

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

HOUSE COMMITTEE ON
WATER POLICY

Hearing Room
Tapes A & B - 5 A & B

MEMBERS PRESENT:
Rep. Chuck Norris, Chair
Rep. Tim Josi, Vice-Chair
Rep. Avel Gordly
Rep. John Watt
Rep. Jim Welsh

STAFF PRESENT:
Pat Zwick, Committee Administrator
Gail E. Boesch, Committee Assistant

MEASURES HEARD:
Public Hearing and Work Session, HB 2184

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TAPE , A

005 CHAIR NORRIS: Calls the meeting to order at 1:32 P.M.
- Announcements
- Introduction of HB 2184

023 PETRINO: Presents section by section summary of HB 2184. Section 1 - decreed water rights vs. certificated and transfer of supplemental rights.

041 REP. WATT: Requests explanation of primary and supplemental water rights and why transfers take place.

052 PETRINO: Explains: primary from surface water source and supplemental from back-up well for irrigation - owner wants to transfer right to another piece of land.

056 REP. WATT: Requests clarification of 'additional'.

058 PETRINO: Clarifies - "in place of".

063 WATT: If it were additional, the water right would extend to that other acre.

066 PETRINO: Water rights are not available for enlargement; assigned to a particular piece of property.

068 WATT: Questions whether water right remains with property after transfer of property ownership.

070 CHAIR NORRIS: Defines appurtenant.

07 WATT: Water right belongs to land and not to person.

081 CHAIR NORRIS: Yes.

092 PETRINO: Transfers are allowed:
- to change point of diversion
- to change place of use
- to change type of use
- Continues with sections 2 & 3 of bill, transfer of point of diversion.

125 - Continues with sections 4 - 6, temporary transfers of water rights.

136 REP. JOSI: Requests clarification regarding 5 year limit on temporary transfer and possibility of another application.

140 PETRINO: Current intent is to return to original acreage for at least one year.

145 REP. JOSI: Asks what Department is trying to solve.

150 PETRINO: Explains current transfer application process.

157 CHAIR NORRIS: Provides further clarification.

160 REP. WELSH: Queries about inclusion of leased land.

166 CHAIR NORRIS: Committee (and WRD) might want to consider that.

174 PETRINO: Discusses section 7, Limited Licenses. Deals with authorizing short term water uses.

212 - Section 8, livestock watering exemption, allows livestock owners to water livestock away from stream without requiring permit.

220 REP. JOSI: Requests explanation regarding limitation (within closed system) not to exceed 1/10th of 1 cubic foot/second/1000 head of livestock.

231 PETRINO: Provision was included to prevent diversion of an unnecessary amount of water for watering livestock.

242 REP. JOSI: Expresses other concerns of closed system.

250 PETRINO: Concern about the size of the closed system that livestock owner chooses to use; amount of water diverted to fill up system.

265 REP. JOSI: Economics and expense of pipes would seem to play a role.

270 PETRINO: The limitations are "just another level of protection in the bill".

275 WELSH: Thinks limitation is "precedent setting".

283 CHAIR NORRIS: Explains that limitation is carryover from bill passed last session that permitted applications and appropriations from scenic waterways. Equates to 44.8 gal per minute.
 Notes letter from Chair of Legislative Committee of Baker County Livestock Association proposing amendment to add "with the overflow going back to the stream", stating amendment is needed because shut-off valves freeze up in cold weather.

303 PETRINO: Had phone conversation with writer. Department is concerned that overflow come back to stream close to point of diversion to avoid dewatered section of stream.

315 PETRINO: Referring to meeting of 1/17/95; clarifies that stake holders group was not in unanimous support of removal of fencing requirements from bill. (HB 2184)

325 REP. JOSI: Questions whether members of interest groups are considered stake holders.

334 PETRINO: Yes. Begins overview of section 9, Allocation of Reserved Water Program, and section 10, Water Supply Fund.

352 REP. WATT: Questions use of dollars in fund - if at sole discretion of department.

362 PETRINO: No one other than WRD is currently specified - funds are for grants.

366 REP. WATT: Requests expectations of size of fund.

375 PETRINO: Fund is a set dollar figure appropriated from Lottery to create fund for WRD grants to individuals or governments.

387 REP. WATT: If there is a cap, it needs to be in bill; concerned about appropriation of money.

393 REP. JOSI: Bill doesn't make it clear that money goes out of the department.

397 PETRINO: Calls attention to sections 12 & 13 regarding Lottery appropriations; will report back to committee on how funds are distributed outside of the department.

407 REP. GORDLY: Questions need for task force; offers suggestion that a university research project could do same.

TAPE 5,A

003 PETRINO: Explains reasons for proposed task force.

027 REP. GORDLY: Questions analysis that leads to task force as opposed to university research which would seem to be more efficient, cost effective.

032 PETRINO: Responds. Victims of past.

045 REP. WATT: Would like to see options.

072 REP. WATT: Refers to bill, section 3, line 40, use of 'withdrawal'.

076 CHAIR NORRIS: "Withdrawal" can be used in two different ways.

086 PETRINO: Notes need to change language to avoid confusion.

090 CHAIR NORRIS: Suggests 'appropriation and use'. May need to divide up sections of bill to facilitate process. May need to divide bill into several bills; certain sections seem to stand alone, others overlap.

104 REP. WELSH: Requests clarification under section 11, number 8, regarding task force.

PETRINO: Time of task force - from effective date of bill through end of July.

111 CHAIR NORRIS: Refers to sec. 10 - 4a. Offers suggestions regarding storage.

126 Opens PUBLIC HEARING on HB 2184.

Witnesses: Beth Petrino, Water Resources Department
Jan Boettcher, Executive Director, Oregon Water Resources Congress
Pete Test, Associate Director of Government Affairs, Oregon Farm Bureau
Scott Ashcom, Oregon Nurserymen's Association
Richard Koesan, Water For Life
Reed Benson, WaterWatch
Doug Myers, WaterWatch
Jerry Schmidt, Oregon Association of Realtors, Oregon Ground Water Association

160 JAN BOETTCHER, EXECUTIVE DIRECTOR, OREGON WATER RESOURCES CONGRESS: (Exhibit A) Testifies in support of HB 2184 from written testimony and offers suggestions for amendments to improve the bill.

200 BOETTCHER: Continues presentation from Exhibit A.

265 BOETTCHER: Continues presentation from Exhibit A with transfer process.

288 CHAIR NORRIS: Refers to prior meeting discussion regarding use of word 'injury' in different context - questions whether it's clear.

298 BOETTCHER: Yes, explains.

306 REP. WATT: Define 'injury'.

314 BOETTCHER: Provides definition of 'injury' as it relates to water resources.

347 - No problem with livestock watering portion of bill as long as some sort of cap remains in place. Hard to imagine how a cow could drink more than 46 gallons a day.

354 CHAIR NORRIS: Instructs Mr. Koesan to gather feedback on livestock water consumption and adequacy of HB 2184 limitations.

376 BOETTCHER: Without cap, there could be harm to existing water rights.

TAPE 4,B

005 BOETTCHER: (Exhibit A) Water Supply Fund, funding task force. Suggests advisory group. Offers information from Western States Water Council. Generally supports HB 2184. Concludes presentation.

015 CHAIR NORRIS: Requests that Ms. Boettcher submit information from Western Water Council.

022 PETE TEST, ASSOCIATE DIRECTOR OF GOV'T AFFAIRS, OREGON FARM BUREAU: Presents Exhibit B and comments that HB 2184 is too complex; supports some aspects, disagrees with others..

060 CHAIR NORRIS: Comments on 'delegated authorities'.

069 TEST: Resumes review of comments included in Exhibit B.

109 - Continues testimony.

135 CHAIR NORRIS: Comments on livestock watering variables, i.e., size & shape of tank.

144 TEST: Responds. Resumes and concludes summary of Exhibit B.

173 REP. WELSH: Questions adequacy of temporary transfer provision of section 5 in terms of leased property.

175 TEST: We should be looking at potential use for long-term lease.

188 SCOTT ASHCOM, OREGON NURSERYMEN'S ASSOC.: Provides comments generally supportive of bill. Comments on sections 10 through 13. Discusses potential for amendment.
- Believes that specific policy goal should be defined before task force is created. Instructions in bill too vague.

255 - Lists priority preferences for starting points and goals.

270 CHAIR NORRIS: Explains intended purpose of task force.
280. ASHCOM: Agrees. Clarifies point of view.
335 ASHCOM: Concludes.
342 REP. JOSI: Questions whether upstream impoundments cause problems to
anadromous fish runs.
345 ASHCOM: There is an elevation beyond which anadromous fish will not
migrate.
351 REP. JOSI: Expresses concern about trout runs.
359 ASHCOM: Explains that upstream impoundments would go in elevations where
there are virtually no fish. Explains impoundments.
402 CHAIR NORRIS: When stream flow is discussed, fish biologists will be
involved.

TAPE 5,B

010 REP.GORDLY: Requests written testimony from Mr. Ashcomb.
012 ASHCOM: Agrees to provide.
018 RICHARD KOSESAN, WATER FOR LIFE: Presents concerns with HB 2184.
- Section 1, language should be clear that there is no enlargement of
existing right. Section 2, lines 29 - 30, measuring not always feasible.
Section 10 (4)(c) needs clarification. Section 11 - opposed to
establishment of task force.
080 DOUG MYERS, WATERWATCH: Provides general comments on bill, (Exhibit C).
Has a concern that a lot of good ideas were taken out of bill.
141 REED BENSON, WATERWATCH: States concerns with the bill. Refers to
testimony of 1/17/95, Exhibit E. 3 basic questions about relaxing the rules
on water uses.
- Will bill equally encompass all kinds of uses.
- Is there a reason why the public should see more control over water uses.
- Any potential to benefit instream flows.
Three primary concerns regarding temporary transfers. Appurtenancy
requirement. Refers to Exhibit C.
191 CHAIR NORRIS: Poses question regarding devaluation of land where water
has been returned to stream and effect on county tax roles.
196 BENSON: Answers. Continues with concerns with section 8, livestock
watering exemptions. Would like to see fencing requirement.
219 REP. JOSI: Noted a study of herd of cows and time in stream.
266 BENSON: States concerns with exemptions and enforcement action, and
limited license portion of bill. Uses embezzlement of public funds to
illustrate point.
294 REP. JOSI: Disagrees with Mr. Benson's analogy.
320 CHAIR NORRIS: Bill's intent is not to make legal that which is patently
illegal. May need to look at language.
333 BENSON: Lists concerns with sections 10 and 11. (Exhibit C).
Concludes.
369 JERRY SCHMIDT, OREGON WATER CONSULTANTS, OREGON ASSOCIATION OF REALTORS,
OREGON GROUND WATER ASSOCIATION: Objects to HB 2184. Wants to be
included in work group to refine bill. (Ref. Exhibit E, submitted after
meeting.)
401 STAFF ZWICK: Submits written testimony from Jim Myron, Oregon Trout
(Exhibit D).
420 CHAIR NORRIS: Closing remarks.
ADJOURNS MEETING AT 3:25 pm.

Submitted by, Reviewed by,

Gail E. Boesch Pat Zwick
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - Testimony on HB 2184 - Jan Boettcher, Oregon Water Resources Congress -
4 pages
B - Testimony on HB 2184 - Pete Test, Oregon Farm Bureau - 2 pages
C - Testimony on HB 2184 - Doug Myers, WaterWatch - 3 pages
D - Testimony on HB 2184 - Jim Myron, Oregon Trout - 2 pages
E - Testimony on HB 2184 - Jerry Schmidt, Oregon Association of Realtors -
1 page