

HOUSE COMMITTEE ON
ENVIRONMENT AND LAND USE

February 04, 2003 Hearing Room E
8:30 AM Tapes 12 - 13

MEMBERS PRESENT: **Rep. Bill Garrard, Chair**
 Rep. Dennis Richardson, Vice-Chair
 Rep. Cliff Zauner, Vice-Chair
 Rep. Robert Ackerman
 Rep. Dan Doyle
 Rep. Mitch Greenlick
 Rep. Diane Rosenbaum

STAFF PRESENT: **Ray Kelly, Committee Administrator**
 David Peffley, Committee Assistant

MEASURES HEARD: **HB 2273 – Public Hearing**
 HB 2257 – Work Session

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 12, A		
003	Chair Garrard	Calls the meeting to order at 8:33 AM and opens a public hearing on HB 2273.
<u>HB 2273 - PUBLIC HEARING</u>		
007	Rep. Shetterley	Testifies in favor of HB 2273 brought forth by the Oregon Law Commission, created by the legislature in 1997. Introduces HB 2273, which deals with technical issues dealing with laws of condemnation and eminent domain.
035	Greg Mowe	Oregon Law Commission. Introduces the Eminent Domain Report (EXHIBIT A). Explains property rights laws and urges the passage of HB 2273, as it will increase efficiency and streamline ORS chapters 35 and 281.
129	Rep. Richardson	Asks if compensation would be given under the takings provision.
131	Mowe	Answers affirmatively. Explains ongoing litigation under the takings clause.
138	Rep. Richardson	Asks about actual damages incurred by public entities and related compensation.
141	Mowe	Replies that this law did not address that issue; that it was a procedure which couldn't be answered.
166	Don Schellenberg	Oregon Farm Bureau (OFB). States OFB's concerns with HB 2273. Suggests that property rights would be better served if the condemner first got the permits before entering the property.
217	Rep. Greenlick	Asks the witness to confirm the process of eminent domain as it relates to this bill.
222	Schellenberg	Explains the process and purpose of eminent domain. Suggests amendments to the bill.
241	Rep. Rosenbaum	Asks for Mr. Schellenberg's understanding of Section 2 of HB 2273 as

it relates to this process.

247 Schellenberg Clarifies the qualifications for permission to enter the property under Section 2.

280 Rep. Rosenbaum Asks for Mr. Mowe to return to clarify this provision in Section 2.

288 Mowe States that they have not discussed Mr. Schellenberg's. Explains the survey process. Affirms that they do not wish to run roughshod over farm land.

322 Rep. Doyle Asks Mr. Mowe to clarify the definition of the condemner.

325 Mowe Defines the condemner as one who has condemnation power.

342 Rep. Doyle Asks how the courts address this issue now.

357 Mowe Explains the latitude which the courts have for enforcement.

373 Chair Garrard Examines the bill and asks Mowe if this issue has not already been addressed.

384 Mowe Explains that the statute presumes that condemning bodies would have the right to conduct examinations and the testing if they pay compensation.

393 Chair Garrard Asks if notification is really the issue here.

410 Mowe Confirms Chair Garrard's notion of the intent of the statute.

416 Schellenberg Adds further clarification on valid reasons for the surveys.

429 Chair Garrard Asks if he understands that OFB would prefer a permit, rather than notification.

TAPE 13, A

003 Schellenberg Agrees with the Chair's understanding.

009 Rep. Doyle Questions whether the law might impinge upon the jurisdiction of the court.

015 Mowe Responds that he also reads the measure the same way.

017 Rep. Doyle States concern for removing discretion from the court.

022 Mowe Explains that this is one of the reasons for the damage provision. Affirms that the intent is not to limit the power of the court.

038 Rep. Ackerman Attempts to clarify the issue of notification in Section 2, Sub 1. Asks Mr. Mowe if Sub 2 addresses the issue.

048 Mowe Affirms Rep. Ackerman Explains the need for subsections of the said clause.

054 Rep. Ackerman Notes that specifics are not addressed, but are left for the court to determine.

060 Rep. Greenlick Asks if a surveyor may come onto the property at any time.

066 Mowe Agrees and explains the general surveyors statute.

083 Rep. Greenlick Asks for the limits of change which would be affected by HB 2273.

087 Mowe Responds that he is not sure whether the general surveyor's statute addresses this issue or not.

107 Rep. Richardson Asks for confirmation of the actual intent of this legislation.

113 Mowe Confirms that this legislation is intended to address condemnation above all. Offers to tweak the provision to offer the courts broader jurisdiction.

126 Rep. Rosenbaum Asks Mr. Schellenberg whether that language might satisfy their objections.

130 Schellenberg Confirms that it seems to address the concern.

141 Chair Garrard Asks Mowe and Schellenberg whether they could work out the differences in this bill to satisfy both parties. Schedules a work session for 2/11 to work this out. Closes the public hearing on HB 2273 and opens a work session on HB 2257.

HB 2257 – WORK SESSION

157 Ray Kelly Explains HB 2257.

167 Rep. Rosenbaum **MOTION: Moves HB 2257 to the floor with a DO PASS recommendation.**

173 **VOTE: 7-0**

180 Chair Garrard **Hearing no objection, declares the motion CARRIED.**

REP. ZAUNER will lead discussion on the floor.

208 Chair Garrard Adjourns meeting at 9:16 AM.

EXHIBIT SUMMARY

A – HB 2273, written materials, Greg Mowe, 5 pp.