

SENATE COMMITTEE ON WATER AND LAND USE

May 8, 1997 Hearing Room C

8:00 AM Tapes 86 - 87

MEMBERS PRESENT:

Sen. Veral Tarno, Chair

Sen. Bob Kintigh, Vice-Chair

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. David Nelson

Sen. Thomas Wilde

MEMBER EXCUSED: Sen. Ginny Burdick

STAFF PRESENT:

Mark Volmert, Administrator

Nancy Masee, Administrative Support

MEASURE/ISSUES HEARD:

SB 632 Work Session

SB 1020 Work Session

SB 902 Public Hearing and Work Session

SB 1169 Public Hearing and Work Session

HB 2095 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 86,A		
004	Chair Tarno	Opens meeting at 8:10 AM, and opens public hearing on HB 2095.
HB 2095		

<u>PUBLIC HEARING</u>		
018	Gail Achterman	Attorney, Oregon Food Processors Council, gives background on SB 2095. Encourages use of recycled water. Supports HB 2095 (EXHIBIT A) * promotes water conservation * facilitates waste water recycling * simplifies government regulations
084	Chair Tarno	Asks about forfeiture of water rights.
087	Achterman	Responds in the past there was a forfeiture concern. Explains why SB 2095 is necessary to protect farmers from forfeiture if they are using waste water; protects prior appropriation rights because it applies only to industrial ground water rights.
104	Achterman	Explains application of HB 2095; restricted to ground water, and to situations where discharge has never been to the stream; injury to other users limited.
135	Sen. Kintigh	Asks if water from the McKenzie River could be returned to the McKenzie.
142	Achterman	Explains municipal statutes and junior water right holders; have to meet the no injury test.
155	Sen. Kintigh	Asks if this includes industrial food processors.
158	Achterman	Explains also confined animal feeding situations. Says manure applications do not need Department of Environmental Quality (DEQ) permit now.
181	Sen. Nelson	Says ground and surface water issues in Hermiston area have been questioned.
235	Achterman	Says Rep. Norris' concern was regarding ground water source from a municipality being used by a food processing plant. Reclaimed water definition has been changed to include "any water treatment system" which solves the problem.
252	Tom Byler	Water Resources Department, supports HB 2095, and explains this innovative approach. The task force report created by HB 2375 is referred to. (EXHIBIT B)
273	Chuck Norris	Former representative, District 57, says he's in favor of HB 2095.
300	Chair Tarno	Closes public hearing on HB 2095, and opens work session on HB 2095.
<u>HB 2095</u>		

<u>WORK SESSION</u>		
300	Sen. Nelson	MOTION: Moves HB 2095 to the floor with a DO PASS recommendation.
305		VOTE: 6-0 EXCUSED: 1 - Burdick
	Chair Tarno	Hearing no objection, declares the motion CARRIED. SEN. NELSON will lead discussion on the floor.
	Chair Tarno	Closes work session on HB 2095, opens work session on SB 632.
<u>SB 632 WORK SESSION</u>		
334	Mark Volmert	Committee Administrator, gives background on SB 632.
362	Chair Tarno	Says we need to look at amendments.
366	Don Schellenberg	Oregon Farm Bureau, says concern is in mapping secondary lands Farm Bureau does not agree with the definition of secondary lands. SB 632 does not differentiate from good range land and bad range land. Farm Bureau's definition is if the land can produce 75 percent of the county average wheat yield for dry land, it is not secondary land. Forage land definition is if the range land can produce 50 percent of the average forage production of the county, it should not be secondary land. Refers to page 1 of the -2 amendments, lines 19 through 23. (EXHIBIT C)
390	Sen. Ferrioli	Asks about soil classification in eastern Oregon; -2 amendments are a compromise to meet eastern Oregon needs; says the -3 amendments are good also. (EXHIBIT D)
410	Larry George	Oregonians in Action (OIA), discusses the -3 amendments.
<u>TAPE 87, A</u>		
009	George	Essentially -3 amendments are same as -1 amendments with a few changes. The -3 amendments identify and map land classifications. Supports the -3 amendments;
022	Chair Tarno	Asks about the -2 amendments.
030	George	Says next session will have to deal more with these issues. Wants the mapping issues taken care of; grazing issues can be addressed next session.
044	Sen. Fisher	Asks if -2 and -3 amendments are compatible.
047	George	Says he has not studied the -2 amendments thoroughly; at this time they

		do not support the -2 amendments.
053	Sen. Nelson	Asks about the -3 mapping costs.
064	George	Says the state may do the mapping.
074	Chair Tarno	Asks for questions. Closes public hearing on SB 632, and opens work session on SB 632.
<u>SB 632</u> <u>WORK</u> <u>SESSION</u>		
076	Sen. Ferrioli	MOTION: Moves to ADOPT SB 632-3 amendments dated 5 /7/97.
	Chair Tarno	Hearing no objection, declares the motion CARRIED.
	Sen. Ferrioli	MOTION: Moves SB 632 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.
080	Chair Tarno	Hearing no objection, declares the motion CARRIED. VOTE: 6-0 EXCUSED: 1 - Burdick
085	Chair Tarno	Closes work session on SB 632, and opens work session on SB 1020.
<u>SB 1020</u> <u>WORK</u> <u>SESSION</u>		
090	Sen. Ferrioli	Asks for more time to meet with persons in the SB 1020 working group and discuss issues further. (EXHIBIT E)
101	Chair Tarno	Closes work session on SB 1020, opens public hearing on SB 902.
<u>SB 902</u> <u>PUBLIC</u> <u>HEARING</u>		
156	Larry George	Oregonians in Action (OIA), supports SB 902 which says it is in the state's interest to protect property owners. (EXHIBIT F)
187	Dave Hunnicutt	OIA, supports SB 902 which is a policy statement by the legislature;
223	Hunnicutt	Says compensation for landowners has been discussed extensively.
237	George	Says Governor McCall's "taking" bill is already in legislative history, and a possible consideration.
254	Bob Rindy	Department of Land Conservation and Development (DLCD), says there is concern with SB 902. (EXHIBIT G)
260	Dale Blanton	DLCD, reviews SB 902; does not create a clear direction to LCDC or other agencies to existing actions or future action; some terms in SB 902 are not clearly mandatory or general policy. The primary concern is that

		increased litigation may result. Local governments' interest should be sought. DLCD does not see need for this legislation.
308	Harry Bladow	Citizen, Polk County, says he is a victim of what SB 902 addresses. Due to changes in land use laws and rules he is not able to continue with his plans for land which he purchased 20 years ago.
350	Richard Angstrom	Oregon Concrete & Aggregate Producers Association (OCAPA), says SB 902 will cause much litigation. Discusses Morse Brothers aggregate mining. Discusses litigation problems in his industry. SB 902 has a good idea, but needs some serious changes.
417	Phil Fell	League of Oregon Cities, says policy statement of SB 902 is good. Litigation possibilities are there.
TAPE 86, B		
013	Art Schlack	League of Oregon Cities, explains that the policy statement is a good idea already in practice; the litigation resulting will be great from SB 902.
036	Hunnicutt	Says he does not think the policy statement will generate undue litigation. DLCD, cities, and counties should see what the effect is on the property rights of citizens, and the least restrictive means should be used.
039	Sen. Nelson	Says there are concerns on this bill, and suggests it be brought back with amendments.
040	Chair Tarno	Closes public hearing on SB 902, and opens public hearing on SB 1169.
<u>SB 1169</u> <u>PUBLIC</u> <u>HEARING</u>		
093	Volmert	Gives background on SB 1169, related to siting of dwellings in conjunction with farm use.
129	Harry Bladow	Polk County, describes his experience purchasing property for retirement and not being allowed to build a dwelling without an \$80,000 income from farming the land. Supports SB 1169 as a step in the right direction. (EXHIBIT H)
198	Bob Rindy	DLCD, introduces Ron Eber, Agriculture Land Specialist with DLCD. The \$80,000 test for high value lands is the department's standard currently; for some lands that standard is too high. The second part of SB 1169 is what they are addressing. (EXHIBIT I)
203	Ron Eber	DLCD, discusses farm income determination to get a dwelling; eastern Oregon counties and irrigated lands would differ. An acreage or income threshold is needed to establish rural dwellings on noncommercial farms. At this time they need to evaluate OIA proposal.
245	Eber	Says the language is not clear; no table correlates size with income.
278	Chair Tarno	Comments that the \$80,000 income test cannot be met by many farms.

284	Rindy	Says the census description of a farm or an individual's definition may not be the DLCD definition of a farm.
296	Sen. Kintigh	Comments that small farmers need encouragement.
318	Rindy	Describes how some people start out on a small farm.
324	Chair Tarno	Asks if the farm tax exemptions should be allowed these small farms.
330	Eber	Comments that at one time it was questioned whether small parcels should have a per acre income test for farm deferral.
379	Sen. Fisher	Asks Mr. Bladow about the imposition on his property.
398	Bladow	Says if you can't farm the land and meet the \$80,000 income, and you can't build a dwelling, you can't sell it; feels that SB 1169 is a step in the right direction.
TAPE 87, B		
015	Robert Poulon	Christmas tree farmer since 1984 located at Carus, Oregon; county says he cannot build on the land; property is surrounded by small acreages with dwellings.
063	Poulon	Says Clackamas County told him that a board would decide whether he could build after he met the \$80,000 income test.
100	Chair Tarno	Asks for questions from committee.
110	Chair Tarno	Adjourns meeting at 9:45 AM.

Submitted By, Reviewed By,

Nancy Masee, Mark Volmert,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2095, written testimony, Gail Achterman, 3 pp

B - HB 2095, written testimony, Tom Byler, 32 pp

C - SB 632, -2 amendments, staff, 2 pp

D - SB 632, -3 amendments, staff, 2 pp

E - SB 1020, written testimony, Liz Vanleeuwen, 1 p

F - SB 902, written testimony, Larry George, 1 p

G - SB 902, written testimonoy, Bob Rindy, 1 p

H - SB 1169, written testimony, Harry Bladow, 1 p

I - SB 1169, written testimony, Richard Benner, 1 p
