

SENATE COMMITTEE ON WATER AND LAND USE

May 6, 1999 Hearing Room B

1:00 p.m. Tapes 77 - 78

MEMBERS PRESENT: Sen. Veral Tarno, Chair

Sen. Tony Corcoran, Vice-Chair

Sen. Gary George

Sen. Marylin Shannon

Sen. Thomas Wilde

STAFF PRESENT: Raymond J. Kelly, Administrator

Diana Bronson, Administrative Support

MEASURE/ISSUES HEARD: SB 657 Work Session

SB 1318 Public Hearing

HB 2424 Public Hearing and Work Session

HB 2164 Public Hearing

HB 2165 Public Hearing and Work Session

HB 2281 Public Hearing and 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 77, A		
004	Chair Tarno	Opens meeting at 1:10 p.m. and opens work session on SB 657.
<u>SB 657 WORK SESSION</u>		

014	Ray Phelps	Pac/West Communication. Presents (EXHIBIT A) . Reads testimony in support of SB 657 and the ñ2 amendments. Submits (EXHIBIT B) from Clearwater Technologies which provides documentation that Clearwater Technologies worked with the opposition to SB 657 and the proposed ñ2 amendments are now accepted by those opponents who testified against SB 657 on April 1, 1999.
051	Sen. Corcoran	MOTION: Moves to ADOPT SB 657-2 amendments dated 4/27/99. (EXHIBIT C).
		VOTE: 3-0 EXCUSED: 2 - George, Shannon
	Chair Tarno	Hearing no objection, declares the motion CARRIED.
061	Sen. Corcoran	MOTION: Moves SB 657 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - George, Shannon
	Chair Tarno	The motion CARRIES.
070	Chair Tarno	Closes work session on SB 657 and opens public hearing on SB 1318.
<u>SB 1318 PUBLIC HEARING</u>		
077	Rep. Ken Messerle	House District 48. States his interest in testifying in support of SB 1318 was when it was discovered that, in order to bring natural gas to Coos Bay, the lines were going to go across EFU lands. Testifies that the ñ1 amendments allow the pipelines to be buried four feet below the surface. States it will clarify the Coos County project, as well as set a precedence for other counties.
096	Tom Berry	Northwest Natural Gas. Introduces Carla Kelley, legal counsel for Northwest Natural.
102	Carla Kelley	Deputy General Counsel with Northwest Natural Gas. Presents (EXHIBIT D) . Reads testimony in support of SB 1318 and the ñ1 amendments. (EXHIBIT E) . States that Northwest Natural Gas proposes to change the necessary standard only for linear facilities which are the "long lines" that are the least disruptive

		utilities to farm use.
154	Kelley	Continues to read testimony in support of SB 1318.
207	Chair Tarno	States there are natural gas lines in various parts of Oregon. Asks if natural gas is piped into the northern part of Oregon.
220	Berry	Replies northwest of Astoria there is natural gas and natural gas is also in the northeastern part of the state served by Pacific Gas transmission lines. States that the only place that does not have natural gas is the southwest coast, which includes Coos Bay, Coquille, and the Bandon areas.
234	Ellyn McNeil	States she is a Christmas tree grower in Washington County. Testifies in opposition to SB 1318. Presents (EXHIBIT F) . States that 10 years ago natural gas installed a 16 inch transmission line through the valley and the farmers did not know there was protection under the law.
299	McNeil	States her property rights are being violated. States there are too many restrictions in that 50-foot swath of farmland. States even though the use will be limited, the farmer must continue to pay the property taxes.
365	McNeil	Concludes by stating that if the standard is weakened for siting of utilities on EFU lands, the farmer loses all control over their property.
393	Larry Duyck	President, Washington County Farm Bureau. States he was told that Northwest Natural Gas could use the condemnation process to take and use his land. States SB 1318 only verifies the authority and law to continue condemnation.
459	Sen. Corcoran	Asks what kinds of crops he has on his farmland.
469	Duyck	Replies that he has row crops. States that farmers plan for the rotation of those crops years ahead and having a gas line come through his property disrupts crop rotation and can destroy the soils for years.
TAPE 78, A		
043	Duyck	Continues testimony and states that the operators of the cell towers seem to be able to work things out with the farmers without condemnation.
049	Chair Tarno	Asks if it is fair to use the condemnation process or if it is fair to pass legislation to give the farmers additional protection.
059	Duyck	States the farmer has no choice.

062	McNeil	Interjects that if Northwest Natural Gas has the power of eminent domain, plus SB 1318, then the farmers have nothing.
063	Chair Tarno	Replies that, apparently, from what is being said, Northwest Natural Gas does not need SB 1318.
064	Duyck	Responds that the 24 inch gas pipeline that Northwest Natural Gas proposes has stopped at Dairy Creek Valley because of the opposition. States that is why Northwest Natural Gas needs to get the law changed so that they can continue to run their line down through the valley.
072	McNeil	States she understands the chair wants to increase the economy in Coos County, but asks that it not impact the whole Willamette Valley. States that the way SB 1318 is worded now, there is a huge impact on the farmers in the Willamette Valley.
085	Chair Tarno	States this issue will be brought back to the committee.
088	Sen. George	Asks if a grower can petition the gas company to get connected to the gas lines.
101	Berry	States it would be best if legal counsel handled the questions for Northwest Natural Gas.
102	Kelley	States the way lines are hooked up to individual services is regulated by tariff through the Public Utility Commission and it depends upon distance, and costs. Continues with explanations.
117	Sen. George	Asks if a grower is totally at the mercy of Northwest Natural Gas and other utility companies.
121	Berry	States their company has never used condemnation.
125	Sen. George	Asks what process is used to determine placement of the pipeline.
133	Kelley	States it is a negotiated process. States she has been with the company for about 10 years and, to her knowledge, there have been no condemnation cases.
150	Sen. George	States that SB 1318 does not change the company's responsibility for damages.
152	Kelley	Replies that SB 1318 does not change the responsibility of Northwest Natural Gas, but makes that responsibility more visible to the farmer.
166	Chair Tarno	Asks if the farmers have the right to come back and ask for restoration for damages caused by Northwest Natural Gas.

171	Berry	Replies they do.
172	Chair Tarno	Asks if that is stated in law.
178	Berry	States property owners have always had recourse.
187	A. D. Dority, III	Testifies in opposition to SB 1318. Presents (EXHIBIT G) . States that passage of SB 1318 would strip away virtually all protection that agriculture now has to prevent attacks by municipal governments to acquire cheap land.
213	Sen. Corcoran	Asks the witness if he has seen the ñl amendments.
214	Dority	Replies he has not.
223	Sen. Corcoran	Explains to the witness that the ñl amendments revert back to the original language.
227	Dority	Continues testimony in opposition to SB 1318.
258	Chair Tarno	Asks witness to review the ñl amendments. Asks witness to focus testimony on the natural gas issues and not water issues.
265	Dority	States he wants a guarantee that municipal water wells will be removed from SB 1318, then he will focus on gas lines, otherwise he will continue on water wells.
270	Chair Tarno	Explains to Dority that the committee is attempting to focus on natural gas pipe lines and not water wells or lines. Asks Berry to make sure water rights are not an issue in SB 1318.
299	Don Schellenberg	States SB 1318, as drafted, removes all protection for land owners and allows all utilities to site without looking for alternatives or ways to minimize the impact. States this may be a super siting bill for transmission lines. Testifies in opposition to SB 1318.
375	Jim Johnson	Oregon Department of Agriculture. Testifies in opposition to SB 1318, as written, as the amendments do not specify lines to be buried and could also include power lines. States he has sub-soiled his fields six feet deep and the chances of hitting a line are constant.
404	Chair Tarno	Asks for details of sub-soiling at six feet deep.
410	Johnson	Gives an explanation of the equipment used for sub-soiling at six feet. Continues testimony in opposition to SB 1318.

478	Chair Tarno	Recesses public hearing on SB 1318 and opens public hearing on HB 2424.
<u>HB 2424 PUBLIC HEARING</u>		
TAPE 77, B		
026	Rep. Wayne Shetterly	House District 34. Presents (EXHIBIT H) . States HB 2424 is a simple bill. States this is a "truth in geography" bill. States that by excluding a portion of Benton County from the statutory definition of the "Willamette Valley" it will reduce some of the current land use restrictions for the area. States it will also provide at least three additional opportunities for dwellings and other development in EFU zones and one more in a forest zone.
064	Sen. George	Asks if this would liberalize the rules in Benton County.
066	Rep. Shetterly	Replies there are 12 to 15 homes and a Wal-Mart and other businesses.
073	Bob Rindy	Department of Land Conservation and Development (DLCD). States the department is in support of HB 2424.
076	Chair Tarno	Closes public hearing and opens work session on HB 2424.
<u>HB 2424 WORK SESSION</u>		
079	Sen. Corcoran	MOTION: Moves HB 2424 to the floor with a DO PASS recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Wilde
Chair Tarno		The motion CARRIES. SEN. CORCORAN will lead discussion on the floor.
085	Chair Tarno	Reopens public hearing on SB 1318.
<u>SB 1318 PUBLIC HEARING</u>		

90	Bob Rindy	(DLCD). Submits (EXHIBIT I) . Asks the committee to hold up on HB 2424 as there is a work group addressing the issues.
112	Chair Tarno	States he is closing the public hearing so that the work group can bring in amendments to address the issues brought before the committee. Closes public hearing on SB 1318 and opens HB 2164-A.
<u>HB 2164-A PUBLIC HEARING</u>		
130	Tom Byler	Oregon Water Resources Department (OWRD). Presents (EXHIBIT J) . States that HB 2164-A allows the department to process a water right application for a use which would not otherwise be allowed under the relevant basin program. Submits (EXHIBIT K) . States the ñ3 amendments clarify the language without changing the substance of HB 2164-A.
195	Chair Tarno	Asks if the House has reviewed the ñ3 amendments.
196	Byler	States the OWRD did not have the ñ3 amendments drafted in time.
197	Chair Tarno	Asks Byler to have the ñ3 amendments reviewed by the House and brought back next week. Closes public hearing on HB 2164-A and opens public hearing on HB 2165.
<u>HB 2165 PUBLIC HEARING</u>		
217	Byler	OWRD. Presents (EXHIBIT L) . Testifies in support of HB 2165. States this is a measure developed by the OWRD to modify the definition of "well" and clarifies the requirements for well construction, alteration, abandonment, and conversion.
274	Jerry Schmidt	Oregon Ground Water Association. States the association takes no position with regard to HB 2165.
286	Sen. George	Questions OWRD regarding old wells under current law.
294	Byler	Replies that he believes a well owner would need to go through the regular process for a permanent well.
300	Sen. George	Asks what determines abandonment.
302	Byler	Replies that abandonment is another technical term and requires certain actions by the well owner to make sure it is sealed properly.
345	Chair Tarno	Closes public hearing on HB 2165 and opens work session.

HB 2165 WORK SESSION

348	Sen. Corcoran	MOTION: Moves HB 2165 to the floor with a DO PASS recommendation.
		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Tarno	The motion CARRIES. SEN. SHANNON will lead discussion on the floor.
358	Chair Tarno	Closes work session on HB 2165 and opens public hearing on HB 2281.

HB 2281 PUBLIC HEARING

360	Ray Kelly	Committee Administrator summarizes HB 2281.
365	Chair Tarno	Committee is at ease while committee administrator is notifying witness.
415	Chris Crane	Land Use Legislative Subcommittee of the Real Estate and Land Use Section of the Oregon State Bar. Presents (EXHIBIT M). States that HB 2281 requires that local governments include a certificate of mailing to accompany a notice of adoption amendment to a comprehensive plan or new land use regulation.
462	Chair Tarno	Closes public hearing on HB 2281 and opens work session.

HB 2281 WORK SESSION

469	Sen. Corcoran	MOTION: Moves HB 2281 to the floor with a DO PASS recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Wilde

	Chair Tarno	The motion CARRIES. SEN. GEORGE will lead discussion on the floor.
481	Chair Tarno	Closes work session on HB 2281 and adjourns meeting at 2:35 p.m.

Submitted By, Reviewed By,

Diana Bronson, Raymond J. Kelly,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 657, written testimony, Ray Phelps, 1 p.
B ñ SB 657, written testimony, Ray Phelps, 31 pp.
C ñ SB 657, proposed amendments, staff, 3 pp.
D ñ SB 1318, written testimony, Tom Berry, 3 pp.
E ñ SB 1318, proposed amendments, staff, 2 pp.
F ñ SB 1318, written testimony, Ellyn McNeil, 1 p.
G ñ SB 1318, written testimony, A. D. Dority, III, 3 pp.
H ñ HB 2424, written testimony, Bob Rindy, 2 pp.
I ñ SB, 1318, written testimony, Bob Rindy, 3 pp.
J ñ HB 2164-A, written testimony, Tom Byler, 3 pp.
K ñ HB 2164-A, proposed amendments, staff, 2 pp.
L ñ HB 2165, written testimony, Tom Byler, 2 pp.
M ñ HB 2281, written testimony, Chris Crane, 5 pp.