

WATER RESOURCES COMMISSION
MEETING
OCTOBER 1, 1993
MINUTES

MEMBERS

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

STAFF

Martha Pagel
Steve Sanders
Diane Reynolds
Cindy Smith
Al Cook
Rick Bastasch
Becky Kreag
Reed Marbut
John Drolet
Beth Patrino
Barry Norris
Doug Parrow
Fred Lissner
Bev Hayes
Greg Nelson

OTHERS

Jan Boettcher
Bob Hall
Ron Hoffine
Phil Matson
Ron Yockim
Ed Weber
Karen Russell
Jeff Barry
Phil Brown
Stephanie Burchfield
William Kennedy
Todd Heidgerken
Ladd Henderson
Eric Mockridge
Barb Mockridge
Glenn Barrett
Linda Barrett
Earl Wiersma
Don Horsley
Helen Horsley
R. C. Hinman
Larry Trosi
Elaine Hallmark
David Moon
Marvin Hegge
Maureen Hegge
Malik Hegge
Sennen Hegge

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.

A1. APPROVAL OF MINUTES

It was MOVED by Jim Howland and seconded by Roger Bachman to approve the minutes as submitted. The motion passed unanimously.

A2. RATIFICATION OF FINDINGS CONCERNING THE APPROVAL OF BEAVER DRAINAGE DISTRICT'S WATER USE REPORTING WAIVER

The Commission requested staff to prepare findings pertinent to Beaver Drainage District's water use reporting waiver and to present the findings at the October 1, 1993 meeting for ratification.

At its August meeting, the Commission granted Beaver Drainage District's waiver request for compliance with the 15% accuracy requirement for water use reporting. The Commission also asked staff to prepare specific findings showing why that waiver met the rule standards.

DIRECTOR'S RECOMMENDATION

Based on the Department's administrative rules pertaining to Water Use Reporting and information contained in Beaver Drainage District's waiver request, the Director and staff recommended the Commission ratify the following findings:

Economic Hardship

1. Beaver Drainage District utilizes an atypical inlet structure. The cost associated with measuring and reporting on this type of structure greatly exceeds that of a traditional irrigation canal or ditch conveying a similar volume of water. The cost would cause the District an economic hardship as defined by the WUR rules [OAR 690-85-008(7)].
2. The characteristics of a diversion structure based on tidal and river stage changes make flow measurement difficult. Cost notwithstanding, the measurement accuracy of flow stemming from such a diversion system would also be difficult to guarantee.

Water Management

1. Beaver Drainage District's water right for 34.33 cubic feet per second (cfs) is below Bonneville Dam and in the tidewater of the Columbia. Although 34 cfs is a large amount of water, because the diversion is located near the mouth of the river, the volume is relatively insignificant for water management purposes.
2. The Department's Regional Manager indicates that the potential for water distribution on the affected reach of the Columbia is extremely low. Therefore, the District's measurement data would not materially aid water management for distribution purposes.

It was MOVED by Jim Howland and seconded by Roger Bachman to approve the Director's Recommendation. The motion passed unanimously.

B. COMMISSION COMMENTS

Anita Johnson reported that the Governor's Watershed Enhancement Board will be sponsoring a conference in Ashland in mid-January.

Lorna Stickel reported that she attended a meeting hosted by the League of Oregon Cities regarding reauthorization of the Corps of Engineers Willamette Basin projects. The meeting was well attended.

Mike Jewett requested staff to plan next year's meeting schedule.

Roger Bachman reported that he is working with two foundations on natural resource matters.

Bachman reported that consideration of the Water Development Loan Fund is still being discussed; the matter could be resolved in January. The Lake County Court had a hearing September 30 on what administrative expenses and interest allocations should be. Sand Hollow Loan is in foreclosure proceedings. Western Empire case is close to being resolved.

Hadley Akins reported that he toured the Potlatch operation east of Boardman.

Reed Marbut, Water Rights Administrator, informed the Commissioners that the Umatilla Tribes, irrigation districts, Bureau of Reclamation, and ODFW agreed to release water from McKay Reservoir for the use of fish.

Lorna Stickel asked the Department to report to the Commission at its next meeting on policy implications on the Potlatch-Boise Cascade transfer.

C. DIRECTOR'S REPORT

Martha Pagel gave a summary of what happened at the September 30 Work Session.

She noted she attended a meeting on the Watershed Health Program with Becky Kreag, representatives from other state agencies and from the Grande Ronde Model Watershed Program.

She also attended a full day tour of the Bear Creek basin in the Ashland area on Wednesday, September 29.

A request was previously received from Roger Bachman for an informational report on field enforcement and field operations. Pagel reported this would be discussed during Other Business.

D. PROPOSED ADOPTION OF AMENDMENTS TO OAR 690-11-010 (APPLICATIONS AND PERMITS - DEFINITIONS) AND OAR 690-500-020 (BASIN PROGRAM CLASSIFICATIONS - DEFINITIONS)

Beth Patrino, Water Resources Department, reported that the overall purpose of the proposed rules was to coordinate the use of terms in the Department's permitting and basin planning activities. In addition, the proposed rules address issues related to the definitions of municipal, quasi-municipal and placer mining and advice from the Attorney General's Office related to the interpretation of basin water use classifications.

A public hearing was held on the proposed rules on August 19, 1993. Six major issues emerged from the hearing. These issues related to the definitions of cranberry use, nursery operations use, and municipal use in Division 11 and the inclusion of cranberry use under the irrigation classification in Division 500. Major issues also included the fact that the proposed Division 500 rules do not define all of the water use classifications that appear in existing basin programs and assertions that the proposed rules constituted amendments to existing basin programs.

Following the public hearing, staff learned that, due to a staff error, no placer mining representatives were invited to participate in the external work group that reviewed and commented on the draft rules. In addition, placer mining representatives were unaware of the proposed amendment and did not provide testimony at the public hearing. Accordingly, the Department proposed to conduct a special public hearing on October 21, 1993, to receive testimony on the proposed definition of placer mining. Final action on the placer mining definition would be rescheduled for the November Commission meeting.

The Commission recommended changes to the Division 11 definitions. They are as follows:

20. "Industrial water use" - delete underlined language and reinstate bracketed language.
30. "Pollution abatement or pollution prevention water use" - delete "to achieve water quality standards".
42. "Storage" - delete "natural or".

Definitions for municipal corporation, placer mining and power development will be the subject of the public hearing to be held October 21, 1993.

Jan Boettcher, OR Water Resources Congress, commented. Tape 2, Mark 1.

Karen Russell, WaterWatch, commented. Tape 2, Mark 34.

Stephanie Burchfield, ODFW, commented. Tape 2, Mark 183.

Ron Yockim, OR Cranberry Growers Assoc., commented. Tape 2, Mark 230.

Karen Russell, WaterWatch, commented. Tape 2, Mark 724.

DIRECTOR'S RECOMMENDATION

The Director and staff recommended that the Commission adopt the administrative rules as proposed.

It was MOVED by Jim Howland and seconded by Hadley Akins to approve the recommendation and hold definitions 23, 27 and 31 of Division 11 until another public hearing is held. All approved. Mike Jewett abstained.

E. STATUS REPORT ON GROUNDWATER CONDITIONS AND WATER USE APPLICATION PROCESSING IN THE BONANZA AREA, KLAMATH COUNTY

Fred Lissner noted some changes to the staff report. Page 3, 4th paragraph, should read 1991; Page 4, 3rd paragraph, should read 1993 not 1992.

In the winter and spring of 1992, staff looked briefly at the Bonanza area geology and hydrology to evaluate the possible connection of ground- and surface water. As a result, on June 5, 1992, the Department recommended that the Commission authorize staff to begin proceedings to withdraw the local groundwater resources from further appropriation until staff could complete a more thorough look at the area water resources.

Residents objected, indicating that they had not experienced surface water shortages. In addition, they did not think additional groundwater development would deplete surface water supplies.

In response, the Commission opted not to begin withdrawal proceedings. At that point, staff continued to process applications in accordance with rules and procedures already in place. Technical reviews have now been completed for the Bonanza area groundwater applications. However, permits were not issued in time for the 1993 irrigation season. As a result, some appropriators began the irrigation season pumping under terms of drought permits, but they were unable to continue pumping when the drought declaration for Klamath County was rescinded on July 8. Others found themselves without the ability to pump groundwater at all. In response to continued concerns, staff, in August, 1992, began a more intensive study of the area groundwater resources. At present, field data collection and data analysis are complete and report preparation is underway.

Stephanie Burchfield, ODFW, commented. Tape 3, Mark 225.

Karen Russell, WaterWatch, commented. Tape 3, Mark 283.

Barb Mockridge, Concerned Citizens of Bonanza, commented. Tape 3, Mark 371.

Earl Wiersma, Concerned Citizens of Bonanza, commented. Tape 3, Mark 390.

Glenn Barrett, Barrett Livestock, commented. Tape 3, Mark 519.

Don Horsley, commented. Tape 4, Mark 65.

Linda Barrett, Barrett Livestock, commented. Tape 4, Mark 89.

William Kennedy, Tape 4, Mark 199.

DIRECTOR'S RECOMMENDATION

This was an informational item. No action was required.

F. INFORMATION REPORT ON A PROPOSED MINIMUM STREAMFLOW CONVERSION PROCESS

Greg Nelson, Water Resources Department, gave an informational report on a proposed minimum streamflow conversion process.

The Legislature directed the Water Resources Commission to convert minimum perennial streamflows to instream water rights. All but 24 minimum flows in the Willamette Basin have been converted to instream water rights. These remaining minimum streamflows are unique and more complicated to convert because they contain both natural flow and stored water components. The stored water component itself is unique because it is represented as any amount up to a specified quantity, leaving some doubt as to the actual total instream flow needed for instream purposes. The Director and staff proposed an alternative, collaborative process for converting these minimum streamflows and requested Commission feedback on the process.

The instream water rights legislation passed in 1987 requires conversion of minimum streamflows to instream water without change unless the conversion to instream water rights would impair other rights, the flow is more than what is needed for public use or the conversion is not in the public interest. If modifications to the minimum flow are contemplated in the conversion, then a

contested case hearing must be held to determine whether the criteria are met for altering the minimum flow. However, nothing precludes the Department from conducting negotiations with interested parties prior to or during the contested cases.

The Department hired consultants expert in facilitating alternative dispute resolution processes to design a process that could address the conversions. The consultants interviewed major interests. They found that the interest groups preferred that the Department hold a series of information meetings about the process for converting minimum flows and regulation of water. It was further found that there was support for a consensus type process and initiation discussions. They also found that the interviewees perceived that concurrent and related processes - federal reauthorization of the Corps of Engineers Willamette Basin reservoirs, agricultural and municipal reservations of water for future economic development and the adjudication of pre-1909 claims to the use of water - are linked to the conversion process. There was some support for coordinating the conversions with these other processes, but there was no consensus about how extensive that should be.

The consultants recommended initiating a consensus process that begins with the formation of a steering committee to establish the overall process and participants. The conversion group, or series of groups would undertake site specific conversion discussions based on the operating guidelines developed by the steering committee.

Staff proposed holding an initial steering committee meeting in November to get the process underway.

Elaine Hallmark, Confluence NW, commented. Tape 5, Mark 264.

Larry Trosi, Farm Bureau, commented. Tape 5, Mark 350.

DIRECTOR'S RECOMMENDATION

This was an informational report. No action was required, however, Commission comments and direction on staff's proposal were requested.

There being no further business, the meeting was adjourned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Cindy Smith". The signature is written in black ink and is positioned above the printed name.

Cindy Smith
Commission Assistant

G. PUBLIC COMMENT

Marvin and Maureen Hegge, commented. Tape 4, Mark 385.

Karen Russell, WaterWatch, commented. Tape 4, Mark 623.

David Moon, Water for Life, commented. Tape 4, Mark 706.

H. STATUS REPORT ON THE WATERSHED HEALTH PROGRAM

Becky Kreag, Water Resources Department, gave a status report on the Watershed Health Program. The Legislature passed HB 2215 and nearly the full budget for watershed health. There are 23 positions in six different state agencies associated with the program, nine of them within the Water Resources Department. Two field teams will be set up, one each in La Grande and Grants Pass. Core team members will be located at the headquarters offices of their respective agencies. That core team will meet on a regular basis. Interviews for program manager begin October 5.

In the South Coast area, a set of early action grant criteria to allow the early consideration of disbursement of some of the grant funds is being drafted.

A recommendation will be made to the Strategic Water Management Group (SWMG) in November for approval to get final signature on a Memorandum of Agreement between the Grande Ronde Model Watershed and SWMG.

DIRECTOR'S RECOMMENDATION

This was an informational report. No action was required

I. OTHER BUSINESS

John Drolet, Watermaster District 19, briefed the Commissioners on enforcement activities in his area.

Karen Russell, WaterWatch, commented. Tape 6, Mark 204.