

**Oregon Water Resources Commission
July 27, 1995, Work Session
Burns, Oregon**

Members

Cliff Bentz
Mike Jewett
John Frewing
Nancy Leonard
Tyler Hansell

Staff

Martha Pagel
Steve Sanders
Rick Bastasch
Diane Reynolds
Steve Applegate
Danielle Clair
Adam Sussman
Bob Main
Kent Searles
Bill Beal
Rob Carter

Others

Jerry Franke
Rick Kruger
Roger Bachman
Kimberley Priestley
Jan Boettcher
Ladd Henderson
Reed Benson
John Ross
Ron Jacobs
Todd Heidgerken

In addition to those listed above, report authors and other staff were present for particular agenda items.

Agenda reports and other written material submitted at this meeting are part of the meeting record and are on file at the Oregon Water Resources Department, 158 12th St. NE, Salem Oregon 97310. Audiotapes of the meeting are on file at the same address.

1. Information Report on District Remapping Petitions (HB 3111)

Bob Main, Regional Manager of the Department's South Central Office, reviewed the legislative history and intent of HB 3111, passed by the 1989 Legislature. Sponsored by the Oregon Water Resources Congress, the bill allows irrigation districts to petition for changes in their water right certificates to reflect current usage so long as their rights are not expanded. This window was open until July 1, 1993. Senate Bill 129 (1993 Session) extended the deadline for submitting petitions to the Department to July 1, 1994.

Commissioner Frewing asked if there was a limitation on where districts could "validate" their rights. For example, could a district in Benton County claim remapped rights in Linn County? Main said there are a couple of limitations. First, the point of diversion-can not

be changed from the original. Second, the remapped right can not cause damage to existing rights.

The Department has received 42 petitions. The petitions are reviewed by regional staff until they can make a recommendation to the director to issue a proposed order. The Commission then can issue a final order accepting the petition or deny the petition and refer the matter to contested case hearing.

Main described standards set by the Department to establish whether the district used a reliable method for measuring irrigated acreage. Depending on the number of acres being petitioned, the Department allowed the district maps a margin of scale error of either five to 10 percent. The staff review also involves resolving conflicts in the information received from the irrigation district.

Commissioner Frewing asked if the Department checked to see whether the petitioned rights are being used beneficially without waste. Main said that type of analysis was left to be handled when it was brought to the Department's attention. The field survey of the remapping looked specifically at whether the point of diversion was the same.

Commissioner Jewett asked why the mapping couldn't be accomplished simply by using tax lot maps. Main said that the statute requires that tax lot and public survey maps both be taken into consideration.

Jewett asked whether comments received in response to the Department's proposed order consisted of generic questions. Main said that the comments generally did not question the Department's integrity or the method used to assess a petition. Rather, the questions went to the actual intent of the statute.

Frewing asked about the way in which the Department handled a situation where several certificates were involved and the certificates happened to have different conditions. Main said that in that situation, the Department would issue a different certificate for each certificate. SB 494 (1995 Legislative Session) assumes that the HB 3111 process would be completed by December 31, 1995.

Public Comment

Reed Benson, WaterWatch, explained that WaterWatch opposed HB 3111. WaterWatch brought a petition for rulemaking when SB 129 passed. They did not want HB 3111 to cause injury to existing rights, including instream rights. They got some of what they sought in greater public involvement. They spent time with Bob Main and Adam Sussman talking about review process. So far they have reviewed three petitions. They are satisfied with the

Department's process. Benson believes the district petitions get the benefit of doubt and that some issues raise concerns. These include: When can a district make changes in water rights that are unconnected to actual water use? What should the Department do about reviewing the validity of overlapping and remaining rights? Should a HB 3111 map show permit acreage? Tape 1, mark 535.

Since this was an information report only, the Commission held off addressing these questions until Friday's meeting, where two HB 3111 reports would be on the agenda.

2. 1995 Legislative Session Summary

Rick Bastasch of the Director's Office briefed the Commissioners on the session adjourning June 9, 1995. Eighty-five water bills and 31 other bills of interest to the Department (takings, land use, administrative, personnel) were introduced. The Department sponsored four bills, two of which passed -- SB 197 and HB 2184. Once the session began, the Department supported bills that increased flexibility for users and opposed bills that attacked instream water rights.

Commissioner Jewett asked about Department budget notes. Martha Pagel answered that there were only two, and these had to do with not expending state funds on removal of dams and on reporting to the Legislative Emergency Board with progress on implementation of SB 674.

Jewett also asked how the Savage Rapids Dam Task Force will be put together. Pagel responded that Doug Parrow and Al Cook are leading the Department's work on this. The Governor's Office has a staff person studying the gathering of the task force and acting as a dispute resolution person.

Pagel pointed out the usefulness of the Department's Strategic Plan and that it helped to guide legislation. The July Special Legislation Session likely would not affect the Department unless there's a motion to overturn a veto. Because water bills vetoed were fairly well-known ahead of time, attempts to overturn a water bill veto are not anticipated.

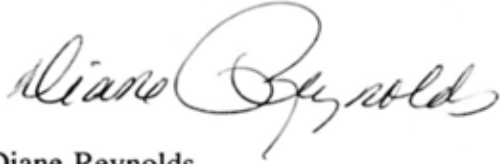
3. Information Report on Agency 1995-1997 Rulemaking Schedule

Rick Bastasch described the Department process for evaluating which measures passed in the 1995 Session require agency rulemaking. The Department is establishing criteria for doing rulemaking because it is so time-consuming, especially now when staff resources are already taxed. One test is whether the statute requires it; there are four bills which do -- HB 2096, HB 3183, HB 2376 and SB 674 (hydro aspect).

Public Comment

Roger Bachman, Oregon Trout, suggested that the Commission invite vision statements from various interest groups about where they think the Department should be in the course of the next five to 10 years. Tape 3, mark 226.

There being no further business, the meeting was adjourned.

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

Diane Reynolds
Commission Assistant