

HOUSE COMMITTEE ON
WATER POLICY

Hearing Room
Tapes - 65

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 2746 -	Public Hearing and Work Session
	HB 3183 -	Public Hearing and Work Session
	HB 2721 -	Public Hearing
	HB 3211 -	Public Hearing
	HB 2375 -	Work Session
	HB 2376 -	Work Session
	HB 2753 -	Work Session

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.

010 Opens the Public Hearing on HB 2746
Witnesses: Jan Boettcher, Oregon Water Resources Congress
Doug Parrow, Water Resources Department
Phil Ward, Department of Agriculture
Joni Low, League of Oregon Cities
Doug Myers, WaterWatch

012 STAFF: Presents overview of HB 2746. Submits -1 amendments, Exhibit A.

020 JAN BOETTCHER, OREGON WATER RESOURCES CONGRESS: Submits Exhibit B, discussing -1 amendments to HB 2746.

048 - One inadvertant error, municipality was left out, should be inserted in section 2, line 8, after "county,"

085 BOETTCHER: Continues to discuss Exhibit A & B regarding the -1 amendments to HB 2746.

112 - Discusses new applications and reservations.

132 - Section 4, regarding Water Resources Department, basinwide reservation process.

140 - Site banking proposal is explained.

150 DOUG PARROW, WATER RESOURCES DEPARTMENT: This allows us to deal with problems in a more manageable fashion

162 BOETTCHER: Clarifies that there are actually 2 amendments, the -1, and the amending language noted in Exhibit B, adding municipality, and language regarding WRD.

175 PHIL WARD, DEPARTMENT OF AGRICULTURE: Supporting of -1 amendments (Exhibit A); feels that it is inappropriate to provide a complete moratorium on new applications, elaborates. Suggests a moratorium of the processing during the next two year period.

210 JONI LOW, LEAGUE OF OREGON CITIES: Supports the -1 amendments. Submits Exhibit C and reads from it.

238 REP. TARNO: Questions whether amendments affect the League's position.

243 LOW: I was on the work group that drafted the amendments.

247 DOUG MYERS, WATERWATCH: One major point of disagreement, page 2, lines 20-24, of -1 amendments. The language is related to the Burnt River irrigation project.

271 CHAIR NORRIS: Closes the Public Hearing on HB 2746
Opens the Work Session on HB 2746

MOTION: REP. JOSI: Moves the -1 amendments to HB 2746, further conceptually amending them with the changes suggested by the ORWC testimony regarding municipality, etc., BE ADOPTED. (Exhibit B)

CHAIR NORRIS: Hearing no objections, the amendments are ADOPTED.

MOTION: REP. JOSI: Moves that HB 2746, AS CONCEPTUALLY AMENDED, be sent to the Floor with a DO PASS recommendation.

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

REP. GORDLY will lead the discussion on the Floor.

330 CHAIR NORRIS: Closes the Work Session on HB 2746
Opens the Public Hearing on HB 3183
Witnesses: Kevin Hanway, Tualatin Valley Water District
Rick Kepler, Department of Environmental Quality
Fred Lissner, Water Resources Department
Doug Myers, WaterWatch

335 STAFF: Introduces HB 3183

358 KEVIN HANWAY, TUALATIN VALLEY WATER DISTRICT: Submits and discusses Exhibit D, a draft of an amended version of HB 3183 produced by a work group.

020 HANWAY: Continues to introduce amendments to HB 3183, Exhibit D.

070 - Notes that all of section 5 would be deleted.

075 REP. TARNO: Questions sec. 4, (5), b, (b) - reads, does that mean at any time of the year? Means that can recharge up to 100% of the aquifer any time of the year.

090 HANWAY: Clarifies that language refers to source, allows for conditions to be imposed on period of recovery.

General discussion follows.

120 RICK KEPLER, DEPARTMENT OF ENVIRONMENTAL QUALITY: Submits Exhibit E, and reads from it, supporting HB 3183 as amended.

200 FRED LISSNER, WATER RESOURCES DEPARTMENT: Supports amended version of HB 3183.
- (Exhibit E) Comments about amended bill, need language added in about recovery of water lost; want to protect against the loss of naturally occurring water.

275 - Referring to Exhibit E, suggests amending language to be added".

383 DOUG MYERS, WATERWATCH: Was a part of work group, supports HB 3183 as amended.

TAPE 63, B

005 CHAIR NORRIS: Closes Public Hearing on HB 3183
Opens Work Session on HB 3183

008 CHAIR NORRIS: Suggests that amending language be submitted to LC for drafting before passage.

021 Closes the Work Session on HB 3183
Calls a 5 minute recess.

035 CHAIR NORRIS: Reconvenes the meeting at 3:10 PM.

Opens the Public Hearing on HB 2721
Witnesses: Sue Hallett, Legislative Assistant to Rep. Welsh
Stephen Kafoury, American Fisheries Society
Bob Ferguson, Oregon Independent Miners
Mel Schmidt
Jacquie Greenleaf, Oregon Parks & Recreation Department
Jim Myron, Oregon Trout

035 STAFF: Introduces HB 2721, and recaps the last hearing on this bill. Submits REP. WELSH's hand engrossed bill.

051 SUE HALLETT, LEG. ASSIST TO REP. WELSH: Submits Exhibit F, and discusses the aspects of it. Notes that attempts were made to meet all concerns.

075 - Defined panning.

090 - Noise of motors addressed, line 22, page 3, limits motor size and notes noise reduction standards.

111 - Protecting habitat.

125 Submits a 700-J permit, and discusses it.

200 REP. JOSI: Suggests a two year sunset to allow for an automatic review.

235 REP. WELSH: Apologizes for not mentioning sunset to work group.

240 HALLETT: Can call group members and ask their opinion, won't take long.

256 REP. BILL FISHER: Testifies in support of HB 2721, generally supports amendments.

328 STEPHEN KAFOURY, AMERICAN FISHERIES SOCIETY: Administrative rule making vs. statutes. Testifies regarding spawning bed threats by dredging; designate certain parts of stream off limits; designate certain streams off limits entirely; rotate the rest to allow bugs to grow for food.

373 CHAIR NORRIS: Questions REP. WELSH whether witness' concerns are covered in Exhibit G.

387 BOB FERGUSON, OREGON INDEPENDENT MINERS: Submits Exhibit H, and testifies in support of HB 2721.

TAPE 64, B

010 - Notes that most scenic waterways do not have gold in them.

030 CHAIR NORRIS: Requests clarification of "overburden".

033 FERGUSON: Pebbles, etc.

General discussion of the mining process follows. Mr. Ferguson is a professional miner from Cave Junction.

097 MEL SCHMIDT: Testifies about HB 2721, discusses mercury and lead poisoning, and removal of lead from the rivers by suction dredge.

140 - Notes that fish are attracted by suction dredges, rather than being scared or harassed.

170 SCHMIDT: Urges passage of HB 2721, would support sunset if it becomes a requirement of passage.

200 JACQUIE GREENLEAF, OREGON PARKS AND RECREATION DEPARTMENT: Amendments still do not address two major concerns.

- Task force is not an attack on recreational mining.
- Strongly support the two year sunset clause.

223 - Concerned about conflicts with other users, bill does not regulate other users, would like to have the ability to deal with that.

236 REP. JOSI: Could you come up with the language that would deal with that?

245 GREENLEAF: Yes.

250 REP. JOSI: What about task force?

255 GREENLEAF: Very much in the planning process, elaborates on possible participants.

280 CHAIR NORRIS: Directs Ms. Greenleaf to discuss concerns with REP. WELSH.

285 JIM MYRON, OREGON TROUT: Comments about effects on fish from gravel mining. Regarding the amended version of HB 2721, still objects to dredges.

316 CHAIR NORRIS: Closes the Public Hearing on HB 2721.

Opens the Public Hearing on HB 3211
Witnesses: Representative Veral Tarno
Jim Myron, Oregon Trout
Jeff Curtis, WaterWatch
Martha Pagel, Water Resources Department

337 REP. TARNO: Introduces HB 3211, (See Exhibit I).

386 - Continues explaining the purpose of HB 3211.

TAPE 65, A

010 REP. JOSI: Questions the intent of requiring a bond.

013 REP. TARNO: To make the special interest groups take another look at the reasons behind filing their protests.

025 REP. JOSI: Comments that he is confused about the mechanics of the bond, how it would work.

030 REP. TARNO: I don't know that, but needs to be pursued.

054 REP. GORDLY: Questions how you know that objections are being filed irresponsibly.

056 REP. TARNO: Comments about the filing process, and the similarity of the forms filed.

General discussion of the bonding issue follows.

085 JIM MYRON, OREGON TROUT: Testifies in opposition to HB 3211, submits Exhibit J. Believes that SB 674 is the better vehicle to deal with this issue.

113 JEFF CURTIS, WATERWATCH: Testifies in opposition to HB 3211. Discusses that water rights are issued in perpetuity, not fair that they can't be challenged .

141 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: SB 674 will provide another approach to the same bill, feels it is a better vehicle.

168 - In response to a question from REP. TARNO, discusses requests for reconsideration.

188 REP. JOSI: Sounds like SB 674 will take care of future applications, what about current ones?

190 PAGEL: Handles pending applications.

210 CHAIR NORRIS: Closes the Public Hearing on HB 3211
Opens the Work Session on HB 3211

216 Closes the Work Session on HB 3211
Opens the Work Session ON HB 2376 and HB 2753 Concurrently.

226 CHAIR NORRIS: Basically going to "gut & stuff", putting HB 2753 into HB
2376

MOTION: REP. JOSI: Moves that the -2 amendments to HB 2376, BE
ADOPTED.(Exhibit K)

CHAIR NORRIS: Hearing no objections, the amendments are ADOPTED.

MOTION: REP. JOSI: Moves that HB 2376, 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.
REP. TARNO will lead the discussion on the Floor.

CHAIR NORRIS : Closes both Work Sessions on HB 2376 and HB 2753
Reopens Work Session on HB 2753

281 VES GARNER, SOIL AND WATER CONSERVATION DISTRICTS: Submits -5 amendments
to HB 2753, Exhibit L. (See also Exhibit O).

355 CHAIR NORRIS: Provides personal comments.

395 MARTHA PAGEL,WATER RESOURCES DEPARTMENT: Supports the amendments, and HB
2753.

406 MOTION: REP.JOSI: Moves the -5 amendments BE ADOPTED.

MOTION: REP. JOSI: Moves that HB 2753, 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.

REP. NORRIS will lead the discussion on the Floor.

TAPE 66, A

025 CHAIR NORRIS: Closes the Work Session on HB 2753
Opens the Work Session on HB 2375

031 JAN BOETTCHER, OREGON WATER RESOURCES CONGRESS: Submits engrossed
version of HB 2375, Exhibit M, and explains the reasoning behind it. The
narrowest definition that includes the fewest people.

070 REP. JOSI: Clarifies, what you're talking about is ranchers irrigating
with reclaimed water, not realizing they needed a water right permit.

087 BOETTCHER: The Department feels that you need a water right for
reclaimed water.

106 - Suggests a minor adjustment, proposed by the Department. Has no
effect on future users, only affects current ones.

General discussion follows, determining the placement of amending language.

158 REP. TARNO: Questions if people using this water now are in jeopardy.

165 BOETTCHER:Yes, elaborates.

200 REP. JOSI: Questions if it would only apply to existing practices.

213 BOETTCHER: Yes.

220 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Agrees this bill is difficult to process; states WRD position, discusses requirement of water right for reuse of water.

245 REP. JOSI; Line 24, 25, people intending to use reused water shall file a claim. Asks if that was a part of the original bill.

278 - Asks another question regarding provisions for damage for downstream water rights holders.

286 PAGEL: Under the current law, line 18, page 2 of bill, responds.

320 - Discusses proposed changes, narrowing of definition, narrows the scope of effect.

332 REP. JOSI: Expresses concerns about time frames.

360 CHAIR NORRIS: Question about municipal water being used on a golf course.

367 PAGEL: Does not change the ways municipal water is used.

377 RICHARD KOSESAN, WATER FOR LIFE: Expresses concerns about HB 2375. Discusses existing law. Refers back to HB 2184 as a better solution.

TAPE 65, B

006 CHAIR NORRIS: Urges support of this issue, in light of committee's past record of flexibility on other issues.

015 MARK NELSON, WATER FOR LIFE: Discusses the difficulty of this issue. Calls for strengthening of injury test; limit bill to ground water only.

- Concerned about replacement of existing water right with reclaimed water, so existing right can be moved to another parcel of land. Claims that this is a potential injury issue; that this is an irrigator issue, not a food processor issue.

058 REP. JOSI: Discusses injury clause.

078 PAGEL : Clarifies no injury, as a part of the definition of user of reclaimed water.

100 REP. JOSI: Discusses and requests clarification of grandfathering and no injury.

- Questions the number of cases that this applies to.

127 PAGEL: I have no idea.

138 REP. GORDLY: Expresses discomfort with issue, calls for clarity for what's at stake.

150 REP. JOSI: Agrees with her, we don't know if there is a problem.

157 PETE TEST, OREGON FARM BUREAU FEDERATION: Is not comfortable with HB 2375. Willing to agree with grandfathering food processing only. Submits

Exhibit P.

195 ELIZABETH FLORIO, OREGON WATER COALITION: Agrees with OFBF, but supports grandfathering in people currently using reclaimed water. Supports amendments.

214 CLINTON REEDER, OREGON WHEAT GROWERS LEAGUE: Cost effective to grandfather in. Deal with new situations with new rules.

248 REP. TARNO: Questions who benefits from grandfathering.

254 REEDER: Food processor; reuser.

270 FLORIO: Madisons have the water right, food processor uses his water, and then Madison reuses.

298 REEDER: Unless you can prove injury, it makes more sense to grandfather in.

306 JIM MYRON, OREGON TROUT: Concern about potential for injury; questions process of injury - won't you need to know who users are, to grandfather them in.

339 CHAIR NORRIS: I think we can conclude there is no injury, since there hasn't been any reported yet.

For the record, Staff submits a fax from the Oregon Food Processor's Council, Exhibit Q.

358 Closes the Work Session on HB 2375

ADJOURNS the meeting at 5: 30 pm.

Submitted by, Reviewed by,

Gail E. Boesch Pat Zwick
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

- A - HB 2746, Proposed Amendments -- Staff -- 2 pages
- B - Testimony on HB 2746 -1 Amendments -- Jan Boettcher, Oregon Water Resources Congress -- 3 pages.
- C - Testimony on HB 2746 -- Joni Low, League of Oregon Cities -- 1 page
- D - HB 3183, Draft Three-- Kevin Hanway, Tualatin Valley Water District -- 3 pages.
- E - Testimony on HB 3183 -- Rick Kepler, Department of Environmental Quality -- 1 page
- F - HB 2721, Proposed Amendments and Concerns Addressed --Staff for REP. WELSH -- 5 pages
- H - Testimony on HB 2721 -- Bob Ferguson, Oregon Independent Miners -- 1 page
- I - HB 3211, Staff Measure Summary -- Pat Zwick, Committee Administrator -- 1 page
- J - Testimony on HB 3211 -- Jim Myron, Oregon Trout -- 1 page
- K - HB 2376, Proposed Amendments -- Staff -- 9 pages

L - HB 2753, Proposed Amendments -- Ves Garner, Soil and Water Conservation Districts -- 1 page
M - HB 2375, Hand Engrossed -- Jan Boettcher, Oregon Water Resources Congress -- 2 pages
O - HB 2753, Hand engrossed by Staff -- Staff -- 5 pages
P - Testimony on HB 2375 -- Pete Test, Oregon Farm Bureau Federation -- 1 page
Q - Faxed Testimony on HB 2375 -- Ken Yates, Oregon Food Processors Council -- 1 page