

SENATE COMMITTEE ON WATER AND LAND USE

May 15, 1997 Hearing Room C

8:00 AM Tapes 93 - 95

**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 870 Work Session

SB 1020 Work Session

SB 962 Public Hearing and Work Session

SB 1072 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 93, A</b>		
004	Chair Tarno	Opens meeting at 8:10 AM, and opens work session on SB 870.
<b><u>SB 870 WORK SESSION</u></b>		
	Sen. Neil	District 27, gives background on SB 870 and -2 amendments.

019	Bryant	<b>(EXHIBIT A)</b>
038	Bryant	Continues presentation on -2 amendments to SB 870, saying they provide a fair balance between concerns raised at previous meeting. Encourages adoption of -2 amendments.
076	Nancy Craven	Attorney for Destination Resorts, asks for questions.
094	Don Schellenberg	Oregon Farm Bureau, says he did not speak at the first meeting due to time limitations. SB 870 is a concern to farmland. He has not seen the -2 amendments yet. Offers amendments to protect cropland. Supports three-mile buffer between resorts and farmland. Asks committee to adopt Farm Bureau's amendments. <b>(EXHIBIT B)</b>
150	Sen. Kintigh	Asks if there are restrictions to resort dwellers related to the right to farm.
159	Sen. Bryant	Says yes, the resort dwellers are informed of the right to farm laws.
165	Chair Tarno	Asks if there is any more discussion on SB 870.
167	<b>Sen. Nelson</b>	<b>MOTION: Moves to ADOPT SB 870-2 amendments dated 5/14/97.</b>
168	<b>Chair Tarno</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
169	<b>Sen. Nelson</b>	<b>MOTION: Moves SB 870 to the floor with a DO PASS AS AMENDED recommendation.</b>
170		<b>VOTE: 4-1</b> <b>AYE: 4 - Fisher, Kintigh, Nelson, Tarno</b> <b>NAY: 1 - Wilde</b> <b>EXCUSED: 2 - Burdick, Ferrioli</b>
<b>Chair Tarno</b> <b>The motion CARRIES.</b>  <b>SEN. BRYANT</b> <b>will lead discussion on the floor.</b>		
	Chair Tarno	Closes work session on SB 870, and opens public hearing on SB 1072.
<b><u>SB 1072</u></b> <b><u>PUBLIC</u></b> <b><u>HEARING</u></b>		
171	Mark Volmert	Committee Administrator, gives background on SB 1072. Oregon Petroleum Marketers Association (OPMA) and Department of Environmental Quality (DEQ) have offered amendments.
		Oregon Petroleum Marketers Association (OPMA), gives

190	Brian Boe	presentation on the importance of SB 1072.
231	Christopher Wohlers	Wohlers Environmental Services Inc., supports SB 1072, discusses impact of SB 1072; cost to upgrade a station varies between \$100,00 to \$500,000; SB 1072 identifies sites with low risk <b>(EXHIBIT C)</b> * vapor release * soils impacted * ground water low risk
392	Chair Tarno	Asks if the low risk criteria are accepted generally.
397	Wohlers	Responds that they are.
410	Sen. Kintigh	Asks if natural process will work but is slower.
<b>TAPE 94,A</b>		
016	Boe	SB 1072 purpose is to bring the three low risk criteria into legislation. Discusses DEQ's position and that these standards need to be in statute.
084	Chair Tarno	Asks if Oregon could establish a trust fund with industry and state.
103	Boe	Says they have been unable to overcome the constitutional restriction on the use of money levied on petroleum products. Asks that the amendments be included in the bill.
113	Sen. Kintigh	Asks how the determinations on water and soil distribution of petroleum are made.
124	Sen. Fisher	Asks about DEQ standards.
131	Wohlers	Says Oregon tends to have higher standards than the federal government requires.
142	Carl Hutchens	ARCO Products, supports SB 1072; discusses soil and ground water remediation efforts. Ground water is analyzed for benzene; says natural attenuation of soil and water takes place over time. Discusses 23 service station sites in Oregon. <b>(EXHIBIT D)</b>
223	Larry Duckett	Truax, discusses efforts to clear up sites and expense involved; gives example of Tualatin remediation project and the cost involved.
283	Langdon Marsh	Department of Environmental Quality (DEQ), discusses the agency's stand on SB 1072; clean up decisions are not fully protective. Risk of double standard due to last session's clean up laws; offers -5 amendments to work with proponents of SB 1072. <b>(EXHIBIT E)</b>
380	Sen. Fisher	Says that DEQ has been too slow in addressing this issue.
388	Marsh	Says that during the 1995 legislature regulations were adopted and pursued by DEQ.
<b>TAPE 93, B</b>		
023	Mary Wall	DEQ, says they are working on the clean up law; says that one-third of sites are being cleaned up.

036	Sen. Fisher	Says this is different from the testimony heard.
040	Wall	Says cleanups are expensive and difficult.
095	Sen. Wilde	Asks if numerical standards are in place in other states.
101	Mike Kortenhoff	DEQ, responds that numbers differ in the states that have them in place.
108	Sen. Wilde	Says that the -5 amendments indicate that the department is not following what is going on.
119	Marsh	Says that statutes are directed to reduce risk to people and species. DEQ concern is the numbers of situations that are not adequately protected.
149	Mike Sherlock	Oregon Gasoline Dealers Association (OGDA), supports SB 1072; many small independent dealers are being driven out of business by all of the requirements unnecessarily imposed by government. SB 1072 allows DEQ to intervene if there is inappropriate action.
230	Randy Tucker	Oregon State Public Interest Research Group (OSPIRG), involved in previous sessions' legislation on this issue; opposes SB 1072 due to lack of standards and other unaddressed issues.
323	Sen. Fisher	Asks where OSPIRG was in 1993 and 1995.
339	Tucker	Says in 1995 they worked on the clean up law.
	Mark Volmert	Describes what the different amendments do to SB 1072.
<b>TAPE 94,B</b>		
008	Chair Tarno	Closes public hearing on SB 1072, and opens work session on SB 1072.
<b>SB 1072 WORK SESSION</b>		
	<b>Sen. Kintigh</b>	<b>MOTION: Moves to ADOPT SB 1072-1 amendments dated 4/21/97.</b>
	<b>Chair Tarno</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
	<b>Sen. Wilde</b>	<b>MOTION: Moves to ADOPT SB 1072-4 amendments dated 5/13/97.</b>
	<b>Chair Tarno</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
	<b>Sen. Kintigh</b>	<b>MOTION: Moves SB 1072 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 6-1</b> <b>AYE: 6 - Ferrioli, Fisher, Kintigh, Nelson, Wilde, Tarno</b> <b>NAY: 1 - Burdick</b>
	<b>Chair Tarno</b>	<b>The motion CARRIES.</b> <b>SEN. FISHER will lead discussion on the floor.</b>

065	Chair Tarno	Closes work session on SB 1072, and opens public hearing on SB 962.
<b><u>SB 962 PUBLIC HEARING</u></b>		
071	Scott Ashcom	Oregon Nurserymen Association; discusses the -1 amendments.
086	Martha Pagel	Water Resources Department, supports amendments as discussed by Mr. Ashcom.
094	Sen. Fisher	Asks about the appropriation.
097	Pagel	Says the impact is approximately \$170,000.
100	Ashcom	Says the sunset is needed.
107	Chair Tarno	Closes public hearing on SB 962, and opens work session on SB 962.
<b><u>SB 962 WORK SESSION</u></b>		
120	Sen. Kintigh	<b>MOTION: Moves to ADOPT SB 962-1 amendments dated 5/12/97.</b>
125	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b>
127	Sen. Kintigh	<b>MOTION: Moves SB 962 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.</b>
		<b>VOTE: 7-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b>
134	Chair Tarno	<b>The motion CARRIES.</b>
136	Chair Tarno	Closes work session on SB 962, and opens work session on SB 1020.
<b><u>SB 1020 WORK SESSION</u></b>		
138	Phil Ward	Department of Agriculture (DOA), discusses potential amendment language that the DOA is comfortable with. Sen. Ferrioli is providing these amendments.
152	Chair Tarno	Says they are recessing until 5:00 PM when they will continue this bill; hopefully Legislative Counsel form will be available then.
180	Chair Tarno	Recesses meeting at 9:35 AM until 5:00 PM.
<b><u>TAPE 95,A</u></b>		
001	Chair Tarno	Reconvenes meeting at 5:15 PM.
005	Sen. Burdick	<b>MOTION: Moves to SUSPEND the rules for the purpose of voting no on SB 870.</b>
006	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b>
007	Sen. Ferrioli	<b>MOTION: Moves to SUSPEND the rules for the purpose of</b>

		<b>voting yes on SB 870.</b>
008	<b>Chair Tarno</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
010	Chair Tarno	Reopens work session on SB 1020
<b><u>SB 1020 Work Session</u></b>		
021	Sen. Ferrioli	Discusses with Phil Ward, Department of Agriculture (DOA), what is a program of notification.
037	Ward	Says it is a legitimate process that attempts to notify all the landowners in the water quality management area that a water management program is in place.
048	Sen. Ferrioli	Asks how this communication would be accomplished.
054	Ward	Agrees with Sen. Ferrioli's communication plans.
058	Sen. Ferrioli	Asks if notification by mail is a way.
060	Ward	Says this would be one of the most credible ways.
063	Sen. Ferrioli	Questions the process of notification.
085	Ward	Says that SB 1020-2 is the same type of notification already in ORS 568.921.
093	Sen. Ferrioli	Asks if this would be through administrative rules.
097	Ward	Says that is how they would administer the notification.
	<b>Sen. Ferrioli</b>	<b>MOTION: Moves to ADOPT SB 1020-2 amendments dated 5/14/97.</b>
110	<b>Chair Tarno</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
112	<b>Sen. Ferrioli</b>	<b>MOTION: Moves SB 1020 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 6-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 - Fisher</b>
115	<b>Chair Tarno</b>	<b>The motion CARRIES.</b>
		<b>SEN. FERRIOLI will lead discussion on the floor.</b>
116	Chair Tarno	Closes work session on SB 1020. Adjourns morning agenda and proceeds with evening agenda at 5:38 PM.

Submitted By, Reviewed By,

Nancy Masee, Mark Volmert,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A - SB 870, -2 amendments, staff, 14 pp**

**B - SB 870, written testimony, Don Schellenberg, 3 pp**

**C - SB 1072, written testimony, Christopher Wohlers, 6 pp**

**D - SB 1072, written testimony, Charles Hutchens, 2 pp**

**E - SB 1072, written testimony, Langdon Marsh, 3 pp**

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SENATE COMMITTEE ON WATER AND LAND USE

May 15, 1997 Hearing Room E

5:00 PM Tapes 96 - 97

**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 1140 Work Session

SB 1160 Work Session

HB 2898 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.

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 96, A</b>		
010	Chair Tarno	Calls meeting to order at 5:27 PM, and opens public hearing on HB 2898.
<b><u>HB 2898</u></b> <b><u>PUBLIC</u></b> <b><u>HEARING</u></b>		

033	John Garren	National Organization for Rivers, opposes HB 2898; describes rules and regulations already in place. <b>(EXHIBIT A)</b>
059	Stephen Penner	Peoria, Oregon, Linn County, opposes HB 2898. Comments on -2 amendments. Comments on public trust doctrine. HB 2898 will not hold up in courts.
156	John Colburn	Oregon Council of Fly Fishers, opposes HB 2898. Says these issues are already dealt with by other regulations. <b>(EXHIBIT B)</b>
194	Larry Beaver	Association of NW Steelheaders, opposes HB 2898. Rights of river users need to be maintained. Says SB 1140 and SB 1160 are also opposed. The courts will not uphold these bills which are breaking of the public trust. <b>(EXHIBIT C)</b>
257	Gary Benson	Association of NW Steelheaders, agrees with the last two presenters. Says the legislature can solve the issues by not supporting landowners rights but by following the beach bill policy which allows easement to the public.
289	Benson	HB 2898-A could be supported with some changes.
295	Sen. Fisher	Says the state and counties have assessed some deeded ownerships, and asks if they should be compensated.
308	Benson	Says they want an easement provided, and are not disputing ownership.
313	Greg Leo	Citizen, says if SB 1140 is not passed, then HB 2898 would be all right. Suggests HB 2898 should be amended and become an interim committee issue. Says federal courts are unpredictable. Supports SB 1140-3. <b>(EXHIBIT D, E)</b>
364	Sen. Nelson	Asks about Montana law on this issue.
368	Leo	Says implementation of Montana plan has not been wholly accepted by the Montana legislature. It is highly controversial.
375	Chair	Closes public hearing on HB 2898; opens work session on HB 2898.
<b><u>HB 2898 WORK SESSION</u></b>		
389	Sen. Ferrioli	<b>MOTION: Moves HB 2898 to the floor WITHOUT RECOMMENDATION to passage and BE REFERRED TO THE COMMITTEE ON RULES.</b>  <b>Hearing no objection, declares the motion CARRIED.</b>
390	Chair Tarno	Closes work session on HB 2898 and opens work session on SB 1140 and SB 1160.
<b><u>SB 1140 AND SB 1160 WORK SESSION</u></b>		
<b><u>TAPE 97, A</u></b>		
042	Volmert	Gives background on amendments to SB 1140 and SB 1160.

045	Chair Tarno	Asks if both bills can be handled together.
049	Sen. Ferrioli	Says that SB 1140 and SB 1160 are combined by the -3 amendments, and that he and Sen. Nelson agree that SB 1140-3 should be moved on .
058	Chair Tarno	Comments on the issues in these bills. The issues of private property ownership and public use both wish to be protected. Says the -3 amendments of SB 1140 are workable.
	Sen. Ferrioli	<b>MOTION: Moves to ADOPT SB 1140-3 amendments dated 5/15/97.</b>
	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b>
093	Sen. Ferrioli	<b>MOTION: Moves SB 1140 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-2</b>  <b>AYE: 5 - Ferrioli, Fisher, Kintigh, Nelson, Tarno</b>  <b>NAY: 2 - Burdick, Wilde</b>
096	Chair Tarno	<b>The motion CARRIES.</b>  <b>SEN. FERRIOLI will lead discussion on the floor.</b>

097 Chair Tarno Closes work session on SB 1140 and SB 1160 and adjourns meeting at 6:00 PM.

Submitted By, Reviewed By,

Nancy Masee, Mark Volmert,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A - HB 2898, written testimony, John Garren, 1 p**

**B - HB 2898, written testimony, John Colburn, 6 pp**

**C - HB 2898, written testimony, Larry Beaver, 2 pp**

**D - SB 1140, written testimony, Greg Leo, 1 p**

**E - SB 1140, -3 amendments, staff, 14 pp**

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