

HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON WATER

February 9, 1993 Hearing Room D 1:00 p.m. Tapes 16 - 18

MEMBERS PRESENT: Rep. Chuck Norris, Chair Rep. Ray Baum Rep. Carl Hosticka Rep. Tim Josi Rep. Nancy Peterson Rep. Bob Repine Rep. Liz VanLeeuwen

MEMBER EXCUSED: Rep. Bill Markham

STAFF PRESENT: Catherine Fitch, Committee Administrator Pat Zwick, Committee Coordinator Sue Nichol, Committee Clerk

MEASURES CONSIDERED: HB 2340 - Public Hearing HB 2342 - Public Hearing HB 2343 - Public Hearing

WITNESSES: Kip Lombard, Oregon Water Resources Congress Bill Caldwell, Oregon Water Resources Congress Jan Boettcher, Oregon Water Resources Congress Doug Heiken, Water Watch of Oregon Anne Perrault, Water Watch of Oregon Larry Trosi, Oregon Farm Bureau Tom Simmons, Water Watch of Oregon

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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. [--- Unable To Translate Graphic ---]

TAPE 16, SIDE A

007 CHAIR NORRIS: Calls the meeting to order at 1:10.

PUBLIC HEARING HB 2340

020 CATHERINE FITCH: Gives summary of HB 2340. (Exhibit A)

044 KIP LOMBARD, Oregon Water Resources Congress: Testifies in favor of HB 2340 which would amend sections of ORS 545 relating to the operation of irrigation districts and offers suggestions for amendments. (Exhibit B)

104 REP. JOSI: Originally, why was acreage increased as a requirement of voting?

109 LOMBARD: Hasn't found out why, but hypothesizes that it was to limit the right to vote to legitimate agricultural interests.

139 REP. JOSI: What was the opposition in the Senate last session?

143 LOMBARD: There were differences in the House Water Committee and the Senate Water Committee and politics just stopped House bills from being passed in the Senate.

147 Continues testimony. Explains weighted voted system recommended

in HB 2340.

181 REP. PETERSON: How many people will be brought into voting with this bill?

186 LOMBARD: Varies with each district.

190 BILL CALDWELL, Oregon Water Resource Congress, Manager, Medford Irrigation District: His district has 2500 accounts. Seventy-five

percent of the land base belongs to 25% of those accounts. It would more than double the number of people who would be able to vote in any of our elections. Supports all of their patrons being able to vote.

196 REP. REPINE: In Grants Pass would have an amazingly large increase in voter opportunities.

228 CHAIR NORRIS: We are now in a subcommittee of the subcommittee for the purpose of taking testimony. (Subcommittee quorum not present.)

230 LOMBARD: Continues testimony on Section 3, Section 6 and Sections 7 and 8.

286 REP. NORRIS: Now back to having quorum and basically have a full committee.

TAPE 17, SIDE A

010 REP. PETERSON: What will bill allow the irrigation district to do in cases of misuse of allocated water?

016 LOMBARD: Amendments remove the restriction of the four acre subdivision plot. It authorizes the district to step in and mediate disputes for

water allocation. If owners or operators fail to maintain and repair laterals, the Board of Directors have the power to repair laterals and charge repairs to operators.

045 REP. PETERSON: Are landowners asking for this government intrusion?

049 CALDWELL: Yes, there are requests to distribute the water equitably when one user misuses his allocation.

062 JAN BOETTCHER, Oregon Water Resources Congress: People from Central Oregon asked the district to take care of the problem for them.

068 LOMBARD: It is a balancing of rights that needs to take place. There are provisions in the water code for one owner to make repairs and

charge other water users along the lateral. This doesn't work in irrigation districts because the people call the district and ask them

to do something.

100 REP. JOSI: It causes a dilemma - people don't want the government intruding but they want their rights.

108 LOMBARD: Continues explanation of the HB 2340. Explains Section 5.

114 REP. HOSTICKA: Can we peg interest rate to another rate?

121 LOMBARD: The districts would prefer to have a set rate for simplicity's sake.

Explains Section 9 of the bill which repeals ORS 545.154. ORS 545.144 authorizes districts to sell any property which is no longer needed. Can include tangible, real property or surplus water or water rights. ORS 545.154 suggests that any sale is subject to confirmation or approval by the courts.

154 REP. PETERSON: What was the concern behind requiring approval before government property is sold?

158 LOMBARD: To involve other government entities in the sale of government property so there would be more control.

225 Discusses proposed amendments (Exhibit B).

320 REP. JOSI: Asks for explanation of divisions within water district.

323 LOMBARD: When the irrigation district has five directors on the Board of Directors, the district must be subdivided into five nearly equal

divisions or precincts. Once a district has divided into these five subdivisions, voters in each subdivision can vote for their own director in stead of voting for five directors at large.

395 DOUG HEIKEN, Water Watch of Oregon: Testifies against HB 2340. Reads testimony (Exhibit C).

TAPE 16, SIDE B

048 ANNE PERRAULT, Water Watch of Oregon: Does not support HB 2340.

066 REP. PETERSON: Can irrigation districts sell water to municipalities in some districts?

077 PERRAULT: Perhaps what is happening is that districts are marketing excess water for municipal and industrial needs.

080 REP. PETERSON: Does current law on transfer say an irrigation district can transfer water above and beyond what they need, to other uses?

082 PERRAULT: Says you can change the use or place of use of the water within your water right if you go through transfer process. Any water

that is in excess of district needs does not belong to the user. It is to be reallocated.

089 REP. HOSTICKA: Seeks clarification on testimony relating to Section 9.

097 HEIKEN: It refers broadly to all property owned by the districts which includes trucks, excess storage capacity and water rights.

102 LARRY TROSI, Oregon Farm Bureau: Expresses overall support but has some concerns regarding private property owners rights.

Must hold landowner harmless for any accidents by water district on private property.

149 CHAIR NORRIS: How much time needs to be taken to notify landowners?

159 HEIKEN: When it involves a big expense, landowner should be notified and should be given the time to make those corrections.

An emergency clause can be put in when landowners can't be given prior notice.

177 REP. VanLEEUEWEN: Does ORS 545.412 cover what Larry Trosi is talking about?

192 CHAIR NORRIS: Recalls Kip Lombard to the witness stand.

194 KIP LOMBARD, Oregon Water Resources Congress: Amendments are subject to notification provisions that are already provided for in ORS 545.412 and 414.

221 REP. VanLEEUEWEN: Sees a difference between 545.412 and .414 from what Larry Trosi suggested in his amendments.

225 CHAIR NORRIS: Can access issue be worked out between Kip Lombard and Doug Heiken?

230 LOMBARD: The real problem is people who are not home during the day, these are the people who can't be notified when emergencies occur.

261 REP. HOSTICKA: What is the overall social context are we talking about? Many changes seem to need to be made because of the type of people who

are using the water.

275 LOMBARD: In certain areas, the west slope and central Oregon, the character of the districts are changing because of urban encroachment.

Small acreages are more common and present the greatest management

problems in the use and distribution of water.

304 REP. PETERSON: Requests clarification of municipalities and industrial uses of this water.

313 TOM SIMMONS, Water Watch of Oregon: Testifies against HB 2340. Stresses importance of putting irrigation district's role and state's

water resources in perspective. Irrigation districts were formed to green up the west. Agriculture is now shrinking in the west. Some irrigation districts are almost totally urbanized. Irrigation districts are not now accountable to anyone. Water uses should benefit the entire public interest.

TAPE 17, SIDE B

024 PUBLIC HEARING ON 2340 CLOSED.

PUBLIC HEARING ON 2342 OPEN

032 KIP LOMBARD, Oregon Water Resources Congress: Summarizes written testimony in favor of HB 2342 which gives irrigation districts authority to enter a water user's land in order to ensure proper maintenance and

distribution and would give districts authority to require installation of water control and water measuring devices. He also suggests an amendment that would delete "audit officer" on line 6 and insert "and its officers".(Exhibit D).

125 REP. JOSI: Is this to make money by disposing of excess water to other users?

135 LOMBARD: This is to counteract the current situation where districts have less and less water to allocate to the same amount of people.

173 CHAIR NORRIS: Should HB 2342 be an amendment to HB 2340?

178 LOMBARD: It could be.

184 DOUG HEIKEN, Water Watch: Expresses concerns about HB 2342 (Exhibit E).

210 REP. JOSI: Asks what suggestions Mr. Heiken has to circumvent the necessity of the bill.

214 HEIKEN: Wants the State to have this authority instead of the irrigation district.

215 REP. JOSI: What would this accomplish?

217 HEIKEN: It would place the authority in the proper place.

220 REP. JOSI: Does the State have the resources to do this?

225 HEIKEN: It has the authorization to do this, they are just not exercising their authority.

229 LARRY TROSI, Oregon Farm Bureau: States his concerns with HB 234 2. Suggests that irrigation districts should assume liability for their

employees travelling on private property. Suggests districts purchase right-of-way or easements to gain access to laterals. Recommends that districts should install and maintain measuring devices.

260 REP. JOSI: Should the State Water Resources Department put in these devices? 267 TROSI: Believes that the district must report to the State Water Resources Department. The cost of the devices would be better spread

among the water users in the district.

279 REP. REPINE: How can water use be measured considering different methods of water withdrawal?

295 TROSI: It would be possible.

300 REP. REPINE: Assumption is that these pipes are part of main irrigation system.

315 TROSI: Measurement can be taken from the more major diversion point.

325 REP. REPINE: What about small municipal users?

336 TROSI: Devices that are used for diversion have been improved and costs could be spread out among all the users of the line.

359 CHAIR NORRIS: The irrigation district should bear the costs of the devices versus the users?

365 TROSI: Cost would ultimately go to the user but it would originally go into the assessment district.

PUBLIC HEARING ON 2342 CLOSED

PUBLIC HEARING ON 2343 OPEN

378 KIP LOMBARD, Oregon Water Resources Congress: Explains HB 2343 which allows for recovery of lien filing and satisfaction costs from the water user and increases the amount of interest a district may charge for

delinquent accounts. (Exhibit F)

TAPE 18, SIDE A

010 REP. REPINE: How should costs be recovered for liens that have already been filed?

019 LOMBARD: The districts feel they have this authority now, this bill just clarifies that.

028 REP. REPINE: What should happen to people who made payments to districts who didn't release lien.

039 LOMBARD: Had urged district to work with individuals. District tried to make it clear that they would no longer take payments.

056 CHAIR NORRIS: Asks for clarification of lien procedure.

070 LOMBARD: Districts can file a notice of claim of lien after the first delinquency. It is up to the district's discretion to decide when to or whether to foreclose. Foreclosed person has the right to redemption. 098 REP. REPINE: Seeks clarification of billing processes.

108 LOMBARD: No provisions for billing procedures have been dictated to the districts. Certain districts bill on a fiscal year basis. Most bill on

a calendar year basis. Irrigation season is different for different districts. Some districts bill according to the irrigation season.

139 REP. REPINE: Why do we go from 1 to 1-1/2% interest?

149 LOMBARD: The current rate of 1% is not a strong incentive for ratepayers to pay on time.

150 CHAIR NORRIS: Asks Beverly Hayes to come up.

155 BEVERLY HAYES, Water Resources Department: The Water Resources Department is neutral on these measures although it does have an

interest.

185 CHAIR NORRIS: Would like to see position of the Water Resources Department.

195 REP. JOSI: Do you agree that this would erode your authority?

200 HAYES: Our authority is limited to measurement at the diversion point.

209 Meeting is adjourned at 3:15

Submitted by:

Reviewed by:

Sue Nichol  
Administrator

Catherine Fitch Clerk

EXHIBIT LOG:

A - HB 2340 Preliminary Staff Measure Summary - Catherine Fitch  
- 1 page B - HB 2340 Testimony - Kip Lombard - 6 pages C -  
HB 2340 Testimony - Doug Heiken - 3 pages D - HB 2342  
Testimony - Kip Lombard - 4 pages E - HB 2342 Testimony - Doug  
Heiken - 1 page F - HB 2343 Testimony - Kip Lombard - 1 page