

HOUSE COMMITTEE ON
WATER POLICY

Hearing Room
Tapes - 38

MEMBERS PRESENT:

Rep. Chuck Norris, Chair
Rep. Tim Josi, Vice-Chair
Rep. Avel Gordly
Rep. Veral Tarno
Rep. Jim Welsh

STAFF PRESENT:

Pat Zwick, Committee Administrator
Gail E. Boesch, Committee Assistant

MEASURES HEARD:

SB 55 - Public Hearing
HB 2306 - Public Hearing
HB 2746 - Public Hearing
HB 2939 - Public Hearing

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.

TAPE , A

004 CHAIR NORRIS: Calls the meeting to order at 2:03 PM.
For the record, Exhibit A is submitted by staff.

Opens the Public Hearing on HB 2746

Witnesses: Jan Boettcher, Oregon Water Resources Congress
Len Shumway, Burnt River Irrigation District
Jerry Franke, Burnt River Irrigation District
Parker Johnstone, Oregon Natural Resources Districts
Bruce Andrews, Oregon Department of Agriculture
Martha Pagel, Water Resources Department
Tom O'Connor, League of Oregon Cities
Susan Schneider, City of Portland
Doug Myers, WaterWatch
Jim Myron, Oregon Trout
Julie Coontz, Port of Gold Beach
Gil Riddell, Association of Oregon Counties

025 JAN BOETTCHER, OREGON WATER RESOURCES CONGRESS: Submits Exhibit B and introduces HB 2746.

045 - Presents overview of Exhibit B, which includes amendments.

071 - Notes that currently there is no priority date in the filing process.

Proposes priority date be when the application is complete.

091 - Presumption in the public interest, covered in amendments proposed.

100 - Biggest problem; agencies negotiate decisions that leave project sponsors out.

120 - Agency role not working.

130 - Emergency clause due to Burnt River problems.

138 REP. TARNO: Please clarify "consumptive".

143 BOETTCHER: Provides definition.

155 REP. TARNO: Questions definition in Section 1

160 BOETTCHER: Water can be used for any beneficial purpose covered in the statute.

180 LEN SHUMWAY, CHAIRMAN, BURNT RIVER IRRIGATION DISTRICT: Submits Exhibit C, discussing HB 2746. The exhibit details problems with the reservation filing process as it currently is designed. Supports HB 2746.

235 - Continues describing the drought situation in Burnt River, referring to Exhibit C.

266 - "Have met with nothing but frustration in trying to get this reservation process to work."

311 - Regarding the process of working this out among the agencies, (Dept. of Ag., WRD, ODFW), notes conflict with counsel that previously represented ODFW which had objected to Burnt River's reservation.

340 REP. TARNO: Questions who objected to the reservation.

343 REP. WELSH: Questions why the objection.

345 SHUMWAY: ODFW objected; habitat questions, other issues that don't belong in the reservation process.

400 REP. WELSH: Questions if you have the blessings of most property owners.

401 SHUMWAY: For the reservation process, yes.

404 REP. WELSH: Then the opposition comes from non-resident sources.

410 SHUMWAY: That's correct.

TAPE 36, A

020 REP. WELSH: Questions investment to date.

023 SHUMWAY: Have held off on studies, feel it's a waste of time at this point.

030 CHAIR NORRIS: Poses questions regarding the natural resources of the region, regarding wildlife and fish species.

General discussion follows regarding fish surveys of the stream.

061 JERRY FRANKE, MANAGER, BURNT RIVER IRRIGATION DISTRICT: Responds to Chair Norris' questions about the river drying up in the summer.

100 CHAIR NORRIS: Questions recreational spinoff from creation of reservoir.

107 SHUMWAY: State park, many uses. Construction of reservoir would rehydrate dried up irrigation source.

General discussion of access to proposed parks and recreational aspects.

132 CHAIR NORRIS: Questions who would pay for Hardman Dam and reservoir.

137 SHUMWAY: Primarily the irrigators will have to bear the majority of the cost.

160 PARKER JOHNSTONE, OREGON NATURAL RESOURCES DISTRICTS: Supports HB 2746 as amended by OWRC amendments, Exhibit D.

203 BRUCE ANDREWS, OREGON DEPARTMENT OF AGRICULTURE: Submits Exhibit E, discussing the reservation process and outlining suggestions for better legislation to correct the problem.

256 - "It's been a discovery process." Discusses SB 140.

295 - Reads from Exhibit E regarding the development of the reservation process; lists suggestions for improving the process.

330 - Discusses the Burnt River project.

392 CHAIR NORRIS: Questions if granting of a reservation would be tantamount to an instream right. Compares Reservation to a municipal water right.

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035 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Submits Exhibit F, discussing HB 2746.

075 - At a conceptual and a policy level, we are supportive of fixing this statute.

091 CHAIR NORRIS: Questions whether this is a complement to or a replacement of SB 140.

097 REP. NORRIS: Questions how a filing for a reservation impacts WRD.

125 PAGEL: Do have some real concerns about a potential flood of applications. Might tie it to basin planning, seems like a function of it. General description in current language of bill will create a major workload.

146 REP. WELSH: Questions what was passed on to the Department regarding Burnt River.

151 PAGEL: Provides history of Burnt River problems.

176 CHAIR NORRIS: Questions the attitude regarding Burnt River.

185 PAGEL: Contested case, I'm a decision maker, hard to answer. Don't want to further disadvantage these folks, but could be to their advantage to change the process.

202 TOM O'CONNOR, LEAGUE OF OREGON CITIES: Originally supportive, but since amendments, have a lot of concerns about creating a whole new parallel process to existing law.

251 - Extremely complicating and frustrating process. Shares experiences.
- Planning approach vs. contested case.

294 SUSAN SCHNEIDER, CITY OF PORTLAND: Don't want to set up a duplicative process and create more confusion. Would like to see some clarification of the reservation process.

390 DOUG MYERS, WATERWATCH: Submits Exhibit H, opposing HB 2746. Notes that he has not had a chance to examine the proposed amendments.

TAPE 36, B

030 MYERS: Continues presenting and reading from Exhibit H.

045 JIM MYRON, OREGON TROUT: Submits Exhibit I, expressing concerns about HB 2746 as currently drafted. Has not seen proposed amendments.

085 JULIE COONTZ, PORT OF GOLD BEACH: Submits and reads Exhibit J, testimony from Howard Teague, Manager, Port of Gold Beach, supporting

passage of HB 2746.

122 CHAIR NORRIS: Is Mr. Teague speaking in terms of an upstream project of some kind?

127 COONTZ: Referring to Exhibit J, responds.

General discussion ensues, committee notes confusion about testimony.

144 GIL RIDDELL, ASSOCIATION OF OREGON COUNTIES: Pleased with amendments including counties.

160 CHAIR NORRIS: Closes the Public Hearing on HB 2746
Urges work group, getting bill out soon.

Calls for recess till 3:50 pm.

Note: Problem with tape, rewind to 160, may have erased a tiny bit of meeting during Chair's comments on HB 2746.

165 CHAIR NORRIS: Reconvenes meeting,
Opens Public Hearing on SB 55
Witnesses: Jerry Schmidt, Oregon Association of Realtors
Martha Pagel, WRD

173 JERRY SCHMIDT, OREGON ASSOCIATION OF REALTORS: Submits Exhibit K , discussing and supporting SB 55, and Exhibit L, a hand-engrossed amended version of the bill.

238 CHAIR NORRIS: Clarifies that Exhibit L just relates to the Willamette Basin.

240 SCHMIDT: That's correct.

260 REP. TARNO: Requests clarification of "true call".

275 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Discusses SB 55, submits Exhibit N, supporting the bill.

325 SCHMIDT: In most normal situations, the state would enter into an agreement.

345 - The issue is that everyone is on equal ground, no one's passed over.

370 CHAIR NORRIS: Closes the Public Hearing on SB 55

387 Opens Public Hearing on HB 2306
Witnesses: Rep. Mannix
Martha Pagel, Water Resources Department
Doug Myers, WaterWatch
Jim Myron, Oregon Trout

400 REP. KEVIN MANNIX: Introduces HB 2306.

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020 REP. MANNIX: Continues providing an explanation of the purpose of HB 2306.

For the record, staff submits Exhibit O.

043 REP. MANNIX: Discusses backlogs, "professional objectors", and reasons behind bill.

060 REP. GORDLY: Questions if HB 2306 is targeted at persons, or organizations.

065 REP. MANNIX: I'd say both; elaborates.
-" Some people have targeted the water rights application process as a vehicle to make a point".

090 CHAIR NORRIS: Restates his understanding of the bill to gain clarification. Notes that SB 294 deals with similar legislation, as do others.

112 REP. MANNIX: Notes that the reasons for objection have to be set forth in writing.

125 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Submits Exhibit P, discussing HB 2306. Notes various groups that would be affected by this bill (at the request of Rep. Josi).

160 REP. TARNO: Comments about requests for reconsideration.

185 DOUG MYERS, WATERWATCH: Comments about SB 674, requests delay in dealing with HB 2306 until SB 674 comes to the House side.

198 JIM MYRON, OREGON TROUT: Submits Exhibit Q, opposing HB 2306 and HB 2939.

231 - Submits for the record that Louise Bilheimer, The Pacific Rivers Council, also opposes HB 2306.

245 CHAIR NORRIS: Closes Public Hearing on HB 2306
Opens Public Hearing on HB 2939
Witnesses: Pete Test, Oregon Farm Bureau
Jan Boettcher, Oregon Water Resources Congress
Martha Pagel, Water Resources Department

260 PETE TEST, OREGON FARM BUREAU FEDERATION: Submits Exhibit R, introducing HB 2939, but requesting a delay until SB 674 is dealt with.

312 TEST: Continues testimony discussing HB 2939 and SB 674.

350 JAN BOETTCHER, OREGON WATER RESOURCES CONGRESS: Provides comments about HB 2939 and SB 674.

403 - Doesn't think there should be a refund.
- Also requests delay in deference to SB 674.

TAPE 38, A

005 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Submits Exhibit S. Differentiates between instream and out of stream water rights.

046 DOUG MYERS, WATERWATCH: Notes there is no fee to object to instream water right, agrees with Ms. Pagel that it is a lopsided approach.

060 REP. TARNO: Questions why 70% of all objections come from WaterWatch.

065 MYERS: That's what WaterWatch does. That's why we exist.

078 CHAIR NORRIS: Closes the Public Hearing on HB 2939.

090 REP. GORDLY: Troubled by charging a fee to protest, seems punitive. Calls for balanced approach; something chilling about having to pay to deal with govt.

HB 2939 Staff Measure Summary is submitted for the record (Exhibit T).

124 CHAIR NORRIS: ADJOURNS the meeting at 4:46 pm.

Submitted by, Reviewed by,

Gail E. Boesch Pat Zwick
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - HB 2746, Staff Measure Summary and related statutes -- Pat Zwick,
Committee Administrator -- 3 pages
B - Testimony on HB 2746 -- Jan Boettcher, Oregon Water Resources Congress
-- 5 pages
C - Testimony on HB 2746 -- Jerry Franke, Burnt River Irrigation District --
5 pages
D - Testimony on HB 2746 -- Parker Johnstone, Oregon Natural Resources
Conservation Districts -- 1 page
E - Testimony on Reservation of Water -- Bruce Andrews, Oregon Department of
Agriculture - 10 pages
F - Testimony on HB 2746 -- Martha Pagel, Water Resources Department -- 9
pages
H - Testimony on HB 2746 -- Doug Myers, WaterWatch -- 4 pages
I - Testimony on HB 2746 -- Jim Myron, Oregon Trout -- 2 pages
J - Testimony on HB 2746 -- Howard Teague, Manager, Port of Gold Beach -- 6
pages
K - SB 55A, Hand Engrossed with amendments proposed by Jerry Schmidt --
Oregon Association of Realtors -- 1 page
L - Testimony on SB 55 -- Jerry Schmidt, Oregon Association of Realtors -- 3
pages
M - SB 55A, Staff Measure Summary; Senate Vote; Fiscal & Revenue report;
Senate Amendment; Related Statutes -- Pat Zwick, Committee Administrator --
5 pages
N - Testimony on SB 55-A -- Martha Pagel, Water Resources Department -- 1
page
O - HB 2306, Staff Measure Summary; Related Statutes -- Pat Zwick, Committee
Administrator -- 2 pages
P - Testimony on HB 2306 -- Martha Pagel, Water Resources Department -- 1
page
Q - Testimony on HB 2306 & HB 2939 -- Jim Myron, Oregon Trout -- 1 page
R - Testimony on HB 2939 -- Pete Test, Oregon Farm Bureau -- 1 page
S - Testimony on HB 2939 -- Martha Pagel, Water Resources Department -- 1
page
T - HB 2939, Staff Measure Summary -- Pat Zwick, Committee Administrator --
1 page.