

SENATE COMMITTEE ON WATER AND LAND USE

January 23, 1997 Hearing Room C

9:00 A.M. Tapes 6 - 9

MEMBERS PRESENT:

Sen. Veral Tarno, Chair

Sen. Bob Kintigh, Vice-Chair

Sen. Ginny Burdick

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. David Nelson

Sen. Thomas Wilde

MEMBER EXCUSED:

STAFF PRESENT:

Mark Volmert, Administrator

Nancy Masee, Administrative Support

MEASURE/ISSUES HEARD:

Water Resources Department

Department of Environmental Quality

Water Watch

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 6, A		
003	Chair Tarno	Calls meeting to order at 9:05a.m.
<u>Water Resources Department</u>		

007	Martha Pagel	Director, Water Resources Department and Tom Byler, Legislative Coordinator; Jeff Huntington, Deputy Director; Dick Bailey, Administrator, Water Rights Division; Dwight French, Manager, Water Rights Applications, (SB 674) process; Weston Becker, Public Information.
024	Pagel	Presents pre-session bills filed by Department. Overview of Commission and Department, key issues for the session. Presents information on water statutes, district activity, guide, Strategic Plan for Department (EXHIBIT A).
055	Sen. Kintigh	Asks for directory of their department.
070	Pagel	Continues presentation on backlog SB 674 which revamped application reviewing processing. SB 674 was a success from their view; better, clearer decision making made possible.
090	Sen. Kintigh	Asks if more appeals have resulted from the new process.
092	Pagel	Responds that much fewer cases resulted.
093	Dwight French	Presents figures on appeals, being much fewer.
107	Pagel	Describes reductions results and improved quality of processing applications.
117	Sen. Tarno	Asks if conditions for applicants included metering systems. Is this for domestic purposes
	Chair Tarno	Asks about metering devices.
130	French	Generally home uses are not metered.
135	Sen. Fisher	Asks about the protests in the Umpqua area.
174	Pagel	Describes protests based on water availability. Readouts on Internet regarding water available.
203	Sen. Ferrioli	Asks about relinquishing water rights or transferring to agency or is non-used, asks what happens to the water right.
220	Pagel	Describes two ways: * five years non use, automatically canceled * voluntarily may transfer all or part to in-stream
268	Sen. Ferrioli	Asks if there is an incentive program for people to voluntarily convert
230	Pagel	Describes incentives to conserve, in-stream
248	Sen. Ferrioli	Reiterates a user can keep a portion but balance would be in-stream; 75% they can keep, 25% to in-stream; if federally funded more goes in-stream.

273	Sen. Ferrioli	Asks if the senior users used more water, a significant amount gets put into conservation instead of allocation of water rights. Junior user can be deprived by conservation by senior user.
315	Sen. Burdick	Asks about storage systems.
316	Pagel	Water rights limited to certain areas for a certain time.
320	Pagel	They could transfer to someone else.
324	Sen. Nelson	Comments on Columbia River usage by farmers; says they are losing water rights.
360	Pagel	Comments not aware of losing water rights, limited in ability to grant new water rights, due to Endangered Species Act.
	Sen. Fisher	Asks about water rights denied since 1990 by Oregon Department of Fish and Wildlife (ODFW).
	Dwight French	Responds that a majority of applications after an in-stream water right is in place have a limited period of use. In-stream water right has a big impact on that.
TAPE 2, A		
012	Chair Tarno	Asks about the current increasing wet cycle.
015	Pagel	Responds based on 30 year cycles on an average. Policies being considered to store water in wet years. Issuing water rights does not have a water date.
030	Chair Tarno	Asks about mitigation banking to create ponds for storing water.
045	Tom Byler	Gives a 25 minute presentation of slides on overview
	Byler	Discusses Water Laws Public Water Water Code Water Rights Mechanisms
107	Byler	First in time, first in right concept discussed - senior user or junior user water rights holders must use rights or will be canceled
	Byler	Mechanisms Permits Point of diversion Point of appropriation

		Place of use Type of use
	Byler	Continues Exempt Uses Ground Water
152	Byler	Permit Process Application, making use of water, changing uses of water rights,
180	Byler	Reviews application process SB 674 receives application & initial review protest period available on final order dispute can lead to contested case final order issued
210	Byler	Continues slide presentation on enforcement of program legal use vs illegal use voluntary compliance District Attorney next step
	Byler	Continues on fees assessed
251	Byler	Describes Commission Duties of policy oversight Administrative Rules Consider appeals
	Byler	Describes Department structure
319	Byler	Continues slide presentation on planning for the future Mission - stewardship and supply
373	Byler	Continues relating strategic management plan
383	Byler	Key issues Watershed improvement
TAPE 6, B		

020	Byler	Continues slide presentation Service delivery Funding for local projects Concludes slide presentation
032	Sen. Nelson	Comments on irrigation as largest use of water, and the Columbia River as a source of in-stream flow.
045	Pagel	Irrigation is one of beneficial uses; most water rights go to irrigation. Columbia River water stays in-stream for many reasons related to interstate claims, navigability, hydro projects.
060	Sen. Burdick	Comments that Washington State uses three times more water than Oregon for agriculture.
076	Pagel	There is no interstate compact over use of Columbia.
096	Sen. Ferrioli	Asks of the 5,000 applications how many resulted in water rights
101	French	Responds that 82% were issued permits.
108	Sen. Ferrioli	When water rights are in-stream is there a way to release that right.
114	Pagel	Responds that in-stream water rights sets amount of flow for public use. In-stream right is permanent, but does not supersede other permits.
127	Sen. Fisher	Comments that there are no charges for water in Oregon. Says there was a charge in Washington.
134	Pagel	There is no state water use fee for taking water in Oregon. Districts can issue fees.
144	Sen. Fisher	You allow districts to charge, but state does not?
147	Pagel	Districts charge for the distribution system and service. The issue of charging for water by the state has come up. There is no water use fee paid to the state.
<u>Department of Environmental Quality</u>		
169	Langdon Marsh	Department of Environmental Quality (DEQ), gives overview of his agency's policy on water (EXHIBIT B).
200	Marsh	Discusses stream miles in Oregon, structure of department.
		* Continues protecting water quality. * 18 river basins quality monitored * permits to industry and sewage treatment

		<ul style="list-style-type: none"> * technical assistance to cities * grants and loans to municipalities, associations * education programs
245	Marsh	Continues presentation on groundwater and drinking water use.
261	Marsh	Continues groundwater description, pollution, monitoring. Describes surface water use and protection, pollution
311	Marsh	Continues presentation on surface water pollution.
319	Sen. Fisher	Asks for definition of non-point sources.
323	Marsh	Responds that a point source is from discharge points. Non-point sources come from diffuse sources, parking lots, fields, non channeled runoff.
340	Marsh	DEQ's job is to protect water for the beneficial uses.
370	Marsh	Continues presentation on water quality standards which are updated every three years.
373	Sen. Fisher	Asks about temperature control for most protected species.
TAPE 7, B		
012	Sen. Fisher	Discusses some species cannot survive in some lower temperatures.
021	Marsh	Discusses temperature standards <ul style="list-style-type: none"> * how determined * technical and policy advisory committees * standards established
071	Marsh	Continues presentation on the 303(d) list which is a list of streams not meeting the temperature standards. There is flexibility in the standards.
091	Sen. Ferrioli	Asks about 303(d) standards.
100	Marsh	Three categories of streams: <ul style="list-style-type: none"> * meet standards * have data and do not meet standards * no data
119	Sen.	Asks if any stream without data added to the list. Asks if the data was

	Ferrioli	done under scientific conditions, or by students or other sources.
135	Marsh	Responds that it was done by scientific process from government agencies.
170	Marsh	Continues presentation on Healthy Streams Partnerships of farmers, environmentalists, Department of Agriculture, Department of Forestry, industries, cities to come up with 10-year program which enhances their ability to move forward to establish the plans, update list, provide assistance, work with districts
211	Marsh	Continues presentation on what DEQ's role is.
230	Marsh	Continues presentation on the 401 Clean Water Act; court decision as applied to grazing activities on Federal lands; DEQ responsibility to ranchers as lessees of U. S. Bureau of Land Management (BLM)and U. S. Forest Service; certification process worked out for these requests if court decision holds on the <u>Camp Creek</u> case.
260	Sen. Ferrioli	Comments regarding the 401 certificates costs; approvals are being held up pending court outcome; guidelines for issuing 401 certificates.
270	Marsh	Responds that existing water quality plans want to be followed, without going through more complicated processes.
300	Sen. Fisher	Asks about 401 grazing rights, concern for timely issuance of 401 certificates.
317	Sen. Ferrioli	Responds it is on transfer of grazing rights to third parties, upon re-application, origination, any point of interruption of an existing grazing right. * causes financial distress to those ranchers who have to wait for the state process. * the timeliness of 401 certificate issuance is a big concern due to the impact on ranchers
348	Doug Myers	Water Watch, introduces Reed Benson, Attorney.
Water Watch		
TAPE 8, A		
005	Benson	Describes Water Watch organization * Conservation group to restore and protect in-stream flows. * Originally focused on the Oregon Legislature * Expanded focus to include Federal issues
060	Benson	Continues presentation on water needs in Oregon.
101	Benson	Continues on funding need to measure water quality.
		Continues presentation on water shortage in Oregon.

107	Benson	<ul style="list-style-type: none"> * Promote in-flow stream needs * Does it provide accountability * Promote public participation * Protect in-stream flows
152	Chair Tarno	Asks about storing water and Water Watch's ideas.
162	Benson	Supports storage projects
178	Sen. Burdick	Asks if high flow means flooding.
184	Chair Tarno	Comments on toxic waste in the Columbia, asks for chart.
206	Gail Killiam	Oregon Environmental Council, comments on the deepening of the Columbia River channel and toxic waste deposits there.
224	Killiam	Comments that she will provide the committee with findings of this study.
245	Sen. Kintigh	Comments on high water use in the electronics industry.
259	Benson	Responds that they have not followed water use in silicon chip industries.
275	Sen. Ferrioli	Comments on statistics and how misleading they can be. Percentages can be misleading. Asks about urban uses of water.
299	Benson	Responds on water withdrawals.
334	Sen. Ferrioli	Responds that percentages taken out of context are meaningless.
349	Sen. Fisher	Comments on the Kenross operation
366	Chair Tarno	Comments that what is used upstream being clean and that cities are responsible for discharging clean water.
TAPE 9, A		
014	Sen. Fisher	Comments on maintaining water rights out of stream or in-stream.
025	Benson	Limit of two year in-stream leases .
043	Sen. Fisher	Comments that a rollover of the two-year would be more reasonable.
048	Chair Tarno	Adjourns meeting at 11:21 a.m.

Submitted By, Reviewed By,
Nancy Masee, Mark Volmert,

Administrative Support Administrator

EXHIBIT SUMMARY

A - Testimony, Oregon Water Resources Department, 25 pp, Martha Pagel

B - Testimony, Department of Environmental Quality Overview, 15 pp, Langdon Marsh

C - Testimony, Water Watch, 15 pp, Reed Benson
