

HOUSE COMMITTEE ON WATER AND ENVIRONMENT

March 12, 2001
8:30 am

Hearing Room E
Tapes 42 - 43

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, Administrator**
 Shannon Relaford, Committee Assistant

MEASURE HEARD: **HB 2712 Public Hearing and Work Session**
 HB 2713 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.

TAPE/#	Speaker	Comments
TAPE 42, A		
004	Chair Close	Convenes meeting at 8:37 a.m., opens public hearing on HB 2712.
<u>HB 2712 PUBLIC HEARING</u>		
008	Megan Palau	Committee Administrator presents overview of HB 2712, regarding the split season in-stream uses of leasing water rights.
011	Paul Cleary	Director of Oregon Water Resources Department presents testimony in support of bill (EXHIBIT A).
069	Tom Paul	Administrator Field Services Division, Water Resources Department continues with testimony in support of HB 2712.
087	Rep. Jenson	Questions if the bill will allow the irrigation season to be split.
097	Cleary	Replies to do it this year would require an emergency clause on the bill.
100	Chair Close	Asks if we should look at putting it in the bill.
102	Cleary	Agrees.
105	Rep. Kruse	Concurs and refers to the water levels.
104	Rep. Monnes Anderson	Requests clarification of splitting of water usage, can you lease remaining water to someone else or allow it to remain in-stream.
110	Cleary	Replies you would lease it in stream but have to dry up an acreage equivalency. Continues with explanation.
117	Rep. Monnes	Follows by asking even if you have a crop that doesn't take as

	Anderson	much irrigation.
119	Cleary	Concurs and continues with description of split duty.
123	Rep. Monnes	Asks if a water right certificate is only for a specific use.
	Anderson	
126	Cleary	Concurs and explains it is for a specific location and season.
139	Chair Close	Suggest discussing the emergency clause.
143	Andrew Purky	Oregon Water Trust presents testimony in support of the bill.
195	Rep. Hass	Asks for Water Trust's solution for accurately measuring water.
197	Purky	Replies HB 2713 will help public water users to get measuring devices in place.
203	Rep. Lee	Asks if they could adequately measure water usage on the 57 leases they had last year.
206	Purky	Replies it varies from lease to lease.
215	Brad Harper	Executive Director Water for Life presents testimony supporting the bill. Urges consideration of a sunset provision.
241	Pete Test	Oregon Farm Bureau presents testimony in support of the bill (EXHIBIT B)
275	Katie Cate	Oregon Cattlemen's Association expresses support for the bill.
291	Karen Russell	WaterWatch of Oregon presents testimony in support of the bill. (EXHIBIT C)
314	Rep. Kruse	Comments that the sunset clause would require review and asks for comments.
320	Russell	Replies it is not necessarily a bad thing but it may need to be reviewed again by legislature.
332	Rep. Kruse	Follows with remark that in six years nobody that's here will be back and new people would have to review.
340	Russell	Reiterates that reviewing is not a bad thing.
345	Rep. Lee	States that the sunset clause is not necessary, a report could be due in four years but she will support either one.
353	Rep. King	Asks if they have had conversations with WRD about a permanent split season.
365	Russell	Replies it was part of the discussion on the task force.
375	Rep. Lee	Suggests that if one wanted to make the lease permanent they could do it as a transfer.
380	Russell	States she is not sure.
389	Rep. Close	Questions what the holders' report will look like.
392	Cleary	Explains what they will need in a report. Requirement will be how much was used prior to the transfer in-stream and the requirement for WRD to measure the in-stream water right.
411	Chair Close	Asks if they will develop a form.
415	Cleary	States they will.
417	Rep. Lee	Asks what the frequency of reporting would be.
420	Paul	Answers the report would be at the time the application is filed.
425	Rep. Lee	Follows by asking if this means how much water was used during the lease.
430	Paul	Answers it's the quantity of water diverted the season prior to the lease being approved.
435	Rep. Monnes	Asks if there are incentives for water conservation.
	Anderson	
440	Cleary	Replies that there are incentive programs for conservation and describes them.
474	Chair Close	Asks for comments on the sunset provision.
480	Cleary	Comments on emergency and sunset discussions and that it could be done as a pilot study with a report to the next legislature or it

TAPE 43, A

055	Chair Close	Remarks she has never seen the legislature overturn a sunset clause.
061	Cleary	Continues by explaining they do not allow split season transfers (in response to Rep. King's questions.)
070	Paul	Addresses split season leases.
073	Cleary	Describes the difficulty with split season permanent transfers.
079	Rep. King	Asks if two years is the maximum for turnovers and suggests if they had longer leases they could get rid of their backlog.
084	Cleary	Explains they are going through rulemaking to increase the leases to 5-year terms.
095	Close	Closes public hearing on HB 2712, and opens work session on HB 2712.

HB 2712 WORK SESSION

100	Rep. Lee	Moves the sunset and emergency clauses.
104	Rep. Kruse	Requests that Rep. Lee rescind the motion and request the amendments and then move them.
109	Rep. Morgan	Agrees that she wants to see the amendments first.
111	Rep. Kruse	Requests the emergency clause be from July 1 st and sunset in 6 years.
119	Chair Close	Closes work session 9:15 a.m., opens public hearing on HB 2713.

HB 2713 PUBLIC HEARING

123	Paul Cleary	Director Water Resources Department (WRD) presents testimony in support of HB 2713, allowing a water-measuring device cost share fund. (EXHIBIT D) .
170	Rep. Morgan	Asks how they came up with the \$5,000 figure.
173	Cleary	Replies they did not have a figure in the bill, it was added when the bill was drafted.
176	Rep. Morgan	Asks if this would put a dent in how many devices are needed.
180	Cleary	Replies if they could get \$50,000 from US Geological Survey (USGS) it would really help.
187	Chair Close	Asks for a description of the measuring devices
190	Tom Paul	Administrator Field Services Division, Water Resources Department, replies devices vary depending on how diversion of water occurs.
202	Rep. King	States he has concern for the modest size of the revolving fund.
214	Cleary	Responds they have been talking with Oregon Watershed Enhancement Board (OWEB) about setting up an account within their system. Continues by explaining that they do receive some moneys from USGS and there is an advantage to having an ear marked fund as it goes only to this activity.
231	Rep. Kruse	States he has a problem with moving it to OWEB feels it should be in WRD.
241	Rep. Morgan	Comments it is an interesting thought for OWEB being a source of funding.
249	Cleary	Clarifies the ideas behind using OWEB.
255	Rep. Kruse	Asks if OWEB deems this to fit under their definition of capital.
260	Cleary	Explains the rules specify that OWEB cannot fund things that are required in an order from an agency.
273	Rep. Kruse	Follows by commenting that it would be a voluntary program.

280	Paul	Concurs.
283	Rep. Monnes Anderson	Asks how water use is reported now.
286	Paul	Replies government entities are required to report annually but not all water users are required to.
299	Rep. Monnes Anderson	Continues by asking if the requirements will change.
300	Paul	States they will not change.
314	Rep. Monnes Anderson	Asks if there are instances where users are using more than they should.
320	Paul	Replies it is possible and not uncommon.
324	Rep. Monnes Anderson	Expresses her concern for water condition.
325	Rep. Morgan	Comments on the referral to Ways and Means.
338	Andrew Purky	Oregon Water Trust presents testimony in support of the bill.
365	Pete Test	Oregon Farm Bureau, expresses support for the bill, has concern that money is available to all water users.
380	Rep. Kruse	Asks if there is anything in the bill that excludes anybody.
387	Test	Replies no.
390	Rep. Kruse	Stresses that it is all-inclusive.
402	Brad Harper	Water for Life, expresses support for the bill and suggests a few changes that could improve it.
453	Rep. Morgan	Asks if in-stream should be removed in both the places referred to.
455	Harper	Responds not the first use of the word but the second use.
468	Rep. Kruse	Asks for clarification of the changes.
471	Harper	Agrees with summarization.
473	Rep. Monnes Anderson	Asks about the amount of money involved in maintaining the gauges.
476	Harper	Replies it varies.
TAPE 42, B		
036	Rep. Monnes Anderson	Wonders if the word maintained was omitted because of the costs.
050	Harper	States not that he is aware.
047	Rep. Kruse	Clarifies the word maintain would allow you to put in a new part and not have to replace with a new gauge.
053	Harper	Concurs.
055	Katie Cate	Oregon Cattlemen's Association supports the concept but not as written and cannot support it.
063	Close	Ask what line she is referring to.
065	Cate	Responds section 2 subsection 3.
068	Rep. Kruse	Asks if adding maintain would be helpful.
070	Cate	Concurs and continues.
080	Rep. Monnes Anderson	Asks should it be a practice that the burden rests on all taxpayers rather than the user.
090	Cate	Responds protecting in-stream use is a benefit to all Oregonians.
103	Jim Myron	Oregon Trout states support for the bill, expresses concerns for consistency with other programs and language in bill.
130	Rep. Kruse	Asks if 60% is the standard language, if this says up to 75% that would allow at least 60%.
133	Myron	Concurs.
140	Rep. Jenson	Comments that if some of the requests to amend the bill had been brought forward before, the bill could have been moved.
155	Chair Close	Asks if as the sponsor of the bill he (Jenson) would be open to

		amendments.
160	Rep. Jenson	States he would be open to amendments.
163	Rep. Morgan	Asks if when the bill was drafted what was the feeling about adding the ability to use the fund for maintenance.
166	Rep. Jenson	States he doesn't think the topic came up. Agrees the issue of maintenance could help reduce costs.
185	Rep. Morgan	Asks about the issue of the amount that can be contributed and why the figure 75% ended up in the bill.
190	Paul Cleary	Replies it was an arbitrary figure.
215	Rep. Monnes Anderson	Asks how many participate in monitoring water now.
224	Cleary	Answers there are 800 government entities that report and there are a number of different measuring devices that are in place.
256	Rep. Monnes Anderson	Stresses the importance of encouraging water users to monitor.
262	Rep. Jenson	Notes that this year water measurement devices may not be needed.
265	Rep. Kruse	Asks for comments on eliminating the word in-stream.
270	Cleary	Comments that they would still try to use public dollars for public purposes and still have the ability to require water users to put head gates and measuring devices in for regulation purposes and the change would not void that.
290	Rep. Kruse	Asks if the change from up to 75% to at least 60% would be a problem.
295	Cleary	Explains they would be looking for cases where, based on an ability to pay, they could cost share 50%.
304	Rep. Hass	Asks for opinion on measurement devices for individual users.
306	Cleary	Replies WRD tries to encourage people to see the benefits of measurement devices and they're working on the education aspects.
320	Rep. Hass	Asks if WRD would support mandatory requirement to monitor water usage.
325	Cleary	States they have looked at that in the past and are working with their commission on a strategic plan where they can get the most for requiring measuring devices. A blanket across the board requirement could divert attention to less critical areas and without the ability to provide incentives it could be a difficult program.
340	Chair Close	States there will be a work group on the bill to draft the amendments and they will bring the bill back. Closes the public hearing and adjourns the meeting at 9:50 a.m.

Submitted By,

Reviewed By,

Shannon Relaford,
Committee Assistant

Megan Palau,
Administrator

EXHIBIT SUMMARY

A – HB 2712, written testimony, Paul Cleary, 4 pp.

B – HB 2712, written testimony, Pete Test, 1 p.

C – HB 2712, written testimony, Karen Russell, 2 pp.

D – HB 2713, written testimony, Paul Cleary, 2 pp.