

Oregon Water Resources Commission
Meeting
February 9, 2001
Salem

Members

Tyler Hansell
Jim Nakano
Dan Thorndike
Susie Smith
John Fregonese

Staff

Paul Cleary
Meg Reeves
Sharyl Kammerzell
Tom Byler
Diane Addicott
Cindy Smith
Dick Bailey
Tom Paul
Adam Sussman
Bruce Moyer
Barry Norris
Mike Zwart
Gary Ball
Fred Lissner

Others

Martin Myers
Ed Henricks
Jim James
Karen Russell
Kimberley Priestley
Steve Applegate
Jerry Franke
Lynn Shumway

Written material submitted at this meeting is part of the official record and on file at the Oregon Water Resources Department, 158 12th Street NE, Salem, Oregon 97301-4172. Audiotapes of the meeting are on file at the same address.

A. Commission Meeting Minutes

The minutes of the December 14-15, 2000, meeting were offered to the Commission for their approval. Fregonese moved to approve the minutes as presented; seconded by Thorndike. All voted approval.

B. Commission Comments

Nakano said more data seems to be needed to come to a consensus regarding TMDLs on the Snake River. Irrigators in the Basin who have been pro-active over the past years in controlling chemical run off will have a tough time trying to meet the requested additional 30 percent reduction.

Hansell said that he, along with Paul Cleary and Tom Paul, attended the annual meeting of the Oregon Water Coalition in January. He thanked staff and guests for the very interesting panel discussion on measurement and reporting at the previous day's work session. He asked if it might be possible for the Department and Commission to review the administrative rules governing the Columbia River (Division 33).

Thorndike announced that there is now a representative for Oregon Water Trust in southern Oregon. Thorndike moved to accept the updated 2001 meeting schedule; seconded by Nakano. All voted approval

C. Director's Report

Cleary handed out a fact sheet he has been sharing with legislators to give them a better understanding of agency programs and responsibilities. He also distributed two maps — one showing total water rights by county and the other showing total water rights by type in each county. Another map on display showed the number of wells in the state.

Cleary said the agency started out ten years ago with 147 employees, and under the Governor's recommended 01-03 budget, that number will remain the same. Through the years the workload has increased with no increase in staffing. The Department is currently processing approximately 800 water right applications, 600 transfer requests, 200 extension requests, and 10,000 certification requests. Last year staff conducted 8,000 regulation distribution activities on 300 streams. In the last five years staff issued approximately 5,600 proposed final orders; only 14 percent of them were protested, with even less being contested.

Average precipitation across the state is ranging from 50 to 75 percent of normal. The Water Availability Committee, a subcommittee of the Drought Council, will be meeting February 13, 2001. This group will be evaluating statewide climate conditions and making an assessment of the potential for drought. The precipitation of Klamath Falls is 48 to 52 percent of normal. Cleary said he will be meeting with the Bureau of Reclamation in Klamath Falls next week to discuss dry year conditions, endangered species listings, and water shortage contingencies.

Cleary said he has been meeting with representatives from Idaho, Montana, and Washington about the concept of creating an interstate mitigation bank to deal with Columbia River concerns in the future.

The Deschutes Steering Committee is getting close to completing a mitigation strategy for managing surface and ground water. This plan will hopefully restore flows in both the Middle and Lower Deschutes and allow conjunctive management of the ground and surface water.

D. Presentation to Willamette Industries, Inc. for Streamflow Restoration Efforts

Vice-chair Hansell presented a plaque to Jim James, General Manager of Western Timber and Logging of Willamette Industries, in appreciation for Willamette Industries' responsible management, conservation, and restoration of Oregon's water resources. Over the past several years Willamette Industries has taken upon themselves to review their water use and assure that use is covered by appropriate water rights. The result has been the voluntary cancellation of water rights that have been forfeited due to non-use totaling 8.08 cfs. They have requested water right transfers that propose to move points of diversion down stream resulting in the protection of increased streamflows between the old point and new point of diversion totaling nearly 25 cfs. The company has also worked with Department staff to lease 7.05 cfs instream. Willamette Industries has supported the participation of Ed Henricks on several Department work groups; he has been an active participant providing valuable input on issues involving good stewardship and management of the resources.

E. Boardman Tract Settlement

Karen Russell, WaterWatch of Oregon; and Martin Myers, General Manager, R.D. Offutt Company Northwest, presented an overview of the recent settlement regarding development and conservation of a large tract of land near Boardman. The settlement resolves a contested case pending before the Department over water rights for the land. The agreement reduces the amount of water that can be withdrawn from the Columbia River for irrigation and provides a model for water conservation practices that could be applied to other agricultural operations. The agreement also provides \$1.25 million to fund acquisition of water rights for return flows to Columbia River tributaries, and provides a process for the parties to work with federal agencies to develop additional measures to protect endangered salmon.

F. Request for Adoption of Oregon Administrative Rules Chapter 690, Division 53, Relating to Hydroelectric Licenses, Power Claims and Certificates.

Dick Bailey, Administrator of the Water Rights and Adjudications Division, presented these rules for consideration by the Commission. He explained that House Bill 2162 (1999 Legislature) authorized amendments in certain circumstances to hydroelectric licenses, power claims, or certificates. The bill required the Department to develop rules establishing a process by which state decisions would be made to approve or deny the applications. Bailey said these rules would allow project owners to request that the Department amend water rights to keep them consistent with evolving regulatory requirements without issuing a complete new water right. The rules also would allow the Department to correct administrative errors and clarify conditions as the need arises.

Bailey said the members of the rules advisory committee included hydroelectric project owners, and representatives of state agencies and public interest groups. A public hearing was held in October 2000 on the proposed rules; no one testified at the hearing and the Department received only one written comment from the Eugene Water and Electric Board correcting an inaccurate citation.

Thorndike moved to adopt the final proposed rules as recommended by staff; seconded by Fregonese. All voted approval.

G. Work Group/Task Force Update

Tom Byler, Senior Policy Coordinator, gave an update to the Commissioners on the activities of Department and Commission work groups. Relating to the Endangered Species Act Work Group, Meg Reeves has been in touch with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service regarding development of a Memorandum of Understanding. The Community Water Supply Work Group continues to meet regularly to discuss local concerns and State water law. The Joint Task Force on Water Supply and Conservation, created in 1999 by Senate Bill 93, will be meeting March 1, 2001, to work on a report for submission to the legislature. The Hydroelectric Task Force has continued to meet regularly to work on administrative rules and discuss policy issues. Another work group has been considering amendments to well construction rules.

H. Public Comment

Lynn Shumway, Chair of the Burnt River Irrigation District, offered a different approach to water management after listening to yesterday's panel discussions on measurement of water and the need for instream flows and conservation. He said in the Burnt River area there is no shortage of water, but there is a problem with management. The Burnt River at present is 20 to 25 feet wide; and the channel may be 40 feet wide. A two-year study with the Bureau of Reclamation was just completed and Oregon State Rangeland Resources Department also conducted extensive studies on the river. They came up with interesting figures — that the river channel is about 40 feet wide with a capability of handling 250 to 300 cfs. Shumway said that eight to ten weeks from today that river will be anywhere from 200 to 300 yards wide to one-half mile wide. Eleven million acre feet are flowing from lands in the eastern part of the state on an annual basis. Just recently the reservation process for the Powder River Basin was completed. Water is reserved in the Burnt River Basin for two storage projects — one will have 12,000 acre feet of active storage; the other will have 6,000 acre feet. Because those storage projects do not exist, it is not possible to capture water in times of flood. The majority of that water comes from the North Fork of the Burnt River on which the District proposes to build one of these storage projects. Shumway said in mid-July if a fish wants to go up the North Fork he'd have to hitchhike between pools. If water could be managed through storage projects, the needs of

instream flows, fish, and recreation could be addressed along with municipal and industrial needs, in a way that would protect endangered species. It has been a hard sell to move forward with the projects. He said that as we look at the needs and realize the water is there to meet those needs, it would seem that every group represented on the panels at yesterday's work session would be wanting to see upland storage developed. Several years ago the Commission granted Burnt River Irrigation District the first reservation for future economic development. He said that at that time he was hoping to be back before the Commission in two years for a permit to build. Senator Ferrioli has offered some encouragement regarding some ways to proceed at this time. Burnt River Irrigation District will be meeting with the Governor's Community Solutions Team later this month in an effort to move these storage projects forward. (tape 3, mark 1)

Nakano agreed that it would be very helpful to be able to capture waters from the spring thaws and use it when needed.

I. Legislative Update/Budget Update

Tom Byler, Senior Policy Coordinator, reviewed the bill tracking log with the Commissioners and responded to their questions. He said that water quality and land use have been the main natural resource focus. The committees that will be reviewing bills submitted by the Department are House Water and Environment; House Stream Restoration and Species Recovery; and Senate Natural Resources, Agriculture, Salmon and Water.

Tom Paul updated the Commissioners on the status of HB 2539 which would require the Commission to notify water districts and the Bureau of Reclamation of potential water right cancellations in certain cases. Several amendments to the bill have been proposed.

Bruce Moyer, Administrator of the Administrative Services Division, said the Department budget is scheduled for review by the Natural Resources Subcommittee of the Ways and Means Committee the week of February 19.

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

Respectfully submitted,



Diane K. Addicott
Commission Assistant