SENATE COMMITTEE ON WATER & LAND USE March 30, 1995 Hearing Room B 1:00 P.M. Tapes 78 - 85 MEMBERS PRESENT: Sen. Rod Johnson, Chair Sen. Bob Kintigh, Vice-Chair Sen. Neil Bryant Sen. Ron Cease Sen. Bill Dwver STAFF PRESENT: Karen Quigley, Committee Counsel Patricia Wehrli, Committee Assistant Heather Gravelle, Senate Floor Staff MEASURES HEARD: SB 494 WORK SESSION SB 588 WORK SESSION SB 674 WORK SESSION SB 510 WORK SESSION SB 51 WORK SESSION SB 600 WORK SESSION SB 1114 PUBLIC HEARING 5~611 Vv5 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. TAPE 78, SIDE A 001 CHAIR JOHNSON: Convenes the meeting at 1: 30 p.m. OPENS WORK SESSION ON SB 494 --Explains the Amendments before the committee. 070 SEN. BRYANT: Questions the changes to the word "pernut." 074 CHAIR JOHNSON: Explains. MOTION: CHAIR JOHNSON: To accept the new amendments and have them added to the SB 494-1 Amendments. VOTE: CHAIR JOHNSON: Hearing no objections the MOTION is ADOPTED. All members present. MOTION: CHAIR JOHNSON: To accept the SB 494-1 Amendments as part of the language of SB 494. SENATE WATER ~ LAND USE March 30, 1995 - Page 2 VOTE: CHAIR JOHNSON: Hearing no objection the MOTION is ADOPI ED. All members present. MOTION: SEN. KINTIGH: Moves that SB 494 AS AMENDED, be sent to the floor with a DO PASS recommendation. VOTE: In a roll call vote, all members present and vote AYE. CHAIR JOHNSON: The motion CARRIES. SEN. BRYANT will lead discussion on the Floor. 099 CLOSES WORK SESSION ON SB 494 OPENS WORK SESSION ON 511 Witness: Kip Lombard, Oregon Water Resources Congress 105 CHAIR JOHNSON: Explains the history of the bill as well as the purposed Amendments. KIP LOMBARD: Asks that the SB 511-1 amendments be disregarded and the SB 129 511-2 amendments be accepted in their place. --explains the SB 511-2 amendments. (See Exhibit A) 200 SEN. DWYER: Questions the non use period of five years. 203 LOMBARD: Explains the necessity of the non use.

204 CHAIR JOHNSON: Explains the language of "in due to drought." MOTION: SEN. BRYANT: Moves to accept the SB 511-2 amendments. VOTE: CHAIR JOHNSON: Hearing no objection the SB 511-2 amendments are ADOPTED. All members are present. MOTION: SEN. CEASE: Moves that SB 511as AMENDED, be moved to the Floor with a DO PASS recommendation. VOTE: In a roll call vote, all members present and vote AYE CHAIR JOHNSON: The motion CARRIES. SEN. KINTIGH will lead the discussion on the floor. CLOSES WORK SESSION ON SB 511: OPENS WORK SESSION ON SB 588: Witness: Bob Meinen, Director of the Oregon State Parks and Recreations CHAIR JOHNSON: Explains the history of SB 588. 240 . 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. . . _ SENATE WATER & LAND USE March 30, 1995 - Page 3 280 BOB MEINEN, DIRECTOR OF THE OREGON STATE PARKS AND RECREATIONS: Responds and test)fies with Chair Johnson about the SB 588-3 amendments. MOTION: CHAIR JOHNSON: Moves to accept the SB 588-3 amendments. VOTE: CHAIR JOHNSON: Hearing no objection the SB 588-3 amendments are ADOPTED. All members present. 358 MEINEN: Test)fies and responds with Chair Johnson about the proposed SB 5884 amendments. 380 MOTION: CHAIR JOHNSON: Moves to accept the 588 4 amendments. VOTE: CHAIR JOHNSON: Hearing no objection the SB 588 4 amendments are ADOPTED. All members present. 389 SEN. DWYER: Explains the proposed SB 588-1 amendments. TAPE 79 SIDE A 012 CHAIR JOHNSON: Confers with Sen. Dwyer about the SB 588-1 amendments. --suggests further amendments to Sen. Dwyer. Line 2 after the word "permit" put the phrase: "which if, required," MOTION: CHAIR JOHNSON: Moves that the SB 588-1 amendments be amended on line 2, insert the phrase "which if required," VOTE: CHAIR JOHNSON: Hearing no objection the amendment to the SB 588-1 amendments are ADOPTED. 039 CHAIR JOHNSON: Discusses the necessity of the phrase: "or other mod) ficatzon." 041 SEN. DWYER: Explains the need for a permit to enable the protection from modifying historical homes to suit the needs of a private practice. 046 CHAIR JOHNSON: Suggests on line 3 to add the word "substantial" in between "other mod) fication." MOTION: CHAIR JOHNSON: Moves that the SB 588-1 amendments be amended on line 3 that the word "substantial" be added in between the words "other" and "mod) fication." VOTE: CHAIR JOHNSON: Hearing no objections the amendments to the SB 588-1 amendments are ADOPTED. MOTION: SEN. DWYER: Moves to ADOPT the SB 588-1 amendments AS

AMENDED.

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MOTION: SEN. CEASE: Moves that SB 588, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote, all members present vote AYE.

MOTION: SEN. DWYER: Moves SB 588, AS AMENDED be sent to the Committee on Ways and Means in accordance with its prior referral with a DO PASS recommendation as to its passage.

VOTE: In a roll call vote all members present vote AYE.

- 101 CHAIR JOHNSON: CLOSES WORKS SESSION ON SB 588 OPENS WORK SESSION ON SB 510 Witness Kip Lombard, Water Resource Congress 125 KIP LOMBARD, WATER RESOURCE CONGRESS: Requests more time to prepare
- further testimony on SB 510. 130 CHAIR JOHNSON: CLOSES WORK SESSION ON SB 510. OPENS PUBLIC HEARING ON SB 674. Witnesses:
- Martha Pagel, Director of Water Resources Department MARTHA PAGEL, DIRECTOR OF WATER RESOURCES DEPARTMENT: Provides written testimony (See Exhibit B.) --Continues testimony and provides specific amendments.
- 205 SEN. CEASE: What would be the new fee?
- 208 CHAIR JOHNSON: That would be \$500.00 dollars. --explains the amendments. -explains the final order process and the process of the applicant, the

party, and the

protester.

229 Discussion between Chair Johnson and Ms. Pagel occurs with technical dif7riculties in the taping.

270 SEN. KINTIGH: Questions about the amount of times a person can appeal.

296 PAGEL: Under the current process there are three ways to file an objection or an appeal. Under this process there is only one way to file these objections. -~iscusses the points of concerns that she has pointed out in her written testimony. (See Exhibit B)

These rnillutes cornam materials which paraphrase and/or summarize statements made during this session. Only text enclosed m quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. SENATE WATER ~ LAND USE March 30,1995 - Page 5 300 More difficulnes with the microphones which causes problems in the audio tapes.

372 PAGEL: Explains the application process and the priority process.

TAPE 711 SIDE B

013 PAGEL: Responds to questions from Sen. Bryant about available water. 020 SEN. BRYANT: In reference to the back log and an out of stream water use application with a priority date after in stream, but you haven't completed the in stream

process, would you then

wait until you completed the back process.

021 PAGEL: That is correct. Continues Testimony. does not support the directives on page 29, but provides amendments. --Discusses public interest issues. --Discusses the SB 674-16 amendments that her department does not support. SEN. BRYANT: Explains why he suggested the SB 674-16 amendments. 054 070 PAGEL: Explains her position on how the change in that statute is unnecessary because of the impact on current law. SEN. BRYANT: Expresses his position on the SB 674-16 amendments. 082 086 SEN. DWYER: Questions if the word "measurably" would be acceptable? 090 PAGEL: No 092 SEN. DWYER: Explains the impact on the change of the language. 097 SEN. CEASE: Explains his opinion of the views that she is trying to express. 103 CHAIR JOHNSON: Questions the presumption of the SB 674-16 amendments. 116 PAGEL: Draws the members attention to line 5 on page 12 and clarifies the presumption. Draws the members attention to page 17 line 20. 159 CHAIR JOHNSON: Questions the citation order. 164 PAGEL: Explains by giving reference to ORS 531.70. --Continues testimony. --Explains the protest fee and any additional fees to contest, and the options that remain to the committee. (See Exhibit B) 202 SEN. CEASE: Questions the loss of fees and the direction needed to continue forward. 213 PAGEL: Continues testimony and refers to written testimony. These mmutes contain materials which paraphrase and/or sununanze statements made during this session. Only text enclosed in guotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. SENATE WATER & LAND USE March 30, 1995 - Page 6 266 PAUL JACKSON, GRANDE RONDE: Who is the expertise in the water department on the public interest? 264 CHAIR JOHNSON: Explains the burden of the department. 270 JACKSON: Who sets those standards? 274 CHAIR JOHNSON: Explains that the authority comes from the legislation. JACKSON: Explains his frustrations with the department. 279 286 CHAIR JOHNSON: Explains the process. 296 CLOSES THE WORK SESSION ON SB 674 OPENS THE PUBLIC HEARING ON SB 1114 308 DONALD AND PAULA LAWYER: Test) fies in support of SB 1114 and describes the problems that they have witnessed. (See Exhibit C) TAPE 79 SIDE B 020 DONALD LAWYER: Explains the zoning regulations. 040 CHAIR JOHNSON: How much are your taxes each year? 056 DONALD LAWYER: Compares his taxes with his neigHB ors. 058 PAULA LAWYER: Explains the house site regulations for Deschutes County,

and how it enables them to build on their property.

066 CHAIR JOHNSON: Ouestions about two decisions. 078 PAULA LAWYER: Our land is considered suitable for grazing, but it is not prime grazing land. Test)fies the problems that occurs with her property. 080 CHAIR JOHNSON: Is your property high value farm land? 087 LAWYER: Yes. Explains why. --Explains the size of parcel. 093 CHAIR JOHNSON: Explains the effect of the bill that was brought up in 1993, how it was designed to define what high value farm land truly is. 130 BARBARA LYNN NICHOLSON: REALTOR FROM DESCUTES COUNTY: Test)fies in support of SB 1114. ~. Ibese minutes contain materials which paraphrase and/or sumnanze 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. SENATE WATER & LAND USE March 30, 1995 - Page 7 204 PARKER JOHNSTONE, VICE PRESIDENT OREGON ASSOCIATION OF CONSERVATION DISTRICTS: Describes his frustrations with the current law. Test)fies in support of SB 1114. 236 DAVE FOSTER, LAND USE CONSULTANT: Test) fies in support of SB 1114. --Responds to questioning from Chair Johnson. -Discusses the past history of the appeals of the LCDC. 347 SUSAN MCAUHIFFE: Testffies in opposition to SB 1114. TAPE 80 SIDE A 08 CHAIR JOHNSON: Ouestions the distance from her property and the city of Klamath Falls. 012 MCAUHIEFFE: About five miles. 015 CHAIR JOHNSON: That isn't considered high value farm land is it? 020 MCAUHIEFFE: Its open to review yearly. 034 MATT CYRUS, DESCHUTES COUNTY FARM BUREAU: Testifies in support of SB 1114. --Test)fies about the miss zoning that is occurring under the current law. 078 CHAIR JOHNSON: Is some of the miss zoning caused by time constraints and the lack of planners? 088 CYRUS: Yes. --Explains the growing problems in Deschutes County. 117 MARION MILLARD: Test)fies in opposition to SB 1114 and provides suggested amendments as well as a name of an expert that could help the committee with the amendment process. (See Exhibit D) 172 CHAIR JOHNSON: Explains the language of SB 1114. 174 MILLARD: I don't agree with it. -Draws committee's attention to line

16.

194 CHAIR JOHNSON: Explains to Mrs. Millard the statutes.

220 DOROTHY COFIELD, DIRECTOR OF LEGAL AFFAIRS: Test)fies in support of SB 1114 (See Exhibit F)

243 BILL MOSHOFSKY, VICE PRES. GOV'T AFFAIRS: Test)fies in support of SB 1114.

276 COFIELD: Addresses the economics, zoning fairness and citizens rights to use their private lands.

These mmutes contain materials which paraphrase and/or summarlze statements made during this session. Only text enclosed m quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes, SENATE WATER & LAND USE March 30, 1995 - Psge 8 301 MOSHOFSKY: Draws the committees attention to page three and the explanation to rural living, and the capability of secondary lands laws. TAPE 81 SIDE A 006 DIANA GARDENER: Test) fies in opposition to SB 1114. 030 CHAIR JOHNSON: Do you know where the Class A land is in Jackson county? 038 GARDENER: Yes, I do. Continues her testimony explaining the types of land and soils on her property. --Explains her concerns of how classifying her property as secondary would cause the farm land to be divided up into housing complexes and subdivisions. 054 CHAIR JOHNSON: Is your property considered high value? 058 GARDENER: Yes. 064 CHAIR JOHNSON: The intent of this bill would include high value property. 066 GARDENER: Expresses concerns and continues testimony. 094 KATE MCCARTHY: Test) fies in opposition to SB 1114. 075 JOHN SHAFER: Test) fies in opposition to SB 1114. (See Exhibit G) 196 CHAIR JOHNSON: Do you really think that with size of Eastern Oregon that there would be any jeopardy for cattle grazing by allowing a few extra houses? 208 SHAFER: Yes, Idol 260 DENNIS PETERSON: Test) fies in support of SB 1114 289 CHAIR JOHNSON: Ouestions how his property is zoned. 292 JANE PETERSON: High value farm land. --Explains how the lack of regulation has devastated their lives. --Asks for flexibility. 350 SEN. KINTIGH: Ouestions the type of property that she has. PETERSON: The land isn't suitable for timbers or farm. 363 TAPE 80 SIDE B 023 JIM WATTS: Test) fies in support of SB 1114. - The property has been determined not to be forestable. All evidence proves that the property is not forestable land.

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. SENATE WATER & LAND USE March 30, 1995 - Page 9 096 CHAIR JOHNSON: What exactly is the land determined as?

- 097 WATTS: F-2. Continues testimony.
- 117 PEGGY SANDAREN: Test) fies in support of SB 1114.

175 JIM ALLISON, WASHINGTON COUNTY LAND OWNER ASSOCIATION: Test)fies in support of SB 1114. -Provides suggested amendments. -Continues his testimony using examples of people who he has encountered that has had devastating problems building on their property that is not suitable for farming. --suggests arnendments.

276 E RANK NIMS, DESCHUTES COUNTY CATTLEMAN AND OREGON LAND

COALITION: Test) fies in support of SB 1114. --Suggest amendments. 351 DON SCHELLENBERT, OREGON FARM BUREAU: Test) fies in opposition to the current language of SB 1114. Shows support of secondary lands and the problems that arise. 409 SEN. KINTIGH: If a block size is added would you support the bill? 412 SCHELLENBERT: It would help him, but there are other issues that need to be addressed as well. BECKY HATFIELD-HYI)E: Test) fies in opposition of SB 1114. Provides her 418 concerns and refers to the "Great Land Scam" distruct on in Christmas Valley. TAPE 83 SIDE A 020 CHAIR JOHNSON: What was the land scam and how did it effect this? 032 HATFIELD-HYDE: Explains of how a developing scam was uncovered in her district. 050 SEN. KINTIGH: Expresses personal opinion. 069 LINCOLN CANNON, OREGON FOREST INDUSTRIES COUNCIL: Testifies in opposition to SB 1114. (See Exhibit H) -There is a lot of good in SB 1114. The idea of using a county advisory committee is a great idea, but there are no standards in SB 1114, only directions. This leaves to much for interpretation for the county advisory committee. SEN. KINTIGH: Do you have a suggestion of where the cut off point on 158 forest land should be? 164 CANNON: Agrees with the policies in position previously. 178 CHAIR JOHNSON: Questions if the land should be looked at and determined if it has a forest production. These minutes contain materials which paraph~ase and/or swnmanze statements made during this session. Only text enclosed in g~on marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. SENATE WATER ~ LAND USE March 30, 1995 - Page 10 224 SEN. KINTIGH: You can tell what is prime forest land. It changes gradually and you can determine site quality. 270 WES MARCHB ANKS: Testifies in support of SB 1114. CHAIR JOHNSON: Is your land considered High Value Farm land? 289 293 MARCHB ANKS: Yes. Continues testimony. 348 CHAIR JOHNSON: Exactly where is your farm land? 352 MARCHB ANKS: Two miles south east of Sweet Home. -Responds to Chair Johnson about the zoning of his land and the quality of his land. 397 CHAIR JOHNSON: Refers to Section three. TAPE 82 SIDE B 05 RICHARD VAILE: Test) fies in support of SB 1114. -Provides his concerns involving the economic interest of SB 1114. 049 NEIL THOMPSON: Testifies in support of SB 1114. 080 CHAIR JOHNSON: What year did you buy your land? 082 THOMPSON: 1969. 085 CHAIR JOHNSON: You could break it up into one acre lots? 089 THOMPSON: Yes. --Continues testimony referring to the problems he has had with county

commissioners. -Explains the deferred senior taxes that he has on his property. CHAIR JOHNSON: Is it zoned for farming? 146 149 THOMPSON: Yes. --Explains what is wrong with the zoning. ROCKY LESLI, PLANNING COMMISSIONER FOR THE TOWN OF YAMHILL: 181 Test)fies in support of SB 1114. 237 CHAIR JOHNSON: Do you know what the land is zoned as? 238 LESLI: I don't really know. Continues testimony and explains how LCDC's zoning regulations excluded his land from developing. 266 CHAIR JOHNSON: You land has never been productive as a farm? ~i These minutes contain materials which paraphrase land/or summanze 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. SENATE WATER & LAND USE March 30,1995 - Page 11 272 LESLI: No, farmers are not interested in my land. I have had inquires from sheep herders and horses grazing. 294 TC FISHER, LAND OWNER FROM DALLAS OREGON: Test)fies in support of SB 1114 --suggests amendments. 313 CHAIR JOHNSON: Explains the intent of the bill with direction of the committee. 337 TC FISHER: Expresses concerns of a Governors veto. 345 JOSEPH SCHREIBER, LAND OWNER FROM: Test)fies in support of SB 1114. TAPE 83 SIDE B 019 DONALD STILL, LAND OWNER FROM SALEM OREGON: Test)fies in opposition to SB 1114. --Refers to the Statesman Journal and an editorial in it. --Opposes class 3-4 soils being put into secondary lands. --You need to regulate the real estate professionals to tell the truth and not take advantage of nice people. 086 GARY WAITE, REPRESENTING VERN WAITE, LAND OWNER FROM WILSONVILLE: Test)fies in support of SB 1114. --His land is high value farm land and does qualify under section 2261. -Shows the problem between the state and the county. 179 WAYNE SEMMONS: Test) fies in support of SB 1114 CHAIR JOHNSON: How many acres is your property? 261 263 SEMMONS: 261 acres. Continues testimony, responds to the elevation of the property, which is over a 1,000 feet. --This bill does not address the \$80,000 income rule made by the LCDC. 300 CHAIR JOHNSON: Explains what bills are in the legislation that will address each of these issues. 322 WALT EAGER, LAND OWNER FROM CORVALLIS OREGON: Test) fies in support of SB 1114. (See Exhibit K) TAPE 84 SIDE A 014 EAGER: Describes the types of soils on his property and how it causes him to be denied the ability to build on his property.

063 BLAIR BATSON, STAFF ATTORNEY FOR 1000 FRIENDS OF OREGON: Test)fies in opposition to SB 1114. -Shows support of section three of SB 1114.

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EXHIBIT SUMMARY:

в – Testimony on SB 674-Martha Pagel, Water Resource Department~ pages BA- Proposed amendments to SB 674-Martha Pagel, Water Resource Department-2 pages C-Testimony on SB 1114--Paul Lawyer--8 pages D-Testimony on SB 1114--Marion Millard--1 page Е-Testi nony on SB 1114--Bill Moshofsky, Oregonians in Action--10 pages F-3 Testunony on SB 1114-John Shafer--1 page Н-Testimony on SB 1114-Lincoln Cannon--5 pages Testimony on SB 1114 Walt Eater--6 pages K-L-Testimony on SB 1114--Charles Hoff--7 pages М-Testimony on SB 1114-Betty Jenzen-1 page N-Proposed Amendments to SB 674-Karen Qulgley, Committee Counsel-4 pages 0-Proposed Amendments to SB 674-Karen Quigley, Com nittee Counsel-3~pages~*\ Proposed Amendments to SB 674-Karen Quigley, Committee Counsel--9 pages P-Proposed Amendments to SB 510--Karen Quigley, Committee Counsel--4 pages 0-R-Testimony on SB 510-Kip Lombard--5 pages S-Proposed Amendments to SB 588--Karen Qulgley, Committee Counsel--4 pages Ψ-Testimony on SB 511-Kip Lombard--2 pages IJ-Proposed Amendments to SB 511--Karen Qulgley, Committee Counsel--1 page V-Testimony on SB 1114-Sydney Herbert, Oregon Shores Conservation Coalition-1 page Testimony on SB 1114-Mickey Killingsworth, President Jefferson Coumb Farm W-Bureau-2 pages Х-Testimony on SB 1114-Roger and Aileen Kaye-1 page Y-Testimony on SB 111 - Tom Brawley-Board of Directors, Marion County Farm Bureau-1 page Z-Testimony on SB 1114-Thomas and Janine Wilke 2 pages ZA- Testimony on SB 1114-Paul Throp, President, Polk Counb Farm Bureau-1 page Testimony on SB 1114-Michael S. McCarthy-2 pages ZB-

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