

The Commission held a rulemaking hearing in June 1994 to place restrictions on new uses in a 4.5 square mile portion of Parrett Mountain in Clackamas County. Based on testimony at the hearing, the Department revised its draft rules and held a second hearing in September 1994. In October 1994 the Commission adopted revised basin rules which restricted classifications in the Parrett Mountain area to exempt uses only. However, the rules also specifically provided an exception for this and one other application. The exception allowed this application to be processed under a classification which allows group domestic uses, subject to specific well construction standards (OAR 690-502-160[c][B]).

The Manke Lumber Company application came before the Commission because WaterWatch of Oregon and the Friends of Parrett Mountain filed a timely formal protest to the proposed use in May 1994. Oregon Administrative Rules require the Commission to review all protested pending applications.

DIRECTOR'S RECOMMENDATION

The Director and staff recommended Alternative 1, that the Commission deny the protests and issue the permit with conditions as described in the attached draft permit.

Donn Miller, Hydrogeologist, explained the second paragraph on page two of the draft permit regarding use of the well during periods of decline. Only hydraulic interference is necessarily linked to the permittees' use of the water. The other declines listed could be caused by background changes that take place in the aquifer.

Commissioner Bentz asked Miller to explain "background changes."

Miller said this aquifer is now being utilized and may or may not have declines that are already taking place. So, even though the permittees' withdrawal may not be causing the decline, they could still be cut off as a result of the decline. Under the hydraulic interference provision, a decline of 25 more feet at a neighboring well indicates a hydraulic interference is caused by the pumping of the permittee.

Commissioner Frewing asked about implementation of the permit condition that water use shall be stopped when certain conditions of decline are noted. Specifically, he asked how long water use would be banned under these circumstances.

Miller replied that water use shall not be allowed when those conditions prevail. If there's a restoration that takes place naturally or through other means, then we no longer have those triggers.

Commissioner Leonard asked about recording water right conditions with all deeds for property so potential users have advance knowledge of the limitations of the use. Has the Department ever required that and would it be practical.

French replied that the Department does not require that these conditions be on land use deeds.

Commissioner Bentz said this issue has come up in years past and the analysis was that the developer is responsible for disclosing the water restrictions to all potential home owners on the permit.

Michael C. Robinson, attorney for Manke Lumber Company, stated that they have come to agreement with the Department on most issues. An area of concern still lies within condition 11a-c regarding groundwater decline. It only affects the Manke wells. They should not be penalized because of what is occurring because of someone else. This condition puts Manke at risk. They are in an aquifer that is separate from all of the upland wells on Parrett Mountain. There is no regional groundwater decline in the area the Manke wells draw from. The condition should be clear that A through C have to be caused by the Manke wells. Mark 90, Tape 3.

Holly Manke-White, owner, said that in the very least it should be considered whether or not a regional decline is occurring which could be the result of industrial, municipal or institutional type pumping. There are no domestic uses that have caused regional declines in the past. She asked that the regional situation be examined if declines are noted in the Manke wells. Mark 116, Tape 3.

Manke explained that their water right request is for low impact domestic use. The average daily domestic demand is 18.33 gallons per minute (gpm). The appropriation of 125 gpm is for peak domestic use and also includes irrigation. These are reflective of seasonal impacts. The average use clearly represents minor impact to the regional aquifer. The net loss in the system is going to be minimal; water will basically be recycled. Holly Manke read from a hydrogeologist report which she forwarded to the Department.

Karl Anuta, Friends of Parrett Mountain, said that there is a dispute as to whether or not there is a barrier fault around the area. They agree with many of the Department's analysis if there is a barrier fault. If there is no barrier fault, the staff have missed the mark completely. There are factual issues that need to go to a contested case; a number of issues need to be worked out. The public interest analysis is untrue; the findings are inaccurate. The correct conditions need to be put on this permit. One of those conditions would be well construction. He also expressed concern about the amount of use. WaterWatch and Friends of Parrett Mountain have asked for a conservation plan because this area is in decline. Mark 180, tape 3.

Karen Russell, WaterWatch, stated that her organization agrees with the issues raised by the Friends of Parrett Mountain. Mark 280, tape 3.

Commissioner Hansell asked staff to explain how calculations are made for the cement used in a well.

Steve Applegate, Water Rights Administrator, said staff have identified some possible discrepancies with the well construction and the amount of sealed material used. If the wells are not constructed appropriately, they will need to be repaired and brought up to standard. Staff have confidence in the well construction contractor and will be giving the matter further review.

A motion was made by Commissioner Bentz and seconded by Commissioner Hansell to accept the staff's recommendation, delegating to staff the authority to negotiate with the applicant and the protestants to establish in essence the duty or the average pumping rate. Discussion on the application continued.

Commissioners Frewing and Jewett asked if the addition in the permit of a duty would help protect the resource.

French said that the Department does not generally put a duty statement on a domestic or group domestic permit, but he could talk with the Mankes about doing so.

Commissioner Leonard asked if it would be possible to condition the motion so that there would be some language to clarify the 125 gpm issue.

Bentz agreed to so condition his motion.

Steve Sanders suggested that the Commission could delegate to staff the authority to negotiate that particular point with the applicant and protesters, or the Commission could specify a particular duty or an average rate.

Bentz replied that he'd rather leave it up to the staff. He then modified his motion so that staff would review that issue with the applicant and protesters.

Steve Sanders repeated the motion made by Commissioner Bentz and seconded by Commissioner Hansell to accept the staff's recommendation, delegating to staff the authority to negotiate with the applicant and the protestants to establish in essence the duty or the average pumping rate. The motion passed unanimously.

2. REQUEST FOR APPROVAL OF GRANTS PASS IRRIGATION DISTRICT PROGRESS REPORT

Doug Parrow, Conservation Manager and Al Cook, Regional Manager, briefed the Commission on this report.

The Grants Pass Irrigation District (GPID) submitted an annual progress report as required under the conditions in permit 50957, as modified by the extension granted by the Commission in October 1994. The report describes the actions which the district has taken to improve water management and to repair and improve the conveyance system. In addition, the report describes the actions which the district has taken to secure funding to replace Savage Rapids Dam with pumping plants. The actions which the district has taken are consistent with the requirement in the permit that the district exercise due diligence in implementing the conservation and fish passage plans.

DIRECTOR'S RECOMMENDATION

The Director and staff recommended that the Commission approve the annual progress report submitted by the Grants Pass Irrigation District.

Dan Shepard, Manager of the Grants Pass Irrigation District, and David Moon, attorney, discussed the district's conservation plan. The district is on schedule with most of the projects. The district has written to Senator Hatfield requesting federal funding assistance. Senator Hatfield's staff suggested that the community first reach a consensus.

Shepard said the district is working on a newsletter to keep the community informed.

Commissioner Frewing asked if the GPID report submitted is in final form and when was it distributed. He also asked if the new Board agreed with the report.

Shepard said that it is the final report and it was sent to the Department before the February 1, 1995 due date. The Board does agree with the report.

Commissioner Frewing asked if any legislation has been introduced seeking federal funding for dam removal. Shepard said no.

Commissioner Frewing asked if any plans have been made to form the coalition mentioned on page 15 of the report.

Shepard responded that over the next year, WaterWatch and the Department would work through WaterWatch's recommendations and work on a coalition.

Commissioner Bentz asked where the money might come from to deal with the dam.

Shepard said that many people are waiting to see what the legislature does.

Moon said that the big question before the GPID Board is how best to accomplish what the district needs to stay viable; how can funding be obtained whether it's to remove or keep the dam.

Commissioner Bentz asked what would force the economic issue.

Shepard responded that there are \$2-3 million worth of repairs now needed on the dam. The Board needs to look at not only the fish passage problems, but also irrigation.

Bob Hunter, WaterWatch, said that Grants Pass Irrigation District has not exercised due diligence. The District must take a leadership role in educating legislators, local citizens, local elected officials. He suggested that the District report back to the Commission in July and update them on their efforts to pursue changing public opinion and to obtain funding. WaterWatch is willing to work with the Board. Mark 215, tape 4.

Dr. Gordon Anderson, Mayor of Grants Pass, said he has an initiative with 13,000 signatures to save the dam. He spoke with Senators Hatfield and Packwood and they want to do what the people of the area want to do. They would fund what the community can agree upon. Mark 344, tape 4.

Commissioner Leonard asked about the boundaries of the district.

Anderson said the boundary is smaller than the county, but larger than the city.

Anderson said that the people of Josephine County would be willing to keep the dam. A vote should be taken.

Commissioner Bentz asked where the \$3 million is going to come from to fix the dam.

Anderson said that it is up to GPID, but if this Board doesn't stand up to it, there will be a recall and another election, to guarantee a bond issue could be raised that would spread it out to the owners. There are other people in the city and county that would support this, even if they are not in the District.

Commissioner Johnson asked if there is a consensus in the area to resolve the fish passage problem.

Anderson said yes, there is interest in resolving this problem. He'd like to see more studies done on the fish issue.

A motion was made by Commissioner Leonard and seconded by Commissioner Jewett to accept the Director's recommendation. The motion passed 5-1. Commissioner Frewing voted no.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Diane K. Reynolds
Commission Assistant