



## TESTIMONY

### SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

February 24, 2019

#### Grant County Farm Bureau Testimony on SB 301, SB 303, & SB 398

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*Senator Michael Dembrow*

*Senator Bill Hansell*

*Senator Cliff Bentz*

#### **SUMMARY:**

#### **Grant County Farm Bureau:**

- 1) is not opposed to SB301, but requests additional clarification of the definition of "overpopulation";**
- 2) is not opposed to SB303 but requests wording changes;**
- 3) is opposed to SB398 as written, but support specific provisions; and**
- 4) is adamantly opposed to certain measures ODFW has inappropriately included in the rules to implement the original Oregon Landowner Damage Program designed by the Legislature and request that ODFW review the rules in a public setting.**

Grant County Farm Bureau is writing to you today to comment on the above-referenced bills relating to elk damage on private lands and elk depredation in general. We are an independent non-profit organization associated with the Oregon Farm Bureau and represent hundreds of farmers, ranchers, and other landowners in Grant County.

The landowners and producers in Grant County have largely shouldered the burden of natural resource conservation and restoration, including big game production, for many decades. Working with our local partners, our private and public landscapes are some of the most productive fish and wildlife habitats, open lands, soils and range, and human-healthy areas in Oregon. While most Oregon urban areas continue to sacrifice their habitats for the sake of growth and development, we have maintained and improved ours at significant socio-cultural and economic capital cost to ourselves and our future generations. All while producing some of the safest, most reliable, and lowest cost food in the world.

Grant County historically had very low populations of elk<sup>1</sup>, which increased rapidly following the change to limited duration, controlled elk tags from what were formerly 29-day, general, either sex elk seasons<sup>2</sup> and the new and rapid conversion of multi-age federal timber stands to vast areas of early seral stage forests. During the period from the early 1960's until the late 1980's, when general shutdowns of federal forests were instigated by urban, monied eco-corporations, very few elk resided on private lands except during critical winter periods<sup>3</sup> when conflicts with other resources (e.g., grazing) was typically minimal or was mitigable. As federal forests became unmanaged, elk populations rapidly translocated to private lands.

In response, various State programs were developed to institute multiple private lands/elk related measures including, but not limited to, the Landowner Preference and Landowner Damage programs, landowner kill permits, various emergency hunts and modest non-lethal alternatives. Each in turn, either rewarded landowners for providing excellent habitats, recognized landowner rights to prevent injury to private property from State-owned wildlife, or attempted to limit elk populations to manageable levels--all with mixed success. We suggest that there are multiple reasons why those programs have mostly failed to remediate damage to private lands<sup>4</sup> including, but not limited to:

- the State's failure to recognize and protect the foundational elements of rights reserved by landowners to prevent injury to their property from the State's wildlife as well as essential parts of certain State Wildlife Policy itself;
- the State's unwieldy combing of program intents (e.g., discretionary landowner rewards versus non-discretionary landowner protections, elk population reduction efforts versus increasing public opportunity);
- the State's attempts to compel public access to private lands by impairing landowner remedies and their construction and administration of programs in order to effectively reduce landowner interest and participation; and
- the State's abject failure to address public lands management needs and overall elk productivity.

We assert that repairing these failures requires more than minor and immediate adjustments to the existing law, as is being proposed, although again we support certain provisions of them as interim progress. The ultimate solution, however, will require an entirely fresh and concurrent look at all of the private lands related programs through existing ODFW authorities and then, if new authorities are truly necessary, secure them in future sessions. To that end, the Grant County Farm Bureau is supporting the reform of ODFW's existing rules implementing the Oregon Landowner Damage Program as described in correspondence between the John Day Resource Center and ODFW, which we incorporate by reference into this testimony and attach hereto. We are also supporting reworking the administration of

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1 Unpublished Federal Forest Reserve reports in the John Day Resource Center offices in John Day, OR.

2 Running concurrently with deer seasons.

3 It's been estimated that at least 90% of all the big game winter range habitats in Grant County are on private lands and nearly all of the remaining, high value critical winter habitats are on private land, in part due to the overall decline of productivity in public lands, including those purchased by ODFW for the benefit of wintering wildlife.

4 As evidenced by the ever increasing nature and scope of damage complaints and by the number of elk damage related bills in the Legislature this year alone.

kill permits, emergency hunts, and other damage remediation measures as described in prior correspondence. We intend to pursue aggressive reconciliation of what we determine are conflicts and obstacles that impair landowner rights with those programs.

Regarding the proposed bills specifically, we recommend or advise that:

- SB 301:
  - “overpopulation” be specifically defined
  - “total” be left in new subparagraph 7 of section 1
  - the singular “an” be removed from lines 14 and 16 of page 1.
- Recognize SB 303’s consistency with the prior laws of Oregon allowing landowners to pursue wildlife causing damage, onto the property of others with permission<sup>5</sup>; the singulars “a” and “an” be removed from lines 12 through 15 on page 1.
- SB 398 be reconsidered following a review of ODFW’s rules and administration of their other damage programs before creating yet another program and set of separate rules.

It’s unacceptable for the ODFW to continue to hold landowners hostage by impairing their access to available remedies in order to compel public access to private lands and placate non-landowner sportsmen. While we support minor adjustments in the existing law, our primary interest is in having ODFW return to the foundational elements of the various private land/State wildlife programs and rebuild from the core elements that recognize and protect the rights reserved to landowners.

Thank you for your time and consideration of this critical issue. We have included an attachment for your consideration. For more information, please contact Shaun W Robertson, County President (GrantFarmBureau@gmail.com)

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5 OL 1967 c.594 §5