

HOUSE COMMITTEE ON WATER

May 04, 2005 Hearing Room 357

1:00 P.M. Tapes 80 - 81

Corrected 10/17/05

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

MEASURES/ISSUES HEARD:

HB 2915 – Public Hearing and Work Session

HB 2265 – Work Session

SJM 7 – Public Hearing

SB 848A – Public Hearing

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
TAPE 80, A		
003	Chair Jenson	Calls the meeting to order at 1:10 p.m. Opens a public hearing on HB 2915.

HB 2915 – PUBLIC HEARING

008	John Lilly	Assistant Director, Department of State Lands (DSL). Submits written testimony (EXHIBIT A) and copy of SB 172 (2001) (EXHIBIT B) and introduces HB 2915. Testifies in opposition to HB 2915.
021	Yvonne Vallette	Oregon Wetlands Coordinator, United States, Environmental Protection Agency (EPA). Submits written testimony (EXHIBIT C) and testifies on 404 assumption.
100	Vallette	Expresses concerns related to repealing SB 172 (2001), as the bill was the first serious step toward Oregon's assumption.
180	Vallette	Continues testimony on 404 assumption in Oregon.
213	Rep. Tomei	Questions how EPA deals with the 50 cubic yard exemption.
218	Vallette	States that under an assumed program it could not exist, because the federal EPA does not have an exemption. Relates that the Army Corps of Engineers (ACOE) covers that exemption. Explains the permitting process.
247	Lilly	Clarifies that the state currently does not require permits for less than 50 cubic yards, while the ACOE does require one.
257	Rep. Dingfelder	Inquires if any other states have a 50 cubic yard exemption. Questions why the assumption process is lingering.
263	Vallette	Responds negatively. Describes the programs for other assumed states. Explains why the assumption process is lengthy.
301	Rep. Dingfelder	Asks for a timeline for the steps toward assumption.

307 Vallette Explains what is required to assume and the approximate timeline.

354 Rep. Tomei Inquires about citizen review.

357 Vallette Explains issues with Oregon's citizen review.

368 Lilly Mentions responses to committee members' questions (**EXHIBIT A**). Comments on the need for assumption in order to achieve goals.

TAPE 81, A

020 Lilly Outlines activities that occur on farmland that are and would remain exempt under 404 assumption. Addresses staffing, and the drain on the Common School Fund.

047 Vallette States that the federal EPA is willing to contribute additional resources to aide in assumption because of the savings to the federal government.

052 Lilly Addresses fines and penalties.

066 Vallette States that there is a separate penalty at the federal level.

068 Rep. Tomei Inquires about the highest penalty assessed in 2003-04. Inquires if the illegal action usually occurs in one event, or in many.

074 Lilly Relates that the highest penalty in 2003-04 was \$23,000. Defines fill and removal. States that certain waters have a zero tolerance removal.

090 Vallette Explains that illegal activity often occurs over multiple acres.

122 Chair Jenson Comments on the two states that have assumed, and the two that are in the process of assuming.

131 Vallette States that 404 assumption is a very high hurdle, even with federal financial assistance.

137 Chair Jenson Comments on Oregon's willingness to assume. States that Oregon is no closer to a Memorandum of Understanding in these four years.

Relates that HB 2915 will be passed out, but not active until the 2007 legislature has approved its implementation.

191 Vallette States that EPA is there to counsel the states on how to assume.

201 Lilly Agrees that DSL can support the amendment.

207 Chair Jenson Closes the public hearing and opens a work session on HB 2915.

HB 2915 – WORK SESSION

210 Rep. Tomei Comments that the federal government is not flexible in allowing the 50 cubic yard exemption.

228 Chair Jenson States that the exemption has been in statute for some time.

233 Lilly Believes the original legislation in 1967 had the 50 cubic yard exemption. Relates that the exemption was lifted for salmon habitat in 1993.

254 Chris Bayham Association of Oregon Counties, County Road Program. Testifies in opposition to HB 2915.

309 Chair Jenson Comments on the lack of forward movement to assume. Closes work session on HB 2915. Opens a work session on HB 2265.

HB 2265 – WORK SESSION

339 Sandy Thiele-Cirka Provides background on the bill and the amendments.

355 Rep. Krummel MOTION: Moves HB 2265 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Ways and Means.

364 Rep. Barnhart Inquires which amendments were adopted.

374 Rep. Tomei Expresses agreement with the original bill.

385 Chair Jenson

Relates options for today to pass the -4 amendments to the floor, or move it with the -3 amendments to Ways and Means by prior reference.

397 Rep. Dingfelder States that HB 2265 does include a fee increase in the -3 amendments, and a new fee for wetland delineation.

415 Chair Jenson Explains what happened to the original bill, HB 2130, plus another technical fix to SB 82 (2003) in the amendment.

TAPE 80, B

008 Thiele-Cirka States that there were no objections in adopting the -3 amendments.

VOTE: 7-0-0

AYE: In a roll call vote, all members present vote Aye.

026 Chair Jenson The motion CARRIES.

027 Chair Jenson Closes work session on HB 2265. Opens a public hearing on SJM 7.

SJM 7 – PUBLIC HEARING

030 Sandy Thiele-Cirka Provides background on SJM 7.

040 Ken Armstrong Oregon Ports Group. Explains the purpose of SJM 7.

062 Rep. Dingfelder Inquires about the funding source for the Harbor Maintenance Trust Fund. Asks if funds are allocated and expended by Congress.

065 Armstrong Relates the funding source, and explains what SJM 7 asks the federal government to do with the funds. Relates that a portion is expended to cover dredging around the country.

083 Rep. Dingfelder Questions if state ports must match the funds to qualify for funding.

086 Armstrong States that state ports must match for new construction, while the federal government pays for dredging.

092	Rep. Brown	Comments on the uniqueness of Oregon, and the need for dredging.
103	Rep. Barnhart	Reiterates that Oregon's small harbors need to be dredged.
108	Rep. Krummel	Questions whether some of the funds earmarked for dredging were used for the Columbia River project.
114	Armstrong	Responds affirmatively.
116	Chair Jenson	Closes public hearing on SJM 7. Opens a public hearing on SB 848.

SB 848A – PUBLIC HEARING

126	Sandy Thiele-Cirka	Administrator. Provides background on SB 848A.
137	Gerald Kubiak	Washington County. Submits written testimony on behalf of Tom Brian, from Washington County Board of Commissions (EXHIBIT D), and testifies in support of SB 848A.
184	Mark Jockers	Public Affairs Manager, Clear Water Services. Testifies in support of SB 848A.
235	Rep. Krummel	Questions whether SB 848A would pertain to Clackamas County service district.
247	Kubiak	Responds negatively. Explains that many service districts do not provide similar services.
267	Rep. Krummel	Inquires if an amendment could be drafted to apply to Clackamas County, or other districts. Questions if other service districts have the same problem.
274	Kubiak	States that Washington County will work with other interested counties.
283	Jockers	Relates that there are only two service districts with the same issue.
290	Rep. Krummel	Requests an amendment to include Clackamas County Service District Number One.

- 302 Chair Jenson Responds that the amendment can be drafted. Believes Rep. Dingfelder and Rep. Tomei may not be able to support it.
- 313 Rep. Dingfelder Questions if Clackamas County should be included in the discussion.
- 319 Jockers Responds that Clackamas County has been involved.
- 324 B. J. Smith Government Relations Director, Clackamas County. States that easements are currently being granted in Clackamas County. Relates that Clackamas County would like to be involved.
- 339 Chair Jenson Suggests checking with Clackamas County local government authorities.
- 350 Rep. Krummel Agrees that local authorities should be consulted.
- 356 Chair Jenson Closes public hearing on SB 848. Reopens public hearing on SJM 7.

SJM 7 – PUBLIC HEARING

- 364 Pat Egan Port of Portland. Testifies in support of SJM 7.

TAPE 81, B

- 010 Rep. Dalto Expresses surprise that Oregon is number one for car imports.
- 017 Egan Explains why Oregon is number one.
- 024 Chair Jenson Asks if Oregon is the largest inline port for grain.
- 026 Egan States that he is unsure. Relates that a contract is being considered to dredge 26 river miles this calendar year.
- 032 Chair Jenson Closes the public hearing on SJM 7. Adjourns the meeting at 2:35 p.m.

EXHIBIT SUMMARY

- A. **HB 2915, written testimony, John Lilly, 6 pp**
- B. **HB 2915, SB 172 (2001), John Lilly, 14 pp**
- C. **HB 2915, written testimony, Yvonne Vallette, 3 pp**
- D. **SB 848, written testimony of Tom Brian, Gerald Kubiak, 1 p**