

SENATE COMMITTEE ON WATER AND LAND USE

February 4, 1997 Hearing Room C

9:00 A.M. Tapes 14 - 15

MEMBERS PRESENT:

Sen. Veral Tarno, Chair

Sen. Bob Kintigh, Vice-Chair

Sen. Ginny Burdick

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. David Nelson

Sen. Thomas Wilde

MEMBER EXCUSED:

STAFF PRESENT:

Mark Volmert, Administrator

Nancy Masee, Administrative Support

MEASURE/ISSUES HEARD:

SB 132 - Public Hearing

SB 133 - Public Hearing

SB 134 - Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

Tape/#	Speaker	Comments
TAPE 14, A		
004	Chair Tarno	Calls meeting to order at 9:00 a.m.
<u>SENATE BILL</u> <u>132 - PUBLIC</u>		

HEARING		
002	Martha Pagel	Director, Water Resources, introduces Tom Paul and Tom Byler
003	Pagel	Explains SB 132; transfer of water rights; changes from surface to ground water at permit stage; water right from surface water to ground water source to minimize treatment costs; avoids impact to fish. (EXHIBIT A)
040	Sen. Fisher	Asks if they are talking about a well.
042	Pagel	Responds, yes, for example from a stream flow to a well near the stream
062	Tom Paul	Deputy Administrator, Water Resources, explains they are speaking of shallow wells; that the direction could be either way.
080	Paul	Explains hydraulics that are restricted within 500' of stream.
086	Pagel	Explains ground and surface sources usually different. Explains the second change allowing a transfer to occur when a transfer has already been allowed; technical correction to clarify proving up the first transfer.
099	Chair Tarno	Asks if this appropriation is properly utilized.
110	Paul	Responds the water would have had to been used for its beneficial purpose under the transfer order
114	Ferrioli	Asks about reciprocal exchange; a city changing from ground to surface for instance.
124	Pagel	Responds that is not the intent of the proposal nor allowed by current law; a transfer process is considered a minor change.
134	Sen. Fisher	Asks about circumstances that don't allow change
144	Paul	Explains the statutes regarding transfers; permanent transfers being permanent ; that is, a permanent water right change.
164	Ferrioli	Asks if this makes it easier for a holder to make a temporary change in use without a source change.
166	Pagel	Explains temporary transfers; more flexible water rights presently;
	Pagel	Explains the third change amending the use of water rights; once every five years now, you must show use of the water; other circumstances such as a drought, a conservation plan, in-stream lease; or others; to clarify to show evidence of use
202	Pagel	Explains the fourth change referring to temporary transfer changes; allow temporary changes in point of diversion;
214	Chair Tarno	Asks about relocating a well.

219	Sen. Fisher	Asks if you did not use water for 4 years, then a drought occurred, would that extend your use one year, or would you start a new five years.
228	Paul	Explains it forgives that fifth year when water was available. The clock stops at the point it is not available for diversion.
252	Pagel	Explains that leasing does constitute in-stream use.
274	Sen. Fisher	Asks for a clarification about the use for one year, then 4 years not used, and then lease it.
276	Pagel	Five year clock starts with non-use. When you put it to use that stops the clock and goes back to zero.
292	Sen. Kintigh	Asks if you donate your water for in-stream use, what kind of process does one go through.
296	Paul	Explains about leases.
308	Sen. Ferrioli	Asks about Section 4, temporary diversion of surface rights.
318	Paul	Explains that it can be surface or ground.
333	Sen. Burdick	Asks about trading off ground and surface water.
345	Pagel	The final change relates to the forfeiture clause. The five-year period won't run while an application is pending before our department.
358	Sen. Fisher	Asks if that refers to a lease.
364	Pagel	Responds that it does not apply to lease but this language applies to the transfer application process.
385	Chair Tarno	Asks for questions of the agency by committee.
392	Bill Bach	Port of Portland, testifies in support of SB 132 (EXHIBIT B).
TAPE 15, A		
024	Bach	Continues testimony in support of SB 132
043	Sen. Nelson	Asks how much water Port of Portland uses.
061	Steve Applegate	Oregon Water Resource Council (OWRC), explains their support for SB 132(EXHIBIT C)
077	Peter Test	Oregon Farm Bureau Federation, testifies in support of SB 132 (EXHIBIT D).
093	Chuck Craig	Oregon Department of Agriculture, explains support of SB 132.
		Water Watch, Executive Director, explains their stand opposing SB 132 (EXHIBIT E) (Water Watch supports part of the measure, sections 2 & 5)

106	Jeff Curtis	<ul style="list-style-type: none"> * all water belongs to the people of Oregon * are not against irrigation use of water * believe that changing conditions of a water right is new negotiation * allows transfer of permits which are not full fledged water rights * transfer could be harmful to in-stream values * oppose the expansion to change point of diversion * believe in flexibility to water users that was dealt with in 1995 session * believes stream flows for salmon and steelhead need more protection
180	Sen. Fisher	Comments that the public benefit from irrigation; asks how they justify saying that people get water for nothing.
193	Curtis	Explains they are not opposed to irrigation; goal is to balance in-stream values and agriculture use
202	Sen. Fisher	Comments he does not understand questioning about people getting something for nothing when they get benefits from irrigated crops.
221	Pagel	Explains Point of Diversion from one point to another, interpretation can be an additional point of diversion if no harm results from the change.
260	Sen. Fisher	Comments that more than one point of diversion could be more efficient.
281	Sen. Kintigh	Comments that you are still limited to that amount of water.
289	Sen. Kintigh	Asks if anything in the measure decreases stream flow.
296	Pagel	Responds that amount taken would be specified
303	Sen. Burdick	Asks about injury to other water holders; and is there harm to the stream to be considered.
315	Chair Tarno	Closes public hearing on SB 132 and opens public hearing on SB 133.
<u>SB 133 - PUBLIC HEARING</u>		
359	Pagel	Gives background on SB 133.
377	Pagel	Continues on technical change of municipal applicants identifying place of use by tax lot.
TAPE 14, B		
006	Pagel	Continues on SB 133

026	Pagel	Continues on protest process and standing.
067	Pagel	Continues on third change involving fees.
076	Pagel	Continues on fourth change involving ponds * injury to other water rights * detrimental impacts on fish
098	Sen. Kintigh	Asks for example of creating a pond
103	Pagel	Describes examples of ponds
119	Sen. Fisher	Comments about the damage to fisheries
131	Pagel	ODFW is involved in the review process.
140	Chair Tarno	Asks about creating ponds, specifications
143	Chair Tarno	Asks if there is anyone that does not support this bill. Closes public hearing on SB 133, opens public hearing on SB 134.
<u>SB 134 - PUBLIC HEARING</u>		
164	Pagel	Introduces herself, Dick Bailey and Tom Byler; gives SB 134 background; to give an alternative to a full water right; a limited water right; explains during flooding or on emergency basis;
190	Sen. Kintigh	Asks about emergency during a fire situation.
195	Paul	Using water in fighting fire an exempt use currently
199	Sen. Burdick	Asks for an example in a flood situation.
202	Pagel	Responds if a point of diversion was wiped out, to create a new point of diversion or a well being drilled to get a new water source
211	Pagel	Explains amendment 134-1; explains emergency situation where an inadvertent violation occurs; repeals the sunset provision and allows to provide flexibility to authorize water use in illegal situation (EXHIBIT F)
257	Chair Tarno	Asks if there is anyone who opposes this bill
255	Jeff Curtis	Water Watch, comments that the change may cause an excessive loophole; says the governor should declare the emergency.
272	Sen. Burdick	Asks if there is evidence that there has been reason to go to the top level.
288	Curtis	Responds, no, and comments about amendment as illegal
301	Sen. Fisher	Asks if a city or individual as a result of flood got contaminated water, the Water Resources Department could issue a change in an

		emergency permit.
334	Chair Tarno	Asks if Pagel wants to respond.
339	Pagel	Responds about public health, safety and welfare; water supply system; does not want tie to governor's declaration as it takes too long;
354	Sen. Fisher	Comments that Pagel is appointed by the governor.
367	Chair Tarno	Asks if any other persons want to comment on SB 134.
370	Chair Tarno	Closes public hearing on SB 134.
390	Chair Tarno	Adjourns meeting at 10:25 a.m.

Submitted By, Reviewed By,

Nancy Masee, Mark Volmert,

Administrative Support Administrator

EXHIBIT SUMMARY

A - SB 132, SB 133, SB 134, Testimony, Martha Pagel, 14 pp

B - SB 132, Testimony, Bill Bach, 1 p.

C - SB 134, Testimony, Steve Applegate, 1 p.

D - SB 132, SB 133, Testimony, Pete Test, 1 p.

E - SB 132, Testimony, Jeff Curtis, 4 pp.

F -Amendment 134-1, Staff, 1 p.
