SENATE COMMITTEE ON WATER AND LAND USE

May 22, 1997 Hearing Room C

8:00 AM Tape 102-103

MEMBERS PRESENT:

Sen. Veral Tarno, Chair

Sen. Bob Kintigh, Vice-Chair

Sen. Bill Fisher

Sen. David Nelson

Sen. Thomas Wilde

MEMBER EXCUSED: Sen. Ginny Burdick

Sen. Ted Ferrioli

STAFF PRESENT:

Mark Volmert, Administrator

Nancy Massee, Administrative Support

MEASURE/ISSUES HEARD:

SB 560 Public Hearing

HB 3523 Public Hearing and Work Session

HB 2144 Public Hearing and Work Session

HB 2515 Public Hearing and Work Session

HB 2006 Public Hearing and Work Session

These minutes are in compliance with Senate and House Rules. <u>Only text enclosed in quotation</u> <u>marks reports a speaker's exact words.</u> For complete contents, please refer to the tapes.

Tape/#	Speaker	Comments
TAPE 102, A		
005	Chair Tarno	Opens meeting at 8:07 AM, and opens public hearing on SB 560.

190	Chair Tarno	Closes work session on HB 3523; opens public hearing on HB 2144.
		SEN. KINTIGH will lead discussion on the floor.
185	Chair Tarno	The motion CARRIES.
		VOTE: 5-0 EXCUSED: 2 - Burdick, Ferrioli
182	Sen. Kintigh	MOTION: Moves HB 3523 be sent to the floor with a BE ADOPTED recommendation.
<u>HB 3523</u> WORK SESSION		
180	Chair Tarno	Closes public hearing on HB 3523, and opens work sesison on HB 3523.
167	Pagel	Says it is now set aside, then in 5 to 10 years when a developer wants water rights, they are able to receive a priority date. Allows meeting permit requirements in the future.
157	Sen. Kintigh	Asks about unappropriated water.
HEARING 145	Martha Pagel	Water Resources Department, gives background on HB 3523 (EXHIBIT B).
<u>HB 3523</u> PUBLIC		
135	Chair Tarno	Closes public hearing on SB 560, opens public hearing on HB 3523.
117	Sen. Yih	Says that farmers need supplemental income, and should be allowed to park their work trucks on their land.
088	Sen. Fisher	Says that there are rules that make no sense; some folks park trucks all over and are taking advantage of land use regulations.
072	Chair Tarno	Says the concern is that other kinds of rigs such as log trucks could start parking trucks on exclusive farm use (EFU) zoned land. If one is allowed, then others will come in expecting the same.
031	Ken Powell	Chip truck owner, Crabtree, Oregon. Says the present law prevents chip trucks from parking on farmland or forestland. SB 560 would allow chip trucks to be parked on their land in connection with their business. (EXHIBIT A)
015	Sen. Mae Yih	District 19, gives background on SB 560.
<u>SB 560</u> <u>PUBLIC</u> HEARING		

<u>HB 2144</u> PUBLIC HEARING		
215	Ken Armstrong	Oregon Public Ports Association, gives background on HB 2144. Explains needs of maintenance dredging.
234	Keith Leavitt	Oregon Economic Development, Department of Ports, explains National Marine Fisheries Service (NMFS) dredging policies.
256	Sen. Fisher	Asks about Port of Portland serving the larger vessels.
263	Leavitt	Says deeper drafts are needed in Coos Bay and on lower Columbia River sponsored by the Port of Portland.
278	Sen. Fisher	Asks how long it will take to do the deepening.
281	Leavitt	Says about two years after the planning study is finished. It is a 20-year project.
290	Sen. Kintigh	Asks if dredging is needed during that time.
294	Leavitt	Says maintenance is an ongoing process.
314	Armstrong	Says the Ports Advisory Council supports this bill. There are five ports represented on the council.
320	Chair Tarno	Closes public hearing; opens work session on HB 2144.
<u>WORK</u> SESSION 322	Sen. Fisher	MOTION: Moves HB 2144 to the floor with a DO PASS
		recommendation. VOTE: 5-0
		EXCUSED: 2 - Burdick, Ferrioli
	Chair	The motion CARRIES.
325	Tarno	SEN. FISHER will lead discussion on the floor.
326	Chair Tarno	Closes work session on HB 2144, and opens public hearing on HB 2515.
HB 2515 PUBLIC HEARING		
	Dave	Oregonians in Action (OIA) gives background on HB 2515. (EXHIBIT
003	Hunnicutt	C)
003		C) Continues presentation on HB 2515.

096		Asks about the case.
100	Rep. Fahey	Responds that the owner was unable to get loans.
103	Sen. Fisher	Relates personal experience of having property taken.
129	Rep. Fahey	Says the perception of government by citizens is that the government makes the rules and citizens have little to say.
147	Art Schlack	League of Oregon Cities. Explains notification system to citizens on land use changes. Supports the -10 amendments. (EXHIBIT D)
200	Sen. Kintigh	Under the subscription proposal says that the person has to subscribe to be sure that they are informed.
209	Schlack	Says that is correct. At tax time they would subscribe. This is for legislative notification.
221	Christine Cook	1000 Friends of Oregon. Says the group was actively involved. Supports the notification process. Opposes the -11 amendments which limit the notice. (EXHIBIT E)
259	Cook	Says amendments that limit such as the -11 would not be supported.
272		League of Oregon Cities. Supports Schlack's testimony. Notice should be provided. Local government approves the subscription with a nominal fee. Supports the amendments.
315	Sen. Fisher	Asks what the citizens are to do to be notified.
326	Fell	Says that it varies for jurisdictions. Some notify, others do not.
330	Chair Tarno	Closes public hearing on HB 2515; opens work session on HB 2515.
342		Says that the -12 amendments would allow financing of notification. Says that charging a subscription fee to notify citizens is not supported. (EXHIBIT F)
390		Says Legislative Counsel has worked on amendments for HB 2515. The -10 and -11 amendments need to include language in conceptual amendment form.
TAPE 102,		
023	Sen. Wilde	Asks about -11 amendments, page 3 and page 5.
035	Hunnicutt	Says substantive is included so that procedural processes will not be addressed in the bill.
057	Hunnicutt	Says they have tried to make the notification process as inexpensive as possible.
067	Sen. Fisher	Comments on putting a golf course next to an orchard. Asks what the notification process is on this.
074	Hunnicutt	Says that the owners of the golf course have to notify the surrounding landowners.
088	Sen. Wilde	Says in north Portland they do not have to notify citizens.
	Chair	Asks the committee's opinions on the different amendments. Department

094	Tarno	of Land Conservation and Development (DLCD) submits (EXHIBIT G) in opposition to HB 2515.
116	Hunnicutt	Says Chris Crean and he discussed the issue of court decisions and recommended the addition of language on page 3, line 20 of the A-Engrossed bill.
130	Chair Tarno	Closes public hearing on HB 2515, and opens work session on HB 2515.
HB 2515 WORK SESSION		
132	Sen. Kintigh	MOTION: Moves to ADOPT HB 2515A-11 amendments dated 5/20/97.
		VOTE: 4-1
		AYE: 4 - Fisher, Kintigh, Wilde, Tarno
		NAY: 1 - Nelson
		EXCUSED: 2 - Burdick, Ferrioli
140	Chair Tarno	The motion CARRIES.
141	Sen. Kintigh	MOTION: Moves to ADOPT HB 2515-12 amendments dated 05/22/97.
144	Chair Tarno	VOTE: 4-1 AYE: 4 - Fisher, Kintigh, Wilde, Tarno NAY: 1 - Nelson EXCUSED: 2 - Burdick, Ferrioli
146	Chair Tarno	The motion CARRIES.
148	Sen. Kintigh	MOTION: Moves to AMEND HB 2515A on page 3, lines 20 through 25. (See EXHIBIT M for hand engrossed wording)
		VOTE: 4-1
		AYE: 4 - Fisher, Kintigh, Wilde, Tarno
		NAY: 1 - Nelson
		EXCUSED: 2 - Burdick, Ferrioli
150	Chair Tarno	The motion CARRIES.
151	Sen.	MOTION: Moves HB 2515A to the floor with a DO PASS AS

	Kintigh	AMENDED recommendation.	
		VOTE: 4-1	
		AYE: 4 - Fisher, Kintigh, Wilde, Tarno	
		NAY: 1 - Nelson	
		EXCUSED: 2 - Burdick, Ferrioli	
	Chair	The motion CARRIES.	
156	Tarno	SEN. TARNO will lead discussion on the floor.	
159	Chair Tarno	Closes work session on HB 2515, and opens public hearing on HB 2006.	
HB 2006			
<u>PUBLIC</u> HEARING			
200	Art Schlack	Association of Oregon Counties (AOC), supports HB 2006. Says this bill applies to counties. League of Cities is working with the House Energy and Environment Committee on a similar proposal. HB 2006 makes two changes to ORS 215.428. (EXHIBIT H)	
237	Schlack	Says HB 2006 changes the 120 day provision to process applications to 150 days. HB 2006 addresses attorney fees to the Circuit Court Writ of Review. Currently the courts have no guidance in awarding attorney fees.	
290	Roy Burns	Lane County Public Works, supports HB 2006. Gives background on permit processing from his experience. Says the 120 days at present is not adequate. (EXHIBIT I)	
336	Hunnicutt	Oregonians in Action (OIA), does not present a position either way on HB 2006. Questions concerns of viability of this bill. Says the -4 amendments are offered by OIA. The -4 amendments provide that landowners use the Writ of Mandamus process. (EXHIBIT J)	
TAPE 103, B			
017	Jon Chandler	Oregon Building Industry Association (OBIA), opposes SB 2006. Says the need is for the 120 day rule. Says this bill is premature. Washington County's position is to split the decision-making process into steps. Counties can fix their processes to expedite applications.	
060	Richard Angstrom	Oregon Concrete Aggregate Producers Association (OCAPA), concurs with Mr. Chandler's position. Business pays for the delay. Says 120 day rule should be met.	
093	Christine Cook	1000 Friends of Oregon, supports HB 2006. Says the current rule is not functioning. Says more global change would be preferred. Supports the attorney fees position which gives the Circuit Court some direction.	
		(EXHIBIT K)	

145	Sen. Nelson	Agrees that HB 2006 should be worked on some more.
150	Chair Tarno	Recesses at 9:45 AM until 5:00 PM today.
TAPE 104, A		
001	Chair Tarno	Reconvenes meeting at 5:20 PM. Reopens public hearing on HB 2006.
005	Art Schlack	Association of Oregon Counties (AOC), give background on -5 amendments, supports HB 2006. Provides 150 days for processing applications, and aggregate applications would be reviewed within the 120 days. Outside urban growth boundaries would be excluded. A sunset date would be two years. The provision for attorney fees has been taken out. (EXHIBIT L)
034	Sen. Fisher	Asks about -5 amendments and incentive to work on this bill next interim.
040	Schlack	Says the incentives are first, directing the participants to go to the Land Conservation and Development Commission and the Joint Interim Land Use Commission to work together. Second, the sunset date of September 30, 1999, would move them along.
057	Sen. Fisher	Asks what commitments the Land Conservation and Development Commission (LCDC) has made.
054	Schlack	Says he does not know LCDC's commitment.
062	Bob Rindy	Department of Land Conservation and Development (DLCD), says the department will commit to work out legislation to resolve the issues of HB 2006.
076	Chair Tarno	Asks for any more testimony on the -5 amendments; closes public hearing and opens work session on SB 2006.
HB 2006 WORK SESSION		
078	Chair Tarno	Asks for discussion by committee.
077	Sen. Nelson	MOTION: Moves to ADOPT HB 2006A-5 amendments dated 5/22/97.
080	Chair Tarno	Hearing no objection, declares the motion CARRIED.
082	Sen. Nelson	MOTION: Moves SB 2006A to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.
		VOTE: 4-1 AYE: 4 - Fisher, Nelson, Wilde, Tarno

		NAY: 1 - Kintigh
		EXCUSED: 2 - Burdick, Ferrioli
090	Chair Tarno	The motion CARRIES. SEN. NELSON will lead discussion on the floor.
096	Chair Tarno	Closes work session on HB 2006.

Submitted By, Reviewed By,

Nancy Massee, Mark Volmert,

Administrative Support Administrator

EXHIBIT SUMMARY

- A SB 560, written testimony, Ken Powell, 5 pp
- B HB 3523, written testimony, Martha Pagel, 30 pp
- C HB 2515, written testimony, Dave Hunnicutt, 6 pp
- D HB 2515, -10 amendments, staff, 2 pp
- E HB 2515, -11 amendments, staff, 2 pp
- F HB 2515, -12, amendments, staff, 1 p
- G HB 2515, written testimony, staff, 1 p
- H HB 2006, written testimony, Art Schlack, 3 pp
- I HB 2006, written testimony, R. Burns, 3 pp
- J HB 2006, written testimony, Dave Hunnicutt, 2 pp
- K HB 2006, written testimony, Christine Cook, 4 pp
- L HB 2006, -5 amendments, staff, 3 pp
- M HB 2515, conceptual amendment, staff, 2 pp

SENATE COMMITTEE ON WATER AND LAND USE

May 20, 1997 Hearing Room E

5:00 PM Tapes 100 - 101

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 Massee, Administrative Support

MEASURE/ISSUES HEARD:

HB 2605 Public Hearing and Work Session

These minutes are in compliance with Senate and House Rules. <u>Only text enclosed in quotation</u> marks reports a speaker's exact words. For complete contents, please refer to the tapes.

Tape/#	Speaker	Comments
TAPE 100,		
Α		
004	Chair Tarno	Opens meeting at 5:10 PM, and opens public hearing on HB 2605.
HB 2605]	
PUBLIC		
<u>HEARING</u>		
018	Mark Volmert	Committee Administrator, gives background on HB 2605.
038	Rep. Tim	District 2, gives background on HB 2605, including the efforts of the work group which amends airport planning statutes enacted during the 1995 session (SB 1113). It modifies the types of airports subject to Land

	Josi	Conservation and Development Commission (LCDC) rules and local government's plans. (EXHIBIT A)
088	Rep. Josi	Continues explanation of HB 2605. Section 4 deals with airport categories and their uses. Section 3 deals with private and public use airports. There will be an amendment suggested for this section. Section 6 deals with water impoundments. This is to protect from bird hazards.
164	Sen. Kintigh	Asks about the 40,000 foot length in the approach corridor.
176	Rep. Josi	Says that is needed for safety from bird strikes. Ponds, including those created by the aggregate industry, attract birds.
179	Dale Blanton	Department of Land Conservation and Development (DLCD), says the 40,000 feet applies only to airports with instrument approach systems.
189	Chair Tarno	Asks about the -5 amendments.
198	Rod Johnson	Former state senator, explains the -5 amendments. Refers to letters supporting the -5 amendments. (EXHIBITS B, F)
250	Johnson	Says HB 2605 removes a number of airports from SB 1113.
271	Johnson	Describes the airport systems in the state.
308	Chair Tarno	Asks about the amendments.
312	Johnson	Says the House version and the -5 amendments are similar in concept. Population and economic demand cause airport growth. HB 2605 makes airport growth possible.
411	Johnson	Describes uses at airports. Refers to chart on -5 amendments.
TAPE 101,A		
028	Johnson	Continues presentation on HB 2605, explaining the tests to expand uses and growth.
041	Sen. Burdick	Asks if the airports with eight or more planes is the dividing line.
044	Johnson	Explains that HB 2605 is stronger and clearer. Says the aggregate language in HB 2605 is the same as the House bill except for one paragraph which Oregon Concrete and Aggregate Producers Association (OCAPA) agreed to.
056	Chair Tarno	Asks to clarify the amendments, page 8 of the -5 amendments, lines 21 through 26, regarding reasonable growth and how it is defined.
067	Johnson	Says that the last hearing in the House was three weeks ago, and the hand engrossed -5 amendments have been available for a week. Says there is still room for compromise on HB 2605, and an opportunity for agreement.
095	Chair Tarno	Says that time is limited.
104	Dale Blanton	DLCD, policy analyst. Says the commission heard three concerns with the way SB 1113 was written. The list of airports that are required to go through the full planning process, the list of uses, and the authority to

137	Chair Tarno	Asks if the airports will be shut down.
137		
137	Blanton	Says that -5 amendments are not supported by DLCD. Which airports warrant the full planning process on the A-engrossed version is deemed more fair than the -5 amendments.
175	Chair Tarno	Asks about the -5 amendments, page 8, subsection 3, line 21.
178	Blanton	That is the requirements for notice to the FAA. Says DLCD does not see a problem with this.
184	Sen. Josi	Asks Mr. Blanton to go through the -5 amendments.
191	Blanton	Says page 2 makes the changes to the airports. Says the A-Engrossed version is preferred; takes local government out of the planning system and gives individual airports more power. Page 3, lines 25 through 31, this section authorizes the continuation of previously established uses. Page 4, lines 2 through 21, authorizes local government to adopt requirements for the establishment of new airports, and the initiation of new uses at existing airports. Page 4, lines 22 through 27, authorizes the recovery of attorney fees. Page 9, lines 25 through 31, prevents local government from adopting interim regulations regarding airports or airport use.
277	Sen. Fisher	Asks if the -5 amendments are a problem.
274	Rep. Josi	Says there are problems with the -5 amendments.
278	Sen. Fisher	Says there are three places that are minor.
281	Blanton	Says there were six causes for concern with the -5 amendments.
293	Sen. Fisher	Asks where the airport users were when discussions were being held in the House.
304	Rep. Josi	Says the work group could not reach consensus on these issues.
330	Sen. Fisher	Says there was not much effort to include people who know about airports.
352	Rep. Josi	Says that the Port of Portland and others with aviation interests were included. The aviation industry was active in putting in information.
375	Sen. Fisher	Says the May 20 letter from VanHoomison supports the -5 amendments.
393	Sen. Nelson	Asks about smaller airports.
403	Blanton	Says the "right to fly" section covers all small airports reflected in planning and zoning documents.
TAPE 100, B		
027	Sen. Nelson	Asks about the -5 amendments.
032	Blanton	Says there are a number of issues: aggregate, parachuting on farmland. Says types of uses were of concern.
044	Sen. Fisher	Asks that the -5 amendments be accepted.

064	Sen. Ferrioli	the airport. The general public who do not fly do not understand the value of aviation airports.
087	Blanton	Says that there are airports closed by municipalities as an economic liability. Neither HB 2605 nor the -5 amendments will prevent closure. SB 1113 had nothing to prevent private owner or municipality from closing an airport.
108	Art Schlack	Association of Oregon Counties (AOC), supports HB 2605A. Says that requesters of the bill have participated for two years. HB 2605 repeals previous airport planning which was not workable, and ensures private airports will continue to operate under local review. (EXHIBIT D)
158	Richard Angstrom	Oregon Concrete and Aggregate Producers Association (OCAPA), supports HB 2605A; says the overall concept is important and that there is a need to move this bill.
172	Don Schellenberg	Oregon Farm Bureau; supports HB 2605A, and says it is a good compromise bill. Says there are concerns with the -5 amendments as Mr. Blanton stated. (EXHIBIT E)
196	Dave Barenberg	League of Oregon Cities, supports HB 2605A; consider this bill as a good compromise bill.
225	Jon Chandler	Oregon Builders Association, supports HB 2605A. They will review the - 5 amendments.
235	Fred VanNatta	Oregon Association of Realtors, supports HB 2605A. They will review the -5 amendments.
254	Sen. Fisher	Asks about recognition of aeronautics industry.
313	Art Schlack	Says the -7 amendment on page 2, lines 36 through 39, refers to the written enforcement complaint concerning the use that was filed with local government prior to 1987. Says this clarification is needed. Also, the -7 adds an emergency clause.
352	Jim Markee	Sky Dive Oregon, says concern is with HB 2605. Introduces Joe Weber. Says page 2, lines 33 through 39 of A-engrossed bill and the -6 amendments were an attempt to correct this.
TAPE 101, B		
008	Markee	Says the -5 amendments are acceptable.
022	Phillip Groshong	Civil Air Patrol, supports the -5 amendments. Says that local control of airports is a mistake; requirements by the county are at the edge of good operating policy.
034	Mike Marthaller	Says that the City of Albany does not have a way of determining costs and revenues associated with the Albany Airport.
048	Brian Miller	Flight Instructor, Air Force Reserve Pilot; supports the -5 amendments.
070	Evan Boone	Oregon Pilots Association, says he has concerns with the A-Engrossed bill. He addresses the economic concerns of airports. Says the -5 amendments get closer to the economic impact.
103	Sen. Fisher	Says you can teach a pilot, but he could not get solo time because of

		costs.
109	Boone	Asks about the uses that allow survival of the airports and the local government's concern. Says the compromise on the aggregate issue is questionable.
156	Rian Bourgeois	Oregon State Experimental Aircraft Association, opposes HB 2605A; says the bill will economically devastate small airports.
207	Jack Lenhardt	Airport owner of 41 years located three miles east of Hubbard; says since zoning, he cannot build anything. He was on Rep. Josi's work group. Says there are problems with HB 2605A. Says counties have had great control on these airports. Supports -5 amendments.
218	Chair Tarno	Closes public hearing on HB 2605, and opens work sesion on HB 2605.
HB 2605 WORK SESSION		
220	Sen. Fisher	Discusses confusion between "aircraft maintenance" (page 3, line 18) and "aircraft service and sales" (page 3, line 29). Says HB 2605 needs additional work.
225	Sen. Nelson	Says the language in the -5 amendments needs clarification, and expresses concerns with the current language.
229	Chair Tarno	Asks committee if there is anymore discussion on the amendments.
230	Sen. Fisher	MOTION: Moves to ADOPT HB 2605-5 amendments dated 5/16/97.
		VOTE: 5-2 AYE: 5 - Ferrioli, Fisher, Kintigh, Nelson, Tarno NAY: 2 - Burdick, Wilde
226	Chair Tarno	The motion CARRIES.
250	Sen. Fisher	MOTION: Moves HB 2605 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-2
		AYE: 5 - Ferrioli, Fisher, Kintigh, Nelson, Tarno
		NAY: 2 - Burdick, Wilde
254	Chair Tarno	The motion CARRIES.
		SEN. FISHER will lead discussion on the floor.
347	Chair Tarno	Closes work session on HB 2605, and adjourns meeting at 7:00 PM.

Submitted By, Reviewed By,

Nancy Massee, Mark Volmert,

Administrative Support Administrator

EXHIBIT SUMMARY

- A HB 2605, written testimony, Rep. Tim Josi, 2 pp
- B HB 2605, written testimony, Rod Johnson, 6 pp
- C HB 2605, written testimony, Richard Benner, 1 p
- D HB 2605, written testimony, Art Schlack, 3 pp
- E HB 2605, written testimony, Don Schellenberg, 2 pp
- F HB 2605, -5 amendments, staff, 10 pp