

HOUSE COMMITTEE ON AGRICULTURE & FORESTRY

January 25, 2001
3:30 PM

Hearing Room 50
Tapes 14 - 16

MEMBERS PRESENT: Rep. Jeff Kropf, Chair
Rep. Al King, Vice-Chair
Rep. Donna Nelson, Vice-Chair
Rep. Robert Ackerman
Rep. Dan Doyle
Rep. Wayne Krieger
Rep. Mary Nolan
Rep. Tootie Smith

VISITING MEMBERS: Rep. Bob Jenson
Rep. Randy Leonard
Rep. Tim Knopp
Rep. Jeff Kruse
Rep. Patti Smith
Rep. Al King
Rep. Carolyn Tomei
Rep. Kelley Wirth

MEMBERS EXCUSED: Rep. Elaine Hopson

STAFF PRESENT: Ray Kelly, Committee Administrator
Michael Reiley, Committee Assistant

MEASURE/ISSUES HEARD: HB 2156 – 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 14, A		
004	Chair Kropf	The committee met jointly with the House Stream Restoration and Species Recovery committee. Calls meeting to order at 3:35 p.m. Opens a public hearing on HB 2156.
<u>HB 2156 – PUBLIC HEARING</u>		
027	Phil Ward	Director, Oregon Department of Agriculture (ODA). Testifies in support of HB 2156. Submits and reads written testimony (EXHIBIT A). Describes Confined Animal Feeding Operations (CAFO).
128	Rep. Jenson	Asks if ODA was invited by Environmental Protection Agency (EPA) to participate in surveillance of CAFOs that were permitted by ODA.
138	Ward	Answers no. Continues reading written testimony.
157	Rep. Jenson	Asks if ODA was invited to participate in meetings conducted by EPA.
168	Chuck Craig	Department of Agriculture. Answers yes. Clarifies nature of

		meetings.
181	Ward	Continues reading written testimony.
201	Craig	Continues reading written testimony.
241	Chair Kropf	Clarifies that Oregon's laws are more stringent than federal rules under federal water pollution control and Clean Water Act.
248	Craig	Concurs. Explains that ODA and federal regulations overlap in some instances. Continues reading written testimony.
288	Chair Kropf	Asks about EPA role in Idaho regarding inspection and enforcement.
293	Craig	Answers that Idaho's Department of Agriculture and the Department of Environmental Quality (DEQ) seem to have primary enforcement role. Notes that the EPA takes enforcement action only in extraordinary circumstances when state can not.
300	Chair Kropf	Asks if the State of Idaho has enforcement and if the Department of Agriculture would come in if necessary.
308	Craig	Answers yes. Continues reading written testimony.
320	Chair Kropf	Asks what steps would be necessary to get full delegated authority for the Department of Agriculture.
322	Craig	Explains what steps would be need to be taken.
341	Chair Kropf	Asks if delegated authority was enacted in Oregon, how would it compare to Idaho's agreement with EPA.
347	Craig	Answers that it would go beyond Idaho's program. Notes that Idaho is not currently delegated.
357	Rep. King	Asks if the EPA is satisfied with Idaho's plan.
365	Ward	Answers yes.
370	Rep. Nelson	Asks about the fiscal impact of the bill.
389	Craig	Answers that he is not sure of the fiscal impact, but he may know more later.
400	Rep. Nelson	Asks if the bill is to be referred to Ways and Means.
408	Ray Kelly	Committee Administrator. Clarifies.
419	Ward	Discusses potential fiscal impact and current program.
TAPE 15, A		
019	Chair Kropf	Asks about adequate statutory authority and the relationship between ODA and DEQ.
023	Ward	Answers that ODA has statutory authority with CAFO, not AFO.
026	Chair Kropf	Clarifies authority.
031	Ward	Answers that change has come with AFO.
040	Rep. Wirth	Asks if program should be self-supporting.
044	Craig	Explains how program funding works.
056	Rep. Kruse	Expresses concern about whether resources exist to implement AFO. Asks about specifics of AFO.
080	Ward	Discusses dealing with AFO complaints.
088	Rep. Kruse	Asks if discussions have been held with the new director of the EPA to determine EPA's direction.
102	Ward	Answers that they will be glad to talk with them, but they do not currently anticipate a change in direction.
107	Rep. Kruse	Suggests that clarification be made to determine EPA's direction and intent.
123	Chair Kropf	Asks if PL 92-500 referenced in HB 2156 is shortened version of Water Pollution Control Act.
132	Craig	Answers yes.
137	Larry Knudsen	Assistant Attorney General. Clarifies PL 92-500 is federal equivalent to session law reference to Clean Water Act.
144	Chair Kropf	Asks about the Clean Water Act and the Federal Water Pollution

		Control Act.
150	Knudsen	Clarifies Water Pollution Control Act.
165	Chair Kropf	Asks about references to CAFO.
169	Craig	Clarifies bill language about CAFO.
174	Chair Kropf	Asks if ODA has or will later adopt definition of CAFO with regard to HB 2156.
182	Craig	Answers that ODA would plan to adopt it. Explains that federal definition of CAFO is very complex and would be “very cumbersome” to put into statute.
200	Chair Kropf	Asks if ODA is intending to narrowly define AFO/CAFO.
209	Craig	Answers that they are intending to comply with federal law.
213	Chair Kropf	Asks if ODA would need to “mirror” federal definition.
214	Craig	Answers yes. States that HB 2156 would give them the authority to do so.
217	Rep. Kruse	Clarifies that the definition of AFO/CAFO that is being deleted from the bill was all-inclusive and not particularly effective.
224	Chair Kropf	Asks where 4-month time period stated in HB 2156 came from.
229	Craig	Clarifies that language in bill was arranged to carry existing state law provisions through.
239	Chair Kropf	Asks if CAFO and AFO will both have the same 4-month provision.
242	Craig	Answers that if there is something that requires a federal permit ODA would have the authority to permit. Notes that in the absence of a federal requirement to do something, the existing state law would remain in effect.
259	Ward	Discusses meetings that have been held around the state through the OSU Extension Service regarding livestock.
272	Rep. Nelson	Asks about research program funding.
277	Ward	Answers that programs have existed within current setup.
287	Rep. Kruse	Reiterates suggestion to contact new director of the EPA to coordinate intentions.
300	Chair Kropf	Concurs. States that plans have been made to meet with EPA. Asks if HB 2156 gets us where we need to go to satisfy EPA’s concerns and comply with the Clean Water Act.
309	Ward	Answers that the bill gives the structural basis to address the issues that need to be addressed. Points out that there are further considerations that need to be made for implementing a program.
322	Rep. Jenson	Asks if the goal is to negotiate with EPA an agreement similar to Idaho’s Beef Cattle Water Quality Program.
333	Ward	Answers that the Idaho Beef Cattle Water Quality Program summary cited in his testimony is an example of a program that the EPA feels comfortable with and is a reference point to know where we need to go.
344	Rep. Jenson	Clarifies that Oregon needs similar legislation to arrive at a similar position to Idaho.
348	Knudsen	Answers that the direction HB 2156 would take Oregon to is a negotiation with the EPA of a revision delegation agreement. Notes that this bill would lead to further revision of that agreement.
368	Rep. Wirth	Asks about ramifications of agreement with regard to ODA.
391	Rep. Nelson	Asks for a copy of the letter.
402	Rep. Kruse	Asks if the bill would require a re-write of SB 1010 (1993).
408	Ward	Answers that the program would be implemented into their general water quality planning and implementation efforts.

426 Rep. Kruse Points out that SB 1010 deals with animal feeding operations. Expresses concern that work has been done on issue and may be disregarded in light of new legislation.

440 Ward Explains that ODA does not want to undo work that has already been done. Asserts that any new work that is done will have to be coordinated with good work that farmers and rancher have been doing for the last several years.

TAPE 14, B

027 Stephanie Hallock Director, Department of Environmental Quality. Gives overview of DEQ. Discusses goals for DEQ under her direction.

085 Mike Llewelyn Administrator, Water Quality Division, DEQ.

098 Chair Kropf Asks about the history of CAFO and Oregon's role in its development.

107 Mike Llewelyn Water Quality Division Administrator, Department of Environmental Quality. Offers brief history of CAFO.

121 Chair Kropf Asks if EPA is conducting enforcement actions in other nearby states with similar issues as Oregon.

124 Llewelyn Answers yes.

128 Chair Kropf Asks if DEQ is comfortable with the relationship between DEQ and ODA.

130 Llewelyn Answers yes.

134 Chair Kropf Asks if HB 2156 will move the state toward compliance with EPA.

138 Llewelyn Answers yes.

177 Dave Nelson Oregon Dairy Farmers Association (ODFA). Notes that Oregon has been a leader in CAFO. Gives overview of law implementation.

208 Jim Krahn Program Manager, Oregon Dairy Farmers Association. Submits and reads written testimony (**EXHIBIT B**).

312 Rep. Tomei Commends ODFA for their work.

319 Chair Kropf Asks about methane odor.

324 Krahn Explains that the odor is considerably reduced.

342 Chair Kropf Asks about electrical production.

345 Krahn Indicates how much electricity could be generated.

360 Don Moisan Dairy farmer. Describes his operation. Expresses his concern about water quality.

420 Chair Kropf Asks Mr. Moisan if CAFO has worked for him.

423 Moisan Answers yes.

TAPE 15, B

026 Nelson Elaborates difference between the EPA's and ODFA's view of how to measure water quality.

037 Rep. Wirth Asks how much financial incentive OSU Extension program gives to implement programs.

054 Nelson Explains that agriculture has not seen good economy like the rest of the country. Notes that one financial incentive the dairy industry has relied on is the pollution control facility tax credit. Explains the tax credit's benefit to agriculture.

080 Krahn Concurs that the OSU Extension service is vital. Expresses concern about shortcomings of lacking staff on OSU campus for research on water quality issues in wet climates.

108 Rep. T. Smith Asks Mr. Moisan about the number of animals he has. Asks about methane-digesting program.

110 Moisan Answers how many animals he is permitted. Explains that it is not his operation that is working on the methane-digesting

		program.
120	Rep. Nelson	Commends dairy industry for their work.
125	Rep. Jenson	Clarifies issue of water quality and how it is measured.
135	Chair Kropf	Expresses desire for more information about methane digester program.
144	Glen Stonebrink	Executive Director, Oregon Cattlemen's Association. Submits and reads written testimony in support of HB 2156 (EXHIBIT C). Gives background about educational meetings discussed earlier. Describes fines issued to certain ranchers by the EPA.
202	Chair Kropf	Asks for clarification about fines issued.
205	Stonebrink	Explains situation of issuing fines. Asks for outreach programs to educate ranchers about rules and policies to ensure that they are aware of rules to avoid fines. Continues reading written testimony. Expresses concern regarding lack of public participation in making policy.
295	Chair Kropf	Asks for clarification about public participation in meetings.
303	Knudsen	Explains that state agencies cannot adopt rules without going through public participation process.
322	Stonebrink	Confirms that there is an exception to public participation that may present problems. States that cattlemen may propose amendments in the future. Continues reading written testimony.
363	Rep. Wirth	Asks for clarification about Rep. Kruse's testimony regarding SB 1010.
368	Stonebrink	Answers that SB 1010 should not be changed at all. Clarifies point-source pollution and non-point source pollution.
398	Rep. Wirth	Asks about compliance with SB 1010.
410	Stonebrink	Clarifies position on SB 1010 with regard to point source and non-point source pollution.
TAPE 16, A		
007	Rep. Kruse	Expresses concern that attempts have been made at federal level to re-write the definition to merge the line between point and non-point.
027	Pete Test	Associate Director of Governmental Affairs, Oregon Farm Bureau Federation (OFBF). Gives overview of OFBF. Supports concept of HB 2156. Expresses concern about the definition of AFO.
052	Chair Kropf	Asks if HB 2156 should be more explicit with the definition of AFO to satisfy the EPA.
054	Test	Answers that it should not be changed, but should wait until AFO is defined at federal level. Clarifies SB 1010 situation regarding definitions of AFO/CAFO.
089	Stonebrink	Expresses concern for lack of funding at local level.
110	Ward	States intention of ODA that any rule-making referenced by this bill be conducted with extensive public input including appropriate hearings, probably in multiple parts of the state.
120	Jim Myron	Conservation Director, Oregon Trout. Submits and reads written testimony in support of/opposition to HB 2156 (EXHIBIT D).
142	Aubrey Russell	Water Policy Advocate, Oregon Trout. Reiterates position of Oregon Trout regarding the position of ODA.
157	Rep. Nelson	Asks for clarification about issue in written testimony.
164	Myron	Clarifies that position of Oregon Trout has changed due to conversation with ODA.
181	Chair Kropf	Closes the public hearing on HB 2156. Adjourns meeting at 5:37 p.m.

Submitted By,

Michael Reiley,
Committee Assistant

Reviewed By,

Ray Kelly,
Committee Administrator

EXHIBIT SUMMARY

- A – HB 2156, written testimony, Phil Ward, 11 pp**
- B – HB 2156, written testimony, Jim Krahn, 3 pp**
- C – HB 2156, written testimony, Glen Stonebrink, 1 p**
- D – HB 2156, written testimony, Jim Myron, 1 p**