

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

March 28, 1991Hearing Room D 1:30 p.m.Tapes 38 - 39

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:David Crowell, Legislative Aide, Speaker's Office Bill Young, Water Resources Department Rep. Denny Jones Jim Myron, Oregon Trout Jan Boettcher, Oregon Water Resources Congress Marjo Nelson, Darrow Rocks Community Association

MEASURES CONSIDERED:HB 3326 - Prohibits Water Resources Commission from defining "conservation", "nonconsumptive use" or "waste". - Public Hearing

HB 2909 - Decreases fees assessed by Water Resources Department. - Public Hearing

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TAPE 38, SIDE A

010 CHAIR NORRIS: Calls the meeting to order at 1:48 p.m.

Opens public hearing on HB 2909.

PUBLIC HEARING HB 2909

013 BETH PATRINO, COMMITTEE ADMINISTRATOR: Reviews provisions of HB 2909.

Notes a fiscal impact statement on HB 2909 distributed to members.

035 DAVID CROWELL, LEGISLATIVE AIDE TO SPEAKER CAMPBELL: Reads written testimony in support of HB 2909 (EXHIBIT A).

065 BILL YOUNG, WATER RESOURCES DEPARTMENT: Your staff has

characterized what HB 2909 does. Although we detected the elimination of the penalty assessment we had not had an occasion to visit with Legislative Counsel who apparently advised that it has been placed somewhere else.

Reads written testimony stating what HB 2909 does, the problem, history, and the Department/Commission position (EXHIBIT B).

130 CHAIR NORRIS: Closes public hearing on HB 2909.

Opens public hearing on HB 3326.

135 PATRINO: Reviews provisions of HB 3326.

137 REP. DENNY JONES: Addresses issues of conservation, waste, irrigation methods, and Oregon Department of Fish and Wildlife being able to apply for instream water rights without paying fees.

217 REP. SCHROEDER: Would you say that the situation with Fish and Wildlife is no different from building an underground parking lot and then charging more rent?

222 REP. SOWA: Do State Parks and DEQ which have the same authority, pay fees?

227 REP. JONES: Unable to say.

Assumes no agency is charged for instream water rights.

240 REP. SCHROEDER: What would be the possibility of measuring the flow above and below your field to determine the amount of water that you are actually using?

250 REP. JONES: That has been done and shows that we are only using 15% of the water that we turn on. If we could get credit for the return flow to the benefit of everyone we would have no problems with the issue of conservation or waste.

According to ODF&W and Bill Young, the definition of waste is what is running down the barrow pit.

263 REP. DWYER: Is any area where you run the water fertilized?

270 REP. JONES: We no longer fertilize hay and meadows.

271 REP. DWYER: Does anyone using flood irrigation use fertilizer?

275 REP. JONES: Only natural fertilizer from cattle.

285 CHAIR NORRIS: Closes public hearing on HB 3326.

Reopens public hearing on HB 2909.

PUBLIC HEARING HB 2909

295 REP. SCHROEDER: Is there a provision in law to irrigate a home garden and use domestic water without a water right?

300 YOUNG: There is an exempt use for ground water but not for surface water.

304 REP. DWYER: Asks for financial circumstances of the woman in Mr. Crowell's testimony.

310 CROWELL: She is married, her huSB and lives in Alaska half of the year and works as a timber faller, she lives on a half acre home site close to the edge of Lake Creek prior to its confluence with the Suislaw, and her huSB and probably makes \$30,000 to \$40,000 a year which provides support for two homes. They have no children in the home.

327 REP. DWYER: We might want to develop provisions for certain hardship provisions.

Do not support increasing fees and have opposed that.

Does she have a well?

344 CROWELL: Her domestic water supply comes from a spring that she shares with other homes.

354 REP. SOWA: Did Speaker Campbell share with you how he would balance the budget of the Water Resources Department if we utilize this lower fee?

364 CROWELL: No.

365 REP. SCHROEDER: Would he approve amending into the bill requiring ODF&W to pay the same fees as everyone else?

375 CROWELL: Would probably be amenable to that.

380 JIM MYRON, OREGON TROUT: Reads written testimony in opposition to HB 290 9 (EXHIBIT C).

415 REP. SCHROEDER: Would you favor an exemption for those with less than half an acre, similar to the groundwater exemption?

420 MYRON: Numerous applications of that size have come into the Department within the last two years. If we made an exemption for those, it would severely impact the Department.

425 REP. DWYER: Feels costs are comparable for well and surface water permits.

Would be concerned about exempting out of stream uses for anything. TAPE 39, SIDE A

011 CHAIR NORRIS: Have wondered why the exemption for a half acre or less does not apply to surface water.

017 REP. DWYER: Would need definition of a de minimis use and how many would be allowed before proceeding.

027 CHAIR NORRIS: How many similar incidents might there be?

030 YOUNG: The great majority of the applications the Department deals with tend to be for modest amounts of water.

Exempting surface water users would be difficult because of effects on other senior users.

058 JAN BOETTCHER, OREGON WATER RESOURCES CONGRESS: Suggests that for an amount of water for less than a half acre or irrigated land, the water right examiner requirement could be waived without reducing Water Resources Department revenue.

075 REP. DWYER: How would you protect a senior user if you exempt them from water right examination?

If you don't have a water right examination, the Commission has nothing to review.

111 BOETTCHER: Another possibility would be having an examination on site without requiring the intricate mapping.

Feels that (4) needs to be left in the bill. By addressing the penalty on ourselves we would be perceived as having done quality work.

135 PATRINO: The language has only been moved in the bill, it would not be removed from the law.

145 MARJO NELSON, DARROW ROCKS COMMUNITY ASSOCIATION: Speaks against need for a full water right examination on small acreages.

Feels it is too much of a burden on the small landowner.

155 REP. DWYER: When you have your well and someone puts their well below yours and yours goes dry, this is not as simple as it seems.

175 NELSON: Would the water right examiner make the difference in that situation?

179 REP. DWYER: Not sure.

183 NELSON: Can Water Resources come up with guidelines that would have less stringent requirements for a small landowner?

Requirements seem excessive.

200 CHAIR NORRIS: Feels reasonable compromise may be possible.

Asks interested parties to confer to see if compromise is possible that would protect everyone's right and not represent an exorbitant cost for small land owners.

Asks Committee Administrator to coordinate the meeting.

There will be no meeting of the committee next Tuesday, April 2.

Will have to start moving bills more expeditiously. Wants to get HB 2192 and the storage bills moving as soon as possible.

Committee Administrator has been asked to find another meeting room so that we can have longer meetings when needed.

235 REP. DWYER: This bill emanated from the fact that someone was illegally using water from a stream without authority.

242 CROWELL: Yes. She claimed ignorance of the law and had been taking water from the creek since 1981.

In 1981, the fee was \$40 or \$50.

260 CHAIR NORRIS: Closes public hearing on HB 2909.

Reopens public hearing on HB 3326.

PUBLIC HEARING HB 3326

280 BILL YOUNG, WATER RESOURCES DEPARTMENT: Reads written testimony in opposition to HB 3326 stating what the bill does, the background - Department's conservation program, and the problem with the bill (EXHIBIT D).

(EXHIBIT D) also includes two Oregon Water Management Program documents: "Conservation and Efficient Water Use" and "Introduction".

360 REP. SCHROEDER: Feels having a good definition of "waste" would be more helpful than not defining it.

365 YOUNG: Refers to "waste" definition in (EXHIBIT C). That is the definition we have used to lay out a planning process, get a conservation committee together, and begin to work with select people around the state to enable us to put some further definition on what the public feels "waste" really means.

390 REP. SCHROEDER: Do you think it is waste if you take 3 inches to deliver your half inch right?

397 YOUNG: This provides us the framework for developing some definitions like that. Thinks we will eventually characterize an approach, or a set of practices for a volume of water that may have application to flood irrigation. In other climatological circumstances and for different crops we may come up with a different set of practices or volume of water that is applicable.

Do not have the necessary information, but it needs to be generated.

TAPE 38, SIDE B

YOUNG: Oregon State University is one of the sources we had as we used a fairly large advisory group to work on the matter of conservation.

017 REP. DWYER: Does the bill Rep. Jones mentioned that would give credit for return flow, contain a provision to charge for any volume of fertilizer that might be contained in the water?

022 YOUNG: Suspects the bill would not include any concept of charges.

038 JIM MYRON, OREGON TROUT: Reads written testimony in opposition to HB 332 6 (EXHIBIT E).

060 CHAIR NORRIS: Closes public hearing on HB 3326.

Adjourns meeting at 2:53 p.m.

Submitted by: Reviewed by:

Pat Zwick, Beth Patrino, Assistant Administrator

EXHIBIT LOG:

A - HB 2909 Testimony - David Crowell - 2 pages B - HB 2909
Testimony - Bill Young - 3 pages C - HB 2909 Testimony - Jim Myron
- 1 pages D-HB 3326 Testimony - Bill Young - 12 pages E-HB 3326
Testimony - Jim Myron - 1 page