SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

DATE: July 30, 1993 TAPES: 274 - 278 PLACE: Hearing Room C TIME: 8:00 AM

MEMBERS PRESENT: Senator Ron Cease, Chair Senator Jim Bunn, Vice-Chair Senator Joyce Cohen Senator Bob Kintigh Senator Bob Shoemaker Senator Gordon Smith Senator Shirley Gold

STAFF PRESENT: Peter Green, Committee Administrator Elizabeth Gaupo, Committee Clerk Rick Gaupo, Committee Clerk

MEASURES HEARD: HB 2776 B - PUBLIC HEARING/WORK SESSION HJR 69 A - PUBLIC HEARING/WORK SESSION HB 3661 - WORK SESSION [--- Unable To Translate Graphic ---]

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE STATEMENTS MADE DURING THIS SESSION. ONLY TEXT ENCLOSED IN QUOTATION MARKS REPORTS A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE PROCEEDINGS, PLEASE REFER TO THE TAPES. [--- Unable To Translate Graphic ---]

TAPE 274 SIDE A

005 CHAIR CEASE CALLS MEETING TO ORDER AT 7:55 AM.

PUBLIC HEARING ON HB 2776 B AND HJR 69 A

WITNESSES: LARRY HILL, OREGON GASOLINE DEALERS ASSOCIATION BRIAN BOE, OREGON PETROLEUM MARKETERS ASSOCIATION FRED HANSEN, DIRECTOR OF OREGON DEPARTMENT OF ENVIRONMENTAL

QUALITY DIANA GODWIN, REGIONAL DISPOSAL COMPANY JOHN BURNS, WESTERN STATES PETROLEUM

015 LARRY HILL, OREGON GASOLINE DEALERS ASSOCIATION: Submits and reviews written testimony in support of HB 2776 B and HJR 69 A (EXHIBIT A).

071 BRIAN BOE, OREGON PETROLEUM MARKETERS ASSOCIATION: Testifies in support of HB 2776 B and HJR 69 A. Explains that satisfying funding

requirements is difficult, and that amending of Article 9 is needed.

Lottery dollars will be used to fund program.

101 FRED HANSEN, DIRECTOR OF OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY: Testifies in support of HB 2776 B and HJR 69 A. Comments on grants available and dispersion of resources.

130 CHAIR CEASE: Asks about local government.

135 HILL: Discusses Section 4. Fees place great burden on local communities.

148 BOE: Comments on the -A3 amendment, discusses assessment on petroleum-contaminated soils (EXHIBIT B)

170 CHAIR CEASE: Asks about significance of subparagraph 2, line 17 of the bill.

180 CHAIR CEASE and HILL discuss the disposal of contaminated soil and the fees connected with this process. Discuss Section 4.

219 CHAIR CEASE: Asks about the dispersion of funds coming from the lottery.

225 HILL: If we receive more money from other sources, and were able to extend assistance to Tier 3 or 2 stations, then some of them would

receive state assistance.

233 CHAIR CEASE: Addresses situation of some stations being taxed by Metro.

234 HILL: Yes, if one received assistance from the state and the other did not.

236 CHAIR CEASE: What is Metro doing on the administrative side?

240 HILL: They are reviewing their rate structure for solid waste. In a year they may have recommendations for change.

250 DIANA GODWIN, REGIONAL DISPOSAL COMPANY: The representatives of Metro received a copy of the amendments. They expressed no opposition.

268 SEN. J. BUNN: Asks about service stations that have gone out of business.

275 BOE: The facility remains eligible if they have paid their tank permit fees.

280 HILL: If there is a lien on the property, it obligates the owner of the property to operate for five years. There is a provision in HB 2776 B

to change the law to allow a transfer of the lien.

288 SEN. J. BUNN: Do we offer anything for someone who doesn't use the program but does the clean-up themselves?

297 BOE: No, the program is contingent upon offering motor vehicle fuel for resale.

299 HILL: The basis of the program is to preserve fuel availability, especially in rural areas. 308 SEN. J. BUNN: Isn't the other goal to clean up what is underground?

320 HILL: The constitutional amendment as it is written would permit the revenue stream be utilized to clean up abandoned sites that have fuel

contamination.

331 HANSEN: We want to address the issue of contamination on home or farm. Broadening the bill would allow us to do that.

343 HILL: Further addresses clean-up of tanks on private property.

365 SEN. J. BUNN: The priority is dealing with rural stations. The bill needs to be broad enough to deal with that.

385 CHAIR CEASE: Cites from Section 4, subsection (1). Discusses language.

404 GODWIN: Addresses subsection (2), explains language.

429 HANSEN: Contaminated soils are segregated. That could result in extra costs.

443 CHAIR CEASE: Asks about charge on other types of waste.

445 GODWIN: This does not address a private landfill that is segregating the wastes. We charge the same or less for petroleum-contaminated

soils. Other private operators charge more. Explains reason for second

section in subsection (2).

TAPE 275, SIDE A

043 HANSEN: Proposes language changes to HJR 69 A regarding petroleum-related products, explains reasons (see EXHIBIT C). Discusses -A3 amendments.

077 SEN. J. BUNN: Expresses concerns with making the language so broad that the focus on the most important situations is lost.

092 SEN. COHEN: If language is left as is, it may take out the circumstance of a large spill.

101 SEN. J. BUNN: Environmental contamination caused by the use of oil could apply to so many things, and funds could be used for things they

were not intended for.

115 HANSEN: Responds to Sen. Bunn. Explains what situations the language would and would not include.

140 JOHN BURNS, WESTERN STATES PETROLEUM: Testifies in support of HB 2776 B and HJR 69 A. Wants to maintain focus on the underground tank program.

Doesn't want to broaden the -A3 amendment.

200 HANSEN: The issue is the constitutional amendment that is too narrowly drawn.

208 CHAIR CEASE: I agree in terms of the need. But this bill is intended to relate to the more narrow focus. The broader it is the more

difficulty there will be at the polls.

222 HILL: Agrees with Mr. Burns.

247 CHAIR CEASE and HILL discuss constitutional amendments.

265 BOE: The distributors in the petroleum industry are concerned about maintaining the focus of the bills at hand. Explains why.

293 HILL: Proposes language changes to maintain consistency between the bills. We need to make it clear to the voter that it is not a consumer

tax but a corporate tax that we are talking about.

324 SEN. J. BUNN: Proposes further language changes regarding the ballot title.

364 SEN. SHOEMAKER: Refers to page 5, lines 12-16 of HB 2776 B. Discusses lien and the obligation to repay the grant.

403 HANSEN: Under current law, if someone sells the business there is an obligation to repay. If someone closes the business, they don't have to repay. This would merely say that the same obligation applies to the

party who buys the business. The problem is with the existing law.

414 SEN. SHOEMAKER: But our purpose is to keep the stations open.

417 HANSEN: One can't obligate someone to operate a business that is a losing proposition.

431 BOE: We also want to keep someone from abusing the grant that is available.

439 HILL: Reiterates the problem needing to be addressed.

448 Further discussion of intent of language regarding closure of stations.

TAPE 274, SIDE B

WORK SESSION ON HB 2776 B

024 MOTION: CHAIR CEASE moves deletion of the sentence on page 2, lines 19-22 of HB 2776 B.

Discussion of the motion.

VOTE: Hearing no objection the motion CARRIES.

058 CHAIR CEASE recesses at 8:55 a.m.

(THE ABOVE PORTION OF THESE MINUTES WAS COMPLETED BY ELIZABETH GAUPO)

TAPE 276, SIDE A

WORK SESSION ON HB 2776-B and HJR 69-A

(Tape 276, Side A, 000-102 was re-recorded and a portion of this work session was deleted from the tape.

CHAIR CEASE reconvenes the meeting at 1:40 p.m.

HILL explains the HB 2776-B9 amendments (EXHIBIT E) proposed by the

Petroleum Marketers.

Brian Boe, Petroleum Marketers, explains his position on the HB 277 6-B9 amendments.

Members discuss the wording of the HB 2776-B9 amendments.

HILL and BOE explain the HJR 69-A5 amendments (EXHIBIT F) > Sen. Bunn asks about "resale"

103 HILL: There is an error in drafting. There should be a deletion on line 24 of "motor vehicle fuel for resale."

108 SEN. BUNN asked if putting in "preserve motor vehicle fuel availability" would interfere with the ability to use this to clean up tanks on

service stations that are not going to be pumping.

110 HANSEN: I think that was taken care of by deleting "resale."

113 SEN. BUNN: Why do we need to add "preserve motor vehicle fuel availability?"

HILL: It states one of the major purposes of the amendment. It informs

the voters what the revenues will be used for. It does not exclude farm tanks or timber company tanks.

135 Fred Hansen states what he believes is in HB 2776 and HJR 69.

197 Sen. Bunn states his support for the bills as they originally came to the Senate with the addition of the amendments relating to "for resale" and replacing the "and" with an "or"--for remedy "or" prevent if that

provides the flexibility we need.

210 HILL: The intent of the language "preserve motor vehicle fuel availability" was not to create a bail-out program or something

unrelated to environmental concerns. The voters want fuel availability

and that is why they would be willing to consider this change to the

constitution.

MOTION: SEN. COHEN moves that the HJR 69-A5 BE ADOPTED.

254 HILL reads and explains the HJR 69-A5 amendments and suggests the comma between "preserve motor vehicle fuel availability" and "programs" should be a semi-colon for clarity.

277 CHAIR CEASE asks for an explanation of the difference between

"use" and "storage and distribution."

279 HILL: DEQ made that request to allow the revenue stream to possibly provide funding for the Orphan Site Account.

295 WARNER points out that the HJR 69-A5 amendments address the semi-colon question raised by Mr. Hill.

297 MOTION: SEN. COHEN moves that the HJR 69-A5 amendments, with the addition of the phrase "and to" after "availability," in line 2 BE ADOPTED.

301 VOTE: In a roll call vote Sens. Cohen, Shoemaker, and Chair Cease vote AYE. Sens. Kintigh, Bunn, and Smith vote NO. Sen. Gold is

EXCUSED.

305 CHAIR CEASE declares the motion FAILED.

308 MOTION: Sen. Bunn moves that HJR 69 A-Eng. be amended on page 1, in lines 24 and 25, by deleting "for resale".

322 SEN. BUNN explains he believes the amendment would allow a tank on a farm or small city or something like that could also be dealt with under the bill and would not limit it specifically to those who have fuel for resale.

353 VOTE: In a roll call vote Sens. Kintigh, Bunn, and Smith vote AYE. Sens. Cohen, Shoemaker, and Chair Cease vote NO. Sen. Gold

is EXCUSED.

356 CHAIR CEASE declares the motion FAILED.

369 MOTION: Sen. Bunn moves that HJR 69 A-Eng. be sent to the Floor with the recommendation that it BE ADOPTED.

375 VOTE: In a roll call vote Sens. Kintigh, Smith and Bunn vote AYE. Sens. Cohen, Shoemaker, and Chair Cease vote NO. Sen. Gold is

EXCUSED.

377 CHAIR CEASE declares the motion FAILED.

380 MOTION: Sen. Bunn moves that the HJR 69-A5 amendments BE ADOPTED. 399 VOTE: In a roll call vote Sens. Cohen, Shoemaker, Bunn and Chair Cease vote AYE. Sens. Kintigh and Smith vote NO. Sen. Gold is

EXCUSED.

405 CHAIR CEASE declares the motion PASSED.

409 MOTION: Sen. Bunn moves that HJR 69 A-Eng., as amended, be sent to the Floor with a DO PASS recommendation.

413 VOTE: In a roll call vote all members present vote AYE. SEN. GOLD is EXCUSED.

417 CHAIR CEASE declares the motion PASSED.

TAPE 277, SIDE A

004 Sen. Cease asks Jannette Holman, Legislative Counsel, if the HB 277 6-B9 amendments are clear enough to cover orphan sites.

025 SEN. COHEN comments she will move the HB 2776-B9 amendments because she believe there will be a legislative record that this does include the

concerns that were expressed.

029 MS. HOLMAN: The explanation isn't going to necessarily limit it. HJR 69 is the one the committee has to worry about.

034 MS. HOLMAN advises that the HB 2776-B9 amendments need to be amended to conform to HJR 69 by adding the "and to" after "availability." But then it exceeds the 25-word limit.

041 MOTION: SEN. COHEN moves that the HB 2776-B9 amendments be amended in line 6, after "to" insert a colon and in line 10, after "availability" delete the comma and insert "and to" and that the

HB 2776-B9 amendments, as amended, BE ADOPTED.

064 VOTE: In a roll call vote Sens. Cohen, Gold, Shoemaker, and Chair Cease vote AYE, Sens. Kintigh, and Bunn vote NO. Sen. Smith is

EXCUSED.

CHAIR CEASE declares the motion PASSED.

068 MOTION: Sen. Cohen moves that HB 2776 B-Eng., as amended, be sent to the floor with a DO PASS recommendation.

070 VOTE: In a roll call vote all members present vote AYE. Sen. Smith is EXCUSED.

CHAIR CEASE declares the motion PASSED.

081 BOE: Referencing what Jeannette said about being specific about what this expansion of the funding mechanism--the committee's intention of

what those funds would be available for, we would request a letter from the committee for the record that states specifically that the expansion of this language is intended to provide a potential funding source for

the Orphan Site Account, the petroleum contribution to the Orphan Site

Account and the Orphan Site Account alone. Our concern is that the

language is broad and without a specific legislative intent in the

record it could be construed for air programs.

086 CHAIR CEASE: We will do that.

090 MOTION: Sen. Cease requests unanimous consent to allow Sen. Gold to vote on HJR 69.

VOTE: Hearing no objection the motion CARRIES

Sen. Gold votes AYE.

106 Sen. Cease declares the meeting in recess at 2:20 p.m. and reconvenes at 4:20 p.m.

(Tape 277, Side A) WORK SESSION ON HB 3661

119 MOTION: Sen. Cease moves to reconsider the vote by which HB 366 1 A-Eng. and amended was passed by the committee on July 29.

VOTE: hearing no objection the motion CARRIES.

CHAIR CEASE explains additional amendments are needed in the bill.

150 RUSS NEBON: Marion County put forward a proposal to allow a very limited provision for creation of non-farm homesite parcels on Class 6

through 8 farm soils that were also site class 6 or 7 forest soils. There was concern about the procedure and process as to how to apply that. The wording the committee adopted yesterday was based on an understanding that the Governor's office had of the circumstances we face in Marion County. Unfortunately that was not an accurate reflection. I had not been careful enough in explaining what the circumstances were. We have discussed it and Rep. Baum and others participated in that discussion. I think we have found a way to deal with these tracts that have these percentages of non-farm soils.

184 SEN. SHOEMAKER: Now that we have copies of the HB 3661-A93 amendments, can you direct us to the appropriate section.

184 MR. NEBON: Page 24, beginning at line 5 and through line 28. I will explain each part of it. We are talking about in the Willamette Valley

that a lot or parcel allowed under paragraph (b) for a single-family dwelling, not provided in conjunction with farm use, may be established subject to the approval of the governing body, etc. in an EFU zone. The first criteria is that the originating lot or parcel is larger than the applicable minimum lot or parcel size.

The whole concept centers on the originating parcel. The earlier wording the committee drafted treated that originating parcel as existing prior to the adoption of the Act. We got over a roadblock by eliminating that date so that the originating parcel can be created

after the date of the act. It would be a parcel that met the minimum lot size--it would be 80 acres in the Willamette Valley.

208 SEN. BUNN: It is 80 acres unless there has been a case made for another lot.

NEBON: Correct. There is a provision that allows the county to go to the commission to get a smaller minimum if they can justify it.

NEBON: So whatever original parcel you start with, you can then create other original parcels that meet the farm criteria and if in creating those parcels, you have one that is 95 percent or more...

217 SEN. BUNN: Shouldn't we have said in lines 9 and 10 "is equal to or larger than"?

220 NEBON: I would prefer that wording because I assume if you are at 80 acres, that is sufficient.

223 CHAIR CEASE: Is that acceptable? Does everyone understand what change we are making here?

224 SEN. COHEN: It can say "equal to or minimum lot size".

224 NEBON: That is fine.

226 SEN. BUNN: On page 24, line 10, "lot or parcel is equal to or larger than the applicable minimum lot" for parcel size?

231 NEBON: Then when you have an originating parcel that falls within the specified soil classes identified in large (C) and (D) on lines 16 and 18, if it meets both of those criteria and if it is not stocked to the requirements in the Forest Practices Act...

238 SEN. SHOEMAKER: You said if the "originating parcel" meets those soil requirements. As I read it, it is the parcel to be created that must meet those requirements regardless of the quality of the originating parcel. Is that intended?

243 NEBON: We have two originating parcels. Example: A 200 acre parcel and there is some class three or four soil that would qualify. The owner can create a 80-acre lot that includes the class three and four soil. That meets the minimum lot size. Then the residual 120 acres would be another parcel. So you have two new originating parcels, one

which has some class three and four soils and therefore will not be

eligible in the future for any divisions of these 20 acre parcels. The

other one, if it is 95 percent or more class six soils, then becomes

eligible for the provisions of (b).

258 SEN. SHOEMAKER: This says the parcel to be created for the dwelling from the originating lot or parcel described in (a) will be smaller than 20 acres.

263 WARNER: That is a mistake. On line 13, it is supposed to be at least 20 acres or 20 acres or larger.

265 SEN. BUNN: Will not be smaller than 20 acres?

265 SEN. SHOEMAKER: Will it have to comply with minimum lot sizes?

267 NEBON: We are creating a 20 acre minimum for the non-farm parcel that could be created from an originating parcel that was 95 percent or more class 6 soils.

270 SEN. SHOEMAKER: I don't think that is what it says. It says "the parcel to be created" will be not smaller than 20 acres..is composed of these lousy soils. It relates only to the 20 acre parcel, not whatever

the larger parcel is.

281 SEN. BUNN: I think Sen. Shoemaker is correct. The intent was that the originating parcel had to also meet the 95 percent requirement.

283 NEBON: (C) and (D) need to move up into (a) somehow to be qualifications for the originating parcel.

291 SEN. BUNN: I think the understanding was that originating parcel had to meet the minimum lot size which would typically be 80 acres. It had to

be composed of at least 95 percent...and you drop down to (C) and

(D)....

295 NEBON: Right. So both (C) and (D) need to move up as qualifiers to the originating parcel in (a).

297 SEN. BUNN: So lines 14-19 need to be moved up as qualifiers for the originating lot, not the final lot.

302 NEBON: Dick, is it 14 through 19 or 16 through 19?

304 SEN. BUNN: I think you have to meet all three: that it was not stocked, that it was 95 percent class six through eight and it was 95

percent not capable of the cubic feet. Once you do those three then you have a piece that could be cut into parcels that are no less than 20

acres.

311 NEBON: Correct.

313 SEN. SHOEMAKER: The minimum lot size is 80. You can carve a 20 out of an 80, leaving a 60. So then the originating lot after the

parcelization still has to meet other minimum lot size requirements. It doesn't say that.

320 SEN. BUNN: You end up with a piece, for all practical purposes that is 100 percent useless for farming. We set that standard at 95, but the

whole piece is eligible to be cut up. So you can cut it to a 20 and a

60, or to two 40's or to four 20's. You can't cut it to 10 8's.

333 NEBON: The way I would summarize that is once you have a parcel of 80 acres that is 95 percent class six, it no longer has to meet the farm

minimum lot size requirement.

337 BENNER: It just has to be 20 acres or larger.

340 NEBON: Then when you begin approving the 20 acre parcels, you not only have to find that the parcels are not smaller than 20 acres, but because these are now non-farm homesites, you have to make findings under (c),

(d) and (e) that are the standard criteria that we have applied to all

other non-farm dwellings in the other regions of the state. It ends at

line 28 and it applies to a very limited soil class. Just for the

information of the committee members in Marion County which may be the

only county in the Valley that has these soils, there are 3,900 acres of soils that will meet this qualification. Because of the way we have

dealt with the originating parcel and the parcelization, it is going to be very difficult to qualify all of that. I am expecting to get a much

more limited set of opportunities for 20 acre parcels out of that. But

it does create some opportunity for these 20 acre homesites on this land that has no history of farming and is not farm land.

371 SEN. SHOEMAKER: The way the bill is written, it looks like you could only carve off one 20 because the originating lot has to be minimum lot size. Then it talks about the "parcel" (singular) to be created for the "dwelling" (singular) has to be smaller than 20, but it doesn't seem to contemplate further parcelization. If you originating lot is left

smaller than the minimum size, it wouldn't appear any longer eligible

for further parcelization.

388 NEBON: I am not a lawyer. I will tell you in the EFU statutes I think there are provisions in the singular that are approved in the multiple. It says a single family dwelling on a lot or parcel and yet counties

will approve two or three of them. I don't know if that is a problem.

399 SEN. BUNN: Sue is shaking her head yes. We need to realize if you have 60 acre piece, you cannot make three 20's. If you have an 80 acre

piece, you can make four 20's, but if you make a 60 and a 20, that 60 is then cut in a position that it cannot be made into three 20's later.

413 HANNA: A general principle in the statutes in Chapter 173 specifies the singular also means the plural.

416 DALE RIDDLE: On page 24, line 11, we could change the word "the" to "any". I agree with Sue that singular means plural. It has been used

that way in the land use statutes.

429 SEN. SHOEMAKER: I think it should be "a" dwelling.

430 CHAIR CEASE: We will note that change.

430 SEN. COHEN: Does this mean you are going to be applying for building permits as you parcelize?

448 BENNER: I think you could have it either way. You could apply for the new parcel at the same time you are seeking the non-farm dwelling. But

you could also apply for the parcel first then at some later point come in for the dwelling. At the time you came in for the dwelling you would be applying for a non-farm dwelling and you will already have met the

criteria having received a non-farm parcel. I would suspect that

somebody who applies for this would applying for the dwelling at the

same time as they want to create the parcel.

466 SEN. COHEN: All the dwellings at once? I doubt it. Maybe the one dwelling on the prime piece maybe.

472 NEBON: What often happens is an applicant who has an 80 acre parcels will have a buyer for one of the 20's and want to partition it off. I

guess this relates back to Sen. Bunn's comment. I am a little concerned because the partitioning process only allows you to create three parcels in a year. So if you came in an created a 40, a 20 and a 20 out of the

80, you would be in a bind on the 40 and not be able to come back and

get the two 20's because the originating parcel would have dropped below the 80.

TAPE 276, SIDE B

002 My response would be to tell the owner he would need to do a subdivision and plat all four at one time. It is unfortunate we are in effecting

putting them in a position to plat them all, but they don't have to sell them right off. The approvals would ride with the property and we would grant extensions on those approvals until they were sold. So I don't

know if it necessarily is going to put the property owner in the

position of marketing the lots aggressively or encouraging more

development in that area that wouldn't occur otherwise. I think they

will only be sold when there is a demand for them.

011 SEN. SHOEMAKER: There are other criteria here about essentially not disturbing existing farm practices or altering overall land use

patterns. You can imagine one dwelling out of an 80 would not disturb,

but four would. That problem would have to be dealt with. If you came

in for four all at once you might say that is too disruptive, but each

additional one is not going to disrupt.

018 NEBON: I guess if there was a lot of farming going on on this kind of land I would be concerned about that, but I am pretty comfortable that

finding is not going to difficult to make. There is not much farming

going on.

020 SEN. SHOEMAKER: It would be true that if you do your dwellings one after the other each one will have to go through the screen that it is

not going to upset any balance that is out there.

021 NEBON: I am comfortable living with that test, whether you do it all up front or whether you do it sequentially that they will have to meet that criteria. We will require that they be disqualified in all the other

requirements.

024 ANN SQUIRES, Governor's Natural Resources Assistant: I am sorry I did not hear the first part of this discussion, but I believe if have the

jest of it. My one questions is, are the clarifications you have made

such that what shows on this draft as (b) (B), (C) and (D) all are

applied to the originating parcel.

031 CHAIR CEASE: Yes.

031 SQUIRES: The second question is, is it clear that each parcel or any parcel created from the originating parcel will be at least 20 acres?

034 CHAIR CEASE: Yes.

039 MOTION: Sen. Cease moves the resolution of this issue that we have in the draft, -A93.

042 VOTE: CHAIR CEASE, hearing no objection the motion, declares the motion PASSED. Sen. Gold is EXCUSED.

044 CHAIR CEASE: Let's go on to the next major issue.

045 SEN. SHOEMAKER: Sen. Smith and I are on a conference committee that will take about five minutes. May we be excused?

CHAIR CEASE excuses Sens. Smith and Shoemaker.

059 SUE HANNA, Legislative Counsel: This morning copy editors, one other persons and I reviewed the draft line by line and made numerous

corrections and after talking with the Chair I will not tell you about

all the commas we put in and that kind of thing. Where we changed

wording, we need to go over that. On the HB 3661-A93 amendments (EXHIBIT G), page 1, line 14--originally

we had said "The governing body of the county may designate...". When

we reviewed it this morning, we thought they are trying to make an

administerial decisions and perhaps we should make it clear that the

actual governing body does not have to act on every single lot of

record. I went back to the language we generally use for non-farm

dwellings and included the words "or its designate" so they can

designate it. It is very clear it is not a governing body action if

they don't want it to be.

077 CHAIR CEASE: Does anybody have a problem with that? We will accept that.

078 HANNA: On page 4, line 24. We had a Section 6. We no longer have a definitions section, the lot of record portion. We had two definitions. One which specified perennials. "Specified perennials" only appears in

this one subsection (line 24). The other definition which caused us to

make this change is the definition for the term "tract." Initially you were only using the term "tract" for lot of record. Then you expanded in Section 14 and we discovered the definition of "tract" only covered lot of record. So we have moved the definition for "tract" into ORS Chapter 15 definition section so it would pertain to all the sections you are dealing with. That eliminated Section 6.

098 SEN. KINTIGH: Why are we excluding seed crops from perennials

101 BENNER: It is removed from the definition of specified perennials only for the purpose of lot of record provisions. The idea is that land devoted to seed crops would be eligible for a lot of record. One of the reasons that was done is that since perennials will be identified by aerial photography, it is very difficult to distinguish between pasture from seed crop.

110 SEN. KINTIGH: An example is beet seed. It is perennial. You plant it one year and grow the seed the next year.

111 BENNER: It was also understood that kind of seed crop generally is grown on Class one, two prime soils and it would already be included in the definition of high value farm land.

117 HANNA: The next change carries out your intent but it is not what the drafts you have been discussing said. It is on page 4, line 28 and page 5, line 16. We are talking about when a tract is predominantly composed of certain kinds of soils. You say if a tract is predominantly composed of generally Class III and IV, then it shall not be used for dwellings. When you made some of your exceptions and got into certain exception areas, we realized a tract may not be predominantly III and IV. It could be 33 percent I and II, 33 percent III and IV. So it is predominantly good stuff. I believe you meant to protect that. So we have changed the wording so it does that. In (4) it reads "....or composed predominantly of a combination of soils described in subsection (1) of this section and the following soils:...." so you get that protection properly.

On page 7, line 29, there was a question that arose about the "creeping Template". I talked with the Committee Administrator and he said the purpose of the discussion, he thought it had been agree upon that those parcels had to exist on January 1, 1993. That is what I bring to your attention.

161 SEN. BUNN: I did not have that understanding. I think we may have talked about dwelling existing, but I don't think we had all dealt with parcels existing on that date.

162 BENNER: I think Senator Bunn is correct. During discussion of the work group there was talk about avoiding....the idea is that we count houses as they were on January 1, 1993, not as they get to be over time such

that you don't keep building and building with the template. I think

Ann wants to talk about the parcel.

171 SQUIRES: As I believe the discussion went forward, we were talking about whether the template could spin and I used the term "but it

doesn't walk." The purpose of saying "it doesn't walk" was that you

take a snap shot at the present time and we discussed using the January 1, 1993 date because that is when the counties have keyed their records for purposes of small scale resource rules, but it doesn't matter to me whether it is January 1, 1993 or what. But you take the snap shot now

and things that happen in the future, whether they are dwellings or an

exception area that gets more parcels, don't create the ability to take that template and get the next parcel and the next parcel and the next

parcel qualifying. That was a very important part of the concept that

you have to meet both the parcel and dwelling standards under the snap

shot today.

193 SEN. BUNN: I don't recall it that way, but I am also concerned about another part. I think what we have done is if there is a legally

created parcel that legally created parcel is not eligible under this if it did not exist on this date. I don't think that was any part of the

intent. Even if you don't have the creeping, crawling or spinning

template, if you have a legally created parcel that is created after

January 1, 1993, this language would deny you the ability to use that

test even based upon the dwellings that existed on January 1, or the

parcels that existed on January 1, 1993. Am I right, Dick? It does two

things. We deny the use of newly created parcels in the template but we also deny the ability to use the template on a parcel created after

January 1, 1993. This language wasn't in the -A88 amendments. I do

remember a concern to prevent extra houses as they are added from

becoming a factor. I don't remember discussions to deal with the

parcels. That is why I was surprised to see this.

222 MIKE EVANS: This issue was not discussed in the negotiations. We were given the opportunity to work with Ann Squire, members of the Department of Forestry, Department of Land Conservation and Development. We went

into a meeting with one purpose--to negotiate a settlement. We were not entirely happy with the -A88 version, however, we used that version. We looked at the concerns others had. We came up with a negotiated

settlement based on that language and based on additional language. In

that we compromised. We all spoke to issues during the several sessions we have had had, working groups and what not--issues that were of

concern with us. Whenever you give concessions on one hand, then you

expect some return on the other side and it is a balancing so it works

for all parties. Because this is a very important factor that we were

dealing with language that existed, we agreed to that language when we

walked out of the meeting. It is an important issue that it be a

balanced approach. We believe it is unfair to bring it up at this

point. Had we known this was an issue we should have discussed it and

settled it during the discussion session.

Secondly, we don't believe it is an important issue relative to the

impact on the land from what is being dealt with. Remember we have an

80-acre minimum parcel size in most instances so parcels that are

created should not have a significant impact on the ability to apply

this test. The bigger test is the dwelling test, that when the dwelling was placed there was an issue we conceded on--that the dwelling had to

exist as of January 1, 1993.

260 SQUIRES: I agree with Mike completely about the point that when we have negotiated some points we aren't going to re-raise them. The problem

from my standpoint is that we were not negotiating about walking today

at all. I am sorry I did not catch the fact that the January 1, 1993

didn't apply to both the pieces. It is just something I didn't see.

Now that it is seen, I went into the discussions today trying to

accommodate the counties concern that they need to be able to spin the

parcel and we successfully did that. With the back drop of our discussions that fundamental to this is that we are trying to lay out a template that will allow things that fit the template with the snap shot today, let that template will not walk in the sense that things that happen after this will not allow it to move incrementally.

280 REP. BAUM: Sometime ago we did talk about this and maybe I can get an opinion from both the folks up here. What was the agreement on once you lay a template down on the ground and you use it in this sort of fashion, how can you next use that in the same area again? How does it work, how do you use the template in the vicinity.

292 ABBOTT: I guess the concern, and perhaps Ann can speak to it, would be that if there is parcelization that exists in the future 10 or 20 years from now and this regulation still exists that there might be another parcel or two within that area that would be included....

299 REP. BAUM: The template stays stationery, the parcels may change.

ABBOTT: I would guess that is the concern.

301 REP. BAUM: When I start walking, I don't want people inching it along. But things are going to change in the future. There will be changes in parcel sizes and minimum lot sizes throughout the years and that will happen. We conceded the dwelling issue and froze them as of January 1, 1993. But I understood it was stationery but things could change over time. Why is this so substantive all of a sudden. I don't see that.

322 SQUIRES: As you will recall, there are a number of things that we agreed to in trying to reach some closure on this. One was that the dwellings did not all have to be within the template. Another was that the template could turn, in part because of the planners' concern that sometimes geography means the clustering of an exception are or of a number of small parcels will be such that if you align the template on the perpendicular lines you don't pick up the natural topography. If you are allowing that to spin, it can pick that up. That is in some ways rational; in other ways it may create problems. The concern is if

one today looks at what is going on out there and it doesn't meet the test we have built here, but someone simply divides more land whether in an exception are or in the forest area, you can create the situation where suddenly it does meet the tests even though you cannot change the foresting pattern there. So when we said, whether walking is the right term or not, non-walking it was that it wouldn't change its application based on the things we do in the future, that you would look at today, just as we are looking at today for some of the other pieces of this bill.

357 REP. BAUM: My concern is that it tightens down some things. I think it is in some ways better than the existing law on some of the primary farm land things. I don't see much risk of much substance happening in the future.

366 SEN. BUNN: I look back at the -A88 and I think it is clear we have recognized the locked in date for the dwellings. The parcel concern is also legitimate, but it was not addressed before. The dwelling concern was addressed and was locked into the bill in five different places. This one was not discussed. It was put in the bill in error. It does have one impact on the walking, but the other impact we need to recognize. We have set a minimum parcel size of 80 acres. So if someone creates that parcel that we acknowledge as acceptable, they can then not apply this template to that parcel that we allowed them to create. That just doesn't make any sense. You allow them to create it but then say they have no chance to use the template that we have recognized to fill the gap. I think it is a significant issue that I hope we don't have to start over negotiating. We did address part of it and we didn't address the other part because it was not brought up.

396 EVANS: On page 10, line 6, there is a typo. The two words "or stream" does not belong in this section. Ann concurs with that one.

409 CHAIR CEASE: We have made note of it.

411 EVANS: Otherwise, we are satisfied with the language that is here. I shouldn't say we are satisfied, we accept the language that is here related to the template application and the other provisions.

420 SQUIRES: Just for clarity--you have decided to leave things as

they are.

420 CHAIR CEASE: Yes.

429 HANNA: As it is, you mean on page 7, line 29, the phrase between the commas, is it in or out?

442 CHAIR CEASE: That is the question.

448 SEN. BUNN: Did we just agree to remove the words "that existed on January 1, 1993"?

452 SQUIRES: That was the question I was just asking and I understood your answer to be that you did not want a change from what was there in the

last draft.

458 SEN. BUNN: I would like to go back to the -A88 that did not include that.

461 SQUIRES: What that would mean is that in each of the parallel sections, (a), (b) and (c) the (ii) that talks about the dwellings would require

the dwellings to have existed on January 1, 1993 (language on line 5 of page 8), but the language on the date in lines 29 on page 7 would come

out and that would be as in the draft.

473 CHAIR CEASE: Alright, can we do that? Let's move ahead. It's out.

TAPE 277, SIDE B

002 HANNA: On page 9, line 18, the beginning phrase is an exception. It has been included because the working group put in (8). When the

working group put in the (8), the (7) had to be modified to do that. 019 SQUIRES: I apologize. I have not had a chance to really read this section. What I thought you were debating with respect to the walking

was not a date the date in (6) (a) with Sen. Bunn, but rather the issue of whether as you examine whether the template has been fit, the

dwellings "existed on January 1, 1993" and the...

031 SEN. BUNN: I think I understand the issue. There are two separate concerns. One is whether or not the parcel can ever have the template

applied to it and the second is whether there are other parcels that are counted toward that template based upon the date.

034 SQUIRES: Exactly. I was focusing on the later and apparently you were focusing on the former.

035 SEN. BUNN: I was focusing on both, but I am not sure I conveyed

that. My belief is that with the three dwellings locked in that you prevent

any major walking. There is some difference based upon the parcels

created, but you always leave the test of the number of dwellings so

that, yes, you may now enter the qualification under the parcels, but

you have to further qualify under the dwellings. And we will not allow

that advantage in walking. I think that provides the protection that is needed.

042 SQUIRES: The point I was trying to make is that we agreed in the context of that discussion that the dwellings, except in some very

certain things discussed today, did not have to be within that 160

acres. So the dwellings do not act as the same level of control as if

they had to be within the template and were fixed. So I continue to

believe that particularly if one is not restricting the application to

parcels that may be created such as new forest parcel (I understand your point) that it is important that both the parcels and the dwelling be

fixed at that snap shot. Again, I apologize.

056 SEN. BUNN: I did spend most of my time arguing the one that I think we agree on. The other is still an issue and I am not saying your point

isn't valid. I am just saying I don't think it was in the discussions

and I hate to bring it in now. But I do believe the dwelling provides a pretty good safe guard for that if it remains and the other is not

brought in.

064 REP. BAUM: My only comment is, having gone through this many times, obviously the parcel has to be inside the template for it to qualify for a dwelling. A parcel for the purpose of citing a dwelling, the parcels

at least have to have a dwelling on them. Those would fixed and even if they are not inside the template they are still available. I can't

image someone would actually reduce the parcel that would be attached to the template because if you split a parcel up that takes the qualifying dwellings away from the parcel that was inside the template, you are

actually going the other direction. So I think this thing can come both ways. If somehow the county minimum lot size is so small it allows

this. I think it can cut both ways and it is kind of a neutral thing.

I am trying to get the concern but I don't see it being particularly

substantive.

078 SEN. SHOEMAKER: Looking at the language, I think Ann has a point. You could have 640 acre parcels that intersect within a 160 acre template

and if you have a dwelling at the far end of each of those 640 acre

parcels, you have met the test. And I don't think that is what this is

supposed to.

084 SEN. BUNN: That was part of the discussion and on the board.

085 SEN. SHOEMAKER: So the dwellings don't have to be within the 160 acres.

086 REP. BAUM: Just the parcels. That is why sometime when you put off one of these parcels you end up pushing the dwelling out of the contact with the template. All of a sudden you don't have that qualifying dwelling

anymore so it cuts the other way at the same time.

090 CHAIR CEASE: As long as that is what everybody agreed to.

091 SQUIRES: That is correct and that was agreed to, at least on my part, with the understanding that we were setting the picture we applied this to with the ability to spin it, with the ability to look at the parcels, to the dwellings outside the parcels, but that the assurance one had was that you could look at it today, which we haven't had an opportunity to do, but once that was done....

097 CHAIR CEASE: Your point was that that the phrase on line 29, "that existed on January 1, 1993" ought to be there and in the Eastern Oregon provisions, is that your point?

100 SQUIRES: It would be in each of the parallel provisions in the small (i), that is (A), (B) and (C). I was not arguing with Senator Bunn's

point. I don't think it ever was debated about whether you are

excluding this from parcels...I truly don't think we ever did discuss

that.

100 SEN. BUNN: To start with, on the question on page 7, line 29, that there isn't disagreement, do you want a motion to delete that language

or just do it by consensus? It is dealing with the newly created parcel under the minimum lot size, allowing the template to be placed on it.

115 HANNA: On page 7, in line 29, it is out. I took it out and I haven't put the date in anywhere else. Do you want to go to my next point?

120 CHAIR CEASE: Yes, please.

124 CHAIR CEASE: First, there is some confusion about what is being done.

125 SEN. COHEN: I just want to be sure who says what about it. Does everybody?

127 SEN. BUNN: We have locked in the dwelling, but not locked in the tracts for the template.

133 CHAIR CEASE: There was a reference made earlier on page 10 to removing "or stream" on line 6.

134 HANNA: That was taken care of.

136 HANNA: I have all my sections marked that were changed. This is the one you just discussed with the counties. My last comment would be on

page 50, line 5. I inserted "its" just for clarification because

acknowledgement is used so many times in this statute, the more generic term. And we are talking about the new provision. I just want to make

certain we know that is what we are talking about here--not generic

acknowledgement.

149 CHAIR CEASE: Does anybody have a question on that? Let's go ahead.

151 HANNA: That is it for mine.

152 HANNA: You have raised an issue in Section 14 where you plan to do a little handiwork. That will change about a dozen cross references and I will make those automatically if you make your Section 14 change.

158 CHAIR CEASE: I have talked to Sue about removing the three percent issue in Western Oregon. As you recall, it covered only Curry County

and there seemed to be some sense not to have that in. We will take

that out.

161 HANNA: I can tell you what that is going to do. On page 22, line 12 will read, "In counties not described in subsection (6), a single family residential dwelling....". We will leave out all the reference to

Western Oregon and the Willamette Valley. It will be everybody else

except (6). Subsection (6) on page 23 as it is written now will come

out because you don't need it any more, as well as lines 2-5 will come

out.

171 CHAIR CEASE: We are making reference only to the Smith case.

172 HANNA: Then into (6), I will move the Willamette Valley stuff that is currently in (9). Then I will change all the cross references to

conform to that.

179 CHAIR CEASE: Do you have questions on that? We are dumping the three percent. Sen. Bunn moves that we dump the three percent.

MOTION: SEN. BUNN moves that the three percent be deleted.

188 SEN. BUNN: The three percent we adopted only caught Curry County. Curry County has very, very little agricultural land to speak of and it is not expected to serve the purpose it was suggested for.

192 CHAIR CEASE: It was the growth factor in reference to the application of the Smith case in Western Oregon.

195 SEN. SHOEMAKER: Substantively, what are we doing?

195 SEN. BUNN: Western and Eastern Oregon so that all of Oregon outside the nine valley counties are treated the same as Smith and the valley

counties have a different standard.

197 SEN. COHEN: This will be for the purpose of creating new parcels. The issue is the partitioning under the Smith case and that relates to the

list of numbers we have....(inaudible).

206 SEN. SHOEMAKER: What if we have growth in the future? Isn't this going to check this for the future if some counties start growing rapidly,

this would then be a check on partitioning?

210 CHAIR CEASE: You can always come back and change that. We have accepted a figure high enough so as to exclude a couple of counties.

217 SEN. SHOEMAKER: Ten years from now we might have the population going bonkers somewhere and this would be a check on parcelization. This is

written not just for today, but for the future.

220 SEN. BUNN: I don't think we needed to put the limit, but it was a compromise that I think we realized didn't accomplish anything. In

reality, the county that is going bonkers, Deschutes County, isn't in it anyway. It is at a high growth rate and they only had 13 partitions

without Smith restricting it. I would come back to Smith just hasn't

been a major factor in being abused.

234 CHAIR CEASE: We have a motion. Are you objecting to it, Sen. Shoemaker?

234 SEN. SHOEMAKER: I am not comfortable with it. I thought what we were trying to do was to protect rapidly growing counties from parcelization and development in rural parts of those counties. I thought the three

percent was calculated to provide a kind of check point and we looked at the existing counties and said today this really isn't going to make

much difference so nobody is going to be hurt but it is a good thing for the future, it catches Curry County. Now that doesn't matter. I think

that even makes more reason to adopt the three percent standard so as

the years go by if counties start growing, you have something in the

statutes that prevent parcelization. Maybe Mr. Benner can speak to

this. Maybe I am concerned about something I shouldn't be.

250 BENNER: I think it is fair to assume that as growth pressures increase, there will be increasing pressure to create non-farm parcels. I think

that is a fair assumption. However, there are a lot of other factors

which play into it. When you were talking about this problem many work

sessions ago, the focus of the discussion was Deschutes County, which we thought and maybe still is the fastest growing county in the state, yet the number of new non-farm parcels in Deschutes County was considerably less than the number in some other fast growing counties. There is not

a direct correlation, but I think it is fair to assume that as growth

pressures go up, there will be increasing pressure to create non-farm

parcels for home sites.

273 VOTE: In a roll call vote SENS. BUNN, COHEN, KINTIGH, SMITH and CHAIR CEASE vote AYE. SEN. SHOEMAKER votes NO. SEN. GOLD is

EXCUSED.

278 CHAIR CEASE declares the motion PASSED.

280 HANNA: I would like one clarification. I know there are some people who have some concerns there are errors in the draft. I would like them brought before the committee and have the committee's direction on how I should deal with any errors because I don't want to do them when we

leave this hearing room and hear there are problems with the draft and

hear, could Sue put this one little clarifying phrase in that was agreed by everybody. I would like to hear from everybody now.

289 CHAIR CEASE: Once this leaves the committee, people are not to get after you about the draft. If we have drafting issues, let's look at

them.

292 DALE RIDDLE: I think there is just one minor one that I have been able to discover so far. I believe it was discussed the other night at the

hearing. It is at page 2, line 3. This is the lot of record provision.

There was a concern that if the proposed dwelling had to comply with the acknowledged comprehensive plan and if the acknowledged comprehensive

plan did not have these provisions in it, which it will not for quite

some time, that there would be inconsistency. We discussed putting in

some language like "except as otherwise allowed by this section." The

intent would be that you would have to comply with all the other

provisions of the plan, Goal 5 issues and that sort of thing. I think

it was discussed at the committee level, unless I missed something last night when I wasn't here.

307 CHAIR CEASE: I don't recall the specific discussion.

310 HANNA: When Dale brought it to me this afternoon, I spent an extensive period of time with my copy editors. Anyway they read this, they

couldn't make sense out of that language in there because these

sentences don't read by themselves on page 2. They are all reading off

of "a dwelling under this section may be allowed" which starts on page

1, line 18. We went over and over it and they said 'we think it is very clear, we think if you put it in there you are not crafting a very good sentence.' They convinced me that I shouldn't be doing that because I

have predicatory phrase.

322 RIDDLE: I have no problem with that as long as the legislative history is clear that it wasn't the intent by adding this language it would add an additional requirement inconsistent with this act itself.

327 HANNA: I think what happens is everybody tends to read these little things. There is the sentence over on the other page that leads into

all of this. That does help make it clear.

333 SQUIRES: I am almost afraid to come up here. I have not had an opportunity to read this. It is possible that as we read it as soon as

you are finished here, for instance, that one finds a phrase has come out because the computer glitched it or something. How does the committee want such a thing to be handled if it is found.

341 CHAIR CEASE: We are going to vote it out tonight. Sue will get it typed. If in the meantime, before it hits the floor in the morning anybody sees clearly technical or language errors that really are important, bring them to Sue and Sue and I can chat and if we have to come back to committee, we will do that. 356 BENNER: A small thing on page 11. We are talking here about fire safety standards. Do you remember the 4,000 gallons? There has been discussion about that and I think there has been an agreement that the 4,000 number is probably mistakable high. A planner from Lane County has some language which he would like to offer and I recommend you consider it.

343 KENT HOWE: Instead of the 4,000 gallons, it should be 20 gallons a minute for 20 minutes.

374 SEN. KINTIGH: Is that to replace the stream language or the 4,000 gallons.

375 CHAIR CEASE: The 4,000.

377 HANNA: Let me read how it should be. "If a water supply is required under this subsection, it shall be a swimming pool, pond, lake, stream or similar body of water that at all times allows for a flow of 20 gallons a minute...." Is that what you want?

384 SEN. BUNN: Twenty gallons a minute for 20 minutes? That is only 400 gallon.

389 HOWE: That is the current rule.

390 SEN. COHEN: We had a discussion of possibly 1,000 gallon.

393 SEN. KINTIGH: Four thousand gallon isn't that much water if you have a fire.

399 HOWE: The 4,000 gallons was originally intended to be used for off-site fire use, not for protection of the dwelling on the property. The current rule has a standard for fire protection of the existing structure for there to be on-site a water source capable of providing 20 gallons per minute for 20 minutes for initial fire suppression until

other fire equipment can get there.

411 SEN. BUNN: I will not oppose a motion if someone makes it, but I would prefer something such as 20 gallons per minute for 40 minutes. So if

you are going to use a tank, it would have to be at least an 800 gallon tank.

416 SEN. COHEN: I think we ought to make it either 40 minutes or make it 1,000 gallons.

418 SEN. BUNN: The reason for the 40 minutes is it allows a little more flexibility on a stream. The cost of a 400 gallon tank versus an 800

gallon tank isn't a whole lot but if you run out it makes a big

difference.

427 SEN. KINTIGH: I know Sue said she got this from Water Resources, but when you talk about a stream flow of one cubic foot per second, that is a good bit of water; it is 27,000 or 25,000 gallons.

434 HANNA: I would put the flow of water into the one area.

441 HANNA: I just bought a house next to BLM land and I was inquiring about my 300 gallon hot tub. All they did was laugh at me and said you can't

put out your trash can fire, lady. Kevin advised me to plant a lawn

around my house.

449 BIRCH: The 4,000 gallon came from what we consider an adequate source. If want to tap into something when we are fighting a fire... This came

from a different standard than what you are looking at here. I tried to talk to the Fire Marshal's office and they gave me a reference on this

which I gave to Chris. I can't tell you what a good number is for how

many gallons you need to fight a structural fire. You also need to

recognize that we are not talking about fighting the fire until someone else gets there. Nobody else is going to come.

468 MOTION: SEN. BUNN moves that "20 gallons per minute for 40 minutes" BE ADOPTED.

472 SEN. BUNN: So if it is a stream the same size stream is allowed, but if it is a tank, it has to be twice the tank the rules currently allow.

478 SEN. SHOEMAKER: Is that enough? Nobody else is going to come.

482 BIRCH: I don't know. We don't do structural protection at all. If the house starts on fire, the only thing we can do--we are not

equipped for it--is keep the fire from spreading to the resource land. The rural

fire protection districts are the folks that will come out and fight the structural fire. We just are not equipped to do that kind of job.

TAPE 276, SIDE A

(Tape 276, Side A, from 0-102 was re-recorded and deletes part of the work session on HB 2776 and HJR 69)

036 SQUIRES: Sen. Shoemaker, I want to emphasize the point you made. That is, this provision only triggers when the person is not in a rural fire protection district and is not under contract for protection. So these

are truly for people for whom no one is going to come. Twenty gallons a minute for even 40 minutes is a medium sized hot tub.

043 SEN. SHOEMAKER: What we are trying to do is not so much to protect the dwelling, I guess they take their risk there, but we don't want the

dwelling to ignite the nearby forest. If you don't have enough water to get the source of a major blaze under control, you have big problems,

don't you?

049 SEN. KINTIGH: If we are talking about areas where nobody is going to help you, having 4,000 gallons of water there isn't going to do any good unless you have a pump to pump it. A garden hose with a good pump

behind it could pump maybe 400 or 500 gallon an hour. If you had a

bigger pump with a two-inch hose you could use that 4,000 gallon up in

half an hour or hour.

056 SEN. SHOEMAKER: Maybe what we should do in (2)(a) on lines 3 and 4 eliminate reference to the dwelling so we are saying the governing body may provide an alternative means for protecting from fire hazards. The

(b) begins to make some sense.

062 SEN. BUNN: I am happy to withdraw my motion and they can put in a 4,000 gallon tank and if they don't want to do that they can come back in two years and tell us why it doesn't work.

066 CHAIR CEASE: We appreciate that.

065 SEN. KINTIGH: For the benefits to be derived, I think that is a very innocuous requirement.

067 CHAIR CEASE: Okay, let's stay with it. Kevin, do you see a problem?

070 BIRCH: I don't want to create any problem.

071 SEN. KINTIGH: Are we taking out the stream?

071 CHAIR CEASE: No, that stays in. Now we need to talk about the one cubic foot per second.

074 SEN. COHEN: We have an "or".

076 HANNA: Did you decide to leave it the way it is?

077 CHAIR CEASE: Leave it the way it is.

077 SEN. KINTIGH: It will sure be a lot easier to get a 4,000 gallon tank than it will be to find a stream.

079 CHAIR CEASE: Did we resolve everything on the template? Okay.

082 CHAIR CEASE: I want to read into the record a letter I got from Dick Benner relating to the rules issue (copy not available). The final

version of the letter is included only for the reader's convenience

(EXHIBIT H).

TAPE 278, SIDE A

CHAIR CEASE continues reading the letter.

024 BENNER: There is a word missing in paragraph 5. To have the first sentence in the paragraph make sense, it should read "not directly

addressed by HB 3661". Also on the second page, in the next to the last paragraph, the middle sentence makes reference to "subsection 2". It

should be "Section 2".

032 CHAIR CEASE: Is it still accurate in terms of any changes Sue may make.

033 BENNER: None of the changes would affect the letter. 037 SEN. KINTIGH: Just one more thing on the water. If you had a tank or swimming pool about 10 feet square and about five feet deep, it would be pretty close to 4,000 gallon. If you have a stream at one cubic foot

per second, you could refill that in about seven minutes.

045 MOTION: Rep. Bunn moves that HB 3661 A-Eng., as amended, be sent to the Floor with a do pass recommendation.

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

058 CHAIR CEASE declares the motion PASSED.

059 CHAIR CEASE: I will introduce the material on the Floor, Sen. Bunn will talk about the lot of record and the Willamette Valley issues we went

over today, Sen. Cohen will talk about the process issues, the relationship of the rules to the bill and the template issue, Sen. Smith will talk about the cases, Rep. Shoemaker will talk about the right to farm and Sen. Kintigh to speak about other aspects of forestry and the fire issue. Sen. Gold will be busy with the tax issue, but every other committee member will be involved in carrying the bill.

077 SEN. CEASE thanks everyone who worked on the bill and declares the meeting adjourned at 6:00 p.m.

Submitted by, Reviewed by,

Annetta Mullins Peter Green Committee Assistant
Committee Administrator

EXHIBIT LOG:

A - Testimony on HB 2776 B and HJR 69 A - Oregon Gasoline Dealers Association - 2 pages B - Proposed Amendments to HJR 69 A - Staff - 1 page C - Proposed Amendments to HB 2776 B - Staff - 1 page D - Testimony on HJR 69 A - Petroleum Retailers of Oregon - 1 page E - HB 2776,HB 2776-B9 amendments, Hill and Boe, 1 page F - HJR 69, HJR 69-A5 amendments, Hill and Boe, 1 page G - HB 3661, HB 3661-A93 amendments, staff, 61 pages H - HB 3661, letter of agreement, Benner, 2 pages