

## **HOUSE COMMITTEE ON WATER**

**March 23, 2005 Hearing Room 357**

**1:00 P.M. Tapes 53 - 54**

**Corrected 10/17/05**

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

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

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

**Rep. Alan Brown**

**Rep. Billy Dalto**

**Rep. Carolyn Tomei**

**MEMBER EXCUSED: Rep. Phil Barnhart**

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

**Elizabeth Howe, Committee Assistant**

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

**HJM 7 – Public Hearing**

**HB 2171 – Work Session**

**HB 2882 – Public Hearing**

**HB 2172 – 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 53, A**

003	Chair Jenson	Calls the meeting to order at 1:10 p.m. Opens public hearing on HJM 7.
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**HJM 7 – PUBLIC HEARING**

018	Rep. Donna Nelson	House District 24. Submits written testimony ( <b>EXHIBIT A</b> ) and testifies in support of HJM 7. Provides background for the reservoir in Carlton, Oregon.
056	Kathie Oriet	Mayor, Carlton. Testifies in support of HJM 7.
087	Chair Jenson	Questions if there are emergency funds available from the Army Corps of Engineers (ACE).
091	Oriet	Relates that insufficient funds were offered by the Federal Emergency Management Agency (FEMA) and remarks that Rep. Wu was in contact with them.
099	Steven Weaver	City Manager, Carlton. Submits copies of Bureau of Land Management (BLM) report ( <b>EXHIBIT B</b> ) and testifies in support of HJM 7. Explains that another landslide is anticipated.
120	Rep. Dingfelder	Seeks clarification that landslide occurred on BLM land, and asks what repairs BLM has done. Questions how drinking water is being treated.
130	Weaver	Clarifies regarding BLM property. States that BLM has offered recommendations for repairs, but has not taken action. Addresses drinking water treatment.
141	Rep. Nelson	Reviews the problems that the Carlton community is facing due to the landslide.
153	Chair Jenson	

Notes that HJM 7 will not be moving today. Closes public hearing on HJM 7. Opens a work session on HB 2171.

### **HB 2171 – WORK SESSION**

182	Gail Shibley	Administrator, Public Health Systems., Department of Human Services (DHS). Submits written testimony ( <b>EXHIBIT C</b> ) and testifies in support of HB 2171.
237	John Brenneman	Manufactured Housing Communities of Oregon (MHCO). Testifies in support of HB 2171 and the compromise with DHS.
254	Chair Jenson	Questions the changes made for the compromise.
260	Shibley	Explains compromise with proposed language.
273	Chair Jenson	Comments to DHS that Ways and Means will be more difficult.
305	Rep. Dingfelder	Inquires if the members will get a copy of the revised chart, and questions changes for connections, staffing, and dollars.
311	Shibley	Responds that she will provide revised chart to staff. Describes initial agreement from taskforce and compares new schedule.
346	<b>Rep. Dingfelder</b>	<b>MOTION: Moves HB 2171 to the floor with a DO PASS recommendation and BE REFERRED to the Joint Committee on Ways and Means by prior reference.</b>
358	Rep. Brown	States that he would support the bill with a no recommendation vote.
366	Rep. Krummel	Seeks clarification that small systems operators are now supportive of the bill because of changes that are made to administrative rules.
374	Chair Jenson	Confirms that the small systems operators are in support.

**VOTE: 5-1-1**

**AYE: 5 - Dalto, Dingfelder, Krummel, Tomei, Jenson**

**NAY: 1 - Brown**

**EXCUSED: 1 - Barnhart**

**388 Chair Jenson The motion CARRIES.**

**TAPE 54, A**

008 Chair Jenson Closes work session on HB 2171. Opens a public hearing on HB 2882.

**HB 2882 – PUBLIC HEARING**

015 Sandy Thiele-Cirka Administrator. Mentions testimony submitted by LaVelle Holmes in support of HB 2882 **(EXHIBIT D)**.

030 Jim McCauley Legislative Coordinator, Water Quality Division, Oregon Department of Environmental Quality (DEQ). Submits written testimony **(EXHIBIT E)** and testifies on HB 2882.

096 Kay Teisl Oregon Cattlemen's Association (OCA). Submits written testimony **(EXHIBIT F)** and testifies in support of HB 2882. Submits written testimony from Pat Larson, OCA's Science and Research Advisor **(EXHIBIT G)**.

145 Rep. Dingfelder Questions why a statute is needed if an administrative rule is already in place. Requests examples of mishandling data or failing to complete a full range of water quality testing.

150 Teisl Suggests that a statute will prevent the practice from being undone.

184 Rep. Brown Questions whether tests could be intentionally manipulated.

189 Teisl Responds with examples, and states that she does not know if tests are intentionally manipulated.

200 Chair Jenson Suggests that OCA get with DEQ to work together.

215 Kathryn VanNatta Northwest Pulp and Paper Association (NWPPA). Submits DEQ Toxic Data Submittal Procedure information **(EXHIBIT H)** and testifies in support of HB 2882. Requests that NWPPA be able to participate in the work group.

282	Katie Fast	Oregon Farm Bureau Federation (OFB). Submits written testimony <b>(EXHIBIT I)</b> and testifies in support of HB 2882. Offers to have OFB involved in the work group.
310	Rep. Brown	Questions what the 303D list is and asks if the list is extensive.
313	Fast	Responds that the 303D list is a list of streams that do not meet minimum requirements. States that Oregon has one of the most extensive lists in the nation.
342	Chair Jenson	Requests that DEQ submit 303D list to the committee members.
348	VanNatta	Expresses concern that newly adopted temperature water quality standards may increase the number of streams on the list.
365	Rep. Brown	Emphasizes the importance of reliable testing.
373	Chair Jenson	Closes public hearing on HB 2882. Opens a work session on HB 2172.

#### **HB 2172 – WORK SESSION**

388	Shaun Jillions	Rep. Jenson's Legislative Aide. Provides information on -4 amendments <b>(EXHIBIT J)</b> .
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#### **TAPE 53, B**

018	Adam Sussman	Water Resources Department (WRD). Introduces himself.
022	Chair Jenson	Inquires if HB 2172 is a fair and reasonable solution.
027	Sussman	Expresses WRD's belief that this is a fair and reasonable solution.
032	Rep. Dingfelder	Seeks information on protecting in-stream water rights.
037	Sussman	Explains that in-stream water rights are treated similarly to other water rights. Clarifies that half of irrigated districts are within water districts.

056	Rep. Dingfelder	Questions whether the amendment addresses WaterWatch's concerns about in-stream water rights.
062	Sussman	Admits that this bill and amendment do not address in-stream water rights in that way.
065	Rep. Krummel	Seeks clarification about how HB 2172 and amendment address in-stream water rights.
079	Sussman	Explains what the bill and amendment provide.
110	Rep. Krummel	Questions why an in-stream user would want to join a district.
120	Chair Jenson	Comments on the creation of water districts. Questions the effects of the original bill on in-stream water rights.
147	Sussman	Notes that the amendment does not affect in-stream water rights. Clarifies that this tool addresses the management of water rights within districts.
166	Doug Meyers	WaterWatch. Testifies in opposition to HB 2172, and comments that the -4 amendments do not address their concerns.
186	Sussman	Emphasizes that WaterWatch has been very clear as to their position on HB 2172.
194	Chair Jenson	Stands at ease at 2:22 p.m. Reconvenes at 2:26 p.m. Closes work session on HB 2172. Opens a public hearing on HB 2882.

### **HB 2882 – PUBLIC HEARING**

206	Vice-Chair Dingfelder	Invites remaining testimony on HB 2882.
218	Jeff Boatwright	Albany, Linn County. Submits written testimony ( <b>EXHIBIT K</b> ) and testifies in support of HB 2882.
254	Vice-Chair Dingfelder	Closes public hearing on HB 2882. Recesses at 2:30 p.m.

262	Chair Jenson	Reconvenes at 2:50 p.m. Opens as a subcommittee and reopens a work session on HB 2172.
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**HB 2172 – WORK SESSION**

272	Rep. Krummel	Comments on HB 2172 -3 amendments and asks if Water for Life could provide an explanation.
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283	Chair Jenson	Comments on HB 2172 -3 amendments. Opens as the full committee and opens a work session on HB 2172.
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308	Chair Jenson	Comments that amendments should be more timely.
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320	Richard Kosesan	Water for Life (WFL). Apologizes for miscommunication about protocol for distributing amendments. Describes -3 amendments <b>(EXHIBIT L)</b> and Klamath Takings Case from the Oregon Water Resources Congress <b>(EXHIBIT M)</b> .
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360	Chair Jenson	Inquires about possible reasons for someone to cancel their water right. Questions if the owner may currently augment in-stream leases.
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365	Kosesan	Offers possibilities for why someone might cancel their water right, and answers to in-stream water leases.
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**TAPE 54, B**

009	Chair Jenson	Questions if -3 amendments add forfeiture to the bill.
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010	Kosesan	Explains that the amendments do add forfeiture to the bill.
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016	Sussman	Confirms that forfeiture was not part of the work group discussion.
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020	Chair Jenson	Stresses that he cannot amend the bill as WFL is suggesting, as forfeiture was never introduced in the work group on HB 2172.
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033	Kosesan	Comments that there are disagreements in the work group. Emphasizes the importance that the property owner is the owner of the water right.
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065	Chair Jenson	Emphasizes that amendments should be distributed at a more opportune time.
077	Rep. Krummel	Apologizes that he allowed amendments to be distributed late.
097	Kosesan	Comments that amendments move toward affording districts the ability to secure water according to the rights of proper appropriation.
111	Chair Jenson	Closes work session on HB 2172. Adjourns the meeting at 3:03 p.m.

### **EXHIBIT SUMMARY**

- A. HJM 7, written testimony, Rep. Donna Nelson, 1 p
- B. HJM 7, BLM report, Steven Weaver, 16 pp
- C. HB 2171, written testimony, Gail Shibley, 7 pp
- D. HB 2882, written testimony of LaVelle Holmes, staff, 2 pp
- E. HB 2882, written testimony, Jim McCauley, 7 pp
- F. HB 2882, written testimony, Kay Tiesl, 1 p
- G. HB 2882, written testimony of Pat Larson, Kay Tiesl, 3 pp
- H. HB 2882, DEQ Procedure information, Kathryn VanNatta, 6 pp
- I. HB 2882, written testimony, Katie Fast, 1 p
- J. HB 2172, -4 amendments, Shaun Jillions, 2 pp
- K. HB 2172, written testimony, Jeff Boatwright, 2 pp
- L. HB 2172, -3 amendments, Richard Kosesan, 4 pp
- M. HB 2172, Klamath Takings Case, Richard Kosesan, 7 pp