

HOUSE COMMITTEE ON WATER

April 11, 2005 Hearing Room 357

1:00 P.M. Tapes 64 - 65

Corrected 10/17/05

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:

HB 2875 – Public Hearing

HB 2883 – Public Hearing

HB 3287 – Public Hearing

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 64, A

002 Chair Jenson Calls the meeting to order at 1:06 p.m. Opens a public hearing on HB 2875.

HB 2875 – PUBLIC HEARING

025 Adam Sussman Legislative Coordinator, Water Resources Department (WRD). Submits written testimony (**EXHIBIT A**) and testifies in support of HB 2875.

050 Rep. Barnhart Questions if there is a definition of emergency in the bill.

055 Sussman Responds negatively.

056 Rep. Barnhart Questions how an emergency will be declared if it is not defined in the bill.

063 Chair Jenson States that WRD has the authority to determine whether there is an emergency.

066 Sussman Explains that administrative rules would define an emergency.

071 Chair Jenson Questions if during a draught an irrigation district could change its point of diversion if the water level in the stream caused the emergency.

075 Sussman Describes statutory tools to allow water rights, points of diversion, and replace rights.

090 Kristina McNitt Oregon Water Resources Congress (OWRC). Submits written testimony (**EXHIBIT B**) and testifies in support of HB 2875.

120 Don Chandler Board Chair, Farmers Irrigation District, Hood River. Testifies in support of HB 2875. Describes the issue in Hood River with diversion.

152 Chair Jenson Questions whether HB 2875 would have allowed Hood River to solve their problem with diversion.

155	Chandler	States that the bill would help make the process more efficient.
159	McNitt	States that this is their case study following the earthquakes. Emphasizes that irrigation is a time sensitive matter.
175	Doug Myers	WaterWatch. Submits testimony and proposed amendments (EXHIBIT C) and testifies in support of HB 2875 with amendments.
213	Chair Jenson	Questions why the jurisdiction would go to Oregon Department of Fish and Wildlife (ODFW) rather than WRD.
223	Myers	States that WRD does not have a fish person on staff, while ODFW has fish experts.
230	Chair Jenson	Questions whether WRD would consult with ODFW if there were questions.
243	Sussman	States that WRD seeks input from ODFW to find whether a fish screen is required. Clarifies some points in the amendment.
269	Chair Jenson	Expresses concerns that involving another agency would cause delays in an emergency situation.
290	Sussman	Comments that WRD can assure that ODFW will be notified when requests are made to ensure that adequate fish passage is provided.
310	Chair Jenson	Closes public hearing on HB 2875. Opens a public hearing on HB 2883.

HB 2883 – PUBLIC HEARING

319	Sandy Thiele-Cirka	Administrator. Provides background on HB 2883.
330	Scott Ashcom	Oregon Agricultural Alliance. Explains background of HB 2883.
378	Rep. Dingfelder	Questions the status of request for funding for a similar study, and whether HB 2883 would still be necessary if money is received from Congress.

006	Ashcom	Relates that HB 2883 would address funding for small reservoirs, while the Governor's request for money is for certain other reservoirs.
021	Chair Jenson	States that the Governor will need permission from the Legislative body to spend the money he has requested from Congress.
056	Amanda Rich	Special Districts Association of Oregon (SDAO). Testifies in support of HB 2883. Expresses SDAO support for Water Resources Department's (WRD) effort to receive federal funds for this project.
075	Adam Sussman	Legislative Coordinator, WRD. Submits written testimony (EXHIBIT D) and testifies in support of HB 2883. States that the funding is not included in the Governor's Recommended Budget.
114	Rep. Dingfelder	Questions why aquifer service recovery is not included in HB 2883.
123	Sussman	Responds that the idea is good, but the cost is substantial.
136	Chair Jenson	Illustrates the difference in funding for the current bill as opposed to the desired bill.
158	Rep. Krummel	Questions the type of site that is being addressed in this study.
175	Sussman	Describes the sites HB 2883 will inventory.
210	Rep. Krummel	Seeks further clarification about how Oregon can add dams while many dams are being threatened with demolition.
235	Sussman	Remarks that not all people support storing water behind dams, but believes water can be stored to address all the stakeholders' concerns.
255	Rep. Krummel	Agrees that there should be a good inventory of storage space available, but there may be problems with trying to add more dams.
276	Chair Jenson	Comments on the need to address water shortages in Oregon.
322	Rep. Krummel	Comments on aquifer service recovery in Wilsonville.
343	Kay Teisl	Oregon Cattlemen's Association. Testifies in support of HB 2883.

350 Katie Fast Oregon Farm Bureau. Testifies in support of HB 2883. Addresses Rep. Krummel's concerns.

402 Chair Jenson Closes public hearing on HB 2883. Opens a public hearing on HB 3287.

HB 3287 – PUBLIC HEARING

430 Sussman Legislative Coordinator, Water Resources Department (WRD). Submits written testimony (**EXHIBIT E**) and testifies in opposition to HB 3287.

TAPE 64, B

031 Sussman Continues testimony explaining why HB 3287 is broad and unnecessary.

036 Chair Jenson Questions the amount of time that went into negotiations. Inquires who in state government was involved.

038 Sussman States that the negotiations took months. Relates that a member of WRD led discussions between proponents and opponents. States that the Attorney General was involved once or twice.

057 Rep. Tomei Questions what happened to the 30 other protests.

060 Sussman States that the three he is emphasizing were from three people who did not hold a water right. Explains what normally happens to protests.

066 Chair Jenson Questions whether the other 30 protests cost money.

068 Rep. Tomei States that more money is involved if the courts are involved.

072 Sussman Asserts that the current process is working and explains why. Expresses WRD's concerns that a burden would be placed on many who would be required to question WRD through judicial review rather than an administrative process.

098 Anita Winkler

Executive Director, Oregon Water Resources Congress (OWRC).
Submits testimony (**EXHIBIT F**) and testifies in support of HB
3287.

- 158 Rep. Tomei Questions whether issues were settled by courts.
- 160 Winkler States that all were court cases.
- 164 Amanda Rich Special Districts Association of Oregon (SDAO). Testifies in support of HB 3287.
- 195 Doug Myers WaterWatch. Submits written testimony (**EXHIBIT G**) and testifies in opposition to HB 3287.
- 255 Rep. Krummel Questions why standing to protest a water right should be given to someone with no involvement or concern in the issue, when someone protesting a land issue must meet standing requirements.
- 317 Myers Admits that he does not know why there is a different requirement.
- 340 Rep. Tomei Emphasizes that water is a public resource owned by the people of Oregon.
- 357 Rep. Barnhart States that there are rights that are not protected by holders, and believes the public should be able to protest on those issues.

TAPE 65, B

- 008 Rep. Barnhart Addresses issue of having standing at a higher level. Believes standing should be left open to allow members of the public to complain.
- 017 Chair Jenson Relates that one who has standing can sue. Comments on the issue.
- 047 Rep. Krummel Comments on using Land Use laws as an example.
- 055 Richard Kosesan Water for Life (WFL). Submits informational packet on HB 3287 and water transfers (**EXHIBIT H**) and testifies in opposition to HB 3287.

120	Chair Jenson	Questions whether Farmer Jones could request an in-stream right.
124	Koesan	Clarifies that Farmer Jones may request a right and possess it.
134	Rep. Krummel	Seeks clarification on who should have protest rights.
150	Koesan	Clarifies who WFL believes should have protest rights.
157	Sussman	Comments that the issue affects various aspects of the water rights community.
178	Chair Jenson	Seeks clarification on amendment. Inquires about court cases.
181	Koesan	Reiterates the language that would be acceptable to WFL. Suggests that HB 3287 would not have had an impact on the previous two cases.
230	Kay Tiesl	Oregon Cattlemen's Association. Testifies in opposition to HB 3287.
244	Chair Jenson	Closes public hearing on HB 3287. Announces that HJR 45 is carried over to Wednesday, April 13, 2005. Adjourns the meeting at 2:45 p.m.

EXHIBIT SUMMARY

- A. **HB 2875, written testimony, Adam Sussman, 1 p**
- B. **HB 2875, written testimony, Kristina McNitt, 1 p**
- C. **HB 2875, testimony and proposed amendments, Doug Myers, 5 pp**
- D. **HB 2883, written testimony, Adam Sussman, 2 pp**
- E. **HB 3287, written testimony, Adam Sussman, 2 pp**
- F. **HB 3287, written testimony, Anita Winkler, 2 pp**
- G. **HB 3287, written testimony, Doug Myers, 2 pp**
- H. **HB 3287, informational packet, Richard Koesan, 45 pp**