

HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON WATER

January 28, 1993 Hearing Room D 1:00 p.m. Tapes 8 -11
MEMBERS PRESENT: Rep. Chuck Norris, Chair Rep. Ray Baum Rep. Carl
Hosticka Rep. Tim Josi Rep. Bill Markham Rep. Nancy Peterson Rep. Bob
Repine Rep. Liz VanLeeuwen STAFF PRESENT: Catherine Fitch, Committee
Administrator Sue Nichol, Committee Clerk MEASURES CONSIDERED: HB
2149 - Public Hearing WITNESSES: Gene Allen, City of Boardman Barry
Beyeler, City of Boardman Clinton B. Reeder, Representing multiple
interests Joyce A. Hart, Oregon Wheat Growers Joni Low, League of Oregon
Cities Mike Downs, Water Quality Division, DEQ Mike Huston, Attorney
General's Office Roy Burns, Wellhead Advisory Committee/County Planning
Directors Russ Nebon, Chief Planner, Marion County Donna Proctor, Mayor,
City of Newberg Scott Reinhardt, Council Member, City of Newberg Duane
Cole, City Manager, City of Newberg Kappy Eaton, League of Women Voters
of Oregon Dan Dority III Dan Dority Jr. Louise Clements John Clements
Kevin Christensen Dick Bryant Ves Garner, Luckiamute Domestic Water Brad
Hazenberg, Hazenberg Dairy Rick Kepler, DEQ, Groundwater Section Jim
Whitty, Associated Oregon Industries Terry Witt, Oregonians for Food and
Shelter Richard Koesan, Water for Life Kevin Hanway, Oregon Association
of Water Utilities Jean Cameron, Oregon Environmental Council 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 Natural Resources Subcommittee on
Water January 28, 1993 - Page 2

TAPE 8, SIDE A

005 CHAIR NORRIS: Calls the meeting to order at 1:02 p.m.

We will not retry the theoretical case of Dority vs Newberg.

States his intentions for the hearing.

Reviews issue of eminent domain.

No work session will be held today.

Opens public hearing on HB 2149.

PUBLIC HEARING HB 2149

070 GENE ALLEN, City Manager, City of Boardman: Summarizes written
testimony describing Boardman experience supporting concept of HB 2149
and reviewing concerns with the measure (EXHIBIT A). 184BARRY
BEYELER, Public Works Director, City of Boardman: Uses charts to
describe City of Boardman wellhead delineation contained in (EXHIBIT A).

300 REP. HOSTICKA: Was Boardman doing this because it was suspected
to be an especially difficult site or is this a typical situation?

307 ALLEN: Explains special circumstances.

330 REP. HOSTICKA: How much would it cost to relocate your wells?

335 ALLEN: \$.75 million for the existing site.

Some EFU zones are included, but not intensive farm areas.

Describes Ranney collector system.

390 CHAIR NORRIS: How difficult was it to deal with upgradient analysis issue?

395 BEYELER: Without the upgradient analysis the wellhead protection area would have been much larger.

TAPE 9, SIDE A

BEYELER: Continues his description.

013 CHAIR NORRIS: Were you looking at a narrow or broad field?

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015 ALLEN: We were using an EPA grant to test delineation software and accepted the results of the scientific tests. The limits of the natural barrier were not known before and the threat to other landusers beyond the natural barrier was non-existent. 045CLINTON REEDER, Representing multiple interests: Testifies in support of HB 2149 in a modified form. 152 REEDER: Lists suggestions for possible modifications. 212 REP. VanLEEuwEN: Asks if he has something written down.

REEDER: He will give list of suggestions to be typed and distributed to subcommittee. (Exhibit B)

229 JOYCE A. HART, Oregon Wheat Growers: Reads testimony in support of HB 214 9 (Exhibit C).

TAPE 8 SIDE B

005 HART: Continues testimony.

120 CHAIR NORRIS: Question about durability of Conservation Reserve Program (CRP) that might be an ally in this situation. 127 HART: Environmental concerns will continue to be funded, since environmental community will be ally. 139 REEDER: CRP will not be kept in its present form, but funds will be rechanneled into water conservation. 152 CHAIR NORRIS: Any idea about how new administration feels?

HART: Will find out next month.

162 JONI LOW, League of Oregon Cities: Expresses concerns she has about HB 214 9. Gives suggestions. (Exhibit D)

272 MIKE DOWNS, DEQ, Water Quality Division: Introduces Michael Huston, Assistant Attorney General. 307 MIKE HUSTON, Attorney General's Office: Responds to previously asked question "Does HB 2149 expand local jurisdiction's power for condemnation". No. (Exhibit E). 322 REP. VanLEEuwEN: Asks what condemnation powers were available, instead of what expanded powers would be given. 334 HUSTON: Current condemnation powers are consistent with HB 2149's powers. House Committee on Natural Resources Subcommittee on Water January 28, 1993 - Page 4

CHAIR NORRIS: Question of eminent domain answered.

345 HUSTON: Land users still should have some safeguards.

TAPE 9, SIDE B

014 REP. VanLEEuwEN: Expresses concern that organizations can restrict land use to prohibit effective farming.

024 HUSTON: Doesn't believe farming would be necessarily inhibited.

REP. VanLEEuwEN: So far no safeguards for farmers.

036 HUSTON: Provisions for limiting regulation of farming practices discussed.

056 CHAIR NORRIS: Entity who makes the delineation would make land use decisions.

HUSTON: This delineation would be a shared responsibility between public water supplier and Water Resources Department.

071 REP. JOSI: Question regarding takings. 077 HUSTON: Describes Supreme Court test of taking (Lucas vs. South Carolina). \ .

089 CHAIR NORRIS: None of this precludes "good faith" solutions where a municipality could offer more than determined fair market value. REP. VanLEEuwEN: Municipality could take away all beneficial use?

105 HUSTON: Possible with ~is legislation that municipality could be heavy handed. 120 CHAIR NORRIS: Maybe it would, maybe it wouldn't.

124 HUSTON: Other agencies should discuss types of regulations they would envision. 131 MIKE DOWNS: Describes DEQ's responsibility concerning this measure. (Exhibit E)

286 ROY BURNS, Wellhead Advisory Committee/County Planning Director: Supports concept of wellhead protection. Wants clarity on prohibitions on land use. Feels it is appropriate to direct uses that will contaminate well away from protection areas.

339 REP. VanLEEuwEN: Wants clarification - how will this affect farmers. 373 REP. JOSI: Clarifies that Mr. Burns would work to iron out practical problems relating to agricultural production. Also emphasizes that Mr. Burns was advocating prevention. 402RUSS NEBON, Chief Planner, Marion County: Discusses municipal wells in Marion County

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relating public use versus agricultural use.

TAPE 10, SIDE A

015 NEBON: Discusses issues that will need to be worked out i.e., agricultural uses. 040 BURNS: Discusses importance of defining area of land that will be affected.

056 REP. JOSI: Expresses fear that municipalities will go into agricultural areas to obtain drinking water.

094 DONNA PROCTOR, Mayor, City of Newberg: Reads testimony concerning
HB 214 9 (Exhibit F). 135 SCOTT REINHARDT, Council Member, City of
Newberg: Explains Newberg's well policies. City leases out land to
farmers who will farm using "best management practices". Land would stay
in agricultural uses. Land purchased through negotiation or
condemnation. 180 DUANE COLE, City Manager, City of Newberg: Further
explained City policy. "Best management practices" would preclude
storage of chemicals, loading and unloading of chemicals and things that
have not been identified by the regulations that may pose a hazard to
the well field. RECESS AT 3:03 198 Return from Recess 3:21 p.m.

229 KAPPY EATON, League of Women Voters of Oregon: Speaks in favor
of HB 2149

(Exhibit G). 341 REP. VanLEEUEWEN: Are there school water supplies that
have been contaminated?

348 EATON: It is documented in DEQ information.

CHAIR NORRIS: Figures are 20% of schools have contaminated water.

358 DAN DORITY III, Representing himself: Spoke against HB 214 9.

TAPE 11, SIDE A

028 REP. JOSI: City already has rights of condemnation.

030 DORITY III: Explained limitations on condemnations. Expressed
concerns that anyone can control well protection areas.

124 DAN DORITY JR., Representing himself: Spoke against HB 2149.

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145 CHAIR NORRIS: Clarifies intent and focus of HB 2149.

160 DORITY JR.: Wants equitable protection.

176 REP. MARKHAM: Wants to know what EPA will give DEQ for instating
wellhead protection act.

180 DORITY JR.: Says DEQ will take at least two years to make up rules.

197 REP. VanLEEUEWEN: States the importance of the Dority's testimony.

223 LOUISE CLEMENTS, Representing herself: Spoke against HB 2149.

285 CHAIR NORRIS: Reiterates his intention of forming working group
to work on this bill. 295 JOHN CLEMENTS, Representing himself: Spoke
against HB 2149. Wants other options considered. Gave suggestions.

335 REP. JOSI: Asked for clarification of the effects of this bill to
Newberg problem. 345 REP. MARKHAM: Wants to insure public is heard
and considered concerning this bill. 392 KEVIN CHRISTENSEN,
Representing himself: Spoke against HB 2149. Has concerns regarding the
rules.

TAPE 10, SIDE B

016 DICK BRYANT, Representing himself: Spoke against HB 2149. Woodburn aquifer only recharged on Marion side of Willamette River.
090 VES GARNER, Luckiamute Domestic Water: Likes the idea of the bill, that it will protect water supply but wants problems worked out. (Exhibit H) 146 BRAD HAZENBERG, Hazenberg Dairy: Speaks against HB 2149. 189 REP. VanLEEUEWEN: Mentions tight controls DEQ has on waste management on farms.

192 HAZENBERG: Describes monitoring requirements DEQ has on his well, etc.

196 REP. PETERSON: Asks for clarification on water standards on farms versus non-t:arm requirements. 214 RICK KEPLER, DEQ, Groundwater Section: They have no standards for private wells. There are standards for public wells. 230 CLEMENTS: OSHA has standards for wells that employees drink out of.

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255 JIM WHTTY, Associated Oregon Industries: Agrees with overview, effect on landusers should be minimized. Terms should be defined in the law, i.e., "best management practices".

287 RICHARD KOESAN, Water For Life: Opposes HB 2149 as it is now written. (Submits Exhibit I, the more specific requirements of Federal Act. These are the 86 amendments to the Safe Drinking Act). 360 TERRY WITT, Oregonians For Food and Shelter: Speaks against HB 2149 as EPA list of Common Sources of Ground-water Contamination (Exhibit J) lists agricultural uses as high risks to water supplies.

TAPE 11, SIDE B

042 REP. HOSTICKA: DEQ did communicate every one of the operative criteria and substantive issues raised by the Federal language.

050 KEVIN HANVVAY, Oregon Association of Water Utilities: States concerns for cost to small water districts. 070 CHAIR NORRIS: Would raising rates be enough funding? 075 HANWAY: No.

CHAIR NORRIS: Asks if different districts would be affected differently by the bill depending on what sources of pollution would be involved.

080 HANVVAY: Affected by potential sources of pollution, number of wells, number of customers. 080 JEAN CAMERON, Oregon Environmental Council: Speaks in favor of HB 2149 (Exhibit K). 164 CHAIR NORRIS: Work group will be formed to work out areas of agreement. Co-chairs will be Jean Cameron and Paulette Pile. They will bring list of others who will participate on group. Will be at least three weeks before the subcommittee will reconvene on this issue. Fiscal Analysis of HB 2149 is submitted for the record. (Exhibit L)

MEETING ADJOURNED 4:21 P.M.

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Submitted by: Reviewed by: Sue Nichol Catherine Fitch
Clerk Administrator

EXHIBIT LOG:

A - HB 2149 - Testimony - Barry Beyeler and Gene Allen - 7 pages
B - HB 2149 - Suggestions - Clinton B. Reeder - 1 page
C - HB 2149 - Testimony - Joyce Hart - 6 pages D - HB 2149 -
Testimony on HB 2149 - Joni T. Low - 4 pages E - HB 2149 -
Testimony and Exhibits - Mike Downs - 23 pages F- HB 2149 -
Testimony - Donna Proctor - 3 pages G - HB 2149 - Testimony -
Kappy Eaton - 2 pages H - HB 2149 - Testimony - Ves Garner - 1
page I - HB 2149 - Amendments to the Safe Drinking Act - Richard
Kosesan - 2 pages J - HB 2149 - EPA List of PCS - Terry Witt - 1
page K - HB 2149 - Testimony - Jean Cameron - 5 pages L - HB
2149 - Fiscal Analysis - 2 pages

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