

## **HOUSE COMMITTEE ON WATER AND ENVIRONMENT**

**March 3, 1999 Hearing Room D**

**1:00 P.M. Tapes 51 - 53**

**MEMBERS PRESENT: Rep. Jim Welsh, Chair**

**Rep. Jackie Taylor, Vice-Chair**

**Rep. Jason Atkinson**

**Rep. Richard Devlin**

**Rep. Juley Gianella**

**Rep. Deborah Kafoury**

**Rep. Jeff Kruse**

**Rep. Jeff Merkley**

**Rep. Susan Morgan**

**MEMBER EXCUSED:**

**STAFF PRESENT: Kristina McNitt, Administrator**

**Danielle Hamilton, Administrative Support**

**MEASURE/ISSUES HEARD: SB 3 Reconsideration and Work Session**

**HB 2649 Public Hearing and Work Session**

**HB 2650 Public Hearing**

**HB 2651 Public Hearing and Work Session**

**HB 2652 Public Hearing**

TAPE/#	Speaker	Comments
<b>TAPE 51, A</b>		
005	Chair Welsh	Calls meeting to order at 1:10 and opens work session on SB 3.
<b><u>SB 3 WORK SESSION</u></b>		
008	Rep. Kruse	<b>MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote on SB 3.</b>
015		<b>VOTE: 9-0</b>
	Chair Welsh	<b>Hearing no objection, declares the motion CARRIED.</b>
018	Rep. Kruse	<b>MOTION: Moves to RECONSIDER the vote by which SB 3 was sent to the floor with a DO PASS AS AMENDED recommendation.</b>
020		<b>VOTE: 9-0</b>
	Chair Welsh	<b>Hearing no objection, declares the motion CARRIED.</b>
029	Rep. Kruse	<b>MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote by which SB 3 was amended with the adoption of the -5 amendment</b>
035		<b>VOTE: 9-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>
	Chair Welsh	<b>The motion CARRIES.</b>
042	Rep. Kruse	<b>MOTION: Moves to RECONSIDER the vote by which "SB 3 was amended with the adoption of the -5 amendment."</b>
044		<b>VOTE: 9-0</b>

	<b>Chair Welsh</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
044	Rep. Taylor	Asks for clarification on the parliamentary procedure taking place.
046	Chair Welsh	Clarifies that SB 3 is before the committee with the -3 amendments.
<b>057</b>	<b>Rep. Merkley</b>	<b>MOTION: Moves to ADOPT SB 3-9 amendments dated 03/03/99.</b>
070	Rep. Merkley	Explains amendment and the chart. <b>(EXHIBITs A, B, C, D)</b>
130	Rep. Merkley	Continues to explain 9 amendments.
145	Rep. Devlin	Asks if a minority report is suggested if Rep. Merkley's intent is to include the -9, -10, -11 amendments.
148	Rep. Merkley	Answers no.
151	Rep. Devlin	Asks if the purpose of the amendments is to load the minority report.
155	Rep. Merkley	Answers no. Explains that his intent is to be fair.
171	Rep. Devlin	Comments that he believes the amendments are an attempt to load the minority report.
187	Chair Welsh	Asks what the financial impact is of the -9 amendment.
192	Rep. Merkley	Answers \$8 million.
197	Chair Welsh	Asks if any of the earlier built facilities have received direct or indirect compensation.
197	Rep. Merkley	Answers, to his understanding this would be the only time schools and roads have been taken into account. Notes that is not conclusive.
<b>204</b>		<b>VOTE: 3-6</b>  <b>AYE: 3 - Kafoury, Merkley, Taylor</b>  <b>NAY: 6 - Atkinson, Devlin, Gianella, Kruse, Morgan, Welsh</b>

	<b>Chair Welsh</b>	<b>The motion FAILS.</b>
<b>216</b>	<b>Rep. Merkley</b>	<b>MOTION: Moves to ADOPT SB 3-10 amendments dated 03/03/99.</b>
223	Rep. Merkley	Explains the -10 amendment.
243	Rep. Kafoury	States if the committee is going to give Monetary contribution to assist communities with the impact of a prison, it would only be fair that the same funds are distributed in communities where institutions are already sited.
254	Rep. Devlin	Reminds the committee that if they wish to explore the fairness issue, there are other avenues available.
269	Rep. Merkley	Comments that he does not feel it would be fair to the impacted cities to delay any aid. Therefore the -10 and -11 amendments should be adopted.
<b>278</b>		<b>VOTE: 3-6</b>  <b>AYE: 3 - Kafoury, Merkley, Taylor</b>  <b>NAY: 6 - Atkinson, Devlin, Gianella, Kruse, Morgan, Welsh</b>
	<b>Chair Welsh</b>	<b>The motion FAILS.</b>
<b>288</b>	<b>Rep. Merkley</b>	<b>MOTION: Moves to ADOPT SB 3 -11 amendments dated 03/03/99.</b>
295	Rep. Merkley	Explains the ñ11 amendments.
339	Rep. Taylor	Comments on her support of Rep. Merkly.
<b>347</b>		<b>VOTE: 3-6</b>  <b>AYE: 3 - Kafoury, Merkley, Taylor</b>  <b>NAY: 6 - Atkinson, Devlin, Gianella, Kruse, Morgan, Welsh</b>
	<b>Chair Welsh</b>	<b>The motion FAILS.</b>

361	Rep. Merkley	<b>MOTION:</b> Moves to SUSPEND the rules for the purpose of reconsidering the vote by which the SB 3 was amended with the adoption of -3 amendments .
		<b>VOTE: 3-6</b>  <b>AYE: 3 - Kafoury, Merkley, Taylor</b>  <b>NAY: 6 - Atkinson, Devlin, Gianella, Kruse, Morgan, Welsh</b>
	Chair Welsh	<b>The motion FAILS.</b>
385	Rep. Kruse	<b>MOTION:</b> Moves SB 3 to the floor with a DO PASS recommendation.
390	Rep. Kruse	<b>VOTE: 6-3</b>  <b>AYE: 6 - Atkinson, Devlin, Gianella, Kruse, Morgan, Welsh</b>  <b>NAY: 3 - Kafoury, Merkley, Taylor</b>
	Chair Welsh	<b>The motion CARRIES.</b>
395	Chair Welsh	Closes work session on SB 3 and opens a public hearing on HB 2649.
<b><u>HB 2649 PUBLIC HEARING</u></b>		
<b>TAPE 52, A</b>		
003	Kristina McNitt	Administrator. Summarizes HB 2649.
006		Staff distributes <b>(EXHIBIT E)</b> .
010	Gail Achterman	Attorney, representing the Oregon Water Resources Congress (OWRC). Notes that the OWRC is the requestor of HB 2649. Provides overview of HB 3189, introduced in 1989 by OWRC.
060	Achterman	Explains the importance of HB 2649 for the purposes of simplifying the re-mapping process. States that because HB 2649 does not affect any federal interest, OWRC would like to avoid the secretarial consent. Notes that OWRC's request for secretarial consent has been pending sense 1987.

083	Rep. Morgan	Comments that the state law must interface in some way with the Bureau of Reclamation and the Federal Law(BRFL). Asks what is coming from the top down in terms of the U.S. Secretary of Interior not needing to sign off on re-mapping.
089	Achterman	Answers that it is no longer necessary because the BRFL and has been a partner with the OWRC on the re-mapping project.
106	Rep. Morgan	Asks if there is a statute at the federal level that requires the Secretary of Interior to sign off on water rights.
109	Achterman	Answers no. Explains relating federal statute.
139	Kip Lombard	Attorney, representing OWRC. Addresses Rep. Morgan's earlier question about why there is no longer a need for secretarial consent.
175	Tom Byler	Water Resource Department (WRD). Testifies to provide information to the committee. Notes that HB 2649 would provide WRD an administrative benefit.
194	Jill Zarnowitz	Oregon Department of Fish and Wildlife (ODFW). Expresses original concerns. States that those concerns have been addressed. Notes that ODFW would like to retain some sort of notification procedure for the Bureau of Reclamation. Asks if that request is built into the statutes.
214	Achterman	States there is a notice requirement in the statute.
246	Chair Welsh	Closes public hearing on HB 2649 and open a work session on HB 2649.
<b><u>HB 2649 WORK SESSION</u></b>		
251	Rep. Kruse	<b>MOTION: Moves SB 2649 to the floor with a DO PASS recommendation.</b>
254		<b>VOTE: 9-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b>
	<b>Chair</b>	<b>The motion CARRIES.</b>
258	Chair Welsh	Closes work session HB 2649 and opens a public hearing on HB 2650.
<b><u>HB 2650 PUBLIC HEARING</u></b>		

261	Chair Welsh	Closes public hearing on HB 2650 and opens public hearing on HB 2651.
<b><u>HB 2651 PUBLIC HEARING</u></b>		
270	McNitt	Explains HB 2651.
288	Lombard	Testifies in support of HB 2651. <b>(EXHIBIT F)</b> Provides overview of ORS 554.020. Explains how and why HB 2651 would amend ORS 554.020.
345	Lombard	Explains basis for HB 2651.
370	Rep. Taylor	Asks what constitutes a large farm in Eastern Oregon.
374	Lombard	Answers the farm in the illustration is several thousand acres.
380	Chair Welsh	Asks what type of efficiencies will be gained in HB 2651.
392	Lombard	Answers that if a farmer needs to transfer water over a long distance he is going to lose significant amounts, if it is combined with the districts water, there will be less loss.
398`	Chair Welsh	Asks how many situations HB 2651 will address.
400	Lambard	Answers not many.
<b>TAPE 51, B</b>		
006	Chair Welsh	Closes public hearing on HB 2651 and opens work session on HB 2651.
<b><u>HB 2651 WORK SESSION</u></b>		
011	Rep. Kruse	<b>MOTION: Moves HB 2651 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 9-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>
		<b>Chair Welsh</b>  <b>The motion CARRIES.</b>

018	Chair Welsh	Closes work session on HB 2651 and opens a public hearing on HB 2652.
<b><u>HB 2652 PUBLIC HEARING</u></b>		
023	McNitt	Explains HB 2652.
037	Achterman	<p>Testifies in support of HB 2652 (<b>EXHIBIT G</b>). Overview the two principle objectives:</p> <ul style="list-style-type: none"> <li>• Ensure members of OWRC understand obligations under state and federal environmental laws</li> <li>• Avoid duplicating environmental obligations.</li> </ul> <p>Explains how HB 2652 obtains those two objectives. Discusses the problems with the current state statutes.</p>
088	Achterman	Provides overview of the labeling process. Notes that all licensed pesticides applicators look at the labels when applying pesticide. Stresses the importance of ODFW and the Department of Agriculture working together on special needs. Urges the committee's support of HB 2652.
122	Russell Harding	Manager of DEQ's Water Quality Division. Notes that DEQ has been working with ODFW on amendments to HB 2652. Comment on original concerns, believes if the proposed amendments are adopted DEQ will support HB 2652.
130	Rep. Taylor	Asks, if the Clean Water Act is amended, if it will conflict with the delegation.
142	Harding	Answers yes and no. Explains answer.
147	Achterman	Comments that any time the Clean Water Act has been amended various states throughout the country have needed to pass conforming legislation.
166	Rep. Merkley	Asks for an outlines of the Headwater verses Talent Irrigation District's (TID) court case.
171	Achterman	Explains the lawsuit. Refers to <b>EXHIBIT G</b> .
206	Rep. Merkley	Notes that the fish kill in the Headwater verses TID case was large.
219	Achterman	Answers in the twenty years of involvement, that is the only case she is aware of. Explains the precautionary measures that are now taken in applying pesticides to prevent that type of disaster from ever happening again.
270	Achterman	Continues explanation of the pesticide application process.



296	Rep. Merkley	Asks, if HB 2652 is adopted, how it will effect the lawsuit.
303	Achterman	Answers HB 2652 would provide a better position, because it would alleviate inconsistencies in federal and state law.
316	Zarnowitz	Expresses concerns with Section 4 of HB 2652 ( <b>EXHIBIT H</b> ). Addresses the importance of the statutes and not just the labels.
365	Zarnowitz	States ODFW would like to see Section 4 removed from HB 2652 and would like to see the proposal from OWRC.
387	Rep. Devlin	Asks McNitt if the relating clause in HB 2652 ends with the semicolon.
395	Administrator	Answers yes. States the clause ends with the word contaminates.
400	Chair Welsh	Asks if Zarnowitz has talked with the proponents of HB 2652.
405	Zarnowitz	Answers yes.
408	Chair Welsh	Asks Zarnowitz why she had not contacted the proponents sooner.
412	Zarnowitz	Answers ODFW was not aware that HB 2652 was scheduled in committee until 2-27.
<b>TAPE 52, B</b>		
006	Rep. Gianella	Asks why ODFW needs Section 4 removed from HB 2652.
010	Zarnowitz	Answers because it repeals the statutes that require vector control districts to consult with the ODFW.
022	Rep. Gianella	Asks if ODFW would like to oversee the process taking place by OWRC.
025	Zarnowitz	Answers ODFW currently is involved with the process and HB 2652 repeals that involvement.
027	Rep. Gianella	Asks if HB 2652 changes ODFW's vector control.
030	Zarnowitz	Answers yes.
034	Chirstopher Kurby	Administrator, Pesticide Division, Oregon Department of Agriculture (ODA).

043	Chair Welsh	Asks what ODA's role is in HB 2652.
045	Kurby	Asks for clarification on Rep. Welsh's question.
048	Chair	Asks if the labeling of the pesticides will be enough.
053	Kurby	Answers yes.
059	Chair Welsh	Asks Gregg if he feels labeling will be sufficient.
062	Chuck Gregg	Department of Agriculture. Answers yes.
070	Rep. Gianella	Comments that she has not seen a problem with following the labels, as the pesticide applicators are certified.
078	Rep. Morgan	Asks Kurby if his experience with commonly applied agricultural chemicals shows that labeling on the product satisfy concerns.
080	Kurby	Answers yes.
086	Doug Meyers	Water Watch. Testifies in opposition of HB 2652. Expresses concerns with HB 2652. States Oregon's laws should be allowed to be more stringent than Federal laws.
113	Neva Hassanein	Northwest Coalition for Alternatives to Pesticides (NCAP). Explains the NCAP organization. Testifies in opposition of HB 2652. Discusses the reasons for opposition, first HB 2652 proposes weaker state law than federal law.
160	Hassanein	Addresses NCAP's second concern with HB 2652, which is that HB 2652 assumes that the current pesticide program is adequate. Gives examples of the inefficiency. Discusses the effects of pesticides on habitat.
210	Hassanein	Continues to address the effects of pesticides on habitat. Provides overview the current pesticide laws. Expresses concerns with Section 4.
220	Chair Welsh	Asks how many members are in NCAP.
230	Hassanein	Answers about 18,000.
232	Chair Welsh	Asks if they are due-paying members.
233	Hassanien	Answers yes.

235	Chair Welsh	Asks if the members are spread throughout the state.
236	Hassanien	Answers yes.
238	Chair Welsh	Asks if Hassanien has ever worked on a farm.
240	Hassanien	Answers yes, WinterGreen Farm.
243	Hillary Abraham	Pesticide Program Director, Oregon Environmental Council (OEC). Introduces Laura Weiss.
246	Laura Weiss	Pesticide Program Director, OEC. Testifies in opposition to HB 2652 <b>(EXHIBIT D)</b> . Explains the OEC organization. Expresses concerns with HB 2652. States HB 2652 would take away a safeguard that protects fish and other wildlife. Urges the committee to remove Section 4. Discusses side effects of pesticides on the habitat and environment. Expresses concerns with Section 2 of HB 2652.
298	Rep. Merkley	Asks if Weiss feels it is reasonable for pesticide users to get a permit each time they use chemicals.
305	Weiss	Answers, if the label requires a permit, that recommendation should be followed.
310	Rep. Merkley	States that he thinks that the proponents of HB 2652 are also saying that if the label requires a permit, one should be obtained.
313	Weiss	Notes the current language in HB 2652 would not follow the label requirements. Admits she has not seen the amended language.
316	Chair Welsh	Comments that the ñ1 amendment covers that concern. Understands that the label was not followed in the Headwater verses TID case.
319	Rep. Merkley	Corrects that the label was followed.
339	Willie Tiffany	League of Oregon Cities (LOC). Testifies in opposition to HB 2652 <b>(EXHIBIT J)</b> . Expresses three concerns: <ul style="list-style-type: none"> <li>• Inappropriate timing.</li> <li>• No assurance that local money is being applied to water quality.</li> <li>• Could jeopardize Oregon's delegated authority under the Clean Water Act.</li> </ul>
373	Rep. Merkley	Asks Tiffany if the -1 amendments address his concerns about endangering Oregon's status in administering the Clean Water Act.

390	Tiffany	Answers no.
<b>TAPE 53, A</b>		
003	Chair Welsh	Agrees with Tiffany, that the Clean Water Act issues have not been adequately addressed.
005	Tiffany	States that urban residents have a large part to play in the clean up of the water.
012	Chair Welsh	Closes public hearing on HB 2562 and adjourns at 3:30 p.m.

Submitted By, Reviewed By,

Danielle Hamilton, Kristina McNitt,  
Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A - SB 3, SB 3 -9 amendments, Rep. Merkley, 1 p.**

**B - SB 3, Explanation of amendments, Rep. Merkley, 1 p.**

**C - SB 3, -10 amendments, Rep. Merkley, 1 p.**

**D - SB 3, -11 amendments, Rep. Merkley, 1 p.**

**E - HB 2649, written testimony, staff, 3 pp.**

**F - HB 2651, written testimony, Kip Lombard, 1 p.**

**G - HB 2652, written testimony, Gail Achermann, 1 p.**

**H - HB 2652, written testimony, Zarnowitz, 1 p.**

**I - HB 2652, written testimony, Loura Weiss, 1 p.**

**J - HB 2652, written testimony, Willie Tiffany, 2 pp.**