

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 - 13

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:

HB 2376 - Public Hearing and Possible Work Session  
HB 2422 - Public Hearing and Possible Work Session

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TAPE , A

005 CHAIR NORRIS: Calls the meeting to order at 3:00 p.m.

Opens the Public Hearing on HB 2422  
Witnesses: Sen. Rod Johnson

035 SEN. ROD JOHNSON: Shows committee pictures to represent the type of pond being discussed in bill. Gives summary of HB 2422. Bill is a way to ease the ability of owners of preexisting ponds to get "caught up legally".

117 - Summarizes benefits of pond storage, concludes.

136 SEN. JOHNSON: Submits LC draft of another bill, Exhibit B.

155 CHAIR NORRIS: Still needs to gain understanding of bills being discussed today.

Closes Public Hearing on HB 2422

Opens Public Hearing on HB 2376

Witnesses: Wm. Holmes, Partner, Stoel Rives Boley Jones & Grey  
Martha Pagel, Oregon Water Resources Department  
Tom Paul, Regional Manager, WRD

190 WILLIAM HOLMES, PARTNER, STOEL RIVES BOLEY JONES & GREY: (Representing Oregon Water Resources Congress) Reads and summarizes from Exhibit C, alerts committee to problems with existing law.

256 - Suggests the Attorney General be consulted about reservoir permits; seeks repeal of 1993 law related to off-channel ponds, or define off-channel ponds in legislation and say no permit is required.

333 CHAIR NORRIS: Questions Mr. Holmes on history of issue before 1993.

358 HOLMES: Cited one Supreme Court case where beaver dam purportedly used as means of erosion control with landowner's encouragement.

391 MARTHA PAGEL: "Intention of HB 2153 was never to expand required water rights for things it hadn't previously".

TAPE 13, A

025 REP. JOSI: Asks for clarification of off-channel requirements.

030 PAGEL: Clarifies that if water begins on property and flows off, then water right is required.

036 REP. JOSI: It seems the downstream people would have the benefit.

045 TOM PAUL, REGIONAL MANAGER, NORTHWEST REGION: That is the issue. Downstream water rights require the upstream property owner to release water regardless of means of capture.

058 Opens Public Hearing on HB 2422 (Continues Hearing on HB 2376 concurrently)

Witnesses: Martha Pagel, Oregon Water Resources Department  
Rep. Liz VanLeeuwen  
Jim Myron, Oregon Trout  
Pete Test, Oregon Farm Bureau Federation  
Doug Myers, WaterWatch  
Ves Garner, OANRCD  
Richard Kosesan, Water For Life

066 PAGEL: Would be happy to get something in writing from the AG's office. Submits Exhibits D & E. Testifies regarding both bills, and relationship to HB 2153, '93 session.

120 CHAIR NORRIS: Asks for information regarding number of applications as compared to number of ponds.

130 PAUL: 3,000 exempt applications; 3,600 non-exempt, with an average of 3 ponds per exempt application.

142 PAGEL: A lot of confusion between on channel and off-channel. (HB 2153) "Created a water right requirement where we never intended to."

169 REP. JOSI: Tries to distinguish between definitions of exempt and non-exempt ponds.

177 PAUL: Applications for non-exempt clearly need a permit.

184 REP. JOSI: Sounds like three categories.

191 PAGEL: Exemption was created to include ponds that would have required a water right. Created a new exemption to stop lengthy process; not a water right, but also legal.

- Page 2, testimony for HB 2376, Exhibit D. Encourages technical corrections.

240 - Subtle differences between HB 2376, and HB 2422.

250 CHAIR NORRIS: Solicits Ms. Pagel's opinions on differences.

255 PAUL: HB 2422 doesn't address exempt vs. non-exempt; removes map requirement and ability to request additional information. Both bills propose to extend filing date. HB 2376 sets different priority date for filings after 1/1/95.

316 REP. LIZ VANLEEUEWEN: Testifies in support of HB 2376, recounts story about elderly constituent's pond, defined by law as a channel. Supports language change incorporated in bill.

TAPE 12, B

015 REP. JOSI: Requests definition of bed & bank/confined area.

020 HOLMES: Provides definition

023 REP. JOSI: Questions whether the definition is too restrictive.

028 HOLMES: States that he is not in favor of exemptions.

070 JIM MYRON, OREGON TROUT: Submits Exhibit F and reads from it.

135 CHAIR NORRIS: Comments regarding little or no fish life vs. impoundment. Calls for definition of seasonal stream.

153 MYRON: Small streams can be very important spawning grounds. Need information from fishery specialists (regarding function of seasonal streams). Submits Exhibit G in opposition to HB 2422.

179 PETE TEST, OREGON FARM BUREAU FEDERATION: Submits Exhibit H, in support of HB 2376. Submits Exhibit I in support of HB 2422.

262 REP. JOSI: Poses questions about each bill, comparing one to the other.

325 DOUG MYERS, WATERWATCH: Volunteers for any work groups set up. Has problems with new definition of "off-channel" on page 1, HB 2376. Doesn't agree with blanket amnesty, HB 2422.

373 VES GARNER, OREGON ASSOCIATION OF NATURAL RESOURCES CONSERVATION DISTRICTS: Submits and reads Exhibit J regarding HB 2376.

TAPE 13, B

012 - Submits Exhibit K in support of HB 2422.

028 RIGHARD KOESAN, WATER FOR LIFE: Submits and briefly discusses Exhibit L, suggested ponds legislation regarding issue of water impoundments.

070 CHAIR NORRIS: I don't see mention of ponds greater than 9.2 acre/feet or

taller than 10 feet.

075 KOSESAN: Responds that those would require traditional permits.

082 CHAIR NORRIS: I envision one bill with amendments.

085 PAGEL: Questions whether work groups should be started now.

089 CHAIR NORRIS: Will be hearing bills again a week from today. Ask WRD to talk to Attorney General and report back.

105 CHAIR NORRIS: Oregon Department of Fish and Wildlife submitted Exhibit M concerning HB 2376. Will check out "six month" reference.

Closes Public Hearing on HB 2376  
Closes Public Hearing on HB 2422.

140 Adjourns meeting at 4:37 pm.

Note: Staff submits Exhibits N, O, P & Q as supplemental information to both bills.

Submitted by, Reviewed by,

Gail E. Boesch Pat Zwick  
Committee Assistant Committee Administrator

#### EXHIBIT SUMMARY:

- A - Staff Measure Summary on HB 2422 -- Pat Zwick, Committee Administrator -- 1 page
- B - Proposed LC Draft -- Senator Rod Johnson -- 1 page
- C - Testimony on HB 2376 on behalf of Oregon Water Resources Congress--Wm. H. Holmes - 29 pages.
- D - Testimony on HB 2376 -- Martha O. Pagel, Director, Water Resources Department -- 2 pages.
- E - Testimony on HB 2422 -- Martha O. Pagel, Director, Water Resources Department -- 1 page.
- F - Testimony on HB 2376 -- Jim Myron, Oregon Trout -- 2 pages.
- G - Testimony on HB 2422 -- Jim Myron, Oregon Trout -- 1 page.
- H - Testimony on HB 2376 -- Pete Test, Oregon Farm Bureau -- 1 page.
- I - Testimony on HB 2422 -- Pete Test, Oregon Farm Bureau -- 1 page.
- J - Testimony on HB 2376 -- Ves Garner, Oregon Association of Natural Resource Conservation Districts -- 1 page
- K - Testimony on HB 2422 -- Ves Garner, Oregon Association of Natural Resource Conservation Districts -- 1 page.
- L - 1995 "Ponds" Legislation -- Richard Kosesan, Water for Life, Inc. -- 1 page.
- M - Statement on HB 2376 -- Jill Zarnowitz, Oregon Department of Fish and Wildlife --1 page.
- N - Supplemental Information -- Staff -- 4 pages.
- O - Supplemental Information -- Staff -- 2 pages.
- P - Oregon Water Resources Department on HB 2107 and HB 2153 - Supplemental Information, Staff -- 14 pages.
- Q - Staff Measure Summary on HB 2376-- Pat Zwick, Committee Administrator --

1 page.