

**HOUSE COMMITTEE ON WATER POLICY**

**March 20, 1997 Hearing Room D**

**3:00 P.M. Tapes 52 - 53**

**MEMBERS PRESENT: Rep. Ken Messerle, Chair**

**Rep. Tim Josi, Vice-Chair**

**Rep. Jo Ann Bowman**

**Rep. Tony Corcoran**

**Rep. Steve Harper**

**Rep. Jeff Kruse**

**MEMBER EXCUSED: Rep. Jim Welsh**

**VISITING MEMBER: Rep. Bob Jenson**

**STAFF PRESENT: Pat Zwick, Policy Analyst**

**Rebecca M. Nickel, Administrative Support**

**MEASURE/ISSUES HEARD: SB 132A - Public Hearing and Work Session**

**SB 134A - Public Hearing and Work Session**

**HB 2409 - 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 52, A</b>		
002	Chair Messerle	Calls meeting to order at 3:11 p.m.
<b><u>SB 132A - PUBLIC HEARING AND WORK SESSION</u></b>		
005	Chair Messerle	Opens public hearing on SB 132A.

008	Pat Zwick	Policy Analyst, summarizes SB 132A.
015	Martha Pagel	Director, Water Resources Department, submits and reviews testimony in support of SB 132A. <b>(EXHIBIT A)</b>
042	Rep. Josi	Asks what criteria are necessary for changing permit.
071	Pagel	The changes are described in testimony.
075	Pagel	Continues testimony.
087	Rep. Kruse	Asks if there is a process required to determine relationship between surface water and ground water.
092	Pagel	There is existing statute which provides for this.
101	Rep. Kruse	Asks how complicated this process is.
106	Pagel	The statute specifies a certain number of feet from the surface water source, if it falls within that, it is presumed to be qualified. If it does not fall within that specified number of feet, then WRD staff would initiate determination.
115	Pagel	Continues testimony.
156	Rep. Kruse	Asks if it is necessary to reapply for temporary diversion permits.
163	Tom Paul	Water Resource Department. Temporary transfers can go as long as five years, and there is only one filing required during that five years.
170	Jim Myron	Representing Oregon Trout, submits and reviews testimony on behalf of Doug Myers and Waterwatch of Oregon, in partial support of SB 132A. <b>(EXHIBIT B)</b>
190	Chair Messerle	Asks if the permit for transfer would be temporary in case the permit was not approved at a later date.
194	Myron	The bill would allow the transfer of permits, then at a later date, the permit would be certificated based on whatever the transfer use would be.
201	Pagel	The permit amendment is different for a transfer. The permit is the proving up period. If a permit was given for one use, and then it was discovered that a different use was more appropriate, there could be an amendment to the original permit.
221	Chair Messerle	Closes public hearing on SB 132A.
222	Chair Messerle	Opens work session on SB 132A.
224	Rep. Kruse	<b>MOTION: Moves SB 132A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 6-0</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b>
		<b>EXCUSED: 1 - Welsh</b>

	Chair	<b>The motion CARRIES.</b> <b>REP. CORCORAN will lead discussion on the floor.</b>
237	Chair Messerle	Closes work session on SB 132A.
<b><u>SB 134A PUBLIC HEARING AND WORK SESSION</u></b>		
239	Chair Messerle	Opens public hearing on SB 134A.
241	Zwick	Summarizes SB 134A.
254	Pagel	Submits and reviews testimony in support of SB 134A. <b>(EXHIBIT C)</b>
314	Rep. Corcoran	Asks about the sunset.
324	Pagel	The sunset was because of the concern of environmentalists who believed this law could be used to authorize inappropriate illegal uses.
330	Rep. Bowman	Asks how many times this law has been used in the last two years.
335	Paul	Once.
344	Chair Messerle	Closes public hearing on SB 134A.
345	Chair Messerle	Opens work session on SB 134A
347	<b>Rep. Bowman</b>	<b>MOTION: Moves SB 134A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 6-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - Welsh</b>
	Chair	<b>The motion CARRIES.</b> <b>REP. HARPER will lead discussion on the floor.</b>
358	Chair Messerle	Closes work session on SB 134A.
<b><u>HB 2409 PUBLIC HEARING</u></b>		

363	Chair Messerle	Opens public hearing on HB 2409.
365	Zwick	Summarizes HB 2409.
<b>TAPE 53, A</b>		
003	Paul Cleary	Director, Division of State Lands, submits and reviews testimony in regards to proposed amendments to HB 2409. <b>(EXHIBIT D)</b>
053	Cleary	Continues testimony.
064	Rep. Kruse	Asks for definition of "wet perimeter."
069	Cleary	Defines "wet perimeter" as the area of stream which is underwater or is exposed as a non-vegetated dry gravel bar surrounded on all sides.
077	Rep. Kruse	Asks if this fluctuates with water level changes.
079	Cleary	Yes.
082	Rep. Bowman	Asks why there is an emergency clause.
086	Cleary	If the bill gets through this session, the rules will need to be put into effect immediately.
094	Rep. Corcoran	"I have a lot more faith in Mr. Meinen and the Parks and Recreation Department than I do in Mr. Robinhold and the Governor's Office in terms of making a timely study."
104	Sue Hallett	Representing Oregon Independent Miners, testifies in support of the proposed amendments. Asks the committee what needs to be done now to finalize the proposed amendments.
116	Cleary	Offers to go to Legislative Counsel.
125	Curtis Robinhold	Governor's Office, comments that the Governor's Office was involved in these amendments and supports them.
138	Bob Meinen	Director, Oregon Parks and Recreation Department, submits and reviews testimony in support of proposed amendments. <b>(EXHIBIT E)</b>
178	Chair Messerle	Asks what the cost of the study would be.
180	Meinen	The cost is mostly a staff related issue.
194	Chair Messerle	Asks for an estimate of the cost.
196	Meinen	Around \$40,000- \$50,000, plus an additional \$20,000 for operational costs.
205	Rep. Corcoran	Comments on independent miners.
220	Deborah Kafoury	Legislative Associate, American Fisheries Society, introduces Paula Minear and Kristopher Wright.
225	Paula Minear	Spokesperson, American Fisheries Society, Oregon Chapter, submits and reviews testimony in opposition to HB 2409. <b>(EXHIBIT F)</b>

275	Minear	Continues testimony.
325	Minear	Continues testimony.
371	Kristopher Wright	Biologist, Oregon State University, continues testimony.
<b>TAPE 52, B</b>		
009	Wright	Continues testimony.
038	Chair Messerle	Asks for further identification of American Fisheries Society.
040	Kafoury	The American Fisheries Society is a volunteer organization of professional fish and aquatic science biologists. Represent about 500 members in the State of Oregon.
047	Chair Messerle	Asks if the Society is opposed to all dredging.
048	Wright	No, but there are streams that are designated as salmon habitat, and those streams need regulation. Believe this bill is attempting to deregulate those salmon specific streams.
059	Chair Messerle	Asks for the amount of area which is involved.
062	Minear	Essential salmon habitat is no more than 20% of the state's waterways. Unsure of the overlap between scenic waterways and essential salmon habitat.
068	Chair Messerle	Asks for clarification on the capacity of habitat.
084	Minear	There are too many factors in the salmon issue. Comments on some of the many factors, such as water quality, temperature, ocean conditions, and timber practices.
100	Chair Messerle	Comments on mining practices.
107	Wright	There are certain conditions where the substrate needs to be turned over in a process much like what mining does. Unfortunately, there are streams that are high quality and have good salmon habitat. Mining operations would destabilize the substrate. There are certain cases where mining practices are appropriate for streams.
120	Rep. Corcoran	Asks about summary of mining impacts and the sources provided.
134	Wright	Most of the research references were dealing with small scale placer mining and small scale recreational mining. Large scale commercial mining references were not included as it would be an unfair representation of what is being done.
		It is key to protect the resources. Discusses scenic waterway permits.

146	Cleary	There are about 150 miles of overlap. Inside scenic waterways, conditions have been tightened from a fisheries perspective.
180	Rep. Corcoran	Asks for additional information on permits.
188	Cleary	Will provide permit information.
196	Chair Messerle	Asks how many streams are affected.
200	Cleary	Have identified the six areas that are used frequently for recreational placer mining, there is some overlap with essential habitat restriction. Discusses changes made with proposed amendments.
213	Rep. Bowman	Asks if the study can be made available.
216	Cleary	Yes, last year was the first time data was recorded and recreation placer mining was caught in the regulatory web. Therefore there may be a time period where people may not be complying. Not intentional non-compliance, but because of lack of information.
228	Rep. Bowman	Asks how there can be compliance if there is a lack of enforcement.
233	Cleary	There is some field presence, but that person is seasonal. Other field presence is provided by other agencies which have interest in the area. Have to rely in self regulation to some degree.
253	Hallett	Addresses various issues of the testimony by the American Fisheries Society. Agrees that there is not adequate data available on cumulative impacts, feels that passage of HB 2409 would take care of this.
285	Rep. Bowman	Asks about the lack of money for completing the study.
291	Hallett	There is an end of year report required by the Division of State Lands (DSL), which will provide statistics for monitoring.
299	Rep. Bowman	Asks what type of information would be included in this report.
300	Hallett	It would indicate where, how long, and how much land has been moved.
304	Cleary	The report would provide information on the location, the amount of material moved, time period. Comments that the proposed amendments include a component which would require DSL to conduct a study of recreational prospecting and placer mining within scenic waterways to determine effects on recreational fish and wildlife.
		In regards to the perception that there are problems in fish habitat and protection, the Oregon Department of Fish and Wildlife (ODFW) agreed with amendments. If there were serious disagreements, then they would not be supportive of the amendments.

322	Hallett	On page 4 of the American Fisheries Society testimony, the types of mining described (high banking) are not even allowed in scenic waterway.  The mining community in Oregon, California, and Washington has completed an educational brochure on suction dredging in conjunction with the US Forest Service. This will be distributed in National Forests Service Districts throughout the United States.
366	Chair Messerle	Asks if mining during spawning times is allowed.
368	Hallett	Not with recreational placer dredging. It must be within ODFW in-stream guidelines.
373	Rep. Corcoran	Comments on the fish biologists who have testified.
397	Hallett	Meetings were also held with district fish biologists.
<b>TAPE 53, B</b>		
007	Cleary	Comments about drafting proposed amendments.
018	Minear	Comments regarding designation of scenic waterways because of scenic values and contribution to salmon stability. Asks committee to think about how much mining should be allowed in scenic areas and salmon habitat areas.  Comments that education on mining practices is needed in order to protect these areas. There is no connection with the people who hold recreational placer mining permits.  Realize that high banking is illegal, but it does happen. This is another example of the need for education.
050	Chair Messerle	Closes public hearing on HB 2409.
051	Chair Messerle	Adjourns meeting at 4:36 p.m.

Submitted By, Reviewed By,

Rebecca M. Nickel, Pat Zwick,

Administrative Support Policy Analyst

**EXHIBIT SUMMARY**

**A - SB 132A, Written Testimony, Martha Pagel, 3 pp.**

**B - SB 132A, Written Testimony from WaterWatch of Oregon, Jim Myron, 2 pp.**

**C - SB 134A, Written Testimony, Martha Pagel, 3 pp.**

**D - HB 2409, Written Testimony, Paul Cleary, 16 pp.**

**E - HB 2409, Written Testimony, Bob Meinen, 2 pp.**

**F - HB 2409, Written Testimony, Paula Minear, 6 pp.**