

Attachment E—GPID Resolution

**GRANTS PASS IRRIGATION DISTRICT
JANUARY 5, 1994**

A special Board meeting was held after due publication of the Grants Pass Irrigation Board of Directors on January 5, 1994 at the District office at 200 Fruitdale Drive, Grants Pass, Oregon. A legal quorum of Directors was in attendance and the meeting was called to order by Chairman Bill Hiljus at 14:03 P.M.

Bill Hiljus	Director/Chairman
Roland Anderson	Director
Paul Altheide	Director
Don Greenwood (absent)	Director
Catherine Davis	Director
Jack Davis	Legal Council

Mr. Hiljus began the meeting establishing the agenda as follows: "The guidelines for the meeting today, each Board member will have six minutes to present any questions or concerns. Each member will have the floor in order of seniority, at the end of that time we have a committee, the people that want to save the dam can pick a spokesman and he will have six minutes to speak."

Ms. Davis has been the appointed Director for District 3 to finish Mr. Loveless' term. After advertising the position for the new term beginning 1994 no opposition came forth to run against Ms. Davis. Ms. Davis will be seated as Director of District 3.

Mr. Davis administered the oath of office to Ms. Davis and Mrs. Webster notarized the signatures. A copy is included in the Board Book.

The next order of business before the Board is to elect a Chairman of the Board for 1994. Ms. Davis nominated Bill Hiljus for the position of Board Chairman, second by Mr. Anderson. No other nominations. The legal quorum of the Board voted unanimously on the nomination of Mr. Hiljus as Chairman of the Board for 1994.

BOARD DISCUSSION RE: DAM REMOVAL OR RETENTION:

Paul Altheide: "I feel that I'd like to see the dam stay, but I don't know if we loose the water by fighting for the dam, I don't want to loose the water under any condition. That's the only thing that I have on the dam, I'd like to see the dam stay, but the way them guys put it to me that if we keep the dam we're going to loose the water, I mean, that's the way it looks to me. But if we could save the

dam, even if we get most the money I still don't know if we can keep the water. That's the only thing that I've got."

Andy Anderson: "Well I guess I've got to say the same thing. We're in the middle of a position where environmental groups are very strong, have money, if we elect to take the dam out I see they'll probably almost help us. If we elect to keep it I'm sure there'll be a lot of lobbying in Salem and Washington D.C. both. I can't see them sending us any money and we can't do anything without some money, and the only place we're going to get any money if the Federal government, if we get any. I don't think we're in any position to go out and borrow 10, 12, 15 million dollars. I don't think our patrons would take care of it. We have to face the fact that if we don't get out water rights, or get them extended or something this year, we're going to be out of business. If we raise the price to the customers very much, we're going to be out of business. Now we've fired another thing, if the decision is made that we have the dam removed then we're going to have a lot of court cases brought against us from some of the concerned people here in the audience. And I'm not saying that I'd like to see the dam go, I guess what I'd like to do is I'd like to see everybody just go away and leave us alone. They're not going to do that obviously, so I don't know, I guess I feel we're probably going to have to make a decision and tell the Bureau, the Department of the Interior, something here pretty soon, and I'm afraid we've really only got one bottom line choice that we probably can make because our main deal has got to be, "what is good for the irrigation district". Our patrons even don't seem to want to support this saving of the dam very well, a few do, but we didn't get any real good response to save it. I'd like to see everything stay the way it is, but things are going to change and there's not much we can do about it. But we're going to have our obligation, I feel as a member of the Board, is to provide irrigation water to our patrons, and I guess if that's the way we got to do it, that's the way we've got to do it.'

Mr. Hiljus asked Ms. Davis to speak and gave her his six minutes to add to her own.

Catherine Davis: "I have a very detailed report that I've prepared for everybody, and I'll hand it out after I've summarize it in my remarks. It sounds to me like we are all very much in agreement that we would like to be able to resolve all the issues facing the District, and at the same time preserve the dam. The dam has been there for many, many years and there a lot of people who have lots of memories of water skiing on the lake or watching the fish jump up the ladders, whatever. I remember as a young tyke, my grandfather taking me and my brother out to the fish ladders and watching the fish jump up there. Those are the

kind of images that tug at our hearts and our emotions, but when we're thinking and analyzing the issues that are facing the District we've got to put aside the emotional images and get down to the basics. Where we have to start is asking ourselves "what is the role of the Irrigation District". We have a mission statement that I have up on the board here that says "The Grants Pass Irrigation District is created to provide adequate irrigation water for lands in the Rogue Valley. The District is dedicated to operated and maintain a distribution system which economically and environmentally enhances the community". But going beyond our own mission statement, Oregon State law says that this Board of Directors is responsible for the District's water right. So what all this means to me is that the District exists solely to provide water to our patrons at a reasonable cost and we the Board are responsible for securing adequate water to do so. The Board doesn't exist, and the District doesn't exist to provide a recreational facility, although that has been a benefit that's been enjoyed for many years by many people, but it cannot be a concern at all, really, when we get down to talking about the business of the District. Now the situation with our water right is, we have a permanent water right for 97 cfs and we all know that's not sufficient water to run through our system. The State Water Commission has given us a temporary supplemental water right for another 90 cfs that will expire on October 1, 1994. Unless we get additional water to run the District, we're flat out of business. And at the same time that we have questions concerning supplemental water right and fish passage. We also had issues concerning the safety of the structure, there have been some human safety issues raised that also have to be addressed. So the Board is now faced with two alternatives, basically, they are either to keep the dam, fix the ladders, fix the safety issues out at the dam at a cost of about 17 million dollars, or to remove the dam and replace with pumping stations at a cost of about 11 million dollars. Now being the conscientious Board members that we are, and concerned about what our patrons have to say about things, we recently sent out 7,700 questionnaires, one to each of our District patrons. As of December 31, 1993, we had received 2,305 responses. A breakout of those responses are being put up on the board. About 30 % of our patrons asked us to do everything possible to save the dam and they would be willing to pay for it. About 40 % of our patrons said, "gee, it would be nice to have the dam, but we are not willing to pay any more for it". Thirty-one percent of the patrons said they don't care about the dam, they just need their water at a reasonable cost. So the question now becomes, what is the best alternative for us to approach. Keeping in mind our mission statement, our legal responsibility for the water right and our District patron's desires."

"With regard to the dam retention alternative, we have to keep in mind again our paramount responsibility, that is to provide adequate irrigation water to our patrons. It's been strongly suggested to us by interested bureaucrats that should the Board decide to save the dam, it's going to be very difficult for the irrigation district to get the supplemental water right that we need, and that our temporary permit probably won't be extended beyond, maybe, one more year. In other words, the GPID may not have sufficient water to serve our patrons, and on that basis alone, Bill and I don't see that we really have any choice at all. Let's continue with the analysis anyway."

"If the Board's decision is to retain the dam, we may lose our temporary water right, or we may be granted a permanent supplemental water right in an amount that's not sufficient to run our business, and we may have to sue the Department of Water Resources to get it back. First we'd have to seek an injunction to stop them from turning our water off, and then we'd have to obtain a writ to secure a permanent grant. I can guarantee you that we would be opposed on that effort by the Department of Water Resources, by the Water Resources Commission, by the State Department of Fish and Wildlife, by the US Department of Fish and Wildlife, by the Bureau of Reclamation, by Waterwatch and any other host of well intentioned and well funded environmentalist group. We'd be out there all alone, with no support morally or financially, of any significance against extremely well funded private interest groups, and the prevailing political establishment. The GPID might win a temporary restraining order, but the chances of ultimately prevailing on our water right issue might be pretty slim. Let's face it, we don't have the financial resources at hand to fight any kind of a long, extended, expensive legal campaign. But let's assume for a moment that we do get our water right, then we have to think about who's going to pay. The only cost estimate is from the Bureau of Reclamation, lacking any other authoritative estimates for the purpose of this analysis, we have to assume that number is close to accurate. We've been assured on any number of occasions that if we elect to save the dam, there's going to be no Federal money available to pay that 17 million dollars. That means that 100% of the funds necessary to save the dam are going to have to come from somewhere else. The only other source that we can look to are our District patrons. Others have said that "we'll raise the money", but I haven't seen any concrete plan, projection or course of action taken yet that we can rely on, and that's notwithstanding that dam removal has been talked about, generally speaking, for the last twenty years at least, and more significantly in the last five years. Furthermore, the results of our District patron opinion poll clearly show that the GPID patrons are not willing to pay substantial increase in fees that would be necessary to save the dam. Seventy-one percent have said that we need to

provide them with their water at a reasonable cost, which is exactly what our mission statement and the State law requires us to do. If our patrons aren't willing to pay substantially higher fees, or if they can't afford the higher fees, we'll not only experience a higher rate of buy outs but we might also coincidentally put some of our patrons out of business. Of Course, we have fewer and fewer patrons to pay higher and higher fees, the ultimate result of course would be the demise of the Grants Pass Irrigation District. The loss of the dam, anyway, and the loss of the very water system that environmentally enhances our community and makes this valley the green and beautiful place that it is. So Bill and I believe that if the Board ignores the facts and disregards the majority opinion of our patrons by opting to save the dam, we will in fact fail in our mission statement and our legal responsibility."

"With regard to the dam removal alternative, again with regard to our foremost responsibility of providing water, we've been told by people on the State Water Resources Commission and in the State Water Resources Department, that if we can put together a coalition of interested parties, that it will be much easier for the State Water Commission to grant our water right. What kind of a coalition can we expect under this kind of an alternative? Well, we've already been told that this alternative will satisfy the Bureau of Reclamation, the National Marine and Fisheries Service, the US Fish and Wildlife Service, the Oregon Department of Fish and Wildlife Department, and the political environment. We've also been told that we can count on the support of Waterwatch, and I noticed that Mr. Bob Hunter is here now and can let us know in a few minutes if that's true or not. I think we can also reasonably expect the support of other environmental groups as well. Now, if the Board can bring together these factions and work together to craft an acceptable dam removal scenario we won't have to litigate our water right or defend suites brought about by well financed interest groups. We've been told, and I'm sure that some in the audience today will confirm, that we can expect some law suites from people above the dam. But quite frankly, unless their are District patrons, I question whether they have any standing to sue. But even if they are District patrons, as long as the Board is acting in good faith and in furtherance of our mission statement, and our legal responsibility, not to mention in accord with seventy-one percent of our District patrons, I believe that those law suites won't have much chance of success. So if the Board adopts this alternative, and I would suggest a number of very strict conditions go along with it, not only will we have our water but we'll also have the full support of various government entities and interest groups, and there is every likelihood that outside funding will be available to foot the bill."

"We will have eliminated any fish passage problems and rid ourselves of the human safety issue, with a potential for huge legal liability. We will have met our legal obligation to our patrons at little or no additional cost to them, consistent with their desires as reflected in our opinion poll, and we will have placed GPID in a very strong financial position which will insure it's continued vitality into the foreseeable future. We will have fully performed our mission statement and our legal responsibility, and met our responsibility for the District's water right. I think what we all have to remember here is that what's really at stake is the Irrigation District itself and the quality of life that our water brings to the valley. So with that in mind, Bill and I urge the Board to acknowledge what may be a painful truth but it is far better for the GPID to and our patrons that we move towards removal of Savage Rapids Dam, and thus insure to the greatest extent possible the longevity of the GPID for the benefit of our patrons. This is not the decision that our hearts want us to make, but it's the decision that our intellect requires of us. I now urge us to work together with the interested parties, form a coalition, see what we can come up in terms and conditions to satisfy the needs of our patrons. This action, I want to make this clear, does not foreclose the efforts of others who may want to seek other ways to fund retention of the dam such as a special County tax. I don't think our decision becomes final for the next eighteen months and in the next eighteen months, those efforts by the group above the dam or any other community group result in a special tax assessment that generate sufficient funds to save the dam, well God Bless Them. I think that at this point in time, we have to make the responsible business decision and move forward with the dam removal alternative."

Mr. Anderson responded "well, I think what we've got to do is we have to let the Bureau of Reclamation get started on something, and we have that obligation to do that, and I think we need that obligation to do it now. To tell them to go after the money to save it, or go after the money to remove it."

Ms. Davis continued: "the conditions that I'm suggesting, I'm not saying lets take the dam out and be done with it, I'm saying lets make sure that if we agree to the dam removal alternative, the District is adequately protected. We've got to maintain a viable entity so we can continue supplying water to our patrons. The conditions that I'm suggesting are first:

That a permanent water right must be granted by the State for supplemental water in an amount of at least 53 cfs, which I understand from Dan is the minimum amount of water we need to operate."

"The next one, that instream water flow at the pump must be sufficient to draw the water that we need. The reason why the dam is there is to form a reservoir from which we can pull the 180 or whatever the amount of water that we are using. If the dam isn't there we have to make awful sure, we actually have to be guaranteed that there's going to be sufficient instream water for us to pull the 150 cfs."

"Third, total Federal or other source funding must be provided to remove the dam; to install the pumps; to acquire any necessary additional property that might be needed for the pump stations; and to revegetate the river banks above the dam to help mother nature along a little bit."

"Next that total Federal or other source funding must be provided to install a small power turbine to generate power which we can then turn around and sell."

"The next, Grants Pass Irrigation District must be given adequate time to make any necessary corrections or repairs to the irrigation canals."

"The Department of Water Resources, State Fish and Wildlife, US Fish and Wildlife, State and Federal Representatives, Bureau of Reclamation, Waterwatch and other interested environmental groups must guarantee support of this removal project and guarantee future non-interference. If we negotiate and decide to remove the dam, they've got to agree that they are going to work with us and not come back at us later and say "well now that we've got the dam out and the pumping stations, we now want the pumping station out". That's not going to be acceptable. Either they guarantee that they'll support this removal project or we may reconsider our options here."

Mr. Anderson stated, "well, I guess we can kick that around for awhile because the political climate could change at any time and the people that we're dealing with now including the environmental groups and stuff may not even be involved in three years or five years from now or so. I don't know what kind of a guarantee, maybe our lawyer could give us some idea."

Mr. Hillius asked that Ms. Davis be allowed to continue at this time and go back to discuss any points of concern later.

Ms. Davis continued, "we recognize that because we're going to need to buy power, we need a trust fund set aside to pay for the annual energy costs to be funded by outside sources. We also need an adequate legal defense fund to be raised by outside sources, and I would also suggest that we seek from Waterwatch or other groups, satisfactory to the District

Board a harmless agreement because we know we're going to be hit with law suits and we need some help to defend those."

"Current debt for construction of the dam must be forgiven."

"Outside funding must be provided for maintenance and operation of Savage Rapids Park."

"Outside funding must be provided for the construction of a public boat ramp."

"These two items Bill and I discussed putting in here, the recreational opportunities at Savage Rapids Park are going to be different. We'd like to enhance them to the greatest extent possible. There may not be a flat water lake there, but we'd like to put a boat ramp in there, just replace one recreational opportunity with another."

"Finally, if within 18 months after the Boards decision to proceed with the dam removal alternative local community efforts result in sufficient funding to perform the necessary modifications to the fish ladders and repairs to the dam, then the Board reserves the right to reconsider its options at that time. That gives the people above the dam and other community groups 18 months to come up with the necessary funds."

Mr. Hillius stated that concluded his and Ms. Davis' presentation and then asked Mr. Shepard for his input.

Mr. Shepard stated; "I guess my role in this is to try to get some of the facts and help the Board make the decision, I get the easy out, I don't vote on this. Some of the facts are; first Don Greenwood ask me to go to the meeting with the Commissioners before New Year about something about putting this on a ballot. One of those deals, it wasn't a commitment by the Board or myself because I don't have the authority to go to the meeting without the Board. One of the things that was said was that the only way the District can put anything on the thing is it's only within the District boundaries, you can't go to the County and have them do it County wide or Jackson County. We don't have that authority. The Commissioners, by law, have some things they can do, but they said at that time they're not going to have a County vote on things like this come this spring. It would have to be basically done by a private initiative."

Mr. Shepard continued, "the save the dam committee wrote a letter to the Northwest Regional Director of OSHA, to Mr. Beard, the head of the Bureau of Reclamation, to Martha Pagel, and to the State insinuating that OSHA was a pawn in the political scheme of things down here. There is problems at the dam, evidently the person that wrote it thought they were helping. It's kind of like advertising that you've got

the chicken in the hen house and you're going to town and opening up door, and inviting them to come down and see what you've got. This is this year's report from the Department of the Interior that has the deficiencies at the dam. Now these aren't all OSHA, these are just maintenance things. We've never talked about any other ones because it's something you don't want to talk about in public, but since the cat's out of the bag about that. I think they hurt themselves because once the ball gets rolling certain things happen. One thing also we found out was that whether people realize it or not, we have a permit to generate power that was issued to us in 1918 to run the turbines at the dam, and it's for 800 cfs. Doing some research and in talking to some people, I was talking to the gal that's the manager of the Eagle Point Irrigation District, and one of the problems of perusing that on the Rogue River is that, my understanding, there is a State law that says you can't have hydroelectric plants on the Rogue River. In talking with her, my understanding was that up in Eagle Point Irrigation District, her District was what was considered a cold irrigation district, in other words, there was a law that said you couldn't have an electric plant on Big Butte Creek. They went to the State Legislature and got the law changed for Eagle Point Irrigation District to allow it, they bought a small hydroelectric plant that's projected to produce between two and three hundred thousand dollars a year in electricity, using roughly 100 cfs. My thinking was that we're half way there. We have the permit for the turbine, if the dam was to go out. The only thing we're arguing about is when the fish go up river he doesn't know the difference between a turbine and a pump, we're already there for the turbine with a shaft coming out and now we're going to talk about whether there's a pump hooked to the shaft or there's a generator and then on to the pump. I think it's taken for granted that there would be problems with the size of one, I don't think we'd have one up there for the existing 800 cfs, there'd have to be some give and take on that. We don't even know if it can be engineered, whether there's enough fall through there. But because they (Eagle Point) got it and we're already half way there, I think it's a legitimate thing that we can look into, and that's one of the biggest problems and some of the objections that people have about the pumping system is the electricity cost. This may be a way of solving that and what's probably the most important thing about Catherine's proposal is, I guess I'm kind of a funny guy, is that I actually made my living in agriculture, my sole source of income. I'm a member of the Farm Bureau, I've been a member of the Jackson County Cattlemans Association, I've been a member of the Oregon Cattlemans Association, my dues have lapsed behind in the Cattlemans Association, but I've gone to a lot of meetings and one of the things that they all say is if things change you've got to work. Or you know, the old willow tree you know you bend it a little bit or it's going to snap. Since you've been in

agriculture for a profit, in other words, when I buy cattle I'm probably a little different than a lot of people in the District, they do it because it looks cute to have a cow out there. I do it to make a buck. My bottom line is the dollars and cents and how much it's going to cost me as a patron, also from running the District. And looking at it strictly at the business approach, with these contingencies, if a person could get them, it makes the District totally out of debt which is kind of unique for a lot of government things. It also makes the District have some coalition without the State on our back; it also has a coalition that some of the environmentalists would back off; it also sets us up with the flexibility that there has been talk of and innuendos about what would the shape of the District be in five, ten, fifteen years when private water or city water comes out into the Urban Growth Area. Will we still be there or will we not. That is something we won't know until the day comes. One of the things that's part of the Board's responsibility is planning and having the flexibility to be here ten, fifteen, twenty years from now. If some of those things would come about the Urban Growth Area, if there's pumps there's availability of moving them down stream, upstream, where they may be more advantageous and less costly to the patrons. There is also, once the dam and the debt is whipped off from the dam, we have some money that is set aside by law, as people buy out we can draw the interest off it to help maintain the District. We'll probably have to have a legal opinion on it. The Board, we've talked that once we're totally out of debt, totally out of debt, we own everything, and we have money in the bank it would also free up a pretty large chunk that we could use for our conservation program to fix some of the ditches and then you go into the next seventy years probably in the best financial shape that a business can be in."

"I passed out to the Board, a concerned patron came in from one of the people above the dam and left me with a letter, I didn't stop and talk so I don't know what he wanted to do with it, but I made copies and everybody can read it at their leisure."

"Catherine gave me a letter from a gentleman too that we'll pass around to look at."

"I think the "out of debt" is probably, from the Manager's standpoint, in other words in theory, the rates could stabilize or actually go down because of the money. One of the things that is probably the most important things with this article that was in there, they said a "modest increase", that the rates would go up to the patrons. I think that what's really important is that these conditions are met. And it needs to be made very clear to the public that first of all they're not coming tomorrow to tear the dam down. There's a whole process of environmental impact

statements, there's a whole lot of stuff that's still involved. This basically gives, I think, gives the best of two worlds. One that gives us what we're talking about, money. It also gives the people that are above the dam and want to keep the dam the ability to still, if they can come up with the money, to do it. The door has not been slammed in their face. We're still working with the State, we've got to go forward, we can't just sit here and vegetate and wonder what we're going to do next."

Mr. Hiljus continued at this time. "Alright, we'll get back to re-open the discussion, I should get through the rest of the functions, I have some things I'd like to say and come back to it."

"May we go to Jack's report?"

Mr. Davis stated; "I've looked at the issue of whether or not the action of the Board, if the Board decides the dam removal alternative is the one that they want, whether or not that would open up the District to liability by law suits from individuals that own property on the lake. And I guess whether we discuss that in open session or executive session is something you all can decide. It is appropriate to discuss such legal matters in closed session, if you wish, if you don't I'll plug ahead and tell you what I found, so I think that is the first question that you need to decide is whether or not you have any problem with me talking about this issue."

Ms. Davis spoke up; "I would prefer that such matters be discussed in executive session."

Mr. Shepard stated; "What we can do is make a motion that we move for an executive session and then basically everybody has to clear out temporarily except for the press, and then we'll discuss what we have to discuss and then we'll come back in."

Mr. Davis interjected; "Let me just say that I'm just going to give you what I found in a summary of what the law is."

Mr. Hiljus..."We don't want to hide anything."

Mr. Anderson..."We've got nothing to hide, if it's going to be, it's going to be."

Mr. Davis continued; "Ok, if that's the feeling let me plug ahead. The only theory that I can think of that would allow for a lawsuit against the District would be what is called inverse condemnation, it is akin to the situation where a government comes in and puts in a street through your back yard and takes away your property for the public good, if you will, and the law allows that kind of thing. Then when

that happens, government has to pay the person for taking their property. That argument can be put forth in this case and the theory would be this; that because the District decides to opt to remove the dam, you then have the lake disappearing and this property right, you'd have to categorize the rights of the owners on property on the lake have as a property right, and that is a big question of whether that is or isn't. But I guess it would be the right to have a pretty lake to look at, an esthetic right if you will, or another way to look at it would be the loss of some use of their property because they can't look out on the lake or sit on their dock and watch the water go by. So, that's the theory that because of this government action, and you are a governmental entity for this purpose, your're a municipal corporation so you fit that category. If they establish that right that they have is a property right then they can make a claim against the District for the money that they lost in diminution and value of the property because the lake is no longer there. My opinion is that it is not a taking of a property right, and if you want to talk about that I can go into more detail but for right now just let me conclude with that and also say that even if it was a property right, there's a real issue as to whether or not the folks have been damaged or not. What is the diminution and value of their property before and after the taking out of the lake, if you will. We have some information that there wouldn't be any difference in value, so that's a real question too. I think it's a real stretch to say that the loss of this esthetic right is a taking of property, and for that reason I don't think their cases would be successful. That's not to say that you will not get sued, you may, and then I should also point out that it is conceivable that someone could make that stick in some jurisdiction. I'm not the judge that's going to make this decision, so my opinion isn't going to carry the day, you're going to have somebody else looking at the matter and it's conceivable but unlikely that they could make that stick."

Mr. Davis informed the Board that "I think Mr. Bob Hunter is here, he has shared with me Waterwatches' research on this same issue and I think he concludes basically the same thing as well."

Mr. Hiljus..."I'd like to make a comment, I believe on item "L", as an alternative, this gives the committee to save the dam eighteen months to review and do it's study which is one of the big issues; figure out a way to raise money by taxes; or to raise funds by the park; or any other means possible. But it gives you an avenue, definite open avenue to raise the funds necessary to maintain the dam. I wanted to really bring that up as a strong point. It's in there for that purpose, it was the avenue that I understand to make the comity to save the dam to ask what do we need to do. There it is, and I would suggest the first thing would be engineer

study to prove or disprove the figures and then go from that point."

Mr. Shepard interjected; "Also on that, I think when you're discussing the amount of money, or the cost, it seems like some people have directed at me, "who has the right to say what needed to be fixed at the dam". I believe the Oregon Department of Fish and Wildlife would have that authority. In other words, when you're talking about fixing it, one of the entities that they need to talk to is the Department of Fish and Wildlife, one of the things that they've relayed to me is personally their preferred alternative is dam removal. They are somewhat, right now, neutral. They have to be neutral right now because by law we do have the right to fix the dam. But one of the things they said they would be very vocal on is how it is fixed and to what standards, that they would not deter from what they believe is industry standards. There's no quick fixes, so when you're talking about the amount of money the first thing is dealing with, it wouldn't be I don't think coming through the Irrigation District or the Board asking what it is, or the amount because we don't have the final say. I think correct because, I believe myself, and Jack correct me, that we own the dam and if we went to court, in other words if the Department of Fish and Wildlife or any group took us to court for upgrade of that dam, the court would go to the Department of Fish and Wildlife and ask their opinion because they are the people in that field of what are the necessary repairs, and so that's why I think it's really important, if that is going to be the route of some people is not to kid themselves in thinking there's going to be a quick fix. I think you should be honest about that, I could be wrong because I'm not a lawyer on whether they have that authority but I would tend to think they probably do."

Mr. Hunter stated that "there has been some talk that Waterwatch's position may have changed from what we originally represented to the Board in terms of what we were willing to do and our position has not changed, anyway, Waterwatch speaks for Waterwatch and I don't know who else might be saying something. But just looking at your conditions here I can maybe quickly go through and at least tell you where I know we are distant. If the District does select dam removal alternative, we have indicated and we will then work with the District and your engineers to come up with a conservation plan that's workable for you folks that meets your requirements, because that's worth time and is not unreasonably expensive to tie that to a water right, we haven't made the decision whether it would be permanent or temporary, so that's that thing. But we stand by our commitment to help you get the water you need to continue to operate based on a conservation plan contingent, of course, on condition one dam removal. So we're right there. Certainly we will not want to go to a pump if there are not

in stream flows available and I would agree that needs to be and would be something we would support, that it needs to work. We also would be supportive of and work for you at the Federal level for total funding for removal and tied to that the releasing your current debt. Those would be things that we can work for as part of this project for dam removal and we would do that. In terms of the concept of the turbine, Dan had mentioned that to me before, we don't know enough about that, but we have an idea we would try to solve that power cost problem. This might be one way we have to look at the design and see if it work and be environmentally safe. Does it pose any additional hazard to fishery or is no different than the pump. We just don't know those things, so I don't know where we are on that yet. We don't want to set you up so you go into pumps and then we say we don't like those too, so I think that's fair to ask for some commitment from us on that."

"Hold harmless on the suit attempt, I'm sure I'd say we'd be willing to do a strict hold harmless, but I can say that we certainly would be willing to give assistance and help. We've got four staff attorneys at Waterwatch that would be willing to do some research in help in a suit. We'd probably want to intervene if you wanted us to, we might want to intervene even if you didn't want us to defend any action. So we would have an interest if any suit was brought to put our resources behind defending of this as well. As far as the boat ramp at the park, we don't have any financial regard, but if that could occur we would be supportive of it in there. And the decision to have your eighteen month right to cancellation, that's your decision to do with what you will there, we would want to tie anything dealing with the water right based on dam removals we'd be back up in the air a little bit depending how that went, but that's your decision."

Mr. Hiljus...."At this time there is there a spokesman for the committee above the dam? Has anyone been appointed to speak?"

Mr. Kirtley spoke up..."Nobody has been appointed to speak, but it looks like to me that there's been something in there for someone to speak. If nobody else wants to speak, I'd like to say a few words. In the first place, I think you're all bowing down to blackmail as far as I'm concerned. This is all it amounts to, we could get the water if we do what they want, we'd get plenty of it, they'd even help us get it. But if we don't do what they want to do, why, they're going to try to cut us off all together, or not enough to even irrigate the District. As far as the fish ladders, I was up couple of months ago and just above Shady Cove you could have practically walked across the river there on the backs of the fish spawning. And I have a friend that has a home right on the deal, and his deck runs right down to the

river, and his was the one that told me that, and he don't even know nothing about we're having the problems of the fish. And, to me, I thought we elected officials to do what we want them to do, not what somebody in Montana or Medford or Salem wanted us to do. We've got to deal of this whole valley and we live here. I've lived here for thirty-three years, and I've been on the dam for thirty-two years. And I've lived other parts in this State for another fifteen years and I can't see where someone else can come in here and tell us what to do with our valley and everyone there has said "oh well, we got to bow down to what they want". It isn't what they want, we elect them to do what we want, and I don't see why that you can't see that the people of this District, I left a sheet, I've got seven of them signed to save the dam. They must have thousands, nobody has brought that up, how many names that was turned in here all mad to save the dam. Well I turned in about six pages myself, it was nothing to get it filled out. But, I know everyone that I've talked to above the dam out there is for saving the dam, and some of them, you talk about the property rights. I would loose, I can bet you a thousand dollars right today and lay the money on the line that I would loose one hundred thousand dollars on the price of my property, and that would be considering that really low it they take that dam out. I bought that there thirty-two years ago because I liked the dam and I liked the water. It's just what he says, if you take it away I've got my property will go in half. I'm not just talking of mine, I'm talking about everybody up and down there. People have come in here and put in three and four hundred thousand dollar homes and fixed up the banks so that there won't be no deal. And then you talk about the logging deal, they're talking about the logging ruined the river, now they want to put the timber back in there to protect the fish. So what do they want? They don't even know what they want. But I'm sorry if I took up anybody else's time, but that's they way I feel."

Mr. Hiljus..."That's fine, we appreciate your input. Again, I believe there's a couple of these that have gone out to you that item "L" provides the opportunity to saving the dam and give us the alternatives to work with. Again we're here for the irrigation District, because on the bottom line we're here to save it and the other part is I want you here. We all came on the Board, there's no one here who doesn't sit here with the attitude to save the dam. But we got down to the issues, the facts of irrigation, we believe, at least Catherine Davis and myself believe this is the best option for irrigation. But the alternative "L" gives you the opportunity to get together, work with us, we're willing to help, we're all for it, and maybe we can make it work that way."

Mr. Kirtley..."Well one thing that she brought out, she read the article. In economics, she's talking about the dam, she wasn't talking about the hundreds of thousands of dollars that bring in every year up and down that dam there for people to come in. You can't just take the environmental point of view because the environmentalists don't live here. Very few of them live here that is against taking the dam out. So if you get back to the economy of the deal, then you better take a notice of what is going to happen to the economy of that whole area between Rogue River and the dam. I'm talking about the City of Rogue River, that's in Jackson County but there isn't a person over there that doesn't want the dam to stay in because if you was here when that eighty some odd year old man talked, before the dam was in there you could walk across where the bridge is without getting your feet wet a lot of the time so you're going to have to worry about where you're going to get all this water to run your pumps and things like that."

Ms. Davis..." The gentleman has a very good point about the accountability of officials, of government officials, and as our lawyer pointed out we are considered a municipal corporation and so we're sitting in the same seat as elected officials. We're elected Board members here. Seventy-one percent of our patrons have said they are not willing to pay to save the dam, or they don't care about the dam, and I think we're accountable to our patrons in the same way that you think and believe, and we all believe, that our elected government officials are accountable to us. The numbers are right there, that's what all these cards are about."

Mr. Kirtley..."But you listen to the people in Portland that's the head of the fish and the water deal and they're all setting in Portland or Salem trying to tell us how to run the valley down here, and they should listen to what the input of the people is here."

Ms. Davis..."And I don't disagree; I agree with you, I agree with you and you this a heavy hammer or you can call this blackmail, you can call it anything you want, but what it really is, is political reality and we have to do the best we can within our mission statement and Oregon law to provide water to our patrons, which is what we're all about. And we're really struggling to do that, and at the same time give you eighteen months under this, under what we've proposed to raise the money. I mean, that's, hopefully that's enough time for you to do something. We'd like you to do it, there's not a single person sitting here that wouldn't like to keep that dam."

Mr. Roller..."And we'd like for all of your help."

Ms. Davis..."And we're here to help, but in the mean time we have to make what we consider to be a responsible business decision."

Mr. Ellis..."Why didn't you mention all these costs and everything, about the quarter of a million dollars in power bills is going to cost to pump there? Waterwatch is going to pay for that?"

Ms. Davis..."Well, there are a couple of things in here, we've got to be funded by some outside source for the energy..."

Mr. Gross interrupted loudly..."You cannot generate without a head of water. You can't stick a generator out there in that river and provide two hundred thousand dollars worth of power, I don't care what kind of a generator you have."

Mr. Shepard questioned..."How much fall do you got to have?"

Mr. Gross..."Depends on the flow of water."

Mr. Shepard responded..."Well, one of the things that's going to be done, in other words, these are contingencies, if these contingencies aren't met it's back to the drawing board"

Mr. Gross again interrupted..."If you want to generate power you're going to have to keep that dam in."

Mr. Shepard responded..."No, one of the things that will happen is we'll go up and look at Eagle Point's and have some concrete information if we're blowing smoke."

Mr. Gross..."They're on an irrigation ditch with a high head of water."

Mr. Shepard..."No, they're on Big Butte Creek. They just got this last year. This is a whole new can of worms."

Multiple people began speaking at once with no decipherable conversation.

An unidentified patron spoke..."Well, there's another thing I'd like to ask too 'cause I'm a patron, and I thing this has been swept right under the table and staying there. I haven't heard anybody say how much it's going to cost when you get you electric bill for pumping these pumps and these holding tanks and all that for your water, is it going to cost more than it does with using the dam?"

Ms. Davis..."We're saying, with this contingency, no, it will be less."

Mr. Hiljus concurred..."It will be less if the contingencies are met."

Unidentified speaker..."It will be less than what I'm paying here now?"

Mr. Hiljus..."Yes it will, from all the information we have now."

Unidentified speaker..."Yea, right, thank you."

Mr. Hiljus..."We've got to get through our Board meeting. Again all these are the contingencies, we believe if they're met it will be less."

"I'd like to get back to the Board members, we'll get around it one more time with discussion and questions or any motions. Paul do you have anything you'd like to bring up now?"

Mr. Alethide..."I think everything's been covered."

Mr. Hiljus..."Any comments or statement?"

Mr. Altheide..."Well the only thing, I, like I say, I'm for saving the dam but I fell that in order to get water, we're going to have to forget the dam. I think that's the way it looks to me, unless something can be changed or something, I don't see what other choice we have."

Mr. Hiljus..."So in other words, this package would work allowing eighteen months for the committee to come up with a different..."

Mr. Altheide..."Yea, I was always proposal, I mean, I think that's the only way to go if we could get that, but otherwise, I don't know."

Mr. Hiljus..."Thank you. Andy?"

Mr. Anderson..."Well again, we're going to have to make a decision and we're going to have to make it soon, or at least tell the Department of the Interior something. We have an obligation to be by our deal to tell them in January this year what's the preferred alternative, and we've been kicking it around now for, what, I don't know, I've been kicking it around, I've been on the Board been kicking it around for about four or five years now. And I can't see, you know, you kind of put off everything that you don't want to happen as long as you can, but I guess the Board is going to have to make a decision and I guess I'm going to make a motion that we remove the dam."

Mr. Hiljus..."And a second?"

Ms. Davis..."Well I'd like to make that motion subject to all of the various contingencies, in fact, I've written up that whole list in motion form, so if you'd like to make this motion?"

Mr. Anderson...."Do we need to read all of this? Why don't you read it. You make a motion."

Mr. Hiljus..."Catherine Davis for our motion."

Ms. Davis..."I move that the Board work together with the various interested federal and state agencies and elected officials, and with WaterWatch and other interested environmental groups to implement removal of Savage Rapids Dam and installation in its place of a system of pumps to provide diversion of adequate water to serve the patrons of the Grants Pass Irrigation District. At a minimum, each and every one of the following conditions must be satisfied (or suitably guaranteed) before the Board will consent to the removal of any portion of Savage Rapids Dam:"

Ms. Davis continued by reading the eleven contingencies of the motion. A copy of the motion read at the January 5, 1994 Board meeting is included in the Board Book.

A discussion about contingency number two and the amount of water right requested resulting in the re-wording of that contingency. The agreed upon wordage is hand written on the motion with the old wordage crossed out.

Mr. Shepard..."I have only one comment, if I may? Would you like to do as condition twelve, I think it's important that the Board makes a public statement that they are in support of Elk Creek and Lost Creek Dams 110 %. That should be very clear that the two types of dams,"

Ms. Davis informed Mr. Shepard this was included as a footnote in the Memorandum but was not part of the motion.

Mr. Shepard continued..."I just wanted to get the two cents in there that for some reason I don't want people to thinking that we're against dams or something. The reason for the two dams is totally different, and Elk Creek and Lost Creek is very important to the salvation of Grants Pass Irrigation District."

Ms. Davis..."Well, I don't think anybody should make the mistake of thinking we are dam removal advocates, because we are not. Just the circumstances in this particular case are forcing us to make this decision."

Mr. Hiljus..."Can I have a second on the motion?"

Mr. Anderson..."I second it."

Mr. Hiljus..."All in favor?"

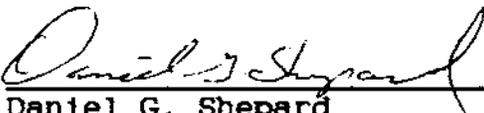
Ms. Davis..."Aye." Mr. Anderson..."Aye." Mr. Altheide..."Aye."

Mr. Hiljus..."Motion passed."

Mr. Anderson..."Good luck to the people that are trying to save it. Some of the people here talk about suing us if we remove the dam, I figure there's a couple two or three was that we could be put out of business. One of them, we don't get enough water; two, we have to charge our patrons too much money; and three if we get sued by the people living above the dam for too much money we'd probably have to sell the Irrigation District, go bankrupt and go out of business."

Mr. Hiljus..."We can still have a discussion, we're going to close the meeting and then we can discuss. So it's now 3:12 P.M. and the meeting is adjourned."

ATTEST:



Daniel G. Shepard
Secretary/Manager



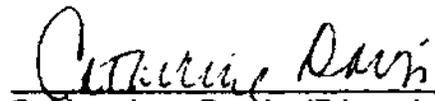
Bill Hiljus
Director/Chairman

Roland Anderson/Director



Paul Altheide/Director

Don Greenwood/Director (absent)

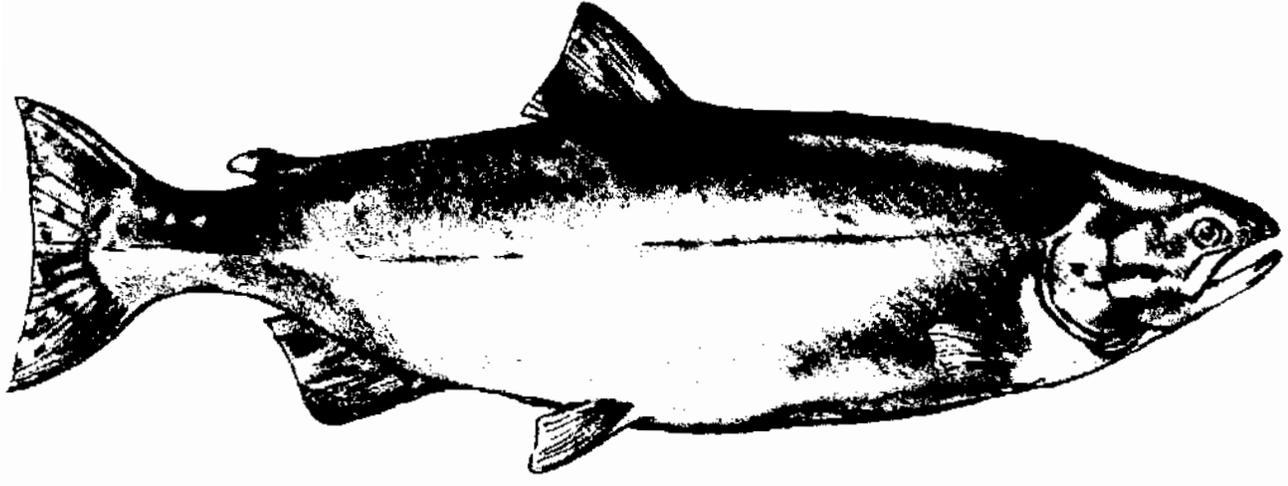


Catherine Davis/Director

MOTION

I move that the Board work together with the various interested federal and state agencies and elected officials, and with WaterWatch and other interested environmental groups to implement removal of Savage Rapids Dam and installation in its place of a system of pumps to provide diversion of adequate water to serve the patrons of the Grants Pass Irrigation District. At a minimum, each and every one of the following conditions must be satisfied (or suitably guaranteed) before the Board will consent to the removal of any portion of Savage Rapids Dam:

1. A permanent water permit must be granted to GPID for minimum additional 53 cfs; AND *Meet water plans needs*
2. In-stream water flow at the pump stations must be sufficient to draw ~~10~~ cfs; AND
3. Total federal (or other source) funding must be provided to remove the dam, install pumps, acquire any necessary land for pump stations, revegetate the riparian area above the dam, etc.; AND
4. Total federal (or other source) funding must be provided to install a small power turbine to generate power which can in turn be sold to defray pump operational expenses; AND
5. Oregon Department of Water Resources, State Fish & Wildlife, US Fish & Wildlife, our State and federal representatives, Bureau of Reclamation, WaterWatch and other interested environmental groups, must guarantee support of the dam removal project and future non-interference; AND
6. A "trust fund" to pay for annual energy costs must be funded by outside sources; AND
7. GPID outstanding debt for construction of Savage Rapids Dam must be forgiven; AND
8. An adequate legal defense fund must be raised by outside sources and WaterWatch (or other interested environmental group or groups satisfactory to GPID) must hold GPID harmless from any and all claims made by property owners above Savage Rapids Dam which are filed as a result of this action; AND
9. Funding for maintenance and operation of Savage Rapids Park must be provided by outside sources; AND
10. Funding for construction of a public boat ramp must be provided by outside sources; AND
11. If within 18 months from the Board's adoption of this motion local community efforts generate sufficient funding to perform the necessary modifications to the fish ladders and repairs to the dam, then the Board reserves the right to reconsider its options at that time.



Attachment F—Environmental Commitments

Environmental commitments are actions that Reclamation would take, in the event the project is implemented, to protect values identified through the environmental statement process.

Fisheries

Final design of fish passage and protective facilities will be coordinated with USFWS, NMFS, and ODFW.

Instream work will be coordinated with the Corps, USFWS, NMFS, and ODFW to assure that adverse effects to anadromous fish will be minimized. To date, ODFW has determined that the period of June through mid-September would be the least disruptive to migrating fish. Construction of coffer dams would be completed during this period but construction within the area protected by coffer dams would extend beyond this period.

Left and right bank facilities (pumping plants of the Preferred Alternative and new fish ladders of the Dam Retention Alternative) would be constructed in sequence so that a channel would always be open to fish migration.

Under the Preferred Alternative, Savage Rapids Dam would be demolished in a manner that does not block anadromous fish passage and does not cause excessive turbidity and rapid release of trapped sediments.

Water Quality

Before discharging any wastewater or other pollutants, contractors would obtain permits as required under the National Pollutant Discharge Elimination System. Section 404 permits, which are required before discharging any dredged or fill materials, and Section 402 permits would be obtained from the Corps before initiating construction.

A removal-fill permit would be obtained from the Oregon Division of State Lands as applicable. Water quality certification would be requested from the Oregon Department of Environmental Quality.

Contractors would be required to comply with Federal, State, and local laws and regulations regarding the control and abatement of water pollution. Construction methods would be used that protect against the entrance of accidental spillage of solid waste, contaminants, debris, etc. into the Rogue River.

Vegetation

Areas that are disturbed through construction would be reseeded. In the case of the Preferred Alternative, the river bank area where the dam is removed and the pumping plants are constructed would be recontoured to provide a natural aspect.

Air Quality

Construction specifications would require that contractors comply with applicable Federal, State, and local air quality standards and emission limitations. During construction, contractors would be required to use methods to reduce excessive dust and to limit discharge of dust into the atmosphere.

Noise

Construction specifications would require that contractors comply with Federal, State, and local regulations concerning the control of noise levels. Demolition of Savage Rapids Dam in the Preferred Alternative will be of particular concern and may require discussion with a variety of agencies and nearby residents to find appropriate resolution.

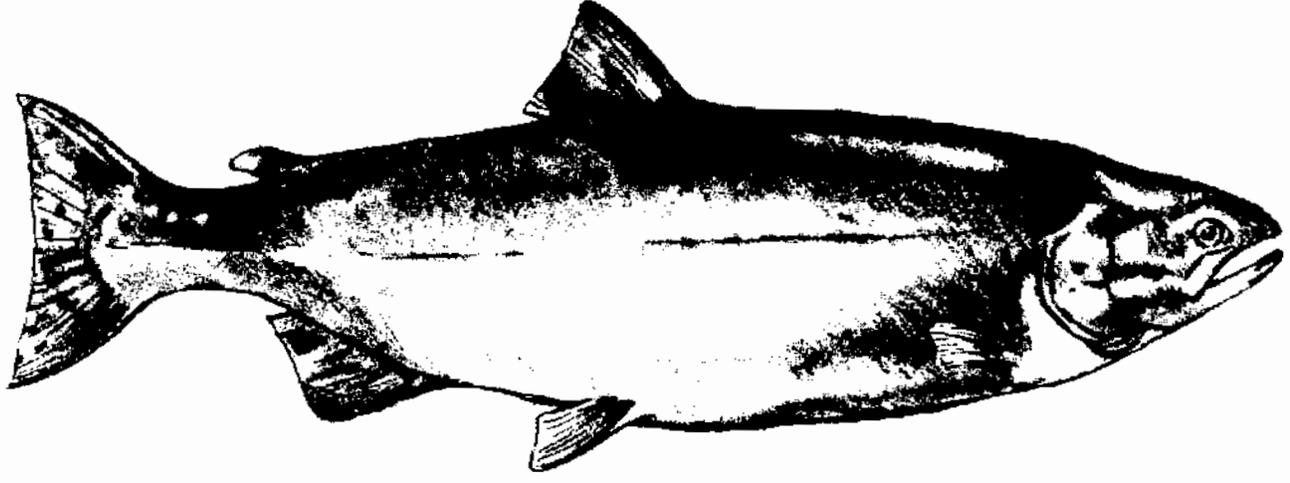
Noise abatement walls around the pumping plants of the Preferred Alternative would focus sound upward, reducing the perceived sound level of operating pumps.

Cultural Resources

It is not anticipated that any cultural resources will be found at the construction site. However, construction specifications would require contractors to take appropriate actions and to notify the SHPO if cultural resources are found.

Disposal of Waste

Waste materials from demolition of existing facilities and cleanup after construction will be disposed of in landfill in accordance with state, county, and local regulations and ordinances. Hazardous materials will be disposed of in accordance with applicable Federal and State regulations.



**BEFORE THE WATER RESOURCES COMMISSION
OF THE
STATE OF OREGON**

IN THE MATTER OF APPLICATION FOR)
EXTENSION OF TIME IN WHICH TO BEGIN)
AND COMPLETE CONSTRUCTION WORK) **ORDER**
AND MAKE COMPLETE APPLICATION OF)
WATER UNDER PERMIT NUMBER 50957)

AUTHORITY

1. The Grants Pass Irrigation District is the holder of water use permit number 50957 issued by the Water Resources Director which expires on October 31, 1994. The district has submitted an application for a five-year extension of the time limits within which to complete construction work and make complete application of water to beneficial use under the permit.
2. The Water Resources Commission is authorized under the provisions of ORS 537.230 to grant extensions of time for good cause shown, within which to complete work to perfect a water right under a permit.
3. Under the terms and conditions of permit number 50957, the Commission may grant extensions of time to complete the project provided that the Commission finds that the permittee has exercised due diligence in complying with the conditions of this permit and with the conditions of any plan adopted and that it would not impair or be detrimental to the public interest to extend the permit.

FINDINGS

1. The permittee has exercised due diligence in complying with the conditions of the permit. The district has completed the following tasks as required under the permit:
 - A. Preparation and submittal of a water management study which includes consideration of a range of options to reduce water use and improve efficiency, provide water service through a municipal or another type of purveyor, and resolve fish passage problems at Savage Rapids Dam;
 - B. Consultation with an advisory committee which included representatives of the City of Grants Pass, Josephine County, Oregon Department of Fish and Wildlife, National Marine Fisheries Service, Bureau of Reclamation, Soil Conservation Service, and WaterWatch of Oregon;
 - C. Continued implementation of its ongoing conservation and maintenance program;
 - D. Submittal of annual progress reports detailing the efforts of the permittee in gathering the required information and preparing the required plan and options; and
 - E. Submittal of a recommended plan and implementation schedule for improvements in the district.
2. The conservation plan recommended by the district includes improved communication among district staff to coordinate conservation actions, flow reductions at the beginning and end of the irrigation season, increased use of irrigation scheduling, reduced operational spills within the distribution system, education of patrons and district staff, assistance for on-farm improvements, and continued improvements and maintenance of the conveyance system. These measures are described in Chapter 7, Elements of the Conservation Plan and Chapter 11, Implementation Schedule of Recommended Alternatives, Grants Pass Irrigation District Water Management Study, March, 1994. Implementation of the measures is expected to reduce the peak rate of diversion to 149.26 cfs and total annual water use to 46,585 acre-feet.
3. During the previous four years, the district has taken action to improve water management and to begin implementation of many of the conservation measures in the recommended conservation plan. These actions include installation of measuring devices, development of

planning management areas, and appointment of a water manager to coordinate and facilitate implementation of the conservation measures. In addition, the district has accelerated its canal maintenance program.

4. The fish passage plan recommended by the district includes installation of pumping plants and removal of Savage Rapids Dam. The district's decision to recommend removal of the dam was based on specific conditions including the receipt of water rights sufficient to meet the district's needs, resolution of funding issues, and the opportunity for reconsideration of the decision if sufficient funding is identified to adequately repair the dam and fish passage facilities. The recommended plan would resolve the problems caused by inadequate ladders which delay up-stream migration. The plan also would resolve problems of juvenile fish mortality caused by impingement on screens and losses through pumps and turbines and into district canals. Finally, the plan would provide the district with the necessary capability to manage and control its diversions of water. The district anticipates obtaining federal funds for the construction of pumping plants, fish screens, transmission lines, and other facilities. The plan and schedule for installation of pumping plants and removal of Savage Rapids Dam are in Chapter 8, Fish Passage Improvement Alternatives and Chapter 11, Implementation Schedule of Recommended Alternatives, Grants Pass Irrigation District Water Management Study, March, 1994.
5. The permit which was issued in 1990 provided a process to evaluate whether the water use practices of the Grants Pass Irrigation District are consistent with the statutory prohibition of wasteful, uneconomic, impracticable or unreasonable uses and to reduce the quantities of water historically diverted by the district. The permit also provided a process to resolve fish passage problems at Savage Rapids Dam. The permit allows the use of water from the Rogue River for irrigation which is an allowable use of the waters. A 5-year extension of the permit to allow the district to implement the conservation and fish passage plans described above would not impair or be detrimental to the public interest. This order provides time for implementation of the approved plans.
6. A portion of the Rogue River below the district is designated as a state Scenic Waterway. In addition, the Rogue River provides an important anadromous fishery. The development of the permit, consistent with its terms and conditions as amended by this order is consistent with the policies of the Scenic Waterway Act (ORS 390.803 to 390.925).

ORDER

NOW, THEREFORE, it hereby is ORDERED that the conservation and fish passage plans and respective implementation schedules recommended by the Grants Pass Irrigation District are adopted and incorporated as conditions in permit number 50957, and the time for completion of work under permit number 50957 is extended until October 15, 1999. All of the terms and conditions of permit number 50957, except the name and address of the permittee, the source of water and purpose of the permit, the date of priority, and the description of the proposed place of use, are replaced with the following:

1. The amount of water allowed herein shall be limited to a diversion of not to exceed 71.79 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion. The right to use water under this permit is in addition to that described by Certificate recorded at page 50650, State Record of Water Right Certificates. The amount of water used for irrigation under this permit, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE FORTY-SIXTH (1/46) of one cubic foot per second (or its equivalent) and 7.0 acre-feet for each acre irrigated during the irrigation season of each year from live flow and storage.
2. When the district has completed development of this permit, and after determining that the terms and conditions of this permit have been met, pursuant to ORS 537.250, the Commission shall issue a certificate of water right allowing a diversion of not to exceed 52.32 CUBIC FEET PER SECOND provided that the amount of water used for irrigation under the right, together with the amount secured under any other right existing for the same lands, shall be limited to a diversion of ONE FIFTY-SECOND (1/52) of one cubic foot per second (or its equivalent) and 6.0 acre-feet for each acre irrigated during the irrigation season of each year from live flow and storage.
3. This permit shall expire on October 15, 1999, unless extended by the Water Resources Commission, or unless earlier canceled for failure to comply with the conditions of the permit including, but not limited to, failure to exercise due diligence in implementing the approved conservation and fish passage plans.

4. The district shall implement the conservation plan and the plan to resolve fish passage problems, including removal of Savage Rapids Dam, as described in Chapters 7, 8 and 11, Grants Pass Irrigation District Water Management Study, March, 1994, in accordance with the schedule provided therein. However, at the request of the permittee, the Commission may approve modifications in the plans or implementation schedules.
5. By February 1 of each year, the permittee shall submit to the Water Resources Commission a report detailing the efforts of the permittee in implementing the plans and the effectiveness of the plan. The report shall provide a detailed description of the actions the permittee has taken to implement the plans, identify any impediments or delays in implementing the plans according to the approved schedules and, if appropriate, include a request for modification of the implementation schedules. If the Commission finds that the permittee has failed to exercise due diligence toward implementation of the plans, the Commission may take action as provided under condition 9.
6. The permittee or any other person or party may object to any modification to the plans or the implementation schedules, or to any extension of time for completion of work under this permit. Any objection to an extension or modification shall be on the basis that the modification or extension impairs or is detrimental to the public interest under ORS 537.170 or is prohibited by law. However, objections to extensions of time which are based on public interest may only be made if the time allowed for completion of work under the permit would be extended beyond October 15, 2002. Upon objection thereto, a contested case hearing shall be offered under ORS 183.310 to 183.550 in order to determine whether or not the modification or extension would impair or be detrimental to the public interest under ORS 537.170 or otherwise prohibited by law. Any objections to any modifications to the plan or to any extensions of time for completion of work under this permit must be made within 60 days of the time of approval of the modification or extension.
7. This permit is for the appropriation of natural flow, not stored water. Use of stored water must be by separate permit and contract with the appropriate agency.
8. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
9. Failure to comply with any of the provisions of this permit, including the exercise of due diligence as described in condition 5, may result in action including, but not limited to restrictions on the use, civil penalties, or modification or cancellation of the permit.
10. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.
11. The use of water allowed herein may be made only at times when sufficient water is available to satisfy prior rights, including rights for maintaining instream flows.
12. In addition to the terms and conditions specified herein, the use of water under this permit shall be subject to any regulation by the watermaster necessary to eliminate waste, compliance with any efficiency standards or conservation requirements which may be imposed by statute or administrative rule, and any other requirements of statute or rule.

OBJECTIONS

Any objection to this order and request for a contested case on the objection must be filed with the Commission within 60 days of the date of approval of this order. If an objection and request for a contested case is filed, the contested case shall be conducted pursuant to ORS 183.310 to 183.550.

Dated at Medford, Oregon this 28th day of October, 1994.


Cliff Bentz
Acting Chairman
Water Resources Commission