

HOUSE COMMITTEE ON WATER AND ENVIRONMENT

March 28, 2001
8:30 a.m.

Hearing Room E
Tapes 60 - 61

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: **HJM 13 Public Hearing and Work Session**
 HB 3233 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 60, A		
004	Chair Close	Convenes meeting at 8:40 a.m., opens public hearing on HJM 13.
	<u>HJM 13 PUBLIC HEARING</u>	
014	Megan Palau	Presents explanation of HJM 13 which urges the President of the United States, Senate and House of Representatives of United States and Administrator of the US Environmental Protection Agency to enforce environmental laws equally between government bodies and those in the private sector.
018	Sen. Jason Atkinson	District 25, presents history and testimony in support of HJM 13.
103	Jerod Broadfoot	Willamette University student presents testimony in support of HJM 13. (EXHIBIT A)
120	Chair Close	Asks if DEQ is not required to document an amount in order to levy a fine.
123	Broadfoot	Replies he cannot answer and continues with explanation of comparison.
179	Rep. Morgan	Asks if these are unrelated situations or are there similarities between them.
184	Broadfoot	Explains there is no relation to any of the cases.
189	Rep. Jenson	Asks for specifics for each incident.
194	Broadfoot	Responds he has provided a source list and can supply copies. Continues with presentation.
209	Chair Close	Asks how they judge if a party is trying to prevent something from happening again.

220	Broadfoot	Concludes the actions vary from case to case and he is unable to determine how they do it.
227	Chair Close	Asks if it appears to be arbitrary.
228	Broadfoot	Replies yes. Concludes his testimony.
254	Glen Stonebrink	Executive Director Oregon Cattleman's Association presents testimony in support of HJM 13. (EXHIBIT B)
420	Chair Close	Requests copies of the document referred to in his testimony.
425	Rep. Jenson	Asks for clarification of statement that EPA is not interested in improvements, just the fines.
436	Stonebrink	Responds that if they were interested in the water quality they would have come back before they issued the fines. Continues with background.
457	Rep. Jenson	Follows with request for further clarification of testimony.
460	Stonebrink	Explains that the family was not fined until they began to make improvements.
TAPE 61, A		
043	Rep. Jenson	Further follows by stating he also believes EPA does make their inspections during the high run-off times.
048	Jim Geisinger	Association of Oregon Loggers, presents testimony in support of HJM 13, stresses the need for equity and consistency in how laws are applied. (EXHIBIT C)
106	Chair Close	Inquires as to the frequency of violations.
110	Geisinger	Responds and continues with testimony.
138	Terry Witt	Oregonians for Food and Shelter, presents testimony in support of HJM 13. (EXHIBIT D)
232	Chair Close	Asks if there was a fine levied on the Sullivan pump station for the three spills.
235	Witt	Replies he is not certain.
254	Andy Anderson	Executive Vice President of Oregon Farm Bureau, presents testimony in support of the bill.
265	Sam Wall	Dairy farmer from Polk County recounts history of his farm and loss of his farm, presents testimony in support of HJM 13.
348	Anderson	Summarizes the impact on farmers.
360	Jim Welsh	Oregon Family Farm Association presents testimony in support of HJM 13. (EXHIBIT E)
450	Chair Close	Questions what type of permit and who would it be received from so cities can bypass the set back issue.
453	Welsh	Responds he is unsure but will find out and provide the information.
TAPE 60, B		
050	Chair Close	Introduces a letter from Dean C. Marriott with the City of Portland for the record. (EXHIBIT F)
066	Neal Mullane	Interim Deputy Director Department of Environmental Quality (DEQ) presents testimony suggesting changes in specific language of HJM 13. (EXHIBIT G)
114	Chair Close	Asks for clarification if there is an amount of discharge required before DEQ can fine.
117	Mullane	Responds it depends on the permit and type of discharge the facility has, its not based on volume.
124	Chair Close	Continues with questions about specific sites.
128	Mullane	Continues with explanation that fines are not based on volume.
130	Chair Close	Questions if it would be more fair to list a volume before people are fined.
133	Mullane	States you need to look at the impact the volume and other

		factors has on the receiving stream.
145	Chair Close	Asks if swimming pool water would be less of a contaminant than raw sewage.
148	Mullane	Replies the chlorine would have an impact on a stream.
153	Chair Close	Asks how would you know the impact if you don't list the volume of chlorine.
155	Mullane	Replies you would know that the amount of chlorine would exceed residual amounts and would have an impact.
156	Chair Close	States her hopes that in the future they would at least make an attempt to list volumes before they fine.
157	Mullane	Agrees.
158	Rep. Morgan	Refers to the 79 agreements mentioned in his testimony and asks how many are with cities and businesses.
162	Mullane	Responds 30 are with cities and 47 are with individual businesses.
165	Morgan	Asks if he can give a breakdown of what the agreements deal with.
170	Mullane	Replies no he can not.
172	Rep. Morgan	Asks the Chair to requests the information and continues with questions what he considers to be the critical factors in establishing a fine.
175	Mullane	Explains attachment that shows how penalties are assessed.
205	Rep. Morgan	Asks for clarification of the differences in a class and a magnitude of violations.
208	Mullane	Proceeds to explain the steps in determining violations.
219	Rep. Morgan	Asks for a list that details classes of violations.
221	Mullane	States the details are in the agency's rules.
237	Chair Close	Asks what class was the violation for the City of Portland.
242	Mullane	Replies it was a class one violation.
247	Rep. Morgan	Asks if they could bring that case and compare it to the one where the motel dumped its swimming pool and spa water and show the process.
254	Chair Close	Adds she'd like to see the case where the floor washing machines water was dumped into Kellogg Creek.
258	Mullane	States he will provide the information.
264	Rep. Morgan	States it would be helpful to compare how the decisions were made.
265	Mullane	Reiterates he will provide the information.
271	Rep. Morgan	Asks how long will it take to prepare the information.
272	Mullane	Replies as soon as they want it.
273	Rep. Jenson	Addresses the base penalties and determination of extreme danger to public health and extensive damage to the environment. Asks where those definitions are. Mentions a \$100,000 fine levied by the department in his district involving a burning incident.
295	Mullane	States he is not familiar with case but can bring the definitions along with the other information.
301	Chair Close	Refers to the bill where they have left the time period blank and requests DEQ's opinion as to what the date should be.
308	Mullane	Responds 2013 for City of Portland and for the City of Astoria it's 2022.
350	Chair Close	Ask if he is aware of the EPA fines of \$11,000 per day and comments that it is a large difference from their fines.
353	Mullane	States the department is limited by statute.

360 Chair Close States her point is that private landowners are not given 20 years.
 365 Rep. King Refers to the Saginaw Park in his district and comments that the agency has worked for many years to bring it into compliance.
 397 Chair Close Closes the public hearing on HJM 13 and opens work session on HJM 13.

Prepared testimony submitted by Rep. Patti Smith, **(EXHIBIT I)**; Prepared testimony submitted by Rep. Karen Minnis, **(EXHIBIT J)**; Prepared testimony submitted by Jim Scherzinger, **(EXHIBIT K)**

HJM 13 WORK SESSION

411 Rep. Monnes Anderson Requests more information on how a city plan works to bring a city into compliance and what the cost is.
 431 Rep. Morgan Refers to the City of Portland letter that gives the figures.
 432 Mullane Responds the original costs were about a billion but now are 600 to 700 million.
 459 Chair Close Comments that the City of Corvallis’s overflow plant took two years to complete the funding and construct the project.
 465 Mullane Adds that Corvallis finished a year ahead of schedule.
 470 Rep. King Refers to the word “all”, and comments we don’t have standards for compliance for everything.

TAPE 61, B

040 Chair Close Clarifies when the EPA does their enforcement actions, they actually measure the bacteria, explains it reads this way to match the private with the public.
 060 Rep. Kruse **MOTION: Moves to AMEND the memorial by adding the numbers 011 on line 18 after the number 2.**
VOTE: 9-0
AYE: 9 - Hass, Jenson, Kafoury, King, Kruse, Lee, Monnes Anderson, Morgan, Close
The motion CARRIES.
 065 Rep. Kruse **MOTION: Moves HJM 13 to the full committee with a BE ADOPTED as conceptionally amended recommendation.**
 070 Rep. Hass States he will be voting no.
 080 Rep. Kruse States this is only asking for equal treatment and its not too much to ask for.
 089 Rep. Morgan Addresses urban and rural split over how regulations are applied and the memorial will be a big step in resolving those issues.
 120 Rep. Kafoury States she doesn’t believe the memorial will solve any problems, it is divisive and singles out the City of Portland and she will not be voting for it.
 151 Chair Close Comments that the memorial is also sent to EPA and it is important to send a message from Oregon that we want equity in the enforcement of laws.
 160 Rep. Monnes Anderson States she doesn’t feel she has all the information and is uncomfortable about voting but agrees with Rep. Morgan.
 180 Rep. Lee States she will vote to move the bill out of committee but hopes that on the senate side they make the correct changes.
 193 Rep. Kruse Recalls comments made by Vera Katz that the City of Portland would do whatever it takes to recover salmon, and this could only help.
VOTE: 7-2
AYE: 7 - Jenson, King, Kruse, Lee, Monnes Anderson, Morgan, Close
NAY: 2 - Hass, Kafoury
 Chair Close **The motion CARRIES.**

		REP. MINNIS will carry.
212	Chair Close	Closes work session on HJM 13 and opens the public hearing on HB 3233.
<u>HB 3233 PUBLIC HEARING</u>		
223	Harlan Levy	Oregon Association of Realtors, asks the amendment not be added as they do not reflect agreement.
241	Chair Close	Asks if he's asking for time to draft the amendments.
245	Levy	Concurs.
250	Rep. Kruse	States his confusion on merging the two bills.
255	Megan Palau	Committee Administrator presents explanation of the merge of the two bills HB 2733 and HB 3233.
275	Chair Close	Asks if Rep. Starr was involved in the meetings.
278	Levy	Replies he was not but they will ask him to be involved in the discussion.
285	Rep. Kruse	States his concern that one bill may put the other bill in jeopardy.
290	Doug Riggs	METRO, recounts the history behind combining the bills. (EXHIBIT H)
305	Rep. Kruse	States it wasn't so much concept as it was process that he was concerned with.
310	Chair Close	Asks the origin of the language change if it came out of Measure 56, would it change the ballot language.
315	Levy	Concurs it would be changing some language.
320	Rep. Jenson	Stresses the importance of having Rep. Starr involved.
328	Chair Close	Directs the group to return to work on the amendments.
335	Riggs	Tells of the voters' desire for adequate notification and the processes METRO goes through.
366	Kruse	Suggests League of Oregon Cities be in the work group.
370	Bob Rindy	States the amendments are separate because they can not reach agreement on them.
375	Rep. Kruse	Reiterates the importance of trying to combine the amendments.
380	Chair Close	Closes the public hearing on HB 3233, and adjourns the meeting at 10:26 a.m.

Submitted By,

Reviewed By,

Shannon Relaford,
Administrative Support

Megan Palau,
Administrator

EXHIBIT SUMMARY

- A – HJM 13, written testimony, Jerod Broadfoot, 12 pp.**
- B - HJM 13, written testimony, Glen Stonebrink, 8 pp.**
- C – HJM 13, written testimony, James Geisinger, 4 pp.**
- D – HJM 13, written testimony, Terry Witt, 2 pp.**
- E – HJM 13, written testimony, Jim Welsh, 1 p.**
- F – HJM 13, written testimony, Dean Marriott, 1 p.**
- G – HJM 13, written testimony, Neil Mullane, 8 pp.**
- H - HB 3233, written testimony, Doug Riggs, 1 p.**
- I – HJM 13, written testimony only, Rep. Smith, 1 p.**
- J – HJM 13, written testimony only, Rep. Minnis, 1 p.**

K – HJM 13, written testimony only, Jim Scherzinger, 2 pp.