

HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON WATER

February 23, 1993 Hearing Room D 1:00 p.m. Tapes 26 - 27

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

MEMBER EXCUSED: Rep. Liz VanLeeuwen

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

MEASURES CONSIDERED: HB 2155 - Work Session HB 2346 - Public Hearing HB 2344 - Public Hearing and Work Session

WITNESSES: David Moon, Water for Life Tom Simmons, Water Watch Anne Perrault, Water Watch Ron Yokum, Oregon Cranberry Farmers Alliance, Grant Count, Douglas County Michael Snyder, Oregon Landscape Contractors Martha Pagel, Department of Water Resources Becky Kreag, Department of Water Resources Jan Boettcher, Oregon Water Resources Congress Bob Cantine, Association of Oregon Counties Doug Meyers, Water Watch Tom O'Connor, Oregon Municipal Electric Utilities Steve Schneider, Oregon Groundwater Association

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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 26, SIDE A

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

OPENS WORK SESSION ON HB 2155

017 CATHERINE FITCH: Summarizes work done to date on HB 2155. Submits and explains amendments (Exhibits A, B and C).

Distributes a copy of amendment requested by the Water Resources Congress (Exhibit D).

058 DAVID MOON, Water for Life: These amendments address the problem of creating a new instream water right process, outside of the normal

procedure.

098 CHAIR NORRIS: If the flow is less than the water right that has been granted, will this apply?

105 MOON: It would replace the instream water right. Hopefully, rights are set for amounts that are available.

131 REP. HOSTICKA: Is the water right issued for the maximum amount needed to address the needs of the stream, or is it less?

140 MOON: The standard criteria is how much is necessary to support the use.

147 REP. HOSTICKA: Might they issue a right for a lesser amount because of other considerations?

155 MOON: If this took place, the agency could request an additional water right.

173 The agencies don't automatically get what they ask for.

180 CHAIR NORRIS: Are you assuming that the amount of water in an instream water right is actually available?

182 MOON: No, it is possible that the full amount of an instream water right might not be available.

207 The other amendments are essential to get rid of some vague language which would allow other projects beside conservation.

244 CHAIR NORRIS: Do you object to a real effort for conservation making more water available for instream flows?

255 MOON: No, I just object to this process where the normal process is circumvented.

270 TOM SIMMONS: Water Watch: Summarizes the history of the implementation of instream water right.

313 Minimum stream flows were set below what was needed.

323 CHAIR NORRIS: Lost Creek wouldn't be possible without storage, would it?

329 SIMMONS: Because of the great number of rights that were granted, no.

337 ANNE PERRAULT, Water Watch: I haven't had time to look over the amendments.

344 SIMMONS: We would like the opportunity to look over the amendments, before this bill is passed on. The only water available for the stream

flows is the existing water rights.

376 REP. MARKHAM: Why was conversion made from minimum flow?

383 SIMMONS: To put instream water rights in the same category and with the same restrictions as a regular water right.

TAPE 27, SIDE A

003 PERRAULT: There are times when the conversion from minimum stream flow to instream water rights are not a clear conversion, there are

exemptions that are added to the instream water right.

006 There may be an exemption for livestock, for example.

011 RON YOKUM, Oregon Cranberry Farmers Alliance, Grant County, Douglas County: Requests amendment to Section 7 be made to include reserved

water for future economic development.

028 CHAIR NORRIS: We have been in a public work session hearing on HB 215 5.

Schedules next hearing on HB 2155 for Thursday, March 4.

PUBLIC HEARING AND WORK SESSION ON HB 2155 CLOSED

PUBLIC HEARING ON HB 2346 OPEN

065 CATHERINE FITCH: Gives summary of HB 2346 which would declare it a high priority of the state to develop multipurpose water storage facilities

to assure future water resources (Exhibit E).

080 MICHAEL SNYDER, Oregon Landscape Contractors: Speaks in favor of HB 2346 in order to prevent water crisis in the future. Reads (Exhibit F).

100 MARTHA PAGEL, Department of Water Resources: Testifies in favor of HB 2346 which would encourage the development of feasible water storage

facilities. Reads testimony (Exhibit G). Also submits copy of the water storage policy adopted by the Water Resources Commission (Exhibit H).

143 REP. REPINE: If HB 2346 fails in the Senate, is the water storage policy obsolete?

145 PAGEL: No, the legislative endorsement is helpful, but if that is not given, agencies can still look at storage.

147 REP. PETERSON: Does multipurpose storage facilities preclude storage for one purpose only?

140 BECKY KREAG, Department of Water Resources: No, extra support from the state would be given to those which are multipurpose.

151 REP. HOSTICKA: Does the word "facilities" deal with non-structural alternatives?

163 PAGEL: The policy of the department would be to look at non-structural alternatives as much as possible.

193 JAN BOETTCHER, Oregon Water Resources Congress: Testifies in favor of HB 2346. Reads testimony (Exhibit I).

264 BOB CANTINE, Association of Oregon Counties: Speaks in favor of HB 2346.

350 Douglas County has a strong role in water supply for the county.

370 DOUG MEYERS, Water Watch: I do not oppose the bill, but question if there are sites available for storage and how much this would cost.

TAPE 26, SIDE B

012 TOM O'CONNOR, Oregon Municipal Electric Utilities: Would support HB 2346. Believes there is a place for storage along with conservation and demand-side programs in future municipal water supplies. There should

be a multi-faceted approach to municipal supplies.

024 STEVE SCHNEIDER, Oregon Groundwater Association: Storage can be in groundwater storage. Supports HB 2346.

PUBLIC HEARING ON HB 2346 CLOSED.

PUBLIC HEARING ON HB 2344 OPEN.

042 MARTHA PAGEL, Oregon Department of Water Resources: Summarizes amendments to HB 2344. LC draft amendments are Exhibit J.

061 Requests "domestic" on line 9, page 3 be deleted.

076 Recommends additional language be inserted in Subsection 6 to clarify that this provision would apply in addition to any water rights that

might be issued pursuant to 1, and when quantities of water are otherwise insufficient to fully maintain the free flowing character of the scenic waterway. This should be inserted on page 2, line 26.

120 REP. HOSTICKA: The existing language says "the free flowing character of the water shall be maintained...except as provided." Then you say

under 6(a) that the Water Resources Commission may not issue a water right for human consumption or livestock use unless the Commission finds the use does not significantly impair the public value of the scenic waterway. It seems that the free flowing character is still to be maintained even when de minimis rights are issued. This seems to be redundant.

135 PAGEL: That may be extraneous wording. The problem was that the language in the existing law would not allow what this bill would

do.

The concept would be that the purpose of a scenic waterway is not impaired.

157 REP. HOSTICKA: So it could be impaired, but not significantly?

158 PAGEL: Yes, some amount of impact could be allowed under these circumstances.

160 REP. HOSTICKA: Would these be allowed for structures that currently exist along the scenic waterway and not new developments?

164 PAGEL: This could allow for applications for some new development but those uses would probably be limited.

PUBLIC HEARING ON 2344 CLOSED

WORK SESSION ON 2344 OPEN

186 CHAIR NORRIS: I propose that we accept some conceptual amendments and move this up to the full committee with a do pass recommendation.

190 MOTION: REP. BAUM: Moves to ADOPT 2344-4 amendments dated 2/22/93.

192 VOTE: CHAIR NORRIS: Hearing no objection, the amendments are ADOPTED. REP. VanLEEuwEN is EXCUSED.

200 MOTION: REP. BAUM: Moves to ADOPT conceptual amendments prepared by the Water Resource Department amending Subsection 6 as stated in

Exhibit K including line 28 into HB 2344-4.

210 VOTE: CHAIR NORRIS: Hearing no objection, the amendments are ADOPTED. REP. VanLEEuwEN is EXCUSED.

MOTION: REP. BAUM: Moves to ADOPT amendment to HB 2344-4, deleting the word "domestic" on page 3, line 9.

VOTE: CHAIR NORRIS: Hearing no objection, the amendment is ADOPTED.

REP. VanLEEuwEN is EXCUSED.

235 REP. HOSTICKA: Seeks clarification from Martha Pagel regarding uses in excess of 1% per month of average monthly flows. This is not 1% of the

flow of the month in which you're allowing the use. Is that correct?

247 PAGEL: The intent was to calculate on the average flow so we wouldn't have to go back and recalculate every year.

258 REP. HOSTICKA: I believe that this would not be de minimis.

290 CHAIR NORRIS: "Would not allow use in excess of" would make this a ceiling, not necessarily what was permitted.

315 PAGEL: By using average flows, the granting of a water right can be allowed, but it can be tied to a monthly level.

338 MOTION: REP. BAUM: Moves that HB 2344, AS AMENDED, be sent to the full committee with a DO PASS recommendation.

VOTE: In a roll call vote, REPRESENTATIVES BAUM, JOSI, MARKHAM,

PETERSON, REPINE AND CHAIR NORRIS vote AYE. REP. HOSTICKA votes NAY. REP. VanLEEUEWEN is EXCUSED.

CHAIR NORRIS: The motion CARRIES.

CHAIR NORRIS will carry the bill.

Meeting adjourned at 2:33.

Submitted by:

Reviewed by:

Sue Nichol
Administrator

Catherine Fitch Clerk

EXHIBIT LOG:

A - HB 2155 - Proposed amendments - Staff - 5 pages B - HB 2155 - Hand engrossed amendments from Water Resource Dept. - Staff - 12 pages C - HB 2155 - Hand engrossed amendments from Water for Life - Staff - 7 pages D - HB 2155 - Testimony - Jan Boettcher - 1 page E - HB 2346 - Preliminary Staff Summary - Staff - 1 page F - HB 2346 - Testimony - Michael Snyder - 1 page G - HB 2346 - Testimony - Martha Pagel - 1 page H - HB 2346 - Water Storage Policy - Martha Pagel - 7 pages I - HB 2346 - Testimony and information - Jan Boettcher - 8 pages J - HB 2344 - Hand engrossed HB 2344-4 - Staff - 4 pages K - HB 2344 - Amendment - Martha Pagel - 1 page