

SENATE COMMITTEE ON WATER AND LAND USE

April 17, 1997 Hearing Room C

8:30 AM Tapes 63 - 64

MEMBERS PRESENT:

Sen. Veral Tarno, Chair

Sen. Bob Kintigh, Vice-Chair

Sen. Ginny Burdick

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. David Nelson

Sen. Thomas Wilde

STAFF PRESENT:

Mark Volmert, Administrator

Nancy Masee, Administrative Support

MEASURE/ISSUES HEARD:

SB 619 Public Hearing

SB 632 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
TAPE 63, A		
003	Chair Tarno	Opens meeting at 8:30 AM
<u>SB 632</u> <u>PUBLIC</u> <u>HEARING</u>		
013	Larry George	Oregonians in Action (OIA), testifies (EXHIBIT A,B) * freeway land advertised for commercial use in large plots on farmland

		* cities locate near waterways where prime farmland is located
060	George	Continues on identifying secondary lands and -1 amendments to SB 632 * Section 2 says commercial crop land is protected * Class 1 and 2 and prime and unique soils protected * Forestland zones that are productive are preserved
080	Chair Tarno	Comments that Subsection 6, page 2, lines 26 to 41 conflict with State Forestry, who need to be contacted for verification.
089	George	Continues presentation on secondary lands. * next session the information on the identification of secondary lands should be available for planning * planning for rural areas can take place next session * commercial farmers, small farmers, rural residences
103	Chair Tarno	Asks George to contact governor's office also on this bill. Find out the conflicts this bill generates.
116	George	County's estimate \$100,000 cost per county to map the lands. Rezoning allows additional uses and tax basis and will increase profit to counties to help pay for the cost.
120	Chair Tarno	Asks what the counties think of this bill.
123	George	Says the counties do not oppose SB 632 .
130	Sen. Kintigh	Asks if the marginal lands counties will be treated differently.
148	George	Comments on frustration of people in planning by counties. After the study takes place, determinations on county procedures will be made.
161	Jim Wood	Post, Oregon, Aspen Valley Ranch, Crook County cattle rancher and veterinarian, opposes SB 632. Owns 17,000 acres in eastern Oregon from which income is generated from secondary lands; most livestock in the state is raised on these kinds of lands. (EXHIBIT C)
210	Wood	Continues presentation on importance of these secondary lands.
260	Wood	Questions the amount of \$100,000 as too low of a cost to the counties to implement a marginal land bill. At Powell Butte many nonfarm dwellings have developed. * SB 632 is to the detriment of farming and forestry * livestock industry and hay production are substantial on these lands * cost of community services increases with development

		* takes exception to the "emergency" process in bill, and wants a balance
336	Sen. Fisher	Asks about income figures.
340	Wood	Comments as a unit a substantial amount of money can be raised on the secondary land.
373	Sen. Fisher	Comments on a mineral claim.
381	Sen. Wilde	Comments on demeaning intonation of the word secondary.
391	Wood	Gives his personal feeling that secondary lands are essential to commercial farming.
TAPE 64, A		
011	Steven Hayes	Clackamas County, Oregon State Grange supports SB 632. Agrees with land use planning and city or county definition of each type of land use. Says page 3, lines 28 through 33 could be in possible conflict. (EXHIBIT D)
048	Dorothy O'Dell	Colton, Oregon, Clackamas County small farmer, supports amendments to SB 632. Gives the background on that area, and shows maps depicting growth boundary. Small family farms from one acre to 30 acres make up the Colton area, and no way will produce \$80,000 income.
149	Diana Gardener	Jackson and Marion Counties commercial farmer, opposes SB 632; explains dividing of large tracts of secondary lands for housing and how commercial farmers will be adversely affected by SB 632. (EXHIBIT E)
173	Gardener	Says exception areas provide rural dwellings for people; good resource land will be thrown away because of division into small parcels. * rural areas have higher crime rate * ground water depletion results * inefficient use of small parcels results
209	Sen. Wilde	Pages 4 through 10 have been deleted in the -1 amendments.
222	Gardener	Says mushrooming of small parcels of land is a cancerous form of land use by development which would occur with passage of SB 632. Grazing land and foothill land is needed in Oregon for commercial farming which would be greatly affected by SB 632.
252	Gardener	Continues on how the counties could not properly prepare for land use management as proposed by SB 632.
258	Gardener	Summarizes that SB 632 should not pass; it is detrimental to timber farming and ranching in commercial capacity.
273	Judson Parsons	Commercial farmer in Jackson and Marion Counties, comments on size of commercial farming in forestry; opposes SB 632.

294	Malcolm Higgins	Marion County farmer, opposes SB 632 and its affect on secondary lands which does not recognize composition of farms; an example given is Davis Creek Road and the Abiqua area described as development takes place; secondary land is an important source of farm land in commercial farming.
341	Higgins	Says that the American Farmland Trust indicated that of 20 valleys in the United States left with prime soil, the Willamette Valley has been classified as endangered in loss of prime farmland; gives an example of importing of food which will increase if we let our land be taken and developed for housing. Passing SB 632: <ul style="list-style-type: none"> * causes erosion and landslide problems * takes farm production away * causes increased danger from nearby farm operations in traffic, spray, etc
TAPE 63, B		
005	Jim Just	President, Friends of Linn County, lives in an area which supports a viable community of farmland which is not prime land. Pressures would be to sell land and it would be developed and threatened. It would become a place for commuters to live. Opposes SB 632. (EXHIBIT F)
031	JoAnn Coates	Marion County, reads letter to Oregonians in Action (OIA) addressing the LCDC comprehensive plan; they feel they have lost control of their 50 acres classed as prime farmland by these plans. <ul style="list-style-type: none"> * secondary land should be protected * prime and secondary classification should take place * building should be allowed
064	Rich Holcomb	Douglas County farmer, opposes SB 632; farming of secondary lands is crucial to their operation. <ul style="list-style-type: none"> * livestock operation needs the secondary land for survival * secondary lands will be developed out of farm use land * the number of people from out-of-state will increase the pressure on secondary lands
135	Chair Tarno	Closes public hearing on SB 632; opens public hearing on SB 619.
<u>SB 619</u> <u>PUBLIC</u> <u>HEARING</u>		
139	Sen. Burdick	Explains SB 619 which is sponsored by her and Sen. Ferrioli.

143	Don Schellenberg	Oregon Farm Bureau supports SB 619.
148	Chair Tarno	Closes public hearing on SB 619.
150	Chair Tarno	Adjourns meeting at 9:47 AM.

Submitted By, Reviewed By,

Nancy Masee, Mark Volmert,

Administrative Support Administrator

EXHIBIT SUMMARY

A - SB 632, written testimony, Larry George, 3 pp

B - SB 632, -1 amendments, staff, 2 pp

C - SB 632, written testimony, Jim Wood, 4 pp

D - SB 632, written testimony, Steven Hayes, 1 p

E - SB 632, written testimony, Diana Gardener, 2 pp

F - SB 632, written testimony, Jim Just, 1 p

SENATE COMMITTEE ON WATER AND LAND USE

April 17, 1997 Hearing Room C

5:00 PM Tapes 65 - 66

MEMBERS PRESENT:

Sen. Veral Tarno, Chair

Sen. Bob Kintigh, Vice-Chair

Sen. Ginny Burdick

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. David Nelson

Sen. Thomas Wilde

STAFF PRESENT:

Mark Volmert, Administrator

Nancy Masee, Administrative Support

MEASURE/ISSUES HEARD:

SB 379 Public Hearing and Work Session

SB 1020 Public Hearing

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Tape/#	Speaker	Comments
TAPE 65, A		
005	Chair Tarno	Opens meeting at 5:30 PM, and public hearing on SB 379.
006	Mark Volmert	Committee Administrator, gives background on SB 379.
<u>SB 379</u> <u>PUBLIC</u> <u>HEARING</u>		
		Estacada, Clackamas County Farm Forestry Association, speaks for the

014	John Foster	Oregon Small Woodlands Association (OSWA); supports SB 379. (EXHIBIT A)
039	Chair Tarno	Asks about response to questionnaire sent out by OSWA.
043	Foster	Says 54 percent of the members of OSWA live on their tree farm * 25 percent want to live on their forestland in the future * 81 percent felt living on the land improves management * 88 percent felt forestland owners should be allowed to live on their land * does not apply to lands zoned for agriculture * does not promote urban sprawl and development * this is for the small woodland owner to help manage his land
072	Foster	Eastern Oregon requires 100 acres on its best soil to produce 4,000 cubic foot per year.
079	Sen. Nelson	Asks about board feet and cubic feet difference
084	Sen. Kintigh	Explains a cubic foot is 12 inches every way; board feet is one inch by 12 inches by 12 inches.
095	Sen. Kintigh	Comments on the measuring of cubic feet which measures the actual wood fiber growing in a tree is better than board feet.
111	Alvin Purn	Florence, Oregon, supports SB 379, * believes resident landowners take better care of their lands * promotes highest and best use of forestlands in our state * trees grow in a 40 to 80 year crop cycle * Lane County land use influenced by Eugene
133	Chair Tarno	Asks for questions.
152	Sen. Kintigh	Asks to have a letter entered into the record for Mark Smith, Woodland Management. (EXHIBIT B)
158	Charlie Swindells	1000 Friends attorney, testifies against SB 379 which will open up any forest parcel in the state that is developable. (EXHIBIT C)
		Continues in opposition to SB 379 explaining issues * opens up any parcels developable

187	Swindells	* other laws already allow forestland dwellings * template dwellings
200	Swindells	Explains policy in forest production in Oregon as number one forestry production state faces problems of allowing dwellings in forestland * fire protection difficult in forest zones * slide control suppression * road building considerations
310	Swindells	Describes Forest Practices Act * streamside vegetarian protection * road building
315	Swindells	Describes template dwellings.
318	Chair Tarno	Describes vandalism on small woodland owners parcels.
377	Don Duhkopf	Testifies in favor of SB 379; is a small woodland owner and member of the Small Woodland Association; pruning and fertilization and selective logging taking place; these activities take time and living on the land is an advantage in these cases. (EXHIBIT D)
TAPE 66, A		
013	Duhkopf	Continues presentation on dwellings on small woodland farming and problems that require residence * fires * vandalism
022	Sen. Kintigh	Comments on forest fires.
034	Duhkopf	Continues presentation on stewardship of small woodlands; supports passage of SB 379.
041	Chair Tarno	Closes public hearing on SB 379; opens work session on SB 379.
SB 379 WORK SESSION		
060	Sen. Kintigh	MOTION: Moves to conceptually AMEND SB 379 on page 1, in line 5, remove "shall," insert "may".
062	Chair Tarno	Hearing no objections, motion CARRIES.
		MOTION: Moves SB 379 to the floor with a DO PASS AS

064	Sen. Kintigh	AMENDED recommendation. Vote: 6-1 Ayes: Ferrioli, Fisher, Kintigh, Nelson, Wilde, Tarno Nay: Burdick
065	Chair Tarno	The motion CARRIES. Sen. Kintigh will lead discussion on the floor.
067	Sen. Burdick	Explains her vote. Says she would not oppose the bill if everyone were like the people who testified, but she fears urban encroachment by others who are not forestry-related people.
072	Sen. Kintigh	Responds to Sen. Burdick.
080	Chair Tarno	Closes work session on SB 379; opens public hearing on SB 1020.
<u>SB 1020</u> <u>PUBLIC</u> <u>HEARING</u>		
107	Sen. Ferrioli	Explains SB 1020 and says it is time to refocus; SB 1020 requires Department of Agriculture (DOA) get permission to go on property for inspections of Clean Water Act * protect property rights of rural residents * says Fiscal Office reports the Environmental Protection Agency (EPA) will be crippled by this bill under the Clean Water Act * Says SB 1020 does not cause that much impact on Department of Environmental Quality (DEQ) * SB 1020 eliminates 8 words in ORS 568.915
147	Sen. Ferrioli	Explains ORS 568.915 statute which allows inspections by DOA on private land.
185	Sen. Ferrioli	Explains the change proposed in law; presently land owners can incur penalties and be subject to police power if they do not comply; violations can go up to \$2500; the definition of "reasonable attempt" in gaining permission to inspect property is the question.
230	Sen. Ferrioli	Asks that consideration of landowners be given in inspection and notification when their lands are entered upon by DOA.
282	Chair Tarno	Asks about Fifth amendment violation.
285	Sen.	Says the Attorney General's office says that in a criminal prosecution information from the inspection could not be used; most land owners

	Ferrioli	wish to be notified of an inspection.
301	Sen. Wilde	Supports SB 1020.
314	Sen. Ferrioli	Says landowners face the exercising of police power and civil penalties without notification of an inspection; this is an issue affecting landowners on 303(d) streams or any property in Oregon which the EPA, DEQ, DOA administers.
334	Sen. Burdick	Asks what he considers reasonable grounds for denying access.
352	Sen. Ferrioli	Responds to reasonable access on property for inspection; SB 1020 shifts the burden to the agency for better notification.
365	Sen. Burdick	Asks about notifying through certified letter.
381	Sen. Ferrioli	Responds to cost of certified or registered letter; welcomes opportunities to craft language that will protect land owners' privacy.
TAPE 65, B		
030	Phil Ward	DOA, comments on the department's position against SB 1020. Refers to Attorney General's (AG) memorandum which says if inspections are contingent upon landowner approval, conflict with EPA's requirements will occur. (EXHIBIT E)
054	Sen. Ferrioli	Asks the date of the passage of the Clean Water Act.
061	Ward	Says in 1972, with amendments in 1977. State administrative responsibility changed with the passage of 1993 legislation from DEQ to DOA.
068	Sen. Ferrioli	Asks if the 1993 act creates a new right of entry and inspection.
072	Ward	If the question is does DEQ have inspection authority similar to this, the answer is yes.
078	Sen. Ferrioli	Says he contests that answer.
080	Ward	Comments that there are other authorities in other state agencies that allow entry and inspection without approval of land owner.
090	Sen. Ferrioli	Asks about second page of letter; inspection conferred in 1993 legislation; suggests that this is a new right of inspection.
102	Ward	Responds that the AG's opinion says that SB 1020 conflicts with Environmental Protection Agency's (EPA) regulation; DOA does not support SB 1020.
119	Chair Tarno	Comments on concerns of SB 1010 in 1993 session, and review of bills should be ongoing.
123	Sen. Kintigh	Asks what the department does to make a reasonable effort to notify landowners.

127	Ward	Responds that the department attempts to contact the landowner. They have the authority to make the inspection. If denied access, a warrant can be secured. Requiring permission of the landowner changes the scenario.
145	Sen. Wilde	Says the last paragraph sounds stronger than the bill.
157	Ward	Points out the footnote on the AG letter which says "shall not be unreasonably withheld" does not change their basic analysis.
165	Sen. Burdick	Asks if the language stated stronger notification requirements, would that meet the concerns of DOA.
172	Ward	Comments that the language stating notification requirements would lessen the impact of the bill.
176	Sen. Ferrioli	Asks if other measures are expressly limited pertaining to the footnote on the AG's memorandum.
183	Ward	Says the implication is yes.
186	Sen. Kintigh	Says that condition on a search warrant is a higher standard than getting permission. Asks what they say to the landlord.
195	Ward	Comments that inspection of water quality in confined animal feeding which is mainly dairies; approaching landowners respectfully is thought to be the best approach. DOA expects to be allowed to make the inspection.
215	Sen. Kintigh	Asks if the department does ask before they go on.
218	Sen. Ferrioli	Asks about dairy operations.
236	Ward	Responds that if a significant complaint regarding pollution was imminent, DOA expects to inspect.
239	Sen. Ferrioli	Says if confined feeding and dairy inspections are to assure compliance with existing permits and program requirements; and because they are licensed, DOA already has permission. DOA authority is extended to wherever the water flows.
244	Chair Tarno	Asks if enforcement under SB 1010 has been acted upon since 1993.
254	Ward	Replies not under SB 1010, but under SB 1008 the companion bill. Tualatin Basin is the first adopted program just fully implemented, and anticipates actions under SB 1010.
261	Chair Tarno	Adjourns meeting at 6:45 PM.

Submitted By, Reviewed By,

Nancy Masee, Mark Volmert,

Administrative Support Administrator

EXHIBIT SUMMARY

A - SB 379, written testimony, John Foster, 11 pp

B - SB 379, written testimony, Mark Smith, 2 pp

C - SB 379, written testimony, Charlie Swindells, 14 pp

D - SB 379, written testimony, Don Duhrkopf, 2 pp

E - SB 1020, written testimony, Phil Ward, 2 pp
