

SENATE COMMITTEE ON
WATER AND LAND USE

Hearing Room
Tapes - 133

MEMBERS PRESENT:

Sen. Rod Johnson, Chair
Sen. Bob Kintigh, Vice-Chair
Sen. Neil Bryant
Sen. Ron Cease
Sen. Bill Dwyer

STAFF PRESENT:

Karen Quigley, Committee Counsel
Patricia Wehrli, Committee Assistant

MEASURES HEARD: SB 1114 WORK SESSION (RECONSIDERATION)

HB 2184 PUBLIC HEARING AND WORK SESSION
HB 2376 PUBLIC HEARING AND WORK SESSION
HB 2431 WORK SESSION
HB 2753 PUBLIC HEARING AND WORK SESSION
HB 2782 PUBLIC HEARING AND WORK SESSION
SB 1032 WORK SESSION

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 SIDE A

006 CHAIR JOHNSON: Convenes the hearing at 1: 15 p.m.
OPENS THE PUBLIC HEARING ON HB 2184

Witness:

Martha Pagel, Director, Water Resources Department
Beth Patrino, Water Resources Department

022 MARTHA PAGEL, DIRECTOR, WATER RESOURCE DEPARTMENT: Testifies in support
of HB 2184. (See Exhibit A)

051 SEN. DWYER: Does this bill deals with marketing water?

PAGEL: No, it deals with temporary transfers.

SEN. DWYER: Is five years temporary?

065 PAGEL: As long as it comes back unified. It was agreed upon by our
group mentioned on page four of exhibit A.

088 BETH PATRINO, WATER RESOURCES DEPARTMENT: Explains one situation that
the group didn't agree upon.

SEN. DWYER: I'm not going to allow any diversion moved if there's no
screening process first.

109 CHAIR JOHNSON: Asks for specific language that would address Sen.
Dwyer's concerns.

118 PAGEL: Ask for time to get language together to address Sen. Dwyer's
concerns.

140 SEN. DWYER: The law requires diversions to be screened.
(The responsibility to the water needs to be applied.

PAGEL: Discusses section seven of the bill that needs the provision added to address Sen. Dwyer's concerns.

(Discusses limited licenses.

228 SEN. DWYER: Why do we need an emergency clause?

PATRINO: The proponents would like it to be effective immediately.

259 PAGEL: A screen on these types of diversions would be impractical.

315 PETE TEST, OREGON FARM BUREAU: Testifies in support of HB 2184.

392 KIP LOMBARD, WATER RESOURCE CONGRESS: Testifies in support of HB 2184.

TAPE 129 SIDE A

004 DOUG MYERS, WATER WATCH: Testifies in support of HB 2184 and Sen. Dwyer's concern for screening.

(Discusses section eight.

024 RICHARD KOSESAN, WATER FOR LIFE: Testifies in opposition to screening language.

(Addresses the current statutory requirements for diversions in comparison to what Sen. Dwyer is requesting.

070 CHAIR JOHNSON: OPENS THE PUBLIC HEARING ON HB 2376

Witness:

Richard Kosesan, Water for Life

Steve Applegate, Water Resources Department

122 RICHARD KOSESAN, WATER FOR LIFE: Testifies in support of HB 2376.

139 CHAIR JOHNSON: Where is the protection for fish in this bill?

148 KOSESAN: Explains the protections that are spelled out in the bill.

CHAIR JOHNSON: Questions when a person needs to grandfather their pond.

KOSESAN: This would allow the Department to take a group of applications, rather than an individual application.

170 CHAIR JOHNSON: Why not exempt limited applications altogether?

KOSESAN: This shouldn't create problems with existing ponds.

Chair Johnson, Sen. Bryant and Sen. Dwyer discusses how to measure the dam with Ms. Pagel and Mr. Kosesan.

215 STEVE APPLGATE, WATER RESOURCE DEPARTMENT: Discusses the spill ways that are lower than the crest of the dam.

233 CHAIR JOHNSON: Is there any fee for a person who is requesting an opposition to the permit?

PAGEL: No.

KOSESAN: There's always a possibility , but they would have to prove that there is a detrimental damage.

254 CHAIR JOHNSON: Questions the continuity of the appeal process.

260 PAGEL: The bill requires two grounds for people to object.

266 CHAIR JOHNSON: What are your expectations of the departments capacity of dealing with blanket appeals?

283 PAGEL: We will be working with the Department of Fish and Wild Life and will be relying on them for their advice.

302 CHAIR JOHNSON: Discusses the possibility of an appeal for every pond

with fish in it. Asks for a fee to restrict frivolous appeals.

313 PAGEL: What we are doing is granting amnesty for illegal uses. If we required a fee for that process, no one will come forward.

368 SEN. DWYER: Discusses language on page five.

388 CHAIR JOHNSON: Based on the history of blanket appeals, we have people who have proven that they are capable of filing those appeals. Lets make them pay for those appeals.

TAPE 128 SIDE B

014 SEN. DWYER: Questions about legitimate water appeals.

CHAIR JOHNSON: They should be refundable to those who have legitimate appeals.

Chair Johnson and Sen. Dwyer discuss the rationale of those who apply for the appeals.

CHAIR JOHNSON: Before some one can appeal they have to go through ODFW?

061 KOSESAN: Yes.

PAGEL: Discusses the rest of HB 2376.

098 SEN. DWYER: Questions if there's a pond that no one conceivably knows about, if the river gets low and he has a senior water right, could he call on that water?

107 PAGEL: If you qualified for an outright exemption, you are not subject to regulation.

114 KOSESAN: The test would be the initial stage for existing ponds.

118 SEN. DWYER: The window for being able to appeal is in jeopardy because you may not know you have been damaged.

127 PAGEL: That's why it's for the existing ponds.

KOSESAN: For existing ponds it has to impact the existing ponds.

SEN. DWYER: Discusses how many years that are required to notify on how to take an advantage of the new legislation.
(States that they should word it so that they are already exist and have no damages.

APPLEGATE: Discusses the tax exemptions.

289 CHAIR JOHNSON: Discusses restrictions needed to assess existing water uses.

KOSESAN: No, there is language discussed that would label that trespassing, on line twenty one.

APPLEGATE: Discusses the details of maps needed to show existing water rights.

354 CHAIR JOHNSON: Discusses the validity of maps and too strong of language that could be set apart because of small errors in the maps.

364 PAGEL: The only exemptions would be because of a detrimental impact on fish.

374 CHAIR JOHNSON: No one is going to be able to prove what the impact is going to be on the fish from existing ponds.

TAPE 129 SIDE B

003 KOSESAN: Restates the reason for the bill and how it doesn't address

the issues brought up by Chair Johnson.

010 CHAIR JOHNSON: OPENS THE WORK SESSION ON SB 1114

MOTION: CHAIR JOHNSON moves to reconsider SB 1114.

VOTE: Hearing no objection the motion CARRIES. All members present.

041 CHAIR JOHNSON: Discusses changes to SB 1114.
(Discusses line twenty nine on page two of SB 1114-2.

129 SUE HANNA, LEGISLATIVE COUNSEL: Proposes amendments and submits
testimony that explains her concerns to the language. (Exhibit F)

CHAIR JOHNSON: Asks for clarity compared to current law and the proposed
amendment.

164 HANNA: Non farm land test will not qualify if it changes ownership.
Only if the uses changes.

CHAIR JOHNSON: When you state roll back, that means what?

HANNA: Ten years only.

CHAIR JOHNSON: Discusses line nine on page twenty three of the (-2)
amendments.

217 HANNA: If you want to have non zone farm land test apply you need to
insert "before the ownership of the land changes".

MOTION: CHAIR JOHNSON moves to accept the new language on line 4 page four
of the (-2) amendments.

VOTE: Hearing no objection, the motion CARRIES. All members present.

MOTION: SEN. KINTIGH moves the (-2) amendments as amended..

VOTE: Hearing no objection, the motion CARRIES. All members present.

MOTION: SEN. KINTIGH moves SB 1114 as amended to the Floor with a DO PASS
recommendation.

VOTE: In a roll call vote the motion CARRIES. Sens. Kintigh, Bryant,
Johnson vote AYE. Sen. Cease votes NAY. Sen. Dwyer is EXCUSED.

292 CHAIR JOHNSON: CLOSES THE WORK SESSION ON SB 1114
Adjourns the hearing at 3:02 P.M.

Submitted By

Reviewed By

Patricia Wehrli
Committee Assistant

Karen Quigley
Committee Counsel

EXHIBITS:

A- Testimony on HB 2184--Martha Pagel, Water Resource Department--3 pages
B- Testimony on HB 2376--Martha Pagel, Water Resource Department--3 pages
C- Proposed Amendments on SB 1114--Karen Quigley, Committee Counsel--20
pages
CA- Testimony on SB 1114--Karen Quigley, Committee Counsel--4 pages
D- Proposed Amendments to SB 1032--Karen Quigley, Committee Counsel--2 pages
E- Testimony on HB 2471--Jeff Curtis, Water Watch--2 pages
F - Informative material on SB 1114 -- Sue Hanna -- 4 pages