

Senate Committee on Agriculture and Natural Resources March 27, 1991 -  
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proceedings, please refer to the tapes.

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

March 27, 1991Hearing Room C 8:00 a.m.Tape 106 - 109

MEMBERS PRESENT:Sen. Dick Springer, Chair Sen. Joyce Cohen,  
Vice-Chair Sen. John Brenneman Sen. Shirley Gold Sen. Bob Kintigh Sen.  
Tricia Smith Sen. Eugene Timms

STAFF PRESENT: Peter Green, Committee Administrator Chris Beck,  
Research Associate Kimberly Burt, Committee Assistant

MEASURES CONSIDERED: SB 499 (WRK) SB 888 (PUB) SB 613  
(PUB SB 317 (PUB)

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TAPE 106 SIDE A

003 Chair Springer calls the meeting to order at 8:00 am

WORK SESSION ON SB 499 Witnesses:Jeff Croft, Manager of Mineral  
Resources & Leasing, Divison of State Lands

BECK: (-2) amendments, (EXHIBIT A), were submitted by Sen. Bradbury.

Describes amendments for members.

015 JEFF CROFT, MANAGER OF MINERAL RESOURCES & LEASING, DIVISION OF  
STATE LANDS: We have no objection.

023 MOTION: SEN. SMITH moves the (-2) amendments to SB 499.

SEN. TIMMS: Does this allow only scientific research?

CROFT: Yes; research to define and delineate the geologic events that  
cause deposits and such; it would not be aimed toward commercial  
development.

This will allow universities and academic institutions to study deposits  
to get a better idea of the types of deposits, but to preclude any type  
of commercial development.

SEN. TIMMS: Shouldn't we have scientific research before we put in the  
statutes that we can't mine it?

CROFT: I can't answer that.

050 SEN. KINTIGH: This is a ban, not a moratorium?

CROFT: Yes.

SEN. KINTIGH: I'd support a moratorium, not a ban.

060 VOTE: Hearing no objection the motion carries.

PUBLIC HEARING ON SB 888 Witnesses:Rep. Bruce Hugo, House District 1  
Sen. Joan Dukes, Senate District 1 Dennis Olmstead, Petroleum Engineer,  
Department of Geology and Mineral Industries, (DODAMI) George  
Richardson, Northwest Natural Gas

075 REP. BRUCE HUGO, HOUSE DISTRICT 1: SB 888 increases the permit fee  
filing charges and exploration for drilling for natural resources and  
minerals.

SB 888 would increase the permits fee from \$100 to \$250, it establishes  
a length of time that the permit is valid, one year, and thirdly, it  
puts a \$500 fee on permits currently in place.

090 REP. HUGO: The Department does need the resources to monitor these  
permits; explains process.

We want people in this business to be responsible and for the Department  
to monitor them so this is a good bill.

SEN. TIMMS: There is no designation of the two counties who want this?

REP. HUGO: No.

130 JOAN DUKES, SENATE DISTRICT 1: SB 888 is here to protect a program  
that is already existing.

I understand that there is a company who is opposing this; I expect the  
industry to oppose the raise in fees, but I think that this is something  
they can live with.

SEN. SMITH: This won't fully fund a second position for the Department?

SEN. DUKES: I have been assured that SB 888 would fund another  
position.

185 DENNIS OLMSTEAD, PETROLEUM ENGINEER, DEPARTMENT OF GEOLOGY AND  
MINERAL INDUSTRIES, (DODAMI): Submits and summarizes written testimony  
in support of SB 888, (EXHIBIT B).

CHAIR SPRINGER: What problems do you look for?

OLMSTEAD: Blow outs or gushers; we do inspect the equipment and  
personnel to assure that they can prevent blow outs.

We test for flow checks so we know how much gas a well will produce.

We make sure that wells that are "dry holes" are plugged with cement to  
prevent future problems.

We also do surface clean up inspections.

252 CHAIR SPRINGER: How many active wells are there?

OLMSTEAD: Eighteen producing wells and half a dozen injection withdrawal wells and ten to a dozen pressure monitoring wells and also several idle wells with no pipe lines available.

CHAIR SPRINGER: What is the average depth?

OLMSTEAD: 2500 feet.

SEN. KINTIGH: How far do you put concrete in the holes?

OLMSTEAD: It varies.

295 SEN. SMITH: Will this fee increase fully fund a second position?

OLMSTEAD: This proposed increase will fund about 2/3 of the new position; in order to fully fund the second position the fee would be above the national average and we don't want to discourage drilling in Oregon.

The fee would have to be about \$800; the most revenue generated by this will come from the \$500 annual fee, not the fee.

The remaining 1/3 of the position will be funded by general funds.

340 SEN. SMITH: How much does it cost to drop the well and how much money does a company make if they hit natural gas?

OLMSTEAD: This varies; it costs about a quarter of a million dollars to drill a well.

We are hoping to apply the higher fees to money making wells; in other states these programs are funded through an assessment on production but we don't have large production so that won't work here.

390 OLMSTEAD: To fully fund our program the price would be \$1650 per permit; we also looked at partially funding the program.

The fee schedule we came up with is a compromise.

SEN. COHEN: How much general funds?

OLMSTEAD: General funds would take care of 72% of both positions.

445 SEN. TIMMS: Isn't there a profit structure we could look at for the different mineral explorations so we would have a better idea of what is out there?

OLMSTEAD: There is a wide range; small oil companies go out of business each year.

TAPE 107, SIDE A

045 CHAIR SPRINGER: Do you keep time sheets to know how much time each type of inspection takes?

OLMSTEAD: They are about the same, with the exception of exploratory

wells in remote parts of the state.

055 GEORGE RICHARDSON, NORTHWEST NATURAL GAS: Testifies in opposition to SB

888 .

We are opposed to the fee increase as well as the additional fee of \$500 per existing wells.

070 SEN. SMITH: On a producing well do you not include expenses in your rate base?

RICHARDSON: I'm not sure.

Higher fees may tend to serve as a disincentive for exploration in Oregon.

085 CHAIR SPRINGER: I'd like you to send us a copy of your annual report for the past year.

SEN. TIMMS: I'd like an overview of the total industry.

RICHARDSON: The biggest issue for us is the increase in fees for existing wells.

120 SEN. KINTIGH: Do you know how much service there would be on an existing well for this \$500 fee?

RICHARDSON: No.

125 OLMSTEAD: I have amendments to propose, (EXHIBIT C); changes department to "board".

SEN. COHEN: I don't agree with keeping permit fees separate.

OLMSTEAD: That was to make the language conform to existing statute; we wouldn't oppose the change if it was consistent.

SEN. KINTIGH: For the \$500 fee, how many times to you visit the well?

OLMSTEAD: One to two visits per year; we won't be increasing that, but there is office work that must be done for each well also.

PUBLIC HEARING ON SB 613 Witnesses:Homer Campbell, Save Our Stratosphere  
Jim Craven, American Electronics Association

175 HOMER CAMPBELL, SAVE OUR STRATOSPHERE, (SOS): Submits and summarizes written testimony, (EXHIBIT D).

We support SB 613 but have modifications that would close the gaps in SB 110 0 from last session.

245 JIM CRAVEN, GOVERNMENT AFFAIRS MANAGER, OREGON COUNCIL, AMERICAN ELECTRONICS ASSOCIATION: Submits and summarizes written testimony, (EXHIBIT E).

Continues with written testimony, see Exhibit E.

350 CRAVEN: Federal laws will dominate over state laws and we have a

concern that the definition included could affect HCFCs also.

We have a concern that if the definition were to include HCFCs we would be impacting certain substitute chemicals being used as a bridge while we phase out CFCs.

Page three of Exhibit E shows the comparison of the SB 1100 requirements and new Federal Clean Air Act.

415 CHAIR SPRINGER: What is the difference between CFCs and HCFCs?

CRAVEN: The environmental difference is that the HCFCs have a ozone depletion potential of somewhere around 2% to 10% of the fully halogenated CFCs so they are being used as a substitute.

In our industry a few folks are using HCFCs as a substitute but by and large we have replaced our use of CFC solvents with other processes that don't use either kinds of chemicals.

SEN. SMITH: Your list includes plastic foam?

CRAVEN: The ban in Oregon for those products went into effect last January.

TAPE 106, SIDE B

PUBLIC HEARING ON SB 317 Witnesses:Dale Blanten, Senior Policy Analyst, Department of Land Conservation and Development Russ Nelson, AOC Annette Talbott, Legislative Committee Staff Jim Allison, President, Washington County Landowners Association Dave Smith, Director of Legal Affairs, Oregonians for Action Neil Kagan, 1000 Friends of Oregon

045 DALE BLANTEN, SENIOR POLICY ANALYSIST, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT: SB 317 was developed in response to some provisions of HB 2682 from 1989 that mandated JLCLU and the Department to study the issue and bring back recommendations.

I will outline what the bill does and it's positive benefits.

063 BLANTEN: SB 317 consolidates procedural aspects of land use decision making that are in two statutes currently.

Section 6 is new and it creates a registry approach for agricultural buildings.

Sections 7 & 8 of the bill are current county enforcement provisions.

Section 9 is new; this says that termination of electric service is an effective way to deal with illegal uses and this does recluse residential use.

114 BLANTEN: The combination of section 7 & 11 are the mandated minimum enforcement standards.

Alternative sections of enforcement are 12 & 13 of the bill.

151 SEN. COHEN: Is it determined by the type of action, as to if you fall under section 12 or 13?

BLANTEN: The choice as to which system is used is left up to the local

government.

The choice is which one fits their staffing ability and their situations.

The department believes this is an improvement; once the local government has adopted one the process is simple.

205 SEN. SMITH: In my community often the local government informs people of the violation and then they file for a variance; will this bill stop that?

BLANTEN: No.

261 SEN. SMITH: This doesn't prevent this from happening, but allows you to charge double the fee in a situation where a person is in violation and is requesting a variance from the permit?

BLANTEN: Yes.

ANNETTE TALBOTT, COMMITTEE STAFF: Submits staff measure summary, (EXHIBIT F) and describes the bill and process.

325 RUS NEBON, AOC: This bill clarifies law and makes it very clear that a civil process is now available.

0TALBOTT: Walks committee through section 12 of SB 317.

Submits chart showing process, (EXHIBIT G).

445 TALBOTT: Section 14 establishes a process for local governments to issue an administrative stop work order in response to a valid citizen complaint filed pursuant to either section 11, 12 or 13.

NEBON: This bill addresses a lot of little issues; we have tried to identify weak areas in the law and clarify those.

TALBOTT: This would stop someone from violating a land use regulation or ordinance designed to implement a comprehensive plan.

The order was designed to prevent further construction or remodeling after a local government has determined that there is a violation and it does provide the property owner with a notice and a ten day period to demonstrate why the activity is legal and not in violation.

TAPE 107, SIDE B

040 TALBOTT: Section 15 provides for temporary restraining order, (TRO), when a building or structure is alleged to be in violation of a land use regulation or ordinance.

SEN. SMITH: Can the citizen complaining to the local government file the TRO or just the local government?

TALBOTT: We left it for anyone to be able to do that; the court could require the person seeking the order to post a bond, but that bond can't exceed \$500.

Section 16 - 25 are conforming; section 26 requires someone taking the real estate license to be tested on laws regarding zoning, land

divisions and preferential tax assessment programs.

080 TALBOTT: Section 27 repeals some of the planning and zoning statutes that we consolidated and moved to earlier sections of the bill.

NEBON: The menu approach to enforcement may seem strange, but all the counties and cities are comfortable with one of these three options.

NEBON: In response to SEN. SMITH; Section 7 is current law and your interpretation is correct.

160 SEN. SMITH: There is no penalty if the local government doesn't act properly?

NEBON: If they don't in good faith proceed, then the citizens can recover attorney fees.

BLANTEN: The group felt that counties and cities want to enforce their plans and ordinances and that if they choose either of the three sections, they will affectively administer that.

195 NEBON: Section 12 holds a provision with regard to lien authority applicable in sections 11 & 13, but it has been left out; on page 9, lines 27 -30 is the language and I would ask that it be inserted in subsection 12 of section 12.

210 JIM ALLISON, PRESIDENT, WASHINGTON COUNTY LANDOWNERS ASSOCIATION: Submits proposed amendments regarding unlawful parceling of land, (EXHIBIT H).

Describes amendments, see Exhibit H.

270 ALLISON: It is my opinion that the law should clearly specify that older mobile dwellings are not non-conforming or that if they are, they should be able to be replaced.

My amendment says that you will be able to reestablish or remodel dwellings as a use by right.

Continues explaining the need for amendments; see Exhibit H.

320 ALLISON: Describes situations where land has been "unlawfully parceled".

Where there is an unlawful partition this bill won't solve the problem.

365 DAVE SMITH, DIRECTOR OF LEGAL AFFAIRS, OREGONIANS FOR ACTION: Testifies in support of SB 317; this idea is simpler and we like the idea of using private attorneys general to enforce land use laws when the local government is incapable of acting or determines not to act.

We like the flexibility for local governments and we like the idea of pinning down the cities and counties so that they have the same enforcement options.

Section 12 provides that only the prevailing complainant can only recover attorney fees where the local government has made no decision and the general principal is that the prevailing party should recover attorney fees; we believe that section 12, sub 4 should hold that same provision.

In section 11 & 13 the local government makes the assessment of civil penalties and it isn't clear what the legal consequence of those penalties is.

I suggest that it should be clear that the assessment of a civil penalty for violation of a land use ordinance is in fact a land use decision, thus enabling the land owner to go to the land use board of appeals.

467 SMITH: We have made no limitation on standing of complainants and that probably is good public policy, but we do have attorney fee provisions in there and it may act as a magnet for "carpet baggers".

We could simplify that by saying that to recover the attorney fees you must be the same sort of person who currently has standing under ORS 296.

TAPE 108, SIDE A

035 CHAIR SPRINGER: I would appreciate your comments in writing.

NEIL KAGAN, 1000 FRIENDS OF OREGON: Testifies in opposition, submits and summarizes written testimony, (EXHIBIT I).

075 SEN. COHEN: I have a concern about what happens inside cities and I don't think your section 11 is good enough for what we have to deal with inside cities.

KAGAN: HB 2682 is an improvement and if you do nothing this session we will still be in a better position than we were before last session.

This bill is worse as it eliminates the enforcement mechanism in place; section 12 will allow a local government to choose not to consider a complaint that there has been a violation of a land use law or regulation.

CHAIR SPRINGER: How is that different than what is happening now?

100 KAGAN: This doesn't require the court to award attorney fees to the private citizen so why assume the local governments job of going after a violation?

In subsections 3 & 4 there is a deadline for reviewing the complaint, but there is no deadline for requiring consideration.

It isn't good enough for local government to decide that a complaint isn't valid as they are often wrong in their decisions and are reversed or remanded by LUBA.

145 CHAIR SPRINGER: If you would prepare written remarks and amendments we would consider them prior to a work session.

SB 499 will be held over.

152 CHAIR SPRINGER: We are in recess until 5:30 p.m., (10:17 a.m.)

Submitted by:      Reviewed by:

Kimberly Burt    Peter Green Assistant    Administrator

EXHIBIT SUMMARY:

A - SB 499(-2) amendments submitted by staff, pp 6 B - Written testimony to SB 888 submitted by OLMSTEAD, pp 2 C - Proposed amendments to SB 888 submitted by OLMSTEAD, pp 3 D - Written testimony to SB 613 submitted by CAMPBELL, pp 7 E - Written testimony to SB 613 submitted by CRAVEN, pp 3 F - SMS on SB 317 submitted by TALBOTT, pp 2 G - Chart on SB 317 submitted by TALBOTT, pp 2 H - Written testimony on SB 317 submitted by ALLISON, pp 1 I - Written testiomny on SB 317 submitted by KAGEN, pp 1 J - Written testimony on SB 317 submitted by NEBON, pp 2 K - Written testimony on SB 317 submitted by staff for the Oregon Real Estate Agency, pp 17 L - SMS on SB 317 submitted by STAFF, pp 1

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SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

March 27, 1991Hearing Room C 5:30 p.m. Tape 109 - 112

MEMBERS PRESENT:Sen. Dick Springer, Chair Sen. Joyce Cohen,  
Vice-Chair Sen. John Brenneman Sen. Shirley Gold Sen. Bob Kintigh Sen.  
Tricia Smith Sen. Eugene Timms

VISITING MEMBERS: Sen. Scott Duff Rep. Walt Schroeder Rep. Dave  
McTeague Rep. Sam Dominy

STAFF PRESENT: Peter Green, Committee Administrator Chris Beck,  
Research Associate Kus Soumie, Committee Assistant

MEASURES CONSIDERED: SB 555 SB 1125

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TAPE 109 SIDE A

PUBLIC HEARING ON SB 555 and SB 1125

WITNESSES:Pat Wortman, Blue Mountain Natural Resource Institute (BMNRI)  
Larry Cribbs, BMNRI Thomas Quigley, BMNRI Sen. Scott Duff, District 29  
Jeff Dose, American Fisheries Society Gordon Reeves, American Fisheries  
Society Chris Frissell, American Fisheries Society William McNeil,  
Oregon State Univ. Henry Froelich, Oregon State Univ. Ray Wilkeson,  
Oregon Forest Industries Council (OFIC) Edward Olson, Oregon Water  
Utility Council Paul Ketchum, 1000 Friends of Oregon David Moskowitz, NW  
Steelheaders Assoc.

003 CHAIR SPRINGER CALLS THE MEETING TO ORDER AT 5:30 PM

PUBLIC HEARING ON SB 555 AND 1125

023 PAT WORTMAN, Commissioner of Wallowa County, BMNRI, Gives testimony  
on SB 555. -Substitution of the word `protection' for `sound management'  
is inappropriate. -`protection' restricts management opportunities.  
-Forest Health is at an all time low. -All management opportunities

should be available. -Urges that sound viable management be applied in any legislation that may be passed.

LARRY CRIBBS, President, La Grande Union Chamber of Commerce, Board member of BMNRI, Submits and reads testimony on SB 555 EXHIBIT A.

104 SEN SMITH: Asks for background on the BMNRI.

106 CRIBBS: The driving force of the BMNRI is private citizens and not the Federal Government.

118 THOMAS QUIGLEY, Acting Manager of BMNRI, gives testimony on SB 555 -BMNRI partnership effort in research, development, demonstration, application and education. -Sites the various groups who make up the BMNRI. -The Board of Directors is comprised of members from these different groups. -The need for the BMNRI grew from recognition of the severely stressed Blue Mountain Forest ecosystem. -The concern for Forest Health is one of the focal points of the BMNRI. -The forested ecosystems of Eastern Oregon are no longer 'natural' due to the non-natural species of trees abundant to the area because of an imbalanced ecosystem. -Flexibility and availability of options in implementing practices is a key element. -Need to work on new management approaches as well as demonstrate current ones. -Legislation must recognize the differences in Eastern and Western Oregon Forests and provide flexibility in management. -Submits written testimony to support the above EXHIBIT B

208 SEN DUFF, District 29, gives testimony on SB 555. The BMNRI is a multi-agency, multi- interest research institute. Legislation needs to be flexible to allow practices in Eastern Oregon that are different from those that may be used in Western Oregon. -The environment needs to be protected. -Low intensity fires may be necessary to Forest Management in Eastern Oregon.

230 SEN KINTIGH: How can stands where there already is a dense understory, be converted back to where we can use light intensity fires?

241 QUIGLEY: There are many options. -Allow insects to destroy unwanted elements of the stand. -Need available options to manipulate stands. -Need to be sensitive to wildlife habitat.

257 SEN TIMMS: The Wallowa Forest is in bad shape. It's a tinder box. Could you give a brief rundown of information from the Starky field station regarding riparian areas.

273 QUIGLY: Regarding the Starky studies -We have learned that riparian areas can be repaired by management. -Each riparian ecosystem is different and complex.

301 CHAIR SPRINGER: How much of your forestland is public and how much is private?

304 QUIGLEY: In the boundaries of the BMNRI, there are around 16 million acres. 70% is in public ownership and 50% of that area is forested.

312 CHAIR SPRINGER: It sounds like sound forest management practices weren't applied to these forests.

317 QUIGLEY: We did not understand how to manage forests. We thought we were using appropriate management practices. This resulted in fir

species moving into Ponderosa Pine sites. We created a stress situation with a ripe habitat for insects.

340 CRIBBS: Nature is a factor in our current situation; we're experiencing one of our worst droughts. -The management plans we were practicing possibly could have worked if they were allowed to run to fruition. -We had a series of ideas that were never allowed to be completed. -Riparian areas in Northeastern Oregon are the most productive. -Most forest management practices don't apply to Eastern Oregon because there is less water. -Our options must not be limited because we have such a variety in our forests.

TAPE 110 SIDE A

004 SEN SMITH: Will the plans that the BMNRI adopts have any force outside the US National Forests?

013 QUIGLEY: The BMNRI does not manage resources. There are forest supervisors from the National Forests on our board. We will provide information on the different options.

022 CHAIR SPRINGER: What do your regional strategies suggest you should do for economic development in your area?

024 WORTMAN: Our regional strategy is secondary wood products. Our main concern is that we have the primary product from which to make the secondary product. We are on a down cycle due to disease, fire and insects. Resources of all kinds are how we survive.

045 CHAIR SPRINGER: How do you think your suggested managements tactics will change other resources. eg. wildlife?

048 QUIGLEY: We will be looking at these interactions. -Original Ponderosa Pines had a visibility in them of 300 yards; the firs stands that have taken over have a visibility of perhaps 50 yards. If we open these stands up, we will need to examine our strategies in managing other wildlife. Sites Elk as an example. -Plan on involving the Oregon Department of Fish and Wildlife (ODFW) and the Department of Forestry (DOF).

062 SEN TIMMS: What percentage of the Wallowa Whitman National Forest is wilderness?

064 QUIGLEY: 6% of the area we work with in the BMNRI is wilderness or a primary recreation area. 900,000 acres total is wilderness including all 3 forests and the National recreation area.

071 SEN TIMMS: Has there been a proliferation of elk in Northeastern Oregon?

074 QUIGLEY: Elk populations are high and have been increasing.

CHAIR SPRINGER: Asks that the Committee is provided with a map of this area.

083 SEN KINTIGH: Does an open forest that is maintained by light burning, provide enough food for deer and elk.

086 QUIGLEY: Yes, food wouldn't be the primary problem. We need to examine our goals.

097 SEN KINTIGH: Are there wild horses in your area? And if so, how do they effect the riparian zones?

100 QUIGLEY: Only in the extreme southern area around Burns. If the horses aren't managed they can cause the same problems that livestock do.

JEFF DOSE, Forest Fisheries Biologist, United States Forest Service (USFS), American Fisheries Society, States that his testimony does not necessarily reflect the views of the USFS. Submits testimony and gives overview on how forest practices effect fish and fish habitat.

- Background of the Oregon Chapter of the American Fisheries Society.
- Lists documents that were reviewed in preparation for his testimony.
- The most credible document to date on West Coast Salmonid stocks is a paper titled "Pacific Salmon at the Crossroads: Stocks at Risk from California, Oregon, Idaho and Washington" by Willa Nehlsen, Jack Williams and Jim Lichatowich dated February 1, 1991. A list, from this paper, of Oregon stocks in danger is provided EXHIBIT C. -Gives a brief summary of the findings from this paper. -Narrates a prepared slide show. The first slide is a map showing areas of endangered fish populations. EXHIBIT D. -Gives an overview of the lists of Oregon stocks in danger or extinct EXHIBIT C and how it relates to forest practices.
- Acknowledges that habitat damage isn't the only factor effecting the fish populations. Sites other factors contributing to fish decline. But, timber harvest is probably the predominant factor. -Protecting and restoring these fish habitats is a primary management action.

265 GORDON REEVES, Research Biologist with USFS, and member of American Fisheries Society, States that his views are his own and don't necessarily reflect those of his employer. -Shows slides giving examples of current research dealing with timber harvest and its effects on anadromous fish runs. -Refers to a paper entitled "Responses of Salmonid Populations to Habitat Changes Caused by Timber Harvest" by Brendan Hicks and others EXHIBIT E. -Continues with slides having to do with fish habitat and timber harvests. -Sites examples where there has been a significant change in fish populations since the 1940's and 195 0's. This, he believes, has to do with habitat simplification. -Explains what `habitat simplification' entails. -Concentrated habitats put fish populations in serious danger. -Sites specific areas where there has been substantial decline. -Our concern focuses on what happens in the future.

TAPE 109 SIDE B

004 REEVES: Continues. -Gives brief summary of what has been said.

020 CHRIS FRISSELL, Research Scientist at Oregon State Univ., American Fisheries Society, Continues with slides illustrating the decline of the Salmon Habitat in the northwest in conjunction with a booklet entitled "Fish in the Forest: Large Woody Debris in Streams; A New Management Approach to Fish Habitat" EXHIBIT F and a book entitled From the Forest to the Sea: A Story of Fallen Trees EXHIBIT G -Importance of large woody debris in the fish habitat system. -long term recovery of riparian areas. -We need to encourage the development of densely stocked forests. -Large woody debris develops deep pools necessary to fish. -Natural log jams versus managed jams. -Impacts of timber harvest are not always on site, but occur downstream. -Water temperature has an effect. A small increase in temperature can cause a dramatic effect. -History of drainage basins. -Landslides are increasing. Roads are one cause. These

can destroy riparian zones. -Reviews the effects of landslides on fish habitat.

195 SEN BRENNEMAN: Where was the loss attributed in the deep pools of many of the streams? Where did the woody debris go?

203 REEVES: Various agencies removed the wood during salvage operations or attempts to clean the streams. 20 years ago it was thought to enhance fish production. The channels need to be more complex.

216 DOSE: It is important to know the causes of decline but we are now interested in restoring the levels of debris. Protection of riparian zones is what we're talking about.

224 SEN KINTIGH: Is the use of the word stocks equivalent to sub species or is it a further breakdown?

227 FRISSELL: It isn't the same as a sub species. `Stream specific stocks' is the genetic material contained in a group or population of fish who return & reproduce in the same local.

236 SEN KINTIGH: Is the temperature critical? What about seasonal and weather variations?

246 REEVES: Yes, it's very critical. We need the capacity to buffer against the extremes.

256 FRISSELL: Gives brief overview of some long-term temperature monitoring done on the Umpqua National Forest.

282 REEVES: Trees provide insulation that prevent stream temperature from too much variation.

289 REP SCHROEDER, District 48, Establishes that Frissell acknowledges that everyone made mistakes in the past. Why do we refer back to logging mistakes and not those mistakes made by different agencies?

305 FRISSELL: Isn't here to point fingers; he is here to identify ways to get out of this situation.

REEVES: Reiterates that the issue is solving the problem.

321 REP SCHROEDER: Your previous testimony indicated that forestry and agriculture were to blame. Seeks comments on the Mt. Saint Helens recovery compared to the eons it supposedly takes riparian streams to recover from the effect of logging.

327 REEVES: The St. Helens area is coming back faster than people realize. The stream systems recovering the best at St. Helens are those where wood debris was left in. Other riparian areas don't have woody debris left in them.

340 REP SCHROEDER: Refers to fishing on the Rogue River and a quote from Jerry McLoud, a biologist for the Rogue River. Quotes McLoud as saying ocean conditions could be a factor. Can we blame ocean conditions for fish decline?

358 REEVES: We aren't blaming one thing. We are acknowledging a problem and trying to solve it. The ocean is highly variable in its condition.

370 DOSE: There is a lot of natural variation based on ocean conditions that may effect fish.

381 SEN BRENNEMAN: Refers to the damage on Euchre creek. Was most of the damage done by logging prior to the Forest Practices Act?

FRISSELL: Yes. There is a lag time of 20 years. We won't know what the effect of current practices will be until we have a large winter storm. We need to be conservative in terms of taking risks.

420 BRENNEMAN: Is the Elk River experiencing the same declining runs?

REEVES: No. The main fish producing areas in the river are still intact.

TAPE 110 SIDE B

011 SEN TIMMS: The problems east of the mountains are different. Nobody mentions impallment. Impallments are a way to keep the water cooler. Do impallments help?

022 REEVES: The fish used to survive without impallments. Doesn't think impalments are an answer considering the multi-faceted conditions.

029 SEN TIMMS: Just because impallments weren't always there doesn't mean it isn't a way to manage. It is a tool that can be used.

REEVES: Yes, but a good habitat is needed to accompany the water temperature.

040 FRISSELL: Limited experiments with impalments would be wise, but we need to remember that non-natural solutions are going to have some side effects. Uses hatcheries as an example.

050 SEN BRENNEMAN: How can you explain away the success they've had in Alaska in restoring their fisheries?

064 REEVES: Isn't familiar with what is being referred to.

067 SEN BRENNEMAN: Lists some examples of what was restored in Alaska. Our biggest success was an agreement we made with Canada.

069 DOSE: Alaska has done things differently. -Their hatchery production isn't what they use to reestablish runs. It is for the fishermen's nets. -Their established runs are where they have provided passage. -We're talking about habitat and production of juvenile fish, not adults. -Success or failure shouldn't be gauged by how many adults make it back to the river.

076 FRISSELL: In terms of Alaska fisheries and two important species to Oregon, the coho and Chinook, Alaska isn't doing very well. A lot of the stocks on the endangered lists have been targeted for escapement, but that hasn't helped.

085 SEN KINTIGH: How much of the financial burden to solve this problem should be borne by the private landowner?

CHAIR SPRINGER: Doesn't think these witnesses are able to make that judgement.

094 SEN SMITH: Would you comment on the DOF's riparian rules and what

you would change if you could.

100 FRISSELL: The rules aren't getting us to where we need to be. With every large tree removed from the riparian zone, we are removing a future piece of debris from the stream. The technical standard emerging is a 100 foot no cut buffer zone. Argues for provisions for written plans to deviate from the standard, but as an exception and not a rule.

DOSE: The Stream Habitat Committee of the American Fisheries Society is ready to provide assistance.

124 SEN SMITH: It would be helpful if you put your thoughts on the riparian rules in writing.

126 REP SCHROEDER: What types of riparian zones for protection are we talking about?

DOSE: The standard for various streams is different.

145 REP SCHROEDER: Have the Coho ever been an important species in the south coast streams?

153 REEVES: Historically Coho were abundant on the South Coast. The channels are much different today.

161 DOSE: The umpqua basin used to be a large producer of Coho. Agriculture and urbanization have made it uninhabitable for Coho.

172 REP McTEAGUE, District 25, Do hardwoods significantly contribute to woody debris?

170 REEVES: That is being studied now. They decompose faster.

181 FRISSELL: In the South Coast streams, several hardwood species are very important.

190 WILLIAM McNEIL, Oregon State University, gives testimony on SB 555 focusing on the Salmon management situation in Oregon. -Most of the salmon harvested are from hatcheries. -Management of exploitation is based on the harvest of the hatchery stocks, this implies that hatchery stocks can be harvested at a higher rate than natural. Gives three examples of natural stocks versus hatchery stocks. -The naturally reproducing segments are extremely depressed since so much stock comes from hatcheries. -Hydropower dam system is effecting fish stocks. -Suggests taking a holistic look at the problem. Not just what appears to be happening in the watersheds. -High seas drift-net fisheries are effecting steelhead stocks. -Japan, South Korea and Taiwan are involved in the drift-net fisheries. Describes the process. -The high seas drift-net fisheries pose a great threat.

TAPE 111 SIDE A

013 SEN SMITH: We cannot do anything about drift netting in this committee. Do you think there is a link between man altered riparian areas and forest practices and the decline of fish species at all. How should we deal with that issue?

027 McNEIL: It is not clear that logging has an impact on fish stocks. It might be timely to have a task force critically review our knowledge

on this subject.

054 HENRY FROELICH, Oregon State Univ., representing self, gives testimony on SB 555 concentrating on Section 6. -Landslide effects, central coast range. -Section 6 of SB 555 assumes that there is a cause to a landslide. Not all landslides are management related. -How much of an increase in slides is there due to forestry; can we tell the difference between management and natural landslides? -Gives data on landslides in uncut areas compared with landslides in clearcut areas.

108 SEN COHEN: What is your definition of a landslide?

112 FROELICH: Mass movements where a body of soil moves from a given location downhill as a solid body. -Leave areas. -The suggestions in SB 555 section 6 isn't an effective tool in land use management.

142 CHAIR SPRINGER: What is the definition of a headwall?

147 FROELICH: It is the high risk area, usually just below the ridgeline. It is the area that yields most of the landslides that occur. -Intense precipitation is a factor in landslides. -Uses Cape Perpetua as an example. -Frequency of landslides is dictated by high precipitation.

183 REP SCHROEDER: Were logged areas selected because they were less prone to landslides?

185 FROELICH: They are as comparable as they can be so our sample size isn't biased. -The loss in pools isn't a result of logging, but of woody debris removal. -Current Forest Practices rules offer more than adequate protection for streams.

227 CHAIR SPRINGER: Please explain the sedimentation and filling in of the pools as a result of timber harvest.

237 FROELICH: Roadbuilding is the single largest contributor of sediment to streams. Where careful roadbuilding has been done, sediment isn't high. The loss of pools is mostly a result of a large landslide and the loss of large woody debris.

248 CHAIR SPRINGER: What about water temperatures in correlation with canopy that's left along the streams?

252 FROELICH: Present forest practice rules call for limited shade removal; in most cases this would be adequate.

260 CHAIR SPRINGER: Establishes that large woody debris is universally recognized as beneficial.

264 FROELICH: Woody debris is a natural component of the stream system.

286 RAY WILKESON, OFIC, Submits testimony by Dr. William Royce EXHIBIT H. Reads Dr. Royce's conclusion.

SEN. SMITH: Why did you submit SB 1125 with reforms in forest practices if there is no problem in the way things are being done?

WILKESON: We do recognize there is more we can do to improve forest practices.

EDWARD OLSON, Oregon Water Utility Council, submits and gives a detailed

overview of written testimony EXHIBIT K on SB 555 and SB 1125. Water User Suppliers support many of the changes proposed by these bills. -Neither bill addresses many of the concerns domestic water suppliers have with forest practices in the state. -Forested watersheds supply much of our domestic water. -Current administrative policy is inconsistent with water quality goals. -Administrative rules are ineffective in controlling water quality issues -Gives overview of problems with administrative actions. -Addresses the issue of pesticides. -Need water quality monitoring.

TAPE 112 SIDE A

023 OLSON: continues testimony on SB 555, 1125. -Sites specific examples of pesticides found in water. -Now is the time to take a proactive approach to the problem with changes to the forest practices act. -Lists 6 basic recommendations that need consideration.

078 SEN COHEN: How is a stream classified if it is used for drinking?

092 OLSON: Generally as Class I. The problem is the upper reaches of the watershed aren't class I. -The problem with the notification procedure is it's simply that. You can't change what the operator is doing. Many times the notification procedure is waived.

107 PAUL KETCHUM, Senior Planner, 1000 friends of Oregon, Submits testimony on behalf of Marc Liverman from the Portland Audobon Society EXHIBIT I. Gives overview and highlights of Liverman's testimony. -Reads a quote contained in the testimony by Gail Atcherman. -Reads from the National Marine Fisheries Service, Alaska Region, policy. -A conservative approach is needed to protect our resource base. -The standards for conifer retention under riparian rules is a paltry amount.

202 DAVID MOSKOWITZ, NW Steelheaders Association, gives overview and submits testimony EXHIBIT J on SB 555 and SB 1125. -Suggests focusing on forest practices, not driftnets. -Gives overview of the role of NW Steelheaders. -What percentage would a private woodlot owner lose by leaving a 100 foot buffer?

302 SEN BRENNEMAN: What is your definition of 'not too much' regarding the percentage of trees left in a 100 foot buffer?

MOSKOWITZ: Doesn't have an exact answer. Its different for different landowners.

311 SEN KINTIGH: Estimates the 100 foot buffer zone on both sides of the stream would be about \$50,000. This is a lot of money for a small landowner. This is someone's livelihood.

351 MOSKOWITZ: If you have a stream running through your woodlot, you need to ask what kind of condition do you want to leave that stream?

358 REP SCHROEDER: If it isn't going to cost too much, how do you feel about the state reimbursing the landowner for the money he'll lose?

364 MOSKOWITZ: State repayment to private land owner would take a creative effort.

389 REP SCHROEDER: An example of this is along the Rogue River.

395 MOSKOWITZ: If nothing is worked out there will be no scenic, fish or

water values.

406 SEN KINTIGH: It would be for the public good.

CHAIR SPRINGER ADJOURNS THE MEETING AT 8:45 pm.

EXHIBIT LOG:

A -Testimony on SB 555 - Larry Cribbs - 2 pages B -Testimony on SB 555 and SB 1125 - Thomas Quigley - 2 pages C -Testimony on SB 555 and SB 1125 - Jeff Dose - 6 pages D -Testimony on SB 555 and SB 1125 - Jeff Dose - 1 page E -Testimony on SB 555 and SB 1125 - Gordon Reeves - 70 pages F -Testimony on SB 555 and SB 1125 - Chris Frissell - 20 pages G -Testimony on SB 555 and SB 1125 - Chris Frissell - 153 pages H -Testimony on SB 555 and SB 1125 - Ray Wilkeson - 34 pages I -Testimony on SB 555 and SB 1125 - Paul Ketchum - 10 pages J -Testimony on SB 555 and SB 1125 - David Moskowitz - 5 pages K -Testimony on SB 555 and SB 1125 - Edward Olson - 17 pages L -Testimony on SB 1125 - Jeff Miller - 1 page M -Testimony on SB 1125 - J. Douglas Smith - 2 pages N -Testimony on SB 555 - Debby Todd - 3 pages

Submitted by:      Reviewed by:

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