



# Oregon

Theodore R. Kulongoski, Governor

## Water Resources Department

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### MEMORANDUM

**TO:** Water Resources Commission

**FROM:** Phillip C. Ward Director

**SUBJECT:** Agenda Item J, May 5, 2006  
Water Resources Commission Meeting

### Grants Pass Irrigation District Consent Decree

#### I. Issue Statement

The Commission is asked to join in a stipulated agreement to amend the federal court consent decree allowing Grants Pass Irrigation District (GPID) to continue diverting water at Savage Rapids Dam through November 1, 2008.

#### II. Background

In 2001, the Commission was party to an agreement in federal court that settled pending litigation and allowed GPID to continue diverting 52.3 cubic feet per second (cfs) of water while it worked toward water conservation and removal of Savage Rapids Dam. That agreement included a deadline of November 1, 2005 for diversion at the dam. Due to the uncertainty of federal funding, the agreement also included a clause allowing the court to extend the deadline for diverting at the dam one year to November 1, 2006 if GPID complied with the certain conditions of the court decree.

In 2005 the Commission joined a stipulated order to extend the deadline in the 2001 federal court consent decree to allow GPID to divert water at Savage Rapids Dam until November 1, 2006. At that time Department staff indicated that the parties would need to revisit this timeline because the pumps would not be in place for the 2007 irrigation season. Recent information indicates the pumps will not be operable until after the 2008 irrigation season. The parties now ask the Commission to enter into a stipulated agreement to amend the consent decree to allow GPID to continue diverting water at the dam for two additional seasons until November 1, 2008.

#### III. Discussion

After November 1, 2006, GPID will not be able to divert water at Savage Rapids Dam. The existing stipulated agreement must be amended to allow diversion at the dam after 2006. While GPID's existing water right can not be amended to allow diversion at the dam after that date, the

Department is investigating other water use authorizations that would allow the district to divert at the dam until the pumps are installed. One such mechanism could be the authority under ORS 537.143 to issue a limited license in conjunction with an enforcement order or to issue a limited license for stored water. These and other options are being explored.

Based on information from the parties involved in the settlement agreement, GPID met its duties and obligations outlined in the agreement. Those duties and obligations included an average water use target of 130 cfs during the 2005 irrigation season, continued lobbying efforts to secure federal funding, allowing access to its facilities for pump installation and dam removal work, and compliance with the consent decree and incidental take permit.

The most recent information from the Bureau of Reclamation indicates the pumps will not be operational until 2009. The extra delay is caused in part by logistical problems with the federal biological opinion and delay in contracting to begin construction work. As a result, the window for in-channel work this year will pass before work can be done.

The other parties involved in the original agreement support extending the consent decree/stipulated agreement until the pumps are operational. The extension will allow the district to continue operations until the pumps are installed and keep the effort to remove the dam moving forward.

#### **IV. Summary**

The new pumps will not be installed and operational until after the 2008 irrigation season. Without the additional two-year extension of the agreement, GPID will not be allowed to divert water during the 2007 and 2008 irrigation seasons. GPID met its duties and obligations under the previous agreement and must continue to do so as provided by the consent decree. The parties will continue working together to keep the dam removal process on track.

#### **V. Recommendation**

Staff recommend the Commission join a stipulated order substantially in the form of the draft in Attachment 1 to extend the deadline in the consent decree for two years to allow GPID to divert water at Savage Rapids Dam until November 1, 2008.

Attachments:

1. Draft Stipulated Order to Extend Deadline in Consent Decree

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