

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.

HOUSE COMMITTEE ON WATER POLICY

April 18, 1991Hearing Room D 1:15 p.m.Tapes 49 - 50

MEMBERS PRESENT:Rep. Chuck Norris, Chair Rep. Bill Dwyer, Vice-Chair Rep. Bill Markham Rep. Walt Schroeder Rep. Larry Sowa

STAFF PRESENT: Beth Patrino, Committee Administrator Pat Zwick, Committee Assistant

WITNESSES:Rep. Bob Shiprack Jerry Justice, Clackamas County Burton Weast, Special Districts Association Susan Schneider, City of Portland Joe Glicker, City of Portland Terry Thatcher, City of Portland Jerry Schmidt, Mount Hood Chamber of Commerce Keith Petrie, Mount Hood Recreation Association Bev Hayes, Water Resources Department Tom Kline, Water Resources Department

MEASURES CONSIDERED:HB 2192 - Establishes procedure for defining boundary of critical ground water area. - Work Session

HJR 61 - Requires Water Resources Commission to establish Hoodland Area Water Supply Commission. - Public Hearing and Work Session

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TAPE 49, SIDE A

010 CHAIR NORRIS: Calls the meeting to order at 1:17 p.m.

Announces that chief sponsor of HB 3181 has withdrawn the bill.

Opens work session on HB 2192.

WORK SESSION HB 2192

014 MOTION: REP. DWYER: Moves adoption of HB 2192-2 amendment (EXHIBIT A).

VOTE: There being no objection, 2192-2 amendment is adopted. Rep. Markham is excused.

018 MOTION: REP. DWYER: Moves adoption of HB 2192-3 amendment (EXHIBIT

B).

VOTE: There being no objection 2192-3 amendment is adopted. Rep. Markham is excused.

020 MOTION: REP. DWYER: Moves HB 2192 as amended to the floor with a do pass recommendation.

VOTE: On a roll call vote, motion passes. Rep. Markham is excused. Rep. Markham votes Aye later in the meeting.

030 CHAIR NORRIS: I will carry the bill.

Closes work session on HB 2192.

Opens public hearing on HJR 61.

PUBLIC HEARING HJR 61

040 BETH PATRINO, COMMITTEE ADMINISTRATOR: Reviews provisions of HJR 61.

Revenue and fiscal impact statements for the bill have not been received.

055 REP. BOB SHIPRACK: HJR 61 addresses a problem that recently surfaced because Water Resources Department routinely surveyed the Sandy River Basin area. The Department found that it was unclear who had water rights and who did not.

That section of the Sandy River is a federal wild and scenic river and instream flows must be maintained for scenic values, recreation, fisheries, etc., which complicates the issue.

The cities of Portland and Sandy have water rights to the river and are concerned.

The federally mandated Safe Drinking Water Act will also impact the area.

We have worked toward a solution with the Water Resources Department and Clackamas County and decided it was necessary to form a water authority to sort out the current water rights, allow the Department to finish their instream surveys, force local water districts to work cooperatively, enhance the Hoodland area local planning for the future, educate the public and districts on the Safe Drinking Water Act, and work in cooperation with the other users.

Will also get assistance from the county to allow long term responsible planning for the area.

Emphasizes we are not trying to subvert the wild and scenic designation of this stream. Tourism is the biggest employer in the area. We are not trying to subvert the Diack decision with HJR 61. HJR 61 sets up an apparatus to do a complete assessment of community drinking water needs and availability in concert with the state, county, other municipalities, local groups, and existing special districts.

Looks forward to and wants to participate in this endeavor and hopes that this can be a model for other areas with the same situation.

102 REP. DWYER: What kind of direction could Water Resources Department provide as outlined in (2) (c) of the bill?

105 REP. SHIPRACK: Because everyone would be working cooperatively, the Department would be better able to apportion the water in the Sandy River.

115 REP. DWYER: Are you familiar with the other bills dealing with the issue of tying building permits and development to the availability of water?

120 REP. SHIPRACK: No.

125 JERRY JUSTICE, CLACKAMAS COUNTY: Has already supplied the committee with information on the problem at an earlier hearing on HB 2677.

HJR 61 is a process that would put in place the start of the search for a solution for the problem in Hoodland.

This does not come with preconceived notions of the solution and we want everyone to understand that we recognize the proliferation of interest groups and individuals who want to have input to any decision dealing with water, especially water in the Sandy River Basin.

We believe that the Commission that would be established by the passage of HJR 61 will provide an open and unbiased forum for the discussions over the next 18 months or so with a report back to the Sixty Seventh Legislative Assembly that will allow everyone to begin to focus on this problem.

We have discussed whether this might create conflict with the regional water study currently underway with Water Resources and the City of Portland. It is the belief that there is no conflict or duplication. This commission will focus on a very small area of the region with a very specific situation to analyze, but will provide an opportunity for them to also participate as real players in the regional study.

165 REP. SOWA: What growth do you expect in the next two years in the area?

170 JUSTICE: Very little permanent growth.

180 REP. SOWA: If Mount Hood Meadows project continues will it remove water from the Sandy River?

188 JUSTICE: That is not involved in this watershed.

190 CHAIR NORRIS: Will the commission be a permanent body?

193 JUSTICE: It is not intended to be permanent.

If language to confirm that is added to HJR 61, would not object.

210 REP. SHIPRACK: When the commission finishes its report, I envision it being dissolved. We hope to form an authority in the area, by statute, which would be ongoing.

225 CHAIR NORRIS: Are any large pending projects being delayed because of this situation?

230 JUSTICE: No.

Has been in conversation with the City of Portland which will propose amendments. We do not object to their amendments.

280 BURTON WEAST, SPECIAL DISTRICTS ASSOCIATION: Supports HJR 61 which could be a model for resolving similar problems in other basins.

Has no objections to the proposed amendments which the City of Portland will submit.

320 CHAIR NORRIS: Do we have reason to believe that similar problems exist in other areas of the state?

325 WEAST: Yes.

Talks about problems in other areas.

400 SUSAN SCHNEIDER, CITY OF PORTLAND: The City of Portland supports HJR 61, but would like to suggest some clarifying amendments.

Introduces Joe Glicker and Terry Thatcher.

TAPE 50, SIDE A

015 JOE GLICKER, CITY OF PORTLAND WATER BUREAU: Submits and paraphrases written testimony in support of HJR 61 and proposing amendments (EXHIBIT C).

085 REP. DWYER: Why do you want to weaken Rep. Shiprack's resolution with your language?

090 GLICKER: We believe that any solution to the Hoodland Corridor issue must recognize the fact that the area is a scenic waterway. However, there is a broader issue of how do you meet the purposes of the Scenic Waterways Act in the basin. We want to make it clear that the Task Force is not the place to figure out how to do that.

The scenic values in the Sandy Basin are important and we are supportive of them. Will work with all groups as they go through their processes to determine how to meet those scenic values.

108 REP. DWYER: Did the Diack Decision result from you taking water from the Sandy River and wanting to run it back into the Columbia?

113 GLICKER: The Diack decision was an outgrowth of our interest in using water from the Bull Run for a hydroelectric project which would discharge into the Columbia instead of the Sandy.

120 REP. DWYER: We would not have the Diack if you had not designed that kind of plan.

120 TERRY THATCHER, CITY OF PORTLAND: The City of Portland does not now have a proposal before the Water Resources Commission to divert water, as was proposed in the early 1980s, for hydroelectric purposes.

The fact that there was a proposal that resulted in the Diack decision should in no way be taken to represent the current position of the City of Portland on using Bull Run water for hydroelectric purposes. That

proposal is no longer going forward.

It was the City of Portland proposal that resulted in the Diack Decision.

132 REP. DWYER: The primary reason that the City of Portland did not go forward is the Diack decision.

137 THATCHER: One could say that the City of Portland could have gone forward with that hydroelectric project and still protected the scenic waterway, but given the issue, the City of Portland decided not to proceed. If the Diack Decision had not been issued, the project would have gone forward.

147 GLICKER: In the ensuing time period, the City of Portland's view of the values of the scenic waterway have changed. Also, in the ensuing time period, the economic picture in the region has changed.

Concludes his review of (EXHIBIT C).

170 REP. SOWA: Do you have plans for diverting drinking water from the Little Sandy or would the Diack prevent you from doing that?

180 GLICKER: We are considering the Little Sandy as a supply option in our studies. The Little Sandy may turn out to be a very good water supply source for the Hoodland Corridor area.

We feel this resolution will provide the opportunity for coordination between the problems in the Hoodland Corridor and in the broader region.

The City of Portland has water rights that predate instream water rights on the Bull Run and the Little Sandy rivers. It is premature to say whether Diack affects the decision of whether to use those water rights, and in what manner, because that is what our planning process is looking at.

200 REP. DWYER: That explains the language of your proposed amendments more clearly.

215 JERRY SCHMIDT, MOUNT HOOD CHAMBER OF COMMERCE: Lists the other associations he represents.

Is available for questions.

Hopes a resolution to the problem can be reached.

260 KEITH PETRIE, MOUNT HOOD RECREATION ASSOCIATION: Supports HJR 61.

280 BEV HAYES, WATER RESOURCES DEPARTMENT: Reads written testimony concerning the problem in the Upper Sandy Basin, possible options that might be explored, what the bill does, the Department's position on the bill, and proposing an amendment (EXHIBIT D).

330 REP. SOWA: Does the City of Portland have a right to that water if they volunteer to supply water to the Hoodland area out of the Little Sandy River which is a tributary into the scenic area?

344 TOM KLINE: That may be a legal evaluation of the extent and nature of the City's water rights which I am not qualified answer.

353 CHAIR NORRIS: Closes public hearing on HJR 61.

Calls for five minute recess at 2:10 p.m.

TAPE 49, SIDE B

CHAIR NORRIS: Reconvenes at 2:19 p.m.

Opens work session on HJR 61.

WORK SESSION HJR 61

015 THATCHER: Reviews City of Portland's proposed amendments from (EXHIBIT C).

045 REP. DWYER: Asks for rationale for the amendments.

055 THATCHER: This commission, which would consist of only people from the Hoodland area as presently constituted, is told to find potable drinking water for the Hoodland area and come up with a plan that comprehensively preserves instream flows in the Sandy River at the level required for a scenic water way.

We are not opposed to preserving flows or to the scenic waterway, but we were concerned that if you give the Hoodland Task Force the obligation to figure out comprehensively how to preserve the flows on the Sandy River, you are asking them to do something that a lot of other people are trying to do.

With our amendment we are trying to focus the attention of the Task Force on the Hoodland problem but not put upon their shoulders the obligation to establish the entire management regime of the scenic waterway.

We believe there are a number of pre-existing water rights in the Sandy Basin, including those held by the City of Portland. Thinks that given the law of water and property rights it would be a wise direction to the task force to say "do the best you can, taking into account that you have to protect the scenic waterway and that other people already have property rights to water in this basin".

120 CHAIR NORRIS: We are not creating statute because this is a resolution.

Water rights are already adequately protected and we are all aware of the Wild and Scenic Rivers Act.

137 REP. DWYER: The City of Portland is afraid of what this Task Force may suggest to alleviate their problem.

152 THATCHER: We have offered to help them find a solution.

160 GLICKER: The intent of the legislature may be clear to those in the room now, but if the legislation does not reflect the intent of the legislature you may get something that you do not want.

175 REP. DWYER: The argument you make is not supported by what you are trying to do. Our intent is to preserve the instream flow of the Sandy River at the level required to meet the statute.

The City of Portland is trying to change the emphasis to protect the City of Portland and people having pre-existing water rights.

Our intent is to find a solution to the dilemma.

200 MOTION: REP. SOWA: Moves adoption in concept of following amendment. In line 10, strike "consisting of" and replace with "including but not limited to". On line 13, at the end of the line, add the words "the Hoodland Corridor". At the end of line 17 add the words "in a manner that takes into consideration the protection of the Sandy River as a scenic waterway". Delete all of (b). Reletter "(c)" to (b). And wherever Hoodland Area Water Supply Commission is referred to, change "Commission" to "Task Force".

220 REP. DWYER: Suggests friendly amendment: at the end, after "plan", sunset this task force upon the completion of giving their report to the next session.

226 REP. SOWA: Accepts the friendly amendment.

230 JUSTICE: The only question posed by Rep. Sowa's amendment is the adoption of the language proposed by the Water Resources Department. Hopes that the understanding and the intent of that amendment is to allow the Task Force to be broadened as opposed to the demand for every interest group to become a voting member of the Task Force.

247 REP. SOWA: My amendment opened the Task Force to more membership, but my intention is not to open it up to everyone. We will leave it to the Water Resources Commission to be reasonable.

250 JUSTICE: Would it be possible, in the context of the conceptual amendment, to frame it in such a way that the named participants in the original resolution would have the authority to expand as they saw fit?

260 REP. SOWA: Would add to his conceptual amendment that "the task force be limited to no more than nine members" to make Mr. Justice more comfortable.

275 VOTE: There being no objection, conceptual amendments are adopted. All members are present.

285 CHAIR NORRIS: Closes work session on HJR 61.

Asks for unanimous consent to allow Rep. Markham to vote on HB 2192.

285 There being no objection, Rep. Markham is allowed to vote.

Rep. Markham votes Aye.

Adjourns meeting at 3:40 p.m.

Submitted by: Reviewed by:

Pat Zwick, Beth Patrino, Assistant Administrator

EXHIBIT LOG:

A - HB 2192-2 Amendment - Staff - 1 page B - HB 2192-3
Amendment - Staff - 1 page C - HJR 61 Testimony and Exhibits -
Joe Glicker - 6 pages D-HJR 61 Testimony - Bev Hayes - 2 pages