

HOUSE COMMITTEE ON
WATER POLICY

Hearing Room
Tapes - 47

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:

HB 2747 A - Work Session
SB 55 A - Work Session
HB 3092 - Work Session
HB 2376 - Work Session
HB 2753 - 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

006 CHAIR NORRIS: Calls the meeting to order at 2:05 PM.
Distributes Exhibit A, regarding watersheds. General discussion follows.

061 Opens the Work Session On HB 2747 A

062 STAFF: Reviews the history of HB 2747 A, including information regarding
amendments.

MOTION: REP. JOSI: Moves that the - 2 amendments to HB 2747 A, BE
ADOPTED.

VOTE: Hearing no objections, the AMENDMENTS are ADOPTED.

MOTION: REP. JOSI: Moves that HB 2747 A, AS AMENDED, be sent to the Floor
with a DO PASS recommendation.

VOTE: In a roll call vote, all members are present and vote AYE.

CHAIR NORRIS: The motion CARRIES.

REP. NORRIS will lead the discussion on the Floor.

100 CHAIR NORRIS: Closes the Work Session on HB 2747 A.
Opens the Work Session on SB 55 A.

MOTION: REP. TARNO: Moves that the -A 4 amendments to SB 55 A, BE ADOPTED.

VOTE: Hearing no objections, the amendments are ADOPTED.

MOTION: REP. TARNO: Moves that SB 55 A, AS AMENDED, (Exhibit B) be sent to
the Floor with a DO PASS recommendation.

VOTE: In a roll call vote, all members are present and vote AYE.

CHAIR NORRIS: The motion CARRIES

REP. GORDLY will lead the discussion on the Floor.

CHAIR NORRIS: Closes the Work Session on SB 55 A
Opens the Work Session on HB 3092

For the record, staff submits Exhibit H, Staff Mearsure Summary, HB 3092.

145 MOTION: REP. TARNO: Moves the -1 amendments to HB 3092, BE ADOPTED.

VOTE: Hearing no objections, the amendments are ADOPTED.

MOTION: REP. TARNO: Moves that HB 3092, AS AMENDED, be sent to the Floor
with a DO PASS recommendation.

VOTE: In a roll call vote, all members are present and vote AYE.

CHAIR NORRIS: The motion CARRIES.

REP.TARNO will lead the discussion on the Floor.

176 CHAIR NORRIS: Closes the Work Session on HB 3092.
Opens the Public Hearing on HB 2753
Witnesses: Richard Koesan, Water For Life

Mark Nelson, Water For Life
Todd Heidgerken, Water For Life
Doug Myers, WaterWatch
Pete Test, Oregon Farm Bureau
Ves Garner, Oregon Association of Natural Resource Conservation
Jim Myron, Oregon Trout
Jill Zarnowitz, Oregon Department of Fish & Wildlife
Martha Pagel, Water Resources Department
Jan Boettcher, Oregon Water Resources Congress
Jerry Schmidt, Oregon Realtors

For the record, Staff submits Exhibit G, Staff Measure Summary, HB 2753.

200 RICHARD KOSESAN, WATER FOR LIFE: Testifies in support of HB 2753.
Submits Exhibit C, an amended version of HB 2753.

221 - Priority system; existing structures.

250 - Outlines HB 2753, as amended. Existing ponds should be exempt.

285 MARK NELSON, WATER FOR LIFE: Referring to HB 2753, provides clarification.

309 KOSESAN: Subsection 3, sect. 2; administration. Impoundment can be constructed as long as it does not pose a detrimental impact to a fishery resource.

355 NELSON: The key here is "such information may include". Elaborates.

373 REP. JOSI: Questions justification for including future ponds. Prior legislation focuses on past and existing.

385 KOSESAN: Responds; ease in administration.

400 REP. JOSI: Expresses concerns about follow-up for ponds that do not meet requirements.

TAPE 46, A

020 KOSESAN: Discusses "appropriate verifiable scientific evidence".

035 - Subsection D, subsec. 4, new language attempting to clarify issue of diffuse water, spring water, seepage water.

046 Definition of diffuse water discussed.

054 Filing fees and amendments included.

057 KOSESAN: Two issues, priority date, and administration of the program. Suggests that the amended version of HB 2753 would ease the administration problems.

072 REP. JOSI: Questions the change in fees.

079 TODD HEIDGERKEN, WATER FOR LIFE: Responds and elaborates.

090 NELSON: I believe that everyone involved wants to see this bill go forward; benefits to be derived from both sides.
- "We know this (bill) would be used."

108 REP. JOSI: Biggest problem is dealing with future ponds, as he sees it.

121 DOUG MYERS, WATERWATCH: Does not support HB 2753 as amended, but agrees that ponds legislation is needed. Lists problems with bill as drafted.

161 - Where is the test for not injuring existing water rights? What about the guy downstream?

193 - Notes that WaterWatch does not oppose HB 2376 in its original form.

205 PETE TEST, OREGON FARM BUREAU FEDERATION: Submits Exhibit D, supporting HB 2753 as amended.

240 - Notes that some wording is not great, offers "significant" regarding fishery threat.

285 - Discusses problems with requiring water rights for every pond; notes that exemptions are an adequate form.

302 - Will support HB 2753, has to be simple; can live with shortcomings. Calls for prompt passage.

382 TEST: Discusses the words "significant" and "appropriate"; suggests removing them from HB 2753.

TAPE 45, B

Discussion continues regarding wording of HB 2753, as amended.

010 REP. JOSI: Expresses concern that another huge backlog (with the exempt ponds) may be created.

039 Discussion of burden on Water Resources Department.

045 REP. JOSI: I don't think this gets you where you want to go (referring to the existing ponds).

066 TEST: Generally agrees; discussion continues.

075 NELSON: Referring to Exhibit C , Sec. 3,(b), page 2, clarifies how the bill deals with exemptions and future ponds, in response to Rep. Josi's concerns.

112 TEST: Notes that even under the present system, some ponds that are considered exempt, may not be.

126 REP. JOSI: Notes that you don't reference 180 days relating to existing, that's what's gonna get you.

141 CHAIR NORRIS: I pencilled in "or existing water rights"; notes location in draft.

152 REP. JOSI: Suggests the same for section 2B.

159 REP. GORDLY: Comments, has not heard a definition of "verifiable science",or "significant detrimental impact".

170 TEST: Responds, explains one dead fish was adequate to cause a stop work on a dam project. Elaborates. Considers "significant" a very poor term.

185 - Discusses verifiable science, precision and repeatability, quantitative measurement.

213 REP. WELSH: Notes that Oregon's ESA has a definition of "verifiable science".

221 REP. TARNO: Questions why "science" is included.

257 CHAIR NORRIS: Calls a 10 minute recess.

259 RECONVENES at 3:30 PM.

265 VES GARNER, OREGON ASSOC. OF NATURAL RESOURCE CONSERVATION DISTRICTS: Discusses livestock watering and exempt ponds.

285 -Big bill, low cost, consider public interest, exemptions likely are the way we need to go.
This bill has a low cost provision.

301 - Opportunity to construct upland reservoirs, will benefit water quality and minimize erosion. Encourages passage of HB 2753 as amended.

320 JIM MYRON, OREGON TROUT: Major problems with current draft - priority date to exempt water source.
- Regarding future ponds, and possible impact on fish, pg. 2, list is too broad, would prefer ODFW do the finding of significant impact (or none).

361 JILL ZARNOWITZ, OREGON DEPARTMENT OF FISH AND WILDLIFE: Submits Exhibit E, expressing concerns with HB 2753. Has only seen the redraft of the bill, Exhibit C, during the meeting.

TAPE 46, B

005 ZARNOWITZ: Continues noting concerns with HB 2753; "sound verifiable science" is an extremely high standard.

027 - Priority date may be taken care of in amended version.

045 ZARNOWITZ:Responds, discusses the Rogue River as an example."There's a lot of things that storage can do that we need to be very cautious of".

080 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Submits Exhibit F, and discusses the work group, first from the agreement standpoint.
- Exempt ponds, notes HB 2376.

111 -Refers to Exhibit F, discusses previous and current ponds legislation.

160 - Discusses the term "hydrologic unit".

187 - Less consensus with respect to future ponds.

199 - Future on channel; most disagreement when priority date involved. Simplified water right application might be a better way.

212 - Groundwater exemptions have statutory priority date; difference between surface and groundwater specifications (exemptions); "really don't equate".

237 PAGEL: Continues, WRD has very serious problems with HB 2753 as amended. Elaborates.

261 - Fiscal impact concerns with 180 day requirement.

271 REP. JOSI: Referring to amended bill, requests clarification of priority date. Questions implication that it would regulate that pond in conjunction with other ponds.

290 PAGEL: Disagrees, elaborates and clarifies opinion.
Discussion follows regarding various points of language in the bill.

370 PAGEL : "We are comfortable with just zeroing in on the issue of injury to fishery resources and injury to other water right holders. It's the matter of how you set it up, who makes the determination, and what kind of evidence you have to have."

400 - Discusses the backlog issue as related to HB 2753.

TAPE 47,A

015 REP. TARNO: Question about HB 2153, off channel vs. on channel.

020 PAGEL: Discusses speed of processing applications, in response to an inquiry from Rep. Tarno.

042 This bill slows it way down; "This bill does absolutely nothing to address how we deal with the (HB)2153 backlog that we've already got." Makes no provision to say they shift over to these new standards; requires a case by case finding, a slower way to get the job done.

" It could be repaired if we make specific references to deal with 2153 and if we also are sure that we're not creating a situation where people who came in after today are treated better than those people who came in during the last two years."

065 PAGEL: The problem with current law, have to do a case by case investigation; wants to batch together; existing ponds different situation than future ponds, relying on assumptions.

100 REP. JOSI: Regarding a priority date for exempt use, questions if it would take precedence over water right.

105 PAGEL: As it's written here, it would.

123 REP. JOSI: Questions how many ponds are on channel; questions why two designations.

134 PAGEL: Future need to regulate, elaborates and clarifies.

170 REP. JOSI: Give me an idea of more narrowly defining "off channel pond".

177 PAGEL: Refers to HB 2376 and reads from it to respond.

194 JAN BOETTCHER, OREGON WATER RESOURCES CONGRESS: Testifies regarding language in bill, supports HB 2753, feels it allows ponds to be regulated against existing water rights. Discusses impact on reservoirs.

275 JERRY SCHMIDT, OREGON ASSOCIATION OF REALTORS: Ponds issues need to be addressed. Calls for easy affordable processes.

309 CHAIR NORRIS: Closes the Public Hearing on HB 2753. Polls the committee members to consider the validity of moving into work session.

347 REP. WELSH: Whatever we pass through here has got to work.

354 REP. TARNO: Discusses water rights applications backlogs; ponds exemptions backlogs. "An awful big load on Water Resources Department". Would like to simplify the process.

-Sees priorities as fishery issues, work load problem for Department.

390 CHAIR NORRIS: Polls the witnesses regarding ironing out problems, forming one last work group. Sets March 30th deadline for work group to report back to the committee.

For the record, Martha Pagel, Water Resources Department, submits Exhibit I, information on the Governor's Watershed Program.

ADJOURNS THE MEETING AT 4: 05 PM.

Submitted by, Reviewed by,

Gail E. Boesch Pat Zwick
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - HB 2747-A, Hand engrossed with -A2 amendments -- Staff -- 3 pages
B - SB 55-A, Hand engrossed with -A4 amendments -- Staff -- 1 pages
C - HB 2753, Hand engrossed with amendments from work group -- Richard Kosesan, Water For Life -- 2 pages
D - Testimony on HB 2753 -- Pete Test, Oregon Farm Bureau -- 1 page
E - Statement on HB 2376, HB 2422 & HB 2753 -- Jill Zarnowitz, Oregon Department of Fish & Wildlife -- 2 pages
F - Ponds Bill Concepts -- Martha Pagel, Water Resources Department -- 1 page
G - HB 2753, Staff Measure Summary -- Pat Zwick, Committee Administrator -- 1 page
H - HB 3092, Hand Engrossed with -1 amendments -- Staff -- 1 page
I - Governor's Watershed Program -- Martha Pagel, Water Resources Department -- 3 pages.