

Oregon State Board of Agriculture
May 2022

Written Public Comments

Item	Name	Topic	Date Received
Item 01	Megan Kemple Oregon Climate and Agriculture Network	Resolution 319	04/22/2022
Item 02	Stacey McLaughlin Myrtle Creek, OR	ORS 607	04/21/2022



Board of Agriculture
c/o Karla Valness

April 22, 2022

Chair Harper and Members of the Oregon Board of Agriculture:

I am writing on behalf of the Oregon Climate and Agriculture Network in regards to the Board of Agriculture's [Resolution 319: Climate Change Policy Considerations](#), currently under review. We recommend that Resolution 319 be amended to be more relevant and useful.

Resolution 319 would better serve ODA, and the agricultural community, if it was updated to account for changes in the political landscape and climate-related challenges that have occurred in Oregon since it was first adopted December 5, 2019.

The most important of the political and agency changes include the following:

- Failure of HB2020 (2019 Session) and its successor SB 1530 (2020 Short Session);
- Adoption of Oregon DEQ's Climate Protection Program;
- State Agencies' Climate Reports and Action Plans (including Oregon Department of Agriculture) in response to the Executive Order 20-0;
- The Oregon Global Warming Commission's (OGWC) Natural and Working Lands Proposal to the Governor;

In addition, since 2019, farmers and ranchers in Oregon have had to deal with unprecedented drought, heat waves, wildfires, as well as severe ice storms. The current resolution language places climate change impacts in the future when they are unfortunately here today.

We've done a comprehensive review of the existing resolution and found many opportunities to improve the current Whereas and Resolution statements. Examples are on the following page.

We are interested in engaging in a conversation about how it can be improved.

Sincerely,

A handwritten signature in black ink, appearing to read "Megan Kemple", is written over a thin horizontal line.

Megan Kemple, Director of Policy Advocacy

cc: Issak Stapleton, Director of Natural Resources Program

Opportunities to Improve Resolution 3:19 Climate Change Policy Considerations

The following statements in blue are examples of some of the current Whereas and Resolution statements which we believe could be updated to be more relevant and useful to Oregon's agricultural community.

This statement uses language about future impacts of climate change on agriculture, when farmers and ranchers are already experiencing those impacts:

WHEREAS climate change is projected to impact Oregon agriculture in many ways, including but not limited to changing precipitation patterns, summer water shortages, increased average and extreme temperatures, and increased drought and fire

These statements below focus on specific components of policy which were proposed at the time the resolution was adopted, and are no longer relevant because of their specificity. If the BoA wants to be prepared for future policy proposals/ future legislation the resolution language should be more general and not specific to legislation that did not pass or has already been adopted.

Resolution statements:

- Balance the need to reduce emissions from intensive and trade exposed industries with the goal of retaining these industries in the state.
- Recognize that if processing or other facilities leave the state because of higher costs due to carbon policy, we have not achieved the goal of reducing carbon and have simply moved emissions to another location while harming our economy and industry.
- Provide compliance assistance, including longer compliance time frames, technical assistance, and low-cost compliance instruments, for energy intensive trade exposed industries that are at risk of loss to overseas or out of state competitors.
- Support exemptions or rebates for fuel used in on-farm activities.

Examples of alternative Whereas statements that would be more relevant:

WHEREAS climate change is adversely impacting Oregon agriculture including the well-being of farmers, ranchers, seafood producers and resource reliant communities because of intensifying extreme weather resulting in drought, wildfire events, water shortages, changing ocean conditions, and other effects.

WHEREAS Government and private sector programs, policies, and investments can help agriculture adapt and become more resilient to climate impacts and contribute to GHG mitigation.

WHEREAS practices with the potential to sequester carbon in the soil provide opportunities for farmers and ranchers to contribute to GHG mitigation and promote climate resilience and can provide co-benefits such soil health, water quality, improved water retention and filtration on farms, and reduced energy and input costs.

WHEREAS Oregon's Land Use Planning program is a major contributor to the protection of agricultural land that preserves the viability of Oregon agriculture by protecting farm and rangeland from development and thus ensuring soils and vegetation can continue to sequester carbon.

Alternative Resolution statements that would be more relevant:

Be it resolved that the Oregon Board of Agriculture recommends any climate change related policies should:

- Ensure both crop and rangelands are included in climate policy and programs and position the state to leverage state and federal lands and investments to do so.
- Create sustained funding for voluntary incentive programs to assist Oregon agriculture in adapting to and mitigating the impacts of climate change.
- Structure programs to incentivize carbon sequestration and resilience on Oregon's ag lands to be as workable and accessible as possible for farmers and ranchers with diverse farm sizes, crop types, and production systems.
- Support Oregon's land use planning program's protection of natural and working lands as foundational for Oregon's agricultural viability and their contribution to climate mitigation through soil carbon sequestration.
- Consider the well-being of farmers, ranchers and rural communities and the need to sustain a resilient rural economy and quality of life.

April 22, 2022

Chair Bryan Harper
Board of Agriculture
State of Oregon
635 Capitol Street, NE
Salem, Oregon 97301-2532
Via Email: karla.valness@oda.oregon.gov

re: Public Comment – Submitted for Board Meeting Thursday - May 5, 2022

Dear Chair Harper and Members of the Board:

We are farmers in the Umpqua Valley with 357 acres of farm/forest land. We grow trees. We are tree farmers. We raise our own organic food and care for a small group of rescued farm animals that are all contained by adequate fences to keep them safe. We had an inexcusable experience with the Department of Agriculture between April 19 and 20, 2022. We respectfully request the Commission to take the matter of the Department of Agriculture's performance as detailed herein under review in accordance with your Core Values and ORS 607. We further request that the Board provide the public with information and accountability pertaining to the incidents described, in particular an account of lost revenue as it pertains to ORS 607 and the Department's practices. [607.332/607.337]

We have lived on our property since 2000. For the first two years we literally bent over and picked up trash. We renovated two houses, cleaned up three dump sites in the surrounding forest, properly disposed of hundreds of abandoned appliances and planted thousands of trees. We have done this because we love the land and the creatures who share it. We have spent thousands of dollars to protect our home from wildland fires, and high-pressured fracked gas pipelines. We do everything we can to minimize disease and drought effects to our trees resulting from climate warming. My husband was born and raised in Douglas County and I grew up in an agricultural community in Southern California. We understand agriculture and would consider ourselves principled stewards of the land.

During the twenty plus years we have lived on our property we have repeatedly experienced damage to our trees and land as a result of cattle owned by others trespassing on our land. Because there is no penalty or punishment for irresponsible individuals unwilling to invest in adequate fencing and yet want to own cattle, we are left to absorb the costs, suffer the inconvenience and repair the damages. We have endured numerous holiday dinners and family celebrations disrupted by cows tearing up our yard, leaving manure piles, huge divots and turf tears on ground we've worked hard to level and plant. We have been awakened on many occasions in the middle of the night with cattle running down our road or needing water during hot summer months. We have had our own animals get sick from the effects of

trespassing animals. If we are able to contain the trespassing cattle, we try to locate the owners to retrieve their cows.

We reached our tipping point. On April 19, 2022, we contacted the Department of Agriculture for direction on what to do with 13 steers found wandering around our barn in the early morning hours. The animals were thin and sickly looking, and it appeared many of them were infected with conjunctivitis which is painful and can be debilitating to the animal.

Upon contacting your personnel, we were admonished to follow the procedures outlined in ORS 607. So, in accordance with ORS 607.313 we provided notice to the Department of Agriculture, via an email to Mr. Rusty Rock on April 19, 2022 at 12:20 p.m. We immediately followed up and contacted the Brand Inspector located in Winston, Oregon, Kim Dedmon whose number was provided by your offices. She responded promptly, counted the animals in the round pen and was also provided with a hard copy of the required written notice sent to Rusty Rock that included the ear tag numbers. There was no brand or other identification on the animals to determine ownership. She had me sign paperwork; we were not provided with a copy.

We asked Ms. Dedmon what happens now and were told that she would attempt to locate the owner. We asked if the Department would be taking the animals and were told that we would need to keep and care for them until she found the owner, or until they were put up for sale. We asked about reimbursement for our costs in keeping the cows, she was unable to provide information nor was whoever she called at your offices. We were adamant that we did not want the animals released until the fences were repaired to prevent further trespass. We gave her names of people who we believed may own cattle near us. She left.

Upon further review of ORS 607, I discovered information on cost recovery.

At approximately 9:00 p.m., on April 19, we received a telephone call from a Dean Bright who left a voice message about "coming to get his cows in the morning." I texted Ms. Dedmon about the phone call and she texted back, *"I have spoken to his wife and waiting for him to call me, they do believe they could be theirs. Descriptions match up. They have only been up on the pasture for a week or less."* That was the extent of any further communication from Ms. Dedmon, though additional text inquiries sent to her were recorded delivered and show they were read in my text records.

It is very apparent your Brand Inspector provided our contact information to Dean Bright who didn't even know he had missing cattle until she contacted him. She did not have our permission to give our private information to the Bright's. It is important to note that at no time did Ms. Dedmon communicate verification of ownership with us, either verbally or in writing.

I received a second phone call from Mr. Bright, the supposed owner, the morning of April 20, 2022, indicating he wanted to come and get his cows. I informed him that he will need to contact the Department of Agriculture as they are now handling the matter and ended the conversation.

I immediately followed up with a text to Ms. Dedmon indicating that I had reviewed ORS 607 and advised that if she thinks she has found the owner there are provisions of the law that have to be followed before the animals can be released and to please let us know next steps. No response. I texted her again at 12:50 p.m. asking where we were on the ownership of the cows. No response. I also reminded her the cows could not leave until we were reimbursed for our expenses and the fence was fixed – all pursuant to my understanding of ORS 607. I again reiterated the cows did not look healthy.

I then sent a second email to Mr. Rock, on April 20, 2022, after speaking with Mr. Bright. I copied Kim Hug, Lucia Rodriguez, Lauren Henderson, Johnathon Sandau and Karla Valness with the hope that someone, anyone would get back to me. We had no response to any of our inquiries. I made several more phone calls to your offices and left a voice mail for Mr. Rock. I also gave a very detailed description of what was taking place to Ms. Rodriguez in another call. She indicated she would try to find someone to help me. Nothing. No communication until 6:00 p.m., when Mr. Rock returned my call.

The next communication we had regarding this situation was a telephone call from Deputy Lee Bartholomew of the Douglas County Sheriff's Office at approximately 1:30 p.m. telling us we needed to allow Dean Bright access to our property to retrieve his steers. I told the Deputy that the matter was being handled by the Department of Agriculture and they were working to determine ownership of the cattle and no one had gotten back to us yet. He indicated that he had received a phone call from Ms. Dedmon and spoken with her and she had determined the cows belonged to Dean Bright.

Clearly there was communication going on behind the scenes that included your Brand Inspector, that did not include us as is required pursuant to ORS 607 as I read it. I informed the Deputy that we did not feel comfortable releasing the animals until the State provided us with written notification pursuant to ORS 607, that we had signed something that I believed showed we had taken up the cows. I noted the release of the animals would be in violation of ORS 607. I then read the ORS provisions [607.313 and 607.321 (3) requiring the Department to send written notice to both the owner and to the person taking up the animal, to the Deputy and explained that the law seemed very clear about written notification and that we had not received either verbal or written notice from the Department of Agriculture.

Deputy Bartholomew then indicated that he does not believe the Department is required to provide *written* notification, stating it can be verbal and shared that the State Department of Agriculture has told him, once identification is made it becomes a civil matter – but it is up to him to enforce the return of the animals. He noted this determination was based on experience in a previous incident involving the Department of Agriculture in Douglas County where a property owner was charged for refusing to release animals. The Deputy then threatened that we had to give Dean Bright access to our property to retrieve his steers or we too would be charged with Theft of Livestock, which he later clarified would be a charge of Unauthorized use of Livestock Animal; ORS 167.385 which is a Class A Misdemeanor and carries a fine of \$6,250 and a year in jail. All we were asking for was written notification by the State [Brand Inspector] pursuant to ORS 607.

Nowhere in ORS 607 do we find that the State is absolved of responsibility and matters become civil. In fact, the ORS is detailed in how the Department is to handle cost recovery both for itself and persons taking up the stray animals. ORS 607 goes so far as to outline an arbitration process and the State's

responsibility. Moreover, there is no mention of a role of law enforcement in mediating any disputes, that is left to a panel of arbitrators. We are appalled that Ms. Dedmon failed to communicate with us and instead seems to have presented us as criminals to Deputy Bartholomew. There is clearly a gap in the law when a person moves from “taking up an animal,” and caring for it to “thief.”

Our next communication was the telephone call from Mr. Rock who had no understanding about what had been transpiring and was surprised to learn we had not received a copy of the documents we were asked to sign by your Brand Inspector.

I informed Mr. Rock the matter had now escalated, and my husband and I had been threatened by the Douglas County Sheriff’s Office as a result of Ms. Dedmon’s actions and her failure and the Department’s failure to follow proper procedures. We spoke briefly and I told him I would provide him with a copy of my email to your Director Alexis Taylor, sent April 19, 2022, detailing our humiliating experience.

It is incredulous that even though the Department of Agriculture did not follow the law, we are the ones who could go to jail and be fined \$6,250. What happens to Dean Bright, the supposed owner of the cattle, in all of this? According to Deputy Bartholomew he will receive a warning. He is not issued a citation, he is not required to fix the fence, he is not made to properly tag his cattle, he is not made to provide them with proper care or medical treatment, he is simply given a warning. It is important to note this is not the first experience with Dean Bright keeping his livestock contained. Bright assured us he keeps his fences repaired; however, in his next breath he admitted that the land he is using for grazing between his property and ours is not fenced. The area we believe is problematic has had downed fences for years. It is not recent.

The Department’s inability to follow its own tenets as outlined in ORS 607, is incredulous. The only skills required to follow the law in this case is the ability to read, understand and then apply. In particular ORS 607.303, 607.304, 607.321(3) and ORS 607.332. Given the Department’s ineffectual application of its own laws and disregard of its legal responsibility to recover costs demonstrates blatant indifference to the people and taxpayers of this State.

The Department’s inability to follow the law has interfered with our right to recover our costs as follows and as allowable under the provisions of ORS 607.304(2):

- Care of cows at \$10 per head per day [13 x \$10 = \$130 a day] in accordance with ORS 607 which, according to information provided by Brand Inspector Dedmon, includes five days prior to and including April 19, and all subsequent days the cows remain on our property; as of April 20, 2022, that amount is \$910.
- ~~Cost of constructing fencing, [labor and materials] to a standard that will keep animals contained and safe and off of our property.~~

Because we were threatened with criminal charges if we did not release the animals, we released them. Mr. Bright was asked to produce the written notice pursuant to 607.321(3) when he came onto our

property to take his steers. He indicated he had not received any notice. We will not seek remuneration for repairs and installation of fencing, again leaving us vulnerable to trespass and property damage.

It is certainly not about the money for us, as we've put up with this for 20 years and never received or asked for a dime in payment for damages. In fact, we've never even been offered a thank you for keeping care of the animals by their owners. In this case however, we are considering a claim against the Department for its failure and treatment of us.

Until livestock owners are held accountable, they'll continue the abuses to other people's property and to their own animals who are nothing but property and are not treated as the sentient beings they are. Unfortunately, the Department of Agriculture is enabling the abuse and exploitation.

My public service career began in 1979, as a field representative for a California State Legislator and I have served in several executive capacities in government in two States and consulted with public agencies at all levels. I believe government must be accountable to the people and I have dedicated my life to this purpose and value and that is why I am pursuing this matter.

The lack of competence, professionalism and communication exhibited over the past 24 hours by the Oregon Department of Agriculture staff makes your Mission, Vision and especially your Core Values a mockery. I reside in a County whose elected officials are openly and repeatedly censured for foolishness, making headlines many times for the misuse of federal funds and spouting inane statements on the Senate Floor. I have no confidence in their ability to govern. Now, when forced to turn to the State of Oregon for evenhandedness and proper administration of the law, my confidence is again compromised.

I sincerely hope you work to establish the trust and professionalism the public deserves, or our communities will remain divided, and disenfranchised citizens will continue to grow. We look forward to the outcome of your review.

Sincerely,

Stacey McLaughlin

Stacey McLaughlin
799 Glory Lane,
Myrtle Creek, OR 97457

c: Alexis Taylor