

May 3, 2021

Senator Lee Beyer, Chairman
Senate Committee on Energy and Environment
Oregon State Capitol
Salem, Oregon

RE: HB 2654 -5: Relating to use of easements for provision of broadband

Chairman Beyer and members of the Committee:

As a landowner and member of an Electric Cooperative as well another PUD, this bill has major issues and should not be moved forward without changes to protect landowners. The use of an electric easement granted in 1940 is totally inappropriate for the expanded use of broadband today. Those electric easements were signed, notarized, and recorded legal documents because our forefathers wanted electricity. Those 1940's electric easements were never meant for any other type of utility, only electricity. Today's construction techniques and contractors are not those of the 1940's, the issues today are not the issues considered in 1940's, and the potential impacts of our ranch and timber operation is so very different than the 1940's.

This bill needs to require the electric cooperatives to draft new easements with the landowners specifically for the broadband service. This alone will resolve many of the issues that we have as landowners. Broadband is also not an essential service in this area. Internet is already available. There are federal dollars for these rural Broadband projects so there is no reason not to get the proper easements and do things right. Currently other companies are working to provide high speed internet and fiber to our area. Tonight's newspaper (The World,5/3/21, page A6) provided Ziplly's announcement for South Coast expansion of the fiber optic network and Ziplly Internet (DSL) customers also will begin seeing service improvements.

In an effort to keep comments short, we will highlight our major concerns about the legislature passing such this bill for one company's economic gain without new landowner agreements or easements for the Broadband expanded use.

- **This bill would change an existing legal document, signed, notarized and recorded without consent of the landowner. How can that be legal?**
- **This bill may impact the Title Insurance provided to every landowner due to the expansion of the original electric easement as noted in the Title Report.**
- **This bill takes away the rights of a group of landowners who have been harmed to file a class action suit for damages based on a claim of expanded use for broadband services and damages. That language in Section 1 (10) provides no incentive for the Broadband to work cooperatively with landowner's concerning the construction and maintenance of broadband on the landowner's property. To our opinion, this means the cooperative/broadband company plans on *not* doing right by the landowners.**
- **The expansion of use is deemed vested by the electric cooperative and runs with the land as of the *date the property owner receives notice* from the cooperative as per Section 2 (6). This takes away the rights of the landowner as they now must file a cause of action in the circuit court of the county where the electric company is located against the provider of broadband services. This means the landowner must hire an attorney immediately and file for court action as the timeline is short. This creates a**

major cost, stress and loss of work time to the landowner to deal with this vested right. {Section 2 (7)}

- Gorse is a major invasive species in Coos and Curry Counties and has been spread extensively by other project contractors. Curry County has Sudden Oak Death (SOD) and quarantine areas. Everyone is concerned it will expand its area. As a landowner we do not want either of these invasives. These invasive have not only a financial impact on our operation but also the environment. The use of “best management practices” is not defined. {Section 2 (5)(b)} Wash stations must be required for contractor’s equipment and vehicles to protect all property which will be impacted by this bill. There needs to be a plan vetted by the public to ensure there is no spread of SOD to Curry County, Coos County, or other areas of Oregon. There needs to be an Environmental Impact Statement since it is a government project to address invasive species such as gorse and other noxious weeds in the project area.
- The landowner’s private road infrastructure is totally different than the 1940’s. People are already discussing impacts to their ranch and timber roads from this construction project. There needs to be defined construction/maintenance access roads. Unlike some areas of Oregon, our electric lines/easements run through crop, pasture, and timber land. There needs to be road use (access) agreements to define access for construction and maintenance. Someone needs to be responsible for the damages to private road infrastructure from equipment and vehicles used for Broadband installation and maintenance. The electric easement does not address what landowners need today concerning private road use, damages, and maintenance. Landowners should not have to hire an attorney and go to court which to get an agreement resolving road issues.

We realize many rural people are excited at the potential to get Broadband but to expand the use of the electric cooperative easement is unacceptable. If the cooperative wants to allow Broadband to use their easements, there needs to be a new agreement/easement with the landowner which specifically defines all electric lines on the property, access easements to the lines, use of private roads, and a simple process for resolving damages to roads, timber, pastures, and crops. This is not the only method of getting high speed internet to the rural communities. Quite frankly this is a bad bill and takes away the legal rights of each and every landowner especially those of us who are ranchers and timber land owners. No dollars were exchanged for these right-of-ways as our forefathers only wanted electricity for their homes and barns back in 1940.

Respectfully,

Charlie and Sharon Waterman Trust, landowners
Coos County