

Testimony HB1544

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Testimony in Support for HB1544

To the Honorable Chairman and the members of the Committee. We submit these remarks on behalf of DRC.

Mr Chairman,

We understand that water rights have been a big issue for this committee for some time. With permits in 2021 the legislature passed a bill that would require a project with under 80 acres to notify the local water board before installing it with a sunset in 2023 to see how it would work. In 2023 the legislature removed the sunset and made it a permanent law. This year we are asking for one more crucial step to ensure fairness and that our landowners can be good neighbors to each other. Many members of our organization have dealt with drainage issues and have had many litigation cases in the past. HB1544 wants to ensure that our landowners notify downstream residents and mitigates disputes before we litigate disputes.

How the process is now:

1. Notify your water board about your project
2. Build your project
3. Get sued because someone downstream didn't like your project and will likely win because there was no notification.

Our only complaint on this bill would be that there is no mediation on this bill as there is SB2283

Under mediation, the process would go as follows:

1. Notify the water board about your project
2. Notify landowners downstream about your project within 30 days
3. Landowners then have 30 days to respond upon receiving the letter.
4. If they have no response build the project
5. If they respond with problems, schedule a mitigation meeting
6. If mitigation is successful, build the project as prescribed by the mediation
7. If mitigation is unsuccessful, apply for a permit with the water board
8. If the water board approves the permit, then you can build the project.
9. If the landowner affected then sues you, you at least have much more standing to defend your project.

If there was a way to settle disputes before litigation, that would ultimately be what we are aiming for with this legislation. The problem is often that no one is made aware of these projects and then lawsuits happen because landowners fail to communicate with each other. I'm sure many people on the committee have been on the receiving end of a drainage ditch at one point or another and understand this problem.

Differences between 1544 and 2283

1. **The notification requirements.** Either one is good, but we believe 30 days was sufficient enough to get a response from the land owner because this is mediation rather than preparing a full-blown rebuttal to their project.
2. **Details on projects** HB1544 also has a more detailed description of watershed projects and clearly defines if the project doesn't flow on anyone else's property the landowner can just notify the waterboard. This language is more acceptable
3. **Mediation Language** SB2283 has the language for mediation before a lawsuit, 1544 doesn't. Mediation would be a far better alternative.

We recommend DO PASS or combining this language with SB2283.