

To protect existing and future water rights, the statute places three conditions on irrigators taking advantage of an extended season: The use of water during the extended irrigation season is subordinate to all existing and future water rights; the use of water during the extended irrigation season shall comply with all conditions and limitations of the permit or certificate, including rate, duty and place of use; the use of water shall be regulated among irrigators for whom the season has been extended according to priority date.

As indicated in the staff report, the ODA and Hood River Basin water users proposed additional conditions to be placed upon the requested extension: Limit the maximum diversion rate per permit or certificate to ten percent of the allowable irrigation rate during the regular irrigation season; limit the use to first season crops only; require adequate measuring capability; and require the use of stored water in the Middle Fork subbasin when water is not available to satisfy existing water rights. The Department of Agriculture and the users have also agreed to continue to work with the Department to develop better measuring capabilities for their uses in the basin.

In the Hood River Basin new trees are often planted in the spring, outside the irrigation season. Newly planted trees need watering to eliminate air pockets around the root structure.

Mattick suggested the following changes to Attachment 2 of the staff report: In Section 3.D of the Findings (page 21) and in Section 1.G of the Order (page 22), delete "whenever water is not available to satisfy existing water rights." In the first sentence of Section 3.A of the Findings and Section 1.D of the Order, delete "permit or certificate" and insert "diversion."

Leonard suggested that in Section 5 of the proposed Order the language "whenever existing water rights are not met" be deleted.

Bill Stanley, Middle Fork Irrigation District, explained how he measures water use by district patrons. All water users in his district are served on a pressurized main line. The district mainlines are metered; at this time there are no meters at individual turnouts. The users irrigate with sprinklers, so staff can calculate individual water use by counting the sprinklers, measuring the pressure, and observing the orifice size.

Public Comment

Kimberley Priestley, WaterWatch, expressed concerns regarding the proposed expansion. WaterWatch believes this is not the best tool for this basin because it is not necessary, and poses a risk to fish. Irrigators in this basin have other alternatives — they can apply for out-of-season water rights, or limited licenses. These alternatives would both include a public interest review and Division 33 review. Regarding the risk to fish, the Hood River supports coho, steelhead, bull trout, and red band trout — all of these species have been either proposed or petitioned for listing under the federal Endangered Species Act. Three of the four of these fish are listed as

sensitive under the state Act. There would be no public interest review of this request for extension of the irrigation season.

Priestley urged the Commission to deny the request. However, If this request is approved, WaterWatch would urge the Commission to approve it on narrow grounds. The East Fork has no water available in April. The Department is proposing to extend the season in the East Fork to March--WaterWatch does not believe the statute allows for piece meal approval of extension seasons. Approving a disjointed irrigation season would set a bad precedence for the Commission. If the extension is approved for the Basin, WaterWatch asks that the extension not be approved for the East Fork.

Priestley said WaterWatch is concerned the Order is not limited enough. ODA has stated that people want this water to irrigate first year orchards. The proposed Order indicates "first year crops" which is a much broader use. Also, the order as written does not protect aquatic resources. Measuring and reporting should be required to make sure instream needs are met. (tape 2, mark 381)

Roger Bachman, Oregon Trout, commented referring to page 3 of the staff report, second paragraph, second sentence, "Permit issuance is pending payment of recording fees." In the rules advisory committee discussions dealing with permit extensions it has been noted that the Department allows an applicant to defer the one year in which construction must begin by simply deferring payment of the recording fee. This situation is going on and is not peculiar to this instance where the irrigation district is trying to avoid a \$17,000 recording fee for a water right. It is a device that is used to get around what the law requires. Bachman encouraged the Commission to have further discussions regarding requiring measurement and the definition of "waste." The irrigation district is being very efficient about bringing pressurized water up to the farmers' property line but there is no way to calculate whether that water is being used efficiently without waste. If the water is seeping below the plant root zone, it is being wasted.

Jan Lee, Oregon Water Resources Congress; John Buckley, Manager of East Fork Irrigation District; and Bill Stanley, Manager of Middle Fork Irrigation District, commented. In the legislative process, the question about the public interest review in requests for extension of an irrigation season was brought up --- the legislature decided not to include a public interest test. The legislators believed the technical expertise of staff of the Department of Agriculture and Water Resources Department in this process would be sufficient. To apply for a limited license instead of extending the irrigation season would mean going through this process every season and would make it difficult to plan early for crops. Lee expressed concern about changing the language in the Order to "orchards" rather than "first crop." There are more crops to consider in the valley than orchards, such as forestry seedling trees and vegetable seedlings. Lee asked that there be a discussion in future rulemaking of how to consider reduction of reserved water when other water needs arise without a basin plan change. (tape 3, mark 135)

Jewett moved to approve the Order with the following changes: In the first sentence of Finding 3.A and 1.D of the Order delete "permit or certificate" and insert "diversion. In Finding 3.D and 1.G of the Order delete "whenever water is not available to satisfy existing water rights." Change H of the Order to read, "Water may be used under this order in the East Fork Hood River in March. Water may not be used in the East Fork Hood River under this order during April 1 through 14." Change F of the Order to read, "The Hood River Basin water users will comply with orders of the Water Resources Department to insure adequate measuring capability for water uses made during the extended season." In Finding 5 delete "whenever existing water rights are not met." Hansell seconded the motion; all voted approval.

E. Committee Appointments: Ground Water Advisory Committee (GWAC)

Donn Miller, WRD geologist, presented the committee appointments for consideration by the Commission. The candidates included one current GWAC member and two new individuals representing ground water interests. Miller introduced Barry Beyeler, nominated to fill the local government category. The other two nominees, not able to attend the meeting, were Terry Fisk, for the hydrogeology category; and Bruce Moore for the well industry category.

Jewett moved to reappoint Barry Beyeler, and appoint Terry Fisk and Bruce Moore to terms beginning December 1, 1997, and expiring on November 30, 2000. Motion was seconded by Thorndike. All voted approval.

F. Follow-up on Issues Discussed at the Water Resources Commission Workshop

Tom Byler, Legislation and Rules Coordinator, presented this follow-up report on issues that were considered at the Commission workshop held September 30 through October 1. The focus of the workshop was to discuss building local partnerships to enhance instream flows and to provide useful tools and incentives for local water users to engage in stewardship practices consistent with healthy watersheds. At the end of the workshop, the Commission had directed staff to pull together the issues discussed and to provide an opportunity for their follow-up consideration.

The issues listed in the staff report included split-season instream leases, automatic reversion of instream leases, voluntary rotation agreements, allocation of conserved water, increasing efficiency of water uses, increase in measurement and flow data, non-structural storage, tax credits/mitigation, funding options, interstate shepherding of instream water rights, private ownership of water rights for instream purposes, and basin planning as a tool to facilitate partnerships. Byler recommended the formation of a workgroup to include a few Commissioners, Department staff, and stakeholders to refine the issues and develop recommendations for Commission consideration. Several Commissioners expressed interest in serving on the workgroup.

Frewing asked if staff and the Commissioners could discuss the issue of split season leases at the January Commission meeting. Pagel and Huntington agreed that this could be placed on the agenda.

Roger Bachman. Oregon Trout, expressed support for the discussion on split season leases. He asked that the issue of nonstructural storage be considered in the triage process.

There being no further business, the meeting was adjourned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diane K. Addicott".

Diane K. Addicott
Commission Assistant