

**SENATE COMMITTEE ON PUBLIC AFFAIRS**

**June 2, 1999 Hearing Room B**

**5:00 P.M. Tapes 62 ñ 63**

**MEMBERS PRESENT: Sen. Gene Derfler, Chair**

**Sen. Joan Dukes, Vice-Chair**

**Sen. Marilyn Shannon**

**Sen. Charles Starr**

**Sen. Thomas Wilde**

**MEMBER EXCUSED:**

**STAFF PRESENT: Brian E. Smith, Administrator**

**Rachel E. Halupowski, Administrative Support**

**MEASURE/ISSUES HEARD: HB 3244A Public Hearing and Work Session**

**HB 2600A Public Hearing**

**HB 3065 Public Hearing and Work Session**

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
<b>TAPE 62, A</b>		
000	Chair Derfler	Opens meeting at 5:05 p.m. and opens public hearing on HB 3244A.
<b><u>HB 3244A PUBLIC HEARING</u></b>		
005	John Schoon	Presents <b>(EXHIBIT A)</b> . Represents children who will not finish school. States HB 3244A is created to place these children into jobs. Explains the First Break

		Program and Certificate of Employability. Reads testimony from Leila Roberts, the principal of Jefferson High School in Portland.
055	Schoon	Continues reading Leila Robertsí testimony.
062	Rep. Lane Shetterly	House District 34. Supports HB 3244A, because it will enable high-risk children to be employed, will reduce the drop out rates, will reduce court costs associated with the criminal justice system, and will increase revenue because these children will be taxpayers. States the House vote was 55-4.
096	Rep. Randall Edwards	House District 15. Supports HB 3244A. Gives brief history of HB 3244A. States it is imperative to offer these opportunities to high-risk children not only in Portland but all of Oregon.
111	Don Wildfang	Citizen. Discusses the partnership with the Chamber of Commerce to develop a Certificate of Employability. States there is no incentive for the private sector employer to hire these high-risk children. Explains the need for private sector involvement in this program. Supports HB 3244A.
156	Sen. Wilde	Discusses a case of a model student who became a gang member when his family experienced a financial downfall and the child needed to find a job. States that he could not get help finding a job because he was a model student. Believes it is imperative to help students before they become at-risk. Supports HB 3244A.
179	Sen. Starr	Believes HB 3244A is an important piece of legislation. Believes HB 3244A does not address the issue of reading by the first grade. States he would like to move to a work session.
197	Schoon	Agrees with Sen. Starrís suggestions to move to a work session.
210	Annette Talbot	Employment Department. Presents <b>(EXHIBIT C)</b> . Defers to the committee to move to work session.
215	Chair Derfler	Closes public hearing and opens work session on HB 3244A.
<b><u>HB 3244A WORK SESSION</u></b>		
217	Sen. Wilde	<b>MOTION: Moves HB 3244A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 4-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - Shannon</b>

	Chair Derfler	<p><b>The motion CARRIES.</b></p> <p><b>SEN. WILDE will lead discussion on the floor.</b></p>
222	Chair Derfler	Closes work session and opens public hearing on HB 2600A.
<b><u>HB 2600A PUBLIC HEARING</u></b>		
245	Dennis Becklin	Chairman, Grants Pass Irrigation District (GPID). Presents <b>(EXHIBIT D)</b> . States HB 2600A and HB 3065 address a similar issue. Discusses the controversy of Savage Rapids Dam and his role in the issue. Discusses the David Newton report covering seepage waters from the canal. States HB 2600A will amend a deficiency concerning the water right of the irrigation district.
295	Becklin	Discusses a brief history of the irrigation district, the amount of water diverted by cubic feet per second (cfs), and states a substantial amount of extra water was leaving the canals through seepage.
308	Chair Derfler	Asks what this amount of water represents.
309	Becklin	States, in 1998, the district conserved 25 percent of the water and made progress in avoiding unnecessary diversion of water. States the community is at risk if the irrigation district cannot legislatively or through continuing litigation correct the water right problems.
359	Becklin	Discusses a family who is without water because a developer put in a pipeline to drain a new development and diverted the family's water to Bear Creek. States HB 2600A would mandate that each district create a full water conservation plan.
409	Becklin	Explains GPID has deficiencies that are being worked on to bring them up to the latest standard of state code.
459	Becklin	Believes the people of Oregon deserve to have the attention of the legislature in this matter. Urges the committee to pass HB 2600A.
<b>TAPE 63, A</b>		
000	Becklin	Discusses legal challenges from state, federal, and environmental interests. States that if GPID does not have enough water to sustain delivery to patrons, there could be an ecological disaster.
021	Vice-Chair Dukes	Asks if private wells are in the canals.

026	Becklin	States there are 150 miles of canals. Explains the region's waterways and drainage systems. States water that seeps out of a canal does not disappear. States that seepage is defined in statute as wasted water, but that is not the case.
063	Vice-Chair Dukes	Asks if the seepage goes into the wells. Asks if the canals were lined would there be seepage and would the wells dry up.
065	Becklin	States that some of the seepage goes into the wells and lining the canals would decrease the seepage.
068	Vice-Chair Dukes	Asks if the land being irrigated is all exclusive farm use land.
070	Becklin	States no. Explains that 1/3 of the properties in Grant Pass are irrigation district patrons. States there are a mixture of properties, both urban and rural, who use untreated water.
101	Vice-Chair Dukes	Assumes there have been no great changes in seepage since 1920. Asks how the district survived without HB 2600A.
104	Becklin	Gives history of the district. Discusses the issues with removing dams. States GPID is working toward a long-term solution. States that Oregon, through the Water Resources Commission, canceled the very water right that would be supplemented by HB 2600A. States that if HB 3065 is passed and signed by the Governor, it will specifically grant a water right to GPID to make up for lost seepage. States his community will not survive without the seepage water used today.
147	Chair Derfler	Asks to specify what makes HB 3065 different from HB 2600A.
148	Becklin	States HB 3065 is a specific approval of a water right for 52.32 cfs. States that is the amount of water lost through seepage.
161	Chair Derfler	Asks why the need for two bills.
162	Becklin	States HB 2600A recognizes that Grants Pass may not be the only district with this problem.
180	Chair Derfler	Asks if the amount of seepage is extraordinary.
182	Becklin	States the rate of seepage is unique to their canal system and necessary to protect their ecosystem.
195	Chair Derfler	Asks how the district would be affected with the removal of the dam.

198	Becklin	Explains his position about the dam itself is neutral, but if the dam were removed today there is the potential for catastrophe. States that Savage Rapids Dam needs a sediment study before removing it.
221	Chair Derfler	Asks how it would effect the irrigation district.
222	Becklin	Discusses monetary, environmental, and electricity issues. States that protecting the river and the fish are a priority.
273	Martha Pagel	Director, Oregon Water Resource Department. Presents <b>(EXHIBIT E)</b> . Opposes HB 2600A. Believes HB 2600A is bad public policy because it grants special favor to solve a problem the district has, but it does so at the expense of hundreds of water holders around the state. States HB 2600A would create an exemption from the water right requirements.
323	Pagel	Discusses current exemptions.
343	Chair Derfler	Asks what would be the harm if HB 2600A passes.
248	Pagel	States water would be removed without constraints as to when and how.
250	Chair Derfler	Asks who would be harmed.
260	Pagel	States the general public, endangered fish, and people in the future who may want to seek water rights.
286	Chair Derfler	Asks what would it harm to use an extra one percent of water when there is currently five to eight percent used.
320	Pagel	States HB 3605 requests a specific water right, where HB 2600A is written too broadly.
376	Sen. Starr	Asks whether or not the water right GPID has is sufficient to cover the seepage and evaporation laws in the canals.
406	Pagel	States the types of soils and crops are evaluated and the necessary irrigation distribution is calculated. Discusses issues with GPIDis inefficient system.
456	Pagel	Believes that, in order to employ conservation measures, the dam needs to be removed and replaced by pumps. States, with the dam removed, there would be a better flowing stream system, and it would lower the fish kill and habitat impairment problems.
467	Chair Derfler	Asks why the water right was cancelled.

468	Pagel	States the commission found that GPID has not shown diligence in their agreement to remove the dam. States GPID did not comply with the permit conditions, so the commission canceled the permit.
<b>TAPE 62, B</b>		
001	Pagel	Offers the committee an analysis of the commission's fact-finding process that led to the canceled permit.
003	Chair Derfler	Asks if the amount of water taken out harms anyone.
010	Pagel	Explains there are standards, and that is evaluated in terms of whether the additional use will impair or be detrimental to the public interest. Explains the State Scenic Waterway Law prohibits the commission from issuing new water rights in a scenic waterway or above a scenic waterway if the necessary flows are not otherwise being met for the scenic waterway purposes.
031	Sen. Shannon	Asks where is the balance of power if the legislature cannot adjust the decision.
034	Pagel	States GPID is currently in court appealing the commission's order, which is the usual remedy.
038	Sen. Shannon	States the same people who made the law could come and revisit the law to make changes.
040	Pagel	Agrees.
041	Sen. Wilde	Asks if the seepage process replenishes the aquifers and, if so, is this creating a quasi in-ground water right for owners of wells.
047	Pagel	Explains some of the aquifers recharge through seepage. States that Oregon law does recognize seepage, and allows water rights for seepage. States that no one has applied for a seepage water right.
065	Chair Derfler	States that GPID is asking to make up the difference of what seeps into the aquifer and what is being used for irrigation.
069	Pagel	States that people who are receiving seepage can find other ways to recharge the aquifer other than relying on the district.
074	Chair Derfler	States there is a system in place now that does this.
077	Pagel	States that is the system they are trying to maintain.

085	Sen. Wilde	States that if the canal is lined and there is no seepage, a major loss will occur through evaporation.
116	Vice-Chair Dukes	Asks, if the district were to take out the dam, would they be granted a water permit or water right.
126	Pagel	States there is current litigation over canceling the permit.
130	Vice-Chair Dukes	Asks if there is a possibility, in another irrigation district, that an irrigation district could take enough water to dry up the streams.
141	Pagel	States that could happen. States HB 2600A invites districts to add water as needed to make up the difference, instead of keeping their districts in order.
150	Vice-Chair Dukes	Asks how this fits in with the Oregon Salmon Plan.
151	Pagel	States it does not fit well at all. States they are trying to lessen the burden on land owners while continuing to recover the fish.
158	Vice-Chair Dukes	Asks if Oregon may need to buy water rights in the future to save the fish.
166	Pagel	States that could be one way, but another way would be to restore stream flow.
171	Doug Myers	WaterWatch. Defers to Reed Benson.
185	Reed Benson	Executive Director, WaterWatch. Presents <b>(EXHIBIT F)</b> . States HB 2600A would fundamentally change the Oregon water law. States that there is a common misconception that Oregon has an overabundance of water but that is not the case, especially during July, August, September, and October.
235	Benson	States there is nothing going on in Grants Pass that justifies HB 2600A.
251	Sen. Starr	Comments that Oregon needs dams to avoid flooding. Believes the issue is not a shortage of water, but how and where to store the water.
274	Chair Derfler	Closes public hearing and opens public hearing on HB 3065.
<b><u>HB 3065 PUBLIC HEARING</u></b>		
284	Pagel	Presents <b>(EXHIBIT G)</b> . Opposes HB 3065. States the commission took action last November to cancel the supplemental water right held by GPID. States HB 3065 would grant a water right to a district that the commission determined should be canceled. States that if the district needs additional water the district

		should go through a process of addressing fish passage and conservation.
290	Pagel	Believes it is wrong for the Legislature to set a precedence by granting water rights.
347	Benson	Presents <b>(EXHIBIT H)</b> . Opposes HB 3065. Believes there are good reasons to remove Savage Rapids Dam. States the district needs more water because the system is leaky.
397	Benson	States, in 1997, when salmon was listed as endangered on the Rogue River the decision was made to remove Savage Rapids Dam. States that GPID was informed that if the dam was not removed they would risk losing their water right.
447	Benson	States the commission voted unanimously to cancel the Grants Pass water right because the district did not live up to their end of the bargain.
<b>TAPE 63, B</b>		
000	Sen. Wilde	Asks if Oregon is considering in-ground water rights for residential purposes.
007	Pagel	States the department has proposed legislation along that line, but not in recent years. Believes aquifers can be maintained with domestic uses.
019	Chair Derfler	Asks why the dam was not removed according to the agreement.
023	Becklin	Presents <b>(EXHIBIT I)</b> . States there were 11 conditions that were to be met prior to the removal of the dam.
027	Chair Derfler	Clarifies there were conditions for removal.
028	Becklin	Agrees. Explains the conditions have not been fulfilled because the state or federal agencies involved are not taking the necessary steps. States GPID cannot fund the removal of the dam and the installation of the pumps.
039	Chair Derfler	Asks if there was agreement on both sides that those conditions be met.
040	Becklin	States there was a resolution passed. States that over the years no substantial steps were taken by any party except GPID.
044	Chair Derfler	Asks who made the commitment to give funding for the dam removal.
046	Becklin	States there was no commitment made. States there was an implied commitment



		as part of the final environmental statement and planning report completed by the Bureau of Reclamation. States the bureau did not believe there would be enough political support in the community to get the congressional support necessary to approve the removal or the funding.
057	Chair Derfler	Clarifies that was one of the conditions for having the dam removed.
058	Becklin	Agrees.
060	Vice-Chair Dukes	Asks if the board is likely to agree to remove the dam.
062	Becklin	States he does not know.
064	Vice-Chair Dukes	States the majority of the old board was removed because of the desire to remove the dam.
069	Becklin	States there is the potential to come to a comprehensive solution. States the Water Resources Commission found GPID duly diligent three years in a row on GPID's water conservation plan.
090	Chair Derfler	Asks why the commission would reverse their earlier opinion of the diligence of GPID.
092	Becklin	States the key point is concerning the dam.
103	Chair Derfler	Asks what recourse the commission should take.
107	Becklin	States GPID has argued that the commission, by granting the original supplemental permit, did not mandate Savage Rapids Dam removal as the only solution.
129	Vice-Chair Dukes	Asks why HB 3065 is broad and not narrowed to his irrigation district.
133	Becklin	States HB 3065 is extremely specific as opposed to HB 2600A. States HB 3065 would grant GPID a water right for 52 cfs.
181	Chair Derfler	Asks if the eleven conditions that were reached in agreement were met.
188	Becklin	States none of the eleven conditions have been met.
199	Chair Derfler	Asks why the need for both bills.

206	Becklin	States that either bill will satisfy the basic needs of the district.
215	Chair Derfler	States 2600A is much broader. Asks if he thinks the Governor will veto the bills.
216	Becklin	States the Governor may veto it.
223	Chair Derfler	Asks if he has discussed the issue with the Governor's office.
224	Becklin	States the Water Resources Department is an executive branch agency and has been aggressive in the pursuit of GPID.
234	Chair Derfler	States that Pagel has a lot of power, but she is not as powerful as the Governor.
240	Becklin	States he has not spoken with the Governor. States the problem is evident. States the health and well-being of the Grants Pass community is at issue.
255	Sen. Starr	States he is sympathetic with this issue. Prefers to move HB 3065 and let HB 2600A die in committee.
280	Vice-Chair Dukes	Believes HB 3065 may be vetoed by the Governor.
285	Sen. Starr	Agrees that may be the case.
288	Sen. Wilde	States he will give a courtesy vote.
292	Vice-Chair Dukes	States that water rights are important. Opposes handing out water rights by jumping over the rules.
300	Chair Derfler	States GPID had a supplementary water right that was removed without good cause when they were being diligent.
307	Vice-Chair Dukes	Believes had the recall not happened, a different result would have occurred.
314	Chair Derfler	Closes public hearing and opens work session on HB 3065.
<b><u>HB 3065 WORK SESSION</u></b>		
323	Sen. Starr	<b>MOTION: Moves HB 3065 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 3-1-1</b>

		<b>AYE: 3 - Derfler, Starr, Wilde</b> <b>NAY: 1 - Dukes</b> <b>EXCUSED: 1 - Shannon</b>
	<b>Chair Derfler</b>	<b>The motion Carries.</b>  <b>SEN. ADAMS will lead discussion on the floor.</b>
336	Chair Derfler	Closes work session and adjourns meeting at 7:00 p.m.

Submitted By, Reviewed By,

Rachel E. Halupowski, Brian E. Smith,  
Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ HB 3244A, written testimony, John Schoon, 3 pp**  
**B ñ HB 3244A, written testimony, Lane Shetterly, 1 p**  
**C ñ HB 3244A, written testimony, Annette Talbot, 4 pp**  
**D ñ HB 2600A, written testimony, Dennis Becklin, 2 pp**  
**E ñ HB 2600A, written testimony, Martha Pagel, 3 pp**  
**F ñ HB 2600A, written testimony, Reed Benson, 1 p**  
**G ñ HB 3065, written testimony, Martha Pagel, 31, pp**  
**H ñ HB 3065, written testimony, Reed Benson, 2 pp**  
**I ñ HB 3065, written testimony, Dennis Becklin, 8 pp**