

HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON WATER

April 27, 1993      Hearing Room D 1:00 p.m.      Tapes 81 - 84

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

MEMBER EXCUSED:                    Rep. Bob Repine Rep. Bill Markham

VISITING MEMBER:                    Sen Rod Johnson, District 23

STAFF PRESENT:                    Pat Zwick, Committee Coordinator Sue Nichol,  
Committee Clerk

MEASURES CONSIDERED:                    HB 2399 - Public Hearing HB 2970 -  
Public Hearing HB 3273 - Public Hearing HB 2153 - Public Hearing HB 2107  
- Public Hearing

WITNESSES:                    Martha Pagel, Department of Water Resources  
Tom Paul, Department of Water Resources Bob Hall, Douglas County Farm  
Bureau Web Briggs Larry Trosi, Oregon Farm Bureau Sen. Rod Johnson,  
District 23 Susan Yamanaka Ves Garner, Oregon Association of  
Conservation Districts Gerald Maxwell, Oregon Association of  
Conservation Districts Jim Myron, Oregon Trout Jan Boettcher, Oregon  
Water Resources Congress Jill Zarnowitz, Oregon Department of Fish  
and Wildlife Dave Degenhardt, Oregon Department of Forestry Louise  
Bilheimer, Pacific Rivers Council

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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 81, SIDE A 005      CHAIR NORRIS: Calls the meeting to order at  
1:15.

PUBLIC HEARING ON HB 'S 2399, 2970, 3273 AND 2153

016 PAT ZWICK, Committee Coordinator: Explains the amended HB 2153  
which proposes a procedure for legalizing existing reservoirs that do  
not

currently have a water right permit or certificate, expands limited  
license uses, and grants exemptions for some uses. Summarizes  
preliminary staff measure summary (Exhibit A). Submits proposed  
amendments HB 2153-3 (LC 951) (Exhibit B).

052 MARTHA PAGEL, Department of Water Resources: Summarizes  
amendments for HB 2153 and HB 2107. Summarizes written testimony in

(Exhibit C).

135 TOM PAUL, Department of Water Resources: Ponds that existed prior to January 1, 1993, on channel, would not be required to have a certified

water right examiner map.

150 PAGEL: HB 2153 focuses on existing ponds. New reservoirs that might be constructed would not be subject to the CWR requirement. They would

only have to file that certified map at the end of the process. The limited license category would be broadened.

172 REP. JOSI: Would pump chances be included?

174 PAUL: Most pump chances are no more than a diversion point, a hole in the stream that gives enough depth to cover the intake. Taking the

water from the site is what requires a water right.

190 REP. VanLEEUEWEN: Why don't you change 5 acre-feet on lines 9 and 15 to the 9.2 feet? Why isn't it consistent?

194 PAGEL: Line 15 deals with the limited license exemption. It's existing law.

201 REP. VanLEEUEWEN: Why don't you make the sizes of ponds consistent?

208 PAUL: An applicant can only receive a limited license for 90 days. It is unlikely that a pond would need to be built over 5 acre feet for only 90 days.

214 REP. VanLEEUEWEN: Do you have to drain it after the 90 days?

216 PAUL: Yes.

240 The limited license was intended for short term uses. If someone needs water year after year, they should get a regular water right.

250 PAGEL: Any new reservoir would have to go through the regular process.

258 CHAIR NORRIS: Describes possible uses of the limited license.

271 REP. VanLEEUEWEN: What fee are you talking about? 274 PAUL: There's a fee each time a limited license is applied for. All permits are a one-time fee.

308 SEN. JOHNSON: What are the negative effects of small stockponds?

315 PAGEL: There can be some habitat interference depending on where they're located.

346 SEN. JOHNSON: Explains a hypothetical case of a seasonal stock pond. Have the positive aspects of these ponds been considered?

380 PAGEL: They have been considered. That concept is the one we've considered as an exemption.

400 SEN. JOHNSON: Asks Ms. Pagel about the definition of seasonal water source.

TAPE 82, SIDE A

010 PAGEL: We are focusing more on off-channel sources.

036 BOB HALL, Douglas County Farm Bureau: Testifies in favor of the bills. This bill is necessary for farmers.

112 The definition of channel needs to be modified.

124 WEB BRIGGS: Most ponds would not qualify under HB 2153 because of the definition of channel. The rest of the provisions of the bill could be

lived with.

175 LARRY TROSI, Oregon Farm Bureau: Would support this process with the definition of seasonal as in HB 3273 and 2970.

216 REP. HOSTICKA: What if disputes over water use arise?

225 HALL: Most of the ponds are on the owner's property. The water we're collecting is coming off a very small area of ground.

242 REP. HOSTICKA: The concern is, what if someone downstream wants to use that water?

249 TROSI: These ponds will be subordinate to existing uses.

270 SEN. ROD JOHNSON, District 23: The positive benefits of these ponds totally outweigh the negative impacts. We should be encouraging them.

323 REP. PETERSON: How is the problem solved if farmers are competing for runoff?

345 SEN. JOHNSON: They probably will both be filled, but if that's not the case, it would be better that at least one filled.

393 REP. JOSI: It sounds like this water comes from a very small area on the person's own farm. If that's the case, there shouldn't really be a

conflict.

395 REP. PETERSON: There might be a problem if the channel runs from one farm to another.

TAPE 81, SIDE B

005 REP. HOSTICKA: Maybe we can define "water that would otherwise run into the ocean" in a legal way.

016 SEN. JOHNSON: My concept is that during the wet season, there

is so much water that it can't all be used.

020 The new version of HB 2153 is only a grandfather clause. The bill won't help many people.

022 CHAIR NORRIS: Our purpose was to legalize the many ponds that are around the state now.

030 SEN. JOHNSON: I don't think there is anything to be concerned about if they're on seasonal water sources.

047 SUSAN YAMANAKA: Explains the problem she encountered in applying for a water right for a filtration pond.

100 REP. HOSTICKA: Where did this happen?

107 YAMANAKA: Five miles from here.

116 VES GARNER, Oregon Association of Conservation Districts: Testifies in favor of the bill. Explains benefits of these ponds. Suggests all

ponds less than 1 acre foot be exempted.

206 REP. VanLEEUEWEN: What are the three positives?

209 GARNER: They help minimize soil erosion, help sustain the small streams, promote keeping livestock away from live streams.

226 GERALD MAXWELL, Oregon Association of Conservation Districts: Explains need for small reservoirs in Eastern Oregon.

276 REP. HOSTICKA: If there's a conflict, would you propose a process for resolution?

277 MAXWELL: There are ponds out there right now and we don't have people fighting over them.

289 GARNER: The smaller the size of the pond, the lower the possibility of conflict.

331 JIM MYRON, Oregon Trout: Testifies that the bill is a reasonable solution to the problem. Reads testimony in Exhibit D.

390 REP. HOSTICKA: Could you accept the concept that says that we're not going to make you stop using the water, but we're not going to enforce a right for you if you conflict with someone else?

400 MYRON: I think HB 2153 does that.

TAPE 82, SIDE B

012 JAN BOETTCHER, Oregon Water Resources Congress: Supportive of concepts in HB 2153.

054 REP. VanLEEUEWEN: When did these small ponds become illegal?

060 BOETTCHER: I don't know that off hand.

069 CHAIR NORRIS: Any pond built after 1909 would have to have a

water right.

079 REP. HOSTICKA: Have you discussed the registration process in the working group, and what kind of reaction did you get there?

080 BOETTCHER: We didn't spend a lot of time on the registration process. I believe the Water Resource Department preferred a more firm process

than a registration process. We propose a registration process that would give you a date, as of the registration date, and you would be regulated by priority.

098 JILL ZARNOWITZ, Oregon Department of Fish and Wildlife: We support the bill as amended. We recommend changing line 17 to include "fishways."

117 DAVE DEGENHARDT, Oregon Department of Forestry: Testifies in support of HB 2153. Summarizes testimony in Exhibit E.

267 CHAIR NORRIS: Closes public hearing on HB 2153, 2399, 2970 and 3273.

PUBLIC HEARING ON 2107

284 MARTHA PAGEL, Department of Water Resources: This bill would separate out new projects that would be developed in connection with either

stream or riparian restoration projects, managing stormwater, or restoring or enhancing wetlands. This would allow the work to begin when the registration is approved and before the permit is actually approved.

345 CHAIR NORRIS: These would be for prospective developments?

347 PAGEL: Yes.

256 CHAIR NORRIS: And they would be exempt from the requirement for a certified water right examiner map.

358 PAGEL: Yes, except for projects over 9.2 acre-feet or 10 acre dam height.

367 CHAIR NORRIS: Wouldn't local watershed councils be able to take advantage of this if HB 2215 passes?

386 PAGEL: Yes, this could pair up with HB 2215 to create effective tools for local watershed management, allowing these projects to move forward quickly.

390 CHAIR NORRIS: Currently existing water conservation districts around the state could take advantage of this too, couldn't they?

392 PAGEL: Yes.

400 REP. VanLEEUEWEN: How would this work with HB 2215?

402 PAGEL: HB 2215 is the bill which would create watershed councils. The councils' goals are to improve watershed conditions. It would be

expected that these councils would come up with ideas for projects which would fall under the parameters of this bill.

TAPE 83, SIDE A

024 REP. HOSTICKA: Will that extend the backlog out in another direction?

028 PAGEL: Because this is fee-based, we could add staff to take care of additional workload.

030 REP. VanLEEUEWEN: What kind of a fee are we talking about?

034 PAUL: It comes from an existing fee.

047 CHAIR NORRIS: Can you give us an example of how this could be used?

049 PAUL: Projects to improve water quality along the Tualatin River could be implemented under this bill.

060 CHAIR NORRIS: Projects that would be less than 9.2 acre-feet are something that could be worthwhile.

064 PAUL: I think most projects will be less than 9.2 acre-feet.

068 VES GARNER: Testifies in favor of HB 2107. Summarizes testimony in Exhibit F.

146 GERALD MAXWELL: Testifies in favor of HB 2107.

174 JILL ZARNOWITZ, Oregon Department of Fish and Wildlife: Supports the bill. Concerned that stream re-creation process does not fall into this registration process.

231 REP. VanLEEUEWEN: How are these public interest statements enforced?

241 ZARNOWITZ: I believe this is a policy statement that the public interest includes many things. These are the issues that this bill will address.

250 REP. VanLEEUEWEN: What will be the result of this?

256 ZARNOWITZ: People who already want to cooperate to develop wetlands will be able to implement their process in a timely manner.

274 GARNER: One of the things we hope to accomplish is education and communication.

323 CHAIR NORRIS: I don't see this as a mandate, do you?

325 GARNER: No.

332 ZARNOWITZ: I see this as completely voluntary.

349 LOUISE BILHEIMER, Pacific Rivers Council: Supports HB 2107.

400 CHAIR NORRIS: GWEB is the Governors Watershed Enhancement Board, created in 1989 or 1987.

405 BILHEIMER: The Governors Watershed Enhancement Board is a grant-giving organization.

TAPE 84, SIDE A

017 DAVE DEGENHARDT, Oregon Department of Forestry: Supports HB 2107, as amended.

030 CHAIR NORRIS: Closes public hearing on HB 2107

Meeting adjourned at 3:40.

Also submitted for the record: - HB 26107-2 (LC 951-2) 4/16/92 as further amended, submitted by staff (Exhibit G).

Submitted by:

Reviewed by:

Sue Nichol  
Administrator

Pat Zwick Clerk

EXHIBIT LOG:

A - HB 2153 - Preliminary Staff Measure Summary - Staff - 2  
pages B - HB 2153 - HB 2153-2 (LC 951) 4/16/93, further amended -  
Staff - 11 pages C - HB 2153, 2107 - Testimony - Martha Pagel  
- 2 pages D - HB 2153, 2107 - Testimony - Jim Myron - 2 pages  
E - HB 2153, 2107 - Testimony - David Dagenhardt - 3 pages F  
- HB 2107 - Testimony - Ves Garner - 1 page G - HB 2107 - HB  
2107-2 (LC 951-2) 4/16/93, further amended - Staff - 6 pages