

HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

April 1, 1997 Hearing Room D

08:30 AM Tapes 52 - 54

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:

HB 3698 Public Hearing

HB 3387 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 |
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| TAPE 52, A | | |
| 010 | Chair Starr | Calls the meeting to order at 8:37 am and opens the public hearing on HB 3698. |
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| <u>HB 3698</u> <u>PUBLIC</u> <u>HEARING</u> | | |
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| 018 | Rep. Charles Starr | District 3. Introduces HB 3698 requested by the Tuality Land Coalition. States it came to their attention that a number of prison sites nominated in Washington County were mostly on high value farm land. This bill is to protect those farm lands and establish that there will be no siting on high value farm land unless the local government approves a variance. Adds this has an emergency clause because the siting process is moving rapidly. |
| 042 | Rep. Uherbelau | Clarifies that this would not affect marginal land. |
| 043 | Rep. Starr | Affirmative. Statute describes high value farm land as land that is Class 1 and 2 dry land, Class 1, 2, 3, and 4 irrigated lands. |
| 047 | Rep. Luke | Comments that one of the successful prisoner work programs is on a prison work farm. Asks how would this bill have affected that? |
| 053 | Rep. Starr | Responds it would restrict siting on land of that nature to only those areas where approved by the local government, it doesn't limit it entirely. |
| 058 | Rep. Wells | Asks what part do local governments play in the supersiting? |
| 067 | Rick Dobbs | Tuality Lands Coalition. Reads from (EXHIBIT A). |
| 104 | Dick Vanderzanden | Third generation farmer from Washington County. (EXHIBIT B) States the Willamette Valley grows over 200 different crops. Points out the industries of fertilizers, machinery, and canneries need to be supported. Comments the state has a land use policy that saves farmland and he would like to see that state not site anything they have the right to and protect that policy. |
| 152 | Rep. Messerle | Comments his concern is that there are schools and subdivisions being built on high value farm land, not just prisons, and comments that this should also be addressed. Also comments there needs to be a clearer definition of high value farm land. |
| 168 | Vanderzanden | Responds there is a definition of high value farm land. |
| 178 | Dave Cook | <p>Director of the Oregon Department of Corrections. States that he wants to provide information on the process. Refers to (EXHIBIT C)</p> <p>* HB 2214 in 1995 gave them authority to begin looking for sites in July 1996.</p> <p>* this allows a prison site notwithstanding the land use plans as they currently exist, this being the reason for supersiting to exist.</p> <p>* rules were adopted for mandatory and desirable criteria.</p> |

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| 230 | Cook | Continues with testimony regarding types and numbers of sites. Adds that Friday of last week 3 sites nominated in the tri-county area: Seaport, Butternut Orchard, and the former Dammasch state hospital site in Wilsonville. One of the sites in Hillsboro may be at risk given this definition of high value farmland. Seaport is zoned as industrial. |
| 290 | Cook | Continues, the definition of high value farm land in ORS 215.710 covers all of the areas outside the urban growth boundary in the Willamette Valley. The proposed legislation allows for adoption of an exception locally, however, experience states this is remote at best. |
| 303 | Cook | Continues with testimony stating their concerns: <ul style="list-style-type: none"> * want to site prisons to allow for growth in the population * fairness and potential legal reasons would change the criteria in mid- siting process. * land within the urban growth boundaries is more scarce, land around urban growth is the way for them to be most efficient in regard to infrastructure and staffing issues. * the combination of SB 541 and HB 3698 would making siting an impossible situation. * exceptions would be difficult based on experience to date. |
| 342 | Rep. Luke | Asks in regard to the demographics of the prison population, where do most of the prisoners come from? |
| 345 | Cook | Answers from the tri-county metropolitan area. More than 40 percent of the women and more than 40 percent of the men come from those three counties, most from Multnomah county. |
| 350 | Rep. Luke | Asks if the siting process requires that they demonstrate why they need to site on prime farm land as opposed to non-prime farm land? |
| 355 | Cook | Answers they don't have to justify siting on farm land. The overriding capability of the supersiting legislation doesn't exclude that type of property. They have latitude across and under state rule but not above into federal regulations. |
| 369 | Rep. Luke | Asks when a site is selected, do you testify in writing the reasons why it was selected. |
| 380 | Lisa Strader | Facilities Administrator for the Oregon Department of Corrections. States the law allows a period of time after the Governor signs the executive order when the communities can come forward with a resolution of interests. The law requires that prior to nominating a site they talk with the local elected public officials to discuss the sites under consideration as it relates to their preference and infrastructure issues. |

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| 433 | Rep. Schrader | Asks what type of ground are the Umatilla, Madras, Lakeview, and Oakridge sites on? |
| TAPE 53, A | | |
| 009 | Strader | Responds that the Umatilla site is industrial, Madras is on range land, doesn't know the designation of the Lakeview site, and the Oakridge site is federal forest. |
| 014 | Rep. Schrader | Asks is it fair to say that they are trying to pick a diverse number of land use sites. |
| 020 | Strader | Responds they looked at the criteria without any sites in mind, as a business would require to operate and looked for sites that met the majority of that criteria. |
| 023 | Rep. Uherbelau | Comments there are two policies here in conflict: 1) long established policy to protect farm land and 2) the corrections policy voted on by the people. The definition for high value farm land is very broad. Asks have they done any evaluations on how this would affect the sites discussed, if this bill was limited to perhaps prime class 1 and 2 farm land? |
| 038 | Strader | Responds they have not looked at that, they looked only at what the bill said. |
| 041 | Rep. Uherbelau | Asks would that be possible to do? |
| 042 | Strader | Affirmative. |
| 043 | Rep. Thompson | Asks whether this bill limits the voters mandate for prisoners to work? |
| 047 | Cook | Responds this bill would potentially impact the industrial capacity. Most of the work programs in the future will be based upon the design of the work program and the changes that were made in the legislature which goes on to voters in May. This will allow them to do the interstate commerce they were doing prior to the constitutional change. The farm operation is successful in some respects but it doesn't put inmates to work in the numbers they would like to see. They will continue to operate the program because it provides low cost goods to the department. They're trying to go towards light manufacturing, mechanized operations, as opposed to agricultural. |
| 062 | Rep. Messerle | Asks regarding the size of the sites, what is the criteria for that large of a parcel and how many prisons are currently on that large of a parcel? |
| 067 | Cook | Responds the criteria is based on a medium custody male facility primarily: 1600 inmates, allowance of two such facilities on a single piece of ground, mitigates wetlands, and space to develop an industry program. |
| 083 | Strader | States both the Madras and Umatilla sites meet the criteria. The Madras site is over 300 acres and the Umatilla site is 280 acres. |

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| 085 | Cook/Strader | Adds the snake river site is 548 acres. |
| 086 | Rep. Messerle | Asks of the older prisons in the state are any on that large of a parcel. |
| 088 | Cook/Strader | Responds the OSP (Oregon State Penitentiary) is on 150 acres. They do not have sufficient space on many of the existing facilities to do the manufacturing they envision for the work program. There are restrictions of the site itself and the restrictions based on the secure perimeter of those facilities. |
| 097 | Rep. Messerle | Asks how does the cost per acre of industrial or urban sites compare with sites on farmland? |
| 101 | Strader | Answers she does not remember the specific cost per acre but that the industrial Umatilla site is a higher cost per acre than the Madras site. |
| 105 | Rep. Messerle | Comments that as more land is taken out of production the economic value in the future might compensate for that. |
| 109 | Rep. Luke | Asks if the sites in Hillsboro and the Washington county area on private or public ground. |
| 112 | Cook | Responds that two of the three sites in the tri-county area are privately owned. |
| 116 | Rep. Luke | Confirms that the Oakridge site is federally owned. |
| 118 | Strader | Affirmative, by the US Forest Service. |
| 119 | Rep. Luke | Asks is it being purchased or traded, how is it being handled? |
| 120 | Strader | Responds the site has been designated as a site the federal government wants to surplus. The Oakridge forest station was burned by an arson fire and they plan to rebuild it but need to have the federal allocation to do so. They have to go through the federal surplus process which is in question if they don't receive the funds to rebuild at Oakridge. |
| 132 | Rep. Schrader | Asks, assuming it's necessary to build the prisons in the valley area because of the proximity to the projected prison population, was it taken into account that the infrastructure is costly and the ability to extend to the areas on farmland. |
| 136 | Cook | Responds the whole issue is of long-term cost, including operational proximity to infrastructure and transportation routes. This is being viewed in the same way any business coming to Oregon would view operational costs. |
| 145 | Rep. Schrader | Clarifies that the infrastructure costs or the ability to extend is a key factor in siting. |
| 146 | Cook | Responds it's a consideration. It's more of a collective decision with infrastructure being a significant part of that. |
| 149 | Rep. Schrader | Asks was it taken into consideration that in Washington and Clackamas counties building on farm land has been going on at an unprecedented rate and there is now a house on every 20 or 30 acres. |
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| 153 | Cook | Responds it's apparent when driving through the area. |
| 156 | Rep. Schrader | Asks if he's aware that in most of the urban growth boundaries of the cities and counties around the state, including the valley, land is still vacant and over 70 percent of the residential land within the urban growth boundary is available. |
| 160 | Strader | Responds the criteria is 130 acres and above and they were unable to find that inside the urban growth boundary of the tri-county area. |
| 181 | Rep. Schrader | Comments he knows for a fact there are numerous sites, more than eight, where there are 130 acre parcels within the urban growth boundary in and around the Portland area and further down the valley. |
| 189 | Don Schellenberg | Associate Director of Governmental Affairs, Oregon Farm Bureau. Reads from (EXHIBIT D). |
| 207 | Schellenberg | Refers to ORS 197.732 line 7 and adds the exceptions process requires they make two determinations: a need for this activity and no alternative site. Simply they're saying don't put it on high value farm land unless there is no alternative. |
| 218 | Schellenberg | Refers to the definition of high value farm land on page 5 of (EXHIBIT D). States it goes on a parcel by parcel basis. Classifications don't follow property lines. There may be 25, 75, or 100 percent high value farm land on a parcel. The definition states predominantly high value land. |
| 232 | Schellenberg | Continues with testimony and states there's not a lot of high value farm land outside the Willamette Valley by this definition. Outside the valley it includes nursery stock, berries, fruits, nuts, Christmas trees, or vineyards. It doesn't include seed crops, hay, pasture, or alpha land. |
| 264 | Schellenberg | Refers to the proposed amendments on page 4 and the list on page 3 of (EXHIBIT D). |
| 300 | Schellenberg | Continues with testimony on the importance of agriculture to Oregon's economy. Points out the crops, jobs, and exports. States that land is a finite resource. |
| 338 | Rep. Uherbelau | Refers to 3 a,b,c, and d of ORS 215.710 and asks if these are all grass seed soils. |
| 344 | Schellenberg | Affirmative. |
| 346 | Rep. Uherbelau | Refers to (EXHIBIT B) line 7. Suggests adding "reasonable" to alternative and if there's no other alternative, language that requires in writing an explanation of why there's no other alternative. Asks could the Farm Bureau live with this? |
| 369 | Schellenberg | Responds that the word "reasonable" leaves the decision to the corrections department as to what is reasonable. |
| 377 | Rep. Uherbelau | Comments the exceptions process doesn't get us anywhere and it's unrealistic and unfair to send all these prisons to eastern Oregon. |

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| 384 | Schellenberg | Responds their position is that there is sufficient other land available. The parcel has to be more than 50 percent of one of these classifications of land in order to be determined high value. |
| TAPE 52, B | | |
| 015 | Rep. Messerle | States the definition of high value farm land based on crops is too broad. It should be based on the capabilities of the ground, i.e. , soil types, water availability, and acreage size. Points out the bill does not refer to zoning. Supports the intention for truly high value land but is concerned that it not be too restrictive. |
| 029 | Rep. Luke | Comments their intention is not for this bill to be retroactive, however, there's an emergency clause on the bill. Asks is it their intent that this affect the sites that have been selected? |
| 035 | Schellenberg | Responds the intent is that it apply to the current siting process, not prisons that are already built. |
| 042 | Rep. Luke | Clarifies that according to the Department of Corrections the bill as written could affect Dammasch without the amendments. |
| 043 | Schellenberg | Affirmative. That's the purpose of their amendment. |
| 047 | Rep. Luke | Asks if they testified when Washington county sited Intel and other major business on high value farm land and gave them a tax break? |
| 049 | Schellenberg | Responds not to his knowledge. |
| 053 | Chair Starr | Comments the land where Intel and others were sited was given up to industrial zoning 30 years ago when it was sold to an insurance company. |
| 067 | Barry Bushue | Farmer and First Vice President, Oregon Farm Bureau Federation. Responding to Rep. Luke's question, the Washington county Farm Bureau did testify in opposition to the tax breaks and the building of the chip factories as did the Multnomah county Farm Bureau when they built in the town of Gresham. The foundation of Oregon's land use planning policies is SB 100 implemented in the early 1970's and it's purpose is to preserve prime farm lands in the state and insure the future of agriculture. There are 200 commodities, combined gross sales exceeding \$3.5 billion, and 70,000 jobs directly attributable to agriculture. |
| 085 | Bushue | States they're not opposed to the prisons, they're opposed to the use of privately owned prime farm land to build them on. States that 53 percent of the land in Oregon is already owned by the public and most is not currently productive in the economic sense. |
| 107 | Larry Matthews | Owner of Ag-Chem Companies in Cornelius, OR. States that their company just invested nearly \$2 million in a new state of the art agricultural distribution center on a 4.5 acre site. Describes the center. (see page 12 of (EXHIBIT A)) |
| 140 | Matthews | Continues with testimony. |

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| 183 | Matthews | Continues with testimony. |
| 248 | Dana McCullough | Family owns 200 acres of truly prime farm land north of Hillsboro. Recounts her experience after a prison meeting in Portland when she was talking to two consultants for the state and one said "let's face it, one more farm isn't gonna make that much difference in the big picture." |
| 295 | McCullough | Continues with the pressures that the farmers are experiencing. Refers to Vanderzanden's testimony and adds that he and his wife spent all night in the emergency room. States the pressures are so great that people are getting sick. In the last several years they have had to fight a 300 bed state facility, a garbage transfer station, golf courses, rifle range, highway bypasses, gas pipelines, a trucking proposal, a subdivision and the resulting slap suit against the citizens, schools, a 6 foot diameter 13.5 mile long water pipeline and the recent 9 plus sitings on EFU land. Three of her neighbors have had their land sited. |
| 344 | McCullough | Continues and refers to page 11 (EXHIBIT A). Gives her personal impressions and suggestions regarding siting choices. |
| 405 | Blair Banson | Staff Attorney at 1000 Friends of Oregon. States they support this bill and any facility being subjected to the land use process. |
| TAPE 53, B | | |
| 013 | Banson | States they received calls from farmers in Jackson, Polk, Washington, Jefferson, and Multnomah counties asking if they could stop them from building on high value farm land. High value farm land is 25 percent of the states farmland, approximately 4 million acres. There's another 12 million acres that isn't high value, 8.6 million acres are private forest land, almost 1 million acres inside the urban growth boundary and 800,000 acres are exception areas. Clarifies that the orchard land in Jackson county is not class 1 and 2 prime and unique land, a lot of that land is Class 3 and 4. |
| 044 | Clif Kenagy | Kenagy Family Farm. States his plea is that the integrity of Oregon's land use program be upheld by seeking out secondary lands for siting prisons. |
| 056 | James Monroe | Board member of the Linn County Farm Bureau. (EXHIBIT E) States it's state policy to keep agricultural land in agricultural production. |
| 100 | Chair Starr | States this bill will be set over for a later work session after the amendments have been drafted. Closes the hearing on HB 3698. States due to time restrictions HB 3344 or 3635 will not be heard today. Opens a public hearing on HB 3387. |
| <u>HB 3387</u> <u>PUBLIC</u> <u>HEARING</u> | | |
| 119 | | District 60. Introduces HB 3387. |

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| | Rep. Denny Jones | |
| 149 | Chuck Messner | Outfitter, Oregon Outdoors Association. States their support of the bill and their main objective and goal which is to stabilize their business interest. Gives some examples how this bill will do that and some history on this. |
| 210 | Rick Wren | Executive Director, Oregon Outdoors Association f/k/a Oregon Guides and Packers. States he was a fishing guide on the Deschutes River for approximately 17 years. In 1993 there were approximately 120 hunting outfitters in Oregon, today there's approximately 79. Controlled hunting has made it more difficult for the outfitters to compete. Most of the rural economies have been hit hard from the prices of cattle and the logging turn down which affects timber and wood products. |
| 243 | Wren | Refers to the second page of (EXHIBIT G) regarding process. They are asking for these particular tags that the price be set at twice the current non-resident hunting tag fee for deer and elk. |
| 269 | Rep. Uherbelau | Asks are you saying the department sets the number of tags that will be issued whether it be limited by quota or cap? |
| 280 | Wren | Responds that currently there is a cap of 5 percent for non-residents. |
| 290 | Rep. Uherbelau | Are you saying that within that 5 percent the guide gets half. |
| 296 | Wren | Responds that what their saying is based on the previous years figures of tags that went to non-residents, they are asking for half of that. |
| 306 | Rep. Uherbelau | Ask why do you have to have a percent of that. Don't the guides get any of that? |
| 319 | Messner | Responds at this time they have no special preference of any type. |
| 328 | Rep. Uherbelau | Asks in regard to the fee, are you talking about the fee to the out of state individual and to your percentage? |
| 334 | Messner | Responds they are proposing to double the present non-resident fee for these hunts in order to increase revenue in ODF&W. |
| 355 | Rep. Uherbelau | Clarifies the only tag that would be doubled is the tag they get. The tag that goes straight to the out of state individual would not be doubled. Asks if that's correct? |
| 358 | Wren | Responds, just the tags that would be allocated to the outfitters to sell. |
| 360 | Rep. Luke | Asks of the tags allocated to you what happens to the tags you don't sell, do you still have to pay? |
| 365 | Messner | Answers they are proposing an outfitter draw where the outfitter is the applicant and puts in for one specific hunt area and a number of different hunts in that area. Then, for example, if they |

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| | | draw 5 tags and can only sell four, on April 1st the remaining tags would go back into the general draw. |
| 376 | Wren | Directs their attention to item 10 on page 2. |
| 389 | Rep. Luke | States that the number of tags for an area varies according to the area type, the kill the year before, and winters effect. If 5 percent would have been 12 percent the previous year after a hard winter kill the amount of tags issued could be considerably less yet your still getting half. In some cases you could have 50 to 60 percent of the tags issued that year. |
| 405 | Messner | Responds this question came up in conversations with ODF&W. He proposes that through the administrative rule process they put an emergency contingency to address this. The whole intent of an outfitter is not to sell Oregon's wildlife or any other states wildlife, they sell a service and get paid whether they kill an animal or not. |
| 425 | Rep. Luke | Comments if this can be resolved by administrative rule, fine, otherwise they could end up with 60 percent or more depending on the fluctuations. |
| 430 | Chair Starr | Responds there's more testimony on this. States there may be a working committee to work on this and bring it back on a future date. |
| TAPE 54, A | | |
| 020 | Rep. Messerle | Asks if Elk populations are increasing or stabilized? |
| 022 | Messner | Answers he believes they are increasing in the southeast and northeast regions of the state. |
| 026 | Messerle | Comments he's from the southwest coastal region and they are increasing there. Will this allow a balanced harvest? |
| 029 | Messner | Responds as a professional, the outfitter enhances the clients taking of game. They will continue to support ODF&W's management goals and objectives. |
| 040 | Jim Greer | Chief, Wildlife Division, ODF&W. (EXHIBIT H) States their bottom line is to work closely with them and address the amendments that were received this morning. |
| 065 | Rep. Messerle | Asks if the population is increasing. |
| 066 | Greer | Affirmative. They are working to have a level herd population throughout the entire state. |
| 072 | Rep. Messerle | Asks for an indication of the damage to the forest and agriculture industries. |
| 075 | Greer | Responds they're seeing an increase in the number of damage complaints. Through the controlled hunt process, in particular where it addresses population management, they can target the offending animals. |
| 080 | Rep. Thompson | Comments with increased harvest on the forest, more forage is available for the elk. Asks will it peak and then decline? |

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| 086 | Greer | Responds their biologists have been looking at this. There's been a good harvest of timber which has created the forage for deer and elk. As it grows, it will be more conducive for elk for a longer period of time and less for deer. Change in habitat will have a long-term impact on those populations. |
| 098 | Joe Rohleder | Oregon Outdoors Association. States this is really important to the stability of outfitters. Outfitters are based in the local economy, pay family wage jobs, and this will allow them to compete with outfitters from other states. It's very important that this be based on good management. What they are asking for is the right to act as the state's agent to sell half of the non-resident tags that they will sell any way to our customers. States that Rep. Sowa has agreed to facilitate a work group. There are two questions, policy and process. |
| 125 | Jim Ebert | Oregon Hunters Association, Portland Chapter and the Oregon Gunowners. States he hasn't seen the amendments being discussed but they are in support of the concept being proposed. |
| 130 | Chair Starr | Asks that the department and the outfitters get together with Rep. Sowa and bring back a solution to work with. States he supports the concept and thinks it's good policy. Closes the public hearing on HB 3387 and adjourns meeting at 10:40 am. |

Submitted By, Reviewed By,

Linda M. Kowal, Judith Gruber,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 3698, written testimony, Rick L. Dobbs, 18 pp.

B - HB 3698, written testimony, Richard Vanderzanden, 1 p.

C - HB 3698, written testimony, Dave Cook, 3 pp.

D - HB 3698, written testimony, Don Schellenberg, 5 pp.

E - HB 3698, written testimony, James Monroe, 4 pp.

F - HB 3698, written testimony, staff, 2 pp.

G - HB 3387, proposed amendments, Rick Wren, 8 pp.

H - HB 3387, statement, Jim Greer, 1 p.