

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation mark
HOUSE COMMITTEE ON AGRICULTURE, FORESTRY & NATURAL RESOURCES

April 30, 1991 Hearing Room F 8:00 A.M. State Capitol Tapes 78 - 81

MEMBERS PRESENT: REP. WALT SCHROEDER, Chair REP. LIZ VANLEEUWEN, Vice-Chair REP. SAM DOMINY REP. BILL DWYER REP. TIM JOSI REP. JOHN MEEK REP.

STAFF PRESENT: BETH PATRINO, Administrator EDWARD C. KLEIN, Assistant

MEASURES CONSIDERED: HB 2716 - PUBLIC HEARING HB 2731 - PUBLIC HEARING HB 3214 - PUBLIC HEARING HB 3240 - PUBLIC HEARING

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TAPE 78, SIDE A

003 CHAIR SCHROEDER: Calls the meeting to order at 8:03 A.M.

PUBLIC HEARING ON HB 2716 -- EXHIBIT A, B & C

Witnesses: George Brown, Dean, College of Forestry, Oregon State University and Director, Forest Research Laboratory Ray Craig, Assistant Sta

CHAIR SCHROEDER: Opens the Public Hearing.

011 GEORGE BROWN, Dean, College of Forestry, Oregon State University and Director, Forest Research Laboratory: Presents testimony in suppor

077 REP. VANLEEUWEN: What good will the research do if we can't harvest the timber?

BROWN: Hopes the issue will be resolved.

-He hopes that this body and other decision makers will use the research we can provide.

-It's important we use the resources we have as best as we can.

REP. VANLEEUWEN: That doesn't answer the question.

-How much of the proposed 12 million acre owl set-aside is private timber?

BROWN: Those maps were just released to the managing agencies.

-Out of 11.6 million acres, 3 million acres in Oregon, California and Washington are included.

REP. VANLEEUWEN: Haven't you been in touch with the U.S. Forest Service?

BROWN: Not on this matter. This was a U.S. Fish and Wildlife Service decision.

104 REP. MEEK: The current tax is 5 cents or 20 cents?

BROWN: The original statute set it at 5 cents.

-We come back each biennium with a proposal to increase the tax.

-He refers to lines 5 and 6, HB 2716.

-ORS 321.015 sets the base rate of 5 cents per thousand board feet.

REP. MEEK: It was originally set at 5 cents; what is it currently?

BROWN: Twenty-one cents.

-That is the base rate plus an increment of 16 cents.

REP. MEEK: You are asking it go up another 9 cents?

CHAIR SCHROEDER: We revise it every couple of years. We should revise the statute.

134 REP. JOSI: How much are we asking it to go up?

BROWN: A total of 30 cents.

REP. JOSI: You want to raise it another nine cents?

BROWN: Yes; from 21 cents to 30 cents.

REP. VANLEEUWEN: How were you able to go to 21 cents when the statute says 5 cents?

BROWN: Explains.

REP. VANLEEUWEN: Is someone here from the industry?

BROWN: He refers to JOHN HAMPTON's testimony (EXHIBIT B). The OFIC voted to increase the rate to 30 cents.

REP. VANLEEUWEN: What about the small timber people?

162 REP. NORRIS: Is this harvest tax exclusively dedicated to the laboratory?

BROWN: Yes.

REP. NORRIS: What's the total harvest tax for a typical harvest?

BROWN: The total tax rate?

REP. NORRIS: The total charged per thousand board feet.

BROWN: RAY CRAIG can talk to you about that.

179 RAY CRAIG, Assistant State Forester, Department of Forestry: Sixty-seven cents per thousand board feet.

REP. NORRIS: What's the typical selling price?

CRAIG: \$250 to \$300 per thousand board feet.

REP. MEEK: What is not being included?

198 JOE MISEK, Department of Forestry: The current total is 67 cents. The first 25,000 board feet are exempt.

-He lists the harvest taxes in current law.

REP. VANLEEUWEN: You're not including the severance tax?

CRAIG: No.

215 REP. DWYER: What is the total if we include all of the new fees?

CRAIG: The Governor's recommended rate would go to \$1.69.

-He lists the proposed increases.

236 REP. DWYER: That doesn't include the 65 cents for the commodity commission does it?

CRAIG: No.

REP. DWYER: That doesn't include the severance tax?

CRAIG: No.

REP. DWYER: What's the total if we include those?

CRAIG: Isn't sure of the commodity commission rate.

BETH PATRINO: Seventy-five cents.

BROWN: Thinks that was the authorization level. It could end up being less.

250 REP. JOSI: You said 30 cents per thousand, then he heard 25.2?

BROWN: The Governor's Office in June 1990 recommended a rate of 25.2 cents, which is what is in HB 271 6.

-We're proposing that be moved up 30 cents with the industry's concurrence.

-The Forest Research Laboratory is badly under-funded.

-We are one-third to one-half of the rates of Washington, Idaho, California and three competing timber states in the southeast.

-We provide the research support for a major industry.

279 REP. VANLEEUWEN: The lab is valuable, but she is struggling for the total picture.

-Where have you been while the harvests were being set aside?

-She would like to see the letters he has written to the national leaders.

BROWN: We have worked to provide the basic information the decision makers need.

-We developed a timber availability study. We updated the 1976 Bueter Report.

-After the Thomas committee released their report we released a report dealing with spotted owl scenarios.

-He describes the briefings they've conducted.

-We have not been sitting in the wings, but have been providing analysis and policy advice.

332 REP. DWYER: This is less than three-quarters of one percent.

-You are asking for money because the harvest is shrinking.

-He thinks the request is reasonable.

CRAIG: Presents testimony in support of HB 2716 (EXHIBIT C).

370 WARD ARMSTRONG, Oregon Forest Industries Council: Testifies in support of HB 2716.

403 REP. MEEK: It's easy to look at the years ahead and ask for a little more money. What will you do next biennium?

-Where does it end? There's no long-term plan.

-Where will science get us when you look at the political issue?

430 ARMSTRONG: You are facing the same dilemma we are.

-We are approaching a very real crises in forestry on public and private land.

-We put a two year limit on our support of 30 cents.

-The fifty-fifty relationship with the state ought to prevail.

-We have to take one step at a time.

-It is the belief of private research scientists that the owl will survive in a managed forest.

-We have to prove to the rest of the scientific community that's true.

484 REP. MEEK: Is this the easy approach to saving the Forest Research Laboratory without having it become a private institution?

ARMSTRONG: It will require both. The private sector has been conducting research on the ability of the owl to survive in a managed forest.

TAPE 79, SIDE A

034 ARMSTRONG: At some point private research will have to be validated by public institutions.

046 REP. DWYER: Government deals in crises management and is very seldom proactive.

-He does not expect any changes in the near future.

REP. VANLEEUWEN: You act embarrassed when she pushes the agencies to see if they really have represented us.

060 ARMSTRONG: All of the attention is not on the owl. It should have been identified 10 years ago.

-We still don't believe forestry is endangering the owl.

-There are many other animals and fish out there. OSU is trying to get on top of the fish issue.

076 REP. NORRIS: Is this proposed increase tied to the owl or would it be necessary without the owl?

ARMSTRONG: We need this regardless of the owl.

-We need to assure the public the forest is sustainable.

-We can do that, but it takes good science.

REP. NORRIS: He is marginally optimistic that the owl won't be as devastating as it appears to be.

093 REP. DOMINY: What happens when this 30 cents expires? Do we go back to the current rate or to the five cents.

-What happens if we do nothing next session?

ARMSTRONG: It goes back to five cents.

REP. DOMINY: If we don't pass the bill it goes back to five cents?

ARMSTRONG: Yes.

CHAIR SCHROEDER: This has a subsequent referral to Revenue, but we want to change it to Ways and Means.

122 REP. BILL MARKHAM, District 46: We should increase this in the statute, but OFIC doesn't want it higher than five cents.

REP. DOMINY: Can we get someone from small woodlands?

REP. VANLEEUWEN: Are they in agreement with increasing this to 30 cents?

139 DON DUHRKOPF, Vice-President, Marion-Polk Chapter, Oregon Small Woodlands Association: OFIC presented testimony on the total charges.

-We have a 25,000 minimum in the harvest tax. If you don't reach that minimum you don't pay.

-It's not inconceivable the small woodlot owner won't harvest more than 25,000, because if they don't they might not get to do it.

-Research is important. It's important to set it at a reasonable rate. He has no idea what the real rate is.

-REP. VANLEEUWEN makes a valid point--what good is the research if there is no product.

-As an organization, we are interested in seeing what happens with this bill.

187 REP. VANLEEUWEN: Will the small woodlands people be mad at us if we increase it to 30 cents?

DUHRKOPF: We will.

-We're not necessarily in favor of anything that raises the cost.

210 TERRY LAMERS, President, Marion-Polk Chapter, Oregon Small Woodlands Association: Has no disagreement with raising the harvest tax to 3

-The harvest tax is a small percentage of the total taxes the small woodlot owner has to pay.

-We are nibbled by taxes.

-We think we are getting ripped off by the severance tax.

-We are better off paying the 30 cents than having it go back to 5 cents.

CHAIR SCHROEDER: Closes the Public Hearing.

PUBLIC HEARING ON HOUSE BILL 2731 -- EXHIBITS D to I

Witnesses: Rep. Liz VanLeeuwen, District 37 Rep. Bill Markham, District 46 Rep. Jerry Barnes, District 52 Rep. Rod Johnson, District 45 Clair

CHAIR SCHROEDER: Opens the Public Hearing.

250 REP. LIZ VANLEEUWEN, District 37: Testifies in support of HB 2731.

-She describes the bill.

-A similar bill passed the House last session.

-Some of us believe there isn't the shortage of spotted owls as we've been led to believe.

280 REP. JOSI: In theory this is a good bill.

-The problem is that people will end up harvesting all of the immature timber.

REP. VANLEEUWEN: Agrees.

-When the government threatens to take people's property, it causes people to do things they wouldn't normally do.

REP. JOSI: Does the state have authority over the Federal Government in preventing a reduction in harvest on private land?

REP. VANLEEUWEN: We do not have the authority.

-The bill will have to be amended.

-HJM23 takes care of talking to the Federal Government.

REP. JOSI: The Federal Government has the authority to stop private timber owners from harvesting when a spotted owl is found on their land

REP. VANLEEUWEN: Federal laws seem to take precedent over state laws.

339 REP. DOMINY: Likes the concept. Is there any legal way to circumvent the listing of the spotted owl?

-He does not see an impact statement. It's expensive to study the spotted owl.

-How much land would you expect to inventory?

358 REP. Bill MARKHAM, District 46: He doesn't know.

-He describes HB 3491, that passed the House last session.

-We need that inventory. How do we know what we're dealing with without it?

-If we can raise condors or peregrine falcons, why can't we raise owls?

402 REP. DOMINY: How much of the land are you talking about inventorying?

REP. MARKHAM: We should follow the rules the federal government does.

-The BLM has been doing it for the last 5 or 6 years.

432 REP. VANLEEUWEN: Refers to the Fiscal Impact Statement (EXHIBIT D).

REP. NORRIS: Has anyone checked with the Department of Justice to see if this would survive any legal test?

REP. VANLEEUWEN: Doubts the first section would survive.

-The inventory is needed to find out what's out there.

458 REP. NORRIS: Are we sure there has been no real survey?

REP. MARKHAM: There has not.

REP. VANLEEUWEN: A number of private owners in my area have counted owls, but she doesn't know what was done with that report.

TAPE 78, SIDE B

030 REP. JERRY BARNES, District 52: Testifies in support of HB 2731.

-The first paragraph needs to be reworked.

-We need a recovery plan for the owl and we need a predictable supply of timber.

-We need to know what we're dealing with. Wildlife biologists need to be part of the solution.

-Foresters and biologists should work together to develop a plan.

-We have an obligation to the citizens to do what is accurate.

-We need to know what we're dealing with if we put timber off limits.

058 REP. JOSI: Do you want an outside agency to do the study?

REP. VANLEEUWEN: It could be amended so that they could do it themselves.

REP. JOSI: What's your intent?

REP. VANLEEUWEN: To have a scientific inventory.

REP. JOSI: You have no problems with the department doing it?

REP. VANLEEUWEN: No.

072 REP. ROD JOHNSON, District 45: Testifies in support of HB 2731.

-It's not within our power to make the Federal Endangered Species Act not apply in Oregon.

-We can recognize that the preservation groups have created a lot of hysteria.

-The amount of timber cut while the recovery plan was being formulated would not affect the long-term health of the owl.

-He suggests amending section 2 so that it is clear that we are not trying to override the federal act, but that we are directing the State

-We need to recognize that this is an emergency and let the status quo continue.

-If it turns out we need private lands to protect the owl, then those regulations can be put into place at that time.

117 REP. VANLEEUWEN: Asks BETH to work on the amendment.

CHAIR SCHROEDER: We'll discuss that in Work Session.

120 CLAIRE PUCHY, Oregon Department of Fish and Wildlife: Presents testimony in opposition to HB 2731 (EXHIBIT E).

163 REP. JOSI: It's a taking when the rights of timber owners are being taken away.

-The Federal Government is talking about a taking of spotted owls.

-If the Federal Government is talking about a taking, we should be talking about a taking and equity.

PUCHY: The word "take" is used in two different contexts.

CHAIR SCHROEDER: Define it.

PUCHY: Refers to page 3 of her testimony for the federal definition.

197 JEFF CURTIS, Department of Fish and Wildlife: There is some confusion about the critical habitat designations.

-Our understanding is that those critical habitat designations do not apply to "take."

-If someone's property falls within the critical habitat it does not mean that any harvest would result in a taking.

-The current rules would apply.

CHAIR SCHROEDER: They could harvest from some of the 70 acres?

216 CURTIS: Refers to the current federal rules.

PUCHY: The U.S. Fish and Wildlife Service explained these rules were guidelines to avoid a taking of a spotted owl.

-There are provisions that allow timber harvests to continue.

-If a private landowner happens to harvest timber where a spotted owl is found and the landowner can demonstrate that they followed the guid

243 CHAIR SCHROEDER: Are there proposals to pay individuals for the trees they would normally harvest?

CURTIS: No.

CHAIR SCHROEDER: That's not a taking?

CURTIS: This issue has been debated for years. The law moves back and forth.

-There have not been cases that have restricted the Federal Government's ability to protect wildlife.

CHAIR SCHROEDER: How would you feel if the society determined you should take some homeless people into your home?

CURTIS: Would think that was inappropriate.

CHAIR SCHROEDER: That's almost exactly what has happened.

CURTIS: There are two points in the bill he supports:

-We have people working on the spotted owl recovery team.

-It is important for that plan to be completed.

-We have a package in the budget for some people involved in spotted owl work.

-We have a number of biologists working with the Department of Forestry on spotted owl issues on private lands.

-We are conducting an inventory of spotted owls on state lands.

302 REP. DOMINY: Are you testifying that we don't need this bill?

-Will there be enough in the Department of Fish and Wildlife budget without this?

CURTIS: We will complete the inventory on state lands soon, but there are no plans to do a specific inventory on private lands; although we

-We have been successful in getting federal funds to do this type of inventory work.

321 PUCHY: We hope to have 90 to 95 percent of state lands inventoried by September.

-It would cost about \$300,000 for an inventory of private lands.

REP. DOMINY: Why weren't private lands included?

CURTIS: Does not know. We are doing some of that through the Department of Forestry.

CHAIR SCHROEDER: What state lands have been inventoried so far?

PUCHY: Is not certain.

CHAIR SCHROEDER: Have they done the Tillamook?

RAY CRAIG, Assistant State Forester, Department of Forestry: Believes the inventory was going to start in the Tillamook area.

-When the owl was listed our priority was to inventory the state lands that were under contract or about to be harvested.

CHAIR SCHROEDER: Have they found owls in the Tillamook?

CRAIG: Yes, but he doesn't know how many.

385 REP. NORRIS: Is the uncertainty about the number of owls typical of federal activity to date?

-He hopes there was some basis for the judge's actions halting logging of 11 million acres. Aren't six million acres of that in Oregon?

394 CURTIS: This has been litigated more than any issue he has seen.

-There are several lawsuits going on.

-You're referring to a ruling which directed the U.S. Fish and Wildlife Service to designate critical federal habitat.

-Yesterday's ruling was a result of that.

-This is not a proposed regulation it is pre-proposal, a proposal to propose.

-Because an area is designated as critical habitat doesn't mean it will have an effect on private property. U.S Fish and Wildlife officials

-The take guidelines would apply whether the land was designated or not.

-Unlike the listing proposal, where only biological information is relevant, the critical habitat designation can take economic factors into

TAPE 79, SIDE B

012 REP. VANLEEUWEN: How much owl counting has been done in the set-asides we already have?

PUCHY: Suspects the counts are low, because the wilderness areas are at high elevations.

-The U.S. Fish and Wildlife Service and the BLM would have those figures.

REP. VANLEEUWEN: We have set-aside areas that aren't high elevations. Have they been counted there?

PUCHY: That is part of our current inventory.

REP. VANLEEUWEN: How many active pairs have you found?

PUCHY: We won't have the figures until September.

CHAIR SCHROEDER: We've closed down an industry without the figures.

PUCHY: There are a host of other species we need to address to prevent from being listed in the future.

-There are concerns about spending a lot of money inventorying one species when we could be spending a portion of that money trying to prevent.

047 IRV FLETCHER, President, Oregon AFL-CIO: Presents testimony in support of HB 2731 (EXHIBIT F).

-We have been told that there will be no assistance to displaced workers.

-Environmental groups have said eastern Oregon is next.

-Until we stop exporting logs we still will have a credibility problem on timber supply.

REP. VANLEEUWEN: Has sent a letter to the White House on the issue he was talking about.

-Rather than sending us money she would like them to release the timber harvest.

FLETCHER: We know we will be impacted.

-The Federal Government should be responsible for the money.

REP. VANLEEUWEN: Has been doing all she can.

092 CHAIR SCHROEDER: Are there some funds coming in?

FLETCHER: JTPA. Oregon will need more than that.

100 REP. MEEK: Oregon spoke loud and clear that we didn't want exports.

FLETCHER: We're still exporting off of private lands.

-That's the last loophole we have to close.

112 MARC LIVERMAN, Conservation Director, Portland Audubon Society: Testifies in opposition to HB 2731.

-Logging of owl habitat now may reduce any options for the recovery plan later, which may mean less public input on what that plan may mean.

-The burden on the industry will be redistributed.

-This bill would sidestep the compromises made when the state Endangered Species Act and Forest Practices Act were passed.

-There is a private property rights issue.

-The forest product industry cannot be viewed as a mature industry until it acknowledges its responsibilities.

-Some members of this industry are supporting legislation that would set-aside private lands for scenic purposes.

-Protecting species does not conflict with constitutional prohibitions against taking.

-Federal legislation did not ban log exports. It set up an application process and public hearing.

-The spotted owl is not the problem.

-There is an increasing awareness of the limited nature of our limited natural resources and society's insistence that our forest species be protected.

162 REP. VANLEEUWEN: Since you don't believe people have rights to their property, let me use your car and you can walk for the next week.

LIVERMAN: Is a believer in property rights and the responsibilities that go with those rights.

REP. VANLEEUWEN: What if we passed a law that said conservation organizations could no longer give anyone any funds? That's in essence what you're saying.

LIVERMAN: As he understands it, "taking" involves a physical occupation of someone's property or the removal of all reasonable economic value from the property.

201 BILL MOSHOFOSKY, Legal Counsel, Oregonians in Action: Testifies in support of HB 2731.

-We want to make sure no private timber is set aside without payment to the owner for their loss.

-The public could justify taking all of the 700 species if we follow the policy behind what's going on with the owl.

-Neither owls nor any other species of wildlife have protection under the Oregon or United States Constitutions.

-ORS 496.172 expressly states private property shall not be taken to protect the owl.

-The Forest Practices Act does not require it.

-We are challenging the 70 acre set-aside in the Court of Appeals.

-Our theory is that this is a physical invasion.

-We agree with MR. LIVERMAN's analysis on what the cases say on takings.

-Properly applied the concept of physical invasion will require the reimbursement of the owner.

-He makes a distinction between wildlife habitat and the protection of streams.

-It's amazing there has been no litigation on this basic concept.

-He describes HB 2741.

-Not just forestland is at risk.

-LCDC's goals require an array of protection.

-He refers to a statement made to the Senate Agriculture and Natural Resource Committee on SB 555 and SB 1125, because the rationales are 318 REP. JOSI: He agrees that the landowner should not bear the cost. It should be society's responsibility.

-In regards to the spotted owl, who pays? The state or Federal Government?

MOSHOFOSKY: The enforcer of the set-aside should pay.

-The Federal Government indicated no private landowner would have to interrupt their harvesting activity unless there was federal money or a

-If the State Department of Forestry requires the set-aside, the state should pay.

-He describes discussions he had with JIM BROWN on the set-asides.

371 REP. JIM WHITTY, District 47: Testifies in support of the HB 2731.

-He presents a quote.

-He doesn't support the view that all species have the same intrinsic worth as man.

417 SUSAN LAFONTAINE, Oregon Raptor Center: Describes the Oregon Raptor Center.

-We are opposed to HB 2731, it appears to be a blatant disregard for federal law.

-An inventory is necessary and should have been done a long time ago.

-The non-game fund should not be used for the inventory; it is already under-funded.

TAPE 80, SIDE A

021 CHAIR SCHROEDER: Do you feel the Non-game Fund should be increased?

LAFONTAINE: We would support any measures to increase the fund.

-The Environment and Energy Committee has a bill to provide funds for the Resource Conservation Trust Fund, which would provide more money to

CHAIR SCHROEDER: Where would that money come from?

LAFONTAINE: From waste disposal fees.

-There was a provision for a checkoff on the income tax form, but it was dropped.

-Every Oregonian has an obligation to help and protect other species.

-We should all work together. The spotted owl is put in the middle.

-Humans are using the land that was used by all the species.

-We need to keep our perspective. We are users of the land and other life forms are dependant on the land.

058 CHAIR SCHROEDER: Are you proposing we move all the people out?

LAFONTAINE: No. As we use the land we have a responsibility to accommodate other life forms.

-We should manage the forest for wildlife and timber extraction. There can be resource development without destroying habitat.

068 SAMPLE BROWN, Legislative Assistant for SEN. RON GRENSKY, District 25: Presents testimony in support of HB 2731 (EXHIBIT H).

119 CHARLIE STONE, Director, Forest Practices Section, Department of Forestry: The department didn't intend to testify. We did not take a

-There are currently two regulations that require private landowners to take action to protect the spotted owl.

-1. Under the Federal Endangered Species Act there is the provision that no person shall "take" owls.

-Removing habitat may result in a taking.

-The Fish and Wildlife Service has not indicated what private landowner's duties are beyond the prohibition on taking.

-It is the department's position that when private land was necessary for the protection of an endangered species, monies would be appropriate

-That has not taken place and the money has not been put forward.

-2. The Board of Forestry, under the rules of the Forest Practices Act, has adopted a temporary rule that requires 70 acres of suitable hab

-There is no requirement that landowners set aside large areas around nest sites.

-There are a lot of implications in the federal guidelines, but no regulations.

183 REP. VANLEEUEWEN: There are no federal regulations?

STONE: Correct.

-He describes the U.S. Fish and Wildlife Service guidelines.

REP. VANLEEUEWEN: Explain the 500 acres.

STONE: There is an implication that landowners are to provide 500 acres. It appears the Federal Government is relying on the states to adopt

-California and Washington have adopted these guidelines, but Oregon has not.

REP. VANLEEUEWEN: In Oregon, a timber owner would only have to abstain from harvesting the 70 acres around the nest?

224 STONE: That's the nature of the regulations and the implied regulations.

REP. VANLEEUEWEN: Where are the real regulations?

STONE: The real one is you're prohibited from taking the owl.

-State law says you have to leave 70 acres of suitable habitat.

-The Federal Government has said they will investigate you for a taking if you don't provide the 70 acres, the 500 acres and the couple of

REP. VANLEEUEWEN: How would an owner of 2,000 acres harvest their timber without getting in trouble from the Federal Government?

STONE: The Federal Government has left it to the landowner to figure it out for themselves.

-He describes the federal guidelines.

259 REP. JOSI: There has to be a lessening of regulations.

-He assumes there can be no harvest in the 70 acres; what about the 500 and 2,000 acres?

STONE: That acreage should be left unharvested.

REP. JOSI: Why is there a difference between the 70 acres and the 2,000 acres?

STONE: Explains.

REP. JOSI: Could you give us a chart with the implications of the differing areas?

287 STONE: Could do that.

CHAIR SCHROEDER: We will get back to it.

STONE: The bill addresses the Oregon Endangered Species Act.

-That probably won't get at lessening the obligation of the landowners.

-The obligation comes from the Federal Endangered Species Act and the Forest Practices Act.

-The Attorney General's Office gave us informal advice that under current state law we would have to enforce the 70 acre requirement.

REP. VANLEEUEWEN: Has the Attorney General supplied us with that?

STONE: It was a verbal response.

REP. VANLEEUEWEN: That addresses subsection 1 of section 2 of the bill?

STONE: Correct.

-There is currently no active inventory on private land.

320 ELMER WERTH, Small Woodland Owner, Polk County: Presents testimony (EXHIBIT I.)

350 THURMON SMITH, Oregon State Grange: Testifies in support of HB 2731.

365 CHAIR SCHROEDER: It's a tragedy because we have a confrontation between different groups in the state.

-It's a tragedy because thousands have lost their jobs because of this situation.

-It's a tragedy because timber is being cut before it should be.

-He closes the Public Hearing.

REP. VANLEEUEWEN: The intent is for BETH to get the amendments put together and then bring it back.

CHAIR SCHROEDER: That's the intent.

PUBLIC HEARING ON HOUSE BILL 3214 -- EXHIBIT J

Witnesses:Rep. John Meek, District 5 Joe Misek, Timber Tax Specialist, Department of Forestry Dave Stere, Director, Forest Resources Planing

CHAIR SCHROEDER: Opens the Public Hearing.

391 REP. JOHN MEEK, District 5: Testifies in support of HB 3214.

-He is appalled by the number of forest taxes.

-We should treat both farm and forestland as agricultural land.

-He describes the bill.

443 REP. NORRIS: Refers to page 1, line 32.

-How do we get from property tax to an income tax deficiency?

REP. MEEK: If you don't pay your property tax they would come back through your income tax.

REP. NORRIS: Thought it would end up being a lien on the property.

REP. MEEK: Your income on that property is not excluded if you fall out of compliance with the farm deferral program.

REP. DOMINY: Wouldn't you still have to meet the farm standards?

REP. MEEK: You'd have to meet the agricultural intent of the land.

REP. DOMINY: Once you cut the trees you can put the land into farm use?

TAPE 81, SIDE A

001 REP. MEEK: The election for a timber deferral would no longer be there. It would be a straight farm deferral.

REP. DOMINY: Is there a better break for a farm deferral?

REP. MEEK: Yes.

007 JOE MISEK, Timber Tax Specialist, Department of Forestry: Presents testimony in support of HB 3214 (EXHIBIT J).

038 REP. MEEK: This is a very complicated issue.

REP. NORRIS: What if we passed it, would it get anywhere?

-Should we pass it and see what happens?

MISEK: DON DUHRKOPF and the Oregon Small Woodlands Association is supportive of this concept, but have concerns about the penalty clause.

-He explains.

085 REP. MEEK: The side effects are an oversight.

CHAIR SCHROEDER: What effect will this have on secondary and marginal lands?

093 DAVE STERE, Director, Forest Resources Planning, Department of Forestry: Explains the implications to land use laws.

REP. MEEK: Where we have marginal land classification--they carry EFU in the productivity of that land--the slope and difficulty to farm gi

-This is an attempt to simplify tax laws.

127 REP. NORRIS: It seems the penalty should apply only if the land is converted to a use other than an agricultural use.

CHAIR SCHROEDER: Closes the Public Hearing.

-He recesses at 10:37 A.M.

-He reconvenes at 10:45 A.M.

PUBLIC HEARING ON HOUSE BILL 3240 -- EXHIBITS K and L

Witnesses:Rep. Bill Markham, District 46 Charlie Stone, Director, Forest Practices Section, Department of Forestry Heidi Bialkowsky, The Wil

144 REP. BILL MARKHAM, District 46: Testifies in support of HB 3240.

-He presents a history of riparian laws.

-If you have property on a Class A stream you must leave nine conifers per acre and get nothing for it.

-He presents an illustration on the loss to landowners.

-The Legislature should say that if it's a taking the state should pay for it.

-The landowner gets a tax credit when the log their tract.

-He would like to see the bill pass to Revenue.

245 REP. JOSI: Supports the bill.

REP. MARKHAM: Refers to the 4/30/91 issue of The Oregonian and an article on SB 555.

REP. JOSI: Believes in riparian zones.

-He agrees with the concept that it is a taking and landowners should be reimbursed.

278 CHARLIE STONE, Director, Forest Practices Section, Department of Forestry: Presents testimony supporting the concepts of HB 3240 (EXHIB

324 REP. DOMINY: Would there be a problem administering this? What if the river is a boundary to a property?

STONE: The regulations apply to each side of the stream.

REP. DOMINY: How do you decide which side of the stream gets four trees and which side gets five trees?

STONE: You deal with each side of the stream individually.

362 HEIDI BIALKOWSKY, The Wildlife Society: Presents testimony in support of HB 3240 (EXHIBIT L).

399 REP. DOMINY: Would this bill help or hurt riparian areas?

BIALKOWSKY: This would help protect them by providing incentives that do not now exist.

418 BILL MOSHOFOSKY, Oregonians in Action: Testifies in support of HB 3240.

-The Oregon Small Woodlands Association and Oregon Forest Industries Council support the bill.

-He refers to page 1, line 25. After "which" insert "some or". The public shouldn't buy or pay for more than it needs.

-In some cases they may need nine trees per acre in others they won't.

-The same amendment might be appropriate on page 3, line 26.

TAPE 80, SIDE B

023 REP. DOMINY: You're saying that a landowner should be able to get a tax credit if they leave 18 trees?

MOSHOFOSKY: The way it is now written, to get the tax credit you would have to leave all the trees in the riparian area.

-If they harvest some of the trees and leave half of them, they should get credit for half.

REP. DOMINY: They should get credit for whatever they leave?

MOSHOFOSKY: Correct.

CHAIR SCHROEDER: There's a percentage of cover that must be left and it may take more than nine trees to do that.

MOSHOFESKY: The terrain may make a difference.

-There's a difference between protecting water and protecting wildlife.

-It's time the public knows the costs of the set-asides.

-We need to weigh these costs against the perceived benefits.

REP. MARKHAM: WARD ARMSTRONG, Oregon Forest Industries Council and GARY CARLSON, Oregon Small Woodlands Association asked me to say they su

CHAIR SCHROEDER: We will be meeting tomorrow night on HB 2244.

-He adjourns at 11:07 A.M.

Submitted by: Reviewed by:

Edward C. Klein, Beth Patrino, Committee Assistant Committee Administrator

EXHIBIT LOG:

A - Testimony on HB 2716 - George Brown - 3 pages. B- Testimony on HB 2716 - George Brown for John Hampton - 3 pages C-