

due diligence was to build the consensus. When a commitment is made, whether the Board membership changes or not, that commitment is still there. Because of the failure to follow through on that commitment, we have not been successful in obtaining federal funding. GPID has failed to comply with the schedule, even accounting for the 18 month grace period that SB 1006 offered. The GPID 1998 annual report lacked detail; the mission statement and report on the access road are totally irrelevant. Copies of the Board's communication with NMFS indicate that NMFS is asking for dam removal. The new GPID Board has fought NMFS and the Water Resources Commission every step of the way. The current Board seems to be willing to put GPID's water right and the District at risk because their main goal is to save the dam. Due diligence requires something affirmative, not to just sit back and say we passed this resolution and we have not officially changed it. In August 1997 the District did submit a report to the Commission indicating a number of things they intended to do in the future—those things are not included in the 1998 annual report and there is no indication of any action. There has also been no action on the education plan that was submitted to the Commission. Regarding comments made about working with the Rogue Valley Council of Governments on community education, the new Board terminated their services on January 12, 1998.

Hunter comments: The federal agencies are all supportive of the dam removal alternative. The District has not been giving the right message to the federal agencies that they really want to remove the dam. Local papers have reported that the new Board and the Chair want to save the dam; the fact this is being reported indicates a lack of due diligence. Also, the legal actions of the Board show a lack of due diligence; if this money had been spent on a public outreach plan or lobbying effort we would likely be a lot further along. The Board speaks of various resolutions and how often they have met, but have not addressed the main issue of concern which is the water right and conditions of the permit not being met. Hunter submitted a copy of a January 30, 1998, letter from GPID to the Oregon Congressional delegation, state and federal agencies, Oregon Fishing Guides, and Oregon Sportfishers, which he believes shows a lack of due diligence. This letter does not ask for support of dam removal but instead comments on continuing to study the issue and expresses concerns. This letter helps create the lack of consensus and prevent movement forward.

Hunter comments: One major element of the conservation plan is to deal with the 160 miles of open and leaky ditches. Hunter said that in reviewing past budgets he noticed that in 1995 the GPID budget included approximately \$87,000 for pipe and gunite that would have helped make the conveyance system work more efficiently. In 1996, \$97,000 was so allocated; and in 1997, \$125,000 was allocated. The prior Board had \$125,000 in the budget proposed for this procedure, but the new Board has reduced that to basically \$25,000.

Hunter comments: The very permit conditions violated by the District are those that were intended to mitigate for the adverse impact on State Scenic flows. Everyone was going out on a limb for the District based on their commitment to remove the dam and get all the benefits that

would accrue. Now the Coho salmon are listed in the Rogue as threatened, steelhead are a candidate species. The state has made a commitment to NMFS that it will take action to restore Coho and steelhead runs in the state. To fulfill those commitments, the state should cancel the permit. The initial permit raises important public policy issues about beneficial use and waste. This additional right being considered was to apply additional water to the same acreage for the same purpose for which there was already a certified right with rate and duty set by letter of agreement with the District in 1929. This is actually asking for an enlargement of the right which would not normally be considered a beneficial use. It is also a very wasteful use to be given additional water to apply for the same purpose. The study done by GPID showed an overall system efficiency of 18 percent. Even when the conservation plan is completed, it will only be at 22 percent efficiency.

Hunter comments: Regarding the character of the District, over 52 percent of the lots in the District are less than one-half acre in size; 71 percent are less than one acre. The water is not only being wasted but it is not being used for productive agricultural purposes or economic benefit of any significant degree. There are only 15 lots greater than 20 acres—and of these, two are cemeteries, one is a golf course, one is industrial property. Almost 89 percent of the water is used for pasture and small lots. In 1993 the OSU Extension Service estimated a crop value of the District at \$1,135,000, giving the benefit of a doubt that crops are grown on this acreage. That barely exceeds the cost to deliver the water to the patrons, which is approximately \$1,000,000 in this year's budget. This is not considering the harm to the fishery, which is estimated at over \$5,000,000 annually.

Hunter comments: The District does still have a certified right for 97 cfs, and has an opportunity to get by on that. In materials submitted to the Commission by Becklin in 1997, he states that GPID can and will survive with a reduction in its water right. A major portion of the District is within the city limits and urban growth boundary of the cities of Grants Pass and Rogue River. The city of Grants Pass has the capacity to serve the patrons lying within its urban growth boundaries.

Hunter concluded: It is in the public's interest to cancel the permit at this time and deny the request for modification based on the District's failure to proceed in the public interest issues. If the Commission does not cancel the permit, at a minimum it should restrict water use entirely until the dam is removed or until there is federal authorized legislation committing the funds, and the funds are there. Dam removal is still the least cost alternative and provides the greatest benefits.

Karen Russell comments: Russell referred to the March 25, 1998, letter Hunter referred to in his comments. This letter provides many additional examples as to the District's lack of diligence. The staff report proposes the Commission find the District has failed to be diligent in implementing the conditions and issue a proposed order that would be sent to contested case on

this issue. WaterWatch has great interest in those proceedings and would like to be a party in any contested case that may be ordered. WaterWatch has been a party to the proceedings for the last ten years, a party to the negotiations that resulted in the permit, a member of the committee that was formed under the study phase of the permit, hired an engineer to help them participate in that process, participated in all Commission meetings regarding implementation of the permit, participated in the 1994 proceedings that led to the extension order, participated in the proceedings that led to the 1997 order amending the permit, and submitted extensive comments on the annual report and the permit amendment request. WaterWatch has a direct and personal stake in the outcome of this proceeding. Russell said WaterWatch has invested staff resources and money to try to ensure implementation and enforcement of a permit that we believed very strongly in. WaterWatch members use and enjoy the resource. WaterWatch also represents the general public interests in the resources in the Rogue Basin, including the protection of stream flows for endangered fish and the Rogue Scenic Waterway, and the public interest in ensuring against waste, and ensuring efficient use of water. The decisions made on the request to amend the permit and on the annual report will directly affect these public interests and WaterWatch's personal interests because it involves the agency's ability to effectively enforce the permit that was issued in 1990 and subsequent amendments. Russell asked the Commission to recognize that WaterWatch has a significant interest in the proceedings and to direct that they be a party if a contested case is scheduled.

Judith Gove, Chair of Citizens for Responsible Irrigation, read her organization's mission statement: Our mission is to encourage the development and maintenance of cost-effective irrigation systems that have a minimal impact on the anadromous fish and general health of the Rogue River. Specifically we support the replacement of the Savage Rapids Dam with a pumping station to supply water to the Grants Pass Irrigation District. This is a win-win situation for both GPID and the anadromous fish. GPID will continue to get needed irrigation water and the fish can pass Savage Rapids without the current 20 percent mortality rate. Our goals, development of a position paper that demonstrates the economic and ecological advantages of our mission, communicate this information to the general public, and specifically the GPID patrons; establish a political network to inform local, state and national officials of our mission; and seek the involvement of other citizen groups who share our concern for the Rogue River. Gove said their group is made up mostly of patrons, but also includes non-patrons; they all support dam removal. Most irrigators do not care about the dam, they want their water. When patrons go to GPID meetings and ask if the Board has decided to retain the dam, they get the same non-response received by the Commission today. The group that has currently taken over GPID has done an excellent job of spreading dissension in the community. They have played on the fears of big government telling the little guy what to do. People have been told that the loss of the dam will turn the valley brown instead of the water being the factor that makes the valley green; they are scared by sediment issues; they are told that government studies are false--however, the studies done by Becklin and 4(b) are right. The Board ignores patrons' concerns about the rising costs of lawsuits. They discuss lack of consensus but have had no

newsletters to the patrons; Becklin has gone into the community and addressed City Council meetings, talked to Rotary, primarily submitting his studies and talking about 4(b). The lake causes septic problems with the homes that are above the lake, and endangers the homes in flood conditions. They mentioned that the City Council supports their stand— Gove was there the day the Mayor went before the City Council to ask for their support of the GPID Board. The City Council has not endorsed the Board; it is the Mayor who has been a part of 4(b), has worked with this group, and is very much in support of dam retention—but not the City Council. Their words are separate from their behaviors. Their words are that they still will go for dam removal, but every behavior observed has been toward dam retention. All of this has undermined consensus in the area. Gove ended by reading the statement, "As patrons we support dam removal so a healthy fishery can be developed and to foster the economic recovery of that industry. Our method of diversion should not come at such a high cost to the health of the fishery in our river. We want a healthy fishery, a healthy river, and efficient irrigation." (tape 3, mark 630)

Joe Rohleder, government affairs advisor to several sports fishing groups: Rohleder said that Savage Rapids Dam has been recognized as a fish killer for some time. Any killing of fish is considered a take. Any take that occurs within the Evolutionary Significant Unit (ESU) takes away or is part of the allocation of take to the other natural resource users in that ESU. As long as there is a significant take at Savage Rapids Dam of all fish, then the other natural resource users in that area are limited by the amount of take that they are allocated from NMFS. Recently, NMFS has determined that floating by a spawning fish in the Snake River is a take. The guides in Sun Valley have given up three weeks of their season in the fall because of that potential take. There is a Coho listing in the southern Klamath ESU, a critical species of the steelhead, in a year Chinook salmon will be reviewed and the Chinook ESU that Savage Rapids is in runs from the Coquille River nearly to San Francisco. There is a take attributed to the dam. Rohleder said that in 1994 GPID came forward with a plan to remove the dam and solve some of that take, and we agreed with that plan. Rohleder went to Washington D.C. at that time and spoke with Senator Hatfield regarding funding. Shortly following that visit, some prominent southern Oregon state politicians asked Hatfield not to do anything. Rohleder believes that if that had not happened, the funding for removal of Savage Rapids Dam would have been in Hatfield's retirement bill as was Opal Creek. The irrigation district has been stalling; they need a plan. The District has not moved forward with their part of the agreement. Rohleder distributed copies of four letters asking the Commission to revoke Permit No. 50957. (tape 3, mark 730)

Steve Beyerlin, Curry Guides Association, submitted a letter of testimony and commented: Beyerlin does not believe that GPID has moved forward with the issue of Savage Rapids Dam; they have been confused and dysfunctional. At the 1994 Commission meeting in Medford, the Curry Guides Association, the Oregon Outdoor Association, and the Lower Rogue Watershed Council all testified to give GPID this water right to help them along and try to solve problems. He now would withdraw that support on behalf of those three organizations. (end of tape 3, into tape 4)

Steve Hinton, Oregon Trout, commented: Hinton said he understood that the main point of this discussion is on due diligence on the conditions of a permit. Yet GPID is arguing that sediment is still an issue. If GPID were diligent in pursuing dam removal, the first thing to consider would be treatment of sediment behind the dam. Consensus is something you work at. If the irrigation district would have shown diligence it would have worked at building consensus and as a result, might be close to a resolution at this point. Oregon Trout supports the Oregon Plan. There is a listing in the Rogue Valley, and the Rogue Valley Council of Governments worked hard at building a recovery strategy for the local area which was adopted as an interim recovery strategy by NMFS. Again, the centerpiece was built off the Oregon Plan in cooperation and working with local land owners. Hinton urged the Commission to send a clear message that recovery efforts are necessary at this late date. (tape 4, mark 58)

At this time, the meeting recessed for a one-hour lunch break.

Following the lunch break, Nancy Leonard announced for the record that the Commissioners did receive copies of approximately 50 letters in favor of cancellation of the permit. Commissioners agreed that the two issues now before the Commission are to decide if due diligence has been shown, and to consider the District's request for modification to the existing permit.

Pagel said that after listening to comments presented on behalf of the District, the public comments and letters received, this would seem like a matter that could benefit from a contested case proceeding to fully review the record. The staff recommendation remains the same— that the Commission would make a preliminary finding, based on the record at this time that the District has failed to demonstrate due diligence in complying with the terms and conditions of the permit relating to dam removal; the Commission would deny the request for permit modification because it lacks sufficient clarity, and to the extent the request is to develop an alternative other than dam removal, it would impair or be detrimental to the public interest and is prohibited under the State Scenic Waterway Act; the Commission would issue a Notice of Proposed Action to deny the requested permit modifications and cancel the permit based on the above findings, and refer the matters to a contested case hearing for further development of the record and recommendations by a hearing officer. Pagel said the District has not presented at this meeting a clear intention to support the permit's requirement of dam removal. Some issues to deal with if proceeding with the staff recommendation would be the question of standing and timing of the proceedings.

Jewett moved to proceed with the staff recommendation with the following modifications: that WaterWatch be allowed party status, that other requests for party status be dealt with by the hearing officer, that the hearing officer's decision be timed so that the Commission can deal with the exceptions at the November 1998 meeting. The motion was seconded by Frewing. All voted approval.

Frewing said he is quite sympathetic to the District and to their efforts at community consensus, but the Commission's obligation is to look out for the resources of the state as a whole, and to support the Governor's Salmon Plan.

Leonard explained that no permit was canceled at this meeting; the Commission is moving toward cancellation by taking the issue to a contested case hearing to gain a better understanding of all the issues. The Commission will then take action at the November 1998 meeting.

Page1 further clarified that the issue the Commission has referred to hearing is whether the District has complied with the requirements of the 1994 Order, and whether to approve the request for permit modification. The final Commission decision will be made after the hearing officer comes back with recommendations.

E. Serious Water Management Problem Areas

Pat Lee and Greg Nelson, Resource Management Division, presented this report on the Department's recent review of the Serious Water Management Problem Area (SWMPA) program. To date, the Commission has considered pursuing a SWMPA designation only once, in the Umatilla Basin in 1990. Rather than undergo the SWMPA process, the affected water users in that basin developed their own, equally effective water management plan.

The Oregon Plan called for the Department to evaluate the effectiveness of serious water management area designations to increase streamflows by January 1, 1998. The Department met that timeline and a position paper was included in the staff report as Attachment 2. The SWMPA statute and rules authorize the Commission to require by rule the installation of measuring devices and the submission of an annual report by water users within a Serious Water Management Problem Area, if necessary to obtain accurate water use information. In determining whether a SWMPA exists, the Commission must find either ground water decline in the area is of such magnitude that the aquifer does not fully recover annually; or there are frequent water management disputes between water users in the area that cannot be privately resolved; or substantial interference exists between wells; or the exercise of ground water rights interferes with flow of water in a nearby stream, to the detriment of senior water rights; or the diversion of water from streams is in such quantities that interference with nearby wells occurs; or there are frequent occurrences of surface water or ground water shortages caused by the use of water from streams or wells.

The shortages listed above may be evidenced by complaints from water users; requests to regulate water use; degraded water quality; or failure to meet administrative restrictions or minimum streamflows. The Commission would then go through a rulemaking process to determine if a SWMPA truly exists. The administrative rule would specify the nature of the

problem; the area boundary; who shall be required to measure water use; specifications for measuring devices and annual reports; and timelines for implementation.

Serious Water Management Problem Areas are one of several management tools that are available to the Commission to address various water management issues. The Department staff have concluded that SWMPA designations represent a viable water management tool which can be used to augment streamflows and aid fish recovery efforts. Problem area designations present opportunities to collect comprehensive water use information on an area-wide basis. While SWMPA designation may not solve streamflow problems, it presents opportunities to increase use awareness and self-regulation of water use and provide users and managers with data needed to effectively manage limited resources. Staff envision SWMPA designations as a management tool which may be used in concert with other tools to augment streamflows in a given basin or subbasin.

The Oregon Plan gives a timeline of March 1998 for the Department to recommend adoption of rules for the designation of SWMPAs in the Oregon Coast and Klamath Mountains Evolutionarily Significant Units (ESUs). However, such rulemaking recommendations are dependent upon the outcome of a process for identifying priority streams. The Oregon Department of Fish and Wildlife (ODFW) is expected to identify priority areas by the end of March 1998. With that information in hand, WRD staff in cooperation with ODFW and local interests, can begin a process of evaluating whether the SWMPA designation, or application of an equally effective alternative, would be the most effective tool for helping to restore streamflows. Staff will focus efforts first on the Oregon Coast and Klamath Mountains Province ESUs.

Leonard asked about the difference between a SWMPA and a Critical Ground Water Area designation. Nelson responded that a Critical Ground Water Area designation is established by a much more complicated process; and essentially allows the Commission to go into an area where it has been determined there are continuing ground water declines and apportion water to users regardless of the water rights. A SWMPA would allow water use measurement and reporting, and is primarily a data collection tool. A Critical Ground Water Area designation is more of a regulatory tool.

Nakano asked how the Department monitors water use in a Critical or Serious Ground Water Area. Tom Paul, Northwest Region Manager, came forward to respond. Paul said it is difficult to point to a specific source when interference of a well is reported. A watermaster can go out and observe the pumping of a well and monitor the water level of a neighboring well. If staff hydrologists and hydrogeologists can identify that one well is causing injury, then the Department can regulate just that one well without going through the Critical Ground Water designation. However, the designation of a Critical Ground Water Area gives the Department regulatory authority for all the wells in that area — either by limiting the amount of water

diverted for everybody, or directing that certain classes of water use would continue to pump when others would not be allowed.

Hansell suggested that people be given the results of the measuring and reporting they are asked to submit to the Department. This would help Oregonians see that they are truly helping in the fish recovery efforts.

Commissioners concurred with the strategy suggested in the staff report. Pagel said that when priority areas are identified, staff will return to the Commission with an update.

Public Comment

Reed Benson, WaterWatch, commented on the difference between the staff report and the issue paper. The position paper said that measuring and reporting is a flexible practical tool with a variety of significant potential benefits for water management. In contrast, the staff report was very noncommittal on whether measuring and reporting is worth doing at all. Benson said the issue paper is more thorough and persuasive than the staff report in saying measurement and reporting is something to pursue. Benson reaffirmed the position stated in the position paper, and also said this is a commitment of the State of Oregon in the Salmon Plan. The staff report proposes that the state commence a stakeholder process to discuss the issue of measurement and reporting. Benson does not believe this will lead to consensus. Measurement and reporting can provide some real practical benefits for water management. It can help watermasters know where they need to regulate for duty; can help raise awareness on water use; can create incentives to change practices; can let water users know that someone else may be paying some attention to their water use; and can bring water users forward with an alternative plan that may in fact be better. This is a tool worth trying, and will provide some good information and positive benefits to water management. The Salmon Plan has a more realistic approach to describing what the state needs to do. The recent draft of the Steelhead plan, basically says that under prior appropriation it is going to be real hard to restore instream flows. Given the constraints of prior appropriation, incremental additions of streamflows are going to have to be accomplished by selectively applying a series of tools — eleven are named, the last of which is Serious Water Management Problem Areas. In short, the state says this can help. Benson strongly encouraged the Commission to move forward more actively than suggested in the staff report, and designate areas where measurement and reporting will have to happen on a basin-wide basis.

(Tape 4, mark 805)

F. Permit Extension Rulemaking

Tom Byler, Director's Office, and Dwight French and Mike Mattick, Water Rights Division, offered this rulemaking update to the Commissioners and responded to their comments.

Byler said that staff are still planning to have proposed rules available for Commission consideration and adoption by the July 1998 meeting. However, due to the complexity of the issues and diverse nature of the Rules Advisory Committee (RAC) participants' concerns, staff suggested an alternative approach. The Department proposed to organize a working group to perform a broad, comprehensive review of municipal water right issues, including permit extension concerns. Progress reports, as well as the group's final recommendations, will come before the Commission for further action.

At the same time, current permit extension rulemaking will move forward for consideration by the Commission in July. The new rules will not specifically address municipal permit extension issues.

In past meetings, RAC members have suggested that it would not be fair to impose the new permit extension rules on certain permit holders who have relied on the past agency process. Staff will continue to work with the RAC to try to find alternative ways to address this issue.

Some irrigation districts, prior to 1987, filed notice of completion of construction and applied their water to beneficial use under their permits but have not received a Department-performed final proof survey. Without a final proof survey, they are unable to certificate their water right. Over time, needs of the irrigation districts have necessitated changes in the places of use of the water to land not contemplated in the original permit. The Department does not want to penalize districts because of our inability to execute a final proof survey on their permits in a timely manner. This issue is beyond the scope of the permit extension rulemaking. Staff plan to form a working group to explore options that would allow those irrigation districts to prove up on their permits so long as there is no enlargement of their rights.

Proposed permit extension rules will be available for public comment on May 1, 1998, and public hearings will be held during the last week of May. The Commission will then consider final adoption of the rules at its meeting on July 10. In the meantime, staff will form a working group to consider municipal permit issues, and another working group to address concerns about place of use changes made by irrigations districts with pre-1987 permits which have not received a final proof survey.

Public Comment

Steve Hinton, Oregon Trout, distributed written comments prepared by Roger Bachman who could not attend this meeting. If an extension is granted for as many as ten years, there should be a review at some intermediate point, perhaps every three to five years. The purpose would be to take into account such events as a threatened or endangered species listing or proposed listing. Hinton suggested stronger language in line 42, page 5, of the proposed rule— that the "may" be

changed to "shall" in the sentence that begins, "Extension orders may include... ." The suggested condition regarding established checkpoints should be a "shall" rather than a "may" and the wording altered to include Oregon Trout's concerns for streamflows for threatened or endangered fish. The appeal provisions call for the possibility of a contested case hearing which can be ignored or called by the Director. Oregon Trout asks that the Commission hear such appeals first. Hinton said that Oregon Trout does not agree with the suggestion by a user group to change the rule to give pending extension applications one more extension of whatever length necessary to complete their projects without any review criteria in the proposed rule being applied. (tape 5, mark 204)

Karen Russell, WaterWatch, distributed written comments. Russell complimented the Department's commitment to providing a public involvement process. Extensions of time relate to a fundamental concept of prior appropriation, beneficial use. The law gives water users certainty as far as priority dates, where they can use water, and for what purpose. But the law says you must be actually using the water — if you do not use it, you will lose it. This discourages speculation using water rights. The concept of a specific time for development of a permit and allowing for extensions of time for development has been in the law since 1909. Since 1909 there has been some kind of "good cause" standard. Much criticism of the proposed extension rules and enforcing the current extension law comes from the very users that benefit from other elements of the prior appropriation doctrine. WaterWatch is very concerned that the perceived equity issue is viewed from one side. The rules will allow the Department to get the information and better enforce existing law. The ones disadvantaged by past practices have been the existing water right holders and the resource that have been adversely affected by extension decisions that have not had rigorous review. WaterWatch supports the staff proposal that allows people with pending extension requests to opt for the new rules or the old rules so long as there are no other "alternatives" added to address the equity issue. WaterWatch strongly opposes the two track process that has been mentioned. It would allow people to come in without the rigorous review and get a longer term extension than is currently allowed under the rules. The extension checklist that the Department uses when they look at requests contemplates some kind of resource consideration; that is much greater than a simple due diligence review. The issues raised by the irrigation districts are not relevant for purposes of extension — this would be an illegal use issue, not an extension issue. There may be some merit to visiting this issue in another forum but that forum must be one that includes consideration of the public interest concerns raised by past illegal transfers. We do not want to be harming existing water users and the resource. A concern by WaterWatch is that there is no fishery protection standard in these rules. Good cause is a broad term. The current rules as drafted include a laundry list of things which may be considered, and also allow for some time of mitigation but that would not be mandatory. The mitigation language is tied to competing demands. It is not clear that you will be mitigating for impacts on resources.

Russell read comments from an e-mail sent by Marc Liverman, National Marine Fisheries Service (NMFS). NMFS believes that compliance with the spirit, terms, and conditions of the Oregon Plan and its implementing memorandum of agreement should guide any discretionary change in Oregon's Administrative Rules. Together, the Oregon Plan and MOA provide the necessary framework for restoration of natural coastal salmon populations and fisheries to productive levels. Liverman went on to say, thus NMFS urges the rulemaking advisory committee to recommend, and the Commission to eventually adopt, rules following the intent of the statute to discourage speculation and keep beneficial use, the measure of a right, and the ability to hold onto a right. To that end, NMFS requests that to the maximum extent possible, these rules require explicit meaningful consideration of fishery impacts as a fundamental part of the Department's decision whether to approve a permit extension. Further into the e-mail, Liverman says that no extension should be granted to allow water uses that will result in harm to, or prevent the recovery of, listed species or to make further listings more likely.

Russell said that her written comments offer a proposed fishery protection standard. There is no clear commitment to such a standard in these proposed rules. WaterWatch also has concerns about the checkpoint issue raised in the rules. If the rules are going to be amended to allow for longer term extensions than one year, checkpoints need to be a mandatory requirement in the rules. Russell said that extensions, especially with the rules as currently drafted, raise a lot of policy issues. There needs to be a process in these rules whereby those policy issues are elevated to the Commission level for discussion. (tape 5, mark 250)

Dan Bradley and Dick Helgeson, representing the Oregon Water Utility Councils, spoke in support of the staff recommendation of pulling the municipalities into a special rulemaking process. (tape 5, mark 409)

Jerry Schmidt, Oregon Association of Water Utilities, urged the Commission and Department staff not to use the word "municipalities." The term actually pertains to drinking water providers which come in many different forms. There are private associations, cooperatives, nonprofit corporations, all types of entities organized under Chapter 448. (tape 5, mark 446)

G. Public Comment

Sue Danver, Willamette River Education Project, invited those present to a meeting that evening at the Corvallis Public Library on agriculture and water quality, market base incentives and consumer choices.

Kimberley Priestley, WaterWatch, commented on Division 250 rulemaking and distributed a copy of the Department's public notice regarding these rules. Priestley said that while this issue is politically charged, the rulemaking is in fact a simple rulemaking. The language of the statute

governing these rules is very clear in granting authority to the Director and her delegates to enter lands. The only statutory limitation on this authority is that no unnecessary harm to the land can occur. Given that this is a fairly straightforward issue, WaterWatch urged the Department to go ahead with their rulemaking schedule. WaterWatch urged the Department to stand strong in the initial position outlined in the draft rules that went out for comment. That position was that the Department does have the broad authority to enter lands. This position is of critical importance. Without this authority, the watermasters will not be able to do their job. Instead of being out in the field seeing what's going on, they'll be busy trying to get warrants to get onto the land. The effect of limiting this authority would hurt both instream and out-of-stream water users. Fish will be hurt because a number of commitments in the Salmon Plan are predicated on Department enforcement efforts. Without the broad authority to enter lands, the Department will not be able to fulfil all their Oregon Plan commitments. Not limiting authority will also benefit consumptive water right holders. Consumptive users are the beneficiaries of the vast majority of the Department's enforcement actions. (tape 5, mark 512)

H. The Oregon Plan for Salmon and Watersheds: Flow Enhancement Prioritization Efforts

Geoff Huntington, Deputy Director, and Doug Parrow, Field and Technical Services Division, offered a written report and comments to the Commission.

Parrow said that for the past year, Water Resources Department (WRD) and Oregon Department of Fish and Wildlife staff (ODFW) have worked closely to identify priority areas for streamflow restoration activities. WRD staff provided the streamflow data to ODFW; the ODFW Portland office and the district biologist went through an extensive process to identify where the important biological resources exist. ODFW built a matrix to factor in all the considerations and identify where fish would most likely respond in the most positive way to increases in flow restoration. Watermasters were then asked to evaluate where the water management tools available to them would yield the most significant benefits; they were also asked to review the model for inaccuracies in streamflow conditions. Staff are close to completing work on an initial set of priorities. WRD staff will use these initial priority areas to guide field activities.

A meeting is scheduled for April 23 to begin work with watershed council coordinators on the prioritization process and the initial streamflow restoration priority areas. Since most of the alternatives for restoring streamflows rely on voluntary actions by water users and the acceptance of the measures by local citizens, support and cooperation of the watershed councils is essential. Staff will work with the councils to cooperatively develop the flow restoration schedule required under the Oregon Plan.

There being no further business to discuss, the meeting was adjourned.

Respectfully submitted,

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

Diane K. Addicott
Commission Assistant