

Oregon Water Resources Commission  
Meeting  
April 18, 2003  
Salem

WRC Members

Dan Thorndike  
Jay Rasmussen  
Tyler Hansell  
Jim Nakano  
Susie Smith

WRD Staff

Paul Cleary  
Phil Ward  
Shannon O'Fallon  
Cindy Smith  
Debbie Colbert  
Diane Addicott  
Renee Moulun  
Kyle Gorman  
Dick Bailey  
Adam Sussman  
Al Cook  
Bernadette Williams  
Barry Norris  
Juno Pandian  
Mike Ladd  
Tom Paul  
Laura Snedaker  
Doug Parrow  
Jerry Rodgers  
Ken Lite

Others

Karen Russell  
Ed Henricks  
Chuck Mihalko  
Mickey Killingsworth  
Mary Meloy  
Brad Harper  
Anita Winkler  
Laurel Hines  
Gary Thompson  
Doug Myers  
Roger Kaye

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

Chair Thorndike opened the public meeting and called an Executive Session to consult with legal counsel regarding the Commission's final order in *McCormack v. Water Resources Commission*.

Following the Executive Session, Rasmussen moved to withdraw the final order currently on appeal in *McCormack v. Water Resources Commission*, pursuant to ORS 183.482(6), for purposes of reconsideration. This final order, in the matter of Water Right Application IS 70606, was issued by the Commission on June 7, 2002. The purpose of the reconsideration of the order is to clarify the basis upon which the Commission issued the order. The Commission also

delegated to the Director the authority to sign the order on reconsideration. The motion was seconded by Hansell; all voted approval.

#### **A. Commission Meeting Minutes**

The minutes of the February 13-14, 2003, meeting were offered to the Commissioners for their consideration. Nakano moved to approve the minutes as presented; seconded by Rasmussen. All voted approval.

#### **B. Commission Comments**

Nakano said his local watershed council recently facilitated a meeting with ranchers and the Bureau of Reclamation regarding the need for measuring devices on the upper North Fork of the Malheur River, a critical habitat area for bull trout. The Bureau is able to offer a 50/50 funding cost share for these devices because of the bull trout listing. Installation of 15 to 22 measuring devices should begin this fall.

Hansell thanked everyone for the dinner held in his honor Thursday evening. He is leaving the Commission after serving over eight years. Hansell said he has recently attended several local water-related meetings in the Hermiston area.

Thorndike attended the April 8, 2003, meeting of the Oregon Watershed Enhancement Board which focused on watershed council funding.

#### **C. Director's Report**

Cleary reviewed his written staff report with Commissioners and talked about being in Klamath Falls the day before with Governor Kulongoski and Congressman Walden. They met with the Klamath Tribes and the Klamath Water Users; and participated in a tour of a local farm and the new \$12,000,000 A-Canal headgate and fish screen.

#### **D. Update of Legislative Activity**

Adam Sussman, Senior Policy Coordinator, reviewed a listing of water-related legislative bills and responded to Commissioners' comments and questions.

#### **E. Request for Adoption of Water Right Transfer Rules - OAR Chapter 690, Division 380**

Tom Paul, Field Services Administrator; and Doug Parrow, Natural Resources Specialist, offered water right transfer rules for the Commissioners' consideration. They explained that staff worked with a Rules Advisory Committee to develop amended transfer rules for public hearings. The amended rules reflect a number of changes, including reorganizing the existing rules (OAR

Chapter 690, Division 15) into a new Division 380.

Parrow suggested deleting “approved” and adding “endorsed” on page 24, lines 9 and 19, of the proposed rules.

#### Public Comment on Item E

Karen Russell, WaterWatch, spoke in support of the proposed rules, except for limiting the fee waiver to \$100 for “fish friendly” transfers. After discussion, Cleary suggested adding language to 690-380-3400, line 3, that would indicate waving \$100 or 50 percent of the application fee, whichever is greater.

Russell commented on the language change suggested by Parrow; she asked that “approved” be replaced by “determined.” Cleary suggested using both “determined” and “endorsed”; all agreed on this language change to lines 9 and 19 on page 24 of the proposed rules.

Following public comment and discussion, Rasmussen moved to adopt the proposed rules as provided in the staff report with the following amendments. In 690-380-3400(3) and 690-380-3410(c) replace “approved” with “determined and endorsed.” In 690-380-3400 regarding waiver of fees, add language to read, “The Director shall waive \$100 or 50 percent of the application fee, whichever is greater, for that portion of a change to a water right permit under ORS 537.211(4) or a water right subject to transfer under ORS 540.520 or 540.523, that is....” The motion was seconded by Smith. All voted approval.

#### **F. Consideration of Approval of Appointments to the Ground Water Advisory Committee (GWAC)**

Barry Norris, Administrator for Technical Services; and Donn Miller, Ground Water/Hydrology Section, presented this report to the Commission. Jim Mack (well industry category); Malia Kupillas (hydrogeology category); and Nitin Joshi (local government category) were recommended for reappointment. Don Rajnus was recommended to fill a vacancy in the ground water user category.

After discussion, Smith moved to accept the slate of nominees as presented by staff; seconded by Hansell. All voted approval.

#### **G. Request for an Exception to the Willamette Basin Program by Weyerhaeuser under ORS 536.295(1)(f)**

Smith disclosed that she, as a general manager for Metropolitan Waste Water Management Commission, will be making application for a similar process, but will not be seeking a basin exception. Shannon O'Fallon, Assistant Attorney General, said she saw no conflict of interest.

Dwight French, Water Rights Division Manager, presented this request for a basin exception from Weyerhaeuser. He explained that Weyerhaeuser had submitted an application to divert 3.18 cubic feet per second from an aeration settling basin filled by industrial waste water for irrigation of 254.6 acres. However, water diverted from this section of the Willamette River is not classified for irrigation use in the Willamette Basin Program. The Commission was asked to provide the applicant an exception to the Willamette Basin Program.

French said staff believe that the use is consistent with the general policies of the basin program because the use would not contribute to over-appropriation; would allow irrigation for the longest period possible between March 1 and October 31 provided sufficient water is available; and would seek to improve instream values from a water quality perspective.

Ed Henricks and Chuck Mihalko, Weyerhaeuser, spoke in support of the request and explained the water improvements that would result from using industrial waste water for irrigation.

Smith moved to approve the request by Weyerhaeuser for a basin program exception because the proposed use will provide the public benefit of watershed improvement; recognizing that a permit, if ultimately issued, may be conditioned to address public interest concerns. The motion was seconded by Rasmussen; all voted approval.

## **H. Informational Report on the 2001-03 Biennial Report for the Oregon Plan for Salmon and Watersheds**

Geoff Huntington, Executive Director of the Oregon Watershed Enhancement Board (OWEB); and Jay Nicholas, OWEB Science and Policy Advisor, presented an overview of their biennial report. They also talked with the Commissioners about streamflow restoration and the conserved water program which will be a focus of future OWEB reports.

## **I. Public Comment**

Mickey Killingsworth, farmer from Madras, encouraged Commissioners to communicate with their local legislators regarding activities of the Water Resources Commission and the Department; and to consider holding town hall meetings in the regions they represent.

Mary Meloy, City of Redmond, asked that long-term water supply planning be handled at a basin level with guidance from the Commission; and that Commissioners and staff develop statewide

water management principles. She suggested the following as possible guiding principles — Oregon's watersheds are separate and unique and planning should be done watershed by watershed; use the best science available; and involve the appropriate stakeholders.

Roger Kaye, Turner, spoke on the Marion County Sensitive Ground Water Overlay Zone Ordinance. The Ordinance is currently being reviewed and the county is trying to balance the needs of developers, the needs of current residents, and land use laws. In order to prevent such conflicts, he suggested that the Water Resources Department and Commission provide some relief to current residents.

Laurel Hines, member of Friends of Marion County and Stop Densification in Spring Lake Estates Committee, distributed a packet to Commissioners outlining her concerns regarding limited ground water and new development. She asked the Commissioners to contact Marion County regarding this issue.

Gary Thompson, Spring Lake Estates resident, spoke to the Commission regarding ground water decline concerns on his property.

After some discussion, it was decided that Cleary would write to the Marion County Board of Commissioners regarding residents' concerns about local ground water depletion and related Department activities.

Respectfully submitted,

Diane K. Addicott  
Commission Assistant