

SENATE COMMITTEE ON  
WATER & LAND USE

Hearing Room  
Tapes - 38

MEMBERS PRESENT:  
Sen. Rod Johnson, Chair  
Sen. Neil Bryant  
Sen. Ron Cease  
Sen. Bob Kintigh

MEMBER EXCUSED:  
Sen. Bill Dwyer

STAFF PRESENT:  
Karen Quigley, Committee Counsel  
Kimberly Shadley, Committee Assistant  
Mitch Hack, Senate Floor Staff

MEASURES HEARD:  
SB 502  
SB 506  
SB 516

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

005 CHAIR JOHNSON: Calls the hearing to order. (1:09)

PUBLIC HEARING ON SB 502  
Witnesses: Senator Gene Timms, District 30  
Doug Myers, Water Watch  
Martha Pagel, Director Water Resources Department

012 SENATOR GENE TIMMS, DISTRICT 30: I'm here today to do away with a law I helped to pass in 1985?  
( In Ways and Means we are looking at the bill and I wanted this committee to look at it.  
( Some responsibilities are being moved; it doesn't save a lot of money, but does cut bureaucracy.

SEN. CEASE: There is some concern about the coordination of natural resource activities.

SEN. TIMMS: We will look at that in Ways and Means.

050 CHAIR JOHNSON: We have some written testimony submitted for the record,  
(EXHIBIT A).

( There is mention of the Governor's Office handling some of this?

SEN. TIMMS: We haven't looked into it yet.

SEN. CEASE: The Governor has a Natural Resources Advisor.

075 DOUG MYERS, WATER WATCH: Right now if this bill passes the Governors  
Natural Resources Advisor would become SWMG.  
( The water resources department shouldn't be in the middle of  
( Section twenty one, page eight, I have problems with turning the whole  
water shed health program over to GWEB; if the bill goes to Ways and Means  
I think we can deal with it there.

CHAIR JOHNSON: Both Oregon Trout and Pacific Rivers Council suggest that  
the role should be transferred to the Governors Natural Resources Office;  
will this new office be an appointed position?

SEN. CEASE: It will be, but not subject to confirmation; the argument can  
be made that it is more effective when the coordinator is directly tied to  
the Governor's Office.

160 MARTHA PAGEL, DIRECTOR WATER RESOURCES DEPARTMENT: SWMG was formed in  
the 1980's to coordinate the state agencies with water responsibilities.  
( It has historically been set up with the Governor's Natural Resources  
Advisor chairing.  
( I think that the Governor is proposing increasing the number of positions  
in order to create the Natural Resources office.  
( SWMG has mostly been an informational sharing body.  
( DEQ has been coordinating and our department has been providing support;  
SWMG has no staff or budget.

235 PAGEL: In our view, not all of these functions would be best suited in  
the Water Resources Department.  
( We would want to carefully go through the bill section by section.

WORK SESSION ON SB 502

275 MOTION: SEN. CEASE MOVES THAT SB 502 BE SENT TO THE COMMITTEE ON WAYS  
AND MEANS WITHOUT RECOMMENDATION AS TO PASSAGE.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY. MEMBERS  
EXCUSED: SEN. DWYER

PUBLIC HEARING ON SB 506

Witnesses: Martha Pagel, Director, Water Resources Department  
Bob Levy, Farmer, Echo Oregon:  
Reed Benson, Water Watch  
Kent Madison, Hermiston Area

305 MARTHA PAGEL, DIRECTOR, WATER RESOURCES DEPARTMENT: Describes bill,  
submits written testimony, (EXHIBIT C).

330 BOB LEVY, FARMER, ECHO OREGON: The purpose of the bill was to correct a  
long standing difference between procedures followed in the Department.  
( The legislation is very unclear and there is confusion between 506 and  
516.

We would suggest a lot of changes in 506; we would suggest that in five  
that (C) & (D) be deleted, just saying that all other conditions of the  
permit remain the same and that (F) be deleted.

412 LEVY: Describes intent of 506 vs. 516; the summaries are backwards.

SEN. CEASE: On page one in bold, is it the intent to provide for a  
movement of place or are you suggesting that the use can shift too?

LEVY: That needs to be clarified.

SEN. BRYANT: Is it sometimes that you want to change use from irrigation  
to a pond?

LEVY: I wouldn't anticipate changing the type of use or the size applied

for.

465       PAGEL: Summarizes written testimony.

TAPE 38, SIDE A

035       PAGEL: We are open to fixing the problem Mr. Levy described.

( Section one is language that appears in several different bills; there might be a better place in statute to provide this correction; this isn't really a transfer, but a part of the permitting process.

105       REED BENSON, ATTORNEY, WATER WATCH: Water watch opposes SB 506; submits written testimony, (EXHIBIT D).

( There is no injury test.

( Use subject to transfer needs to be defined.

( There is no notice to users regarding changes.

200       CHAIR JOHNSON: Do you have amendments to deal with your concerns?

BENSON: With 2419 our concern was with the provision to allow permits to be subject to transfer if there was proof of beneficial use and we opposed that.

( If you make the change the department suggested deleting "use or" in line

11, you take care of our concerns

( If you are going to define use subject to transfer we would say certificate or decreed.

CHAIR JOHNSON: Please feel free to bring language you would accept in writing in the future.

255       KENT MADISON, HERMISTON AREA: Testifies in support of SB 506 and SB 516.

Submits written testimony, (EXHIBIT E).

This is only for the change in the place of use.

I am confused with 506 and 516, as they seem to say the same thing.

355       MADISON: Sub Section five, see Exhibit E; suggests amendments.

410       VICE-CHAIR KINTIGH: What conditions make the soil better or worse?

MADISON: Depth, etc.

PUBLIC HEARING ON 516

Witnesses:       Bob Levy, Farmer, Echo Oregon  
                  Martha Pagel, Director, Water Resources Department  
                  Reed Benson, Water Watch

450       BOB LEVY, FARMER, ECHO OREGON: This one seems to be confused with SB 506.

( Describes confusion.

( I support legislation that would allow individuals with a certificate to change the point of diversion.

TAPE 37, SIDE B

CHAIR JOHNSON: Describes distinctions between the two bills.

070       SEN. CEASE: We should have staff look at both bills when working with the Department next week.

080       LEVY: Describes problem in Eastern Oregon.

SEN. BRYANT: Do you have a suggestion on how far the point of diversion should be allowed to be moved?

LEVY: As far as necessary as long as it doesn't interfere with another permitted water user.

140 MARTHA PAGEL, DIRECTOR, WATER RESOURCES DEPARTMENT: Submits written testimony, (EXHIBIT G).

( The combination of 506 and 516 are telling us there are issues; Clarifies current law.

( Conceptually the idea of providing relief for those following a federal recovery plan in moving point of diversion is desirable.

185 CHAIR JOHNSON: Gives history.

235 REED BENSON, WATER WATCH: Submits written testimony, (EXHIBIT H).

( This bill is a little different in two or three respects; it would allow both permits and certificates to change their

( The concerns we have with 506 we have with this bill also.

( The bill contains an injury test, but doesn't indicate when or how.

( One of our greatest concerns is that there is no procedure for notice or comment.

375 CHAIR JOHNSON: We will close the hearing with the understanding that work will be done.

( We are adjourned. (2:28 p.m.)

Submitted by, Reviewed by,

Kimberly Shadley  
Committee Assistant

Karen Quigley  
Committee Counsel

#### EXHIBIT SUMMARY:

- A - SB 502: Written testimony submitted for the record by staff, pp 2
- B - SB 502: Preliminary Staff Measure Summary submitted by staff, pp 1
- C - SB 506: Written testimony submitted by Pagel, pp 2
- D - SB 506: Written testimony in opposition submitted by Benson, pp 5
- E - SB 506: Written testimony and proposed amendments submitted by Madison, pp 2
- F - SB 506: Preliminary Staff Measure Summary submitted by staff, pp 1
- G - SB 516: Written testimony submitted by Pagel, pp 3
- H - SB 516: Written testimony in opposition submitted by Benson, pp 3
- I - SB 516: Preliminary Staff Measure Summary submitted by staff, pp 1