

HOUSE COMMITTEE ON WATER

March 13, 2003 Hearing Room B
8:30 AM Tapes 36 - 37

MEMBERS PRESENT: Rep. Bob Jenson, Chair
 Rep. Jackie Dingfelder, Vice-Chair
 Rep. Jeff Kropf, Vice-Chair
 Rep. Linda Flores
 Rep. Jeff Kruse
 Rep. Mike Schaufler
 Rep. Carolyn Tomei

STAFF PRESENT: Pete Test, Committee Administrator
 Ryan Sherlock, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2491 – WORK SESSION**
 HB 2226 – WORK SESSION
 HB 2227 – WORK SESSION
 HB 2456 – WORK SESSION
 HB 2475 – PUBLIC HEARING
 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 36, A		
003	Chair Jenson	Calls meeting to order at 8:39 a.m., and opens a work session HB 2491.
<u>HB 2491 – WORK SESSION</u>		
005	Pete Test	Committee Administrator. Offers a description of HB 2491.
010	Rep. Tomei	MOTION: Moves HB 2491 to the floor with a DO PASS recommendation.
015	Rep. Flores	Comments on her intention to vote yes on HB 2491 due to Rep. Johnson's prior description of the bill.
020		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Kruse, Kropf Chair Jenson The motion CARRIES. REP. FLORES will lead discussion on the floor.
025	Committee	Discussion on carrying the bill on the floor.
035	Chair Jenson	Closes the work session on HB 2491, and opens a work session on HB 2226.
<u>HB 2226 – WORK SESSION</u>		
035	Pete Test	Committee Administrator. Offers a description of HB 2226.
040	Rep. Dingfelder	MOTION: Moves HB 2226 to the floor with a DO PASS recommendation.
045		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye.

Chair Jenson

EXCUSED: 2 - Kruse, Kropf

The motion CARRIES.

DINGFELDER will lead discussion on the floor.

060

Chair Jenson

Comments on the general support for the bill but the possibility need for clarification from the carrier, and closes the work session on HB 2226. Explains the need for further amendments on HB 2227 which will cause it to not be heard today. Opens a work session on HB 2456.

HB 2456 – WORK SESSION

085

Pete Test

Committee Administrator. Offers a description of HB 2456, and the proposed -1 amendment (**EXHIBIT A**).

095

Chair Jenson

Asks Mr. Test who was the advocate for the bill.

100

Test

Explains that the SB 93 Task Force was the primary advocate of the bill, and discusses the function of that group.

110

Rep. Dingfelder

MOTION: Moves to ADOPT HB 2456-1 amendments dated 03/05/03.

115

VOTE: 6-0

EXCUSED: 1 - Kropf

Hearing no objection, declares the motion CARRIED.

120

Chair Jenson

Rep. Dingfelder

MOTION: Moves HB 2456 to the floor with a DO PASS AS AMENDED recommendation.

125

VOTE: 6-0

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Kropf

The motion CARRIES.

CHAIR JENSON will lead discussion on the floor.

135

Chair Jenson

Closes the work session on HB 2456, and opens a public hearing on HB 2475.

HB 2475 – PUBLIC HEARING

140

Pete Test

Committee Administrator. Offers a description of HB 2475.

150

Rep. Donna Nelson

House District 24. Offers written testimony (**EXHIBIT B**) in support of HB 2475.

170

Chair Jenson

Thanks the Representative for her testimony, and asks Ms. Fetters for her testimony.

175

Vikkye Fetters

Amity, Oregon. Offers testimony in support of HB 2475.

182

Chair Jenson

Asks Ms. Fetters what grade she is in school.

183

Fetters

Replies that she is in 7th grade.

185

Chair Jenson

Thanks Ms. Fetters for her testimony and interest in her government.

190

Charles Stern

Oregon Association of County Clerks. Offers written testimony (**EXHIBIT C**) in support of HB 2475.

205

Chair Jenson

Asks whether there was any specific incident which was the synthesis of the proposed legislation.

210

Stern

Explains that his county has not had these issues, but talks about those issues faced by some counties in eastern Oregon.

245

Chair Brown

Thanks Mr. Stern for his testimony.

252

Kristina McNitt

Oregon Water Resources Congress. Offers testimony indicating her group's support for HB 2475.

255

Rep. Tomei

Asks whether Ms. McNitt is aware of any problems which precipitated HB 2475.

260

McNitt

Explains that the problem was discovered during a review of the election laws.

270

Chair Jenson

Closes the public hearing on HB 2475, and opens an

informational hearing.

INFORMATIONAL MEETING – WATER MARKETING

275 Cleary Water Resources Department (WRD), Director. Offers informational testimony (**EXHIBIT D**) regarding water marketing.

400 Rep. Tomei Asks how water marketing can affect districts.

405 Cleary Addresses the problems with water rights in districts in the face of water marketing.

TAPE 37, A

020 Cleary Continues with presentation regarding water marketing.

055 Rep. Kruse Asks who pays fifteen thousand acres a foot for water.

060 Cleary Explain that it is most likely a municipal use.

070 Rep. Schaufler Asks about the change in usage to Wildlife and Extended.

075 Cleary Explains that the mentioned category mainly refers to a specific wildlife refuge. Continues with presentation on water marketing.

155 Rep. Dingfelder Asks if Mr. Cleary will address the Deschutes Basin groundwater mediation plan, because she has questions of how the WRD is evaluating the effectiveness of the mitigation banks currently in place.

INFORMATIONAL MEETING –

UPDATE ON DESCHUTES BASIN GROUNDWATER MITIGATION PLAN

160 Paul Cleary Explains that the first mitigation bank has just been chartered. Offers informational testimony (**EXHIBIT E**) regarding the Deschutes Basin groundwater mitigation.

190 Rep. Kropf Asks about criticism of the Water Resources Department (WRD) regarding beneficial use in the Malheur Refuge.

200 Cleary Addresses the criticism regarding the department’s interpretation of “beneficial use.”

220 Chair Jenson Clarifies that the possible litigation against the WRD are based on its interpretation of statute.

225 Cleary Comments on the creative and innovative uses of water which are not explicitly identified in statute, including requests for use of water at a worm farm.

245 Rep. Kruse Points out that worm farms were codified in 1997.

255 Chair Jenson Clarifies that the WRD has taken the position that based on its interpretation, there was no need to come to the legislature for clarification of the law.

260 Cleary Discusses the umbrella terms in statute and the way in which other uses fit into those terms, continues with presentation regarding the Deschutes Basin.

295 Chair Jenson Asks what happens when there is a major catastrophic event or a major change in state economics.

320 Cleary Comments on how such events would be affected.

330 Chair Jenson Comments on the Madison River case in Montana, and asks what would happen in a similar situation in Oregon.

350 Cleary Explains that he does not have a good answer.

355 Chair Jenson Points out that this could be a very real concern, and there is a real need to clarify the issue.

370 Cleary Acknowledges and continues with the presentation regarding the Deschutes Basin.

TAPE 36, B

065 Chair Jenson Clarifies that the use of ground water measurably affected the flow of the Deschutes River.

070	Cleary	Discusses the steps and measurements taken to record flow interruptions in rivers.
075	Rep. Schaufler	Asks how the WRD then knows that water flow has been interrupted.
080	Cleary	Discusses the department's inability to directly measure the CFS in the river, making them rely on models.
090	Rep. Kruse	Discusses the problem with applying logic to water laws, and points out statute could be read to say it requires the WRD to do those measurements which the department deems impossible.
110	Rep. Dingfelder	Clarifies that the WRD looks at the cumulative impacts on water flow, and expresses the concerns of the environmental community regarding the measurements, and clarifies that the department comes to conclusions in this issue through modeling.
125	Cleary	Explains the modeling used by the department.
135	Rep. Schaufler	Clarifies that the department can accurately use the modeling, and asks how the department came to the one percent standard.
140	Cleary	Explains that SB 1033 from the 1995 legislative session, and the current efforts to revisit the topic.
155	Rep. Kruse	Comments on his skepticism regarding these studies regarding the relationship between ground water and surface water.
160	Chair Jenson	Asks if there is currently legislation to review or change the one percent standard.
165	Cleary	Explains that there is currently such legislation, but he does not know the number.
173	Chair Jenson	Asks whether any consideration has been given to the return flow from the irrigation, and what effect that return flow could have on the temperature of the Deschutes river.
180	Cleary	Explains that the model looks only at the consumptive use and continues with presentation.
245	Rep. Dingfelder	Clarifies that the district manages mitigation banks, or whether a non-profit is contracted to do this.
250	Cleary	Explains that so far the WRD has chartered one bank the Deschutes Mitigation Bank.
260	Rep. Dingfelder	Asks how the fees are assessed.
265	Cleary	Explains that the state does not run the bank. Concludes presentation regarding the Deschutes Basin Groundwater Mediation Plan.
280	Chair Jenson	Thanks Mr. Cleary, and asks if there is anybody else who would like to address this issue.
295	Jerry Schmidt	Oregon Ground Water Association. Discusses his organizations support for SB 1033 during the 1995 session, and the ways in which they came to the numbers which are currently those used.
390	Chair Jenson	Thanks Mr. Schmidt, and asks if the department could provide a list of scenic waterways in Oregon, and asks if the Columbia River is a scenic waterway.
395	Cleary	Responds that he will get that list for the committee, and recalls that the Columbia River is not a scenic waterway.
400	Schmidt	Explains that seventy percent of the state is in or above a scenic waterway.
420	Chair	Closes the informational hearing, and adjourns the meeting at 10:02 a.m.

EXHIBIT SUMMARY

A – HB 2456, -1 amendment, Staff, 4 pp.

B – HB 2475, written testimony, Rep. Nelson, 1 p.

C – HB 2475, written testimony, Charles Stern, 1 p.

D – INFORMATIONAL, Water Marketing, Paul Cleary, 9 pp.

E – INFORMATIONAL, Update on Deschutes Basin Ground Water Mitigation, Paul Cleary, 8 pp.