

that he presented in his testimony.

118 SNYDER: Explains that they are basically all the same.

122 MARTHA PAGEL, WATER RESOURCE DEPARTMENT: Testifies in opposition to the current writing of SB 1033. Makes specific suggestions to improve the language of SB 1033. (See written testimony, Exhibit A:)
--Continues testimony by giving anticipated amendments to SB 1033.

209 SEN. KINTIGH: Questions the regulation process.

219 SEN. BRYANT: Describes the legislative history of SB 1033 and the relationship that it provides to the language that is addressed in the current writing.
--Questions if hydraulics can be determined.

254 PAGEL: Explains the ground use interference rules based around what is known from data as a short term data test.

269 SEN. CEASE: Questions if the commission was able to determine that there was a connection from the water.

278 PAGEL: Responds that if surface water is found then the commission could issue the water right.

286 SEN. CEASE: Questions what happens to the new water rights.

299 PAGEL: Explains the system of regulating the rights.

301 SEN. CEASE: Who maintains the process of the Scenic Water Act?

304 PAGEL: The field masters are responsible for maintaining the water act.

339 PAGEL: In response to Sen. Cease, states that she is offering a solution to the issuance of water rights with the resources that are available.

358 SEN. DWYER: Questions what role Ms. Pagel had in the Dyack decision.

363 PAGEL: Explains the steps that her department has been taking to uphold the current law.

TAPE 72 SIDE A

004 CHAIR JOHNSON: Questions the last two pages of the staff report. (SEE EXHIBIT A)

009 PAGEL: Explains her proposal.

019 SEN. KINTIGH: Questions the finding process.

021 PAGEL: Explains the need for legislation to process evidence brought in against the presumption to overcome a negative result.

028 CHAIR JOHNSON: Questions what a conditional permit would be.

030 PAGEL: Explains by referencing page 2 of the attachment (See Exhibit A)
Explains the amendments that she is proposing.

041 SEN. DWYER: Questions the effect that the summer months have on the waters and the impact it has on the decisions.

052 PAGEL: Explains the stream flow data from the past several years.

069 SEN. DWYER: Questions about exemption use.

066 PAGEL: Explains that the data would include the exemption use.

077 SEN. DYWER: Which rights are being addressed ?

078 PAGEL: If there is no potential interference then there is no water available.

080 SEN. BRYANT: Explains the intent of SB 1033 in relationship to the amount of water.

117 JAN WICK, AVION WATER COMPANY FROM BEND OREGON: Testifies in opposition to the amendments to SB 1033 that were just addressed.

219 SEN. KINTIGH: Questions the depth of the wells.

228 WICK: The depth of the wells vary.

235 KIP LOMBARD WATER RESOURCE CONGRESS: Testifies in opposition to the current language of SB 1033.

269 SEN. DWYER: Who should carry the burden of providing adequate mapping?

270 LOMBARD: The applicant should carry most of the burden.

307 JIM MYRON, OREGON TROUT: Testifies in opposition to SB 1033. (See Exhibit B)

341 DOUG MYERS, WATER WATCH: Testifies in opposition to SB 1033. (See Exhibit C)

387 SEN. BRYANT: Questions the Dyack decision and how it addresses the surface.

397 MYRON: The Dyack decision deals with surface water and hydraulics.

398 SEN. BRYANT: The Dyack decision only addresses surface water.
--Questions that if the ground water appropriation does not create an interference then a ground water issuance should be met.

410 MYERS: Refers to the joint federal and state study.

TAPE 71 SIDE B

003 SEN. BRYANT: Explains the study. If there isn't any direct or substantial effect on the water, should this keep you from getting a permit?

017 MYERS: Explains concerns about the accumulative effect on the surface water.

027 SEN. BRYANT: Questions if Mr. Myers believes that until its possible to measure the water that there shouldn't be any permits available.

031 MYRON: If it can be determined, or if the applicant can provide evidence that there is no interference, then a permit can be provided.

040 SEN. BRYANT: Explains why his proposal uses a potential for substantial resistance.

067 CHAIR JOHNSON: Ask for an example.

071 MYRON: Uses the water ways of the Sandy River as an example.

075 CHAIR JOHNSON: If one mile of the Sandy water way is made a scenic water way would the restrictions effect only that one mile or the entire water way?

082 DWYER: Explains his concerns.

091 MYRON: If the intent is not to effect the Dyack decision then it is our intent not to make the changes on line 9 of SB 1033.

106 DICK HANSON, OREGON TROUT: Testifies in support of the maintenance of water in relation to the spawning cycle of all fish.

140 LOUISE BILHEIMER, PACIFIC RIVERS COUNCIL: Testifies in opposition to SB 1033.

193 SEN. BRYANT: If there is no new exception for new ground applications, then there will be no new water right permits granted.

209 GAYLE KILLAM, OREGON ENVIRONMENTAL COUNCIL: Testifies in opposition to SB 1033.

260 SEN. BRYANT: The words of the Scenic Water Act only refers to surface water, it has no language that references ground water. The DIACT decision again was a direct relation to surface water, but not ground water.

--The application to ground water is only a fairly recent process. If you believe that all water is hydraulically connected then it would be impossible to grant any water applications. Questions if that was what she is suggesting should happen?

297 KILLAM: There is too much allowance of issuance of rights then determining what is being used. That there needs to be a method that the department can issue rights, but the applicant should be involved with providing some of those issues. Questions if Sen. Bryant is considering discounting the value of those flows.

324 SEN. BRYANT: Explains the process of laying the burden of proof on the applicant verses the department.

344 KILLAM: If this continues we will begin to regret it.

363 SEN. BRYANT: Explains that there has been no depletion of surface water as a result of that.

TAPE 72 SIDE B

055 KEVIN HANWAY: Testifies in opposition to SB 1033.

066 CHAIR JOHNSON: CLOSSES PUBLIC HEARING ON AB 1033
OPENS THE PUBLIC HEARING ON 516

--Gives his direction to SB 516

CLOSSES THE PUBLIC HEARING ON 516
OPENS THE PUBLIC HEARING ON SB 1029

Witness:
Daniel Meek, Attorney and Consultant

094 DANIEL MEEK, ATTORNEY AND CONSULTANT: Testifies in opposition to SB 1029 and gives a history of the bill. (See Exhibit F)
--Continues his testimony with direction of the fiscal impact that this bill would have.

172 CHAIR JOHNSON: CLOSSES THE PUBLIC HEARING ON SB 1029
OPENS THE WORK SESSION ON SB 494

WITNESS:
Kip Lombard, Oregon Water Resource Congress
Steve Applegate, Water Rights Judicature

201 KIP LOMBARD, OREGON WATER RESOURCE CONGRESS: Testifies in support of SB 494.

--Provides suggested amendments to SB 494. (See Exhibit G and H)
303 LOMBARD: Clarifies and continues testifying in the process that the department must take when addressing patron protest.
--Continues testimony about the 3111 process.
--Makes specific suggestions for amendments.

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020 LOMBARD: Continues with his proposed amendments.

039 STEVE APPELEGATE, WATER RIGHTS JUDICATURE: Testifies in agreement with the amendments proposed by Mr. Lombard.

047 SEN. CEASE: Ask for clarifications of the ORS changes.

052 APPELEGATE: Explains the changes that districts could take under the ORS 551.

065 SEN. CEASE: Questions the language of the bill and how it relates to requirements.

070 APPELEGATE: Explains section 2 of SB 494 and the requirements.

091 SEN. CEASE: Wouldn't this give the user a formal right over time to use the second spot?

097 APPELEGATE: That is correct.

110 CHAIR JOHNSON: Discusses the proposed amendments.

MOTION: CHAIR JOHNSON: Moves to accept the proposed amendments.

VOTE: CHAIR JOHNSON: Hearing no objection the motion is ADOPTED.

MOTION: CHAIR JOHNSON: Moves to accept the amended SB 494 -1 amendments.

VOTE: CHAIR JOHNSON: Hearing no objection the motion is ADOPTED.

233 SEN. DWYER: Asks for discretion of voting with out the opportunity of reviewing the proposed amendments.

249 CHAIR JOHNSON: Explains his view of the amendments and his familiarity with SB 494.

256 CLOSSES WORK SESSION ON SB 494.
OPENS THE WORK SESSION ON SB 54.

Witnesses:

Jerry Schmidt, The Association of the Department of Realtors
Martha Pagel, Water Resource Department

276 JERRY SCHMIDT, THE ASSOCIATION OF THE DEPARTMENT OF REALTORS:
Addresses his concerns and proposed amendments.

323 SEN. CEASE: Questions his previous testimony that this bill provides ambiguous notice requirements.

349 MARTHA PAGEL, DIRECTOR OF THE WATER RESOURCE DEPARTMENT: Explains page 18 and 19 of SB 54 and her proposed amendments.

365 CHAIR JOHNSON: Asks for clarification concerning the net effect on the water if the language is deleted on page 18-19.

378 PAGEL: Explains that it relates to ground water, that there will be shortages and restrictions for property with out an exception well.

401 SCHMIDT: This is a taking flat out; that there needs to be a process

where people can contest the results of these decisions.

TAPE: 75 SIDE A

029 SEN. CEASE: Frequently the permitted land use doesn't specify whether there is water or not?

039 SCHMIDT: That is correct.
--continues his testimony that there needs to be a way to appeal the decisions.

077 PAGEL: Responds regarding exemptions to Basin Plan.

105 SCHMIDT: Responds regarding exemptions to Basin Plan.

127 CHAIR JOHNSON: Explains his understanding of the amendments.

140 PAGEL: Current law allows us to prohibit those issues and we would to keep it this way.

MOTION: CHAIR JOHNSON: Moves to ADOPT the SB 54-1 amendments

VOTE: CHAIR JOHNSON: Hearing no objection the amendments are ADOPTED.

MOTION: SEN. KINTIGH: Moves that SB 54 as Amended be moved to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote: SEN. DWYER, KINTIGH, and JOHNSON vote AYE. SEN. CEASE votes NAY. SEN. BRYANT IS EXCUSED.

CHAIR JOHNSON: The motion CARRIES. CHAIR JOHNSON will lead discussion on the Floor.

181 CHAIR JOHNSON: CLOSSES THE WORK SESSION ON SB 54.

--Adjourns the hearing at 7:02 p.m.

Submitted by, Reviewed by,

Patricia Wehrli Karen Quigley
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

AA- Preliminary Staff Measure Summary-Karen Quigley, Committee Counsel - 1 page
A- Testimony on SB 1033-Martha Pagel, Director of the Water Resource Department-13 pages
B- Testimony on SB 1033-Jim Myron, Oregon Trout-1 page
C- Testimony on SB 1033-Doug Myers, Water Watch-3 pages
D- Testimony on SB 1033-Gayle Killam, Oregon Environmental Council-1 page
E- Testimony on SB 1033-Robert Meinen, Director of Oregon Parks and Recreation Department-2 pages
F- Testimony on SB 1029-Dan Meek, Attorney and Consultant-4 pages
G- Testimony on SB 494-Kip Lombard, Water Resource Congress-4 pages
H- Testimony on SB 494-Kip Lombard, Water Resource Congress--4 pages
I- Fiscal Analysis of Proposed Legislation of SB 516-Karen Quigley, Committee Counsel--2 pages
J- Proposed Amendments to SB 54--Karen Quigley, Committee Counsel--1 page