

CONFERENCE COMMITTEE ON SB 291

July 1, 2003 Hearing Room D
9:00 AM/ 2:00 PM Tapes 1 - 4

MEMBERS PRESENT: **Sen. Frank Shields, Chair**
 Sen. Ted Ferrioli
 Rep. Elizabeth Beyer
 Rep. George Gilman
 Rep. Jeff Kropf

STAFF PRESENT: **Judith Callens, Committee Administrator**
 Linda K. Gatto, Committee Assistant

MEASURE HEARD: **SB 291 A – 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 1, A		
004	Chair Shields	Calls the conference committee to order at 9:12 a.m. States that knowing people have come to talk about SB 291A, Chair will allow invited testimony.
<u>SB 291 A – INVITED TESTIMONY</u>		
034	Roy Elicker	Deputy Director, Oregon Department of Fish and Wildlife, (ODFW). Explains that the issue is why the grandfathering position is necessary. Provides background on game-bird preserve land use, (EXHIBIT A) .
076	Chair Shields	Asks when did ODFW discover that conditional uses needed to be permitted under the county.
080	Elicker	Answers late 2001 early 2002. Explains that due to time and expense, there is concern that the process will prevent the preserves from operating this season.
083	Elicker	Clarifies it was September 2002 when ODFW became aware of this.
085	Chair Shields	Confirms that this will be the first season since this issue arose and reiterates the reason for the grandfathering.
091	Elicker	Explains that ODFW and the Department of Land Conservation and Development, (DLCD) will jointly send detailed notification of this bill to the counties, hunting preserves, and the neighbors surrounding the hunting preserves.
120	Rep. Beyer	Asks how many hunting preserves are being grandfathered.
122	Elicker	Answers that ODFW is aware of 28 out of 70 that were operating without a county use permit, currently there is approximately 25.
124	John Jinnings	Regional Representative for Central and Eastern Oregon, DLCD. Explains this is an emerging land use and affirms the need for fairness. Refers to the correspondence from Ronald Eber, (EXHIBIT B)
167	Sen. Ferrioli	Notes that (EXHIBIT B) demonstrates that ODFW and DLCD

		were in agreement of the House version.
199	Jinnings	Responds that he was referring to a letter dated July 1.
205	Judith Callens	Reviews SB 291A. Clarifies the differences between the –A8 amendments (EXHIBIT C) and the –A9 amendments (EXHIBIT D).
257	Callens	Outlines the complaint process and location on each amendment. Discusses the fiscal impact.
280	Sen. Ferrioli	Notes there are three versions; the existing House bill does the grandfathering and the distance requirement; the -A8 amendments create a new standard of complaint and has a higher threshold (explains); and the A-9 amendments version.
337	Jim Welsh	Representing the Land Owners from multiple counties.
376	Jeff Wilkenson	Attorney for Buck and Lavelle Underhill. Supports the –A9 amendments. Notes that the original bill changed the concentration of the hunting preserves. Discusses out-right use and conditional use.
TAPE 2, A		
023	Sen. Ferrioli	Discusses with Mr. Wilkenson the status of the adjacent land owner and his conditional permit.
066	Lavelle Underhill	Farm and Property Manger. Expresses concern regarding long-term ownership; disturbance of big game habitant, and the impact on the farm land. Adds the safety issue and length of the season.
111	Underhill	Concludes that these issues need to be addressed at the county level.
151	John Hefley	Polk County Farmers. States support for the -A9 amendments. Supports mitigation on a county level.
163	Richard Dale	Wasco County Property Owner, The Dalles. Supports the -A9 amendments. Explains his concerns regarding his cattle operation. Agrees with Mrs. Underhill’s testimony.
184	Rep. Beyer	Asks how long he has farmed and raised cattle.
186	Dale	Responds all his life.
187	Chair Shields	Asks how long ago did the preserve arrive and how has it affected his operation.
190	Dale	Answers it was permitted last fall. States that cattle are sensitive to people on foot and the pasture comes right up to the fence.
214	Chair Shields	Asks if he was noticed beforehand.
216	Dale	Answers affirmatively and states that the planning use committee agreed with the hunting preserve and dismissed his arguments.
228	Sen. Ferrioli	Notes, relative to the safety discussion, that current statute prohibits using a firearm in a way that it endangers a neighbor.
261	Art Schlack	Association of Oregon Counties. Explains exclusive farm use statutes and conditional use permits. Explains that compatibility and adequacy of services are considered by the local governing body in granting a permit.
378	Rep. Kropf	Asks for clarification that an individual can go before the county and request certain conditions.
397	Schlack	Answers that if a conditional use is granted there is a process that allows the surrounding property owner to lodge a complaint that a condition is not being met.
417	Rep. Beyer	Asks is there a process for complaints on grandfathered lands.
423	Schlack	Answers that the -A8 amendments include a complaint process for the preserves being grandfathered in.
440	Schlack	At the request of the chair, explains the county’s position on the -A8 and -A9 amendments.

TAPE 1, B

013 Schlack States support for the existing process for all conditional use permits. Expresses concern about creating a separate process now and the potential of a new process for each conditional use in statute.

061 Sen. Ferrioli Explains how the calving operation would be affected by the -A8 and A9 amendments. Agrees with Mr. Schlack's comment about additional uses on the land.

047 Chair Shields Asks why wouldn't the county consider the concerns of the calving operation.

060 Sen. Ferrioli Agrees with Mr. Schlack that there will be new land uses developing on farm and cattle lands.

092 Schlack Agrees with comments made by Senator Ferrioli and notes that the burden is on the applicant.

114 Van Conklin Rancher in Wasco County. States that when he went through the county process he was ignored. States that the game area was given a buffer but he was not. States that there are no restrictions and enforcement is weak.

177 Conklin Comments on the frequency of the shooting and notes that cattle are affected by noise. Supports the complaint guide in the -A9 amendments.

212 Sen. Ferrioli Asks what should be done differently.

226 Conklin Responds that the permit was granted on a 11,000 acre ranch and reduced to a 600 acre ranch with a public road down the middle.

248 Schlack States that conditional land use permits are for a particular parcel and are not moveable, however, another conditional use permit can be applied for.

262 Rep. Beyer Comments that perhaps this issue should be before the county commission rather than the state.

281 George Dern Owner, DK Wildlife Ranch. Supports the -A8 amendments. Describes his operation on 150 acres. Reads his prepared testimony, **(EXHIBIT E)**.

TAPE 2, B

001 Sen. Ferrioli Explains procedural concerns and proposes recessing the meeting. States support for the - A8 amendments.

025 Rep. Beyer Supports the -A8 amendments.

026 Rep. Kropf Supports the -A8 amendments but does have some concerns.

049 Chair Shields States he will recesses the committee until 2 p.m. so the House members can go to chamber.

068 Ralph Anderson Attorney for Cannon Creek Game Farms. Supports the -A8 amendments and explains there are planning and appeal process.

108 Chair Shields Asks for his opinion on the -A9 amendments.

111 Anderson Answers that the "shall" appears to require the county to take specific action. Believes that current statutes address these issues.

133 Chair Ferrioli States that the procedure described is a lot of due process.

154 Chair Shields Recesses the meeting at 10:45 a.m.

AFTERNOON**TAPE 3, A**

004 Chair Shields Reconvenes the meeting at 2:33 and outlines proposed changes. Asks for discussion.

055 Sen. Ferrioli Notes senate rule 11-10 Sub 1. Explains that the Senate version reduces the three mile distance to a half mile; the House version adds the grandfathering clause. Explains that the conference committee needs to resolve the issue between the committees.

089	Chair Shields	Reiterates the –A8 amendments.
132	Rep. Kropf	Responds that testimony has emphasized grandfathering and mitigation. Notes the committee’s options.
156	Sen. Shields	Comments on the concerns expressed by the testimony and states that mitigation is needed to express to the counties that they need to listen to the people. MOTION: Moves to SUSPEND the rules for the purpose of consideration of amendments outside the scope of the issue between the houses.
144	Chair Shields	Explains his concerns and the time restrictions. Comments on original use and conditional use.
173	Sen. Ferrioli	Explains a permitted use is not subservient to other land uses that are allowed. Notes there is a compliant resolution process.
197	Chair Shields	Responds that a conditional use permit can be lost if the parameters under which the permit was granted are not honored.
202	Jerod Broadfoot	Oregon Chapters of Safari Club International. Expresses concern about grandfathering the hunters.
Recesses momentarily		
318	Harrison Connely	Deputy Legislative Counsel. Reads the proposed new language. Subsection 3; if a use considered for approval is a private hunting preserve licensed under ORS 497.248 the local governing body or its designee shall consider imposing conditions to mitigate conflicts with accepted farm or forest practices on surrounding lands devoted to farm or forest use that are identified by the county.
345	Broadfoot	Asks why the term “imposing” was added.
348	Connely	Explains it is to use the same verb in Section 2 and Section 3.
376	Chair Shields	Withdraws motion to suspend rules.
416	Callens	Clarifies that if there is unanimous agreement to move forward on something it is not necessary to suspend the rules.
430	Rep. Beyer	MOTION: Moves to ADOPT SB 291-A 8 amendments dated 07/0103/03.
432	Rep. Beyer	Explains why she supports the –A8 amendments.
434	Rep. Gillman	Seconds the motion.
456	Rep. Kropf	States that he does not want to vote against the –A8 but would like to see compromise legislation.
475	Chair Shields	States that there needs to be compromise. Recesses momentarily.
TAPE 4, A		
026	Chair Shields	States that there is a motion on the table and the –A10 compromise is before the committee, (EXHIBIT F)
037		VOTE: 4-1 AYE: 4 - Sen. Ferrioli, Rep. Beyer, Rep. Gillman, Rep. Kropf NAY: 1 – Sen. Shields
042	Chair Shields	The motion Fails.
048	Sen. Ferrioli	Requests information from the counties regarding the –A10 amendments, specifically regarding increased involvement of the legislature in conditional land uses.
051	Art Schlack	Responds there are a number of conditional uses which are evaluated. The criteria is established in statute and by the local governing body. Opposes the -A10 amendments. Favors these decisions being addressed locally.
107	Chair Shields	Responds the language is asking for the “consideration” of establishing conditions.

136	Rep. Kropf	Clarifies that it is Mr. Schlack's belief that the -A10 amendments will invite conditional use legislation requests.
148	Sen. Ferrioli	Discusses the options available.
166	Chair Shields	Responds that every option results in a delay unless the chair yields.
180	Rep. Beyer	States that the -A8 amendments provide a complaint process and are a good comprise.
191	Sen. Ferrioli	Explains that it may not possible to meet everyone's principled position. Offers that another option is to concur with the House version of the bill.
229	Chair Shields	Reiterates that this is "shall consider" clause and explains his position.
262	Jinnings	Comments that the issue of conditional use could be taken under the consideration of a priority bill.
300	Rep. Kropf	Offers to use his last priority bill and expresses his concerns.
360	Chair Shields	Adjourns the meeting at 3:45 p.m.
The following prepared testimony is submitted for the record without public testimony for SB 291A:		
	Sen. Ferrioli	Senate District 30. Submits written testimony for Canyon Creek Game Farm (EXHIBIT G).
	Carrie McLaren	1000 Friends of Oregon. Submits written testimony (EXHIBIT H).

EXHIBIT SUMMARY

- A. SB 291A, Background Information, Roy Elicker, 2 pp**
- B. SB 291A, correspondence, Roy Elicker and John Jinnings, 2 pp**
- C. SB 291-A8 amendments dated 7/1/01, staff, 4 pp**
- D. SB 291-A9 amendments dated 7/1/03, staff, 5 pp**
- E. SB 291A, written testimony, Clint and Alesha Dern, 1 p**
- F. SB 291-A10 amendments dated 7/1/03, staff, 4 pp**

TESTIMONY SUBMITTED FOR THE RECORD

- G. SB 291A, written testimony from Canyon Creek Game Farm, Sen. Ted Ferrioli, 5 pp**
- H. SB 291A, written testimony, 1000 Friends of Oregon - Carrie MacLaren, 1 p**