

HOUSE COMMITTEE ON WATER

January 14, 2005 Hearing Room 357

1:00 PM Tapes 1 - 2

MEMBERS PRESENT: **Rep. Bob Jenson, Chair**

Rep. Jerry Krummel, Vice-Chair

Rep. Jackie Dingfelder, Vice-Chair

Rep. Phil Barnhart

Rep. Alan Brown

Rep. Billy Dalto

Rep. Mike Schaufler

STAFF PRESENT: **Sandy Thiele-Cirka, Committee Administrator**

Pamella Andersen, Committee Assistant

ISSUES HEARD & WITNESSES:

Organizational Meeting

Adoption of Committee Rules

Introduction of Members and Committee Staff

Work Session - Introduction of Committee Bill

Water Resources Department - Informational Meeting

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/# Speaker Comments

TAPE 1, A

006 Chair Jenson Calls the meeting to order at 1:04 pm. Representatives Krummel, Schaufler and Brown are absent.

013 Sandy Thiele-Cirka Administrator. Announces that the building will be open on Monday, January 21, 2005 unless there is no power.

019 Chair Jenson Confirms the committee will be meeting on Monday, and that the Water Committee welcomes precipitation, including snow.

ORGANIZATIONAL MEETING

032 Chair Jenson Advises of the need to adopt committee rules. No amendments are proposed. **(EXHIBIT A)**.

042 **Rep. Dingfelder MOTION: Moves to ADOPT the proposed Committee Rules dated 1/14/2005.**

045 **VOTE: 4-0-3**

EXCUSED: 3 - Brown, Krummel, Schaufler

Chair Jenson Hearing no objection, declares the motion CARRIED.

050 Chair Jenson Introduces staff and members.

118 Chair Jenson Clarifies protocol for hearings. Opens a work session for the purpose of introducing a committee bill.

INTRODUCTION OF COMMITTEE BILL - WORK SESSION

175 Brendan McCarthy Deputy Legislative Counsel. Reviews the intent of LC 65 **(EXHIBIT D)**. Explains that the designation given people with rights is that they are predominantly referred to as a “person who uses a waterway.”

Statutory references were changed for continuity with the intent, not to make any substantive changes.

- 222 Chair Jenson Clarifies that the LC was a joint effort of Legislative Counsel and himself. Hopes for a subsequent bill that will complete the broader task of completely rewriting water law.
- 269 Rep. Dingfelder **MOTION: Moves LC 65 BE INTRODUCED as a committee bill.**
- 272 **VOTE: 5-0- 2**
EXCUSED: 2 - Brown, Schaufler
- Chair Jenson **Hearing no objection, declares the motion CARRIED.**
- 275 Chair Jenson Closes work session and opens informational meeting.

WATER RESOURCES DEPARTMENT (WRD) – INFORMATIONAL MEETING

- 302 Phil Ward Director, WRD. Provides professional background. Begins review of WRD’s charge, organizational structure, and relationship with the Water Resources Commission (**EXHIBIT B**). Delineates commission’s membership.
- 380 Chair Jenson Requests definition of GIS.
- 382 Phil Ward Clarifies GIS is Geographic Information System (mapping).
- Rep. Dingfelder Inquires on the current water master field staffing levels.
- Phil Ward Identifies water master and staff capacity. Continues overview, detailing WRD’s five regional offices and staff responsibilities.
- 430 Adam Sussman Senior Policy Coordinator, WRD. Reviews basic components of Oregon’s water law: 1) Oregon’s water is public water requiring permits for use; 2) doctrine of prior appropriation (“first in time, first in right”); 3) 1909 Water Code; and 4) permitting process and water right development.

002	Sussman	Continues presentation. Explains Oregon's groundwater code, stating that Oregon operates on a priority system; all water rights are attached to a specific piece of property. Adds that Oregon also has a "use it or lose it" water use provision.
040	Chair Jenson	Questions if beneficial use is prioritized.
043	Sussman	Responds and identifies specific scenarios noting human and livestock uses generally take priority. Continues review of (EXHIBIT B) . Continues presentation. Reviews Doctrine of Prior Appropriation, appurtenancy, and water right transfers.
154	Chair Jenson	Questions what portion of in-stream water rights are new and what portion are transfers. Questions the practicality of a junior in-stream water right when demand for such is during times of low stream flow.
160	Sussman	Provides specifics and explains. Continues review of (EXHIBIT B) .
220	Rep. Schaufler	Asks can a water right be transferred back from in-stream to irrigation purposes.
222	Sussman	Elaborates on the various possibilities and the circumstances by which water right holders might seek to preserve their right. Mentions the water right leasing program.
230	Rep. Brown	Inquires if the use it or lose it provision applies to in-stream water rights.
234	Sussman	Answers that in-stream use is considered a beneficial use of water. Explains possibilities.
279	Rep. Krummel	Asks if the same rules apply to municipalities and special districts with respect to the extinguishing of unused water rights after five years.
283	Sussman	Answers there are special provisions and exemptions for municipal corporations.
291	Rep. Brown	Asks regarding a recent related court case he remembers hearing about.

297 Sussman Recounts a recent Coos Bay case in which application for a WRD permit was appealed to the Court of Appeals.

316 Chair Jenson Informs the Committee it will be hearing the associated bill.

320 Ward Provides summary noting the use of technology to offset their increasing workload and decreasing resources. Mentions the Reimbursement Authority Act enacted in 2003. Reviews status of Klamath County water rights adjudication.

TAPE 1, B

010 Rep. Dingfelder Questions the status of the Klamath adjudication and whether the state has received any federal funding to offset the costs of adjudication.

020 Ward Responds that Oregon has not received federal dollars for the adjudication and the federal government is not required to pay regular fees. Provides additional explanation including costs.

040 Rep. Schaufler Asks if Oregon is still below normal range in the snow pack.

044 Ward Outlines present snow pack status as 66% in the Cascades, which is average; however southern Oregon and the Columbia Basin are behind.

076 Thiele-Cirka Questions whether members want meeting materials delivered prior to meetings or at the dais when the meeting begins.

080 Chair Jenson Directs that meeting materials be provided in advance of meetings. Adjourns the meeting at 2:40 pm.

EXHIBIT SUMMARY

1. **A. Rules, proposed Committee Rules, Staff, 2 pp**
2. **B. Water Resources, Dept., Overview, Ward/Sussman, 10 pp**
3. **C. Water Resources, Dept., Statistics, WRD Staff, 2 pp**
4. **D. Introductions, LC 65, Staff, 71 pp**
5. **E. Water Resources, Dept., "Water Rights in Oregon" booklet, WRD Staff, 26 pp**