

Oregon Water Resources Commission Meeting
May 20, 2004
Salem

WRC Members

Dan Thorndike
Jim Nakano
Jay Rasmussen
Tyler Hansell
Susie Smith

WRD Staff

Paul Cleary
Shannon O'Fallon
Diane Addicott
Cindy Smith
Debbie Colbert
Adam Sussman
Cory Engel
Gerry Clark
Tracy Eichenlaub
Juno Pandian
Tom Paul

Others

Phil Ward
Barry Norris
Doug Woodcock
Kerry LeFever
Jeanna Eastman
Jerry Sauter
Renee Moulun
Steve Brown
Bill Ferber

Doug Myers
Kimberley Priestley
Emilie Wolff
Scott Ashcom
Anita Winkler

Written material submitted at this meeting is part of the official record and on file at the Oregon Water Resources Department, 725 Summer St. NE, Salem, Oregon 97301-1271. Audiotapes of the meeting are on file at the same address.

Chair Thorndike called the meeting to order. Thorndike recognized Diane Addicott, Commission Assistant, for her hard work and ability to keep the Commission organized during her time with the Department and wished her luck in her retirement.

A. Commission Meeting Minutes

The minutes of the March 11–12, 2004, meetings were offered to the Commission for their consideration. Commissioner Nakano moved to approve the minutes as presented; seconded by Commissioner Rasmussen. Voting for the motion: Commissioners Smith, Nakano, Thorndike, Hansell and Rasmussen. Voting against the motion: None.

B. Repeal of OAR Chapter 690, Divisions 03, 11 and 26; and Amendment of OAR Chapter 690, Divisions 310 and 340

Adam Sussman, Senior Policy Coordinator; and Cory Engel, Senior Water Right Technician, presented a request to repeal rules under OAR Chapter 690, Divisions 3, 11, and 26 and to amend rules under OAR Chapter 690, Divisions 310 and 340. Sussman reviewed the final staff report and explained that the rules under OAR Chapter 690, Divisions 3, 11 and 26 are no longer necessary due to statutory changes. The proposed rule amendments under OAR Chapter 690, Divisions 310 and 340 would provide consistency with current statutes and would ensure that fees paid for limited licenses are modified commensurate with other statutorily established fees adjusted by the 2003 Legislature.

Commissioner Smith moved to adopt the proposed rules as indicated in Attachment 1 of the staff report; seconded by Commissioner Hansell. Voting for the motion: Commissioners Smith, Nakano, Thorndike, Hansell and Rasmussen. Voting against the motion: None.

C. Request for Amendment of OAR Chapter 690, Division 14 (Certified Water Right Examiners)

Adam Sussman, Senior Policy Coordinator; and Gerry Clark, Water Rights Specialist, presented a request to adopt final proposed rules under OAR Chapter 690, Division 14. Clark reviewed the staff report and explained that the final proposed rules achieve consistency with current statutes and other rules of the Commission. The final proposed rules clarify the information required in the Claim of Beneficial Use report and make the review of those reports more efficient. Clark noted that the rules have not been updated since their initial adoption in 1988.

Commissioner Rasmussen moved to adopt the proposed rules as indicated in Attachment 1 of the staff report; seconded by Commissioner Nakano. Voting for the motion: Commissioners Smith, Nakano, Thorndike, Hansell and Rasmussen. Voting against the motion: None.

D. Request for Exception to the Willamette Basin Program by Blue Den Ranch under ORS 536.295

Debbie Colbert, Water Policy Analyst, presented a request from Blue Den Ranch (Application S-85965) for an exception to the Willamette Basin Program. Steve Applegate, representing Blue Den Ranch, was present to respond to questions from the Commission. Blue Den Ranch would like to expand their operations and are in need of approximately 1.0 cfs of water from Bilyeu Creek to add another fish rearing pond to their facility. An application was filed in March 2004 for this use. The Willamette Basin Program does not classify Bilyeu Creek for commercial fish hatchery use.

Colbert explained that in order for the Commission to approve the exception, the request must meet statutory criteria under ORS 536.295 and the proposed use must be consistent with the general policies of the applicable basin program. Blue Den Ranch demonstrated that approval of this request would allow for consideration of a proposed use that is largely non-consumptive in nature, not likely to be regulated for other water rights, and is consistent with the general policies of the Willamette Basin Program.

Commissioner Smith moved to approve the request by Blue Den Ranch for a basin program exception because the proposed use is largely non-consumptive in nature and not likely to be regulated for other water rights, recognizing that a permit, if ultimately issued, may be conditioned to address public interest concerns; seconded by Commissioner Hansell. Voting for the motion: Commissioners Smith, Nakano, Thorndike, Hansell and Rasmussen. Voting against the motion: None.

E. Request for Amendment of OAR Chapter 690, Divisions 200, 205, and 240 (Well Construction Standards)

Juno Pandian, Enforcement Section Manager; and Tracy Eichenlaub, Well Enforcement Specialist, presented a request to adopt final proposed rules under OAR Chapter 690, Divisions 200, 205 and 240. Eichenlaub reviewed the staff report and explained that the proposed rules are based on legislative

changes; recommendations from a Well Construction Rules Advisory Committee and the Ground Water Advisory Committee; and internal review.

Commissioner Hansell moved to adopt the final proposed rules as provided in Attachment 1 of the staff report with the Ground Water Advisory Committee recommended change provided in Attachment 4 of the staff report; seconded by Commissioner Smith. Voting for the motion: Commissioners Smith, Nakano, Thorndike, Hansell and Rasmussen. Voting against the motion: None.

F. Request for Amendment of OAR Chapter 690, Division 502 (Willamette 5-year permits)

Adam Sussman, Senior Policy Coordinator, presented a request to adopt final proposed rules under OAR Chapter 690, Division 502. Sussman reviewed the staff report and explained that the rules provide an opportunity for certain holders of five-year limited ground water permits to submit an application for a ground water permit without the five-year limitation. Ground water applications reviewed under the proposed rule would be subject to all current application processing rules and review requirements. The proposed rule sunsets January 1, 2006.

Scott Ashcom, Oregon Agriculture Alliance, spoke in favor of the proposed rules.

Commissioner Hansell moved to adopt the final proposed rules as provided in Attachment 1 of the staff report; seconded by Commissioner Rasmussen. Voting for the motion: Commissioners Smith, Nakano, Thorndike, Hansell and Rasmussen. Voting against the motion: None.

G. Public Comment

Kimberley Priestley, WaterWatch of Oregon, expressed her concerns about ground water pumping in the Klamath Basin. Priestley asked the Commission to take pro-active steps to protect Klamath Basin water resources; to reconsider its decision on WaterWatch's 2002 request for a moratorium on new ground water permits; to institute measurement and reporting in the Basin; and to encourage the Department to issue temporary permits rather than permanent permits.

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

Respectfully submitted,

Cindy Smith
Commission Assistant