

## SENATE COMMITTEE ON WATER AND LAND USE

April 15, 1999 Hearing Room B

1:00 p.m. Tapes 62 ñ 64

**MEMBERS PRESENT:** Sen. Veral Tarno, Chair

Sen. Tony Corcoran, Vice-Chair

Sen. Marylin Shannon

Sen. Thomas Wilde

**MEMBER EXCUSED:** Sen. Gary George

**STAFF PRESENT:** Raymond J. Kelly, Administrator

Diana Bronson, Administrative Support

**MEASURE/ISSUES HEARD:** SB 987 Public Hearing

SB 1040 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
<b>TAPE 62, A</b>		
004	Chair Tarno	Opens meeting at 1:10 p.m. and introduces Senate President Brady Adams. Opens public hearing on SB 987.
<b><u>SB 987 PUBLIC HEARING</u></b>		
005	Senate President Brady Adams	Senate District 25. Testifies in support of SB 987. States SB 987 is similar to a bill that was passed in the House and in the Senate in 1995, but was vetoed by the Governor. States SB 987 provides that before the Water Resource Commission can require a dam to be removed, it would take legislative assembly's approval. Submits the ñ3 amendments ( <b>EXHIBIT A</b> ).

041	Dennis Becklin	Savage Rapids Dam Task Force. Presents <b>(EXHIBIT B)</b> . Recommends amendments which includes a section of SB 3346 requiring a thorough sediments study before any dam is removed.
056	Chair Tarno	Asks if there was an initial drilling of sediment behind the Savage Rapids dam.
058	Becklin	States that, as the result of his concern for the failure of both state and federal governments to do a thorough sediments study, he had a sediments study done at a cost of \$75,000.
064	Chair Tarno	Asks how far down the study showed the drilling went.
065	Becklin	Replies the drilling went down as much as twenty-five feet. States that Savage Rapids Dam is a classic example of the reasons why great care needs to be used in advance of making a decision to remove an impoundment in the State of Oregon. Continues testimony regarding SB 987.
108	Chair Tarno	Asks about mercury levels found.
110	Becklin	States the Rogue has a vast history in the mining industry. States he is not here to say that no dams should be removed, but supports SB 987 offered by the Cattlemen's Association.
129	Chair Tarno	Asks Becklin to provide the committee administrator with proposed amendments.
132	Sen. Corcoran	Asks if the professional engineer, Kartha, was qualified to do the assessment that was done on the Savage Rapids Dam.
137	Becklin	Replies, yes, he was qualified.
140	Sen. Corcoran	Asks if Becklin thinks it wise to have trained people do assessments of this sort.
141	Becklin	Replies absolutely.
142	Sen. Corcoran	States he is having a difficult time in understanding how the legislative assembly would be qualified to make the proper assessments.
152	Chair Tarno	Asks if this is Becklin's bill.
153	Becklin	Replies it is not his bill, but the amendment to it is his. States that the state legislature should play the critical role in making a determination about dam removals because the first one that is removed is going to set a pattern for others that will be removed in the future.

183	Bob Zybach	Testifies on behalf of SB 987. States he was involved in two studies on the Siletz River. States that scientific studies are not being required for sediment, and no studies are being required to study local attitudes and values.
225	Sen. Corcoran	States this is a very valid point. Asks which indigenous folks Zybach is referring to.
228	Zybach	Replies he is referring to the folks that live there and pay taxes on the properties surrounding the dam.
230	Sen. Corcoran	States, by indigenous, he was referring to pre-americans.
232	Zybach	Clarifies they would involve the Palo Indian cultures all the way through the settlers to those who built the dam back in the 1920ís.
243	Glen Stonebrink	Oregon Cattlemenís Association. Presents <b>(EXHIBIT C)</b> . States he has the ñ2 amendments to SB 987. States the ñ2 amendments would ask for an inherent right of the state before dams are removed.
287	Larry George	Oregonians in Action (OIA). Testifies in support of SB 987 and supports the Oregon Cattlemenís Associationís ñ2 amendments.
306	Chair Tarno	States that SB 987 will be brought back to the committee and requests to have testimony from fish biologists regarding the impact of fish down stream if a dam were to be removed.
312	Sen. Corcoran	States that as long as the committee will be rehearing this bill, perhaps information on methodologies concerning the dam and what it may entail is advisable. States the committee would like to get a full spectrum on dam removal.
326	Jeff Fryer	Oregon Chapter of the Sierra Club. Presents <b>(EXHIBIT D)</b> . Testifies in opposition to SB 987 as it is unneeded and potentially could have a damaging effect on the efforts to recovering Salmon stocks.
370	Martha Pagel	Director, Water Resources Department. Presents <b>(EXHIBIT E)</b> . Testifies in opposition to SB 987, as it would prohibit removal of certain dams or artificial obstructions on waters of the state without the express consent of the Legislative Assembly.
436	Chair Tarno	Asks where the Valsetz Dam is.
436	Pagel	Replies it was in the former community of Valsetz.
447	Chair Tarno	Asks if there was a problem with the sedimentation going downstream.

450	Pagel	Replies that the issues raised have not been called to the department's attention before. States that, generally, the Valsetz Dam removal has been perceived as a success in terms of having dealt with the public safety issues.
<b>TAPE 63, A</b>		
025	Sen. Corcoran	Asks about the reauthorization of hydroelectric projects and asks for Pagel's understanding of Chapter 543 and 543(a).
027	Pagel	Replies that she understands it to mean, notwithstanding any other provision relating to the hydroelectric facilities, they are what is covered in Chapter 543 and 543(a).
030	Sen. Corcoran	Asks what the difficulty would be for the department.
030	Pagel	Replies, that with respect to the hydroelectric facilities, there is a separate bill in the House that has a task force working on what would be the standards and processes needed if, and when, a hydroelectric facility would need to be decommissioned. States that SB 987 would come in and wipe out the work of that task force.
054	Doug Myers	Waterwatch and Trout Unlimited. Testifies in opposition to SB 987.
063	Chair Tarno	Closes public hearing on SB 987 and opens public hearing on SB 1040.
<b><u>SB 1040 PUBLIC HEARING</u></b>		
075	Kelly	Summarizes SB 1040.
097	Jack Peek	Presents <b>(EXHIBIT F)</b> . States that at present there are five criminally insane gentlemen living in a facility of the State Psychiatric Review Board (PBRB) in his "back yard". States there is a caregiver for them and there is 24-hour supervision. States that when the facility was first sited, he did not want it. States he realizes the committee has no control, but asks the committee to please consider the safety of the neighborhoods, property values, and the potential for a disaster to happen.
157	Peek	Continues testimony in support of SB 1040.
189	Sen. Corcoran	Asks Peek to address the concerns raised by the Fair Housing Council with regard to the cross-over problem with the Americans with Disability Acts.
195	Peek	Replies that the privacy of these individuals is protected. States that the criminally insane have the right to privacy like any other individual placed in the neighborhood. States HB 3206 had a loophole stating that 5 unrelated people can

		be called a family and can move into any neighborhood they choose.
215	Sen. Corcoran	States his question is, does Peek see a conflict in the bill with the Americans with Disabilities Act.
217	Peek	Replies he does, but is willing to review it and to negotiate because of the sensitivity.
228	Ellen C. Lowe	Ecumenical Ministries of Oregon. States they are a religious organization with 16 denominations across Oregon and approximately 1200 congregations. Describes the concerns the ministry has with wording in SB 1040, such as facility, requirements, and the words "includes, but not limited to." States the ministries do not ask if a person has been convicted of a crime when they seek counseling. Suggests the committee reexamine the wording because it might include every nonprofit organization in the state.
304	Lowe	Continues with testimony in opposition to SB 1040. Asks the committee to reexamine the bond requirements. States most of the groups she works with feel the cost would be prohibited.
314	Sen. Wilde	Replies to Lowe's concerns regarding the bond requirements and states that he went to the national organization that involves itself with these types of bonds and state insurance agencies to ask what is considered a standard size bond and under what conditions. States he was told consistently that \$25,000 deductible is a standard across the country.
336	Sen. Corcoran	Asks Sen. Wilde if he received ball park figures for the types of bonding.
341	Sen. Wilde	Replies he did.
345	Sen. Corcoran	States Sen. Wilde is looking for reasonable sitings for these facilities and asks, in Lowe's opinion, if there is a way to salvage the bill and still maintain safeguards.
368	Lowe	States there is another bill by Sen. Brown that is in the Judiciary Committee and perhaps that is the place to deal with the privacy issues.
404	Sen. Corcoran	Asks again if Lowe thinks SB 1040 can be worked.
406	Lowe	Replies that, as it is currently structured, it would need to be a gut-and- stuff.
411	Sen. Corcoran	Asks if a line were drawn to show the one-third mile around every school and residential area as excluded, if Lowe could visualize what would be left of housing space.
425	Lowe	Replies it would be very exclusionary, particularly because SB 1040 does not

		just include residential areas.
435	John McCulley	Oregon Psychiatric Association. States that many of his colleagues are housed in older homes that have been renovated and turned into offices and clients come into those areas.
457	Sen. Wilde	Responds with the history of a probation office sited, as the probation office was considered to be office use. No notification was needed because they stated it was "just office space" and not a detention facility.
480	McCulley	States that because of Sen. Wilde's position, the association will need to oppose SB 1040. States it seems unreasonable for a private business, as psychiatry is a private business, needing to locate in specific areas to treat people, and SB 1040 has far reaching consequences.
<b>TAPE 62, B</b>		
034	Janet Arenz	Oregon Alliance of Children's Programs. Testifies in opposition to SB 1040. States the intent of the bill is to address the safety of the public and the impact on the communities. States that it appears to discourage anyone from providing any kind of services to a very broad range of individuals. Even the D.A.R.E. program would be effected by SB 1040.
080	Sen. Wilde	Asks for wording in SB 1040 that is specific to the D.A.R.E. program.
086	Arenz	States SB 1040 talks about chemically dependent individuals and drug rehabilitation programs.
089	Chair Tarno	Asks if D.A.R.E. is part of that program.
090	Arenz	Replies that is what the concern is. States the definitions are very broad and it is difficult to determine what programs could be effected.
102	Mary Claire Buckley	Executive Director, Psychiatric Security Review Board. Testifies in strenuous opposition to SB 1040. States the primary focus is to protect the public. States these persons are suffering from mental illnesses who, as a result of that illness, have committed a crime and remanded to the Board's jurisdiction for treatment.
148	Sen. Wilde	Asks if Salem had a rather dangerous individual wandering around lately.
152	Buckley	Replies that that individual was not on conditional release, he was a resident in the state hospital with privileges granted by the hospital to walk the grounds and did run away. States the board had not approved his conditional release.
158	Sen. Wilde	Replies that the fact is that at some of these facilities there is not full-time 24-

		hour a day supervision.
162	Buckley	States that is correct, not all clients live in 24-hour supervised facilities. States the concern is that SB 1040 would prohibit the board from releasing most anyone under their jurisdiction.
202	Karen Brazeau	Deputy Director Oregon Youth Authority. Presents <b>(EXHIBIT G)</b> . Testifies in opposition to SB 1040. States some portions of SB 1040 may be in conflict with federal laws such as the Fair Housing Act and the Americans with Disabilities Act, as well as state confidentiality laws.
270	Barry Kast	Administrator, Mental Health and Developmental Disability Services Division, Department of Human Resources. Presents <b>(EXHIBIT H)</b> . Testifies in opposition to SB 1040 because services in care would grind to a halt. States that the potential costs would be enormous if community alternatives to state institutional care were not available.
344	Susan Lindsey	Land Use Chair for Buckman Community Association in inner southeast Portland. Testifies in support of SB 1040. States that SB 1040 provides accountability. States that the developmentally disabled persons are being housed in neighborhoods and it then becomes the neighbors that are being held accountable for the misactions of the offenders.
474	Jon Chandler	Oregon Building Industry Association. Testifies in support of SB 1040. States that as a private citizen in Portland, he is having difficulties with an adult book store. States that people need to be made aware of land use issues. States SB 1040 will maintain awareness in the neighborhoods so people living in those neighborhoods know what is going on and also allows the social programs to continue.
<b>TAPE 63, B</b>		
039	Sen. Corcoran	Agrees with Sen. Wilde on the notification issues in SB 1040, but is concerned with the implications of the one-third mile for one group and no siting in residential areas for another group. Asks Chandler if SB 1040 would have an impact on Portland as to where these special places need to be placed.
048	Chandler	Replies that some of the definitions may be problematic. Encourages the committee to deal with the issues to see that the facilities move forward, but in such a way that neighborhood stability and integrity is not lost.
056	Sen. Wilde	States he will go back and restructure what he is working toward.
067	Andrew Eisman	States he considers himself an expert on siting. Testifies in support of SB 1040.
105	Chair Tarno	Asks Eisman to provide written testimony to the committee.

110	Eisman	States there are really serious problems between the facilities with gang fights and other issues that are not being addressed.
139	Andrew Nesbet	States this is not a neighbors versus clients issue, but an attempt on the part of neighborhoods to get government agencies to behave with responsibility. Testifies in support of SB 1040.
164	Bob Joondeph	Executive Director, Oregon Advocacy Center. Presents <b>(EXHIBIT I)</b> . Testifies in opposition to SB 1040. States SB 1040, is discriminatory, in that it prevents certain classes of people from living or receiving services in certain communities.
195	Sen. Corcoran	Asks what Joondeph says to the folks who talk about discriminatory conduct in placing these facilities in low income neighborhoods.
198	Joondeph	Replies that it a very important problem. States that high density placement can be dealt with.
211	Sen. Wilde	Asks Joondeph to provide, for the committee, case cites for the four different zoning issues that have been struck down by the courts for review.
224	Carol Dobrovoliny	Presents <b>(EXHIBIT J)</b> . States she is representing herself, north Portland citizens, and as spokesperson for Safe Neighborhoods Are for Us. Reads testimony in support of SB 1040.
255	Dennis Keepes	Portland. Thanks committee for working on SB 1040. States there is merit on privacy, but it can only go so far. States it is a worthwhile project and urges the committee to go forward.
293	Sylvia Caley	Oregon Law Center representing low income persons. Testifies in opposition of SB 1040.
329	Sen. Corcoran	Asks if the Oregon Law Center does a lot of advocacy for low income people. Asks if there might be a solution for redrafting SB 1040 so that it addresses the saturation sitings in low income neighborhoods.
334	Caley	Replies the center does help a lot of low income people. States there is a work group meeting with Sen. Brown on the very issue of saturation.
357	Evelyn Melgoza	Portland. States she had no idea this type of bill was not already in place. Testifies in support of SB 1040.
386	Chair Tarno	States that is why this type of bill has been drafted.
394	Michael Roche	Southwest Neighborhood Association. States that in March of 1999 the



		<p>association voted to endorse SB 1040 with two amendments:</p> <p>1). Statewide standards are set for security agreements and the burden should not be put on the back of individual neighborhood associations.</p> <p>2). Provide an ongoing education process by governmental bodies and private providers working with neighborhood associations to address the sitings of these facilities.</p>
<b>TAPE 64, A</b>		
021	Sue Acuff	Oregon Department of Corrections. Presents <b>(EXHIBIT K)</b> . States the department does involve the local community through establishment of Prison Advisory Committees. States the department is already complying with the intent of notification and continues dialogue with the communities.
040	Chair Tarno	Closes public hearing on SB 1040 and adjourns meeting at 3:04 p.m.

Submitted By, Reviewed By,

Diana Bronson, Raymond J. Kelly,  
Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ SB 987, proposed amendment, LC staff, 1 p.**

**B ñ SB 987, written testimony, Dennis Becklin, 6 pp.**

**C ñ SB 987, proposed changes to amendment, Glen Stonebrink, 4 pp.**

**D ñ SB 987, written testimony, Jeff Fryer, 2 pp.**

**E ñ SB 987, written testimony, Martha Pagel, 3 pp.**

**F ñ SB 1040, written information, Jack Peek, 14 pp.**

**G ñ SB 1040, written testimony, Karen Brazeau, 2 pp.**

**H ñ SB 1040, written testimony, Barry Kast, 3 pp.**

**I ñ SB 1040, written testimony, Bob Joondeph, 2 pp.**

**J ñ SB 1040, written testimony, Carol Dobrovolny, 2 pp.**

**K ñ SB 1040, written testimony, Sue Acuff, 2 pp.**