

HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

January 21, 1997 Hearing Room HR D

08:30 AM Tapes 03 - 06

MEMBERS PRESENT:

Rep. Charles Starr, Chair

Rep. Terry Thompson, Vice-Chair

Rep. Dennis Luke

Rep. Ken Messerle

Rep. Kurt Schrader

Rep. Judith Uherbelau

Rep. Larry Wells

MEMBER EXCUSED:

STAFF PRESENT:

Judith Gruber, Administrator

Linda Kowal, Administrative Support

MEASURE/ISSUES HEARD:

Invited Testimony, Department of Forestry

HB 2069

HB 2133

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 3, A		
003	Chair Starr	Convenes meeting to order. Calls the Department of Forestry.
005	James Brown	State Forester, Oregon Department of Forestry. Gives an overview of the Department's functions, issues surrounding forestry, and

		<p>legislation that the Board of Forestry asked to have introduced. States he will primarily talk from the handout(EXHIBIT A). Introduces Steve Jacky, Assistant State Forester, Oregon Department of Forestry and Anne Hanus, Assistant State Forester, Oregon Department of Forestry (legislative liaison). Refers to page 1 of the handout, the outline of 1997 - 1999 external issues: Changing Public Values, Decline of Commercial Forest Harvest, Environmental Protection, Major & More Complex Fires, Major Insect & Disease Infestation, Managing State Owned Lands.</p>
099	Brown	<p>Continues to follow the handout, refers to page 3, historical and projected timber harvests. Summarizes that the State had a long term sustained yield of approximately 7.5 billion board feet but with federal policy changes in the last few years it has dropped to a long term harvest of about 4 to 4.5 billion board feet, primarily from private land.</p>
113	Brown	<p>Continues with testimony, refers to page 5. Outlines the six different businesses of the Oregon Department of Forestry: Fire protection, (the department is the fire department for nearly 16 million acres of land), forest practices, state lands, forestry assistance, resource planning and administrative.</p>
118	Brown	<p>Continues with testimony. Highlights programs and budgetary concerns that are of interest to the committee.</p>
122	Rep. Luke	<p>Mentions to the Chair that he can attest to the Department's ability to organize fire camps and their efficiency. Rep. Luke went to their de-briefing near Bend.</p>
126	Brown'	<p>Refers to page 7 and the Clean Air Act.</p>
130	Brown	<p>Continues with testimony referring to page 9, program goals and key themes.</p>
143	Brown	<p>Continues with testimony, refers to a need to improve forest health conditions and wild land /urban interface, refers to a bill that will be introduced to provide for reasonable responsibility for people who make their home in the forest with respect to fire protection.</p>
147	Brown	<p>Continues with testimony, refers to page 10 which shows location of fire districts, offices and fire intensity model.</p>
157	Brown	<p>Continues with testimony regarding the discovery and suppression of the fire.</p>
172	Brown	<p>Continues with testimony. Refers to page 11 graphs, page 12 the Governor's recommended budget, and 1997 legislation SB 107 and SB 110. Mentions that there will be a third Bill that deals with the urban/forest interface issue and that the fire Marshall will ask one be submitted that deals with unprotected lands.</p>
191	Brown	<p>Continues with testimony regarding forest practices. Reference is made to the Oregon Forest Practices Act which is designed to work with the land owners in a prevention mode. If there is resource damage there is criminal and civil penalties.</p>
194		

	Rep. Messerle	Asks Brown to expand on how our forest practices act compares with the practices used in the federal forests.
198	Brown	States the federal lands use more stringent forest practices. Expands on this, and that federal lands that are put into reserves whereas non-federal land is in working landscapes.
211	Rep. Thompson	Asks about the federal government taking over management, what standards will they require of Department of Forestry and inquires about the cost to Oregon. Requests information on a dollar value that the Department will lose if the federal government takes over.
231	Rep. Wells	Inquires about the status of using fire as a management tool of fire suppression.
343	Brown	Responds to Rep. Wells that it depends on the ownership of the land and expands on this subject. Continues with testimony on forest practices, regulatory stability, and reforestation.
352	Rep. Schrader	Inquires about reforestation tax credits.
	Brown	Responds land owners recognize that it is in their own interest to reforest their land, however, where a legal obligation to reforest exists the landowner is not eligible for the tax credit.
366	Rep. Schrader	Inquires if the state credit is a minor factor.
	Brown	Responds affirmative for the lands that have the reforestation obligation.
	Rep. Luke	Inquires about a bill in 1993 and 1995 that helps private land owners restock the land.
	Brown	Responds that the Secretary of State proposed legislation in 1993 called the Reforestation Trust which was a loan program for people to reforest under-productive forest land. In the 1995 session it was not available due to tight budgeting. Discusses alternative funding and generalizes that unless the state makes a contribution, others are reluctant to.
TAPE 4, A		
022	Brown	Continues with testimony referring to page 17 which shows study areas, each 10 square miles, where slides impacted streams to get a better understanding of the cause-effect activity. They are in the process of analyzing the available data and it will be about six months before it is completed. They intend to add two areas in Roseburg due to the November slides.
035	Rep. Thompson	Inquires as to different types of soil throughout the state.
038	Brown	Responds each area is being analyzed separately and not as an aggregate so as to understand what happens in that geologic type.
049	Rep. Luke	Inquires whether or not other areas where there have been slides but there was no activity where also explored.
052	Brown	

		Responds, most of the studies that have been done in the past were from aerial photography or aerial observation of which only about 30 to 40 percent of the slides are seen, for example, you can see all of them in a clear cut area and hardly any in the timbered areas.
057	Brown	Continues with testimony, refers to the area of forest practices on page 18 and SB 109 Forest Practices Stewardship Alternative.
	Messerle	Asks, with regard to budget, how staffing for fish presence surveys compares with other staffing for fish and habitat recovery.
073	Brown	Responds that this actually adds to some staff they already have for fish presence surveys.
087	Rep. Messerle	Asks how many full-time staff are doing the fish surveys.
	Brown	Recalls that there were 6 or 8 people doing that.
092	Rep. Luke	Inquires whether they are hiring their own people or using fish and wildlife personnel.
	Brown	Responds that they are hiring their own people but in conjunction with fish and wildlife field advisors.
095	Rep. Luke	Has heard from the state police this morning the state police will be pulled from game management in central Oregon to do salmon studies.
100	Brown	Responds his understanding is, that it is on the monitoring /enforcement side and not actually doing this type of work.
103	Rep. Schrader	Asks about the volunteer program that the Oregon Department of Fish and Wildlife has and have they tried to access them for some of the monitoring.
106	Brown	Responds that to date, no they have not and that his understanding of their volunteer program mainly operates around salmon and trout enhancement and some in-stream restoration.
012	Rep. Thompson	Inquires with regard to the Coho plan, whether Brown has any feel of whether the federal government will allow monitoring and current staff or use their own people.
015	Brown	Responds that in his experience the federal government list the species but have not participated.
126	Brown	Continues with testimony with regard to 1997 legislation SB 108 Stream Restoration Exceptions and HB 2134 Harvest Tax to Support Forest Practices Act. States the land owner community pays 40 percent and the general fund pays 60 percent. This provision sunsets at the end of every two years. Seeking re-authorization.
137	Brown	Continues with testimony. The Department of Forestry manages 786,000 acres of state owned forest lands, 130,000 acres is owned by the State Land Board, and other land is tax delinquent from the 30's and 40's that was deeded to the Board of Forestry with the expectation the department would manage it to generate revenues to

		help support local government. Most of the money goes to the common school fund .
173	Rep. Luke	Inquires if the federal government manages the O and C (Oregon and California) lands. Does this money goes to schools.
	Brown	Responds that the Bureau of Land Management manages the O and C lands and these figures are not included in the handout
180	Rep. Uherbelau	Clarifies the O and C funds go into the general fund to fund the counties.
183	Rep. Messerle	Asks if these are gross figures and if Brown knows what the net figures are.
186	Brown	Responds that these are gross figures. The net figure is about 94 percent.
193	Rep. Luke	A representative from Cottage Grove is introducing a bill with regard to log scaling instead of estimating harvest. Inquires if there is a problem with that or increase costs.
198	Brown	Responds that the Department made a change from recovery sales to cash sales.
209	Rep. Luke	Asks this to be repeated.
211	Brown	Responds, there are two principal ways timber is sold. Recovery or lump sum. Expands on examples.
232	Rep. Luke	Confirms clear cut sales on west side.
236	Rep. Schrader	Asks if they studied the rate of return and is the dollar value as good or better.
240	Brown	Responds the scale vs. cash value was compared, and where they could determine, they had a better value with a cash sale system.
246	Rep. Schrader	Asks who makes the determination.
	Brown	Responds that in the end the market sets it.
256	Rep. Uherbelau	Asks whether is was clear cut state land that took some lives near Roseburg recently.
	Brown	Responds that the major slide being referred to came off private land. There was a slide that started on state forest land. It came out of a timbered area in the Reeds Port area.
269	Rep. Uherbelau	Asks why the forest service would raise concerns about clear cutting if its private land.
270	Brown	Responds that when a land owner proposes an operation on steep terrain, it is evaluated from a geo-technical standpoint to prevent slides from happening at a rate greater than the natural rate.
311	Brown	Continues in detail with this response.
316	Rep. Luke	Summarizes there is nothing to guarantee that if the trees had still been there that the slide could have happened with that kind rain.
320	Brown	

		Responds that this is correct. The basis of the study is to determine, through harvesting, if there is a change in the rate of sliding and if so what needs to be done to bring it to a more natural rate.
327	Brown	Continues that they have requested Oregon State University to do a critical review of the information that is available now, which should be ready by mid-March, so they can determine what actions can be taken today while they wait for the results of the current study .
334	Rep. Messerle	Asks if there a mechanism that can advise people on selection sites for their homes.
342	Brown	Responds he thinks it is goal 7 where counties are asked to identify geologic hazard areas. Largely this is being ignored. There are evasive actions people can take.
362	Brown	Continues with testimony on impacts to species. Stand structure diagrams on page 23.
TAPE 3, B		
016	Rep. Luke	Asks what the percentages shown are intended to represent.
018	Brown	Responds that this is how much of the forest they believe to be in these stand structures.
025	Rep. Luke	Confirms this is representative of 100 percent of the forest.
028	Brown	Responds the goal is to find answers to these questions.
030	Rep. Schrader	Asks who did study that this is based on.
	Brown	Responds a person named Chad Oliver at the University of Washington.
038	Brown	Refers to page 28 regarding tree mortality which is largely on federal lands as opposed to non-federal lands.
	Rep. Luke	Refers to the tree mortality map and asks if the dark part in the center is the Newbury area or on the Santiam.
	Brown	Responds it is a combination from the Santiam south towards Newbury in the Freemont area.
	Rep. Thompson	Refers to tree mortality map and asks what was the cause of the high mortality in the Coos county area.
	Brown	Responds it was Swiss Needlecast. Continues with outlining 1997 legislation HB 2129 and HB 2131.
080	Brown	Continues with final area of administration and resource policy. Skips to page 34 to discuss the forest assessment project.
093	Brown	Begins a slide presentation on the status of Oregon forests.
115	Rep. Luke	Inquires if there are fires that sterilize ground .
123	Brown	Responds that fires he has seen are intense and do have an impact on soils. Continues with slide presentation.
		Slide presentation is over.
154	Rep. Luke	Will be introducing a bill to increase arson penalty. Describes forest conditions where the warm springs are and the forest meets.

179	Brown	Responds there is a similar analogy with sun river.
191	Rep. Thompson	Inquires with regard to tree mortality, what is the percentage of what has been salvaged.
	Brown	Responds he has no idea of the percentage. Private land owners have aggressively managed their land but most of the inactivity has been on federal lands.
200	Rep. Messerle	Inquires if the diseased areas are under control.
	Brown	Responds that the population is down to a normal rate.
205	Rep. Luke	Inquires if there is any intention to address the fire management needs in the Bend area.
	Brown	Responds there will be two bills introduced shortly one deals with homes in the forest and the second bill deals with unprotected lands.
	Chair Starr	Calls a recess for five minutes.
	Chair Starr	Calls meeting back to order. Ask that staff introduce hearing on House Bill 2069.
220	Gruber	Gives overview of HB 2069. Summarizes the bill basically does three things: 1) Changes the way timber sales would be advertised, 2) Add exceptions to the public auction and competitive bidding process requirement 3) Would allow the state forester to modify existing contracts.
263	Gruber	Continues with overview.
303	Rep. Uherbelau	Asks to have the bill attached to the packets.
318	Rep. Luke	Responds in general that members should bring their own copies.
328	Rep. Wells	Responds in general that he agrees.
334	Chair Starr	Requests that the members bring their own bill copies. Refers to Jim McCauley and Mike Miller as witnesses. Calls Jim McCauley. Mike Miller comes forth, Jim McCauley had to leave.
371	Mike Miller	Executive Vice President, Associated Oregon Loggers. For the most part they have no objections to HB 2069. There is concern over the timber sales with regard to the purchaser.
TAPE 4, B		
011	Miller	Continues with testimony, refers to (EXHIBIT B) written testimony of James E. McCauley, Director State Timber Purchasers Division in particular paragraph 530.065 reads the language in bold print.
034	Rep. Wells	Where did the amendments come from Option 1 and Option 2.
	Gruber	Responds Option 1 and Option 2 came from the Department.
	Rep. Wells	Asks are they amending their own bill.

	Gruber	Due to timing, suggests that the committee may request that the amendments be drafted by legislative counsel.
055	Chair Starr	States that the language will have be drafted and brought back for further consideration then a possible work session. Chair instructs staff to have the amendments drafted and bring it back for further testimony and pubic hearing before going to work session.
	Chair	Calls Ray Craig
066	Ray Craig	Assistant State Forester, Oregon Department of Forestry. Responsible for management of the state forest land from the policy and business standpoint, and is also the contracting officer. Refers to (EXHIBIT C) in detail.
	Rep. Luke	Refers to section two and the removal of language stating that it is agreeable to both sides.
143	Craig	Responds that contract law requires that both parties agree. The preference of the department is to add the notion that it is in the best interest of the state and that it is an equitable agreement.
146	Rep. Luke	Refers to section 1, asks if they will still have competitive bids.
152	Craig	Responds they are suggesting a negotiated process.
160	Rep. Luke	Asks what safeguards will be in place so that preferences are not given to one over another for reasons that have nothing to do with their ability to harvest the timber.
172	Craig	Responds that it has to be a result of an act of nature or other unforeseen circumstance. Refers to the last paragraph of the first proposal. As a general rule they will advertise and sell competitively timber over \$25,000 which would be more than 95 percent of the time.
192	Rep. Uherbelau	Expresses concern over exceptions. Refers to the Bill and states that A and B is very clear but C is very vague. Other unforeseen circumstances, potential theft, overriding economic or operational reasons. Asks if there have been any discussions regarding the language with legal counsel.
214	Craig	Responds yes there have been discussions with legal counsel however it was to solve a specific problem.
231	Rep. Uherbelau	Asks if there is any mechanism to assure public access to this information in forms other than newspaper.
246	Craig	Responds they have discussed this with the purchasers. There are hits on web page on a frequent and regular basis. There is also updated mailing lists.
274	Rep. Uherbelau	Recommends that the word publishing be removed from the language if their going to go to a means of notice other than newspaper.
280	Rep. Luke	Asks is there any grievance procedure in place in the department for someone who feels they are mistreated with regard to the bidding practice. States an example.
309	Craig	

		Responds people can call in. The emphasis if they have timber that has to be removed they want to act in a responsible way to have it removed.
323	Rep. Schrader	Asks how much timber is \$25,000.
	Craig	Responds their selling timber now for approximately \$500 a thousand board feet. 800 - 1000 board feet in a tree.
336	Rep. Schrader	Asks how long does the bidding process take.
341	Craig	Responds 4 - 6 weeks from the time the sale is first offered to the time of the actual bid.
	Rep. Luke	States it could take longer if you have an environmental impact statement.
	Craig	Clarifies that from the time they decide to put up a timber sale and actually sell it is a year.
350	Rep. Schrader	Asks if there is a relative size these add on contracts would be, and if there is an upward limit such as in a major catastrophe.
359	Craig	Respond that if there were 40 acres and they could let it sit, yes it would go for competitive bid.
366	Rep. Thompson	Asks how did they arrive at \$25,000.
374	Craig	Responds the figure of \$25,000 is currently in statute and has been used for several years.
383	Rep. Uherbelau	If \$25,000 only represents 25 trees has there been any discussion about raising that amount so you don't have to go through that process.
394	Craig	States he gave an incorrect answer. A small tree roughly 8 inches in diameter might have 80 to 100 board feet.
TAPE 5, A		
018	Rep. Wells	Clarifies a good truck load would be 3,000 to 5,000 board feet so at \$600 a 1000 board feet about 7 to 8 log truck loads.
022	Craig	The department is also proposing an amendment to ORS 291.224 (7)
	Chair	Asks if this has been drafted.
	Craig	Responds no it has not.
053	Rep. Uherbelau	Clarifies, work performed, is road work performed.
	Craig	Responds could be road work, bridge, culvert or other road infrastructure.
060	Rep. Luke	Asks if the price of timber is adjusted according to the harvest method.
	Craig	The Department of Forestry's appraisal system considers the purchasers costs for the removal of the timber.
074	Rep. Luke	

		Asks whether they sell the timber anyway if it comes in under the appraisal.
	Craig	Responds no they do not. Project costs run about 20 percent of the sale. If the project costs are higher than the value of the timber they would not sell it.
087	Rep. Luke	Asks do they have a minimum price.
101	Craig	Responds they do not accept any less than the appraised price.
106	Rep. Luke	Asks what happens when you have timber that needs to be removed, i.e., bug kill, and it has lost its commercial value and the bids are under what was appraised.
111	Craig	Responds they do not sell the timber for less than what its worth. In general state lands are intensively managed and this is not a situation that is common to state lands.
125	Chair Starr	States we need to do some work on amendments and bring this back.
130	Chair Starr	Dismisses Craig. Turns meeting over to Vice Chair Thompson temporarily.
HB 2133 - PUBLIC HEARING		
133	Rep. Thompson	Calls Steve Jacky.
	Steve Jacky	Assistant State Forester, Administrative Services, Oregon Department of Forestry. Briefly describes the background on HB 2133 (EXHIBIT D). Private land owners are currently paying about .05 percent, per acre, per year. Public forest land owners such as the BLM, the state and the counties pay 100 percent of the cost of fire protection. States they would like this to be forwarded to the Ways and Means Committee.
179	Rep. Uherbelau	Ask whether if in simple terms this extends the two year period.
	Jacky	Responds yes.
186	Rep. Luke	Asks does this bill have a subsequent referral and when does their budget go into Ways and Means.
		Responds the middle of March.
191	Rep. Schrader	Asks what is the main focus of the forest fire protection program.
193	Jacky	Responds that their main objective to protect state, private and locally owned forest lands and approximately 3 million acres of BLM land in western Oregon under a contract with the federal government.
	Rep. Schrader	Clarifies, that it is not housing protection but for the resource itself.
200	Rep. Luke	

		Asks how does it work in an area where houses are interfaced with forests.
205	Jacky	Responds there is a basic fire protection system. There are 13 separate districts which through a group of land owners sets how much they pay each year. It is reviewed by the Board of Forestry . Describes the flat rate assessment.
229	Rep. Luke	Comments on the overlap of fire protection.
238	Rep. Wells	Offers more on the background which came about because of measure 5. State and land owners each paid 1/2, with measure 5 landowners paid 55 percent and the public was 45 percent. States that landowners have expressed a desire to go back to 50/50.
257	Chair Starr	Asks if there are any further questions. Dismisses Jacky. Calls Ray Wilkerson.
312	Ray Wilkerson	Oregon Forest Industry Council. The Council represents industrial private forest land owners. Members includes Weyerhaeuser, Georgia Pacific, Boise-Cascade, Willamette Industries. Regarding HB 2133 the 50/50 cost sharing was in the 1989 session when there was a lot of changes. This is the fourth biennium. Comments, that the justification for 50/50 costs sharing is they do see a lot of fires started by the general public, public resources are at risk, fish and wildlife public resources. States he would like to second Mr. Jacky's recommendation that this bill be sent to the Ways and Means Committee.
353	Rep. Luke	Comments on the last fire season where ground that fire started on was not paying any assessment.
364	Wilkerson	Responds with regard to people who do not pay.
386	Rep Luke	Refers to the fire where the National Guard was called in and the State picked up the tab.
389	Chair Starr	Discusses agenda set for next week. Rep. Thompson has a Memorial.
406	Rep. Wells	States he sees no problem with this going to Ways and Means as it ultimately is a general fund issue.
TAPE 6, A		
021	Rep. Luke	Responds a statement can be made with a recommendation. Need a referral.
023	Chair Starr	Agrees to bring it back next week as a work session with a referral if possible. Adjourns meeting.

Submitted By, Reviewed By,

Linda Kowal, Judith Gruber,

Administrative Support Administrator

EXHIBIT SUMMARY

**A - Oregon Department of Forestry Introduction and Overview,
presented by James Brown, 43 pp.**

**B - HB 2069, written testimony, James E. McCauley, State Timber Purchasers Division
presented by Ray Craig , 5 pp.**

C - HB 2069, written testimony, Ray Craig, Oregon Department of Forestry 3 pp.

D - HB 2133, written testimony, Steve Jacky, Oregon Department of Forestry