

HOUSE COMMITTEE ON
ENVIRONMENT AND LAND USE

February 25, 2003 Hearing Room HR E
8:30 AM Tapes 25 - 26

MEMBERS PRESENT: **Rep. Bill Garrard, Chair**
 Rep. Dennis Richardson, Vice-Chair
 Rep. Cliff Zauner, Vice-Chair
 Rep. Robert Ackerman
 Rep. Dan Doyle
 Rep. Mitch Greenlick
 Rep. Diane Rosenbaum

STAFF PRESENT: **Ray Kelly, Committee Administrator**
 David Peffley, Committee Assistant

MEASURES HEARD: **HB 2431 – 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 25, A		
003	Chair Garrard	Calls the meeting to order at 8:35 and opens a public hearing on HB 2431.
<u>HB 2431 – PUBLIC HEARING</u>		
008	Ray Kelly	Explains HB 2431.
045	Chair Garrard	Introduces Robin Hartman's (EXHIBIT A) faxed testimony from the Oregon Shores Conservation Coalition.
058	Jay Lorenz	Manager of Natural Resources, Terra Associates, Kirkland, WA. Speaks in favor of HB 2431 stating the historical conflict between managed growth and the protection of resources. Asserts that HB 2431 is a proactive and balanced solution to this conflict.
150	Rep. Richardson	Asks Lorenz if he would include any other provisions to the bill.
154	Lorenz	States that he wouldn't add anything to the bill, but he might make adjustments to a couple provisions.
179	Rep. Richardson	Asks which is the best way to make decisions based on this legislation.
181	Lorenz	Responds that a panel of scientists may be necessary to help establish the most applicable approaches.
200	Rep. Greenlick	Asks for a formal designation of a wetland and why as social policy we need to protect wetlands.
209	Lorenz	Defines the formal definition of a wetland and states why they are valuable to society.
233	Rep. Greenlick	Asks if Lorenz supports Section 2 given the stated importance of such wetlands, which would allow someone to take wetlands out of production,

258	Lorenz	States that he is not in favor of that process. Continues that he would support legislation making a distinction between high and low-value wetlands. States further that we need an evaluation process.
293	Rep. Greenlick	Asks if he would oppose that clause as written.
295	Lorenz	Responds that he would.
300	Rep. Richardson	Asks what the difference is between a wetland and swamp.
305	Lorenz	States that a swamp is a type of wetland.
312	Rep. Richardson	Asks whether it is really important to protect wetlands.
320	Lorenz	Gives particulars on wetlands and soil saturation.
351	Rep. Richardson	States that he didn't realize that two weeks of standing water constitute a wetland.
363	Lorenz	States that the two week example needs to be qualified in the context of what it contributes. Reiterates that greater focus needs to be placed on the value to society.
410	Rep. Greenlick	Asks what proportion is carried out by small wetlands versus the great swamps for groundwater recharge.
417	Lorenz	States that he couldn't really offer a fair guess.
TAPE 26, A		
020	Charles Link	Yachats, Oregon. Submits (EXHIBIT B) and testifies in favor of HB 2431. Speaks to the presence of artificially-designated wetlands and offers a personal anecdote dealing with bureaucratic red tape in regard to wetland. Details how the passage of HB 2431 will help solve these inefficiencies.
151	Doug Tindall	Division of State Lands (DSL). Submits (EXHIBIT C) and affirms the importance of streamlining the environmental permitting process, contained in HB 2431. Notes concerns and that some modifications may be necessary.
163	Rep. Zauner	Asks about the duplication between the engineers and DSL.
165	Tindall	Agrees with Rep. Zauner, although the involved organizations are moving to streamline the process.
172	Rep. Richardson	Asks Tindall he might do to make this process more user-friendly for the land owner.
182	Tindall	Attests that he is not well-versed in that issue; that his background is in engineering.
194	Rep. Richardson	Asks Tindall if HB 2431 gives enough flexibility to DSL.
197	Tindall	Answers that it may take some flexibility away.
202	John Lilly	Assistant Director, DSL. Submits (EXHIBIT D) and testifies in opposition to HB 2431, however states that issues raised by this legislation do need to be addressed.
232	Chair Garrard	Asks if losing wetlands is necessarily a bad thing.
234	Lilly	Responds that it may not necessarily be bad, but that the state is committed to protecting wetlands. Adds that we need to address some permitting concerns and to identify the important wetlands as opposed to the less-important ones.
262	Lilly	Continues testimony by addressing public policy questions which HB 2431 poses.
299	Rep. Richardson	Asks whether the federal or state government sets the requirement that two weeks of standing water constitutes a wetland.
302	Lilly	Responds that the State of Oregon uses the Corp of Engineers delineation manual.
313	Rep. Richardson	Asks whether that includes an artificially-created wetland.
315	Lilly	States that the manual determines regulations on whether the

		land is a wetland or not.
330	Rep. Richardson	Asks about a comparison between the efficiency and streamlining of the agency two years ago versus today.
338	Lilly	Responds that we are definitely doing a better job today than two years ago. States that today, the problems which Mr. Link faced, would not occur, and that he would like to amend the bill to speed up the process.
379	Rep. Ackerman	Asks about the wetland adjudication process.
382	Lilly	Affirms Rep. Ackerman's feelings about the process.
383	Rep. Ackerman	Asks if the Division makes these determinations on a case-by-case basis.
391	Lilly	Speaks to the three inventory levels of wetland assessment—federal, local, and site-specific.
TAPE 25, B		
008	Lilly	Continues elucidating the technicalities of his testimony regarding wetland regulation vis-à-vis functions and social value as referenced in page two of (EXHIBIT D) .
045	Rep. Greenlick	Asks for a sense of the magnitude of the functions of the small-sized wetland and the larger swampland.
050	Lilly	Testifies that it varies from location to location, depending on the landscape. Continues by highlighting the wide range of utility between higher and lower-value wetlands.
075	Rep. Greenlick	Asks whether losing these small wetlands would in fact make a significant difference.
087	Lilly	Reiterates that the importance depends on the various landscapes and that he can not give a quantitative answer. Continues his testimony by addressing the cost of compensatory wetland mitigation as per the bill. Offers to help with potential amendments to this bill.
212	Rep. Rosenbaum	Asks Lilly to explain how a mitigation bank works under the current system.
217	Lilly	Details the process of the permit application and bank interaction.
231	Rep. Rosenbaum	Asks if credits are generally given for a completed project or in response to a land-owner's needs to buy credits.
237	Lilly	Explains the process of obtaining a permit.
251	Rep. Rosenbaum	Asks if there is oversight in the system.
252	Lilly	Speaks to balance in the system.
261	Rep. Richardson	Asks if functions and values should be weighed heavily in the process.
264	Lilly	Responds that it absolutely should be. Searches for the appropriate statute relating to functional attributes. Defines the meaning of the statute and how it relates to Mr. Lorenz' testimony.
331	Chair Garrard	Asks if Mr. Lilly could have the DSL provide documentation.
353	Scott Duckett	Waterways Manager, City of Eugene, Public Works Department. Submits (EXHIBIT E) and testifies in opposition to HB 2431. Explains the bank mitigation process. Shares the importance of wetlands and why they need to be preserved. Reiterates the need for a balanced approach.
TAPE 26, B		
003	Rep. Richardson	Clarifies his concerns regarding the two-week standing water issue. Asks if the witness feels that the present approach is balanced.

013	Duckett	Affirms that he does as the Willamette Valley now has 1% of the historic wetlands that we had at the time of settlement. States concern that we may be paying for past debts incurred.
036	Rep. Greenlick	Asks if the two-week pond is treated the same way as a natural marsh would be treated.
041	Duckett	States that the issue has been studied and that both situations run through the same processes.
062	Dr. Paul Adamus	Submits (EXHIBIT F) and testifies in opposition to HB 2431 in that it places a one-size fits all solution on this problem and that it would be prohibitively expensive to the taxpayer. States that there are problems with the present process system, but that the process is greatly improving. Cites concerns over HB 2431.
164	Chair Garrard	Asks the definition of an isolated wetland.
169	Dr. Adamus	States that the isolated wetland is still being defined. Gives his own definition.
171	Chair Garrard	Asks for further clarification.
173	Dr. Adamus	Answers and continues by addressing Rep. Greenlick's concerns about the importance of small wetlands. Speaks to the importance of wetlands in dealing with nitrate pollution.
The following prepared testimony is submitted for the record without public testimony for HB 2431.		
	Phil Scoles	Submits written testimony (EXHIBIT G) .
239	Chair Garrard	Asks Dr. Adamus to please come back when we continue the hearing on HB 2431. Adjourns the meeting at 10:21.

EXHIBIT SUMMARY

- A – HB 2431, written testimony, Chairman Bill Garrard, 4 pp.**
- B – HB 2431, written testimony, Charles Link, 3 pp.**
- C – HB 2431, written testimony, Doug Tindall, 1 p.**
- D – HB 2431, written testimony, John Lilly, 4 pp.**
- E – HB 2431, written testimony, Scott Duckett, 1 p.**
- F – HB 2431, written testimony, Dr. Paul Adamus, 2 pp.**
- G – HB 2431, written testimony, Phil Scoles, 5 pp.**