

# HOUSE COMMITTEE ON AGRICULTURE & FORESTRY

March 29, 2001  
3:00 PM

Hearing Room 50  
Tapes 51 - 54

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

**MEMBERS VISITING:** Sen. Ken Messerle, Chair  
Sen. Frank Shields, Vice-Chair  
Sen. Ginny Burdick  
Sen. Jason Atkinson  
Sen. Roger Beyer  
Sen. Steve Harper  
Sen. Bev Clarno

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

**MEASURE/ISSUES HEARD:** Informational Meeting  
Klamath River Irrigation Project  
HB 2050 – Public Hearing  
HB 3003 – 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>  |
|--|----------------|--|
| <b>TAPE 51, A</b><br>003                   | Chair Kropf    | Calls meeting to order at 3:05 p.m. Opens informational hearing on the Klamath River Irrigation Project.                 |
| <b><u>INFORMATIONAL MEETING</u></b><br>032 | Steve Kandra   | Klamath Basin Water Users Association. Submits and summarizes prepared testimony ( <b>EXHIBIT A</b> ).                   |
| Audio difficulties from 060-105<br>175     | Kandra         | Continues prepared testimony.  |
| 369  | Tessa Stuedli  | Executive Director, Klamath Water Users Association. Submits and summarizes written information ( <b>EXHIBIT B</b> ).    |
| 416  | Don Russell    | Chairman, Klamath Water Users Association. Describes situation of various water uses and their effects on the community. |
| <b>TAPE 52, A</b>                          |                |  |

|                   |                 |  |
|-------------------|-----------------|--|
| 036               | Sen. Messerle   | Asks what the response of federal agencies has been regarding environmental and water issues.  |
| 050               | Kandra          | Explains burdens on water users and water regulations in the Klamath River Basin.  |
| 098               | Sen. Messerle   | Asks what causes fish kills.   |
| 100               | Kandra          | Cites and explains the study provided by the Klamath Water Users Association.  |
| 134               | Chair Kropf     | Clarifies that there were other mitigating factors other than lake water levels.   |
| 139               | Kandra          | Answers yes.   |
| 140               | Chair Kropf     | Asks if there are reverse negative impacts on the environment without irrigation.  |
| 146               | Kandra          | Answers that there has never been a National Environmental Policy Act (NEPA) evaluation of what the impacts would be.  |
| 158               | Chair Kropf     | Asks if the plan to stop the release of water would require a NEPA analysis.   |
| 161               | Kandra          | Thinks that it should and notes that to this point there has been no call for any environmental assessment for the program called for by any agencies.       |
| 168               | Chair Kropf     | Asks about suckers during low water years.   |
| 176               | Kandra          | Explains how suckers live during years of low water.   |
| 200               | Chair Kropf     | Clarifies that there are other factors that affect suckers other than water levels.  |
| 206               | Kandra          | Expresses concern that if all issues are not addressed; there could be difficulties with fish.   |
| 218               | Rep. Krieger    | Explains efforts made by landowners to manage the land effectively.  |
| 257               | Chair Kropf     | Asks what the answer to the water problem is.  |
| 263               | Russell         | Explains how water storage would help the issue.   |
| 295               | T. Stuedli      | Expresses desire for science relating to the water issue to be peer-reviewed.  |
| 311               | Kandra          | Explains the role of the Klamath Water Users Association in water issues.  |
| 332               | Sen R. Beyer    | Asks for clarification about boundaries and water uses indicated in the map.   |
| 343               | Kandra          | Clarifies the map.   |
| 375               | T. Stuedli      | Further clarifies.   |
| 420               | Tracey Liskey   | Vice President, Oregon Farm Bureau. Explains the effects of the water issue on his ability to farm.  |
| <b>TAPE 51, B</b> |                 |  |
| 042               | Chair Kropf     | Clarifies that agriculture uses water and then and it passes to refuges, so if the water does not get to agricultural uses, it will also affect the refuges. |
| 047               | Liskey          | Explains the relationship between people in agriculture and wildlife. Explains the ability of fish to survive with water policies.                           |
| 088               | Sen. Messerle   | Expresses empathy for Klamath Basin water users.   |
| 115               | Chair Kropf     | Asks if the 1992 process of dividing the water is a more reasonable direction to go in the coming year.  |
| 119               | Liskey          | Answers yes. Notes that all interests in the issue have to deal with what water is available.  |
| 135               | Roger Nicholson | President, Resource Conservancy and Board Member, Water for Life. Submits and summarizes written information ( <b>EXHIBIT C</b> ).                           |

|                   |                  |   |
|-------------------|------------------|---|
| 242               | Chair Kropf      | Asks what the remedy would be if the intent of the lawsuit is to move the issue into federal court rather than state court.   |
| 245               | Nicholson        | Answers that they will ask for the case to be dismissed. If it is not, they will defend themselves.   |
| 268               | Chair Kropf      | Asks if there will be collateral impact due to business between the upper and lower basin.  |
| 274               | Nicholson        | Answers that there will be.   |
| 298               | Steve West       | Chairman, Klamath County Board of Commissioners. Submits and reads prepared testimony <b>(EXHIBIT D)</b> .  |
| <b>TAPE 52, B</b> |                  |   |
| 051               | Stephanie Bailey | Executive Director, Klamath County Chamber of Commerce. Submits and reads prepared testimony <b>(EXHIBIT E)</b> .   |
| 103               | Andrew Stuedli   | Agriculture and Environmental Manager, Klamath and Lake Counties' Economic Development. Explains their work being done working with economic issues of the Klamath Basin.   |
| 131               | Chair Kropf      | Asks if the 1992 biological opinion is a viable alternative.  |
| 134               | A. Stuedli       | Answers yes.  |
| 135               | Bailey           | Answers yes.  |
| 149               | Paul Cleary      | Director, Oregon Water Resources Department. Submits and reads prepared testimony <b>(EXHIBIT F)</b> .  |
| 180               | Chair Kropf      | Asks if \$1.6 million put into Klamath Basin water right adjudication includes defense of the state of Oregon.  |
| 183               | Cleary           | Answers no. Continues reading prepared testimony.   |
| 306               | Chair Kropf      | Asks how water is being sent from Oregon to California.   |
| 323               | Cleary           | Explains how the water laws operate relating to diversion.  |
| 361               | Chair Kropf      | Clarifies that there is nothing Oregon can do to put limitation on water going to California.   |
| 365               | Cleary           | Answers that if someone can remove it and has a permit to do so, there is nothing Oregon can do.  |
| 373               | Chair Kropf      | Asks if the Oregon Water Resources Department would consider filing a NEPA action to get the federal government "to the table."   |
| 380               | Cleary           | Answers no. Clarifies water rights.   |
| 407               | Louise Solliday  | Governor's Assistant for Natural Resources. Submits and summarizes written information <b>(EXHIBIT G)</b> .   |
| <b>TAPE 53, A</b> |                  |   |
| 024               | Chair Kropf      | Asks if the 1992 biological opinion would be an acceptable compromise with the federal government.  |
| 028               | Cleary           | Answers that they have encouraged the federal government to examine lake levels. Expresses water users' desire for certainty about water quantities.  |
| 035               | Solliday         | States that there are unknown factors that will affect the decision.  |
| 043               | Sen. Harper      | Describes difficulties in dealing with the issue and all the work that has been done to reach a solution, and notes that there is still much work to be done.   |
| 052               | Cleary           | States that the Water Resource Commission is meeting on April 5-6, 2001 and there will be a presentation from the bureau on the Klamath Project.  |
| 065               | Frank Goodson    | Klamath County Republican Central Committee. Submits and summarizes written information <b>(EXHIBIT H)</b> . Describes the resolutions passed by the committee dealing with the water issue. Explains how the Endangered Species Act has changed since its inception. |

|     |             |  |
|-----|-------------|--|
| 159 | Sen. Harper | Expresses his personal feelings about the water issue.   |
| 233 | Rep. King   | States that those who are working on the issue are approaching it in a feasible way and hopes that a resolution will arise.  |
| 246 | Chair Kropf | Closes informational meeting. Recesses meeting at 5:10 p.m. Reconvenes meeting at 5:21 p.m. Opens public hearing on HB 2050. |

**HB 2050 – PUBLIC HEARING**

|     |               |  |
|-----|---------------|--|
| 260 | Ray Kelly     | Committee Administrator. Explains HB 2050.   |
| 275 | Dave Nelson   | Oregon Seed Council. Testifies in support of HB 2050 and –2 amendments.  |
| 309 | Dave Doerfler | Chairman of the Legislative Committee, Oregon Seed Council. Testifies in support of HB 2050 and gives its history. |
| 322 | Dave Nelson   | Explains the provisions of HB 2050 and the amendments.   |
| 422 | Claus Sass    | Legislative Chairman, OSTA. Testifies in support of HB 2050. Explains the work that has been done on HB 2050.      |

**TAPE 54, A**

|     |             |   |
|-----|-------------|---|
| 007 | Eric Bowers | Seed Grower, Harrisburg. Testifies in support of HB 2050. Gives personal account of difficulties dealing with seed companies.   |
| 041 | Chair Kropf | Asks if the enforcement provision for Oregon Department of Agriculture (ODA) to have the ability to assess a situation and rescind a seed dealers’ license if necessary is appropriate. |
| 045 | Bowers      | Answers yes. States that merely having the law would reduce problems.   |
| 048 | Chair Kropf | Notes that there is still flexibility for a grower to negotiate terms of a contract.  |
| 054 | Doug Fast   | Chairman, Polk County Farm Service. Testifies in support of HB 2050. Gives personal account of difficulties dealing with seed companies.  |
| 065 | Chair Kropf | Asks if there is a “significant cash flow issue.”   |
| 068 | Fast        | Answers yes.  |
| 069 | Chair Kropf | Asks if HB 2050 will provide “the teeth” to collect from the seed companies.  |
| 070 | Fast        | Answers that it will help.  |
| 075 | Rep. Nelson | Expresses concern that HB 2050 does not contain penalties for those companies who do not pay.   |
| 090 | Chair Kropf | Explains that the issue was dealt with in the passage of HB 2051.   |
| 093 | Rep. Nelson | Asks if HB 2050 solves the problem.   |
| 102 | Chair Kropf | Answers that it is about “as far as they can go.”   |
| 112 | Rep. Nelson | Asks if Mr. Fast could have sold his crop after the AgriBioTech (ABT) bankruptcy.   |
| 117 | Fast        | Answers that he could if he had a buyer.  |
| 118 | Chair Kropf | Clarifies growers’ contracts.   |
| 132 | Rep. Nelson | Asks for further clarification.   |
| 142 | Bowers      | Further clarifies growers’ contracts.   |
| 149 | Chair Kropf | Recesses public hearing on HB 2050. Opens public hearing on HB 3003.  |

Written testimony submitted by David Leonard, Attorney with Churchill, Leonard, Lodine & Hendrie, Salem (EXHIBIT I).

**HB 3003 – PUBLIC HEARING**

|     |               |  |
|-----|---------------|--|
| 155 | Rep. P. Smith | House District 56. Testifies against HB 3003. Submits and summarizes prepared testimony (EXHIBIT J). |
| 257 | Rep. T. Smith | Asks if the scenic highway designation would impact private  |

|     |                   |  |
|-----|-------------------|--|
|     |                   | landowners.  |
| 260 | Rep. P. Smith     | Answers yes.   |
| 261 | Rep. T. Smith     | Asks if they own timberland and it is only for timber.                                   |
| 262 | Rep. P. Smith     | Answers that sometimes they only own land along the highway.                             |
| 263 | Rep. T. Smith     | Asks if landowners would be impacted even if they did not own timber.                    |
| 264 | Rep. P. Smith     | Answers that HB 3003 is for forest practices only, so it would probably not affect them. |
| 266 | Rep. T. Smith     | Asks if it is a taking without compensation.   |
| 267 | Rep. P. Smith     | Answers yes.   |
| 268 | Rep. T. Smith     | Asks if issues such as this are why Oregon has Measure 7.                                |
| 269 | Rep. P. Smith     | Answers yes.   |
| 279 | Vice-Chair Nelson | Recesses public hearing on HB 3003. Reopens public hearing on HB 2050.                   |

**HB 2050 – PUBLIC HEARING**

|     |             |  |
|-----|-------------|--|
| 289 | Jim Cramer  | ODA. Testifies in support of HB 2050.  |
| 313 | Jim Carnes  | Perennial Rye Grass Bargaining Association (PRBA). Gives personal experience and PRBA history.                                   |
| 364 | Rep. Nolan  | Asks if ODA provides similar service for any other agricultural product.   |
| 369 | Cramer      | Answers he is not aware of any.  |
| 372 | Rep. Nolan  | Asks if ODA has people with collections experience and capability on staff.  |
| 379 | Cramer      | Answers that they have accountants and grain warehouse examiners who can perform audits to determine if payments have been made. |
| 398 | Rep. Nolan  | Asks for clarification of amendments regarding determination of whether a payment has been made.                                 |
| 415 | Cramer      | Explains that it is important to determine whether or not payment has been made.   |
| 426 | Chair Kropf | Clarifies Rep. Nelson’s previous question about penalties.   |
| 439 | Cramer      | Notes that ODA would still have to verify claim of grower that would necessitate a review of the company’s records.              |

**TAPE 53, B**

|     |               |  |
|-----|---------------|--|
| 007 | Rep. Nolan    | Points out that without an amendment, ODA must pursue and determine the nature of payment.   |
| 018 | Chair Kropf   | Notes that there will be –3 amendments.  |
| 024 | Rep. T. Smith | Asks why a reason for non-payment is necessary.  |
| 030 | Nelson        | Explains payment issue.  |
| 043 | Rep. T. Smith | Asks if ODA will examine each reason for non-payment and determine its validity.   |
| 047 | Nelson        | Answers that the intention was for ODA to tell the seed dealers the terms of the agreement.  |
| 053 | Rep. Nelson   | Expresses concern that HB 2050 does not “have teeth.”  |
| 093 | Nelson        | Notes that HB 2050 does have more “bite” than Rep. Nelson recognizes.  |
| 105 | Nelson        | Explains the purpose of HB 2050 is to “walk a relatively fine line between being too onerous on seed companies” while still placing progressively stronger “bite” to precipitating payment to growers. |
| 118 | Chair Kropf   | Explains that the intention of HB 2050 is to offer flexibility for growers and dealers in contracts.   |
| 132 | Carnes        | Explains that merely the threat of a seed company losing its license could put the company out of business.  |

|     |                              |  |
|-----|------------------------------|--|
| 156 | Rep. Nelson                  | States that it is important for growers to have security.  |
| 165 | Rep. Nolan                   | Asks if HB 2050 is to act as a substitute or a complement to other remedies a grower has to recover debts owed.  |
| 170 | Nelson                       | Answers that it is a complement to the normal contracting processes. States that ODA would not in a position of collections.   |
| 189 | Rep. Nolan                   | Asks if there is an appeals process for dealers that believe that the claim was inappropriately asserted or ODA determines that the claim was paid was false.  |
| 199 | Nelson                       | Answers yes.   |
| 203 | Rep. Nolan                   | Asks to whom the appeal is directed.   |
| 211 | Chuck Craig                  | Deputy Director, ODA. Explains the process for ODA handling claims.  |
| 266 | Jean Underhill-<br>Wilkinson | Associate Director, Oregon Farm Bureau Federation (OFBF). Testifies in support of HB 2050.   |
| 316 | Bob Vanderzanden             | Board member, AgriBioTech Seed Growers Association. Testifies in support of HB 2050.   |
| 341 | Brian Glaser                 | Board member, AgriBioTech Seed Growers Association. Testifies in support of HB 2050. Gives personal account dealing with seed dealers. Expresses hope that the interest rate on dealers would be higher. |
| 402 | Rep. Doyle                   | Asks how HB 2050 would have helped Mr. Vanderzanden in the AgriBioTech bankruptcy.   |
| 412 | Vanderzanden                 | Answers that HB 2050 would have put more pressure on ABT to make payments.   |
| 432 | Rep. Doyle                   | Asks if HB 2050 would have provided information for growers to let them know that there may potentially be trouble so that they can take action.   |
| 441 | Vanderzanden                 | Explains that it was discovered that ABT was on a cash-only basis with growers in Arizona and California long before any problem was ever discovered in Oregon.  |

**TAPE 54, B**

|     |                     |   |
|-----|---------------------|---|
| 012 | Rep. Nelson         | Asks about the potential for a bond requirement.                                      |
| 030 | Underhill-Wilkinson | States that bonding was discussed, but it was not certain that it would be effective. |
| 045 | Vice-Chair King     | Closes public hearing on HB 2050. Opens public hearing on HB 3003.                    |

**HB 3003 – PUBLIC HEARING**

|     |               |   |
|-----|---------------|---|
| 049 | Kelly         | Explains HB 3003 and –1 amendments.   |
| 064 | McNitt        | Oregon Small Woodlands Association (OSWA). Submits and reads prepared testimony against HB 3003 ( <b>EXHIBIT K</b> ).               |
| 100 | Rep. T. Smith | Asks about the parcel of land not identified on the original maps.  |
| 104 | McNitt        | Answers that there is an elderly woman who owns property along McKenzie Highway who would be affected by passage of HB 3003.        |
| 113 | Rep. T. Smith | Asks if she is aware she would be affected.   |
| 114 | McNitt        | Answers that the woman was not aware until she spoke to her a few days ago.   |
| 132 | Rep. T. Smith | Asks if the property owners have indicated that they will increase their harvest practices in response to the potential of HB 3003. |
| 136 | McNitt        | Answers no, but it is possible.   |
| 146 | Rep. T. Smith | Asks if OSWA would be satisfied with HB 3003 if the Columbia River Scenic Highway and the McKenzie Highway                          |

|     |                     |  |
|-----|---------------------|--|
|     |                     | were removed.  |
| 148 | McNitt              | Answers yes.   |
| 150 | John Foster         | Small woodland owner, Estacada. Submits and reads prepared testimony against HB 3003 ( <b>EXHIBIT L</b> ).   |
| 205 | Rep. Krieger        | States opinion against HB 3003.  |
| 266 | Jim Thraikill       | Coordinator, McKenzie Watershed Council. Testifies in support of HB 3003.  |
| 319 | Rep. T. Smith       | Asks if the McKenzie Watershed Council is prepared to compensate landowners.   |
| 326 | Thraikill           | Answers no, that the council believes that the appropriate procedures would be in place under Measure 7.   |
| 352 | Vice-Chair King     | Asks if there would be a reduction in property values under HB 3003.   |
| 358 | Thraikill           | Answers that he thinks there would not be.   |
| 377 | Underhill-Wilkinson | Describes the timber industry's good work in providing well-managed forests and expresses concern about the effects of HB 3003 on landowners.  |
| 427 | Ray Wilkeson        | Oregon Forest Industries Council (OFIC). States that they would not oppose an amendment to remove the Columbia River Highway, but they would oppose an amendment to remove the McKenzie Highway. |
| 443 | Vice-Chair King     | Closes public hearing on HB 3003. Adjourns meeting at 6:52 p.m.  |

Submitted By,

Reviewed By,

Michael Reiley,  
Committee Assistant

Ray Kelly,  
Committee Administrator

### **EXHIBIT SUMMARY**

- A – Written testimony and information, Steve Kandra, 33 pp.**
- B – Written information, Tessa Stuedli, 83 pp.**
- C – Written information, Roger Nicholson, 23 pp.**
- D – Written testimony, Steve West, 5 pp.**
- E – Written information, Stephanie Bailey, 2 pp.**
- F – Written information, Paul Cleary, 8 pp.**
- G – Written information, Louise Solliday, 10 pp.**
- H – Written information, Frank Goodson, 1 p.**
- I – HB 2050, written testimony, David Leonard, 3 pp.**
- J – HB 3003, written testimony, Rep. Patti Smith, 3 pp.**
- K – HB 3003, written testimony, Kristina McNitt, 2 pp.**
- L – HB 3003, written testimony, John Foster, 2 pp.**