

**HOUSE COMMITTEE ON LAND USE**

**June 01, 2005 Hearing Room 50**

**1:30 P.M. Tapes 108 - 113**

**Corrected 10/14/05**

**MEMBERS PRESENT:           Rep. Bill Garrard, Chair**

**Rep. Gordon Anderson, Vice-Chair**

**Rep. Mitch Greenlick, Vice-Chair**

**Rep. Robert Ackerman**

**Rep. Mary Nolan**

**Rep. Patti Smith**

**Rep. Mac Sumner**

**STAFF PRESENT:           Sam Litke, Committee Administrator**

**Lindsay Luckey, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**SB 538 A – Public Hearing and Work Session**

**HB 3120 – Public Hearing**

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.**

**TAPE/#    Speaker                    Comments**

**TAPE 108, A**

002 Chair Garrard Calls the meeting to order at 1:37 p.m. and opens a public hearing on SB 538A.

**SB 538A – PUBLIC HEARING**

010 Sam Litke Committee Administrator. Introduces SB 538A.

030 Rep. Gene Whisnant House District 53. Testifies in support of SB 538A. Reviews legislative history of legislation allowing Eastern Oregon guest ranches and explains how SB 538A will benefit existing and future ranches.

074 Sen. Ben Westlund Senate District 27. Reiterates the testimony of Rep. Whisnant and explains the bill's importance to existing guest ranches and those in the future.

110 Linda Swearingen Deschutes County. Reports support from Department of Land Conservation and Development (DLCD) and the Association of Oregon Counties (AOC) on SB 538A. Describes the bill as an agrotourism bill and elaborates on beneficial effects. Submits a map of Deschutes County highlighting guest ranch locations (**EXHIBIT A**). Introduces Gary Blake and Craig Morton from the Deschutes River Ranch.

135 Gary Blake Deschutes River Ranch, Deschutes County. Explains the importance of SB 538A in supplementing ranching income.

Rep. Greenlick Comments on the agriculture industry and asks if their neighbors involved in agriculture find their agricultural tourism to be complementary to their operations or in conflict.

Blake Responds that he does not think it should be a problem and relays good relationships with his neighbors.

Swearingen References the Rock Springs Guest Ranch on the map of Deschutes County and explains that there are no complaints from neighbors. Notes guest ranches allow property to be kept in farming rather than split into smaller parcels.

188 Craig Morton Deschutes River Ranch, Deschutes County. References distance from the urban growth boundary (UGB) and notes their decision to keep the parcel whole as a guest ranch rather than splitting up the property and selling it.

Chair Garrard

Closes the public hearing on SB 538A and opens a work session on HB 538A.

**SB 538A – WORK SESSION**

220 Rep. Anderson **MOTION: Moves SB 538A to the floor with a DO PASS recommendation.**

**VOTE: 7-0-0**

**AYE: In a roll call vote, all members present vote Aye.**

Chair Garrard

**The motion CARRIES.**

**REP. WHISNANT will lead discussion on the floor.**

Closes the work session on SB 538A and opens a public hearing on HB 3120.

**HB 3120 – PUBLIC HEARING**

**(NOTE: The following public hearing addresses issues of Ballot Measure 37 (2004) (BM37)).**

243 Sam Litke Committee Administrator. Introduces the -1 amendments (**EXHIBIT B**) which will replace the bill and alter Ballot Measure 37 (2004) (BM37). Reviews prior meetings related to BM37 and input on the -1 amendments. Explains there are similarities between HB 3120-1 and SB 1037 -2. Outlines the content of the -1 amendments which includes:

- A unified claims process (6) and (7)
- Judicial review process (8),(9), and (10)
- Transferability of waivers (4)
- Compensation mechanism (14)
  - Disqualifications (15) – (22) and (32) - (43)
  - additional taxes (23) – (28)
- Definition of high value farmland (11) – (13)
  - vineyards provision (12)(8)
  - limitation on percent of property developed (13)

340 Chair Garrard Commends Senator Ringo's work on SB 1037. Asks the audience to identify what needs to be done and what should be left alone with regards to BM37. Notes the committee will be recessing and reconvening in the evening.

401 Gordon Shown Terrebonne, Deschutes County. Discusses his property in Jefferson County and his attempts to develop his land. Asks the committee for transferability in waivers so that he may develop the land.

#### **TAPE 109, A**

024 Delbert Phelps Realtor Board, Florence. Notes his representation of rural property owners and those who voted for BM37. Speaks in support of transferability of waivers, a uniform claims process and the delegation to local governments the authority to waive land use regulations adopted by the state. Speaks in opposition to compensation and new taxes.

065 Rep. P. Smith Asks if he is opposed to the use of the capital gains in HB 3120-1.

Phelps Responds affirmatively.

070 Rep. Greenlick Refers to Phelps's testimony that 61% of the people voted for BM37 and asks why they shouldn't just leave it to be decided by the courts.

Phelps Responds that he does not trust the courts and reiterates his suggestions for improvement.

Rep. Greenlick Discusses other possible beneficial changes and asks what test should be used to determine what changes should be made.

092 Phelps Responds that the "normal property test" should be used and function as real property is transferred today.

102 Carl Maier Realtor, Beaverton. Describes clients who have frustrations with BM37. Believes the time limit of 5 years in Section 4 is insufficient. Makes comments on Section 7. Asserts BM37 was about compensation and speaks in opposition to increased capital gains tax.

151 Rep. Anderson Asks if he agrees with the 9% capital gains tax.

	Maier	Responds negatively and elaborates.
	Rep. Anderson	Restates his question verifying he agrees with the 9% which is state law.
	Maier	Responds affirmatively.
	Rep. Anderson	Asks if he would be open to some portion of that being part of the compensation package.
	Maier	Responds affirmatively as long as no new taxes are added.
162	Rep. Nolan	Asks if there are no new sources of revenue and if they are being asked to provide compensation, what services they should do without.
	Maier	Responds he cannot answer that and suggests allowing development of property.
184	Rep. Ackerman	Asks Maier if he believes BM37 is a plan for real estate development or for compensation of land owners.
	Maier	Responds compensation plan and adds that it is an attempt to correct flaws.
	Rep. Ackerman	Asks if his clients want compensation or to develop.
	Maier	Responds they want to develop and elaborates.
203	Rep. Anderson	Poses a situation in which a property with high value farmland was able to compensated by the state and asks if that should be encouraged.
	Maier	Responds affirmatively and discusses ownership rights at the time of purchase.
232	Rep. Greenlick	Discusses a situation from his district in which a farmer's property rights would be infringed upon by a neighbor's use of BM37 and asks how one would balance the two property owners' rights.
	Maier	Responds that there is a middle ground.

- 277 Emily Keeseey Homeowner, Hood River. Describes her property and outlines concern about a loss of her property value and quality of life as a result of BM37. Discusses hardships in farming and the importance of maintaining farmland. Asserts that HB 3120-1 would allow a select group of land owners to profit at the expense of others. Speaks in support of maintaining Oregon's land use system.
- 328 Cheri Evan Realtor, Clackamas. Reiterates the testimony of Maier and similar requests from her clients who wish to develop and are not interested in compensation. Suggests reconsideration of soil types to reflect changes in agricultural land productivity. Speaks in opposition to a capital tax.
- 379 Bob Stacey 1000 Friends of Oregon. Notes their participation in developing SB 1037. In reference to fair treatment of property owners, speaks in opposition to waivers and in support of funding compensation.

**TAPE 108, B**

- 012 Stacey Speaks in support of HB 3120-1 clarifications of the process. Discusses the possible ruling of BM37 unconstitutional and cites this as the most important reason to develop constitutional legislation to implement the intent of the voters. Outlines four issues that will be included in amendments to be submitted to the committee:
- Identify additional sources of compensation
  - Eliminate wholesale waivers to be replaced with sideboard waivers to limit value of waiver to value lost by claimant
  - Limitation of a homestead dwelling or two to three parcels approved on farm and forest land
  - 25% minimum threshold of loss of value before a claim is triggered to protect future planning
- 060 Rep. P. Smith Asks Stacey if his amendment will effect only currently zoned farm and forest land.
- Stacey Responds affirmatively.
- Rep. Anderson Asserts that Stacey and Keeseey's point about harming neighbors was addressed in BM37.
- Keeseey Asks for clarification.

	Rep. Anderson	Clarifies that BM37 spoke to one problem.
	Keesey	Gives an example of her concern related to increased development.
	Rep. Anderson	Notes that is possible under BM37 and was affirmed by the voters. Suggests that the concern she has is not involved in BM37.
	Keesey	Responds that she doesn't know.
084	Stacey	Comments on the voter's intent and asserts that they value fair treatment of property owners from the government.
	Keesey	Discusses the uncertainty about what people thought they were voting for and discusses funding behind the initiative.
	Rep. Anderson	Describes people hurt by funding from green organizations.
	Keesey	Recognizes his point.
115	Rep. Greenlick	Notes the difference in opinions about voter's intent. Asks Stacey if BM37 is unconstitutional, why they shouldn't let the courts rule on it.
	Stacey	Responds that they went to two forums and discusses their concern to address voter sentiment in a constitutional way.
142	Rep. Greenlick	Discusses issues of fairness. Asks how the committee can balance differing visions of fairness, people's ability to develop the land and protecting land for future use.
163	Stacey	Refers to Rep. Greenlick's constituents who want to be protected from harm caused by neighbor's actions. Notes the importance of zoning and describes the benefits of protecting agricultural land. Speaks in support of compensation and some carefully managed waivers.
192	Rep. Nolan	Verifies Evan's testimony on loss of value and her suggestion of tax benefits and asks about details of that possibility.
	Evans	

Elaborates on possible tax benefits using Portland properties as an example. Speaks in support of compensation but not by adding to capital gains.

- 223 Rep. Nolan Verifies that she is suggesting some form of differential property tax rates.
- Evans Confirms this.
- Chair Garrard Recesses the meeting at 2:50 p.m. to be reconvened at 6:00 p.m.
- 237 Chair Garrard Reconvenes the meeting at 6:05 p.m.
- 243 Litke Committee Administrator. Reviews the actions of the committee related to Ballot Measure 37 to date and explains the provisions of HB 3120-1 (NOTE: see page 2).
- Rep. Greenlick Verifies that the provision that would set a limit of 20% development on high value farmland is only intended for BM37 claim and not automatically 20%.
- Litke Confirms this.
- 330 Chair Garrard Describes HB 3120 as a frame, notes the committee's plan to keep the intent of BM37 the same but to make it work better.
- 395 Roger Nyquist Linn County Board of Commissioners.

**TAPE 109, B**

- 002 Nyquist Discusses number of claims filed and relays issues of importance for legislation including: authority, transferability, the difference in treatment of family owners regarding waivers or compensation. Notes opposition to legislation that would jeopardize those in Linn County with currently filed claims or eligibility for claims.
- 043 Rep. Greenlick Asks for elaboration on Nyquist's description of a claim.
- Nyquist



		Explains that the title of the ballot measure and the explanatory statement do not correspond with the text of the measure relating to treatment of family member's compensation or waiver status.
063	Rep. Greenlick	Comments that voters voted for the words of the initiative and asks if Nyquist has a problem enforcing the statute that was voted on.
	Nyquist	Gives a hypothetical situation and reiterates the conflict between the BM37 ballot title and explanatory statement and the text of the measure.
	Laurel Hines	Marion County. Responds to previous testimony and discusses unequal benefits afforded by BM37. Refers to an opinion piece in the Stateman's Journal on the initiative process. Gives her concerns about implementation of BM37 including: detriment to Oregon's land use and creating a privileged class of landowners. Describes pending claims in Marion County.
146	Rep. Anderson	Asks about what initiative she is talking about.
	Hines	Responds BM37.
	Rep. Anderson	Comments that she seems to be addressing issues outside of BM37 and asks about the other parts of her testimony.
	Hines	Clarifies her testimony, citing that rights under HB 3120 would be expanded to include transferable waivers.
	Rep. Anderson	Asserts that the majority thought BM37 claims would be transferable.
	Hines	Disagrees and discusses conversations with Oregonians about their understanding of what the initiative would allow.
180	Rep. Greenlick	Wonders if she was referring to non-resource land which was included in SB 1037 but not HB 3120-1.
	Hines	Explains understanding about classifications of soil.
	Litke	Explains the provision in SB 1037 not included in HB 3120.

200	Rep. Sumner	Asks a question about her testimony that Oregon is in danger of “falling behind” in land use.
	Hines	Explains her reasoning.
	Rep. Sumner	Asks for an example of a state with statewide land use planning.
	Hines	Responds and comments on rights based on date of ownership.
226	Florence Gestrin	Albany. Describes her mother’s property in Columbia County and explains her concern that waivers be transferable.
300	Al Elkins	Oregon Hunters Association. Submits written testimony asking that certain wildlife habitat geographic areas be exempted from the full impact of BM37 implementation ( <b>EXHIBIT C</b> ) and a SB 1037 Winter Range Summary spreadsheet from the Department of Fish and Wildlife ( <b>EXHIBIT D</b> ). Asks that these concerns be addressed if legislation will effect these areas.
365	Rep. P. Smith	Asks if there are presently any BM37 claims on the winter range land listed on the spreadsheet.
	Elkins	Responds that he does not know but can find out.
374	Don Schellenberg	Oregon Farm Bureau. Submits written testimony and reviews list of concerns and suggestions for HB 3120 ( <b>EXHIBIT E</b> ). Speaks in opposition to Section 13 which would allow for up to 20% of high value farmland put to a non-farm use.

**TAPE 110, A**

004	Chair Garrard	Explains his concern with using tract of record as criteria because it will limit those who may have a BM37 claim.
	Schellenberg	Agrees that it will limit those who can take advantage and suggests using tract of record and allowing BM37 claims to be filed on high value farm land but require compensation rather than waivers. Continues testimony raising concerns about HB 3120-1 as listed on written testimony.
065	Bruce Miller	

Assistant Staff Counsel, Office of the State Court Administrator. Notes they have taken a neutral policy position but raise two issues of concern on the procedural portions of the amendments concerning judicial review submitted as written testimony (**EXHIBIT F**).

- 096      Ishmael “Ish” Duckett      Realtor, McMinnville. Responds to earlier testimony. Describes BM37 applications in Yamhill County and their desire for waivers, not compensation. Raises his concern that waivers be transferable.
- 129      Rep. Greenlick      Asks if two farms purchased at separate times have a set of property rights inherently attached to them.
- Duckett              Responds affirmatively in response to irrigation.
- Rep. Greenlick      Clarifies he is not asking about irrigation.
- Duckett              Explains that the owners have a priority.
- Rep. Greenlick      Verifies his testimony is focused on ownership not the land itself.
- 146      Duckett              Discusses the rights of the owner at time of purchase.
- Rep. Greenlick      Restates that Duckett’s testimony focuses on the owner rights and are not inherent in the land itself.
- Duckett              Asserts that an owner should be allowed to develop according to the restrictions at the date of purchase under BM37.
- Rep. Greenlick      Verifies he means the people should have the right, not the land.
- Duckett              Discusses rights taken away from individuals and concludes his testimony.
- 172      Brenda Thompson      Duckett Realty, McMinnville. Discusses clients who wish to develop their land and do not want compensation.
- 226      Art Schlack        Association of Oregon Counties. Submits and outlines a list of adopted Measure 37 principles (**EXHIBIT G**). Discusses number of claims filed with counties and actions taken by the counties. Notes

encouragement of the process and procedure provisions in -1 amendments.

- 303 Harlan Levy Senior Staff Attorney, Oregon Association of Realtors. Clarifies previous testimony on creating capital gains taxes to pay compensation claims. Reviews some concepts he supports including: transferability of waivers, uniform claims process and delegation to state agencies to waive state statutes. Responds to testimony of Rep. Greenlick on farms purchased at different times and cites the different investment backed expectations from each owner.
- 388 Rep. Greenlick Asks for evidence that there was a drop of value in farmland due to land use regulations.
- Levy Responds he does not have evidence, but discusses probable expectation of purchasers of farmland.

#### **TAPE 111, A**

- 010 Rep. Greenlick Comments that if there was a change in value backed expectations that should be reflected in the price of the land and asks for some evidence.
- Levy Responds he will look for evidence of selling prices in the past to provide to the committee.
- 020 Eugene Wolf Broker, Wilsonville. Discusses hardships of farmers and decreased private property rights over the years. Speaks in support of transferability and in opposition to a development rights equalization assessment tax. Believes voters want to use their land, not compensation.
- 050 Rep. Ackerman Asks if they think the right of a waiver is granted, if it should be extinguished if not used within a specific time period.
- Wolf Responds that it should be transferable.
- Rep. Ackerman Asks if a waiver is granted, if the property is a non-conforming use and if so is there some way to “back out of that definition”.
- Wolf Asks for clarification.

	Rep. Ackerman	Restates to ask if it is a problem if a waiver is granted and an authority calls it a non-conforming use.
	Wolf	Responds that it maybe a non-conforming use in the eyes of some but that the right should be allowed with subsequent owners.
	Schlack	Suggests an alternative way of looking at the result of BM37 claims as “not applying” a regulation, rather than issuing “waivers”, which would not create a non-conforming use.
088	Rep. Ackerman	Agrees and notes that SB 1037 used the term “waiver”.
	Rep. Sumner	Notes Schlack’s quote of over 1000 applications filed at the county level. Asks if the claims were approved to add one house to each lot how much assessable taxes would be added to county coffers.
	Schlack	Responds that they have not looked at that issue but notes that there would be more taxes. Adds that generally the increase of taxes does not cover the cost of the services needed for residential developments.
111	Rep. Nolan	Discusses future regulations and transferability. Asks Wolf if waivers were transferable if it would ever be possible for local entities to apply new regulations to land.
	Wolf	Responds they could if the land owner were compensated.
	Rep. Nolan	Asks about a compelling public interest in restricting the land.
	Wolf	Responds that if the community is benefiting at a private land owner’s expense they should pay.
	Rep. Nolan	Asks out of what source of funds.
	Wolf	Responds he does not know.
	Rep. Nolan	Comments on the difficulty in discussing compensation without providing a source to compensate.
155	Rep. Anderson	Asserts there are already condemnations.

	Rep. Nolan	Notes she is only discussing regulations and elaborates.
	Rep. Anderson	Asks if that is the same principle an action for the public good allows for taking of property.
	Rep. Nolan	Responds negatively and asserts that there are many examples of cities, counties and the state regulating land in ways designed to achieve a public good that do not fall under condemnation. Notes difficulty in achieving balance.
180	Levy	Responds and discusses zoning and land use regulations related to property values.
200	Schlack	Adds that BM37 has had a huge effect on future regulations and zoning as local jurisdictions must first consider economic analysis of the impacts on various parties. Refers to how other states have dealt with similar legislation, including a threshold of damage done before compensation would be paid to balance public good with private property rights.
240	George Forsman	Farmer, Canby. Compares two sets of properties with different zoning and varying property values. Reviews impacts of zoning and regulations on his property. Speaks in opposition to a state property tax and in support of restoring private property rights.
363	Marilyn Reeves	Property owner, Washington and Yamhill County. Discusses the abbreviated time scale to implement BM37. Discusses ambiguities in BM37 and her concern about scattered rural communities with insufficient tax support to fund services. Speaks in support of the attorney general's ruling that waivers are not transferable until other BM37 issues are resolved.

**TAPE 110, B**

005	Reeves	Recommends putting a moratorium on further implementation of BM37 to give government at all levels time to better determine and define the law and how it should be implemented. Also recommends an independent committee to analyze the issues.
036	Lynn Lundquist	President, Oregon Business Association (OBA). Notes OBA opposed BM37 and gives explanation. Poses two questions for consideration, asking if they want to make BM37 "do-able" or leave the determination to the courts. Speaks in support of the timeline given

on future regulations. Describes transferability as a logical step. Describes concern with Section 13.

- 082 Chair Garrard Asks about the authority of local government to direct the property owner on which portions of property to develop on.
- Lundquist Agrees and notes there should be flexibility in the process. Asserts the best protector of farmland is the agricultural market and suggests considering the productivity, specifically elevation and growing season, of farmland as criteria in determining value of farmland.
- Chair Garrard Reports that information is being prepared by an OSU professor regarding classifications of land based on growing seasons versus other determinations of prime farm land.
- Lundquist Commends that consideration. Speaks in support of a compensation mechanism in conjunction with waivers. Recommends the committee act to improve BM37 rather than inaction.
- 128 Chair Garrard Discusses previous attempts to address land use issues.
- Lundquist Responds with another example of previous attempts to fix problems.
- 154 Liz Frenkel League of Women Voters of Oregon (LWVO). Reviews the LWVO set of principles. Believes the language of BM37 clearly designates waivers to owners rather than land. Speaks in opposition to 20% limit in Section 13. Notes general support of the claims and judicial review sections, although suggests problem with the created record without public testimony. Recommends uniform standard for BM37 claims. Notes intention to submit written testimony.
- 237 Kathleen Carl Marion County. Discusses support of protecting farmland. Reviews other issues of concern including: limiting waivers to the amount lost, not allowing transferable waivers and compensation. Responds to previous testimony about zoning.
- 287 Rep. P. Smith Verifies Carl's testimony.
- Carl Clarifies her testimony.
- 295 Lolita Carl Farmer, Marion County. Discusses concern about possible development near their farm. Urges compensation over waiving

regulations. Speaks in opposition to transferable waivers. Urges the committee to consider future generations.

342 Leslie Lewis Yamhill County Commissioner. Reviews previous legislative attempts at dealing with BM37 issues. Discusses the claims process in Yamhill County and reports few problems. Speaks in support of including transferability and urges the committee to take action rather than leave it to the courts. Speaks in general support of the claims process and the judicial review. Speaks in opposition to the portion on compensation and relays all applicants in Yamhill counted have requested the ability to waive regulations.

#### **TAPE 111, B**

002 Lewis Raises concern about disqualification of special assessment on the entire tract, for the entire length of ownership and to take effect immediately upon a claim.

060 Sarah Deumling Polk County. Notes intention to submit written testimony (**EXHIBIT I**). Outlines two concerns about the effect of BM37 on her commercial logging operation as implications of housing developments nearby and lack of water resources. Describes pending BM37 claims on the neighboring properties. Responds to previous testimony. Speaks in support of compensation rather than waivers.

130 Wayne Simmons Polk County Planning Commission. Submits and reads written testimony in support of transferability of waivers and discussing determination of prime farmland (**EXHIBIT J**).

Rich Holcomb Farmer, Douglas County. Submits and summarizes written testimony raising concerns about potential detrimental impacts of BM37 claims on farmland and speaks in support of a compensation mechanism (**EXHIBIT K**).

264 Chair Garrard Asks for positive ideas about implementing BM37.

Holcomb Explains his concern is that implementation of BM37 may remove safeguards which preserve the future of agriculture. Continues his testimony.

365 Donald Bowerman Attorney, Clackamas County. Discusses his involvement in BM37 cases. Comments on the length of waivers.



**TAPE 112, A**

- 007 Bowerman Discusses the issue of transferability and asks for clarification that would ensure its permanent status. Comments on changes in ownership.
- 031 Rep. Greenlick Comments on Bowerman's testimony and asks his opinion on leaving the language of the measure as written.
- Bowerman Asserts BM37 would be improved if the issue of transferability were addressed.
- Rep. Greenlick Asks if he believes it is clear that transferability is in the words that were voted on.
- Bowerman Responds affirmatively when interpreting BM37 in context.
- 045 Harvey Kempema Realtor and farmer, Hillsboro. Describes his property and his support of BM37. Discusses barriers to development before BM37. Shows aerial photo of his property.
- 111 Rep. Greenlick Verifies that his testimony is to leave BM37 as passed by the voters.
- Kempema Confirms this.
- Rep. Greenlick Comments on what was voted on.
- Kempema Relays his support of the work of Oregonians in Action (OIA).
- Rep. Greenlick Comments that OIA feels there are ambiguities in the initiative too.
- Kempema Notes the possible involvement of the courts.
- Rep. Greenlick Agrees.
- 131 Ilsa Perse Lafayette, Yamhill County. Discusses approved claims in Yamhill County and the amount of land they will cover. Notes difference in interpretation of the initiative allowing a single family dwelling rather than rural subdivisions. Raises concerns about the lack of infrastructure for scattered subdivisions. Speaks in support of

maintaining land use planning and addressing the compensation issue. Notes uncertainty in determining “loss of value” of land.

- 220 Joe Willis Attorney, Schwabe, Williams and Wyatt. Notes his representation of Measure 37 claimants, including Dorothy English. Urges committee to clarify the issue of transferability and asserts that the language of BM37 currently says that waivers run with the land. Responds to previous questions from the committee members. Speaks in opposition to the section on judicial review.
- 315 Jill Gelineau Attorney, Schwabe, Williams and Wyatt. Notes her representation of BM37 claimants. Echoes previous testimony supporting transferability. Makes criticisms of the judicial review section.
- 355 John Abrams McMinnville. Reports his mother’s BM37 claim as the largest acreage claim and possibly most valuable in Yamhill County and supports leaving BM37 as written. Speaks in support of transferability. Reiterates Commissioner Lewis’s comments on assessment issues.

#### **TAPE 113, A**

- 010 Abrams Continues describing his property noting its location abutting the city limits and lower property values as a result.
- 024 Rep. Greenlick Relays his request to have the committee review the actual text, ballot title and explanatory statement of BM37.
- 031 Suzanne Krieger Washington and Linn County. Describes her farm property and the relief BM37 will provide. Supports leaving BM37 as written.
- 085 Dorothy Cofield Private Land Use Attorney, Cofield Law Office. Notes her representation of BM37 claimants. Outlines six specific issues that should be addressed by the committee:
- DLCD only waives those regulations listed by the claimant on their claim form and when filing permits for development are told they did not list all the appropriate regulations, described as the “gotcha”
  - living trust issue, the date of acquisition will be whenever the property was transferred to a living trust
  - Ambiguity in which date applies to claims, date of adoption or date made effective
  - Transferability

- Recorded contracts of sales
- Deed restrictions on tracts

145	Bill Mayhar	Salem. Discusses concerns about land use planning and lack of protection for homeowners. Suggests looking at the assessed value of the property to use as criteria. Recommends creating assistance agencies to help private property owners.
236	Rep. P. Smith	Asks Cofield to elaborate on suggestions dealing with the list of regulations and the deed restrictions on tracts.
	Cofield	Suggests having the land owner describe the regulations that restrict the use and the government would provide a list of the criteria that would prevent development.
	Rep. P. Smith	Asks about how to address deed restrictions on contiguous property.
	Cofield	Refers to current deed restriction language which states “unless the law changes” which it has with BM37.
270	Mayhar	Adds a comment on disclosure.
284	Duane Weeks	Clackamas County. Notes he has filed a BM37 claim. Relays his concern that waivers be made transferable. Discusses BM37 issues in Clackamas County. Comments on Oregon’s limits to rural subdivisions. Speaks in opposition to HB 3120-1 (12) definition of high value farm land.
388	Chair Garrard	Asks what method he would use to determine high value farm land.
	Weeks	Responds he would use the former soil conservation service, now called natural resources conservation service, outlining land classes 1-8 and designating class 1 and part of 2 as prime farm land.

**TAPE 112, B**

002	Mike Lehne	Broker, Portland. Notes his vote for BM37 and describes his BM37 claim. Raises concern to refine BM37 and discusses importance of transferability.
041	Peter Kanage	

		Benton County. Discusses concern with future ramifications of BM37. Describes his property and how BM37 will effect his farm operations. Speaks in support of a compensation mechanism and discusses responsibility to future generations.
123	Chair Garrard	Asks the committee for comments.
	Rep. Greenlick	Suggests allowing time to process what they have heard.
135	Rep. P. Smith	States the biggest issue she heard was transferability.
	Chair Garrard	Adds compensation to transferability as the most discussed issues.
	Rep. Sumner	Comments that their were 45 different opinions about the intent of BM37 from 45 different speakers.
144	Rep. Anderson	Discusses prohibitive land use in other countries and expresses his hope to allow people to live where they want to live.
165	Rep. Nolan	Echoes Rep. Sumner's comment on the diversity of opinions. Makes comments on difficulty in implementing BM37 and discusses the responsibility to provide the greatest benefit for the greatest number of Oregonians.
193	Rep. Ackerman	Relays his concern about the abbreviated timetable and notes his biggest concern is having discussions among the committee before consideration of amendments. Suggests addressing a compensation mechanism in an interim committee. Asserts BM37 is not a compensation piece because of the following reasons: <ul style="list-style-type: none"> <li>• BM37 states you cannot pay compensation unless the money is specifically appropriated for that purpose</li> <li>• If compensation is not paid within 2 years, it converts into a waiver</li> </ul>
226	Rep. Greenlick	Makes comments on protecting rights of minority and majority. Discusses increases in land values over time with land use laws. Urges caution that the fix is not worse than the problem. Expresses he is not confident that they can create a bill in the short time that will solve all the problems discussed.

**The following material is submitted for the record without public testimony:**

- Kenneth H. Larsen Gaston, OR. Submits written testimony raising concern about the negative effects of BM37 and suggesting a thorough review of the land use dilemma **(EXHIBIT L)**.
- Lisanne Percy Dallas, OR. Submits written testimony raising concerns about the effect of BM37 on agricultural land and in support of compensation **(EXHIBIT M)**.
- Joe and Nancy Keuhn Salem, OR. Submit written testimony in support of protecting farm and forestland from development **(EXHIBIT N)**.
- Mark Tipperman McCoy Meadows Ranch, LLC. Submits written testimony urging the committee not to expand the scope of BM37 **(EXHIBIT O)**.
- David Cruickshank President, Yamhill County Farm Bureau. Submits written testimony supporting clarification of BM37 and finding compensation rather than granting waivers for all applications **(EXHIBIT P)**.
- Frances and Michael O'Brien McMinnville, OR. Submits written testimony urging the committee not to allow increased opportunity for subdivisions in farmland **(EXHIBIT Q)**.
- Susan Auliffe Klamath County. Submits written testimony raising concerns about the detrimental effects BM37 will have on agricultural land and urges protection of all farm land **(EXHIBIT R)**.
- John Freeburg Dallas, OR. Submits written testimony urging the committee to focus on compensation and not to broaden developers' rights in farm and forest land **(EXHIBIT S)**.
- Kate Perle Eugene, OR. Submits written testimony raising concerns about the effect BM37 will have on farmland and urges the committee to consider sources of funding for compensation **(EXHIBIT T)**.
- Fran Recht Depoe Bay, OR. Submits written testimony raising concern about detrimental development due to BM37 and suggests a real-estate transfer tax for a compensation fund **(EXHIBIT U)**.
- Dave Hunnicutt Executive Director, Oregonians in Action (OIA). Submits written testimony in support of most of HB 3120-1 amendments while outlining five points for further consideration **(EXHIBIT V)**.

	Earle D. Wicklund	Trustee, Wicklund Living Trust. Submits written testimony in opposition to legislation which would charge a fee or capital gains tax to property owners who benefit from BM37 ( <b>EXHIBIT W</b> ). Also submits pictures of his estate on page 2.
	Deborah Noble	Eugene, OR. Submits written testimony in support of a compensation mechanism for BM37 ( <b>EXHIBIT X</b> ).
290	Chair Garrard	Closes the public hearing on HB 3120-1 and adjourns the meeting at 9:45 p.m.

## **EXHIBIT SUMMARY**

- A. **SB 538A, map of Deschutes County, Linda Swearingen, 2 pp**
- B. **HB 3120, -1 amendments, staff, 60 pp**
- C. **HB 3120, written testimony, Al Elkins, 2 pp**
- D. **HB 3120, spreadsheet, Al Elkins, 4 pp**
- E. **HB 3120, written testimony, Don Schellenberg, 2 pp**
- F. **HB 3120, written testimony, Bruce Miller, 5 pp**
- G. **HB 3120, Measure 37 principles, Art Schlack, 2 pp**
- H. **(NO EXHIBIT H)**
- I. **HB 3120, written testimony, Sarah Deumling, 2 pp**
- J. **HB 3120, written testimony, Wayne Simmons, 2 pp**
- K. **HB 3120, written testimony, Rich Holcomb, 2 pp**

- L. **HB 3120, written testimony, Kenneth H. Larsen, 1 p**
- M. **HB 3120, written testimony, Lisanne Percy, 1 p**
- N. **HB 3120, written testimony, Joe Kuehn, 1 p**
- O. **HB 3120, written testimony, Mark Tipperman, 2 pp**
- P. **HB 3120, written testimony, David Cruickshank, 1 p**
- Q. **HB 3120, written testimony, Frances and Micheal O'Brien, 1 p**
- R. **HB 3120, written testimony, Susan McAuliffe, 2 pp**
- S. **HB 3120, written testimony, John Freeburg, 1 p**
- T. **HB 3120, written testimony, Kate Perle, 1 p**
- U. **HB 3120, written testimony, Fran Recht, 1 p**
- V. **HB 3120, written testimony, Dave Hunnicutt, 2 pp**
- W. **HB 3120, written testimony and photos, Earle D. Wicklund, 2 pp**
- X. **HB 3120, written testimony, Deborah Noble, 1 p**