

SENATE COMMITTEE ON
WATER & LAND USE

Hearing Room
Tapes - 65

MEMBERS PRESENT:

Sen. Rod Johnson, Chair
Sen. Bob Kintigh, Vice-Chair
Sen. Neil Bryant
Sen. Ron Cease
Sen. Bill Dwyer

STAFF PRESENT:

Karen Quigley, Committee Counsel
Patricia Wehrli, Committee Assistant

MEASURES HEARD: SB 531 WORK SESSION
 SB 600 PUBLIC HEARING

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings,
please refer to the tapes. Do to technical difficulties the tape count
recorded is not precise.

TAPE , SIDE A

04 CHAIR JOHNSON: Convenes the meeting at 1:20 p.m.

OPENS WORK SESSION ON SB 600

CHAIR JOHNSON: Describes the necessity and history of SB 600. Makes
comparisons and references to SB 305.

CLOSES WORK SESSION ON SB 600
OPENS PUBLIC HEARING ON SB 531

Witnesses:

RAY WILKESON, OREGON FOREST INDUSTRY COUNSEL
KELLY CONOVER, WAREHOUSER COMPANY

627 RAY WILKESON, OREGON FOREST INDUSTRY COUNSEL: Testifies in support of SB
531.

730 WILKESON: Discusses the different elements that are addressed by SB
531.

762 KELLY CONOVER, WAREHOUSER COMPANY: Testifies in favor of SB 531.
Addresses appropriate Amendments.

795 SEN. DWYER: Questions if these rules are open to interpretation.
805 CONOVER: Compares the language to that of the Endangered Species Act.
818 SEN. CEASE: Asks for an examples of what would be viewed as type one.
828 CONOVER: The reasons we put that distinction in there is make sure that
there is a window of opportunity available for the board to make decisions.

TAPE 62 SIDE A:

010 CONOVER: Discusses with Sen. Cease the ground two rules, and the
compensation of the government and the availability of funds.
--Discusses with Sen. Cease the ground two rules, the compensation of the
government and availabililty of funds.

046 SEN. CEASE: Refers to the word "dis-incentive." Questions that the
lack of consistency that could cause the government to continue with out
solving a problem.

058 CONOVER: Responds to the local impact and the actions of the board in
regards to incentives.

142 SEN. CEASE: Questions the compensation, regulations and of the
intent of SB 531.

186 CONOVER: Discusses the difficulties that would arise going through
the legislation for an appeal.

188 SEN. CEASE: Questions whether it would create a position where
legislators would consider the lack of finances as being sufficient reason
not to regulate the standards brought forth by this bill.

191 CONOVER: Discusses the possibility of land owners and prepencitory
rules.

195 SEN. DWYER: Asks for a real life experience.

195 CONOVER: This is prospective in nature because there is no rule for
compensation.

--Discusses the current standards that are now available and how owners
should be compensated through SB 531.

199 SEN. DWYER: Where do they get the compensations?

205 CONOVER: From the legislators.
--Explains the focus of the bill to his belief.
--Discusses the type two rule compensations.

209 SEN. DWYER: Why are we using a public resource easement if we're
going to use public money?

211 CONOVER: Explains the non possesory interest in the trees that are
required to be left, if that they do not meet the test.
--Responds to Sen. Cease on his opinion of the role of the legislation
specified by SB 531.

270 Chair Johnson and Sen. Cease discuss the direction of the legislation in
respect to SB 531.

335 CONOVER: Focus on the section three which functions without compensation,
but it also enables another step to enforce another rule of standards.

336 SEN. CEASE: Isn't your main concern to up grade the list of standards?

337 CONOVER: That is correct.
--Testifies on section four of the bill.
--Testifies on section seven.

339 CHAIR JOHNSON: CLOSING PUBLIC HEARING ON SB 531.
OPENS PUBLIC HEARING ON SB 600.

Witnesses:

Paula Burgess, Governors Natural Resources Assistant
Jim Brown, State Forester
Bruce Andrews, Director of the Department of Agriculture
Louis Pitt, Warm Springs Confederation Of Tribes For The State Of Oregon
Jay Minthorn, Confederate Tribes of the Umatilla Indian Reservation
Jeff Van Pelt, Confederate Tribes of the Umatilla Indian

Reservation

Kathryn Harrison, Confederate Tribes of the Grande Ronde Indian Reservation
Judy Gerrard, Concerned Citizen
Howard Paine, Concerned Citizen
William Boyer, Chairman of the Alliance for Responsible land use

in Deschutes County .

Suan Brodie, Oregon Chapter American Planning Association
Leslie Miller, Concerned Citizen
Charles Swindells, Staff Attorney for 1000 Friends of Oregon
John Shaffer, Concerned Citizen
Phillip Johnson, Oregon Shores Conservation Coalition
Margaret Forsythe, Concerned Citizen
Kelly Childress, Concerned Citizen
Amanda Fritz, Concerned Citizen
Ruth Spetter, Concerned Citizen
Bill Moshofsky, Vice President, Governmental Affairs for Oregonians in

Action

Paul Ketcham, Conservation Director of the Audubon Society of

Portland

Michael Carigan, Oregon Peace Works and the Labor Environmental Solidarity

Network

Sally Cross, State Government Affairs Director
Liz Frenkel, Seirra Club

346 PAULA BURGESS, GOVERNORS NATURAL RESOURCES ASSISTANT: Briefs the
committee on the findings of the her department.
--Discusses parts of the bill that she is in agreement with.

TAPE 61 SIDE B

001 BURGESS: Concludes her testimony and discusses briefly the land use
rights of an individual owner with Chair Johnson.

018 BURGESS: In response to Chair Johnson, Ms Burgess states that the
regulation is done for a reason and it may increase the value of life and
the value of the property , and because of this it needs to be factored
in.

025 CHAIR JOHNSON: Neither SB 600 or SB 531 apply to land use regulations.

050 BURGESS: In response to Sen. Bryant Ms Burgess explains her directives on
tax incentives and other goals to compensate people for land taking's.

084 SEN. KINTIGH: Questions the net effect on the general fund, whether
a payment or an incentive have the same effect.

086 BURGESS: That is correct.

087 SEN. DWYER: Why do we have these policies?

090 BURGESS: It is an incentive to get land owners to be good stewards.

094 CHAIR JOHNSON: Questions the level of contribution in compliance to compensation.

096 BURGESS: A basic standard needs to be met, not by a percentage.

106 CHAIR JOHNSON: Gives an example relating to a specific individual who is asked to give up a measurable size of land and questions Ms Burgesses on whether they (the individuals) would be entitled to compensation and who benefits from the taking.

120 BURGESS: Responds by clarifying that the individuals in Chair Johnson's scenario would not be entitled to any compensation in her opinion and it is the public that would benefit from the taking.

140 CHAIR JOHNSON: Suggests another hypothetical situation that could arise that would present a need for compensation.

149 BURGESS: We should use some sort of voluntary means to reach compensation to get to the standards that we are looking for.

153 CHAIR JOHNSON: Questions if the individual in his hypothetical situation was a retired individual with no income that would be devastated financially by being asked to voluntarily give up his land, because tax incentives and so forth would have no bearing on his financial situations.

161 BURGESS: There are incentives being working on that could be available to use, but I don't have any at this time.

181 SEN. DWYER: Is the current system broken?

183 BURGESS: No.

186 SEN. DWYER: Questions the tax benefits.

189 CHAIR JOHNSON: Explains the loss of tax benefits.

201 SEN. DWYER: Isn't that a benefit that the entire community gives to that individual for contributing to the whole of society?

204 CHAIR JOHNSON: However those are irrelevant here, these bills address when the government comes along and takes the land owners ability to make a living off of their own property; it is essential that there is some form of compensation for these individuals so that they can maintain.

208 SEN. DWYER: Explains his views on the 10% issues.

210 CHAIR JOHNSON: That is correct, but the Governors office doesn't agree that even above 10% there should be compensation.

214 JIM BROWN, STATE FORESTER: Testifies in opposition to SB 600. Addresses the nature of SB 600 and SB 531.
--Agrees with Ms Burgess' conclusion of the responsibility of the property owner to uphold the standards of the society with little compensation.

291 CHAIR JOHNSON: Asks for clarifications.

293 BROWN: Explains the different approaches using SB 531 as an example.

TAPE 62 SIDE B

018 CHAIR JOHNSON: Asks for advice on language that could upgrade the clarification of SB 600.

020 BROWN: Expresses his opinions.
--Explains the level that should be addressed as a thresh hold of taking's.

034 CHAIR JOHNSON: Questions about cruising and developing a standard of recognizing the value with out the restrictions.

046 BROWN: That can be done.
--Responds to Sen. Bryant about a green IRA.
--Explains the tax incentive process
--Responds to Sen. Johnson on the Timber Industry in Oregon and how it relates to individuals not being compensated because they have no protection provided by SB 600, and the effect that it has on the state of Oregon's economy.

097 CHAIR JOHNSON: Do you agree that the "eco takes" have an economic impact on not only the individual, but the states economy as well?

102 BROWN: Yes, but a balance needs to be met to up hold the standards of land and its environment.

103 SEN. DWYER: How is the process working now? Is it currently "broken?"

105 BROWN: It's working exceedingly well. In terms of how many times the board has been asked for compensation. We have had a lot of concern from individuals, but on whole the communities have ultimately felt that the board has done a good job of maintaining.

122 SEN. DWYER: Shouldn't there be some method to regulate the taking's?

A small taking could be very devastating to a land owner who only owns a small parcel of property.

126 BROWN: I agree.

130 BRUCE ANDREWS, DIRECTOR OF THE OREGON DEPARTMENT OF AGRICULTURE:
Testifies in opposition to the present form of SB 600 and encourages voluntary approach.

--Explains the responsibility of the land owners.
--Concludes his testimony by suggesting the opportunity for change and cooperation needs to be addressed.

190 LOUIS PITT, WARM SPRING CONFEDERATED TRIBES OF OREGON: Testifies in Opposition to SB 600. (See Exhibit C)

274 JAY MINTHORN, CONFEDERATE TRIBES OF THE UMATILLA INDIAN RESERVATION:
Testifies in opposition to SB 600. (See Exhibit D)

TAPE 63 SIDE A

003 MINTHORN: Continues his testimony in Opposition to SB 600, reading his testimony provided in Exhibit D.

056 CHAIR JOHNSON: Questions the bills impact on the tribes rights to harvest resources from private lands.

069 JEFF VAN PELT, CONFEDERATE TRIBES OF THE UMATILLA INDIAN RESERVATION:

--The treaty provides the tribes the ability to cross lands to harvest fish and any restrictions placed on the lands to inhibit the tribes from harvesting the fish is in direct violation to the rights specified in the treaty.

077 CHAIR JOHNSON: Explains that the rights granted under the treaty is a federal law which takes precedence over any state law. SB 600 would not effect the rights provided to the tribes by their treaty.

088 Explains how the tribes should be sensitive to those whom SB 600 would be protecting from the taking with out compensation of private lands, by the government.

097 VAN PELT: Expresses his concerns about the cost that will occur by managing SB 600.

100 CHAIR JOHNSON: Questions about the Winans Case and the rights of the tribes.

119 VAN PELT: Explains
--Responds to the questions of how the lands are managed. Directing the responsibility of the individuals for maintaining the standard of the lands.

136 CHAIR JOHNSON: Discusses with Van Pelt the status of the current land and the authority that the tribes have over private lands.

148 KATHYRN HARRISON, VICE CHAIR OF THE CONFEDERATE TRIBES OF GRANDE RONDE:

ED LARSON, ED PEIRCSOL, BOB HALLOR, MIKE MEASON: COUNSEL FOR THE CONFEDERATE TRIBE: Testifies in opposition to SB 600.

--The Confederate tribes of Grande Ronde can not support SB 600 unless the archeological aspects of their ancestries are protected.

196 CHAIR JOHNSON: Ask if the other tribes would be able to support SB 600 if a protection was granted to their ancestral remains.

198 VAN PELT: Not Umatilla.

199 PITT: Not Warm Springs.

201 VAN PELT: Our position is to protect the natural resources granted to us by our treaty rights.

We do agree that the Ancestral remains do need to be protected.

206 CHAIR JOHNSON: Asks if the tribes counsel could send him a letter further explaining the treaty rights and how they are attacked by SB 600.

--Also ask for a statement that helps him understand the current laws of the tribes and their control of lands off of the reservation.

224 SEN. CEASE: If the State tries to take property that is off of the reservation that is protected under the treaty rights, is it my understanding that no one is entitled to compensation?

232 VAN PELT: The treaty rights are protected under Federal laws. If land practices are not managed to keep the wild life up to the standard, then you are jeopardizing our treaty rights.

254 MINTHRON: We look towards coopertive management to work together. Most issues can be worked out cooperatively.

268 CHAIR JOHNSON: Recesses the Public Hearing for five minutes.

279 JUDY GERRARD, CITIZEN: Testifies in opposition to SB 600.

TAPE 64 SIDE A

010 Continues testimony. (See Exhibit F)

040 HOWARD PAINE: Testifies in opposition to SB 600. (See Exhibit G.)

081 CHAIR JOHNSON: Directs Mr. Paine's attention to section 10 of SB 600 and explains how it addresses his concerns that he testified about.

081 PAINE: Questions where the money is going to come from, to pay for the compensation.

082 CHAIR JOHNSON: Explains section 10 and the money aspect of the bill.

087 WILLIAM BOYER, CHAIRMAN OF THE ALLIANCE FOR RESPONSIBLE LAND USE IN DESCHUTES COUNTY: Testifies in opposition to SB 600.

098 CHAIR JOHNSON: Explains the increase of property value in respect to compensation.

101 BOYER: Continues to read testimony. (See Exhibit H.)

124 SUSAN BRODIE OREGON CHAPTER, AMERICAN PLANNING ASSOCIATION: Testifies in opposition to SB 600.

168 CHAIR JOHNSON: Reads page two of SB 600, line 25 which explains the mandating of "eco takes."

180 BRODIE: Questions who will pay for the local government eco takes and the long waiting period that SB 600 sets up.

184 CHAIR JOHNSON: Explains amendments that he is addressing for SB 600.

196 BORDIE: Questions if a local government proposes something (that is addressed under this issue) what happens to the local process.

213 CHAIR JOHNSON: This bill doesn't address that, but it is something that we need to work on.

--Questions the part of her testimony that states that this bill is too expensive, what compensation and consideration does she want to provide for

the individuals and the compassion that she would have for these individuals that believe that SB 600 is indeed necessary.

232 BRODIE: Explains.

235 CHAIR JOHNSON: If the current courts would allow the government to take 80% of an individuals property with out giving them a dime of compensation, would you agree from their perspective that this is necessary.

--You testified that the courts already protect individuals for the "evil that we are trying to kill here." So if people are not protected, do you think this bill would be necessary?

254 BRODIE: Not necessarily through state legislation.

255 LESLIE MILLER: Testifies in opposition to SB 600.

TAPE 63 SIDE B

013 CHAIR JOHNSON: Expresses his concerns of the financial aspects of SB 600.

--Explains the budget process of the legislation process.

015 SEN. DWYER: Expresses his concerns of the legislation's ability of budgeting money.

026 CHAIR JOHNSON: Explains the budgeting process.

027 MILLER: States that the problem he feels with SB 600 is that the legislation ties the compensation of the taking's to the government with out first budgeting for the taking's.

031 CHAIR JOHNSON: Explains the importance of the bill and the cost to the individuals.

051 CHARLES SWINDELLS, STAFF ATTORNEY FOR 1000 FRIENDS OF OREGON:
Testifies in opposition to SB 600. (See Exhibit K)

--Explains the ambiguity of SB 600 in concerns of the wide spectrum of actual taking's that occur in Oregon and how the impact of compensating all

the little taking's that occur on a constant basis would over burden the budget.

077 CHAIR JOHNSON: This bill only addresses future regulations.

079 SWINDELLS: Under the land use program and every other land use law in this state when laws are amended and new regulations replace existing current regulations, I am certain these would fall under this bill.

082 CHAIR JOHNSON: Refers Mr. Swindells back to the language of SB 600.

086 SWINDELLS: Continues testimony.

138 JOHN SHAFFER: Testifies in opposition to SB 600. (See Exhibit L)

170 PHILLIP JOHNSON, OREGON SHORES CONSERVATION COALITION: Testifies in opposition to SB 600. (See Exhibit M)

214 CHAIR JOHNSON: Explains that the bill gives the state and the counties the option to either impose restrictions, or not to.

218 JOHNSON: Continues testimony.

250 MARGARET FORSYTHE: Testifies in opposition to SB 600. (See Exhibit N)

337 KELLY CHILDRESS: Testifies in opposition to SB 600.

367 CHAIR JOHNSON: Explains that the issues that Ms. Childress is expressing is not covered in SB 600.

367 CHILDRESS: Once something like this starts, where does it end.
Continues with testimony.

406 AMANDA FRITZ: Testifies in opposition to SB 600.

TAPE 64 SIDE B

006 FRITZ: Supports testimony by showing photographs to the committee members.

030 CHAIR JOHNSON: Explains that there is no money budgeted for this bill, hence it has no financial impact in consideration of competition for funds with the schools.

035 SEN. DWYER: Explains his frustration of the lack of process for paying for bills such as SB 600.

044 RUTH SPETTER: Testifies in opposition to SB 600.

059 CHAIR JOHNSON: Asks for language suggestions that she might have to solve the unclear issues addressed by SB 600.

060 SPETTER: I can get it to you. Continues with her testimony.

125 CHAIR JOHNSON: Asks for written testimony from Ms. Spetter.

142 BILL MOSHOFSKY, VICE PRESIDENT, GOVERNMENTAL AFFAIRS FOR OREGONIANS IN ACTION: Testifies in support of SB 600.
--Continues his testimony (SEE Exhibit O)

224 SEN. DWYER: Why are we excluding fish?

234 MOSHOFSKY: Waters of the states include the streams and the rivers, where the fish live and the public have a right to protect those.

243 SEN. DWYER: What about the other bills that require compensation to the timber agencies, that effects the fish, does it not?

250 MOSHOFSKY: Well we have a problem with that. We want to take it out of the eco take bill and leave it into the eco take bills.

272 PAUL KETCHAM, CONSERVATION DIRECTOR OF THE AUDUBON SOCIETY OF PORTLAND:
Testifies in opposition to SB 600. (See Exhibit P)

321 MICHAEL CARLSON, AUDUBON SOCIETY OF PORTLAND: Testifies in opposition to SB 600. (See Exhibit P)

373 CARLSON: Continues testimony. (See Exhibit P)

TAPE 65 SIDE A

390 MICHAEL CARIGAN, OREGON PEACE WORKS AND THE LABOR ENVIRONMENTAL SOLIDARITY NETWORK: Testifies in opposition of SB 600. (See Exhibit Q)

02 CHAIR JOHNSON: Explains how the current situation benefits a few and the passage of SB 600 would benefit many.
--Discusses the future events of the committee with Liz Frenkel of the Sierra Club

042 SALLY CROSS, STATE GOVERNMENT AFFAIRS DIRECTOR: Testifies in opposition to SB 600. (See Exhibit R)

084 LIZ FRENKEL, SIERRA CLUB: Testifies in opposition to SB 600.

110 CHAIR JOHNSON: Quotes from page two of Charles Swindells testimony on governmental regulation and the courts opinion on "Governmental Taking's."

126 CHAIR JOHNSON: CLOSES THE PUBLIC HEARING ON SB 600
OPENS THE PUBLIC HEARING ON SB 531

Witnesses:
Liz Frenkel, Serra Club
Wayne Giesy, Concerned Citizen
Paul Ketcham, Portland Audubon Society

129 LIZ FRENKEL, SIERRA CLUB: Gives reference to her testimony on SB 600

(See Exhibit R)

138 WAYNE GIESY: Testifies in support to SB 531. (See Exhibit S)

188 Continues his testimony.

197 PAUL KETCHAM, PORTLAND AUDUBON SOCIETY: Testifies in opposition to SB
531.
--Expresses his concerns on how the bring up the levels to a current level.

270 CHAIR JOHNSON: Explains his position.

276 KETCHAM: This law will never be a reality because it has to compete
with more needed resources.

285 CHAIR JOHNSON: If they don't want to pay for what they support, then
it isn't that important to them.

292 KETCHAM: Its a very exhausting act and process.

302 CHAIR JOHNSON: The meeting is adjourned.

Submitted by, Reviewed by,

Patricia Wehrli Karen Quigley
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

AA- SB 600, Staff Meaure Summary--Karen Quigley, Committee Counsel -- 5
pages

AB- Testimony on SB 600 -- Fred NusSB aum -- 1 page

AC- Testimony on SB 600 -- Sha Spady -- 1 page

AD- Testimony on SB 600 -- Wanda Ballentine -- 1 page

AE - Testimony on SB 600 -- John Fagan -- 1 page

AF- Testimony on SB 600 -- Warren Moody -- 1 page

AG- Testimony on SB 600 -- Chris Skrepetos -- 1 page

AH- Testimony on SB 600 -- Aileen Kaye -- 1 page

AI - Testimony on SB 600 -- Carolyn Flint -- 1 page

AJ - Testimony on SB 600 -- Jerome Lidz, Assistant Attorney General -- 3
pages

AK - Testimony on SB 600 -- Rick Michaelson, Inner City Poperties, INC. -- 4
pages

A - Testimony on SB 600 -- Jim Brown, State Forester's Office -- 2 pages

B - Testimony on SB 600 -- Bruce Andrews, Director of the Oregon Department
of Agriculture -- 1 page

C - Testimony on SB 600 -- Louie Pitt, Warm Springs Tribal Council -- 4
pages

D - Testimony on SB 600 -- Jay Minthron, Confederate Tribes of the Umatilla
Indian Reservation -- 4 pages

E - Testimony on SB 600 -- Judy Gerrard, Concerned Citizen -- 1 page

F - Testimony on SB 600 -- Howard Paine, Concerned Citizen -- 1 page

G - Testimony on SB 600 -- William Boyer, Chairmna of the Alliance for
Responsible Land use in Deschutes County -- 1 page

H - Testimony on SB 600 -- Susan Brodie, Oregon Chapter of the American
Planning Association -- 1 page

I - Testimony on SB 600 -- Charles Swindells, 1000 Friends of Oregon -- 7
pages

J - Testimony on SB 600 -- John Shaffer, Concerned Citizen -- 1 page
 L - Testimony on SB 600 -- Phillip Johnson, Oregon Shores Conservation
 Coalition -- 4 pages
 M- Testimony on SB 600 -- Margaret Forsythe, Concerned Citizen -- 1 page
 N - Testimony on SB 600 -- Bill Moshofsky, Oregonians in Action -- 4 pages
 O - Testimony on SB 600 -- Paul Ketcham, Audubon Society of Portland -- 7
 pages
 P - Testimony on SB 600 -- Michael Carrigan, Oregon Peace Works -- 1 page
 Q - Testimony on SB 600 -- Sally Cross, State Government Affairs Director --
 1 page
 R - Testimony on SB 600 -- Liz Frenkle, Sierra Club -- 1 page
 S - Testimony on SB 600 -- Wayne Geisy, Oregon State Forest Undustries
 Council -- 2 pages
 T - Staff Measure Summary on SB 531 -- Karen Quigley, Committee Counsel - 1
 page
 U - Testimony on SB 305 -- Jim Myron, Legislative Liaison -- 1 page
 V - Testimony on SB 305 -- Susan Delles -- 1 page
 W - Staff Measure Summary on SB 571 -- Karen Quigley, Committee Counsel -- 1
 page
 X - Fiscal Analysis of SB 571 -- Bill Coulombe -- 1 page
 Y - Testimony on SB 571 -- Margaret Forsythe -- 1 page
 Z - Testimony on SB 586 -- Diane Linn Director, Office of NeigHB orhood
 Associations - 2 pages
 AL - Testimony on SB 586 -- Phil Fell -- 2 pages
 AM - Staff Measure Summary on SB 681 -- Karen Quigley, Committee Counsel --
 1 page
 AN - Testimony and Amendments submitted by Staff -- Karen Quigley, Committee
 Counsel -- 3 pages