

removed before the new dam is built. The enlarged reservoir will store an additional 88.3 acre-feet of water. The dam is located about 4.5 miles south of Cornelius.

The question before the Commission was whether the issuance of a permit to enlarge a reservoir and store an additional 88.3 acre-feet of water behind a 45 foot high dam would have a significant adverse effect on the public interest. Administrative Rule 690-11-080 (2)(a)(C) specifies that dams greater than 10 feet in height or impounding more than 9.2 acre-feet of water be referred to the Commission to make a public interest determination under ORS 537.170.

P. CONSIDERATION FOR APPROVAL OF APPLICATIONS R-69553 AND 69266 TO STORE AND USE EFFLUENT FROM THE CITY OF MILTON-FREEWATER'S SEWAGE TREATMENT AND HOLDING LAGOONS, TRIBUTARY TO THE WALLA WALLA RIVER FOR IRRIGATION, CITY OF MILTON-FREEWATER, UMATILLA COUNTY

On September 2, 1987 and February 29, 1988, the City of Milton-Freewater submitted Applications R-69553 and 69266. Application R-69553 proposed to store up to 212.38 acre-feet of water in three effluent lagoons. The effluent comes from treated sewage and waste water from local canneries. The effluent is piped from the treatment plant to the holding ponds and then to the lands under irrigation. The water is piped about six miles to the city-owned lands for irrigation. Application 69266 proposed the use of water from the treatment lagoons of up to 15.40 cfs for the irrigation of 165.8 acres and supplemental irrigation for 450.3 acres.

The question before the Commission was whether the issuance of a permit for up to 212.38 acre-feet of storage and use of 15.4 cfs of water would have a significant adverse effect on the public interest. Administrative Rule 690-11-080 (2)(a)(A)(C) specify that appropriations for greater than 5 cfs and storage of more 9.2 acre-feet of water be referred to the Commission to make a public interest determination under ORS 537.170.

R. CONSIDERATION FOR APPROVAL OF APPLICATIONS R-69659 AND 69725 TO STORE AND USE WATER FROM SAGEHORN RESERVOIR AND DRY PRAIRIE CREEK, TRIBUTARY TO LOST RIVER FOR IRRIGATION, LEO SAGEHORN, KLAMATH COUNTY

On July 12, 1988 and September 19, 1988, Leo Sagehorn submitted Applications R-69659 and 69725 respectively. Application R-69659 proposed to store up to 34.06 acre-feet of water behind a 15 foot dam built in the late 1940's for irrigation and livestock. Application 69725 proposed to use up to 1.56 cfs from Dry Prairie Creek for irrigation and livestock. The applications were filed as a result of the Lost River Supplemental Adjudication. The use of water as proposed in these applications would be to supplement the claim of the applicant on Dry Prairie Creek and cover additional lands that are not included in the proposed decree.

The question before the Commission was whether the issuance of a permit for up to 34.06 acre-feet of storage behind a 15-foot dam would have a significant adverse effect on the public interest. Administrative Rule 690-11-080 (2)(a)(C) specifies that appropriations for greater than 9.2 acre-feet of storage be referred to the Commission to make a public interest determination under ORS 537.170.

Director's Recommendation

The recommendation of the Department was the same for the above six items, Items K, L, M, N, P, and R. The recommendation was to approve Alternative 2, that the Commission find that the projects would not have significant adverse effects on the public interest and authorize the Director to issue the permits.

Item N was amended to limit filling of storage to March 31 of each year.

It was MOVED by Lorna Stickel and seconded by Jim Howland to approve the Director's recommendation on the above six items, Items K, L, M, N, P, and R. The motion carried unanimously.

Q. CONSIDERATION FOR APPROVAL OF APPLICATION G-11640 TO USE GROUNDWATER, TRIBUTARY TO SUMMER LAKE FOR IRRIGATION AND FISH USE, ROBERT F. OLSON, LAKE COUNTY

On April 7, 1987, Robert F. Olson submitted Application G-11640. Application G-11640 proposed to use up to 17.8 cfs of water from four flowing artesian wells for irrigation and fish culture. The water would be diverted through a series of fish raceways for raising rainbow trout. Only 7.73 cfs from the wells would be used for irrigation. All water not used for irrigation is discharged into the Ana River which flows into Summer Lake. The raceways are 10 feet wide by 72 feet long and 4 feet deep. Each raceway uses about 750 gallons per minute or 1.67 cfs. The proposed project is located near Summer Lake.

The question before the Commission was whether the issuance of a permit for up to 17.80 cfs would have a significant adverse effect on the public interest. Administrative Rule 690-11-080 (2)(a)(A) specifies that appropriations for greater than five cubic feet per second be referred to the Commission to make a public interest determination under ORS 537.170.

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

T. ALTERNATIVES AND RECOMMENDATION FOR WATER AVAILABILITY DETERMINATIONS ON NEW WATER USE PERMITS IN THE MALHEUR LAKES BASIN

At the November 17, 1989 meeting of the Water Resources Commission, Oregon Trout presented a request to withdraw the Malheur Lakes Basin (Basin 12) from further appropriation. No formal action was taken on the request. However, staff was asked to investigate the issue of water availability in the area, and to suggest alternative ways to deal with requests for new water use permits in the basin.

A State Water Resources Board report was published in June 1967, which concluded that the basin had little or no unappropriated water remaining. For the tributaries of Harney and Malheur Lakes, the report states that the "usable average annual yield is about 437,000 acre-feet, while the legal rights to use this water is nearly 800,000 acre-feet." Since 1967, the Department has

issued permits for the use of an additional 300 cfs of water in the basin. Slightly over 200 cfs of this amount was for irrigation purposes.

To date, no adopted basin program is in place. Adoption of a program is scheduled for 1993.

Director's Recommendation

The staff recommended that the Commission adopt Alternative 1, that future applications for surface water permits in Basin 12 may be filed only when accompanied by convincing evidence that water is available. The staff also requested Commission direction on the potential conditioning of new permits to protect instream values.

A letter from the Attorney General's office was received on the day of the meeting. The AG's advice was that the Commission should adopt Alternative 1 only through the rulemaking process.

It was MOVED by Didi Malarkey and seconded by Lorna Stickel to initiate rulemaking procedure on Alternative 1 in Basin 12 (Malheur Lake). The motion passed unanimously.

It was MOVED by Lorna Stickel and seconded by Bill Blosser that any new permits the Department may issue in the Malheur Lakes Basin be conditioned to be subordinate to the filing of future instream water rights for a period of three years.

Cliff Bentz declared a conflict of interest because Riddle Ranch is a client of his law firm, although he has no financial interest.

Didi Malarkey voted yes. Chairman Blosser, Lorna Stickel, Jim Howland, Cliff Bentz, and Mike Jewett voted no. The motion failed. (Immediately following the meeting, Chairman Blosser asked that the record show his vote registered as "yes." The outcome of the motion remained unchanged.)

U. INFORMATIONAL REPORT ON PROPOSED ADMINISTRATIVE RULES FOR SURFACE WATER REGISTRATIONS AND THE ADJUDICATION PROCESS

Senate Bill 145 of the 1989 legislative session amended the statutes regarding surface water registrations and the adjudication process. Because of the Director's responsibilities to conduct adjudication investigations for the circuit court, the Director, rather than the Commission, is required to adopt rules to carry out the provisions of this legislation.

The Department drafted several major additions to OAR Chapter 690-28 in order to deal with federal and Indian reserved water rights. The additions include:

1. Definitions of and procedures for filing and reviewing Indian claims to practicably irrigable acres of land.
2. Definitions of and procedures for filing and reviewing federal claims to instream reserved water rights.
3. A process to accept filings in previously adjudicated areas without affirming those until the Circuit Court reviews their status.

4. Procedures for accepting fees and late registrations.
5. Procedures for amending registration statements.
6. Clarification of the Department's role in the adjudications process and its responsibilities to the Circuit Court.

Director's Recommendation

This report was for informational purposes. The Director recommended the Commissioners provide comments on the proposed rules directly to staff. The comment period will be open until May 21, 1990.

No formal action was taken on this item.

W. STATUS REPORT OF SCENIC WATERWAY STUDIES

This report was the first in a series of recreation assessments on State Scenic Waterways. The report on the Klamath Scenic Waterway was created using a method presented to the Commission by the Parks and Recreation Division (now Department) during its meeting of July 7, 1989.

During the same July 7 meeting, the Commission requested the Sandy Scenic Waterway be added to the other Scenic Waterway recreation assessments. The Sandy Scenic Waterway would fall into the recreation flow study schedule for December 1992 under the priority criteria.

Director's Recommendation

This was an informational report only and no action was required. Staff welcomed any comments on the Klamath Scenic Waterway. The Commission was also asked to direct staff to process water right applications in the Klamath River and Sandy River based on the findings discussed in the report.

Jill Zarnowitz, ODFW, pointed out several suggested amendments.

The Commission took no formal action on this item.

X. STATUS REPORT #12 OF WILLAMETTE-SANDY BASIN PLANNING

This was #12 in a series of status reports on the Willamette-Sandy Basin Planning process.

A revised schedule for the remaining planning tasks was distributed. The projected completion date is December 7, 1990. Two additional issue discussion papers were also distributed:

- A. Willamette Basin - Municipal and Domestic Water Systems
- B. Willamette Basin - Conservation/Drought Planning

Director's Recommendation

This report was informational only and required no Commission action. Staff asked for the Commission's viewpoints, comments, or suggestions for improvement on any of the discussion papers.

Marjo Nelson, member of Polk County Water Advisory Board, Willamette Basin Water Study Group, and the Darrow-Rocks Community Association's Water Concern Committee, made several written recommendations and promised to forward more as she finished studying the report.

The Commission told the staff that they would give them any changes or suggestions in writing.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Jan Shaw
Commission Assistant

JS:dkh

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