

HOUSE COMMITTEE ON
WATER POLICY

Hearing Room
Tapes -88

MEMBERS PRESENT:

Rep. Chuck Norris, Chair
Rep. Avel Gordly
Rep. Tim Josi, Vice-Chair
Rep. Veral Tarno
Rep. Jim Welsh

STAFF PRESENT:

Pat Zwick, Committee Administrator
Gail E. Boesch, Committee Assistant

MEASURES HEARD:

SB 1033 A - Public Hearing and Work Session
SB 674 A - Public Hearing

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.

TAPE , A

003 CHAIR NORRIS: Calls the meeting to order at 2: 04 PM

015 Opens the Public Hearing on SB 1033 A
Witnesses: SEN. NEIL BRYANT
Martha Pagel, Water Resources Department
Louise Bilheimer, Pacific Rivers Council
Karen Russell, WaterWatch
SEN. ROD JOHNSON

024 SENATOR NEIL BRYANT: Principal author of SB 1033.

- At a question from REP. JOSI, explains Diack ruling.

077 - Letter from Governor, slightly different approach.

100 - Trying to get away from something that says de minimis.

118 Submits Exhibit A, a letter from the Governor outlining his concerns and
suggestions for amending SB 1033A.

176 CHAIR NORRIS: Agrees that the Senator's suggestions are the best
solution given the short time available.

193 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Submits Exhibit B. Explains
the reasons for SB 1033 A, problems with the Scenic Waterways Act in
combination with Diack rulings.

- Objective is to find a practical solution to processing groundwater
applications.

- Hard to come up with right words to solve the problem.

260 - Discusses the process of decision making. Discusses Exhibit A, page
5, (8).

318 - Looking for a sensible solution.

342 - Discusses the Governor's concerns, Exhibit A.

TAPE 86, A

002 LOUISE BILHEIMER, PACIFIC RIVERS COUNCIL: Urges holding scenic waterways to higher standards for permits.

033 KAREN RUSSELL, WATERWATCH: Submits Exhibit C, an article from the Oregonian; also submits Exhibit D, testimony opposing SB 1033A.

061 - Suggests deletions and changes in language to meet governor's requests, and still address WaterWatch concerns.

077 - Concerns about language regarding exemptions.

115 CHAIR NORRIS: Recesses the Public Hearing on SB 1033 A
Opens Public Hearing on SB 674
SEN. ROD JOHNSON

125 SEN. ROD JOHNSON: Submits Exhibit E, -A40 amendments.
- SB 674 designed to improve water rights application process.

165 Summarizes the application/filing process as set out in SB 674.

219 Discusses proposed amendments - has made some decisions in the last two days.

233 Supports WRD's proposals; refers to hand engrossed copy which only Chair Norris has at this time.

323 Submits Exhibit F, -38 amendments.

362 Discusses Water For Life amendments.

386 Comments on WaterWatch amendments, Exhibit G.

TAPE 85, B

058 CHAIR NORRIS: Recesses the Public Hearing on SB 674A
Opens Public Hearing on SB 1033 A.
Witnesses: Bob Meinen, Oregon Parks & Recreation Department
Jerry Schmidt, Oregon Groundwater Association
Steve Schneider, Oregon Groundwater Association
Ted Pulliam
Gayle Killam, Oregon Environmental Council

070 BOB MEINEN, OREGON PARKS AND RECREATION DEPARTMENT: Submits Exhibit H, and comments on SB 1033A, generally supporting bill.

095 JERRY SCHMIDT, OREGON GROUNDWATER ASSOCIATION: Supports bill, with exception of deletion of Section 11 per the Governor's recommendation.

150 - Would like to see the bill move; would like to see it go to conference committee, as suggested by Sen. Johnson.

156 STEVE SCHNEIDER, OREGON GROUNDWATER ASSOCIATION: Comments that "this bill actually enhances the scenic waterway flows by regulating groundwater

that could be connected and interfere with it. There are very strong opinions that the Diack decision and the scenic waterway statutes do not apply to groundwater in the scenic waterway basins or upper basins at all, and that this would have to be challenged in court to establish it one way or another." Scenic waterways would have to be held to a higher standard; to us this bill is holding them to "the highest level".

190 REP. TARNO: Question about well drilling, how do you determine hydraulic

connection, or if drilling a well is impacting a water source some distance away?

210 SCHNEIDER: Best answered by geologists. Explains what his group does.

General discussion of hydraulic connections; well depth and characteristics.

260 TED PULLIAM: Depth, distance and flow are formulas involved with hydraulic connection and wells.

277 GAYLE KILLAM, OREGON ENVIRONMENTAL COUNCIL: Submits Exhibit I, supports amendments proposed by WaterWatch.

326 CHAIR NORRIS: Closes the Public Hearing on SB 1033A
Opens the Work Session on SB 1033A.

General discussion of process to pass this bill, the potential for it going to conference committee for further amendments; and the Governor's letter (Exhibit A).

MOTION: REP. TARNO: Moves the conceptual amendments on page 4, of Governor Kitzhaber's memo, Exhibit A, be ADOPTED.

CHAIR NORRIS: Hearing no objections, the amendments are ADOPTED.

TAPE 86, B

010 KIP LOMBARD, OWRC: Calls attention to the fact that the ORS's are not referenced in the memo used for amending language.

025 MARTHA PAGEL: Helps, notes appropriate ORS's.

041 JEANETTE HOLMAN, LEGISLATIVE COUNCIL: Suggests noting ORS sections now, can be adjusted by conflicts amendments later. Recommends not passing out amendment with blanks.

Confusion and discussion clarifying amending language, which it was determined was directed to the bill.

Martha explains the governor's memo, and amendments.

091 CHAIR NORRIS: Along with Martha, goes through printed bill and Exhibit A, the governor's memo, to note changes to the original, to clarify for the purposes of moving amendments correctly.

125 MARTHA: Goes through amending point by point.

250 Suggests further amending language.

275 Simply want to say that this provision does not apply to ground water.

320 REP. TARNO: Withdraws his previous motion to amend.

CHAIR NORRIS: Hearing no objections, so ordered.

MOTION: REP. JOSI: Moves the conceptual amendments as presented in Exhibit A by Gov. John Kitzhaber, BE ADOPTED.

VOTE: Hearing no objections, the amendments are ADOPTED.

MOTION: REP. JOSI: Moves to AMEND SB 1033A by inserting "MAY, and DELETING "SHALL", page 4 (8) (b) ..

CHAIR NORRIS: Hearing no objections, the amendments are ADOPTED.

MOTION: REP. JOSI: Moves to AMEND SB 1033A by inserting "AT BOTTOM OF PAGE

4, after ORS, insert 537.505 to 537.795.

CHAIR NORRIS: Hearing no objections, the amendments are ADOPTED.

MOTION: REP. JOSI: Moves to AMEND SB 1033A by inserting "same manner as a protest on any groundwater application".

CHAIR NORRIS: Hearing no objections, the amendments are ADOPTED.

TAPE 87, A

051 MOTION: REP. TARNO: Moves SB 1033 A, as conceptually amended, to the Floor with a DO PASS recommendation.

078 VOTE: In a roll call vote, all members are present and vote AYE.

REP. WELSH will lead the discussion on the Floor

080 CHAIR NORRIS: Closes the Work Session on SB 1033A.

082 Recesses the meeting for 10 minutes.

095 Reconvenes the meeting at 4:15 PM

096 CHAIR NORRIS: Opens the Public Hearing on SB 674A.

Witnesses: Martha Pagel, Water Resources Department
Kip Lombard, Oregon Water Resources Congress
Karen Russell, WaterWatch
Pete Test, Oregon Farm Bureau Federation
Roy Elicker, Oregon Department of Fish & Wildlife
Gayle Killam, Oregon Environmental Council
Richard Kosesan, Water For Life
Todd Heidgerken, Water For Life

102 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Submits Exhibit J, and K, on the water rights application process.

197 - Fee to protest is \$200.

260 - Even though process seems complex, it is much simpler than that in existence.

314 PAGEL: Instream water rights, complex issue to be dealt with.

325 KIP LOMBARD, OWRC: Discusses SB 674.

390 - Writ of mandamus.

TAPE 88, A

005 LOMBARD: Continues explaining writs of mandamus.

020 - Two other areas, Section 20, two tiered water rights process; Governor Kitzhaber "has made it very clear" that if this section remains, he will not sign the bill. Testifies that this bill has "too much good in it", does not want to lose the bill, recommends removing the language which the governor objects to.

040 CHAIR NORRIS: Discusses governor's threat of veto.

050 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Section 20 would create substantive change to the nature of an instream water right; have to reopen

the instream water right decision two years later - major change and different issue than what we set out to fix.

075 - Tremendous fiscal impact.

080 LOMBARD: Testifies that the governor is willing to work on the issue,

"has not closed the door forever on instream water rights".

130 KAREN RUSSELL, WATERWATCH: Submits Exhibit L, regarding a hand engrossed version of SB 674; Exhibit M, amendments, and Exhibit N, letter of testimony

- Discusses mandamus issues, have a lot of problems with the bill, urges passage of Waterwatch amendments and the WRD amendments.

194 PETE TEST, OREGON FARM BUREAU FEDERATION: Elimination of the backlog and improving the water right application process are major policy issues of the Farm Bureau; supports SB 674 A and amendments brought today.

220 ROY ELICKER, DEPARTMENT OF FISH AND WILDLIFE: Section 20, major concerns. Other concern with section 32, definition of instream water rights. minimum flows necessary to reach a management objective.

368 CHAIR NORRIS: Notes that language regarding instream water rights will stay in bill, in deference to Sen. Johnson; may be dealt with later.

TAPE 87, B

003 GAYLE KILLAM, OREGON ENVIRONMENTAL COUNCIL: Submits Exhibit O.

015 RICHARD KOSESAN, WATER FOR LIFE: Will propose basic amendments; Sections 20,32,36.

058 TODD HEIDGERKEN, WATER FOR LIFE: Discusses fiscal analysis comparing HB 2754, and SB 674.

092 - Instream flow, definition. thinks the language is very clear the way it is.

106 Closes Public Hearing on SB 674

160 MOTION: REP. TARNO: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote on SB 510A.

CHAIR NORRIS: Hearing no objections, so ordered.

170 ADJOURNS the meeting at 4:56 PM.

Submitted by, Reviewed by,

Gail E. Boesch Pat Zwick
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - Letter from Governor Kitzhaber regarding SB 1033 A -- SENATOR NEIL BRYANT -- 4 pages

B - Testimony relating to SB 1033 A -- Martha Pagel, Water Resources Department -- 12 pages

C - SB 1033 A, Oregonian Article, May 9, 1995 -- WaterWatch -- 1 page

D - Testimony on SB 1033 A -- WaterWatch -- 4 pages

E - SB 674 A, Proposed Amendments, -A40 -- SENATOR ROD JOHNSON -- 1 page

F - SB 674 A, Proposed Amendments, -A38 -- SENATOR ROD JOHNSON -- 2 pages

G - SB 674 A, Proposed Amendments, -A22, -A24, -A26, -A27, -A28, -A29, -A32 -- WaterWatch -- 8 pages

H - Testimony on SB 1033 A -- Bob Meinen, Oregon Parks and Recreation Department -- 1 page

I - Testimony on SB 1033 A -- Gayle Killam, Oregon Environmental Council -- 2 pages

J - SB 674 Water Rights Applicatin Process -- Martha Pagel, Water Resources Department -- 1 page

K - Testimony on SB 674 A -- Martha Pagel, Water Resources Department -- 5 pages

L - Testimony on SB 674 A -- WaterWatch -- 5 pages

M - SB 674 A, WaterWatch Proposed Amendments -- WaterWatch -- 1 page
N - Testimony on SB 674A -- Oregon Shores Conservation Coalition -- 1 page
O - Testimony on SB 674 A -- Gayle Killam, Oregon Environmental Council -- 1

page

P - Testimony on SB 674 A -- Kip Lombard, Oregon Water Resources Congress --

11 pages

Q - SB 674 A, Proposed Amendments, -A33 -- Staff -- 2 pages
R - SB 674 A, Proposed Amendments, -A39 -- Water For Life -- 1 page
S - Testimony on SB 1033 A -- Metro Council, Portland (Submitted by Staff)
-- 3 pages