

Parrow said that typically staff have applied restrictive classifications to the highest and best uses in basin plans where relatively small amounts of unappropriated water remain. The Commission and Department staff have generally not been concerned about secondary use of stored water.

### Public Comment

Kimberley Priestley, WaterWatch, commented that allowing use of stored water for any beneficial purpose basically guts the basin classification. The existing restrictions within the subbasins are there for specific reasons. This process is on reservation rulemaking; the classification issue goes way beyond the scope of this rulemaking. Priestley urged the Commission to delete both references to stored water from these draft rules and direct the Department to address this through the basin planning process. The determination of water availability, as on page 13 of the staff report, subsection 6, could be more specific. She suggested adding "including flow analysis" after site-specific information in that subsection. (tape 4, mark 638)

Jewett asked about the meaning of "flow analysis." Pagel said "flow analysis" is used to convey the distinction between a water availability determination which is the application of a generalized model to the basin. The flow analysis is intended to capture the concept of the type of site specific considerations that arise in looking at the public interest.

Frewing moved to adopt the basin program amendments as modified in the staff report, with the language changes suggested by Grigsby to Section 690-508-120 and 690-511-110, and with one change that adds language in the very first line of the basin plans to read, "Stored water may be used for any beneficial purpose as authorized in this basin plan." Leonard seconded this motion. After much discussion, the motion failed 3-2 with Nelson and Hansell voting no.

Jewett moved to adopt the basin program amendments as offered by staff, including the language changes suggested by Grigsby to 690-508-120, "Nine-thousand (9,000) acre-feet of unappropriated water of Catherine Creek and tributaries above Ames Creek are reserved. The water is reserved for storage in multi-purpose reservoirs to be constructed in the future. The priority date of the reservation is November 6, 1992" and 690-511-110, "Sixty thousand (60,000) acre-feet of unappropriated water of the Owyhee River and tributaries are reserved. The water is reserved for storage in multi-purpose reservoirs to be constructed in the future. The priority date of the reservation is November 6, 1992." Nelson seconded the motion. All voted in favor.

### **F. GWAC Appointments**

Barry Norris and Donn Miller, Field and Technical Services Division, presented to the Commission three candidates -- Preston Janssen, Rick Kienle, and Rob Hallyburton -- for the Ground Water Advisory Committee (GWAC). The nine-member committee has one vacancy,

and seven members are serving beyond their appointed terms. Staff suggested that the Commission appoint three new members, approve a plan for staggered term expirations, ask five members to continue to hold over for six months pending reappointment, and establish a second local government membership category.

#### Public Comment

Jerry Schmidt, representing Oregon Association of Water Utilities, Oregon Ground Water Association and Oregon Association of Realtors, submitted a hand out to the Commissioners which included a copy of ORS 536.090, OAR 690 Division 235, and a suggested change to OAR 690-235-005(2). Schmidt spoke in support of alternative 3 of the staff report which would call for conducting rulemaking before candidates are considered. He said it would be good to have a registered sanitarian involved in GWAC. (tape 3, mark 633)

Rick Kienle, candidate for appointment to GWAC, said that candidate Hallyburton deals with location of drain fields and is familiar with issues involved in proper sanitation from the planning standpoint. Kienle himself deals with cleaning up ground water, following contamination and finding the source, and working on solutions to the problem. These qualifications would bring to GWAC similar skills as that of a registered sanitarian. (tape 3, mark 887)

Jewett moved to adopt alternative 1 of the staff report appointing the three candidates, authorizing the Department to conduct rulemaking, and changing the public health category into a second local government category, with the understanding that rulemaking may embrace categories and/or a process of making appointments; seconded by Frewing. All voted in favor.

#### **H. Consideration of a Petition to Adopt Special Area Well construction Standards in the Blodgett Area of Benton County**

In August 1996 the Commission tabled a request to begin rulemaking to limit the spacing and construction of new wells in the Blodgett area. Doug Woodcock, Field and Technical Services Division, reported on the results of a discussion of "low-yield" aquifers, as they apply to the Blodgett area, by the Ground Water Advisory Committee (GWAC). GWAC addressed this issue at its September and October meetings.

GWAC does not support the idea of departmental investigations of rural residential developments and does not recommend ad hoc rulemaking to control localized impacts of rural residential developments. GWAC recommended 1) providing the local government and local residents with whatever information the Department has available for the area proposed for development; 2) managing rural domestic water supplies reactively; 3) fostering a cooperative program with counties under which Department staff will review developer studies of ground

water availability; and 4) inventorying administrative and infrastructure approaches tried in other localities to deal with limited water supplies.

Woodcock presented each Commissioner with a copy of a February 3 letter from Jack Fishner who had filed the petition requesting rulemaking to create special area well construction standards. Chair Leonard said the letter was read by each Commissioner and made a part of the official meeting record.

After discussion, Frewing moved to deny the petition and ask staff to report back on alternative approaches to solving the more general problem statewide; seconded by Hansell. All voted approval.

## **I. Water Development Loan Fund**

Geoff Huntington, Deputy Director; Gwen Ulrey, on loan from the Department of Energy; and Greg Jeffrey, Department of Administrative Services, presented this informational report to the Commission and responded to their questions.

The draft rules for the Water Development Loan Fund were distributed for public comment on February 1, 1997. Two public hearings have been scheduled -- one in Salem, February 20; and one in Bend, February 21.

Three issues discussed were 1) the establishment of a loan advisory board; 2) the proposed role of the Commission as the program is implemented; and 3) the requirement that a public interest finding be made on each loan application cited by the Department.

Huntington said that the proposed rules require that individual members of the loan advisory board either have expertise in or represent the interests of one or more of the following areas: instream flow and watershed enhancement, finance or banking, project development, agriculture, and local government operations. The board will assess each application and supporting documents according to the credit criteria and conditions established by the proposed rules, and then forward a recommendation on the application to the Director and, in certain circumstances, to the Commission.

The Commission's role would include ongoing policy oversight, approving loan advisory board members, making decisions on certain loan applications, and making requests to the State Treasurer to issue bonds. The Commission would also hear appeals from applicants if the Director denies a loan application or approves a loan amount different than that requested by the applicant. Under the proposed rules, a loan decision will be referred to the Commission whenever the Director chooses to refer one; and if the loan request is for more than \$3 million

and the Director has allowed the applicant to substitute information or qualifying criteria. Huntington asked the Commission if they would like to review all loan decisions over a specified dollar amount, whether or not the Director has exercised allowable discretion; or review all loan decisions whenever a majority of the loan advisory board votes to do so.

One of the conditions for approving a loan application is that the proposed project be in the public interest. The rules would require an applicant to submit a statement describing the need for the project and why the project would be in the public interest. Applicants must also submit information describing the effects of the proposed project on fish and wildlife; water quality; water conservation or efficiency; economic development; and public uses of the affected surface water.

Jewett suggested that the process for identifying and nominating potential members of the loan advisory board should be more formally established in the rules since the board would have a clear procedural role in the loan process. Huntington responded that this could be easily accomplished by adjusting the language in the draft rules to make sure that a clear nomination process is established.

#### Public Comment

Jan Boettcher Lee, Oregon Water Resources Congress, commented on the need to create a program that works financially. Earlier guidelines proposed a program that will not likely attract borrowers. These loans would be general obligation loans which tie up all the assets of the district. Some folks have gone out to the direct bonding market for funding of projects because of these kinds of constraints. Hopefully, these kinds of problems can be avoided. Another concern is to lower the cost of administration of the program, and consider its location. She would like to see the program remain in the Water Resources Department. (tape 5, mark 510)

Frewing asked Boettcher about seed money. She said there are other sources of money available that could help pay some of the start-up administrative costs. This would avoid the 1 ½ percent spread on the project and business could be handled quicker and more efficiently.

Greg Jeffrey, Finance Manager with Department of Administrative Services, explained why he became involved in the restructuring of this loan program and how the proposed loan advisory committee came about.

Frewing asked Mr. Jeffrey where the WDLF program should be located. He replied that the staffing considerations of a loan program are extremely important. There are advantages to looking at another program that is completely staffed and has the levels of needed expertise.

Pagel thanked Mr. Jeffrey for the work he and the other members of the steering committee have done -- they have been a great deal of help to the department.

#### **J. Legislative Update**

Tom Byler, Director's Office, briefed the Commission on legislative activities. Tuesday, February 4, the Senate Water and Land Use Committee held a public hearing on Senate Bills 132, 133, and 134. There will be a work session February 11 on these bills and they will likely pass through the committee.

The Department's budget will be considered by the Ways and Means Subcommittee on Natural Resources during the week of February 10. Also that week the House and Senate water committees and agriculture committees will be meeting to hear presentations and discuss issues with Will Stelle of the National Marine Fisheries Service and Charles Findley of the Environmental Protection Agency.

There being no further business, the meeting was adjourned.

Respectfully submitted,



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