

SENATE COMMITTEE ON WATER AND LAND USE

March 31, 2003
3:00 PM

Hearing Room D
Tapes 37-39

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: **SB 845 Public Hearing**
 SB 846 Public Hearing
 SB 682 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 37, A		
005	Chair Ferrioli	Calls meeting to order at 3:05 p.m. and opens public hearing on SB 845.
<u>SB 845 – PUBLIC HEARING</u>		
015	Matt Blevins	Oregon Environmental Council. Provides testimony in support of SB 845 (EXHIBIT A). Discusses water pollution issues in Oregon.
030	Chair Ferrioli	Asks if he is referring to section 303(d) of the Clean Water Act.
031	Blevins	Affirms.
032	Chair Ferrioli	Asks what percentage of the 303(d) List is listed for temperature standards.
034	Blevins	Responds that he is unsure of the percentage.
035	Chair Ferrioli	Comments that characterizing how the streams are 303(d) listed should be done carefully.
050	Blevins	Offers to provide more information.
055	Chair Ferrioli	Clarifies that pollution should be connected to a 303(d) List.
060	Blevins	Continues testimony in support of SB 845: <ul style="list-style-type: none">● Lack of money puts Oregon first nationwide in expired permits● Department of Environmental Quality (DEQ) no longer meets its own goals for inspections● Not having up-to-date permits has environmental implications because old permits don't incorporate the newest standards and safeguards● Full fee funding would not harm the economy● Providing technical assistance would help small businesses understand and comply with the law
101	Chair Ferrioli	Inquires if permit holders are obligated to provide notice to DEQ of their violations because they are operating outside their permit

		authority.
103	Blevins	Responds that he is unsure.
104	Chair Ferrioli	Clarifies that permit holders are obligated to provide notice to DEQ.
106	Sen. Ringo	Asks if permit fees would increase by 70% if SB 845 passed.
108	Blevins	Responds that fees would increase by approximately 57% to 70%.
110	Sen. Ringo	Inquires where Oregon's permit fees rank compared to neighboring states.
113	Blevins	Explains that Oregon would be below the national average with a 70% increase.
117	Sen. Ringo	Asks about concerns that Oregon's inability to enforce regulations will cause problems complying with federal regulations.
123	Blevins	Replies that there is concern that the program will continue.
126	Sen. Ringo	Clarifies that if Oregon doesn't protect its own resources, the federal agencies will take over.
128	Blevins	Affirms.
132	Sen. Atkinson	Asks if DEQ supports SB 845.
135	Blevins	Explains that DEQ recognizes the need for more resources.
141	Sen. Atkinson	Inquires if DEQ was satisfied with the 20% increase from the 2001 legislative session.
144	Blevins	Believes DEQ is not able to operate the program as it would like to.
146	Sen. Atkinson	Inquires who the larger fee payers will be.
149	Blevins	Lists a variety of facilities.
153	Sen. Atkinson	Asks if penalties for violations are too low to deter future behavior.
166	Blevins	Explains that the penalty fees are not sufficient deterrents.
170	Sen. Atkinson	Discusses low penalty fees.
180	John Ledger	Associated Oregon Industries. Provides testimony against SB 845. States that full cost recovery of administering the disposal permit program will cause problems for municipal wastewater dischargers.
220	Chair Ferrioli	Asks for clarification on quoted figures.
223	Ledger	Industry and municipalities carry a contaminate load containing 15% point source pollution.
229	Sen. Ringo	Asks about the other 85%.
232	Ledger	Explains that 85% of contamination comes from non-point sources. Continues discussion of fee increases. States that Oregon's restrictions on water are more stringent than the federal government mandates.
275	Sen. Ringo	Asks about restricted chemicals.
279	Ledger	Responds that the list includes many toxics and metals. Summarizes testimony against SB 845 and restates AOI's opposition to SB 845.
298	Sen. Ringo	Confirms that 85% of pollution comes from non-point sources.
300	Ledger	Affirms.
313	Sen. Ringo	Asks for AOI's suggestion on how to handle the non-point source pollution.
315	Ledger	Comments on methods of managing of non-point source pollution.
320	Sen. Ringo	Inquires if AOI supports the Total Maximum Daily Load (TMDL) process.

322	Ledger	States AOI supports the TMDL process completely.
360	Sen. Ringo	Asks about Washington's fee system.
365	Ledger	Explains that he is not familiar with Washington's program
375	Ken Yates	Northwest Food Processors Association, Oregon Food Processors Council. Provides testimony against SB 845 (EXHIBIT B):
		<ul style="list-style-type: none"> • Regulated community shouldering entire cost of waste water permit program is poor public policy • General fund portion of the program has decreased • Water waste permit fees are in addition to the hundreds of thousands of dollars food processing companies already spend on pollution prevention • Works against the concept of environmental sustainability

TAPE 38, A

003	Sen. Ringo	Asks if he believes that permit backlogs are a problem.
005	Yates	Affirms.
010	Sen. Ringo	Asks for solution recommendations.
016	Yates	Believes a fee increases is necessary.
026	Ledger	Discusses recent changes with DEQ.
038	Sen. Ringo	Asks if a 20% increase gives DEQ the resources it needs.
046	Yates	Responds that DEQ can sustain the program at adequate levels.
048	Sen. Ringo	Asks if he believes there is a backlog.
050	Yates	Agrees and believes fee increases are necessary to maintain the program.
061	Sen. Ringo	Asks about the TMDL program.
066	Ledger	Clarifies the TMDL process.
068	Sen. Ringo	Asks about point source pollution.
070	Ledger	Explains point source pollution as it relates to the TMDL process.
082	Chair Ferrioli	Comments on point sources and TMDLs as they relate to the backlog of permits.
095	Sen. Ringo	Restates his assertion that permit backlogs are creating a problem.
106	Ledger	Clarifies that "expired" means that the permit is up for renewal but not defunct.
112	Sen. Ringo	Asks about FTE positions cut from the program.
120	Ledger	Defers to DEQ.
130	Willie Tiffany	League of Oregon Cities. Provides testimony in support of SB 845 (EXHIBIT C). Discusses the DEQ fee process.
175	Sen. Ringo	Inquires what SB 845 means to the League of Oregon Cities.
182	Tiffany	Explains that DEQ cannot articulate where department resources are spent.
189	Sen. Ringo	Inquires if he would like to know exactly what DEQ programs the permit fees support.
192	Tiffany	Affirms and elaborates.
204	Sen. Ringo	Asks about financial impacts on cities by SB 845.
205	Tiffany	Explains that cities would have to increase rates to industrial customers or decrease the level of service that municipalities provide to industrial customers.
217	Chair Ferrioli	Asks if municipalities use the largest volumes of water.
220	Tiffany	Affirms.
223	Chair Ferrioli	Believes the issue is that municipalities would bear the burden of the fee increases.
225	Tiffany	Affirms.

228	Sen. Ringo	Confirms that one option is to pass the increased costs on to industrial users.
230	Tiffany	Affirms.
234	Sen. Atkinson	Asks how many cities contract with Stormwater Management in Portland.
236	Tiffany	Responds that he is not familiar with Stormwater Management.
238	Ledger	Explains that he is not familiar with Stormwater Management.
240	Sen. Atkinson	Wonders why the world's leading water technology companies do not operate in Oregon.
268	Chair Ferrioli	Inquires if businesses currently pay disproportional costs for pollution.
277	Ledger	Responds that businesses pay an acceptable cost.
287	Chair Ferrioli	Talks about point versus non-point source pollution.
312	Sen. Ringo	Talks about sources of pollution and the need to find global solutions.
345	Rhett Lawrence	Oregon State Public Interest Research Group. Provides testimony in support of SB 845 (EXHIBIT D). States that DEQ requires adequate funding to carry out its water programs and suggests that the polluters should pay for pollution problems.
398	Sen. Ringo	Asks if the figure of 85% non-point source pollution refers to the volume or toxicity.
404	Lawrence	Responds that he is unfamiliar with the figures.
TAPE 37, B		
018	Sen. Ringo	States that storm water pollution is much less concentrated than industrial waste.
020	Chair Ferrioli	Discusses pollution issues.
048	Sen. Ringo	Comments on pollution issues.
062	Chair Ferrioli	States that the plan to reduce pollution should not rest on the extermination of industry in Oregon.
077	Sen. Atkinson	Discusses the lack of clean water technologies in Oregon.
120	Kathryn VanNatta	Northwest Pulp and Paper Association. Provides testimony against SB 845 and agrees with policy issues raised in previous testimony. Talks about financial incentives to improve water quality.
192	Sen. Metsger	Asks if she opposes SB 845 in its entirety.
194	VanNatta	Affirms and elaborates.
215	Mike Llewelyn	DEQ Water Quality Division. Discusses DEQ budget issues.
230	Sen. Ringo	Asks for clarification about point source and non-point source pollution.
235	Llewelyn	Explains that of the 15% of the water bodies that are impaired by point source pollution, 54% of the cleanup is funded by fees. Explains DEQ resource levels and options for funding the permit program.
281	Chair Ferrioli	Asks about TMDLs.
284	Llewelyn	Explains that currently TMDLs are being worked on but will not be adopted until there is clarity on DEQ's request for a stay.
293	Chair Ferrioli	Asks about permit renewal backlogs relating to TMDLs.
297	Llewelyn	Clarifies that the backlog is not the result of holding permits for the TMDL program.
318	Chair Ferrioli	Asks if the loss of two FTE positions has created the backlog of permits.
322	Llewelyn	States that the permit backlog existed prior to the elimination of two FTE positions.
324	Sen. Ringo	Asks if DEQ's 60% fee increase request from last session was a

		necessary increase.
326	Llewelyn	Affirms.
329	Sen. Ringo	Asks if DEQ could use another fee increase to pay for some programs.
330	Llewelyn	Explains the background of current fee increase request.
339	Chair Ferrioli	Asks if the new DEQ director has presented staffing requirements.
342	Llewelyn	Affirms.
343	Chair Ferrioli	States that all previous staffing requests are now moot.
350	Llewelyn	Believes that 54 FTE positions cannot eliminate the backlog and explains that the DEQ director is in the process of streamlining DEQ.
359	Chair Ferrioli	Closes public hearing on SB 845.
The following prepared testimony is submitted for the record without public testimony for SB 845:		
	Seth Karpinski	Submits written testimony (EXHIBIT E).

SB 846 – PUBLIC HEARING

377	Vice-Chair Ringo	Opens public hearing on SB 846
380	Judith Callens	Gives overview of SB 846.
385	Matt Blevins	Oregon Environmental Council. Provides testimony in support of SB 846 (EXHIBIT F). States that the audit will assist in increasing the effectiveness, efficiency and coordination of our water-related programs, which is vital to the health of Oregon’s rivers and streams.

TAPE 38, B

031	Vice-Chair Ringo	Asks if the audits should be regular occurrences.
036	Blevins	Responds that a one-time group of audits would be beneficial.
040	Vice-Chair Ringo	Asks about the number of programs that need to be audited.
045	Blevins	Offers to provide that information.
050	Cathy Pollino	Secretary of State Audit Division. Provides information on SB 846. Explains performance audits and program audits.
082	Vice-Chair Ringo	Inquires about ways to study the cost effectiveness of discovering inefficiencies to pay for the audit.
090	Pollino	Explains that some audits discover cost savings and some do not.
102	Vice-Chair Ringo	Asks about the fiscal impact if SB 846 covered only performance audits.
104	Pollino	Replies that it is difficult to estimate the cost of the audits.
108	Vice-Chair Ringo	Inquires about the fiscal impact if SB 846 covered only program audits.
110	Pollino	Reiterates that it is difficult to estimate the cost of the audits.
120	John Ledger	Associated Oregon Industries. Provides testimony against SB 846. Believes DEQ is addressing issues adequately and audits are unnecessary.
153	Kathryn VanNatta	Northwest Pulp and Paper Association. Provides testimony against SB 846. Believes DEQ does not need an audit process.
170	Vice-Chair Ringo	Inquires if there should be more money for permits.
173	VanNatta	States that she is unsure if increasing the number of FTE positions at this point will help DEQ.
200	Jo Emrick	Oregon Department of Forestry (ODF). Provides testimony against SB 846 (EXHIBIT G): <ul style="list-style-type: none"> • The additional expense of an audit is not justified and would duplicate information that is already available through ODF’s water quality sufficiency analysis • Extra agency personnel would be required to gather

		information for the audit
		<ul style="list-style-type: none"> • The bill does not specify how frequently the audits would be performed and the focus of the audit is too broad
230	Adam Sussman	Water Resources Department. Provides testimony against SB 846 (EXHIBIT H) . Believes the audit proposed in SB 846 could result in a fiscal impact of anywhere from \$3,000 to \$140,000 that is not included in the Governor's budget.
240	Vice-Chair Ringo	Closes public hearing on SB 846.
245	Chair Ferrioli	Opens public hearing on SB 682.
<u>SB 682 – PUBLIC HEARING</u>		
255	Chair Ferrioli	Provides an overview of SB 682.
265	Kathleen Dewoina	Marion County. Provides testimony in support of SB 682. Discusses limiting the assessment and collection of system development charges for infill development or redevelopment in existing subdivisions or land partitions in which capital improvements are available. Provides an example of the issue in Marion County.
TAPE 39, A		
005	Dewoina	Continues testimony against SB 682. States support for encouragement of private citizens to invest in the improvement of their communities. Believes that SB 682 will encourage and allow infill development.
085	Chair Ferrioli	Asks about charges assessed by a municipality.
090	Dewoina	Explains the charges.
130	Dave Moss	Musgo-Monk Enterprises. Provides testimony in support of SB 682 (EXHIBIT I) . Believes that small infill projects do not put measurable demands on existing facilities and should not be prohibitively taxed.
230	Michelle Deister	League of Oregon Cities. Provides testimony against SB 682. Expresses concerns and believes infill developments do have an impact on existing facilities and should be charged accordingly.
270	Eric Johansen	City of Portland. Provides testimony against SB 682 and expresses two concerns: <ul style="list-style-type: none"> • SB 682 results in an inequitable sharing of the capital costs associated with providing the necessary services such as water, sewers, streets and parks • SB 682 results in certain categories of new development being subject to system development charges while other new development becomes exempt.
305	Richard Reid	Alternatives to Growth Oregon. Provides testimony against SB 682. Believes SB 682 creates problems by establishing a different criteria for system development charges for infill.
345	Chair Ferrioli	Comments on SB 682 and believes the economics of encouraging higher density living should be incorporated into public policy.
393	Johansen	Comments on local control.
399	Chair Ferrioli	Believes that local controls do not always work.
423	Deister	Remarks on incentives to encourage high density growth.
	Chair Ferrioli	Summarizes SB 682. Closes public hearing on SB 682 and adjourns meeting at 5:24 p.m.

EXHIBIT SUMMARY

- A – SB 845, written testimony, Matt Blevins, 2 pp.**
- B – SB 845, written testimony, Ken Yates, 2 p.**
- C – SB 845, written testimony, Willie Tiffany, 1 p.**
- D – SB 845, written testimony, Rhett Lawrence, 2 pp.**

The following exhibit is listed in the tape log:

- E – SB 845, written testimony, Seth Karpinski, 2 pp.**

- F – SB 846, written testimony, Matt Blevins, 2 pp.**
- G – SB 846, written testimony, Jo Emrick, 17 pp.**
- H – SB 846, written testimony, Adam Sussman, 1 p.**
- I – SB 682, written testimony, Dave Moss, 2 pp.**