

Oregon Water Resources Commission Work Session  
August 26, 1999  
Roseburg

Members

Nancy Leonard  
Mike Jewett  
Jim Nakano  
Dan Thorndike  
Ron Nelson  
John Frewing

Staff

Martha Pagel  
Tom Paul  
Dave Williams  
Al Cook  
Bev Hayes  
John Sample  
Dick Bailey  
Bob Rice  
Diane Addicott

Others

Lynne Kennedy  
Ken Homolka  
Brett Swift  
Tim O'Connor  
Jim Weiman  
Mikeal Jones

Written material submitted at this work session is part of the official record and on file at the Oregon Water Resources Department, 158 12<sup>th</sup> Street NE, Salem, Oregon 97310. Audiotapes of the work session are on file at the same address.

The work session opened with a panel discussion of hydroelectric relicensing and reauthorization. Panel members included Lynne Kennedy, Department of Environmental Quality; Ken Homolka, Department of Fish and Wildlife; Brett Swift, American Rivers; Tim O'Connor, PacifiCorp; and Bev Hayes and John Sample of the Water Resources Department. Dick Bailey, Acting Administrator of Resource Management, introduced each panel member and also Jim Weiman and Mikeal Jones, U.S. Forest Service, who spoke to the tour participants following the work session.

Hayes explained the reauthorization process and its history, showing slides of projects under reauthorization. She explained that Oregon has been issuing water rights for hydroelectric projects since 1909. Before 1931 permanent water rights were issued for hydro generation. In 1931 the legislature enacted a new licensing program and created a two-track process where municipal corporations continued to get permanent water rights and private individuals and

organizations received time-limited licenses. There are now 156 state authorized projects — approximately one-third of these are under water rights; and two-thirds are under licenses. The majority of projects are small and not regulated by the federal government.

Hayes said the reauthorization program is financed entirely by fees. She explained the reauthorization review process by Hydroelectric Application Review Teams (HART) composed of state regulatory agencies. The overall policy is to favor reauthorization as long as impacts can be mitigated successfully. Projects must be in the public interest, meet minimum fish and wildlife standards, and meet water quality standards, with no net loss to other resources such as wetlands and recreation.

John Sample spoke next on the Pacificorp North Umpqua Hydroelectric Project. Using a slide presentation Sample explained the various sections of the project. The project was constructed between 1947 and 1956. It is licensed by both the Federal Energy Regulatory Commission (FERC) and the Oregon Department of Water Resources (WRD). FERC issued a single license for the project which expired in 1997; WRD issued four licenses for the project based on the development stages; one of those licenses expired in 1996, and the other three will expire in 2000 and 2002. Sample said this is a highly complex project composed of eight primary diversion dams, eight power houses, over 21 miles of canals, and nearly ten miles of flumes and six miles of penstock.

Lynne Kennedy, Department of Environmental Quality (DEQ), spoke on DEQ's role in hydroelectric reviews. DEQ's purpose in the hydroelectric review program is to ensure that projects comply with water quality standards and with protection of beneficial uses. Few new hydro projects are expected but there will be a large number of relicensing projects; and most of those projects were first approved before the Clean Water Act existed. The Clean Water Act, Section 401, requires state certification of any activity that needs a federal permit and may result in a discharge to navigable waters. Kennedy said there is a standard in federal law that says in order to certify that water quality standards will be met there must be reasonable assurance. This is the "reasonable assurance" standard used for data and analysis. HB 2119 also calls for compliance with water quality standards, so DEQ participates in the review of smaller projects that do not have FERC licenses.

Kennedy said there are challenges in the review of smaller projects — having enough field staff to visit all the sites; dealing with small projects that lack funding resources for studies or mitigation; and the balancing of the various missions of state and federal agencies. But there are obvious benefits of government collaboration — the Clean Water Act and water right process are the strongest tools for protecting the state's interests in the hydroelectric licensing process.

Ken Homolka, Department of Fish and Wildlife (ODFW), gave a slide presentation and spoke on his agency's role in hydroelectric relicensing. ODFW, as a member of HART, begins consulting early in the relicensing process, scoping out issues and recommending studies to be conducted. The North Umpqua project is very complex in its design and its affects on fish and wildlife resources. Under federal laws FERC is required to consult with ODFW regarding conservation of fish and wildlife. ODFW policy strives to maintain wildlife at optimum levels, and manage lands to enhance production and provide recreation benefits. Their mitigation policy requires the agency to recommend mitigation for losses of fish and wildlife habitat. Their fish management goals call for prevention of serious depletion through protection of ecological communities and taking full advantage of the productive capabilities of the natural habitat. Homolka explained the different plans that guide ODFW's management actions.

Brett Swift, American Rivers, offered a conservation group perspective. She spoke on the traditional relicensing process, opportunities for conservation groups, and the shift to the alternative collaborative process. The traditional process primarily involved the tribes, the federal government, and state government; the conservation groups' opportunity to get involved was not until the final application was filed. This added much more time to the entire process. In 1997 FERC adopted the alternative process which allows more coordination at the beginning so the agencies and conservation groups can work together to try to reach a settlement which is incorporated into the final application. There are many benefits to this alternative process that brings the various groups together from the very start. It allows for the development of a more complete record before the final application is filed and results in a more timely relicensing. Swift said that when environmental benefits clearly cannot be addressed through project modification, funding for dam decommissioning becomes an issue.

Tim O'Connor, PacifiCorp, said he recently became involved in the North Umpqua relicensing efforts. It is quite an effort to relicense a facility meeting government mandates, minimizing impacts on the environment, and generating electricity at a low cost. O'Connor explained that prior to the passage of HB 2119 there was no mechanism for the renewal of state licenses for hydroelectric projects. That bill recognizes that hydro has significant public benefits as well as resource impacts; it establishes that it is state policy to reauthorize any existing project that meets minimum standards set by law and does not impair the public interest. The bill also calls for all state agencies to work together to develop a unified state position on each project and adhere to all regulatory proceedings including the FERC licensing process. O'Connor said this eliminates the risk of conflicts between the various state agencies and requires each agency to review each project in the context of all state mandates, not simply the goals and mandates of that particular agency. He said the North Umpqua project was already in the relicensing process before the passage of HB 2119. O'Connor hopes that the initial unified state position will be based on the settlement agreement that has been negotiated.

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Following the panel discussions, the work session adjourned for a tour of the North Umpqua hydroelectric project.

Respectfully submitted,

A handwritten signature in cursive script, reading "Diane K. Addicott". The signature is written in black ink and is positioned below the typed name.

Diane K. Addicott  
Commission Assistant

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