



**TESTIMONY
Oregon Farm Bureau**

SB 544

Senate Committee on Environment and Natural Resources

April 8, 2015

Chair Edwards and Members of the Committee:

Oregon Farm Bureau urges you to support SB 544, as amended by the -1 amendments. SB 544 would eliminate a liability exemption for damages associated with habitat projects on farmland conducted with funds from the Oregon Department of Fish and Wildlife or Oregon Watershed Enhancement Board.

By way of background, the Oregon Farm Bureau is a voluntary, grassroots, nonprofit agricultural organization representing Oregon's farmers and ranchers in the public and policymaking arena. As Oregon's largest general farm organization, its primary goal is to promote educational improvement, economic opportunity, and social advancement for its members and the farming, ranching, and natural resources industry as a whole. Today, Oregon Farm Bureau represents over 7,000 member families professionally engaged in the industry and has a total membership of over 60,000 families.

Oregon Farm Bureau believes that the -1 amendments to SB 544 would bring ORS 496.270 more in line with its original context, and ensure that all farmland is on equal footing. ORS 496.270 was originally enacted in 1993, and provides for liability protection from damages resulting from fish and wildlife habitat improvement projects completed in cooperation and consultation with the Oregon Department of Fish and Wildlife or Oregon Watershed Enhancement Board, or that are part of a forest management practice. The intent of SB 544 was to remove this liability protection for projects located on farmland, and the -1 amendments accomplish this purpose.

Oregon Farm Bureau has seen an increase in wetland construction projects on prime farmland, particularly in the coastal regions of the state. Local farmers are growing very concerned for several years about the increased rate of conversion of farmland to wetland habitats. These wetland projects can have significant negative impacts on neighboring operations, primarily in the form of increased rates of flooding, resulting in crop loss and property damage.

In Tillamook County, there are currently 670 acres in conservation ownership, largely former farmlands that were converted from farm use when they were sold into conservation ownership. Indeed, the

Tillamook County Commission met this morning to consider a woody debris project, and there is a pending application in front of OWEB presently for a project that would convert an additional 61 acres of former farmland in Tillamook County into wetland use. The group responsible for the project is seeking \$262,119 in state funding through OWEB for this project. Under current law, the proponents of this project would be exempt from any harm to neighbors caused by the wetland construction or operation.

This project is one of many throughout the coastal region conducted with funding from ODFW or OWEB. Presently, the owners of the neighboring farmland are left without any ability to seek reparation for the losses caused by these wetland projects. SB 544 eliminates this liability exemption, and places farmers next to OWEB projects on an even footing with landowners next to projects funded through private sources. Eliminating this liability protection provides neighboring farming operations with recourse for any damage caused by these publicly funded projects, and provides additional incentive – currently missing from Oregon law, for the proponents of these projects to plan and engineer their projects appropriately and in a manner which avoids adverse impacts on neighboring property.

The impacts from these projects are real. The following pictures are from a hay field in Yamhill County, where a hay field floods on a nearly yearly basis due to wetland/lake area that ODFW helped construct. The owner of the lake allows it to overflow every year, causing damage to the farmer's property. While the lake is flooded, the farmer cannot flow, plant, harvest, or spray for noxious weeds. Despite repeated requests from the farmer, the owner of the property refuses to maintain the lake at a level that would avoid flooding. This is a prime example of a scenario where existing law bars recourse by the farmer simply because of the state role in this project. SB 544 would eliminate this exemption, and incentivize the managers of these wetland and habitat projects to manage their property in a way that avoids adverse impacts on neighbors.



Removing the liability exemption for ODFW and OWEB projects will ensure that farmers have recourse for any damage caused by these publicly funded projects, and Oregon Farm Bureau encourages the committee to support this bill.

Please contact Mary Anne Nash with the Oregon Farm Bureau with any questions.