

HOUSE COMMITTEE ON WATER AND ENVIRONMENT

February 12, 2001
8:30 AM

Hearing Room E
Tapes 22 - 23

MEMBERS PRESENT: **Rep. Betsy Close, Chair**
 Rep. Laurie Monnes-Anderson, Vice-Chair
 Rep. Susan Morgan, Vice-Chair
 Rep. Mark Hass
 Rep. Bob Jenson
 Rep. Deborah Kafoury
 Rep. Al King
 Rep. Jeff Kruse
 Rep. Jan Lee

STAFF PRESENT: **Megan Palau, Committee Administrator**
 Shannon Relaford, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2180 Work Session**
 Drinking Water Program Audit

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 22, A		
002	Chair Close	Convenes meeting at 8:35 a.m. Opens work session on HB 2180.
<u>HB 2180 WORK SESSION</u>		
006	George Butner	Oregon Department of Fish and Wildlife, Wildlife Division Director. Explains contract with Wildlife Services that is referenced in HB 2180.
030	Chair Close	Requests clarification of the possibility of being in violation of rules.
035	Butner	Continues with explanation of contracts and diversion of funds.
040	Chair Close	Asks if they do not have authority over the species that are covered.
044	Butner	Responds under ORS. 610.020 they do not have authority. Defines predatory animals as coyotes, rabbits, rodents and birds other than birds needing protection.
046	Rep. Jenson	Questions where the management authority comes from.
049	Butner	Replies it is assigned to the Department of Agriculture.
056	Rep. Morgan	Queries how much money in the past five biennium has been taken from license and tag fees and put into this fund.
060	Butner	Replies \$40,000 annually.
062	Rep. Morgan	Questions if there are other sources of revenue.

065	Butner	Replies General Fund money only.
070	Rep. Kruse	Questions if assumption of authority could be done through rule, or would that still be a diversion.
074	Butner	Assumes if ODFW was given management authority for the coyote control, then it would be appropriate to spend tag and license money on coyote control.
084	Rep. Kruse	Asks if another agency was given the authority would that be considered to be a diversion.
090	Butner	Replies it would be.
092	Rep. Jenson	Questions how the feral pig issue will fit in.
094	Butner	Replies it will create a dilemma because feral pigs do not even fall under the definition of wildlife.
100	Chair Close	States the presentation clarifies the bill as more of a change of authority than a funding bill.
104	Butner	Clarifies it is a funding bill, not a change of authority.
105	Chair Close	Questions if that does not give extended authority.
106	Butner	Replies it does not.
107	Rep. Morgan	Questions the language in the bill, "not to exceed \$40,000."
109	Butner	Responds that is the language in the statute.
115	Rep. Morgan	Ponders if amending the bill would clarify the language.
120	Butler	States he believes some language was left out of measure and that the former language was \$40,000.
127	Rep. Morgan	Recalls from previous meeting that the language gave the department the latitude to put \$1.00 in the fund.
132	Butner	Believes that is correct at this point.
140	Chair Close	Queries if ODFW requested the language change.
142	Butner	Replies no, they did not.
143	Chair Close	Asks if it would be appropriate to request that change.
144	Butner	Replies that would not be out of line.
147	Rep. Kruse	Asks if the commitment is \$40,000 why not just say \$40,000.
149	Butner	Responds that would be fine.
150	Rep. Kruse	Believes it would be better to just say \$40,000.
152	Rep. Morgan	States her concern about limiting this to the General Fund and that perhaps another option the committee should consider is the concept of allowing them to use any eligible funds available within the agency.
160	Butner	States that would be workable.
170	Rep. Monnes-Anderson	Questions the \$40,000 and asks if there are years when its not used.
174	Butner	Replies no, they use all the funds.
176	Rep. Kruse	Asks if there is a way to reference the Wildlife Fund in the bill.
184	Butner	Replies they will be restricted to using the General Fund side of the budget no matter what they do.
190	Rep. Morgan	Wonders why the "fines, gifts and otherwise" mentioned is off limits to this fund.
194	Butner	Replies he is uncertain and that some fines are tied to federal programs.
198	Rep. Morgan	Suggests getting around it by specifying any eligible funds in the agency.
200	Chair Close	Asks if Legislative Fiscal should explain.
205	Rep. Morgan	Suggest requesting the language changes from Legislative Counsel.
210	Chair Close	Directs staff to put in the amendment to Legislative Counsel.
218	Rep. Morgan	Suggests also making it a straight \$40,000 movement into that

fund.

223 Rep. Jenson Asks if ODFW wants Legislative Counsel to address the feral pig issue.

225 Rep. Kruse States the Senate will be discussing the feral pig issue.

234 Richard Kosesan Oregon Shepherders Association. States his belief that the fund is too low.

253 Rep. Morgan Suggests changing the language to at least \$40,000.

256 Rep. Monnes-Anderson States her concern that could take money away from something else.

260 Rep. Morgan Explains it would be up to Ways and Means to decide how the budget would work.

264 Rep. Hass States at some point he'd want this to be more of a user fee than a General Fund subsidy.

270 Rep. Kruse States it already is at the county level and that this is just the state's contribution.

277 Rep. Close Refers to the testimony from the preceding week regarding amounts contributed by other sources to this fund. Closes the work session on HB 2180.

DRINKING WATER PROGRAM AUDIT

292 John Lattimer Director of Audits, Secretary of State's Office. Presents information concerning the audit of the Drinking Water Program. Stresses this was an audit of management of the water quality program, not water systems.

335 Rep. Jenson Inquires how the sampling was done. Suggests it would have been better to do a stratified sampling.

337 Lattimer Replies it was a random sampling. Concur and continues with overview.

370 Rep. Jenson Asks if there is legislation proposed at this time to have the water systems report directly to the state Health Division.

375 Rep. Monnes-Anderson Reports there is a bill being submitted at this time that would make that change.

381 Lattimer Continues with report.

441 Rep. Morgan Requests information about the spread sheets in the report. Asks if it is fair to assume that there are a large number of systems that have no problems and a small number of systems that have recurring problems.

TAPE 23, A

021 Lattimer States that with the small sampling they can't come to that conclusion. Reiterates that they're looking at the management of the process of the division, not the system.

030 Rep. Morgan States the question would be answered by the division themselves.

031 Rep. Lee States her concern with the audit because there is no reference to where the problems are and responses to media.

040 Lattimer States when they've talked to the media they've tried to explain it is not an audit of the system, but the division's management of the process.

054 Rep. Lee Asks the number the 100 systems are out of.

056 Lattimer Replies he doesn't know.

058 Chair Close Reads from report that it is 3,617 and asks if that would be the total.

061 Lattimer Replies it would appear to be 3,600 systems.

063 Rep. King Questions if the division has some oversight by EPA and whether we are in jeopardy of losing any funds.

071	Lattimer	Refers the question to the Health Division to answer.
084	Rep. Monnes-Anderson	Reports that what has been submitted to Legislative Counsel requires laboratories to report all tests directly to the division and water system operators.
093	Doug Wise	Eugene Water and Electric Board, and representing the chair of the State Drinking Water Advisory Committee. Presents history of the Safe Drinking Water Act and an over view of his program.
142	Chair Close	Asks if the rules referred to are federal or state.
144	Wise	Clarifies they are federal guidelines, state legislative actions and Oregon State Health Division rules. Continues with overview.
179	Rep. Morgan	Inquires if EPA oversees the activities that insure safe drinking water in Oregon.
182	Wise	Explains they do, but the state has the authority to enforce the regulations. Continues overview.
189	Rep. Morgan	Asks if Oregon's regulations drop below the federal regulations, would the EPA step in.
193	Wise	Concurs and continues.
205	Rep. Morgan	Asks if EPA has no objections to the program.
210	Wise	Responds they are aware.
211	Chair Close	Asks when the Region 10 review was done.
213	Wise	Believes it was done in June 2000.
215	Rep. Lee	Inquires what kinds of programs would be captured in the matching \$900,000 funds from the federal government.
225	Wise	Replies he doesn't know.
231	Rep. Morgan	Comments that sometimes matching funds from the federal government are often earmarked for specific programs, so there's no guarantee that they can apply them where they see the priorities to be.
236	Wise	Explains that the state revolving loan funds actually allows the fund to be used for program administration.
244	Rep. King	Asks if the department has some packages for Ways and Means that would address this. Refers to the report and notes that it appears the department is not doing its job because they don't have the resources.
263	Chair Close	Requests Mr. Wise's opinion of the sampling.
268	Wise	Replies the sampling is small, but would be expensive to do a larger sampling.
280	Chair Close	Asks if it is fair to take data from that small a sampling.
284	Wise	Responds it would depend on which labs they checked.
290	Chair Close	Questions if Portland, Eugene and Salem were included in the sampling would there be any differences in the data.
293	Wise	Responds that the larger utilities want to be off the list. States that nobody wants unsafe water treatment and the larger systems would lift the sample sizes so there would be fewer violations noted.
307	Dan Bradley	General Manager, South Fork Water Board. Stresses education and training over enforcement.
328	Tom Johnson	Oregon State Health Division. States the agency is in agreement with the findings of the audit and addresses the recommendations made in the audit (EXHIBIT A).
418	Chair Close	Asks where the E. Coli sample was found.
420	Johnson	Replies in Sublimity.
421	Chair Close	Inquires how a problem like E. Coli is treated.
423	Johnson	Replies they send somebody out right away to investigate and

		follow up.
441	Chair Close	Inquires if they have now sent someone to inspect.
001	Johnson	Replies they have sent a letter to Sublimity and they have responded. Explains this was six years ago.
006	Chair Close	Asks what percentage of resources goes to small water systems.
008	Johnson	Responds that 80% of the systems are small systems, therefore probably 80% of the resources go to small systems.
010	Chair Close	Requests verification of statistics.
013	Rep. Lee	States her familiarity with small districts and asks for explicit recommendations for better regulations or process.
029	Johnson	Responds that the greatest number of violations are in the smaller systems. Expresses concern over EPA requiring more capacity in smaller systems and that will increase workload on the agency's resource problems.
050	Chair Close	Questions the total budget amount.
052	Johnson	Responds \$6,106,000 for the 2001-2003 biennium.
055	Rep. Hass	Remarks that critical weakness may be an understatement. Expresses concern about the reporting issue and that it took an audit to make the agency address the issue.
071	Johnson	Responds the agency has been strapped for resources for a number of years and it would not be fair or accurate to say they have not been aware or made those things known. Notes that the agency follows the priority list made by the Drinking Water Advisory Committee.
090	Rep. King	Questions if there are budget packages coming forward that will give the resources to do the surveys in a timely manner and still deal with the lead and copper priorities.
100	Johnson	Responds this past biennium they added nearly one million dollars to county public health departments to better address the issues of the sanitary surveys. Adds they can provide information about what resources would be needed to do the things the audit suggests.
114	Rep. Morgan	Asks if water systems that have problems with reporting requirements are constantly causing problems or is it all over the board.
123	Johnson	Replies 80% of the violations occur in 20% of the systems. Notes that it isn't exclusive to small systems and that some large systems have problems too.
136	Rep. Morgan	Notes that the audit's recommendations center around reporting requirements and enforcement. Asks if that problem is going to be solved by putting requirements over the whole system.
141	Johnson	Replies it would be solved best by individuals working with the systems. States that the agency needs to try to solve the problems with those systems that have the greater amount of problems.
161	Rep. Morgan	Comments on small rural districts and problems with capacity, training and resources. States that they would be a lot further along in solving water quality problems if the department continued to put resources into technical assistance and training, rather than into reporting requirements and enforcement.
173	Johnson	Concurs.
174	Rep. Lee	Asks if the Governor's budget request included \$550,000 so the matching funds could be acquired.
177	Johnson	Responds it did not.
183	Rep. King	Requests the budget packet comes forward, at least to Ways and

196	Johnson	Means. Asks for information about individual well users. Responds the agency does not have regulatory authority over wells.
217	Rep. King	Questions how to understand the carrying capacity of a small area so they know what kind of density to allow.
219	Johnson	Responds that is the authority of the Water Resources Department.
225	Rep. King	Asks if that is water quantity not quality.
226	Johnson	Concurs.
234	Rep. King	Continues by speculating on density and keep selling property until the wells start showing up bad, then what happens.
238	Johnson	Reiterates they really have no authority in that area.
240	Rep. King	Expresses concerns about education and enforcement.
250	Rep. Monnes-Anderson	Questions septic system authority and the impact of septic systems on well water.
258	Johnson	Replies the authority falls under DEQ and notes that there is a connection between on-site systems and ground water quality.
291	Rep. Lee	Inquires if the PUC gets reports when there are violations in small systems.
305	Johnson	Responds there is presently an informal process.
312	Dave Leland	Manager of Drinking Water Program. Explains how closely they work with PUC on small systems.
329	Chair Close	Adjourns meeting at 9:55 a.m.

Submitted By,

Reviewed By,

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Megan Palau,
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EXHIBIT SUMMARY

A – Drinking Water Program Audit, written testimony, Thomas W. Johnson, 2 pp.