

SENATE COMMITTEES ON AGRICULTURE AND NATURAL RESOURCES AND WATER POLICY

DATE: June 11, 1993 TAPES: 181 -182 PLACE: Hearing Room CTIME: 8:00 AM

MEMBERS PRESENT: Senator Ron Cease, Chair ANR Senator Jim Bunn, Vice-Chair ANR Senator Joyce Cohen ANR Sen. Wes Cooley WP Sen. Bill Dwyer, Chair WP Senator Shirley Gold ANR Senator Bob Kintigh ANR, WP Senator Bob Shoemaker ANR Senator Gordon Smith ANR MEMBERS ABSENT: Sen. Frank Roberts WP Sen. Tricia Smith WP STAFF PRESENT: Peter Green, Administrator ANR Lisa Zavala, Administrator WP Chris Warner, Research Associate ANR Pamella Andersen, Clerk MEASURES HEARD: SB 1127 HB 221 5-A INVITED TESTIMONY: Senator Dick Springer Representative Chuck Norris Hugh Barrett, Bureau of Land Management Martha Pagel, Department of Water Resources Roger Wood, Department of Environmental Quality Dan Shively, American Fisheries Society

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TAPE 181, SIDE A

005 CHAIR CEASE: Calls the meeting to order at 8:15 a.m. - Opens the public hearing on SB 1127 and HB 2215-A. Senate Agriculture and Natural Resources June 11, 1993 Page 2

PUBLIC HEARING ON SB 1127 and HB 2215-A EXHIBITS A through G, L and M

WITNESSES: Representative Chuck Norris Hugh Barrett, Bureau of Land Management Senator Dick Springer Martha Pagel, Department of Water Resources Roger Wood, Department of Environmental Quality Dan Shively, American Fisheries Society Jim Myron, Oregon Trout Doug Myers, WaterWatch Ron Yockim, Grant and Douglas Counties Dave Probst, Polk County Commissioner, Assn. of Oregon Counties Dennis Goetz, Yamhill County Commissioner

CHAIR CEASE: SB 1127 is identical to the original HB 2215, both addressing watershed management issues.

020 REP. CHUCK NORRIS: Gives a history of watershed management issues. - Equitable streamflow management is a concept he promotes. - The Strategic Water Management Group (SWMG) was working specifically on watershed issues and the development of watershed councils, so I laid aside the concept I was promoting and concentrated on the SWMG proposal that became HB 2215. - Relates what the proposal establishes. - Early in the session there was a high level of resistance to this bill. - I asked those concerned to form a work group and develop a proposal. - Notes the organizations represented by those finally testifying on the resulting proposal. - The diversity encouraged me. 075 - SB 1127 is, word-for-word, the original language of HB 2215. - I think this will fit with SB 1112 on salmon restoration and the benchmark bill with pilot projects. - Notes the presentation on watershed management offered at the meeting of the Pacific Fisheries Task Force meeting in San Francisco. - Watershed management needs to be accomplished in such a way that people feel they have ownership. 118 SEN. COOLEY: References the report on watershed management strategy

(EXHIBIT L). - Would some of these proposals be implemented in HB 2215?

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REP. NORRIS: Page 7 lists local watershed council membership possibilities. 130 Reads the list of possible representations. - Discusses the John Day watershed that passes through 10 counties. - How would it be determined which local government should be responsible? - If we give them license, they will find a way to do this.

SEN. COOLEY: So you are saying the outline in this report would be the guideline to implement HB 2215? 158 REP. NORRIS: The bill is the "bill of sale" and the report is the "owner's manual."

SEN. COHEN: Explain your expectations in terms of outcome, goals and the mission for these groups.

REP. NORRIS: My expectation is a "ridgetop-to-ridgetop" approach to watershed management. - Ultimately, it will get down to riparian and stream improvements. - We are looking for healthier streams, water and habitat.

SEN. COHEN: I have been unable to find those words in all this. - What does better watershed management mean in the end?

180 REP. NORRIS: In the final analysis, it would be a search for a healthier stream system. - We won't get far if we don't address the entire watershed. - We need to keep in mind the farmer and the others caring for those resources. - I have seen an emphasis on the part of many landowners and users toward greater environmental awareness.

SEN. COHEN: So the group that approves of this bill agrees with you that the mission is the health of the watersheds?

205 REP. NORRIS: I don't think they articulated it in just that form. - I am usually relieved with grudging acceptance, and don't ever expect total consensus.

CHAIR DWYER: How do we measure progress? 1 REP. NORRIS: Objectively, statistically, I don't know.

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CHAIR CEASE: On objectives and standards, for what do you measure? -

What is the methodology? - The local areas in the state have some interest in the results rather than our simply saying there have been some improvements.

MARTHA PAGEL: Offers background on the question of methodology and measurement. - HB 2215 was never intended to set out substantive goals. - Those are to be identified by the local watershed councils.

260 CHAIR CEASE: How will you monitor and enforce that from the department's point of view? - What agency program will guarantee the activity has done anything substantive?

PAGEL: The bill directs state agencies to use the process in the report as the pilot. - Reviews the process outlined in the report.

CHAIR CEASE: So the reference in HB 2215-A to this report gives it legal standing?

PAGEL: Absolutely, that is the crucial element. - We believe it improves the effectiveness even over the original version of HB 2215.

298 SEN. COOLEY: Will you be the lead agency in this?

PAGEL: The Strategic Water Management Group, chaired by the Governor, will lead this. - Our agency will provide staff support.

SEN. COOLEY: By whom will the rules be written?

PAGEL: Those would come through SWMG, which has promulgated rules in the past. - We would continue to take a leadership role due to our responsibility resulting from the companion SB 1 112.

325 CHAIR DWYER: How are you going to show progress early as required here, without a plan?

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CHAIR CEASE: Everyone is nervous the Senate is going to change this bill and create problems for everyone. - We are not interested in torpedoing this in either chamber.

PAGEL: The process describes the first step as forming a committee from interested parties and developing goals. - The overall goal is to achieve sustainable watershed health. 362 Reads the goal statement of the watershed councils.

CHAIR DWYER: Do you know how difficult it was to reach consensus on that statement?

PAGEL: Yes, it was difficult; but we reached it.

CHAIR CEASE: I appreciate that the statute ties in the study.

380 SEN. G. SMITH: Can you explain if there is a concern with "bad faith" due to the similarity between the Senate bill and the original House bill, after so much work has gone into the House bill?

CHAIR CEASE: I think the problem is there are two chambers; the Senate is not required to accept the House version of the bill.

REP. NORRIS: The language came from the SWMG task force. - (Introduces EXHIBIT A)

TAPE 182, SIDE A

ADMIN. GREEN: Notes the members' packet information and reviews the contents. - EXHIBIT M was submitted by the Department of Environmental Quality.

CHAIR CEASE: Announces a special meeting the following Wednesday evening on HB 3661, the land use bill.

045 HUGH BARRETT: Offers testimony in support of HB 2215. - Answers the question of the purpose of watershed health. - These lands are either part of the problem or part of the solution. - Notes presentation he gave in which he made the point the west is drier than it needs to be. 082 - Notes how a sample one-half mile section of riparian area could potentially store about 500 acre feet of water valued at a certain amount.

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CHAIR DWYER: Where do you get that values

BARRETT: It came from a market analysis listed in a publication by the State of Alaska, which is contemplating shipping water to the lower 48 states. - The monetary value ranges from \$500 to \$1800 per acre foot. - At the Pacific Fisheries Task Force meeting there was great concern with the flushing of reservoirs, thereby flushing smolts out to sea. - Water would be stored in the upper watersheds if there were no dysfunction of those systems.

115 CHAIR CEASE: You are saying these voluntary groups will solve this problem?

BARRETT: The voluntary groups are just part of it. - Recognizing the current situation and what needs to be done is the first step. - Government- agencies have been directed to work toward ecosystem management, part of which is watersheds. - The Strategic Water Management Plan follows the spirit of the ecosystem approach, providing a cooperative atmosphere.

138 PAGEL: (Introduces EXHIBITS B and C) We encourage your support for HB 221 5-A or for the approach it represents. - The amended version of HB 2215 is just as effective to accomplish our goals as the original version. - Notes the list of persons agreeing on the amended version of the bill. - We were able to reach agreement by focusing back on the

general principles that led to the original consensus and bringing those forward in the bill. 181 - Responds to the criticisms and comments that HB 221 5-A is a compromised program. - Urges the members to read the full report. - The bill is not intended to be a final solution to watershed problems, just a tool. - It is essential the bill be married to agency commitments, coupled with resource assessment and concentrated additional resources as outlined in the approach in SB 11 12.

230 SEN. DICK SPRINGER: Relates his participation during the past 2 to 3 years on watershed restoration, protection and enhancement. - Notes specific personal involvements during the drought in 1991. - Mentioned field trips the interim committee took over Oregon gaining an inventory of the problem.

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- Lists various local groups they discovered addressing streamflow restoration issues. - I appointed a task force to focus on watershed issues. - The federal government is a major property owner and has interest in rangeland and water quality. - Non-point source pollution has been addressed by the Senate in some earlier legislation. 302 - We have to have specific standards and goals, a way to measure progress and an understanding of where we want to be 5 years from now. - This will require private, state, federal and local level agreement. - Water temperature, streamflow, banks and vegetation are means for measurement. - If we don't address this at the state level, dissatisfied parties will go to the ballot or to the federal courts. - Relates the huge court battle on Indian treaty fishing rights when he was in law school, which the states lost. - We have to back this up financially.

CHAIR CEASE: Is there money attached to the House bill? 352 SEN. SPRINGER: There may be one FTE attached. - You don't get something for nothing. - We need to get grant support and technical assistance to our local communities.

CHAIR CEASE: In reference to the study in HB 221 5-A, are you familiar with that issue?

SEN. SPRINGER: I know Ms. Pagel and others worked hard to try and achieve consensus; however, I don't think the bill went far enough. - I think the Senate has a responsibility to improve any bill that comes before it.

CHAIR CEASE: If the reference to the study in HB 2215-A gives it the force of law, then there is no issue. - There was some concern about codifying this into law.

408 SEN. SPRINGER: I would look at that very carefully. - Unless we demonstrate a real commitment and give this the force of law, there will be people who go to the ballot. - If it comes down to fish versus cows and the stream, the fish will win. Senate Agriculture and Natural Resources June 11, 1993 Page 8

SEN. G. SMITH: Are you aware if California has anything like this and

whether or not it has done anything to bring fish numbers back?

TAPE 181, SIDE B

SEN. SPRINGER: I don't know the specifics. - There has been federal legislation. - Three years ago I spent a day touring parts of California's Central Valley and its reservoir. - They have been able to restore much of the habitat in degraded areas. - In San Diego County they are attempting to reclaim grey water from sewage treatment. - There are huge problems with allocation of the Colorado River.

030 SEN. G. SMITH: My one real fear is that even though California has all these acts, and they have restored some watershed areas, the fish are not coming back. - We have long term sustainable drought periods, and we will run dry some time no matter what we write, or the courts decide. - I don't think fish will win over people if this goes to the ballot. - We are talking about people being employed. - I am unwilling to make a priority switch, placing fish over people.

CHAIR CEASE: This is to simplistic an approach.

CHAIR DWYER: The summary in this report is so simplified; it is much more complicated.

SEN. G. SMITH: It is complicated, but it comes down to a fundamental issue of priorities.

CHAIR CEASE: If the argument is it has to be one over the other, there will be a massive battle with no one winning.

CHAIR DWYER: I have a couple of videos on the Southwest and how they are working through their problems. - What would you add to the A-engrossed version; what elements are deficient?

SEN. SPRINGER: I would have supported the original bill over the amended bill. - If you address goals and standards and the funding question it will be a better bill.

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077 CHAIR DWYER: What about the question of performance?

SEN. SPRINGER: We need to track this issue through the Legislature very closely.

CHAIR DWYER: The bill needs to be massaged, then?

SEN. SPRINGER: Yes.

085 SEN. SHOEMAKER: Your response indicates to me the process of HB 221 5-A is okay, but we need a more specific set of goals and standards against which to measure that process. SEN. SPRINGER: Exactly. - We aren't going to tear down the dams in Hell's Canyon, even though they wiped out the fishery and habitat. - We may change the way they operate. - An Oregon without the salmon and other species is not the kind of

Oregon we want in the future. - People are going to have to be prepared to give, including me.

SEN. KINTIGH: Notes the Oregonian article in members' packets which indicates it doesn't have to be an issue of fish versus cows.

121 ROGER WOOD: (Introduces EXHIBIT D) Offers testimony in support of 221 5-A. - HB 221 5-A accurately reflects the spirit of the report resulting from months of consensus building. - Reviews Exhibit D relative to ten program elements developed to guide the Department of Environmental Quality's water quality/non-point source control effort.

CHAIR CEASE: In your opinion does HB 221 5-A as it comes from the House, have standards with it?

WOOD: No, but it does call for the individual watershed councils to develop goals for their programs. 158 - I don't see how you can develop goals for a watershed program without seeing the problems you want to solve.

CHAIR CEASE: What about enforcement; is that in the bill?

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WOOD: No. - I see this as a collection of tools that are all necessary at one time or another. - Compares it to working on one's car. - There are a lot of different elements that have to be addressed. - We are particularly keen on supporting that the bill addresses some essential tools. - The tool box should be seen as half full, rather than half empty. CHAIR DWYER: Elaborates on the analogy of tools. - You have to have the right tools. WOOD: I want to make sure we have everything we need. - The process during the interim gave us time to agree together on what tools we need, although we have not finished shopping. 212 DAN SHIVELY: (Introduces EXHIBIT E) Offers testimony in support of SB 1127. - Relates the distinctives of their society and its members. - The issue before us today is the need for watershed planning. - Whether we go forward with HB 2215-A or SB 1127, either will be a step in the right direction. - Notes an article entitled "Pacific Salmon at the Crossroads," submitted by the Society earlier in the session. - Notes Exhibit E includes tables on stocks at risk. CHAIR CEASE: Indicate why the bill would help the concerns you have. 278 SHIVELY: The chapter supports planning at a statewide watershed level as critical in addressing the need for improving in-stream habitat and watershed conditions. - These plans need to be implemented soon, as opposed to spending a great deal of time going through exhaustive planning efforts. - With respect to the automobile analogy, you would want to know the standards of the vehicle and how well it performs. - This bill provides some of those standards. - There is a tremendous reliance and economic dependence on fish stocks in Oregon. 331 SEN. G. SMITH: That commercial interest in protecting fish is the same interest I have in protecting cows. - The House bill offers a more delicate approach than a sledgehammer, though it may not be timely.

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SHIVELY: I feel the sledgehammer will come in the federal courts, when the issue escapes our control.

CHAIR CEASE: The point taken before is if we don't deal with our own issues, they will become all the more onerous.

366 SEN. SHOEMAKER: Could you be more specific as to why HB 2215-A is not adequate and we should revert to the original bill? SHIVELY: I don't have specifics on why HB 2215-A is a little weaker than SB 1127. - Either one will be a very positive step in the right direction. JIM MYRON: (Introduces EXHIBITS F and G) We did not support HB 221 5-A but we did support the original bill. CHAIR CEASE: Do you see any difference between the codification notion in the original bill and the language adopted in HB 221 5-A in reference to that document?

TAPE 182, SIDE B

034 MYRON: There is a real difference of opinion as to what simply referring to the document does. - There are certain elements in the original bill that need to be included to give standards and overall purpose.

CHAIR DWYER: What was objected to in the original bill?

MYRON: Notes there was discomfort over setting up an "LCDC type" process for water management. - References Exhibit G.

CHAIR CEASE: Are there minutes of the work group meetings?

068 CHAIR DWYER: Are there records of who recommended what; who objected to what, and why?

MYRON: I have my personal records. - There were a couple of groups that did not participate in the interim process and their opposition surfaced after the bill was introduced in the Legislature.

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075 DOUG MYERS: Offers testimony in opposition to HB 2215-A and in support of SB 1127. - Reads who was present at the work group meetings. 096 - Lists what he likes about SB 1127 that he would like included in HB 2215-A. - The original HB 2215 set out a detailed procedure on how all the separate entities would interact with each other. -Discusses why HB 2215 hasn't emerged a good bill. - References page 3 of the Strategy Report.

CHAIR CEASE: You are indicating the reference in HB 2215 to this report is not the same thing as the codification piece of the original bill?

MYERS: Someone from the Attorney General's office would need to determine that. - I would rise in support of the bill if that were the case. - Reads page 2 of HB 2215-A, lines 11-14, relative to how money will be spent. - There are no standards; how can what is meant be determined?

CHAIR CEASE: The committee will check with Legislative Counsel and the Attorney General, if necessary, to determine the meaning of the codification statement in the original bill as adopted. 135 - If it is indicated it has the legal force of law, then I think we have no problem.

MYRON: With respect to funding, there is a direct correlation between this and SB 1112. - Legislative oversight on the grant funding of SB 1112 would be helpful.

RON YOCKIM: Introduces Mike Probst and Dick Goetz. > 154 MIKE PROBST: The majority of those working on the interim plan felt the House bill more greatly reflects their views than the Senate bill.

CHAIR CEASE: It is not clear in my mind whether that statement is true other than that the bill was representative of what some of those people thought they could get.

CHAIR DWYER: There is no record for us to review to determine what the group did. What part of SB 1127 gives people heartburn?

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179 PROBST: Notes the Water Resources Department took a tremendous amount of notes at the meetings and distributed those. - The whole idea of this bill is that it is a cooperative working relationship. Basin and watershed planning must be different for each. - Setting specific state goals and guidelines keeps you from getting at the specific individual watershed problems. CHAIR DWYER: Where does SB 1127 not recognize individual basins and watersheds?

PROBST: SB 1127 does say the state will set goals and guidelines within which the work groups function.

CHAIR DWYER: Who is paying for this?

PROBST: In SB 1127 the state is paying. - A point we want to make is whether or not this a partnership. - In HB 2215-A, the locals are paying, which is more of a partnership. - Counties have spent much time preparing and adopting comprehensive plans. - We think those should be looked at when deciding water issues. - We need the water to fit our land use plans.

CHAIR DWYER: Do you have watershed health as part of your land use goals in your county?

PROBST: In our county, yes. - I think in most counties it is identified.

- The dual-state board of directors I am on has submitted plans that expand watershed management on federal lands. - We have supported HB 2215-A because we believe it offers the flexibility we need. 244 DENNIS GOETZ: We have been working locally on watershed management for four years. - We would like to get all the locals folks involved to determine the various interests and get this to be responsive to fit the needs of our county. - We need a method to allow leadership at the local level, which will be smashed if people are mandated what to do. - We want the state expertise available, but in a friendly way. 275 - We know the larger cities in our watershed will have to be major players in this. - Measurement will come from the pilots and it will be useable.

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- We are in the business era today of total quality management and work teams. - This kind of thinking needs to become more prevalent, recognizing the expertise at the local level.

311 YOCKIM: The bottom line is. Iocal solutions are the key. - We have seen attempts to drive the solutions down from the top and people don't want to support those. - Douglas County has a long history of water management planning. - Elaborates on the extensiveness of their existing plan. - In Grant County, the landowners are driving water management planning. - We support the engrossed version of the House bill.

340 CHAIR CEASE: Notes the Republican members had to leave early to attend a caucus. - Closes the public hearing on SB 1127 and HB 2215-A. - Adjourns the meeting at 10:00 a.m.

Submitted by: Peter Green Clerk
Administrator

Revi ed by: Pamella Andersen

EXHIBIT LOG:

A Witness Registration Sheets from House Water Subcommittee - Rep. Chuck Norris - 2 pages ~HB 2215 B Testimony on HB 2215-A - Martha Pagel - 2 pages C Testimony on SB 1127 - Martha Pagel - 4 pages D Memo on Watershed Management Program Elements - Roger Wood - 2 pages E Testimony on SB 1127 - Dan Shively - 8 pages F Testimony on HB 2215-A and SB 1127 - Jim Myron - 4 pages SB 1127 GFish Habitat Improvement Projects - Jim Myron - 17 pages SB 1127 H Testimony on HB 2215 - Liz Frenkel - 1 page SB 1127 I Testimony on HB 2215 - Cheri Unger - 1 page SB 1127 JOreaonian Article: "Grazing, Stewardship Compatible" - Staff - 1 page SB 112 7 K Livestock and Land Statistics for Oregon - Staff - 3 pages SB 1127 Those 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. Senate Agriculture and Natural Resources June 1 1, 1993 Page 15

L Proposal: A Watershed Management Strategy for Oregon- Martha

Pagel-53 pages

M Map on Surface Waters Impaired by NPS Pollution - Department of
Environmental Quality - 1 page

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