

SENATE COMMITTEE ON WATER AND LAND USE

March 26, 2003
3:00 PM

Hearing Room D
Tapes 35-36

MEMBERS PRESENT: Sen. Ted Ferrioli, Chair
Sen. Jason Atkinson
Sen. Rick Metsger

MEMBER EXCUSED: Sen. Charlie Ringo, Vice-Chair

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

MEASURE/ISSUES HEARD: SB 219 Public Hearing
SB 364 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 35, A 005	Chair Ferrioli	Calls meeting to order as a subcommittee at 3:00 p.m. and opens public hearings on SB 219 and SB 364.
<u>SB 336 – PUBLIC HEARING</u> <u>SB 219 – PUBLIC HEARING</u> 016	Ann Hanus	Department of State Lands (DSL). Provides testimony in support of SB 219 and SB 394 (EXHIBIT A): <ul style="list-style-type: none">• DSL permit streamlining goals and efforts• Wetland and waterway permitting policies• Removal-fill permit process• 404 assumption
233	Chair Ferrioli	Inquires what in the state assumption of the 404 permitting process would preclude federal court decisions from affecting Oregon.
239	Hanus	Responds that with 404 assumption, the state would be linked to the Environmental Protection Agency (EPA) and not the Army Corps of Engineers (Corps).
243	Eric Metz	Explains that EPA would periodically review the program and that the program would be more flexible than the Corps.
252	Chair Ferrioli	Talks about the clarification of federal authority.
267	Metz	Clarifies the assumption process.
275	Chair Ferrioli	Comments on DEQ assumption of the Clean Water Act.
292	Hanus	Responds that with assumption, EPA will still retain the right to recapture the program.
297	Metz	Comments on the EPA review process.
304	Chair Ferrioli	Provides an example of federal and state interaction with DEQ and Clean Water Act issues.
315	Hanus	Reaffirms that EPA has the ability to recapture the program.
320	Chair Ferrioli	Expresses concern that there is not absolute certainty in state assumption of the program.
325	Hanus	Concludes testimony in support of SB 219 and SB 394.

355	Sen. Atkinson	Asks about timely assumption of the program.
360	Hanus	Talks about timeliness and consistency of the permit process.
365	Chair Ferrioli	Requests DSL remain to answer further questions.
370	Sen. Atkinson	Inquires how long DSL takes to make permit decisions.
375	Hanus	Explains that the average completion period is 20 to 25 days.
382	John Lily	DSL. Replies that DSL meets the 90 day requirement.
400	Chair Ferrioli	Clarifies that 219 and 364 are identical except for the emergency clause in 219.

TAPE 36, A

007	Jack Chapin	Marion County. Provides testimony against SB 219 and SB 364. Expresses concerns regarding the removal-fill permit process as it relates to his farm operation. Requests ORS 215.203 incorporated into SB 219 and SB 364.
103	Chair Ferrioli	Asks for other recommendations.
114	Chapin	Remarks on accepted farming practices and states his belief that farmers should not have to work under the threat of fines.
152	Chair Ferrioli	Talks about how authority is wielded by state and federal agencies.
178	Chris Bayham	Association of Oregon Counties, Oregon Association of County Engineers and Surveyors. Provides testimony in support of SB 219 and SB 364.
191	Sen. Atkinson	Asks for more information about the group he represents.
194	Bayham	Offers to provide that information.
197	Sen. Atkinson	Mentions doubt that some of the members support SB 219.
205	Chair Ferrioli	Inquires about his direct experience interfacing with the Corps regarding permitting issues.
210	Bayham	Responds that he has not worked with the Corps.
213	Chair Ferrioli	Comments that the committee will ask for testimony from those who have direct experience working with federal and state agencies.
225	Tim Acker	Applied Technology Wetlands and Forestry Consultants. Provides testimony against SB 364 (EXHIBIT B). Expresses concern over DSL's assumption of the Corps' section 404 program and believes it will not lead to regulatory streamlining based on the standards of timeliness, predictability and consistency.
385	Mel Stewart	Marion County. Provides testimony against SB 219. Discusses DSL compliance with state statutes.

TAPE 35, B

002	Stewart	Continues testimony against SB 219.
040	Chair Ferrioli	Asks for specific statutes.
043	Stewart	Offers to provide that information.
046	Jean Wilkinson	Oregon Farm Bureau. Provides testimony against SB 219 and SB 364.
099	Glen Stonebrink	Oregon Cattlemen Association, Oregon Hay and Forage Association. Provides testimony against SB 219 and SB 364 (EXHIBIT C). Believes SB 219 and SB 364 are unworkable and too regulatory.
142	Lynn Beaton	Oregon Economic and Community Development Department. Provides testimony in support of SB 219. Believes interactions with DSL are more trouble-free than interactions with the Corps.
211	Chair Ferrioli	Talks about issues of perception.
220	Patrick Allen	Office of Regulatory Streamlining. Gives overview of the Office of Regulatory Streamlining and provides information on SB 219.

238	Chair Ferrioli	Inquires about the executive order establishing the Office of Regulatory Streamlining.
240	Allen	States that Executive Order 03-01 established the agency. Discusses functions of the Office of Regulatory Streamlining.
266	Chair Ferrioli	Asks for assistance reconciling the discrepancies of experiences with DSL and the Corps.
279	Allen	Agrees.
293	Kristina McNitt	Provides testimony against SB 219 and SB 364 (EXHIBIT D). Expresses concerns and believes more time is required to fully understand the issues.
355	Chair Ferrioli	Asks about safe harbor sections regarding certainty by agreement with the landowner and the sections regarding compulsory habitat conservation requirements.
359	McNitt	Affirms and elaborates. Continues testimony against SB 219 and SB 364.
408	Chair Ferrioli	Asks DSL to consider concerns expressed in the testimony and summarizes SB 219 and SB 364.

TAPE 36, B

030	Sen. Atkinson	Discusses issues surrounding SB 219 and SB 364 and recommends more work on the bills.
045	Hanus	Agrees that more work should take place. Offers to respond to the concerns raised.
053	Chair Ferrioli	Closes public hearings on SB 219 and SB 364.

The following prepared testimony is submitted for the record without public testimony for SB 219 and SB 364:

Robert Kerivan	Submits written testimony (EXHIBIT E).
Bill Moshofsky	Submits written testimony (EXHIBIT F).
Linda Stelting	Submits written testimony (EXHIBIT G).
Keith Nelsen	Submits written testimony (EXHIBIT H).
C. H. Vanderlinden	Submits written testimony (EXHIBIT I).

The following prepared testimony is submitted for the record without public testimony for SB 219:

William Wise	Submits written testimony (EXHIBIT J).	
055	Chair Ferrioli	Adjourns meeting at 4:40 p.m.

EXHIBIT SUMMARY

- A – SB 219 and SB 364, written testimony, Ann Hanus, 11 pp.**
- B – SB 219 and SB 364, written testimony, Tim Acker, 7 pp.**
- C – SB 219 and SB 364, written testimony, Glen Stonebrink, 1 p.**
- D – SB 219 and SB 364, written testimony, Kristina McNitt, 2 pp.**
- E – SB 219 and SB 364, written testimony, Robert Kerivan, 1 p.**
- F – SB 219 and SB 364, written testimony, Bill Moshofsky, 3 pp.**
- G – SB 219 and SB 364, written testimony, Linda Stelting, 1 p.**
- H – SB 219 and SB 364, written testimony, Keith Nelsen, 1 p.**
- I – SB 219 and SB 364, written testimony, C. H. Vanderlinden, 1 p.**
- J – SB 219, written testimony, William Wise, 1 p.**