha Pagel's comment regarding the process and procedures of dealing with the agricultural water management plan problem. They would like to work with the

Commission on this and will give their input to the panel if it is created.

David Moon, representing Water for Life, commented on the proposed Department budget and legislative concepts. He expressed concern that there was no proposal to deal with the shortage of field staff. Moon also suggested revising the conserved water statutes to encourage conservation in a positive voluntary manner and help the instream flow problem. He reminded the Commission of a work session in 1991 when they voted unanimously to support as legislative concepts streamflow restoration and revision of the conserved water statutes.

Pagel suggested that staff work with Water for Life and other major interest groups that are working on legislation by providing a packet of briefing materials and a follow-up on Moon's question about what happened regarding the legislative issues previously raised by the Commission.

Anne Perrault, Karen Russell, and Tom Simmons, representing WaterWatch of Oregon, spoke on their concerns regarding water marketing and expressed support for the concept of reforming the conservation statute. Tom Simmons added comments regarding water conservation.

Audrey Simmons, representing WaterWatch of Oregon, mentioned that staff reports are received very late so it's difficult for them to get comments in a timely manner to the Commission. She feels that most advisory committees are heavily over-weighted by the agricultural community; not enough people representing the public interest.

Commissioner Howland commented that the advisory committees he has served on have been fairly balanced among interests in their membership.

Pagel commented that the Department wants to continue to use advisory committees and strive for consensus. Perhaps some additional training for department staff and using trained facilitators when appropriate would help us do a better job in the future.

Ron Keester, Watermaster of Owyhee Water District, spoke in support of the agriculture community; there is no water available to waste.

Mac Kearnes, local farmer in Baker Valley, and a certified water rights examiner, expressed concern about statewide policies. The state is too diverse to have the same policy applied throughout.

Byron Brinton, publisher of the Record-Courier, stated he doesn't think it's possible to restore stream flows in Northeast Oregon -- they are cyclical. He suggested that some of the streams be converted into storage to modify their outflow and then allocate to the community.

Barbara Phillips spoke regarding the state's approach to water management in times of water shortage. She expressed concern that Western Oregon might not appreciate the conditions and fragile ecology that exists in Eastern Oregon, and that the Department does not encourage pond building in the permit process.

Jasper Coombes spoke in support of flood irrigation and encouraged the Department to take a holistic cooperative look at each basin and stream.

Kevin Campbell, Grant County Judge, spoke on agricultural representation on advisory committees. Because of the large legislative districts, rural Oregon is not highly represented in the House and Senate; it is important that natural resource issues be fairly addressed, and basin specific advisory committees would be a good place to start.

Jim Sinkbeil, rancher on Burnt River, spoke on the general philosophy of decision making of the Commission and Department.

John Hays, Burnt River rancher, expressed concern about complicated rules and regulations.

Kit Kamo, Malheur County Soil and Water Conservation District, spoke on the Renew America's Environmental Achievement Award received for community efforts towards cleaning up the environment. She encouraged the Commission and staff to dovetail any policies or administrative rules with existing local, state and federal programs.

Riley Freeman, Baker Livestock Association, reminded the Commission and staff that irrigation is the lifeblood of the country, providing food for all.

J. FOLLOW-UP REPORT ON PROCESSING APPLICATIONS FOR WATER USE FROM THE COLUMBIA AND SNAKE RIVERS AND THEIR TRIBUTARIES ABOVE BONNEVILLE DAM

At its August meeting the Commission directed staff to return to the October meeting with a revised implementation strategy to specifically address the order in which applications are to be processed, the manner in which the new water allocation policy would be integrated into the application processing strategy, and the implications of this strategy on the existing statewide permit application backlog.

Staff offered the Commission a revised processing strategy proposing that:

- applications for limited licenses, drought emergency permits and those applications requesting water for emergency public health and safety needs be processed on an expedited basis statewide;

- water right applications received on or before July 17, 1992, be processed on a case-by-case basis in accordance with the standards set forth in the newly adopted Division 11 and 77 rules;
- water right applications received after July 17, 1992, be held pending the outcome of the hearings for temporary closure, and, if applicable, adoption of amended basin programs
- applications be considered in basin or sub-basin groupings in order to provide a systematic method to distribute the workload and facilitate a cumulative impact assessment of proposed uses; and
- the water availability determination of each application within a given basin or sub-basin be completed in the order established by the priority date of the application.

DIRECTOR'S RECOMMENDATION

The Director and staff recommended concurrence with the application processing strategy relating to limited licenses, drought emergency permits and applications addressing emergency needs for public health and safety; concurrence with the strategies relating to the processing of other applications on a first-in, first-out basis; concurrence with the strategy relating to the use of basin and sub-basin groups; and concurrence with the strategy relating to implementation of the Water Allocation Policy.

The Director further recommended that a rulemaking petition submitted by WaterWatch be denied; that the scheduled basin program amendment hearings be cancelled and that staff plan an informational presentation for the November work session with a detailed comprehensive briefing from different agencies and interests who are affected by this rulemaking so the Commission will have a better information base; then regroup and refine the rule, beginning the hearing process with a carefully crafted proposed rule.

Martha Pagel presented an update on the proposed basin program amendment activity for the Columbia and Snake Rivers and their tributaries. She stated that more information concerning the salmon recovery needs and the status of actions proposed in Washington and Idaho would be developed for or at the November work session.

David Moon, representing Water for Life, shared several of his concerns regarding the priority system of processing applications.

Karen Russell, representing WaterWatch of Oregon, reviewed the petition for withdrawal or temporary emergency rulemaking in the Columbia River system filed by WaterWatch. She also expressed

concern about the water availability analysis and suggested the Department consolidate the review of applications by basin so the cumulative effect can be evaluated.

Ed Glenn, spoke in support of consideration to the alternate values in a 100% allocated watershed of diverting water at its lowest level. Encouraged the Commission and staff to continue to issue water rights even though there may be a risk that in the future they may have to be taken away.

Kevin Campbell, Grant County Judge, spoke in opposition to recommendation number 4 in the staff report relating to implementation of the Water Allocation Policy. He encouraged staff to deal with applications by sub-basin and sub-basin or basin by basin. Campbell expressed concern with lack of involvement of local government in development of relative priorities to be established in the grouping process.

Kip Lombard, representing Oregon Water Resources Congress, spoke in opposition to the WaterWatch petition for emergency withdrawal. He spoke in support of the staff recommendation regarding processing applications pending on or before July 17, 1992. Lombard agreed with Judge Campbell's comments that local government input is important in prioritizing basins and sub-basins. Lombard opposed holding applications received after July 17, 1992, in abeyance.

Bob Hall, representing Portland General Electric, reminded the Commission staff that some water will be necessary for various power generation methods in light of the closure of Trojan and the Endangered Species Act.

It was MOVED by Jim Howland and seconded by Cliff Bentz to approve the Director's recommendation to deny the petition submitted by WaterWatch; to cancel scheduled basin plan amendment hearings; to ask staff to present a comprehensive briefing to the Commission in November; and ultimately refine the proposed rules regarding temporary closure of future applications and begin the hearing process. The motion passed 4-3, with Commissioners Jewett, Johnson and Bachman voting no.

It was MOVED by Jim Howland and seconded by Hadley Akins to accept the Director's recommendation in the written staff report with the following modifications: affected local governments are to be added to the list of input agencies listed on Page 4; all applications in a basin or sub-basin for which contested cases are to be held will be combined into one contested case (a basin or sub-basin wide mini-adjudication of all pre-July 17, 1992, pending applications); and staff will return to the Commission at its November meeting with a specific report for implementation of the processing strategy as modified. The motion passed unanimously.

The following staff report was considered:

Petition to Amend the Policy on Water Allocation (OAR 690-410-070),
and Related Rules Governing Purpose and Authorization

On July 17, 1992, the Commission adopted the Policy on Water Allocation. The policy sets a standard of 80% exceedance when determining over-appropriation. On October 7, 1992, Water for Life, the Oregon Farm Bureau, and the Blue Mountain Potato Growers joined in a petition to amend the policy and related rules governing the Purpose and Authorization. The petitioners requested the Commission consider the following amendments to the Allocation Policy: (1) water availability determinations should be made as of the date the application at issue was filed; (2) the consideration of unknown instream flow needs should be eliminated or limited to temporary protection for important streams; and (3) substitution of a 50% exceedance standard for the 80% exceedance standard.

DIRECTOR'S RECOMMENDATION

Based upon the analysis provided to the Commission at the time the Allocation Policy was adopted on July 17, 1992, along with additional clarification provided in Agenda Item J for this meeting, the Director and staff recommended the Commission deny the petition.

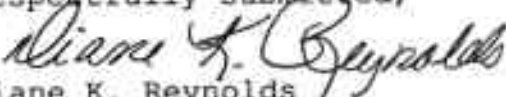
David Moon, representing Water for Life, spoke in support of the petition.

Karen Russell, Water for Life, spoke in opposition to the petition.

It was MOVED by Anita Johnson and seconded by Mike Jewett to deny the Water for Life petition. The motion passed 6-1, with Hadley Akins voting no.

There being no further business, the meeting was adjourned.

Respectfully submitted,


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Commission Assistant