

CONFERENCE COMMITTEE ON HB 3013A

August 7, 2003 Hearing Room D

3:00 PM Tapes 1 - 3

MEMBERS PRESENT: **Rep. Bill Garrard, Chair**
 Rep. Susan Morgan
 Rep. Mike Schaufler
 Sen. Frank Morse
 Sen. Frank Shields

STAFF PRESENT: **Ray Kelly, Committee Administrator**
 Linda K. Gatto, Committee Assistant

MEASURE HEARD: **HB 3013A 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 1, A 007	Chair Garrard	Calls the meeting to order at 3:07 p.m. Announces that the committee is aware of the contentious nature of HB 3013. Explains the rules that will apply to those invited to testify and to the members of the committee.
<u>HB 3013 INVITED TESTIMONY</u>		
032	Pat Egan	Legislative Director and Transportation Policy Director for Governor Kulongoski. States that the Department of Transportation, (ODOT) is a consumer and owner of aggregate products. Expresses that he would like to see a resolution. Discusses the proposed compromise on conditional uses for Class 1 and Class 2 soils. Supports full representation on the task force.
074	Rep. Betsy Johnson	House District 31. Supports an interim task force to look at the issues in detail. States that attendance today is testimony of the complexity of the issue. Explains that Columbia County is rich in gravel deposits and urges the committee to allow ample time to work the issues and avoid unintended consequences. Speculates that the removal of the notification (LC 2203) could be the point of contention. Submits (EXHIBIT A) .
145	Rich Angstrom	President, Oregon Construction and Aggregate Producers Association, (OCAPA). States that this debate is about Oregon's resource lands. Explains that the aggregate industry is affected by the Endangered Species Act listings.
228	Angstrom	Explains that the combination of various limitations is resulting in serious restrictions on aggregate supply and market competition which is affecting the affordability of aggregate for state government. Comments on the passage of the \$2.5 billion highway bill and the predictable effect it will have on the demand for aggregate. Concludes that it is not the resource that is the commodity, it is instead the land use permit.

259	Angstrom	Reviews Section 1 regarding the policy statement on aggregate and agriculture and their importance to the state. Reviews Section 2 regarding DEQ standards for noise and dust.
287	Angstrom	Reviews Section 3 the Beaver State fix and Section 4 the task force membership.
306	Angstrom	Discusses Class 1 and Class 2 soil protections.
325	Art Schlack	Introduces Judge Prior and Judge Mike McArther.
357	Judge Mike McArther	Sherman County Judge and Chair of the Community Development Steering Committee for the Association of Oregon Counties, (AOC). Supports HB 3013A believing that it satisfies the problem in the Beaver State case. Also supports permitting at the local level and having an interim task force examine the outstanding difficulties in more detail.
385	Schlack	Clarifies the AOC suggestions for amendments to HB 3013A (EXHIBIT B) would maintain the requirement that significant sites go through the Goal 5 process and that non-significant site permits would be issued by local government.
410	Judge Laura Prior	Gillman County. Chair AOC Transportation Committee. Urges the committee to maintain the conditional use process and decision making at the local level.
448	Sen. Shields	Refers to a letter he has received from the Lane County Commissioners, (EXHIBIT C) .
456	Art Schlack	Responds to Sen. Shields and expresses that the Commissioners of Lane County wish to maintain local control.
TAPE 2, A		
030	Don Schellingberg	Associate Director of Governmental Affairs, Oregon Farm Bureau. Reads testimony (EXHIBIT D) .
123	Schellingberg	Clarifies that in line 10 of the -A6 amendments, (EXHIBIT E) the word "is" should be changed to "maybe".
131	Schellingberg	Continues, clarifies that in line 21 and 23 add "the mining area". Line 24 defines high value farm land and notes that high value farm land is already defined but "mining area" needs a definition.
147	William Austin	Roseburg. Submits and reads written testimony, (EXHIBIT F) urging support of the farm bureau amendments. States he does not oppose aggregate mining but opposes destroying Oregon's best farm land to get it.
190	Sen. Morse	Refers to the 84,000 acres lost to other uses and asks what those uses were.
200	Austin	Responds he assumes all uses, the Capitol Press article did not break it down.
213	Sen. Morse	Asks how many acres of the 84,000 were taken for aggregate mining per year.
216	Austin Corrine Sherton	Answers it was about 7,000. Attorney, Johnson and Sherton. Submits (EXHIBIT G) in support of the farm bureau amendments. States that according the Court of Appeals, conditional use permits cannot be issued except for significant sites that are on Goal Five territory. Notes there is protection for Class 1 and Class 2 soils built into that process.
269	Carrie MacLaren	Staff Attorney 1000 Friends of Oregon. Submits written testimony (EXHIBIT H) in support of the Farm Bureau's amendments.
314	MacLaren	Expresses concern about conditional uses.

341	MacLaren	Expresses concern that there are no standards for reclamation or restoration of farmland.
359	Jennifer Flint	Oregon Chapter of the American Planning Association. Submits correspondence from Mitch Rohse. Testifies on behalf of Stephen Kafoury. (EXHIBIT I)
365	Ross Day	Oregonians in Action. States that most of his members are farmers who own the farmland and cannot do anything else with it. HB 3013 will allow them some economic value from their property. Supports the amendments.
TAPE 1, B		
002	Jon Chandler	Legislative Advocates and OCAPA. Comments for the record on behalf of OCAPA they want a bill that outlines what the process is and there need for balance between the interested parties. Supports an interim process.
065	Lori Jensen	President of Lone Pine Farms Limited. Submits news article, (EXHIBIT J) . Discusses the Eugene Sand and Gravel vs. Lane County case. Discusses dust standards for agriculture.
114	Lee Kersten	Attorney that represented the farmers who opposed the Eugene Sand and Gravel application. States it is untrue that there is a shortage of aggregate supply. Summits and reads (EXHIBIT K) .
150	Kersten	Continues with testimony, states that Goal 5 is the process.
178	Steve Pfiefer	Attorney in Portland. Discusses ORS 296.
254	Rep. Schaufler	Asks if there is any way that gravel can be mined without dust.
281	Pfiefer	Responds that this will always be debated. States that it is a highly subjective process.
338	Lee Kirsten	States there is no dust standard, the standard discussed applied only to the Eugene case.
323	Liz Frankel	League of Women's Voters. Explains that the League assumed this would be a moving target. States that there is no guidance on the role of the public. Discusses Goal 5, local enforcement, and the structure of the workgroup.
TAPE 2, B		
014	Linda Ludwig	League of Oregon Cities. Supports the interim task force and suggests representatives.
037	Rep. Schaufler	Asks what percentage of farm land in the valley is being mined.
050	Frankel	Responds that the Department of Agriculture may have that information.
060	Doug Tindell	State Maintenance Engineer, ODOT. Discusses ODOT's need for aggregate.
093	Chair Garrard	Asks how the new transportation package will affect the aggregate supply.
095	Tindell	Answers that more than half the work described in the transportation package is bridges which are not as aggregate intensive as roads are.
104	Sen. Shields	Asks were there subsequent conversations regarding the need for aggregate after the package was passed.
111	Tindell	Answers there is a direct impact to the ODOT owned sites.
119	Chair Garrard	Asks if the aggregate was not available locally where would ODOT go to purchase it.
125	Tindell	Answers in terms of sanding rock it would be expensive. If the supply was from a neighboring state the volume would be reduced.
126	Bob Rindy	Department of Land Conservation and Development (LCDC).

		States that they spent two years trying to find a balance between farming and aggregate that concluded in 1996. Agrees that the conditional use process needs to be re-instated.
174	Dr. Vicky Mc'Connell	Department of Geology and Mineral Industries, (DOGAMI). Submits (EXHIBIT L) and reviews main items. Supports an interim committee discussion, conditional use permits and a dust standard discussion.
211	Rep. Schaufler	Asks how many acres are being mined in the valley right now.
258	Mc'Connell	Asks what it would cost to keep the dust down.
280	Rindy	Answers it would be difficult and expensive to have a dust free mining operation. Questions how that would be monitored.
		Refers to 1996 and states that the intent of Goal 5 was based on information received by the counties regarding EFU land.
		Mining acreage consumed as opposed to other uses, such as housing, is near the bottom of the list.
299	Sen. Shields	Comments that perhaps the question is if the land use is a positive use or non-positive use. Asks would the reclaimed land have the same standards.
368	Rindy	Suspects that it is unlikely the soil would be returned exactly like it was.
385	Randy Moore	Mined Land Reclamation Group, DOGAMI. Explains the reclamation process and states that the lands can be returned to quality soils.
420	Rep. Morgan	Requests background information on the reclamation process.
426	Moore	Answers that in the last few years there have been efforts to ensure sites are engineered.
468	Rep. Morgan	Asks is it fair to say there is a better understanding of how to restore these sites to enhance the attributes of the land.
477	Moore	Responds affirmatively and summarizes that this is an evolutionary process.
TAPE 3, A		
021	Sen. Shields	Asks for comments from Oregon Department of Agriculture, (ODA) on soil reclamation.
033	Jim Johnson	Land Use and Water Planning, ODA. Disagrees that agricultural land can be reclaimed back to the same capability it had before it was mined. Explains that mining is accelerated erosion.
044	Rep. Morgan	Asks if different parts of the land, (top soil) could be set aside to restore or enhance the land.
065	Johnson	Responds that once the soil has been disturbed it is impacted because it is organic and living.
077	Rep. Morgan	Comments that as long as the land can be restored to a comparable status, is there an overriding value for the soil to be exactly as it was before.
090	Johnson	Responds that this is a policy decision.
096	Sen. Shields	Asks why are DEQ dust standards for people not appropriate for crops.
102	Johnson	Answers that there is diversity in the crops of the valley and each reacts differently to dust.
120	Rep. Morgan	Comments that the quality of the argument appears to be splitting hairs on interpretation and policy.
136	Johnson	Explains there are organic practices that are more sensitive than traditional agricultural practices.
167	Sen. Shields	Submits the –A7 amendments, (EXHIBIT M)
177	Chair Garrard	Summarizes that there are short term issues and long term issues.

		Moves that Brian Shipley mediate between Don Schellenberg and Richard Angstrom starting with the –A6 and –A7 amendments.
217	Sen. Shields	Asks that Brian communicate with all interested parties.
232	Brian Shipley	Suggests Art Schlack from AOC.
230	Chair Garrard	Hearing no objection from the committee members adjourns the meeting at 5:40 p.m.

EXHIBIT SUMMARY

- A. HB 3013, written testimony, Rep. Betsy Johnson, 2 pp**
- B. HB 3013, hand engrossed proposed amendments, Schlack 2 pp**
- C. HB 3013, written testimony, Lane County Board of Commissioners, 1 p**
- D. HB 3013, written testimony, Don Schellenberg, 3 pp**
- E. HB 3013-A6 amendments dated 8/6/03, Don Schellenberg, 2 pp**
- F. HB 3013, written testimony, William Austin, 2 pp**
- G. HB 3013, written testimony, Corinne C. Sherton, 4 pp**
- H. HB 3013, written testimony, Carrie MacLaren, 2 p**
- I. HB 3013, written testimony, Mitch Rohse, 1 p**
- J. HB 3013, news article, Lori Jensen, 1 p**
- K. HB 3013, written testimony, Lee Kersten, 36 pp**
- L. HB 3013, proposed amendments, Dr. Vicki McConnell, 2 pp**
- M. HB 3013A-7 amendments dated 8/7/03, Sen. Morse, 7 pp**