

TESTIMONY OF REPRESENTATIVE LES AuCOIN BEFORE THE CONSERVATION
SUBCOMMITTEE OF THE COMMITTEE ON ENERGY AND COMMERCE.

Mr. Chairman:

I appreciate the opportunity to testify today in support of legislation to remove the Lake Oswego Dam and hydroelectric facility from the jurisdiction of the Federal Energy Regulatory Commission.

I plan to make my statement brief, Mr. Chairman, since I believe a considerable amount of information has been submitted to the Committee on the background of this problem and the need for the legislation which is now before the Committee.

I have been working on this issue along with my distinguished colleague Senator Hatfield of Oregon, since my arrival in Congress seven years ago. I have since come to appreciate the old saying that the wheels of government turn slowly, although I believe that this problem should have been resolved as a result of legislation which Congress enacted in 1976.

That legislation, introduced by Senator Hatfield and myself, amended the Rivers and Harbors Act of 1899 to declare that Lake Oswego was not considered navigable for the purposes of that Act and had the effect of removing Lake Oswego from the regulatory jurisdiction of the Corps of Engineers.

Now, the Federal Energy Regulatory Commission has determined that the 1976 amendment does not apply to FERC's regulatory jurisdiction, and they are attempting to require federal licensing of Lake Oswego's small dam and generator.

As a result of this decision, I introduced legislation, H.R. 1886, which seeks to remove Lake Oswego's dam and generator from FERC's regulatory jurisdiction. Similar legislation recently passed the Senate and has been referred to this Committee as has legislation introduced by my friend and colleague Ron Wyden.

An appeal of FERC's decision to require licensing of the dam was taken before the Ninth Circuit Court of Appeals. The Court is aware of the pending legislation and has entered an order delaying submission of the case in order to allow the legislation to proceed. Thus, the Court has deferred to the legislative process.

It is for this reason that I would urge the Committee to act on this matter with all deliberate speed. As we all know, the remaining legislative days are limited and there is much work the Congress must complete. Given those circumstances it is easy for a small, and relatively non-controversial, piece of legislation to get lost in the shuffle. Forcing the residents of Lake Oswego to wait for at least another year would truly be unfortunate. The additional costs of having to comply with FERC's power licensing procedures would be substantial, and, even worse, unnecessary. It is this needless over-regulation and red tape that has frustrated the public and led to attempts by the Administration and their friends in Congress to go after all regulations, not merely the unnecessary and wasteful.

Of the three bills introduced on this matter, two are pending before your Committee. The legislation which I introduced has been referred to the Committee on Public Works and Transportation. Rather than letting pride of authorship get in the way of our efforts to solve the problem, and because the differences between the three versions is insignificant, I would lend my support to the version that stands the best chance of being signed into law. At this point in time I would suggest that Senator Hatfield's bill, S. 1573, having already been approved by the Senate, would have the best chance to be signed into law although Congressman Wyden's bill is certainly acceptable and would receive my strong support.

I certainly appreciate anything the Committee can do to expedite consideration of this matter, and I appreciate the opportunity to testify on this small but important issue.