

WATER RESOURCES COMMISSION

MEETING

SALEM

MARCH 30, 1990

MINUTES

Commission members present:

Bill Blosser  
Lorna Stickel  
Dierdre Malarkey  
Cliff Bentz  
Jim Howland  
Mike Jewett

Water Resources staff:

Bill Young  
Jan Shaw  
Steve Sanders  
John Borden  
Becky Kreag  
Fred Lissner  
Marc Norton  
Mike Mattick  
Tom Kline  
Weisha Mize  
Tom Paul  
Bev Hayes  
Mary Graine  
Steve Applegate  
Bud Bartels  
Roberta Jortner  
Rick Bastasch  
Doug Parrow  
Steve Brutscher

Commission members absent:

Hadley Akins

Others:

Audrey Simmons  
Tom O'Connor  
Dan Wilson  
Denise McPhail  
Jan Boettcher  
Ed Weber  
Dave Hunter  
Libby Henry  
Brad Higbee  
Cal Krahmer  
Doug Myers  
David Childs  
Robert J. Hamilton  
Jill Zarnowitz  
Marjo Nelson  
Representative from Polk County  
Al Cook  
John Lilly  
David Getzendanner  
Scott Ashcom

The staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Office of the Director of the Water Resources Department, 3850 Portland Road, NE, Salem, Oregon. Written information submitted at this meeting is hereby made a part of this record and is on file at the above address. Audiocassette recording tapes of the meeting are also on file in the Water Resources Department office.

Chairman Blosser announced that the Commission had agreed at the work session yesterday to send the state agency coordination rules out to hearing.

**A. MINUTES OF THE FEBRUARY 12-13, 1990 WRC MEETING AND WORK SESSION**

It was **MOVED** by Jim Howland, seconded by Mike Jewett, and passed unanimously to approve the minutes as submitted.

**B. REQUEST FOR AUTHORIZATION TO CONDUCT PUBLIC HEARINGS ON THE FILING AND PROCESSING OF SPRING REGISTRATIONS**

Senate Bill 261 of the 1989 legislative session provided for the filing of spring registrations. Persons who use spring waters that do not flow off their property are not required to file for water rights. However, if those persons have divided their property or intend to divide it so that the spring does flow off the property, then they need a water right. This law provides them the opportunity to claim a priority date from the time the use of the spring waters first began.

The legislation requires the Commission to address four issues:

1. **Fees.** The Department is proposing to use the same fee schedule as for the filing of other surface water registrations. That schedule was set by ORS 539.081.
2. **Forms.** The Commission determines the information required on the registration statement. The rules require a map prepared by a Certified Water Rights Examiner (CWRE) as is required for other surface water registrations.
3. **Estimates of spring flows.** The Commission delegates this responsibility to the regional manager who can determine what is a reasonable estimate for the Department's purposes. The Department has a greater interest in estimates of actual water use than in an estimate of total flow from the spring.
4. **Times for filing.** The Department recommended that those persons who have developed a spring right and have already subdivided their properties be required to claim their earlier priority date by December 31, 1994. After December 31, 1994, persons must file before they subdivide their property in order to claim an earlier priority date.

**Director's Recommendation**

Staff recommended that the Commission authorize a hearing to be held in Salem on the proposed administrative rules.

The Commission made a few grammatical changes in the draft rules. Commissioner Bentz asked staff to clarify the difference between a spring and a stream. Commissioner Malarkey suggested that the Oregon Farm Bureau be added to the public notice mailing list for this set of rules.

It was MOVED by Jim Howland and seconded by Didi Malarkey to send the rules, as amended, out to hearing. The motion passed unanimously.

C. REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON PROPOSED RULES FOR REGULATION OF THE BUTTER CREEK CRITICAL GROUND WATER AREA, MORROW AND UMATILLA COUNTIES

On November 30, 1989, the Oregon Supreme Court affirmed the decision of the Court of Appeals which upheld the Department's order creating the Butter Creek Critical Ground Water Area. The order set exterior boundaries for the basalt ground water reservoir and divided the area into six subareas. There were no restrictions on pumpage from the basalt ground water reservoir included in the order.

The Butter Creek Critical Ground Water Area (CGWA) encompasses approximately 274 square miles in the north-central portion of the Umatilla Basin. During the 1960's, development of the basalt ground water reservoir for irrigation occurred rapidly. There are 21,233 acres of primary ground water rights and 5,815 acres of supplemental ground water rights from the basalt reservoir within the boundaries of the critical area. Pumpage over the last 12 years has averaged 18,640 acre feet a year.

Over 600 wells have been drilled in the Butter Creek CGWA. Most of these are for domestic use near Hermiston. Ground water levels in most domestic and irrigation wells that penetrate the basalts in the Butter Creek CGWA have been declining since the late 1950's. Pumps have been lowered and larger motors have been installed so that water supplies can be maintained. Several irrigation wells are no longer used or have been converted for domestic use due to declining water levels. Pumping water levels in two irrigation wells have exceeded 700 feet below land surface.

Pumpage must be reduced so that reasonably stable ground water levels can be reached. Staff developed proposed rules which describe the method for determining the sustainable annual yield for each subarea of the CGWA. The proposed rules also describe a method for distributing the available ground water supply.

Director's Recommendation

The staff recommended that the Water Resources Commission conduct a public hearing on proposed rules to amend the Umatilla Basin Program to regulate pumpage of water from the basalt reservoir in the Butter Creek Critical Ground Water Area. The Commission was also asked to appoint a member to conduct the hearing on May 9, 1990 in Hermiston.

Chairman Blosser announced that the Commission had conducted an executive session the previous day in connection with this item. The Commission took no formal action on the matter at that session.

Hadley Akins will act as hearings officer. If he cannot serve, Cliff Bentz will do so.

It was MOVED by Lorna Stickel, seconded by Mike Jewett, and passed unanimously to authorize the hearing to be conducted on May 9.

E. REQUEST FOR APPROVAL TO HOLD A PUBLIC HEARING ON PROPOSED ADMINISTRATIVE RULES FOR EMERGENCY DROUGHT AUTHORITY UNDER ORS 536.700 THROUGH 536.780

The 1989 Legislature enacted Senate Bill 152 which gives the Governor and the Water Resources Commission emergency authority during the time of a declared drought. The act is codified in ORS 536.720, 536.740 through 536.780. Draft rules have been prepared by staff and reviewed by the Assistant Attorney General. The draft rules have also been reviewed by the Oregon Drought Council.

The Commission, at its August 17, 1989 meeting, approved a rulemaking schedule that proposes adoption of these rules in July 1990.

The purpose of these rules is to provide emergency authority to the Commission during a time when there is a severe water shortage. The rules include provisions for temporary emergency use permits; temporary allowance for preference of use for human consumption and livestock; temporary changes in use, places of use, and points of diversion; and allowance for purchase of options or agreements regarding existing water rights. The rules also specify conditions under which the Commission may require state agencies and political subdivisions to prepare and implement conservation and curtailment plans.

Director's Recommendation

The staff recommended that the Commission approve the draft rules for public hearing and approve the time and location shown in the staff report.

It was MOVED by Didi Malarkey, seconded by Jim Howland, and passed unanimously to approve the Director's recommendation.

PUBLIC COMMENT

No one chose to appear.

F. COMMISSION COMMENTS

The Commission members had no comments.

G. DIRECTOR'S REPORT

1. Recommendation for Amendment to Final Order on North Wasco County PUD'S Permit Application 60425, as Requested by Applicant: At its regular meeting on February 12, 1990, the Commission approved a proposed order approving North Wasco County PUD's application to appropriate water for hydroelectric power development. The proposed order was signed by Commission Chair William Blosser and served on the parties February 24.

Applicant PUD made a request for one minor language change in the procedural background and two minor language changes in Findings of Fact 6(2) and 6(3). The request was made

in the form of Exceptions to the proposed order. Other than these three corrections, the applicant accepted the proposed order with its conditions and requested that the Commission adopt the amended proposed order as the Final Order.

The changes requested were:

1. Strike the words "stipulated to and" in line 3 of last paragraph of the Procedural History.
2. Amend Finding of Fact 6(2) as follows: "The transmission lines from the powerhouse will be [raptor-proofed] designed and constructed in a manner that protects raptors."
3. Amend Finding of Fact 6(3) as follows: "Project construction activities that cause major environmental disturbances will be restricted to the period between April 1 and November 1."

**([Bracketed language to be deleted; underlined language to be added.]**

#### Director's Recommendation

The staff recommended that the Commission approve the requested changes and adopt the amended order as the Final Order in this matter.

It was MOVED by Didi Malarkey and seconded by Mike Jewett to approve the Director's recommendation. The motion passed unanimously.

2. The Director reported that Agenda Item O, consideration for approval for water rights for irrigation from East Fork Big Creek, tributary to Big Creek, in Coos County, had been pulled from the agenda at the request of the applicant. The matter will be reset for a new date.

3. Schedule for the 1991-93 Budget Development: The Department was required to develop a new agency requested budget each even-numbered year. The budget covers a two-year period from July 1 - June 30, beginning in the ensuing odd-numbered year. The budget currently being developed is for the 1991-93 biennium.

Generally speaking, the budget process begins with the agency-requested budget. It includes the level of spending required for existing programs and any new program or enhancement the agency may propose to implement. The agency-requested budget is submitted to the Governor for review.

The Governor makes adjustments to the agency-requested budget to bring agency spending in line with overall state priorities as defined by the Governor. The Governor then presents the Governor's recommended budget to the Legislature.

Through a hearings process the Governor's recommended budget is adjusted to bring overall spending in line with state priorities as defined by the Legislature. The resulting budget becomes the agency's legislatively approved budget. Expenditure limitations, appropriations, and notes included in this budget will guide the agency for the next two years.