

SENATE COMMITTEE ON WATER AND LAND USE

February 18, 1999 Hearing Room B

1:00p.m. Tapes 23 - 24

MEMBERS PRESENT: Sen. Veral Tarno, Chair

Sen. Tony Corcoran, Vice-Chair

Sen. Gary George

Sen. Thomas Wilde

MEMBER EXCUSED: Sen. Marylin Shannon

STAFF PRESENT: Raymond J. Kelly, Administrator

Diana Bronson, Administrative Support

MEASURE/ISSUES HEARD: SB 128 Public Hearing and Work Session

SB 299 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 23, A		
004	Chair Tarno	Convenes meeting at 1:07 p.m. and opens public hearing on SB 128.
<u>SB 128 PUBLIC HEARING</u>		
008	Mark Sytsma	Portland State University, Associate Professor of Biology. Presents (EXHIBIT A) . States SB 128 will provide technical assistar in lake and reservoir management, specifically emphasizing aquatic nuisance species problems. Expresses hope that under SB 12 comprehensive statewide plan for dealing with aquatic nuisance species.
039	Chair Tarno	Asks Sytsma what lakes in Oregon have toxic algae bloom.
039	Sytsma	Responds that Lake Oswego and some drinking water reservoirs have it. States his main concern is that no one is monitoring the no one knows what is going on with the algae and other nuisance problems.
080	Bob Storer	Oregon Lakes Association. Presents (EXHIBIT B) . Gives testimony in support of SB 128. States that collecting data, providing assistance, and researching the most effective ways to combat exotic plant and animal infestations in the future will be crucial to health of Oregon lakes.
115	Robert Anderson	Florence. Presents (EXHIBIT C) . Testifies in support of SB 128. Explains the use of a Secchi disc, used to measure water trans; Van Doran bottle, used to capture water samples at various depths and to take readings such as temperature and dissolved oxyge
183	Jan Lee	Oregon Water Resources Congress. Presents (EXHIBIT D) . States SB 128 is important to the public lakes in Oregon and to the technical services of Portland State University and Southern Oregon University.

207	Jim Myron	Oregon Trout. Asks to go on record in support of SB 128.
208	Lori Campbell	Manager Devils Lake Water Improvement. Presents (EXHIBIT E) . Gives testimony in support of SB 128. States SB 128 would center to provide technical assistance to develop an integrated aquatic plant management plan.
235	Chair Tarno	Asks if the Coho Salmon are surviving in Devils Lake.
235	Campbell	States they are being maintained in Rock Creek. States that Devils Lake is suffering from water quality problems and high nutrient sedimentation. Encourages committee to support SB 128.
255	David Dailey	Oregon B.A.S.S. Federation. Testifies in support of SB 128. Expresses support for center to monitor lakes in Oregon in an attempt to get lakes back to cleaner and healthier conditions.
290	Richard Hatchard	Preservation Association of Devils Lake (PADL). Presents (EXHIBIT F) . States he has worked in Oregon for the past 50 years on preservation programs. States that Portland State University is needed to help in the restoration of Devils Lake.
392	Pete Test	Oregon Division, Farm Bureau. Testifies in support of SB 128. States the bureau will support any effort to work on the problems with weeds and the lake's ecological systems.
406	Glen Stonebrink	Oregon Cattlemen's Association. Expresses support of the amended portion of SB 128.
<u>SB 128 WORK SESSION</u>		
417	Chair Tarno	Asks for explanation of the bill amendments.
440	Sytsma	Explains changes written in amendments to SB 128. States that Portland University rewrote the bill to focus on technical assistance with reservoir management, particularly relating to aquatic weeds and other aquatic species.
<u>TAPE 24, A</u>		
026	Chair Tarno	Presents (EXHIBIT G) . States that these proposed amendments are the ones to be acted upon.
028	Sytsma	Asks for a few moments to review the bill amendments.
<u>SB 299 PUBLIC HEARING</u>		
054	Martha Pagel	Water Resources Department. Presents (EXHIBIT H) . Testifies that SB 299 would create a process for making changes in unadjudicated 1909 water rights. States that SB 299 does not reflect the most current thinking of the various parties and a comprehensive set of changes is currently being prepared.
100	Sen. Beyer	States he had originally presented SB 463 on behalf of the City of Springfield, but it has been agreed that the state will deal with it at one time. Describes the flow difficulties of the Mill Race.
145	Sen. Beyer	States that the city does not want to lose their water right as that water right sustains the well fields for the city's water system through separate municipal utility and does not want to endanger the approximate eight other water rights it has down stream. States that to adjudicate the Willamette River water rights, the City of Springfield wants to make sure they are not disqualifying the city's pre-1909 water right.
176	Maureen Maine	Mayor, City of Springfield. Presents (EXHIBIT I) . Testifies in support of SB 299, with some amendments to develop a process for point of diversion of a pre-1909 unadjudicated water claim. States the Mill Race has enormous wildlife habitat value, as well as economic value.
223	Maine	States the time is right for rehabilitation and preservation of the Mill Race. States that the City of Springfield is dedicated to working with landowners in a successful resolution to this issue.
245	Lyle Hatfield	City of Springfield. Describes different geological alternatives for correcting the problems with the Mill Race.

303	Hatfield	States that unless something is done to correct the Mill Race it will be high and dry all year. States that, after looking at the alter 12 years, the only feasible solution is to relocate the intake.
340	Hatfield	Describes a proposed solution to the Mill Race. States that, from the current site, there is no water running into the Mill Race. St through dredging that water from the Willamette River can actually be diverted to the Mill Race.
389	Hatfield	States the new intake would function well to preserve the flow in the Mill Race which makes it possible for the city to meet its r for the private industries and to the Springfield Utility Board, and to complete the vision of the Mill Race.
399	Gail Achtermann	States she was retained by the City of Springfield to advise the city of their 1909 water rights. The city wanted to move the diver access to the Mill Race and needed counsel in how to move it legally.
450	Achtermann	Describes how this problem effects several hundred people and that these channel changes are not just the City of Springfieldis p the problem of every farmer and city that has a pre-1909 water right or pre-1955 well.
TAPE 23, B		
026	Chair Tarno	Asks Achtermann if she just spoke of the amendments to the SB 299.
026	Achtermann	Responds she did not.
036	Achtermann	Concludes that the City of Springfield is in support of SB 299 and does not intend to pursue special legislation.
049	Sen. Beyer	Explains the concerns of the city.
066	Sen. Corcoran	Asks Sen. Beyer if there is a state granted easement through the Vinyard property.
071	Sen. Beyer	Responds that the Corps of Engineers has an easement and is not sure if the state does.
084	Sen. Corcoran	Quick conversations between Sen. Beyer, Sen. Corcoran, and Achtermann regarding the Vinyard property and easements of the Engineers. Demonstrates property lines with maps and aerial photographs.
125	Kathy Bruebaker	Springfield Utility Board. Presents (EXHIBIT J). Testifies in support of SB 299. States that a change in the point of diversion v community by improving the reliability of the water supply for approximately 51,000 people.
107	Sen. Beyer	Explains Vinyardsí property lines.
114	Bruebaker	Gives testimony in support of SB 299.
161	Douglas DuPriest	Attorney. Introduces himself and Vinyard.
168	Kathy Vinyard	Testifies in opposition to SB 299 in its present form. Presents (EXHIBIT K). States that she and her husband live on a 17 acre f fork of the Willamette River, are zoned EFU 25, and are outside Springfieldis urban growth boundary. States this project would in the current zoning, an amendment to the metro land use plan, and could result in restrictions on the use of the remainder of the
205	DuPriest	Presents (EXHIBIT L). States he is representing the Vinyardsí. States he understands amendments are forthcoming and says the address this issue without the proper language.
252	Sen. Corcoran	Asks if anyone has come forward to assert rights in this process.
256	DuPriest	States they were prepared to talk about the concept of SB 299 more than DuPriest and Vinyard were prepared to testify about the Mill Race project.
296	Sen. Corcoran	States that there are two issues: 1) The adjudication process and 2) the takings issue. Asks if a reasonable process was agreeable, rights of the Vinyards would be.

312	DuPriest	Agrees with the two issues, but states there is a third and that is the city's claimed need and claimed solution to that need. Explains three issues.
336	Chair Tarno	Asks DuPriest if he agrees that at some point in time we are going to need to deal with the adjudicated pre-1909 water right problem.
338	DuPriest	Agrees and states that the way to do that is to get the adjudications done. States property owners need to go through the adjudication before using the Riparian rights.
384	Sen. Corcoran	Asks to be shown the channel that the City of Springfield wants to put through the Vinyard property.
394	DuPriest	Explains the concern the Vinyards have is the channel would divide their property in half. States that, with new ditches, whatever fish habitat values are in the old channel will be obliterated, in order to accomplish change at the point of diversion.
447	DuPriest	Gives alternative to a new channel by pumping water from the river into the existing canal and states it would be less expensive, and an effective long-term solution.
469	Chair Tarno	States this is much more complex than originally perceived.
480	DuPriest	States there was a factual mistake regarding who has rights to the channel and deeds were exchanged between the riverfront property owner and the state. The state does not own the title to the old channel, the Division of State Lands deeded it away some years ago.

TAPE 24, B

028	Sen. Beyer	States that the City of Springfield is being directed by the Corps of Engineers, ODFW, Division of State Lands, and others to fix the Mill Race, as they cannot continue as they have since the 1950s.
048	Sen. Corcoran	Asks if the pumping was deemed inappropriate by the resource agencies.
053	Sen. George	Asks why the pumping is unacceptable.
060	Sen. Beyer	States it is a technical question and asks Len Goodwin to answer.
063	Len Goodwin	Public Works Department, City of Springfield. Responds that to pump this volume of water would require a very large concrete structure in the river. States a sump pump and a pipe would not work.
073	Sen. George	Asks what problem arises if the Mill Race does, in fact, go dry.
074	Goodwin	States that the fundamental problem is that about a third of the houses in Springfield rely on Gorrie Creek support of the well field. If the Gorrie Creek does not have water, the well fields begin to dry up and there is no water for homes.
079	Sen. George	Asks if there is evidence of that being the case.
094	Goodwin	States that there are times when they discover that the Mill Race is dry because the Springfield Utility Board calls and tells Goodwin they are drawing air.
099	Sen. Shannon	Asks why they cannot put in tiled culverts and why it needs to be an open ditch.
101	Goodwin	States it is not impossible, if the habitat agencies would find it acceptable.
114	Chair Tarno	Closes public hearing on SB 299.

SB 128 PUBLIC HEARING

120	Ray Kelly	Committee Administrator. States the final amendments are now ready.

125	Mark Sytsma	States the ñ2 amendments now incorporate the ñ1 amendments. Describes the ñ2 amendments.
130	Chair Tarno	Recesses the meeting at 2:34 p.m..
131	Chair Tarno	Reconvenes the meeting at 2:45 p.m.
191	Kelly	Committee Administrator. Describes the corrected, hand engrossed ñ1 and ñ2 amendments.
<u>SB 128 WORK SESSION</u>		
200	Sen. Corcoran	MOTION: Moves to ADOPT SB 128-2 amendments dated 2/17/99.
		VOTE: 4-0 EXCUSED: 1 - Shannon
		Hearing no objection, declares the motion CARRIED.
	Chair Tarno	
		MOTION: Moves SB 128 to the floor with a DO PASS AS AMENDED recommendation and SUBSEQUENT REFERRAL TO WAYS AND MEANS BY PRIOR REFERENCE.
205	Sen. Corcoran	VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Shannon
	Chair Tarno	The motion CARRIES.
259	Chair Tarno	Adjourns meeting at 2:58 p.m.

Submitted By, Reviewed By,

Diana Bronson, Raymond J. Kelly,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 128, Written testimony and graph, Mark Sytsma, 3 pp

B ñ SB 128, Written testimony, Bob Storer, 4 pp

C ñ SB 128, Written testimony, Robert Anderson, 5 pp

D ñ SB 128, Written testimony, Jan Lee, 1 p

E ñ SB 128, Written testimony, Lori Campbell, 1 p

F ñ SB 128, Written testimony, Richard Hatchard, 3 pp

G ñ SB 128, Written testimony, LC staff, 1 p

H ñ SB 128, Written testimony, Martha Pagel, 7 pp

I ñ SB 128, Written testimony, Maurine Maine, 24 pp

J ñ SB 299, Written testimony, Ted Johnson, 1 p

K ñ SB 299, Written testimony, Kathy Vinyard, 1 p

L ñ SB 299, Written testimony, Douglas DuPriest, 7 pp