

SENATE COMMITTEE ON
WATER & LAND USE

Hearing Room
Tapes - 143

MEMBERS PRESENT:

Sen. Rod Johnson, Chair
Sen. Bob Kintigh, Vice-Chair
Sen. Neil Bryant
Sen. Ron Cease
Sen. Bill Dwyer

STAFF PRESENT:

Karen Quigley, Committee Counsel
Sarah A. Myers, Committee Assistant

MEASURES HEARD:

HB 2721 -- Public Hearing and Work Session
HB 3441 -- Public Hearing and Work Session
HB 3091 -- Public Hearing and Work Session
HB 2746 -- Public Hearing and 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 , SIDE A

004 CHAIR JOHNSON: Convenes the meeting at 1:05 PM.

Opens the Public Hearing on HB 2721

Witnesses:

JENNIFER ROBISON, Division of State Lands
LOUISE BILHEIMER, Pacific Rivers Council
MEL SCHMIDT, Oregon Independent Miners Association
LIZ FRENKEL, Oregon Chapter, Sierra Club

020 JENNIFER ROBISON, DIVISION OF STATE LANDS, (DSL): Testifies in support of HB 2721 [EXHIBITS A & B].

(Discusses briefly the position of the DSL regarding "placer mining" and gold panning.

(Page three line twenty seven and twenty nine; DSL is concerned with these provisions.

(Impede voting and operate 500 feet from a designated campground or dwelling.

(Responds to Chair Johnson's question regarding her rule making authority,

and that she knows what the House legislative intent was and that they are comfortable in exercising the rule making on their behalf.

054 LOUISE BILHEIMER, PACIFIC RIVERS COUNCIL: Testifies in opposition to HB 2721.

(Voices various concerns to the impact on scenic water ways.

SEN. DWYER: I don't think that your fears are founded; nothing which we are doing here is permanent anyway. There is room for all people on Oregon's scenic waterways.

BILHEIMER: I don't have any objection to the gold panning issue, for it is very consistent with the intent of the scenic water ways statute. I have

concern with motorized suction dredging.

090 MEL SCHMIDT, OREGON INDEPENDENT MINERS: Testifies in support of HB
2721.

(Reads from his written testimony [EXHIBIT C].
(Discusses the concept of "placer mining".
(Reports that HB 2721 will help the Scenic Waterway Act

175 LIZ FRENKEL, SIERRA CLUB, OREGON CHAPTER: Testifies in opposition to HB
2721.

(We have a large problem with motorized suction dredging.
(The Sierra Club has no objection to gold panning.

Opens the Public Hearing on HB 3441

Witnesses:

REPRESENTATIVE NORRIS, House District 57
JEFF KRUSE, President, Oregon Assoc. of Conservation Districts
PETE TEST, Director of Governmental Affairs, Oregon Farm Bureau
LOUISE BILHEIMER, Pacific Rivers Council
JONI T. LOW, League of Oregon Cities
MARTHA PAGEL, Director, Oregon Water Resources Department

233 REPRESENTATIVE NORRIS, HOUSE DISTRICT 57: Testifies in support of HB
3441.

(Provides the committee with an overview of the background of the bill.
(The bill before you today has modified monitoring programs with language
acceptable to all parties who contributed to this bill.
(Rep. Norris responds to Sen. Cease in regard to the Governor's budget and

how the bill would relate to the role of soil and conservation districts.

328 REP. NORRIS: The local government would be responsible for the
appointment for the water shed in question. Uses the example of the John
Day water shed in regard to the flexibility of the local councils
responsible for the water sheds.

CHAIR JOHNSON Refers to section nine of the bill; it appears to be a
grandfather clause.

(What happens under section nine if a water shed council that is already
in existence is grandfathered and then doesn't fit the criteria that is set

out for new councils in this bill?

REP. NORRIS: The purpose of this was to allow those councils already
formed to continue to be responsible for the water shed.

402 JEFF KRUSE, PRESIDENT OF THE OREGON ASSOCIATION OF CONSERVATION
DISTRICTS: Testifies in support of HB 3441.

(This is a bottoms up approach; a great local approach; the funding is
there.

(Action on existing water sheds will be appropriately overseen by a
representative group in the creation of the water shed councils.

(This bill is going to give us better access to water shed funding.

TAPE 143, SIDE A

033 PETE TEST, ASST. DIRECTOR of GOVERNMENTAL AFFAIRS, OREGON FARM BUREAU:
Testifies in support of HB 3441 [EXHIBIT D].

065 LOUISE BILHEIMER, PACIFIC RIVERS COUNCIL: Testifies in support of HB
3441.

(Briefly states the council's support.

075 JONI T. LOW, LEAGUE OF OREGON CITIES: Testifies in support of HB 3441
[EXHIBIT E].

(LOC truly approves of this grass roots movement and allowing local
governments to act in this manner regarding the water sheds.

098 MARTHA PAGEL, DIRECTOR, WATER RESOURCES DEPARTMENT: Testifies in
support of HB 3441 [EXHIBIT F].

(We urge passage of this bill.

Opens the Work Session on HB 3441

110 MOTION: SEN. DWYER moves HB 3441 to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote the motion CARRIES. All present and vote Aye.
CARRIER: Cease

Opens Work Session on HB 2721

Witness:

REPRESENTATIVE JIM WELSH, House District 43

125 REPRESENTATIVE JIM WELSH, HOUSE DISTRICT 43: Testifies in support of HB 2721.

147 MOTION: SEN. DWYER moves HB 2721 to the Floor with DO PASS recommendation.

VOTE: In a roll call vote the motion CARRIES. Member excused: Cease.
CARRIER: Dwyer

Opens the Public Hearing on HB 3091

Witnesses:

MARTHA PAGEL, Director, Water Resources Department

FRED LISSNER, Water Resources Department

BOB HOEFFEL, Oregon Water Coalition

JIM MYRON, Oregon Trout

REED BENSON, Water Watch

170 MARTHA PAGEL, DIRECTOR, WATER RESOURCES DEPARTMENT: Testifies in opposition to HB 3091 even though they had previously been placed on record

in support of this bill.

(This bill would require that we turn our back on the idea that ground water and surface water are connected in certain cases.

(Lists other concerns for existing water right holders throughout the state.

200 FRED LISSNER, WATER RESOURCES DEPARTMENT: Testifies in opposition to HB 3091[EXHIBIT G].

(Provides an overview of the issue and how HB 3091 passage would leave the state with a large amount of inconsistencies.

(Section two is at odds with a number of other statutes that are already in existence in the Ground Water Act.

(Senior surface water rights vs. junior water rights.

(The definition is flawed; we have a definition adopted in our Division 8 rules for "substantial interference" [EXHIBIT H].

(We would feel better if "substantial interference" were defined.

SEN. BRYANT: It would be helpful for us if we had copies of the report.

PAGEL: Our first problem with the bill is the first provision; and there are problems with other internal conflicts in the bill which were not remedied in the House.

345 BOB HOEFFEL, OREGON WATER COALITION: Testifies in support of HB 3091.

(Responds to Sen. Dwyer regarding the average acreage of a farm in proximity to the Umatilla river.

(Discusses the assumption that these wells next to Umatilla are substantially interfering with a scenic water way.

(Of these twenty wells we have found three that have proven not to be hydraulically connected.

(Continues to testify regarding wells which are hydraulically connected.

TAPE 142, SIDE B

033 SEN. DWYER: I have been to Umatilla and there are a lot of aquifers connected to the river and there is no doubt in my mind because they actually irrigate at a certain time and use the water from the irrigation to increase the flow of the river. So there is a connection regarding substantial interference.

HOEFFEL: We feel that the regulation is unjust. The state needs to prove "substantial interference" before they can take away water rights to the

land of a small farmer.

(I am willing to work with the Oregon Water Resources Department.

081 JIM MYRON, OREGON TROUT: Testifies in opposition to HB 3091.

(How can you determine that the sources are not connected when you see a river flowing out of the base of a mountain like Black Butte.

(This is like the legislature trying to legislate away gravity, it just doesn't make any sense.

100 REED BENSON, WATER WATCH: Testifies in opposition to HB 3091 [EXHIBIT I].

(This bill is not good science; we believe that this bill is bad public policy and we urge you to oppose it.

Opens the Public Hearing on HB 2746

Witnesses:

JAN BOETTCHER, Oregon Water Resources Congress

DOUG PARROW, Water Resources Department

JONI T. LOW, League of Oregon Cities

REED BENSON, Water Watch

JIM MYRON, Oregon Trout

139 JAN BOETTCHER, OREGON WATER RESOURCES CONGRESS: Defers her testimony in support, to Doug Parrow. [EXHIBIT J].

152 DOUG PARROW, WATER RESOURCES DEPARTMENT: Testifies in support of HB 2746 [EXHIBIT K].

(Summarizes the Water Resources Departments position on the bill..

(Discusses the results from the work group on the House side.

213 JONI T. LOW, LEAGUE OF OREGON CITIES: Testifies in support of HB 2746 [EXHIBIT M].

230 REED BENSON, WATER WATCH: Testifies in opposition of HB 2746 [EXHIBIT L].

(Discusses specific sections of the bill and objection to the broad ideas.

(Discusses the problems in section two through section four of HB 2746.

(With the proposed (-3) amendments we would be able to support the bill.

313 JIM MYRON, OREGON TROUT: Testifies in opposition to HB 2746.

(Supports the bill with the (-3) amendments proposed by Water Watch.

Opens the Work Session on HB 2746

Witnesses:

JAN BOETTCHER, Oregon Water Resources Congress

DOUG PARROW, Water Resources Department

337 CHAIR JOHNSON: Opens the discussion of amendments to the committee.

SEN. DWYER: I think that it is poor public policy with which the way it is put together.

348 JAN BOETTCHER, OREGON WATER RESOURCES CONGRESS, (OWRC): Responds to comments made by Water Watch.

376 DOUG PARROW, WATER RESOURCES DEPARTMENT: This allows for a ten year permit with extensions. The extensions would be granted if the applicant showed reasonable diligence and good cause.

(As to who is eligible for a preference of use under ORS 537.352, if the commission concludes that it is in the public interest, they can grant an exemption from regulation for an in-stream water right for a project for multi-purpose storage, municipal uses or by municipal application as defined in ORS 537.282 for a hydroelectric project.

SEN. DWYER: Why are we doing away with the public interest review?

430 PARROW: This bill puts the reservations process into a rule making arena. In that rule making, the commission would be charged with the same kinds of public interest issues. The general statutory policy language is in the earlier statutes in water law, describing the kinds of standards looked at while rule making.

TAPE 143, SIDE B

028 CHAIR JOHNSON: Comments on Water Watch proposed amendments; the amendments would delete all of the provisions of the bill except for those in section four, relating to the review of the program and report to legislature.

(In essence the amendments would turn this bill into a study for the next legislature.

(There is support on the part of the Water Resources Department and of the Congress for the bill and I assume the cities and counties are supportive.

039 MOTION: CHAIR JOHNSON moves HB 2746 to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote the motion CARRIES. Kintigh, Bryant, and Johnson vote AYE. Dwyer votes NO. Member excused: Cease. CARRIER: Johnson

047 CHAIR JOHNSON: Adjourns the meeting at 2:31.

Submitted by,

Reviewed by,

Sarah A. Myers,
Committee Assistant

Karen Quigley
Committee Counsel

EXHIBIT SUMMARY:

A -- Testimony on HB 2721-A -- J. Robison, DSL -- 1 page.
B -- Testimony on HB 2721-A -- E. OR. Mining Assoc. -- 1 page.
C -- Testimony on HB 2721-A -- OR. Independent Miners -- 3 pages.
D -- Testimony on HB 3441 -- Pete Test -- 1 page.
E -- Testimony on HB 3441 -- Joni T. Low -- 1 page.
F -- Testimony on HB 3441 -- Martha Pagel -- 2 pages.
G -- Testimony on HB 3091 -- Fred Lissner -- 5 pages.
H -- Testimony on HB 3091 -- Fred Lissner -- 1 page.
I -- Testimony on HB 3091 -- Reed Benson -- 3 pages.
J -- Testimony on HB 2746 -- Jan Boettcher -- 3 pages.
K -- Testimony on HB 2746 -- D. Parrow -- 3 pages.
L -- Testimony on HB 2746 -- Reed Benson -- 4 pages.
M -- Testimony on HB 2746 -- Joni Low -- 1 page.