

## **HOUSE COMMITTEE ON WATER**

**February 16, 2005 Hearing Room 357**

**1:00 P.M. Tapes 27 - 29**

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

**Rep. Jackie Dingfelder, Vice-Chair**

**Rep. Jerry Krummel, Vice-Chair**

**Rep. Phil Barnhart**

**Rep. Alan Brown**

**Rep. Billy Dalto**

**Rep. Carolyn Tomei**

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

**Elizabeth Howe, Committee Assistant**

### **MEASURES/ISSUES HEARD:**

**Meeting Critical Groundwater Task Force Presentation – Informational**

**HB 2172 – Public Hearing**

**HB 2083 – Work Session**

**HB 2123 – Work Session**

**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
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**TAPE 27, A**

003	Chair Jenson	Opens the meeting at 1:05 p.m. Announces that HB 2025 is being held over until Friday, February 18, 2005. Opens informational meeting by the Critical Groundwater Task Force.
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**CRITICAL GROUNDWATER TASK FORCE – INFORMATIONAL MEETING**

022	Harmon Springer	Secretary, Oregon Water Coalition; Vice-Chair, Umatilla County Critical Groundwater Task Force.
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025	Gary Reed	Hermiston Agricultural Research & Experiment Center.
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027	Springer	Submits prepared testimony and presents information on critical groundwater <b>(EXHIBIT A)</b> .
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069	Springer	Provides information on what it's like underground.
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118	Springer	Discusses basalt and critical groundwater.
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160	Springer	Continues presentation. Offers statistics on the number of wells in Oregon.
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168	Chair Jenson	Clarifies that there are 200,000 wells, not 20,000 wells in Oregon <b>(EXHIBIT A, page 2)</b> .
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170	Springer	Acknowledges correction. Continues discussion on ground water.
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189	Springer	Offers history of the Critical Groundwater Task Force <b>(EXHIBIT A, page 2)</b> .
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231	Springer	Reviews the Critical Groundwater Task Force topics <b>(EXHIBIT A, page 3)</b> .
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274	Springer	Explains Rural Residential and Exempt Water Use Resolution and Recommendation <b>(EXHIBIT A, page 4)</b> .
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329	Springer	Offers information on transferring water from other sources.
370	Springer	Discusses how to take people off of wells.
373	Rep. Dingfelder	Asks for clarification on why the task force was created.
381	Springer	Explains that the aquifers are being depleted, mainly by irrigation. Explains the task force's role to find alternative sources.
392	Rep. Dingfelder	Asks for clarification on how the task force discovered its ideas. Asks if new wells need to be approved by the Water Resource Department.

**TAPE 28, A**

013	Springer	Describes and discusses the development of non-exempt wells.
017	Rep. Dingfelder	Asks about new wells for irrigation.
019	Springer	Notes that new wells have probably been created, but there is no way to track wells drilled for personal use.
020	Reed	Adds that there have been no new wells for irrigation in a while.
022	Rep. Dingfelder	Questions the status of all new wells.
024	Springer	Clarifies about development of all new wells.
030	Rep. Dingfelder	Requests staff provide a copy of water resources information for the committee.
033	Springer	Offers to give full task force resolutions to committee members.
035	Rep. Brown	Asks about aquifer depth.
037	Springer	Explains that aquifers vary in depth.
040	Reed	Discusses wells for agriculture.

047	Rep. Brown	Asks if irrigation wells are creating problems for domestic wells.
051	Reed	Explains problems with domestic wells.
060	Vice-Chair Dingfelder	Asks if citizens are compensated if they deepen their domestic wells because the aquifer is being depleted
066	Reed	Relates the law offers no guarantee that water will be in the aquifer.
079	Rep. Brown	Asks if the regional rural water district has been informed.
081	Springer	Answers not at this time.
084	Reed	Discusses the potential problems in Oregon water resources.
091	Springer	Offers to leave minutes, resolutions, and recommendations of the Critical Groundwater Task Force <b>(EXHIBIT B)</b> .
095	Vice-Chair Dingfelder	Closes informational hearing and opens public hearing on HB 2172.

#### **HB 2172 – PUBLIC HEARING**

104	Adam Sussman	Legislative Coordinator, Water Resources Department. Submits written testimony <b>(EXHIBIT C)</b> and provides background on HB 2172.
144	Sussman	Refers to <b>(EXHIBIT C, page 3)</b> Notice and Concurrence Work Group members.
175	Sussman	Discusses results of work group meetings and subcommittee meetings.
205	Sussman	Continues and explains HB 2172 <b>(EXHIBIT C, page 2)</b> .
242	Sussman	Discusses opposition to HB 2172 <b>(EXHIBIT C, page 2)</b> .
251	Rep. Tomei	Asks why someone might give up their water right.

256	Sussman	Provides an example in the Grants Pass water district.
287	Rep. Krummel	Asks about water rights as property rights. Inquires about case law relating to water rights within irrigation districts.
303	Sussman	Explains that the water right is attached to the land. Admits that the argument can be made that a water right is a property right.
327	Rep. Krummel	Asks about the rights of property owners relating to water rights within water districts.
341	Sussman	Responds and explains the purpose of the work group was to understand the relationship between the district and the landowner. Stresses that HB 2172 allows landowners to forfeit their water rights.
378	Rep. Krummel	Asks if a water right is transferable if the property is sold.
387	Sussman	Responds that the water right stays with the land.
394	Rep. Krummel	Asks about transferring a water right outside of the district.
403	Sussman	Discusses requirements of transferring a water right.
433	Rep. Krummel	Clarifies that the name on the water certificate determines the name on the right.

#### **TAPE 27, B**

005	Sussman	Discusses the process of changing a name on a water right. Emphasizes that the water is attached to the land.
024	Rep. Krummel	Asks about co-ownership within a water district.
033	Sussman	Explains case law discussing the relationship of districts and patrons.
041	Rep. Krummel	Asks if other western states have a statute similar to HB 2172.
046	Sussman	

		Explains that in most western states the district, not the landowner, owns the right.
056	Rep. Krummel	Questions if it is required to give up a water right to get relief from the fiscal obligations of the district.
070	Sussman	Discusses a different body of law that excludes someone from charges by the district. Clarifies what HB 2172 requires of district.
083	Rep. Barnhart	Inquires about the pertinence of a water right when it is transferred to another piece of land.
091	Sussman	Articulates that a water right can be severed from parcel A and become pertinent to parcel B.
098	Rep. Brown	Clarifies that HB 2172 deals with water rights within a district.
102	Sussman	Affirms clarification.
106	Chair Jenson	Asks about the prevailing law regarding a senior water right holder outside the district.
127	Sussman	Discusses findings of the Notice and Concurrence Work Group relating to a scenario like Chair Jenson's illustration.
157	Chair Jenson	Asks for further information about an upstream user. Requests the proponents and opponents keep working on HB 2172.
190	Sussman	Reaffirms that the work group has worked hard to reach a compromise among stakeholders.
202	Rep. Dingfelder	Expresses appreciation for Mr. Sussman and his work.
210	Doug Myers	WaterWatch for Oregon. Submits written testimony and testifies in opposition to HB 2172 <b>(EXHIBIT D)</b> .
257	Myers	Offers questions that committee members should consider before passing HB 2172 <b>(EXHIBIT D)</b> .
316	Katie Fast	

Oregon Farm Bureau (OFB). Submits written testimony and testifies in opposition to HB 2172 **(EXHIBIT E)**.

358 Fast Announces and explains OFB draft amendments.

**TAPE 28, B**

006 Rep. Tomei Asks if an owner could give up their right and let the water go into the stream under the OFB amendments.

010 Fast Responds and offers explanation of what would happen under OFB amendments.

024 Rep. Dingfelder Notes that an in-stream water right would be considered a junior right.

026 Fast Explains the process for in-stream water right.

030 Rep. Tomei Offers an illustration about property owners who desire their water right to go into the stream.

038 Fast Explains that in-stream transfer is addressed in a different statute.

047 Kay Tiesl Director, Governmental Affairs, Oregon Cattlemen's Association. Submits written testimony and testifies in opposition to HB 2172 **(EXHIBIT F)**.

062 Anita Winkler Executive Director, Oregon Resources Congress. Submits written testimony and testifies in support of HB 2172 **(EXHIBIT G)**.

090 Winkler Responds to Chair Jenson's question regarding upstream users. Extends willingness to support possible amendments.

145 Chair Jenson Questions provisions in the law for a transfer of in-stream rights at a point of diversion within a water district.

155 Winkler Believes that the land owner may make that transfer under current law.

163 Chair Jenson

		Asks what the provisions are for transferring a water right to a stream outside of a district.
170	Sussman	Believes that the holder of the water right may transfer in-stream water right to a different type of use.
178	Chair Jenson	Questions the dating of dating water rights during a transfer.
202	Rep. Dingfelder	Asks about required permission from the districts to lease water rights.
210	Sussman	Explains that the district must be a co-applicant in the lease.
214	Rep. Dingfelder	Asks how often water rights are leased.
218	Winkler	Conveys that irrigation districts do not often stand in the way.
225	Rep. Krummel	Inquires whether it is possible that water districts outlive their purpose.
234	Winkler	Maintains that it is possible. Explains the original purpose for irrigation districts and the process to dissolve a district.
260	Richard Koesan	Water for Life (WFL). Submits HB 2539 (2001), and testifies in opposition to HB 2172 ( <b>EXHIBIT H</b> ).
290	Rep. Dingfelder	Asks if WFL is proposing amendments.
297	Koesan	Explains workable avenue for amendments acceptable by WFL. Asks opponents and proponents to work together on amendments. Announces roll-over of HB 2172 to Friday, February 18, 2005.
336	Chair Jenson	Closes public hearing on HB 2172.
340	Chair Jenson	Opens work session on HB 2083.

### **HB 2083 – WORK SESSION**

343	Sandy Thiele-Cirka	Committee Administrator. Summarizes HB 2083.
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366	Rep. Krummel	<b>MOTION: Moves HB 2083 to the floor with a DO PASS recommendation.</b>
374	Rep. Dingfelder	Requests Water Resource Department for clarification on HB 2083.
382	Adam Sussman	Water Resource Department. Explains HB 2083.
404	Chair Jenson	Repeats motion.
		<b>VOTE: 7-0-0</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b>
413	Chair Jenson	<b>The motion CARRIES.</b>
417	Rep. Dingfelder	<b>MOTION: Moves HB 2083 be placed on the CONSENT CALENDAR.</b>
420	Chair Jenson	Closes work session on HB 2083. Opens a work session on HB 2123.

### **HB 2123 – WORK SESSION**

421	Sandy Thiele-Cirka	Committee Administrator. Summarizes HB 2123.
452	Rep. Dingfelder	<b>MOTION: Moves HB 2123 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means.</b>
454	Rep. Brown	Asks if HB 2123 establishes a new fee.
459	Adam Sussman	Water Resource Department. Explains that HB 2123 adds a fee.
472	Rep. Brown	Asks why this is not referred to Revenue.
476	Rep. Dingfelder	Asks if this provides a fee for groundwater transfers.

027	Sussman	Answers that this is similar to the fee for transferring a water right.
032	Rep. Brown	States that HB 2323 creates a new fee.
035	Chair Jenson	Announces that HB 2323 will be held over for work session to Friday, February 18, 2005.
040	Chair Jenson	Adjourns the meeting at 3:01 p.m.

### **EXHIBIT SUMMARY**

- A. Groundwater, prepared testimony, Harmon Springer, 4 pp
- B. Groundwater, Task Force Resolutions, Harmon Springer, 7 pp
- C. HB 2172, written testimony, Adam Sussman, 3 pp
- D. HB 2172, written testimony, Doug Myers, 2 pp
- E. HB 2172, written testimony, Katie Fast, 1 p
- F. HB 2172, written testimony, Kay Tiesl, 1 p
- G. HB 2172, written testimony, Anita Winkler, 2 pp
- H. HB 2172, HB 2539 (2001), Richard Kosesan, 2 pp