

WATER RESOURCES COMMISSION

MEETING

SALEM

APRIL 19, 1991

MINUTES

Commission members present:

Lorna Stickel
Hadley Akins
Cliff Bentz
Jim Howland
Mike Jewett
Roger Bachman

Water Resources Staff

Bill Young
Jan Shaw
Becky Kreag
John Borden
Steve Sanders
Fred Lissner
Steve Applegate
Steve Brown
Mike Mattick
Pam Homer
Roberta Jortner
Weisha Mize
George Robison
Chip Andrus
Bud Bartles
Doug Parrow
Bill Fujii
Rick Bastasch
Bob Rice
Bev Hayes

Others

Jim Myron
Jack Hammond
Samuel Brentano
Leonard Knott
Jan Boettcher
Tom and Audrey Simmons
David Moon
Larry Cauble
Bruce Niss
A.W. McAuliffe
Dick Robbins
Kevin Campbell
Karen Russell
David Childs
Ron Yochum
Jerry Schmidt
Bill Gauvin
Bruce G. Buckmaster
Jill Zarnowitz
Randy Fisher
David J. Newton
Robert J. Hamilton
Doug Myers
Daryl Peters
Jesse Gregg
Mara Brown
Kay Burton
Jim Van Loan

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.

A. MINUTES OF THE MARCH 7-8 WRC MEETING AND CONFERENCE CALLS.

It was MOVED by Jim Howland, seconded by Hadley Akins, and passed unanimously to approve the minutes as submitted.

The next three items, Items B, C and D, were acted on in a single motion, reported below.

B. CONSIDERATION FOR APPROVAL OF APPLICATION 71148 TO USE WATER FROM FALL RIVER, TRIBUTARY TO THE DESCHUTES RIVER FOR FISH CULTURE, OREGON DEPARTMENT OF FISH AND WILDLIFE, DESCHUTES COUNTY.

On January 25, 1991, the Oregon Department of Fish and Wildlife (ODFW) filed Application use up to 17.0 cubic feet per second (cfs) of water from Fall River for fish culture. ODFW is currently reviewing permit requirements for their existing projects and submitting applications for permits to cover them.

The question before the Commission was whether the issuance of this permit would impair or be detrimental to the public interest. Administrative Rule 690-11-080 (2)(a)(A) specifies that appropriations for greater than five cfs be referred to the Commission to make a public interest determination under Oregon Revised Statutes (ORS) 537.170.

Director's Recommendation

The staff recommended that the Commission find that the project would not have a significant adverse effect on the public interest and authorize the Director to issue the permit with appropriate conditions.

C. CONSIDERATION FOR APPROVAL OF APPLICATION 71060 TO USE WATER FROM ROARING RIVER, TRIBUTARY TO CRABTREE CREEK FOR FISH PROPAGATION, OREGON DEPARTMENT OF FISH AND WILDLIFE, LINN COUNTY.

On December 20, 1990, the Oregon Department of Fish and Wildlife (ODFW) filed Application 71060 proposing to use up to 8.0 cubic

feet per second (cfs) of water from Roaring River for fish propagation. ODFW is currently reviewing permit requirements for their existing projects and submitting applications for permits to cover them.

The question before the Commission was whether the issuance of this permit would impair or be detrimental to the public interest. Administrative Rule 690-11-080 (2)(a)(A) specifies that appropriations for greater than five cfs be referred to the Commission to make a public interest determination under Oregon Revised Statutes (ORS) 537.170.

Director's Recommendation

The staff recommended that the Commission find that the project would not have a significant adverse effect on the public interest and authorize the Director to issue the permit.

D. CONSIDERATION FOR APPROVAL OF APPLICATIONS R-70961 AND 70962 TO STORE AND USE WATER FROM AN UNNAMED STREAM, TRIBUTARY TO CROOKED CREEK FOR WILDLIFE HABITAT, LAKE COUNTY.

On December 3, 1990, James Stewart submitted applications R-70961 proposing to store up to 50 acre-feet of the water from an unnamed stream to enhance wild life habitat. The stream is tributary to Crooked Creek in the lower Chewaucan Basin. The proposed structure will be 23 feet high and will be built across the stream channel. Application 70962 proposed to use up to 150 gallons per minute for reservoir maintenance (seepage and evaporation losses).

The question before the Commission was whether the issuance of a permit allowing the construction of a dam 23 feet tall would have a significant adverse effect on the public interest. Administrative rule 690-11-080 (2) (a) (C) specifies that applications involving dams over 20 feet in height shall be referred to the Commission with a preliminary recommendation on the need to make a public interest determination under ORS 537.170.

Director's Recommendation

The staff recommended that the Commission find that the proposed storage and use of water would not have a significant adverse effect on the public interest and authorize the Director to issue the permits with appropriate conditions.

The above three items, Items, B, C and D, were acted on in a single motion.

It was MOVED by Roger Bachman and seconded by Cliff Bentz to approve the director's recommendations in the above Items B, C and D. The motion passed unanimously.

E. PUBLIC COMMENT

Jack Hammond, a lawyer from West Salem representing the City of Sublimity, spoke about the critical groundwater problem in that area.

The City of Sublimity submitted an application to appropriate groundwater, but the application had been placed on hold because of the potential identification of the Stayton, Sublimity and Silverton areas as a critical groundwater area. In reviewing the draft groundwater management and protection portion of the proposed Willamette Basin Plan, Hammond noted that the alternatives proposed could mean the complete cutoff of further issuance of groundwater permits for municipal purposes in the area.

Hammond said that the municipal water supply situation in the city of Sublimity was critical. The City asked the Department to review the nature of Sublimity's problem and possibly grant the City some relief prior to final adoption of the Willamette Basin Plan.

Hammond asked the Commission for a directive to the Department to work with the City of Sublimity to solve their future water needs.

Samuel Brentano, mayor of Sublimity, echoed Hammond's remarks.

The Commission asked the Department to review the situation and report back at the next Commission meeting.

Larry Cauble, representing the Jackson County Stockmen's Association, asked permission to comment early on Item H. He said his group thought that Fish and Wildlife's streamflow modelling was highly inaccurate, requesting huge flows that never existed.

He asked that Fish and Wildlife develop a method to more accurately determine streamflows needed for fish species listed and which fish species are present in those streams.

Cauble also urged the Water Resources Department to develop a more accurate method of predicting streamflows.

The Commission directed the Department to meet with local residents in the Rogue Basin area to review the instream water right process and the effect of those water rights on future development before continuing to process them. ODFW representatives agreed to participate in the basinwide workshop.

Jim Stewart, Lakeview, spoke about an application for a water right from Boggy Lake in order to build a reservoir. He thought that the requirements from various agencies just for placing a reservoir on his property were much too confusing and expensive. Stewart recommended getting the many government agencies together to formulate a program to simplify and streamline the process people must follow in securing permits.

Stewart also recommended implementing some type of "quality control" in connection with Department forms and letters.

Ron Yochum, Douglas County Water Advisory Board, asked to comment on Agenda Item H, from later in the agenda, because he could not stay at the meeting until it came up.

Yochum said that instream water rights do not comport with local comprehensive plans. He wanted the Department to hold off on accepting the instream water right application for the North Umpqua in order to allow his group to submit their technical data to the Department. If the instream water rights are issued, he said, it will create a moratorium on all development on those stream reaches, effectively "putting a cap" on all growth.

The Department had already scheduled a meeting on April 30 with the County to further study their concerns.

Rep. Chuck Norris, Hermiston, spoke to the Commission about HB 3373, the water storage bill he introduced. Storage, he said, is a high priority in the state of Oregon, and we must push on with the inventory of storage sites.

F. COMMISSION COMMENTS.

1. Hadley Akins distributed the agenda for the dedication ceremony of the Umatilla Basin Project to be held on May 1 in Umatilla.

2. Jim Howland commented that the recent article on Florida's water situation was a good one. He also distributed a newspaper clipping about water conditions in Goleta, California.

3. Cliff Bentz said he had been contacted by people who have misunderstood the filing process for pre-1909 water rights. He recommended publishing advertisements in Eastern Oregon newspapers to remind people of the filing deadline.

4. Lorna Stickel reviewed the recent Western States Water Council quarterly meeting. She said that the primary topic was the Clean Water Act authorization and what EPA is proposing. There will be

a discussion with western states and EPA in Washington in June to educate EPA about western water issues.

Another current topic at the meeting was FERC's relicensing process. Amendments have been submitted by some states to the Power Act and to the Clean Water Act regarding Section 401 certification projects. Congress does not seem to be inclined to give states added authority in this field, said Stickel. Changes will be tough to get, she said.

Another discussion is scheduled in May in Utah with the western states to talk about western water policy issues. The federal and state roles have been changing in the last few decades, with a stronger role being played by the federal government.

G. DIRECTOR'S REPORT

1. Willamette Basin Plan hearings: The Director asked the Commission members if they wanted to attend any of the basin hearings in addition to the one in Salem on May 30. Several members expressed interest in attending. They are as follows:

June 4	Portland	Roger Bachman
June 5	Lane County	Mike Jewett (?)
June 6	Corvallis	Hadley Akins (?)

The remaining members will check their calendars to see if they are available on those dates.

2. Budget: The Director reviewed the budget for the Department as it came out of full Ways and Means Committee.

3. Drought: Barry Norris reviewed for the Commission the drought declarations made since the last Commission meeting.

Water conditions around the state have been below average for the past 5-6 years, Norris said. Reservoir levels are only around 2/3 of last year's levels, with Lake County, for example, showing only about 17% of normal. Because of these low-water conditions, the Governor has declared Crook, Deschutes, Lake, Josephine, Jackson and Jefferson Counties drought areas. Preliminary damage estimates to agriculture and local economies are unknown at this time. The affected counties have declared a "state of drought emergency" and have requested assistance from appropriate state and/or federal agencies.

State agencies must do what they can within existing budgets to address this problem. The declaration, however, gives the Commission certain extraordinary authorities. Among other things, the Commission can declare that a severe and continuing drought exists and can request curtailment plans from local jurisdictions. Those plans can be ordered implemented by the Governor at a future date.

Chair Stickel suggested that other "candidate" counties be notified that they are eligible for drought declaration. They need only to ask.

4. Adjudications: Reed Marbut reviewed for the Commission the commencement of negotiations with the Warm Springs Indians on their claims to water on the Warm Springs Reservation. Marbut said that the first negotiating session was held in Bend on April 9 with the Confederated Tribes of the Warm Springs Reservation, the federal government, and the State of Oregon.

The parties made some big first steps, Marbut said. The next meeting will be on June 19 and 20 at the Reservation. One day will be used for a tour of the area, with one day devoted to the meeting.

5. Bureau of Reclamation: The Director reported that the Bureau has requested a reauthorization of waters in the Prineville Reservoir for fishery and for release to downstream flows. More discussion will follow. If this goes forward, they will be looking for a sponsor to purchase and obtain contracts and permits for those volumes of water. John Keys may be asked to join the Commission at a future work session to talk about this.

6. Advisory committees: Pam Homer reviewed where we are in filling the memberships of two statewide water policy advisory committees, one on allocation and one on storage. The Commission will discuss this further at their telephone conference call on April 29.

7. Questions from Roger Bachman: Roger Bachman recently posed a series of questions to the Department and asked for replies at the meeting. The Director answered the several questions put to him in that earlier memo.

J. REQUEST FOR APPROVAL OF MIDDLE FORK JOHN DAY RIVER STREAM RESTORATION REPORT.

In July 1990, the Emergency Board funded a proposal by the Department to develop a pilot stream restoration program. The