

HOUSE COMMITTEE ON WATER AND ENVIRONMENT

March 16, 2001
8:30 a.m.

Hearing Room E
Tapes 47-48

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/ISSUES HEARD: **HB 2167 Public Hearing**
 HB 2886 Public Hearing
 HB 3343 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 47, A 003	Chair Close	Convenes meeting at 8:55 a.m. and opens public hearing on HB 2167.
<u>HB 2167 PUBLIC HEARING</u>		
025	Roy Elicker	Legislative Coordinator, Oregon Department of Fish and Wildlife presents testimony in support of bill which repeals the sunset provision allowing landowners to exchange preference tag for hunting of deer or elk for two tags for hunting of antlerless animals for purpose of alleviating property damage, (EXHIBIT A) .
085	Steve Deney	Oregon Department of Fish and Wildlife, Roseburg Office, presents background of the program and testimony in support of the bill.
103	Chair Close	Relates her experience with a herd of five deer showing up and eating everything. Asks if under this program you'd have to have prior tags to destroy one animal or limited to two.
110	Deney	Explains that you need to have at least 40 acres to get this type of tag, continues with explanation.
116	Chair Close	Continues by asking if you have five acres you're out of luck.
118	Deney	Replies there are other methods that can be used.

120	Chair Close	States she has used the blood meal program and it was not effective.
122	Deney	Responds they get mixed results with blood meal and continues with description of other programs.
133	Pete Test	Associate Director of Governmental Affairs, Oregon Farm Bureau presents testimony in support of the bill. (EXHIBIT B)
168	Stu Byerlin	Legislative Director for the Oregon Guides and Packers presents testimony in support of the bill.
178	Al Elkins	Oregon Hunter's Association presents testimony in support of the bill. (EXHIBIT C)
190	Chair Close	Asks what exactly made the process bureaucratic.
193	Elkins	Explains the forms were complicated and a manual was needed. Continues by stating they do have some concerns with the language in the bill.
237	Rod Harder	Executive Director of the Oregon Sportsman Defense Fund presents testimony in support of bill.
257	Vice- Chair Monnes Anderson	Requests copies of the amendments.
262	Megan Berg	Presents testimony for Rep. Greg Smith, District 59, in support of the bill. (EXHIBIT D)
287	Elicker	Explains some of the proposed changes.
301	Brendan McCarthy	Legislative Counsel Office explains the amendments to the bill.
332	Monnes Anderson	Asks if they've talked to the other groups regarding the changes.
335	McCarthy	Replies he's talked to ODFW but not any other groups.
340	Vice-Chair Monnes Anderson	Suggests the proposed changes be made and brought forward again, with input from the other groups.
345	Elicker	Agrees to bring back an amended version.
353	Katie Cate	Oregon Cattlemen's Association presents testimony in support of bill.
392	Jim Welsh	Oregon Family Farm Association states support for the bill.
400	Chair Close	Closes public hearing on HB 2167 and opens public hearing on HB 2886.

HB 2886 PUBLIC HEARING

405	Megan Palau	Presents overview of bill requiring a court to consider agricultural land use policy when deciding whether to order partition or sale of land.
430	Rep. Jenson	Presents testimony in support of bill and an explanation of the amendments.
472	Senator Nelson	District 29, presents testimony in support of bill.
085	Chair Close	Asks if when there is a will how will the Circuit Courts handle different parties wanting different uses for the land under the existing law.
090	Sen. Nelson	Replies if there is a will you divide it under the terms of the will. Continues with explanation of bill.
110	Chair Close	Asks for explanation of the concept of great prejudice.
112	Sen. Nelson	Responds it's usually financial not sentimental and explains the test involved.
132	Jean Underhill Wilkinson	Associate Director for Government Affairs, Oregon Farm Bureau presents testimony in support of the bill. (EXHIBIT E)
211	Carrie Kuerschner	Staff Attorney for 1000 Friends of Oregon, presents testimony in support of the bill.

260	Chair Close	Clarifies that the committee received the amendments this morning.
262	Kuerschner	States she received her copy this morning as well.
268	Rep. Jenson	Comments on amendments arriving this morning.
282	Chair Close	Closes public hearing opens on HB 2886, opens public hearing on HB 3343.
<u>HB 3343 PUBLIC HEARING</u>		
286	Glen Stonebrink	Oregon Cattlemen's Association presents testimony in support of HB 3343. (EXHIBIT F)
329	Rep. Hass	Asks if the United Nations has ever asked the state for water rights.
334	Stonebrink	Replies as far as he knows they have not.
346	Rep. Hass	Follows by asking if the United Nations wanted a water right in Oregon would he want to support our federal government in helping out whatever crisis had occurred.
347	Stonebrink	Replies no. Explains the bill will bring attention to the state's rights.
404	Tom Byler	Senior Policy Coordinator for Oregon Department of Water Resources presents testimony in opposition to the bill. (EXHIBIT G)
TAPE 47, B		
043	Rep. Lee	Expresses concern that this bill will undo the entire Klamath adjudication process and state's there's not anyway she could support it without very significant changes.
052	Byler	Concurs that is their concern as well.
060	Chair Close	Asks for an explanation of "exert federal authority".
061	Byler	States he does not have a specific law to refer to but historically the federal government has obtained water rights through WRD and if they shut the door on that they will have to find some other mechanism to use water.
070	Rep. Hass	Asks if they can clear up the constitutionality of the issue.
075	Byler	Continues with explanation of the adjudications.
088	Chair Close	Asks for clarification of who is the public, is it the State of Oregon or is it the entire United States.
092	Byler	Believes its open, they do not discriminate as to who applies for the water their concern is more with the statutory criteria that it doesn't matter who applies but the nature of the use.
111	Chair Close	Asks if the state is held to those guidelines.
116	Byler	Replies that the laws have not changed and they review applications the same as they have in the past.
118	Chair Close	Questions if there are 8000 federal water rights is there a problem with that amount.
120	Byler	Responds no, there are approximately 80,000 water rights across the state.
130	Brendan McCarthy	Legislative Counsel concurs with Byler's explanation and continues with explanation of reservations.
140	Chair Close	Asks where in the Constitution the authority is cited.
145	McCarthy	Replies in the property clause and explains the clause.
156	Chair Close	Continues by stating the clause she has read requires the state's approval through the legislature.
158	McCarthy	States the consent reflects more on the jurisdiction of the federal government rather than the right of the federal government to

		obtain the land.
172	Rep. Lee	Asks if reserved water rights that would go with such properties are established by Congress in legislation.
175	McCarthy	Responds that is correct.
181	Rep. Hass	Asks if this bill were passed what would the effect be for future applications to the entities listed in the bill.
191	Byler	Replies the Department would not have the authority to issue a water right.
193	Chair Close	Interjects other than for emergencies.
194	Byler	Concurs.
195	Rep. Jenson	Asks if the Department did not have the right to issue the water right, what would happen when it goes to federal court.
198	McCarthy	Comments the bill could set up a conflict between federal government ability to obtain a reserved water right and the state's denial of a permit, a conflict that would be resolved by the federal courts.
203	Rep. Jenson	Suggest that perhaps an Attorney General's Opinion should be requested and how successful would the State of Oregon be in defending itself in such a suit.
210	McCarthy	Replies under a reserved right scenario the chance of success for the state would be very low.
235	Chair Close	Asks if the bill passes what would the emergency process be for the federal government.
242	McCarthy	States he is not sure what process would be, but it would require the whole body of the legislature not just the emergency board and it would be very complicated.
253	Chair Close	Asks if the emergency board could be added to the language in the bill.
255	McCarthy	Replies it could cause delegation problems for the agency.
263	Chair Close	Asks if that doesn't happen all the time with the emergency board.
266	McCarthy	Agrees it does happen with the emergency board in appropriation scenarios.
279	Doug Myers	Representing WaterWatch and the Klamath Tribes presents testimony in opposition to the bill.
312	Chair Close	Comments the Cattlemen's Association said past water rights would not be affected by the bill, only future rights would be.
314	Myers	Responds they might have a problem if future stock watering rights were stopped.
326	Jim Welsh	Oregon Family Farm Association presents testimony in support of the concept but has concerns for the bill.
370	Chair Close	Asks if the bill should define who the public is.
375	Welsh	Defines public as being the public of the state and suggests it should be clearer.
381	Rep. Jenson	Comments that these are statutes of the state of Oregon and common sense would tell you we are writing statutes about the people, the public of the state of Oregon, not the people from Virginia or South Carolina.
390	Chair Close	Addresses the global level of society and we need to define the word public. Closes hearing on HB 3343, adjourns the meeting at 10:15 a.m.

Submitted By,

Reviewed By,

Shannon Relaford,
Committee Assistant

Megan Palau,
Administrator

EXHIBIT SUMMARY

- A – HB 2167, written testimony, Roy Elicker, 6pp.**
- B – HB 2167, written testimony, Pete Test, 1 p.**
- C – HB 2167, written testimony, Al Elkins, 1 p.**
- D – HB 2167, written testimony, Rep. Greg Smith, 1 p.**
- E – HB 2886, written testimony, Jean Underhill Wilkinson, 1 p.**
- F – HB 3343, written testimony, Glen Stonebrink, 1 p.**
- G – HB 3343, written testimony, Tom Byler, 3 pp.**