

HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON WATER

April 29, 1993 Hearing Room D 1:00 p.m. Tapes 85 - 86

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

MEMBER EXCUSED: Rep. Ray Baum Rep. Bill Markham Rep. Bob
Repine

STAFF PRESENT: Catherine Fitch, Committee Administrator Sue
Nichol, Committee Clerk

MEASURES CONSIDERED: HB 3512 - Public Hearing SB 470 -
Public Hearing and Work Session

WITNESSES: Bob Hall, Portland General Electric John
Brennemon, Idaho Power Bev Hayes, Water Resources Department Rick
Craiger, Water Resources Department Meg Reeves, Department of Justice
Sen. Gene Timms, District 30 Rick Glick, Independent Hydro Developers
Mike Grainey, Department of Energy Ingolf Hermann, Independent Hydro
Developers Louise Bilheimer, Pacific Rivers Council Liz Frenkel, Sierra
Club Bob Hall, Portland General Electric

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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 85, SIDE A

005 CHAIR NORRIS: Calls the meeting to order at 1:15.

PUBLIC HEARING ON HB 3512

030 CATHERINE FITCH: HB 3512 specifies that a water right
certificate issued in conjunction with hydroelectric license
continues in

conjunction with subsequent licenses issued for that hydroelectric
project.

047 BOB HALL, Portland General Electric: Reads testimony in support
of HB 3512 (Exhibit A). The bill was introduced in order to clear
up an

ambiguity that exists in current water law as it relates to
hydroelectric projects. The amendments (Exhibit B) clear up a drafting

error which included the words "certificate issued".

092 REP. HOSTICKA: Is it still the case that Pelton dam doesn't have a state water right?

098 HALL: We have a hydro license from the Federal Energy Regulatory Commission (FERC).

102 REP. HOSTICKA: Can the state regulate hydro-electric power, and if you get a FERC license does that pre-empt the state anyway?

110 HALL: I think there's been a decision from 9th circuit court regarding this question. I'm not totally familiar with the case.

124 JOHN BRENNEMON, Idaho Power: Testifies in favor of HB 3512 because a lot of effort, paperwork and money will be saved. These projects are

non-consumptive in their water use.

137 REP. PETERSON: How does the system work now?

141 HALL: No one has gone through this process yet. Potential ambiguity exists so we want to address the problem before it comes up.

156 REP. HOSTICKA: Explains background of the present process.

177 BEV HAYES, Water Resources Department: We understand that the language says that the priority stays with the license and that we are not

necessarily prevented from re-addressing some issues when that license is up for renewal.

198 RICK CRAIGER, Water Resources Department: The water right is issued with the license. The license is issued for a certain amount of time.

The water right doesn't expire. The question is, what happens when the state license expires? We felt that the intent of the original bill was to maintain the original priority date. We had no objection to that.

We are concerned about whether the existing language would mean that we don't have the ability to review the water right when we renew the license.

230 MEG REEVES, Department of Justice: We are concerned that the language currently drafted may preclude the Department from reviewing the

conditions of the water right when the license comes up for renewal.

243 CHAIR NORRIS: Is the concern that there may be some new conditions that need to be put on?

246 REEVES: I know conditions are an issue.

250 REP. JOSI: When a license is up for renewal we have the first right of refusal. When the license comes up for renewal, is that the place where new conditions can be put on the licensing of the dam?

257 CRAIGER: Yes. A number of public interest issues are examined at that time.

259 REP. JOSI: So what you're asking for is for two different agencies coming in and possibly asking for the same thing, FERC and Water

Resources Department?

272 CRAIGER: What we're concerned about is that our review would be limited under the new bill.

273 REP. JOSI: How would it be limited?

274 REEVES: It does not refer to priority date. Our preference would be to make a specific reference to priority date to make it clear that there

could be additional conditions placed on the water right. We want to make sure the state retains its authority to do that.

288 CHAIR NORRIS: What if on line 8, we indicated that upon original issuance and each reissuance subsequent thereto, each license shall be

conditioned upon ..."

295 REEVES: I think that would probably work for the Department's purposes.

300 CHAIR NORRIS: Asks if that would work for Mr. Hall.

311 HALL: I think I'm heading in that same direction.

330 CHAIR NORRIS: Is it correct that you're concerned about being able to have a review at the time of the license renewal to deal with any

conditions that may be necessary?

332 CRAIGER: In the federal level process, it is not guaranteed that the same license will be reissued. The state would like to retain the same

ability to revisit issues.

344 HAYES: We believe you must have a federal and state license, currently. If the law was changed to say that we no longer needed to issue a

license, we would defer to FERC, and that would be a rather major change in the way we do business currently.

351 CHAIR NORRIS: Do you actually issue a water right?

354 CRAIGER: It's granted in conjunction with the license. It's part of the license itself.

364 CHAIR NORRIS: It is a recognition from the State Water Resource Department that an entitlement exists to use a certain amount of water

under certain conditions?

366 CRAIGER: Yes.

367 CHAIR NORRIS: But it's not a certificate, as we think of it, to irrigate the back 40?

369 CRAIGER: That's correct, except for municipal hydroelectric projects. 371 SEN. GENE TIMMS, District 30: Introduces the proposed Lorella Pump Storage project in Klamath County. An unnecessary obstacle of

development will be eliminated with the HB 3512 amendments.

TAPE 86, SIDE A

005 RICK GLICK, Representing Independent Hydro Developers: Testifies in favor of the bill with recommended amendments (Exhibit B). The proposed change would transfer all authority over the regulation of water power

to the Water Resources Commission, but would also provide a formal consultation role by the Energy Facility Siting Council to address need for power and other matters within their expertise.

058 CHAIR NORRIS: I believe the governor will do away with the Energy Facility Siting Council, and we would end up with an energy commission. Asks Mike Grainey how that is moving.

063 MIKE GRAINEY, Department of Energy: That bill is still in the Senate Agriculture and Natural Resources Committee. If it passes, I think it

would still be consistent with the approach outlined here.

070 INGOLF HERMANN, Independent Hydro Developers: Describes the projects Independent Hydro Developers are involved in. Explains benefits of

Lorella Project. Narrates a brief slide show of how the project works.

200 CHAIR NORRIS: Have you investigated the availability of groundwater for this project?

208 HERMANN: Yes, we have acquired access to three existing wells, two of which we have tested for capacity. We have put together the necessary

studies to support the water rights application.

210 CHAIR NORRIS: How close to any natural stream would those

wells be located?

212 HERMANN: The wells are located most closely to the Lost River. It's maybe within three miles of that river. Two of the wells are down to

about 300 feet and one well is down to about 2500 feet.

224 CHAIR NORRIS: Is there any hydrologic connection with the surface water in the area then?

228 HERMANN: That is one of the issues we're looking at.

230 CHAIR NORRIS: Once you filled up this reservoir, it would just be a replenishment demand?

232 HERMANN: Yes, we'd just use the water over and over again, minus that lost through evaporation.

243 REP. HOSTICKA: Is this the biggest one in the country?

245 HERMANN: No, there are several bigger than this one.

274 REP. PETERSON: Do you hire Oregonians for these new jobs?

280 HERMANN: We believe that many of the construction workers will be from the area. We are studying the socio-economic impacts of this

construction. In our past operations, we've always hired local people.

TAPE 85, SIDE B

005 HERMANN: Urges adoption of the amendments because it would allow this project to be completed. It would remove duplicative regulation. It

has good support from the two affected state agencies. The environmental community does not take exception to this request. The state does not lose any of its regulatory authority, nor would the public lose any of its right to participate in the process.

018 CHAIR NORRIS: Would Independent Hydro be owner and operator of the project?

022 HERMANN: There would be a collection of utilities involved.

049 CHAIR NORRIS: Do you anticipate that this will be a cost effective means of producing electricity?

053 HERMANN: Our analysis shows that it will be competitive.

059 CHAIR NORRIS: Will this be privately financed?

063 HERMANN: Yes.

066 REP. HOSTICKA: Are these treated as new power generation?

073 HERMANN: It is considered new generation.

076 CHAIR NORRIS: Asks how the water is pumped at night.

077 HERMANN: The electricity used to drive the pumps at night will be imported.

099 MIKE GRAINEY, Department of Energy: The Department supports the amendment to HB 3512. We think it makes sense that this duplication is

eliminated.

124 LOUISE BILHEIMER, Pacific Rivers Council: Our non-opposition to this amendment is not an endorsement of this particular project or any other pump storage project which may come forth.

136 LIZ FRENKEL, Sierra Club: Has the same opinion as the Pacific Rivers Council. We also want it understood that this is, in no way, an

endorsement of the project.

140 CHAIR NORRIS: Asks the Water Resources Department what they need to do to feel comfortable. 151 HAYES: We'd like to work something out with Portland General Electric.

160 FITCH: Additional technical amendments would need to be made to clean up the bill if the amendment was adopted (Exhibit C).

190 CHAIR NORRIS: Closes public hearing on HB 3512.

PUBLIC HEARING ON SB 470

200 CATHERINE FITCH: SB 470 extends the duration of state preliminary permits for hydroelectric projects from two years to three years to be

consistent with the federal permits issued for the same projects. Gives background of bill (Exhibit D).

224 BOB HALL, Portland General Electric: Reads testimony in favor of SB 470 (Exhibit E). This is thought to be a simple "housekeeping" bill.

270 FITCH: Submits testimony supporting the bill from Jan Boettcher, Oregon Water Resources Congress (Exhibit F) and from Neil Macdonald, Northwest Hydroelectric Association (Exhibit G).

280 CHAIR NORRIS: Public hearing closed.

WORK SESSION ON SB 470

283 MOTION: REP. JOSI: Moves SB 470 to the full committee with a DO PASS recommendation.

285 CHAIR NORRIS: Repeats the motion.

290 VOTE: On a roll call vote, all members present vote AYE. REPS. BAUM, MARKHAM and REPINE are EXCUSED.

311 CHAIR NORRIS: Work session on SB 470 is closed.

Meeting adjourned at 2:35

Also submitted for the record - Testimony in support of HB 3512 from Neil Macdonald (Exhibit H).

Submitted by:

Reviewed by:

Sue Nichol
Administrator

Catherine Fitch Clerk

EXHIBIT LOG:

A - HB 3512 - Testimony - Bob Hall - 1 page B - HB
3512 - Amendments - Staff - 1 page C - HB 3512 - Amendments -
Staff - 12 pages D - SB 470 - Preliminary Staff Measure
Summary - Staff - 1 page E - SB 470 - Testimony - Bob Hall - 2
pages F - SB 470 - Testimony - Jan Boettcher - 1 page G -
SB 470 - Testimony - Neil Macdonald - 1 page H - HB 3512
- Testimony and information - Neil Macdonald - 1 page