

HOUSE COMMITTEE ON STREAM RESTORATION
& SPECIES RECOVERY

May 11, 2001
1:00 P.M.

Hearing Room E
Tapes 119 - 120

MEMBERS PRESENT:

Rep. Bob Jenson, Chair
Rep. Jan Lee, Vice-Chair
Rep. Randy Leonard Vice-Chair
Rep. Tim Knopp
Rep. Patti Smith
Rep. Al King
Rep. Carolyn Tomei
Rep. Kelley Wirth

MEMBER EXCUSED: Rep. Jeff Kruse

MEMBER VISITING: Rep. Jackie Dingfelder

STAFF PRESENT: Sandy Thiele-Cirka, Committee Administrator
Linda K. Gatto, Committee Assistant

MEASURES HEARD:

HB 2184 – Work Session
HB 3522 – Work Session
HB 3016 – Work Session
HB 3002 – 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.

TAPE/#	Speaker	Comments
Tape 119, A		
004	Chair Jenson	Calls the meeting to order at 1:12 p.m. and opens a work session on HB 2184.
<u>HB 2184 – WORK SESSION</u>		
Staff submits (EXHIBIT A).		
Written testimony submitted by Doug Myers, WaterWatch, regarding HB 2184 (EXHIBIT B).		
022	Martha Pagel	City of Redmond. Explains and summarizes –5 amendments.
066	Tom Byler	Water Resource Department (WRD). Testifies in support of –5 amendments.
078	Rep. Lee	Questions who will be performing the monitoring.
080	Byler	Explains who will do the monitoring.
091	Rep. Dingfelder	Questions how it fits in with WRD plans to restore water to the Deschutes Basin.
098	Byler	Responds that the aim is to not injure existing water rights and utilize it as a tool in mitigation.
121	Rep. Dingfelder	Questions if the water generated by the project can be used for other purposes or if it is protected.
131	Byler	Responds that once the mitigation credits are awarded, the credits must go to the designated mitigation use.
153	Rep. Tomei	Refers to (EXHIBIT B) and asks if this is incorporated.

161	Pagel	Responds that WaterWatch has agreed to the –5 amendments, making them neutral to the bill.
172	Rep. Leonard	Questions if there is a relationship between the legislation and the Grizzly Power Generation Project.
175	Doug Riggs	Representing Central Oregon Cities. Responds no. States that it is the intention of neither the work group nor the legislation to allow all credits to be purchased by one particular user.
201	Pagel	States that the if the project requires a new water right developing groundwater in the Deschutes Basin, then they must obtain the water right with a condition of mitigation. States that the intent is to help the smaller users.
216	Rep. Leonard	Questions why under HB 2184 a user could not buy all credits to supply water for the generation project.
218	Pagel	Responds that HB 2184 is general in establishing the process for mitigation credits.
236	Rep. Leonard	Asks who was involved in the work group.
238	Riggs	Identifies workgroup members.
250	Rep. Leonard	Questions if any of the members in the work group have a relationship with Cogentrix.
254	Riggs	Responds that he was unaware of any group’s relationship to Cogentrix. Restates the intent of the work group and HB 2184.
289	Byler	Explains that WRD has worked with Cogentrix as they would any potential water user. Notes that HB 2184 does not make it easier or harder for them.
311	Rep. Leonard	Questions if HB 2184 allows a system of purchasing credits.
315	Byler	Responds affirmatively.
317	Rep. Leonard	Questions if such a project could avoid mitigation by purchasing credits.
319	Byler	Responds that they would be mitigating for use by purchasing credits.
333	Pagel	States for the record that to her knowledge there is no one at her firm that is representing Cogentrix.
343	Chair Jenson	Asks if the City of Redmond has a connection with Cogentrix.
347	Riggs	States that he is unaware of any connection.
352	Rep. Lee	Explains that there are other ways to undertake mitigation.
361	Chair Jenson	Inquires if Cogentrix has any water rights in the area.
364	Riggs	Responds no.
405	Dick Springer	Representing himself at the invitation to respond. Expresses the background on the question of Cogentrix (EXHIBIT C).
Tape 120, A		
033	Rep. Knopp	Questions what information Mr. Springer has indicating that the Deschutes Basin aquifer is being depleted.
042	Springer	Clarifies his position on groundwater depletion.
050	Rep. Tomei	Requests clarification of article describing mitigation strategies.
056	Springer	Clarifies.
082	Rep. Dingfelder	Asks for clarification of language in HB 2184.
091	Byler	Provides clarification on awarding mitigation credits.
120	Rep. Dingfelder	Questions if a state or federal agency or non-profit organization can hold the credits.
121	Byler	Responds that “person” would be broadly defined to include various entities.
129	Rep. Tomei	Questions if there could be a bidding war for mitigation credits.
134	Byler	Responds that once one holds a mitigation credit, it is at their discretion how to use it.

146	Pagel	Notes that the requirement for mitigation applies to uses that require a water right and are exempt from groundwater uses.
177	Rep. Knopp	MOTION: Moves to ADOPT HB 2184-5 amendments dated 5/11/01.
181	Rep. Leonard	States that he will support the –5 amendments, but will be a no vote on the bill.
185	Rep. Tomei	Expresses concern that there is not enough information to vote on the bill.
		VOTE: 7-1
		AYE: 7 - King, Knopp, Lee, Leonard, Smith P, Wirth, Jenson
		NAY: 1 – Tomei
		EXCUSED: 1 – Kruse
195	Chair Jenson	The motion CARRIES.
196	Rep. Knopp	MOTION: Moves HB 2184 to the floor with a DO PASS AS AMENDED recommendation.
200	Rep. Knopp	Speaks in favor of HB 2184.
220	Rep. Leonard	Notes that he does not want to create a scheme where a working class water user must enter into bidding war with a large industrial water user over mitigation credits.
232	Rep. Knopp	Responds and comments that HB 2184 is site specific.
254	Rep. Leonard	Notes that WRD intends to allow the marketplace to determine the value of the credits. Restates that HB 2184 could potentially harm certain water users.
269	Chair Jenson	Addresses concern and explains potential remedies.
		VOTE: 6-2
		AYE: 6 - King, Knopp, Lee, Smith P, Wirth, Jenson
		NAY: 2 - Leonard, Tomei
		EXCUSED: 1 – Kruse
317	Chair Jenson	The motion CARRIES.
		REP. JENSON will lead discussion on the floor.
323	Chair Jenson	Closes work session on HB 2184 and opens a work session on HB 3522.
		<u>HB 3522 – WORK SESSION</u>
331	Thiele-Cirka	Summarizes HB 3522.
368	Rep. Leonard	MOTION: Moves to ADOPT HB 3522-1 and 2 amendments dated 3/14/01 and 4/9/01 (EXHIBIT D).
		VOTE: 8-0
		EXCUSED: 1 – Kruse
382	Chair Jenson	Hearing no objection, declares the motion CARRIED.
383	Rep. Leonard	MOTION: Moves HB 3522 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Ways and Means.
393	Rep. Wirth	States that she will be a no vote.
		VOTE: 6-2
		AYE: 6 - King, Knopp, Lee, Leonard, Tomei, Jenson
		NAY: 2 - Smith P, Wirth
		EXCUSED: 1 – Kruse
434	Chair Jenson	The motion CARRIES.
440	Chair Jenson	Closes work session on HB 3522 and opens a work session on HB 3016.
		<u>HB 3016 – WORK SESSION</u>
443	Rep. King	Explains intentions for HB 3016.

Tape 119, B

052	Roy Elicker	Legislative Coordinator, Oregon Department of Fish & Wildlife (ODFW).
057	Chair Jenson	Questions if ODFW could complete the Diamond Lake project during the current biennium.
061	Elicker	Responds that completion would take place during the next biennium at the soonest.
065	Chair Jenson	Asserts that a decision must be made if Oregon wants a trout fishery or a tui chub fishery at Diamond Lake.
094	Rep. Knopp	Questions why mechanical removal of tui chub would not work.
099	Dave Loomis	District Fisheries Biologist, ODFW, Roseburg. Explains that there are approximately 30 million tui chub in Diamond Lake, 27 million of which are one inch long or less, so it is not effective to implement mechanical removal.
110	Rep. King	Explains what result he would like to see from the Ways and Means committee.
124	Rep. Tomei	Speaks against the concept of destroying fish.
151	Rep. King	Questions if there are any other alternatives for bringing back the trout fishery at Diamond Lake.
158	Loomis	Responds that there are no other options that are known except to eradicate tui chub to restore trout. Explains the use and effects of the chemical rotenone to eradicate the tui chub.
195	Rep. Wirth	Questions if the timeline is three years before the environmental impact statement is completed and it will be known if the federal government will give permission to use rotenone.
199	Loomis	Responds affirmatively.
201	Rep. King	MOTION: Moves HB 3016 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means.
210	Rep. Wirth	Speaks against HB 3016.
218	Rep. Tomei	Speaks against HB 3016.
		VOTE: 5-2
		AYE: 5 - King, Knopp, Lee, Smith P, Jenson
		NAY: 2 - Tomei, Wirth
		EXCUSED: 2 - Kruse, Leonard
231	Chair Jenson	The motion CARRIES.
236	Chair Jenson	Closes work session on HB 3016 and opens a work session on HB 3002.

HB 3002 – WORK SESSION

248	Thiele-Cirka	Summarizes HB 3002 and –3 amendments (EXHIBIT F).
321	Terry Thompson	Former State Representative. Explains his work done with HB 3002.
333	Willie Tiffany	League of Oregon Cities. Explains his work done with HB 3002.
347	Kay Brown	ODFW. Submits and reads prepared testimony regarding HB 3002 (EXHIBIT E).
385	Chair Jenson	Explains the work that has been done and will be done with the issues addressed in HB 3002. Notes that HB 3002 has come to be through the recommendation made by the Independent Multidisciplinary Science Team (IMST).

Tape 120, B

008	Thompson	States that a formula needs to be developed to be a catalyst to achieve the goal of recovery.
022	Rep. Dingfelder	Questions if the work group will be making recommendations to the IMST or working with IMST to make the recommendations.

028	Chair Jenson	Explains the process is to work with the IMST.
040	Rep. Dingfelder	Questions if the task force will be developing recommendations for recovery.
045	Chair Jenson	Responds that the task force would work with the scientific community and try to reduce to statute any recommendations.
052	Rep. Dingfelder	Questions Oregon Watershed Enhancement Board (OWEB) involvement.
059	Thompson	Responds that if the groups represented are too diverse it is difficult to reach a consensus.
067	Rep. Dingfelder	Notes that OWEB administers the grants for implementing the Oregon Plan.
074	Chair Jenson	Responds that OWEB asked not to be involved in the task force.
084	Brown	Clarifies the nature of her testimony.
093	Rep. Tomei	Questions how state and federal recovery criteria can meet when federal recovery criteria can be determined.
098	Brown	Responds that work is being done to develop consistent criteria.
102	Thompson	Describes the significance of the issue and the difficulties that arise from attempting to arrive at a solution. Notes that the solution should reflect policy and science.
165	Chair Jenson	Responds and provides additional explanation on how to achieve a workable solution. Closes the work session on HB 3002 and adjourns the meeting at 2:45 p.m..

Submitted By,

Reviewed By,

Linda K. Gatto,
Committee Assistant

Sandy Thiele-Cirka,
Committee Administrator

Transcribed By,

Michael Reiley
Committee Assistant

EXHIBIT SUMMARY

A – HB 2184, -5 amendments dated 5/11/01, staff, 2 pp.

B – HB 2184, written testimony, Doug Myers, 17 pp.

C – HB 2184, Cogentrix Grizzly Power Generation Project, Dick Springer, 15 pp.

D – HB 3522, -1 amendments dated 3/14/01 and -2 amendments dated 4/9/01, staff, 3 pp.

E – HB 3002, written testimony, Kay Brown, 1 p.

F – HB 3002, -3 amendments dated 5/9/01, staff, 3 pp.