

SENATE COMMITTEE ON WATER AND LAND USE

January 21, 1999 Hearing Room B

1:00 p.m. Tapes 7 - 8

MEMBERS PRESENT: Sen. Vernal Tarno, Chair

Sen. Tony Corcoran, Vice-Chair

Sen. Gary George

Sen. Marylin Shannon

Sen. Thomas Wilde

MEMBER EXCUSED:

STAFF PRESENT: Ray Kelly, Administrator

Diana Bronson, Administrative Support

MEASURE/ISSUES HEARD: Public Hearing and Work Session

SJM 1

SJM 2

Public Hearing

SB 86

SB 95

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 7, A		

005	Chair Tarno	Calls meeting to order at 1:14 p.m. and opens public hearing on SJM 1.
<u>SJM 1 PUBLIC HEARING</u>		
008	Ray Kelly	Committee Administrator. Reads SJM 1, that requests the President of the United States, Congress and Director of Federal Emergency Management Agency to fund and implement a program to update Oregonis floodplain maps.
011	Chair Tarno	Asks for witnesses to address SJM 1.
021	Don Hull	Testifies in support of SJM 1, which was introduced by the interim Legislative Flood Control PlanTask Force. States this measure asks the federal government to continue providing Oregonians with floodplain maps and urges Congress, the President, and the Federal Emergency Management Agency to take the steps necessary to improve those maps.
<u>SJM 1 WORK SESSION</u>		
043	Chair Tarno:	MOTION: Moves SJM 1 be sent to the floor with a BE ADOPTED recommendation.
		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye.
		Chair Tarno The motion CARRIES. SEN. TARNO will lead discussion on the floor.
<u>CLOSES WORK SESSION ON SJM 1 AND OPENS PUBLIC HEARING ON SJM 2</u>		
048	Kelly	States SJM 2 requests the President of the United States and Congress to provide full funding to the United States Geological Survey for stream gauging in Oregon.
053	Ed Hubbard	U. S. Geological Survey (USGS). Presents (EXHIBIT A) . States

		the geological survey operates and maintains approximately 200 gauging stations in the State of Oregon. States their budgets have either held steady or declined over the years and their funding partners are also facing problems with declining budgets, and as a result many gauging stations have been discontinued and several have been turned over to the state to operate.
066	Chair Tarno	Thanks the witness and asks for questions from the committee.
074	Martha Pagel	Water Resources Department. Expresses the department's support for SJM 2
087	Chair Tarno	Thanks the witness and asks for questions from the committee.
095	Don Hull	Department of Geology and Mineral Industries. Presents (EXHIBIT B) . States he chaired the Joint Interim Legislative Task Force on the State Flood Control Plan, which had been created out of 1997 legislation, authored by Sen. Tarno. States that SJM 2 would urge the President and the Congress to provide needed funding to operate the system of stream gauges.
108	Chair Tarno	Thanks the witness and asks for any other testimony on SJM 2.
<u>SJM 2 ñ WORK SESSION</u>		
115	Sen. George:	MOTION: Moves SJM 2 be sent to the floor with a BE ADOPTED recommendation.
		VOTE: 5-0
	Chair Tarno	Hearing no objection, declares the motion CARRIED. SEN. GEORGE will lead discussion on the floor.
<u>SB 86 ñ PUBLIC HEARING</u>		
117	Kelly	Reads SB 86. SB 86 creates grant or reservation of access from state highway to abutting property as legal interest in real property. It defines the term unrestricted as it relates to legal turning movements to and from a stated right of way in the abutting real property.

132	Craig Greenleaf	Deputy Director, Transportation Development Division, Oregon Department of Transportation (ODOT). Introduces AI Lightner.
180	Lightner	States that these measures are used to correct problems that compromise the safety of the traveling public, to relieve congestion, to correct traffic flow problems, and to maintain a safe and efficient movement of people, goods, and services.
210	Lightner	Describes large commercial complexes that may require their own traffic light and curb channeling to get traffic in and out of their complex. States that many freeway interchanges are in jeopardy of failing if ODOT does not control movement of traffic on the adjoining streets. States that it is the large industrial tracts and the mega gas stations that have the largest impact on traffic flow.
257	Chair Tarno	Explains to Lightner the reason for having this bill presented. Has constituents that have a deeded access to a piece of property right on a state highway and, yet, when they apply for a permit to put a driveway in, they are denied. States that it is frustrating to a property owner to not realize, when they buy the property, they may not have access to it. Asks how this problem can be resolved.
271	Lightner	States that the chair's concerns are a common problem, but ODOT maintains that if they deny an approach road, and there is not a reasonable access available or it creates a landlocked piece of property, then ODOT is required to purchase the property.
289	Chair Tarno	States the committee will not go into work session on this issue today. States more time is needed to review ways to resolve this issue. Reiterates ODOT's responsibility for landlocked property. Asks for data showing that ODOT has made purchases on property that was landlocked in the last several years.
298	Lightner	States ODOT will provide the data.
299	Chair Tarno	States he is interested in knowing how much landlocked property ODOT has actually purchased.
301	Sen. Shannon	States that the one thing she has had calls on are ODOT's policies. States that she agrees with the chair that the legislature must speak to this issue and feels ODOT's testimony is almost like a threat.
320	Lightner	States there was no threat intended, but does believe it fair to apprise the committee that the Governor does have concerns regarding SB 86.
346	Chair Tarno	States ODOT is being given time to look at these problems and see if there is an alternative or some adjustments that can be made that will make it easier for Oregonians.

350	Sen. Corcoran	States he did not perceive testimony from ODOT as a threat, but as normal communication between the Governor's Office and the legislature.
378	Lightner	States that the negative impact is usually on commercial or industrial use.
390	Sen. Corcoran	Asks if SB 86 was entertained by the interim Natural Resources Committee.
392	Chair Tarno	Answers yes it was.
392	Sen. Corcoran	Asks if ODOT testified during the course of that hearing.
394	Lightner	States he was not aware of it but perhaps Greenleaf knows.
396	Greenleaf	States he was not aware of any testimony.
401	Sen. Corcoran	Agrees with the chair that this is a serious landowner issue and the witnesses have made the committee aware that the Governor and ODOT are uncomfortable with this bill and the committee will want to find a compromise to address the issues.
410	Sen. George	Asks Lightner if ODOT agrees with the verbage of SB 86, in that it does not change ODOT's ability to acquire right of access or its empowered eminent domain.
417	Lightner	States that ODOT does agree with the verbage.
TAPE 8, A		
010	Lightner	States that since 1951, ODOT has had the right to bypass communities. States there is another bill this session that would take that right away.
012	Sen. George	States that it seems a decision has been made to limit existing roadways, rather than to consider other alternatives. States that in the last ten years there has been a 145% increase into revenue. This is not gross revenue, but from taxes on 1) weight-miles, 2) gas, and 3) federal dollars - and that is after deducting out the inflation rate. States ODOT brings in \$466 million per year in those three items alone, and ODOT cannot build something positive.
022	Chair Tarno	Asks for further questions from the committee.

024	Ted Hughes	McDonaldis Corporation. States McDonaldis is very interested in the impact of SB 86. States the retail community needs a voice in the decisions of ODOT.
062	Chair Tarno	States he agrees with the views of Hughes and explains that is the reason there will be no work session on this bill at this time as both sides need the opportunity to be heard.
065	Sen Corcoran	Asks witness if, in fact, the owners of McDonaldis have gone out, hired their own engineers to develop alternate access, have presented these alternates to ODOT, and have still been refused.
086	Hughes	States he knows of one instance wherein this occurred.
088	Sen. Shannon	Explains an instance when a gas station wanted to remodel and ODOT checked its records dating back to 1966 and, noting there had not been access approval, ODOT stated they would just shut the station down. States the owners decided that if they were to be denied access they would not remodel.
197	Chair Tarno	Asks which is more important, the small towns or the big towns.
201	Sen. George	Asks if the vision of 1000 Friends is no more new highways.
206	Peterson	States they have a long term goal.
207	Sen. George	States he has an article in his office that states 1000 Friends oppose the continuation of the constitutional requirement that money be used for roads and highways.
208	Peterson	States he is correct, in that the Federal Government does not require that.
211	Sen. George	States if there are no new highways and the population continues to grow, 1000 Friends will need to block the access of every business on a state highway, or there will be a nonfunctioning system. States ODOT personnel have told him that they feel there should be no businesses on the state highway. States this seems to fit the model of 1000 Friends and asks for an interpretation.
217	Peterson	States she has never said "absolute no access" and will never say that. States there is a balance and all the stakeholders need to come together and maintain this investment, and yet allow commerce to exist.
240	Jerry Schmidt	Oregon Association of Realtors.
<u>SJM 2 WORK SESSION</u>		

264	Sen. Corcoran	MOTION: Moves to SUSPEND the rules for the purpose of allowing members to vote on SJM 2.
		VOTE: 5-0
	Chair Tarno	<p>Hearing no objection, declares the motion CARRIED.</p> <p>CHAIR TARNO will lead discussion on the floor.</p>
284	Sen. Corcoran:	MOTION: Moves SJM 2 be sent to the floor with a BE ADOPTED recommendation.
		<p>VOTE: 5-0</p> <p>AYE: In a roll call vote, all members present vote Aye.</p>
	Chair Tarno	<p>The motion CARRIES.</p> <p>SEN. CORCORAN will lead discussion on the floor.</p>
<u>SB 95 - PUBLIC HEARING</u>		
329	Kelly	Reads SB 95 that requires state agencies to submit intergovernmental and international agreements to the legislative assembly.
340	Don Arnold	Department of Justice. States this bill deals with interstate and international agreements that are entered into by state agencies and it requires submission to the Speaker and the President 60 days before those agreements take effect.
400	Arnold	Continues with testimony.
415	Chair Tarno	Asks if the request to provide agreement information to the leadership in the House and Senate would delay the justice department from actively getting involved in pursuing the agreements.
419	Arnold	Responds that he does not believe it would effect the Department of Justice's

		involvement with it, but the bill would preclude the agreement from taking effect for 60 days, after it had been provided to the House and the Senate.
427	Sen. Corcoran	Asks if the analysis could be done simultaneously with the submission to Leadership. Asks the average time it takes the Justice Department to receive an agreement.
434	Arnold	Replies that it depends on different things: The complexity of the agreement, the workload in the office, and the priorities that other work agencies are giving the department. The average is 20 days.
TAPE 7, B		
009	Sen. Corcoran	Asks if Arnold knows what prompted SB 95.
010	Arnold	States he has no idea what prompted the writing of SB 95.
012	Cam Birnie	<p>Department of Administrative Services, Administrator of the Purchasing and Print Services Division. States within his division, which is called Transportation, Purchasing, and Print Services (TPPS), he has a good deal of traffic primarily with political subdivisions within the State of Oregon. States these subdivisions are motorpool agreements with counties, cities, and special districts</p> <p>States they have intergovernmental agreements with counties in northern California and southwest Washington to sell federal and state surplus property or to sell their county's property on their behalf. States these cases need the intergovernmental agreements.</p>
062	Sen. Corcoran	Asks if Birnie testified on SB 95 during the interim.
063	Birnie	States he did not testify.
076	Chair Tarno	Asks Arnold how many of these agreements he gets in a year.
080	Arnold	States about 196 to 200 interstate agreements in 1998 and about 22 international agreements.
085	Chair Tarno	Asks if Arnold estimates his office works on 220 to 230 agreements.
085	Arnold	Replies that it would be about right.
087	Sen. Corcoran	Asks Arnold if he, in the last year, had to do interstate or international agreements regarding either the GWEB process or the Three Sovereigns Process.

090	Arnold	States he does not know the answer, but he will find out.
091	Sen. Corcoran	Asks Arnold to find that out and find out the time lines on those agreements. Asks if Arnold knew about the existence of this bill during the interim.
095	Arnold	Responds, "No, I did not."
096	Grattan Kerans	Director of Government Relations, Oregon University System (OUS). Presents (EXHIBIT C) . States OUS has reservations regarding SB 95 on two points: 1) The measure runs contrary to the intent of SB 271; and 2) as a practical matter it would impact many intergovernmental and international agreements.
158	Sen. George	Asks if it would not be easier to draft amendments to the bill to provide exemptions for issues such as grants.
161	Kerans	States OUS would not object but the amendments would be so great they would go around the bulk of the intergovernmental and international agreements which are covered by SB 95.
199	Sen. Corcoran	Asks if OUS had previous knowledge of SB 95.
206	Kerans	States OUS was not given notice and did not appear.
209	Sen. Corcoran	Asks if Kerans testified before the Senate Interim Natural Resources Committee on this bill.
212	Kerans	States OUS was not aware of this bill being introduced and did not know an opportunity would be available to testify.
240	Chair Tarno	Adjourns meeting at 2:25 p.m.

Submitted By, Reviewed By,

Diana Bronson, Raymond J. Kelly,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ Pamphlets, Ed Hubbard, 10 pp

B ñ Written testimony, Don Hull, 1 p

C ñ Written testimony, Grattan Kerans, 2 pp