

HOUSE COMMITTEE ON WATER

May 15, 2003 Hearing Room B
8:30 AM Tape 89 - 90

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: SB 820A – Public Hearing and 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 89, A		
003	Chair Jenson	Calls meeting to order at 8:43 a.m. and opens the public hearing on SB 820A.
<u>SB 820A – PUBLIC HEARING</u>		
005	Pete Test	Committee Administrator. Offers a description of SB 820A, and introduces the proposed -A6 amendments (EXHIBIT A), -A8 amendments (EXHIBIT B), and -A9 amendments (EXHIBIT C).
040	Senator David Nelson	Senate District 29. Offers written testimony (EXHIBIT D) regarding SB 820A.
135	Chair Jenson	Asks whether anyone has priority on the water right permits in question.
140	Sen. Nelson	Indicates he doesn't know, but further addresses the issue of priority with permits.
165	Rep. Kropf	Asks whether either Sen. Nelson or Sen. Ferrioli have seen the –A9 amendments, and outlines the effects of those amendments.
175	Sen. Nelson	Comments on the effects of the –A9 amendments.
180	Rep. Dingfelder	Clarifies Sen. Nelson's interpretation of the –A9 amendments, that the increased flow allowed by the amendments would be above and beyond that allowed by the original bill.
185	Sen. Nelson	Acknowledges.
190	Chair Jenson	Comments on possibly coming conceptual amendments.
200	Rep. Schaufler	Asks whether there are any predictions on what production might come from creating these reserves.
205	Sen. Nelson	Comments on the productivity of the land when irrigated.
210	Rep. Schaufler	Asks how many acres of land would be put into production if this bill were passed.
215	Sen. Nelson	Indicates that there would be close to 80,000 acres.

220	Rep. Schaufler	Clarifies that this would not be marginal land, but arable and productive acres.
225	Sen. Nelson	Acknowledges that this would be good, productive land.
230	Chair Jenson	Points out that the proposed reserve is not necessarily for agriculture, but for "beneficial use."
240	Rep. Schaufler	Asks how much water would be needed for 80,000 acres to go into production.
245	Sen. Nelson	Responds that 80,000 would need around 240,000 acre feet.
250	Rep. Tomei	Asks for a clarification of the legality regarding water rights upon a river which crosses differing jurisdictions.
255	Sen. Nelson	Points out that the state has the right to reserve water, and further discusses the legality issue.

Sound equipment malfunction

265	Rep. Tomei	Further clarifies her legality question.
270	Sen. Nelson	Further comments on the legality issue.
285	Sen. Ferrioli	Senate District 30. Offers testimony in support of SB 820A.

TAPE 90, A

001	Sen. Ferrioli	Continues with testimony in support of SB 820A, with comments on the multiple amendments to the bill.
055	Rep. Tomei	Asks how Oregon originally received the rights to the 30 million acre feet from the Columbia.
060	Sen. Ferrioli	Discusses the means in which state water rights are decided.
070	Rep. Tomei	Asks when the intergovernmental agreement was reached.
075	Sen. Ferrioli	Explains the agreement was reached in about 1985, and points out those agreements were created before endangered species legislation.
090	Rep. Tomei	Clarifies the intent of her question was to better outline the legality of the issue.
095	Sen. Ferrioli	Acknowledges and continues testimony.
100	Rep. Kruse	Indicates his support for the measure, but expresses his concern that this bill still leaves Oregon well below the amount diverted by Washington state.
110	Sen. Ferrioli	Comments on the work which has gone into the bill and the reasoning behind the 259,000 square miles figure.
140	Rep. Kruse	Points out that the issue will need to be readdressed in the future. Comments on the agricultural use of the water in Washington State. Offers the committee an update on Rep. Westlund's health. Continues with comments on water use from the Columbia.
170	Sen. Ferrioli	Agrees, and further discusses the need to not dwell on the percentage use, but the efficient use of the water.
190	Rep. Schaufler	Asks what percentage the proposed increase would make for Oregon usage.
195	Sen. Ferrioli	Indicates that he does not know, but points out the need to look at efficiency rather than percentage.
200	Vice-Chair Dingfelder	Asks whether there are any limitations on the Water Resources Department from currently issuing water rights under existing laws.
210	Sen. Ferrioli	Comments on the limitations imposed on the Department.
215	Rep. Kropf	Clarifies that the proposed 250,000 acre feet figure is the maximum water which would be needed.
220	Sen. Ferrioli	Points out that the 250,000 figure is a cap.
230	Martha Pagel	Eastern Oregon Irrigation Association. Comments on the percentages of the original bill.
240	Sen. Ferrioli	Thanks the committee for their time.

245	Rep. Schaufler	Asks Ms. Pagel what percentage of total Columbia flow the 250,000 acre feet would bring the state up too.
250	Pagel	Discusses the percentage use of total Columbia flow. Offers written testimony (EXHIBIT E) regarding SB 820A.
290	Rep. Dingfelder	Expresses concern for implementing an interim goal, and the practical effect of such a goal.
300	Pagel	Explains that there is an important policy implication of putting Oregon on par with Washington regarding consumption of the Columbia's flow.
320	Rep. Dingfelder	Further questions the interim goals.
330	Pagel	Comments on the evolution of the bill, and further discusses the interim goals. Offers a description of the –A9 amendments.
340	Rep. Dingfelder	Asks why the intent of the –A9 amendments could not be accomplished by changing the amount in the A-engrossed bill.
350	Pagel	Further comments on the –A9 amendments in effect and implementation.
TAPE 89, B		
025	Rep. Flores	Clarifies that 1.42 million acre-feet would bring Oregon to one percent diversion, and further clarifies the differing percentages.
030	Pagel	Comments on the percentage of future developments.
035	Chair Jenson	Points out that the 250,000 is not the total amount withdrawn on the Oregon side.
045	Bill Quaempts	Confederated Tribes of the Umatilla Indian Reservation. Offers written testimony (EXHIBIT F) regarding SB 820A.
160	Chair Jenson	Thanks Mr. Quaempts for his testimony.
180	Rep. Schaufler	Indicates his sympathy for Mr. Quaempts concerns, but asks the witness to better explain in which passage of this bill would cause harm to the Tribes fishing abilities.
190	Quaempts	Discusses the ways in which policy changes regarding the Columbia River affect the Umatilla Tribes fishing rights.
230	Rick George	Department of Natural Resources. Offers testimony regarding SB 820A.
265	Rep. Schaufler	Asks whether the 160,000 acre-feet figure would address the tribes concerns.
270	George	Comments on the critical nature of the number.
285	Chair Jenson	Clarifies that Mr. George would be more in support of the proposed conceptual amendments.
290	George	Acknowledges.
295	Michael Mason	Confederated Tribes of the Warm Springs Reservation of Oregon. Offers written testimony (EXHIBIT G) from Louis Pitt regarding SB 820A.
370	Rep. Tomei	Clarifies that the tribe would only agree to the bill if the -6 amendments were included.
375	Mason	Explains that this is the directive of his tribal council.
TAPE 90, B		
001	Paul Cleary	Oregon Water Resources Department. Offers written testimony (EXHIBIT H) support of SB 820A.
060	Rep. Tomei	Clarifies specific language in the bill. Expresses concern for the possible effects on fish runs.
070	Cleary	Comments on the permitting process in context to Rep. Tomei's concerns.
085	Rep. Tomei	Restates her concerns regarding effects on the fish runs in drought years.
090	Cleary	Explains that there is protection through the water right, and

		discusses other means in which fish runs are protected in low-flow years.
100	Rep. Kruse	Closes the public hearing on SB 820A, and opens a work session on SB 820A.
		SB 820A – WORK SESSION
105	Rep. Kruse	MOTION: Moves to ADOPT SB 820A-9 amendments dated 05/15/03.
		VOTE: 6-0
		EXCUSED: 1 - Dingfelder
	Chair Jenson	Hearing no objection, declares the motion CARRIED.
110	Rep. Kruse	MOTION: Moves to ADOPT SB 820A-10 amendments dated 05/15/03, (EXHIBIT I).
		VOTE: 6-0
		EXCUSED: 1 - Dingfelder
	Chair Jenson	Hearing no objection, declares the motion CARRIED.
115	Rep. Kruse	MOTION: Moves SB 820A to the floor with a DO PASS AS AMENDED recommendation.
120	Rep. Tomei	Asks why there is no representative from the environmental community present at the meeting.
125	Chair Jenson	Comments on the posting of the meeting agenda.
130	Doug Meyers	WaterWatch. Indicates his groups opposition to the bill.
150	Chair Jenson	Asks Ms. Wilkinson to address the bill.
155	Jean Wilkinson	Oregon Farm Bureau. Offers testimony in support of SB 820A.
180	Martha Pagel	Points out the need for conceptual amendments.
185	Rep. Kruse	Withdraws his motion to send SB 820A to the floor with a Do Pass as Amended recommendation.
190	Chair Jenson	Thanks Rep. Kruse for withdrawing his motion, and comments on the situation the bill is in. Comments on the economic incentives of the bill. Indicates his intention to move the bill with the –A9 and –A10 amendments, but to convene a conference committee with the Senate side regarding the issue. Clarifies the wording of the conceptual amendments.
290	Pagel	Clarifies the wording of the conceptual amendments.
295	Rep. Kruse	MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote by which the –A9 amendments were adopted to SB 820A.
		VOTE: 6-0
		EXCUSED: 1 - Dingfelder
	Chair Jenson	Hearing no objection, declares the motion CARRIED.
300	Rep. Kruse	MOTION: Moves to RECONSIDER the vote by which the –A9 amendments were adopted to SB 820A.
		VOTE: 6-0
		EXCUSED: 1 - Dingfelder
	Chair Jenson	Hearing no objection, declares the motion CARRIED.
305	Rep. Kruse	MOTION: Moves to SUSPEND the rules for the purpose of Conceptually amend the -A9 amendments to SB 820A.
		VOTE: 6-0
		EXCUSED: 1 - Dingfelder
	Chair	Hearing no objection, declares the motion CARRIED.
310	Rep. Kruse	MOTION: Moves to AMEND the –A9 amendments to SB 820A on page 1, in line 11, delete "160,000" and insert "amount".

315	Chair Jenson Rep. Kruse	<p>VOTE: 6-0 EXCUSED: 1 - Dingfelder Hearing no objection, declares the motion CARRIED. MOTION: Moves to ADOPT SB 820A-9 amendments dated 05/15/03 as Conceptually Amended.</p> <p>VOTE: 6-0 EXCUSED: 1 - Dingfelder Hearing no objection, declares the motion CARRIED. MOTION: Moves SB 820A to the floor with a DO PASS AS AMENDED recommendation.</p>
320	Chair Jenson Rep. Kruse	<p>Clarifies whether there will be any representatives from the environmental community in the proposed work group.</p>
325	Rep. Tomei	Points out the inability to place the bill on the consent calendar.
330	Chair Jenson	
340	Chair Jenson	<p>VOTE: 5-1 AYE: 5 - Flores, Kropf, Kruse, Schaufler, Jenson NAY: 1 - Tomei EXCUSED: 1 - Dingfelder The motion CARRIES. CHAIR JENSON will lead discussion on the floor.</p>
350	Chair Jenson	Enters into the record submitted testimony (EXHIBIT J) from Chuck Craig from the Oregon Department of Agriculture. Closes the work session on SB 820A, and adjourns the meeting at 10:34 a.m.

EXHIBIT SUMMARY

- A – 820A, -A6 amendments, Staff, 1 p.**
- B – 820A, -A8 amendments, Staff, 2 pp.**
- C – 820A, -A9 amendments, Staff, 2 pp.**
- D – 820A, written testimony, Sen. Nelson, 4 pp.**
- E – 820A, written testimony, Martha Pagel, 3 pp.**
- F – 820A, written testimony, Bill Quaempts, 3 pp.**
- G – 820A, submitted written testimony from Louis Pitt, Michael Mason, 1 p.**
- H – 820A, written testimony, Paul Cleary, 2 pp.**
- I – 820A, -A10 amendments, Staff, 1 p.**
- J – 820A, submitted written testimony from Chuck Craig, Staff, 1 p.**