

HOUSE COMMITTEE ON WATER

March 02, 2005 Hearing Room 357

1:00 P.M. Tapes 36 - 38

MEMBERS PRESENT: Rep. Bob Jenson, Chair

Rep. Jackie Dingfelder, Vice-Chair

Rep. Jerry Krummel, Vice-Chair

Rep. Phil Barnhart

Rep. Alan Brown

Rep. Billy Dalto

Rep. Carolyn Tomei

STAFF PRESENT: Sandy Thiele-Cirka, Committee Administrator

Elizabeth Howe, Committee Assistant

ISSUES HEARD: Oregon Plan Overview – Informational Hearing

Department of Environmental Quality (DEQ)

Department of State Lands (DSL)

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
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TAPE 36, A

003 Chair Jenson Calls the meeting to order at 1:06 p.m. Opens an informational hearing on the Oregon Plan by the Department of Environment Quality (DEQ).

OREGON PLAN OVERVIEW BY DEQ – INFORMATIONAL HEARING

012 Jim McCauley Legislative Coordinator, Water Quality Division, DEQ. Introduces today's presentation.

024 Greg Aldrich Manager, Watershed Management Section, DEQ. Submits presentation materials for the Oregon Plan (**EXHIBIT A**). Discusses Total Maximum Daily Load (TMDL) and protecting water quality.

074 Aldrich Continues discussion of TMDL, and describes Designated Management Agencies (DMA).

120 Aldrich Discusses adaptive management of water quality.

138 Rep. Tomei Asks what has been done in the past to manage water quality.

142 Aldrich Discusses current water quality management and TMDL analysis.

160 Rep. Tomei Requests details of progress that has been made.

164 Aldrich Presents target completion dates for TMDLs for 303(d) listed waters (**EXHIBIT A, page 11**).

197 Chair Jenson Asks how completion dates were determined.

200 Aldrich Describes priorities and pollution factors.

213 Chair Jenson Mentions that the yellow areas (**EXHIBIT A, page 11**) are not in populated parts of the state.

215 Aldrich Explains that the yellow areas are earlier projects.

224 Chair Jenson Notes that the TMDL process began in the mid- to late-1990s, and asks what has caused the delay in completing TMDLs throughout the state.

242	Aldrich	Discusses the TMDL development schedule and the new commitment to complete TMDLs with the 2000 Consent Decree.
274	Aldrich	Points to the blue sections (EXHIBIT A, page 11) and explains the difficulties with the areas around the Willamette and Umpqua Rivers.
295	Chair Jenson	Asks if the DEQ is on schedule for target dates.
299	Aldrich	States that the DEQ is ahead of the 2004 target, and believes the 2010 target is on schedule.
326	Aldrich	Presents the DEQ's significant accomplishments.
359	Chair Jenson	Asks why the Willamette TMDL was the first to look at mercury.
361	Aldrich	Explains the absence of a mercury standard for past TMDLs.

TAPE 37, A

008	Aldrich	Continues explanation of significant accomplishments. Describes significant efforts that will soon come to completion in 2005-07.
023	Aldrich	Discusses post-2007 TMDL efforts.
060	Aldrich	Presents the ten most-improved sites across the state and discusses the Willamette River TMDL implementation.
115	Chair Jenson	Questions how the success of TMDLs is measured.
141	Aldrich	Explains program-specific measures and the water quality index.
216	McCauley	Submits written testimony (EXHIBIT B) and discusses TMDLs.
256	McCauley	Discusses DEQ permits and the Oregon Plan.
271	Rep. Dingfelder	Asks how the proposed permit plan differs from the current approach and how permit trading will fit into the new watershed approach.

- 279 McCauley Explains previous permitting requirements, and the proposed approach and describes permit trading, and how this approach will be a benefit.
- 332 Rep. Tomei Asks how the city of Damascus will go through the permit process.
- 340 McCauley Explains how a city in a watershed obtains permits.
- 364 Chair Jenson Asks what portion of DEQ's budget is for the Oregon Plan and TMDL.
- 376 Aldrich States that there are currently 34 employees, and offers to get the budget information and provide it to committee staff.
- 382 Chair Jenson Notes the Oregon Plan biennial report submitted by the Oregon Watershed Enhancement Board (OWEB) (**EXHIBIT C**), which includes the Oregon Plan's budget. Requests a concrete estimation of the proposed budget.

TAPE 36, B

- 009 McCauley Offers to get detailed information regarding budget dollars for the Oregon Plan.
- 027 Chair Jenson Asks for plans addressing the toxicity in fish. Notes the concern of the Confederated Tribes of Umatilla Indian Reservation (CTUIR).
- 036 McCauley States that there is a continuing dialogue with the CTUIR regarding toxicity.
- 045 Chair Jenson Encourages DEQ to continue dialogue with CTUIR.
- 053 Chair Jenson Closes informational hearing on the Oregon Plan by the DEQ. Opens the informational hearing by DSL. Recesses at 2:08 p.m.

OREGON PLAN OVERVIEW BY DSL – INFORMATIONAL HEARING

- 055 Chair Jenson Reconvenes the meeting at 2:15 p.m.
- 066 John Lilly

Assistant Director, Department of State Lands (DSL). Submits presentation materials (**EXHIBIT D**) and brochures (**EXHIBIT E**). Introduces DSL, and discusses their mission and purpose.

- 110 Lilly Describes the State Land Board, Division of State Lands, and the Common School Fund.
- 141 Rep. Barnhart Questions whether Oregon still owns parts of 16 and 36 sections.
- 148 Lilly Offers history to explain how Oregon has claimed state lands.
- 189 Lilly Continues presentation: discusses the Removal-Fill law, and describes the Rock Creek and Butte Creek Projects, and explains permit requirements.
- 278 Chair Jenson Questions cubic yard criterion.
- 286 Lilly Comments on streams with essential salmon habitat and the cubic yard criterion throughout the state in certain waterways and describes process for Removal-Fill permits.
- 340 Rep. Tomei Comments on the 50 cubic yards, and expresses her astonishment that so much earth can be moved without a permit.
- 348 Lilly Relates that 50 cubic yards is eight dump truck loads, or 50 pickup truck loads.
- 374 Lilly Describes State Problematic General Permits (SPGP) and explains the activities that are regulated around wetlands and waterways, and the activities that are exempt from regulation.

TAPE 37, B

- 032 Chair Jenson Notes that stump removal is regulated.
- 034 Lilly Explains that removal of vegetation is not regulated along waterways unless it affects 50 cubic yards of land.
- 043 Eric Metz Regulatory Policy Specialist, DSL. Discusses Oregon Plan Measures.

097	Chair Jenson	Inquires as to the meaning of industrial citing certification.
098	Lilly	Describes the review process to certify cites for development.
107	Metz	Discusses factors for decline, and historical estuarine and wetland loss.
124	Rep. Tomei	Asks for the definition of lacustrine.
126	Metz	Clarifies that a lacustrine is a lake, and illustrates estuarine and wetland loss with a series of photos (EXHIBIT D, page 11).
142	Rep. Barnhart	Inquires as to the meaning of ESU.
143	Metz	Clarifies that ESU is an Ecologically Significant Unit, used by hatchery and fisheries to determine a significant portion of certain endangered species.
148	Rep. Barnhart	Questions the meaning of ESA.
149	Metz	Clarifies that ESA is the federal Endangered Species Act.
158	Metz	Presents the net-gain of freshwater wetlands, and explains the calculation of no-net-loss.
191	Rep. Dingfelder	Questions goal #3, regarding net-gain and no-net-loss (EXHIBIT D, page 12, slide two).
202	Lilly	Explains the net-gain in freshwater wetlands, and states that DSL is exceeding the policy of no-net-loss.
239	Rep. Dingfelder	Questions the net-gain of 250 acres-per-year, and asks how the number was developed.
248	Lilly	States that DSL is confident that 250 acres per year is attainable.
259	Chair Jenson	States that the numbers are not necessarily science, but are an internal determination of DSL.

268	Lilly	Asserts that the numbers are the best knowledgeable judgment of DSL staff. Concludes and summarizes presentation.
278	Metz	Continues discussion of no-net-loss calculations and future challenges for DSL.
341	Chair Jenson	Questions the source of last slide (EXHIBIT D, page 16).
356	Lilly	States that the recommendation was DSL's next step toward preserving the Coho salmon.
362	Chair Jenson	Inquires whether there was any input from the Independent Multidisciplinary Science Team (IMST).
366	Metz	States that the IMST is reviewing this work, and will have an opportunity to comment.
371	Chair Jenson	Questions permit non-compliance stated in the OWEB report (EXHIBIT C, page 37).
398	Metz	Asserts that there is an error in the report. Offers to get back to the committee members with corrected data.
407	Lilly	Describes the process for monitoring compliance.

TAPE 38, A

023	Chair Jenson	States that data was provided to OWEB by the DSL, and explains how the legislature assesses the value and merit of the Oregon Plan by the OWEB biannual report.
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The following materials submitted for the record without public testimony:

	Jeff Boatwright	Written testimony on the Oregon Plan.
046	Chair Jenson	Offers closing comments. closes the informational hearing on the Oregon Plan by DSL, and adjourns the meeting at 3:02 p.m.

EXHIBIT SUMMARY

- A. Oregon Plan, presentation materials, Greg Aldrich, 11 pp**
- B. Oregon Plan, written testimony, Jim McCauley, 3 pp**
- C. Oregon Plan, Oregon Watershed Enhancement Board biennial report, staff, 53 pp**
- D. Oregon Plan, presentation materials, John Lilly, 16 pp**
- E. Department of State Lands, brochures, John Lilly, 6 pp**
- F. Oregon Plan, written testimony, Jeff Boatwright, 3 pp**