

SENATE COMMITTEE ON WATER AND LAND USE

January 27, 2003
3:00 p.m.

Hearing Room D
Tapes 3 - 5

MEMBERS PRESENT: **Sen. Ted Ferrioli, Chair**
 Sen. Charlie Ringo, Vice-Chair
 Sen. Jason Atkinson
 Sen. Rick Metsger

STAFF PRESENT: **Judith Callens, Committee Administrator**
 Megan Jensen, Committee Assistant

MEASURE/ISSUES HEARD: **Informational Meeting**
 Division of State Lands overview
 Department of Land Conservation and Development overview
 Oregonians in Action Land Use comments

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.

| <u>TAPE/#</u> | <u>Speaker</u> | <u>Comments</u> |
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| TAPE 3, A | | |
| 005 | Chair Ferrioli | Calls meeting to order at 3:10 pm. Opens informational meeting. |
| <u>INFORMATIONAL MEETING</u> | | |
| 010 | Ann Hanus | Director of Division of State Lands (DSL). Presents overview of DSL (EXHIBIT A). States that the purpose of DSL is to manage Common School Fund assets and provides an overview of the Common School Fund. |
| 042 | Hanus | Continues discussion of DSL organization. Land management activities include: <ul style="list-style-type: none">• Submerged and submersible waterways leases• Timber harvests in the Elliott State Forest• Communication site leasing• Fiber optic cables from international areas• Gravel mining royalties, mineral gas exploration and grazing. |
| 090 | Sen. Ringo | Discusses overview of DSL land management and finances. Indicates that DSL contracts with the Oregon Department of Forestry to manage the Elliott State Forest and is currently involved in revising their management plan. Inquires why DSL manages Elliott State Forest and not other state forests. |
| 099 | Hanus | Explains that the Elliott is held in trust for the Common School Fund, while other state forests are held in trust to benefits counties. |
| 110 | Chair Ferrioli | Comments on history of Common School Fund and the creation of the Elliott State Forest. |
| 120 | Sen. Ringo | Clarifies explanation of Common School Fund. |
| 121 | Hanus | Elaborates on land management plan for the Common School Fund. |
| 122 | Sen. Metsger | Clarifies that the federal government gave states rights to certain |

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| 132 | | properties but can trade those rights for other properties. |
| 149 | Sen. Ringo | Inquires about DSL rangeland leases. |
| 151 | Hanus | Responds. |
| 160 | Chair Ferrioli | Asks whether rangelands are leased for fair market value. |
| 163 | Steve Purchase | DSL Assistant Director. Replies and submits written materials (EXHIBIT B) . |
| 198 | Chair Ferrioli | Comments on rangelands leasing issue. |
| 200 | Sen. Ringo | Questions the amount the state received for range leases. |
| 202 | Purchase | Responds. |
| 212 | Hanus | Explains DSL Removal-Fill Program. Refers to the Columbia County Rock Creek removal-fill project and the irrigation diversion on North Fork of Butte Creek near Eagle Point. |
| 235 | Chair Ferrioli | Asks about situations that are exempt from removal and fill permits. |
| 243 | Purchase | Clarifies situations where removal and fill permits are not necessary. |
| 273 | Chair Ferrioli | Asks for explanation of a “push up dam.” |
| 276 | Purchase | Explains that a push up dam is created by using pushing up the ground to create a diversion that would direct water into a stockpiling area. Describes permit-exempt situations for removal and fill permitting. |
| 305 | Chair Ferrioli | Comments that permit exempt situations are confusing and questions the minimum amount of removal or fill necessary for requiring a permit. |
| 319 | Purchase | Responds. |
| 328 | Chair Ferrioli | Suggests that the DSL permitting brochure might be made more clear. |
| 339 | Purchase | Acknowledges that the information needs clarification. |
| 355 | Chair Ferrioli | Refers to SB 219, which intends to help clarify those issues. |
| 362 | Purchase | Responds. |
| 366 | Sen. Atkinson | Reiterates the confusion with the amount of removal or fill allowed without a permit. Asks for comments on SB 172 (01) and what administrative rules have been put in place since last session. |
| 396 | Purchase | Responds. |
| 427 | Hanus | States that SB 219 allows DSL to move forward and assume Section 404 of the Federal Clean Water Act in order to streamline the removal fill permitting process. |
| 435 | Chair Ferrioli | Reiterates that DSL should clarify permitting to help move forward with Section 404. |
| 455 | Hanus | Responds. |

TAPE 4, B (Tapes recorded out of order, numbers are correct)

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| 003 | John Lily | DSL Assistant Director. Discusses the implementation of SB 172 and DSL's policy for improving certainty, consistency, conservation and service. |
| 060 | Lily | Continues. |
| 082 | Hanus | Remarks that public workshops were held with other states that had Section 404. Continues DSL overview with discussion of Industrial Lands Wetlands Project. |
| 100 | Chair Ferrioli | Asks if there is an element of mitigation banking in the project. |
| 103 | Hanus | Responds. Continues discussion of Wetlands Project. |
| 110 | Chair Ferrioli | Requests clarification of permitting issues surrounding isolated and unconnected wetlands. |
| 112 | Hanus | Responds. |
| 126 | Sen. Ringo | Requests clarification on definition of isolated wetland. |
| 129 | Hanus | States that it is not connected to a waterway. |
| 140 | Lily | Provides detailed explanation of DSL policies for isolated wetlands. |
| 182 | Hanus | Continues DSL overview: <ul style="list-style-type: none">• Common School Fund• DSL legislation (EXHIBIT C)• Current agency issues (EXHIBIT D) |
| 282 | Hanus | Continues discussion of removal-fill permit concerns. |
| 347 | Sen. Metsger | Questions state ownership of submerged lands. |
| 360 | Purchase | Responds that they are statutory lands and discusses DSL submerged lands policies. |

TAPE 3, B

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| 005 | Sen. Metsger | Asks if the state has the right to sell submerged lands in some cases. |
| 110 | Purchase | Explains that submersible lands are the areas between high and low waters. States that he believes the state could transfer those lands subject to public trust authorities, but the issue needs more legal analysis. |
| 018 | Chair Ferrioli | Asks for the citation with a phrase that states that waterways are to remain forever free. |
| 020 | Purchase | Refers to an Oregon Admissions Act requirement. |
| 026 | Chair Ferrioli | Inquires about the meaning of that requirement. |
| 027 | Purchase | Responds. |
| 030 | Chair Ferrioli | Brings up the issue of why the state would charge a fee for the utilization of some of waterways if waterways are supposed to be free highways. |
| 035 | Sen. Metsger | Asks about the state's rights for asserting cleanup of lands they own when contaminated by private citizens. |
| 049 | Purchase | States that state lessees must pay for hazardous waste damage and elaborates on DSL policies. |
| 080 | Sen. Metsger | Asks if that requirement would apply to a situation that happened sometime in the past. |
| 082 | Purchase | Responds. |
| 090 | Bob Rindy | Department of Land Conservation and Development (DLCD) Policy Coordinator. Provides DLCD overview and discusses legislative concerns. |
| 150 | Rindy | Continues discussing DLCD legislative concerns (EXHIBIT E). |
| 200 | Rindy | Discusses how local governments can make sure there is a |

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| | | sufficient supply of land for commercial and industrial development. |
| 250 | Rindy | Brings up periodic review issues. |
| 320 | Rindy | Suggests starting a process of reengagement for Oregonians in the land use program. |
| 331 | Chair Ferrioli | Requests clarification about what agencies were connected by the Governor's Executive Order 98-10. |
| 340 | Rindy | Offers a brief overview on implementation of Executive Order 98-10. |
| 389 | Chair Ferrioli | Inquires whether the Community Solutions Team concept is still viable. |
| 392 | Rindy | Responds. |
| TAPE 5, A | | |
| 005 | Chair Ferrioli | Asks if agency land use programs distort local markets. |
| 027 | Rindy | Responds that DLCDC has not benchmarked that issue and relates examples of other studies. |
| 040 | Chair Ferrioli | Suggests that the issue is availability, not suitability, of lands in urban growth boundary. |
| 050 | Rindy | Responds. |
| 070 | Chair Ferrioli | States that he looks forward to continuing discussions on water and land use issues. |
| 080 | Ross Day | Oregonians in Action Land Use (OALU) Director of Legal Affairs. Provides comments on OALU. |
| 130 | Day | Continues discussion of increasing equity and efficiency in land use policies and processes. |
| 180 | Sen. Ringo | Asks if OALU would make the financial contributors list public. |
| 195 | Day | Responds that their financial contributor list is as public as any other non-profit organization. |
| 227 | Sen. Ringo | Remarks on urban sprawl and invites OALU to present specific solutions to land use problems at future meetings. |
| 237 | Day | Suggests restoring local control as a possible solution. |
| 260 | Ferrioli | Closes informational meeting. Adjourns the meeting at 4:50 p.m. |

EXHIBIT SUMMARY

- A – Informational Meeting, DSL, written testimony, Ann Hanus, 10 pp.**
- B – Informational Meeting, DSL, permit brochure, Steve Purchase, 2 pp.**
- C – Informational Meeting, DSL, legislative proposal, Ann Hanus, 1 pp.**
- D – Informational Meeting, DSL, agency contacts, Ann Hanus, 1 pp.**
- E – Informational Meeting, DLCD, written report, Bob Rindy, 95 pp.**