

SENATE COMMITTEE ON PUBLIC AFFAIRS

May 27, 1999 Hearing Room B

1:00 P.M. Tapes 55 ñ 59

MEMBERS PRESENT: Sen. Gene Derfler, Chair

Sen. Joan Dukes, Vice-Chair

Sen. Marylin Shannon

Sen. Charles Starr

Sen. Thomas Wilde

MEMBER EXCUSED:

STAFF PRESENT: Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURE/ISSUES HEARD: HB 3607 Public Hearing

HB 3220 Public Hearing and Work Session

HB 2419A 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 55, A		
000	Chair Derfler	Opens meeting at 1:10 p.m. and opens public hearing on HB 3607.
<u>HB 3607 PUBLIC HEARING</u>		
001		Staff presents (EXHIBIT A) .

005	Paul Connolly	Attorney, Salem. Presents (EXHIBIT B) in support of HB 3607. Discusses issues concerning the Bureau of Labor and Industries (BOLI). Comments on current law concerning penalties. Reviews testimony. States that over 50 percent of underpaid wages occur with migrant workers.
055	Connolly	Addresses opponents' arguments, referring to testimony. States there is no check on the assessment of penalties, so penalties are currently too extreme.
077	Sen. Shannon	Asks what type of an attorney he is.
082	Connolly	States half of his work represents farmers and small businesses.
083	Sen. Shannon	Asks if he represents employers.
084	Connolly	States he generally represents employers.
087	Jack Roberts	Commissioner, BOLI. Supports HB 3607. States that a penalty wage is used to encourage prompt payment of wages. Comments on the ability to solicit clients. States that if there is a cap on penalty wages there should also be the ability to impose civil penalties where there is a conscious breach of the law. States if there is a civil penalty it protects against abuse of the system and strengthens enforcement.
130	Rep. Jackie Winters	House District 31. States she sponsored HB 3607 at the request of Paul Connolly. Relates a dispute that took two years to resolve and resulted in \$20,000 of legal fees. States it was not the intent of the law to allow loopholes and use it against the employer.
180	Rep. Winters	States that BOLI was created to resolve conflicts between employers and employees. States this is not a minor problem and they intend to remain fair to employees with legitimate claims.
210	Michael Dale	Oregon Law Center. Presents (EXHIBIT C) in opposition to HB 3607. Represents migrant farm workers. States HB 3607 substantially weakens Oregon's wage claim law. States the system sets up economic incentives for people to break the law and penalizes lawful employers.
260	Dale	Discusses farm workers who are working by unit and not by minimum wage and that their overall wage is not a lot. States if the penalty is small there is no incentive to file a legitimate claim.
310	Dale	Discusses a case with a claim for \$100,000 involving a computer mistake and a farmer who refused to correct the mistake. Clarifies what defines willful violations of the law.
340	Chair Derfler	Comments on the settlement versus the attorney fees for the case.

348	Dale	States he does not know the case in detail. Refers to an Oregonian article that quotes Rep. Winters.
375	Sen. Wilde	Comments that attorneys are able to collect their fees.
382	Dale	States the attorney would indeed get paid, but the low wage workers would need to outlay a lot of money for the process to occur.
420	Sen. Wilde	Asks if BOLI would be able to collect back wages for a former employee.
427	Dale	States BOLI can collect the wages if they can prove the amount of the unpaid wages by records.
436	Sen. Wilde	Asks Roberts how to deal with these structural issues.
446	Roberts	States that BOLI takes the claims, but must prove the case with the worker present.
475	Sen. Wilde	Asks if a migrant worker believes they are underpaid, and were to give a sworn affidavit, if they would be able to pursue the claim.
TAPE 56, A		
001	Roberts	States if there is a contested case hearing the worker really needs to be present at a hearing. States a signed affidavit is useful, but they prefer personal testimony.
012	Sen. Wilde	Asks if an employee quits without notice and files a frivolous claim that they were not fully paid, what would occur.
025	Roberts	States they would try to dismiss faulty claims and ask for a response to show that there is no basis for the claim.
030	Dale	States the courts have the power to assess the client and the attorney in frivolous claims. States it is difficult for low wage workers to retain legal services, due to costs. Comments on the difficulty to attain legal representation for low wage workers.
057	Sen. Wilde	States many cases in courts are frivolous claims and attorney's fees are not recovered.
068	Dale	States he was a litigation director and frivolous filings were brought to his attention. Doubts any motion for sanction has ever been filed.

082	Sen. Shannon	Concerned about requiring BOLI to follow through and believes the policy is working now.
100	Roberts	States BOLI is not limited to the amount of cases they cover.
122	Sen. Shannon	Asks if the low wage worker will be as well served under HB 3607, as before HB 3607.
125	Roberts	Believes a worker would be better off with the passage of HB 3607, with the exception of a migrant worker, since they move out of the area when work is complete.
134	Dale	States BOLI has inadequate resources to collect penalties. States that if there are no penalties in the law, the dishonest employer will benefit.
161	Roberts	States BOLI wants the workers to be paid as soon as possible. States BOLI monitors employers to ensure there are not frequent abusers.
187	Paul Meadowbrook	Employment lawyer. Reviews the background of the lawsuit to which Rep. Winters referred. States he recalls a \$3-4,000 monetary settlement. Describes the case.
237	Meadowbrook	Gives details of the Rep. Winters' lawsuit.
287	Meadowbrook	States the case settled after two years because one litigant moved to Seattle and the process had become too costly.
337	Meadowbrook	States the current law works well to assure compliance and does not need to be changed. States these are not the types of cases that earn lots of money.
361	Bud Bailey	Attorney. Presents (EXHIBIT D) in opposition to HB 3607. States most of his work in the past couple years has been with employers.
411	Bailey	States that lawyers only take cases with recovery, as these cases do not gain large fees. Explains the federal courts provide for "lack of use of the money" of the unpaid wages.
461	Bailey	States that Jackie's Ribs is a repeat offender and should be fined. Comments on ORS 653 and frivolous claims.
TAPE 55, B		
001	Bailey	States a minimum wage worker puts herself at risk if she loses the case. States there are disincentives for bringing lawsuits that will not be won. Comments on

		the high quantity of cases. Explains another case filed with BOLI and the response of BOLI.
040	Sen. Shannon	Asks if they testified before the house committee on HB 3607.
041	Bailey	States he did not.
042	Meadowbrook	States he did not.
048	Sen. Susan Castillo	Senate District 20. Opposes HB 3607 because she thinks the state should send a strong message to employers that the state will not abide stealing money from employees, especially minimum wage employees.
058	John Michael Unfred	Attorney, Lebanon, OR. Presents a letter in support of HB 3607 (EXHIBIT E). States there should be an incentive for employees to claim wages they are owed. States the penalty provision has its place, but not for agriculture. States it is easy to rack up a list of penalties even from a \$10 error.
089	Chair Derfler	Asks if that would be the case even if it were an error.
090	Unfred	States that penalties start 30 days after an employee leaves.
097	Chair Derfler	Asks if an error in payment can be negotiated.
101	Unfred	States that when civil lawyers are involved there is not strict liability. States the punishment should fit the crime. States employees should have an incentive to approach employers for their money, in the case of inadvertent errors.
119	Sen. Shannon	Asks if the employer can be notified before 30 days.
127	Unfred	Believes statutorily there is not an obligation. States there are laws in place that protect against retaliation.
143	Dale	States there is an incentive for low wage workers to raise this issue, because they want to be paid. States both statutes which were referenced require willful violation. States that mistakes are not considered willful violations.
161	Sen. Shannon	Asks if there is any case where an employee came back after 6 weeks and demanded their initial money plus penalties.
167	Dale	States the burden of proof would be the employees.
172	Unfred	States mediation, in lieu of litigation, is available for employees to settle claims

		with employers.
189	Chair Derfler	Closes public hearing on HB 3607 and opens public hearing on HB 3220.
<u>HB 3220 PUBLIC HEARING</u>		
207	John DiLorenzo	Attorney, Portland, OR, representing Portland General Electric Company (PGE). Presents (EXHIBIT F) in support of HB 3220. Explains the contents of the exhibit, by tab number.
257	DiLorenzo	Continues describing the testimony booklet. States HB 3220 addresses the authority of the Public Utility Commission (PUC). States HB 3220 is supported by PacifiCorp, US West, PGE, Northwest Natural, GTE, and Columbia County.
307	DiLorenzo	Refers to Ballot Measure 9 (1979) which refers to rates and rate bases. Discusses the operation and closure of the Trojan power plant. Refers to tab 9 and comments on the return on investment.
357	DiLorenzo	States PGE could recover some or all of the Trojan investment. Explains in March 1995 the PUC allowed PGE to recover 87 percent of its undepreciated investment in the Trojan power plant.
407	DiLorenzo	States the court held that the PUC had the authority to give PGE recovery, yet the PUC could not instill interest percentages. A case is being considered by the Supreme Court which could effect the reattainment of investment funds.
457	DiLorenzo	States that if HB 3220 does not pass, consumers will face long periods of great uncertainty relative to rates.
TAPE 56, B		
001	DiLorenzo	Refers to tab 6 about legislative history. Discusses incentives to close down plants that are obsolete. States HB 3220 would allow the PUC and telecommunications utilities to recover investments on undepreciated property retired from service, including the interest that would have been earned on that money. Sets out four main concerns: it effects multiple companies, HB 3220 will not increase rates to electric consumers, the bill is not related to PGE's recovery of investment in the Trojan plant, and the bill does not violate any separation of powers principles.
050	DiLorenzo	States that HB 3220 would: <ul style="list-style-type: none"> • clarify that the PUC has the authority to require payment with interest, • incentivize utilities to retire obsolete property and equipment, and • minimize rate shock.
082	Chair Derfler	Asks if the Court of Appeals misinterpreted the intent of the legislation.

084	DiLorenzo	States the Court of Appeals did not look at the intent of the legislation. States it tried to combine two current laws and created a strange result.
100	Ron Eachus	Chairman, PUC. Presents (EXHIBIT G) . PUC is neutral on HB 3220. Reads testimony explaining the Trojan situation and the monetary choices that needed to be made to recover investment.
150	Chair Derfler	Asks if opportunity costs are considered.
154	Eachus	States assumptions are made about how efficiently the plant will operate and the cost of replacement of natural gas fuel. Various assumptions will lead to a range of conclusions.
174	Chair Derfler	Asks about the replacement cost.
175	Eachus	States if replacement costs are greater than the savings, partial recovery of the investment would still leave customers better off. Specifies their calculations of investment.
218	Chair Derfler	Asks about the return on investment in the calculations.
219	Eachus	Clarifies the rate impact relating to getting the return on investment.
224	Chair Derfler	Asks if that can be done now.
225	Eachus	States it can. States the statutes allow return of investment. States they can invest in one year or spread out the investment over time. States that when those recoveries are spread out, there are issues with interest. Believes the decisions about Trojan and recovery were good public policy.
271	Chair Derfler	Asks if this is based on the recovery costs.
272	Eachus	States it was cheaper for ratepayers to shut down the plant. States they believed the law allowed them the authority for the return of and return on investment and that would be good public policy.
320	Bob Jenks	Executive Director, Citizens' Utility Board (CUB) of Oregon. Presents (EXHIBIT H) in opposition to HB 3220. Summarizes testimony. Responds to the public policy decisions, commenting public utilities are for profit.
370	Jenks	States the public policy incentive, by allowing to people to make profit on bad investments, encourages bad investments because it can double profit. States Trojan was a dead issue at the time of the appeals case.

420	Jenks	Explains the Court of Appeals needed to interpret a 1978 Ballot Measure and work it in conjunction with a later law passed by the legislature. States HB 3220 changes the law going backwards. States the current legislature should not reinterpret the PUC's authority in 1995. States HB 3220 lets the 1999 legislature give authority to the 1995 PUC, that it did not actually have at that time.
470	Jenks	States he challenged the decision of a state agency because he did not think they had that authority and the courts ruled in his favor. Requests to be allowed to live with his victory. States when ENRON bought PGE it was after the circuit court ruling said they were not entitled to the money, but ENRON bought the company knowing they were not entitled to these profits.
TAPE 57, A		
001	Sen. Wilde	States the PUC can raise rates to deal with this situation. Asks what incentive there is for an electrical utility to provide energy. Comments on 20/20 hindsight and asks how he is making his determination.
034	Jenks	States he determines it was a bad investment because it did not work. Concerning investments, states Oregon utilities are being bought and sold at well above their book value.
053	Sen. Wilde	Comments on being at the whim of out-of-state companies.
062	Jenks	States closing Trojan raised rates more than 7% a couple months later. States this committee has a couple choices to consider: relying on the decision of the courts or the legislature to make changes going forward, not retroactively. Strongly objects to giving PUC retroactive authority, as it sets bad state precedence.
112	Sen. Dukes	States the legislature may want to explain what they meant to do.
116	Jenks	Encourages the legislature to look at the entire record and the entire law.
121	Sen. Dukes	States some of the legislators were here in 1989.
123	Jenks	Comments Columbia County should be allowed the collection of money.
139	Sen. Wilde	Asks, in 1992, if Jenks challenged Frohnmayer's opinion.
145	Jenks	States Frohnmayer's opinion did not harm customers. People were not harmed until the PUC acted.
153	Sen. Wilde	Clarifies that "challenge" does not mean sue.

157	Jenks	States they argued before the PUC that, despite the attorney general's opinion, they did not believe the PUC had that authority.
160	Sen. Shannon	Comments on the three branches of government, sometimes working retroactively. Asks what the best way is to generate electric power for the environment.
177	Jenks	States a variety of sources are the best option. Conservation is the best source for the environment. Does not oppose coal generation or natural gas sources.
188	Sen. Shannon	Reiterates the question.
189	Jenks	Believes the combination of coal, wind, natural gas, etc. work well.
194	Sen. Shannon	Comments wind is good, but not as efficient as other options.
205	Dan Meek	Attorney, represents Utility Reform Project. Presents (EXHIBIT I) in opposition to HB 3220. Comments the PUC never mentioned the amount of money that was at stake. Refers to page 3 of his exhibit. Discusses pre-tax authorized returns on investments and equity components. States they believe PGE is legally required to refund the \$140 million of return on investment to the ratepayers. Believes the additional recovery costs for Trojan should be zero.
255	Meek	Asks if it is responsible to build a faulty plant and have the ratepayers pay for the recovery.
290	Sen. Shannon	Comments on consequences to clients.
297	Sen. Dukes	Asks who his clients are.
299	Meek	States the Utility Reform Project and Lloyd Marbet are his clients.
300	Sen. Dukes	Asks who is the Utility Reform Project.
302	Meek	Explains it is a group of ratepayers he has represented in cases before the PUC and the legislature since 1983.
304	Sen. Dukes	Asks if they are scattered around the state, or in one area.
306	Meek	States they are scattered around the state, mostly in the Willamette Valley. Discusses Trojan's history.
318	Chair Derfler	Asks if this is due to the lawsuits brought up.

320	Meek	States he is not aware of any suits during the time.
323	Jenks	States that was not included in the costs to run Trojan.
330	Meek	Continues explaining Trojan's history.
336	Sen. Dukes	Asks how this relates to HB 3220.
342	Meek	States the plant closed because it was broken.
345	Sen. Dukes	States she lives in that area and her perception is different.
351	Meek	States the Court of Appeals decided the attorney general's opinion was incorrect. States his testimony reviews the legislative history of the 1989 statute. Comments there was no debate about the Trojan plant, at that time.
380	Sen. Dukes	Quotes a Senate floor statement.
400	Meek	Urges her to review the committee records for the relevant bill in 1989, because that testimony concerned group depreciation practices.
417	Chair Derfler	States the law can be changed by the legislature.
422	Meek	Disagrees that HB 3220 would not increase ratepayer's rates.
440	John Glascock	American Association of Retired Persons (AARP). Presents (EXHIBIT J) in opposition to HB 3220. Believes it is not good public policy to make this decision retroactive because it introduces uncertainty in the agency process.
462	Chair Derfler	Comments on the analysis of the intent in 1989.
466	Glascock	Reiterates his position.
472	Meek	States the 1979 statute is worded solely in the terms of return of investment and collecting the amount left on the books of the account of the utility. A clear case can be made that the Court of Appeals decision was correct.
TAPE 58, A		
004	Chair Derfler	Comments the PUC could say to do it all in one year, which would have affected rates.

007	Jenks	States the consequences of rapid rate changes would be noticed by Oregonians. Explains Pacificorp is pushing amendments in the House to say a utility that makes a good investment would owe shareholders benefits of that.
019	Chair Derfler	States he does not agree with that.
020	Jenks	States he is aware of that.
023	Meeks	States Oregon ratepayers have already been unlawfully charged \$137 million, not including interest on those charges. Clarifies if all charges were included in rates it would be entirely offset by the unlawful charges which have already occurred to ratepayers.
030	Tom Linhares	Columbia County Assessor, represents the Board of County Commissioners and the taxing districts of Columbia County. Presents (EXHIBIT K) in support of HB 3220. Comments on property tax rates related to Trojan. States PUC would not have closed Trojan when it did if it had not been allowed to earn a rate of return. Refers to the charts in his exhibit.
080	Linhares	Comments on Ballot Measures 5 and 50. States PGE should not be held liable for the plant's closing, as the closing was cost effective for all ratepayers in the state.
109	Chair Derfler	Closes public hearing on HB 3220 and opens work session on HB 3220.
<u>HB 3220 WORK SESSION</u>		
110	Wilde	Quotes a piece of testimony. States it is not in anyone's best interest to depreciate equipment and facilities at a faster rate than the reasonably expected life of the plant.
129	Chair Derfler	States it is his understanding that the intent of the legislation was to allow recovery.
134	Sen. Shannon	MOTION: Moves HB 3220 to the floor with a DO PASS recommendation.
		VOTE: 5-0 AYE: 5 - Dukes, Shannon, Starr, Wilde, Derfler
Chair Derfler		The motion CARRIES.

		SEN. WILDE will lead discussion on the floor.
148	Chair Derfler	Closes work session on HB 3220 and opens public hearing on HB 2419A.
<u>HB 2419A PUBLIC HEARING</u>		
154	Sen. Metsger	Senate District 14. Explains he has introduced an amendment to HB 2419A. States this legislation is absolutely critical for aggregate mining in the state. States the operation is sporadic. Comments on cases concerning existing law. Explains the ñA9 amendments, concerning the influence on decisions of local government.
190	Sen. Ted Ferrioli	Senate District 28. Comments on his experience with the city of Mosier. States the issue is whether or not a city can operate a rock quarry within city limits. Refers to the ñA9 amendments, being drafted by legal counsel, which would exempt the city of Mosier and offers some word changes.
222	Sen. Dukes	Asks about amendment versions.
229	Chair Derfler	Asks what the city of Mosier will do for gravel.
230	Sen. Ferrioli	Explains they do not have a need for gravel. States the uses of the surrounding land have encroached on the old site.
236	Chair Derfler	Asks if there is a replacement for getting gravel.
239	Sen. Ferrioli	Asks why ODOT closed two perfectly good rock pits up and down the I-84 corridor. States in closing those quarries and relying on the quarry in Mosier they have created a situation where they now have no rock. States the pits in the I-84 corridor had all the rock the region needed.
265	Chair Derfler	Sets ground rules for testimony on HB 2419A.
270	Rich Angstrom	Managing Director, Oregon Concrete Aggregate Producerís Association (OCAPA). Supports HB 2419A. Explains this bill has two main parts: mine land reclamation and land use. States most of the contention concerns the non-conforming quarries. Explains HB 2419A.
320	Angstrom	States the ñA8 amendments were a compromise on behalf of ODOT, the Governorís office, OCAPA, and Department of Geology and Mineral Industries (DOGAMI). States "inactive" was defined using case law. States, as an industry, there needs to be a policy that applies to everyone equally. States the other amendments make specific exceptions, so they oppose those amendments.
357	Sen. Dukes	States if either amendment were adopted there would still be the basic policy

		their industry needs to continue.
360	Angstrom	States that is correct.
363	Steve Wildish	Vice President, Wildish Sand & Gravel Land Company. Supports HB 2419A. Describes his business as one of the largest aggregate providers. Explains the 1980s were a terrible time for his industry. States they struggled to do everything they could at that time to stay in business.
433	Wildish	States OCAPA wants what is fair for the entire industry, not making exceptions.
452	Lloyd Town	C.C. Meizel. Supports HB 2419A. Describes differences in quarries and which types of rock are needed for different projects. States in the older quarries smaller rock sizes are attained.
TAPE 57, B		
001	Town	States product use depends on the winter, but product must be prepared in advance of the need. States it is disconcerting to lose resources because at a particular point there was not enough activity to reach the threshold.
025	Gary Lynch	Supervisor of Mining Land Reclamation Program, DOGAMI. DOGAMI has no position on the OCAPA portion of HB 2419A. Strongly endorses the DOGAMI amendments as they strengthen the Mine Land Reclamation Act.
035	Richard Whitman	Assistant Attorney General, Department of Justice (DOJ). Presents (EXHIBIT L) . Discusses reclamation plans and how HB 2419A would affect those plans. Explains the main opposition to HB 2419A would be how it would effect reclamation requirements and abandonment. Reviews the exhibit. Explains abandonment and reclamation terms.
094	Doug Tindall	Maintenance Engineer, ODOT. Presents (EXHIBIT M) . States HB 2419A brings accountability for reclamation of resource sites.
118	Sen. Wilde	Asks about working with the city of Mosier.
127	Tindall	States the case comes down to the definition of continuing use. The debate was over whether the quarry at Mosier was inactive or not.
156	Dan McCulloch	Seventh-Day Adventist Church. Presents (EXHIBIT N) in support of HB 2419A. States they mined rock on an intermittent basis.
174	Stephen Kafoury	Stafford Alliance for the Environment (SAFE). Opposes HB 2419A.

179	Jeff Sengstack	President, SAFE. Presents (EXHIBIT O) in opposition to HB 2419A. Believes HB 2419A is an unnecessary bill. Explains his move to a neighborhood with a quarry that was closed when he bought his house, but reopened after he moved there.
230	Sengstack	States their group has been formed to oppose the noisy quarry in their neighborhood and they have become involuntary experts on aggregate, as they have studied the issue. States there are a lot of missing facts.
250	Kafoury	Reiterates this bill is not needed to protect some.
255	Sengstack	States that if the quarries are open for business, they meet "non-conforming use" standards, which are based on the history of use of that quarry.
266	Kafoury	Describes intermittent use.
271	Chair Derfler	Comments on the Tigard Sand and Gravel shut-down.
273	Sengstack	Explains that company was a major quarry that was open for business, until 1984, when the operation was cleared of equipment.
292	Chair Derfler	Comments on Sengstack's investigating.
294	Sengstack	States he did not know who owned the property. States several people did contact the company that owned the property and were told the quarry was closed and was not likely to reopen. States there is plenty of documentation for everything he says today.
305	Sen. Shannon	Asks how often the company blasts.
306	Sengstack	States it depends on the season, more often in the summer. States HB 2419A would circumvent local control. Explains the long process that has lead up to hearings. Discusses the Goal 5 process.
356	Sengstack	Explains the Clackamas Planning Commission was well versed in facts at the point they shut Tigard Sand and Gravel. Discusses that actual activity defines whether the use is "non-conforming."
406	Sengstack	Approaches the dais with maps showing the quarry mine plans. Comments on the depth of mining and water table issues.
456	Sengstack	References some of the commission's deliberations. States that farmers are concerned with HB 2419A and the water table. States the company could endanger the water tables.

TAPE 58, B

001	Sengstack	Discusses unmitigatable conflicts concerning trucking vehicles and non-motorized vehicles. Describes some of the destruction of the area due to the quarry's activities.
018	Chair Derfler	States he received a letter from Rep. Shetterly, who supports HB 2419A.
023	Kafoury	States that Tigard Sand and Gravel has repeatedly dealt in half truths. Comments on a memo from Rep. Shetterly about amendments to the bill. Discusses those issues.
042	Sengstack	Shows a quarry photograph from 1990.
043	Kafoury	Continues to describe the interaction with Rep. Shetterly.
051	Sengstack	Approaches the dais to show the quarry filled with logs, demonstrating the half truths given by Tigard Sand and Gravel. States the company never kept any proof of operating during the years they were closed, whereas SAFE has acquired many proofs that they were open. Comments on the amount of stockpile.
101	Sengstack	States the company tried to lease the quarry out to an explosives company and get the land rezoned. States that Tigard Sand and Gravel has repeatedly violated permits. Gives examples of the company working outside of the parameters by operating without permits. States they went well over their non-conforming use limits.
151	Sengstack	States that Tigard Sand and Gravel has misrepresented facts.
154	Chair Derfler	Understands he does not like the company.
158	Sengstack	States that DEQ records show from 1985-1989 the company's production was greater during the "slow down." States SAFE wants the legislators to protect its citizens.
173	Marge Easley	Clackamas County. Opposes HB 2419A. Asks her neighbors who do not support HB 2419A to stand, and states they represent 150 families that oppose HB 2419A. Explains the citizens are concerned about the water level and contamination issues affecting water wells. States they have worked through the court system for 5 years. Asks who would be ultimately responsible if the water table were disturbed.
208	Kafoury	Asks for McKnight to approach.

213	John McKnight	Farmer, Southern Clackamas County. Opposes HB 2419A. Owns a blueberry farm and has been designated the spokesman for their area's farmers. States their livelihood and product is not mobile. Explains they all need an abundant source of water.
262	Sen. Starr	Asks if he is listed as farming in a critical water area.
266	Sengstack	States it is listed as a ground water limited area, so there are some restrictions.
271	Sen. Starr	Clarifies they are not monitoring wells at this point.
273	McKnight	States they monitor some of the wells in the area. States testimony was offered that there would be serious consequences if the water table were disturbed. Urges the committee to reject HB 2419A.
300	Daniel Kearns	City Attorney, City of Mosier, Scenic Highway Alliance. Opposes HB 2419A. States HB 2419A creates an exception for aggregate pits in the state. Explains the Mosier quarry had periods of idleness for seven to ten years. States the Mosier quarry is the only urban one in the state. States in the quarry's inactivity the city grew up around it and it is, therefore, shocking to have it reopen.
350	Sen. Dukes	Asks if anyone called ODOT to ask if the quarry were definitely closed.
361	Kearns	States that is difficult to discern. States he is unsure if the citizens of Mosier checked with ODOT to see if the quarry was active, but this is the only city with an aggregate pit in it. States now there is a school next to the pit.
383	Sen. Dukes	Asks if the pit has always been within the city limits.
384	Kearns	States he is unsure, but parts of it are outside the city. Explains ODOT viewed the pit as a reopening. States that Mosier's problem would be corrected with either the 9 or 10 amendments.
417	Peter Shames	Hood River Sand and Gravel. Supports HB 2419A. Gives background on the Hood River Sand and Gravel Quarry which adjoins the Mosier quarry. Concerned about the two amendments presented today.
467	Shames	Discusses issues in court between the quarry and the City of Mosier. Clarifies the development of Mosier.
TAPE 59, A		
001	Shames	States the pit is very rural in nature. Describes the quarry and community of opposition. States by closing the pit they could lose their other permits, but their pit provides needed resources for the area.

035	Jaime Sanders	Opposes HB 2419A. Requests the committee hear her section of testimony, unrushed at a later date.
044	Chair Derfler	States they need to hear other bills and do not have the time for testimony.
060	Sen. Dukes	Asks if they are here to address another pit.
061	Sanders	States she is a neighbor and they have another case to present with ramifications that need to be discussed.
074	Chair Derfler	Asks her to give her name and address to staff to be contacted later for testimony.
075	Robin Wheeler	Property owner near another quarry. Opposes HB 2419A. Asks why HB 2419A is necessary. Asks why the proponents of the bill have not made it less complicated and more easy to understand. Asks why operators would relinquish their rights and the control of their sites to state agencies.
117	Sanders	Assistant Attorney General. Cites a US Supreme Court case based out of Iowa which provides protection to surrounding properties when a law changes land use rights.
141	Dan Moraru	Amity, Oregon. Opposes HB 2419A.
149	Sen. Shannon	Explains the emergency clause.
156	Moraru	States HB 2419A threatens people's water supply, ability to sleep, and the ability to enjoy a peaceful life. States HB 2419A does not define the term "timely manner," which replaces existing law that states "within three years after surface mining."
206	Chair Derfler	Asks Moraru to speak directly to HB 2419A.
208	Moraru	States that quarries need more regulation, as they have violated the law.
215	Sen. Shannon	Asks if the quarry was there when he moved.
219	Moraru	States it was. States the quarry now wants to expand because there is no more rock in the quarry that is in operation.
232	Chair Derfler	States the committee is not here to answer questions.
237	Moraru	Comments on trying to set an appointment with Chair Derfler.

238	Chair Derfler	States he did not know about his efforts to make an appointment.
249	Moraru	States he would like to make an appointment.
254	Paul Hribernick	Attorney. Supports HB 2419A. States quarries are different. States 60-70% of quarries will be eligible to be abandoned statewide. States there needs to be consistency. States HB 2419A would eliminate the arbitrary abandonment. States the bill must be retroactive.
304	Hribernick	States HB 2419A is important legislation. Opposes both amendments, as they appear to be special interest legislation.
336	Dave Barrows	On behalf of Bob VanBrocklin and Tigard Sand and Gravel in opposition to HB 2419A. States they will file letters with each legislator.
350	Jeff Kleinman	Attorney, represented SAFE since 1989. Supports the ñA9 amendments and believes these amendments are not special interest legislation as they ensure decided cases would not be undone.
383	Chair Derfler	Comments on the difficulty of the legislature addressing specific mines.
385	Kleinman	States that is a local government decision.
394	Chair Derfler	Asks why they should not adopt changes for other specific mines, too.
398	Kleinman	States the ñA9 amendments would cover the two current cases.
409		Staff presents (EXHIBIT P) .
410	Chair Derfler	Closes the public hearing on HB 2419A and adjourns meeting at 5:40 p.m.

Submitted By, Reviewed By,

Rachel E. Halupowski, Brian E. Smith,
Administrative Support Administrator

Transcribed By,

Jennifer Peck,

Committee Coordinator

EXHIBIT SUMMARY

A ñ HB 3607, written testimony, staff, 2 pp

B ñ HB 3607, written testimony, Paul Connolly, 6 pp

C ñ HB 3607, written testimony, Michael Dale, 1 p

D ñ HB 3607, written testimony, Bud Bailey, 3 pp

E ñ HB 3607, written testimony, John Unfred, 2 pp

F ñ HB 3607, written testimony, John DiLorenzo, 84 pp

G ñ HB 3607, written testimony, Ron Eachus, 7 pp

H ñ HB 3220, written testimony, Bob Jenks, 3 pp

I ñ HB 3220, written testimony, Daniel Meek, 6 pp

J ñ HB 3220, written testimony, John Glascock, 1 p

K ñ HB 3220, written testimony, Tom Linhares, 7 pp

L ñ HB 2419A, written testimony, Richard Whitman, 5 pp

M ñ HB 2419A, written testimony, Doug Tindall, 1 p

N ñ HB 2419A, written testimony, Dan McCulloch, 1 p

O ñ HB 2419A, written testimony, Jeff Sengstack, 7 pp

P ñ HB 2419A, written testimony, staff, 1 p